



KUPB-R2230

March 1, 2023

Keyport Unified Planning Board
70 West Front Street
Keyport, New Jersey 07735

Via mail and email

Attn: Denise Nellis, Recording Secretary

**Re: KUPB Application No. 22-04 - Demetrios and Cynthia Koloniaris
6 Hall Place
Block 103, Lots 69, 70 and 71
Preliminary and Final Site Plan, “d(1)” Use and Bulk Variance Approval
First Completeness, Engineering and Planning Review**

Dear Board Members:

As requested, we have reviewed the following documents submitted by the applicant in support of this application:

1. Borough of Keyport Unified Planning Board Application and supplemental attachments, consisting of ten (10) pages, submitted January 10, 2023;
2. Letter of Denial of Application No. ZA-22-119 prepared by David Olsen, Borough Zoning Officer, consisting of one (1) page, dated May 24, 2022;
3. Combined Site Plan and Survey prepared by Richard Karl Heuser, PE, PLS, of Richard K. Heuser, P.C., consisting of one (1) sheet; Survey dated November 21, 2022, Site Plan dated November 30, 2022;
4. Architectural floor plans and building elevations prepared by Ron Grammar, AIA, NCARB, LEED-AP, of Grammar Designs, LLC, consisting of five (5) sheets, dated July 17, 2022; and,
5. Response letter prepared by Tony Vecchio, Borough Fire Marshall, consisting of one (1) page, dated February 7, 2023.

We offer the following comments regarding the above-referenced Application and supporting documents.

A. Property & Area Description, Approval History

1. **Subject Property.** The subject property is located at 6 Hall Place comprised of Block 103, Lots 69, 70 and 71 as identified on the Borough of Keyport Tax Map and is located within the Residential (RA) Zone. The three lots of the subject property consist of a combined area of 11,038 square feet, and Lot 69 is a corner lot located at the intersection of Hall Place and Brook Avenue. The subject property is currently developed with an existing two-story, single-family dwelling spanning all three lots of the subject property. Off-street parking on the subject property is facilitated by an existing one-car, attached garage and two-car driveway measuring approximately 26.3 ft. in width and 35.5 ft. in length, connecting Hall Place on the southern side of the property. Additional off-street parking is provided by an existing paved driveway

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measuring approximately 12.0 ft. in width and 34.5 ft. in length. We note that the subject property appears to be located outside of any flood hazard area, but defer to the Floodplain Manager for final determination.

2. Surrounding Area. The site is located within the RA (Residential) Zoning District. The surrounding properties include single-family dwellings and a two-family dwelling located at 4 Hall Place (Block 103, Lot 72), adjacent to the north of the subject property. Adjacent to the east and rear of the subject property from Hall Place is an existing mausoleum building, located within the Green Grove Cemetery. All surrounding properties within the immediate area of the subject property are also located in the RA (Residential) Zoning District.
3. Approval History. On May 24, 2022, Zoning Application No. ZA-24-2022 was denied by the Borough Zoning Officer for the proposed conversion of the existing one-family dwelling to a two-family dwelling. As only single-family dwellings are permitted as a principal use within the Residential (RA) Zone, “d(1)” use variance approval from the Unified Planning Board is required.

B. Project Description

1. The applicant is seeking Preliminary and Final Site Plan and approval for the proposed conversion of the existing two-story, single-family dwelling to a two-story, two-family dwelling. Unit 1 will be located entirely on the first story and unit 2 will be located entirely on the second story of the existing building. Each unit will contain three (3) bedrooms and two (2) bathrooms. The proposed footprint of the building will remain similar to the existing building, with the exception of a proposed outdoor stairway connecting the second-story unit to the existing driveway located at the northern end of the property. A proposed 5.4 ft. x 12 ft. expansion of this driveway is also proposed, and the existing accessory shed on the southeast corner of the property is proposed for removal.
2. Although not requested specifically in the submitted application, the proposal will require “d(1)” use variance approval, as two-family residential dwellings are not a permitted principal use in the Residential (RA) Zone. It is indicated on Page 4 of the submitted Application that the applicant is seeking an appeal of the May 24, 2022 denial by the Borough Zoning Officer.
3. Provided below are: an aerial photo of the subject site, street view imagery of the subject property from Hall Place and Brook Avenue, and an outline of the subject property on the Borough Zoning Map.



