

The Keyport Unified Planning Board held a Regular Meeting on December 1, 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, N. Vecchio, M. Sessa, J. Oviedo, W. McDermott, D. Pacheco, G. Kotzas, C. Dickerson

Absent: H. Aumack, J. Royster

Professionals: Marc Leckstein, Planning Board Attorney, Fran Mullan Board Engineer; Caroline Reiter Board Planner

RESOLUTION: KUPB 22-04
OYSTER BAY URBAN RENEWAL INC
SITE PLAN
BLK 22 LOT 8

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

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

RESOLUTION: KUPB 22-05
PINE BELT NISSAN, INC
SITE PLAN
BLK 51 & 52 LOTS 1, 2-52/ 22, 22.02,23.02,22.03, 24, 25

Motion to approve was made by Councilmember Davidson, second by N. Vecchio

Ayes: Councilmember Davidson, M. Sessa, W. McDermott, J. Oviedo, D. Pacheco, N. Vecchio, G. Kotzas, C. Dickerson

Abstain: Mayor Kennedy (Mayor abstain because of a conflict she recently purchased a vehicle from the applicant.)

APPLICATION: KUPB 22-08
LINDSAY KASSOF & JASON P. YOUNG
99 OSBORNE
VARIANCE RELIEF HARDSHIP

Exhibits: A1 – Zoning Denial
A2 – Planning Board Application
A3 – Survey
A4 – Architectural
B1 – T&M letter dated 11/16/22

Ms. Kassof explain that they want to expand the kitchen, add a deck on top of the kitchen expansion. They would like to renovate their porch and bump it out so they could have a dining area. They would also like to widen their driveway and put a carport over the driveway so they could accommodate two vehicles since they don't have a garage and they would like to add an outdoor shower. They also have a bulkhead that goes down into their basement they would like to do that storage area. Mr. Leckstein confirmed that they currently don't have a garage; correct. There was discussion regarding where they currently park their vehicles.

Mr. Leckstein asked the applicant to explain why they would like the other amenities; Ms. Kassof stated that they have had the house for two years. They use the kitchen to enter the house and it is very small, they track in a lot of mud so if they bump out the kitchen, they can make a mud room to better accommodate coming in and out of the house as well as making it larger so people can hang out. Ms. Kassof stated that the porch needs to be redone and the house has to be resided so they figured they could do all this at one time. They would like to put two cars in their driveway and build a carport. The bulkhead for the basement the doors is flimsy and they have a lot of sports equipment store there and it is a tight fit to get things in and out. They also store lawn mowers and garden equipment in the basement as well. The outdoor shower they would like to add because Ms. Kassof surfs and they are planning to get a dog. Mr. Young explained that they are currently using their basement as a garage for storage.

Mayor Kennedy asked if there was bilco doors; Mr. Young stated that there is actually a shed there. Mayor Kennedy confirmed that is where the entrance was. Mr. Young stated that they do store some stuff in the doorway area but they would like to make it a little taller and more durable.

Mr. Leckstein confirmed with Mr. Mullan that the applicant is before the Board preliminary because they have a preexisting side yard setback issue. Mr. Mullan referred to page 8 of their review letter it stated that the minimum side yard setback is six feet, there is an existing non-conformity, there is a variance required but there is no increase in the degree of non-conformity, where 2.75 feet is provided where six feet is required. The combined side yard setback is 16-foot minimum where combined will be 15.1 feet, so there would be a variance for that setback. The rear set back is 15 feet required where 10.3 feet is proposed there would be a variance for that. There are set back bulk variances that are required. Mr. Leckstein asked about the building coverage; Mr. Mullan stated the maximum lot coverage for principal buildings is over a little, and the combined lot coverage between the principal building and the accessory building exceeds the maximum allowed.

