

Resolution prepared by:
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**RESOLUTION
GRANTING PRELIMINARY AND FINAL SUBDIVISION APPROVAL
WITH ASSOCIATED PARKING VARIANCE**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 21.01 LOT 41
Application # 21-04
31 WEST FRONT STREET, LLC
31 WEST FRONT STREET**

WHEREAS, 31 West Front Street, LLC has applied to the Unified Planning Board of the Borough of Keyport for Preliminary and Final Site Plan Approval with associated parking variance relief so as to allow for the construction of a multi-story mixed use building with lower level parking, a two story restaurant and three levels of apartments which would replace an existing two-story building located at 31 West Front Street which is officially designated as Block 21.01, Lot 41 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 was held in the within matter at a regularly scheduled meeting of the Unified Planning Board held on July 22, 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 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 for Preliminary and Final Major Site Plan approval with associated variance relief for 31 West Front Street, LLC to construct a new multi-story mixed use building with lower-level parking, a two story restaurant and three levels of apartments (three (3) one-bedroom apartments and six (6) two-bedroom apartments) which would replace an existing two-story building located on property designated as Block 21.01, Lot 41 on the official tax map of the Borough of Keyport.
2. The subject property, consisting of 4,500 square feet, is located on the northerly side of West Front Street, approximately 75 feet east of the intersection with Main Street. The site has approximately 30 feet of frontage on West Front Street. The front of the building is along West Front Street and the back fronts upon American Legion Drive.

3. The proposed use is a permitted use within the General Commercial District (GC) Zoning District where the subject property is located.
4. The only variance relief necessitated by this application is a parking variance wherein eighteen (18) parking spaces are required to accommodate the proposed apartments but only five (5) parking spaces are proposed. The GC Zone does not require any parking spaces for the proposed restaurant use.
5. During all portions of these proceedings, the applicant was represented by its legal counsel, Salvatore Alfieri, Esquire of the law Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices located at 955 State Route 34, Suite 200, Matawan, New Jersey.
6. In support of the application, the following exhibits were marked into evidence by the applicant:

- Exhibit A-1 :** Application to Land Use Board dated March 4, 2021
- Exhibit A-2 :** "Preliminary and Final Site Plan" prepared by Lorali E. Totten, P.E. of Crest Engineering Associates, Inc. dated March 2, 2021, last revised June 18, 2021. (consisting of 4 sheets)¹
- Exhibit A-3 :** Architectural Plans, prepared by James J. Monteforte, A.I.A. of Monteforte Architectural Studios, dated March 2, 2021, last revised June 18, 2021 (consisting of eight (8) sheets)
- Exhibit A-4 :** "Negligible Stormwater & Environmental Impact Statement" dated February 26, 2021, last revised June 18, 2021, as prepared by Lorali E. Totten, P.E., P.P. (consisting of three (3) sheets)
- Exhibit A-5:** Color Elevations of proposed building as prepared by Monteforte Architectural Studio, LLC.

7. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:

- Exhibit B-1:** "Second Engineering & Planning Review" letter dated July 12, 2021 as prepared by Francis W. Mullan, P.E., C.M.E. and Stanley Slachetka, P.P., A.I.C.P. of T&M Associates.

8. Both the Board Engineer, Francis W. Mullan, P.E., C.M.E. and Board Planner Stanley Slachetka, P.P., AICP both of T&M Engineering were present at the meeting. Both professionals were sworn and certified as to the information contained within the T&M Engineering and Planning Review letter, dated July 12, 2021, which was marked into evidence as **Exhibit B-1** and incorporated into this Resolution by reference.
9. In support of the application, the applicant presented sworn testimony from its professional architect, James Monteforte, P.E. of Monteforte Architectural Studio, LLC.

¹ With respect to **Exhibit A-2**, the submitted plans indicate that it consists of five (5) sheets, however only four (4) sheets were presented as "Sheet 4" is indicated on the "Sheet Index" as being "Reserved".

