

The Keyport Unified Planning Board held a Regular Meeting on December 14, 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: M. Goode, N. Vecchio, M. Sessa, R. Benedict, L. Davidson, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen

Marc Leckstein, Planning Board Attorney, Donna Miller, Planner, Fran Mullan, Engineer

ABSENT: Mayor Aumack, G. Sappah, J. Oviedo

MINUTES: November 9, 2017

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

Ayes: N. Vecchio, M. Sessa, R. Benedict, L. Davidson, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen

Nays:

Abstain: M. Goode

PROFESSIONALS SWORN IN

**RESOLUTION: MYSTIC @ KEYPORT
KUPB 17-01
BLK 22 LOT 26, 30 & 31
44 BEERS STREET
SUBDIVISION**

Motion to approve with changes was made by J. Kovacs, second by M. Sessa

Ayes: N. Vecchio, M. Sessa, R. Benedict, L. Davidson, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen

Nays:

Abstain: M. Goode

PUBLIC HEARING: OPEN SPACE AND RECREATION PLAN ELEMENT (CARRIED FROM THE OCTOBER MEETING)

Maciej Maslonka from Matrix New World Engineering spoke about the amendments to the document. The current versions has all the amendments, Mr. Maslonka stated there were a few last minute comments and minor edits. Mr. Maslonka handed out the changes to the Board and explained each change.

Board Comments:

D. Fotopoulos asked about Cedar Street, he asked for clarification to where the transient was going. Mr. Maslonka explained that he had incorporated the parks accidentally, this was corrected.

D. Fotopoulos asked if there was any diversion from the Master Plan to the Open Space and Recreation Plan; Mr. Maslonka stated the only change was that Recreation was changed from Commission to Committee.

R. Benedict stated he feels that everything has been addressed from the recommendations by the Board.

Motion to open to the public at 7:15pm was made by N. Vecchio, second by D. Fotopoulos with ayes by all present.

Michael Lane, 51 First Street, met with the administrator and engineer one item that they were coached on in developing the Master plan was what they wanted in the future. The waterfront in Keyport is the greatest asset. Mr. Lane spoke about the ROSI, Veterans and Benjamin Park. Mr. Lane gave background regarding the Promenade and stated how they highlighted the green area which made a difference when going for grant. Mr. Lane explained his handout that he gave to the Boardmembers. Mr. Lane made his suggestions to what needs to be done. One item he feels that the Board should write a note to Mayor and Council to update the Ordinance and to update the ROSI.

Mr. Fotopoulos asked Mr. Lane about the tax map on the index sheet, he stated there is a similar situation that lots are not merged. Question, if all the lots are labeled Keyport Borough exempt does it matter. He understands about vacating Myrtle. Mr. Lane stated that speaking with Mr. Taylor he agrees. Ms. Miller stated that you if you are going for a grant and the lots are merged it might create an obstacle. There was further discussion regarding the vacating of streets and merging lots.

Mr. Lane requested that certain items get highlighted before going to the State.

The Board agreed with the delineation of Cedar Street Park and Veterans Park would like to have a continuation from Benjamin Terry Park to those parks.

There was discussion regarding Browns Point Marina; Mr. Maslonka will look into the lots and see what should be included in the plan.

Mr. Lane spoke about the comments he had on the Open Space & Recreation Plan. Mr. Lane gave a handout and spoke about his handout. Mr. Maslonka will look at the comments and make whatever changes are necessary.

Mr. Leckstein recommend that we carry the Plan to the next meeting and to give Mr. Lane a copy in advance so he can comment before the meeting.

Tom Gallo, 55A Fulton Street, stated that Mr. Lane made good points just wanted to remind everyone that there were 120 people made reference to. Some of comments regarding where Wi-Fi, kayaks should be were discussed with the committees. He asked the board to consider and to be copied on any changes that are being made. Mr. Fotopoulos mentioned that they aren't changing the element that they are adding an element. There was further discussion regarding the edits to the plan.