Mr. Mullan suggested that the carport be moved to three feet from the property line instead of the proposed 2.75 feet. Mr. Mullan stated that they don't have any big issues with what is being proposed. Mr. Mullan asked if there was going to be any plumbing connection for the outdoor shower for the drain and the water supply or will it be internal from the building; he asked if there was going to be any utilities connections to the street. Mr. Young stated that they were going to tap into the water supply from the principal building and they would have a sump pump for the drainage that would go to the sanitary sewer lateral. There was further discussion regarding the water and drainage for the outdoor shower.

Mr. Mullan confirmed that the carport was going to be built over the existing driveway area; Mr. Young explained that the driveway is a little smaller so they could move it three feet from the property line as suggested. Mr. Mullan stated that normally the parking spaces need to be nine feet wide for each car; which would total 18 feet for the two cars. There was further discussion regarding the carport and the width of the driveway regarding the impervious coverage. Mr. Mullan stated that it would be a de minimis amount.

Mr. Mullan went through the T&M letter and stated that they had no issues with the waivers the applicant is asking for. Mr. Mullan confirmed that they were going to expand the front portion of the front deck; yes. Mr. Mullan asked about the rain that runs off the property he stated it sheds off to the street in both directions. He asked Mr. Young to confirm that none of the downspouts drain off the neighboring properties; Mr. Young stated that he was correct. There was further discussion regarding the way the water drains currently and that it would stay the same after the change in the porch.

There was confirmation as to how far the carport would be moved away three feet from lot 12.

Mayor Kennedy referred to exhibit A2 – 21, she mentioned the reason for the carport is to get into the house if it is raining or snowing without getting wet. Mayor questioned if they had to move it three feet from their property line; no, Mr. Mullan explained it was just from the adjoining property line. Mr. Mullan explained that there was no need to separate the carport from the principal structure; it cannot be attached to the principal structure.

Motion to open to the public at 7:20PM was made by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

Michael Lane, 51 First Street, complimented the applicant on the plans; he stated that he had a copy of the survey and asked if there was a marked-up drawing that shows boundary conditions and the setbacks; Mr. Mullan stated that they were included in the package.

There being no further questions from the public there was a motion to close to the public at 7:22PM by Mayor Kennedy, second by Councilmember Davidson with ayes by all present.

Mayor Kennedy asked what the apron size of the driveway went through engineering review; Mr. Mullan stated that it is very close to a doublewide driveway and what the Mayor is proposing would not trigger to rebuild the driveway apron.

Councilmember Davidson asked how close the second level deck is to the property line; Mr. Young stated it would be the same distance as the side of the house to the neighbors on Osborne and the same distance from the carport to the neighbor on Warren. Councilmember Davidson stated from the deck you would be looking into your neighbors' yards; yes.

Councilmember Davidson stated that it is nice to see plans of everyone improving their houses and adding more outdoor space.

Motion to approve application was made by Mayor Kennedy, second by Councilmember Davidson

Ayes: Mayor Kennedy, Councilmember Davidson, Chairman Sessa, W. McDermott, J. Oviedo, D. Pacheco, N. Vecchio, G. Kotzas, C. Dickerson

APPLICATION: KUPB #22-02
ANITA MAKSIMON
57 MAIN STREET
BLK 60, LOT 1
BULK VARIANCE & SKETCH PLAN APPROVAL

Exhibit A1 – Zoning Denial

A2 – Application

A3 – Survey

A4 – Architectural

B1 – T&M Letter dated 7/8/22

Anita Maksimon applicant explained that she would like to expand her main living space, redo her siding. She is looking to renovate her home and add an additional unit. She explained that things have changed in her life and her son is now going to be moving in with her for her son who is now 21 years old. She would like him to have his own space.

Mr. Leckstein asked if once the property is expanded and the apartment is created and your son moves would you then be looking to rent it out in the future. Mr. Leckstein explained once the apartment is there it is there; Ms. Maksimon stated that she hasn't thought that far. She stated now a day she feels that the children remain with their parents. She also stated that her family is also expanded she explained that she recently got engaged, and they are getting married next year. She explained that they have two dogs. Mr. Leckstein explained that his point is when she goes to sell the house it would be a two family. Ms. Maksimon stated in the future yes, she would like to rent it.

