

Resolution prepared by:
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Leckstein & Leckstein, LLC
463 Prospect Avenue
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**RESOLUTION GRANTING USE AND BULK VARIANCE RELIEF
TO EXPAND AN EXISTING SECOND-FLOOR RESIDENTIAL UNIT
OF A PRE-EXISTING NON-CONFORMING TWO-FAMILY DWELLING**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 13, LOT 13 (Additional Lots 14 & 15)

**Application # 23-15
OMER INVESTMENT, LLC
222 BROADWAY**

WHEREAS, Omer Investment, LLC has applied to the Unified Planning Board of the Borough of Keyport for use and bulk variance relief so as to be expand an existing second-floor residential unit of a pre-existing non-conforming two-family dwelling located at property commonly known as 222 Broadway which is officially designated as Block 13, Lot 13 on the tax map of the Borough of Keyport;

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 regularly scheduled meeting of the Unified Planning Board held on February 22, 2024 during which 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 applicant, Omer Investment, LLC, is seeking a use and bulk variance relief so as to expand an existing second-floor residential unit of a pre-existing non-conforming two-family dwelling located at property commonly known as 222 Broadway which is officially designated as Block 13, Lot 13 on the tax map of the Borough of Keyport. There are no improvements on Lots 14 and 15.
2. The subject property is an irregularly shaped property consisting of 13,412 SF (0.307 acres) and is located within the RA (Single-Family Residential) Zone. The subject property is located at the northwest corner of the intersection of West 4th Street and Broadway and contains approximately 214.1 ft. of combined frontage on Broadway (Monmouth County Route 6) and Broadway (County Road 516).
3. The property is developed with a two-story, two-family dwelling. A detached one-story, two-car garage is located in the rear and a concrete stoop/stairway provides access to the primary front entryway. A concrete walkway extends from the front of the property, around the northern side to the rear of the property and existing fencing is located on the property.

4. The existing two-family dwelling is comprised of one (1) residential unit on the first floor and one (1) residential unit on the second floor. The dwelling contains a basement and ½ bathroom and open floor space, along with a kitchen dining room, office space, one (1) full bathroom, and two (2) bedrooms on the first floor. The second floor contains a kitchen, dining room, office space, one (1) full bathroom; and one (1) bedroom.
5. The existing dwelling does encroach into the required front yard setback area.
6. The applicant's proposed expansion of the second-floor residential unit will be constrained to the existing footprint of the first floor. The proposed second floor expansion includes an increase of roof height from 25 feet to 26.33 feet, one (1) additional full bathroom, a laundry room and a total of two (2) bedrooms and one (1) office space. New flooring and siding; along with a new central HVAC system with two (2) condensers and updates to the exiting electrical wiring and plumbing are proposed throughout both units. The existing first floor configuration and floor space will remain the same.
7. Originally the applicant had proposed adding a full bathroom to the basement of the home. However, this proposal was withdrawn during the course of the hearing and as a condition of approval, it would be removed from the plans with the basement being deemed not livable space. The existing toilet and double sink would remain.
8. The property is located within the Borough's RA (Single-Family Residential) Zoning District in which single family residential dwellings are permitted uses but two family homes are not. As the two-family use is a pre-existing non-conforming use, the applicant requires use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(2) in order to expand the existing non-conformity.
9. The following bulk variance relief is also required by this application:

Ordinance Provision	Required	Existing	Proposed
Minimum Front Yard Setback As A Result of 2 nd Story Expansion	20 feet	17.7 feet	No change to overall structure as 2 nd Story is expanding to match existing 1 st floor footprint

10. Throughout the public hearing, the applicant was represented by its legal counsel, Vincent E. Halleran, Esquire who has offices located at 56 West Main Street, Freehold, New Jersey 07728.
11. In support of the application, the following was offered into evidence:

Exhibit A-1: Application to the Planning Board

Exhibit A-2: Denial letter of Zoning Application by Zoning Officer dated

August 7, 2023

Exhibit A-3: Survey of Property prepared by Leo A Kaleta, PLS dated
October 9, 2023

Exhibit A-4: Site and Architectural Plans prepared by Omar Eisherif, PhD, P.E.
consisting of seven (7) sheets, dated November 8, 2023 revised
through December 8, 2023

12. Beyond the applicant's exhibits, the Board also marked its own Exhibit:
Exhibit B-1: T&M Planning and Engineering Review dated December 13, 2024.
13. In furtherance of its application, sworn testimony was presented by the applicant's site engineer, Omar Elsherif, P.E., who walked the Board through the proposed architectural plans (**Exhibit A-4**) and explained that the applicant was seeking to renovate the home and square off the second floor so that it matches the footprint of the first floor.
14. The principal of the applicant, Mahmoud Abdel-Wahah was sworn and testified that no new utilities were being added to the property. It already has two sets of meters and is fully set up as a two-family residence.
15. As a condition of approval, it was agreed that the applicant would remove a door leading into the second floor dining room from the plans. This would ensure that room could not be utilized as another bedroom.
16. It was further agreed as a condition of approval that any leases for the home must make clear that only two bedrooms are permitted for each unit.
17. No one else testified on behalf of the applicant.
18. The following members of the public testified with respect to the application:
 - (a) Mary Anne Devarti of 197 Washington Street who indicated that she had no objections to the project.
 - (b) Michael Lane of 51 First Street who indicated his concern over the number of bathrooms originally proposed.
 - (c) George Walling of 54 Second Street who inquired as to whether the units were separately metered.
19. The Board's Engineer, Francis W. Mullan, P.E., C.M.E. and the Board's Planner Caroline Reiter, P.P., were placed under oath and testified that they had no objection to the application being granted from an engineering or planning perspective provided the comments contained in T&M's review letter (**Exhibit B-1**) were adhered to. This would be a condition of approval.
20. In considering this application the Board has reviewed the materials submitted into evidence and finds that granting the requested variance relief can be accomplished without causing any harm to anyone. Based upon the plans and testimony submitted it is clear that the two-family use is pre-existing and that all the applicant is really proposing is to square off the second floor so that it matches the footprint of the first.

21. The Board cannot envision why the proposed improvements would negatively impact anyone and no evidence has been presented which would demonstrate otherwise. In fact, the Board finds that the improvement as designed would actually act as an aesthetic improvement for the property, especially when one considers that the siding of the house is also being redone.
22. The Board finds that all of the variances which are associated with the application can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(d)(2) and (c)(2) since leaving the property in its present form would benefit no one. Instead, the benefits of allowing the property to be renovated with the second floor being brought into conformance with the first floor footprint will be an aesthetic benefit for all concerned. The Board finds that allowing the variance relief will lead to a better result for the neighborhood and the community as a whole than strict compliance with the zoning ordinances would otherwise allow.
23. The Board finds that the proposed improvements fit well on the subject property and will not negatively impact the zone plan, zoning ordinance or master plan.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport, that the application of Omer Investment, LLC, seeking use and bulk variance relief, may be granted subject to the following conditions:

1. The improvements must be in conformance with the architectural plans marked into evidence (**Exhibit A-4**) except as indicated below.
2. The architectural plans (**Exhibit A-4**) must be revised to eliminate the expanded bathroom in the basement. The existing toilet and double sink may remain but may not be expanded in any manner.
3. The basement may not be utilized as living space.
4. **Exhibit A-4** shall be revised so as to eliminate the door leading into the second floor dining room.
5. All leases for the two units must include language making clear that each unit only has two (2) bedrooms.
6. Subject to compliance with the comments raised within the Planning and Engineering Letter marked into evidence as **Exhibit B-1**.
7. Subject to all representations made by the applicant during the application.
8. 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.
9. Subject to any and all other approvals as may be required by the Borough or any other governmental entity, prior to the issuance of any permits.
10. Subject to compliance with any affordable housing requirements.

11. Subject to the payment of any fees, escrows and taxes as may be due to the Borough, prior to the issuance of any permits.
12. 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.
13. 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 M. Sessa, second by Chairman Merla
and on Roll Call, the following vote was recorded:

Affirmative: Chairman Merla, W. McDermott, J. Oviedo, M. Sessa, N. Vecchio, C.
Demarest, J. Kovacs-Olsen

Negative:

Abstentions: Mayor Araneo, Councilmember Peperoni

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board
of the Borough of Keyport during its meeting on March 28, 2024.


Denise Nellis, Secretary of the Board