

RESOLUTION OF APPROVAL
GRANTING USE VARIANCE WITH PRELIMINARY AND FINAL SITE PLAN
APPROVAL

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 61 LOTS 18, 20 and 23
Application # 17-05
7 MAIN REALTY LLC
26-28 WEST FRONT STREET and 7 MAIN STREET

WHEREAS, 7 Main Realty, LLC has applied to the Unified Planning Board of the Borough of Keyport for Use Variance relief with Preliminary and Final Site Plan Approval with regard to its property which is officially designated as Block 61, Lots 18, 20 and 23 on the official tax map of the Borough of Keyport so as to convert existing office space on the second and third floors of the portion of the building located at 26-28 West Front Street into six (6) apartments and to renovate the first floor commercial space located at 7 Main Street; and

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and have caused notice to be published regarding said application in accordance with N.J.S.A. 40:55D-1 et. seq., this Board gaining jurisdiction thereunder; and

WHEREAS, a public hearing was held in the within matter during a regularly scheduled meeting of the Unified Planning Board held on July 27, 2017 and;

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicant and the review of the Borough experts;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the following findings of facts are made:

1. The applicant, 7 Main Realty, LLC, is seeking approval to develop property which is officially designated as Block 61, Lots 18, 20 and 23 on the official tax map of the Borough of Keyport.
2. The subject property was formerly commonly known as Gale's Hardware.
3. The property consists of three lots, one with frontage on West Front Street, one with frontage on Main Street and the third, a landlocked property that connects the other two. The West Front Street lot contains a three-story building that was formerly Gale's Hardware on the ground floor and offices above. The Main Street property has a one-story building that has been used as a retail store. Lots 18 and 20 also have frontage on an alley that extends from Main Street to the Borough's municipal parking lot on Broad Street.
4. The applicant is seeking to convert existing office space on the second and third floors of the portion of the property located on 26-28 West Front Street into six (6) apartments and to renovate the commercial space at 7 Main Street. The existing commercial space on the first floor of 26-28 West Front Street is to remain unchanged.

5. Nine (9) parking spaces are proposed to be constructed at the rear of the property along the adjoining alley and municipal parking lot.
6. The property is located in the Borough's General Commercial (GC) District which does not currently permit the proposed residential apartments. As a result, this application requires use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1).
7. Site Plan approval is required due to the new parking spaces which are being proposed.
8. Throughout the course of this application, the applicant was represented by Lawrence D. Kantor, Esquire of the law firm Kantor & Linderoth which has offices at 58 West Front Street, Keyport, New Jersey.
9. In support of the application, the applicant marked into evidence the following exhibits:
 - Exhibit A-1:** Application package filed with the Board on June 2, 2017.
 - Exhibit A-2:** Existing Floor Plans and Elevations dated July 4, 2017 as prepared by Vladimir Kaushansky, P.A. of the Winton Group Architecture.
 - Exhibit A-3:** Survey of property dated January 18, 2017 as prepared by Thomas M. Ernst, P.L.S.
 - Exhibit A-4:** Certificate of Formation for 7 Main Realty, LLC
 - Exhibit A-5:** "Location Map" prepared by Winton Group Architecture
 - Exhibit A-6:** Aerial photograph prepared by Winton Group Architecture
10. In addition to the exhibits presented by the applicant, the Board marked its own **Exhibit B-1** which was the Engineering and Planning Review letter dated July 20, 2017 as authored by the Board's Engineer, Francis W. Mullan, P.E., C.M.E. and its Planner, Donna Miller, AICP, PP, both of T&M Associates.
11. Ms. Miller and Bonnie Heard, P.E., both of T&M Associates were in attendance and swore that they acknowledged and re-affirmed all of the information contained within **Exhibit B-1**. However, it was noted that the applicant would be supplying nine (9) parking spaces rather than the eight (8) spaces indicated in the letter.
12. The applicant presented sworn testimony from Mark Vaysberg who is a member of the applicant.
13. Mr. Vaysberg testified that the plan for redeveloping the existing building was as follows:
 - a) First Floor of Property - Remain retail space. No changes are being proposed.
 - b) Second Floor - Two (2) Studio Apartments and a one (1) bedroom apartment.
 - c) Third Floor - Two (2) studio apartments and a one (1) bedroom apartment.
 - d) Rear of building - Nine (9) parking spaces are being proposed which will be reserved for the new residential apartment units.

