

RESOLUTION OF APPROVAL
GRANTING A MINOR SUBDIVISION/LOT LINE ADJUSTMENT
WITH CONDITIONAL USE VARIANCE AND BULK VARIANCE RELIEF
SO AS TO ALLOW CONSTRUCTION OF TWO TWO-FAMILY DWELLING UNITS

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 92 LOTS 2 and 3
Application # 16-02
HARRY MURADI
36 ATLANTIC STREET

WHEREAS, Harry Muradi has applied to the Unified Planning Board of the Borough of Keyport for approval for conditional use and bulk variance relief along with a minor subdivision/lot line adjustment so as to allow the construction of two (2) two-family dwelling units on property located at 36 Atlantic Street which is officially designated as Block 92, Lots 2 and 3 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 have 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 during a regularly scheduled meeting of the Unified Planning Board held on August 25, 2016 and;

WHEREAS, Board Members John J. Kovacs and Jacqueline Kovacs recused themselves from this application due to the fact that they have property interests within 200 feet of the subject property 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. The applicant, Harry Muradi, is seeking approval for conditional use and bulk variance relief along with a minor subdivision/lot line adjustment so as to allow the construction of two (2) two-family dwelling units on property located at 36 Atlantic Street which is officially designated as Block 92, Lots 2 and 3 on the official Tax Map of the Borough of Keyport.
2. Under the applicant's proposal, there would be a lot line adjustment between Lots 2 and 3 so as to create new Lots 2.01 and 3.01.
3. This subject property is located in the Borough's RB Residential Zone in which two-family dwellings are a conditionally permitted use.
4. The only condition under the Borough Ordinance for building a two-family dwelling in the RB Residential Zone is that the applicant meet all of the bulk standards for the district.
5. The following chart indicates the required bulk standards for the RB Zoning District versus

what the applicant is proposing for his project:

Bulk Standard	Required	Existing	Proposed Lot 2.01	Proposed Lot 3.01
Minimum Lot Area (Sq. Ft.)	7,500	11,454	5,727 (V)	5,727 (V)
Minimum Lot Width (Feet)	75	162	80.8	81.43
Minimum Front Yard Setback (Feet)	20	N/A	20	20
Minimum Side Yard Setback (Feet)	6/16 feet	N/A	6/23	8.1/N/A
Minimum Rear Yard Setback (Feet)	20	N/A	16 (V)	16 (V)
Minimum Accessory Bldg. Setback (feet) side/rear	3/15	N/A	N/A	N/A
Maximum Building Coverage Principal/Accessory/Combined	30%/10%/40%	N/A	30.2% / 0% 30.2% (V)	30.2% / 0% 30.2% (V)
Maximum Building Height (ft./stories)	30/2.5 stories	N/A	25.5	25.5
Maximum Percent Coverage (Accessory)	10%	N/A	N/A	N/A
Maximum Impervious Coverage	60%	N/A	41.3%	41.3%
Encroachments Into Rear Yards By Architectural Features (2 feet)	No provision for porch steps exists	N/A	porch steps proposed (V)	porch steps proposed (V)

(V) = variance condition

6. As the applicant's proposal includes four (4) bulk variances, requiring relief pursuant to N.J.S.A. 40:55D-70(c), the application does not completely conform to the bulk standards of the RB Residential District. Due to this proposed nonconformity, the applicant requires conditional use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(3).
7. Throughout the course of this application, the applicant was represented by Lawrence D. Kantor, Esquire of the law firm Kantor & Linderoth which has offices at 58 West Front Street, Post Office Box 42, Keyport, New Jersey 07735.
8. In support of the application, the applicant marked into evidence the following exhibits:

Exhibit A-1: Plot Plan dated May 2, 2016, last revised June 30, 2016, as prepared by Jeffrey J. Carr, P.E., P.P. of Lindstrom, Diessner & Carr, P.C.

Exhibit A-2: Proposed Plans & Elevations dated April 29, 2014, last revised July 28, 2014, as prepared by Michael Savarese Associates

Exhibit A-3: Stormwater Management Report dated July 1, 2016, as prepared by

Exhibit A-4: Photo board consisting of seven (7) photographs of surrounding properties.
9. In addition to the exhibits presented by the applicant, the Board also marked its own **Exhibit B-1** which was the "Second Completeness, Planning and Engineering Review" letter dated June 21, 2016 and authored by the Board's Engineer, Francis W. Mullan, P.E., C.M.E. and its Planner, Stan Slachetka, P.P.

