

The Keyport Unified Planning Board held a Regular Meeting on May 31, 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, W. McDermott, J. Oviedo, D. Pacheco, N. Vecchio H. Aumack, C. Dickerson

Absent: J. Royster, G. Kotzas

Also in Attendance: Marc Leckstein, Planning Board Attorney, Fran Mullan, Board Engineer, Trevor Taylor (Board Engineer for BrownsPoint Marina)

EMAIL FROM BOROUGH CLERK: Requesting the Planning Board members to review for consistency with the Master plan the Flood Damage Prevention Ordinance.

Mr. Leckstein explained that the role of the Board is to decide whether the ordinance is consistent with the Master Plan.

Board discussed the email and asked Mr. Taylor if he found it to be consistent with the Master Plan. Mr. Taylor and the Boardmember stated that it was consistent with the Master Plan.

Motion to send a letter to Mayor and Council stating that the ordinance is consistent with the Master Plan was made by N. Vecchio, second by D. Pacheco with ayes by all present. Planning Board Secretary will send letter on behalf of the Board.

Mr. Leckstein stated that the Attorney for application KUPB 21-16, 174 Church Street has asked to be carried without further notice.

Motion to carry this application to the June 23, 2022 @ 7pm Planning Board meeting was made by J. Oviedo, second by D. Pacheco with ayes by all present.

Mr. Leckstein stated that anyone who was present for this application must return on June 23rd for this application and that no further notice would be sent.

RESOLUTION:

KUPB 17-07
357 WEST FRONT STREET, LLC (BrownsPoint Marina)
BLK 20, LOTS 1,2,3,5,6,6.01,7,9, 11.01, 13 & 14
REQUEST FOR EXTENSION OF PREVIOUS APPROVAL
WHICH EXPIRED ON DECEMBER 12, 2020

Motion to approve Resolution was made by made by D. Pacheco, second by J. Oviedo

Ayes: Mayor Kennedy, Councilmember Davidson, M. Sessa, W. McDermott, D. Pacheco, J. Oviedo

Abstain: H. Aumack, N. Vecchio

**RESOLUTION: KUPB 20-01
357 WEST FRONT STREET, LLC (Browns Point Marina)
BLK 20 LOT 9,11.01, 13, 14 & 14.01**

Mayor Kennedy mentioned a few changes in the resolution.

Discussion regarding the two slips that would be made dedicated to public purpose, the Mayor spoke about the following items:

Page 2, item #7 - they have requested that two slips be dedicated to the Borough for emergency vessels. The Mayor is concerned that having the resolution state for public use in the future it may be construed that anyone could use these slips. She asked if instead of it saying public use could it say for emergency vessels. Mr. Leckstein stated he does have in the resolution that it needs to be determined by the Borough, further discussion regarding the wording of the resolution. Mr. Vecchio stated that the first aid keeps their boat on a trailer, Mr. Vecchio would prefer to keep the wording the way it is just in case they need to use a pump out boat or something similar but not emergency related needs to use the slips. Mr. Leckstein explained that was his concern if you limit to emergency than it wouldn't be able to be used for anything else. There was discussion regarding who would approve the use of the slip. Mr. Leckstein stated that he could add as approved by the Governing Body.

Page 5, item E – change the wording to minimum of a 15-minute gap.

Page 5, item F – it states it is limited to two charter vessels, she believes there was a six per max, Mr. Leckstein mentioned that in the following line it stated that the boats were limited to six passenger boats

Page 8 #38 - at the last meeting the applicant stated that they were going to have a mezzanine or something like a floor and a half for the bathrooms, the resolution states that it on the first floor, Mr. Leckstein explained that a revised resolution was sent out before the meeting, that stated there was an access ramp to the bathrooms. Further discussion regarding the wording for where the bathrooms would be located.

Mayor stated it is reflected on the new plans the dumpster request location, she asked if that would still have to be placed on the resolution; Mr. Leckstein stated that the dumpster enclosure was going to be subject to the review of the Board Professionals. Mr. Leckstein stated that was condition number 12.

The Mayor stated that she understands that it was voted on and the following wording really couldn't be placed in the resolution there was commentary that the applicant operate as a good neighbor because the property is already in disarray. She understands that doesn't stop the Board to vote on the resolution but she would just like it on record that she would appreciate it if they clean up their property. Mr. Leckstein stated that would be a code official issue.

Councilmember Davidson asked what the other update; Mr. Leckstein stated he added paragraph to the height variance for the accessory structure for the racks and he also clarified the valet parking that needs to be submitted to the Boards engineer and planner for review.