10. Mr. Monteforte, relying upon **Exhibits A-3 and A-5**, explained the general layout of what the applicant was proposing. He indicated the applicant was looking to replace an existing two story building containing retail and residence space with a new modern building consisting of a new two story restaurant (6,701 square feet) and nine (9) new residential apartments consisting of six (6) two-bedroom units and three (3) one-bedroom units. The total area of this new building would be 17,289 square feet.
11. The new structure would be four stories at a height of 43 feet from West Front Street. In the back, because it drops off toward American Legion Drive, another two stories would be present.
12. As shown on **Exhibit A-3**, the bottom of the building would be a parking area consisting of five (5) parking spaces, including one ADA parking space. This area would be below the Base Flood Elevation (BFE) and therefore was not usable for anything other than parking vehicles and the placement of a trash enclosure area which would also be placed there.
13. It was made clear that the trash enclosure area would be for the resident's use, however the cans would be taken out of the building by management. As a condition of approval, the applicant agreed to revise its plans (**Exhibit A-3**) to show precisely where the residential garbage would be held in the building pending the bringing of the cans to the trash enclosure area. The sufficiency of this area would be subject to the review and approval of the Board's Engineer and Planner.
14. The remainder of the lower level would consist of a loading area for the restaurant and elevators to access the upper levels. This was all shown on the elevation plans. (**Exhibit A-3**)
15. The majority of mechanicals for the new building would be located upon the roof of the building and would not be visible from the ground. A screen that would look like a panel wall would be installed on the roof to further hide the mechanical elements. With that said, it was also noted that additional mechanicals would be located on the east side of the building. These eastern mechanicals would be set back and not be visible from the ground, so Mr. Monteforte did not believe these needed to be screened. Again, this was all apparent from the elevation plans. (**Exhibit A-3**)
16. With respect to the concerns of Board Members that the proposed building was too modern looking (**Exhibit A-5**) and did not fit well into the downtown area along West Front Street, Mr. Monteforte indicated architectural changes could be made, including modifying the brick color. As a condition of approval, it was therefore agreed that the applicant would revise its architectural plans (**Exhibits A-3 and A-5**) so as to ensure the building would better conform aesthetically to the downtown district. Such revised plans would be subject to the review and approval of the Board's Planner.

17. With respect to the proposed exterior lighting for the building, the applicant agreed as a condition of approval to ensure the fixtures along West Front Street would have a historic tone to them. Said fixtures would be added to the architectural plans (**Exhibit A-3**) and be subject to the review and approval of the Board's Planner and the Board Engineer.
18. With respect to concerns from Board Members as to whether patrons of the proposed restaurant use would be able to easily navigate around the building, the applicant agreed, as a condition of approval, to install signage on the lower level directing patrons to the restaurant above. Such signage would be subject to the review and approval of the Board's Planner and the Board Engineer.
19. As to concerns raised about the historic nature of the subject property and its neighboring buildings, Mr. Monteforte made clear that the applicant would comply with all construction codes during the demolition and construction process. Precautions would be taken to protect the neighboring buildings.
20. Beyond its architect, the applicant also presented testimony from its professional engineer, Lorali E. Totten, P.E., P.P. of Crest Engineering Associates, Inc.
21. Mr. Totten relied upon the proposed site plan and storm water impact statement marked into evidence as **Exhibits A-2** and **A-4** respectively. It was her belief that the site would function appropriately as designed without creating any detriments for surrounding properties.
22. It was noted the applicant is requesting two waivers associated with aisle width and space size for the proposed five (5) parking spaces. Ms. Totten indicated she believed the proposed dimensions were more than adequate to accommodate vehicles and it was in the best interests of the project since it would maximize the number of spaces provided. The ordinance requires a parking space area of 9 feet x 20 feet whereas the applicant was proposing the spaces to be 9 feet x 18 feet. The two way access drive is required to be 24 feet wide whereas the applicant was only provided an access drive of approximately 10 feet wide. The Board's professionals had no objections to the granting of these waiver requests.
23. With respect to concerns about the lack of landscaping at the site, it was noted that there was a tree being removed as part of the proposed construction. As a condition of approval, the applicant agreed to replant the tree in a location approved by the Board's Planner and the Board's Engineer.
24. As to concerns expressed by the Board's Professionals as to the location of the applicant's dumpster during the construction process and its interference with parking on the site, it was agreed that the dumpster would be re-located so as to ensure parking spaces would not be lost. The exact area for the re-location would be subject to the review and approval of the Board's Engineer and the Board's Planner.

25. It was noted that the site plan (**Exhibit A-2**) failed to show the flood zone boundaries as required by ordinance. The applicant agreed, as a condition of approval to revise the site plan to include this information.
26. The applicant agreed that it would comply with all of the comments contained within the Board Engineer and Planner's Review Letter dated July 12, 2021 which was marked into evidence as **Exhibit B-1**. This would be a condition of approval.
27. The final witness presented by the applicant was its professional Planner, Christine Nazzaro Cofone, P.P.
28. Ms. Cofone testified with respect to the parking variance necessitated by the application. As previously noted in this Resolution, eighteen (18) parking spaces are required to accommodate the nine (9) residential units being proposed for the site. The breakdown for these units is as follows:

1 Bedroom Units = 1.8 Spaces per unit	2 Bedroom Units = 2 spaces per unit
3 units are proposed = 5.4 or 6 spaces required	6 units are proposed = 12 spaces required