All of the above is shown on the plans which were marked into evidence as **Exhibit A-2**.

14. It was indicated that the exterior of the building along West Front Street would remain untouched. As such, the historic character of the building was not going to change.
15. Mr. Vaysberg noted that he was unsure what type of business would occupy the first floor. He noted that the applicant was considering the option of splitting the space into two separate units or keeping it as one large space.
16. It was agreed, as a condition of approval, that the applicant would work with and obtain the approval of the Borough's Trash Recycling Coordinator to provide a trash enclosure area. Garbage removal would be accomplished through regular borough trash pick-up.
17. It was agreed, as a condition of approval, that an HVAC system would be installed at the building with the location of the HVAC equipment being subject to the review and approval of the Board's Planner and Engineer.
18. The applicant also requested to be relieved of the requirement that it enter into a developer's agreement based upon the limited nature of this application. The Board, as well as the Board's professionals, agreed that there would be no need for a developer's agreement.
19. The applicant also presented testimony from its professional architect, Vladimir Kaushansky, P.A. of Winton Group Architecture.
20. Mr. Kaushansky testified with respect to the plans he had drafted which had been marked into evidence as **Exhibit A-2**.
21. It was noted that the building would contain a fire proof staircase and be sprinklered throughout.
22. Patrons utilizing the business/retail use on the first floor will have access to all fire exits and will also have pedestrian access through the rear of the building in order to access the nearby municipal parking lot.
23. There is currently a storage and parking area in the rear of the building. The storage space is being demolished in order to provide the new parking spaces for the residential units. Signage will be installed ensuring that these spaces are for residents only. There will also be lighting along the building for the new parking area. All of this is shown on **Exhibit A-2**.
24. The building coverage will be reduced from 95% to 89.3% once the storage space is demolished. However, the maximum building coverage permitted in the zone is 80%. Likewise, 100% of the property will be used for impervious coverage under the proposal. The ordinance only permits 90% impervious coverage on the site. These were both pre-existing non-conformities associated with the property.

25. With regard to the newly proposed nine (9) residential parking spaces, the Board's Engineer noted the applicant still had a two (2) parking space deficiency under RSIS Standards. The Board's professionals were nevertheless satisfied with the plan, although they believed it could be further modified in order to provide for even better accessibility. It was therefore agreed, as a condition of approval, that the applicant would work with the Board's professionals to allow for better accessibility in the parking area.
26. Mr. Kaushansky believed that the site was being properly designed to accommodate the uses being proposed.
27. The last witness presented by the applicant was its Professional Planner, Jeffrey Carr, P.P.
28. Mr. Carr testified with respect to the parking plan and the fact that it currently reflected a handicapped space. It was Mr. Carr's belief that the handicapped space was not required because this was a pre-existing building with no handicapped access to the proposed apartments. The Board agreed that if the Borough's building department agrees that the handicapped spot is not needed the handicap spot can be transformed into a regular parking spot for the residents.
29. Mr. Carr testified that although the proposed residential uses were not yet permitted under the Borough's Zoning Ordinance, the recently adopted Master Plan of the Borough did indicate that residential uses were appropriate for this location. It was acknowledged by the Board that the Borough was in the process of revising its zoning ordinances so that they would be in conformance with the new Master Plan. Accordingly, granting the requested use variance relief would not cause any damage to the Borough's Master Plan or Zoning Plan.
30. Mr. Carr believed the application would serve to improve the Borough's downtown district by providing new living space in the area, along with sufficient parking to serve that use.
31. Mr. Carr believed that the site would function appropriately as proposed.
32. The Board's Professionals had no objections to this application being granted from an engineering and planning standpoint.
33. No one else testified with respect to this application.
34. In considering this application, the Board agrees with the testimony of the applicant's professionals and with the testimony of the Board's own professionals, that the proposed site plan will function correctly as long as the submitted plan, with the proposed modifications, is adhered to.
35. With respect to the requested use variance relief, the Board finds that the proposed building is particularly suited for what is being proposed by the applicant. Without making any significant modifications to the building, the applicant will be able to provide for a commercial use on the ground floor, while having residential uses on the upper floors. In

fact, the applicant is also able to provide sufficient parking for these new residential uses by demolishing a rear structure which no longer serves any purpose since the storage space it once provided for the Gale Hardware business is no longer needed.