Motion to approve amended Resolution was made by made by Councilmember Davidson, second by W. McDermott

Ayes: Mayor Kennedy, Councilmember Davidson, M. Sessa, W. McDermott, D. Pacheco, J. Oviedo

Abstain: H. Aumack, N. Vecchio

**RESOLUTION: KUPB #21-15
DEPUTY VENTURE
44 BEERS STREET
BLK 26, LOT 26, 30 & 31
AMENDED MAJOR SUBDIVISION**

Motion to approve Resolution was made by made by N. Vecchio, second by D. Pacheco

Ayes: M. Sessa, W. McDermott, D. Pacheco, J. Oviedo, N. Vecchio

Abstain: H. Aumack

**RESOLUTION: KUPB #21-13
SHAWN RUSSO
133 SECOND STREET
BLK 125, LOT 19
USE VARIANCE**

Motion to approve Resolution was made by made by N. Vecchio, second by D. Pacheco

Ayes: M. Sessa, W. McDermott, D. Pacheco, J. Oviedo, N. Vecchio

Abstain: H. Aumack

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

Mr. Daniel O'Hern, Attorney for the applicant stated that the property is located in the RA zone. Mr. O'Hern explained that the application before the Board is an addition to the existing residential structure. They will offer testimony from Mr. Merla and Mr. Junkroft the architect as well as testimony from Mr. Merla's professional planner Andrew Janiw.

Exhibit A1 - Zoning Officers letter dated 7/27/21

Exhibit A2 – Survey

Exhibit A3 – Renovation Plans dated 4/27/ 20 revised 2/26/22

Exhibit B1 – T&M review letter dated 10/27/21

Joseph Merla, owner of property at 120 First Street. Mr. O'Hern asked Mr. Merla how long he owned the property. Mr. Merla stated he owned it 20 years and lived there 58 years. Mr. Merla stated that the property has been in the family for 62 years. Mr. O'Hern asked Mr. Merla if he resides at the property; yes. Mr. O'Hern asked who else resided at this property; his fiancé. Mr. O'Hern asked Mr. Merla to describe the existing structure. Mr. Merla stated that the existing structure has two bathrooms, two bedrooms upstairs, master bedroom with a walk-in closet. The first floor has the kitchen, bathroom, living room and there is a finished basement. Mr. O'Hern asked if Mr. Merla knew the square feet of the existing house; 2500 to 2600 square feet. Mr. O'Hern asked if the existing structure been there since Mr. Merla's family owned the property. Mr. Merla stated he believed there was an addition in the 70's.

Mr. O'Hern stated that the reason they are before the Board is because he would like to put an addition on the structure; yes. Mr. O'Hern asked the purpose of the addition; Mr. Merla explained it is for his fiancé son and his family to move into the addition. Mr. O'Hern asked Mr. Merla to describe the layout of the existing structure to the addition. Mr. Merla stated it was a continuous flow with no separate utilities. Mr. Merla described to the Board the layout of the addition, open floor plan with a washer and dryer, half bath downstairs there are steps to two bedrooms and a full bath. Then there are stairs that go up to a flat deck with rails on it. Mr. O'Hern asked if the addition would have a kitchen, yes.

Mr. O'Hern asked how many off street parking spaces; there are four off street parking spaces at 120 First Street.

Mr. O'Hern asked if Mr. Merla has any ownership in lot 3; yes. Mr. O'Hern asked the nature of the ownership. Mr. Merla explained it is owned by an LLC. Mr. O'Hern asked if there are any access agreements or easement between his lot and lot 3; no. Mr. O'Hern stated for the record the address for lot 3 is 114 First Street.

Mr. Leckstein asked if there is a separate entrance to the addition; yes, there are three front doors. Mr. Leckstein confirmed that they are connected inside; yes, the interior is all open you can go from Mr. Merla's house to the addition. Mr. Leckstein asked if he would agree as a condition of approval that Mr. Merla would never separate the addition; yes.

Mayor Kennedy asked if there is any communication with the LLC to merge the lot to be one; Mr. Merla stated that he didn't have no future plan. There was discussion regarding whether lot 3 was a land locked property. Mr. Merla explained that they were different addresses. Mayor confirmed the lot with the pool is 114; correct. There was further discussion regarding possibly merging the two lots.

Mr. O'Hern stated that Mr. Merla is before the Board seeking approval for lot 4.

Councilmember Davidson asked if there any possibilities of a house being built at 114; Mr. Merla stated maybe in the future. There was further discussion regarding the possibility of a house being built on lot 3 in the future.