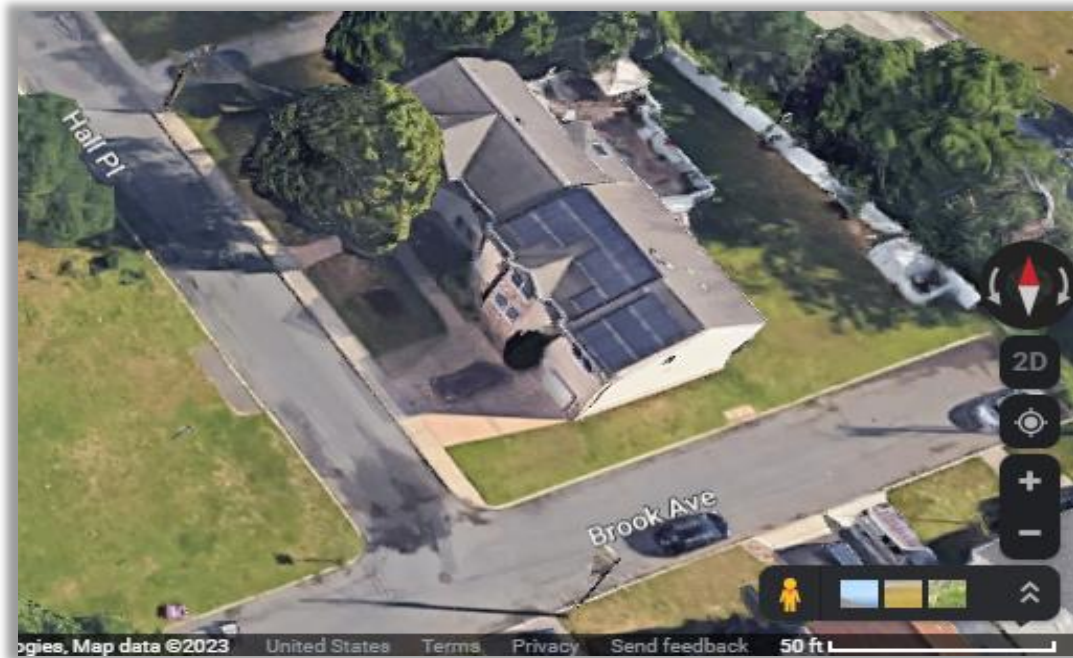
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Google Earth Aerial of Subject Property (Block 103, Lots 69, 70 and 71)



Street View of Subject Property from Hall Place and Brook Avenue (Captured August, 2018)



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Approximate Outline of Subject Property Within the Residential (RA) Zone



C. Completeness Review

Based on our review of the submitted items, we recommend the application be deemed **complete**. Several of the checklist items were not included with the plan set and shall be submitted prior to the application being heard. Below is a summary of the items that shall be submitted and/or completeness waivers granted by the Board prior to the public hearing.



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Preliminary Site Plan Checklist:

- Item 2E. Streets, easements, watercourses and right-of-way. ***We have no objection to the Board granting a completeness waiver for this item provided that the applicant provide testimony confirming there are no existing easements on the subject site.***
- Item 2F. Utility and drainage plans and information. ***We have no objection to the Board granting a completeness waiver for this item provided that a utility and drainage plan be provided prior to the scheduled public hearing.***
- Item 2G. Plans for elevations and locations of structures including exterior materials and trim. ***We have no objection to the Board granting a completeness waiver for this item provided that the building elevations be revised to include side and rear building elevations along with existing exterior materials and trim prior to the scheduled public hearing.***
- Item 2H. Preliminary plans for parking, lighting, loading signs, landscaping and buffers. ***We have no objection to the Board granting a completeness waiver for this item, provided the applicant revises the plans to include any proposed parking, lighting and landscaping prior to the scheduled public hearing.***
- Item 2K. A survey prepared by a licensed surveyor of the State of New Jersey shall accompany the plan, showing existing and proposed monument and all existing and proposed lot lines and all set back lines. ***The Survey and Site plan have been combined into one sheet. We have no objection to the Board granting a completeness waiver for this item, provided the applicant submit a separate copy of the survey which clearly reflects only the existing conditions of the subject property prior to the scheduled public hearing.***
- Item 3. Certification by Borough Tax Collector that all taxes including current taxes are paid (same as Final Site Plan Checklist Item 8 below). ***We have no objection to the Board granting a completeness waiver for this item, provided that the applicant provides proof taxes are current prior to the public hearing.***
- Item 4. Payment of all applicable fees for preliminary site plan review (same as Final Site Plan Checklist Item 3 below). ***We have no objection to the Board granting a completeness waiver for this item, provided that all applicable fees are paid prior to the scheduling of a public hearing.***

