



YOUR GOALS. OUR MISSION.

KUPB-R2120

April 27, 2022

Keyport Unified Planning Board
70 West Front Street
Keyport, New Jersey 07735
Attn: Denise Nellis, Recording Secretary

Via email and mail

**Re: 133 Second Street – Use Variance Plan (21-13)
Block 125, Lot 19
Second Engineering & Planning Review**

Dear Board Members:

As requested, we have reviewed the following documents submitted by the applicant in support of this applications; however please note that the Plot Plan revised April 14, 2022, was not received by our office until April 26, 2022.

1. Planning Board Application, dated December 21, 2021, consisting of sixteen (16) sheets.
2. Plot Plan, prepared by Anthony Maltese, P.E., P.L.S., P.P., C.M.E., of Abbington Engineering, LLC, dated November 19, 2021, last revised April 14, 2022, consisting of one (1) sheet.
3. Boundary Location Survey, prepared by Anthony Maltese, P.E., P.L.S., P.P., C.M.E., of American Layout & Land Surveying, dated April 8, 2021, last revised October 14, 2021, consisting of one (1) sheet.
4. Architectural Plans, prepared by JoAnn P Montero, unsigned, dated September 13, 2021, consisting of five (5) sheets.
5. Variance Plan, prepared by JoAnn P Montero, unsigned, dated December 29, 2021, consisting of five (5) sheets.
6. Response Letter to First T&M Planning and Engineering Review Letter, prepared by Anthony Maltese, PE, PLS, PP, CME, of Abbington Engineering, LLC, dated April 14, 2022, consisting of two (2) pages.

A. Project Description

The applicant is seeking use variance approval to expand an existing two-family dwelling. The improvements include removal of the existing side porch, rear steps and portion of the existing concrete walkway, and construction of a two-story addition, concrete walkway and three (3) car driveway.

The subject property, consisting of 4,800 square feet, is located at the corner of Second Street and Waverly Street. The site is currently developed with an existing two-family dwelling, concrete walkway and asphalt driveway. The entirety of the site is located in Residential District A (RA) Single Family Zone.



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Zoning Data: Neighborhood Commercial District (RA) Zone

	REQUIRED	EXISTING	PROPOSED
Minimum Lot Requirements			
Minimum Lot Area	5,000 S.F.	4,800 S.F. (ENC)	No Change
Minimum Lot Width	50 feet	60 feet	No Change
Principal Building Setbacks			
Front Setback	20 feet	3.51 feet (Waverly) (ENC) 12.01 feet (Second) (ENC)	No Change (Waverly) 19.81 (Second)
Side Setback	6 feet	14.52 feet	7.7 feet
Combined Side Setback	16 feet	N/A	N/A
Rear Setback	15 feet	29.47 feet	20.5 feet
Maximum Building Height			
Principal Building Stories	2.5 stories	2.5 stories	No Change
Principal Building Feet	30 feet	28.5 feet	No Change
Maximum Percent Lot Coverage			
Principal Building	30%	23.1%	28.8%
All Buildings Coverage	40%	23.1%	28.8%
All Buildings & Impervious Surface	60%	28%	50.7%
Maximum Percentage of Front Yard Covered By Parking	30%	9.6%	28.6%

(ENC): Existing Non-Conformity

B. Completeness Review

Based on our review of the variance completeness checklist, the following items must be submitted, or completeness waivers must be granted prior to the application being deemed complete:

- Item 2.F. Utility and drainage plans and information. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant revises the plans to include all underground utilities and roof leaders.*
- Item 2.H. Preliminary plans for parking, lighting, load signs, landscaping and buffers. *We have no objection to the Board granting a completeness waiver for this item provided that the applicant revises the plans to include any lighting and landscaping.*
- Item 2.I. An extension of off-tract improvements necessitated by the proposed developed. *We have no objection to the Board granting a completeness waiver for this item provided that the applicant revises the plans to include the replacement of deficient curb and sidewalk.*



