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Borough of Sea Bright

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May 1, 2024

**Via Email and Hand Delivery**

C. Lance Cunningham, Unified Planning Board Chairman  
Candace B. Mitchell, Unified Planning Board Secretary  
Borough of Sea Bright  
1099 Ocean Avenue  
Sea Bright, NJ 07760

**Re: Request for Relief from Specific Condition of Resolution of Approval**  
**Applicant: Sea Bright School, LLC**  
**Resolution of June 11, 2019 (the "Resolution")**  
**Property Address: River Street (B 15, Lot 4) (the "Property")**

Dear Mr. Cunningham and Ms. Mitchell:

This firm is counsel to Sea Bright School, LLC ("SBS"), owner of the above Property. Kindly accept this correspondence as SBS's request that the Unified Planning Board consider and approve relief from a "Specific Condition" contained in the Resolution as described herein. *See* Resolution attached hereto as **Exhibit A**.

By way of brief background, the former owner of the Property, River Street Realty, LLC, obtained Preliminary and Final Major Subdivision approval from the Sea Bright Unified Planning Board for the creation of eight (8) single family lots and the construction of eight (8) single family homes at the Property which is located between South Street and River Street. SBS subsequently acquired the Property and is in the process of securing permits for the construction of the homes.

While pursuing the issuance of the permits, SBS encountered a problem with a Specific Condition of the Resolution related to the installation of infiltration systems at the Property. Specifically, it appears that site conditions make it impossible to meet this particular Specific Condition. As set forth, in pertinent part, in the Resolution:

Specific Condition 1. States, in pertinent part:

Applicant comply with the technical review items set forth in the Board Engineer's Reports...[.] As to item #8, Applicant will note the recharge method on the plans to the satisfaction of the Board Engineer.

The Second Compliance Review letter, dated March 9, 2020, submitted by the Board's Engineer, Hoder Associates (the "Hoder Letter"), provides, in pertinent part:

[Item] 8) Stormwater Management – This cannot be considered a Major Development....[.] The applicant does not need to provide reduction of stormwater flow, but should provide some method of recharge for on site for the roof drainage.

See Hoder Letter enclosed herewith as **Exhibit B**.

Based upon the abovementioned Specific Condition contained in the Resolution and referenced in the Hoder Letter, by way of letter, dated April 19, 2024, the Borough's consulting engineer, Leon S. Avakian, Inc. (the "Avakian Letter"), wrote the following:

Our office has reviewed the grading plan submitted for the [Property] and offers the following comments per the Planning Board approval, each lot must provide on-site recharge:

5. On-site infiltration must provide the following:
  - Provide soil log and permeability information for infiltration trench. (need to confirm system will drain.)
  - All infiltration systems relying on infiltration to size the system must provide a mounding analysis for the system that shows that there is "NO" water elevation increase at the property line.
  - Provide proposed drainage area map to show contributing area being directed toward infiltration system.

(emphasis added)

See Avakian Letter enclosed herewith and **Exhibit C**.

Notwithstanding the requirements set forth in the Avakian Letter as a result of the language in the Resolution and the Hoder Letter, it has been determined that the infiltration system(s) cannot be installed at the Property.

Dynamic Earth ("Dynamic"), the geotechnical engineering firm SBS engaged to perform a Geotechnical Investigation to evaluate the subsurface conditions for the design of the homes and associated improvements, found, in addition to the subsurface soil conditions, the depth to groundwater was too shallow to install an infiltration system and states, in pertinent part:

Groundwater was encountered at depths ranging between approximately three and 3.7 feet below the ground surface (elevations ranging between +4.1 feet and +2.9 feet).

See Dynamic report, dated August 18, 2023, enclosed herewith as **Exhibit D**.

Thus, in short, the shallow groundwater elevations encountered by Dynamic at the Property impacts SBS's ability to construct the seepage/infiltration pits required by the Avakian Letter because the NJDEP requires a minimum distance of two (2) feet between the bottom of infiltration systems and the Seasonal High Ground Water Table. As a result, SBS cannot satisfy the Specific Condition of installing the infiltration systems recommended by the Hoder Letter (without the benefit of the Dynamic site evaluation) and incorporated into the Resolution. And because of this Special Condition, SBS cannot satisfy the Borough's engineer to obtain the necessary permits to begin the project.

Accordingly, SBS is requesting relief from the subject Specific Condition of approval set forth in the Resolution. SBS is also requesting a waiver of the requirement to publish public notice of this request and respectfully submits that the relief requested represents an administrative task that can be accomplished without testimony at the next Planning/Zoning Board meeting. In the event the Board requires public notice and/or appearance and testimony, we respectfully request that the undersigned be so advised and that this matter be scheduled for the next available meeting date.

Thank you.

Very truly yours,

/s/ *Charles P. Kelly*

Enclosures

Cc: Benjamin A. Montenegro, Esq. (Planning Board Counsel)  
David J. Hoder, P.E. (Board Engineer)  
Gregory S. Blash, P.E. (Borough Engineer)  
Michael T. Cannon, P.E. (SBS Engineer)  
Timothy Chenoweth (SBC GC)  
Client