

The Keyport Unified Planning Board held a Regular Meeting on March 28, 2024, which was called to order by Joseph Merla at 7:00 PM, the Sunshine Law Notice was read followed by the Flag Salute.

Present: Mayor Araneo, Councilmember Peperoni, Chairman Merla, W. McDermott, M. Sessa, J. Oviedo, D. Pacheco, (arrived 7:10pm), C. Demarest, J. Kovacs-Olsen

Absent: H. Aumack

Professionals: Board Attorney Marc Leckstein, Matthew Zwingraf, CME Associates

Michele Clark, Borough Clerk was sitting in for D. Nellis for first application.

MINUTES: FEBRUARY 22, 2024

Motion made by W. McDermott, second by M. Sessa with ayes by all present.

**RESOLUTION: KUPB 23-15
OMER INVESTMENTS
222 BROADWAY
BLK 13 LOT 13, 14, 15
USE VARIANCE**

MOTION TO APPROVE RESOLUTION

Motion made by M. Sessa, second by Chairman Merla

Ayes: Chairman Merla, W. McDermott, J. Oviedo, N. Vecchio, C. Demarest, J. Kovacs-Olsen
Abstain: Mayor Araneo, Councilmember Peperoni (Mayor and Council cannot vote on a use variance application)

**APPLICATION: KUPB 24-04
DENISE NELLIS
BLK 11 LOT 1
ZONING APPEAL – 171 THERESE ST
BLK 14 LOT 8**

Mr. Pacheco could not sit for this application since he lives within 200 feet from this property.
Ms. Kovacs-Olsen recused herself she is related to the zoning officer.

Mr. Leckstein explained that this is an appeal made by a number of residents which was placed under one appeal. The appellants would be Denise Nellis, Jeremy Artisorost and Kristen Straford, Raymond Janwich, Linda Klawunn, Christine and Michael Matarese and Diane Marie Patrick

Mr. Leckstein asked if all the individuals were present; yes. Mr. Leckstein explained that this is not the normal application that goes before the board, this is an appeal of the zoning officer's decision dated 12/8/2023 decision of the zoning officer, David Olsen. Mr. Leckstein confirmed that Mr. Olsen was present. Mr. Olsen was sworn in. Mr. Leckstein stated that Ms. Nellis will put up her case and Mr. Olsen would respond. The property owners were also present at the meeting, Mr. Leckstein explained that they would have an opportunity to respond. Then the Board would have to decide whether Mr. Olsen decision was accurate, the Board would either reverse the decision or uphold the decision.

Ms. Denise Nellis was sworn in. Ms. Nellis, 1 Hobart Street which is the property right across the street from this property. Ms. Nellis stated she wanted to make it clear that she had nothing against the owners or the potential buyer of the property. The business at 171 Therese Street has always been boat/marine repair, the property is in a residential zone, this is the only commercial use that has ever been at this location. Ms. Nellis stated that she did not understand how the Borough could approve a change of use or even an expansion of use without the owners of the properties surrounding this location being notified or for this to go before the Board. The residents that live in the area were never notified of the change of use and they asking that the Borough overturn the approval and have the property owners appear before the Board with an application requesting a use variance. This way the residents would have a chance to hear what is being proposed and the Board can hear their concerns.

Mr. Leckstein stated for the record that Ms. Nellis is the secretary for the Planning Board as a result it was a conflict for her to have anything to do with this application. That is why Ms. Clark is sitting as the secretary. Ms. Nellis has not handled any part of this appeal except for the fact that she filed it.

Mr. Leckstein asked if Ms. Nellis acknowledges that the property is marine/boat repair business; Ms. Nellis stated that is what it is supposed to be. Mr. Leckstein asked what was the change of use, Ms. Nellis explained that they are going to be doing railings which the neighbors don't exactly know what that means from what they have seen from the research online that this company does powder coating, the proposed business would have trucks bringing materials for the railings and it is very concerning to the residents. Mr. Leckstein confirmed that the railing, gates and miscellaneous iron works have never been done at this location; yes, that is correct. Mr. Leckstein stated it is only Marine/Boat repair, Ms. Nellis did state that there is auto repair being done which she believes was not approved. Mr. Leckstein asked for how long the auto repair has been going on.