Mr. Leckstein stated that whatever the Board decides tonight is forever it doesn't stop if her son moves. He explained that the Board has to be aware of the fact that it would change to a two family which is a conforming use. Chairman Sessa stated that this area is open to two family homes.

Mr. Mullan went through the T&M review letter and stated that he has no objection for the waivers being granted.

Mr. Mullan confirmed that the applicant's proposal is to add a first floor and second floor addition to the house as a second living unit with a bedroom upstairs; yes, to align the main space. Mr. Mullan confirmed that there would be a couple of steps in the back entrance doorway into the studio ground floor portion of the addition and then there is an interior staircase that goes up to a single bedroom on the second floor with a laundry room, closet, etc. there would be a bathroom upstairs and kitchen facilities on the first floor; yes.

Mr. Mullan stated that there is no existing off-street parking, there is no driveway or parking spaces on the property currently; Ms. Maksimon stated that there is a cut out but it is grass. Mr. Mullan stated that the backyard is essentially grass; yes. Mr. Mullan asked if she uses that as her driveway currently but there is a depressed curb; Ms. Maksimon stated that currently it is vacant so it hasn't been used. Mr. Mullan asked if she had any proposal for off street parking; yes. Ms. Maksimon explained that right now, it is a one but she would like to expand it for two-car driveway and then potentially a garage. Chairman Sessa asked if this was in the back part of the property; yes. Mr. Leckstein asked if that was part of her application; no. Mr. Leckstein asked if extending the driveway was part of the application; no. Mr. Leckstein stated that the Board has to deal what the application is before the Board, so he believes Mr. Mullan's question is more of how the applicant would deal with the situation today not in the future.

Mr. Leckstein asked how many vehicles can she park currently; one vehicle. Mr. Leckstein stated that the other cars would have to park on the street. There was discussion regarding the residents using the municipal lot that is across the street to park their vehicles. Mr. Mullan suggested that there is an existing depressed curb but the applicant's backyard is grass; correct. Mr. Mullan asked if there was any paved or gravel parking space currently; no. Mr. Mullan stated what could be considered and it would be the Board's preference if the applicant were interested in creating a paved driveway in the backyard area in line with the depressed curb that is there currently. It would be a good idea to have one or two parking spaces on the property to support a two-family structure versus a new addition that creates a second dwelling unit with zero parking in the property. Mr. Mullan stated that he doesn't feel too strongly about it that the Board could feel that the lawn area in the back yard with no off-street parking is similar to many of the properties in that area. Mr. Leckstein asked if the applicant could get one car on the property currently; yes. Chairman Sessa stated that the Third Street is very narrow and is a one-way street. The other houses along that street have no parking and he believes that they probably park in the municipal lot. This would be the only chance the Board has to get a car off the street and out of the parking lot. He stated it might be a good idea to at least get one parking space. Mr. Leckstein asked the applicant if she was agreeable to that; yes.

Mr. Leckstein asked if the applicant would have to provide Mr. Mullan with a plan to make sure it was being done appropriately; yes, it would amount to adding to the applicant's plans and her commitment that the applicant is agreeing to replace at least nine feet wide by twenty feet long lawn area with paved parking space in line with the depressed curb; okay. Mayor Kennedy asked if the applicant was going to bring someone out to pave one wouldn't it be better to ask them to do two, since that would be their future plan. This way they wouldn't have to come back out to add on to the driveway at a later date. Mayor asked if that was allowable, Mr. Leckstein stated he had no problem with that suggestion. There was further discussion regarding the parking standards while adding an additional unit. Mr. Mullan stated that they could make as a condition of approval that the applicant create and pave two parking spaces in the driveway in line with the depressed curb that is currently on the property. Since the dimensions of the depressed curb is not shown Mr. Mullan asked that with their review that the applicant may have to re build the curb and the apron to be eighteen feet wide and in line with the two nine-foot-wide parking spaces for a doublewide driveway in the backyard area. Mayor stated that she feels that was the applicant's goal anyway, this way they

wouldn't have to come back to the Board. There was discussion regarding possibly being able to park four cars on the property. It was decided that four cars would not be able to be parked on the property. Mayor reminded the Boardmembers that the residents could only park on one side on West Third Street so it is not going to take any spaces away if the driveway apron needs to be made wider. Mr. Kotzas stated that you don't want to turn their back yard into a parking lot. Mr. Leckstein confirmed that the Board was good with two spaces in the driveway; yes.

