



KUPB-R2280

September 22, 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. 23-09
Minor Subdivision and Bulk Variance Approval
91 Atlantic Street (23-09) Block 97, Lot 7
Residential District A (RA)
Second Planning, and 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. Documents and revisions submitted subsequent to the original application submission are noted in ***bold italic text***.

1. Planning Board Application, dated April 17, 2023, consisting of nine (9) sheets;
2. Minor Subdivision Plan & Survey, prepared by Richard Karl Heuser, P.E. & L.S., dated January 6, 2023, ***revised through July 26, 2023***, consisting of one (1) sheet;
3. Plot Plan for Lot 97, Block 7, prepared by Richard Karl Heuser, P.E. & L.S., dated January 6, 2023, consisting of one (1) sheet; and,
4. ***Applicant's response letter, prepared by Richard K. Heuser, PE, LS, dated August 10, 2023, consisting of one (1) sheet.***

A. Subject Property Description & Surrounding Area

The subject property is located at 91 Atlantic Street, at the northeastern corner of the Atlantic Street and Warren Street intersection. Lot 7 consists of 16,602 SF and is improved with a two-and-one-half (2.5) story single-family dwelling, a detached one-car garage, two residential parking spaces, a driveway, an inground swimming pool, and a fire pit. Various patios, walkways, and fencing also exist on the property. The existing dwelling fronts on both Warren Street and Atlantic Street. The detached garage is situated behind the dwelling and approximately 23 feet from Warren Street. The garage encroaches into the required side yard setback area. Existing driveways provide access from Warren Street to the garage and the property. The entire site is located within the Residential District A (RA) Zone; single-family dwellings on a minimum lot size of 5,000 SF are a permitted use in the zone.



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Le: Denise Nellis, Recording Secretary

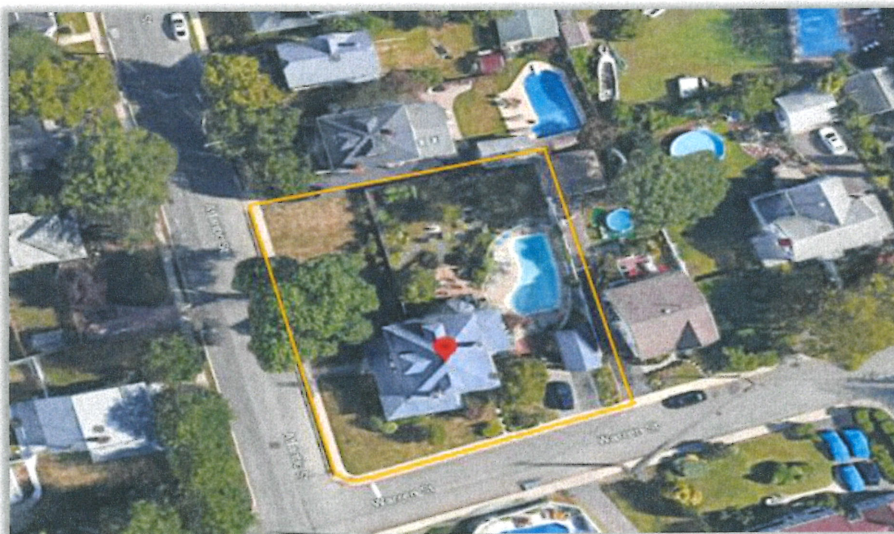
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All the lots that immediately surround the subject property are located within the RA Zone. One single-family dwelling is adjacent to the east of the subject property, and another is adjacent to the north. Single-family dwellings are located across Atlantic Street, west of the property, and to the south across Warren Street.

B. Project Description

1. The applicant is seeking approval to subdivide Block 97 Lot 7 into proposed lots 7.01 and 7.02. Lot 7.01 would contain 10,959 SF and include the existing single-family dwelling, garage, and driveways. The plan shows a proposed dwelling on Lot 7.02, which would consist of 5,643 SF. A new paved driveway is proposed to provide access from Atlantic Street to the new dwelling. One shade tree and foundation plantings are also proposed. The existing inground pool, birch tree, two patios, concrete decking, and fire pit are proposed for removal. Both proposed lots are outside the flood zone and will be served by municipal sewer and water.
2. Proposed lots 7.01 and 7.02 meet the 5,000 SF minimum lot area and conform to all other bulk standards in the RA Zone District. However, the applicant will require side yard setback variance relief for the existing garage, which encroaches into the 3 ft. side yard setback area.

