

The Keyport Unified Planning Board held a Regular Meeting on September 22, 2022 which was called to order by Mark Sessa at 7:05 PM, the Sunshine Law Notice was read followed by the Flag Salute.

ROLL CALL:

Present: M. Sessa, H. Aumack, W. McDermott, J. Oviedo, D. Pacheco J. Royster, N. Vecchio, C. Dickerson

Absent: Mayor Kennedy, Councilmember Davidson, G. Kotzas

Professionals: Marc Leckstein, Planning Board Attorney, Andrew Denbigh, Board Engineer, Kendra Lelie, Planner

MINUTES: August 25, 2022

Motion to approve with change was made by D. Pacheco, second by W. McDermott

Ayes: W. McDermott, J. Oviedo, D. Pacheco J. Royster, N. Vecchio, C. Dickerson

Abstain: M. Sessa, H. Aumack

COMMUNICATION

Email from Clerk regarding Resolution #2022-137 Approving Application of 357 W. Front Street and Mariners Village for Permit to Expand Piers Docks and Slips; and Ordinance #2022-04 Vacating a Portion of the Right of Way of Washington Street

Motion to receive and file was made by N. Vecchio, second by D. Pacheco with ayes by all present.

RESOLUTION: **KUPB #21-14**
 TRIANO
 156-158 MAIN STREET
 BLK 44, LOT 6
 MINOR SITE PLAN/USE VARIANCE

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

Ayes: W. McDermott, J. Oviedo, D. Pacheco, J. Royster, N. Vecchio, C. Dickerson

Abstain: M. Sessa, H. Aumack

**APPLICATION: KUPB #22-01
ARJIKA PROPERTIES
108 BROAD ST
BLK 60, LOT 6
USE VARIANCE (VARIANCE RELIEF)**

The applicant didn't have his revised plans into the Board Secretary on time. This application will be carried to the October 27th meeting without further notice.

Motion to carry to the October 27th meeting was made by J. Royster, second by N. Vecchio with ayes by all present.

**APPLICATION: KUPB #22-03
MARIA FERGUSON
280 WASHINGTON STREET
BLK 8, LOT 23
BULK VARIANCE & SKETCH PLAN APPROVAL**

Ms. Maria Ferguson, owner of the property was sworn in.

Exhibit A1 – Zoning Denial
Exhibit A2 – Application
Exhibit A3 – Architectural
Exhibit B1 – T&M letter dated 7/7/22

Mr. Leckstein explained that the applicant is looking to place a second floor addition to the house, they are not going to be creating any new variances by doing this. They already have existing side yard setback which are not increasing by adding to the second floor it is adding to the house they have to have those variances. There is also a pre-existing variance for the lot size where 50 feet is required and there is 40 feet existing. There is nothing that the applicant can do regarding the lot size.

Ms. Ferguson explained that she requesting to lift the upstairs approximately six feet because there is no headroom, there is no closets and no bathroom. If the application is approved she would like to add a closet and bathroom. Mr. Leckstein confirmed that there would be no height variance needed; correct.

Mr. Denbigh mentioned for record keeping the July 7, 2022 letter, he stated that they have no objections to any of the waivers on page two and three. Mr. Denbigh confirmed that the variances are as follows: undersized lot of 40 feet where 50 feet is required which is already existing, side yard setback of 1.3 feet where 6 feet is required, and 14.3 feet where 16 feet are required which already exists. They have an undersized lot. Mr. Leckstein explained that the applicant is just going up; Mr. Denbigh stated that they are just building on top of the house.

Mr. Paul Teo, contractor for the applicant described the changes to the house. Mr. Denbigh asked if they were going us vinyl siding; yes. Mr. Denbigh asked about any lighting being added; Mr. Teo stated that there would be a light for the driveway.

Mr. Denbigh asked is if there was any run off to neighboring properties; no. There are no existing easements for this property.

Chairman Sessa stated that he visited the site and doesn't see any infringement on adding to the second floor to any of the neighboring houses.

Motion to open to the public at 7:12 PM was made by H. Aumack, second by N. Vecchio with ayes by all present.

Michael Lane, 51 First Street asked about the oil tank on the side of the house; Ms. Ferguson stated that they have switched to gas and that the oil tank will be removed. Mr. Lane asked that be a condition of approval. Ms. Ferguson stated that was ok.

Motion to close to the public at 7:14PM was made by J. Royster, second by H. Aumack with ayes by all present.

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

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

**APPLICATION: KUPB # 21-10
KEYPORT PROFESSIONAL PLAZA, LLC
25 EAST FRONT STREET
BLK 80, LOT 1.02
USE VARIANCE (Mayor and Councilmember recused from application)**

Exhibit A-15 Revised Architectural
Exhibit A-16 Revised Engineering Plan
Exhibit B4 – T&M Letter dated 9/21/22

Michael Marinelli, Engineer for the applicant.

