

TOWNSHIP OF LOWER

2600 Bayshore Road
Villas, New Jersey 08251



Incorporated 1798

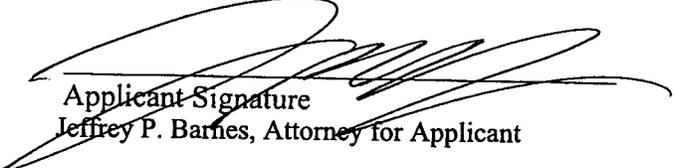
(609) 886-2005

Minor Site Plan Waiver Application [400-77D]

- A. Applicant/Appellant's Name: Bayshore Mall 1A, LLC, Bayshore Mall 1B, LLC, and Bayshore Mall 2, LLC Phone: 215-432-4112
Mailing Address: 491 Old York Road, Suite 200, Jenkintown, PA 19046
Owner's Name/Address: Same as Applicant
Subject Property Address: 3845 Bayshore Road, Villas, Lower Township, NJ (Bayshore Mall)
Block: 741.01 Lot Number(s): 28.01
Request is hereby made for: Waiver for Minor Site Plan in order to create a Gymnastics and Cheer facility within the Bayshore Mall. Application is also being made to the Planning Board for Conditional Use Approval as indoor recreational uses are a conditional use in the GB district.

B. PLEASE CHECK BOX IF IT APPLIES:

1. The Lot, the application for development is on, "Is not an existing or proposed vacant lot. N/A
2. The size of the proposed addition does not exceed 25% of the existing building. N/A


Applicant Signature
Jeffrey P. Barnes, Attorney for Applicant

8/24/2020
Date

jpbares@barneslawgroupllc.com

Applicant's Email Address



Jeffrey P. Barnes, Esquire
jpbarnes@BarnesLawGroupLLC.com
www.JeffreyBarnesLaw.com

August 26, 2020

Township of Lower
Attn: William Galestok
Planning/Zoning Director
2600 Bayshore Road
Villas, NJ 08251

**RE: Applicant: Bayshore Mall 1A, LLC, Bayshore Mall 1B, LLC
and Bayshore Mall 2, LLC
Premises: 3845 Bayshore Road
Lower Township, New Jersey 08204
Lot 28.01 in Block 741.01**

Dear Mr. Galestok:

Our office represents the above Applicant regarding a certain Planning Board application in connection with the referenced property. The Applicant is looking to occupy a portion of the existing Bayshore Mall building to contain a Gymnastics and Cheer facility. The proposed Gymnastics/Cheer facility will be located within the old 'Sears' store which is store units #7, #8 and #9 and is approximately 6,400 square feet (the "Unit"). The property is located in the GB-1 – General Business Zoning District. The Applicant is seeking a minor site plan waiver. The Applicant is also seeking conditional use approval as indoor recreational activities are a conditional use in the GB-1 district. Please see the attached plans for store locations.

All proposed changes are to occur within the existing internal footprint of the Unit. There are no proposed changes to the existing driveways, sidewalks, curbs, loading areas, parking and pedestrian access on the property or Unit.

The Applicant is requesting a minor site plan waiver. Pursuant to Section 400-77.D. of the Lower Township Ordinance, a minor site plan waiver may be applied for if the application for development (1) is not an existing or proposed vacant lot, (2) The Board determines that the proposed development will not adversely affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting, and similar conditions; and (3) where the size of any proposed addition does not exceed 25% of the existing building. The within Application meets all of the above requirements for a minor site plan waiver. Moreover, site plan approval was granted for the Mall previously.