Mr. Raymond Janwich, was sworn in. Mr. Janwich explained his property is right next door to this location, he stated that the auto repair has been going on for approximately one year. Mr. Leckstein stated that no one has filed an appeal for that. Mr. Vecchio stated that was not true that the auto repair he has been inspecting the building for the last five years and there has been an auto repair shop there. Mr. Vecchio stated if they have been doing inspections, he would have had a CO and zoning it has not been just a year. Mr. Leckstein explained that was important, so the Board understands the public had twenty days to appeal from which a use begins if there was an approval given by the Town. Mr. Leckstein explained to the audience that anyone who speaks must be sworn in and come to the microphone.

There was further discussion regarding the auto repair being approved by the town. Mr. Leckstein asked if Mr. Olsen was aware of the auto repair at the site; yes. He was asked if he ever approves that use; no. Mr. Leckstein has asked Mr. Olsen and Ms. Clark to please look into whether it had approval for that business to operate. If there is not that the code official should do something about it because it is clearly not permitted.

Mr. Leckstein stated that they are limiting the appeal to the gates, railing and other iron works; okay.

Mr. Janwich spoke about the fabricating of railings, the welding and possibly sandblasting. He stated he does not know the exact operation. He feels there would be a lot of stuff going into the environment unless there is proper booths put in, which he feels is very cost prohibited.

Mr. Leckstein asked if anyone else have anything they would like to say.

Diane Marie Patrick, she stated that her concern was that no one was notified so they were not aware of any change, they found out only a couple of weeks ago. She is concerned that there would be more traffic, concerned about the possible effects of the environment, concerned about the noise that will disrupt her in her home.

Mr. Leckstein explained that those issues are not what the Board is looking into tonight. He explained that they are legitimate concerns. All that is before the Board tonight is whether or not this use is permitted in that zone as found by the zoning officer. Ms. Patrick understood.

Mr. Leckstein continued to explain even if everyone thought it was a great use, if it is not permitted in the zone, it still would not be allowed. If the Board found it was not permitted. Ms. Patrick stated she just wanted to state that this might affect her life and her property value. Mr. Leckstein stated he understood. Mr. Leckstein confirmed that Ms. Patrick does not feel this is permitted in the zone; correct.

Mr. Leckstein explained that it is not that they are not sympathetic to the detrimental aspect, that is not the issue before the Board. The only issue before the Board is if this use is permitted or not in this zone.

Christine Matarese asked how it could have been approved. She asked how it could have been changed. Mr. Leckstein explained what is going to happen is Mr. Olsen is going to explain his rationale as to why he found that this was permitted by ordinance, which is what he found and then the Board will make a determination. If it is permitted by ordinance then it wouldn't be a change of use. It would legitimately be permitted by the ordinance and Mr. Olsen was in his rights for his approval. Whether it would need site plan approval or not is another issue. If the Board determines that he is wrong and he couldn't do that the Board would overturn his approval, and that is what the Board is there to decide.

Michael Matarese, 158 Therese asked if he does approve it does it have to go to the Board and they would receive a letter. Mr. Leckstein explained if it is a permitted use within the zone then no you would not receive a notice. Mr. Leckstein gave an example, if someone came in since this is a single-family zone, and someone was going to build a house on a piece of property and there were no variances needed you would not get a letter because it is permitted in the zone. Mr. Matarese asked if this is just decided by the zoning officer; yes, initially every application goes to the zoning officer. The zoning officers' job is to determine whether something is permitted by ordinance or not permitted. If it is permitted by the zoning ordinance, he is obligated to give an approval assuming that there are no other variances. If he decides it is not a permitted use by ordinance, they would have to apply to the Board for a use variance as Ms. Nellis stated and then the neighbors would all get notices. Mr. Leckstein explained what he determined is that it is

permitted by the ordinance so there were no notices sent out. Mr. Matarese asked if the property is considered grandfathered in as a commercial property; it is considered grandfathered in as Marine/Boat repair business definitively. Mr. Matarese asked any change to that grandfathered in as a commercial property; Mr. Leckstein explained that it is considered grandfathered in as far as Marine Boat repair business. Further discussion regarding the zoning and the use of this location.

