KEYPORT UNIFIED PLANNING BOARD

The Keyport Unified Planning Board held a Regular Meeting on July 27, 2017 which was called to order at 7:00 PM in the Council Chambers at Borough Hall, 70 West Front Street, Keyport, NJ, called to order by Roger Benedict, the Sunshine Law Notice was read followed by the Flag Salute.

ROLL CALL:

PRESENT: N. Vecchio, R. Benedict, D. Fotopoulos, M. Sessa, J. Kovacs, J. Kovacs-Olsen

Marc Leckstein, Planning Board Attorney, D. Miller, Planner, B. Heard, Engineer

ABSENT: Mayor Harry Aumack II, Councilman Goode, G. Sappah, T. Musson, J. Carlos Oviedo

Mr. Leckstein mentioned that the Mayor and Councilman are not in attendance at the meeting because the application is a use variance and cannot vote on it.

MINUTES: June 22, 2017

Motion to approve minutes was made by D. Fotopoulos, second by M. Sessa with ayes by all present.

J. Kovacs and J. Kovacs-Olsen abstained from the vote.

COMMUNICATION CARRIED OVER FROM 6/22/2017

Mayor and Council resolution number R153-17 Authorize Planning Board to Investigate Designation of Areas in need of Redevelopment and Housing

There was discussion regarding the difference between the CME Proposal and the T&M Proposal.

Motion to accept CME Proposal was made by M. Sessa, second by N. Vecchio

Ayes: N. Vecchio, R. Benedict, D. Fotopoulos, M. Sessa,
Nays: J. Kovacs, J. Kovacs-Olsen
Abstain:
Absent:

RESOLUTION: PATRICIA ROSSICS (DENIED)
KUPB 17-02
BLK 131 LOT 9
30TH 8TH STREET
USE VARIANCE

Motion to approve resolution was made by D. Fotopoulos, second by M. Sessa

Ayes: N. Vecchio, R. Benedict, D. Fotopoulos, M. Sessa,
Nays:
Abstain: J. Kovacs, J. Kovacs-Olsen
Absent:

NEW BUSINESS: MYSTIC @ KEYPORT, (CUMMINS)
KUPB 17-01
BLK 22, LOTS 26, 30 & 31
SUBDIVISION

Exhibit A1 – Cover letter 7/12/2017
Exhibit A2 – Preliminary Site plan dated 1/13/2017 revised 7/1/2017
Exhibit A3 – Final Plat dated 1/13/2017 revised 7/1/2017
Exhibit A4 – Boundary Topographic Survey dated 5/5/2014 revised 7/1/2017
Exhibit A5 – Floor Plans & Elevations dared 7/10/2017
Exhibit A6 – CAFRA permits dated 11/10/2016
Exhibit A7 –Pictures of the proposed homes
Exhibit A8 – Environmental report 2016
Exhibit A9 – Keyport Subdivision Landscape Plan (colored version) Dated 7/27/2017
Exhibit A10 – Book 441 page 9720 recorded 3/3/2005 – Deed Easement
Exhibit A11 – Contains two sets of building elevation front and rear. Prepared by his office. Shows nine homes from the rear of the project.

Exhibit B1 – T&M review letter dated 7/20/2017
Exhibit B2 – Environmental Commission review dated 7/27/2017
Exhibit B3 – Resolution dated 7/14/2014

Mr. Mirabelli introduced himself, explained he represented the applicant.

Mr. Mirabelli spoke about the project and the history of the application before the Board. Mr. Mirabelli mentioned the previous application that was approved for the use variance. Mr. Mirabelli spoke about the previous approval.

The applicant is here before the Board to seek a preliminary and final subdivision approval. They are seeking an amendment for prior use variance approval for the height. Mr. Mirabelli spoke about the change.

Mr. Mirabelli introduced his first professional.

Mr. Mark Zelina was sworn in as a licensed engineer in the State of NJ. Mr. Zelina spoke about his qualifications and was accepted by the Board as an expert in civil engineering.

Mr. Zelina spoke about the wavers in the T&M letters. Ms. Heard stated that they have no objections to the wavers.