Mayor asked if that would be a different variance, Mr. Leckstein stated that it was already noted. Mr. Mullan added that in this zone, the maximum allowed for all building and impervious surface combined is 60% max on each lot. If you didn't have any new driveway included the proposed is 47.1% combined impervious surface and that would comply. Mr. Mullan stated that he would have to do some math to see if the change triggers any variance. Mr. Mullan suggested in balance with a "C" variance two parking spaces to support the proposal is a better trade. Mr. Leckstein stated that Mr. Mullan can do the calculations after the hearing and if the Board approves the application he can have the information for the next hearing. Mr. Leckstein explained that the Board can grant it like they have done in the previous application.

Ms. Reiter mentioned that providing the additional parking is a better alternative for the neighborhood and the adjoining area than any resulting variances. Mr. Leckstein added any time you can get a vehicle off the street it is a good thing. Further discussion regarding the possibility of the driveway causing a variance.

Mr. Mullan stated seeing that this is a permitted use he asked the applicant do they have any drainage currently on the property, do any of the roof drain or downspouts go into your neighbor's yard; no. Chairman Sessa stated that Ms. Maksimon neighbor is way in the back. Mayor Kennedy stated and the other side is a parking lot. Chairman Sessa added that Ms. Maksimon really didn't have any adjoining neighbors.

Mr. Mullan stated that it is an undersized lot; he stated that he was sure the Board is familiar with the property. They gave the Board the zoning table; they don't have any strong objection to what the applicant is proposing. If the Board feels two parking spaces on the paved driveway is a good element to add he feels that would be a condition of approval that he would support.

Motion to open the public at 7:42PM was made by Mayor Kennedy, second by D. Pacheco with ayes by all present.

Michael Lane, 51 First Street asked if the house currently owner occupied; Ms. Maksimon stated that it was currently vacant. On the application it stated that it was owner occupied, he confirmed that the applicant doesn't currently live there; correct.

Mr. Lane stated the impact of adding a second dwelling unit he feels is significant. Adding a second dwelling unit on a 256 square foot lot calculated to a density of 30+ dwelling units per acre. The requirements for an RB zone are 7.8 dwelling units per acre this density is four times greater than the Master Plan allows. Mr. Leckstein asked Ms. Reiter and Mr. Mullan if there was a density variance

needed; Ms. Reiter stated as it was indicated the two family is permitted, the lot is non-conforming. Mr. Leckstein stated if it is four times than this would make the application a use variance application. Mr. Lane stated the page it was under in the Master Plan; Mr. Leckstein mentioned that it would have to be in the ordinance not the Master Plan. Mayor Kennedy asked if it was in the zoning denial; Mr. Leckstein stated it was not.

Ms. Reiter stated that a two-family dwelling is in section 25.1 6.1 permitted principal use. She stated that they have a two-family dwelling that is permitted. Mr. Leckstein stated that doesn't mean there isn't a density variance.