Mr. Alfieri asked that Mr. Marinelli updated the Board on the changes. Mr. Marinelli stated that nothing has changed regarding the plan that was previously presented. At the last hearing the Board asked that they update their drawings based on the previous discussions. That included re-locating the driveway, relocating the force main, include the EV parking spaces, relocating the existing sanitary and storm sewers that are owned and maintained by the Municipality by an easement. Mr. Marinelli stated that they incorporated all of those revisions that they agreed to in the past hearings and submitted revised documents. All the exhibits to date already show those items a lot of the changes that were made were sub graded and it wouldn't affect any of the

renderings that have been shown. They did add in the electric vehicle charging spaces as discussed at the previous meeting. There are 50 apartment units, 38 will be one bedroom and 12 will be two bedrooms. The required parking for that unit configuration is 69 for the two bedroom units, and 24 for the one bedroom units totaling 93 required spaces. They have provided nine EV parking spaces which count for two spaces. That would reduce the number of spaces from 93 to a total of 84. The plan presented has 85 parking spaces, they have one in access as the ordinance requirement for number of parking spaces on site.

Mr. Leckstein stated that he understands this has come up a number of times, that the applicant has 85 parking spaces but you are minus six of them because they don't have access to. Mr. Marinelli stated that is correct, and the traffic engineer will speak about that.

Mr. Denbigh asked for confirmation, it was said that there are nine EV stations but on the plan there is 14. Mr. Marinelli stated that there are 14 shown but they are taking credit for nine as double spaces. Mr. Alfieri explained that the statute limits the number you can take credit for.

Mr. Denbigh explained that an EV spot you receive a two for one credit, but you can only take a maximum of ten percent of the required onsite parking. Per the RSIS they are required to 93 spaces so they can take nine space credit for the EV spaces.

Mr. Marinelli spoke about the flood ordinance, he testified previously that they could comply because all of the infrastructure that they are proposing are above the flood elevation which is the FEMA elevation plus three per this new ordinance, all things provided below are permitted uses. The finish floor is nine feet about the elevation, one clarification he would like to make is in the ordinance it states no utilities should be below the flood elevation, he stated that is an impossibility because all the infrastructure that is there, the electric, sewer and storm is already below the base flood elevation, so that would have to be below base flood elevation. He believes that the applicant would need relief from the Board for that portion of the ordinance. The building and the finished floor they would be compliant with the ordinance.

Mr. Denbigh stated that he didn't believe the Board could grant that relief from the flood ordinance, when the applicant applies for the building permits, they would have to make submission to the flood plain manager and whenever the ordinance is adopted at the time they submit for permit they would have to comply with that. Mr. Leckstein stated that most flood ordinances do allow for the Board to grant the variances. There was further discussion regarding the variance that would be needed for the flood ordinance.

Mr. Alfieri stated that there are several technical comments in the T&M letter, many are carried over from the previous report. Mr. Alfieri clarified that they will address all the technical comments in their letter.

There was discussion regarding the CME letter (Exhibit B2) that dealt with the flood ordinance. Mr. Marinelli stated that in the ordinance it does state that the Board can grant this approval. Further discussion regarding what utilities will be under the flood elevation that already exists.

Motion to open to the public at 7:27PM W. McDermott, second by N. Vecchio with ayes by all present.

Michael Lane, 51 First Street, asked about the landscaping, he stated there is a green strip parallel to the parking lot. Before the town homes was a big ditch that was filled in and grass was planted. He stated that there is now an opportunity to place landscaping in that area and to make the same kind of arrangement with the fire department to put landscaping. He feels landscaping at that site is important because when you drive down First Street the building is visible. Mr. Alfieri stated that the applicant would agree if the fire department allows them to put landscaping on their property line, they have no objection to doing that and they would work with the engineer on that.

Mr. Alfieri stated if the application gets approved, they would send a letter to the fire company to ask permission and then work out the details and bring to the engineer.

Storm water management – he looked at the drawing and didn't see anything about the delineation of the linear drain at the entrance to the parking lot from East Front; Mr. Marinelli stated that there was not a proposed linear drain across the driveway of East Front. The driveway is pitched and there is an inlet on the corner of the proposed curb line at that intersection which would collect the run off. Mr. Lane asked if he was aware that there is a requirement for the linear drain if water flows into East Front. Mr. Lane thought in one of the previous hearings there was going to be a linear drain across the driveway. Mr. Marinelli stated that they could change it to a linear drain as a condition of approval.

Mr. Leckstein stated one thing that happens is Mr. Lane states something and then the applicant agrees to something because Mr. Lane says it. He feels that the Board should ask their professionals if what Mr. Lane is stating is accurate. Mr. Denbigh stated he would have to review the previous application to answer, he will look into it with the Borough Engineer. There was further discussion regarding the linear drain.

Mr. Leckstein confirmed that a linear drain across the eastern driveway connection to East Front Street will be added if required by T&M and CME.