Mr. Zelina introduced Exhibit A9, and described what Exhibit A9 was showing. He spoke of the elevation of the site and the flood zone. The application is the second part of the use variance that was previously granted. Mr. Zelina spoke about the use variance application and described what was approved by the Board. Mr. Zelina spoke about the size of the lot and explained that is what was approved previous. There was an application that was sent to DEP and one requirement that was to have a walkway for public access to the creek. That is why lot 26 had to be added to this application. There are no residential units proposed on this lot the only thing that will be on the lot is the walkway that was required by DEP. The lot sizes 3100 square feet to 3700 square feet, average is 3200 square feet. Each lot is a minimum of 30 feet wide and have a combined 10 feet side yard. The rear yard is 15 feet and they are seeking a rear yard setback for that as mentioned in the T&M review letter. There was further discussion regarding the lots in regards to the tideline access. Each home will have a 12 foot wide driveway with access to Beers Street, all utilities will be provided by the utility company on Beers Street. The first floor will be elevated on Beers Street to 16 or more. Base flood elevation is at 14, the application is proposing two feet above what is required.

Mr. Zelina went through the T&M letter and agreed to work with the Engineer and Planner to comply with their comments. There was discussion regarding the traffic with the additional houses. Mr. Zelina spoke about removing the tree on the north side of the property.

Copies of the easements between the lots will be submitted to the Board Attorney to review and approve before filing the applicant agrees to this condition.

Mr. Zelina spoke about the additional screening requested by T&M. Mr. Zelina requested that the Board not to request the additional screening. Mr. Leckstein asked if the existing fence goes along Front Street; yes. Mr. Zelina stated that there was a question about the existing gravel and trash will be removed and grass seed would be planted. Mr. Sessa asked about the maintenance of the property; the property will be owned by Mr. Cummins and he will continue to maintain it. Mr. Leckstein asked if the homes will be part of an association; Mr. Mirabelli indicated that each owner will maintain their own lots. There was discussion regarding once the properties are sold the applicant will not have maintain them. Discussion regarding what type of grass will be able to survive in this area; they will work with T&M on what type of grass to plant.

Commented [DN1]:

There was discussion regarding elevating the first floor to 17 feet, Mr. Mirabelli explained that is why the applicant is seeking a height variance so that this can be accommodated. Mr. Fotopoulos asked if the 381/2 included that addition; yes.

There was discussion regarding the existing gabion wall that runs along the entire back part of the development. It is not being affected by the application it's an existing condition. Mr. Cummins will seek confirmation that the gabion wall belongs to another property and they will maintain it. Mr. Mirabelli stated that Mr. Cummins received a letter from Keyport Legion that will satisfy that condition. Mr. Mirabelli will give copies to the Secretary for the Board. Mr. Mirabelli read the letter. Mr. Leckstein stated that this goes back to the need for an association. Mr. Leckstein feels that there has to be some type of agreement between all owners regarding maintaining the gabion wall.

There was discussion regarding the plot lines on the plans that were submitted. Ms. Heard asked that the plans be more accurate. Mr. Zelina agreed to work with T&M regarding the plans.

Mr. Benedict asked if the Board has any questions for Mr. Zelina. Mr. Fotopoulos asked about the setbacks. There was discussion regarding the setbacks. Mr. Fotopoulos asked about the site elevation, wanted to know where there is a six foot elevation, there was discussion regarding the elevations. Mr. Fotopoulos asked the actual number of elevation; Mr. Zelina stated between four to six feet in elevation. Mr. Sessa asked if the driveway was going to be at the four and half foot elevation; the driveways are proposed to go to 5.9 elevation. Mr. Zelina spoke about the concern of the site's elevation and the applicant has agreed to raise the slope of the driveways eight to ten percent. This will allow the site elevation to be increased by an additional foot. There was further discussion regarding the elevation.

Mr. Leckstein asked for clarification; Mr. Zelina explained that they agreed to raise the slope of the driveway to elevate the site to one foot above what is on the plans. Mr. Zelina stated that the whole plan will be raised one foot. There was discussion regarding the house elevations.

Mr. Fotopoulos mentioned about the flooding now it will come down ¼ a way north to lot 31, so two of the homes will have water at the bottom of the driveway. Is there anything that the applicant is doing to reduce this issue; no. Mr. Zelina stated that will be in the CAFRA permit and deed. Ms. Miller stated that the Borough is currently working on the drainage pipe that was in question. With the plan that's in the works now there may be away to potential raise that inlet. There was further discussion regarding the drainage pipe. They will work with the professionals regarding the elevation.

Mr. Mirabelli spoke about the deeds and what was included is recorded. They will also place some language which has to be approved by the attorney that meets with the requirements of the CAFRA permit. Mr. Mirabelli stated he is happy to work with Mr. Leckstein regarding the language. There was further discussion regarding what would be in the notice for the deed.

Motion to open to the public at 8:21pm was made by D. Fotopoulos, second by J. Kovacs-Olsen with ayes by all present.

Dr. Kenneth DeGroat, 333 Main Street, Chairman of Environmental Commission.
Mike Palmisano, 86 First Street, Vice Chairman of Environmental Commission.

