

Sea Isle City Zoning Board of Adjustment	Applicant's Last Name:
	Property Address:
	Date Submitted to ZB Secretary:

Application Check List

This Application Check List is provided to assist you in submitting a complete application package to the Zoning Board. A complete Application Package shall consist of:

One (1) copy of this Checklist (on top of Package), **plus one (1) each of the following items:**

- Check for Application Fees, made payable to "City of Sea Isle City"
- Check for Escrow Fees, made payable to "City of Sea Isle City"
- W-9 form, completed and signed by the Applicant (one copy, only)
- ZB-3 Application Fees and Escrow Fee Calculation Sheet
- ZB-4 Certification and Proof of Payment of Taxes

Plus, twenty (20) sets of Application, with each set compiled of the following documents:

- ZB-1 SICZB current Application form, including signed & dated verification
- ZB-2 Survey, Plan, or Plat Affidavit
- ZB-5 Notice of Application for Development
- ZB-6 Certification of Service
- ZB-7 Proposed letter to the "200 foot list"
- Copy of 200 foot list obtained from Sea Isle City Tax Assessor
- All plans, drawings, surveys, photographs, and similar documents upon which the Applicant proposes to rely in presenting the Application.
- Undersized lot cases only:* Attach documentation of Applicant's offer to purchase property from or sell property to adjoining property owners, and all responses.
- Site plan approval and/or subdivision approval,* also include: ZB-11 Applications Involving Subdivisions and/or ZB-12 Applications Involving Site Plans

NOTE that all Application Packages must be submitted to the Board Clerk in 20 complete sets to include 1 original and 19 copies. Plans, drawings and similar documents must be folded (not rolled). Each set shall be bound together (rubber band, large clip or stapled). Component parts of the Application Package cannot be submitted separately; such Applications will be returned to the Applicant for completion, and may result in delay and additional cost in processing.

No later than ten (10) days before the hearing date, all documents on which the Application will be based must be on file with the Zoning Board Clerk.

Finally: **TEN (10) DAYS PRIOR** to the date of the hearing, the Affidavit of Service [ZB-6], and all certified mail receipts, and Proof of Publication must be submitted to the Zoning Board Clerk.

**SEA ISLE CITY ZONING BOARD OF ADJUSTMENT
APPLICATION / APPEAL FORM**

Date of Application / Appeal: _____

1. **Location of premises that are the subject of this matter:**
 Street address: 5816 Sounds Avenue
 Tax Block: 58.05 Lot(s): 1
 Zoning District in which premises are located: R-2

2. **Name, address, phone nos. for Applicant(s):** [see Notes page]
5816 Sounds Avenue Condominium Association

Designate a contact person:
 Name: Jeffrey P. Barnes, Attorney for Applicant
 Best method(s) to reach the contact person:
 Telephone Cell Fax e-mail regular mail
609-522-7530 jpbarnes@king-barnes.com

3. Applicant is (check one): property owner contract purchaser
 If contract purchaser, you must attach a copy of the contract to the application.

4. Check here if the Applicant is a corporation or partnership.
 [If so, you must attach a separate sheet to this Application listing names and addresses for all stockholders, members, shareholders, partners or similar persons or entities owning 10% or more of the corporation or partnership, and indicate the percentage ownership interest of each person or entity]

5. Are you represented by an attorney OR assisted by a land use professional in connection with this application? If so, please provide that person's name and contact information here:
 [Note: Corporations and partnerships must be represented by an attorney. All others may represent themselves.]

Name: Jeffrey P. Barnes, Attorney for Applicant
 Address: 2600 New Road
Northfield, NJ 08225
 Telephone: 609-522-7530 Fax: 609-522-7532

Did an attorney or other land use professional assist you in the preparation of this application? Yes No

6. **Type of application presented** (check all that apply):

- Appeal from decision of Zoning Official NJSA 40:55D-70a
- Interpretation of Zoning Ordinance or Map NJSA 40:55D-70b
- Hardship variance, "c" or "bulk" variance NJSA 40:55D-70c(1)
- Flexible "c" variance NJSA 40:55D-70c(2)
- Use variance or "D" variance NJSA 40:55D-70d
 - (1) Use or principal structure not permitted in zoning district
 - (2) Expansion of non-conforming use
 - (3) Deviation from conditional use standard
 - (4) Increase in permitted floor area ratio
 - (5) Increase in permitted density
 - (6) Height of principal structure to exceed maximum permitted height by greater than 10 feet or 10%
- Permit to build in street bed NJSA 40:55D-34
- Permit to build where lot does not abut street NJSA 40:55D-36
- Site plans NJSA 40:55D-76
 - Major site plan review
 - Preliminary site plan approval
 - Final site plan approval
 - Minor site plan review
 - Waiver of site plan
- Subdivision NJSA 40:55D-76
 - Minor subdivision
 - Major subdivision
 - Preliminary approval
 - Final approval
 - Waivers from subdivision and/or site plan standards
- Other

7. **Existing conditions at the property.**

Structures. At the present time, the property is (check all that apply):

- vacant lot
- developed with the following Principal Structure(s):
 - single family dwelling
 - two family dwelling
 - triplex
 - other multi-unit residential structure [number of units: _____]
 - commercial building: _____
 - public building: _____
 - other: _____

The Principal Structure was originally built (date) 1996.

The most recent structural changes were made (date) Since Built
and consisted of _____.

Accessory structures. At present, the following are on the property:

- detached garage storage shed dock(s)
- swimming pool other: _____

Lot area and dimensions. At present, the lot is:

- Less than 3,500 square feet (substandard non-buildable)
- Between 3,500 square feet and minimum lot area permitted in zoning district (substandard buildable).
- Equal to or greater than minimum lot area.

Parking. At present, parking for this property consists of:

- No on-site parking is available.
- Number of on-site parking spaces: 4 Spaces (2 per Unit)
- How many are stacked parking? 3 Spaces

Number and location of driveways: 2 driveays on Sounds Avenue

Elevation level.

Flood elevation of the property is: AE
 Elevation at top of curb, street frontage is: 9.0'
 This property is is not on the FEMA list.

Use of the Property. The property is currently used as (check all that apply):

- single family dwelling restaurant
- two family dwelling store
- three family dwelling public building
- other multi-family dwelling office
- other (describe) _____

The property has been used in this manner since Since Built.
 Before that time, the property was used as N/A

8. **Proposed structure or use.** Applicant wishes to (check all that apply):

- change the **size, bulk or location** of existing structure.
- change the **use** of the property or existing structure.
- remove existing structures and build new structure.
- other: _____

Describe your proposed changes:

Applicant is seeking approval to construct a 20 square foot second-floor addition and
109 square foot third-floor addition at the existing two-unit residential condominium

9. **Variance Relief Requested.** The changes Applicant wishes to make will require variances from the following Sections of the Sea Isle City Zoning Ordinance:

Variance required for FAR (Section 26-46.10.a.)