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- Item 5. Submission of Environmental Impact Statement. ***We have no objection to the Board granting a completeness waiver for this item, provided the applicant provides testimony regarding this waiver request.***
- Item 8. Referral to Monmouth County Planning Board for review and approval. ***We have no objection to the Board granting a completeness waiver for this item, provided that the applicant make a submission to the Monmouth County Planning Board confirming the merger of the three subject lots as a condition of approval.***
- Item 9. Six copies of completed checklist. ***No checklist has been submitted with the application. We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits the required checklist prior to the scheduled public hearing.***
- Item 14. Waiver required from Section(s) and reason. ***No waiver requests have been provided on the application and submitted site plans. We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits a written request of applicable waivers (if any) prior to the scheduled public hearing.***

Final Site Plan:

- Item 3. Payment of all Final Site Plan Filing Fees (same as Preliminary Site Plan Checklist Item 4 above). ***We have no objection to the Board granting a completeness waiver for this item, provided that the applicant pays all applicable fees prior to the public hearing.***
- Item 4. Payment of Performance Guaranty in favor of municipality approved by the Borough Attorney and Borough Engineer. ***We have no objection to the Board granting completeness waivers for these items, provided that performance guarantees and inspection fees are provided as a condition of any approval.***
- Item 5. Soil removal permit signed by Borough Engineer. ***We have no objection to the Board granting a completeness waiver for this item, provided that the applicant obtains a soil removal permit as a condition of any approval if any soil will be removed from the site.***
- Item 7. Engineering Inspection Fees. ***We have no objection to the Board granting completeness waivers for these items, provided that performance guarantees and inspection fees are provided as a condition of any approval.***
- Item 8. Certification from Tax Collector that all taxes are current on the property through the current month quarter (same as Preliminary Site Plan Checklist Item 3 above). ***We have***

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no objection to the Board granting a completeness waiver for this item, provided that the applicant provides proof taxes are current prior to the public hearing.

Item 9. Permits from other authorities upon which approvals were conditioned. *We have no objection to the Board granting completeness waivers for these items, provided that copies of all permits and approvals are provided as a condition of any approval.*

The applicant should address the items as noted above prior to the public hearing.

Preliminary Site Plan Checklist:

Items 2F, 2G, 2H, 2K, 3, 4, 9 and 14

Final Site Plan Checklist:

Items 3 and 8

D. Fee Calculation

The Application Fee for this project is \$575.00 as shown below. Additionally, the Ordinance Fee Schedule requires an Escrow Fee be posted in the amount of \$1,400.00, for a combined submission fee of \$1,975.00. The applicant is required to post any remaining balance prior to the application being scheduled for a public hearing.

Site Plan	Application Fee	Escrow Fee
Site Plan – Preliminary	\$300.00	\$0.025 per square foot being disturbed; approx. 261 sq. ft. of disturbance * \$0.025 per SF = \$237.50 (\$500 min.) = \$500.00
Site Plan – Final	\$100.00	\$0.025 per square foot being disturbed; 9,500 SF of disturbance * \$0.025 per SF = \$237.50 (\$500 min.) = \$500.00
“D” or Use Variance	\$150.00	\$200.00
“C” Variances	\$25.00 (\$25.00/variance)	\$200.00
Total Application & Escrow Fees	\$575.00	\$1,400.00
Total Fee	\$1,975.00	

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E. Zoning - Use

1. As indicated in Item A.1 (above), the subject property is located within the RA (Residential) Zoning District. Pursuant to § 25-1-5.1, permitted principal uses within the RA (Single-Family Residential) Zone include:
 - a. *“Single-family detached dwellings.*
 - b. *Public Parks and Playgrounds.”*
2. Pursuant to § 25-1-5.2, permitted accessory uses within the RA (Single-Family Residential) Zone include:
 - a. *“Uses Customary and incidental to the principal use.*
 - b. *Home gardening, but not the raising of livestock, poultry, or other similar objectionable activities.*
 - c. *Signs subject to standards of § 25-1-17.*
 - d. *Private garages and private parking areas.*
 - e. *Other accessory uses and structures customarily appurtenant to a principal permitted use, including radio and television antenna subject to Subsection § 25-1-15.14.*
 - f. *Home occupations and home professional offices.”*
3. Pursuant to § 25-1-5.3, conditional uses within the RA (Single-Family Residential) Zone include:
 - a. *“School or college subject to standards of § 25-1-15.*
 - b. *Licensed nursing homes and nursery schools subject to standards of § 25-1-15.*
 - c. *Places of worship, eleemosynary, and philanthropic institutions subject to standards of § 25-1-15.”*
4. Per the submitted site plans, the proposed two-family duplex dwelling is not listed as a principal permitted use within the Residential (RA) Zone, and is therefore not permitted. Therefore, a “d(1)” use variance is required.