Dr. DeGroat asked about the property lines on the diagram, existing and proposed. Concerned that where the new property lines are going to be. Who will be responsible for the gabion wall; Mr. Leckstein replied that the individual property owners will be responsible. Mr. Leckstein stated that he wasn't happy with that and the applicant's professional stated that that question was for the next witness. Dr. DeGroat stated he just wanted to make sure the Borough would not end up being responsible for the gabion wall. Mr. Leckstein replied that would not happen.

There was further discussion regarding the gabion wall and what happens when the gabion wall fails. Mr. Mirabelli stated that the next two witnesses can address this issue.

M. Palmisano spoke about the property lines; Mr. Zelina stated the next witness would address the wet-land issue.

Dr. DeGroat spoke about the security in that area of the walkway, the plans have the only light being removed, Mr. DeGroat asked if there was any plans to include lighting; Mr. Zelina stated that they are trying to discourage people from using the walkway at night. They don't want people to walk between the units at night.

Dr. DeGroat spoke about the flooding in the area of the project and regarding the sea level rise. Mr. Leckstein asked if the applicant will have an environmental engineer that will be testifying; Mr. Mirabelli replied yes. Mr. Leckstein explained that this witness would not be the correct person to address this.

M. Palmisano asked about the entire lot being impervious; Mr. Zelina stated that it is packed gravel. There was discussion regarding the lot being impervious. Mr. Palmisano asked if the CAFRA permit expired; Mr. Mirabelli asked that we let the professional that has done with this answer questions. Mr. Zelina stated that the next two people could answer these questions.

Mr. Palmisano stated that they should have a storm water management plan. There was further discussion regarding this issue.

Motion to close to the public at 8:30pm was made by N. Vecchio, second by D. Fotopoulos with ayes by all present.

Mr. Raymond Walker, Maser Consulting, gave his background and described his qualifications as an Environmental Scientist. The Board accepted him as an expert in environmental science.

Mr. Walker spoke about the issues regarding the gabion wall. Mr. Walker gave the background of the gabion wall and why it existed. The property owner had to file a copy of the deed restriction. The deed restriction states that there cannot be any modification to the gabion wall without DEP approval. If the DEP thinks the gabion wall needs repair they will state how it should be repaired. As far as who would be responsible he stated the applicant would be able to explain.

The other issue is the wetland on site these are coastal wetlands subject to 25’ buffer. DEP agreed that some of the buffers have already been compromised by some of the paved areas so they allowed the applicant to adjust the buffers in certain locations. There was further discussion regarding the buffers. In regards to flooding they are reviewed by DEP as part of the CAFRA process and DEP has agreed that the project has complied with the flood hazard rules and coastal rules relating by flooding. The Environmental Commission sent a letter to DEP regarding a lot of the issues and DEP determined it was okay to issue the permit. Regarding wetlands are reviewed only by the State.

Mr. Walker spoke about the Environmental commission comments regarding placing a bulkhead instead of the gabion wall. Mr. Walker explained why the gabion wall is better than a bulk-head.

Mr. Leckstein mentioned that what he thought the Commission stated was that the DEP current regulations don’t allow you to rebuild a gabion wall and would have to be replaced with a bulk head. Mr. Walker stated that was incorrect and went into details on what choices would be allowed.

Mr. Leckstein asked to clarify that DEP would allow the gabion wall to be replaced; yes but DEP would have review to approve the type of shoreline protection that would replace it. There was further discussion regarding the bulkhead, gabion wall and living shore line.

Motion to open to the public at 8:44pm was made by J. Kovacs-Olsen, second by D. Fotopoulos with ayes by all present.

M. Palmisano asked that the DEP would prefer the gabion wall since these properties are in the VE zone and the AE zone what does the FEMA have to say about the situation. Mr. Walker stated that under DEP and FEMA rules they prohibit building in the VE zone except for single family homes. This application is not in the VE zone, they are in the AB zone and are required to building the first floor above the flood elevation level.

There was further discussion regarding the VE zone what would be allowed to be built in regards to gabion wall or bulk head.

Mr. Palmisano questioned how far the gravel going to be removed, shouldn't there be a wetland buffer; yes, M. Walker explained where he buffer would be. There was further discussion regarding the buffer zone.

Dr. DeGroat, spoke about the CAFRA permit. One of the conditions was recording the deed was to be filed with the County Clerk within 90 days. Mr. Walker stated that was not correct there was further discussion regarding the CAFRA permit.