Multiple existing nonconforming conditions exist and will not change:

rear yard setback (section 26-46.6), number of parking spaces (section 26-23.8.a.)
lot depth (section 26-48.8.b), number of driveways (section 26-23.4.a)

If you are proposing to change the **use** of the structure, please describe the proposed use and note whether it is listed as a permitted use in the zoning district.

The use will remain as a two-family residential dwelling which is permitted in the
zoning district.

The Applicant also seeks relief from the following Sea Isle City Ordinances (indicate specific part of ordinance): N/A

- Land Use Procedures, Sec. XXIX _____
- Site Plan Review, Sec. XXX _____
- Land Subdivision, Sec. XXXII _____
- Signs, Sec. XXXIII _____

10. **Existing and Proposed Conditions.** Supply the following information.

Note: All pertinent information requested must be supplied here. It is not sufficient to simply reference an attached plan. If any requested information is not applicable to the property, insert "N/A".

	<u>EXISTING CONDITIONS</u>	<u>REQUIRED BY ORDINANCE</u>	<u>PROPOSED</u>	<u>VARIANCE REQUIRED YES/NO</u>
Zoning District:	<u>R-2</u>			
<u>LOT AREA/DIMENSIONS:</u>				
Lot Frontage	<u>131.4'</u>	<u>50' Min</u>	<u>No change</u>	<u>No</u>
Lot Depth	<u>approx. 80.23' (IRR)</u>	<u>100' Min</u>	<u>No change</u>	<u>ENC</u>
Lot Area (s.f.)	<u>5,329 SF</u>	<u>5,000 SF Min</u>	<u>No change</u>	<u>No</u>

PRINCIPAL STRUCTURE

*For the principal structure on the property, indicate the following:
Note: "SB" = setback*

Front Yard SB	<u>15'</u>	<u>15' Min</u>	<u>No change</u>	<u>No</u>
Side yard SB #1	<u>5'-10"</u>	<u>5' Min</u>	<u>No change</u>	<u>No</u>
Side yard SB #2	<u>10'-5"</u>	<u>5' Min</u>	<u>No change</u>	<u>No</u>
Total SYSB	<u>16'-3"</u>	<u>15' Min</u>	<u>No change</u>	<u>No</u>
Rear Yard SB	<u>9'-7"</u>	<u>20' Min</u>	<u>9'-7" and 20'-8" to addition</u>	<u>ENC</u>
Building Height	<u>28'-4" Abv Elev 11.0"</u>	<u>32' above elevation 11.0' max</u>	<u>31'-10" Abv Elev 11.0"</u>	<u>No</u>

ACCESSORY STRUCTURES

For all accessory structures on the property, indicate the following:

Front Yard SB	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Side Yard SB #1	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Side Yard SB #2	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Rear Yard SB	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Distance to other buildings	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Building Height	<u>N/A</u>	<u></u>	<u></u>	<u></u>

	<u>EXISTING CONDITIONS</u>	<u>REQUIRED BY ORDINANCE</u>	<u>PROPOSED</u>	<u>VARIANCE REQUIRED YES/NO</u>
<u>LOT COVERAGE</u>				
Principal building (%)	<u>31.2% (1,662 SF)</u>	<u>35% Max.</u>	<u>33.5% (1,783 SF)</u>	<u>No</u>
Accessory building (%)	<u>N/A</u>	<u></u>	<u></u>	<u></u>
<u>FLOOR AREA RATIO</u>				
Principal bldg	<u>86% (4,586 SF)</u>	<u>80% Max.</u>	<u>88.5% (4,715 SF)</u>	<u>Yes</u>
Accessory bldg	<u>N/A</u>	<u></u>	<u></u>	<u></u>
<u>PARKING</u>				
Location	<u>On-Site</u>	<u>On-Site (26-23.3)</u>	<u>On-Site</u>	<u>No</u>
No. spaces on-site	<u>4</u>	<u>6</u>	<u>No change</u>	<u>ENC</u>
Driveway	<u>2</u>	<u>1 Max. (26-23.4)</u>	<u>No change</u>	<u>ENC</u>
<u>SIGNS</u>				
Dimensions	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Number	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Location	<u>N/A</u>	<u></u>	<u></u>	<u></u>
Type (Freestanding or Building Mounted)	<u>N/A</u>	<u></u>	<u></u>	<u></u>

11. Has there been any previous appeal, request or application to this Board or to the Planning Board involving these premises? If yes, state the nature of the application, date of application, date of hearing and result received from Board.
Yes. See Resolution No. 2016-09-01 attached hereto.

12. **For all applications:** Attach to this application a statement of facts showing why the relief sought can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Sea Isle City Master Plan and Zoning Ordinance. State why variance relief can be granted without substantial harm to the neighborhood and without significant overturning of the Master Plan.

13. **For "c(1)" Variances:** Attach to this application a statement specifying the hardship/exceptional conditions of the specific property involved that justify the granting of a variance pursuant to N.J.S.A. 40:55D-70c. State what is unique about your specific piece of property, noting such things as an exceptionally narrow, deep, or otherwise unusually shaped lot; physical features located on the lot that prevent its use in a normal manner that would be allowed by the existing zoning; or the specific location of existing structures that limit compliance with the required zoning. Note how the circumstances relating to your particular lot differ from other lots in the neighborhood. State what hardships would result should the variance not be granted to you. Please note that monetary hardship is considered a personal hardship, and is NOT A REASON for this type of variance relief.

14. **For "c(2)" Variance:** Attach to this application a statement setting forth the facts supporting your position that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning requirements in question, and that the benefits of that deviation would substantially outweigh any detriment to the zoning ordinance or master plan, pursuant to N.J.S.A. 40:55D-70c(2). Among the purposes of the Municipal Land Use Law are the following: promotion of public health, safety and welfare; provision of adequate light, air and open space; establishment of appropriate population densities; provision of sufficient space for agricultural, residential, recreational, commercial and industrial uses and open space; promotion of a desirable visual environment; conservation of historic sites, districts, open space and natural resources; encouragement of senior citizens housing. Cite which of these apply to your application and further, cite the characteristics of your land that will present an opportunity for improved zoning and planning to benefit the community.

15. **For Use and other "d" Variances:** Attach to this application a statement setting forth the special reasons for granting this variance pursuant to N.J.S.A. 40:55D-70d. "Special reasons" exist where a proposed project carries out a purpose of zoning (such as those noted in Section 14 above), or where the refusal to allow the project would impose an undue hardship on you (note that a personal hardship, such as monetary hardship or a hardship you create, cannot form the basis for granting a variance). If you are seeking a use variance, you should also state why the property at issue cannot reasonably be developed with a use permitted by the Zoning Ordinance.

16. **For all applications, if an application was first submitted to and denied by the Zoning Official:** Set forth specifically the determination of the Zoning Official from which an appeal has been filed and the basis for the appeal (N.J.S.A. 40: 55D-70a), or attach a copy of the Zoning Official's letter to you.

N/A

17. **For Interpretation Requests:** Set forth specifically the Zoning Ordinance section and provisions and/or the portion of the Zoning Map for which an interpretation is sought. Explain what interpretation you are seeking. (N.J.S.A. 40:55D-70b).