Mr. McDermott asked if the structure and the addition are all on the same lot; yes. Mr. Leckstein explained that they are completely separate lots, the lot with the pool is not part of this application.

Mr. Mullan asked for clarification for the four parking spaces; Mr. Merla described how the vehicles are parked on the property. Further discussion regarding the parking and the driveway.

Gary Junkroft, Architect described the addition, living space on first floor, bedrooms on second floor the addition interior is connected with the existing. There is a stair case that goes to the roof with deck space. They tried to make everything look similar to the existing house, color and texture to make it flow all together. Mr. Leckstein confirmed that the materials will remain consistent throughout; yes. Mr. Leckstein stated that it will never look like a separate unit; no. Mr. Leckstein stated that would be a condition of approval. Mr. Junkroft stated that they tried to give it some setbacks so it didn't look like a massive structure. Mr. O'Hern asked what was the total square footage of the addition; 1440.

D. Pacheco asked about the setback making it look like a separate structure, Mr. O'Hern stated he thought it looks like a continuing structure. Further discussion regarding how the addition would look if you were driving or walking past the house.

Mayor Kennedy stated that it was understanding that the reason they are before the Board is because they put in an application to zoning and there was a discrepancy between two different surveys. That was her understanding. The applicant built to the survey they had but then there was a different survey and that is why the applicant had to go before the Board. They built the addition under the purvey of what they were approved for. Because of that technicality is the reason they had to come before the Board. Mr. O'Hern stated that the Mayor was correct.

Mr. O'Hern asked what the setback on the addition is; Mr. Junkroft stated he believed it as 3.9 where six is required. Mr. Mullan explained that the structure is already constructed. Further discussion regarding the setbacks. Mr. Mullan would also like to point out the survey and the plans submitted indicated that there is a 0.7-foot overlap of the existing principal dwelling. Mr. Mullan asked for clarification that it is an existing condition and it was not part of the addition construction and did the they have any idea on how long that condition has existed; Mr. Junkroft stated it was an existing condition, he is not sure if it was part of the 70's addition or if it went back to the original house. Mr. Mullan confirmed that it was not changed with the addition being built; no.

Mr. Mullan confirmed that the maximum height proposed is 30' and it is under the maximum, the plans state it has plus or minus. Mr. Mullan asked if they are willing to comply with the maximum allowed; yes. Mr. Mullan asked about the front elevations the area with the 36" high railings that is the roof top; yes. Mr. Mullan asked for Mr. Junkroft to describe what that area would be used for. Mr. Junkroft stated it would be typical roof top uses, possibly a hot tub and some lounge chairs.

Mr. Mullan confirmed that this would be a single-family dwelling and there would be no new utilities; Mr. O'Hern stated that they would be using the existing utilities. Mr. Mullan asked if all the plumbing and electrical would be internal to the addition; yes. Further discussion regarding the utility connections.

Mr. Mullan confirmed that there would be one street number and only one mailing address; yes.

Discussion regarding any buffers or fencing between the two properties.

Ms. Dickerson asked what rational for why they had to make the modification; Mr. O'Hern asked if she was referring to the addition. Ms. Dickerson asked if there was something that changed after they were approved by the zoning Officer. Mr. O'Hern explained that the there was a plan applied for and the permits were issued. Somewhere along the line it was realized that the set back versus what the actual existing house was inconsistent. Mr. Leckstein stated that it wasn't built according to what the approval was for. The original approval was granted there was no variances; correct. At some point someone realized that someone made a mistake. Mayor Kennedy stated that she believed it had something to do with the survey. Mr. O'Hern stated eventually there was an as built survey was created but initially as Mr. Junkroft stated he was working off the existing on-site construction, tax records and old information. Mr. O'Hern stated what he believed happened was a survey showed that the plans that were submitted to the building department didn't line up exactly with the survey. Further discussion regarding why the variance was needed and why they are before the Board.

Mr. Leckstein asked Mr. Mullan to confirm that the variance conditions are for the building coverage and the impervious coverage; yes. Discussion regarding the conditions for the variances. Mr. Mullan stated they will work with the applicant to update the plans showing the changes.

Mr. Leckstein confirmed that the lot width is 40 where 50' is required that is an existing condition. The front yard set back which is 12' where 20' is required, that is an existing condition. The side yard set back is 3.9' where 6' is required and the building coverage and the impervious coverage stated. Mr. Mullan added the only thing he would like to add is the combined side setbacks is supposed to be 16' combined total and in this is 9.1' on the right side of the building where the terret bumps out where the driveway is. Mr. Leckstein confirmed that the total side yard setback required is 16' and the applicant has 9'.