Dave Olsen, Zoning Officer was sworn in. Mr. Leckstein asked him to explain the rationale behind the determination. Mr. Olsen stated the history of the property started as a wooden boat operation; he explained his grandfather worked for Mr. Kulas back in the 50's. His first time in the building was 1989 it was fiberglass boats, fiberglass repair and marine repair. Since then, he has known it to be a warehouse and an auto mechanic shop he believes in 2010 and 2011. Since then, it has been auto repair with part of it being warehouse. Mr. Olsen stated that Mr. Vecchio could probably expand on it a little more. Mr. Olsen looked at it as being a light industrial use in the zone, it is not allowed in any zone it is grandfathered in as pre-existing non-conforming he feels there is no way it could be used as residential. He feels it would be light industrial. Mr. Leckstein confirmed that Mr. Olsen looked at the property as because of a marine boat repair currently operates there that is somehow rezoned as light industrial use. Mr. Olsen stated that the location has been different things not just boat repair. Mr. Leckstein asked since it has been an auto repair body shop and a boat repair; Mr. Olsen stated that the use has not been consistent. Mr. Leckstein asked because of that it somehow rezoned the property from an RA; Mr. Leckstein asked if he acknowledged that the property is in a RA zone; yes. Mr. Leckstein asked because other uses have existed at the location that somehow Mr. Olsen felt that rezoned the location and therefore anything that fits in to that zoning is allowed; Mr. Olsen stated that was correct. Mr. Olsen felt that the building is not conducive to a single-family use. Mr. Leckstein asked why Mr. Olsen did not find that it would be an expansion of a pre-existing non-conforming use; the building was not being modified for the use. Mr. Leckstein asked if railing, gates and miscellaneous iron works exist at the site prior to this application that is before the Board; no. Mr. Leckstein asked then why wouldn't that be an expansion of a pre-existing non-conforming use. Mr. Leckstein stated that he was looking at Mr. Olsen's approval (exhibit O1) stated that it is permitted by ordinance, there is a spot that says valid non-conforming use, he asked why was it decided it was by ordinance rather than a pre-existing non-conforming use; Mr. Olsen stated that he put the use to the building not the use inside the building. Mr. Leckstein stated that there is no ordinance that permits this; no. Mr. Leckstein asked if it was a typing error; yes. There was further discussion regarding what was meant by a typing error.

Mr. McDermott asked what the protocol be different definition of what it was Marine Repair what is allowed working within the realm how much breathe does he have to make that determination; Mr. Leckstein explained that Mr. Olsen doesn't. The zoning officer legally does not have the right on his own to decide that the property somehow is rezoned based on what is at the location. There is a concept known as a D2 variance which is an expansion of a pre-existing nonconforming use, which would be if you are a marine boat repair, it is not the building that gets the expand it is the use so that if a marine boat repair currently and then the new owners come in and expand on the business being the railing, gates and miscellaneous iron works they would have to still apply for a use variance. The reason being they are looking to expand a pre-existing nonconforming use. There was further discussion regarding the use in the location.

Mr. Vecchio asked if it had to do with density; Mr. Leckstein explained you cannot expand on a use not permitted. Mr. Leckstein spoke about a previous application that was approved the resolution that was before the Board which was a D2 variance, that was an application that was a multi-family home in a zone that is RA single family and the Board was able to approve that it was always a two-family and they were squaring off the second floor. The applicant had to go before the Board and all the applicant was doing was increasing the second-floor apartment and they had to put in an application for a D2 use variance because they were expanding what exists.

Mr. Vecchio asked when does abandonment come into play; Mr. Leckstein asked if they currently do marine boat repair. Mr. Vecchio stated that the building was for boat manufacturer to build wooden boats and then they went into boat repair because building boats was not economical. Mr. Vecchio asked if boat manufacturing use get abandoned; Mr. Leckstein explained if there was an intent to cease the use which was previously practiced it would have to be an actual intent then that would be abandonment. Mr. Vecchio stated that it is an existing commercial building, Mr. Leckstein agreed. Mr. Vecchio stated only another commercial business could go into the building would that then cause a hardship for the property owner. Mr. Leckstein replied that if some one was to come in and decided to turn it into a iron works for example they would have to go before the Board for a use variance approval and he believes in their application for use variance one of their proofs would be a that this is not conducive to the residential property because it is a commercial building that already exists, that doesn't mean the applicant would be approved but they would have to make application.

