

January 2, 2024

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

**Re: David Mayer  
24 Surf Street  
Block 11, Lot 13  
Site Plan with Variances  
Our File: SBPB 23-05**

Dear Board Members:

Our office received and reviewed materials that were submitted in support of an application for site plan with c variances approval for the above referenced project. The following documents were reviewed:

- Submission Letter from Kevin E. Kennedy, Esq., dated October 13, 2023.
- Narrative of Intent.
- Borough of Sea Bright Application for a Zoning Permit, dated July 13, 2023.
- Survey of Property, consisting of one (1) sheet, prepared by Justin J. Hedges, PLS, CFS, of Insite Surveying, dated April 4, 2022.
- Plot Plan, consisting of one (1) sheet, prepared by Douglas D. Clelland, PE, of Insite Engineering, dated last revised June 27, 2023.
- Architectural Plans, consisting of three (3) sheets, prepared by David H. Feldman, RA, AIA, of Feldman & Feldman Architets, dated May 27, 2023.
- Borough of Sea Bright Planning/ Zoning Board Application dated October 19, 2023.
- Google Street View Images.

**1. Site Analysis and Project Description**

The subject property consists of Block 11, Lot 13, a 1,699 sq. ft. parcel located west of Ocean Ave with frontage on Surf St. in the R-3 Downtown Residence Zone District. The property is currently developed with a one-story single-family dwelling. Residential uses surround the site. The subject property is located within the FEMA Special Flood Hazard Area with a BFE of AE 8', requiring a design flood elevation of 11' per the Borough's ordinance. The subject property faced significant damage during Hurricane Sandy, and while it has been elevated since that time, the house is not currently habitable, requiring significant additional repairs.

The applicant is seeking site plan approval to remove the existing structure and construct a new 2.5 story single family home within the existing foundation. The proposed dwelling will consist of five (5) bedrooms, three (3) bathrooms, a kitchen, dining room, living room, laundry room, and multiple deck areas.

**2. Consistency with the Zone Plan**

The property is located in the R-3 Downtown Residence Zone District. Principal permitted uses in the R-3 Zone include single-family dwelling units, churches, and public parks.

**3. Bulk Requirements**

A. The bulk requirements of the R-3 Residential Zone District as they relate to the subject application are as follows:

	Required	Existing	Proposed
Minimum Lot Area	1,800 sq. ft.	1,699 sq. ft.	1,699 sq. ft. <sup>+</sup>
Min. Lot Width	25 ft.	25 ft.	25 ft.
Minimum Lot Depth	60 ft.	67.9 ft.	67.9 ft.
Min. Front Yard Setback	5- 12 ft.	4.1 ft.	4.1 ft.*
Min. Side Yard Setback	3/6 ft.	1.7 ft./4.8 ft.	1.7 ft.*/4.8 ft.*
Min. Rear Yard Setback	15 ft.	7.5 ft.	8.16 ft.*
Maximum Lot Coverage	70%	79.1%	78%*
Maximum Building Coverage	50%	52%	52%*
Max. Building Height	2 ½ stories/ 35 ft.		3 stories*/ 38.15 ft.*
Min. Ground Floor Area	880 sq. ft.		2,650 sq. ft.

+existing non-conformity \*variance required

B. The minimum required lot area in the R-3 Zone is 1,800 sq. ft., whereas a lot area of 1,699 sq. ft. is existing. **This is an existing non-conformity.**

- C. The minimum required front yard setback in the R-3 Zone is 5-12 ft., whereas the existing and proposed front yard setback is 4.1 ft. **A variance is required.**
- D. The minimum required side yard setback in the R-3 Zone is 3 ft. for one side and 6 ft. for both sides, whereas 1.7 ft. for one side and 4.8 ft. for both sides are existing and proposed. **A variance is required.**
- E. The minimum required rear yard setback in the R-3 Zone is 15 ft., whereas the proposed rear yard setback is 8.16 ft. **A variance is required.**
- F. The maximum permitted lot coverage in the R-3 Zone is 70%, whereas 78% is proposed. **A variance is needed.**
- G. The maximum permitted building coverage in the R-3 Zone District is 50%, whereas 52% is existing and proposed. **A variance is required.**
- H. The maximum permitted number of stories in the R-3 zone is 2.5 stories, whereas the applicant is proposing a three (3) story building. **A variance is required.** The applicant has indicated that the proposed structure is 2.5 stories. However, the Borough defines a half story as “that portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor.” **The proposed third floor does not appear to meet this definition, and therefore qualifies as a third story, requiring a variance.**
- I. The applicant indicates the proposed height of the dwelling is 38.15 ft. As per §130-39A(6)(b), when renovations are made to an existing structure that has been raised a minimum of three feet above the base flood elevation, and the height limit has not been previously revised, then the height limit of the structure shall be revised to allow three additional feet in height to be added to the maximum allowable height for that particular structure. In no case shall the maximum allowable height exceed three feet above the base maximum allowable height as set forth in the Schedule of Lot and Building Requirements. **For undersized lots, in no case shall the maximum allowable height exceed three feet above the maximum allowable height as calculated in the chapter. A variance is required. We recommend reducing the overall height of the structure so the mean roof height is less than 38 ft.**
- J. **The proposed structure consists of five (5) bedrooms. Under RSIS, a five (5) bedroom home would require three (3) parking spaces. The applicant appears to be proposing a ground level garage. Testimony should be provided as to the existing and proposed number of parking spaces and how parking will be handled on site.**

#### 4. Required Proofs for Variance Relief

##### *C Variances*

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

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

5. **Additional Comments**

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The survey should be revised to include the location of all FEMA Special Flood Hazard Areas.

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

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.  
Board Planner

JCB:clb

cc: David J. Hoder, P.E., Board Engineer  
David Feldman, Applicant’s Architect  
Kevin Kennedy, Esq., Applicant’s Attorney