



KUPB-R2300

October 19, 2023

Keyport Unified Planning Board
70 West Front Street
Keyport, New Jersey 07735

Via email and mail

Attn: Denise Nellis, Recording Secretary

**Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review**

Dear Chairman Sessa and Unified Planning Board Members:

As requested, we have reviewed the following documents submitted by the applicant in support of this application:

1. Keyport Unified Planning Board Application, consisting of twenty-seven (27) sheets, dated April 6, 2023;
2. Preliminary Plot and Architectural plans prepared by Vincent Minkler, A.I.A., of Minkler Architecture and Design, consisting of four (4) sheets, dated December 7, 2022, *last revised August 18, 2023*;
3. Denial letter of Zoning Application No. ZA-23-028 prepared by David Olsen, Borough Zoning Officer, dated February 14, 2023;
4. *Special Flood Hazard Area Development Permit Review prepared by William H. R. White, P.E., P.P., C.M.E., C.F.M., C.P.W.M., of Colliers Engineering and Design, consisting of two (2) pages, dated June 21, 2023; and*
5. *Survey prepared by David J. Von Steenburg, P.L.S., of Morgan Engineering and Surveying, consisting of one (1) sheet, dated June 21, 2022.*

Based on our review, we offer the following comments on the above referenced application.

A. Property & Area Description

Subject Property. The subject property is located at 57 Elizabeth Street and comprised of Block 43, Lot 9 as identified on the Borough of Keyport Tax Map. The lot is located at the southwestern corner of the Elizabeth Street and Kearney Street intersection and situated within the RA (Single-Family Residential) Zoning District. The property consists of a 51.67' × 150.00' (7,750.5 SF) lot with 51.67 feet of frontage on Elizabeth Street and 150.00 feet of frontage on Kearney Street. The lot is located outside the flood zone and is served by municipal sewer and water. Lot 9 is improved with an existing, 2.5 story single-family, 3-bedroom dwelling with a covered porch, a brick paver walkway and patio area, fencing and a 124 SF shed.

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

The principal dwelling encroaches into the required Kearney Street front yard setback area. Presently, the house contains a kitchen, living room, dining room, den, front porch, and foyer on the first level. Floor plans of the second level were not provided.

Surrounding Area. The properties surrounding the subject property are primarily residential dwellings located within the RA (Single-Family Residential) Zone. Lot 9 is surrounded by residential uses, all of which appear to be single-family residences based on 2022 Monmouth County tax records.

B. Project Description

The applicant proposes to construct a 128 SF first-floor sunroom addition at the rear of the existing dwelling, along with extending the existing wrap around covered porch by approximately 112 SF along the side of the dwelling facing Kearney Street. A new detached garage consisting of 402 SF and a studio area on the upper half story is proposed in the rear area of the property, along with a 280 SF paved driveway providing ingress/egress from Kearney Street to the garage. The existing brick paver patio and shed are proposed for removal. The proposed covered porch extension will further encroach into the Kearney Street front yard setback area.

Provided below are an aerial photo of the subject site; an outline of the subject property with the RA (single-family residential) Zone; and street view imagery of the subject property from First Street.

Google Maps – Approximate Outline of Subject Property (Block 43, Lot 9)



