

KEYPORT UNIFIED PLANNING BOARD

The Keyport Unified Planning Board held a Regular Meeting on February 25, 2022 which was called to order by Mark Sessa at 7:00 PM, the Sunshine Law Notice was read followed by the Flag Salute.

ROLL CALL:

Present: Mayor Kennedy, Councilmember Davidson, Mark Sessa, H. Aumack, W. McDermott, J. Oviedo, D. Pacheco, J. Royster, M. Sessa, N. Vecchio, C. Dickerson

Absent: G. Kotzas

Marc Leckstein, Planning Board Attorney, Fran Mullan, Engineer, S. Slachetka, Planner

SWEARING IN PLANNING BOARD MEMBERS BY THE PLANNING BOARD ATTORNEY.

Mr. Leckstein announced that the application KUPB 21-12 Joseph Merla would not be heard this evening. He explained that there were outstanding questions that the Board Professionals had regarding the application. This application will be carried to the April 28th meeting without further notice.

Motion to carry without further notice to the April 28th meeting was made by Councilmember Davidson, second by N. Vecchio with ayes by all present.

EXECUTIVE SESSION:

Motion to go into Executive Session was made by J. Royster, second by N. Vecchio with ayes by all present

Motion to go back into session with D. Pacheco, second by Councilmember Davidson with ayes by all present.

Mr. Leckstein explained that Executive Session was to discuss an additional resolution that was added compensating the Planning Board Secretary for the additional meeting. Mr. Leckstein read resolution into record.

Motion to approve resolution was made by W. McDermott, second by J. Oviedo

Ayes: Mayor Kennedy, Councilmember Davidson, M. Sessa, H. Aumack, W. McDermott, J. Oviedo, D. Pacheco, J. Royster, N. Vecchio

RESOLUTION: **APPLICATION: KUPB # 21-07**
 ARJIKA PROPERTY INC
 108 BROAD STREET
 BLK 60, LOT 6
 USE VARIANCE /SITE PLAN

The Resolution was carried to the March 24th meeting.

MINUTES: January 27th Re-Organization

Motion to approve minutes was made by D. Pacheco, second by J. Royster with ayes by all present.

**APPLICATION: KUPB #21-12
JOSEPH MICHAEL MERLA
120 FIRST STREET
BLK 95, LOT 4
VARIANCE RELIEF**

Mr. Leckstein explained that application KUPB 21-12 was not ready to proceed. The Board Professionals had questions/comments regarding this application that needed to be addressed.

Motion to carry to the April 28th meeting without further notice was made by

Mayor and Councilmember Davidson stepped down from the dais because the application is part of a use variance. Mr. Leckstein explained that the Mayor and Councilmember are stepping down because they don't have a choice, the law does not permit them to participate in a use variance application.

**APPLICATION: KUPB #18-06A
KEYPORT HOMES LLC
WAVERLY STREET
BLK 128, LOT 2, 3, 4.01
RELIEF OF WAIVER FOR SITE PLAN
(Mayor and Councilmember cannot participate – part of use variance)**

Mayor and Councilmember Davidson stepped down from the dais because the application is part of a use variance. Mr. Leckstein explained that the Mayor and Councilmember are stepping down because they don't have a choice, the law does not permit them to participate in a use variance application. He also mentioned that they could not participate in KUPB 21-10 because it is a use variance application.

Mr. Alfieri, Attorney for the applicant explained that they are appearing before the Board to ask for relief of one of the conditions on the resolution. Mr. Alfieri stated that they had Mr. Len Rubenstein present as well as Walter Hopkins who is the Engineer for this project in case the Board has any questions.

Mr. Alfieri explained that the condition of approval was that the utilities be underground for the project. Due to circumstances because of construction the utilities were installed above ground. Mr. Taylor picked up on the change and since the job was already bonded and constructed they had to come back to the Board to address that condition in order to finalize the project.

Mr. Taylor stated that he did have a report that was dated November 18, 2021, there was two items in the resolution that will be discussed at the meeting. One is item #15 which is that all utilities will be located underground and item #5 regarding the milling and paving the full width of Waverly Street. Mr. Taylor stated that the applicant is seeking partial relief of condition #5 to remove the requirement for the utilities to be underground. The utilities they are referring to are electric, cable and telephone. There is currently six units with overhead utilities to each of the units. Mr. Taylor stated that he is going to ask the applicant to give any explanation from the utility companies as to why the utilities couldn't go underground as well as any other hardships that the applicant feels are relevant for their request for this relief. The Board should consider any negative consequences with leaving the utilities where they are.