Mr. Lane asked about the video inspection on First Street storm water drain underneath the sidewalks connecting to the townhome down spouts, Mr. Marinelli stated that they agreed to do that as a condition of approval. There was discussion regarding when the video was going to be completed. Mr. Marinelli mentioned that the applicant has already video the existing municipal storm sewer and sanitary sewer system, the system within Broad Street and the existing drains on the site. The applicant did this because of the Boards concerns, this one is more complicated because it is connected into the non-functioning pump station, the applicant would like to defer that cost and have it as a condition of approval. There was further discussion regarding the storm drain's condition and what would be done with it.

Mr. Leckstein stated in the previous application there was a condition that the applicant would fix the pump station; Mr. Alfieri stated that was correct. Mr. Leckstein mentioned if this application was turned down the applicant would have to fix the existing pump station. Mr. Marinelli stated that he agreed that was one of the conditions.

Mr. Lane asked what the status is of the post 526 soil study to determine if construction would need to put on piling. Mr. Marinelli stated that they would have to do that as part of the construction permits, these would be things that are decided during the construction phase by the construction department. Mr. Leckstein stated that he agreed with that. Mr. Lane stated that they did report that the soil was not in good shape; Mr. Alfieri stated that would be part of the construction permit process.

Mr. Lane mentioned that the new site plan has the new location of the Division Street storm water pipe; Mr. Marinelli stated the existing municipal system is being relocated per the engineer's request. Mr. Lane asked if the Borough has agreed to that; Mr. Marinelli stated that they have proposed a new easement, the existing utilities are within an existing easement. With the new location they would have to enter an agreement with the municipality regarding the new location and a new easement. Mr. Lane confirmed that agreement was not in place yet; Mr. Alfieri stated that it wasn't and wouldn't go to the Governing Body until it was a condition of approval.

Mr. Lane asked if they were aware that within the last week there was a major cave in on the Broad Street storm water pipe; Mr. Marinelli stated that he wasn't aware of that.

Mr. Leckstein stated that it not abnormal for the applicant to spend the resources to do all the work before they have approval of the Board. The Board could deny the application and these items would not have to be done.

Mr. Lane stated that the CME report on the proposed new pump station indicated some concern with the sizing of it and he believed that Mr. Mullan had the same concern are there any remaining concerns regarding the pump station; no, there design calculation shows the design pump station is more efficient. Mr. Denbigh asked the applicant to provide an updated report to their office. Mr. Marinelli stated that he would provide the report. Further discussion regarding the updated report that was provided to Mr. Taylor.

Motion to close to the public at 7:43PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

Mr. Ricardo Perez, Architect described the changes in Exhibit A-15. Mr. Perez stated that the ground level shows the garage door. The upper levels used to have 54 units now there is 50 units, there are 38 one bedroom and 12 two bedrooms. Mr. Perez described the rest of the changes to the building. The changes in the elevation for the height they removed one foot from each floor. Mr. Alfieri asked for the height of the building; Mr. Perez stated the height of the building itself from the top is 70 feet, which is the maximum allowed. The only part of the building that is higher than the 70 feet is the bulkhead for the elevator which is approximately an 80-foot

square area. The elevators have equipment on top and the ordinance does not allow for bulkheads above the maximum height. Mr. Leckstein asked what the bulkhead height was; 72 feet, Mr. Leckstein asked if the variance was for two feet; yes. Mr. Alfieri asked what the changes were to the elevation, Mr. Perez stated that they changed the scale and what he believes is more with keeping with the town. There was further discussion regarding the changes in the scale that were made from the previous rendering (A7) to what was being presented currently. Mr. Perez mentioned that the new plan is more consistent with the town.

Mr. Perez stated that they lowered the height, changed the scale, they added some store front windows for the appearance of retail which were open louvers before now they will be opaque glass sheets so you won't see much car light coming from the garage.

Mr. Perez described the appearance the first floor would be solid, before there were louvers. They added the windows where they felt made the most sense. There was further discussion regarding the changes made to the appearance of the building.

Mr. Alfieri stated one of the comments/requests from the residents was that the rear of the building that the wall mounted lights be designed so the face down and the applicant has agreed to do that; yes.

Mr. Perez entered Exhibit A-17 revised rendering of the front of the building. Mr. Perez described the exhibit and the changes that were made.

Mr. Alfieri mentioned on the T&M report there was a comment that the applicant put a glazing around the entire building. Mr. Perez stated that was a new comment on the report and he disagrees with their comment. He stated retail is normally on the street side it is not on the back of the building. He feels that the residents wouldn't want to see glass in the rear and it serves no purpose on the side of the building. Mr. Perez recommended that the glazing be only on the street side. Mr. Alfieri confirmed that was all the changes; yes.