F. “d(1)” Variance Considerations

In order to be entitled to variance relief for the “d(1)” use variance, the applicant must demonstrate that the application satisfies both the positive and the negative criteria of the Municipal Land Use Law.

1. Positive Criteria: There are two prongs to the positive criteria that the applicant must satisfy for a “d(1)” variance. These are:

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- a. That the site is particularly suited to the use. The applicant must identify the specific characteristics of the site that make it appropriate for the use despite the regulatory requirements. Our courts have held that the promotion of the general welfare is the zoning purpose that most clearly amplifies the meaning of “special reasons.” (Medici v. BPR Co., 107 N.J. 1 [1987])

The benefit to the general welfare from a typical non-inherently beneficial use, however, derives not from the use itself but from the development of a site in the community that is particularly suited for the very enterprise proposed. Thus, the Board must determine whether the proposed use will promote the general welfare and whether the development of the property is particularly suited for the very use proposed.

- b. There are special reasons that allow a departure from the zoning regulations in this particular case. The applicant must demonstrate that the variance promotes one or more of those purposes stipulated in the Municipal Land Use Law to establish special reasons and that those purposes will be advanced by the proposed development. Alternatively, the applicant may offer as a special reason proof that refusal to grant the variance would result in undue hardship. Proof of undue hardship for a “d” variance requires that the applicant prove that the property cannot be reasonably adapted to conform to the zone requirements.
2. Negative Criteria: There are two prongs to the negative criteria that the applicant must satisfy. These are:
 - a. That the variance can be granted without substantial detriment to the public good. This prong requires an evaluation of the impact of the variance on surrounding properties and a determination as to whether the proposed use would create a negative impact to the character of the neighborhood.
 - b. That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

G. Zoning - Bulk and Area Requirements

1. The proposal’s compliance with bulk and yard standards of the Residential (RA) Zone, pursuant to § 25-1-16 of the Borough Zoning Ordinance is as follows:



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Bulk and Yard Requirements: Residential (RA) Zone – § 25-1-16				
Description	Permitted	Existing	Proposed	Conforming
Minimum Lot Requirements				
Minimum Lot Area	5,000 sq. ft.	11,038 sq. ft.	No Change	Yes
Minimum Lot Width	50 feet	100 feet	No Change	Yes
Yard Requirements – Principal Building				
Minimum Front Yard Setback (Hall Place)	20 feet	25.5 feet	No Change	Yes
Minimum Front Yard Setback (Brook Avenue)	20 feet	7.1 feet	No Change	No (ENC) (V)
One Side Yard Setback	6 feet	19.8 feet (Northern Property Line)	No Change	Yes
Combined Side Yard Setback	16 feet	N/A (Corner Lot)	No Change	Yes
Rear Yard Setback	15 feet	40 feet	No Change	Yes
Minimum Yard Requirements – Accessory Building				
Side Yard Setback	3 feet	12.2 feet (Existing Shed)	N/A (Existing Shed to be Removed)	Yes
Rear Yard Setback	3 feet	4.5 feet (Existing Shed)	N/A (Existing Shed to be Removed)	Yes
Maximum Lot Coverage				
Maximum Lot Coverage – Principal Building	30% (1,500 sq. ft.)	21.7% (2,400 sq. ft.)	No Change	Yes
Maximum Lot Coverage – Accessory Building	10% (500 sq. ft.)	0.0045% (50 sq. ft., existing Shed)	N/A (Existing Shed to be Removed)	Yes
Maximum Combined Lot Coverage – Principal & Accessory Building	40% (2,000 sq. ft.)	21.7% (2,400 sq. ft.)	No Change	Yes
Maximum Lot (Impervious) Coverage	60% (3,000 sq. ft.)	42.9% (4,730 sq. ft.)	45.1% (4,980 sq. ft.)	Yes
Maximum Height – Principal Building				
Feet	30	25.6	No Change	Yes
No. of Stories	2.5	2	No Change	Yes
Maximum Height – Accessory Building				
Feet	16	Not Provided (existing shed)	N/A (Existing Shed to be Removed)	Yes