Mr. Leonard Rubenstein, Principals of Keyport Homes. Mr. Rubenstein was in charge of construction of the project. Mr. Alfieri asked if the project was finished and that all the units were sold; yes. Mr. Rubenstein explained to the Board what happened and why the utilities were not placed underground. He stated that they had a preconstruction meeting to discuss the various locations for gas and electric meter shifts, when they met with JCP&L there was pole that had to be relocated per the site plan to accommodate driveways. They discussed the pole relocation, the transformer that needed to be changed that serviced other homes on the street as well as the new construction. The site plan at that time showed underground utilities, the problem that arose was that there was no grass area. JCP&L stated that they would place a transformer on a grass area with a distribution box that would distribute separate lines to each unit. Since they didn't have any frontage that could accommodate that JCP&L felt as good practice from an engineering point not to put the wires underneath the driveways because they could not be easily accessed. JCP&L looked around the neighborhood and noticed that 100% of the other homes were overhead and they didn't see it would be a deterrent because it would fall in line with the other homes. JCP&L stated if it was okay with Mr. Rubenstein, they would change out what was there to accommodate the new homes. Mr. Rubenstein stated he didn't know it would be a site plan issue. He thought that JCP&L governed that decision if he would have known he would have asked for relief from the Board. Mr. Rubenstein is asking the Board to understand what happened and grant the relief from the condition.

Mr. Leckstein confirmed what utilities; Mr. Rubenstein stated JCP&L, cable and Verizon follow would JCP&L does. If JCP&L goes in trenches so would the cable and Verizon, if they went overhead then cable and Verizon would follow that. Mr. Leckstein confirmed it was just electric and cable; electric, cable and Verizon if they chose to have Verizon. Mr. Leckstein asked if it was JCP&L pole; yes.

Mr. Alfieri stated that was their full presentation.

D. Pacheco asked that it was JCP&L suggestion to not put them underground; correct.

W. McDermott asked what the original reason was to putting the utilities underground; Mr. Taylor replied for astatic. Mr. Vecchio mentioned it was also for the fire department. Mr. Taylor stated even if these utilities were underground there would still be overhead utilities that are right in front of the houses that would not have gone away. Mr. Rubenstein stated that the pole could not be eliminated because it was servicing other homes. Mr. Leckstein asked if they were

attached to an existing pole; Mr. Rubenstein replied that it is a new pole that was relocated. Further discussion regarding the process of having the pole replaced and moved to another location.

Motion to open to the public at 7:49PM was made by J. Royster, second by W. McDermott with ayes by all present.

Mr. Lane, 51 First Street, when Mr. Hopkins gave testimony about what an improvement it would be to have the utilities underground and he felt that was a real benefit to help motivate the approval of the application. Mr. Lane asked when the conference with JCP&L held; Mr. Rubenstein stated it was preconstruction prior to starting on the site in 2019. Mr. Lane stated in October 2018, the Board approved the resolution for the project with the utilities being underground. Then in September of 2018 there was a developer's agreement that was signed with the Borough clearly stating that the utilities would be underground. In addition to the developer's agreement there was a performance guarantee of approximately \$60,000.00 for installation of improvements that was defined in the resolution that was approved. Mr. Lane feels that the Board needs to look into why this didn't happen especially with the applicant promotion of it and he feels that it was an important issue with getting the variances approved. Mr. Lane asked what the impact would be on the developer's agreement. Mr. Lane stated that the developer clearly has not executed per the developer's agreement and has \$60,000.00 bond. Mr. Rubenstein stated the bond had nothing to do with the utilities. It is only for improvements; they have to pay extra to JCP&L for the utilities. Further discussion regarding what the bond covers. Mr. Alfieri stated that they are before the Board to have relief from that condition. Mr. Alfieri stated that the Bond is to ensure that the project doesn't get abandoned, it would give the Borough money to finish the project. It is not a payment to the town, and the transformer as testified to would have been there anyway. Mr. Alfieri stated the public here would be no change to the lines going above or below there would still a transformer to service the other houses. Mr. Alfieri repeated that the money is not payment to the town, it is assurance to the town that the project gets completed. There was further discussion regarding the Bond and why the applicant was before the Board.

Mr. Lane stated he would like to hear from the Board attorney, Mr. Leckstein stated that he doesn't deal with the developer's agreement issue. That would be between the Borough and the applicant and they would deal with that with the Borough Attorney. Mr. Leckstein stated for the Planning Board they are doing what needs to be done which is asking for a variance relief change from the condition of approval, which the Board has power over.

Mr. Lane stated that he feels that we need to hold the applicants to the conditions that are in the resolution and the developer's agreement. Mr. Lane asked the Board not to approve this request.

Mr. Alfieri explained what would happen if the Board didn't approve the applicants request for waiver.

Motion to close to the public at 7:56PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

There was discussion regarding what would happen if the Board didn't grant this relief and what would be needed for the applicant to have his bond released. Mr. Lane stated that all the units are occupied the applicant has sold all the units. Mr. Leckstein explained that since Mr. Rubenstein has sold all the units this would go to the condominium association and they would be fined and then they would have a case against Mr. Rubenstein for non-compliance. Further discussion regarding the bond being released and the options of how the Board would like to move forward with this request.

Motion to make the modification for the underground utilities was made by D. Pacheco, second by H. Aumack with ayes by all present.