10. Mr. Mullan and Mr. Slachetka were not present for the meeting. In their place as Board Engineer and Board Planner were Edward Herrman, P.E. and Donna Miller, P.P., respectively. Both Mr. Herrman and Ms. Miller were placed under oath as to any testimony they might give during the course of the application.
11. The applicant, Mr. Muradi, was sworn and testified that he was the contract purchaser of the subject property which currently consists of two vacant lots. The property is actually owned by Timothy J. Foley and Clementine Foley.
12. Referring to **Exhibits A-1 and A-2**, Mr. Muradi explained that he would like to build two (2) new two-family dwellings, for a total of four (4) units on the two properties. It was noted that in order to make each lot more conforming, it would be necessary to have a lot adjustment performed. The proposed lot adjustment was shown on **Exhibit A-1**.
13. Mr. Muradi testified that the two multi-dwelling units being proposed would be identical in nature. This was demonstrated in **Exhibits A-1 and A-2**.
14. Each of the proposed four (4) units would have three (3) bedrooms each. Each would also contain a garage. This was demonstrated in **Exhibit A-2**. It was emphasized that all parking requirements for this proposed project had been met. The applicant also presented sworn testimony from its professional Engineer and Planner, Jeffrey J. Carr, P.E., P.P. of Lindstrom, Diessner & Carr, P.C.
15. Mr. Carr explained that the only real issue in this application were the proposed bulk variances since the conditional use variance was only triggered by the fact the bulk variances were necessary. Absent the bulk variances, the applicant would be able to construct the two two-family dwelling units without the necessity of any variance relief.
16. Dealing with the bulk variances, Mr. Carr noted the proposed non-conformities related to setback and lot area concerns. He believed that these conditions would exist regardless of whether someone was seeking to build single family homes, or the two-family homes which were being proposed. The lots themselves were not going to get any bigger. Referring to **Exhibit A-1**, Mr. Carr explained that the lots are narrow in nature and therefore limited in how a structure could be situated upon it. What the applicant has done is proposed to move the existing lot lines to actually try and make the lots more conforming than they already are. However, that did not impact the setback and lot area realities.
17. Mr. Carr also noted that there was an additional variance required for the steps leading from the proposed back porch. While the ordinance made provisions for architectural elements extending into the setbacks by 2 feet, it failed to mention steps. He believed this was a minor variance since steps leading from a porch would be a logical extension from such a structure. The applicant agreed that he would stay within the allowable two feet.

18. Referring to the photographs marked into evidence as **Exhibit A-4**, which depicted other multifamily dwellings located in the neighborhood, Mr. Carr indicated his opinion that what was being proposed by the applicant was in conformance with the area.
19. Referring to the report submitted into evidence as **Exhibit A-3**, Mr. Carr testified that he believed all storm water management issues were appropriately being dealt with.
20. Mr. Carr indicated that the applicant would comply with all the recommendations made by the Board's Engineer and Planner in the review letter of July 21, 2016. (**Exhibit B-1**)
21. It was noted that comment 5.1 of the Engineer and Planner review letter (**Exhibit B-1**) dealt with a non-conforming driveway. Everyone present, including the Board's own professionals, agreed however that the driveway was conforming, and therefore Comment 5.1 could be omitted from the letter.
22. With respect to Comment 8.4 in the Engineering Review Letter (**Exhibit B-1**), dealing with shade trees, it was noted by both Mr. Carr and the Board's Engineer that the applicant was not putting such trees in the exact spacing required by the Ordinance. Red Maple Trees would be installed on the site. The Board Engineer had no objection to this.
23. In response to concerns from the Board over the appearance of the property as depicted in the architectural plans marked into evidence as **Exhibit A-2**, the applicant agreed as a condition of approval that he would utilize concrete aprons and pavers in the construction of the driveways for the units. The plans would be revised to reflect this fact and submitted to the Board's Engineer and Planner for their review and approval.
24. The applicant also indicated, as a condition of approval, that a trash enclosure area would be constructed on the side of each structure. The enclosures would be added to the plans and submitted to the Board's Engineer and Planner for their review and approval.
25. Referring to the stormwater management report (**Exhibit A-3**), Mr. Carr indicated he believed everything should function as detailed. Downspouts would be running into the recharging areas.
26. Sewage lines would be run throughout the entire property, with an eight inch line for each unit, thereby eliminating any issues with the units relying upon the same service.
27. It was noted that additional stormwater and sewage issues could be worked out between the Board Engineer and the applicant. The Board Engineer, Mr. Herrman, indicated he agreed that this could be accomplished post approval. This would be a condition of approval.
28. It was the Mr. Carr's opinion that when considering the entire application, the project would serve to improve the existing neighborhood. A currently vacant property would be replaced with an attractive, fully functional development.
29. John Kovacs, 33 8th Street, Keyport, was sworn and indicated he had no objections to the

application provided it was confirmed the sewer system would function properly with the new structures and that all building and fire safety codes were met. The applicant agreed that all of this would occur.

