

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED April 26, 2023**

APPLICANT

Name: Sani Pasagic/SP Properties
Address: 67 Mallard Dr., Colchester, VT 05446

LANDOWNER

Name: same

APPLICATION

Type: Site Plan review to expand restaurant and add outdoor seating.

Number: 23-48-RT326

PROPERTY

Location: 326 US RT 2

Hearing Dates: April 12, 2023 and April 26, 2023, site visit April 12, 2023.

SP Properties, INC submitted an application on March 13, 2023 requesting a site plan review to expand Pan’s Pizza into additional space and add outdoor seating at 326 US RT 2. The indoor space has been recently vacated by Cedar Ledge Builders. Per Section 805 of the 2021 amended South Hero Development Regulations, a warning for the public hearing appeared in the March 22, 2023 issue of the Islander and was posted in the Town Office, the Post Office, and the Town Library, and abutters to the property were notified. A site visit was held on April 12, 2023 and hearings were held on April 12 and 26, 2023. A list of those who were present and participated in the hearings is included in the minutes.

During the course of the hearing, the following exhibits were submitted:

- Town of South Hero Development Regulations, effective September 13, 2020
- Application for Final Site Plan review, dated and rec’d March 13, 2023.
- Site Plan by Justine Zolotas; dated March, 2023 and rec’d March 20, 2023.
- Narrative by Justine Zolotas; rec’d March 20, 2023.
- State Wastewater permit #WW-6-0381, dated August 8, 1996; rec’d March 20, 2023.
- Warning Ad, Abutters’ Notice, and Hearing Letter for the April 12, 2023 Site Plan review.

- Letter from Peter Mazurak of Apex Engineering outlining the water and wastewater usage at 326 RT 2, dated March 31, 2023; rec’d April 3, 2023.
- Amended site plan showing proposed temporary outdoor seating; rec’d March 30, 2023.
- Staff report by Zoning Administrator for the April 12, 2023 hearing.
- Minutes from the April 12, 2023 hearing.
- Site plan showing outdoor seating at the front of the restaurant, presented at the April 12, 2023 hearing.
- Updated site plan requested by DRB for April 26, 2023 hearing, by Justine Zolotas; rec’d April 19, 2023.

Based on the application, supporting documents, and testimony of Justine and Alex Zolotas, and Sani Pasagic, **the Development Review Board makes the following Findings and enters the following decision:**

Findings:

1. 326 US RT 2 is a 0.28-ac. lot on the north side of RT 2 that includes several businesses – Cedar Ledge Builders, Matthew Little Law Office, Pan’s Pizza, Arbor Farm Market, in addition to an upstairs apartment. The Applicant owns all structures at 326 RT 2 and operates Pan’s Pizza.
2. The lot is in the South Hero Village Zoning District.
3. The Applicant is proposing to expand Pan’s Pizza into the recently vacated space previously used as workshop and storage by Cedar Ledge Builders.
4. The expansion will allow for additional refrigeration, prep space, another oven, and seasonal (winter) indoor seating for the restaurant.
5. The Applicants are proposing 15 outdoor seats at picnic tables in a 10’x40’ patio area in front of the restaurant for the warmer months.
6. Seating will be limited to the 15 seats that the wastewater permit allows.
7. Permit WW-6-0381 allowed for 945 gallons per day for both water and wastewater. Proposed wastewater flows for the current uses total 938 gallons per day.
8. The outdoor seating will be separated from the existing parking area by stock tanks filled with cinderblocks and stone, and plantings.
9. Six parking spaces are in front of the restaurant. An ADA space is located at the base of a ramp that accesses the porch and restaurant entrance from the east end of the expanded restaurant. An additional 7 spaces are shared with Arbor Farm Market, and up to 10 more spaces for customers and employees will be behind the restaurant.
10. A walkway between the restaurant expansion and Arbor Farm Market provides safe access to the front of the building from the back parking area. Signage here will also direct customers to Matthew Little Law Office and Cedar Ledge Builders.
11. Bike racks for up to 10 bicycles are shown at the back of the restaurant.
12. Building mounted lighting is shown on the front of the restaurant and the back of Arbor Farm Market.
13. Signage will identify parking in the front and back.
14. Applicants requested and received waivers from showing setbacks, architectural elevations, utilities, and traffic analyses on the site plan.

Chair Tim Maxham closed the hearing on April 26, 2023.

Conclusions of Law:

- A. Per Table 2.1, restaurants in the South Hero Zoning District are permitted with site plan review.
- B. Parking spaces meet the requirements of Table 5.1.
- C. With waivers, the plan, as presented, meets the requirements of Table 3.2 (Final Site Plan Requirements) and Sec. 303.D (Final Site Plan Review).

On April 26, 2023, M. Welch moved to approve the site plan, with the findings of fact listed and with the following Conditions: J. Brightwell second. Whereas, Final Approval was granted to the application with Conditions, with the following people voting in the affirmative: T. Maxham, D. Patterson; L. Kilcoyne, J. Brightwell, E. Reid, and M. Welch.

Conditions:

- 1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
- 2. The five non-HC parking spaces in the front will have signage stating, parking for takeout only.
- 3. Applicant will update the site plan to show the following: dumpster location, additional lighting in the back, additional parking, the date of preparation, and present to the ZA for approval.
- 4. It will be the Applicants’ responsibility to obtain all required State and Federal permits and provide copies to the Zoning Administrator.
- 5. The Town of South Hero’s responsibilities are limited to ensuring compliance with the approvals and permits issued by the Town of South Hero. The Town accepts no responsibility for compliance with the conditions of any permits or approvals issued by any other entity. The Town of South Hero will not be liable for the failure of the applicants to carry out their duties and responsibilities.

Dated: April 26, 2023



For the Development Review Board

APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division (located at 2418 Airport Road, Suite 1, Barre, VT 05641-8701) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. §1431 and the 5% surcharge required by 32 V.S.A. §1434a(a), which is \$262.50 as of January 2011. A copy of this appeal must be filed with the Zoning Administrator or the Town Clerk within thirty (30) days from the date of issuance.