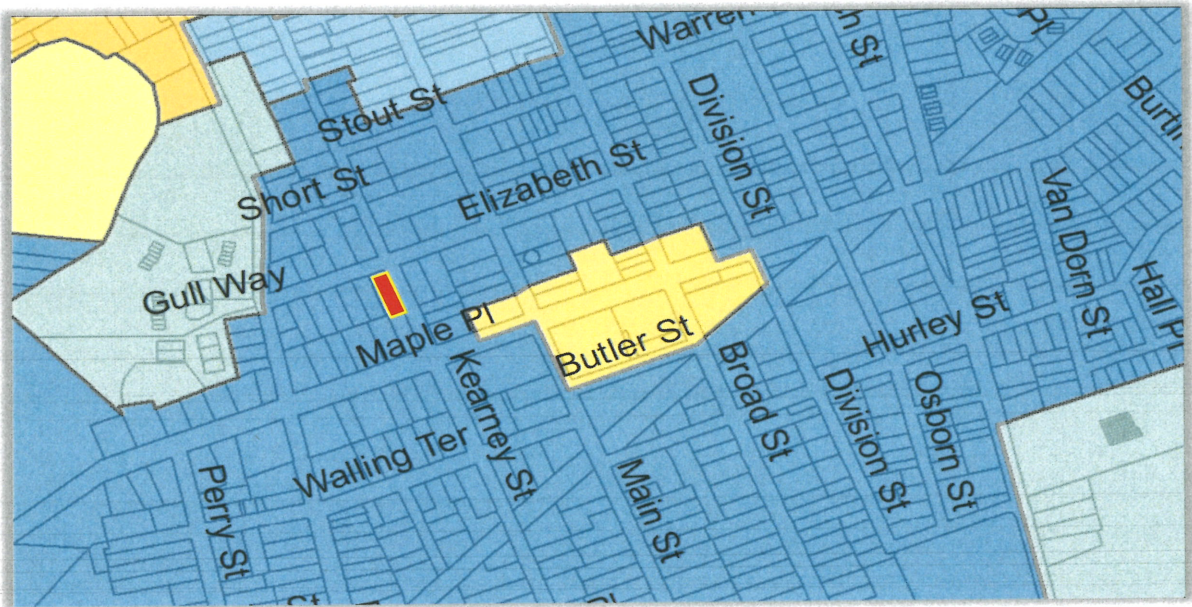


YOUR GOALS. OUR MISSION.

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

Borough Zoning Map – RA Residential Zone and Approximate Outline of Subject Property



Google Street View of Subject Property from Elizabeth Street & Kearney Street



Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

C. Completeness Review

The application has been deemed **complete** per our first review letter dated July 14, 2023. However, the applicant should be prepared to address the applicable completeness checklist items below:

Preliminary Site Plan, Waivers, and Variance Checklist:

- *Items 1, 2, 2A, 2B, 2C, 2J-2K, 13 and 14 have been addressed.*
- *Items 2I, 6, 8, 10, 13 and 14 are not applicable to the application.*

Item 2.D All lot lines, approximate location of all structures and owners of lots within two hundred (200) feet of the site. *We do not object to the Board granting a completeness waiver for this item, provided the plans are revised to include a list of owners of lots within 200 feet of the site prior to any final approval.*

Item 2.E Streets, easements, watercourses, and rights-of-way. *The applicant should provide testimony confirming whether the property is subject to any easements or deed restrictions.*

Item 2.F Utility and drainage plans and information. *We do not object to the Board granting a completeness waiver for this item, provided that the applicant provide sufficient testimony regarding anticipated changes (if any) to existing utilities and drainage and the plans are revised accordingly as part of any final approval.*

Item 2.G Plans for elevations and locations of structures including exterior materials and trim. *We do not object to the Board granting a completeness waiver for this item, provided that the applicant provides sufficient testimony regarding the proposed materials and trim based on the submitted architectural plans, and the plans are revised accordingly to indicate same prior to any final approval.*

Item 2.H Preliminary plans for parking, lighting, loading signs, landscaping, and buffers. *We do not object to the Board granting a completeness waiver for this item, provided the applicant provides sufficient testimony regarding any proposed lighting and landscaping, and the plans are revised accordingly based on said testimony prior to any final approval.*

Item 2M. Name and License number of site planner of Professional Engineer with documents sealed with raised seal. *We do not object to the Board granting a completeness waiver for this item, provided the plans are signed by the applicant's architect and revised to include a seal prior to any final approval.*

Item 3. Certification by Borough Tax Collector that all taxes, including current taxes, are paid. *A Tax Payment Certification (Form No. 5) has been provided but is not signed by the applicant and the Borough Tax Assessor. We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits a signed Tax Payment Certification that all taxes have been paid prior to the scheduled public hearing.*



YOUR GOALS. OUR MISSION.