18. List all professionals employed by the applicant in completing the application to the Zoning Board of Adjustment and/or intended to be called as witnesses at the hearing on the application.

Name	Address	Phone	Fax
Jeffrey P. Barnes, Esquire, 2600 New Road, Northfield, NJ 08225. jpbarnes@king-barnes.com		609-522-7530 (p.)	609-522-7532 (f.)
Blane Steinman, R.A, 2220 Route 9 North, Clermont, NJ 08210. blane@besarchitects.com		609-624-2099 (p.)	609-6224-2098 (f.)

5816 SOUNDS AVENUE CONDOMINIUM ASSOCIATION

The following Resolutions are hereby adopted:

**RESOLUTIONS TO CONSTRUCT ADDITIONAL SPACE FOR THE BENEFIT OF
UNIT SOUTH AS FOLLOWS:**

WHEREAS, on July 26, 1996 the 5816 Sounds Avenue Condominium (the "Complex") was created and filed;

WHEREAS, the Complex consists of two residential units of equal size;

WHEREAS, Joseph J. Jordan and Karen R. Jordan (collectively "Jordan") own Unit South in the condominium complex (the "Complex");

WHEREAS, Dennis J. Murray and Lisa J. Murray (collectively "Murray") own Unit North in the Complex;

WHEREAS, Jordan and Murray are the Condominium Association (the "Association");

WHEREAS, Jordan is seeking to enclose several decks on the second and third floors of their respective unit to create additional living space (the "Project") as more particularly set forth in a certain application ("Application") submitted to the Sea Isle City Zoning Board of Adjustments (the "Board") and as set forth herein:

Building Data	Existing South Unit	Addition South Unit	Total South Unit
First Floor:	627 Square Feet	0 Square Feet	627 Square Feet
Second Floor:	852 Square Feet	20 Square Feet	872 Square Feet
Third Floor:	852 Square Feet	109 Square Feet	961 Square Feet
Total:	2,331 Square Feet	129 Square Feet	2,460 Square Feet

WHEREAS, the Association is seeking certain variance relief as set forth in the Application;

NOW, THEREFORE BE IT RESOLVED THAT the Association finds the Project acceptable and hereby adopts the following:

1. Resolved that the Association is in agreement with the Project.
2. Resolved further that the Association acknowledges and agrees that the Project will be constructed in accordance with the architectural plans submitted with the Application and potentially any modifications requested by the Board.

3. Resolved further that the Association acknowledges and agrees that Joseph J. Jordan and Karen R. Jordan, on behalf of the Association, by and through the law firm of KingBarnes, LLC, have authority to seek approval for the Project, and any slight modifications, as requested by the Board.
4. Resolved further that Joseph J. Jordan and Karen R. Jordan agree, with the full consent of the Association, that Joseph J. Jordan and Karen R. Jordan, are fully financially responsible for all costs and fees associated with the Project, including, but not limited to, the application fee, escrow fees, mailings, advertisements, engineering, architectural, attorneys, surveyor, filing fees, permitting and construction.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have hereunto set their hands and seals on August 19, 2024.

Joseph J. Jordan

Karen R. Jordan

Dennis J. Murray

Lisa J. Murray

VERIFICATION OF APPLICATION

I, Jeffrey P. Barnes, Attorney for Applicant, do hereby certify to the following:

1. I am the applicant whose name appears in the attached application to the Sea Isle City Zoning Board of Adjustment.
2. I am over the age of 18.
3. I have personal knowledge of the facts stated herein and in the application.
4. I am the (circle one) owner contract purchaser of the subject property.
5. I have reviewed the application, and I verify to the Sea Isle City Zoning Board of Adjustment that all of the information presented in this application is true and accurate to the best of my knowledge.
6. I am aware that I am subject to punishment under New Jersey law if any of the statements made by me in this application are willfully false.

9/19/2024
(date)


(Signature of Applicant; print name beneath)
Jeffrey P. Barnes, Attorney for Applicant

Note: a separate Verification must be submitted for each owner of the property. For condominiums, you must submit a signed verification from each member of the condominium association, or, if more than four units in the condominium, a resolution from the condominium Board of Directors indicating its consent to the application.

SEA ISLE CITY ZONING BOARD OF ADJUSTMENT
SURVEY/PLAN/PLAT AFFIDAVIT

State of New Jersey :
County of Atlantic : ss.


Name of Appellant/Applicant: 5816 Sounds Avenue Condominium Association

Address of Subject Property: 5816 Sounds Avenue

Tax Block: 58.05 Lot(s): 1

Jeffrey P. Barnes, Attorney for Applicant _____, being duly sworn according to law, upon his/her oath, deposes and says:

1. I am the owner of the property identified above, located in the City of Sea Isle City, New Jersey. I am the appellant/applicant for development in this matter.
2. I verify that the attached sealed survey/plan/plat prepared by _____ Gibson Associates _____ and dated 12/02/2004 accurately reflects the physical condition of the property as of the date of this affidavit, and there have been no changes or alterations to the property since the date of the signed survey/plan/plat. **The reference to the survey on the architectural plans is erroneously dated 12/02/2014. The typographical error will be corrected on the 7 copies of final compliance plans.**
3. I make this affidavit in support of an appeal / application for development before the Sea Isle City Zoning Board of Adjustment and understand that said Board shall rely on this Affidavit and the current accuracy of the said survey/plan/plat in considering the appeal/application for development of the property.

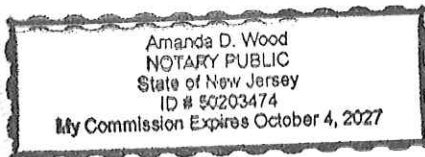


Signature of Owner/Appellant/Applicant
Jeffrey P. Barnes, Attorney for Applicant

Sworn and subscribed to before me
this 19th day of September, 2024



Notary Public

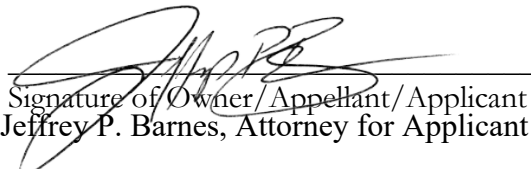


**SEA ISLE CITY ZONING BOARD OF ADJUSTMENT
CERTIFICATION OF PAYMENT OF TAXES AND MUNICIPAL LIENS**

Name of Appellant/Applicant: 5816 Sounds Avenue Condominium Association
Address of Subject Property: 5816 Sounds Avenue
Tax Block: 58.05 Lot(s): 1

The above-named appellant or applicant hereby certifies as follows:

1. I am the owner of the property identified above, located in the City of Sea Isle City, New Jersey. I am the appellant/applicant for development in this matter.
2. I verify that all real estate taxes for the property are current as of the date of this appeal or application, and that they will be current as of the date of the Zoning Board hearing.
3. I verify that all municipal charges against the property, such as water and sewer charges are current as of the date of this appeal or application, and that they will be current as of the date of the Zoning Board hearing.
4. I have obtained a certification from the Sea Isle City Tax Collector, attached hereto, attesting to the status of real estate taxes and municipal charges against the property.
5. I understand that I have a continuing obligation to satisfy any municipal lien against this property.
6. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing is willfully false, I am subject to punishment.