There was discussion regarding the amount of pervious and impervious coverage of the property.

Mr. Sessa asked if there has been water on the neighboring property; Mr. Merla stated that there is no run off on the neighboring properties.

Motion to open to the public at 8:00PM was made by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

There being no comments or questions from the public, motion to close to the public at 8:00PM was made by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

Mr. Andrew Janiw, Planner for the applicant

Exhibit A4 – Aerial of the subject property

Exhibit A5 – Eight Photos of the building dated 2/22

Mr. Janiw stated he reviewed the site, plans and T&M letter. Mr. Mullan spoke about the variance relief that they are requesting. Mr. Janiw spoke about what needs to be done to address the variances. Mr. Janiw spoke about the goals in regards to the Master Plan and maintaining the characteristic of the neighborhood. Mr. Merla has built multi generation home, or what is called a mother / daughter. This provides for the multi generation but also provides space for everyone to have some privacy but is still connected. They share utilities as well as common space.

Mr. Janiw spoke about the Municipal Land Use Law in regards to the public purpose of zoning, a variance cannot be granted just for the purpose or benefit of property owner. There has to be a public purpose which are defined in the MLUL. Mr. Janiw believes this application provides context for several of them. Mr. Janiw spoke about what ones he felt fit this application. Mr. Janiw stated one of them is visual and showed the Board the photos of the property (Exhibit A5). Mr. Janiw described each of the eight photos that the Board was viewing.

Mr. Janiw explained there are two types of bulk variances there is the C1 variance which is the hardship variance, he explained that means there is an existing condition that cannot be altered that creates the variance relief. Mr. Janiw continued and stated in this case all the dimension things that were discussed regarding the set backs and the lot those are items they cannot do anything about. What the applicant is seeking relief for are the new variances and those would be the setbacks to the rear which would be 10.9 feet where 16 combined set back is required, and 3.9 feet where 6 feet is required. He reminded the Board those were a result of having done the as built in the assumption that the survey and the home not being where it was anticipated when the house was planned.

Mr. Janiw feels that the positive criteria outweigh any of the negative criteria.

Motion open to the public at 8:06PM was made by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

There being no comments or question there was a motion to close to the public at 8:06PM was made by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

Mr. Aumack stated that he visited the site and understands that the addition is already there. Mr. Aumack stated that it looks nice. Mr. Aumack stated he had a couple of concerns. Mr. Aumack spoke about lot 114 which he understands Mr. Merla is a partial owner, there is a pool on that lot he stated that is an auxiliary use. There is a property with an auxiliary use with no primary structure. He doesn't know who is responsible for taking care of the pool as well as the safety.

Mr. Aumack stated that the structure is there but it has not been finished he believes that Mr. Merla was issued stop work order so no further work has been completed. His concern is what happens if someone should purchase lot 114 and put up a fence, he feels that would lock the property in.

Mayor Kennedy stated there was a structure there before and they grew up in the house. They have been pulling in for the last 58 years pulling in the length of the driveway and stacked cars.

Mayor Kennedy stated that she had thought that they were going to merge the lot and then the pool would have been considered an accessory use of the property but that was not the case. Mayor stated that the application before the Board is for 120 First Street and they can't discuss the pool since that is not part of this application. Mr. Leckstein explained that would be a zoning officer issue.

Mr. Vecchio asked if the pool is left by itself will they have to come back before the Board. Mr. Leckstein explained that it wouldn't be this applicant. Mr. Vecchio confirmed that it would be the LLC. Further discussion regarding the pool being on the property without a primary structure. Mr. Leckstein stated that the Board could not deny this application because of the illegal pool.

Mr. Mullan stated the pool is completely located on lot 114 which is not the subject of the application before the Board nor is the use of the pool. Discussion regarding the use of the pool. Mr. Leckstein explained they have to ignore the pool for this application.

Ms. Dickerson asked about impervious use, is there any protection for the future if the property was sold. There was further discussion regarding the stone and the run off of the property.

Mayor stated that she is not seeking re-election and may ask someone else to attend future meetings.

MOTION TO APPROVE:

Motion to approve application was made by J. Oviedo, second by Mayor Kennedy

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

PLANNING BOARD PROFESSIONALS: Update on applications

Motion to adjourn at 8:24PM was made by N. Vecchio, second by Mayor Kennedy with ayes by all present.

The next regularly scheduled Planning Board Meeting will be Thursday, June 23, 2022