

Wednesday, June 21, 2023

SEA GIRT PLANNING/ZONING BOARD  
REGULAR MEETING  
WEDNESDAY, JUNE 21, 2023

The Regular Meeting of the Sea Girt Planning/Zoning Board was held on Wednesday, June 21, 2023 at 7:00 p.m. online only as the elementary school was not available due to graduation activities.

In compliance with the Open Public Meetings Act, notice of this Body's meeting had been sent to the official newspapers of the Board and the Borough Clerk, fixing the time and place of all hearings.

Kevin Kennedy, Board Attorney, was present and Board Secretary Karen Brisben recorded the Minutes.

A Salute to the Flag was done, then the following roll call:

Present: Karen Brisben, Mayor Don Fetzer (arrived 7:03), Eileen Laszlo, Stan Koreyva, Robert Walker, John Ward, Norman Hall

Absent: Carla Abrahamson, Councilwoman Diane Anthony, Tom Britt, Jake Casey

Vice-Chairperson Laszlo ran the meeting as Chairperson Hall was not feeling well and asked if anyone on the Zoom meeting wanted to discuss any item not on the agenda and there was no response.

The Board then turned to the approval of the Minutes of the April 19, 2023 meeting and Mr. Walker made a motion to approve these, this seconded by Mr. Ward and then approved by a voice vote with Mrs. Brisben abstaining. The Minutes of the May 17, 2023 were amended to show Mr. Avakian's name in one place where it was left out, the motion for approval was then made by Mr. Ward, seconded by Mr. Walker and approved by voice vote, all aye.

OLD BUSINESS:

The Board turned to the consideration of approval of a Resolution for Block 100, Lot 3, 705 New York Boulevard, owned by Brent & Diane Ireland, to allow renovations/alterations to an existing home. Mr. Kennedy went over the conditions in the Resolution and noted that, as there was discussion for and against the application, he tried to put all arguments in. Mr. Ward had a question on the point of the applicant getting a building permit within 24 months; do they just need to get the permit and start or does it have to be completed? Mr. Kennedy answered and did not know if Sea Girt has an Ordinance on this but, typically, the applicant is to get a building permit so the application does not become stale and action is taken; however, it is up to the Board if they want to change this. He also mentioned the Permit Extension Act which was active for about 20 years, it ran out about 4-5 years ago, but it allowed people to extend the

time of approval. Mr. Ward then asked if one gets a building permit but does not do any work for 5 years, how does this apply? Mr. Kennedy did not know but he will ask Mr. Willms and get an answer. At this time, the following Resolution was presented for approval:

**WHEREAS**, Brent and Diane Ireland have made Application to the Sea Girt Planning Board for the property designated as Block 100, Lot 3, commonly known as 705 New York Boulevard, Sea Girt, New Jersey, within the Borough's District 1, West Single-Family Zone, for the following approval: Bulk Variances associated with a request to effectuate the following:

- Construction of a front covered porch;
- Construction of a ½-story addition;
- Construction of a rear deck over an existing porch;
- Removal of some existing impervious surfaces at the site;
- Installation of a non-covered / non-draining exterior rinsing station;  
and

#### **PUBLIC HEARINGS**

**WHEREAS**, the Board held Public Hearings on April 19, 2023 and May 17, 2023, Applicants having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

#### **EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearings, the Board reviewed, considered, and analyzed the following:

- *Land Development Application Package, introduced into Evidence as A-1;*
- *Architectural Plans, prepared by N2 Architecture, dated September 1, 2022, last revised February 2, 2023, consisting of 4 sheets, introduced into Evidence as A-2;*

- *Survey, prepared by Lakeland Surveying, dated June 8, 2021, introduced into Evidence as A-3;*
- *Leon S. Avakian Inc. Review Memorandum, dated March 23, 2023, introduced into Evidence as A-4;*
- *Zoning Officer Denial Letter, dated September 14, 2023, introduced into Evidence as A-5;*
- *An aerial photograph and other site images / photographs, taken by Marc Nemergut, Architect, on or about April 18, 2023, collectively introduced into Evidence as A-6;*
- *Architectural Plans, revised sheet AS-1 of the Architectural Plans, prepared by N2 Architecture, last revised May 1, 2023, introduced into Evidence as A-7;*
- *Area Map, consisting of 1 sheet, prepared by Charles O'Malley, PLS, dated April 24, 2023, introduced into Evidence as A-8;*
- *Resolution of the Sea Girt Planning Board, regarding the 703 New York Boulevard Sea Girt, NJ property (official prindibille), dated on or about October 17, 2001, introduced into Evidence as A-9;*
- *Leon S. Avakian Inc. Review Memorandum, dated March 23, 2023, last revised May 5, 2023, introduced into Evidence as B-1;*
- *Certification of Board Member Karen Brisben, confirming that she reviewed the tapes and / or transcripts of the Planning Board's April 19, 2023 meeting, introduced into Evidence as B-2;*
- *Certification of Board Member Tom Britt, confirming that she reviewed the tapes and / or transcripts of the Planning Board's April 19, 2023 meeting, introduced into Evidence as B-3;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

**WITNESSES**

**WHEREAS**, sworn testimony in support of the Application was presented by the following:

- Marc Nemergut, Architect:
- Marc Aikins, Esq. appearing: and

**WHEREAS**, Peter R. Avakian, P.E., P.L.S., P.P, the Board Engineer was also sworn with regard to any testimony/information he would provide in connection with the subject application; and

**WHEREAS**, Chris Willms, the Zoning Officer was also sworn with regard to any testimony/information he would provide in connection with the subject application; and

**TESTIMONY AND OTHER EVIDENCE PRESENTED ON BEHALF OF THE APPLICANTS**

**WHEREAS**, testimony and other evidence presented on behalf of the Applicants revealed the following:

- The Applicants are the Owners of the subject property.
- There is an existing 2 story single-family home at the site.
- The Applicants live at the site.
- The existing home was, upon information and belief, constructed in or about the 1950's.
- There is an existing small front covered stoop at the site, which measures approximately 35 SF.
- The existing front covered stoop merely allows individuals who are entering / exiting the home to stop, gather keys / wallets / packages with protection from the weather elements.
- The existing front-covered stoop is not large enough to serve as a functional / practical porch.
- In order to increase outdoor useable space associated with the site, the Applicants are proposing, among other things, the construction of a front porch.
- The Applicants also seek to improve the overall functionality of the home.

- The Applicants' overall proposal requests permission to effectuate the following:
  - Construction of a front covered porch;
  - Construction of a ½-story addition;
  - Construction of a rear deck over an existing porch;
  - Removal of some existing impervious surfaces at the site; and
  - Installation of a non-covered / non-draining exterior rinsing station.
- Details pertaining to the proposed improvements include the following:

### **Porch**

Location:	Front of home
Size:	28' wide X 7'6" deep (@212 SF)
Materials:	Wood Frame PVC Columns Metal Roof
Covered?:	The proposed front porch will be covered.
Enclosed?:	The proposed front porch will not be enclosed.

