



BOROUGH OF FAIR HAVEN

748 River Road
New Jersey 07704

NICOLAS J. PORUCHYNSKY • ZONING OFFICER • MUNICIPAL BUILDING
telephone: 732-747-0241 ext. 217 • Email: nporuchynsky@fthboro.net

September 17, 2019 (REVISED 10-16-2019) **(REVISED 12-20-2019)**

IBO Construction Group (via email: iboconstructiongroup@gmail.com)
PO Box 88
Colts Neck, NJ 07722

Re: 588 River Road
Fair Haven, New Jersey 07704
Block: 32 Lot: 02 Tenant D Zone: B-1
Zoning Permit Application: ZP# 19-194 (REVISED ZP# 19-229) **(REVISED ZP# 19-277)**

On December 13, 2019 the Zoning Department received an updated submission further revising scope of proposed improvements and operations. As such, the DENIAL LETTER originally dated September 17, 2019 (subsequently revised on October 9, 2019) has been further revised with additional information and CHANGES.

I am in receipt of the zoning permit application for the above-mentioned address including the following:

1. Zoning permit application form along with fee received on 12-13-19 by the Zoning Office.
2. Proposed Architectural Plans entitled, "OVER EASY KITCHEN – TENANT FIT OUT, 598 River Road, Fair Haven, New Jersey", prepared by MODE - Monmouth Ocean Design Experts, unsigned and not sealed by Daniel M. Condatore, RA originally dated 08/26/19, **revised thru 12/10/2019** consisting of sheets A000-A401, D101, E001-E101, M001-M101, P001-P102.

It is my understanding that you are seeking a building fit out and commercial interior improvements and *Commencement / Change of Use* of the Tenant Location D (formerly the BIKE Haven – Retail Bike Store) to a new proposed Restaurant. The applicant has also indicated that the primary entrance for the proposed restaurant would be from the parking lot along River Road and a secondary entrance in the rear providing access to the parking lot adjacent to Forman Street, however no site plan was submitted.

After reviewing your application, it was found not to comply with the requirements or classification as an Exempt Development as set forth in the Fair Haven Land Use and Development Regulations. Your application is therefore **DENIED** and requires Site Plan review and approval from Fair Haven Planning Board.

<i>Ordinance Section</i>	<i>Requirement</i>	<i>Proposed</i>
§ 30-2.4	As detailed in the <i>Definitions</i> section of the Borough Land Use Development Regulations, to be classified as an <i>Exempt Development</i> , the applicant is required to submit an analysis and report statement of compliance and any required support documents related to applicable paragraphs detailed in section (a.) thru (j.)	<p>The applicant proposes a new proposed use of a Restaurant (OVER EASY Kitchen) in tenant ‘D’ space of the ACME shopping center previously occupied by Bike Haven Retail Store.</p> <p>The applicants Architectural Plans outline the new proposed use will occupy a tenant space of approximately ±2,468 with seating area for 64 persons.</p> <p>The Restaurant as described can be classified as a Restaurant-Category One per Fair Haven Land Use and Development Regulations definitions and the proposed use is a permitted use in the B-1 Zone District as part of the Shopping Center.</p>
§ 30-2.4	A <i>Change in Use</i> is described as Any change from one nonresidential use to another nonresidential use requires site plan approval prior to the issuance of a development permit.	<p>The change of use from previous “retail use” to the new “restaurant use” has not established the necessary criteria to be classified as an exempt development of the same or less restrictive as detailed in §30-2.4 <i>Exempt Development</i>.</p> <p>The details have not been provided regarding how the change of occupancy/change of use does not adversely affect previously approved site plan or increase traffic circulation, relationship of buildings, buffering, and parking requirements or other considerations that needs to be submitted for site plan review.</p> <p>Therefore, the zoning permit application for Commencement and Change of Use, cannot be administratively approved as submitted and will require an amended site plan to be provided for review and approval by the Planning Board.</p>

Please be advised that you have the option of amending this application to conform to the requirements set forth in the Borough's Land Use and Development Ordinance or you can apply for relief from this ordinance by submitting an application to the Borough's Planning Board.

You also have the option as per NJSA 40:55D-72a of appealing my ruling to the Borough's Zoning Board of Adjustment by filing a notice of appeal with my office within 20 days from the date of my letter.

If you choose to seek relief or want to file an appeal, please contact the Zoning and Planning Board Office at 732/747-0241 to obtain the required application forms and further information regarding the Board approval and appeal process. If you desire to amend your application, please submit an amended plan to my office.

If you have any questions regarding the denial of this application, please feel free to contact me at the number or e-mail address above.

Sincerely,

A handwritten signature in black ink, appearing to read "N.J. Poruchynsky". The signature is written in a cursive, somewhat stylized font.

Nicolas J. Poruchynsky, PE, PP, CME
Assistant Director of Engineering and Public Works,
Code Enforcement Officer and Zoning Officer

CC: File
Richard Gardella, Director of Engineering and Public Works (*via email*)
Board Secretary (*via email*)