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

- Item 4. Payment of all applicable fees for preliminary site plan review. *We defer to the Board Secretary regarding this item. All applicable application fees must be paid in full prior to any final approval.*
- Item 5. Submission of Environmental Impact Statement. *We have no objection to the Board granting a completeness waiver for this item, provided the applicant provides sufficient testimony to support this waiver request.*
- Item 7. Stormwater Management Plan. *We have no objection to the Board granting a completeness waiver for this item, provided the applicant provide sufficient testimony in support of this waiver request.*
- Item 9. Six copies of completed checklist. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits the required checklist prior to the public hearing.*
- Item 15. Owners signed Certificate of Concurrence with the plan. *We have no objection to the Board granting a completeness waiver for this item, provided that the final plans are signed by the applicant prior to any final approval.*

Final Site Plan Checklist:

- *Items 1 and 2 have been addressed.*
- *Item 6 is not applicable based on the scope of the application.*

- Item 3. Payment of all Final Site Plan Filing Fees. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant pays all applicable fees prior to the public hearing. The application fee schedule is provided in Section D. below. All fees shall be addressed by the applicant prior to the scheduled public hearing.*
- Item 4. Payment of Performance Guaranty in favor of municipality approved by the Borough Attorney and Borough Engineer. *We defer to the Borough Engineer regarding the proposal's conformance with this item.*
- Item 5. Soil removal permit signed by Borough Engineer. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant obtains a soil removal permit as a condition of any approval if any soil will be removed from the subject site.*
- Item 7. Engineering Inspection Fees. *We defer to the Borough Engineer regarding the proposal's conformance with this item.*
- Item 8. Certification from Tax Collector that all taxes are current on the property through the current month quarter. *A Tax Payment Certification (Form No. 5) has been provided but*

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

is not signed by the applicant and the Borough Tax Assessor. We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits a signed Tax Payment Certification that all taxes have been paid prior to the scheduled public hearing.

- Item 9. Permits from other authorities upon which approvals were conditioned. *We have no objection to the Board granting completeness waivers for these items, provided that copies of all permits and approvals are provided as a condition of any final approval.*

We recommend that the applicant address the items below prior to the scheduled public hearing.

Preliminary Site Plan Checklist:

Items 3, 4 (if outstanding fees remain) and 9

Final Site Plan Checklist:

Items 3 (if outstanding fees remain) and 8.

D. Zoning – Bulk and Area Requirements

1. The proposal's compliance with bulk and yard standards of the RA (Single-Family Residential) Zoning District is as follows:

Bulk and Yard Requirements – § 25-1-16 – RA Residential Zone				
DESCRIPTION	REQUIRED	EXISTING	PROPOSED	CONFORMING
Minimum Lot Requirements				
Minimum Lot Area	5,000 SF	7,750.5 SF	No Change	YES
Minimum Lot Width	50 feet	51.67 feet	No Change	YES
Building Setbacks – Principal Building				
Front Yard - Elizabeth St.	20 feet	29.12 feet	No Change	YES
Front Yard - Kearney St.	20 feet	11.14 feet (ENC)	8.5 feet – proposed covered porch; 13.65 feet – proposed rear addition	NO (V)
Side Yard (one)	6 feet	9.21 feet	No Change	YES
Rear Yard	15 feet	71 feet	No Change	YES
Building Setbacks – Accessory Building				
Side Yard	3 feet	4.5 feet	3 feet*	YES
Rear Yard	3 feet	3 feet	3 feet*	YES
Maximum Building Height – Principal Building				
Stories	2.5 stories	2.5 stories	No Change	YES
Feet	30 feet	27 feet	No Change	YES
Maximum Building Height – Accessory Building				
Stories	1.5 stories	1 story	1.5 stories	YES

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

Bulk and Yard Requirements – § 25-1-16 – RA Residential Zone				
DESCRIPTION	REQUIRED	EXISTING	PROPOSED	CONFORMING
Feet	16 feet	12 feet	15.9 feet	YES
Maximum Percent Lot Coverage				
Principal Building	30%	16.4%	19.5%	YES
Accessory Building	10%	1.6%	5.2%	YES
Buildings Inclusive of Accessory Buildings	40%	18%	24.7%	YES
All Buildings & Impervious Surface	60%	28.6%	30.8%	YES
Maximum Percentage of Front Yard Coverage by Parking	30%	0%	7.8%	YES

(ENC) = Existing Non-Conformity
(V): “c” Variance Required

* We note the 3-foot setback figures above include the proposed roof eaves of the accessory detached garage which extend 1 foot from 3.5-foot setback of the building footprint, pursuant to Borough Ordinance § 25-1-14.3.d.1.