Signature of Owner/Appellant/Applicant
Jeffrey P. Barnes, Attorney for Applicant

***Attach the certification of paid taxes provided by the
Sea Isle City Tax Collector to this form.***

LEGAL NOTICE

PLEASE TAKE NOTICE that the undersigned, 5816 Sounds Avenue Condominium Association (the "Applicant"), have made application to the City of Sea Isle City Zoning Board (the "Board") for a property commonly known as 5816 Sounds Avenue, Sea Isle City, New Jersey, and more specifically designated as Lot 1 in Block 58.05 (the "Property") on the Tax and Assessment Map of the City of Sea Isle City, Cape May County, New Jersey, in order to seek approval to construct a 20 square foot second-floor addition and 109 square foot third-floor addition at the existing two-unit residential condominium. The Property is in the R-2 zone. The Applicant is seeking the following:

1. Site plan approval, if required, pursuant to the Land Use Development Ordinance of the City of Sea Isle City as well as the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50;
2. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(d) as follows:
 - a. D(4) use variance for floor area ratio, where a maximum of 80% is permitted, 86% exists, and 88.5% is proposed;
3. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) as follows:
 - a. Rear yard setback, where a minimum of 20 feet is required, 9 feet 7 inches exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project, as 20 feet 8 inches to the addition is proposed;
 - b. Lot depth, where a minimum of 100 feet is required and 80.23 feet exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project;
 - c. Number of parking spaces, where a minimum of 6 parking spaces is required and 4 parking spaces exist, which is a preexisting nonconforming condition and will not change as a result of the proposed project; and
 - d. Number of driveways, if required, wherein rehabilitation of existing residential buildings of less than 50% rehabilitation, on corner lots having a minimum 50 foot frontage are permitted one 24-foot wide driveway or two 12-foot wide driveways with one on each street frontage, and one 10-foot wide driveway and one 15-foot wide driveway exist on Sounds Avenue, which is a preexisting nonconforming condition and will not change as a result of the proposed project; however, the code also always the existing driveway configuration to be maintained.
4. A Certificate of Nonconformity for all existing nonconforming conditions;

5. Any other bulk, dimensional and accessory variance relief or exceptions from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) which may be required, including, but not limited to, side yard setbacks, front yard setbacks, rear yard setbacks, height, building coverage, lot coverage, landscaping, landscape buffer, accessory structure setbacks, driveway, curb cuts and parking at the Property in conjunction with the Residential Site Improvement Standards;
6. The Applicant may also apply for such variance relief, exceptions, waivers, permits, approvals or licenses that are deemed necessary or appropriate by the Applicant or the Board, which may arise during the course of the hearing process.

The application is now on the calendar of the Board of the City of Sea Isle City. The initial public hearing has been set for TBD, 2024 at 7:00 p.m. at 233 John F. Kennedy Boulevard in the Council Chambers on the Third Floor, Sea Isle City, Cape May County, New Jersey 08243. Any person affected by this application will have the opportunity to present any objections to the proposed development. However, the Board reserves the right to exclude repetitious testimony. All documents relating to this application may be inspected by the public Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m. in the Office of the Board of Zoning and Land Use Control Division, located at 233 John F. Kennedy Boulevard in the Council Chambers on the Third Floor, Sea Isle City, Cape May County, New Jersey 08243. If you wish to make a statement or offer evidence concerning this application, you must appear in person at the hearing or through an attorney or agent. The Board cannot accept petitions or letters, and must rely on live testimony.

KINGBARNES, LLC

Jeffrey P. Barnes/S/

Jeffrey P. Barnes, Esquire
on behalf of 5816 Sounds
Avenue Condominium Association

Dated: September 19, 2024

AFFIDAVIT OF PUBLICATION AND SERVICE
5816 SOUNDS AVENUE CONDOMINIUM ASSOCIATION
ZONING BOARD,
CITY OF SEA ISLE CITY, CAPE MAY COUNTY, NEW JERSEY

I, Jeffrey P. Barnes, Esquire, being of full age and being duly sworn according to law deposes and says:

1. I am an attorney-at-law of New Jersey of the law firm of KingBarnes, LLC, 111 East 17th Street, Suite 100, North Wildwood, New Jersey, attorneys for 5816 Sounds Avenue Condominium Association (the "Applicant"), for property which is located at 5816 Sounds Avenue, Sea Isle City, New Jersey, and more specifically designated as Lot 1 in Block 58.05 on the Tax and Assessment Map of the City of Sea Isle City, Cape May County, New Jersey.

2. The public hearing in connection with this application is scheduled for TBD, 2024 at 7:00pm.

3. With regard to public notice, the undersigned obtained a radius list from the City of Sea Isle City Tax Assessor which listed all property owners and interested parties within 200 feet of the subject property as well as a listing of all utility companies and other interested parties that are entitled to a notice of the hearing. A true copy of the list is attached hereto as **Exhibit "A"**.

4. On TBD, 2024, representatives of my office mailed to all property owners as contained on the Sea Isle City Radius List within 200 feet of the subject property and to all of the utility companies, and other interested parties entitled to notice by Certified Mail, Return Receipt Requested, a Notice Hearing for the City of Sea Isle City Zoning Board that the Applicant was seeking the following:

- a. Site plan approval, if required, pursuant to the Land Use Development Ordinance of the City of Sea Isle City as well as the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50;
- b. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(d) as follows:

- a. D(4) use variance for floor area ratio, where a maximum of 80% is permitted, 86% exists, and 88.5% is proposed;
- c. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) as follows:
 - a. Rear yard setback, where a minimum of 20 feet is required, 9 feet 7 inches exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project, as 20 feet 8 inches to the addition is proposed;
 - b. Lot depth, where a minimum of 100 feet is required and 80.23 feet exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project;
 - c. Number of parking spaces, where a minimum of 6 parking spaces is required and 4 parking spaces exist, which is a preexisting nonconforming condition and will not change as a result of the proposed project; and
 - d. Number of driveways, if required, wherein rehabilitation of existing residential buildings of less than 50% rehabilitation, on corner lots having a minimum 50 foot frontage are permitted one 24-foot wide driveway or two 12-foot wide driveways with one on each street frontage, and one 10-foot wide driveway and one 15-foot wide driveway exist on Sounds Avenue, which is a preexisting nonconforming condition and will not change as a result of the proposed project; however, the code also always the existing driveway configuration to be maintained.
- d. A Certificate of Nonconformity for all existing nonconforming conditions;
- e. Any other bulk, dimensional and accessory variance relief or exceptions from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) which may be required, including, but not limited to, side yard setbacks, front yard setbacks, rear yard setbacks, height, building coverage, lot coverage, landscaping, landscape buffer, accessory structure setbacks, driveway, curb cuts and parking at the Property in conjunction with the Residential Site Improvement Standards;
- f. The Applicant may also apply for such variance relief, exceptions, waivers, permits, approvals or licenses that are deemed necessary or appropriate by the Applicant or the Board, which may arise during the course of the hearing process.