Ayes: Mark Sessa, H. Aumack, W. McDermott, J. Oviedo, D. Pacheco, J. Royster, M. Sessa, N. Vecchio

APPLICATION: KUPB # 21-10
KEYPORT PROFESSIONAL PLAZA, LLC
25 EAST FRONT STREET
BLK 80, LOT 1.02
USE VARIANCE
(Mayor and Councilmember cannot participate –use variance)

Mr. Alfieri, Attorney for the applicant. The application is 25 East Front Street, several years ago the Board granted approval for the adjacent property for a mixed-use project. They are before the Board to seek approval for the adjacent property which currently contains a one-story office building to additional apartment units. Mr. Alfieri stated that he had many witnesses that will be testifying before the Board, they will begin with their engineer Mike Marinelli.

Exhibit A1 - Application
Exhibit A2 – Gull View Apartments – site plan
Exhibit A3 – Architectural
Exhibit A4 – Stormwater Management Report
Exhibit A5 – Stormwater Pump Report
Exhibit A6 – Operation and Maintenance Manual
Exhibit A7 – Drawings
Exhibit A8 – McDonough & Rea Report
Exhibit A9 – Gull View Apartments existing condition dated 2/24/2022 (Aerial photo exhibit)
Exhibit A10 – Behar Apartments revised site plan that was approved dated 9/27/2018
Exhibit A11 – Gull View apartment overall plan dated 2/24/2022
Exhibit B1 – T&M Letter dated 8/12/21
Exhibit B2 - CME Flood Report dated 10/21/21
Exhibit B3 – Resolution of prior approval

Michael Marinelli, Menlo Engineering – Mr. Alfieri asked if he had exhibits to add for the presentation, yes. The exhibits were included.

Mr. Marinelli described what was previously approved by the Board. Mr. Marinelli described exhibit A-9 to the Board. On the tax map it is block 80 lot 1.02, property is known as 25 East Front Street. This property is located on the north side of East Front Street with additional frontage on the west, Broad Street and the next adjacent cross street to the east is Church Street. The property has a full access driveway, the property is approximately 1.45 acres and is located in the GC zone. Mr. Marinelli spoke about the properties that surround this project. The site is fully developed and has 54 existing parking spaces on site. There is a small parking area that accesses the western part of the existing structure off of Broad Street. There is an inbound egress to the site off of Broad Street which has a series of parking spaces as well as access to the town houses to the north of the project.

Mr. Marinelli stated that at one time this was all one site and was subdivided for the town homes. Mr. Marinelli mentioned that the owners were given an easement so they could access their garages in the rear of the homes. Mr. Marinelli spoke about the access the residents had to their town homes.

Mr. Marinelli described Exhibit A10 which was previously presented to the Board with their prior approval. Mr. Marinelli explained that there is an existing L shape building and there is a stand-alone building a little further to the east. The proposal that was granted previously was to eliminate the L portion of the existing building and build units in that area with underground parking and above the existing structure to remain. Further discussion regarding what was previously approved and what this exhibit is showing. He explained that 24 units were approved 18 which would be one bedroom units and six two bedroom units. Further discussion regarding what was approved with the previous application. Mr. Marinelli stated that because of the pandemic they lost tenants in the eastern part of the building and decided that he would like to place another building in that location exactly like the one that was previously approved. The architect and Mr. Marinelli both recommended if they were going to building the exact building next to it, that the applicant could build something more efficient in providing better circulation.

Mr. Alfieri asked how many stories was approved previously; Mr. Marinelli stated that he believed it was four but could be confirmed by the architect.

Mr. Marinelli described exhibit A11 to the Board, he explained that it was a rendered site plan with an aerial background of the new proposed apartment building. He explained that they are seeking approval is to construct a similar underground garage, with 54 residential rental units above which would consist of 48 one bedroom units and six two bedroom units. Mr. Leckstein asked what was previously approved; eighteen one bedroom and six two bedrooms. Mr. Alfieri explained that there are asking for thirty additional units; Mr. Marinelli stated that was correct.

Mr. Marinelli explained that the opportunity to make one structure that could improve circulation, the previous approval had a full access driveway with one way in and one way out. They have changed the figuration so it was a one way, it would actually be two drive locations but they are

not dead ends, if someone was to enter the garage and their space was taken, they would have to turn around and come back out. They feel this is a better design because it has full circulation to enter the building and get out if there was no parking space available. The eastern building has been removed to accommodate this circulation.

The architect will speak about some of the added amenities with this new proposal. The building is shaped like a U that fronts on Front Street. In between the two series of apartments is a courtyard that could be used for exterior space as well as utilizing it as a green infrastructure which would have planting that will capture some of the rain runoff. The main circulation of the site still does remain the same it would be a one-way egress off of Broad Street on the northwest corner and there is still be a full access drive on the southeast corner. Mr. Marinelli spoke about the trash enclosure that was previously approved, he mentioned that they took the opportunity since there was space in the structure on the southeast corner to provide a trash room. All trash will be handled by a private hauler internal to the building. There will be no external trash location proposed with this new development. Another issue that the previous plan lacked was a loading space at this same location the applicant has provided a loading space for moving trucks, etc. to utilize.