- Parking spaces are not required in the GC Zoning District for the proposed restaurant use.
29. Ms. Cofone noted that the applicant would be providing five (5) parking spaces, including one ADA space, for the property. She believed these were more than sufficient to accommodate the proposed uses based upon the fact that there are eight (8) public parking lots all within walkable distance to the site.
 30. Ms. Cofone further spoke with respect to the language contained within the Borough's Master Plan encouraging the growth of outdoor dining areas and the growth of residential units in the area. She believed the applicant's proposal complied with these Master Plan provisions.
 31. It was the opinion of Ms. Cofone that the requested variance relief could be granted without any substantial detriment to the Borough's zone plan or master plan, nor would it negatively impact surrounding properties.
 32. The only member of the public to speak with respect to the application was Michael Lane of 51 First Street, Keyport, who testified as to his support for the application. Mr. Lane indicated his belief that the proposal was in conformance with the Borough's Master Plan and land use ordinances. It should therefore be approved as proposed.
 33. After considering all of the testimony and evidence placed into evidence, and assuming all representations are adhered to, the Board finds that the proposed site will function properly as proposed under the plans that have been submitted to the Board. There has not been any evidence presented to the Board as to why the site would not function as designed.

34. With respect to the parking variance required for the application, the Board accepts the testimony of the applicant's Planner, Ms. Cofone, that nearby public parking lots are sufficient to accommodate whatever additional parking needs might be created by the new residential units being proposed for the building.
35. The Board cannot envision any negative impact which the granting of the proposed parking variance would cause the surrounding neighborhood or the zone plan in general. As noted by the applicant's planner, this exact type of use is envisioned by the Borough's Master Plan. Absent the granting of the variance relief for the missing thirteen (13) parking spaces, the applicant would not be able to construct its building. The vision contained within the Master Plan would not be furthered as a consequence.
36. Based upon the above, the Board finds that the requested parking variance may be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) as the benefits of having a new building which further the goals of the Borough's Master Plans outweighs the benefit of strictly complying with the provisions of the zoning ordinance in this specific case.
37. The Board further notes that it sees no reason why the applicant should not be granted its requested waiver relief in this matter. The Board finds that proposed aisle width and parking space size are acceptable for the proposed building. Absent the granting of such relief, the applicant would not even be able to provide the five (5) onsite spaces which are being offered. Such a result would benefit absolutely no one.
38. Based upon all of the above, the Board finds that the applicant has met its burden in establishing that it is entitled to the requested preliminary and final site plan approval, with associated variance and waiver relief, and therefore such should be granted.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of 31 West Front Street, LLC seeking preliminary and final major site plan approval, along with the associated variance and waiver relief, for premises officially designated as Block 21.01, Lot 41 on the official Tax Map of the Borough of Keyport be granted subject to the following conditions:

1. Except as required to be revised within this Resolution, subject to the applicant's substantial adherence to the plans and reports submitted into evidence by the applicant as identified in paragraph 6 of this Resolution above.
2. Subject to the condition, the applicant revises its plans (**Exhibit A-3**) to show precisely where residential garbage would be held in the building pending the bringing of the cans to the trash enclosure area. The sufficiency of this area shall be subject to the review and approval of the Board's Engineer and Planner.

3. Subject to the condition that the applicant revise its architectural plans (**Exhibits A-3 and A-5**) so as to ensure the building better conforms aesthetically to the downtown district. Such revised plans shall be subject to the review and approval of the Board's Planner.
4. Subject to the condition that the exterior lighting fixtures for the site along West Front Street have a historic tone to them. Said fixtures shall be added to the architectural plans (**Exhibit A-3**) and shall be subject to the review and approval of the Board's Planner and Engineer.
5. Subject to the condition that the applicant install signage on the lower level directing patrons to the restaurant above. Such signage shall be subject to the review and approval of the Board's Planner and the Board Engineer.
6. Subject to the condition that the applicant replant the tree which will be removed during construction to a location approved by the Board's Planner and the Board's Engineer.
7. Subject to the condition that the applicant's dumpster be relocated during the construction process so as to ensure parking spaces are not lost. The exact area for the re-location shall be subject to the review and approval of the Board's Engineer and the Board's Planner.
8. Subject to the condition that the applicant revise its site plan (**Exhibit A-2**) to include the flood zone boundaries as required by ordinance.
9. The applicant agreed that it would comply with all of the comments contained within the Board Engineer and Planner's Review Letter dated July 12, 2021 which was marked into evidence as **Exhibit B-1**.
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 amended approval.
11. This application is granted only in conjunction with the conditions noted herein and but for the existence of the same, the within amended application would not be approved.
12. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations, including, but certainly not limited to, all applicable building and construction codes.
13. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
14. This approval shall be deemed void by abandonment if a permit is not applied for within one year of the date hereof.
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 H. Aumack, second by N. Vecchio and on Roll Call, the following vote was recorded:

Affirmative: Mayor Kennedy, H. Aumack, K. Howe, D. Pacheco, J. Royster, M. Sessa, N. Vecchio, W. McDermott

Negative:

Abstentions: J. Oviedo

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 August 26, 2021.



Denise Nellis, Secretary of the Board