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- 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, provided that the applicant submits proof of taxes paid prior to the public hearing.*
- Item 4. Payment of all applicable fees for preliminary site plan review. *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.*
- Item 5. Submission of Environmental Impact Statement. *Due to the limit scope of improvements, we have no objection to the Board granting a completeness waiver for this item.*
- Item 7. Stormwater management plan. *Due to the limit scope of improvements, we have no objection to the Board granting a completeness waiver for this item.*
- Item 8. Referral to Monmouth County Planning Board for review and approval. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits to the Monmouth County Planning Board as a condition of approval.*
- 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.*
- Item 10. Disclosure of 10% ownership interest of corporation or partnership which is 10% owner of applying corporation or partnership. *We have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits the required disclosure prior to the public hearing.*
- Item 13. Variance(s) from Section(s) and reasons, if necessary. *We have no objection to the Board granting a completeness waiver for this item, provided that the plan is revised to include the same.*
- Item 14. Waiver required from Section(s) and reason. *We have no objection to the Board granting a completeness waiver for this item, provided that the plan is revised to include the same.*
- 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 plan is revised to include the same.*

The applicant shall address Items 3, 4 and 10 as noted above prior to the public hearing.



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C. Fee Calculation

The Application Fee for this project is \$225.00 as shown below. Additionally, the Ordinance Fee Schedule requires an Escrow Fee be posted in the amount of \$400.00. The applicant is required to post any remaining balance prior to the application being schedule for public hearing.

Site Plan	Application Fee	Escrow Fee
“D” Variances	\$150.00	\$200.00
“C” Variances	\$75.00 (\$25.00/variance)	\$200.00
Total Fee	\$225.00	\$400.00

D. Planning and Engineering Review

1. The minimum lot area for the RA Zone of the Borough is 5,000 square feet, whereas 4,800 square feet currently exists. This is an existing non-conformity.
2. The minimum combined front yard setback for principal structures for the RA Zone of the Borough is 20 feet, whereas 8.41 feet currently exists on Waverly Street and 4.50 feet currently exists on Second Street. This is an existing non-conformity.
3. The applicant is proposing to expand an existing two-family dwelling, which is not a permitted use in the RA District. Therefore, a ‘d(2)’ variance will be required for the expansion of a non-conforming use.
4. In order to be entitled to ‘d(2)’ use variance relief, the applicant must demonstrate that the application satisfies both the positive and negative criteria of the Municipal Land Use Law.
 - a. Positive Criteria: The Board has the power to grant ‘d(2)’ variances for the expansion of lawfully created non-conforming uses “in particular cases and for special reasons.” This is considered the positive criteria for the grant of a ‘d(2)’ variance. Special reasons for a ‘d(2)’ variance may be found by the Board if it determines that the grant of the variance would minimize the existing nonconformity and make the use more compatible with the surrounding area. In *Burbridge v. Mine Hill Tp.*, (568 A.2d 527 (N.J. 1990)) the Court determined that aesthetic improvement alone could be a special reason that warrants a ‘d(2)’ variance. However, the Court also held that “mere beautification” would not be a sufficient to prove special reasons, but that the aesthetic improvement must relate to the overall visual compatibility of the use with the surrounding area and be shown to promote the general welfare of the community.
 - b. Negative Criteria: There are two prongs to the negative criteria that the applicant must satisfy for s ‘d(2)’ variance:



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- (1) That the variance can be granted without substantial detriment to the public good. This prong requires an evaluation of the impact of the variance on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
- (2) That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

Unlike a ‘d(1)’ use variance, the applicant is not required to address the enhanced burden of proof under *Medici v. BPR Co.*, 107 N.J. 1, 5 (1987) for a ‘d(2)’ variance.

5. In addition to the ‘d(2)’ variance, the applicant shall provide testimony to address the positive and negative criteria for the requested ‘c’ variances. The applicant’s testimony should focus on the following:
 - a. Positive Criteria: The applicant shall provide testimony to the board regarding the physical conditions of the property and how the strict application of the provisions of the ordinance would result in a hardship that is inconsistent with the purpose and intent of the ordinance. Alternatively, the applicant may testify that the required variance furthers the purposes of the Municipal Land Use Law and that the benefits of granting the variance will substantially outweigh any detriments
 - b. Negative Criteria: The applicant must demonstrate that the variance can be granted without substantial detriment to the public good, and that the granting of the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.
6. The applicant shall testify regarding the compatibility of the proposed two-family dwelling with the surrounding neighborhood and how the proposed development would enhance the visual appearance of the area.
7. The parking requirements under the Residential Site Improvement Standards (RSIS) are as follows:
Two-Family (Duplex):
3 BR = 2 Spaces/Unit
2 Units x 2 Spaces = 4 Spaces