### **Deck**

Location:	Rear of home
Size:	@45 SF (Per Plans)
Materials:	Per Plans
Covered?:	The proposed deck will not be covered.
Enclosed?:	The proposed deck will not be enclosed.
Surface beneath the proposed deck:	The proposed deck will be constructed over an existing patio. (The existing patio will remain.)

### **½-Story Addition**

Location:	Over the existing 2 story portion of the home
Size	Per Plans
Materials:	Per Plans

- Upon completion of the construction / renovation process, the single-family home will include the following:

#### **FIRST FLOOR**

Living Room  
Kitchen  
Mud Room  
Bathroom  
Dining Room  
Sitting Room  
Office  
Covered Porch  
Deck

#### **SECOND FLOOR**

Bedroom  
Bedroom  
Bedroom  
Bedroom  
Laundry Room  
Bathroom  
Bathroom

#### **½-STORY**

Bonus Room

- The Applicants anticipate that the renovation / construction work will take place in the near future.
- The Applicants will be utilizing licensed contractors in connection with the construction / renovation process.

### **VARIANCES**

**WHEREAS**, the Application as submitted, requires approval for the following Variances:

*BUILDING COVERAGE: Maximum 20% allowed; whereas 23.7% proposed;*

*FRONT BUILDING SETBACK: 40 ft. required (to the front porch) per Ordinance, **or** 36.24 ft required (which represents the average front setback in the immediate block, as allowed by Ordinance); whereas, in the within situation 32.3 ft. proposed to the porch;*

### **PUBLIC COMMENTS**

**WHEREAS**, sworn comments, questions, and / or statements regarding the Application were presented by the following members of the public:

- Heather Scaturo
- Sue Blasi
- Debbie McNicholas
- Barbara Geller
- Patricia Prindiville
- Philip Prindiville
- Matthew Mastrorilli

### **FINDINGS OF FACT**

**NOW, THEREFORE, BE IT RESOLVED**, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, testimony, and public comments, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.

2. The subject property is located at 705 New York Boulevard, Sea Girt, New Jersey, within the Borough's District 1, West Single Family Zone.

3. The subject property contains an existing single-family home.

4. Single-family use is a permitted use in the subject Zone.

5. In order to improve the overall functionality of the existing home, the Applicants propose to effectuate the following:

- Construction of a front covered porch;
  - Construction of a ½-story addition;
  - Construction of a rear deck over an existing porch;
  - Removal of some existing impervious surfaces at the site; and
  - Installation of a non-covered / non-draining exterior rinsing station.
6. Such a proposal requires Bulk Variance approval.
7. The Sea Girt Planning Board is statutorily authorized to grant such relief and therefore, the matter is properly before the said entity.

8. With regard to the Application, and the requested relief, the Board notes the following:

- A single-family home exists at the site.
- A single-family home is a permitted use in the subject Zone.
- Currently, there is only a small (@35SF) covered front stoop at the site (as opposed to a functional/practical porch
- The small front covered stoop really just provides a) some limited architectural enhancement to the home; and b) a place where individuals entering / exiting the home can stop and gather keys / packages, without having to be exposed to the weather elements (i.e. rain, snow, sleet, ice, etc.).



- The small existing front covered stoop is not large enough to be utilized as a traditional or functional porch, where individuals can gather / sit, enjoy the outside air, etc.
- As such, as part of the within Application, the Applicants propose the construction of a front porch.
- As referenced elsewhere herein, in order to improve the overall functionality of the home, and to increase overall living/useable space at the site, the Applicants also propose other improvements as well.
- As referenced, the Applicants are requesting overall approval to effectuate the following:
  - Construction of a front covered porch;
  - Construction of a ½-story addition;
  - Construction of a rear deck over an existing porch;
  - Removal of some existing impervious surfaces at the site; and
  - Installation of a non-covered / non-draining exterior rinsing station.
- The majority of the Board Members did not appear to have any significant concerns regarding the following elements of the subject proposal:
  - Construction of a ½-story addition;
  - Construction of a rear deck over an existing porch;
  - Removal of some existing impervious surfaces at the site; and
  - Installation of a non-covered / non-draining exterior rinsing station.
- However, there was a very intense, public, and on-the-record discussion as to the front porch aspect of the proposal.
- Some individual Board Members believed the Variance Standards were satisfied and further expressed a love for porches and hence, the said individuals vocally encouraged approval of the requested Variance relief.

- Opposing Board Members indicated that they too love porches, and the wonderful architectural / aesthetic / functional / practical benefits associated therewith.
- However, those opposed to the Application were quite clear in advancing that they were not opposed to front porches per se; rather, they were opposed to the Variances/deviations triggered as a direct result of the specifically proposed front porch.
- The excess Building Coverage and the non-compliant Front Building Setback were a source of great concern for some of the Board Members.
- As referenced, there was a rather intense, good-faith, public, and on-the-record debate regarding the overall merits of the Application. Those inclined to deny the Application argued points which included, but were not necessarily limited to, the following:
  - The existing Building Coverage at the site (20.9%) already exceeds the maximum allowable Building Coverage otherwise allowed;
  - The Building Coverage already exceeds that which is allowed – and approval of the within Application will further exacerbate the said situation (increasing the overall Building Coverage to further non-compliant 23.7%);
  - A 23.7% Building Coverage for the site is excessive;
  - A 23.7% Building Coverage for the site is problematic;
  - There is no traditionally recognized hardship which would justify approval of the within Application;
  - There is no challenging slope / topography / shape of the subject property which would otherwise justify the requested Variance relief;
  - There has been no proof of any hardship;
  - The detriments associated with the subject Application out-weigh any benefits associated therewith;
  - The Front Building Setback will be 32.3 ft., which is not appropriate under the circumstances;

- The Applicants' proposed front building setback is substantially less than the Borough's 40 ft. Ordinance requirement;
- The Applicants' proposed front building setback is materially less than the average front setback of homes in the block;
- The Front Building Setback deficiency is problematic;
- There is no recognizable legal basis to create a new non-conforming Front Building Setback (where the Front Yard Setback currently complies with Prevailing Zoning);
- There has been no justification presented for a Front Building Setback of only 32.3 ft.; whereas 40 ft (Ordinance) / 36.24 ft (Average) is otherwise required;
- The average Front Setback in the block is 36.24 ft; whereas the Applicants' proposed Front Building Setback of 32.3 ft is not appropriate;
- Per the prevailing zoning Ordinance, the Borough's Front Building Setback can be calculated by determining the average Front Building Setback of other structures in the immediate block (excluding the subject property). Thus, the Front Setback relief granted herein will undoubtedly lead, in the immediate future, to a less intense average Setback (which will ultimately reduce the overall required Front Yard Setback for other future applicants);
- Because of the above, the Front Building Setback deviation approved herein will, essentially, have the overall effect of reducing the minimum required Front Building Setback for other individuals in the immediate block;
- Approval of the within Application will negatively re-set the overall Front Yard Setback average (in the block) which will change (detrimentally) the overall Front Yard Setback Requirement (in the block);
- The Applicants' main reason in support of the Variance appears to stem from the fact that the Applicants want to have a front porch constructed at the site;