The Applicant is also appearing before the Board for conditional use approval. N.J.S.A. 40:55D-67a provides that a zoning ordinance may provide for conditional uses which shall be granted by the Board if the applicant meets "definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness..." in the ordinance. A "conditional use" is a "use permitted in a particular zone, but only upon certain conditions." Omnipoint v. Bedminster Board of Adjustment, 337 N.J. Super. 398, 413 (App. Div. 2001), certif. denied, 169 N.J. 607 (2001). The Board must thus determine whether the proposed conditionally permitted

use complies with all conditional use requirements set forth in the ordinance. N.J.S.A. 40:55D-67b provides that the “review by the planning board of a conditional use shall include any required site plan review.” N.J.S.A. 40:55D-46b and 50a are the focal points for consideration of the preliminary and final site plan applications. N.J.S.A. 40:55D-46b provides that the Board “shall” grant preliminary site plan approval if the proposed development complies with all provisions of the applicable ordinances. Similarly, N.J.S.A. 40:55D-50a provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval.

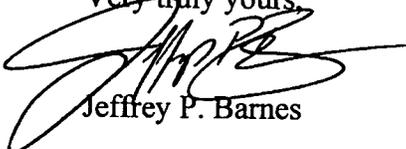
Based on the above, if the application complies with all ordinance regulations and requirements, the Board can grant site plan approval, in this case a waiver, as well as conditional use approval.

Further, the proposed development will meet all criteria contained in the Lower Township Ordinance as it pertains to the Conditional Use. The proposed Gymnastics/Cheer facility demonstrates the design standards required as a condition of the approval. The requested relief will not substantially impact any other surrounding property owners, but instead may actually bolster sales for tenants in the Bayshore Mall as a result of ancillary foot traffic. It also will not substantially impact the zone plan or the Zoning Ordinance. The benefits of granting the conditional use approval will outweigh any potential negative impacts as a result of the proposed improvements.

Given the rationale set forth herein, this Board can grant the site plan waiver as contained in the within application as well as the conditional use approval.

Thank you for your attention to the foregoing.

Very truly yours,



Jeffrey P. Barnes

JPB/ms

LOWER TOWNSHIP PLANNING BOARD
APPLICATION FOR DEVELOPMENT (FORM #1)

Applicant's Bayshore Mall 1A, LLC,
Name: Bayshore Mall 1B, LLC, and Bayshore Mall 2, LLC Phone 215-432-4112

Address: 491 Old York Road, Suite 200, Jenkintown, PA Zip 19046

Owner's Name: Same as applicant

Owner's Address: Same as applicant

Subject Property - Street Address: 3845 Bayshore Road, Villas, Lower Township, NJ (Bayshore Mall)

Subject Property - Block & Lot Numbers Block 741.01, Lot 28.01

1. Specify which power(s) the Planning Board is requested to exercise:

- 70c.1 Hardship Variance
- 70c.2 Variance
- 67 Conditional Use
- 34 Building Permit in street bed, public drain area, etc.
- 35 Building Permit where lot does not abut street
- Other (Specify) - Minor site plan waiver. - See application attached.

2. Request is hereby made for permission to _____
Create a Gymnastics and Cheer training facility within a portion of the Bayshore Mall,
specifically in the 6,400 SF vacant Sears store (store units 7, 8 and 9)

contrary to requirements of Section (s) 400-17.a. of the Development Ordinance.

2a. List all variances sought: Conditional use approval and minor site plan waiver.

Said property measures _____ x _____ and contains approximately 6,400 SF
square feet, and is located in the GB Zoning District.
with _____ without _____ sewer.

3. The size of the proposed building is _____ x _____; Height _____;
stories _____; square feet _____. Same as existing.

4. The setbacks of the principal building will be: Front _____; Front _____;
Rear _____; Side _____; Side _____; Percent of lot coverage _____. Same as existing.

5. Setbacks of accessory building will be: (if applicable)
Front _____; Rear _____; Side _____; Side _____; Percent of lot coverage _____%

* Distance to nearest building: _____ Height _____ # of Stories _____

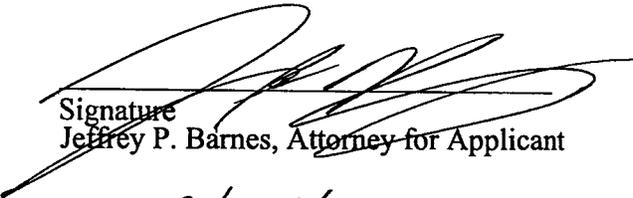
6. Supply a statement of facts showing why relief can be granted without substantial detriment to the public good, and will not substantially impair the intent and purpose of the Zone Plan and Development Ordinance.

