

RESOLUTION
GRANTING USE VARIANCE RELIEF TO ALLOW RESIDENTIAL USE IN EXISTING
BUILDING WHERE RESIDENTIAL USES ARE NOT PERMITTED

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 61 LOTS 21 and 22
Application # 14-05
ROBERT MOSCATO, THOMAS SURINA, LEVON VEGA
34-36 WEST FRONT STREET

WHEREAS, Robert Moscato, Thomas Surina and Levon Vega have applied to the Unified Planning Board of the Borough of Keyport for principle use variance approval, so as to allow a residential use inside of two existing buildings, which are internally connected, where residential uses are not permitted. The subject buildings are located at property commonly known as 34-36 West Front Street, and officially designated as Block 61, Lots 21, 22 on the official Tax Map of the Borough of Keyport; and

WHEREAS, the applicants have provided notice to all property owners within two hundred feet and has 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, public hearings on the application were conducted in the within matter during regularly scheduled meetings of the Unified Planning Board held on August 28, 2014 and October 23, 2014 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. This application constitutes a request by the applicants, Robert Moscato, Thomas Surina and Levon Vega, to convert the second floor of existing commercial buildings, which are already connected internally, into six residential dwelling units.
2. The properties in question are located at 34-36 West Front Street, which is officially designated as Block 61, Lots 21 and 22 as shown on the official tax map of the Borough of Keyport.
3. The property is in the Borough's General Commercial (GC) Zone which does not permit residential uses.
4. As residential uses are not permitted in the GC Zone, the application necessitates the granting of a principle use variance pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1).

5. According to the Engineering/Planning Review Letter dated August 8, 2014, co-authored by the Board's Engineer Fran Mullan, P.E., C.M.E. and the Board's Planner Stan Slachetka, P.P., AICP, and marked into evidence as **Exhibit B-1**, this application does not require any variances other than the aforementioned principle use variance as the applicant is not proposing to make any changes to the buildings' footprint.
6. Both the Board Engineer, Fran Mullan, P.E., and the Board's Planner, Martin Truscott, P.P., (sitting in place of Stan Slachetka, P.P. at the August 28, 2014 meeting) and the Board's Planner Claire Odud, P.P. (Sitting in place of Stan Slachetka, P.P. at the October 23, 2014 meeting) were sworn and certified as to the information contained within the T&M review letter (**Exhibit B-1**). The letter is incorporated into this Resolution by reference.
7. In addition to the T&M review letter (**Exhibit B-1**), the Board also marked into evidence its own photographs of the subject buildings. These photographs were marked as **Exhibit B-2**.
8. In support of the application, the applicants submitted the following exhibits into evidence:
 - A-1:** Application Package
 - A-2:** "Plan of Survey", dated June 4, 2014, as prepared by Robert W. Smith, Jr., P.L.S. of Seneca Survey Co., Inc.
 - A-3:** "Application Data Variance Plans", dated May 20, 2014, last revised on June 23, 2014, as prepared by Tony Austin. (not a licenced engineer or architect)
 - A-4:** "Use Variance Application" Plans, dated October 10, 2014, as prepared by Stefan R. Durant, P.A. (Consisting of 5 sheets) (replaces **Exhibit A-3**)
 - A-5:** "Option A West Front Street Elevation", consisting of two sheets, depicting brick finish for 36 West Front Street.
 - A-6:** "Option B West Front Street Elevation", consisting of two sheets, depicting stucco finish for 36 West Front Street.
9. In support of the application, testimony was elicited from one of the applicants, Robert Moscato.
10. Mr. Moscato explained that the applicants are the contract purchasers of the premises and wish to convert existing office space on the second floor of the buildings into six (6) one (1) bedroom apartments. They intend to continue the commercial uses on the first floor. The applicants believe if the application were approved, it would bring residential traffic into the downtown area which would be a benefit for the whole community.
11. The applicant presented sworn testimony from its professional Architect, Stefan R. Durant, P.A. who has offices located at K-22 Shirley Lane, Lawrenceville, New Jersey 08648.
12. Referring to his architectural plans (**Exhibit A-4**), Mr. Durant testified that the second floor of the subject properties currently consists of office space. He reiterated that the applicant

