

**APPLICANT: WILLIAM A.G., INC**  
**APPLICATION NUMBER: 2022-15**  
**BLOCK: 13**  
**LOT: 37**  
**ADDRESS: 1106 OCEAN AVE.**  
**ATTORNEY FOR APPLICANT: KEVIN I ASADI, ESQ.**  
**RESOLUTION NUMBER:**



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT  
OF THE BOROUGH OF SEA BRIGHT**

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**WHEREAS, BOARD MEMBER MARC A. LECKSTEIN**, offered the following Resolution moved and seconded by **BOARD MEMBER STEPHEN CASHMORE**:

**WHEREAS, WILLIAM A.G., INC** by and through their attorney **KEVIN I. ASADI, ESQ.** hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Borough of Sea Bright, (hereinafter referred to as the “Board”) seeking the following relief:

The applicant seeks preliminary and final major site plan approval to enlarge the existing single-family dwelling on the second floor of the building. The following variances are requested in connection with the application:

130-50.C – Front yard setback from Church Street where the proposed building is 0.6 feet over the property line. This is an existing condition.

130-50.C – Rear yard setback where 15 feet is required and the proposed building is 0.1 feet over the property line. This is an existing condition.

130-50.C – Lot Coverage wherein 50% is the maximum lot coverage and the proposal includes 91.1% coverage. This is an existing condition.

Parking – Two off street spaces are required and zero spaces are proposed. This is an existing condition.

The applicant also reserves the right to request any and all variances and/or waivers which are necessary or may become necessary during the public hearing process.

**WHEREAS**, the application pertains to premises known and designated as Block 13, Lots 37 on the Tax Map of the Borough of Sea Bright, which premises are located at 1106 Ocean Ave. Sea Bright, NJ 07760.

**WHEREAS**, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

**WHEREAS**, the Board held a public hearing with regard to the referenced application on the following date, December 13, 2022:

**WHEREAS**, the following items were entered as Exhibits at the hearing:

1. Denial letter (pdf)
2. Application Packet (pdf)

3. Preliminary and Final Major Site Plan, 5 sheets prepared by In site Engineering dated 9/15/22 rev 1/12/23
4. Topographic and Utility Survey, 1 Sheet (pdf)
5. Architects Plans prepared by Kevin Roy, Architect **undated, rev 1/9/23**
  - a. 1106 Ocean PLANNING BD KCR-A1 (pdf)
  - b. 1106 Ocean PLANNING BD KCR-A2 (pdf)
  - c. 1106 Ocean PLANNING BD KCR-A3 (pdf)
  - d. 1106 Ocean PLANNING BD KCR-A4 (pdf)
6. Photo - Front View
7. Photo – Corner View
8. Photo – Side View
9. Front Rendering
10. Side Rendering
11. Engineering Review dated 12-7-22 (pdf)
12. Planning Review, Dated 12-8-22 (pdf)
13. 200-foot property owners list (pdf)
14. Sea Bright Public Notice (pdf)
15. Affidavit of Publication (pdf)
16. Affidavit of Service, received. 12-9-22 (pdf)
17. Scan of verified Noticing – 1106 Ocean Avenue (pdf)
18. Tax and sewer Certificate, 12-9-22.docs

**WHEREAS**, The Board listened to the Testimony of the following:

1. **STEVE GARDELLA**
2. **KEVIN ROY– AIA**
3. **JENNIFER WHITE, CIVIL ENGINEER PE**
4. **BARBARA EHLEN, PP - BEACON PLANNING**

**WHEREAS**, The Board took Questions from the following member of the Public as to the witnesses presented:

1. NONE

**WHEREAS**, The Board took Commentary on the Application upon conclusion of the witness testimony as follows:

1. NONE

**WHEREAS**, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. Applicant Gardella owns the LLC entity which owns the property and the intent is to live in the property full time.
2. There are no proposed changes to operations in business section in term of delivery or otherwise. Applicant will utilize the entrance and exit currently there. Nothing in this application will modify operations.
3. Applicant will replace the sidewalks be on Church Street if required by Borough.

