



March 24, 2021

Chairman Steve Greet & Planning Board Members
Borough of Garwood Municipal Building
403 South Avenue
Garwood, NJ 07027

Re: Lee Frankel LLC
Waiver from Site Plan Approval with C(1) Variance
78 North Ave
Block 208, Lot 26
Borough of Garwood, NJ
Harbor Consultants, Inc. Project Number: 2020006.006

Dear Chairman, Greet and Planning Board Members,

Our office has reviewed the referenced documents for Waiver from Site Plan Approval with a C(1) Variance

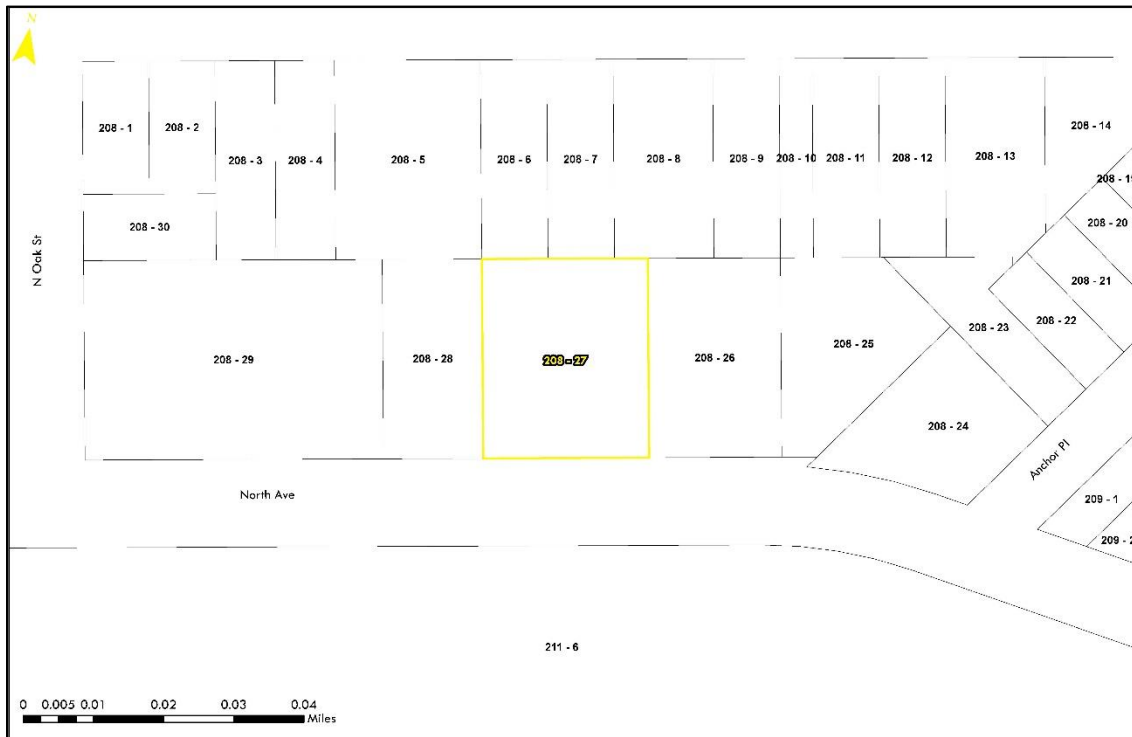
A. Documents Reviewed and Completeness Review

The following materials were received and reviewed:

1. Planning and Zoning Board Application form dated March 3, 2021
2. Plans entitled "Proposed Canopy – Crossroads" prepared by Waga Enterprises, dated February 19, 2020 with revisions through March 2, 2021.

B. Borough Tax Map & Aerial Imagery

The following tax and aerial map were prepared in conjunction with this review letter.



C. Project Description

The subject property is located in the GB General Business Zone, identified as Block 208, Lot 27 on the Borough of Garwood Tax Maps. The lot has 125 feet of frontage on North Avenue and is 18,750 SF in area. The property is developed with a one-story restaurant and jazz club and associated parking lot. There is a three-story masonry structure attached to the one-story club.

The Applicant is proposing to construct a 28.5” x 48.1” (1370 square feet) gazebo for the existing patio adjacent to the parking lot located at the rear of the building. The gazebo is proposed to be open on all sides and design with no permanent heating or cooling.