Mr. Marinelli stated that they have a lot of landscape including 12 shade trees, 3 ornamental trees, 7 evergreens and 182 shrubs along the parking areas to help shield the head lights. Mr. Marinelli spoke about the existing lighting, it was recommended by the Board's professionals to upgrade the lighting to something more energy efficient. The applicant has agreed to including this as a condition of approval.

Mr. Marinelli spoke about the storm water pump station that is located on this site. They did research the pump station as part of the previous application and found out that it was their responsibility to maintain and who owned it. Since that application they did find out as part of the subdivision the applicant maintained ownership of the pump station and that it hasn't been working since Sandy. The applicant did bring in professionals and has been working with CME, Trevor Taylor in order to update the pump station as it was a condition on the resolution from the previous approval. Further discussion regarding the pump station and what needs to be done to have it operational. The applicant has decided to put in a new pump station and move it to a more suitable location which would run-off onto Broad Street. Mr. Marinelli spoke about providing dry wells, trenches that catch the roof run-off and offset some of the additional impervious coverage. This is very similar to the previous application that was approved. The impervious coverage is the same from the previous application.

The bulk variances that are before the Board, first one is a height variance. The height maximum allowance in this zone is 70' in elevation they are proposing 75.5' structure. The second variance they are seeking is for the parking they are proposing 85 parking spaces when the RSIS is requiring that they have 99 spaces. The applicant is deficient 14 spaces from a RSIS regulation. The applicant is willing to pay the deficiency fee of \$20,500.00. Mr. Leckstein asked how much of a parking deficiency it was with the prior approval; Mr. Mullan stated that he believed the prior approval required 84 spaces, and 74 spaces were proposed and approved. Mr. Mullan stated that they were 10 spaces deficient with the prior approval.

Mr. Vecchio is asking if they are including the parking spaces from 35 Broad Street; yes. Mr. Marinelli stated that since those are used for the office, they would be available to use for the residents in the evening.

Mr. Oviedo asked if they were still offering the spaces for the condos; yes, they would continue to supply those spaces as the previous approval.

Mr. Mullan asked if the parking spaces on Broad Street included with the prior approval; yes. Mr. Mullan asked if the numbers he recited were accurate; yes. Mr. Alfieri stated that he had the prior resolution and that is what it stated.

Mr. Leckstein asked if the six spaces that were included in the condo included in the 99; yes. Mr. Leckstein confirmed that they are supplying 99 spaces but really only have 93; correct.

Mr. Alfieri believes that the prior approval contained the six spaces, he didn't see anything where they were carved out.

Mr. Marinelli stated that there is a residential buffer of 20 feet, that buffer would be required along the northern property line adjacent to the town homes. It would be impossible to construct that because it is their access to the driveway, there is availability to provide a buffer along their garage door and still grant them access to their garages. It is technically a deficiency Mr. Marinelli felt it was an easy variance to grant.

Mr. Alfieri stated that he had a few follow-ups, there are two D variances. Mr. Alfieri asked Mr. Marinelli to explain what the two variances are to the Board. Mr. Marinelli stated the first is the use in the zone, it is required that there is first floor commercial space with residential units above. Mr. Marinelli stated that there is apartment on the same level as the commercial space. Mr. Alfieri asked if there were residential units on the ground level, no. Mr. Marinelli spoke about the flood elevation regarding this project.

There was discussion regarding the outdoor recreation area, Mr. Marinelli stated that the Board would hear more details from the architect.

Mr. Alfieri asked Mr. Marinelli to explain where the sanitary sewer and water comes from; Mr. Marinelli stated that there is existing sanitary main that the condos utilize off of the garage side. There will be a new sanitary lateral that will come from the proposed structure into that existing main.

Mr. Alfieri stated that is all they have from the engineer.

Mr. Mullan went through the T&M letter of 8/21/21 which outlines the waivers and asked if the applicant attorney would address them. Mr. Alfieri stated that subsequent to the report he did send the planning board secretary the certificate of ownership disclosure. Waiver 6 has been addressed.

Mr. Mullan mentioned that there is a number of technical issues that need to be discussed. Mr. Mullan stated that he would like the application to clarify for the Board the traffic circulation; Mr. Marinelli described the traffic circulation to how it is currently and how it will be if this project is approved.

Mr. Oviedo asked where the loading zone is located; Mr. Marinelli stated it is in the southeast corner. Mr. Mullan asked what were the dimensions of the loading zone; the loading space is 27 x 15 feet wide. Further discussion regarding the loading zone size as well as the overhead garage door. Chairman Sessa asked if that is where the garbage truck would access the trash area; yes.

Mr. Mullan asked how many times a week would there be trash pickup; Mr. Marinelli stated it would be twice a week and the space that is left would allow 6-7 dumpsters inside the building. Which they feel is more than sufficient. Mr. Mullan asked if the two pick up includes recycling, Mr. Marinelli stated it would be one recycling and two trash pickups. There was discussion regarding the size of the truck and hours that the hauler would be picking up the trash.