30. Jacqueline Kovacs, 45 Church Street, Keyport, was sworn and indicated she had concerns with the idea that multifamily dwellings were being constructed on these lots. She was concerned about the impact on traffic in the neighborhood. It was noted by the Board however that there were no parking variances necessitated by this application. The only variances involved were the aforesaid bulk variances which in turn led to the conditional use variance.
31. The Board's Professionals had no objections to this application being granted from an engineering and planning standpoint.
32. No one else testified with respect to the application.
33. In considering this application, the Board finds that the applicant's property suffers a natural hardship due its shape, size and dimensions. As is evidenced by the plot plan which was marked as **Exhibit A-1**, the Board agrees that the properties are narrow in shape and it would be extremely difficult to construct fully conforming structures on the property. The Board notes that in requesting a lot line adjustment, the applicant has actually made the two lots more conforming.
34. The Board agrees with the applicant that the multi-family structures being proposed for the properties are attractive in nature and will fit into the neighborhood where the property is located. Once constructed, the new units will act as an improvement over the vacant lots which are currently located at the site.
35. The Board also finds that the variance associated with the proposed porch steps at the rear of the buildings is de minimis in nature. It would make no sense not to allow these steps to be built since allowing egress from the porch will allow for better use of the structures.
36. The Board cannot envision any negatives associated with the proposed application. Such variances are a reality of the existing piece of land and it would be next to impossible to construct anything on the site without triggering some bulk variance relief.
37. The Board finds that the requested bulk variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(1) and (2). There is clearly a natural hardship caused by the shape and dimensions of the properties. Additionally, the benefit of granting the requested relief, in having a viable use placed on the vacant lots, far exceeds what strict adherence to the zoning ordinance would otherwise allow. Absent the grant of variance relief, these properties would remain vacant for the foreseeable future which would be a benefit to no one.

38. With respect to the conditional use variance aspect of the application, the Board again notes that the only reason such relief is necessary is because of the bulk variance issues. Absent the existence of the bulk variances, no conditional use variance would be necessary. The Borough's Ordinance has already dictated that such a proposed use is appropriate within the RB Zoning District. The Board can envision no reason why the proposed development cannot function properly on the two new lots as designed by the applicant. The Board is also hard pressed to find any negative impact which this development would create for the surrounding neighborhood. Accordingly, the Board believes that the applicant has met the burden necessary to receive conditional use variance approval pursuant to the provisions of N.J.S.A. 40:55D-70(d)(3).
39. Finally, with respect to the proposed subdivision/lot line adjustment, the Board finds that it is in the interests of all concerned that such approval be granted. The lot line adjustment is actually making the two lots more conforming and allows for a more aesthetically appealing final result since the two two-dwelling units will become identical in appearance as a result.
40. The Board concludes that the benefits of granting this application outweigh the detriments and the variance can be granted without impairing the public good, Zone Plan and Ordinance.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Harry Muradi, for premises known as Block 92, Lots 2 and 3, be granted subject to the following conditions:

1. Subject to the applicant adhering to the plans marked into evidence as **Exhibits A-1 and A-2** unless otherwise modified by this Resolution.
2. Subject to the applicant modifying the plans to show a concrete sidewalk apron and pavers being utilized for the driveways. Said modifications must be reviewed and approved by the Board's Engineer and Planner.
3. Subject to the applicant modifying the plans to show a garbage enclosure area on the side of each building. Said modifications must be reviewed and approved by the Board's Engineer and Planner.
4. Subject to the applicant adhering to the Stormwater Management report which was marked into evidence as **Exhibit A-3** unless modified by this Resolution.
5. Subject to the applicant working with the Board's Engineer on any open stormwater management or sanitary sewage issues. The applicant should adhere to any modifications requested by the Board's Engineer to the plans.
6. Subject to the applicant following all comments contained within the Board Engineering and Planning Review letter dated July 21, 2016 with the exception of comment 5.1 since it has been deemed moot. (**Exhibit B-1**)

7. Subject to the filing of the appropriate maps in compliance with the current "New Jersey Map Filing Law". If the applicant proposes to file the subdivision by deed, deeds perfecting the subdivision must be prepared. Documents must be submitted to the Board Attorney and Engineer for review and approval prior to filing.
8. This approval shall be deemed void by abandonment if permits to construct the addition have not been issued within one year from the date of this Resolution.
9. All representations made under oath by the applicant or his 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.
10. 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.
11. 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.
12. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
13. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the filing of a subdivision deed or signing of a subdivision map.
14. 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 of the Borough of Keyport 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.
15. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at his sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

The foregoing was Moved by Mark Sessa, Seconded by George Sappah and on Roll Call, the following vote was recorded:

Affirmative: G. Sappah, M. Sessa, D. Fotopoulos,

Negative:

Abstentions: Mayor Aumack (use variance application could not participate), R. Benedict

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 September 22, 2016.



Denise Nellis, Secretary of the Board