- While the Board Members can certainly appreciate the Applicants' desire for a porch, let alone a large porch, such a desire is not, in and of itself, a judicially recognized basis for granting Variance relief;
- A sincere and understandable desire for a porch does not constitute a legally justified reason as to why Variance relief should be granted;
- The Porch Setback approved herein is not necessarily consistent with other porches in the area;
- Just because the Front Porch Setback approved herein may be somewhat consistent with some other porches in the neighborhood, the same is not, in and of itself, a basis as to why the requested Variance relief should be approved;
- The subject Lot is a conforming 50' X 150' Lot – and, as such, there is no reason why a Board should grant the requested Variance relief so that a generally conforming site can become non-conforming;
- The Applicants' proposed porch is just too large (given the conforming size of the property, and the location / orientation of the existing home);
- A smaller porch, or a less imposing / less impactful porch would be more appropriate for the site;
- The proposed non-conforming porch could be reduced in size / scope, so as to minimize the overall detrimental impacts of the requested Variance relief;
- The Applicants' proposal, under the circumstances, constitutes over-development of the property;
- The Applicants' non-conforming proposal is just too overwhelming;
- Any cavalier granting of Variance relief will weaken / compromise the overall integrity of the Borough's Prevailing Zoning Ordinances;
- Approval of the within Application will detrimentally change / impact the existing streetscape;

- The 3.7% excess Building Coverage associated with the within proposal does not constitute a de-minimus request for relief;
- Approval of the within Application will result in a significantly larger building footprint than is otherwise allowed;
- Approval of the within Application will result in a significantly larger building footprint than is otherwise desired;
- The Setback deficiency is not minimal in nature;
- No compelling reasons have been submitted to grant the requested Variance relief;
- The Land Use Board should be conservative and disciplined in the granting of Variance relief;
- The granting of Variance relief (without compelling and legally justified reasons for doing so) will constitute a negative precedent;
- The granting of Variance relief (without compelling reasons to do so) will compromise the Borough's overall Zoning scheme;
- If the within Application is approved, other residents will presumably seek Variance relief to construct similar non-conforming porches as well (without legitimate underlying zoning reasons for the same);
- Based upon comments made during the Public Hearing process, it appears that some other neighbors in the neighborhood may want to construct similar non-conforming porches as well;
- While the support of some neighbors in the community is welcome and appreciated, the number of supporters (or objectors) associated with a particular Application is not relevant;
- The number of individuals supporting (or objecting to) an Application is not really relevant – but rather, what is relevant is whether a particular Applicant has appropriately satisfied the controlling legal criteria for Variance relief;

- The subject proposal constitutes overdevelopment, as evidenced by the failure of the Applicants to satisfy all Prevailing Bulk Zoning criteria;
- While the concept and benefits of a front porch are clearly understood and appreciated, the desire for the Applicants to have a front porch does not justify the strict Legal Standards associated with the requested Variance relief;
- Perhaps other design alternatives could be explored / effectuated so as to eliminate and / or reduce the nature / extent of the requested Variance relief;
- Perhaps the Borough's Front Yard Setback averaging calculation method needs to be officially/critically reviewed / improved / modified / clarified;
- The within proposal does not constitute a minor / de-minimus request – rather, the within violation (zoning deviation) represents a significant over-build;
- The proposed Setback deviations are not consistent with the goals and objectives of the Master Plan;
- Under the circumstances, given the nature of the conforming Lot, a 7.6 ft. wide X 28 ft. long front porch is just too large and too overwhelming;
- A desire for a bigger / larger home, while certainly understandable, does not constitute a reason as to why Variance relief should be granted;
- While the proposed front porch is aesthetically pleasing, the Borough's Front Setback Requirement in the Zone is sacrosanct – and no legitimate reason for deviation has been presented;
- The Applicants' proposed front setback deviation represents an approximate 10% deviation, which is substantial;
- The Applicants' reliance on A-9 (a 2001 resolution granting variance relief for the construction of a front porch on a neighboring property) is flawed, as 21 years ago, the Borough of Sea Girt (and, by extension, the rest of the world) was not as sensitive to adverse

impacts otherwise associated with excess coverage issues);

- The Applicants' reliance on the 2001 porch approval for a neighbor (A-9) is non-persuasive, as there was no known coverage variance associated therewith;
- While the Applicants' professional presentation was impressive, appropriate Legal Standards were not satisfied;
- The within proposal is too disruptive to the existing zoning scheme;
- Under the circumstances, the subject site cannot comfortably accommodate the nature / extent of the Applicants' non-compliant proposal;
- Good sound planning should be consistent with, and stem from, the Prevailing Zoning Regulations; and
- Under sound Zoning Principles, Zoning should occur by Ordinance, and not by Variance.

The arguments of those Board Members who were inclined to support the Application included, but were not necessarily limited to, the following:

- The Applicants' representatives did provide testimony and evidence satisfying the appropriate Variance Standards;
- Subject to the conditions contained herein, the benefits associated with the within Application out-weigh any detriments associated therewith;
- A porch is a standard architectural feature in the shore community of Sea Girt, NJ;
- The proposed front porch adds significant architectural character to the home;
- The proposed front porch enhances the overall architectural appearance of the existing home;
- The proposed front porch will be functional and aesthetically pleasing;

- The proposed front porch will significantly enhance the overall architectural charm / character of the existing structure (which was generally described by some as somewhat lacking);
- The proposed front porch will not be overbearing;
- The proposed front porch will not overburden / overtax the Lot;
- The proposed front porch will sufficiently line up with other front porches in the immediate area, thereby minimizing any adverse impacts associated therewith;
- The relevant calculations (front yard building setback) include the following:

Min. Required per Ord.: 40 ft

Min Required per Ord. averaging: 36.24 ft

Existing Front Building Setback: 35.8 ft

Proposed Front Building Setback: 32.3 ft

The proposed setbacks are, under the circumstances, generally consistent with the character of development in the neighborhood.