A copy of said notice is attached hereto to as **Exhibit "B"**. The original white certified mail postal receipts are attached hereto as **Exhibit "C"**.

5. With regard to the requirement for publication in a newspaper of general circulation, attached hereto as **Exhibit "D"** is a copy of the Affidavit of Publication from Cape May County Herald with same having been published on TBD, 2024.

Jeffrey P. Barnes, Esquire

Sworn and subscribed to before me this ____ day of _____, 2024.

RR

LEGAL NOTICE

PLEASE TAKE NOTICE that the undersigned, 5816 Sounds Avenue Condominium Association (the "Applicant"), have made application to the City of Sea Isle City Zoning Board (the "Board") for a property commonly known as 5816 Sounds Avenue, Sea Isle City, New Jersey, and more specifically designated as Lot 1 in Block 58.05 (the "Property") on the Tax and Assessment Map of the City of Sea Isle City, Cape May County, New Jersey, in order to seek approval to construct a 20 square foot second-floor addition and 109 square foot third-floor addition at the existing two-unit residential condominium. The Property is in the R-2 zone. The Applicant is seeking the following:

1. Site plan approval, if required, pursuant to the Land Use Development Ordinance of the City of Sea Isle City as well as the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50;
2. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(d) as follows:
 - a. D(4) use variance for floor area ratio, where a maximum of 80% is permitted, 86% exists, and 88.5% is proposed;
3. Variance relief from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) as follows:
 - a. Rear yard setback, where a minimum of 20 feet is required, 9 feet 7 inches exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project, as 20 feet 8 inches to the addition is proposed;
 - b. Lot depth, where a minimum of 100 feet is required and 80.23 feet exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project;
 - c. Number of parking spaces, where a minimum of 6 parking spaces is required and 4 parking spaces exist, which is a preexisting nonconforming condition and will not change as a result of the proposed project; and
 - d. Number of driveways, if required, wherein rehabilitation of existing residential buildings of less than 50% rehabilitation, on corner lots having a minimum 50 foot frontage are permitted one 24-foot wide driveway or two 12-foot wide driveways with one on each street frontage, and one 10-foot wide driveway and one 15-foot wide driveway exist on Sounds Avenue, which is a preexisting nonconforming condition and will not change as a result of the proposed project; however, the code also always the existing driveway configuration to be maintained.
4. A Certificate of Nonconformity for all existing nonconforming conditions;

5. Any other bulk, dimensional and accessory variance relief or exceptions from the Land Use Development Ordinance of the City of Sea Isle City and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70(c) which may be required, including, but not limited to, side yard setbacks, front yard setbacks, rear yard setbacks, height, building coverage, lot coverage, landscaping, landscape buffer, accessory structure setbacks, driveway, curb cuts and parking at the Property in conjunction with the Residential Site Improvement Standards;
6. The Applicant may also apply for such variance relief, exceptions, waivers, permits, approvals or licenses that are deemed necessary or appropriate by the Applicant or the Board, which may arise during the course of the hearing process.

The application is now on the calendar of the Board of the City of Sea Isle City. The initial public hearing has been set for TBD, 2024 at 7:00 p.m. at 233 John F. Kennedy Boulevard in the Council Chambers on the Third Floor, Sea Isle City, Cape May County, New Jersey 08243. Any person affected by this application will have the opportunity to present any objections to the proposed development. However, the Board reserves the right to exclude repetitious testimony. All documents relating to this application may be inspected by the public Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m. in the Office of the Board of Zoning and Land Use Control Division, located at 233 John F. Kennedy Boulevard in the Council Chambers on the Third Floor, Sea Isle City, Cape May County, New Jersey 08243. If you wish to make a statement or offer evidence concerning this application, you must appear in person at the hearing or through an attorney or agent. The Board cannot accept petitions or letters, and must rely on live testimony.

KINGBARNES, LLC

Jeffrey P. Barnes/S/ _____

Jeffrey P. Barnes, Esquire
on behalf of 5816 Sounds
Avenue Condominium Association

Dated: September 19, 2024

**Supplemental Information Submitted in Support of Application for
5816 Sounds Avenue Condominium Association
5816 Sounds Avenue, Sea Isle City, Lot 1 in Block 58.05**

The Applicant is seeking approval in order to construct a 20 square foot second-floor addition and 109 square foot third-floor addition at the existing two-unit residential condominium. The additions are being made to the South Unit. No changes to the North Unit are proposed. The Applicant applied to the Zoning Board in 2016 seeking variance relief in order to construct certain additions at the Property. The plans have been altered so that they are substantially different from what was requested in 2016. The differences between the applications are summarized herein. A D(4) variance is required for floor area ratio ("FAR"). Multiple preexisting nonconforming conditions exist, such as rear yard setback, number of parking spaces and number of driveways. The Property is located in the R-2 zone.

The proposed project results in the following building data:

	Zoning Regulations for R-2 District	Existing Conditions	Proposed Conditions	Conform
Use	Two- Family Dwelling	Two-Family Dwelling	Two-Family Dwelling with Second and Third Floor Addition	Yes
Lot Area	5,000 SF Min.	5,329 SF	5,329 SF	Yes
Lot Frontage	50' Min.	131.4'	131.4'	Yes
Lot Depth	100' Min.	80.23'	80.23'	ENC
Front Yard Setback	15' Min.	15'	15'	Yes
Rear Yard Setback	20' Min.	9'-7"	9'-7" and 20'-8" to addition	ENC and Yes
Side Yard Setback (Each)	5' Min.	5'-10" & 10'-5"	5'-10" & 10'-5"	Yes
Side Yard Setback (Total)	15' Min.	16'-3"	16'-3"	Yes
Building Coverage	35% Max. (1,865 SF)	31.2% (1,662 SF)	33.5% (1,783 SF)	Yes
Impervious Coverage	70% Max. (3,730 SF)	68.3% (3,645 SF)	68.3% (3,645 SF)	Yes
Floor Area Ratio	.8 or 80% Max. (4,263 SF)	86% (4,586 SF)	88.5% (4,715 SF)	No
Building Height	32' Abv Elec 11.0' Max.	28'-4" Abv Elev 11.0'	31'-10" Abv Elev 11.0'	Yes
Parking	6 Spaces Min.	4 Spaces	4 Spaces	ENC
Number of Driveways	1 (24') or 2 (12' wide)	2 (10' and 15' wide)	2 (10' and 15' wide)	ENC

ENC indicates existing nonconforming condition

Applicant is seeking the following:

- a. D(4) use variance for floor area ratio, where a maximum of 80% is permitted, 86% exists, and 88.5% is proposed;
- b. Rear yard setback, where a minimum of 20 feet is required, 9 feet 7 inches exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project, as 20 feet 8 inches to the addition is proposed;
- c. Lot depth, where a minimum of 100 feet is required and 80.23 feet exists, which is a preexisting nonconforming condition and will not change as a result of the proposed project;
- d. Number of parking spaces, where a minimum of 6 parking spaces is required and 4 parking spaces exist, which is a preexisting nonconforming condition and will not change as a result of the proposed project; and

- e. Number of driveways, if required, wherein rehabilitation of existing residential buildings of less than 50% rehabilitation, on corner lots having a minimum 50 foot frontage are permitted one 24-foot wide driveway or two 12-foot wide driveways with one on each street frontage, and one 10-foot wide driveway and one 15-foot wide driveway exist on Sounds Avenue, which is a preexisting nonconforming condition and will not change as a result of the proposed project; however, the code also always the existing driveway configuration to be maintained.