See Supplemental Information attached hereto.

7. What are the EXCEPTIONAL conditions of the property supporting the granting of the variance?

See Supplemental Information attached hereto.

Jeffrey P. Barnes, Attorney
I, for Applicant, do hereby certify that the information presented in this application is true and accurate, to the best of my knowledge.


Signature
Jeffrey P. Barnes, Attorney for Applicant

8/24/2020
Date

jpbares@barneslawgroupllc.com
Applicant E-mail address

NAME, ADDRESS AND PHONE OF ATTORNEY,
IF APPLICANT WILL BE REPRESENTED:

Jeffrey P. Barnes, Esquire. 609-522-7530

111 E. 17th Street, Suite 100, North Wildwood, NJ 08260

Either the applicant, or an attorney, must be present at

**Supplemental Information Submitted in Support of Application for
3845 Bayshore Road, Villas, Lower Township, NJ 08204,
Lot 28.01 in Block 741.01**

Applicant is looking to occupy a portion of the existing Bayshore Mall building to contain a Gymnastics and Cheer facility. The proposed Gymnastics/Cheer facility will be located within the old 'Sears' store which is store units #7, #8 and #9 and is approximately 6,400 square feet (the "Unit"). The property is located in the GB-1 – General Business Zoning District. Applicant is seeking conditional use approval as indoor recreational activities are a conditional use in the GB-1 district. Applicant is also seeking a minor site plan waiver. See plans for store locations.

