

RESOLUTION
GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH USE AND BULK VARIANCE RELIEF
SO AS TO CONSTRUCT A NEW ADDITION TO EXISTING AUTO BODY SHOP

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 34, LOTS 1,2,3,4,5,6,7 and 8
Application # 15-05
V & F AUTO BODY OF KEYPORT, LLC
6 CASS STREET

WHEREAS, V&F Auto Body of Keyport, LLC has applied to the Unified Planning Board of the Borough of Keyport for preliminary and final major site plan approval, with use and bulk variances, so as to be able to demolish an existing two-story wood frame dwelling and garage and construct a new 3,600 square foot addition to an existing auto body shop located at property commonly known as 6 Cass Street, and officially designated as Block 34; Lots 1, 2, 3, 4, 5, 6, 7 and 8 on the official Tax Map of the Borough of Keyport; and

WHEREAS, Board Member Dennis Fotopoulos has recused himself from all aspects of this application due to his having a business relationship with the applicant; 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 in the within matter during a regularly scheduled meeting of the Unified Planning Board held on October 22, 2015 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 constitutes a request by the applicant, V&F Auto Body of Keyport, LLC, for preliminary and final major site plan approval, with associated use and bulk variances, so as to be able to demolish an existing two-story wood frame dwelling and garage and construct a new 3,600 square foot addition to an existing auto body shop located on property commonly known as 6 Cass Street and officially identified as Block 34, Lots 1,2,3,4,5,6,7 and 8 on the official tax map of the Borough of Keyport.
2. The applicant's property is located within the Borough's LI Zone in which auto body repair shops are not a permitted use. Accordingly, a use variance, pursuant to the provisions of N.J.S.A. 40:55D-70(d)(2) is required by this application since the applicant seeks to expand a pre-existing non-conforming use.

3. In addition to the required use variance relief, the applicant also necessitates the following bulk variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2):

Minimum Side Yard Setback - 6/16 feet is required, whereas the applicant is only proposing 0.2 feet. This is a pre-existing non-conformity.

Accessory Building Setback - 6 feet is required, whereas the applicant is only providing 1.9 feet. This is a pre-existing non-conformity.

Ordinance § 25:1-15.8.b - All paved areas other than driveways must be setback from the street a minimum of 40 feet, whereas the applicant is not providing any setback of paved areas along Cass Street and Jackson Street. This is a pre-existing non-conformity.

Ordinance § 25:1-15.8.g - No more than three (3) vehicles may be stored overnight; whereas the applicant proposes to store more

Ordinance § 25:1-18.a.6 - Parking areas with four or more spaces must have a minimum five foot setback to any street right-of-way line, whereas the applicant is proposing a parking area that extends nine feet past the right-of-way line on Cass Street. This is a pre-existing non-conformity.

Ordinance § 25:1-18 Loading zones are required, whereas the applicant is not providing any such zone

Ordinance § 25:1-18a.7 Vehicles may not be parked on anything other than asphalt or concrete surfaces, whereas the applicant intends to park vehicles on such non asphalt or concrete surfaces

Ordinance § 25:1-14.6.c Lights poles may only be a maximum of 12 feet in height when abutting a residential use, whereas the applicant is proposing four (4) wall mounted lights and a single pole mounted light at 18 feet high.

4. During all portions of these proceedings, the applicant was represented by Lawrence D. Kantor, Esquire of the law firm Kantor & Linderoth which has offices located at 58 West Front Street, Keyport, New Jersey.

5. In support of the application, the following exhibits were marked into evidence by the applicant:

Exhibit A-1 : "Application To The Keyport Unified Planning Board" dated July 23, 2015.

Exhibit A-2 : "Site Plan" prepared by Paul J. Fletcher, P.E. of Fletcher Engineering, Inc. dated April 13, 2015.

Exhibit A-3 : "Proposed Addition and Renovation For V&F Auto Body #6 Cass Street Keyport New Jersey" prepared by Ronald J. Kacmarsky, A.I.A., of Ronald Kacmarsky Architectural Group dated March 30, 2015, last revised April 13, 2015.

Exhibit A-4 : "Stormwater Calculations" report prepared by Paul J. Fletcher, P.E., of Fletcher Engineering, Inc., dated July 2, 2015.

Exhibit A-5 : "Drawing Package" prepared by Highpoint Steel, LLC dated December 2, 2014.