Mr. Mullan asked about what approvals and permits do you need for NJDEP; there are three outside approvals that are required County Planning Board, the site fronts on two county roads they sort and received approval as part of the previous application for the existing driveways that are there that they will continue to utilize they will update that permit. The second is the sediment erosion control, they will be able to achieve that approval. The last one is the CAFRA, they did receive approval as part of the previous application and they would update that based on the current design. Mr. Mullan confirmed that they have previously received the CAFRA permit for the previous application; yes. Further discussion regarding the applicant complying with the CAFRA rules.

Mr. Mullan said the proposal is to construct a new stormwater pump station that is closer to the proposed building which is higher ground then the existing one is currently. Mr. Mullan feels that proposal is a good approach. He spoke about the letter from CME and stated that there is a number of items in the letter, they agree to move the pump station to the new location. The pump station needs to be bigger; it has to be adequate to handle all the water that will be directed to it. CME and T&M office raised questions regarding roof runoff coming from the town homes and the building that is going to be directed to the pump station. Mr. Mullan stated if it is they would like to see the calculation revised and updated to show all the water that it will have to accommodate. They would like to see it much closer to the volume of the pump station if not larger in its storage capacity. They want to make sure the pumps are sized adequately to function under the storms they are designed to handle and they want to see an emergency generator included in the project and maintained properly in case of a power outage the pump station will work. Mr. Leckstein asked if he is asking for it to be bigger than the applicant is proposing; yes. Further discussion regarding the stormwater pump station, Mr. Mullan asked that they would work with T&M or come back with supplemental information after this meeting.

Mr. Leckstein stated he didn't feel that they are going to finish the application this evening so they would have to come back.

Mr. Marinelli stated that they will work with the professionals regarding the pump station, regarding the volume and drainage. The applicant is willing to agree to work with T&M regarding the issues.

Mr. Mullan asked about the existing pump station that it would be removed filled in with some type of landscaping; Mr. Mullan is asking that there is some language that states that the new pump station must be fully operational and demonstrated that it works before they disconnect the existing pump station. If the application goes through and they eliminate the existing pump station, there is an existing discharge pipe that leaves the pump station and travels across the front of the town homes in an easement that ties into the drainage on Broad Street. There was discussion regarding existing discharge pump location and where it connects. Mr. Leckstein asked if the current pump station works at all; Mr. Marinelli stated it did not. Mr. Leckstein confirmed that nothing is happening currently; Mr. Marinelli stated that gravity takes over and moves the water. Mr. Alfieri asked if this is approved how will this pump station be dismantled, what is being proposed for the underground pipes, they are not proposing to rip up all the yards. Mr. Marinelli stated that they are not going to rip up the yards, what they are proposing to do is regarding the existing pump station would be to abandon it and fill it with stone so there is no erosion or collapse issues in the future and regarding the pump station they would cut it down and put in back fill material and reseed it so it becomes grass on lot 110.

Mr. Leckstein asked if there are easements with the town homes; yes, there was discussion regarding where the easements are located. Mr. Mullan stated that there has to be an emergency generator that is sized properly and that it will work during storm events. The other issue is that they properly handle what is abandoned is sealed off so it doesn't create sink holes or some type of instability on the private properties any time in the future. Mr. Mullan asked the Board to consider requiring the applicant a commitment to further evaluate the existing drainage system. Mr. Mullan stated that there are large pipes that run through the subject property that is Borough owned that convey water from the higher area that drain in this direction, he feels it should be the applicant's responsibility to go in and clear the system of any debris that is impeding the flow of water across their property and provide a clean system and televise the pipe so T&M can access the condition because part of their proposal has a multi-story building foundation to be built approximately five feet within the existing storm drainage pipe that the Borough is responsible for. Further discussion regarding the condition of the existing drainage pipe. Mr. Leckstein stated that this is a serious issue. Mr. Mullan spoke about if the existing drains could handle the project, he feels that the applicant should let the Board see the videos of the pipe. The same would be for the sanitary sewer line that runs parallel. These two lines are very close to the proposed building foundation and he does have concerns about the construction activity if this goes forward. Mr. Mullan said to have a foundation to hold this building in his opinion would be very disruptive to the mains and they need to mitigate the impacts of the foundation construction. Mr. Mullan stated that the Board needs this baseline condition of the two mains and he is also would like a further opinion on if they can stay where they are and they have plenty of life in them or turn to the applicant and direct them with remedial work and corrective action, possibly replacing the mains and moving them to a different alignment on the applicant's property so the Borough has the benefit of the mains and the

Borough doesn't suffer any diminished capacity in either pipe. There was further discussion regarding what needs to be submitted and what the possibly would have to be done regarding the mains. Mr. Marinelli explained that these are existing Borough pipes, none of their site drainage goes into those structures, they were probably there prior to the development of the town homes. Mr. Marinelli stated that this is a complete by pass system with no inlets into the subject site. There was further discussion regarding how the system works and where it drains.