2. Front Yard Setback (Kearney Street) – Principal Building. A minimum front yard setback of 20 feet is required, whereas the proposed covered porch decreases the existing non-conforming front yard setback of 11.14 feet to 8.4 feet. Additionally, a front yard setback of 13.65 feet is proposed for the rear addition. **Therefore, a ‘c’ variance is required.**

E. Variance Considerations

The applicant shall provide testimony to address the positive and negative criteria for the required ‘c’ variance above.

Upon hearing testimony and input from the public (if any), the Board should evaluate the positive and negative criteria set forth below to determine whether the Applicant has met its burden of proof for a “c(1)” or “c(2)” variance.

1. Positive Criteria for “c(1)” hardship variance

The finding of a “c(1)” hardship would address the following:

- a. by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or
- b. by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- c. by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, or the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

and undue hardship upon the developer of such property.

The finding of the hardship must be for the specific property in question (i.e., it must be unique to the area). Note also that a hardship variance cannot be granted by a self-created hardship or personal hardship of the applicant.

2. Positive Criteria for “c(2)” flexible variance

For the finding of a “c(2)” flexible variance to permit relief from zoning regulations where an alternative proposal results in improved planning would address the following:

- a. *The purposes of the MLUL would be advanced by the deviation, and*
- b. *The benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.*

The finding of the benefits must be for the specific property in question (i.e., it must be unique to the area). The zoning benefits resulting from permitting the deviation(s) must be for the community, and not merely for the private purposes of the owner. It has been held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Notwithstanding, the Board should consider only those purposes of zoning that are actually implicated by the variance relief sought.

3. The Municipal Land Use Law (NJSA 40:55D-70) requires the applicant to satisfy *both* components of the negative criteria:

- a. *The proposal will not create a “substantial detriment to the public good”;* and
- b. *The proposal will not create a “substantial detriment to the zone plan and zoning ordinance.”*

F. Off-Street Parking Requirements

1. In accordance with § 25-1-5.5 of the Borough Ordinance, the RA Residential Zone defers minimum off-street parking requirements to the New Jersey Residential Site Improvement Standards (RSIS). The number of minimum off-street parking requirements for the subject property, pursuant to § 5:21-4.14, Table 4.4 of the New Jersey RSIS, along with the proposal’s conformance with same are as follows:

Le: Denise Nellis, Recording Secretary

Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review

RSIS Minimum Off-Street Parking Requirements - <u>N.J.A.C. 5:21-4.14</u>				
Description	Minimum No. Required	Existing	Proposed	Conforming
Proposed Single-Family, 3-bedroom Detached Dwelling	2 Spaces	0 Spaces (ENC)	2 spaces	Yes

- The proposed 20 feet x 14 feet paved driveway and detached one car garage create a total of two (2) off-street parking spaces, where a minimum of two (2) spaces are required. ***Therefore, the proposal conforms with the minimum number of off-street parking spaces pursuant to the NJ RSIS and reduces the site's dependency on street parking within the public right-of-way.***

G. Lighting

No existing and proposed lighting is shown on the submitted plans. Given the close proximity of the subject site to the adjacent residential properties, light spillage onto said adjacent properties must be taken into account and avoided pursuant to § 25-1-14.6(c). ***The Applicant should provide testimony as to whether any additional lighting is proposed on the subject site. If additional lighting is proposed, the plans should be revised to indicate same.***

