

LEON S. AVAKIAN, INC. *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

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September 18, 2023

Kristie Dickert, Administrative Officer  
Zoning Board of Adjustment  
Neptune Township  
P.O. Box 1125  
Neptune, NJ 07754-1125

**Re: Simdev Realty, LLC (ZB#23/07)**  
**1800 Corlies Avenue (Mobil Gas Station)**  
**Block 1122, Lot 3**  
**Use & Bulk Variance**  
**Our File: NTBA 23-08**

Dear Board Members:

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

1. **Documents Reviewed:**

- A. Survey of Property consisting of one (1) sheet, prepared by Charles Surmonte, PE & PLS, dated September 21, 2011.
- B. Community Impact Statement prepared by Jasvinder Arjani, RA of Bertin Engineering, Inc., dated June 21, 2023.
- C. Use Variance Plan titled "Re-Imaging Plan Freestanding Sign" consisting of one (1) sheet, prepared by Calisto J. Bertin, PE of Bertin Engineering, dated May 10, 2023.
- D. Prior Planning Board Resolution granting Site Plan approval with waivers, Resolution No. 90-21, dated May 23, 1990.
- E. Prior Planning Board Resolution granting Amended Site Plan approval with waivers, Resolution No. 90-35, dated April 25, 1990.
- F. Prior Zoning Board Resolution denying variance relief for an accessory automobile repair and service business in conjunction with the existing gasoline service station, Application # ZB20-08, dated January 21, 2021.

- G. Neptune Zoning Denial dated March 27, 2023.
- H. Property Deed dated June 6, 2022.

2. **Site Analysis and Project Description**

The subject property consists of a 0.53-acre (22,902 sq. ft.) corner lot located at the intersection of Route 33 (Corlies Avenue) and Taylor Avenue in the C-6 Route 33E Commercial Zone District and Hospital Support Overlay Zone District. The site is currently developed with a 1,320 sq. ft. service station building, a 2,010 sq. ft. fuel canopy with four (4) dispensers, a diesel dispenser, an oil tank to the rear of the existing service station building, and concrete and asphalt areas. Associated site improvements include a 95.6 sq. ft. freestanding sign, five (5) parking spaces, sidewalks, and fencing. Public housing is located to the south, commercial uses are located to the east and west, and industrial uses are located to the north across Route 33.

The Applicant was previously before the Planning and Zoning Board on multiple occasions, including the following:

1. Vic Ficuciello/Sunoco Station were granted Site Plan approval with waivers by the Planning Board (Resolution No. 90-21) to renovate, modernize and add a one-story garage to the existing Sunoco service station at the site.
2. Vic Ficuciello/Sunoco Station were granted Amended Site Plan approval with waivers by the Planning Board (Resolution No. 90-35) to revise the easternly entrance potentially eliminating the need for NJDOT approval as one of the conditions of Resolution No. 90-21.
3. Surya Realty was denied variance relief by the Zoning Board (Application # ZB20-08) for an accessory automobile repair and service business in conjunction with the existing gasoline service station.

The Applicant is now seeking bulk and use variance approval to renovate the existing freestanding sign associated with the existing service station, located in the northeast corner of the site. The Applicant is proposing to update the sign face and reduce the sign area from 95.6 sq. ft. to 71.3 sq. ft., and to increase the ground clearance from 5' - 4" to 8' - 9". The existing sign height will remain unchanged. No other site improvements are proposed at this time.

3. **Consistency with the Zone Plan**

The subject property is located in the C-6 Route 33 East Commercial Zone District. The purpose of the C-6 Zone is to provide for business uses appropriate to the Route

33 highway corridor of Neptune Township situated east of Route 18. The property is also located in the Hospital Support Overlay Zone District.

**Gasoline fueling stations and accessory automotive service stations are not permitted principal uses in the C-6 Zone or the Hospital Support Zone. The proposed improvements to the existing freestanding sign represent an expansion of the pre-existing non-conforming uses, requiring a d(2) use variance.**

4. **Sign Requirements**

- A. As per §416.03B and §416.07A(4) the base of a freestanding sign shall be liberally landscaped with a combination of shrubs, ground cover, flowers or other plant material, whereas no landscaping is existing or proposed around the freestanding sign. **A variance is needed.**

*See attached aerial maps showing the existing sign and existing landscaping on the property.*

- B. As per §416.07A(5), the maximum area permitted for single use developments is 35 sq. ft., whereas the proposed sign area is 71.3 sq. ft. **A variance is needed.**
- C. As per §416.07A(6), freestanding signs shall be setback from the property line  $\frac{3}{4}$  of the height of the sign. The proposed sign must be set back 14.06 feet from the property line, whereas the existing and proposed setback is one (1) foot. **A variance is needed**
- D. As per §416.07A(7), the maximum sign height permitted is 15 ft., whereas the existing and proposed sign height is 18.75 ft. **A variance is needed.**

5. **Required Proofs for Variance Relief**

- A. **A d(2) use variance for the expansion of the pre-existing non-conforming use is required.** To obtain a d(2) use variance, the Applicant must show that the proposal meets three separate criteria.
- 1) **Special Reasons.** Proving the positive criteria for d(2) variances is set at a lower bar than for a new non-conforming use. Proof should still be proffered that demonstrates the furtherance of a goal of zoning.