Mr. Marinelli stated that the applicant agrees to TV inspect and write report and see what the conditions of the lines. They will provide the details of the footings and foundation to make sure that they have adequate spacing and/or shoring so they make sure they are not disrupting the existing municipal lines. They will agree to that as a condition of approval. Mr. Marinelli stated he wanted to make clear that none of their drainage goes to that system. Mr. Leckstein asked if the pump station that exist was working where is that pumping into; Mr. Marinelli stated the existing inlets on Broad Street. Mr. Mullan explained what currently is happening to the water at this location. There was discussion regarding the force main and what would be done with the existing force main.

Mr. Vecchio asked if this would be located behind the town homes; yes.

Mr. Mullan feels that a new pump station is definitely warranted, the new location is better than the existing and a new force main running out to Broad Street is the smart idea and it doesn't cross in front of or anywhere by the town house properties. Mr. Leckstein asked if the Board denies this application can the existing pump station be rehabilitated; no, if that was to happen, he would suggest that the property owner be compelled by code enforcement to replace that pump station exactly the way there are designing it for this application. That case of the infrastructure to drain this subject property should be a compelling enforcement approach to make that happen with the current property owner even if no knew development was to move forward.

Mr. Leckstein wanted the Board to understand that the current approval the applicant has they must get the pump station working. There was discussion when the town homes came before the Board what was originally approved for this location regarding the pump station. Mr. Leckstein stated he was no speaking about the resolution that was approved in 2019 he was speaking about the prior resolution when the town homes were approved.

Mr. Leckstein wanted the Board to understand if they deny the application the pump station still has to be fixed if the applicant wanted to do anything on this property. If they don't proceed with the 2019 development, they will still be obligated to do something with the pump station because they are obligated to maintain it with the original approvals.

Mr. Leckstein stated one of their positive criteria to approve the application is that you would get a pump station that would work. Mr. Leckstein wanted to point out if the Board denies this application and if falls back to the 2019 application it still requires the pump station to be working. If the applicant decides they weren't going to move forward with that approval, he would argue that they are still required to fix the pump station because they were required to do that

with the original approval that created the town homes. Mr. Mullan stated that he agrees with that. Further discussion regarding having to replace and relocate the existing pump station no matter what the decision is for this application.

Mr. Alfieri mentioned that the applicant will comply with the number of ADA spaces that were required.

Mr. Marinelli stated that the applicant agrees to comply with any of the outstanding conditions in the T&M letter.

Mr. Leckstein asked if there was any risk in abandoning the force main; Mr. Mullan stated that there is some uncertainty risk he feels it can be mitigated but they need to make sure they fully understand who is using that pipe and what fashion. If he lived in one of the town homes, it would not be completely unexpected that if you put a sub pump in your basement you might look for that forced main to tie into the sub pump discharge. You cannot fill this force main with cement and not understand you are cutting off sub pump discharges. There might be roof leaders or landscaping yard drains that people plug into the pipe not knowing. Mr. Mullan stated that he cannot say if that has happened. The only way to know is if they video tape that pipe and they discover or if it revealed to them. Further discussion regarding how to proceed with this procedure.

Motion to open to the public at 9:15 PM was made by N. Vecchio, second by J. Royster with ayes by all present.

Mike Coughlin, 12 First Street, stated he was the original town home owners. He explained he was at the previous application three years ago. Mr. Coughlin feels that there is a serious disconnect what was approved three years ago to what is asked to be approved at this meeting. He stated he didn't understand why the applicant is going from 24 units to 54 units.

Mr. Leckstein explained that the question is fair. The questions that could be asked at this time was for the Engineer. Mr. Leckstein stated it sounded like he is asking a planning question. Mr. Coughlin stated that he is looking at the entire application; Mr. Leckstein stated he understood. What he suggested is that this question be asked of the Planner after she testifies the Planner will explain why the change in the number of units.

Mr. Coughlin stated that twelve of the town house owners are at the meeting. Mr. Leckstein explained that he understood but the engineer cannot answer the question. Mr. Coughlin stated that his question is not to the engineer it is to the Planning Board. Mr. Alfieri explained that the applicant has the right to apply to the Board for anything they feel is appropriate.

Mr. Leckstein stated that the Board cannot say they don't want this so go away. The Board has to allow the applicant an opportunity to put on its case. Mr. Leckstein explained how the Planning Board works. He stated that the Board cannot rule on anything until after all the evidence is heard. Mr. Leckstein explained to Mr. Coughlin that he had to ask his questions to the appropriate witness that is testifying. The question Mr. Coughlin is asking needs to be asked to the Planner.

There was discussion regarding the notice that they received and the variances the applicant is asking for. Mr. Leckstein explained that these questions would be for the Planner. Mr. Coughlin stated that the homes do feed into the pipe that the applicant was speaking about. When Sandy hit he had to have someone snake out the pipe. There was discussion regarding the 30,000 view, Mr. Leckstein stated that they have to put on testimony regarding that. Mr. Leckstein mentioned that the Planner, Ms. Cofone was present at the meeting and she will be the person that he would ask these questions to.

