

Resolution prepared by:
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**RESOLUTION GRANTING APPROVAL TO
CONSTRUCT AN IN-GROUND POOL WITH ASSOCIATED EQUIPMENT,
CONCRETE PATIO AND FENCING**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 82, LOTS 8 & 9

**Application # 21-08
ERIN AND PAUL HEILESEN 96-98 CHURCH STREET**

WHEREAS, Erin and Paul Heilesen have applied to the Unified Planning Board of the Borough of Keyport for approval to make certain improvements to their property located at 96-98 Church Street which is officially designated as Block 82, Lots 8 & 9 on the Tax Map of the Borough of Keyport; 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, a public hearing was held in the within matter at a specially scheduled meeting of the Unified Planning Board held on May 20, 2021; and

WHEREAS, due to the ongoing covid-19 pandemic, the meeting was held utilizing an online virtual format which ensured all persons having an interest in said application were heard; and

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicants;

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

1. The applicants, Erin and Paul Heilesen, seek approval from the Board for approval to perform several improvements at their property located at 96-98 Church Street which is officially designated as Block 82, Lots 8 & 9 on the official Tax Map of the Borough. The property is located within the Borough's RA Zoning District.
2. The applicants' property is currently developed with a multi family dwelling wherein the applicants reside at 98 Church Street and tenants reside at 96 Church Street. There is currently a deck area behind 98 Church Street which holds a hot tub and there is a shed located behind 96 Church Street which is located in the back yard.
3. The applicants now seek to install an in-ground pool with associated equipment, a concrete patio and fencing. The new fencing which will be installed would better delineate boundaries between 96 and 98 Church Street so as to only allow access to the backyard amenities to whomever resides at 98 Church Street.
4. The applicants were looking to make the requested improvements so as to allow for better utility of their property from a recreational perspective.

5. The variances necessitated by this application is as follows:

Ordinance Provision	Requirement	Requested
Maximum Permitted Lot Coverage	60%	73 % ***
Minimum Front Yard Setback	20 feet	+/- 16 feet (EC)

*** The applicants' survey indicates the proposed lot coverage will be 67.5% while the Zoning Denial Letter from the Borough's Zoning Officer indicates the coverage will be 68.5%. The Board Engineer's calculations show the coverage as being just under 73% and this is the number the Board deems to be correct. ***

(EC) indicates that the variance is a pre-existing condition

6. Beyond the above stated variances, the original plans submitted by the applicants also requested a variance from the zoning district's "minimum rear yard setback for accessory structures" requirement as the proposed concrete patio was depicted as extending less than three (3) feet from the rear yard although the zoning ordinance requires a setback of at least three (3) feet. During the course of the application however, it was agreed the applicants would revise their plans so as to ensure the concrete patio would not extend into the three (3) foot rear yard setback. This eliminated the need for this specific variance.
7. In support of the application, the following was offered into evidence:
Exhibit A-1: Application to Land Use Board, including survey with proposed improvements depicted thereon.
8. Beyond the applicant's exhibits, the Board also marked its own Exhibit:
Exhibit B-1: T&M Associates Review Letter of May 6, 2021.
9. As points of clarification, the applicants noted that the shed shown on their survey was going to be relocated within their backyard so as to ensure there would be no variance relief necessary. Additionally, the existing hot tub on the back deck was going to be relocated to the location shown in ground area. They made clear there would only be one hot tub on the property and the indication of a hot tub on the deck would be removed from the plans.
10. The Board's Engineer, Francis W. Mullan, P.E. and its Planner, Stanley Slachetka, P.P., A.I.C.P., who were placed under oath, testified that they had no issues with the application from a zoning or planning perspective provided the comments contained within their review letter (**Exhibit B-1**) were adhered to by the applicants.
11. There was also discussion by Mr. Mullan with respect to Item 2.C of Section B of the Engineering Review Letter (**Exhibit B-1**) which recommended the applicant provide a grading plan. Following testimony from the applicants that stones and plantings would be installed in the ground area, Mr. Mullan indicated he was satisfied that there would not be any water runoff from the property and therefore a grading plan would not be necessary.

12. No one else testified with respect to the application.
13. Michael Lane, who resides at 51 First Street, Keyport, did appear and voiced concerns over the amount of impervious coverage being proposed. After further discussion with the Board Professionals however, Mr. Lane's concerns seemed to be resolved and no objection to the application was made. It is noted that Mr. Lane's residence is not within the same neighborhood as the applicants' property.
14. In considering this application the Board has reviewed the materials submitted into evidence and listened to the testimony presented. The Board finds that permitting the applicants to make the requested improvements will add to the overall utility of the property from a recreational perspective.
15. The Board is hard pressed to envision any negative impact created if the requested variance relief were granted, especially when considering the only real variance at issue relates to lot coverage which would not be visible to anyone other than those standing within the applicants' backyard. The only other variance condition concerned front yard setback, and that was a pre-existing condition which was not being impacted by the application.
16. Based upon all of the above, the Board finds that the required variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) since the benefits of allowing the applicants to have better recreational utility of their backyard provides for a better result than strict adherence to the borough's zoning ordinance would otherwise allow.
17. The Board finds that the applicants have met both the negative and positive criteria necessary for obtaining variance relief and as such, this application may be granted.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport, that the application of Erin and Paul Heilesen, seeking approval to make certain improvements to their property located at 96-98 Church Street, which is officially designated as Block 82, Lots 8 & 9, may be granted subject to the following conditions:

1. The improvements must be made pursuant to the survey included within the application package marked into evidence as **Exhibit A-1** with the following revisions to that survey being submitted to the Board's Engineer and Planner for review and approval prior to any permits being granted:
 - (a) The survey shall be revised to eliminate the reference of a "hot tub" on the back deck.
 - (b) The final location for the shed shall be depicted on the survey.
 - (c) The survey shall be revised to make clear that the concrete patio will not extend into the three (3) foot rear yard setback.

- (d) The survey shall be clear that stones and plants are being added to the ground area so as to adequately prevent any water runoff.
2. Subject to any recommendations made within the Planning and Engineering review letter (**Exhibit B-1**) with the exception of Item 2.C of Section B.
 3. Subject to all representations made by the applicant during the application.
 4. 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.
 5. Subject to any and all other approvals as may be required by the Borough, prior to the issuance of any permits.
 6. Subject to the payment of any fees, escrows and taxes as may be due to the Borough, prior to the issuance of any permits.
 7. This approval shall be deemed void by abandonment if a building permit is not applied for within one year of the date hereof.
 8. 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.
 9. 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 Harry Aumack

Seconded by Nicholas Vecchio and on Roll Call, the following vote was recorded:

Affirmative: Mayor Kennedy, Councilmember Davidson, H. Aumack, D. Pacheco,
J. Royster, M. Sessa, N. Vecchio

Negative:

Abstentions: K. Howe

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport during its meeting on May 27, 2021.


Denise Nellis, Secretary of the Board