Mr. Denbigh asked for confirmation of the building height he mentioned that they have an elevation of 72 feet atop of the bulkhead; yes. Looking at the roof are they able to drop the exercise room the two feet so the applicant can comply with the height variance; Mr. Perez stated it wouldn't make a difference, the height of the exercise room doesn't impact the height of the elevator. There was further discussion regarding the heights of each floor of the building.

Mr. Denbigh asked about the trash/recycling pick up based on the changes of the plans are there going to be any changes; Mr. Perez stated it got better, there would be trash rooms on every floor where there used to be only one. Mr. Denbigh asked if it would be a private hauler; yes.

Ms. Lelie thanked them for doing the changes she felt that it upgraded the front facade. The middle section has a top piece; Mr. Perez stated that was the elevator. Ms. Lelie asked if there was anyway that could be moved so it isn't seen from the front. Mr. Perez stated that you wouldn't probably see it based on how far it is. Ms. Lelie asked what the set back is from the front façade; it is approximately eight feet and has a five-foot wall in front of it.

The opaque windows along the front of the building are the same design you have for the apartments; no, they would be store front windows. Further discussion regarding the size of the windows on the front of the building. Ms. Lelie asked about the blank walls, she asked if there was something they could do with that make it look better what type of façade treatment can be done to that area; Mr. Perez stated that they could put something on the façade. Ms. Lelie stated that this building is on a main part of the commercial district that requires mixed use, having blank walls wouldn't help with the continuity of bring retail into this area.

Ms. Lelie asked when Mr. Perez designed the building was, he asked to put any non-residential use in on the first floor; yes. Ms. Lelie asked what happened with that; Mr. Perez stated it would have been either the retail space of the apartments. There was further discussion regarding why the plan changed from having retail on the first floor and the flood elevation.

Mr. Leckstein mentioned in the previous application it was for mixed use, Mr. Marinelli stated that it was office space. He also mentioned that the existing VNA office will still be in the building. Further discussion regarding what was going to be on the first floor of the approved application that went before the Board and what is being proposed currently.

Mr. Leckstein asked if the applicant didn't come in with the changes would they be able to build the building that was approved. Mr. Marinelli stated he believed that the approval would have been grandfathered. Ms. Lelie felt that maybe the flood plain manager could help decided what is and isn't allowed in the flood plain because they have a large portion in the general commercial district in the flood plain and one of the primary goals of the general commercial district is mixed use. There was further discussion regarding other towns having store fronts on the first floor probably in the flood zone.

Ms. Lelie stated the Master Plan recommends twenty percent of residential units be affordable. Ms. Lelie asked if any of the units going to be affordable; Mr. Alfieri stated the prior approval for 24 units, this approval has 26 new units. They would agree to provide 20 percent of the new units which would be five affordable. There was discussion regarding the previous approval date. Ms. Lelie asked if this was a new application and should comply with the Master Plan which requires a 20 percent. Mr. Leckstein stated the date of the previous approval was March 28, 2019. The Master Plan was adopted but the ordinances for the Master Plan were not.

Ms. Lelie stated that she wouldn't count the previous approval of the 24 units, the application before the Board is new. Mr. Leckstein agreed that it was brand new. Ms. Lelie stated that the 20 percent needs to be based on the number of units that are before the Board.

Chairman Sessa mentioned one item in the T&M letter asked if the units are going to be rental or sold; rentals.

Chairman Sessa asked about the court yard on the top he asked if there was a way, they could show him how it would be accessed. Mr. Perez stated it would be by the elevator and only for the residents. Mr. Alfieri stated it would be all enclosed and accessed through securely. Mr. Alfieri also stated at the last meeting they agreed to FOB the access to the building and gate as well.

Motion to open to the public at 8:04 PM was made by J. Royster, second by D. Pacheco with ayes by all present.

Mr. Leckstein corrected what was previously stated. He stated that the ordinances were changed during the course of the last application. When the application started, they needed a use variance and the Council passed the ordinances to match the Master Plan and the use variance was eliminated.

Kathy Shaw, 95 Elizabeth Street, question for architect she appreciated the work that was done in the redesign. She spoke about the economic impact for the investor for mixed use producing resiliency for the investor and the community. Ms. Shaw spoke about the goals and objectives of the Master Plan and all of the elements that a mixed use would bring to the downtown area.

Ms. Shaw spoke about flood proofing being a possibility for commercial use in the flood zone. Ms. Shaw stated she brought up the question to the Board once before and was deferred away from the Board and followed through with the Mayor and Council about the pump station. It was stated that you couldn't build commercial in that area which she feels is absolutely frightened her because the FEMA rules which she did send to Mr. Vecchio and asked the administrator to share it, she feels that you can have commercial in the flood area. There was further discussion regarding other towns that have commercial businesses on the ground floor with flood proofing.

Ms. Shaw spoke about the different building's façade downtown; she feels that what is shown with the architectural plan is not what we have downtown.