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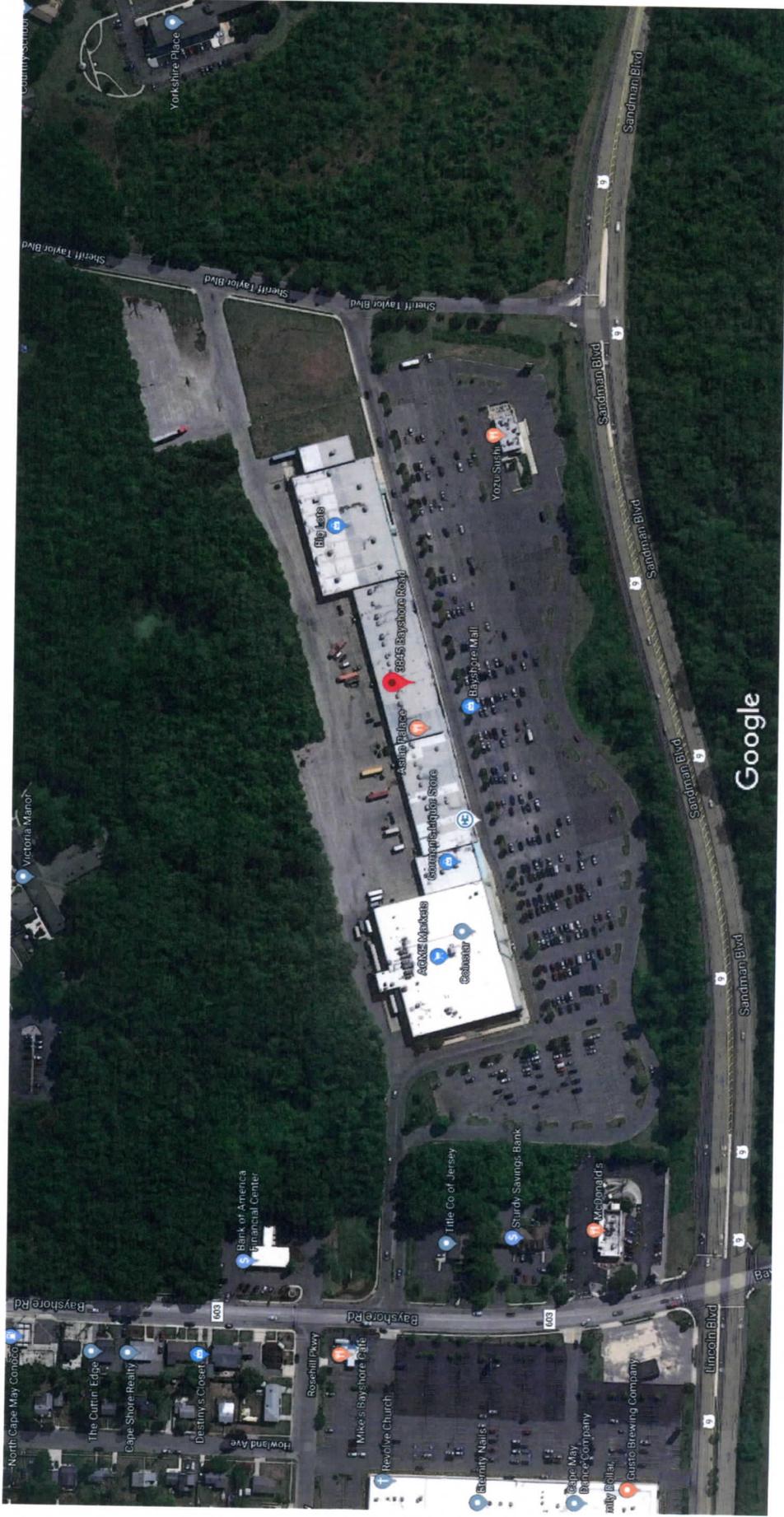
N.J.S.A. 40:55D-67a provides that a zoning ordinance may provide for conditional uses which shall be granted by the Board if the applicant meets "definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness..." in the ordinance. A "conditional use" is a "use permitted in a particular zone, but only upon certain conditions." Omnipoint v. Bedminster Board of Adjustment, 337 N.J. Super. 398, 413 (App. Div. 2001), certif. denied, 169 N.J. 607 (2001). The Board must thus determine whether the proposed conditionally permitted use complies with all conditional use requirements set forth in the ordinance. N.J.S.A. 40:55D-67b provides that the "review by the planning board of a conditional use shall include any required site plan review." N.J.S.A. 40:55D-46b and 50a are the focal points for consideration of the preliminary and final site plan applications. N.J.S.A. 40:55D-46b provides that the Board "shall" grant preliminary site plan approval if the proposed development complies with all provisions of the applicable ordinances. Similarly, N.J.S.A. 40:55D-50a provides that final site plan approval "shall" be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval.

Based on the above, if the application complies with all ordinance regulations and requirements, the Board can grant site plan approval, in this case a waiver, as well as conditional use approval.

The proposed development will meet all criteria contained in the Lower Township Ordinance as it pertains to the Conditional Use. The proposed Gymnastics/Cheer facility demonstrates the design standards required as a condition of the approval. The requested relief will not substantially impact any other surrounding property owners, but instead may actually bolster sales for tenants in the Bayshore Mall as a result of ancillary foot traffic. It also will not substantially impact the zone plan or the Zoning Ordinance. The benefits of granting the conditional use approval will outweigh any potential negative impacts as a result of the proposed improvements.

Given the rationale set forth herein, this Board can grant the conditional use approval as contained in the within application.

Applicant is also seeking a minor site plan waiver. Pursuant to Section 400-77.D. of the Lower Township Ordinance, a minor site plan waiver may be applied for if the application for development (1) is not an existing or proposed vacant lot, (2) The Board determines that the proposed development will not adversely affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting, and similar conditions; and (3) where the size of any proposed addition does not exceed 25% of the existing building. The within Application meets all of the above requirements for a minor site plan waiver. Moreover, site plan approval was granted for the Mall previously.



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