- The average Front Yard Setback in the block is approximately 36.24 ft.; whereas the front porch proposed herein has a non-conforming Front Setback of 32.3 ft. (which is not inconsistent with other homes in the immediate neighborhood);
- The proposed front porch will not materially compromise the amount of air, space, and light at and around the site;
- The proposed front porch will not adversely impact any adjacent properties;
- A number of neighbors attended the Public Hearing, testified at the Public Hearing, and formally encouraged approval of the Application;
- The presence of, and testimony of, supporting neighbors furthermore reinforces the concept that the



subject Application can be approved without causing substantial detriment to the public good;

- While the number of supporters (or objectors) associated with a particular Application is not really relevant, the presence of supporting neighbors (in conjunction with the testimony/evidence presented) further enhances the notion that the subject Application can be approved, without substantially damaging the overall zoning plan / scheme;
- There are a number of other similarly located front porches in the immediate area, thereby minimizing any adverse impact associated with the subject proposal;
- The proposed Front Porch Setback is not materially inconsistent with other porches in the immediate neighborhood;/block;
- The addition of the proposed front porch will architecturally enhance the appearance of the existing box-like residential structure;
- As a condition of the proposal, the Applicants have agreed that there can be no enclosure of the front porch, and no addition constructed over the porch, absent further / formal approval of the Sea Girt Planning Board (thereby further minimizing the possibility of any adverse impacts associated with the Application;
- The Sea Girt Planning Board is statutorily authorized to grant Variance relief / deviations from the Zoning Ordinance when the same can be effectuated without causing substantial detriment to the public good;
- In the within situation, the requested Variance relief can, in fact, be granted, without causing substantial detriment to the public good;
- Approval of the Application will reduce the overall impervious Lot Coverage at the site (from a conforming 33.4%) to a conforming 32.5%), further evidencing the absence of any substantial detriment associated with the Application;
- Notwithstanding the decreased/conforming impervious lot coverage, the Applicants will still be installing

drywells at the site to better improve/enhance any potential water run-off issues;

- The neighboring front porch has an approximate Front Yard Setback which is similar to the Front Yard Setback approved herein;
- The design of the proposed front porch is aesthetically pleasing;
- The physical presence of the front porch will add architectural charm to the existing structure, which will, in turn, be beneficial for the site, the neighborhood, and the community as a whole;
- There is no substantial detriment associated with the subject proposal;
- To the extent any detriment does exist (in conjunction with the within proposal), the same can be mitigated / reduced through the imposition of certain conditions of approval;
- The fear, concern, or potential fear / concern of other individuals submitting porch applications in the future is not an appropriate basis as to why the subject Application should be denied;
- Each Zoning Application submitted to the Sea Girt Planning Board needs to be approved, or denied, based upon its own merits, based upon the particular testimony and evidence presented, based upon the particular circumstances of the Lot / structure, and based upon the particular impact the proposal will have on the community / neighborhood, etc.;
- If future Porch Setback Applicants can successfully prove compliance with the applicable Variance Standards, then, in that event, in the absence of extraordinary circumstances, future Applications may be similarly approved;
- Likewise, if future Porch Setback Applicants do not satisfy the Prevailing Legal Criteria, then, in that event, in the absence of extraordinary circumstances, such future Applications will presumably be denied;

- The possibility that other similar Applications will be submitted in the future is not a basis as to why the within Application should be specifically approved or denied;
- If the subject site were a completely vacant and unimproved parcel and a new home was going to be designed and constructed, then, in the absence of extraordinary circumstances, there would be no reason as to why Variance relief should be granted (as, in such a situation, a conforming proposal could likely be designed);
- However, in the within situation, the existing single-family home was, upon information and belief, constructed in or about the 1950's – and some Board Members recognize the practical / functional issues associated with retrofitting an approximately 73 year old structure (let alone retrofitting an old structure in accordance with modern zoning requirements);
- The nature / location / orientation of the existing structure on the Lot compromises the ability of the Applicants to reasonably comply with all Prevailing Bulk Standards;
- While others in the Borough have simply decided to demolish older homes, and construct newer homes, not every Applicant is in a position to do so (and Board Members should be cognizant of the same);
- The existing home was, upon information and belief, constructed in or about the 1950's – and there is merit and benefits associated with allowing older homes to be appropriately / functionally updated, without resulting in a complete demolition thereof;
- The existing home, was constructed in or about the 1950's – and now, some approximately 73 years later, modern design principles more appropriately recognize the practical / functional / aesthetic / operational benefits of a front porch;
- The document entered into Evidence as A-9, was a 2001 Resolution of Approval from the Sea Girt Planning Board, authorizing the construction of a

similarly situated front porch on the immediately adjacent parcel;

- As a general rule, appropriate renovation and upgrading of an existing older structure should be allowed, particularly if the same can be granted without causing substantial detriment to the public good;
- The construction of the front porch will be beneficial for the neighborhood; and
- Subject to conditions discussed during the Public Hearing process, the subject site can, in fact, appropriately accommodate the Applicants' non-conforming porch proposal.

After weighing the positive and negative factors as referenced above, and after analyzing / weighing all the testimony, evidence, and public comments presented during the Public Hearing process, a majority of the Board Members were persuaded / convinced to conditionally approve the subject Application.

- The absence of a front porch at the home detracts from the overall aesthetic appeal of the existing structure.
- The proposed front porch is not oversized or otherwise overwhelming.
- If the size of the front-covered porch were to be materially reduced, the same could compromise the overall functionality / aesthetic appeal of the same.
- The front setback of the porch approved herein is generally consistent with the front setbacks of other porches in the area.
- Approval of the within Application will not compromise or otherwise detrimentally impact any views at and/or around the site.
- The Applicant's porch plans are reasonable under the circumstances and reasonable per the size of the existing Lot.
- The Applicant's site / lot can physically accommodate the porch proposed / approved herein.
- Approval of the within Application will not have an adverse aesthetic impact on the site or the neighborhood.

- Approval of the within Application will make the existing home more functional, and approval will also improve the quality of life for the homeowners.
- Single-family use as approved / continued herein is a permitted use in the subject Zone.
- The location of the proposed porch (and other improvements) is practical and appropriate.
- Subject to the conditions contained herein, the front-covered (and other improvements) approved herein will not over-power / overwhelm the subject Lot.
- Upon completion, the renovation approved herein will not over-power / dwarf other homes in the area.
- The renovation approved herein is attractive and upscale, in accordance with Prevailing Community Standards.
- Approval of the within Application will not detrimentally affect existing parking requirements at the site.
- Sufficiently detailed testimony / plans were presented to the Board.
- The proposed new porch (and other authorized improvements) should nicely complement the property and the neighborhood.
- Subject to the conditions contained herein, the proposal will not appreciably intensify the existing and to-be-continued single-family nature of the lot.
- Additionally, the architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicants' inability to comply with all of the specified bulk standards.
- The architectural design of the proposed new front-covered porch (and other improvements) approved herein will not be inconsistent with the architectural character of other single-family homes/improvements in the area.
- Subject to the conditions set forth herein, the overall benefits associated with approving the within Application outweigh any detriments associated with the same.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining

property owners and, thus, the Application can be granted without causing substantial detriment to the public good.

- The improvements herein will not be inconsistent with other improvements located within the Borough.
- Subject to the conditions contained herein, approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).