Ms. Shaw mentioned at previous meetings there was a discussion regarding having commercial businesses. Ms. Shaw asked why they could not have commercial; Mr. Alfieri stated that they never discussed that last time. Mr. Alfieri stated that commercial was not discussed. He mentioned that it will be discussed when the Planner testifies. There was further discussion regarding the commercial use for this application. Mr. Leckstein explained that there will be time to make statements for the application after all the professionals for the applicant have testified.

Ms. Shaw asked how they determined the economic advantage of just having 50 residential units in a downtown. Mr. Alfieri stated that the architect did not make that determination. Ms. Shaw asked why the design doesn't provide any modest flood mitigation relief since they got rid of the pump station. Ms. Shaw asked why the design didn't provide any kind of greenery or a promenade area where there could possibly be rain gardens. Mr. Leckstein asked to take one question at a time. Ms. Shaw asked why is it all impervious surface with the exception of the green being in the back. Mr. Perez stated it is streetscape it is lined up with the street. There was further discussion regarding the streetscape and the Master Plan.

Mike Lane, 51 First Street, there was a question that was brought up regarding the previously approved application with the 24 units if it could still be built with the new flood ordinance. The ordinance points out clearly that if construction has not started on a project no matter what was approved the new flood prevention ordinance applies. Mr. Alfieri stated that they are not proposing to build that, they are proposing to build what is before the Board. Mr. Lane stated he just wanted to verify something that he felt was incorrect.

Mr. Lane stated the Flood Prevention Ordinance refers to the uniform construction code and he believes the Board remembers Mariners Village, the UCC states you cannot have AC outlets, light fixtures, switches below the base flood elevation plus three. Mr. Leckstein asked if he had a question for the architect; yes. In your base flood level is there any utility or AC outlets, any machinery for the elevators below the base flood elevation plus three; no, the drawing doesn't show any of that. Mr. Perez stated that they are not allowed to have any utility outlets below the BFE3.

Mr. Leckstein asked if the EV stations were going to be in the garage; Mr. Alfieri stated that they haven't laid them out yet. Mr. Lane asked if sheet 4 on the plans show where the EV stations are located; Mr. Alfieri stated that Mr. Perez didn't draw the site plans. There was further discussion regarding the locations of the EV stations.

Mr. Lane asked if all the habitable areas are above the base flood elevation; yes.

Motion to close to the public at 8:17PM was made by H. Aumack, second by N. Vecchio with ayes by all present.

Scott Kennel with McDonough & Rea Associates, spoke about his credentials as a traffic expert. Mr. Leckstein asked if he is a licensed engineer; no, a traffic expert. Mr. Leckstein stated that he can testify as a traffic expert but he could not testify for any engineering. There was further discussion regarding Mr. Kennel's credentials.

Mr. Leckstein marked in Exhibit A-18 which is the report from McDonough & Rea revised as of September 9, 2022.

Mr. Kennel summarized the report. He spoke about the parking generation, based on the number of dwelling it is estimated that the 50 units would generate approximately 20 trips in the morning and approximately 26 trips in the afternoon. In a 24-hour space the 50 units would generate approximately 300 trips.

Regarding the parking the site has 94 parking spaces where only 93 is required by ordinance. He would like the Board to recognize that his firm has done numerous studies for similar types of developments as well as done research counts. They found apartment buildings similar to what is being proposed would generate a peak parking demand of 1.5 vehicles per dwelling. If you exclude the nine EV spaces that they receive credit for and the six spaces being dedicated to the town homes they provide 79 spaces which is still 1.6 spaces per unit.

Mr. Kennel stated that 38 of the units are one bedroom and there is available on street parking adjacent to the site which the residential site improvement allows you to consider. It is his opinion that the parking spaces that are proposed on this site will support the 50 dwellings. There was further discussion regarding the parking that is being provided.

Mr. Denbigh asked for clarification on the site plan it is currently showing 85 spaces, six of which is dedicated to the town homes that brings the count to 79; correct. Then you show 14 electric vehicles, yes, Mr. Kennel stated that if those could be used for other vehicles as well. Mr. Denbigh referred to the EV ordinance, section three. It states that it is a violation to park or stand a non-electric vehicle in a space, so they cannot park internal combustion engine vehicle in a space that is specifically outlines for an EV. If they backed out the fourteen spaces, then there would be 65 spaces for internal combustion spaces on site. That would be a ratio of approximately 1.3 Mr. Denbigh asked if new the ratio of electric vehicles in the state of NJ. There was further discussion regarding the EV stations and make ready space for the proposed site.

Mr. Marinelli explained why they were showing all the EV station, in the beginning it would only be 1/3 of the EV spaces. All the electric placed for the spots. Mr. Leckstein stated he didn't think the applicant could be penalized for having to have those spaces because by state law they need to have them. There was further discussion regarding what would be submitted regarding the EV stations if the Board approves the application as resolution for compliance.