Mr. Vecchio stated that there are a lot of these types of properties in Keyport that are existing non-conforming. Mr. Leckstein stated that they have a right by law to continue that business. Mr. Vecchio asked every time they want to change that business they would have to go for approval. Mr. Leckstein stated it would depend on what the change would be yes, they would have to. Mr. Leckstein explained when there is doubt you should go before the Board for a use variance.

Mr. Leckstein stated in his mind the property owners would have had to come before the Board for at least a D2 variance or possibly a D1. Mr. McDermott added and that would have given the neighbors a notice as to what was happening; correct.

Douglas Stout, Property Owner of 171 Therese St before he purchased it the property was used for fiberglass boats it was also used boat railings. Mr. Stout stated that railings is a part of boats. Mr. Stout stated the problem he has is regarding the zoning and the purchaser who hasn't even purchased the building is before the board for something he hasn't even done yet. They are asking why was that being rejected for a zoning that he hasn't purchased the property, moved in or done anything at the property. The letter that he believed Denise sent to all the neighbors has a completely different company on it. There are five other businesses being ran out of their homes in the neighborhood and none of them have any zone. There are delivery trucks, people are spraying cars, they are doing auto repairs and welding at their homes. Mr. Leckstein explained under the law when the zoning officer makes a decision members of the public have twenty days to appeal that decision. If they do not appeal the decision then it is grandfathered in and the next person could come along and operate it. The fact that the business has not yet started is irrelevant, the only thing that is relevant is the twenty-day period from the date that Mr. Olsen made his decision. All the other businesses that were mentioned he cannot address because they are not before the

Board but they have not been appealed to the Board. What is being appeal is not whether they started the business or wouldn't be starting it for a year it is the fact that Mr. Olsen ruled that it is okay and therefore they have to appeal within the twenty days and they did appeal within the twenty days they found out about it. Mr. Stout stated that as part of boats, railings and even welding is part of boats. Mr. Stout feels that this was all under the original use of boat manufacturing.

Mayor Araneo asked for confirmation as far as twenty dates from the zoning approval dated 12/23; Mr. Leckstein explained that it is twenty days from the date that a member of the public would have reasonably known that this was occurring. The problem is no one knows when a property receives a zoning approval because there is no notice it would be impossible for anything going on internally for anyone to appeal because no one would have known. Mr. Leckstein stated that everyone did file their appeal immediately after finding out, so they are all within the twenty-day time period, that is why he mentioned that if there was zoning approval for the auto repair they would be out of time to appeal that decision.

Chairman Merla asked if Mr. Stout doesn't get this approval is the person still going to purchase the building; Mr. Stout stated he didn't know. He mentioned that the person interested in the building was present and that the Board could ask him.

Dennis Terwilliger wanted to know that the facts that were given to the neighbors was not correct, he does do boat work as well. Chairman Merla asked him to explain what was written down for the zoning application; railings, iron works, he also does marine stuff as well. Chairman Merla asked if everything he does is on the application; yes. Mr. Terwilliger stated that Ms. Nellis said he was painting, sand blasting he has receipts he uses a sand blasting company in Hawthorne. He doesn't do sand blasting or powder coating. Marine use you would have to paint the boats and there would be fumes in the air, if he was to do powder coating, which he is not, there are no fumes. Mr. Leckstein asked for confirmation, you are not doing powder coating; no and you are not doing sand blasting; no. If you were going to do any of those two things at the property it would be appropriate for the zoning officer to issue you a summons; yes.

Mr. McDermott asked what is the heavy part of Mr. Terwilliger work is it boats or railings, he does a little of everything. Mr. McDermott asked if everything was around boats; yes. Mr. Terwilliger stated he also does residential railings. Mr. Leckstein explained what Mr. Terwilliger does at the site is not the issue, the issue is whether it is zone for that use, which everyone has acknowledged it is not and whether Mr. Olsen was correct in finding what they are proposing is an expansion of what is originally existed and would they have needed to go before the Board for a use variance relief to expand it. Further discussion regarding what was approved by the zoning officer.