Based upon the above, and for other reasons set forth during the Public Hearing Process, a majority of the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicants have agreed, to comply with the following conditions:

- a. The Applicants shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- b. The Applicants shall comply with the terms and conditions of the Leon S. Avakian, Inc. Review Memoranda, dated March 23, 2023, last revised May 15, 2023 (A-4 and B-1).
- c. The Applicants shall cause the Plans to be revised so as to portray and confirm the following:
  - The inclusion of drywells, the details of which shall be reviewed and approved by the Board Engineer;
  - Correction of the Architectural Plans (it appears that the bathrooms are incorrectly designated as "bedrooms");
  - The inclusion of a note confirming that the front porch approved herein shall not be enclosed, absent further / formal approval of the Sea Girt Planning Board;

- The inclusion of a note confirming that no addition shall be constructed over the front porch, absent further/formal approval of the Sea Girt Planning Board;
  - The inclusion of a note confirming that the rinsing station approved herein shall not have a roof and the same shall not have a drain;
  - The inclusion of a note confirming that the roof pitch shall conform with Prevailing Borough Ordinances;
  - The inclusion of a note confirming that the Landscaping at the site shall be perpetually maintained, replaced, and re-planted, as necessary;
- d. The drywells shall be installed and maintained in accordance with manufacturing design standards, and other best practices.
- e. The Applicants shall comply with the Borough's Prevailing ½-Story Ordinance Requirements, as no such relief is granted herein.
- f. The Applicants shall comply with all prevailing Affordable Housing rules, regulations, contributions, as required by the Borough of Sea Girt, the State of New Jersey, COAH, the Court system, and any other Agency having jurisdiction over the matter.
- g. The Applicants shall submit 5 sets of revised / sealed plans to the Board Secretary, for the ultimate review and approval of the Board Engineer.
- h. The Applicants shall comply with all Prevailing Building / Construction Code Requirements.
- i. The Applicants shall manage storm water run-off during and after construction (in addition to any other prevailing / applicable requirements / obligations.)
- j. The Applicants shall obtain any applicable permits/approvals as may be required by the Borough of Sea Girt - including, but not limited to the following:
- Building Permit
  - Plumbing Permit
  - Electric Permit
  - Demolition Permit

- k. If applicable, the proposed structure shall comply with applicable Provisions of the Americans with Disabilities Act.
- l. If applicable, grading plans shall be submitted to the Board Engineer so as to confirm that any drainage/run-off does not go onto adjoining properties.
- m. The proposed structure shall comply with the Borough's Prevailing Height Regulations.
- n. **The approval granted herein is specifically dependent upon the accuracy and correctness of the testimony and information presented, and the accuracy of the Plans submitted and approved by the Board. The Applicants are advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise referenced herein. In the event post-approval conditions at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicants and their representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Application for an existing building / structure to remain, the same cannot be unilaterally demolished (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicants', their Agents, their**



**representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3<sup>rd</sup> parties.**

- o. The construction, if any, shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- p. The Applicants shall comply with all terms and conditions of the Review Memoranda, if any, issued by the Board Engineer, Borough Engineer, Construction Office, the Department of Public Works, the Bureau of Fire Prevention and Investigation, and/or other agents of the Borough.
- q. The Applicants shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies - including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- r. The Applicants shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- s. If required by the Board / Borough Engineer, and the NJMLUL, the Applicants shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- t. Unless otherwise agreed by the Planning Board, the approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicants obtain a Building Permit for the construction / development approved herein.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicants and/or their agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicants' compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Sea Girt, County of Monmouth, and State of New Jersey.

**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicants of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Girt, the Borough of Sea Girt, or its agents/representatives accept any responsibility for the structural design of the proposed improvement, or for any damage which may be caused by the development / renovation.

FOR THE APPLICATION: Carla Abrahamson, Karen Brisben, Stan Koreyva, Eileen Laszlo, Norman Hall

AGAINST THE APPLICATION: Councilwoman Diane Anthony, Jake Casey, Mayor Don Fetzer, John Ward

NOT ELIGIBLE TO VOTE: Tom Britt, Robert Walker

The foregoing Resolution was offered by Mrs. Laszlo and Seconded by Mr. Koreyva and adopted by Roll Call Vote:

AYES: Karen Brisben, Eileen Laszlo, Stan Koreyva, Norman Hall

NOES: None

NOT ELIGIBLE TO VOTE: Mayor Don Fetzer, Robert Walker, John Ward

ABSENT: Carla Abrahamson, Councilwoman Diane Anthony, Tom Britt, Jake Casey

The Board then turned to a Resolution for Block 76, Lot 6, 535-541 Washington Boulevard (Evolution Auto Spa) owned by 519 Washington Boulevard, LLC to allow second floor conversion to a customer waiting area.

Mr. Kennedy went over the salient comments made at the hearing, noting the Mayor's comments to call it a waiting area rather than a lounge and he went over the conditions. After some brief discussion, the following was presented to approval:

**WHEREAS**, representatives of 519 Washington SG, LLC have made Application to the Sea Girt Planning Board for the property designated as 535 – 541 Washington Boulevard, Sea Girt, New Jersey, more formally identified as Block 76, Lot 6, within the Borough’s District 2, East Convenience Commercial Zone, for the following approval: Site Plan Approval, potential Waiver of Site Plan Approval, and Bulk Variance Approval associated with the conversion of existing second floor apartments to commercial space (for use as a waiting area associated with the existing Evolution Auto Spa business);

### **PUBLIC HEARING**

**WHEREAS**, the Board held a Public Hearing on May 17, 2023, Applicant’s representatives having filed proper Proof of Service and Publication in accordance with Statutory and Ordinance Requirements; and

### **EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Planning Board Application, introduced into Evidence as A-1;*
- *Architectural Plans, prepared by Barlo Governale & Associates, LLC, dated October 14, 2022, consisting of 1 sheet, introduced into Evidence as A-2;*
- *Plot Plan, prepared by Morgan Engineering & Surveying, dated March 24, 2021, last revised February 13, 2023, introduced into Evidence as A-3;*
- *Survey of property, prepared by Morgan Engineering & Surveying, dated March 24, 2021, introduced into Evidence as A-4;*
- *Leon S. Avakian, Inc. Review Memorandum, dated April 28, 2023, introduced into Evidence as A-5;*
- *Land Development Application Checklist, introduced into Evidence as A-6;*

- *Communication from the Monmouth County Planning Board, dated March 15, 2023, introduced into Evidence as A-7;*
- *Affidavit of Service;*
- *Affidavit of Publication.*

### **WITNESSES**

**WHEREAS**, sworn testimony in support of the Application was presented by the following:

- Alfred D'Alessandro, Managing Member of 519 Washington SG, LLC;
- John Goodelman, Esq. appearing;

**WHEREAS**, Peter Avakian, P.E., P.L.S., P.P., the Board Engineer / Planner, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; and

**WHEREAS**, Chris Willms, Zoning Officer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; and

### **TESTIMONY AND EVIDENCE PRESENTED BY THE APPLICANT'S**

#### **REPRESENTATIVES**

**WHEREAS**, testimony and other evidence presented by the Applicant's representatives revealed the following:

- The Applicant herein is the Owner of the subject property.
- The subject property currently hosts an existing mixed-use building.
- The approved existing uses in the existing mixed-use building include the following:

#### **FIRST FLOOR**

Evolution Auto Spa  
(An automotive detailing facility)

Coffee Shop

SECOND FLOOR

2 Residential Apartments

- Details pertaining to the existing residential apartments include the following:

Apartment E (East) Apartment W (West)

No. of Bedrooms:	2	2
No. of Bathrooms:	1	1
Occupied?:	Not occupied	Not occupied

- Details pertaining to the existing Evolution Auto Spa business include the following:

Use:	Automotive Detailing Facility
Anticipated Numbers of Car Serviced at the Site Per Day:	6 - 8
Average Length of Time for Each Detailing Appointment:	4 Hours

- As referenced, each vehicular detailing experience lasts approximately 4 hours.
- Currently, there is no waiting area at the site where patrons can wait.
- There is a need for a waiting area.