Motion to close to the public at 8:05pm was made by J. Kovacs, second by J. Kovacs-Olsen with ayes by all present.

Motion to carry to the January 25, 2018 meeting without further notice was made by N. Vecchio, second by L. Davidson with ayes by all present.

Draft Site Plan & Subdivision Regulations (carried from the October meeting)

Ms. Miller stated that she is working with Planning Board secretary to have the changes the Board would like to see. There is nothing for this meeting.

Draft Flood Damage Prevention (carried from the October meeting)

Ms. Miller handed the Board the changes on this document. The Board will review this document and carried to the January 25th meeting.

Map of Proposed Zoning Amendments (carried from the October meeting)

Draft of Land Use Regulations (carried from the October meeting)

Motion to table until further notice made by D. Fotopoulos, second by M. Goode with ayes by all present.

NEW BUSINESS: **317 BEERS STREET**
 ANTOUN GREISS
 KUPB 17-06
 Blk 51, Lot 18.2
 317 Beers Street
 Variance Relief – Hardship

- Exhibit A1 – Application to Unified Planning Board
A2 – Deed between Rio Partners LLC and Joseph Merla
A3 – copy of the tax map which consist of two sheets, tax map and blow up where the property is located
A4 – Survey of the property dated 12/3 2015
A5 – Survey with rear structure
A6 – 2011 Certificate of Occupancy
A7 – Tax Assessor record
B1 – Letter from Board Engineer
B2 – Listing for the House

Mark Breitman, applicant attorney gave brief overview of what the Board is looking at. When the applicant purchased the property back in 2011 there was single family in front and a building in the rear of the property. When the purchase took place and they went for a CO it was issued and everything was fine, at that time the rear structure was being rented to a third party. While that structure was rented the applicant went for a pool permit and it was issued. In 2015 it came to his client's attention by notice of violation by Keyport that the second structure was not a proper use. They came before the Board last year for a use variance to allow it to stay a rental unit; before the Board could make a decision the applicant decided not to move ahead. The application was dismissed without prejudice by the Board.

Mr. Breitman spoke about the variance they are looking for. They are seeking the Board approval for a site plan approval for the rear structure and a variance to have the structure remain where it is located. One condition would be that it would not be rented out to a third party and the applicant has stated that it would only be used as a pool house. For the summer time use it would be used for changing and cooking.

Also, received a letter from the Board Engineer (Exhibit B1), after reviewing the items on the letter Mr. Breitman stated there are no changes. The town professionals also agreed that the variance is de minimis.

Mr. Greiss was sworn in, he was asked if he agreed with everything Mr. Breitman said; yes.

Mr. Breitman asked Mr. Greiss about Exhibit A-5 the survey. Mr. Breitman asked if anything was changed; no. When the CO was issued 2011 was that the existing location at that time; yes.

Exhibit A6 is a CO that was issued by Keyport on June 8, 2011. The CO has that it has four bedrooms, Mr. Greiss explained that the front structure has three and the rear structure has one bedroom. The Tax Assessor record (exhibit A7) that was given to you by the Tax Assessor. Mr. Leckstein asked what the relevancy of these exhibits if we are eliminating the idea that the rear structure is a separate residence on the property. Mr. Breitman stated so that it is established that it was there from the time of purchase. There was discussion regarding the amount of bedrooms in each structure.

Mr. Mullan asked if it was their proposal that it can be occupied for family, Mr. Breitman stated not as a separate dwelling if the children are playing outside in the summer they can make food in the unit. Mr. Mullan asked if it would be considered an accessory building; yes.

Mr. Greiss commented that he and his wife will stay in the back and his son would stay in the front. Ms. Miller stated that Mr. Greiss just stated that they would live in the back. Mr. Greiss asked if they can stay in the back why not. There was discussion regarding whether the rear structure could be considered a dwelling unit. Mr. Leckstein stated that he understood that the applicant was before the Board for a pool house which would not have a kitchen or bedroom. There was further discussion regarding what would be allowed in the pool house.

