

Resolution prepared by:
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**RESOLUTION GRANTING BULK VARIANCE RELIEF
TO PERMIT APPLICANT TO MAINTAIN A SHED CONSTRUCTED WITHOUT
PREVIOUS APPROVAL**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 32, LOT 8

**Application # 24-05
BRODS REALTY, LLC
125 ROUTE 35**

WHEREAS, Brods Realty, LLC has applied to the Unified Planning Board of the Borough of Keyport for bulk variance relief so as to permit the applicant to maintain a shed constructed without previous approval at property commonly known as 125 Route 35 which is officially designated as Block 32, Lot 8 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 August 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, Brods Realty, LLC, is seeking bulk variance relief so as to permit the applicant to maintain an accessory shed constructed without previous approval at its commercial property commonly known as 125 Route 35 and officially designated as Block 32, Lot 8 on the tax map of the Borough of Keyport.
2. The subject property is a 14,244.1 square foot corner lot with a width of 100 feet located at the intersection of New Jersey State Highway Route 35 and Luppamong Avenue. The site is developed with a 1 ½ masonry commercial building and the aforementioned 650 square foot accessory storage shed.
3. The property is located within the Borough's Highway Commercial (HC) Zone. The existing use is permitted within the district.
4. Although the use and accessory shed are permitted, the following bulk variance relief, pursuant to N.J.S.A. 40:55D-70(c), is required by this application:

Variance	Required / Maximum	Existing/Proposed
<u>Principal Use</u>		
Min. Front Setback	50 feet	11.08 / 19.5 feet
Min. Side Setback	6 feet	5.50 feet

Max. Lot Coverage	35 %	36.13 %
<u>Accessory Use</u>		
Min. Rear Setback	16 feet	5.0 feet
Min. Side Setback	6 feet	5.0 feet
<u>Total</u>		
Max. Lot Coverage	35 %	40 %
Max. Impervious Coverage	90 %	92 %

5. During all portions of these proceedings, the applicant was represented by 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 was offered into evidence:
Exhibit A-1: Planning Board Application
Exhibit A-2: Plot Plan prepared by Reme & Associates dated Nov. 16, 2023
7. Beyond the applicant's exhibits, the Board also marked its own Exhibit:
Exhibit B-1: CME Review Letter dated June 20, 2024
8. In furtherance of its application, sworn testimony was presented by the applicant's site engineer, Mark E. Reme, P.E., who confirmed for the Board that the applicant was not proposing any changes to the subject site other than what already has been built. This includes the 650 sq. ft. storage shed which was constructed back in 2021 without first receiving any approvals. The applicant would like to maintain that shed.
9. Mr. Reme noted that the shed had been constructed upon an existing concrete area, he therefore did not believe the structure had created any new impervious coverage.
10. With respect to the setback issues, it was noted the applicant's property backs up upon a parking lot. As such, the impact upon neighboring property was negligible.
11. It was indicated that there are no utilities, including lighting, within the shed and none were being proposed. A prohibition against the installation of any utilities would be a condition of approval.
12. It was noted the Ordinance does require landscaping and fencing to be installed to provide buffering with neighboring properties. A waiver was being sought from these requirements as the existing vegetation and fencing (as shown on **Exhibit A-2**) was believed to be sufficient. The Board's Engineer had no objection to this request.
13. It was acknowledged there are dumpsters on the site which were not depicted on the Plot Plan (**Exhibit A-2**). It was agreed, as a condition of approval, an enclosure would be constructed to house these dumpsters which would be shown upon revised plans. Both the design, which would likely be a chain link with slats, and the location of such would need to be submitted to the Board Engineer for his review and approval. It was further agreed the enclosure would be designed to only be accessible from the sides, rather than the front, so as ensure the actual dumpsters would not be visible from the front of the property.

14. No one else testified on behalf of the applicant.
15. No one who resides or owns property within 200 feet of the applicant's property appeared at the hearing.
16. Michael Lane of 51 First Street, Keyport did appear at the hearing and voiced concerns over the adequacy of the garbage enclosure. He felt it was vital to ensure that the enclosure be designed so to eliminate being able to see the dumpsters from the front of the property. The Board confirmed this would be a condition of approval.
17. The Board's Engineer, Trevor J. Taylor, P.E., P.P., C.M.E. C.F.M. of CME Associates was placed under oath and indicated that he had no objection to the application being granted from an engineering or planning perspective provided the comments contained in his review letter (**Exhibit B-1**) were adhered to. This would be a condition of approval.
18. 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. Additionally, an approval of the application will lead to the construction of a new dumpster enclosure which, absent said relief, would not be realized. This will serve as a benefit to the community in general since it will eliminate the eye sore of unsheltered garbage containers.
19. The Board cannot envision why the proposed relief would negatively impact anyone and no evidence has been presented which would demonstrate otherwise.
20. In consideration of the above, the Board finds the requested variances can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) as the benefits of granting same far outweigh the benefit of strict adherence to the ordinance provisions.
21. The Board can find no reason why the subject application should not 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 Brods Realty, LLC, may be granted subject to the following conditions:

1. The shed must be in conformance with the exhibits marked into evidence.
2. The shed may never have any utilities connected to it.
3. The applicant shall construct a dumpster enclosure to house the dumpsters located on the site. The design and location of the enclosure must be reviewed and approved by the Board's Engineer, although same may be chain link with slats. The location shall be shown on a revised Plot Plan which shall be submitted.
4. The dumpster enclosure shall only be accessible from its sides so as to ensure the dumpsters themselves are not visible from the front of the property.

5. Subject to compliance with the comments raised within the Planning and Engineering letter marked into evidence as **Exhibit B-1**.
6. Subject to all representations made by the applicant during the application.
7. Subject to compliance with the conditions of this resolution within one (1) year of its adoption.
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 applicable 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 H. Aumack, second J. Oviedo

and on Roll Call, the following vote was recorded:

Affirmative: Mayor Araneo, Chairman Merla, H. Aumack, J. Oviedo, M. Sessa

Negative:

Abstentions: W. McDermott, D. Pacheco

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport during its meeting on September 26, 2024.



Denise Nellis, Secretary of the Board