- In light of the above, the Applicant's representatives propose to convert the 2 existing second floor apartments to a waiting room area for the downstairs auto detailing business.
- Details pertaining to the proposed waiting area include the following:

Size:	Per Plans
Location:	2 <sup>nd</sup> Floor of the existing building (where residential apartments currently exist).
Amenities:	Television / WiFi / Music
Outside Activity?:	There will be no outside activity associated with the proposed waiting area.
Outside Entertainment?:	There will be no outside entertainment associated with the proposed waiting area.
Inside Entertainment?:	There will be no inside entertainment associated with the proposed waiting area.
Hours of Operation:	Waiting area will only be open during the time when the downstairs auto detailing business is open.
Proposed Improvements:	New electrical wiring, new lighting, new plumbing, etc.

- There is very limited exterior construction associated with the proposal.
- The Applicant's representatives were unaware that the proposal required permits and Variance approval.
- In furtherance thereof, the Applicant's representatives already commenced work at the site.

- Upon information and belief, a Notice of Violation was issued.
- The Applicant's representatives essentially apologized for the situation, and indicated that they were not aware that permit / Variance relief was required.
- The Applicants anticipate resuming the renovation process in the near future.
- The Applicant's representatives will be utilizing licensed contractors in connection with the renovation process.

### **VARIANCE**

**WHEREAS**, the Application as presented requires approval for the following

Variance:

*STRIPED PARKING: The prevailing Zoning Ordinance requires that the off-street business parking spaces be striped; whereas, in the within situation, the Applicant's representatives are not proposing any striping of the parking spaces;*

### **PUBLIC COMMENTS**

**WHEREAS**, no members of the public expressed any questions, comments, concerns, or objections;

### **FINDINGS OF FACT**

**NOW, THEREFORE, BE IT RESOLVED**, by the Sea Girt Planning Board, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Planning Board makes the following Findings of Fact and Conclusions of Law:

1. The Sea Girt Planning Board has proper jurisdiction to hear the within matter.

2. The subject property is located at 535 – 541 Washington Boulevard, Sea Girt, New Jersey, within the Borough's District 2, East Convenience Commercial Zone.

3. There is an existing mixed-use building at the site, utilized as follows:

FIRST FLOOR

Commercial

SECOND FLOOR

2 Residential Apartments

4. The Applicant's representatives propose to convert the 2 apartments on the 2<sup>nd</sup> Floor into a waiting area for the existing downstairs auto detailing business.

5. The details for the proposal are set forth herein, are set forth on the Plans, and were discussed, at length, during the Public Hearing process.

6. Such a proposal requires Site Plan Approval, potential waiver of Site Plan Approval, and Bulk Variance Approval.

7. The Sea Girt Planning Board is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.

8. With regard to the Application, and the requested relief, the Board notes the following:

- As indicated, there is an existing mixed-use building at the site (commercial on the 1<sup>st</sup> Floor and residential apartment use on the 2<sup>nd</sup> Floor).
- The existing mixed-use building is a permitted use in the subject zone.
- The Applicant's representatives propose to convert the 2 existing 2<sup>nd</sup> Floor residential apartments to a waiting area (for the 1<sup>st</sup> Floor automotive detailing use).
- Currently, there is no waiting area for the existing automotive detailing facility – and, the testimony indicated that the average car



detailing experience lasts 4 hours. As such, the testimony indicated that there is a need for a waiting area.

- The lack of a waiting area at the site (associated with the existing downstairs automotive detailing business) is less than an ideal situation.
- As referenced, there is a need for a waiting area associated with the existing automotive detailing establishment.
- The waiting area will only be utilized as a waiting area for the automotive detailing facility.
- The waiting area will not serve other businesses (beyond the automotive detailing facility).
- The proposed waiting area will contain a television, radio, WiFi, reading materials, coffee machines, etc. for the comfort / convenience of the automotive detailing patrons.
- There will be no formal entertainment associated with the waiting area.
- The waiting area will only be open when the downstairs automotive detailing facility is open.
- The waiting area will only be open to the patrons of the downstairs business (i.e., the automotive detailing facility).
- There is no outside activity associated with the proposed waiting area.
- The approved waiting area will provide a more comfortable, more secure, and more safe area where patrons of the downstairs business can wait while their vehicles are being detailed.
- With no waiting area on site, currently, patrons waiting for their cars to be detailed must temporarily leave on foot, arrange for a ride to pick them up, or otherwise just wait/linger in the general area.
- Additionally, with the absence of any waiting area at the site, patrons who do wait (for their vehicles) typically wait right in the existing parking lot area at the site.
- Having patrons wait in a parking area does not necessarily promote public health and safety.

- Having existing patrons (and perhaps children of patrons) waiting in a parking area is potentially dangerous.
- Approval of the within Application will significantly improve the overall waiting experience for patrons at the site.
- Approval of the within Application will create a dedicated and safe waiting area for the auto detailing patrons.
- In that the waiting area approved herein will be located immediately upstairs from the detailing facility, the location for the same is clearly convenient.
- There is no significant exterior construction associated with the within Approval.
- There is only limited internal construction associated with the within Approval.
- The Board Members were advised that some construction has taken place at the site, without any permits / approvals.
- The Applicant's representatives testified that they were unaware that permits / formal approvals were required.
- The Applicant's representatives essentially apologized for the aforesaid confusion.
- The Board accepts the Applicant's response in the said regard, and the Board finds that there was no intended manipulation of the prevailing Zoning regulations.
- As referenced, there is an existing mixed-use building at the site (commercial / residential).
- Per the testimony and evidence presented, there is no requirement that the upstairs portion of the building be utilized as residential apartments (as is currently utilized).
- In furtherance of the above, the Applicant's proposal (for all commercial use at the site) is permitted in the subject zone.
- The Application as presented requires a Variance because the parking spaces will not be striped.
- The Board Members critically reviewed the parking aspect of the subject proposal.

- The existing business contains approximately 6,927 SF, which will be increased to approximately 8,238 SF (as a result of the within approval).
- Per the prevailing Zoning regulations, one parking space is required for each 600 SF of gross floor area.
- The Applicant's proposal (with waiting area) requires 13.7 off-street parking spaces, rounded up to 14 parking spaces.
- The Applicant herein proposes 16 off-street parking spaces, located as follows:

4 parking spaces in the 2 detailing bays

5 parking spaces in front of the building

4 parking spaces in rear of the building

3 parking spaces on the side of the building

Total.....16 spaces

Thus, as referenced above, 14 off-street parking spaces are required; whereas 16 such spaces are proposed.

