

Resolution prepared by:
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**RESOLUTION GRANTING APPROVAL TO
INSTALL AN ABOVE GROUND POOL WITH
ASSOCIATED DECKING AND PAVER PATIO**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 90, LOT 1

**Application # 21-09
DOMINIQUE AND THOMAS FEMIA
123 CHURCH STREET**

WHEREAS, Dominique and Thomas Femia have applied to the Unified Planning Board of the Borough of Keyport for approval to install an above ground pool with associated decking and paver patio as accessories to their single family home located at 123 Church Street which is officially designated as Block 90, Lot 1 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 June 24, 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, Dominique and Thomas Femia, seek approval from the Board for approval to install an above ground pool with associated decking and paver patio as accessories to their single family home located at 123 Church Street which is officially designated as Block 90, Lot 1 on the official Tax Map of the Borough.
2. The property is located within the Borough's A (RA) Zoning District in which single family homes are a permitted use.
3. The applicants' property is located at the intersection of Church Street, Warren Street and Atlantic Street, meaning the lot is surrounded by public streets on three sides and therefore has three (3) front yards. This situation makes it impossible for the pool to be installed without triggering a variance since such an amenity is not permitted in a property's front yard. The exact variance condition is as follows:

Ordinance Provision	Proposed
Pool Not Permitted In Front Yard Setback	Pool will be within 6 ft of front yard setback

4. In support of the application, the following was offered into evidence:
Exhibit A-1: Application to Land Use Board
Exhibit A-2: Survey showing location of proposed pool and patio.
Exhibit A-3: Plans and details for the proposed pool
5. Beyond the applicant's exhibits, the Board also marked its own Exhibit:
Exhibit B-1: T&M Associates Review Letter of June 11, 2021.
6. 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. Mr. Mullan indicated while his office had no issues with the application from a zoning or planning perspective, he would prefer that the pool be relocated from its proposed location which would be at the corner of the lot formed by the intersection of Atlantic Street and Warren Street to further down the lot so as to be adjacent to Warren Street alone. After some discussion however, the applicants, who were both under oath, indicated that they preferred to have the pool where proposed so as to maximize the use of their back yard. While the property has three (3) front yards, the house itself faces Church Street, meaning the portion of the property at the intersection of Warren Street and Atlantic Street is effectively the back yard for the property. It was also noted that the "back yard" is fenced in, meaning that the pool would not be visible to anyone walking along Warren or Atlantic Streets.
7. The applicants made clear that they wished to add the proposed amenities to their property so as to allow for greater recreational usage of their home.
8. No one else testified with respect to the application.
9. Elmer J. Graham, Jr., who resides at 22 St. Peters Place, Keyport, did appear and indicated his support for the application stating he believed it would be a good project for the neighborhood. voiced concerns over the amount of impervious coverage being proposed.
10. 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.
11. The Board is hard pressed to envision any negative impact created if the requested variance relief were granted, especially when considering the only variance at issue is the location of the pool in a front yard, a condition which is unavoidable for the applicants due to the unique location of the property at the intersection of three different public streets. Additionally, the pool would be fenced in, so it would not be visible from those streets.

12. 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 what is effectively their backyard provides for a better result than strict adherence to the borough's zoning ordinance would otherwise allow.
13. 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 Dominique and Thomas Femia for improvements to their property located at 123 Church Street, which is officially designated as Block 90, Lot 1, may be granted subject to the following conditions:

1. The improvements must be made pursuant to the survey and plans marked into evidence.
2. Subject to any recommendations made within the Planning and Engineering review letter (**Exhibit B-1**).
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.

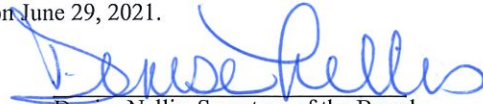
The foregoing was Moved by K. Howe, Seconded by N. Vecchio
and on Roll Call, the following vote was recorded:

Affirmative: K. Howe, D. Pacheco, M. Sessa, N. Vecchio

Negative:

Abstentions: Mayor Kennedy

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board
of the Borough of Keyport during its meeting on June 29, 2021.



Denise Nellis, Secretary of the Board