In 2016, the additions that the applicant proposed the following additions to the South Unit:

2016 Application			
Building Data	Existing South Unit	Addition South Unit	Total South Unit
First Floor:	623 Square Feet	0 Square Feet	623 Square Feet
Second Floor:	852 Square Feet	119 Square Feet	971 Square Feet
Third Floor:	852 Square Feet	210 Square Feet	1,062 Square Feet
Total:	2,327 Square Feet	329 Square Feet	2,656 Square Feet

The applicant has revised the plans to result in the following additions to the South Unit:

2024 Application			
Building Data	Existing South Unit	Addition South Unit	Total South Unit
First Floor:	627 Square Feet	0 Square Feet	627 Square Feet
Second Floor:	852 Square Feet	20 Square Feet	872 Square Feet
Third Floor:	852 Square Feet	109 Square Feet	961 Square Feet
Total:	2,331 Square Feet	129 Square Feet	2,460 Square Feet

In sum, the addition to the second floor decreased from 119 square feet to a mere 20 feet and the addition to the third floor decreased from 210 square feet to 109 square feet. The total square footage of the additions is reduced from 329 square feet, which was proposed in 2016, to 129 square feet. Additionally, the proposed FAR decreased from 94%, which was proposed in 2016, to 88.5%, which is now proposed.

The Board has the power to grant “d(4)” variances to permit an increase in the permitted floor area ratio (“FAR”) pursuant to N.J.S.A. 40:55D-70d(4) “in particular cases and for “special reasons.” This is the so-called positive criteria of a “d(4)” FAR variance.

As pertains to the positive criteria, the Appellate Division has held that a “d(4)” FAR variance is more akin to a “d(3)” conditional use variance than a “d(1)” use variance so that the Board’s focus must be on whether the site will accommodate the problems associated with the proposed permitted use but with a larger floor area than permitted by the ordinance. See, Randolph Town Center v. Randolph, 324 N.J. Super. 412, 416 (App. Div. 1999) (holding that the standard enunciated in Coventry Square v. Westwood Board of Adjustment, 138 N.J. 285, 298-299 (1994) pertaining to “d(3)” conditional use variances applies to “d(4)” FAR variances). A “d(4)” FAR variance applicant need not show that the property is particularly suited for more intensive development. Id.

The Board may not exercise its power to grant a “d(4)” variance otherwise warranted, however, unless the so-called “negative criteria” has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: “No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” The phrase “zone plan” as used in the N.J.S.A. 40:55D-70 means master plan. Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).

Under the Randolph Town Center rationale, the Board’s focus regarding the negative criteria in a “d(4)” FAR variance case is identical to a “d(3)” conditional use variance case, namely, determining whether conditions can be imposed in its approval to ensure that the deviations from the FAR requirements do not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The Coventry Square Court held that the strict requirements applicable to “d(1)” use variances do not apply to the first prong of the negative criteria of a “d(3)” variance (whether the variance can be granted without substantial detriment to the public good). Coventry Square, 138 N.J. at 299. Instead, the Board’s focus in a “d(3)” conditional use variance case must be on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial detriment to the public good. Id. In TSI East Brunswick v. East Brunswick Board of Adj., 215 N.J. 26, 43-46 (2013), the Court held that the strict requirements applicable to “d(1)” use variances do not apply to the second prong of the negative criteria of a “d(3)” variance (whether granting a variance would substantially impair the intent and purpose of the zone plan and zoning ordinance). Instead, the Board’s focus in a “d(3)” conditional use variance case must be on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial impairment of the intent and purpose of the master plan and zoning ordinance, i.e., whether the proposal was “reconcilable with the zone.” Id.

The Board has the power to grant “c(1)” or so-called “hardship” variances from zoning ordinance regulations pursuant to N.J.S.A. 40:55D-70c(1) where: “(a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, 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.”

The Board may not exercise its power to grant a “c(1)” variance otherwise warranted, however, unless the so-called “negative criteria” has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: “No variance or other relief may be granted without a showing that such variance or other relief can be granted (1) without substantial detriment to the public good and (2) will not substantially impair the intent and purpose of the zone plan and zoning ordinance.”

In the instant case, the subject property is an irregular shaped waterfront lot. Because of the irregular shape of the lot, the Applicant experiences a hardship in building additions to their home without encroaching into the required setbacks. However, the applicant has found a way to build the additions while meeting all setback requirements except for the existing nonconforming rear yard setback, and has managed to stay under the maximum permitted building height, building coverage and lot coverage, despite the need for the FAR variance. The proposed project will enable the family to make the best use of the existing space without overwhelming the lot. The residence with the proposed improvements will provide an aesthetically pleasing and visually tasteful contribution to the existing neighborhood.

Also, variances can be granted where there is no substantial detriment to the public good, the purposes of the MLUL would be advanced by the requested deviation from the requirements of the zoning ordinance, and the benefits of the deviation would substantially outweigh any possible detriment. Usually these planning benefits relate to zoning scheme, existing development patterns on surrounding lots. Basically, the purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from the literal requirements of the zoning ordinance. This is the essence of a c-2 or flexible variance.

This application can be granted without substantial detriment to the public good because it satisfies multiple of the purposes of zoning or positive criteria found in N.J.S.A. 40:55D-2. Sixteen purposes are stated in letters a through p. This application advances the purposes listed in letters e, g, and i as well as preservation of the neighborhood character and aesthetics. The rationale is listed below:

The first purpose "e" is to promote the establishment of appropriate population densities. The two-family dwelling is a permitted use in the zone. The two-family dwelling with the proposed improvements will continue to promote appropriate population densities. The dwelling will remain in conformity with the surrounding neighborhood as many two-family dwellings exist in this neighborhood. Despite not meeting the parking requirements, the parking is an existing nonconforming condition that adequately serves the condominium and the proposed additions do not result in the need for more parking.

The second purpose "g" is to provide sufficient space in a variety of locations for a variety of uses. The proposed additions to the home will fulfill such. The improvements to the property will be an upgrade and enhancement for the residence that presently exists. The proposed residence will allow the family to use their property space in the most efficient way. The proposed project will not change the character or development pattern in the immediate surrounding neighborhood.

