

May 20, 2022

Ms. Candace Mitchell
Planning Board Secretary
Borough of Sea Bright
Unified Planning Board
1199 Ocean Avenue
Sea Bright, NJ 07760

**Re: Beachfront Joes, LLC
1084 Ocean Avenue
Block 15, Lot 2
Preliminary & Final Site Plan
Second Planning Review - REVISED
Our File: SBPB 22-01**

Dear Board Members:

Our office received and reviewed supplemental materials that were submitted in support of an application for preliminary and final site plan approval for the above referenced project. We have provided *new comments in bold and italicized text* and ~~struck-out~~ comments that are no longer relevant. The following documents were reviewed:

- Borough of Sea Bright Planning/ Zoning Board Application dated May 5, 2021.
- Borough of Sea Bright Application for A Zoning Permit dated March 9, 2021.
- Proposed Additions and Renovations to Existing Commercial Structure, consisting of four (4) sheets, prepared by Allende Matos, AIA, LEED AP, of AM Architect's Studio, dated July 12, 2021, *last revised May 24, 2022.*
- Site Plan, consisting of two (2) sheets, prepared by Marc S. Leber, PE, of East Point Engineering, LLC, dated May 20, 2016, last revised December 11, 2017.
- *Letter from Hugh A. McGuire, III, dated May 2, 2022.*

1. **Site Analysis and Project Description**

The subject property consists of Block 15, Lot 2; a 1,076 sq. ft. L-shaped located on the west side of Ocean Avenue, south of River Street in the B-1 Central Business Zone District. The property is

currently developed with the shell of a single-story building. A mixed-use building containing Bain’s Hardware is located to the south of the subject property.

The applicant is site plan approval with bulk variances to renovate and add on to the existing building shell and construct a 2.5 story restaurant and office space. The first floor will consist of a take-out restaurant and the second floor will consist of an office space. All habitable space will be raised above the Sea Bright Design Flood Elevation, as required by ordinance.

2. Bulk Requirements

A. The bulk requirements of the B-1 Central Business Zone District as they relate to the subject application are as follows:

	Required	Existing	Proposed
Minimum Lot Area	3,000 sq. ft.	1,076 sq. ft.	1,076 sq. ft. ⁺
Min. Lot Width	50 ft.	15 ft.	15 ft. ⁺
Minimum Lot Depth	60 ft.	71.760 ft.	71.76 ft.
Min. Front Yard Setback	0 ft.	0 ft.	0 ft.
Min. Side Yard Setback	0 ft.	0 ft.	0 ft.
Min. Rear Yard Setback	15 ft.	0 ft.	0 ft.*
Maximum Lot Coverage	75%		100%*
Maximum Building Coverage	50%		100%*
Max. Building Height	3 stories/ 42 ft.		2.5 stories/ 40'8" 2 stories/ 18 ft.

*variance required ⁺existing non-conformity

B. The minimum required lot area in the B-1 Zone District is 3,000 sq. ft., whereas 1,076 sq. ft. is existing and proposed. This is an existing non-conformity.

C. The minimum required lot width in the B-1 Zone District is 50 ft., whereas 15 ft. is existing and proposed. This is an existing non-conformity.

D. The minimum required rear yard setback in the B-1 Zone is 15 ft., whereas 0 ft. is proposed. **A variance is needed.**

E. The maximum permitted lot coverage in the B-1 Zone District is 75%, whereas 100% is proposed. **A variance is needed.**

F. The maximum permitted building coverage in the B-1 Zone District is 50%, whereas 100% is proposed. **A variance is needed.**

3. Parking Requirements

A. As per §130-23, off-street parking spaces, open air or indoor, shall be provided with all new construction or with the creation of new uses as specified in this chapter, on the same lot as the use which they are intended to serve and shall be furnished with

necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which the use it serves is situated and shall not be encroached upon or reduced in any matter. All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-weather surface, clearly marked for car spaces, except when provided in connection with single-dwelling units and, except in the CP Zone, where only stone may be used to create the parking area, passageway and driveway. Each shall be adequately drained and subject to the approval of the Borough Engineer. The provision of off-street parking, in accordance with the standard of this section, shall accompany any rebuilding, reconstruction, alteration or remodeling of any building or premises. **No parking is proposed. A variance is needed.**

B. The applicant requires 5-six (6) spaces for the office use and for the restaurant use the space requirement is calculated as: 1.0 spaces per each 3 persons of legal capacity, plus 1 space per each employee, whereas, the applicant is providing zero (0) parking spaces. A variance is required. Testimony should be given as to the proposed number of employees for the take-out restaurant use.

4. Required Proofs for Variance Relief

A. C Variances

A “c” variance is required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

5. Additional Comments

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. Pursuant to the submitted easement, the applicant should provide loading in the rear of the building as opposed to having truck load on Ocean Avenue.**

- C. The applicant should clarify if the proposed restaurant and office space will be utilized by a single tenant or by multiple tenants.
- D. ~~Testimony should be provided as to how the attic space will be utilized.~~ ***The applicant has removed the attic space.***
- E. The proposed grade level floor plan indicates a storage area. Testimony should be provided as to what tenant space this storage area will served and what kind of items will be stored in this space.
- F. Due to the non-conforming nature of the lot area, the applicant should provide testimony as to whether buy/sell letters were sent to neighboring property owners.
- G. The applicant should provide testimony as to how and when deliveries will be made to the site.
- H. The applicant should provide a detail of any proposed signage. All signage should be in compliance with Article XI Signs, of the Land Use ordinance. Additional variances may be needed.
- I. The applicant should provide testimony as to whether any lighting, landscaping, or additional site improvements are proposed.
- J. The applicant should provide testimony on the proposed hours and days of operation for the take-out use, how deliveries will be handled, if orders will be allowed to be placed by phone, internet, or app, and how pick-ups will be managed.
- K. The applicant should ensure that all construction is in compliance with the Borough's Flood Damage Prevention Ordinance.

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.
Board Planner

JCB:clb

cc: David J. Hoder, P.E., Board Engineer
Monica Kowalski, Esq., Board Attorney
Mark Leber, PE, Applicant's Engineer
Rick Brodsky, Esq., Applicant's Attorney