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Bulk and Yard Requirements: Residential (RA) Zone – § 25-1-16				
Description	Permitted	Existing	Proposed	Conforming
Stories	1.5	Not Provided (existing shed)	N/A (Existing Shed to be Removed)	Yes
Maximum Percentage of Front Yard Coverage by Parking	30%	6.5%	No Change	Yes

(V) = Variance Required

(ENC) = Existing Non-Conformity

- The Minimum front yard setback permitted within the Residential (RA) Zone is 20 feet, whereas a front yard setback of 7.1 feet is provided along Brook Avenue. This can be considered an existing non-conformity, however, due to the proposed change of use, variance approval is required for the proposed two-family dwelling. Therefore, a “c” variance is required.
- Density. The density of the subject property resulting from the proposed two-family residential dwelling is outlined below:

- 11,038 sq. ft. (area of subject property) ÷ 2 residential units = 5,519 sq. ft. per unit
- 1 acre (43,560 sq. ft.) ÷ 5,519 sq. ft. = 7.89 dwelling units (DU) per acre

We note that there is no specific density requirement listed in the Ordinance for the Residential (RA) Zone. However, the maximum density theoretically permitted based on the minimum lot area permitted within this zone is outlined below:

- 1 acre (43,560 sq. ft.) ÷ 5,000 sq. ft. minimum lot area = 8.71 dwelling units (DU) per acre

Therefore, the proposed density of the falls within the 8.71 DU per acre limit and is not considered excessive based on the parameters of the minimum lot area requirement.

H. Dimensional “C” Variance Considerations.

- Upon hearing testimony and input from the public (if any), the Board should evaluate the positive and negative criteria set forth below to determine whether the Applicant has met its burden of proof for a “c(1)” or “c(2)” variance. We defer to the Board attorney on all legal matters.
 - Positive Criteria for “c(1)” hardship variance

The finding of a “c(1)” hardship would address the following:

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- i. *by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or*
- ii. *by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or*
- iii. *by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, or*
- iv. *the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.*

It should be noted that the finding of the hardship must be for the specific property in question—it must be unique to the area. Note also that a hardship variance cannot be granted by a self-created hardship or personal hardship of the applicant.

b. Positive Criteria for “c(2)” flexible variance

For the finding of a “c(2)” flexible variance to permit relief from zoning regulations where an alternative proposal results in improved planning would address the following:

- i. *The purposes of the MLUL would be advanced by the deviation, and*
- ii. *The benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.*

It should be noted that the finding of the benefits must be for the specific property in question—it must be unique to the area. The zoning benefits resulting from permitting the deviation(s) must be for the community and not merely for the private purposes of the owner. It has been held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Notwithstanding, the Board should consider only those purposes of zoning that are actually implicated by the variance relief sought.

c. The Municipal Land Use Law (NJSA 40:55D-70) requires the applicant to satisfy *both* components of the negative criteria:

- i. *The proposal will not create a “substantial detriment to the public good;” and*

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- ii. *The proposal will not create a “substantial detriment to the zone plan and zoning ordinance.”*

I. Off-Street Parking Requirements

1. Pursuant to Section 25-1.5.5 of the Ordinance, minimum off-street parking requirements shall be in accordance with the New Jersey Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21. The proposal’s conformance with the minimum off-street parking requirements pursuant to Section 5:21-4.14 of the RSIS are outlined in the table below. We note that for two-family (duplex) dwellings, single-family detached parking values apply.

	Minimum Off-Street Parking Requirements - N.J.A.C. 5:21-4.14			
Description	Permitted	Existing	Proposed	Conforming
Single-Family Detached (3-bedroom Existing Dwelling)	2 Spaces	4 Spaces	N/A	Yes
Single-Family Detached (3-bedroom): Unit 1	2 Spaces	N/A	5 Spaces	Yes
Single-Family Detached (3-bedroom): Unit 2	2 Spaces	N/A		

Source: Residential Site Improvement Standards, N.J.A.C. 5:21-4.14

2. We note that the proposed 5.4 ft. x 12 ft. driveway extension creates an additional parking space measuring at least 9 ft. x 18 ft. Therefore, the applicant is compliant with the off-street parking requirements pursuant to the NJ RSIS, as five (5) spaces measuring at least 9 ft. x 18 ft. are provided.

