

April 13, 2022

Borough of Bradley Beach
Land Use Board
701 Main Street
Bradley Beach, NJ 07720

**Re: EMAN Lab, LLC
Block 71, Lot 30
110 Main Street
Borough of Bradley Beach
Our File BBPB 22-02**

Dear Chairman and Board Members:

Our office has received and reviewed an application submitted for Board approval in connection with the above referenced project. Submitted with the application are the following:

- An architectural plan consisting of four (4) sheets prepared by Donald J. Passman, AIA of Passman/Ercolino Architects, P.C, dated December 16, 2021, with the latest revisions dated March 31, 2022.
- A survey or property consisting of one (1) sheet prepared by Charles Surmonte, P.E. & P.L.S., dated November 11, 2018, with no revisions.

The application has been deemed complete. Our office has reviewed the plans to determine if they conform with the requirements of the Borough Ordinance and report as follows:

1. **Property Description**
 - A. The property is the cinema located at 110 Main Street (Lot 30, Block 71) with a total area of 8,860.8 square feet.
 - B. The existing lot contains a two-story cinema building.
 - C. The Applicant is proposing renovation to the interior and exterior of the structure. The interior renovations include new concession, bathrooms, auditoriums, and seating. The exterior renovations include windows at the front of the building, new metal landings and steps on the north side of the cinema building, new fence along north side property line, and a small roof extension for the new stairs and existing platform.

2. **Zoning and Land Use**

- A. The property is located in the GB General Business and a cinema (movie theater) is not a permitted use in this zone.
- B. The proposed improvements require a minor site plan approval from the Board. Also, the Applicant requires approval from the Board for variances on number of signs, and others as described in this report.
- C. The Applicant is appealing the Zoning Officer's determination that a d(2) use variance is required.

3. **Variances and Waivers**

- A. In accordance with Section 450-10.A.(38), any use of land or buildings or any activity not specifically permitted in a zone is prohibited. The existing cinema (movie theater) is not listed as a permitted use in the GB-General Business Zone. This existing use represents an existing non-conforming use.

The Applicant is proposing improvements to the exterior and interior of the building. The Zoning Officer determined that the improvements are an expansion of a non-conforming use, and a use variance is required. The Applicant is appealing this determination. If the Board upholds the Zoning Officer's determination, the Applicant is requesting a use variance from the Board.

Proof Required for Variance Relief

- 1) A d(2) use variance for the expansion of a non-conforming use is required. To obtain a d(2) use variance, the Applicant must show that the proposal meets three separate criteria.
 - a) **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.
 - b) **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.

- c) **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. The property complies with the lot area, lot width, and lot depth of the GB Zoned District.
- C. The building complies with front, side and rear building setbacks, building height and number of stories.
- D. The maximum building coverage permitted per the GB Zoned District is 90% of the lot area. The existing building coverage is 85.1%, which complies.
- E. The maximum impervious coverage permitted per the GB Zoned District is 100% of the lot area. The existing impervious coverage is 94.5%, which complies.
- F. In accordance with Section 450-29.D.(1)(j), the minimum off-street parking requirement is in Ordinance Section 450-38 entitled schedule of required off-street parking spaces. This section does not have parking for cinema, which serves alcohol. The site currently does not have off-street parking, which represents an existing non-conformity. Testimony should be provided on the anticipated parking demand generated by the site.
- G. In accordance with Section 450-47.E., (Awning), No awning shall be erected or maintained on any building where said awning shall extend over the public sidewalk unless said awning shall be erected and maintained so that the lowest portion thereof shall be at least eight feet, six inches above the sidewalk. The Applicant shall confirm and provide testimony that the awning is 8 feet, 6 inches above the sidewalk.
- H. Signs
- 1) In accordance with Section 450-50.A.(1), there shall be no more than two signs permitted per business establishment, or if more than one business occupies a structure, no more than on façade and two identification signs per storefront shall be permitted.

The Applicant is proposing four (4) signs. **A variance is required.**

- 2) In accordance with Section 450-50.A.(2), the size of a projection sign shall not exceed 12 square feet, and the lowest portion of the sign shall not hang lower than 8 ½ feet above the sidewalk level, and the sign shall not project more than 5 feet from the surface plan of the largest face of the wall of the building to which it is attached.

The Applicant is proposing two (2) signs, each having an area of 25 square feet. **A variance is required.**

The Applicant is proposing two (2) signs, each having an area of 40 square feet. **A variance is required.**

The existing signs project 10 feet 8 inches from the building, which represents an existing non-conformity. The proposed sign projects 10 feet, 8 inches. **A variance is required.**

I. Fences

In accordance with Section 450-44.a., all fences may be erected, altered or reconstructed to a height not exceeding three feet above ground level when located in any front yard, four feet in any side yard and six feet in any rear yard.

The Applicant is proposing a fence height of 5 feet and 6 feet in the north side yard. **A variance is required.**

4. General Comments

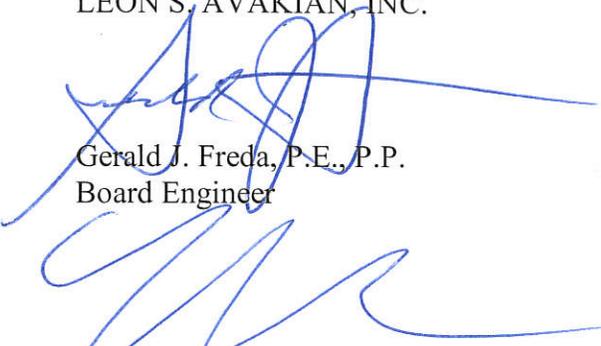
- A. The Applicant should provide information that taxes are currently paid.
- B. The Applicant shall secure any, and all construction permits needed for the project.
- C. Performance Guarantees and Inspection Fees to be posted per the Borough Ordinance.

Our office reserves the right to provide additional comments upon receipt of revised plans.

If you have any questions, or require additional information on this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Gerald J. Freda, P.E., P.P.
Board Engineer



Christine Bell, A.I.C.P., P.P.
Board Planner

DMH:mfl

cc: Kristie Dickert, Board Secretary
Mark Kitrick, Esq. Board Attorney
Michael J. Wenning, Esq., Applicant's Attorney
Donald J. Passman, AIA, Applicant's Architect

BB/PB/22/22-02a