There was discussion regarding the auto repair shop, Chairman Merla stated that Ms. Clark would have to find out if that was ever approved. Mr. Vecchio stated that he has inspected the property and there has been an auto repair shop there. Mr. Leckstein explained that no one has raised that prior to the hearing, the Board didn't even know about it.

Mr. Vecchio stated on the zoning application the first three words says marine boat repair; yes. Mr. Vecchio stated that he wanted to point that out. Mr. Leckstein stated that the marine boat repair is not being questioned; Ms. Nellis and everyone else has acknowledged that. Mr. Leckstein stated that it was the railings, gates and miscellaneous iron works that is being questioned; Ms. Nellis stated that was correct.

Motion to open to the public was made by N. Vecchio, second by Mayor Araneo with ayes by all present.

James Daza, 128 Therese Avenue. Mr. Daza stated that he loves the town, the main thing about the commercial zoning the area is residential. He explained that he has worked with steel, he knows what it entails there is grinding, steel trucks come in and out. He is concerned because his children play in the street. Mr. Daza addressed the comment that was said that it is all boats, he feels that was not correct. They are looking to open a steel business; boats don't do steel they do aluminum. Mr. Leckstein asked Mr. Terwilliger if he was going to do auto repair if you buy the business; no. Mr. Leckstein said that he would be acknowledging that use be abandoning that use even if it is permitted at the site; yes.

Mr. Daza stated try living across the street like and listen to the grinding and trucks coming in on a Saturday. There was confirmation as to the days that the business would be open, it would be open Monday through Friday.

Mr. Leckstein explained that it is a court room, the proceedings are being recorded. Only one person could speak at a time that is why they swear everyone in and there is a transcript being created in case anyone wants to appeal to the Superior Court of New Jersey. He explained that they cannot have people talk from the audience. If you want to speak you have to come to the microphone and be sworn in.

Mr. Daza stated that he does not live near the business but he does care about the neighborhood, he understands that this was grandfathered. He explained that steel doesn't go on boats because it rusts, they would use aluminum. He explained when he was younger, he did aluminum hand rails for boats. There was further discussion regarding the material used for making rails on boats.

Councilman Peperoni commented if it is an auto body shop currently, Mr. Leckstein explained that they know it is a pre-existing marine boat repair, they are not sure if the auto body shop is legal. Councilman Peperoni stated that his question is what would you rather have because there is going to be a business there whether they like it or not because they moved to the town with a business at the end of the road. Mr. Leckstein cautioned that is not the issue for the Board this evening. Councilman stated he feels their complaint is if there is a business in a residential area; Mr. Leckstein understands that but he is protecting the Board for the record. Councilman stated he understands but he thinks no matter what they will not be happy with the outcome. Mr. Leckstein explained that the applicant will have the right if the Board overturns Mr. Olsen's decision to come before the Board to seek a use variance approval, if he decides to proceed. Mr. Leckstein doesn't want the Board to think is it a business or residential.

Mayor Araneo confirmed that they are deciding whether or not this needs a use variance; correct that should be the only thing being decided.

Ms. Nellis stated that there is a boat business on this property, there are two sides one is being used for boats and the other side is being used for auto repair. Ms. Nellis stated that she has no problem with that. Mr. Leckstein stated everyone has agreed to that.

There was discussion regarding the difference between aluminum and steel being delivered to this property. Councilman Peperoni stated he envisioned boats being towed; cars being towed. Mr. Daza stated that there are boats being towed all around town. Councilman asked what would be the difference of steel on a flatbed to a forty-foot boat.

Mr. McDermott stated that they are looking at the business, a residential railing. Mr. Leckstein explained that was correct and that is all that the Board should be considering. The only thing that should be considered is what is being proposed does it fit into the marine boat repair category.

Mayor Araneo asked Mr. Terwilliger if what is being proposed at this location is railings for boats only, not railings for other residential homes; Mr. Terwilliger stated it would be railings for homes as well. Mr. Leckstein confirmed that they would be doing railings for homes as well; yes. Mr. Sessa asked if did aluminum as well; yes.