Mr. Mullan asked Mr. Lane if he said 30; yes. Mr. Mullan explained that the existing lot square footage is 2856 square feet. The two-family dwelling is supposed to be 7500 square feet. Instead of having two-family dwelling set on a 7500 square foot conforming lot, this would be a two-family dwelling on undersized lot that is 2856 square feet. It is less than half of the size of the lot that the ordinance requires as a minimum lot size. When you do, the math and you divide the 2856 square feet by 43,560 square feet per acre and you put two dwelling units on .0656 acres that equates to 30 dwelling units per acre that would be the formula for density. The allowable density is two dwelling units on a 7500 square foot lot, the allowable density is 12 dwelling units per acre is what two dwelling units on a 7500 square foot lot equates to. Twelve dwelling units per acre would be compliant as a density. The applicant's proposal there is two dwelling units on the undersized lot equates to 30 dwelling units. Mr. Leckstein asked if this makes it a use variance; Mr. Mullan stated it would be a density variance. Ms. Reiter stated that she does agree with the math, she looked through the zoning schedule, which is attachment number two. Ms. Reiter stated that nowhere on this under RB two-family Ms. Reiter read the requirements that were included. Nowhere on there does it say anything about the density. Mr. Leckstein confirmed that the ordinance doesn't have a density setting for the zone. Mr. Vecchio added that in the RC zone there is a density. There was further discussion regarding the zoning schedule the ordinance and the Master Plan.

Mr. Vecchio asked if 108 Broad Street needed a use variance; Mr. Leckstein stated when Arjika went to a two family they didn't need a use variance. If the application that is before the Board this evening needs a use variance, they will have to re-notice and come back. Mayor Kennedy stated if the application is a use variance, then she and Councilmember Davidson couldn't sit on it because if the applicant was going to appeal it would then go to the Mayor and Council. She explained that is why this question needs to be answered.

Ms. Reiter stated that she has reviewed the ordinance and she didn't see anything else, she does note that there is very little regarding the RB zone. Mr. Leckstein stated that there is no use variance involved in this application and they can continue it. He stated that Mr. Lane's point is taken that legally it doesn't damage the Master Plan by allowing this use. He stated that is a relevant point but it doesn't seek jurisdiction from the Board. There was further discussion regarding other zones where the density was clearly stated.

Mr. Lane stated that the land use element made some significant mistakes and one was that they should have copied the density information from the Master Plan into the land use element. He asked the Board going forward to fix that problem. Mr. Lane stated another significant mistake they made was having a density requirement for mixed use. Mr. Lane spoke about the mixed-use definition. Chairman Sessa reminded Mr. Lane that the Planning Board couldn't make the changes it would be the Council. He asked Mr. Lane to address this to the Council so they could address the problem.

Mr. Lane stated he would like to give out a handout. Mr. Leckstein asked what it was; it is documentation of percentage outages of all the variances. Mr. Leckstein questioned whether this was already included in the T&M letter; no, the letter just lists the outage which is how far is out.

Mr. Leckstein asked Mr. Lane to give a copy to Mr. Mullan. Mr. Mullan explained that it looked like Mr. Lane has a column that is labeled percent of standards. Mr. Mullan stated that would be the degree of non-conformity; Mr. Lane stated yes, he would like to talk about the degree on non-conformity.

Mr. Mullan stated in their letter they mention the minimum and maximum required by ordinance and then they have a column of what is being proposed and what is existing so the Board can get a sense of non-conformities. Mr. Leckstein asked if the percentages looked correct to Mr. Mullan. Mr. Mullan mentioned that the Board is familiar with the property and the lot size and that it doesn't conform to the specified minimum lot size. The existing structure does not conform to the set back and the coverage. The proposed addition will increase the degree of non-conformity. The addition will be built and encroach in the side yard setback, the addition will increase the degree of non-conformity for the lot coverage. Mr. Mullan stated that he does believe it is a judgement call and he would defer to the Board's planner to put into context the degree of non-conformities and whether or not this application proves for that kind of judgment call.

Exhibit L1 - 3 sheets / 1st sheet is what Mr. Mullan just explained, the second sheet is a photograph of the curb cut out and the third sheet is property card.

Mr. Lane described the exhibits he handed out regarding the delineation for a single family and two-family home in the RB zone. Mr. Lane stated that the applicant wants to convert a single-family home into a two-family home. He stated that amount of outage is horrendous and he feels the Board needs to consider upholding the zoning ordinances that were approved. Mr. Lane spoke about each of the outages. Mr. Lane stated if the application is approved why does the Borough have a zoning ordinance. Mr. Lane added once this application is approved it becomes permanent. When the applicant goes to sell the property, it would be sold as a two-family home on a lot that is less than 1/3 of what is required.