36. The Board recognizes that the applicant must establish enhanced proofs establishing that the proposed uses can be implemented without causing any damage to the Borough's Master Plan or Zoning Ordinance. On this point, the Board agrees with the testimony of the applicant's planner, Mr. Carr, that the uses being proposed by the applicant are exactly those which are reflected within the newly adopted Master Plan of the Borough in that residential uses are proposed for upstairs while a commercial use is proposed for the ground floor. Although the zoning ordinance may not have been updated yet to reflect the new Master Plan goals, the Borough Council is working on enacting such. As such, the Board finds that sufficient enhanced proofs have been established and there will not be any damage to the zoning plan of the Borough if the use variance is granted.
37. Finally, the Board can not envision any negatives to the neighborhood or the Borough in general if this application is granted. This application proposes exactly the type of the uses which the Planning Board has just indicated is appropriate for the location by way of its recent adoption of the new Master Plan. As previously noted, the applicant is also providing sufficient parking to accommodate the residential uses.
38. The Board notes that the subject building is currently vacant. If this application is denied, thereby prohibiting the applicant from placing residences on the upper floors, those upper floors would likely continue to remain vacant since business uses have not proven successful over recent years in that space, hence the reason revisions were made to the Master Plan encouraging residences. Additionally, if the application were denied and then the Borough Council follows through with amending the Borough Ordinances so as to allow residences on the upper floors, the applicant would be able to re-file its application without having to seek any variance relief, other than perhaps those associated with parking. Forcing the applicant to engage in such a process would make absolutely no sense.
39. The Board can think of no legitimate reason why this application should be denied and instead can only find reasons why the application should be approved. The application provides proper density, proper parking and proposes a proper use for the subject building all while retaining the historical character of the structure.
40. Based upon everything which has been presented to the Board, as well as the Board Members' own familiarity with the municipality and the property in question, it is hereby concluded that the benefits of granting this application outweigh the detriments and the application can therefore be granted without impairing the public good and Zone Plan.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of 7 Main Realty, LLC, for premises officially known as Block 61, Lots 18, 20 and 23 on the tax map of the Borough of Keyport, be granted subject to the following conditions:

1. Subject to the applicant adhering to the plans marked into evidence (**Exhibit A-2**) unless otherwise modified by this Resolution.
2. Subject to the applicant complying with all conditions contained within the T&M Review Letter which was marked into evidence as **Exhibit B-1** (minus the condition that the applicant enter into a developer's agreement) unless otherwise indicated by this Resolution. All revisions to the plans as required by this condition shall be submitted to the Board's Engineer and Planner for their review and approval.
3. Subject to the condition that the applicant will install a HVAC system is to be installed for the building with the HVAC equipment being placed in a location to be approved by the Board Engineer and Planner.
4. Subject to the condition that the applicant will work with the Board's Professionals so as to revise the parking area for the building so as to allow for better accessibility.
5. Subject to the condition that the applicant will work with and seek the approval of the Borough's Trash Recycling Coordinator in order to ensure proper size, adequacy and location for a trash enclosure on the property. The enclosure may not block any parking spaces.
6. All representations made under oath by the applicant or its agents shall be deemed conditions of this approval, and any misrepresentations or actions by the applicant contrary to the representations made before the Board shall be deemed a violation of this approval.
7. This application is granted only in conjunction with the conditions noted herein and but for the existence of the same, the within application would not be approved.
8. Subject to all laws and ordinances enacted by either the State or the Borough relative to Affordable Housing, including, but certainly not limited to, payment of any required fees.
9. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations, including but certainly not limited to, CAFRA approval.
10. The action of the Unified Planning Board in approving this application shall not relieve the applicant of responsibility for any damage caused by this project, nor does the Unified Planning Board of the Borough of Keyport or its reviewing professionals and agencies accept any responsibility for the structural design of the proposed improvements or for any damage that may be caused by the development.

11. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at his sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

The foregoing was moved by D. Fotopoulos, seconded by J. Kovacs and on Roll Call, the following vote was recorded:

Affirmative: N. Vecchio, M. Sessa, D. Fotopoulos, J. Kovacs, J. Kovacs-Olsen

Negative:

Abstentions: L. Davidson, J. Oviedo

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport as copied from the Minutes of its meeting on August 24, 2017.

A handwritten signature in cursive script, reading "Denise Nellis".

Denise Nellis, Secretary of the Board