

**BOROUGH OF BOGOTA**

|                         | Aye | Nay | Abstn. | Absent | No Vote |
|-------------------------|-----|-----|--------|--------|---------|
| Mancini (Chairman)      | ✓   |     |        |        |         |
| Napolitano (Vice-Chair) |     |     |        | ✓      |         |
| Fede (Mayor)            |     |     |        |        | ✓       |
| Sopelsa (Class II)      | ✓   |     |        |        |         |
| Mitchell (Class II)     |     |     |        |        | ✓       |
| Youla (Class IV)        | ✓   |     |        |        |         |
| Foster (Class IV)       | ✓   |     |        |        |         |
| Frias (Class IV)        |     |     |        | ✓      |         |
| Schnipp (Class IV)      |     |     |        | ✓      |         |
| Harris (Alt. 1)         | ✓   |     |        |        |         |
| Robert Robbins (Alt. 2) |     |     |        | ✓      |         |
| Total Votes             |     |     |        |        |         |

DATE: 1/28/2025

RESOLUTION: 2025-01

MOTION BY: Fede

SECOND BY: Sopelsa

**RE: RESOLUTION REGARDING Application of Tiger Lily Holdings, LLC  
114 E. Main Street, Bogota, New Jersey  
Block 39, Lot 3  
Use Variance Approval**

**RESOLUTION 2025-01  
PLANNING/ZONING BOARD OF BOROUGH OF BOGOTA**

**WHEREAS**, Tiger Lily Holdings LLC, the Applicant has applied to the Zoning Board configuration of the Zoning/Planning Board of the Borough of Bogota for use variance relief pursuant to N.J.S.A. 40:55D-70d(1), and bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) to permit the conversion of the second floor of 114 E. Main Street, Bogota to a two bedroom one bath apartment in the B-1 Zone district and related parking; and

**WHEREAS**, public hearings, upon the requisite statutory notice, were held by the Zoning Board configuration of the Zoning/Planning Board of the Borough of Bogota on the application on November 12 and December 10, 2024 and the Applicant, represented by counsel, David Russo, Esq., of Russo and Russo, Esq., appearing; and

**WHEREAS**, during all the hearings the Applicant presented testimony and/or reports from witnesses who were accepted by the Board as experts in their respective fields, specifically Khyng

H. Lee, R.A. of Lee Arch Group Architect and Steven Lydon of Burgis Associates who testified before the board; and

**WHEREAS**, the Board having reviewed the entire record and exhibits and heard and considered the comments both written and oral, of all experts; and

**WHEREAS** during the application the following Exhibits were introduced:

1. A-1 – Architectural plan dated September 23, 2024.
2. A-1(a) – Revised Architectural plan dated November 29, 2024.
3. A-2 – Architectural Drawing of the first floor of the building.

**WHEREAS**, the public was given the opportunity to question each witness and make comments at the conclusion of the testimony; and

**WHEREAS**, based upon the testimony, stipulations of the Applicant and evidence presented, including all exhibits presented and all of the plans, and the comments of municipal representatives and the public; and

**NOW THEREFORE BE IT RESOLVED** the Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota has made findings of fact and conclusions of law:

1. The site is located within the B-1 Zoning District. Residential uses are not permitted in the B-1 zone. Therefore this application requires a d-1 use variance pursuant to N.J.S.A. 40:55D-70d(1).
2. In addition, the application requires the following bulk variance: minimum parking spaces required is six (6) and proposed is four (4) and therefore a “c” variance is required pursuant to N.J.S.A. 40:55D-70c.

3. Attorney David Russo representing the Applicant stated the owner seeks to renovate the existing second floor office into a two bedroom apartment.
4. The first floor is currently occupied by Encke Flowers and owned and operated by Myong Lee, who is also the principal of the Applicant.
5. There are four (4) parking spaces behind the building and only one (1) is used.
6. Khyng Lee, architect for the Applicant referred to sheet Exhibit A-1 and explained the existing office would be converted into a two bedroom apartment.
7. Mr. Lee presented sheet Exhibit A-2 which is a drawing of the first floor of the building.
8. Mr. Lee also presented a revised plan dated September 23, revised November 29<sup>th</sup> 2024 and marked it Exhibit A-1. A-1(a)
9. Mr. Lee testified that the 200-foot property owner list, the Zoning table and the First Floor Plans and elevations to the plan were included in the revised plans.
10. Mr. Lee testified that there are two separate entrances and the second floor windows are located at the landing inside the kitchen and the toilet room. All three windows will be blocked and the west elevation will be provided on the revised plans to be submitted.
11. Steven Lydon of Burgis Associates appeared and testified as the Applicant's planner.
12. Mr. Lydon testified that he visited the site, reviewed the Master Plan, the Zoning Ordinance and the Borough's engineering and planning reports.
13. There will be no exterior work and the Applicant is not seeking site plan approval.