Arthur Femenella, 10 First Street, asked if there was a wall next to the entrance to the parking; Mr. Marinelli stated that it was landscape. There was discussion regarding the distance to the property line. Mr. Femenella asked if they would not be able to pull in and go to their town homes; Mr. Marinelli stated no, that is similar to what was previously approved. He mentioned that it was the suggestion of the residents at that time that they only wanted it to be a one-way. Mr. Marinelli stated that one of the conditions of the previous approvals was not to allow any left turns and to make this a one way with speed bumps. That was a condition of the prior approval.

There was discussion regarding the dimensions of the back of the town home area and how it would be accessed. Mr. Femenella stated that currently it is difficult for one car to pass a parked car. Mr. Femenella spoke about the wall and he felt that it is restricting that area. Mr. Marinelli replied that they are not adding any walls as part of this proposed application. Mr. Marinelli spoke about the island that differentiates the area from parking to the drive isle is approximately four feet wide and is just a landscape isle to delineate the existing parking spaces to the proposed entrance to the garage. Mr. Mullan asked if it was a normal six-inch curb; yes.

There was discussion regarding the six parking spaces that were assigned to the town homes. Further discussion regarding what was previously approved and what was promised to the homes the last time the applicant came before the Board. Mr. Alfieri explained that these were all condition of approval they would have to do all that at the time of the construction. Mr. Femenella stated he feels that is backing out of a deal.

There was discussion regarding the traffic circulation that is currently at this location. Mr. Mullan asked for clarification, he asked if you can only enter off of Broad Street you cannot exit off of Broad once you enter then you can go either way. Mr. Mullan suggested to leave it the way it is. Mr. Leckstein stated the resolution stated that they hired a lawyer and came to agreement, one of the terms of the agreement that came from your attorney was to limit the easement alley to a one-way traffic pattern with all traffic heading east to provide signage. Mr. Leckstein stated that came from the home owners. Mr. Alfieri stated that they have no issues that it stays a two way. Mr. Leckstein marked the resolution as B3. Mr. Leckstein read the conditions from the previous approval. Mr. Alfieri stated that all the previous conditions would carry over to this application. Mr. Leckstein stated that Mr. Mullan is asking for the one-way traffic condition to be lifted; Mr. Femenella stated that he would take that one under advisement. He doesn't want to speak for everyone.

Mr. Femenella asked about the commercial stores on the ground floor; Mr. Leckstein stated that is more of a planning question. Mr. Leckstein suggested prior to the next meeting that the neighbors get together and tell the Board what their preference is regarding this topic.

Mr. Mullan stated that any conditions that were previously approved be reexamined, Mr. Leckstein suggested that T&M look at the conditions and give him recommendation.

David DiPietro, 22 First Street, does the building have fire suppression; Mr. Marinelli stated that question would be answered by the architect. Is there any plan for an independent survey to be done to ensure there is no movement to the town house in regards to the excavation of the new foundation; there is going to be geo technical evaluation done as part of the construction documents. Mr. Mullan asked Mr. Marinelli to describe what that includes. Mr. Marinelli described what would be done. Mr. DiPietro asked if they are going to be placing monitors on any of the town houses to ensure that no movement has taken place. Discussion what is done when this type of project is done in New York City.

Mr. Mullan stated that he respects the concern of heavy construction, possibly pile driving, foundation excavations. He feels it is a logical question, he would defer it to the applicant engineer and the applicant. Will the applicant commit to some type of survey of the existing foundation conditions before construction starts and then some type of foundation monitoring against vibration and any effects from the construction operation, Mr. DiPietro added also to ensure that no movement has taken place on the town houses? Further discussion of what can be done to ensure that there is no movement to the town homes. Mr. Leckstein asked if they would need permission from the homeowners; Mr. Mullan stated yes you would have to go to each homeowners.

Mr. Alfieri stated that he would check with his client.

Jodi Wishner, 4 First Street, asked the people entering from Front Street, there was a parking lot which looked like it had an electric gate in the new design is there going to be something similar; Mr. Marinelli stated that they are actually garage doors. Mr. Marinelli stated that there is no security it is going to be maintained the same as it is today. Mr. Mullan asked if there was a gate in the prior approval; no. Mr. Wishner stated he is concerned there is not enough parking spaces. Further discussion regarding the amount of parking spaces and concerned that they may use their spaces or possibly block their driveways and try to figure out what can be done so the town homes owners are not inconvenienced. There needs to be a way to control the back of the building possibly install a control gate at both entrance ways. Mr. Alfieri stated that they would look into it.

Joanne Clark, 12 First Street, asked if there is still going to be a group mailbox going to be at the same location; Mr. Marinelli mentioned that it will be relocated to the grass area. Mr. Leckstein asked the existing location. Ms. Clark explained why they had to have a group mailbox. Discussion regarding where it would be located.