Exhibit A-6 : "Certificate of Ownership"

6. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:
Exhibit B-1: "First Engineering and Planning Review" letter authored by Francis W. Mullan, P.E., C.M.E. and Stan Slachetka, P.P., AICP of T&M Engineering dated October 7, 2015.
7. Both the Board Engineer, Fran Mullan, P.E., and the Board's Planner Stan Slachetka, P.P. of T&M Engineering were present at the meeting. Both professionals were sworn and certified as to the information contained within the T&M Initial Engineering Review letter which was marked into evidence as **Exhibit B-1** and is incorporated into this Resolution by reference.
8. As recognized within the T&M review letter (**Exhibit B-1**), the subject property is a 28,000 square foot tract located at the corner of Jackson Street and Cass Street.
9. In support of the application, the applicant presented sworn testimony from its principal owner, Frank Ferraro, Sr.
10. Mr. Ferraro testified that he has owned the business since 2007. Prior to that it had been an operation known as Stan Wilson's Auto body. An auto body business had existed at the site for approximately 50 years.
11. Mr. Ferraro indicated that the business wishes to demolish an existing two-story frame dwelling and garage which currently is on the site and construct a new 3,600 square foot addition to the existing body shop.
12. With regard to a board on board fence which currently exists along the lot belonging to the residential neighbor to the northeast of the applicant's property, Mr. Ferraro testified that the fence does not belong to the applicant and they therefore have no control over same.
13. Mr. Ferraro assured the board that any signs which would be added to the premises would conform with the Borough Ordinances.
14. Mr. Ferraro indicated that, as a condition of approval, the applicant would comply with all conditions contained within the T&M Review Letter dated October 7, 2015. (**Exhibit B-1**) However, the applicant was requesting waivers from comment 4.1, relating to a requirement to repair/resurface pavement along the property frontage. Additionally, the applicant indicated that comment 9.14, relating to submission of a Environmental Impact Report, was not applicable to the project. The Board's Engineer agreed that based upon the nature of the application, items 4.1 and 9.14 could be waived.
15. It was also indicated that, as a condition of approval, the applicant would agree to consolidate lots 1 through 8 into a single lot. That consolidation deed must be submitted for review and approval by the Board's Attorney and Engineer prior to its recording with the County Clerk.

16. With regard to the existing frame shed located on the site, Mr. Ferraro indicated that the applicant would like to relocate the structure to another location on the property along Jackson Street. It was agreed, as a condition of approval, that the proposed location would be submitted to the Board's Engineer and Planner for their review and approval prior to the shed being relocated. If the Board's Engineer and Planner determined the new location was not acceptable, the applicant agreed that the shed would be removed from the property.
17. Beyond the testimony of Mr. Ferraro, the applicant also presented the testimony of an expert planner, Jeffrey Carr, P.P., P.E.
18. Mr. Carr testified that he had reviewed the application and did not believe it would lead to the increase of any traffic to the property. He noted that the property was already an auto body shop and nothing that was being proposed by the applicant would alter the business in such a fashion as to increase traffic.
19. With regard to the use variance relief being requested, Mr. Carr testified that the proposed improvements would bring the property more into conformance with the existing zone. He noted that the residential house which was to be demolished was completely nonconforming. While the auto body shop might not be a permitted use, it was certainly far more in line with other Light Industrial uses permitted in the LI Zone than a residential use was.
20. Mr. Carr also testified he believed the improvements would allow for an aesthetic improvement for the area since it would result in a cleaning up of the site.
21. With regard to the requested bulk variances, Mr. Carr indicated these could be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) as the benefits of granting the application, which would eliminate the nonconforming residential use, were greater than strict adherence to the Borough's Zoning Ordinance would otherwise allow.
22. Mr. Carr indicated that he could not foresee any negatives associated with the proposed application. The surrounding area would only benefit from the improvements, since the clearly non-conforming residential use was going to be removed from the site.
23. The final witness to appear was the applicant's professional engineer, Paul Fletcher, P.E.
24. Mr. Fletcher testified as to his belief the site would function properly as set forth in the plans he had prepared and submitted in support of the application.
25. It was also noted that there was no loading zone proposed for the property. It was testified that all deliveries are made by automobile or van. The site does not receive large deliveries, therefore a loading zone was not necessary for the site.
26. It was noted that the dumpster area had not been delineated on the plans. As a condition of approval, it was agreed that the plans would be revised to delineate the dumpster area. This delineation would be subject to the review and approval of the Board's Engineer and Planner.