D. Planning & Zoning Review

The property is located in the GB– General Business Zone District. The existing use is permitted in the zone. The Zoning Table below shows the required, existing, and proposed standards and restrictions for the GB Zone:

Table 1: General Zoning Requirements § 106-96: General Business (GB Zone) Borough of Garwood, NJ				
Description	Required	Existing	Proposed	Remarks
Min. Lot Area	7,000 ft	18,675 SF	18,675 SF	Conforming
Min. Lot Width	70 ft	125 ft	125 ft	Conforming
Min. Lot Depth	100 ft	150 ft	150 ft	Conforming
Front Yard Setback	10 ft	1.25 ft	1.25 ft*	<i>Pre-Existing Non-Conformity</i>
Side Yard Setback ⁽¹⁾	3 ft	One: 19 ft Both: 37.55 ft	One: 19 ft Both: 37.55 ft	Conforming
Min. Rear Yard Setback ⁽²⁾	17.88 ft	89.52 ft	74.76 ft	Conforming
Min. Rear Yard Buffer	10 feet	None	None*	<i>Pre-Existing Non-Conformity</i>
Min. Bldg. Coverage	30% Lot Cover – 5,602.52 SF	18.6%- 3,468 SF	25.7%- 4,795 SF*	<i>Pre-Existing Non-Conformity</i>
Max. Bldg. Height	40 ft / 3 stories	35.75 ft / 3 stories	35.75 ft/ 3 stories	Conforming
Min. Open Space	15% of Lot Area = 2,801.26 SF	27.2%- 5,070.39 SF	20.05%- 3,743.99 SF	Conforming
<p><i>*Pre-Existing non-conformity</i> <i>**Variance required</i></p> <p>(1) 10% of the lot width on both sides, except that in no case will a side yard be less than five feet. When the lot in question is a corner lot, the side yard shall conform to 50% of the required front yard setbacks on said side street as determined by the front yard requirement for the zoning district, but not less than 10 feet</p> <p>(2) 25% of the lot depth, except that in no case will a rear yard be less than 35 feet</p>				

Eating and Drinking Establishments Regulations

106-100 – Eating and Drinking Establishments- D. Accessory outdoor or patio seating is permitted, provided it is in accordance with the following:

- 1) No more than 25% of the total on-site seating may be provided outdoors. ***Architect/owner to testify as to total amount of seating indoors and outdoors.***
- 2) Seating contained in the outdoor dining area shall not be counted in determining parking space requirements for an eating and drinking establishment hereunder.
- 3) The outdoor dining area must be directly accessible to and from the interior dining area. Areas that must be accessed via public sidewalks or property not controlled by the applicant or property owner are not considered directly accessible. ***Architect/owner to testify on how the access will be obtained.***
- 4) No such areas shall be permitted within the public right-of-way, except as permitted by § 106-100E of this Code.
- 5) No food shall be prepared in the outdoor dining area. Food and drink served in the outdoor dining area shall be the same, and shall be prepared the same, as that served in the indoor dining area. ***Owner to make a statement that no food preparation shall be performed outdoors.***
- 6) Property owners must submit an outdoor dining application to the Zoning Officer, who, together with the Police, Fire, and Health Departments, shall review the application, determine compliance with all applicable Borough requirements, and either approve or deny the application within 20 days of submission. Property owners are not required to obtain separate site plan approval from the Planning Board.
- 7) The property owner shall submit a layout of the proposed dining area in the application, which shall include, but not be limited to, a depiction of the maximum size of the area, the maximum number of seats and tables, the general layout of seating areas, tables, and aisles, and all aisles and routes of ingress and egress, and any other detail(s) the Zoning Officer deems necessary to render a decision. ***A seating layout is required prior to construction permit, if the board approves.***
- 8) A minimum of one trash and recycling receptacle provided for every 20 seats shall be provided, with at least one to be located at both the exit area(s) into the public right-of-way and the interior dining area. ***Trash area depicted.***
- 9) A six-foot closed fence and evergreen screening shall be provided at all property lines/yards adjacent to the outdoor dining area, except front yards, if the outdoor dining area is adjacent to a residential zone. ***The facility currently contains fencing and outdoor landscaping. Architect/owner to testify that it meets codes.***
- 10) The maximum amount of seating is to be in accordance with the International Building Code. ***Architect shall discuss.***

- 11) All such establishments that serve food in disposable containers shall be subject to the following refuse preventative measures: ***Owner shall testify that these conditions are met.***
- a. The property owner shall include a maintenance plan detailing how waste will be removed on site and within 100 feet of the outdoor dining area, which must be submitted and approved by the Health Officer. This plan must show the number and location of trash/recycling receptacles and the frequency with which the tables and surrounding areas and adjacent public and private properties will be surveyed for litter. The property owner is responsible for keeping the outdoor dining area and adjacent public and private areas free and clear of debris that is generated from the establishment. Areas must be cleaned as required thereunder and at the time the establishment is closed for the day.
 - b. A program and plan must be submitted to the Health Officer for recycling of all disposable containers that can be recycled.
- 12) The outdoor dining area may not be open for business earlier or later than that of the principal establishment. ***Owner to testify.***
- 13) The property owner shall not direct or permit to be directed to or from the outdoor dining area any bell, siren, whistle, loudspeaker, or public address system, radio, or similar device. ***Owner to testify.***
- 14) Alcoholic beverages may be served in outdoor dining area(s) by establishments that have a valid alcoholic beverage control plenary retail consumption license, but only in licensed areas and in accordance with the license terms.
- 15) Permits for outdoor dining areas shall be valid for one year from the date of the issuance of the permit by the Zoning Officer. Permit owners shall obtain an annual permit each year they wish to operate the outdoor dining area by submitting an annual application to the Zoning Officer as outlined above.
- 16) The annual permit fee shall be as follows:
- a. One to 10 seats: \$60.
 - b. Eleven to 25 seats: \$100.
 - c. Twenty-six to 50 seats: \$150.
 - d. Fifty-one or more seats: \$200.