- Consequently, there is no parking Variance necessary for the number of actual spaces.
- The existence of sufficient parking spaces is of the utmost importance to the Board Members.
- As indicated, the Application requires a Variance because the parking spaces are not striped.
- The Board is aware that the existing parking spaces at the site are not striped either.
- As referenced, the Variance is limited solely to the absence of striping for the parking spaces.
- Questions were raised as to whether striping of the parking spaces is necessary / appropriate at the site – and / or if the absence of such striped parking spaces cause, or otherwise contribute to, any health and safety concerns.

- In the within situation, per the testimony and evidence presented, designated striping at the site could prove to be detrimental to the property.
- The subject automotive detailing business does not require any patrons to be regularly/routinely driving at / on / over the site – rather, such driving at / on / over the site is mostly limited to employees.
- The Board also notes that the actual physical striping of spaces at the site could likely reduce the overall number of parking spaces. (The testimony indicated that actual striping of the spaces could result in a loss of 2-3 actual parking spaces).
- The Board notes that if the Applicant's site required business invitees / patrons to constantly drive on / over / thru the site, the striping issue would be much more critically reviewed.
- Per the testimony and evidence presented, the lack of striping at the site will have no adverse impact on the public health and safety.
- Per the testimony and evidence presented, the lack of parking striping at the site will not compromise the overall safe/efficient business operations on the property.
- The Board also notes that with the loss of the 2 residential apartments, there will be more parking on the site available for the business patrons.
- The Board notes that striped parking at the particular site might be more likely to invite unauthorized users onto the property (for unauthorized parking associated with other area establishments).
- There was also an on-the-record discussion on the loss of the residential apartments.
- First and foremost, per the testimony and evidence presented, the loss of the residential apartments will not compromise the Borough's overall Affordable Housing obligations.
- Moreover, during the Public Hearing process, the Zoning Officer testified as to the less than ideal condition of the residential apartments. For instance, the testimony indicated that the stairs were extremely dangerous, the stairs were compromised, and there were no railings, which contributed to an overall unsafe condition.
- With the approval authorized herein, the upper floor of the existing building will be much safer.

- In conjunction with the within approval, the staircase will be replaced, thereby significantly increasing the overall safety associated with the property.
- Approval of the within Application will not materially change the exterior appearance of the existing building.
- There are a number of existing non-conforming conditions at the site, including a non-conforming west side yard setback , and a non-conforming rear yard setback. However, the said conditions are existing conditions, which will not be exacerbated as a result of the within approval.
- Approval of the within Application will not materially change the number of employees associated with the Applicant's existing business.
- Approval of the within Application will not materially change the hours of operation associated with the Applicant's existing business.
- Approval of the within Application will not materially change the nature of commercial activities associated with the Applicant's existing business operations at the site.
- Approval of the within Application will not materially change the amount of commercial garbage generated at the site.
- Approval of the within Application will not materially change the noise generated from the Applicant's existing and to-be-continued business.
- Approval of the within Application will not materially change the footprint of the existing business at the site.
- Approval of the within Application will not materially change the overall intensity of business operations at the site.
- The Variance relief granted herein will not compromise the air, space, and light otherwise available at the property.
- As referenced, the subject property is located in the Borough's District 2 East Commercial District Zone. Per the Borough's Zoning Ordinance, the purpose of the said Zone is to "preserve the existing primary area of commercial concentration in the Borough." Approval of the within Application will clearly advance the aforesaid purpose.

- The Applicant's proposed improvements will undoubtedly promote the Ordinance goal / purpose of preserving the existing commercial concentration within the Borough.
- The Prevailing Borough Ordinance has the unequivocal stated purpose of preserving "the existing primary area of commercial concentration in the Borough" – and approval of the within Application will, in fact, advance such a purpose.
- The Board recognizes that approval of the Application will not only help preserve the Borough's Business District, but presumably enhance the same as well.
- The Board is aware that the approval of the Application will be beneficial for the subject property, the neighborhood, and the Borough of Sea Girt as a whole.
- After debate and analysis, the Board Members are of the unanimous belief that, subject to the conditions contained herein, the Application can be approved without causing substantial detriment to the public good.
- Approval of the within Application will not result in the disturbance of any environmentally sensitive areas on the site.
- Approval of the within Application (in conjunction with the conditions noted herein) will not impair the intent of purposes of the Borough's Master Plan.
- Subject to the conditions set forth herein, approval of the within Application will not impair the character of the existing area.
- Subject to the conditions set forth herein, the benefits of the within Application outweigh any detriments associated with the same.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- In conjunction with the conditions noted herein, the Application as presented and modified satisfy statutory requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances).
- The Application as presented (and in conjunction with any requested Design Waivers, Submission Waivers, and noted conditions) satisfies the Site Plan Requirements of the Borough of Sea Girt.

Based upon the above, and for the other reasons discussed during the Public Hearing Process, the Board has unanimously determined that the Application / requested Variances / Waivers can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicant's representatives have agreed, to comply with the following conditions:

- u. The Applicant's representatives shall comply with all promises, commitments, and representations made at or during the Public Hearing Process.
- v. The Applicant's representatives shall comply with the terms and conditions of the Leon S. Avakian, Inc. Engineering Review Memorandum, dated April 28, 2023 (A-5).
- w. The waiting area shall only be utilized in the manner described herein, as otherwise described during the public hearing process, and as otherwise permitted by the prevailing zoning regulations.
- x. The first floor of the automobile detailing business shall not be utilized as part of the waiting room, unless the same is required per the prevailing provisions of the Americans with Disabilities Act.
- y. Unless otherwise waived by the zoning officer, a zoning compliant sign shall be placed in the parking area advising that parking is limited to the business patrons only.
- z. Grading / drainage details shall be reviewed and approved by the Board Engineer.
- aa. In the event the Applicant secures any outside approvals, and any such outside approvals materially change the nature of the Application approved herein, then, in that event, the Applicant shall, upon notice to all affected property owners, return to the Sea Girt Planning Board for further / amended relief.
- bb. The Applicant shall comply with any on-site construction / management regulations as required by the Borough of Sea Girt, the

County of Monmouth, the State of New Jersey, and any other Agency having jurisdiction over the matter.

- cc. The Applicant shall comply with any and all Prevailing / applicable ADA Requirements.
- dd. The Applicant shall comply with and satisfy any and all affordable housing related obligations / directives / contributions as mandated by the State of New Jersey, the Borough of Sea Girt, COAH, the Court System, and any other Agency having jurisdiction over the matter. Additionally, the Applicant's representatives shall submit any Affordable Housing Non-Residential Fee as may be required.
- ee. The Borough's Building Department shall review and approve the Plans for ADA Compliance, as necessary / applicable.
- ff. The Development shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the development / construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- gg. Unless otherwise waived by the Board Engineer, the Applicant shall obtain any and all necessary approvals (or Letters of No Interest) from applicable outside agencies – including, but not limited to, the State of New Jersey, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, the Monmouth County Planning Board, the Borough's Fire Official, the Borough's Fire Chief, the Borough's Police Department, the Borough's Building Department, Department of Water and Sewer, the Freehold Soil Conservation District, the Borough's Department of Public Works, and any other Agency having jurisdiction over the matter.
- hh. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.
- ii. If required by the Board Engineer, or as otherwise required by law, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Sea Girt.
- jj. Unless otherwise agreed by the Planning Board, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution (or any agreed upon extension), the Applicant obtains necessary building/construction permits for the development/conversion approved herein.