Ms. Clark mentioned that there should be something regarding the way people drive in the area feels something must be done to slow down the vehicles.

Carol Goodhue, 16 First Street, asked where is the new entrance of the garage will be located. Mr. Marinelli explained the location of the entrance exactly across from lot 1.08. Ms. Goodhue stated she would not agree to have the mailboxes on her property. Ms. Goodhue stated that there is going to be a great deal of traffic; Mr. Marinelli stated that there is someone to talk about the traffic study. Ms. Goodhue stated that there are times that she has a difficult time now getting in and out.

Mr. Leckstein asked Mr. Alfieri if there is an easement for the mailboxes; he isn't sure he will have to ask his client.

Ms. Clark stated they mailboxes were placed there after the homes were built, Hovnanian the developer fought and got the right to put their footing there. Mr. Leckstein is concerned that it has to be some type of easement. Mr. Marinelli stated that there is no easement. Mr. Leckstein asked if they would be willing to give the homeowners an easement to access the relocated mailboxes; yes.

Ms. Goodhue asked if that is the only location for the exit; yes, Mr. Marinelli explained why that was the only location because of the grade conditions. There was discussion regarding the grade differential for the underground garage and the outdoor. Mr. Marinelli stated that the interior is 14 feet and the exterior is 10 feet. Mr. Mullan asked about the grade from the enclosed parking; 12 foot.

Ms. Goodhue stated the only alternative was to have a higher ceiling in the garage; no the only way would be if the garage floor was lower in elevation and they cannot do that because of the DEP regulations.

Mr. Mullan spoke about the outdoor and inside parking, he feels that warrants more consideration to go through a quick exercise with T&M to change the grade of the parking lot; Mr. Marinelli stated that the driveway and parking spaces are existing any modification to existing grades would create drainage problems for the town homes which will make the water drain toward their garages. Further discussion regarding any elevation on the drainage. Mr. Marinelli agreed to work with T&M regarding this topic. Mr. Leckstein asked that work on this before the next meeting.

Barbara Currie, 6 East Front Street, asked about the town parking survey as far as losing space on East Front. She feels that these people are going to have issues with parking. It is a concern regarding parking there is only a small parking lot. Ms. Currie spoke about lost spaces as well as commercial vehicles going down East Front Street.

Michael Lane, 51 First Street, gave input regarding pump station. Mr. Lane asked Mr. Mullan if they have looked into the forced main that ties into the houses. Mr. Lane stated that right now there is flooding at the Keyport Diner because there is not enough capacity in the main. He

asked how could you put a forced main feeding into that main and how do you keep it from back flow from going back to flooding. Mr. Lane asked that they look at the map of storm drains and see if you can put this force drain there.

The existing pump station there are documents that state you can install a storm water pump that is water proof and the pump station itself is like a pool and the pump sits in the pool. The problem that Mr. Taylor had was how to feed power to it off of an emergency generator. You can feed the power line from the pump station right to where the emergency generator will be in the new building. The value of the existing pump station is all gravity feed already. Mr. Lane feels that is a much better solution. He doesn't feel you can drive the forced main up to Broad and you already have a main in First Street that is already in place to serve the pump station. He feels they need to relook at that. He stated that if you speak to Ryan Burlew at Magic Touch who is across the street, he installs pump stations for this situation all over North Jersey, he would be delighted to go it with you. Mr. Lane can also send multiple documents of dealers that design these pumps to sit in the pools of water. The issue is how to feed power from the emergency generator to the pump station. There are underground power lines in the promenade Beach Park area, so he feels that is not a big deal. He thinks that they really need to using the existing pump station and look at the infrastructure problem. There are multiple documents that define where that storm water infrastructure is located along First Street it is well defined and well documented. It was put in after Hovnanian was forced to raise the street. There are multiple documents that define gravity feed. Mr. Lane's final input is one if the requirements is that there is no water run-off into East Front Street from this development. Mr. Mullan stated that they will make sure that there is no run-off leaves the site.

There was discussion regarding a lineage drain, Mr. Lane asked if Mr. Mullan would like some more information. Mr. Leckstein asked Mr. Lane to submit it to the Board Secretary and she can send it to Mr. Mullan and the applicant so they can review it. Mr. Lane spoke about the storm water lines runs into the Bay. Mr. Lane spoke about the new pier and the new pipe there is an issue with the pipe having a duck bill.

Mr. Leckstein asked that Mr. Lane submit the documents to the Secretary and she will send it to Mr. Alfieri and Mr. Mullan not the Board. If Mr. Alfieri objects to it for whatever reason he doesn't want the Board to have considered it.

Motion to close to the public at 10:12 PM was made by D. Pacheco, second by W. McDermott with ayes by all present.

Motion to carry to March 29th without further notice was made by J. Royster, second by N. Vecchio with ayes by all present.

Motion to adjourn the meeting at 10:29 PM was made by J. Royster, second by N. Vecchio with ayes by all present.