Mayor confirmed that it is marine boat repair, railings, gates and other miscellaneous iron works; yes, all inside the building.

There was discussion regarding how the products are delivered. Mr. Terwilliger explained that his business is A1 Railing not crafts railing. Mr. Leckstein pointed out to the Board that it is irrelevant whether everything is being done inside the building or outside. It is the use itself; it doesn't matter if it is completely indoors.

Mayor confirmed that the Board must determine whether they need a use variance or not; correct. That is basically the role of the Board; yes. Mr. Leckstein stated that is the only thing, it is not if you like the business. That does not mean the Board wouldn't grant the use variance if it came before the Board. Mr. Leckstein explained the vote would be whether Mr. Olsen's decision was accurate. If the Board believes it was inaccurate it would be up to the applicant to decide if they wanted to appear before the Board with a use variance application. Mayor stated at that time all these questions would apply; correct.

Mike Matarese stated for the record he has lived in his home for 32 years and he has seen approximately five boats be worked on. Mr. Leckstein explained that it doesn't matter how many boats, the use would still be there.

Christina Greenberg, 145 Therese Avenue, she explained for anyone stating there are not trucks she lives at the intersection she has trucks that go by all day long. There is 40 plus foot speed boat that comes up and down the block. Dennis did her railings they are aluminum she has seen his work on boats she has been to his shop and she feels a big part of the problem was a letter was placed anonymously up and down both streets with complete misinformation about what was

going on there. Mr. Leckstein explained that they are ignoring that, he explained that he did not want to involve what was in an anonymous letter because it is irrelevant to what is before the Board and you are going to cloud the issue.

Mr. Leckstein explained again that the only thing before the Board is it is accepted as Marine Boat Repair, which everyone has agreed. The question is the creation of railings, gates and miscellaneous iron works, which the applicant has on his zoning application does that fit within the zone and what previously exists with the boat repair. Ms. Greenberg asked if they would need an expansion if that is part of the business. Mr. Leckstein stated if it was a natural progression to a marine boat repair that you also do railings for homes as part of a marine boat repair and the Board finds that it is, then no he would not have to come back to the Board. That is the question, the Board has to decide.

Mayor Araneo mentioned to Ms. Greenberg that it is not saying that the Board would not approve the use, what they are saying is that tonight before the Board is only this one question.

Mr. Stout, the building was purchased as boat manufacturing; Mr. Leckstein explained that it was not. Mr. Leckstein explained that it is in residential zone, the only reason that the marine boat repair business is allowed to continue is because it pre dates the zoning ordinance that made that zone residential. Mr. Stout stated that he understood. If Dennis doesn't purchase the property they are still selling the property. He stated that everyone seems to be concerned about the hazards, the noise and pollution. Mr. Leckstein explained that is not what the Board is looking at. Mr. Stout is referring to the residents, they are out of it. The next person that comes in can have fiberglass and other chemicals that are 100 times more potent and would hurt the environment than making railings. There was further discussion regarding what could possibly be placed on this property. Chairman Merla explained that if something was to change the person would have to come before the Board.

Mayor Araneo asked if the Board decides it needs a use variance would the purchaser be willing to come back before the Board with an application; Mr. Terwilliger explained he wasn't sure, it isn't even his building. Mayor stated if he was purchasing; yes. Mr. Leckstein explained he could come before the Board for a use variance with the property owner's permission. Mr. Terwilliger explained he would have to since he placed a deposit on the property a few months ago he explained that the closing is supposed to be on the first.

Chairman Merla asked how did this get that far; Mayor Araneo explained that it was approved by the Mr. Olsen. Mr. Leckstein explained that Mr. Olsen approved it and Mr. Terwilliger relied on that approval. Mr. Terwilliger has not done anything wrong; he had a piece of paper. Mr. Stout didn't do anything wrong. They went to Mr. Olsen; they received the approval. Mr. Leckstein explained that he isn't saying that Mr. Olsen did anything wrong, the question is did he mistakenly in his judgement. Chairman Merla explained Mr. Stout was the person that put in the application. Mr. Leckstein clarified that it was Mr. Terwilliger that made application, Mr. Stout was listed as the property owner.