- kk. The Board has only granted the specific Variance relief referenced herein, and all other construction / development at the site shall comply with the Borough's Prevailing Zoning Regulations (absent further formal approval of the Sea Girt Planning Board).
- ll. **The approval granted herein is specifically dependent upon the accuracy and correctness of the testimony and information presented, and the accuracy of the Plans submitted and approved by the Board. The Applicant is advised that there can be no deviation from the Plans approved herein, except those conditions specifically set forth or otherwise referenced herein. In the event post-approval conditions at the site are different than what was presented to the Board, or different from what was otherwise known, or in the event post-approval conditions are not necessarily structurally sound, the Applicant and its representatives are not permitted to unilaterally deviate or build beyond the scope of the Board Approval. Thus, for instance, if the Board grants an Application for an existing building / structure to remain, the same cannot be unilaterally demolished (without formal Borough / Board consent), regardless of the many fine construction reasons which may exist for doing so. That is, the bases for the Board's decision to grant Zoning relief may be impacted by the aforesaid change of conditions. As a result, Applicants and their representatives are not to assume that post-approval deviations can be effectuated. To the contrary, post-approval deviations can and will cause problems. Specifically, any post-approval unilateral action, inconsistent with the testimony / plans presented / approved, which does not have advanced Borough / Board approval, will compromise the Applicant's approval, will compromise the Applicant's building process, will create uncertainty, will create stress, will delay construction, will potentially void the Board Approval, and the same will result in the Applicant incurring additional legal / engineering / architectural costs. Applicants are encouraged to be mindful of the within – and the Borough of Sea Girt, and the Sea Girt Planning Board, are not responsible for any such unilateral actions which are not referenced in the testimony presented to the Board, and / or otherwise not included in the Plans approved by the Board. Moreover, Applicants are to be mindful that the Applicants are ultimately responsible for the actions of the Applicants, their Agents, their representatives, their employees, their contractors, their engineers, their architects, their builders, their lawyers, and other 3<sup>rd</sup> parties.**

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicant and / or its agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant's representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate Rules, Regulations, and / or Ordinances of the Borough of Sea Girt, County of Monmouth, and State of New Jersey.

**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Planning Board of the Borough of Sea Girt, the Borough of Sea Girt, or its agents / representatives accept any responsibility for the structural design of the proposed improvement, or for any damage which may be caused by the development.

FOR THE APPLICATION: Carla Abrahamson, Councilwoman Diane Anthony, Karen Brisben, Jake Casey, Mayor Don Fetzer, Eileen Laszlo, Robert Walker, John Ward, Norman Hall

AGAINST THE APPLICATION: None

NOT ELIGIBLE TO VOTE: Tom Britt, Stan Koreyva (Alternate Members)

The foregoing Resolution was offered by Mr. Ward, seconded by Mrs. Brisben and adopted by Roll Call Vote:

Wednesday, June 21, 2023

AYES: Karen Brisben, Mayor Don Fetzer, Eileen Laszlo, Stan Koreyva, Robert Walker, John Ward, Norman Hall

NOES: None

ABSENT: Carla Abrahamson, Councilwoman Diane Anthony, Tom Britt, Jake Casey

#### OTHER BUSINESS:

As Mr. Casey was not present this evening, there was no Ordinance Review Committee report and the Board turned to a report from the Board Engineer's office on Public Access Plan for the Beach.

Christine Bell from Peter Avakian's office came to speak on this matter to the Board. She had sent the Board a pdf copy of the Public Access Plan, this has been worked on since 2017 and going back and forth with the DEP to allow for a public plan to ease with the requirements for permits for the beachfront. In order to submit the final plan to the DEP the Planning Board needs to approve the submission of these plans; this is not final approval and still has to be adopted for inclusion in the Master Plan which will have to come back to the Board again for that approval in the future.

Ms. Bell said this plan was done by using the DEP template with different sections as part of the DEP requirement and has a public access vision for Sea Girt, an overview of the Borough's tidal waterways, municipal public access goals and objectives, maps with the public access points and their amenities and any restrictions that may be at an access point; this talks about the lifeguards, public rest rooms, pavilion, parking, beach wheelchairs, need for a beach badge, things like that as well as restrictions for endangered species and the restrictions at the Army National Guard camp. The DEP also requires a Community Needs Assessment and dune walk-over access point, places where access can be improved and future potential access and Ms. Bell said Council is looking at the end of Sea Girt Avenue for potential future access at the border of the Army National Guard camp. Maintenance of the access points will be done through the Department of Public Works. Sea Girt Council will adopt a conservation easement to conserve the access points and be in line with local, regional and State plans (she commented the State Master Plan is over 20 years old).

At this point Ms. Bell was done with her presentation and asked if there were any questions or comments. Mr. Walker asked if there is any consideration for electric car chargers, she said the State of NJ has an electric car charge Ordinance that any new development may have to comply with, but this plan does not address this but agreed it is something to think about for the future as electric cars are becoming more popular. Mr. Ward asked about putting an access point at the end of Sea Girt Avenue as that is next to the Army National Guard camp firing range, which is marked "restricted access" but he knows people wander into that area and he wondered about liability having an access point so close to a firing range. Ms. Bell felt that was a good concern and she

Wednesday, June 21, 2023

did not know the answer to this but noted this is a “potential” access point and it may be determined down the line that this area is not feasible for this. She did say that when the firing range is active there is security in the area to keep people from going in.

Mayor Fetzer spoke and said this thought did come before Council back when the potential access point was first discussed and Council was not in favor of this due to the proximity of the firing range and also the SMRSA relay station that is right there as well as homes being so close.

As there were no more questions or comments, Vice-Chairperson Laszlo confirmed that there is a vote needed to approve this draft submission and Ms. Bell said yes. Vice-Chairperson Laszlo then made a motion to approve this submittal to the DEP, seconded by Mr. Ward and then by the following roll call vote:

Ayes: Karen Brisben, Mayor Don Fetzer, Eileen Laszlo, Stan Koreyva, Robert Walker, John Ward, Norman Hall

Noes: None

Ms. Bell was thanked for giving this presentation and it was appreciated by the Board. Before closing the meeting, Vice-Chairperson Laszlo noted there was one attendee on the zoom meeting and did they wish to make a comment or have a question and there was no response. She and the Board wished Chairperson Hall a speedy recovery from his knee surgery, then a motion was made by Mr. Ward to adjourn, this seconded by Mr. Walker and unanimously approved, all aye. The meeting was adjourned at 7:29 p.m.

Approved: July 21, 2023

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Karen S. Brisben, Secretary