There was further discussion regarding the six spaces that are being dedicated to the town homes. Mr. Leckstein stated that after giving the six spaces away there is a parking variance. Ms. Lelie asked what is the parking variances. Mr. Alfieri asked if it was a parking variance or a parking deficiency. Mr. Alfieri stated that Mr. Kennel did subtract the six; Mr. Kennel stated that there would be 79 on site parking spaces. After a discussion regarding the parking spaces, it was determined that there is a five-space deficit.

Ms. Lelie spoke about the comment that was made regarding the 1.5 spaces as a typical requirement for a project similar to this. Mr. Kennel stated that is what their research has shown and their experience doing parking studies on similar projects it is generally 1.5 or less for an apartment complex. There was discussion regarding where the apartment complexes were located, availability for public transportation and off-street parking availability.

Mr. McDermott asked if any of the projects are similar to Keyport's down town area; Mr. Kennel stated Bradley Beach is very similar.
Motion to open to the public at 8:40pm was made by N. Vecchio, second by H. Aumack with ayes by all present.

Barbara Currie commented that East Front Street already has lack of parking, she asked if they are allotting spaces and the overflow could go onto the street. Ms. Currie stated that during the day and evening there is no parking with the business in the downtown area on First Street and East Front. Mr. Kennel stated that the peak parking demand generally occurs during the evening hours for residential uses. During the day there may be residents that are shopping or working. He feels that period for consideration is during the week days after 6pm. His office conducted a number of observations on Saturdays in June and July from 10 am to 2pm and they found that there was available parking on First Street and East Front Street. Ms. Currie asked that they were talking about residential, she stated that they are still a commercial business district. If they maintain the commercial status, you are taking away parking. Mr. Kennel stated it was his testimony that they have adequate parking on site. He just wanted to convey to the Board that the RSIS allows you to consider the downtown area where you have available on street parking. There was further discussion regarding the possibility of the parking from the apartments overflowing onto the street.

Michael Lane asked if they are going to start off with three EV stations; Mr. Kennel stated that there would be five. Mr. Alfieri stated that would be 1/3. Mr. Lane stated that these five would come out of the 79 spaces; yes. Mr. Lane stated that they would not allow non-EV to park in these spots; correct. Mr. Lane asked how it would be enforced; it would be by title 39. Mr. Lane asked if there would be some type of signage or a person; Mr. Alfieri stated that they did agree to have an onsite manager. Mr. Alfieri stated he wasn't sure if the ordinance allows for municipal enforcement, Mr. Denbigh stated in the ordinance there is a section that states that the EV parking shall be monitored by the Municipalities Police Department.

Mr. Lane spoke about the parking deficiency starting with 17 spaces; Mr. Alfieri stated that was not necessarily true. Mr. Leckstein stated the State Law requires them to do this so the Board cannot argue that there is some kind of detriment to the RSIS standard because they are providing EV stations that they have to provide. Mr. Leckstein stated that the six spaces can be questioned by the EV stations cannot be. There was further discussion regarding the parking deficiency and the EV stations.

Mr. Lane asked how many site visits did they make to the site; Mr. Kennel stated for himself he made five, his partner five, and the staff did traffic counts. There was discussion regarding how many vehicles used the parking lot at this location and how many overflowed to the street. Mr. Leckstein asked when they did their parking count how many vehicles were parked; Mr. Alfieri asked if Mr. Kennel did a parking count on the property. Mr. Kennel stated that they did observations. Further discussion regarding the number of vehicles parked in this lot during the different times of the day.

Mr. Lane asked what the total number of on street parking spaces on East Front; Mr. Kennel stated approximately 10 to 12 spaces from their site driveway. Mr. Kennel observed that there were approximately four spaces available. Mr. Lane stated that the area is mixed use already and the residents are parking in the lot; Mr. Leckstein stated that the applicant could close the parking lot off without any approval from the Board and these vehicles would have to park on the street.

There was further discussion regarding the parking and having the people that are using the parking lot have to park on the street. Mr. Leckstein explained to the Board that they could deny this application and the applicant could close the parking lot and those cars would have to find another place to park. Mr. Lane stated at the same time the applicant could follow the Borough Master Plan and have the first floor as commercial, which would reduce the number of units and not have as many vehicles overflow to the street. Mr. Leckstein stated that Mr. Lane was correct but he couldn't argue that people on their property would be forced out and that would create a problem because the applicant could close the lot without this approval. Mr. Lane asked if the parking owners would have stickers; yes, they will have something that states they are residents. Mr. Vecchio asked if the spots are going to be marked or would it be first come first; Mr. Alfieri stated right now they didn't attend to have signed spaces. If it becomes a requirement, they will do that.

Mr. Lane asked if the site plan shows any signage; Mr. Marinelli stated that they are not proposing any signage. Mr. Alfieri stated that they would have signage in the parking area stating that it is limited to the residents. Mr. Lane asked if they were going to document the signage in the site plan; yes, if that is what the Board wants.