Parking Requirements

106-114.B: Off-Street Parking Regulations: Mixed Use Eating and Drinking Establishments with entertainment

1. 1 for every 3 persons based upon the maximum number of persons that can be accommodated at the same time in accordance with the design capacity under BOCA regulations, plus one for every 2 employees employed on the maximum shift. ***The facility currently has 200 seats in discussions with the applicant.***

The bulk schedule for the parking associated with this development is summarized in the table below.

Table 2: Off-Street Parking Regulations §106-114				
Item	Required	Existing	Proposed	Remarks
Required spaces for food establishment	66 spaces	27 spaces	27 spaces	Pre-existing variance

Note: no additional parking is required by ordinance.

E. Variances & Waivers

The table below summarizes the variances requested by the applicant. The applicant shall satisfy the minimum positive and negative criteria for the variances sought:

Table 3: Variances Per §106-93 Borough of Garwood, NJ				
Item	Required	Existing	Proposed	Code
Parking Variance				
Front Yard Setback	10 ft	1.25 ft	1.25 ft*	§ 106-96.C.2.a
Min. Rear Yard Buffer	10 feet	None	None*	§ 106-96.C.2.b
Min. Bldg. Coverage	30% Lot Cover – 5,602.52 SF	18.6%- 3,468 SF	25.7%- 4,795 SF*	§ 106-96.C.7

F. Engineering Review Comments:

1. The applicant is proposing to cover with a permanent structure an area which was covered via a fabric tent during the summer months. It is the understanding of this office that the tent collapsed during the winter months due to snow loading. The Applicant has been utilizing this area for outdoor dining during the summer months in conjunction with the executive order given by Governor Phillip Murphy. This executive order permitted outdoor dining on premises for restaurants, pubs and entertainment facilities.
2. The applicant legally constructed an outdoor patio of paver bricks totaling approximately 1370 sq. ft. at the rear of the structure. **Section 106-70 Approvals Required B.** lists the requirements for a site plan. The construction of the 1370 sq. ft. patio in my opinion did not trigger a Site Plan application. The patio **did not** require, excavation/removal of soil, clearing of site, placement of fill for development, or construction of parking areas. The Construction Department of the Township of Cranford signed off on the permit to construct the patio.
3. Garwood's storm water ordinance **106 Article X. Stormwater Control** does not require on-site detention or any stormwater measurers for areas less than 10,000 square of new impervious coverage. The existing patio did not have to construct storm water measurers nor is required to perform on-site detention. It is the recommendation of this office that if the Planning Board decides to approve this project that the applicant install some simple storm water measures to decrease the peak outflow of stormwater. These measures can be rain gardens, rail barrels, small detention areas or any combination of such. This would be good design and good civic development.

G. Comments and Recommendations

1. This office is not in objection to the construction of a permanent cover to the existing outdoor patio. This structural cover would an improvement to the placement of tents and fabric awnings. Tents and awnings are a hazard due to heavy wind loads and winter snow loads. Understanding how sound waves work a permanent structure will greatly reduce the sounds emanating from the patio area. The sound waves will only emanate from the openings between the roof and the knee walls. Due to the effects of the Virus and the changes in the public sense of gathering indoors I believe planning of outdoor areas is an important new aspect in public health.
2. This office would like to see some form of on-site stormwater management. Rain gardens and/or reusable rain barrels (rainwater reused to water on-site plantings) I believe would be the most beneficial to the community and local area.

H. Regulatory Agency Approvals

The Applicant is required to obtain the following regulatory approvals prior to the issuance of building permits for this project:

1. Any other regulatory agency having jurisdiction over or which require an approval or permit to be obtained by the Applicant.

It is the Applicant's responsibility to secure all required permits and approvals.

It is our recommendation that should the Planning/Zoning Board grant an approval to this application, any action taken on this application by the Planning/Zoning Board is made subject to the Applicant submitting revised plans and documents satisfying the review comments within this report.

Please contact our office should you have any questions or comments.

Very Truly Yours,
Harbor Consultants, Inc.

A handwritten signature in black ink, appearing to read 'Victor E. Vinegra', is positioned above the typed name.

Victor E. Vinegra, PE, PP, PLS

cc: Adele C. Lewis, Planning/Zoning Board Secretary
Planning/Zoning Board Attorney
Gary Goodman, Applicant's Attorney