Ms. Miller read the ordinance definition of an accessory use or building as well as the permitted uses in the zone. There was discussion regarding principal versus accessory uses and what might be allowed. There was discussion regarding what Mr. Greiss stated. Mr. Greiss explained when he bought the house he was told he could either rent the back or live there, which was why he purchased the house.

Mr. Leckstein explained that zoning does not care if you are renting the unit or someone from your family is living there. There is no difference under zoning.

Mr. Leckstein stated that Mr. Greiss is testifying that at some point he wants to reside in the back house, which creates a second residence in the back which is not what the application before the Board is about. Mr. Greiss stated that there was nothing wrong when he purchased the property he doesn't understand what the problem is. Mr. Leckstein stated that it is not legal. There was further discussion regarding the unit.

Motion to take a five minute recess was made by J. Kovacs-Olsen, second by D. Fotopoulos with ayes by all present.

Meeting reconvened at 8:35pm

Roll Call: M. Goode, N. Vecchio, M. Sessa, R. Benedict, L. Davidson, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen

Mr. Breitman stated that his client has agreed that the rear structure will not be used as a residence. It will be incidental use it will be as a pool house structure, man cave.

Mr. Leckstein asked if they will stipulate that no one will ever sleep in that house; Mr. Breitman stated that no one will take residence in the unit. Mr. Leckstein wanted to make sure the applicant understands. Mr. Breitman stated that it will be placed in the resolution it will be used as a pool house/man cave. If in the future if something changes Mr. Greiss will come back to the Board for a use variance.

Councilman Goode asked if they would remove the kitchen; applicant is willing to remove the stove.

Mr. Benedict stated that the problem the Board has is that there is no way of knowing if this will happen with the building in the current form. Mr. Benedict explained his concerns. Mr. Breitman stated that is what any variance you have to take people on the word. Mr. Breitman gave some examples.

Mr. Benedict stated it would be very difficult to know if everything went back in and was rented out.

Mr. Mullan spoke about the waivers in the review letter, he suggested that the applicant submit a site plan that has all these conditions labeled and asked to have the survey revised so that the rear structure be labeled as an accessory building with an accessory use. The plan can state no permanent kitchen facilities. This would stipulate that the rear dwelling will be no residence, there would be no kitchen. There was discussion regarding having this placed and recorded in the deed.

Councilman Goode asked if the applicant would be willing to take out the bathroom and the heat. He explained why you would use the pool house in the winter. Mr. Breitman stated that the heat would protect the structure. There was discussion regarding what a pool house is.

Mr. Breitman stated that they would agree to a deed restriction. Mr. Leckstein explained that does the applicant understand that the Board can ask for the unit to be taken down. There was further discussion regarding what the applicant is willing to change.

Mr. Leckstein asked if there are building permits issued for the structure. There was discussion regarding what is on the tax records.

Ms. Kovacs-Olsen stated that there are two different names and two different dates on the tax records. Further discussion regarding the records.

Councilman. Goode asked if there are four rooms in the house that has a closet; no. Mr. Leckstein asked what the other rooms in the house are; Mr. Greiss replied three living rooms. Mr. Fotopoulos asked if any of the living rooms have a closet; all of them have closets. There was discussion regarding the rooms.

Councilman Goode stated that he saw when the house was listed on Google it states 317 Beers Street, four bedroom colonial with a legal one bedroom rental cottage on back property. Councilman Goode stated that it says four bedrooms in front.

Mr. Breitman stated that there is a house on the market right now the same way. There was discussion regarding other properties in town.

Ms. Davidson stated that if you are trying to fix the problem when the Board is asking to remove the shower, take the heat out wouldn't that fix the problem. If that is what is required, but if they are using this as a pool house they are asking to be able to do whatever everyone else is able to do in an accessory use. They have agreed not to have it be used as a residence.

There was further discussion regarding that the unit will be used as an accessory use.

Mr. Fotopoulos's asked if they are willing to take the shower out; Mr. Greiss explained that he bathes his dog. Mr. Greiss is willing to take the heat out, he stated that someone can come every month to visit. There was discussion regarding how easy it would be to put the heat back in.