The third purpose is "i" which is to promote a desirable visual environment through creative development techniques and good civic design and arrangements. The Applicant has found a way to improve their property by adding the additions while remaining under the maximum permitted building height and coverage requirements. The development will provide for a desirable visual environment for this immediate surrounding neighborhood and the City as a whole, plus the additions will be built in full compliance with all building codes.

When the proposed project is viewed on the whole, it will also contribute to the preservation of the neighborhood character and aesthetics. These are two (2) additional purposes of zoning held by the Courts to be appropriate in consideration of variance relief.

With respect to the negative criteria, the proposed development as stated previously, will not meet certain criteria contained in the Zoning Ordinance. However, the Applicant is proposing an architectural enhancement to their property. The requested relief will not substantially impact any other surrounding property owners. It also will not substantially impact the zone plan or the Zoning Ordinance. The benefits of granting the requested variance will outweigh any potential negative impacts as a result of the proposed improvements.

**ZONING BOARD OF ADJUSTMENT
CITY OF SEA ISLE CITY**

RESOLUTION NO. 2016-09-01

WHEREAS, 5816 Sounds Avenue Condominium Association (the “Applicant”), has applied to the City of Sea Isle City Zoning Board of Adjustment (the “Zoning Board”) for variance relief pursuant to N.J.S.A. 40:55D-70(c)(1)(“hardship variance”) and 40:55D-70(c)(2) (“Flexible C Variance”) from the pre-existing conditions required rear yard setback, side yard setback, minimum front yard setback 59th Street, maximum impervious surface coverage, parking spaces, stacked parking, pre-existing floor ratio and variance relief pursuant to N.J.S.A. 40:55D-70(d)(4) for increase in the permitted floor area ratio from the pre-existing condition of .88 to .9424, to permit the expansion of the southern unit by an area of 329 square feet upon premises known and identified as 5816 Sounds Avenue, also known as Block 58.05, Lot 1, South Unit (the “Property”) as such appears on the City of Sea Isle City (the “City”) Tax Map, which Property is situated in the R2 Zoning District. Specifically, the Applicant seeks variance relief from the following sections of the City Zoning Ordinance and Zone Plan.

<u>Section</u>	<u>Description</u>	<u>Required</u>	<u>Proposed</u>
26-46.6	Pre-existing Minimum Rear Yard Setback	20 FT	9 FT 7 Inches
26-46-.5A	Pre-existing Minimum Side Yard Setback	5 FT	3 FT 6 Inches to deck
26-46.4	Pre-existing Minimum Front Yard Setback-59 th Street	15 FT	10.5 FT
26-36.A	Pre-existing Maximum Impervious Coverage	70%	72%
26-23.8A	Pre-existing number of Parking Spaces	6 spaces	4 spaces
26-23.8A	Stacked Parking	2 permitted	3 proposed
26-46.10	Pre-existing Floor Area Ratio	.80	.9424

WHEREAS, a hearing on this Application was held before the City's Zoning Board September 6, 2016, at which time the Zoning Board heard the testimony of the witnesses and considered all of the evidence presented as to the Application; and

WHEREAS, the City's Zoning Board, after carefully considering the evidence presented by Applicant and all interested parties, has made the following factual findings:

1. All statements contained in the preamble are incorporated by this reference.
2. The Applicant has standing to bring this Application and the Board has jurisdiction to hear this matter.
3. The Applicant submitted the requisite number of applications and exhibits; submitted proof of payment of taxes; paid the required application and escrow fees; and provided proper notice to the public.
4. The Applicant was represented by Jeffrey Barnes, Esquire and Vincent Orlando, P.E., P.P. who was qualified as an expert in Blaine Steinmann, R.A.
5. The following items were introduced as evidence:
 - A-1. Photo view from homes across the street of the subject property.
 - A-2. Photo same as #1.
 - A-3. Photo of 2nd floor south deck proposing to enclose.
 - A-4. Photo of 2nd & 3rd floor proposing to enclose.
 - A-5. Photo from West facing deck overlooking the bay from 3rd floor.
 - A-6. Photo of 2nd floor deck.
 - A-7. Photo of small balcony off 3rd floor bedroom.
 - A-8. View from 2nd floor deck to 3rd floor deck of area proposed to be enclosed

6. The Board accepts the exhibits produced by applicant as factual.

7. a. The Applicant testified he is very familiar with the property and first rented it in 1972 and bought it in 1994. The Applicant testified that his family spends the entire summer in Sea Isle and he needs more space because his family is growing. The Applicant also testified that neither unit is rented. The purpose of the application is to enlarge the existing master bedroom/master bathroom and living space by enclosing the deck on the 2nd and 3rd floors. Furthermore, the Applicant testified the decks they are proposing to enclose are two small decks on the 2nd and 3rd floors that are not very functional.

b. Mr. Steinmann opined the 2nd floor deck is non-functional because it is only 4 feet wide and enclosing it will result in 119 square feet of additional space and the 3rd floor enclosure results in 202 square feet of additional space.

c. Mr. Orlando testified that there are several pre-existing non-conforming conditions including rear yard setback whereby 20 FT is required and 9 FT 7 inches is pre-existing; side yard setback whereby the Applicant is required to maintain a 5 Ft side yard setback and 3 FT 6 inches on the Northside is pre-existing; a 15 FT front yard setback is required and 10.5 FT is pre-existing; maximum impervious coverage is 70% and 72% is proposed and parking spaces whereby 6 are required and 4 are pre-existing. Mr. Orlando testified that none of the pre-existing conditions are being exacerbated by this application since the enclosure of the 2nd and 3rd floor decks do not impact or affect those pre-existing non-conforming conditions. Furthermore, Mr. Orlando stated the building lot coverage will not exceed the 35% maximum coverage that is permitted. Mr. Orlando further testified that adding 322 square feet to the building footprint does not increase the existing lot coverage or change the footprint of the building at the ground level. Mr. Orlando opined that

variance relief is appropriate pursuant to 40:55D-70(d)(4) because the site continues to be well particularly well suited for the residential use and can accommodate the slight increase. Additionally, Mr. Orlando further opined that with a "d" variance, the Applicant has to advance the purposes of zoning as codified in N.J.S.A. 40:55D-2 and this application advances the following purposes: (c) to provide adequate light, air and open space is advanced because the Applicant is only enclosing the pre-existing decks; (e) to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions and preservation of the environment is advanced because upgrading the facilities will result in an increase in the Property value and the longevity of the building without increasing the building footprint; (g) to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens is being advanced because the expansion is limited to the west side of the Property and does not impact any adjacent property owners and/or neighborhoods because the Property is adjacent to the inland waterway; (m) to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land is being advanced because the use of the land by taking obsolete non-functioning decks is a more efficient use of the land. Mr. Orlando further opined that the negative criteria is also satisfied because the property is consistent with the character and scheme of the neighborhood and there is no substantial detriment to public good and/or the Zoning Ordinance by enclosing the existing decks which only slightly increases the size of the building. Mr. Orlando also stated the site can accommodate the additional parking required if stack parking is utilized.

