

March 13, 2023

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

**Re: Exquisite Relief, LLC  
1050 Ocean Ave., Unit 8  
Block 16, Lot 9  
Change of Use  
Our File: SBPB 23-02**

Dear Board Members:

Our office received and reviewed materials that were submitted in support of an application for change of use approval for the above referenced project. The following documents were reviewed:

- Borough of Sea Bright Planning/ Zoning Board Application dated February 21, 2023.
- Borough of Sea Bright Application for a Zoning Permit dated November 22, 2022.
- Photos of subject property.
- Commercial Lease Agreement between Savi Square, LLC and ExQuiste Relief, LLC, dated December 22, 2022.
- Interior Renovations for 1052 Ocean Avenue, consisting of two (2) sheets, prepared by James T. Daley Architects and Associates, dated last revised November 18, 2022.

**1. Site Analysis and Project Description**

The subject property consists of Block 16, Lot 9, a 0.11 acre lot located at the southwest corner of Ocean Avenue and Peninsula Ave in the B-1 Central Business Zone District. The property is currently developed with a two-story, mixed use building facing Ocean Avenue. The property is bordered by a commercial building to the south, residential uses to the west, an overflow parking lot for Tommy's Tavern and Tap to the north across Peninsula Ave, and the municipal parking lot to the east, across Ocean Avenue.

The applicant is seeking a change of use approval to change the tenant from a retail business restaurant use to a personal service use. The previous tenant was Ralph's Italian Ices and the proposed tenant is ExQuisite Relief, LLC, a personal service business providing massage, facials, and waxing. The applicant is also proposing to update the existing awning to advertise the proposed business use.

## **2. Consistency with the Zone Plan**

The property is located in the B-1 Central Business Zone District. The B-1 Zone is the central or town business zone designed to provide for local shopping and to include a wide range of retail business and service establishments which cater to the frequently recurring needs of the residents. The primary purpose of all permitted uses in this zone should be to encourage a pedestrian-friendly, mixed-use-Main-Street character for this zone. Retail and personal service with inviting storefronts would be most encouraged, with an open feel and small scale at street level. The purpose of future development and rehabilitation in this zone should be to retain the historic charm and character of Sea Bright's downtown. Principal permitted uses in the B-1 Zone include residential uses in multistory buildings, located above permitted uses; Class II, retail business uses including food, drug and liquor stores, apparel, accessory and jewelry shops, department stores and mail order houses, variety stores (five-and-ten-cent stores and catalog stores), home furnishing stores, restaurants, book, stationery and gift shops, sporting goods and bicycle shops, antique stores (and secondhand shops), household hardware stores, automotive accessory stores, boating and fishing accessory stores, internet café; Class III, finance, insurance and real estate (business), including banks and savings and loan offices, insurance carriers and agents, real estate agents, stock brokers, agents and dealers; Class IV, personal service establishments (business), including laundering and dry-cleaning shops, photographic studios, beauty and barber shops, apparel alteration and repairs, yoga and exercise spa and massage therapy and well-being establishments, dog grooming and pet grooming; Class V, business service establishments including advertising agencies, consumer credit reporting and collection offices, duplicating and mailing services, news media services (not transmitter towers), employment services, building maintenance services (janitorial, etc.), business management consulting services; Class VI, repair services (business) including household appliance repairs, watch and clock repairs, armature rewinding, automotive repairs; Class VII, professional services (business) including physician's and dentist's offices (excluding doctors of veterinary medicine), medical and dental laboratories, architecture, legal and engineering office, accounting and bookkeeping services; Class VIII, transportation facilities (business) including passenger terminals, curbside passenger shelters, commercial parking garages; Class IX, utilities (business) including rights-of-way, substations, business and administrative offices; and Class X, government services including public buildings (municipal, county or state), public schools (all grade levels) and private schools (all grade levels). **The proposed Class IV personal service use is permitted in the Zone District.**

## **3. Parking Requirements**

As per 130-3.B.(1)(d), site plan approval is required for any change of use, building, structure, or site from any class of zoning use to any other class of zoning use. The subject application is proposing a change in use from a Class II business to a Class IV business.

In the B-1 Central Business Zone only, the construction, alteration of, or addition to any premises which creates no variances other than the need for an increase of five or fewer vehicle parking spaces. This shall be a one-time exemption stemming from the parking requirement in effect for the premises as of the date of the passage of this Subsection B or as set forth at the time of a previous site plan approval. Additionally, if the one-time exemption is deemed to apply, the applicant shall not be required to obtain parking variance relief. **Testimony should be provided as to the applicability of this ordinance section.**

**Testimony should be provided as to the parking requirements for the existing and proposed uses.**

- A. Class II, retail business uses are required to have 1.0 spaces per 200 sq. ft of total floor area used for retail functions, plus 1.0 per employee and restaurants are required to have 1.0 space per 3 persons of legal capacity, plus 1.0 space per employee. **Testimony should be provided regarding the current parking requirement.**
- B. Class IV person service establishments are required to have 1.0 space per 100 sq. ft. of total floor area or 1.0 per each chair or piece of equipment for customer use, whichever is greater, plus 1.0 per employee, NLT 4 total. **Testimony should be provided as to the parking requirement for the proposed use.**

4. **Required Proofs for C Variance Relief**

A “c” variances may be required for the parking requirement for the proposed use. 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 applicant should provide testimony regarding any additional site improvements.
- C. Testimony should be provided as to the business operations of the existing tenant use and the proposed tenant use, including the anticipated number of customers on site at any given time, the total number of employees and employees per shift, the hours of operation, any refuse generated on site and how it will be removed, and the anticipated parking demand of the site.

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  
Daniel J. O'Hern, Jr., Esq., Applicant's Attorney