- 2) **Intent of the Zone Plan (negative criterion #1).** The Applicant must prove that the proposed expansion does not substantially impair the intent of the zoning ordinance or master plan.
- 3) **Detriment to the Public Good (negative criterion #2).** The Applicant must prove that the expansion of the proposed use would not have a substantial detriment on nearby properties.

B. *C Variances*

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

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

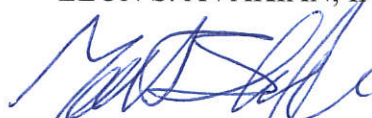
6. **Site Plan & Use Review Comments**

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The Applicant should provide testimony on another existing free standing sign on the easterly entrance (see attached aerial picture) Additional variances may be required.
- C. The Applicant should update the Zoning Table provided to reflect the most recent ordinance requirements. The §416 requirements depicted on the site plan are outdated.

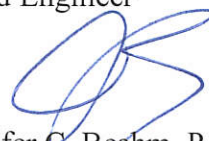
- D. The Applicant should provide testimony as to the history of the gasoline fueling station and accessory automotive service station uses on the property.
- E. The Applicant should provide testimony as to any additional site improvements proposed at this time.
- F. The Applicant should indicate the proposed hours of illumination for the sign, given its proximity to a residential zone district.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.  
Board Engineer

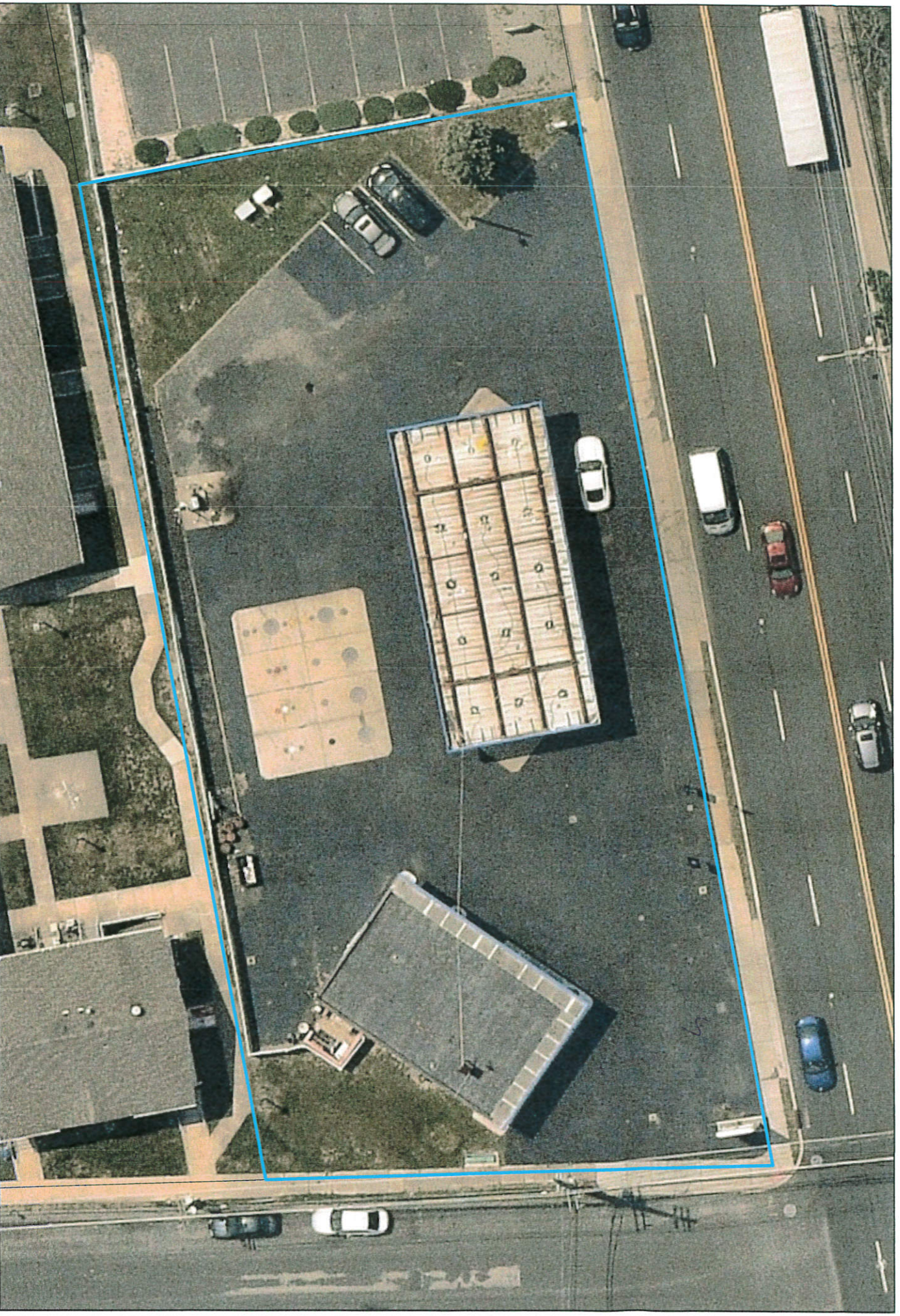


Jennifer C. Beahm, P.P.  
Board Planner

MS:clb:icr:mcs

cc: Monica Kowalski, Esq., Board Attorney  
Simdev Realty, LLC, Applicant  
Salvatore Alfieri, Esq., Applicant's Attorney  
Calisto J. Bertin, PE, Applicant's Engineer



