

Resolution prepared by:
Marc A. Leckstein, Esquire
Leckstein & Leckstein, LLC
463 Prospect Avenue
Little Silver, NJ 07739

**RESOLUTION GRANTING BULK VARIANCE RELIEF
TO CONSTRUCT
A NEW SINGLE FAMILY TWO-STORY DWELLING**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 102, LOT 6

**Application # 21-11
30 SOUTH SECOND, LLC
23 BROOK AVENUE**

WHEREAS, 30 South Second, LLC has applied to the Unified Planning Board of the Borough of Keyport for approval to construct a new single family two-story dwelling upon vacant property located at 23 Brook Avenue which is designated as Block 102, Lot 6 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 December 2, 2021 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. Throughout the course of the proceedings, the applicant was represented by its legal counsel, Lawrence Kantor, Esquire of the law firm Kantor & Linderoth which has offices located at 58 West Front Street, Keyport, New Jersey.
2. The applicant, 30 South Second, LLC, seeks approval from the Planning Board to construct a new single family two-story dwelling upon vacant property located at 23 Brook Avenue which is designated as Block 102, Lot 6 on the official tax map of the Borough of Keyport.
3. The applicant is providing two (2) off-street parking spaces for this project as required under the Residential Site Improvement Standards (RSIS).
4. The subject site, consisting of 3,760 square feet is located at the mid-block of Brook Avenue, between Hall Place and Von Dorn Street. It is located within Borough's RA Zoning District in which single family homes are permitted use.
5. The following pre-existing variance conditions are triggered by this application:

Ordinance Provision	Required	Proposed
Minimum Lot Area	5,000 square feet	3,760 square feet (existing condition)
Minimum Lot Width	50 feet	40 feet (existing condition)

6. In support of the application, the following was offered into evidence:
Exhibit A-1: Application to land Use Board
Exhibit A-2: "Plan of Survey" prepared by Robert T. Kee, Jr., P.E. & L.S., dated March 11, 2021
Exhibit A-3: Architectural Plans prepared by Jason Peist, AIA dated May 17, 2021, last revised October 11, 2021.
7. Beyond the applicant's exhibits, the Board also marked its own Exhibit:
Exhibit B-1: T&M Planning and Engineering Review Letter of September 16, 2021.
8. In addition to its exhibits, the applicant also presented sworn testimony from its managing member, Steven Caputi, who resides at 11 Charlie Road in Hazlet.
9. Mr. Caputi testified that he had reached out to neighboring property owners to see if anyone wishes to purchase his lot or sell property to the applicant so as to make the lot more conforming. No responses had been received.
10. It was further noted that most of the lots in the neighborhood are also non-conforming. The proposed house will fit comfortably upon the lot as it exists.
11. It was noted that although the property is currently vacant, there is an existing curb apron. As a condition of approval, it was agreed the applicant would eliminate that curb apron and replace it with a new one that would be constructed appropriately.
12. The Board's Engineer, Francis W. Mullan, P.E., C.M.E. and its Planner, Kendra Lelie, both of T&M Engineering, testified under oath that they had no objection to the application from an engineering or planning perspective.
13. Michael Lane of 51 First Street, Keyport, New Jersey appeared and spoke in favor of the application indicated this was exactly the type of use envisioned by the Borough's Master Plan and Zoning Ordinance.
14. No one else testified with respect to the application.
15. In considering this application the Board has reviewed the materials submitted into evidence and finds that the lot is undersized. There is no way for the applicant to make the lot conforming. The pre-existing non-conforming nature of the lot is the only reason relief from the Planning Board is required.
16. The Board agrees with the applicant that the proposed home will fit on the lot without any issues. This is demonstrated by the plans marked as **Exhibit A-3**.
17. The fact that the applicant will be eliminating a vacant property and bringing it back into utility with the construction of a single family home will serve to benefit the entire community. This is exactly the type of use envisioned by the Borough's Master Plan and Zoning Ordinance.
18. The Board is hard pressed to envision any negatives associated with this proposal. In fact, if the application were denied, the property would remain vacant which would be a benefit to no one.

19. Based upon the above findings, the Board concludes that the relief required by this application can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(1) as the two variances at issue are pre-existing conditions which create a hardship that are out of the control of the applicant.
20. The Board also finds that the variance relief may be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) as the granting of same will lead to the elimination of a vacant lot and the construction of a new single family home. This will serve to benefit the entire community and surely outweighs any benefit that strict compliance with the zoning ordinance would otherwise allow.
21. The Board concludes sufficient reasons exist for the granting of the requested variances and the requested relief can be granted without substantial detriment to the Zone Plan, Zoning Ordinance and the public good, provided the conditions of this Resolution are adhered to.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport, that the application of 30 South Second, LLC may be granted subject to the following conditions:

1. The proposed single family two-story dwelling must be built in conformance with the plan marked into evidence as **Exhibit A-3**.
2. Subject to the applicant eliminating the existing curb apron and installing a new apron which will be constructed appropriately.
3. Subject to compliance with the comments raised within the Planning and Engineering Letter which was marked into evidence as **Exhibit B-1**.
4. Subject to all representations made by the applicant during the application.
5. 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.
6. 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.
7. Subject to the payment of any fees, escrows and taxes as may be due to the Borough, prior to the issuance of any permits.
8. This approval shall be deemed void by abandonment if a building permit is not issued within one year of the date hereof.
9. 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.

10. 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 Joanne Royster

Seconded by Donald Pacheco and on Roll Call, the following vote was recorded:

Affirmative: Mayor Kennedy, Councilmember Davidson, M. Sessa, W. McDermott,

J. Oviedo, D. Pacheco, J. Royster

Negative:

Abstentions: H. Aumack, N. Vecchio

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport during its meeting on January 27, 2022.


Denise Nellis, Secretary of the Board