Dr. DeGroat asked if Mr. Walker read the environmental report that was submitted; yes. Dr. DeGroat asked if he agreed with the issue of flooding. There was a discussion regarding the report and flooding in the area.

Dr. DeGroat asked in Mr. Walkers professional opinion is this site okay to build nine single family homes; yes.

Motion to close to the public at 8:54pm was made by N. Vecchio, second by J. Kovacs-Olsen with ayes by all present.

Mr. Fotopoulos asked how closes are the houses to the VE zone. The back decks are right up to the VE zone.

Mr. Larsen, Licensed Architect and Planner, spoke about exhibit A11 which contains two sets of building elevation front and rear. Prepared by his office. Shows nine homes from the rear of the project. Mr. Larsen was involved with the previous application. He spoke about the architecture of the nine homes. There are two and three bedroom homes, approximately 20 feet wide, garage below. First floor will have the garage and some storage for items like trash. Mr. Larsen described the homes and explained that the reason they are looking for the height variance is because they would like to create a roof deck that would make it four stories. If the height is a concern the applicant is willing to remove that area. Mr. Larsen spoke about the homes being considered. The homes are smaller which is what people are looking for.

Mr. Larsen spoke about the project fitting into the Master Plan and revitalizing the down town area. The height they are asking in his opinion going the ten percent increase furthers the purpose of the land use law. Feels the homes would add an asset to this property. There was further discussion regarding the size of the homes and the positive criteria of having the application approved. As far as negative effects he doesn't believe there is any with this application.

Mr. Leckstein asked if the lot size changed; no they are not. Every lot will be at least 3,000 feet the only variance they are seeking is the height. Mr. Leckstein explained why the applicant is seeking an amendment.

Mr. Larsen stated that the Board's Planner mentioned about building in a flood zone, and stated that they will meet all requirements that are needed.

Mr. Sessa asked if the three feet would save the home owners money with the flood insurance; yes it would save them money.

There was discussion regarding the height of the houses. Mr. Fotopoulos questioned what the height of each house would be. Mr. Larsen stated there are things that have to be adjusted on the plan.

Mr. Fotopoulos asked if the applicant was seeking site plan approval as well; Mr. Leckstein replied yes. Any changes that are made on the plans would have to go to the Board Engineer to be reviewed and accepted unless there is something that seeks another variance.

Further discussion regarding the height of the houses.

Motion to open to the public at 9:14pm was made by D. Fotopoulos, second by M. Sessa.

Since there are no questions from the public the meeting was closed at 9:15pm.

Mr. Mirabelli stated they will be able to resolve the issue of maintaining the wall and property. The applicant felt in the beginning that the owners would be responsible. Mr. Mirabelli proposes that he will work with Mr. Leckstein to see what would be acceptable to him. Mr. Fotopoulos requested that he would like to see that as well. Mr. Mirabelli will have that for the board at the next meeting.

Mr. Mirabelli asked if the witnesses are excused so they don't have to come back; Ms. Kovacs-Olsen requested the Planner & Engineer be present at the next meeting.

Motion to carry application to next meeting without further notice was made by M. Sessa, second by J. Kovacs-Olsen with ayes all present.

Motion to take a five minute break was made and carried.

Roll call to continue meeting at 9:30pm.

PRESENT: N. Vecchio, R. Benedict, D. Fotopoulos, M. Sessa, J. Kovacs, J. Kovacs-Olsen

NEW BUSINESS: 26-28 WEST FRONT STREET
KUPB 17-05
BLK 61, LOTS 18, 20 & 23
USE VARIANCE/SITE PLAN

Exhibits A1 – Application dated 6/2/2017
Exhibits A2 – Floor Plans and elevations dated 7/4/2017
Exhibits A3 – Survey dated 1/18/2017
Exhibits A4 – Certificate of Formation for 7 Main Street, LLC
Exhibit A5 – Location Map
Exhibits A6 – Aerial Photo

Exhibit B1 – T&M Letter dated 7/20/2017

Ms. Heard stated that the rest of the items on page two through five they have no objection as to the waivers have been granted.

Mark Vaysberg, was sworn in. Mr. Kantor asked who the owners of 7 Main Street, LLC since January 2017. He and his wife are owners. Mr. Kantor confirmed that this is the property previously known as Gales Hardware; correct. Mr. Kantor asked Mr. Vaysberg what the first floor use was going to be used for; commercial/stores. Mr. Vaysberg is requesting the space which is 5,000 square feet to be split. The second and third floor he would like to convert into two studios and a one bedroom apartment on each floor. Total of three apartments on each floor.

Mr. Kantor asked if there was any easement/deed restriction; Mr. Vaysberg stated not that he is aware of.