Mr. Lane asked if they familiarized themselves with the businesses; no, he has not. Mr. Lane spoke about the businesses on East Front and Broad Street. There was further discussion regarding the availability of parking if this site is developed.

Motion to close to the public at 9:05PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

Motion to take a 10-minute break at 9:05PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

Meeting back in session at 9:13PM.

ROLL CALL:

Present: M. Sessa, H. Aumack, W. McDermott, J. Oviedo, D. Pacheco J. Royster, N. Vecchio, C. Dickerson

John Taikina, Planner for applicant. Mr. Taikina spoke about the different variances that the applicant is looking asking for.

Mr. Taikina stated that he will first address the three items for the use variance and then he will speak about the height variance as well as the positive and negative criteria for this application.

Mr. Alfieri clarified that the height variance is a C variance; yes.

Mr. Taikina spoke about the suitability of this project. He spoke about Ms. Lelie concern about not being able to build retail or commercial in the downtown because of the flood plan. Mr. Taikina stated that was not the case. For this application unfortunately most of the site exists below the flood elevation of 13 where the flood plan is. Flood plan plus three is 16, which gives them their levels. The architect had stated that they would be able to comply with the requirements for the electric. Mr. Taikina stated that they couldn't put retail that level, he explained that they could waterproof the retail but he has not found a store front window that is water proof or a door. Mr. Taikina stated that FEMA wants the water to have the ability to run through so that makes having retail on this level not possible. He did state that the part of the building that has the correct elevation is where the VNA is located. Mr. Taikina spoke about the different levels for each floor of the proposed building.

Mr. Taikina stated that the proposed building is not in the middle of Front Street, it is located in the north eastern edge which is the last block of the general commercial area. He believed that this helps to mitigate what is not the perfect ground floor retail configuration.

Mr. Taikina stated the third item is that the downtown is compact and walkable. Mr. Taikina stated in the Master Plan it states bringing in additional residents and economic activity to downtown. He feels the best thing for all of the businesses that are around this building is walking wallets, from the residents that would walk and visit the restaurants and shop in the stores and the second thing is the activity of the resident coming and going to provide the street to look busy. He stated he believes that is more important than another 500 sq feet of business. Mr. Taikina stated that on this property it is better not to have commercial space on the ground.

There was discussion regarding the parking and the electric vehicle parking as far as the law and if there is enough parking on the site for the residents based on the number of bedrooms in the proposed building.

Mr. Taikina spoke about the positive criteria as it relates to the 2017 Master Plan and mixed residential in the downtown area.

Mr. Taikina spoke about the changes that were made to the site so that it fits into the downtown area as per the comments made by the Boardmembers at previous meetings.

Mr. Taikina stated that there will be affordable units as per the ordinance requires.

There was a question regarding a buffer between commercial and residential. Mr. Taikina stated the majority of the site is residential, he doesn't feel that it would apply to the majority of the site. They do have the western portion where the commercial VNA is located. He believes that there would be a C1 variance by reason of an extraordinary exceptional situation. The residential town houses utilize parking on their lot as well as access, he stated that they really couldn't but a buffer screening to a use that is using land on their lot. Mr. Leckstein stated that was self-created hardship. Mr. Leckstein continued to explain, it is self-created hardship due to reason that the parking spaces are on their lot is because the predecessor wanted to build the townhomes and if he remembered correctly in order to receive approval that they agreed to place the parking on their lot. Mr. Taikina stated that the townhouses came into with full understanding that this was the situation. There was further discussion regarding the buffer for this location.

Mr. Taikina stated he doesn't feel that this application is detriment to the zone or public good, and feels there is no negative impact for approving this application.

Ms. Lelie asked if there were any thoughts for the VNA to elevate, move or provide a connection to the proposed building. Mr. Taikina stated that it is connected currently. Further discussion regarding whether the VNA is connected to the proposed building. Her question is the part of the parcel that is not in the flood plan area was there any thought that they are missing an opportunity by not having non-residential in this area; no, Mr. Taikina stated he doesn't think they are missing an opportunity he feels that the applicant forgoes an opportunity for a mixed-use building. There was further discussion regarding possibly having the mixed use as part of this project and how these fits into the Master Plan.

Mr. Vecchio stated that this is their opportunity where they can continue to have the commercial mixed use in their downtown district.

Motion to open to the public at 9:54PM was mad by N. Vecchio, second by D. Pacheco with ayes by all present.

Kathleen Shaw stated that the planner made a statement regarding the limitations of ground floor business she stated that she doesn't understand the concept of that statement. The Master Plan and the work that was done in 2004 and 2007 with the state of New Jersey Smart Growth Plan and Christ Phillips and Shapiro project for public spaces who came in visioning about the necessity of East Front Street extending the downtown; Mr. Taikina stated that the world changed in 2012. Flood protection became an issue, there was discussion regarding the impact that had on having a mixed use in the flood plan area.