A total of **4 spaces** are provided, whereas **4 spaces** are required, therefore, the parking requirement has been satisfied.
8. The paved driveway located within the right-of-way on Waverly Street shall be removed. The applicant shall install depressed concrete curb and a reinforced concrete apron, 6” thick. A detail for both the curb and apron shall be added to the plot plan. *Addressed per Plot Plan last revised April 14, 2022.*
9. A detail for the proposed driveway on 2nd Street shall be added to the plot plan. The dimensions of the driveway shall be clearly labeled. The driveway shall be a minimum of 5 inches thick,



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consisting of 3 inches of HMA Base Course and 2 inches of HMA Surface Course. *Addressed per Plot Plan last revised April 14, 2022.*

10. A detail for the proposed walkway shall be added to the plot plan. The applicant shall clarify the limits of the walkway in the area of the covered porch to be removed. *Continuing comment. The Plot Plan does not include any detail or dimensions for the proposed walkway. The limits of the walkway within the covered porch are also not clearly delineated. The applicant shall revise the Plot Plan to include a detail for the proposed walkway and confirm the limits of the walkway within the area of the covered porch to be removed.*
11. The plot plan shall be revised to show the location of all utilities, including underground water, sewer, natural gas. The applicant shall provide testimony regarding if any new utility lines are proposed. *Continuing comment. No utilities are shown on the revised Plot Plan, including but not limited to, underground water, sewer and natural gas. The applicant shall revise the Plot Plan as described above and provide testimony regarding existing utilities on site and whether new utility lines are proposed or necessary to service the proposed addition.*
12. The applicant shall specify if any lighting or landscaping is proposed as part of this application and provide testimony of same. The plans shall be revised to show the location of any proposed lighting or landscaping. The applicant shall demonstrate there will not be any light spillage onto the adjacent lots. *Continuing Comment. Proposed landscaping is shown on the Building Elevations (sheet A-1) of the Architectural Plans, however no planting detail is provided. Existing and proposed landscaping with a planting detail are also not shown on the revised Plot Plan. Exterior lighting fixtures are shown in the General Notes and Specifications (sheet GN-1) of the Architectural Plans, however the location and luminosity ratings of said fixtures are not shown on the Architectural Plans and revised Plot Plan. The applicant shall revise the plans to indicate the location, quantity and details of proposed plantings and lighting fixtures, the latter of which shall demonstrate no light spillage onto the adjacent lots. The applicant shall include a note in the plans and provide testimony indicating same.*
13. The plans shall be revised to show the location of all roof leaders. The applicant shall demonstrate that there will not be any runoff directed towards the adjacent lots. *Continuing comment. The applicant shall revise the plans accordingly.*
14. The applicant shall specify if any fencing is proposed as part of the application. The plot plan shall be revised to show the location of any proposed fencing. *Continuing comment. The revised Plot Plan shows an existing, 3' high wood fence surrounding the property within the Second Street and Waverly Street right-of way, however no indication of additional or replacement fencing is shown. If the existing fence is to be replaced or any additional fencing proposed, the applicant shall revise the Plot Plan to include the location and dimensions of said fencing, and a detail of same shall be added to the plans. The applicant shall provide testimony regarding same.*



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15. The site is not located in a flood zone and therefore, is not subject to the Borough Flood Damage Prevention Ordinance. *Informational.*
16. The applicant will be required to repair any curb, sidewalk or pavement that is in disrepair and/or damaged as a result of the proposed improvements. All improvements must be completed to the satisfaction of the Borough Engineer. *Continuing comment. A note regarding the same shall be added to the Plan.*
17. The applicant should confirm that the property is not subject to any existing easements, deed restrictions and/or covenants. *Continuing comment. The applicant shall provide testimony regarding same.*
18. The applicant will be required to obtain any necessary municipal building permits if any are required. *Continuing comment.*
19. An aerial of the site, prepared utilizing Google Maps, has been attached to this report and is for general reference and may not accurately reflect existing conditions. *Informational.*

If you have any questions or require additional information, please do not hesitate to call.

Very truly yours,

T&M ASSOCIATES

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

STANLEY SLACHETKA, FAICP, PP
PLANNING BOARD PLANNER

TIMOTHY JENSSEN
SENIOR STAFF PLANNER

FWM:SS:DMD:AWD:lkc

c: Marc Leckstein, Planning Board Attorney
Mark Sessa, Planning Board Chairman
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