There was discussion regarding the shed that is on the survey. Mr. Kovacs asked about the deck that is on the survey.

Mr. Leckstein confirmed that they are in agreement to have a schematic as part of the deed to be recorded, also to remove the stove and the heat. Mr. Mullan also would ask to have on the schematic a floor plan for each dwelling on the same paper. If approved the applicant would have to go to the building department to get all the permits and have inspections for the accessory building/pool house.

Mr. Fotopoulos stated he needs to feel comfortable with his decision, he asked if the applicant is willing to take the shower out, the stove and most of the kitchen cabinets. It would go to more of looking like a pool house. There was discussion regarding an outside shower.

Ms. Kovacs-Olsen spoke about condos in Wildwood having outside showers and stated it is very common.

Mr. Sessa feels that inspections be made on the unit.

Motion to open to the public at 9pm moved by M. Goode, second by J. Kovacs-Olsen with ayes by all present.

Mike Lane, 51 First Street, asked if the applicant is committed to remove the heat and put an outside shower in; Mr. Greiss replied that he is willing to remove the heat and the stove.

Mr. Lane asked about the fence that is on the survey 2011, it shows a fence, shed and a small walk way to the shed. The latest survey shows a large deck. Mr. Lane asked when the shed was built; Mr. Greiss replied two or three years ago. Mr. Lane asked if he took out permits. Mr. Greiss explained that it is not a deck it is a piece of ply wood on the ground because the area gets wet. There was further discussion regarding the deck on the survey. Mr. Lane asked if the applicant would be willing to remove it. Mr. Greiss stated that it is not a deck.

Mr. Mullan stated that it is considered a deck even if it is flush with the ground. You didn't apply for permits, it does encroach on the other property; yes. Mr. Mullan stated that the deck and the shed are on the other property; yes. There was discussion regarding the variance the applicant is asking for. Mr. Lane asked if they are going to move the shed onto the property. Mr. Breitman stated that they will have to seek approval from the property owner or remove the shed. Mr. Lane asked if they were aware that property was designated as wetland by DEP; Mr. Breitman replied he wasn't aware.

There was discussion regarding the wetlands and the property where the shed and what permits are needed for this to have been built. Mr. Lane asked if the applicant would be willing to remove it, Mr. Greiss stated it would be moved. If it is to be moved it would have to be approved by the Borough.

Mr. Leckstein asked for clarification regarding removing the shed and deck. Mr. Mullan stated that he is concerned about the wetlands and the buffer he would like the applicant to commit to remove the structure from the property. There was discussion regarding where the applicant can place the shed.

Mr. Leckstein asked Mr. Lane if Mr. Merla received a permit for second building in the back. Mr. Lane handed the secretary the letter.

Mr. Lane stated he agreed with Mr. Mullan's request to place the floor plans on the schematic. Mr. Lane gave the square footage of the front house to the Board.

No further comments or questions from the public the meeting a motion to close to the public at 9:15pm was made by M. Goode, second by M. Sessa with ayes by all present.

There was further discussion from the Board with their concerns regarding the structure. Mr. Breitman stated seeing the Board has concerns he would like to have the application carried so that they can address some of the concerns.

Motion to carry to the February 22nd meeting without further notice was moved by M. Goode, second by N. Vecchio with ayes by all present.

PLANNING BOARD PROFESSIONALS: Update on applications

Ms. Miller spoke about a possible application coming before the board.

Ms. Nellis mentioned the possibility of have a special meeting for the months of February and March so they can catch up with the application that are pending. She will send out an email looking to see what works with the Boardmembers.

Mayor Aumack, M. Goode, N. Vecchio, M. Sessa, R. Benedict, L. Davidson, D. Fotopoulos, J. Kovacs, G. Sappah

Motion to adjourn the meeting at 9:40pm was made by D. Fotopoulos, second by M. Goode with ayes by all present.

The next regularly scheduled Planning Board Meeting will be Thursday, January 25, 2018.