Ms. Reiter asked the applicant if she is aware that her lot is significantly undersized; yes, her architect explained that to her. Ms. Reiter stated that is what she wanted to know if she had that discussion with her architect. Mr. Reiter explained what a building envelope was amongst the engineers and planners. She stated the building envelope in an ideal world would be able to fit her

house, in Ms. Maksimon situation the building envelope is small and narrow it is approximately three feet in width. Ms. Reiter stated that the property is long; Ms. Maksimon stated that she spoke about this with the architect and it is currently not the right standard. She stated that they are not adding to the width of the property they are just keeping it in line with the current structure.

Mr. Mullan explained that the existing house encroaches in the front yard setback and side yard setback and the proposal is to add the addition but not extend past the existing structure that is currently there. There was further discussion regarding what the addition would be encroaching on since the applicant has no neighbors and the positive and negative criteria of this application.

There was discussion regarding Mr. Lane's comment about Ms. Maksimon currently living at the property. She stated that it currently vacant but she intends on living at the property.

Mr. Lane stated he would like to point out that this is a single-family home on a lot that is undersized a single-family home. When the applicant purchased the home, it was purchased as a single-family unit on a lot that is approximately 55% of what is required for a single-family home. The applicant purchased it as a single-family home and now would like to make it two family, which doesn't align with any ordinance.

Mayor Kennedy stated that a two-family home is not against the ordinance. There was further discussion regarding the RB zone allowing two-family homes. Mr. Leckstein stated that there is no variance in having this a two-family house but it is not true anyone with a single-family home in a RA zone can make it a two-family house because the applicant might not have enough property and that is Mr. Lane is saying. Mr. Leckstein stated they can have a two-family home but there are other issues involved, which are the bulk standards for the property, which they are undersized. The Board could deny the application based on that.

Mayor Kennedy stated just for the record she was correcting Mr. Lane when he said that we were going against the ordinance in allowing a two-family home. Mr. Leckstein agreed with the Mayor.

Mr. Lane stated that they put three cars in the back would it remove any recreation space in the back. Mayor stated that there would only be two spaces. Mr. Lane spoke about the parking requirement that were in the ordinance. Mayor stated that was already covered.

Mr. Leckstein corrected himself he stated that it was not the creation of the second family that creates the variance. It is the extension of the house. Mr. Leckstein asked Mr. Lane if the applicant had come before the Board not asking for a two-family but only the expanding the single family back would he be objecting to the application on the same grounds. Mr. Lane stated that the percentages would change; Mr. Leckstein stated the only thing that would change would be the parking variance.

There was further discussion regarding if the applicant was before the Board to expand a single family instead of a two-family home regarding the variances.

Motion to close to the public at 8:17PM was made by Mayor Kennedy, second by D. Pacheco with ayes by all present.

Ms. Maksimon mentioned that her goal was to improve her home.

There was further discussion regarding the size of the lot and what Ms. Maksimow property is surrounded by there was a motion to approve the application made by G. Kotzas, second by W. McDermott.

Ayes: Mayor Kennedy, Chairman Sessa, W. McDermott, J. Oviedo, D. Pacheco, G. Kotzas, C. Dickerson

Nays: Councilmember Davidson, N. Vecchio

DISCUSSION REGARDING ADDITIONAL MEETINGS FOR 2023. (last year the Board decided it would be whatever month had a fifth Tuesday, for 2023 that would be May 30, August 29, October 31)

The Board has agreed to the following extra meetings for 2023: May 30 and August 29

PLANNING BOARD PROFESSIONALS: Mr. Mullan stated that there is application already in the works for 2023.

Motion to adjourn at 8:39pm was made and carried with ayes by all present.

The next regularly scheduled Planning Board Meeting will be January 26, 2023