

Resolution prepared by:
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**RESOLUTION
GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH BULK VARIANCE RELIEF**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 21.01, LOT 54
Application # 24-03
24 BROAD STREET, LLC
18-24 BROAD STREET**

WHEREAS, 24 Broad Street, LLC. has filed an application seeking Preliminary and Final Major Site Plan approval for the purpose of renovating and expanding an existing two-story, mixed use building located at 18-24 Broad Street which is officially designated as Block 21.01, Lot 54 on the Borough of Keyport's Tax Map; and

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and has 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, public hearings on the application were conducted on the within matter during a regularly scheduled meeting of the Unified Planning Board held on March 28, 2024; 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. This application seeks Preliminary and Final Major Site Plan approval for the renovation and expansion of an existing two-story, mixed use building located at 18-24 Broad Street which is officially designated as Block 21.01, Lot 54 on the Borough of Keyport's Tax Map.
2. The existing property is a 9,399 square foot lot located on the west side of Broad Street which contains a mixed use structure with retail use on the first floor and three residential apartments on the second floor.
3. If the proposed renovations and expansions were to be approved, the building would include a 2,283 square foot basement, a 350 square foot first floor office, a 1,855 square foot bakery/restaurant, a 359 square foot greenhouse area and an 829 square foot deck as an accessory for the restaurant and three (3) one-bedroom residential apartments on the second floor with a minimum of 675 square feet per unit. The green house and deck would be constructed on piers and will be open to the ground below. The additions to the building would include the following:

- (a) An expansion to the west of the first floor to include a 12' addition for the green house and additional 12' deck expansion on the north side of the building for a total of addition of 24'. On the south side of the building, the deck addition is 18.5'. The staircase on the western end of deck extends an additional 3.5' to the west.
 - (b) An expansion of the second floor to include a 10.5' addition from the rear wall. The proposed balconies extend an additional width from the rear of the building.
4. The property is located within the Borough's GC (General Commercial) Zoning District which permits all of the proposed uses.
 5. In order to proceed with the proposed renovations/expansions the proposed retail commercial building, the applicant would require bulk variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(c), as follows. The Board recognizes that these are all pre-existing non-conforming conditions which are not being impacted by the application:

VARIANCE	REQUIRED	EXISTING
Access Drives	No less than 15 feet for ingress and egress and 24 feet wide for both ingress and egress.	The width of the existing access drive does not meet the required 24 foot width
Parking Lot Surface	Off-Street Parking Areas for four or more spaces must be paved or utilize some durable or dustless surface	Existing on-site parking area has a gravel surface
Flood Elevation	Flood Elevation plus three feet of freeboard	Existing building does not meet this elevation

6. During all portions of these proceedings, the applicant was represented by Daniel O'Hern, Esquire of the law firm Byrnes, O'Hern & Heugle which has offices located at 195 East Bergen Place, Red Bank, New Jersey 07701.
7. In support of the application, the following exhibits were marked into evidence:
 - Exhibit A-1 :** Preliminary and Final Site Plan dated October 30, 2023 as prepared by KBA Engineering Services
 - Exhibit A-2 :** Survey of Property dated September 6, 2023 as prepared by Clearpoint Services
 - Exhibit A-3 :** Elevations of Building dated June 7, 2023, last revised February 5, 2024 by James T. Daley Architect + Associates.
 - Exhibit A-4:** Proposed Renderings of the Building
 - Exhibit A-5:** Aerial View of the Property
8. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:
 - Exhibit B-1:** Engineering review letter dated March 18, 2024 as prepared by CME Associates

9. In addition to the aforementioned exhibits, the applicant also presented sworn testimony from its architect, James T. Daley, R.A., who testified as the basics of the proposed building by walking the Board through the plans and renderings submitted into evidence as **Exhibits A-3 and A-4** respectively. It was explained the thrust of the application was renovating the existing building so as to accommodate a bakery/cafe which would occupy the ground level.
10. It was explained that the applicant would not be offering any table service for the bakery. This would be a condition of approval. Tables would be available both inside and upon the proposed deck however for patrons to take their purchases and consume them on site.
11. Mr. Daley indicated that part of the renovation would make the building handicapped accessible which it currently is not.
12. With respect to **Exhibit A-4**, it was made clear that what was being depicted was the overall look of the proposed building. The exact color scheme had yet to be chosen.
13. All mechanicals for the building would be located on the roof. As a condition of approval, adequate screening for the mechanicals would be provided. The final design would be subject to review and approval by the Board's Planner and Engineer.
14. It was further agreed, as a condition of approval, that customers and residents of the building would not have access to the roof.
15. It was stated that the basement would be for storage only. This would be a condition of approval. No changes to the basement were being proposed.
16. The Board also heard testimony from Juliana Hurtig, the principal of the bakery. She explained that there would not be any industrial side of the bakery. It would be purely retail in nature. She estimated that it would have approximately ten (10) employees on site at any one period of time.
17. The Board heard further testimony from the applicant's professional engineer and planner, Joseph Kociuba, P.E., P.P., of KBA Engineering Services. He focused upon the site plan aspects of the proposal which predominately dealt with the parking lot area. He explained that the driveway is a preexisting narrow driveway for which additional space could not be acquired. It was impossible to make it larger.
18. With respect to a discussion with the Board's Professionals over whether the applicant would be willing to make the access drive one-way for ingress into the site with egress through a neighboring Borough owned parking lot, it was agreed that the applicant would do so provided that the Borough Council granted an easement for such access. It would be a condition of approval that the applicant would approach the Borough to see if such an easement would be granted. If so, the one-way access would be implemented. If the request were denied however, the property could continue to function as it always has.