H. Landscaping and Buffering

- No existing and proposed landscaping is shown on the submitted plans. ***The applicant should provide testimony on whether any additional landscaping is proposed, and the plans should be revised accordingly based on the testimony provided.***
- Based on the street view image provided above for Block 43, Lot 9 a vinyl fence and wood fence exist on site however said fences are not indicated on the submitted plans. ***The applicant should provide testimony on the condition of the existing fencing, and whether it will remain or be replaced. The plans should be revised accordingly to include the location, height and type of existing fencing.***

I. Additional Comments

- The applicant should provide testimony confirming that the existing dwelling is to remain a single-family unit, and that no additional units and/or extraneous living spaces are proposed.
- The applicant should provide testimony describing the use of the studio space above the proposed detached garage. In addition, the applicant should confirm that the studio space will not be used for residential or commercial purposes.
- The building elevations should be updated to include proposed height dimensions for the principal building and accessory detached garage.



Le: Denise Nellis, Recording Secretary

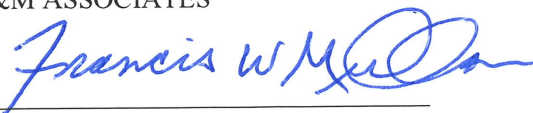
**Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review**

4. The Zoning Analysis Table on Sheet 1 of the plans should be revised to show the existing front yard setback of 11.14 feet instead of the 11.4 feet shown.
5. The plans should be revised to show the proposed driveway apron along with a construction detail of same.
6. The Zoning Analysis Table should be revised to include the required, existing and proposed number of off-street parking spaces in accordance with RSIS requirements.
7. Testimony should be provided regarding the proposed materials for the driveway, and construction details of the proposed driveway materials and paving should be added to the plans.
8. The plans and survey should be updated to include a north arrow.
9. We note that as indicated in the Special Flood Hazard Area Development Permit Review letter dated June 21, 2023, the property is located outside of the flood hazard area and therefore is not subject to the Borough's Flood Damage Prevention Ordinance.
10. The applicant should clarify whether any soil is proposed to be removed from the site. If so, a Soil Removal Permit should be obtained as a condition of any approval.
11. The applicant will be required to repair any pavement, curb, or sidewalk damaged due to the proposed improvements to the satisfaction of the Borough Engineer. A note indicating the same should be added to the plans.
12. The applicant should confirm that the property is not subject to existing easements, deed restrictions, or covenants.
13. Prior to any final approval, the applicant shall address all required Borough fees, permits and approvals.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

T&M ASSOCIATES


FRANCIS W. MULLAN, P.E., C.M.E.
PLANNING BOARD ENGINEER


CAROLINE Z. REITER, P.P., A.I.C.P.
PLANNING BOARD PLANNER

AWD:THJ



Le: Denise Nellis, Recording Secretary

**Re: KUPB Application No. 23-11
Bulk Variance Approval
57 Elizabeth Street – Block 43, Lot 9
RA (Residential) Zoning District
Second Planning & Engineering Review**

Cc: via email Marc Leckstein, Planning Board Attorney; marc@lecksteinlaw.com
Denise Nellis, Planning Board Secretary; dnellis@keyportonline.com
Mark Sessa, Planning Board Chairman; markorlisa.sessa@verizon.net
Joseph Raftery, Borough Engineer; derek.jordan@colliersengineering.com
Deborah Martinock, Colliers Engineering; dmartinock@colliersengineering.com
David Olsen, Borough Zoning Officer dolsen@keyportonline.com
Frank and Brenda Occhipinti, Property Owner focchipinti@comcast.net
Lawrence Luttrell, Applicant's Attorney larry@lwlpc.com
Vincent Minkler, Applicant's Architect vinminkler@gmail.com
Andrew Denbigh, Supervising Engineer, T&M Associates adenbigh@tandmassociates.com
Timothy Jenssen, Senior Staff Planner, T&M Associates tjenssen@tandmassociates.com
Owen Calvert, Staff Planner, T&M Associates ocalvert@tandmassociates.com

G:\Projects\KUPB\R2300\Correspondence\Nellis_FWM_DMD_Second Planning & Engineering Review - 57 Elizabeth Street_B 43 L
9_FWM_CZR.final