Google Earth Imagery with Approximate Outline of Subject Property – Block 97, Lot 7





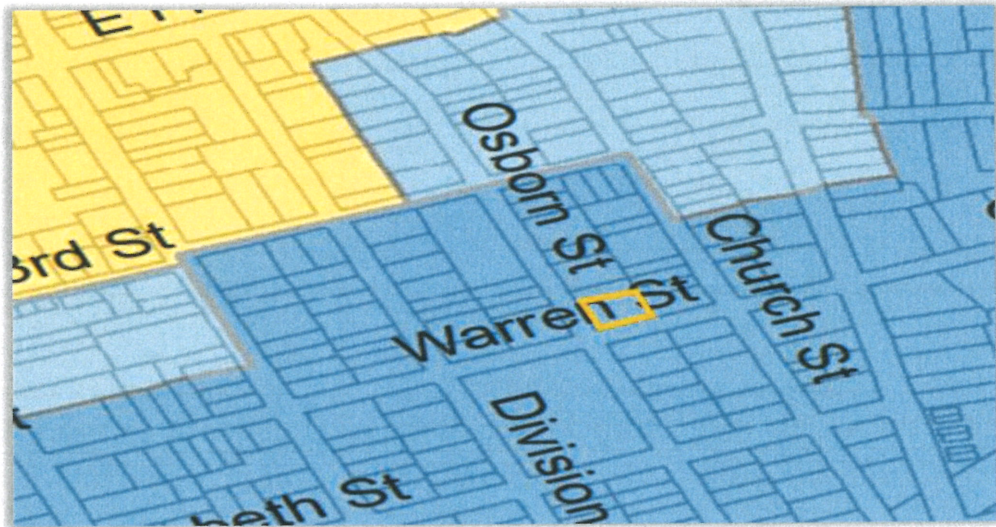
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Approximate Location of Subject Property (Block 97, Lot 7) Within the Residential District A (RA) Zone



Google Street View Imagery of Subject Property (Block 97, Lot 7)



Atlantic Street and Warren Street Intersection (Image Captured August 2018)



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Based on our review of the submitted items, our office deemed the application to be **complete** per our First Completeness, Planning and Engineering Review distributed May 25, 2023. Several of the checklist items were not initially included with the plan set but have since been submitted subsequent to the aforementioned review. Any outstanding items remaining should be submitted/addressed by the Applicant prior to the scheduled hearing or as a condition of final approval, as outlined in our comments below. Comments from our First Completeness, Planning and Engineering Review dated May 25, 2023, are noted in *italic text*, and new comments pertaining to the revised plans submitted are noted in **bold italic text**.

C. Completeness Review

We note that any checklist items not listed have been considered addressed from a planning and engineering standpoint.

Plans, Waivers, and Variances Checklist:

- Item 3. Certification by Borough Tax Collector that all taxes, including current taxes, are paid. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant submitting proof of taxes paid prior to the public hearing. **As of the date of this review, our office is not in receipt of the Tax Payment Certification (Form No. 5) certified by the Borough Tax Collector. The applicant shall submit this item prior to the public hearing, which shall also include confirmation of 2023 Q2 tax payments.***
- Item 4. Payment of all applicable fees for preliminary subdivision review. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant submitting payment of all applicable fees prior to the public hearing. **We defer to the Board Secretary regarding conformance with this Item. Please refer to Item F. below which provides a table of all applicable fees.***
- Item 5. Submission of Environmental Impact Statement. *The applicant is proposing to subdivide the property into two lots. The applicant should provide testimony regarding the process and equipment that will be used to remove the inground pool, two (2) patios, concrete decking, and fire pit, per the Borough's construction code. Otherwise, we do not object to the Board granting a waiver for this requirement. **No further comment.***
- Item 6. Soil Erosion and Sediment Control Permit and Soil Conservation. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant providing a permit or exemption from the Freehold Soil Conservation District as a condition of approval.*



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Partially addressed. The applicant's response letter dated August 10, 2023, indicates that they will apply to the Freehold Soil Conservation District. A letter of approval or exemption from the Freehold Soil Conservation District should be provided as a condition of approval.