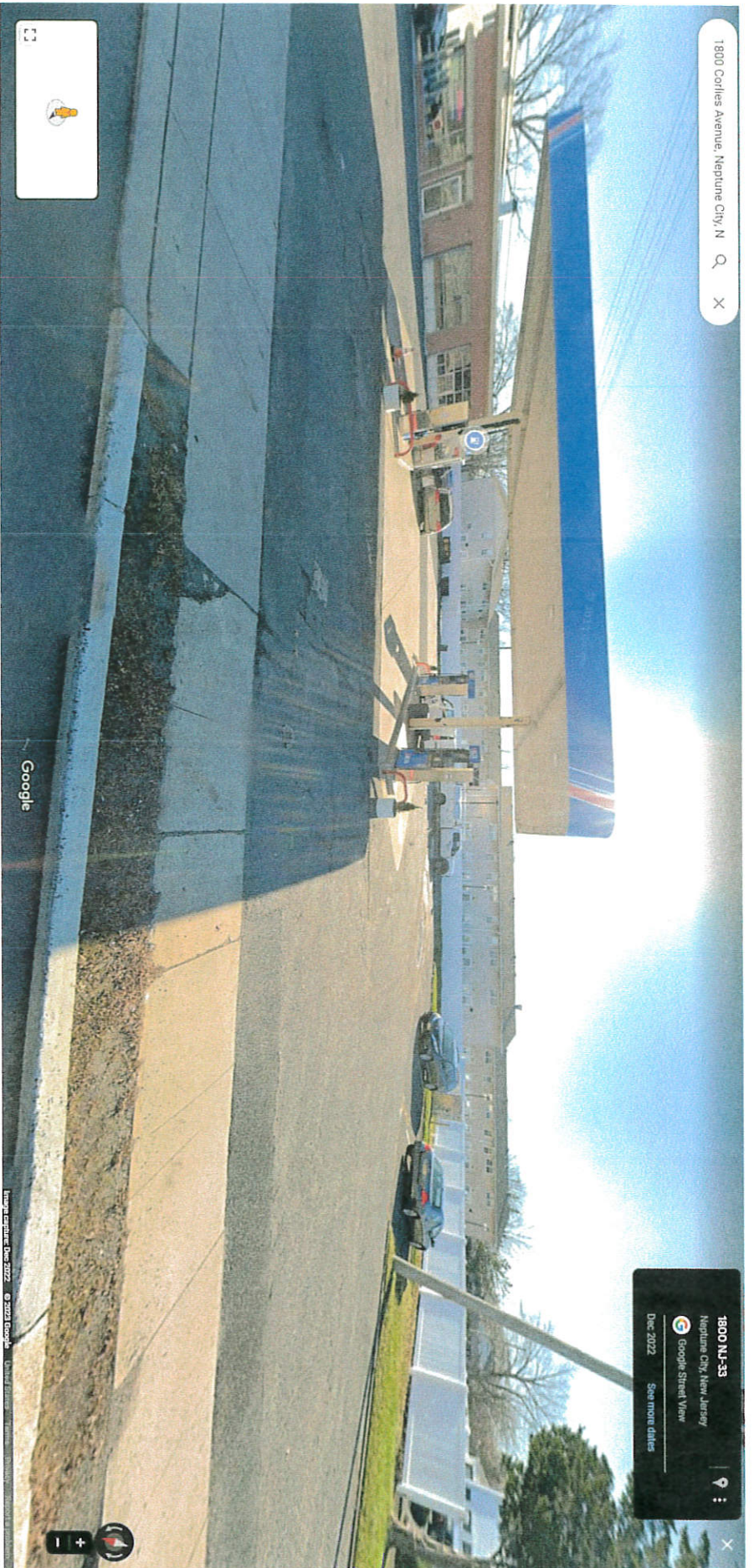


0 12.5 25 50 75 100 Feet

2023 Aerial  
Simdev Realty LLC







1800 Corliss Avenue, Neptune City, NJ

1800 NJ-33  
Neptune City, New Jersey  
Google Street View  
Dec 2022 See more dates

Google

Image captured Dec 2022 © 2023 Google



1800 Cortes Avenue, Neptune City, NJ



1011 Taylor Ave  
 Neptune City, New Jersey  
 Google Street View  
 Dec 2022 See more dates

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2nd sign →