27. The applicant recognized that it had not provided details for any landscape screening for the site. It was agreed, as a condition of approval, that a landscape plan be submitted to the Board's Engineer and Planner for their review and approval.
28. With regard to parking at the site, Mr. Fletcher believed what was being proposed would be more than adequate for the business. He noted that there were going to be 4 parking along Cass Street and at least 5 parking spaces on the property itself for the applicant's employees. It was agreed, as a condition of approval, that the applicant would be submit a vehicle storage layout plan to the Board's Engineer and Planner for their respective review and approval.
29. With regard to the ordinance requirement that vehicles may not be parked on anything other than asphalt or concrete surfaces (**item 5.10 of Exhibit B-1**), it was agreed that this would not be required due to the nature of the business and the fact that more asphalt at the site would create additional water runoff from the property. The applicant did agree however that it would refresh the gravel in the areas in question.
30. The Board's Engineer and Planner both indicated that they had no objections to the application from an engineering or planning perspective as long as the new project was built in conformance with the plans and testimony which had been submitted into evidence and the conditions of the review letter (**Exhibit B-1**) were complied with.
31. No one else spoke with respect to this application.
32. In considering this application, the Planning Board finds that the requested use variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(d)(2).
33. The Board agrees with the testimony of the applicant's planner that the proposal creates a benefit for the Borough since it removes an extremely non-conforming structure, specifically the residential dwelling, from the premises. This will lead to the property being brought into better conformity with the uses permitted in the LI Zone.
34. The Board also finds that the improvements being proposed by the applicant will lead to an aesthetic improvement for the site. This will also act as a benefit for the surrounding neighborhood.
35. Provided the applicant adheres to the plans and testimony submitted, the Board can not envision any reason why permitting the applicant to expand it pre-existing non-conforming use would not lead to a better result for the community.
36. With regard to the (c)(2) bulk variance, the applicant has established that the benefits of granting the proposed variance relief is better for the Borough than strict adherence to the Zoning Ordinance would otherwise allow. It is also noted that several of the requested

variances are already in existence. If the Board does not grant the (c)(2) variance relief, the site will remain as it currently exists today, continuing to hold a non-conforming residential use and without the aesthetic improvements. Such a result would not benefit anymore.

37. The Board cannot envision any negatives associated with this application. None were raised during the hearing and none appear to exist. This application will only lead to positive improvements for the Borough and the area surrounding the property.
38. With regard to the applicant's request for preliminary and final major site plan approval, after considering the testimony and exhibits placed into evidence, and assuming all representations are adhered to, the Board finds that the proposed site will function properly. As a result, the Board concludes the requested preliminary and final major site plan approval may be granted.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of V&F Auto Body of Keyport, LLC seeking preliminary and final major site plan approval, with use and bulk variance relief, at premises commonly known as 6 Cass Street, and officially designated as Block 34; Lots 1, 2, 3, 4, 5, 6, 7 and 8 on the official Tax Map of the Borough of Keyport be granted subject to the following conditions:

1. Subject to the applicant adhering to all of the plans submitted into evidence as identified above in paragraph 5 of this Resolution.
2. Subject to the applicant adhering to the comments raised in the T&M Review Letter dated October 7, 2015 (**Exhibit B-1**) with the exceptions of those items requiring the repair/resurfacing of pavement (item 4.1). It is also agreed that the production of an Environmental Impact Report is not applicable to this matter (item 9.14).
3. Subject to the condition that a deed consolidating the various lots which make up this parcel be recorded with the Monmouth County Clerk's Office. The consolidation deeds would need to be submitted to the Planning Board Attorney and the Planning Board Engineer for their review and approval prior to their recording with the Monmouth County Clerk's Office.
4. Subject to the condition that in the event the applicant wishes to relocate an existing frame shed, the point of relocation must first be submitted to the Board's Engineer and Planner for their review and approval. In the event that the Board's Engineer and Planner do not believe the chosen relocation point is acceptable, the shed shall be removed from the property.
5. Subject to the condition that the applicant must revise its plans so as to delineate the dumpster area. Said plans must be submitted to the Board's Engineer and Planner for their respective approvals.
6. Subject to a vehicle storage layout plan being submitted to the Board's Planner and Engineer for their review and approval.

7. Subject to the condition that the gravel be refreshed in the areas where vehicles will be parked on the property.
8. Subject to the submission of a landscape plan being submitted to the Board's Planner and Engineer for their review and approval.
9. Subject to the condition that work on vehicles may only be conducted within the interior of the complex. Work shall not be visible from the exterior of the site.
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 made before the Board shall be deemed a violation of this approval.
11. This approval shall be deemed void by abandonment if a permit is not issued within one year of the date hereof.
12. 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.
13. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
14. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
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 J. Kovacs, Seconded by R. Burlew and on Roll Call, the following vote was recorded:

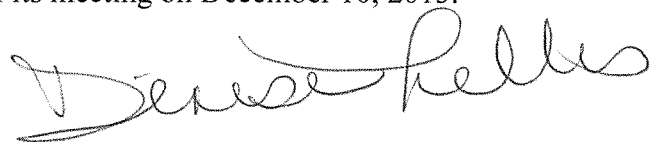
Affirmative: R. Burlew, M. Sessa, R. Benedict, T. Musson, J. Kovacs, G. Sappah

Negative:

Abstentions: D. Fotopoulos

Absent: Mayor Aumack, Councilman Cooper, J. Kovacs-Olsen

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 December 10, 2015.



Denise Nellis, Secretary of the Board