19. It was noted that the applicant wished to keep the existing chain-link privacy fence with slats in place to help screen the dumpster area. In response to requests from some Board Members that a masonry enclosure be constructed, the Board heard from the property owner Kenneth Schwartz, who indicated his preference to keep things the way they currently are as masonry structures in that particular area are unsightly. The Board ultimately agreed that no masonry structure would be required.
20. With respect to the existing gravel driveway, Mr. Kociuba advocated for keeping it in its current format rather than paving it. He indicated that if the driveway were paved, it would create water runoff issues for the site. He did note however that one handicapped accessible stall would be paved as per regulations.
21. As to actual parking on site, Mr. Kociuba indicated parking for nine (9) vehicles was being proposed. Bumper stops would be installed along five (5) of the spaces located on the north side of the lot facing the alley. The installation of such would be a condition of approval. It was further agreed that the parking would be restricted to employees and residents and appropriate signage would be installed. This would also be a condition of approval with said signage being subject to the review and approval of the Board's Engineer and Planner.
22. Finally, Mr. Kociuba noted that it would be next to impossible for the applicant to raise the existing building thereby making it also impossible to comply with the flood hazard regulations for the site.
23. Acting in his capacity as the applicant's planner, Mr. Kociuba indicated that the variances required for the application could be granted both pursuant to N.J.S.A. 40:55D-70(c)(1) and (c)(2). The applicant had a hardship that could not be overcome with respect to elevating the building and the improvements being proposed to the building surely outweighed the benefits strict compliance with the zoning ordinance would otherwise demand.
24. No one else testified on the applicant's behalf.
25. Borough Resident Michael Lane of 51 First Street, did speak and encouraged the approval of the application noting his belief that it would be a good fit for the downtown.
26. Board Engineer, Matthew Zwingraf, P.E., who were sworn, indicated he had no issues with the application provided the comments of CME's letter were adhered to. (**Exhibit B-1**) The applicant agreed to do so.
27. After considering all the testimony and evidence, and assuming all representations were adhered to, the Board finds that proposed site will function properly as proposed under the site plan once it has been revised to meet the conditions of this Resolution.
28. The Board agrees with the testimony of the applicant's planner that the three variances required by this application are necessary in order to ensure that the site can be properly

developed. All three are pre-existing conditions which are not really impacted by what the applicant is proposing. The Board is hard pressed to envision any negatives which would occur by a granting of relief and none have been presented to the Board for its consideration.

29. The Board also accepts the argument that requiring the applicant to elevate the building to comply with the flood control ordinance would not make any sense in this circumstance.
30. Based upon the evidence presented, the Board finds that the requested variance relief can be granted pursuant to the provisions of both N.J.S.A. 40:55D-70(c)(1) and (2) since the the shape of the character of the building and property creates a natural hardship for the applicants and the benefits of granting the variance and approving the entire project, so as to ensure the site is properly developed, far outweighs whatever benefit would be obtained by strictly adhering to the ordinance requirements.
31. It seems clear to the Board that the benefits of granting this application and approving the proposed preliminary and final site plan is in the best interest of the Borough and such an approval far outweighs any detriments that might occur.
32. Based upon all of the above, the Board finds the applicant has met its burden in establishing that it is entitled to the requested preliminary and final site plan approval, with bulk variance relief. As such, the sought after application should be granted in its entirety.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of 24 Broad Street, LLC, seeking preliminary and final major site plan approval, with bulk variance relief, be granted subject to the following conditions:

1. Subject to substantial compliance with the plans submitted into evidence unless otherwise modified by this Resolution.
2. Subject to the condition that the table service not be offered at the proposed bakery/café. Customers are free however to engage in counter service and then sit at one of the tables which are being provided to consume their purchases.
3. Subject to the condition that adequate screening for the roof mechanicals be provided. The final design shall be subject to review and approval by the Board's Planner and Engineer.
4. Subject to the condition that customers and residents of the building shall not have access to the roof.
5. Subject to the condition that the basement shall be for storage only. Customers will not have access to same.
6. Subject to the condition that the applicant must approach the Borough to see if it would be willing to grant an easement through its parking lot bordering on the applicant's property so as to allow one-way ingress and egress from the site. If the Borough agrees, such one-way travel will be implemented. If the Borough declines, this condition shall be voided.

7. Subject to bumper stops being installed along five (5) of the spaces located on the north side of the parking lot facing the alley.
8. Subject to appropriate signage being installed making clear that the parking lot is for residents and employees only. Said signage to be reviewed and approved by the Board Engineer and Planner.
9. Subject to compliance with the comments of the CME's Review Letter (**Exhibit B-1**) consistent with this resolution.
10. All representations made under oath on behalf of the applicant, or by its agents, shall be deemed conditions of this approval, and any misrepresentations or actions by the applicant contrary to the representations which were made shall be deemed a violation of this approval.
11. 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.
12. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
13. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
14. This approval shall be deemed void by abandonment if a permit is not applied for within two years of the date hereof.
15. 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.
16. 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 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.
17. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at their sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

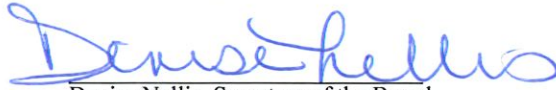
The foregoing was Moved by Councilmember Peperoni, second by Mayor Araneo and on Roll Call, the following vote was recorded:

Affirmative: Mayor Araneo, Councilmember Peperoni, D. Pacheco, M. Sessa, N. Vecchio,
C. Demarest, J. Kovacs-Olsen

Negative:

Abstentions: Chairman Merla, H. Aumack

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 April 24, 2024.


Denise Nellis, Secretary of the Board