- Item 15. Owners signed Certificate of Concurrence with the plan. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant providing a signed Certificate of Concurrence as a condition of approval. **No further comment.***

Minor Subdivision Requirements:

- Item 3. Payment of all Plan Filing Fees. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant paying all applicable fees prior to the public hearing. **Continuing comment. As of the date of this review, our office is still not in receipt of a payment for all plan filing fees. The applicant shall provide this item prior to the public hearing.***
- Item 4. Payment of Performance Guaranty in favor of municipality approved by Borough Attorney and Borough Engineer. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant posting a performance guarantee as a condition of approval. **No further comment.***
- Item 5. Soil removal permit signed by Borough Engineer. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant obtaining a soil removal permit as a condition of approval. **Note 17 of the revised plans confirms that no soil will be removed from the site. However, the applicant should be prepared to provide testimony regarding this item, specifically as it pertains to the proposed driveway for Lot 7.02 and the proposed shade tree.***
- Item 7. Engineer Inspection Fees. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant posting the required inspection fees as a condition of approval. **No further comment.***
- Item 8. Certification from Tax Collector that all taxes are current on the property through the current month quarter. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant submitting proof of taxes paid prior to the public hearing. **As of the date of this review, our office is still not in receipt of the Tax Payment Certification (Form No. 5) certified by the Borough Tax Collector. The applicant shall***



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provide this item prior to the scheduled public hearing, which shall include confirmation of 2023 Q2 tax payments.

Item 9. Permits from other authorities upon which approvals were conditioned. *We have no objection to the Board granting a completeness waiver for this item, subject to the applicant obtaining all required outside permits as a condition of approval. No further comment.*

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: Residential (RA) Zone - § 25-1-16				
Description	Required	Proposed Lot 7.01	Proposed Lot 7.02	Conforming
Minimum Lot Requirements				
Minimum Lot Area	5,000 SF	10,959 SF	5,643 SF	YES
Minimum Lot Width	50 feet	102.35 feet	50 feet	YES
Principal Building Setbacks				
Front Yard	20 feet	22.7 feet	20 feet	YES
Side Yard	6 feet	19 & 23 feet	6 feet	YES
Combined Side Yard	16 feet	42 feet	16 feet	YES
Rear Yard	15 feet	36.8 feet	15 feet	YES
Maximum Building Height				
Principal Building Stories	2.5 stories	2.5 stories	2.5 stories	YES
Principal Building Feet	30 feet	< 30 feet	< 30 feet	YES
Accessory Building				
Minimum Side Yard Setback	3 feet	2.3 feet (V)	N/A	NO
Minimum Rear Yard Setbacks	3 feet	46.2 feet	N/A	YES
Maximum Height	16 feet	±12.3 feet	N/A	YES
Maximum Percent Lot Coverage				
Maximum Principal Building Coverage	30%	±18.8%	< 30%	YES
Maximum Accessory Building Coverage	10%	±2.2%	10%	YES
Total Buildings	40%	±20.4%	40%	YES
All Buildings & Impervious Surface	60%	±38.7%	60%	YES



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Bulk and Yard Requirements: Residential (RA) Zone - § 25-1-16				
Description	Required	Proposed Lot 7.01	Proposed Lot 7.02	Conforming
Front Yard Coverage By Parking	30%	< 30%	< 30%	YES

(V): "c" Variance Required

2. The required minimum side yard setback for an accessory structure is 3 feet, whereas the side yard setback of the existing garage on proposed Lot 7.01 is 2.3 ft. **Therefore, a variance is required.**

E. Variance Considerations

The applicant should provide testimony to address the positive and negative criteria for the requested 'c' 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 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*



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- 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. Off-street parking requirements for the subject property (proposed Lots 7.01 and 7.02), pursuant to § 5:21-4.14, Table 4.4 of the New Jersey Residential Site Improvement Standards (RSIS) are as follows:
 - a. Two-Bedroom Single-Family Dwelling: 1.5 Spaces
2. A total of one and one-half (1.5) off-street parking spaces are required for the existing two-bedroom single-family dwelling. Two off-street parking spaces currently exist. The proposal meets the minimum off-street parking requirements.
3. For Principal buildings within the RA (Single-Family Residential) Zone, the required front yard coverage by parking is 30% whereas existing front yard coverage by parking on Lot 7.01 is approximately 18.8%. Therefore, the proposal meets the minimum parking coverage requirement regarding Lot 7.01.