4. The Applicant clarifies the intended third floor space, advises there will be a stairwell inside home which leads out to deck.
5. Elevations show garage door on ground floor. Applicant would like to put a garage in where there is currently a storage facility. The gas company will move all utilities outside the building. This garage is not shown on the elevations so this modification would require the submission of modified floor plans as a condition of approval should applicant intend to move forward with garage installation.
6. The sidewalk will become a driveway apron and this area would require a curb cut or a modification of curb and sidewalk. Sidewalk has been like that and will be replaced. This would remove a vehicle from the street which is preferable. However, the mechanicals will be in that area (hot water, etc.) so applicant may have to install interior bollards so there is no impact issue. The Board suggests that it be a condition of approval that all mechanicals in this area meet building code requirements should the area be utilized as a garage. The entire utility room as a garage space is approximately 20' x 22'.
7. The first floor of the building will not change. All windows were installed after Superstorm Sandy. The Board suggests that the first-floor plans be updated to include what is actually currently present on the first floor as a condition of approval.
8. **A Discussion of the first floor layout is placed on the record.** The Board is concerned with shared bathrooms on the first floor plan. Board advises Applicant they need plans as to what is currently in place with regard to bathrooms and the entrances which exist on current first floor.
9. **With regard to proposed plans:** Amend plan to show wall to be removed between kitchen and great room and include the stairwell to rooftop room.
10. Elevations – street view. Rooftop area on third story is an issue because there is no circular stairway shown on plans to access that area. A staircase would not increase height issue of the building but could modify aesthetics. The plans shall be modified to include an exterior staircase, on left side in back of deck (south east corner of rooftop room), in the rear of proposed deck and will extend no higher than the 3 foot rail. (decking on top of rooftop room) The stairwell shall be no higher than the rail to be installed (42" for guardrail). Circular stairwell no less than 6' wide shall be installed for this area.
11. There is no proposed change for any Signage on the structure.
12. Exterior lights illuminating doors upstairs and on deck area shall be installed. All shall be residential lights, no flood lights. Small unobtrusive, recessed lights in ceiling of deck shall be installed. There shall be no lights proposed on upstairs deck.
13. Railing on third floor goes across building but that will not be the entire deck area. **THE RAILINGS WILL ONLY BE WHERE DECK AREA IS.** To the extent of any discrepancies, the architectural elevations control which shall be amended per the discussion on this application.
14. Applicant shall redraw plans in accordance with this hearing and said plans will be resubmitted for engineer's review and approval. Applicant withdraws rendering for purposes of design as they are inaccurate.
15. Site currently is a 2-story building, and businesses are going to remain. A 4<sup>th</sup> bedroom is being added to the residence with a rooftop deck above.
16. All business deliveries are done through alley way in back and load in through rear of building. No need for designated loading area. All uses are small in size and handle loading.
17. There are refuse containers in back-alley way with both Sea Bright and private haulers being utilized.
18. There is no parking on site. Applicant is required to provide parking space for one space.

However after discussion, the Board determines that the proposed garage is not contingent on approval of application as the gas lines are inside and it may not be feasible to move same to satisfy a garage requirement. So, if Applicant can utilize a garage, it would be welcomed but not required.

19. The applicant advises that the Use is permitted. This is a mixed-use property which adds vibrancy to the downtown area.
20. The variances required are as set forth in the Zoning Table referenced for the **(B-1) Zone)**

Item	Required	Provided
Min. Lot Area (sq. feet)	3,000 SF	4,338 SF
Min. Lot Width (feet)	50 Ft	59.7 Ft
Min. Lot Depth (feet)	60 Ft	69.2 Ft
Min. Front Yard Setback (Ocean Ave.)	00 Ft	1.2 Ft
Min. Front Yard Setback (Church St.)	00 Ft	<b>0.6 over Ft</b>
Min. Side Yard Setback (feet)	00 Ft	0.1 Ft
Min. Rear Yard Setback (feet)	15 Ft	<b>0.1 over Ft</b>
Max. Building Height (feet/stories)	42 Ft. / 3 Stories	33 Ft. / 3 Stories
Max. Building Coverage	50 %	<b>91.11 %</b>
Max. Lot Coverage	75 %	<b>100.0%</b>

Bulk variances are in BOLD

21. The proposed addition will respect the building footprint and will not intrude over existing line over property line. Applicant advises that it fits the character of the neighborhood and master plan does not address this, but this is the central business district to promote the traditional main street character.
22. The Use provides space in location, encourages private and public procedures, more efficient use of land and the Use is conditional in the zone and is appropriate.
23. There are variances as set forth which do not exacerbate hardships. There are 2 parking spaces per dwelling unit and RSIS would require an extra ½ space for 4<sup>th</sup> bedroom. Since the increment is minimal, the Board finds that as a condition of approval the Use shall be restricted to ONE RESIDENTIAL 4BR UNIT, which shall be non-divisible. This shall not become a multi-family unit.