14. The site is in the B-1 Zone which does not allow residential use on top of commercial use.
15. Mr. Lydon testified that originally the property had an apartment on the upper floors and it is common to see this in a downtown setting.
16. The Applicant also seeks a parking variance. Mr. Lydon stated there is very little room to expand any parking. Mr. Lydon testified the site is well suited for the use as eCommerce has impacted businesses and many are not financially viable and offices are struggling.
17. Mr. Lydon stated that changes in the marketplace makes the site well suited for the proposed use.
18. He further stated the property is near the downtown business area and there is residential use behind the site.
19. There is adequate light air and open space and the proposed use is more efficient use for the land.
20. Mr. Lydon testified the area cannot sufficiently support retail use.
21. Mr. Lydon reviewed the Master Plan which confirmed that commercial areas are impacted by e-Commerce and Covid and that a variance will help the business areas remain viable.
22. He reviewed the goals of the Master Plan to provide housing opportunities in a variety of uses.
23. Mr. Lydon testified that parking a variance is needed and there is shared parking with each floor.
24. He testified that there is one employee at the flower store.

25. Mr. Lydon testified the positive criteria are met and the negative criteria shows there is no substantial detriment.
26. There is no increase in stormwater runoff and there is no additional traffic.
27. Mr. Lydon testified there is no impairment to the Master Plan intent.
28. The Board asked is there was a need for a loading zone variance and Mr. Lydon testified that this falls under the site plan waiver as a pre-existing non-confirming condition and in fact the parking requirement has decreased by this proposed use.
29. Mr. Lydon testified that the Master Plan's goals are met by increased housing which insures the business areas remain viable and that adaptive reuse by existing buildings is encouraged.
30. The Board expressed concerns about the balcony.
31. Mr. Lydon testified that the balcony will be used as an egress and there will be a new guardrail and a new door installed since the windows are being blocked.
32. Flower boxes will be added go this balcony area.
33. The Board finds the witnesses were credible and that the Applicant has complied with all recommendations of the Board.
34. The Board finds the application meets the requirements for special reasons required for a D-1 use variance as the site is uniquely situated for this use. The variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance". The principles of the positive criteria have been met in that

this is a unique use which generates limited traffic which promotes the general welfare, and the use is suitable in size and configuration for the site.

35. The application meets the positive criteria in that it is uniquely suitable for the site as it will enhance the appearance of the area. This was corroborated by the Board planner.
36. The application meets the goals of the Zoning Code and Master Plan and promotes the general welfare.
37. The negative criteria have been met in that there is no detriment to the public good and there is no impairment to the use of the zone plan. The Board finds the applicant has attempted to minimize the parking impact of the neighborhood and has addressed any Board concerns.
38. The Board finds that the proposed application poses no detriment to the zone. The Board finds that the positive effect outweighs any negative effect to the neighborhood. The design is commensurate with the area. The applicant has presented proof that the purpose of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements.
39. The applicant has demonstrated both the positive and negative criteria necessary for a use variance. The applicant has demonstrated that a benefit that will be provided by a deviation from the Municipal Land Use Law, would outweigh any detriment to the Municipal Land Use Law.
40. The Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota has determined the applicant has presented evidence that establish the

positive criteria for granting the use variance relief under N.J.S.A. 40:55D-70(d)1 as well as N.J.S.A. 40:55D-70(c) 1.

**NOW THEREFORE BE IT RESOLVED, THE PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA**, hereby grants Applicant's application as presented. This approval is subject to the following conditions:

1. This approval is specifically granted based upon the testimony of the Applicant, the exhibits and the application submitted to the Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota, all of which have been relied upon by the Board.
2. The Applicant shall comply with all stipulations made on the record to the Board.
3. The relief granted to the Applicant is specifically made subject to any conditions referred to herein. In the event any condition is held to be invalid, unenforceable or unlawful, the approval shall be unenforceable. It is the intent of the Board that the application not be approved if any condition is invalid and that the conditions are not severable from any relief granted herein.
4. Any violation of these conditions would result in a rescission of the approval and result in the revocation of any certificate of occupancy for the subject site.
5. The Applicant shall pay all professional fees incurred by the Board as a result of this application. In the event a professional escrow of the applicant has been exhausted, said escrow shall be replenished prior to the issuance of any certificates of occupancy.
6. Applicant shall comply with the general comments and requirements set forth in the review letters of the Board Engineer and Borough Planner.

7. All construction shall comply with all controlling construction, environmental engineering and fire safety codes. The Applicant shall obtain all necessary state, county and municipal approvals and building permits. Applicant shall comply with all resolutions issued by the Governing Body regarding the subject site.
8. The <sup>west side</sup> windows <sub>CR</sub> will be blocked on the upper unit.
9. A new guardrail and a new door will be installed in the upper unit.
10. Flower boxes will be added to the balcony area.
11. The elevation plans will be provided and will be in conformance with this Resolution.

**PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA**

Patricia Morrone  
Patricia Morrone, Secretary

Corrado Mancini  
Corrado Mancini, Chairman

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Planning/Zoning Board of the Borough of Bogota at a meeting held on 1/28, 2025

ATTEST: Patricia Morrone  
Patricia Morrone, Clerk of the Board