Ms. Shaw asked how would a downtown that is below sea level have a redevelopment area that now has new investment that flood proofs all the properties on Bay Avenue and the developers that are there have managed to grade the land to various levels of setback so they are not waterproof but flood proofed under the FEMA guidelines according to the gospel of the flooding he spoke about. Mr. Taikina stated Highlands had the ability to change things to a greater extent than they have the ability to change on Front Street. They are not changing the elevation of Front Street; they are not elevating the sidewalk to carry it down. They are not changing the elevation of boardwalks. There was further discussion regarding the changes in how Highlands is flood proofing their businesses.

Ms. Shaw suggested possibly setting the property back with some rain gardens with small commercial entities she believes the residents would be thrilled with having that ambience, with some outdoor dining, possibly seasonal. Ms. Shaw stated she believes that it far more attractive amenity downtown with a rain garden to mitigate some of the water. There was further discussion regarding how some of the suggested changes would make the building look like Disney land.

Michael Lane – On the first floor in the present plan there is residential units; yes. Those are above the flood plan level; yes. Mr. Lane asked if they took ten to fifteen units and converted them into commercial space it wouldn't be a flood plan issue; Mr. Taikina stated that it would be commercially viable but it would not be a flood plan issue. Mr. Lane asked why would it be commercially viable; Mr. Taikina stated it would be anywhere from seven to twelve feet above the sidewalk level. Mr. Lane stated that would be a great opportunity, if you go down to Mike's sub shop, they are about twelve feet above the sidewalk and they have a ramp. Mr. Lane stated that they could have a gorgeous ramp up the side of the building which would hide the parking area. That ramp could lead to a patio mirroring the back patio. You could have a commercial shop and a patio where people could go out and drink their coffee and it would be an asset to the town just like they have in Freehold. Mr. Taikina stated if it seven or twelve feet in the air it is commercially viable. There was further discussion regarding why this would not be viable for this site. Mr. Lane spoke about where the commercial district used to be before the town homes were built. Mr. Lane asked if he was aware of the resolution that was done by the Smart Growth Committee; Mr. Taikina stated to have ground floor commercial. He explained he understands the concept, his experience with ground floor commercial in downtown areas it is best and most successful when it is limited. Mr. Lane stated that Mr. Taikina was not familiar with the report from Smart Growth. Mr. Lane spoke about the report from the Smart Growth. Further discussion regarding the report from the Smart Growth and the Master Plan for mixed use.

Mr. Lane asked if they would give some thought to modify the developing plan to place a gentle slopping ramp up in front of the windows to hide the parking lot to a center patio with a grand entrance into their building which would enable mixed use; Mr. Alfieri stated the plan that is before the Board is the one the applicant wants the Board to consider. Mr. Lane stated that they are going with the plan that does not meet the criteria for the Master Plan and their Land Use requirements. Mr. Alfieri stated that is why they are before the zoning board.

Mr. Lane stated that there are multiple presentations from the residents that would take about an hour or two. Chairman stated that he just wanted to finish with the Planner.

Barbara Currie asked for clarification from the planner. She asked if he said to make this project mixed use it would be a financial hardship on the applicant because of the expense it would take to put business on the one side and if that is a financial hardship is it the Board's responsibility to approve the application. Mr. Taikina stated no, to say a developer isn't willing to build commercial space is like saying a dolphin doesn't like water. They would love to build every inch they can but it needs to be cost effective. In the mixed-use buildings with podium parking, they are very expensive comparatively by the square foot basis. They would need to be very efficient and make sure every inch is used appropriately. When you start to fight the grade and flood plans as well as the different regulations it becomes very difficult. Hearing the Board, the last time, when they didn't like the number of units and bedrooms, the applicant listened. They now have fewer bedrooms which has lowered the density on the site and that brings the plan before them. If they go to a mixed-use plan, it would not be significantly different. There was further discussion regarding where the mixed use would be located and if it would work on this site. They feel what is before the Board is appropriate, they listened to the Board and made the changes.

Ms. Currie stated if they put a little more consideration in the plan and they put a little more appealing like a shop or a little area to sit out at least it wouldn't be atrocious looking like what is being proposed. Mr. Taikina stated that there is nothing more atrocious than an empty store front. Ms. Currie stated that was a matter of opinion.

Motion to close to the public at 10:17PM was made by N. Vecchio, second by D. Pacheco with ayes by all present.

Motion to carry to the October 27th meeting was made by H. Aumack, second by D. Pacheco with ayes by all present.

Mr. Leckstein reminded the public that the application is being carried without further notice and anyone that wants to hear the application must be present at that meeting at 7pm.

Motion to adjourn meeting at 10:19 was made by N. Vecchio, second by J. Royster with ayes by all present.