Michael Lane, 51 First Street, explained that the present zoning for this site is RA. When the Master Plan team was looking at zoning in the Borough they had a couple of guidelines.

1. They really wanted to enhance and protect the single-family, two-family neighborhoods.
2. They looked at sites like this and there are multiple sites like this that imbedded in a residential neighborhood. They did not choose to label this site as light industry, they chose to make it RA. It was an initial decision so there would be some protection for the neighborhood.

Residents make mortgage investments 25/30 years they look for stability, they look for the value of their homes to be maintained. It was an intention of the Master Plan, and it is well documented in the zoning manual that this is a RA site that needs to be maintained in a way that it does not cause a negative impact on the surrounding residential homes. Mr. Lane feels that this should be limited to what the present use is which is marine boat repair. There was further discussion regarding powder coating.

Motion to close to the public was made by Councilmember Peperoni, second by Mayor Araneo with ayes by all present.

Mr. Leckstein explained that the Board must vote one of two ways; either Mr. Olsen's decision was accurate or Mr. Olsen's decision was inaccurate.

Mr. Vecchio asked when they spoke about intensity previously, if someone wanted to put beach chairs storage in the building; Mr. Leckstein stated to him that would be an expansion of pre-existing non-conforming use because beach chair storage is not consistent with marine boat repair and they would have to come before the Board. Mr. Leckstein feels that making railings for a residential home business is not consistent with boat repair.

Motion to overturn Mr. Olsen, Zoning Officers, decision made by Mayor Araneo, second by W. McDermott

Ayes: Mayor Araneo, Councilmember Peperoni, Chairman Merla, W. McDermott, M. Sessa, J. Oviedo,

Nays: N. Vecchio, C. Demarest

Motion to take a five minute break was made and carried.

Roll Call: Mayor Araneo, Councilmember Peperoni, Chairman Merla, W. McDermott, M. Sessa, J. Oviedo, D. Pacheco, (had to leave 8:10pm), C. Demarest, J. Kovacs-Olsen

**APPLICATION: KUPB 24-03
24 BROAD STREET, LLC
BLK 21.01 LOT 54
MAJOR SITE PLAN/VARIANCE RELIEF**

Chairman Merla recused himself he is part owner of the property. Mr. Sessa chaired the rest of the meeting.

Exhibit A1 – Preliminary and final site plan
Exhibit A2 – Survey
Exhibit A3 – Elevations
Exhibit A4 – Pictures
Exhibit A5 – Aerial view
Exhibit B1 – CME letter dated 3/18/24

Attorney Mr. Daniel O'Hern explained that his client is renovating the existing retail building and the three apartments on the second floor. The proposed new business will be a bakery. The representative of the bakery business Julie Hurtig is present to offer any testimony or questions that the Board may have. Mr. Schwartz who is the principal owner of the property is also present to answer any concerns or questions the Board may have.

Jim Daly, licensed architect. Mr. Daly described to the board what the applicant was going to do. He stated that they are extending the existing second floor. There are three apartments that are previously there they are looking to increase the apartment sizes to meet the required size. Each apartment will be a minimum of 600 square feet. Mr. Daly described exhibit A2. The first floor they are taking the existing retail/commercial space and they are putting a bakery and café which is all related to the business. They are adding a deck in the back for patrons to utilize and there will be a greenhouse that will sit on the deck. Mr. Daly reminded the Board that the building used to be called the Junkologist. They are taking the existing space that is currently there, they are making it handicapped accessible. Mr. Daly described the floor plan for the first floor. Mr. Daly stated that the basement will remain untouched. The deck in the back will have stairs going to the back parking lot so you can access the deck from the rear.

Mr. Daly described Exhibit A4 and what the building will look like with the changes. Mr. Leckstein asked if the colors were going to match what exists; Mr. Daly is not sure he would defer to the owner. He believes they are going blue green with tan. Mr. Leckstein explained to the Board that what is being shown is not exactly the colors. Mr. Daly described the outside of what the building will look like.

Mr. Vecchio stated that he likes what is being proposed and feels it fits in with the neighborhood; Mr. McDermott agreed with Mr. Vecchio.