**WHEREAS**, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Adjustment of the Borough of Sea Bright that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
  - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.

- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Borough of Sea Bright.
- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

**BE IT FURTHER RESOLVED**, by the Board of Adjustment of the Borough of Sea right that the following be and are hereby GRANTED:

Applicant is granted preliminary and final major site plan approval to enlarge the existing single-family dwelling on the second floor of the building. The following variances are granted in connection with the application:

130-50.C – Front yard setback from Church Street where the proposed building is 0.6 feet over the property line. This is an existing condition.

130-50.C – Rear yard setback where 15 feet is required and the proposed building is 0.1 feet over the property line. This is an existing condition.

130-50.C – Lot Coverage wherein 50% is the maximum lot coverage and the proposal includes 91.1% coverage. This is an existing condition.

Parking – Two off street spaces are required, and zero spaces are proposed. This is an existing condition.

**AS A CONDITION OF APPROVAL OF THE VARIANCES, THE BOARD REQUIRES THE FOLLOWING:**

1. The Board requires that should the storage area be turned into a garage, that floor plans be modified and submitted. Should the mechanicals in this area remain, same must meet building code requirements. The entire utility room as a garage space is approximately 20' x 22'.
2. The Board requires that the first floor, floor plans of the current existing structure be updated and submitted for approval to include what is actually currently present on the first floor as a benchmark for future matter.
3. With regard to the proposed construction, the Board requires that the Applicant amend the current plans to show the wall to be removed between kitchen and great room and include the stairwell to rooftop room along with elevations for deck/railings/proposed lighting.
4. Lastly, the Board requires that the Use of the residential area shall be restricted to ONE RESIDENTIAL 4BR UNIT, which shall be non-divisible. This shall not become a multi-family unit.
5. Outside Agency Approval: The application shall be subject to review by all regulatory agencies having jurisdiction, including:
  - Sea Bright Fire Department
  - Flood Plain Official
6. Lastly, with regard to Borough requirements, the Board requires the following:

- a) Section 130-67 A 1 - Performance Guarantees - Prior to the signing of a final plat of a subdivision or of a site plan, issuance of a development permit and/or the commencing of any clearing, grading or installation of improvements, the developer shall have filed with the Borough a performance guaranty sufficient in amount to equal 120% of the total cost to the Borough, as estimated by the Borough Engineer, of constructing those on-site, on-tract, off-site and off-tract improvements necessary to protect adjacent property and the public interest in the event development of the site were not completed. *This will only be required if the sidewalk is being replaced on Church Street.*
- b) The applicant shall be subject to any affordable housing requirements of Sea Bright.

**ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:**

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
  - a. All Plans must be approved by Borough Engineer and Code and Construction Departments for the issuance of Permits;
  - b. MONMOUTH COUNTY PLANNING BOARD;
  - c. FIRE MARSHALL;
  - d. BOARD OF HEALTH;
  - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
  - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
  - g. BOARD OF ADJUSTMENT PLANNER
  - h. BOARD OF ADJUSTMENT ENGINEER
  - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
  - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
  - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
  - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
- (2) SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

**APPLICATION VOTE:**

Adopted on a roll call on a motion offered by Board Member Marc A. Leckstein and Seconded by Board Member Stephen Cashmore:

THOSE IN FAVOR: Bieber, Bills, Cashmore, Cunningham, DeSio, Lawrence, Leckstein, Schwartz

THOSE OPPOSED: None

RECUSED: None

ABSENT: Gorman, Kelly, DeGiulio

ABSTAINED: None

**MEMORIALIZATION VOTE:**

Adopted on a roll call vote on a motion offered by Board Member Marc A. Leckstein and Seconded by Board Member Councilman Erwin Bieber, by members who voted to approve the application:

THOSE IN FAVOR: Bieber, Bills, Cashmore, DeSio, Lawrence, Leckstein

THOSE OPPOSED: none

RECUSED: none

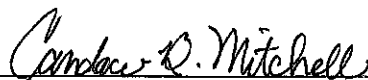
INELIGIBLE: DeGiulio, Zelina

ABSENT: Cunningham, Kelly, Schwartz

ABSTAINED: none

I certify the foregoing to be a true copy of the Resolution memorialized by the Unified Planning/Zoning Board of Sea Bright at its meeting on February 28, 2023.

Date: February 28, 2023



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Candace B. Mitchell  
Administrative Officer  
Unified Planning/Zoning Board  
Borough of Sea Bright