J. Landscaping and Lighting

1. The applicant should provide testimony if any additional landscaping is proposed on the property. If additional landscaping is proposed, the plans should be revised to reflect same.
2. The applicant should provide testimony confirming whether the two existing shade trees on the property will remain as part of the proposal. As these trees are greater than 12 inches in caliper,

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we recommend preserving these trees where possible to provide additional shade and buffering between the adjacent residential property to the north of the subject site.

3. The applicant shall provide testimony regarding any proposed landscape/fencing buffering. Per Ordinance No. 27-18, Section 8(D)(9), the applicant shall *“Provide suitable fencing where necessary for safety or screening and provide landscaping and such additional buffer areas as may be required in order to maintain the character and good appearance of the neighborhood.”* It appears there are no existing/proposed plantings within the front yard along Brook Avenue. We recommend that the applicant revise the site plans to include four-season landscape buffering and additional shade trees along the southern property line to provide an effective screening buffer between the existing building and the existing single-family dwellings opposite Brook Avenue.
4. No lighting plan has been provided. The applicant should revise the plans to include any proposed lighting and illumination calculations for the proposed two-family dwelling. Specifically, testimony should be provided as to whether any lighting is proposed for the outdoor second floor deck and entrance and confirm there will be no glare or light spillage onto the adjacent residential property resulting from the proposed fixtures. If lighting is proposed for this area, we recommend downward facing light fixtures and/or shielding to prevent said glare/spillage.

K. Additional Comments

1. Block 103, Lots 69, 70, and 71 shall be merged and recorded by deed as a condition of approval.
2. The applicant shall provide copies of the metes and bounds description and deed for review by the Board Engineer and Board Attorney prior to filing.
3. We recommend the applicant revise the plans to include facade treatment such as shutters to the rear and side building elevations, similar to the existing façade treatments for the front building elevation.
4. The plans shall be revised to show the location of all roof leaders. The applicant shall demonstrate that there will not be any runoff directed towards the adjacent lots. We recommend the applicant investigate installing a drywell system in the rear yard to collect and infiltrate roof leader runoff. Any stormwater management facilities on site shall be deed restricted.
5. The applicant should provide testimony regarding whether the existing vinyl fencing will remain. Any fencing that is in disrepair or damaged during construction shall be replaced.
6. The applicant shall revise the plans to show the location of any existing and proposed utility connections. The applicant shall clearly note any proposed work within the right of way. If multiple

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connections are proposed, I recommend, at a minimum, the applicant half width mill and overlay the roadway along the frontage of the site. All restoration within the right of way shall be completed to the satisfaction of the Borough Engineer.

7. We defer to the Borough Fire Marshall’s review letter dated February 7, 2023, regarding Borough Fire Department connections and access to the site.
8. The applicant will be required to repair any pavement, curb, sidewalk or pavement that is in disrepair or damaged as a result of the proposed improvements.
9. The applicant should confirm that the property is not subject to any existing easements, deed restrictions and/or covenants.
10. The applicant shall obtain all necessary permits and approvals, and provide copies of same to the Board.
11. The applicant will be required to obtain any necessary municipal building permits required. No permits will be issued until all requirements of the land use approval process are completed.

L. Applicant’s Team

1. Subject Property Owner and Applicant: Dimitrios and Cynthia Koloniaris, 8 Cliff Avenue, South Amboy, NJ, 08879. Telephone: 732-507-2043. Email: litohoro1@optimum.net
2. Applicant’s Attorney: Lawrence D. Kantor, Esq., 58 West Front Street, Keyport, NJ 07735. Telephone: 732-264-9300. Email: kllaw@optimum.net
3. Applicant’s Engineer: Richard Karl Hauser, PE, PLS, of Richard K. Hauser, P.C., 307 Main Street, Matawan, NJ 07747. Telephone: 732-566-0850. Email: ravine208@yahoo.com
4. Applicant’s Architect: Ron Grammar, AIA, of Grammar Designs, LLC, 241 Maple Place, Red Bank, NJ 07701. Telephone: 732-842-8021. Email: designstudio@kgdarch.com



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Should you have any questions, please do not hesitate to contact our office.

Very truly yours,

T&M Associates

CAROLINE Z. REITER, P.P. A.I.C.P.
BOARD PLANNER

FRANCIS W. MULLAN, P.E., C.M.E
BOARD ENGINEER

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