8. James McIntyre, 239-80th Street, Sea isle City, New Jersey supported the project because it hasn't changed the footprint of the building and should be approved. Richard Parker, 116-90th Street. Sea Isle City, New Jersey says it is a deminimus increase in size and will add to the tax base which is a benefit to the City and he sees no problem with it.

9. No-one spoke in opposition of the application.

WHEREAS, the Board has determined failure to grant the requested relief would result in exceptional and undue hardship upon the Applicant because of the uniqueness of the Property, the pre-existing non-conforming conditions of minimum side yard setback, minimum front yard setback-59th Street, maximum impervious coverage and number of parking spaces are not exacerbated by this application and may remain; and

WHEREAS, the Board has determined the Applicant's requested relief to permit stacked parking for six (6) cars total whereby stacked parking is limited to two (2) vehicles and the Applicant is proposing three (3) vehicles is permitted because the Board finds the benefits substantially outweighs the detriments because the Applicant is creating additional onsite parking; and

WHEREAS, the Board has determined the Applicant's requested relief for minimum rear yard setback variance is denied because there is no hardship pursuant to N.J.S.A. 40:55D-70(c)(1) and pursuant to N.J.S.A. 40:55D-70(c)(2) the detriments to the zone plan and zone ordinance substantially outweighs the benefits and therefore the requested relief is denied; and

WHEREAS, the Zoning Board has determined there are no special reasons and/or purposes of zoning being advanced that justifies granting the floor area ratio ("FAR") relief sought by the Applicant because the structure already exceeds the .80 FAR and currently has a FAR of .88 and the Applicant is requesting an even greater deviation to .9424, and the Applicant is requesting more

than simply enclosing the existing 2nd and 3rd floor decks because the decks on the 3rd floor are not continuous and there is a void between the decks that would need to be filled by new construction, thereby creating a greater increase in building coverage.

WHEREAS, the Zoning Board has determined the relief requested by the Applicant for the pre-existing non-conforming conditions of minimum side yard setback, minimum front yard setback-59th Street, maximum impervious coverage and number of parking spaces can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance because the pre-existing conditions are not being exacerbated by the application, and the Zoning Board also grants the relief from stacked parking permitting three cars to be stacked; however, the Zoning Board has determined the relief requested by the Applicant for Floor Area Ratio and minimum rear yard setback variances cannot be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the City because the rear yard setback variance relief and the Increase in the Floor Area Ratio is not consistent with the character or scheme of the neighborhood, or the Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the City of Sea Isle City, New Jersey on this 3rd day of October, 2016, that the application of Applicant for the pre-existing conditions of minimum side yard setback, minimum front yard setback-59th Street, maximum impervious coverage, number of parking spaces and stacked parking as aforesaid is GRANTED preliminary and final approval subject to the below conditions; however, the minimum rear yard setback and Floor Area Ratio variance relief is DENIED.

1. Applicant shall submit a revised plan incorporating the comments of the Municipal Engineer dated June 30, 2016, which revised plan shall be further subject to the approval of the Municipal Engineer.
2. Applicant shall comply with all terms and conditions as set forth on the plan as approved.
3. Applicant shall submit proof that Applicant has received all required local, state, county and federal approvals including, without limitation, Soil Conservation Service, Municipal and/or County Board of Health, County Planning Board and CAFRA, if applicable.
4. If applicable, the Applicant shall schedule a preconstruction meeting with the Municipal Engineer and provide in writing the responsible person in charge, list of subcontractors, tentative work schedule, and tentative completion date.
5. If applicable, the Applicant shall submit an engineer's cost estimate to the Municipal Engineer for review and approval.
6. If applicable, a performance bond and inspection fees must be posted with the City.
7. The Applicant's engineer must submit a two (2) signed and sealed prints stamped "final construction plan" to the City of Sea Isle City's Zoning Office.

" intentionally left blank "

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Applicant and maintained by the Secretary of the City of Sea Isle City Zoning Board of Adjustment for their records.

Application Hearing/Date Heard: September 6, 2016

Applicant/Property: 5816 Sounds Avenue Condominium Association (c/o Joseph & Karen Jordan) @
5816 Sounds Avenue, Block 58.05, Lot 1, Zone R-2a

Resolution Memorial: October 3, 2016 Memorialization of 'Resolution No. 2016-09-01'

MEMBER NAME	PRESENT AT HEARING		MOTION AND SECOND	VOTE AT HEARING		PRESENT AT RESOLUTION		MOTION AND SECOND	VOTE ON RESOLUTION	
	YES	NO		YES	NO	YES	NO		YES	NO
Gerry Brangenberg	✓		2 nd #1	2,3	1,4		✓			
Lou Feola	✓		M #1	1	2,3,4		✓			
Bill McGinn	✓		M #2, 2 nd #3, 2 nd #4	1,2,3,4		✓			Yea	
Joe Morrissey		✓				✓				Abstain/absent
Dan Organ	✓			2,3	1,4	✓		Motion	Yea	
Jackie Elko (Alt #1)		✓				✓				Abstain/absent
Scott Laidlaw (Alt #2)		✓					✓			
Pat Urbaczewski (Vice Chair)	✓		M #3, 2 nd #2, M #4	1,2,3,4		✓		Second	Yea	
Pat Pasceri (Chair)	✓			1,2,3,4		✓			Yea	

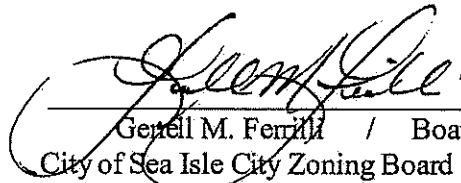
Motions taken:

- 1) F.A.R. @.9383
- 2) all existing non-conforming items

- 3) stacked parking
- 4) min. rear yard setback

The foregoing Memorializing Resolution was passed by the City of Sea Isle Zoning Board of Adjustment on October 3, 2016. It memorializes a decision the Board reached at a meeting held on September 6, 2016.

Dated: November 9, 2016


Genell M. Ferrill / Board Clerk
City of Sea Isle City Zoning Board of Adjustment

REVIEW STANDARDS

- Hardship Variance - N.J.S.A. 40:55D-70 (c) (1). Board must find:

The *Strict application of the zoning ord.* would result in *exceptional practical difficulties* or
exceptional and undue hardship on the applicant caused by

(i) *exceptional shape of property (shallowness/narrowness)* or

(ii) *exceptional physical features* or

(iii) *extraordinary and exceptional situation uniquely affecting the property/structures*

- Broad C - N.J.S.A. 40:55D-70 (c) (2). Board must find:

The *purposes of the MLUL are advanced* by grant of variance and
benefits of deviation substantially outweigh detriment

- N.J.S.A. 40:55D-70(d) - Special Reasons. Board must find:

Sufficient special reasons, typically because either (i) the proposed project carries out a
purpose(s) of zoning; or (ii) the refusal to allow the project would impose an undue hardship.

Conditional Use Variance:

- Negative Criteria: Board must find:

Relief can be granted *without substantial detriment to the public good* and *without*
substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance