

Resolution prepared by:
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**RESOLUTION
GRANTING MINOR SITE PLAN APPROVAL
WITH VARIANCE RELIEF SO AS TO
DEMOLISH AN EXISTING TWO-STORY RESIDENCE AND CONSTRUCT A NEW
TWO-STORY RESIDENCE WITH SMALL TWO-STORY ADDITIONS**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 124, LOT 19
Application # 19-04
KEY144 PROPERTY, LLC
144 THIRD STREET**

WHEREAS, Key144 Property, LLC has filed an application seeking Minor Site Plan approval for the purpose of demolishing an existing two-story residence and constructing a new two-story residence with small two-story additions upon property located at 144 Third Street which is officially known as Block 124, Lot 19 on the official 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 on the application was conducted on the within matter during a regularly scheduled meeting of the Unified Planning Board held on August 22, 2019; 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 Minor Site Plan approval to demolish an existing two-story residence and constructing a new two-story residence on the existing foundation with small two-story additions on the sides and rear of the dwelling. The front porch will be expanded, however, the existing setback of 9.1 feet will be maintained.
2. The subject property is located at 144 Third Street which is officially known as Block 124, Lot 19 on the official tax map of the Borough of Keyport.
3. The property is located within the Borough's RA (Residential) District which permits the proposed new residence.
4. The following bulk variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(c), is being sought by the applicant in conjunction with the application:

Ordinance Standard	Required By Ordinance	Proposed By Applicant
Minimum Side Yard Setback		
One	6 feet	4.7 feet
Both	16 feet	9.9 feet
Maximum Building Coverage	30 %	32.8 %
Maximum Front Yard Area Covered By Parking	30 %	32 %
Maximum Stories Permitted	2.5 stories	3 stories (including basement)
Parking Space Size	10 x 20 feet	9 x 18 feet ¹
Setback for Front Steps	?	? ²

5. Additionally, the Board recognizes that the applicant's property has the following pre-existing non-conformities:

Ordinance Standard	Required By Ordinance	Pre-existing Condition
Minimum Lot Size	5,000 square feet	2,625 square feet
Minimum Front Setback	20 feet	9.1 feet

6. Throughout the course of the application, the applicant was represented by Jeffrey B. Gale, Esquire of the law firm Gale and Laughlin which has offices located at 2814 State Route 35, Hazlet, New Jersey 07730.
7. In support of the application, the following exhibits were marked into evidence by the applicant:
- Exhibit A-1 :** Application Package filed on July 8, 2019.
- Exhibit A-2 :** Zoning Site Plan Package dated June 14, 2019 as prepared by Alec P. Shissias, RA, RLA (Consisting of 8 Sheets)
- Exhibit A-3 :** Survey as prepared by Leo A. Kalieta & Co., dated December 16, 1996, last revised September 7, 2018.
- Exhibit A-4:** Revised Zoning Site Plan Package (**Exhibit A-2**) with photographs of the property and additional information.
8. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibit into evidence as follows:
- Exhibit B-1:** Review letter of Board Engineer and Planner, CME Associates, dated August 1, 2019.

¹ While 9 x 18 feet requires variance relief under the Borough Ordinance, the Board recognizes that such a parking width is acceptable under the Residential Site Improvement Standards.

² It was unclear during the course of the application whether variance relief would actually be necessary for the front steps. Nevertheless, the Board was inclined to grant such relief, if necessary, so as to allow the steps and ensure proper access to the home.

9. The Board Planner Steve Gottlieb, P.P. and Board Engineer Ben Matlack, P.E., both of CME Associates were present during the course of the hearings and certified and certified as to the information within the review letter (**Exhibit B-1**).
10. As indicated within the CME review letter (**Exhibit B-1**), the subject property also contains a wood shed, a metal shed and a block patio to the rear of the residence. There are also several large trees on the property. The property is enclosed with a 4 foot high chain link fence with a double swing gate along Third Street. There is a sidewalk and a drop curb along the property frontage.
11. The applicant's architect, Alec P. Shissias, RA, RLA was sworn and testified in support of the application.
12. Mr. Shissias advised that the existing residential structure on the subject property is in a state of disrepair. It is the applicant's intention to demolish that structure and replace it with a brand new two story house which would be built on the existing foundation along with two building additions.
13. Referring to the survey submitted into evidence as **Exhibit A-3**, it was noted that the subject property is very oddly shaped which makes the building envelope for any structure on the property extremely limited.
14. Mr. Shissias noted that the front porch of the house will be enlarged from what currently exists. However, the setback and building envelope will not be increased. A new bathroom and mudroom will also be added to the first floor.
15. It was stated that the existing staircase has head clearance issues. The staircase being built within the new house will not have any such issues.
16. On the second floor there will be a new bathroom and a new master bedroom.
17. The new house will have a basement which will serve as a recreation room for the home. It was agreed, as a condition of approval, that the basement would never be used as a bedroom. Additionally, the applicant also agreed, as a condition of approval, to revise its plans so as to show the basement cross section.
18. The applicant would be allowing for two onsite parking spaces on the property which would be paved. Proper construction plans for these spaces would need to be provided to the Board's Engineer for his review and approval. This would be a condition of approval.
19. Mr. Shissias stated that the new house would adhere to all of the current building codes which would be an improvement over what currently exists at the site.
20. It was Mr. Shissias expert opinion that the proposed home, as shown on **Exhibits A-2 and A-4**, would allow for much better street appeal and be more consistent with the other homes already existing in the neighborhood where the property is located.

21. With respect to the existing sheds on the property, it was stated that these would be removed. Such would be a condition of approval.
22. With respect to the existing chain link fence, the applicant agreed, as a condition of approval, to replace it with a new vinyl fence.
23. The applicant also agreed, as a condition of approval, to revise its final plans so as to depict all of the landscaping (including trees and the new vinyl fence) which would be on the property post construction. Said plans would need to be reviewed by and obtain the approval of the Board's Engineer and Planner.
24. Finally, the applicant agreed to adhere to all of the comments raised within the CME review letter (**Exhibit B-1**).
25. No one else testified on behalf of the applicant with respect to the merits of the application.
26. The Board's Professionals, who were all sworn, also indicated that they had no issues with the application provided the applicant adhered to the comments of their review letter. (**Exhibit B-1**).
27. The following members of the public appeared and spoke in support of the application:
 - (A) Michael Lane - 51 First Street, Keyport.
 - (B) Elmer Graham, Jr. - 22 St. Peter's Place, Keyport
28. After considering all the testimony and evidence presented, the Board Members, who are all residents of the Borough of Keyport, find that they agree with the applicant that the current home on the property is in a state of disrepair. Construction of the proposed new home, as shown on **Exhibits A-2 and A-4**, would be a much needed aesthetic improvement for the neighborhood and the Borough of Keyport itself.
29. The Board also recognizes that the shape of the subject property is irregular, as shown on the survey submitted into evidence as **Exhibit A-3**. This creates a natural hardship as to the building envelope which is available to construct within on the property.
30. The Board is hard pressed of to envision any negatives associated with the proposed application. In fact, the only negative the Board could foresee would be if the application were denied, meaning the existing structure would be allowed to remain on the property. Such a result would benefit absolutely no one and would be a detriment to the community.
31. Based upon the above, the Board finds that the applicant has met both the positive and negative criteria necessary to receive variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c)(1) and (2). Specifically, as noted, the property has physical limitations which limit the building envelope, thereby creating certain variance conditions. Additionally, absent granting of the requested variances, Keyport would lose the aesthetic improvements that would be gained through this application. That cannot be allowed. The benefits to the

- property's neighborhood and the Borough of Keyport as a whole of granting the requested relief far outweigh the benefits of strictly adhering to the provisions of the zoning ordinance.
32. With respect to the proposed site plan, the Board finds that the plan will safely function as designed. There has been no evidence presented that could possibly lead the Board to a different conclusion.
33. It seems clear to the Board that the benefits of approving this application are in the best interest of the Borough and such an approval far outweighs any detriments that might occur. 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 Key144 Property, LLC seeking site plan approval, with variance relief, so as to construct a new two story residence on premises located at 144 Third Street, which is officially known as Block 124, Lot 19 on the official tax map of the Borough of Keyport be granted subject to the following conditions:

1. Subject to the applicant substantially complying with the plans marked into evidence as **Exhibits A-2 and A-4.**
2. Subject to the applicant's compliance with the CME review letter marked into evidence as **Exhibit B-1.**
3. Subject to the condition that the basement of the new home may never be used as a bedroom.
4. Subject to the condition that the applicant must revise its plans (**Exhibits A-2 and A-4**) so as to show the basement cross section. Said plans must be reviewed and approved by the Board's Engineer.
5. Subject to the condition that the two onsite parking spaces on the property be paved. Proper construction plans for these spaces must be provided to the Board's Engineer for his review and approval.
6. Subject to the condition that the sheds located on the property are removed.
7. Subject to the condition that the existing chain link fence on the property be replaced by a vinyl fence.
8. Subject to the condition that the applicant revise its final plans (**Exhibits A-2 and A-4**) so as to depict all of the landscaping (including trees and the new vinyl fence) which will be on the property post construction. Said plans would need to be reviewed by and obtain the approval of the Board's Engineer and Planner.
9. 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.

10. 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.
11. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
12. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
13. This approval shall be deemed void by abandonment if a permit is not applied for within one year of the date hereof.
14. 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.
15. 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.
16. 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.

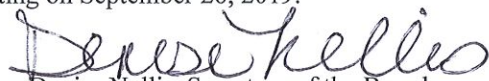
The foregoing was moved by Councilman Goode, second by R. Benedict and on Roll Call, the following vote was recorded:

Affirmative: Mayor Kennedy, Councilman Goode, M. Sessa, R. Benedict, J. Royster

Negative:

Abstentions: H. Aumack, L. Davidson, K. Howe, D. Pacheco, N. Vecchio

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 September 26, 2019.


Denise Nellis, Secretary of the Board