Mr. Fotopoulos asked if Mr. Vaysberg was aware of what type of business was going to be moved in to the building; not sure possibly a gym. Whatever business would have to comply with all ordinances and any variances they would have to come back before the Board. There will be 9 parking spaces with one handicap there would be lighting along the building.

Mr. Kantor asked about elevation; Mr. Vaysberg stated nothing will be changing on the exterior of the building.

Mr. Kovacs asked about the fire door. Mr. Vaysberg stated that all the businesses will have access

Motion to open to the public at 9:35pm was made by D. Fotopoulos, second by N. Vecchio with ayes by all present.

There were no questions from the public the meeting was closed at 9:36pm.

Mr. Kausky, licensed Architect in state of NJ. Mr. Kausky described the floor plans for the second and third floors. Mr. Kausky stated that there will be fire proof stairway and sprinklers system for the building.

There is a storage and parking area in the rear of the building. The owner decided to remove the storage space in order to provide parking for the residential units. They will be demolishing that section and replacing it with nine parking spaces with one handicapped space. There will be lighting along the building for the parking area. There was discussion regarding the size of the spaces.

Mr. Kantor asked about the elevation and exterior of the building. Mr. Kausky stated that there will be no change to the elevation or the exterior of the building. Main Street will have two business store front which will have two exits. There was discussion regarding the brick front. Mr. Kovacs asked if the businesses will have access to the fire exits; yes.

Mr. Kantor asked about T&M's recommendations regarding the lighting in the parking lots; yes he will comply with the recommendations. Mr. Leckstein mentioned that the parking spaces would have signs stating resident parking only; yes.

Mr. Fotopoulos mentioned that he seven foot buffer, there was discussion regarding the ability to pull in and back out.

There was discussion regarding the generator; Mr. Kausky stated that there will be nothing on the ground.

The trash removal will be through the Borough's trash pickup. The trash enclosure will be subject to the recycling coordinator's approval. Mr. Kovacs asked if the enclosure would take up any parking spots, Mr. Kausky stated that it would not.

Mr. Vecchio asked if the front windows were going to be restored to the original heights; yes. Mr. Vecchio questioned a HVAC unit, Mr. Vaysberg stated that they were going to use window units. There was discussion regarding possibly supply a HVAC unit and where it would be placed if this was an option.

Motion to open to the public at 10:02pm was made by J. Kovacs, second by J. Kovacs-Olsen with ayes by all present.

No comments from the public the meeting was closed to the public at 10:02.

Jeff Carr, Licensed Engineer and Planner in the State of New Jersey. Mr. Kantor asked Mr. Carr if he is familiar with the application; yes.

Mr. Kantor asked about the sewer and water hook ups that is mentioned in the T&M letter. Mr. Carr stated that there is existing hook ups that can be used, if an upgrade is needed than the applicant is willing to comply.

Mr. Kantor asked if they would need a bulk variance; no it is a pre-existing building nothing will be changing on the exterior.

There was discussion regarding how many parking spaces would be needed. There was discussion regarding removing the handicap spot but still leave the stripped area since the apartments are not handicapped accessible. The Board agreed that if the building department feels that the handicapped spot is not need that they can make the handicap spot into a regular spot.

Mr. Carr spoke about the positive criteria in regards to the Master Plan feels that this project fits in with the plan. Mr. Carr doesn't see any negative criteria.

Discussion regarding whether a developer's agreement would be needed. Mr. Carr stated that he feels this should be waved; B. Heard agreed. The Board are in agreement with Ms. Heard.

Motion to open to the public at 10:19pm was moved by J. Kovacs-Olsen second by D. Fotopoulos with ayes by all present.

No comments or questions regarding this application were made the meeting was closed at 10:19pm.

Mr. Benedict asked Mr. Vecchio if the basement secured in terms of fire. Mr. Vecchio stated that it is a masonry building with a lock addition in the rear. They might have to do some structural.

Mr. Vecchio asked about the dumpster; they will be cans.

Motion to open to the public at 10:20 pm was made and carried, there being no comments or questions the meeting was closed to the public at 10:21 pm.

Application Vote:

Motion to approve application was made by M. Sessa, second by J. Kovacs
Ayes: N. Vecchio, M. Sessa, R. Benedict, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen.

PLANNING BOARD PROFESSIONALS: Update on applications

Ms. Miller stated that the Muradi application has posted all bonds and the plat will be signed.

Motion to adjourn meeting at 10:29pm was made by D. Fotopoulos, second by J. Kovacs with ayes by all present.

The next regularly scheduled Planning Board Meeting will be Thursday, August 24, 2017.