Matt Zwingraf asked if the HVAC will be on the roof; yes. Mr. Daly stated that nothing will go in the basement. Mr. Daly stated that he understood that the basement is in a flood zone. Mr. Zwingraf asked if anything on the roof would be screened; yes. Mr. Zwingraf asked if there would be a need for an elevator in the building; no, it falls under the requirements for having to have an elevator.

One other item regarding uses the basement since it is in the flood zone it would be used for storage, he confirmed that there wasn't any proposed parking there; Mr. Daly stated he was correct. Mr. Zwingraf asked if it would have all the necessary flood gates; yes. Mr. Leckstein stated that would be a condition of approval that the basement would be used for storage only; agreed.

Ms. Juliana Hurtig principal of bakery. Mr. McDermott asked if there was going to be any industrial part of the bakery; no, only retail. There was discussion regarding deliveries. Ms. Hurtig stated there would be approximately ten employees, there would be counter service. There was discussion regarding hours of operation, Ms. Hurtig stated she wasn't sure of the hours.

Mr. Leckstein confirmed that there were three variances being requested; Mr. O'Hern stated the variances he has are for the width of the driveway, the gravel parking lot and the base flood elevation. They are all preexisting conditions.

Joseph Kociuba, Applicant Engineer. Mr. Zwingraf asked about the width of the driveway, the made a recommendation that it be made one way circulation from Broad Street into the back of the site. They have concerns with it being two way traffic; Mr. Kociuba stated it is a preexisting narrow driveway. There was discussion regarding the primary access to the building. They would have no objection to stripping it one way with the only caveat would be that it would require municipal approval. Further discussion regarding having this one way, the applicant would ask for approval.

Mr. Zwingraf asked about dumpster size; it would be standard size. There was discussion regarding how the dumpsters would be accessed. Mr. Zwingraf recommended to have a masonry structure for the dumpster. Mr. Kociuba stated that they would like to keep the fence the way it is currently. Mr. Leckstein confirmed that it would be a privacy fence; it would be a chain link fence with slots so you cannot see into it. Ms. Kovacs-Olsen stated that they have had other applicants do masonry enclosures for trash. Further discussion regarding the enclosures along the waterfront. The Board would like the masonry enclosure.

Ken Schwartz, 51 Broad Street, a masonry enclosure on the waterfront there is lot of people using it. They have moved the enclosure, he feels that the masonry enclosure is an over kill, he feels here is no reason for it. Mr. Kociuba gave the Board an aerial view of where the enclosure would be located. After discussion the Board decided to leave the enclosure the way it is and the masonry enclosure would not be needed.

There was discussion regarding the existing gravel parking lot. They are proposing to maintain the gravel lot it is a preexisting condition that has been there for years. Mr. Kociuba feels if they paved the lot it would cause issues with water runoff. They will be paving one accessible stall as required.

Mr. Sessa questioned how the handicapped people would enter the building. Mr. Kociuba stated that given the size and number of apartments they are not required to have an elevator. Anyone using retail space would be accessing it from the front. Mr. Leckstein asked if there would be signs stating that the parking is only for residents; there was a comment in the Boards engineers' letter and have no problem with their recommendations. Mr. Vecchio asked that they place bumper stops for the spots; agreed.

Motion to open to the public at 8:45pm was made by Councilmember Peperoni, second by Mayor Araneo with ayes by all present.

Michael Lane, 51 First Street stated that he liked the plan, he felt was a good fit. Mr. Lane asked if there was going to be a new structure on the roof; no, there wasn't going to be a roof top deck.

There was discussion regarding the lighting for the building and the noise from the HVAC system on the roof.

Mr. Leckstein stated as a condition of approval that none of the residents would have access to the roof.

Mr. Lane asked if the residents would be using the dumpsters; yes. Mr. Lane asked that there be sufficient recycling bins.

There was discussion regarding the flood zone boundaries.

Motion to close to the meeting was made and carried

Motion to approve application was made by Mayor Araneo, second by J. Oviedo

Ayes: Mayor Araneo, Councilmember Peperoni, W. McDermott, M. Sessa, J. Oviedo, N. Vecchio, C. Demarest, J. Kovacs-Olsen

Motion to adjourn was made and carried.

The next regularly scheduled Planning Board Meeting will be Thursday, April 25, 2024.