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G. General Comments

1. The site is not in a flood zone and therefore is not subject to the Borough Flood Damage Prevention Ordinance. ***No further comment.***
2. The applicant shall submit architectural plans for the proposed single-family dwelling on Lot 7.02 indicating the number of bedrooms, room areas, building height, trim, and finish materials. Testimony of same shall be provided. ***No further comment.***
3. The applicant shall submit a plot plan for the proposed single-family dwelling on Lot 7.02 before the issuance of any building permits by the Borough. The plot plan shall confirm the number of bedrooms, size of driveways, garages, and accessory buildings. Testimony of same shall be provided. ***Note 16 of the revised plans states that, "The Applicant shall submit a plot plan for the proposed single-family dwelling on Lot 7.02 before the issuance of any building permits by the Borough." The Applicant shall provide testimony confirming same.***
4. The applicant shall specify if any fencing or landscaping will be proposed as part of the site improvements for Lot 7.02, including species of the proposed shade tree and foundation plantings. Any fencing that is in disrepair shall be replaced. Details of same shall be added to the plans. ***The plans have been revised to include one (1) proposed shade tree (White Oak) on proposed lot 7.02 and planting details have been added to Sheet 2 of the revised plans. The applicant shall provide testimony confirming whether any additional landscaping and fencing is proposed.***
5. The applicant shall specify if any lighting is proposed as part of the site improvements. Any proposed lighting must conform with the ordinance requirements of section 25-1-14.6(c). Details of same shall be added to the plans. ***Note 18 of the revised plans confirms that no lighting is proposed as part of the site improvements. The Applicant shall provide testimony confirming same.***
6. The applicant shall revise the plans to show the location of all roof leaders and demonstrate that all roof runoff will not be directed to the adjacent lots. Details of same shall be added to the plans. ***Note No. 20 on Sheet 1 of the revised plans states, "Roof leaders for the proposed dwelling shall be directed to the street." We note that the location of the proposed roof leaders is shown on Sheet 2 of the revised plans which directs runoff towards Atlantic Street.***



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7. Based on the proposed grading, it appears the applicant is directing runoff towards adjacent Lots 6 and 8. The applicant shall revise the plans to ensure there will be no runoff directed to the adjacent lots. ***Sheet 2 of the revised plans includes roof leaders and swales that direct stormwater runoff away from both adjacent lots and towards Atlantic Street. The Applicant shall provide testimony confirming that no runoff will be directed towards the adjacent lots.***
8. The plans shall be revised to provide details for the proposed paved driveway, concrete curb, and pavement repair. All details shall be in accordance with the Borough Ordinance. ***Sheet 2 of the revised plans includes details for the proposed driveway, concrete driveway apron, concrete curb, and pavement repair. The applicant shall provide testimony confirming that these improvements conform with the requirements of the Borough Ordinance.***
9. The applicant will be required to repair any pavement, curb, or sidewalk that is in disrepair or damaged due to the proposed improvements to the satisfaction of the Borough Engineer. A note indicating the same shall be added to the plans. ***This is a continuing comment that shall be addressed during construction. Note 15 of the revised plans confirms that any pavement on Atlantic Street that is damaged due to the proposed improvements will be milled and paved. We defer to the Borough Engineer regarding the proposal's conformance with this requirement.***
10. The applicant should confirm that the property is not subject to existing easements, deed restrictions, or covenants. Testimony of same shall be provided. ***No further comment.***
11. Revised plans submitted to the Board shall include a cover letter indicating which items in this report have been addressed or remain outstanding. Testimony of same shall be provided. ***A cover letter indicating the items addressed from our First Review dated May 25, 2023 was provided with the revised plans. Should the Application be approved by the Board, the same shall be provided for any revised plans and materials submitted for compliance with the Board Resolution of Approval.***



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Please do not hesitate to contact our office if you have any questions or require additional information.

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

Cc: *via email* Denise Nellis, Planning Board Secretary (dnellis@keyportonline.com)
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