- seeks to convert this space into six (6) residential apartments consisting of one (1) bedroom each. Three of the units would also have loft space on the third floor of 36 West Front Street.
13. Referring to the elevation renderings (**Exhibit A-5 and A-6**), Mr. Durant explained that there were currently two possibilities envisioned for the exterior of the building. The brick edifice version (**Exhibit A-5**) was the preferred choice of the applicants, however they feared that cost of restoring the brick which was currently covered with a stucco material as evidenced by the photographs marked into evidence as **Exhibit B-2**, might prove too expensive since some of the brick might be destroyed during the stucco removal process.
 14. Mr. Moscato testified that if the cost for the brick restoration were to exceed \$ 35,000.00 the applicants would instead proceed with the stucco edifice depicted in **Exhibit A-6**. This would be a condition of approval.
 15. Mr. Durant testified that regardless of which edifice the applicants ultimately utilized, once completed it would prove to be a great improvement to what currently exists on the site. As evidenced by the photographs marked to evidence as **Exhibit B-2**, the current stucco on the building is peeling and looks very unclean.
 16. The applicant also brought attention to the existing mural, which is in need of some restoration, which is located on the side of 36 West Front Street. (Depicted on **A-5 and A-6**) This mural would be restored regardless of which edifice option was ultimately chosen.
 17. Mr. Durant explained that the air condensers for the buildings would be mounted on the flat roof of 34 West Front Street. They would not be seen from the street. This would be a condition of approval.
 18. It was represented by Mr. Durant that all building lights and signage would be in conformance with the borough ordinances. This would be a condition of approval.
 19. In further support of the application, sworn testimony was given by the applicants' expert planner, Patrick Ward, P.P., P.E.
 20. Mr. Ward testified that he believed the proposal was in conformance with the Borough's Master Plan as such residential use had been recommended for the GC Zone throughout several re-examination reports, including the most recent version in 2012.
 21. The Borough's Engineer, Fran Mullan, P.E. also noted that mixed uses are recommended within the Borough's Master Plan for the GC District.
 22. Mr. Ward also noted that residential uses were recommended by the Borough's 2004 Smart Growth Committee. The Committee had felt introduction of residences into the downtown district would help reinvigorate the area.

23. Mr. Ward also believed that approving the application would be a benefit for the town because it would help preserve some of the historical structures which are so important to the character of the downtown. As a condition of approval, the applicant agreed that it would consult with the Borough's Historic Society with regard to the project. Although approval of the Society would not be required.
24. Mr. Ward did not envision any negative consequences were this project to be approved. He noted that the only real issue of potential concern was parking, but even this should not be a problem since there were several public parking lots in the immediate vicinity of the property.
25. With regard to the parking situation, the applicants agreed, as a condition of approval, that it would make a contribution to the Borough's Parking Fund equating to the cost for 11 spaces pursuant to the parking deficiency schedule found at point 3.3 of **Exhibit B-1**. As per that schedule the applicant would owe a total of \$ 22,000.00 to the Borough. It was agreed that applicants would not have to pay this fee all at once if it did not wish to. Instead, it could be paid in conjunction with the issuance of CO's for each unit. In other words, \$ 3,666.67 would be due to the Borough upon the issuance of each of the six (6) Certificate of Occupancies. It was understood that the parking deficiency fee of \$ 22,000.00 was a one time payment. Once paid in full, it did not begin anew. The parking deficiency payments would be incorporated into a Developer's Agreement that would be required as part of this approval.
26. With regard to garbage collection for the properties it was noted that the applicants anticipated supplying 30 gallon containers for each unit. General recycling containers would also be supplied by the applicants. It was ultimately agreed that the applicants would consult with the Borough's recycling committee. The applicant would then be required, as a condition of approval, to submit a detail of its proposed garbage enclosure area to the Board's Planner and Engineer for their review and approval.
27. It was also agreed, as a condition of approval, that the applicants would prepare and record with the Monmouth County Clerk's Office, a deed consolidating 34 and 36 West Front Street as the two properties are currently deeded separately. The consolidation deed would need to be submitted to the Board's attorney and engineer for their respective review and approval prior to recording with the County Clerk's Office.
28. The following members of the public also were sworn and spoke with respect to the application:

- A) **Councilwoman Sophia Lamberson - 286 Vandorn Street, Keyport -** Councilwoman Lamberson voiced her support for the application. However, she wished to make sure that the applicant would consult with the Borough's Historical Society as to the facades which were being proposed.
 - B) **Mayor Harry Aumack - 52 Kearney Street, Keyport -** Mayor Aumack voiced his support for the application. He noted that there is more than adequate parking available in a 24 hour public lot that was one block away from these buildings. He did indicate concern over how trash would be collected for the commercial uses located at the site.
 - C) **Bob Ludwig - 50 Beers Street, Keyport -** Mr. Ludwig expressed concern over the project based upon previous applications which had been submitted for the site but never progressed. He did not believe it was entirely appropriate for residences to be at this site.
 - D) **Lorraine Lukowski - 36 West Front Street, Keyport -** Ms. Lukowski indicated that she was a current commercial tenant at the property. She voiced concern over the status of the current commercial tenants at the site.
29. No one else from the public spoke with respect to this application.
30. In considering this application, the Planning Board finds that the proposed use variance relief can indeed be granted pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1). The Board Members, based upon their collective familiarity with the property and area in question, agree with the testimony presented on behalf of the applicant that the existing structures on the applicant's property are an eyesore and in much need of improvement. This is also demonstrated by the photographs admitted into evidence as **Exhibit B-2**. The Board finds that the proposed architectural plans (**Exhibit A-4**), and the proposed edifices, whether brick or stucco (**Exhibits A-5 and A-6**) if adhered to, will act as a great benefit for the surrounding neighborhood and the Borough as a whole. The fact that the existing mural will be restored is also seen as a benefit. The Board does note however, that it would prefer the proposed brick edifice (**Exhibit A-5**) if possible. Additionally, the fact that the buildings, which are historic in nature, will be preserved is also of great benefit for the downtown district and the Borough as a whole.
31. The Board also finds that the applicant's property is particularly suited for the proposed use. While the Board acknowledges the site is not zoned for such a residential use, it is noted that the space, as evidenced by **Exhibit A-4** blends itself perfectly to an apartment complex. This is demonstrated by the fact that absolutely no changes to the site plan or footprint of the building are necessary in order to accommodate such a change of use.

32. The Board does not believe that parking for the residents needs to be concerned. As was pointed out during the course of the application, there is more than sufficient 24 hour parking available nearby to accommodate the property.
33. The Board also recognizes that the Borough's Master Plan Re-Examination Reports have been recommending the inclusion of residential uses into the GC Zone. As recently as the last revision adopted in 2012, such a recommendation had been made.
34. Based upon all of the above, the Board finds that the requisite enhanced proofs have been presented establishing why the requested use variance relief is appropriate for this particular location.
35. The Board also does not foresee any negative impact to the community should this application be granted. In fact, the only negative consequences of this application to the community would occur if the application were to be denied. This building is in need of much needed repairs. Absent approval of this application, those improvements will not take place. If these buildings are not taken care of, the Borough could potentially face a situation where a different owner might wish to take the buildings down. This application would lead to the preservation of the buildings which are historical and add to the character of the downtown district and the Borough as a whole.
36. Based upon all of the aforesaid reasons, the Board finds that the application for principle use variance relief may be granted, as proposed, without causing any detriment to the Borough's Master Plan or the surrounding community.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Robert Moscato, Thomas Surina and Levon Vega seeking principle use variance relief to construct residential units on the second floor of premises commonly known as 34-36 West Front Street and officially designated as Block 61, Lots 21 and 22 be granted subject to the following conditions:

1. Subject to adhering to the "Use Variance Application" plans prepared by Stefan R. Durant, P.A., which were submitted into evidence as **Exhibit A-4**.
2. Subject to the edifice being renovated with a brick edifice as depicted in **Exhibit A-5** if the cost of doing same does not exceed \$ 35,000.00. Should the cost exceed that amount, the applicant may proceed with the stucco facade as depicted in **Exhibit A-6**. Nevertheless, the applicant agrees to consult, although not be beholden to, the Borough's Historical Society on this issue.
3. Subject to the air condenser units being located on the flat roof of 34 West Front Street in a manner in which they are not visible from the ground.

4. Subject to the applicants preparing a detail of its garbage and recycling enclosure area and submitting same to the Board's Engineer and Planner for their review and approval. The applicant shall consult with the Borough's Recycling Committee on this design prior to submitting it to the Board's professionals.
5. Subject to the applicants recording a Deed with the Monmouth County Clerk's Office consolidating the properties at 34 and 36 West Front Street. Said Deeds shall be reviewed and approved by the Board's Attorney and Engineer prior to recording with the Clerk's Office.
6. Subject to the applicants entering into a Developer's Agreement with the Municipality. Said Developer's Agreement shall include a requirement that the applicants must pay a total of \$ 22,000.00 into the Borough's Parking Deficiency Fund. The payments shall be required in a manner so that \$ 3,666.67 is paid into the Fund as the Certificate of Occupancy for each of the proposed six (6) residential units are issued. Once the full \$ 22,000.00 has been paid, no further monies such be required toward the parking fund from the applicants.
7. Subject to the condition all building lights and signage will be installed in conformance with the Borough Ordinances. Should variance relief for these items be necessary, the applicants shall return to the Board for further approvals.
8. Subject to all requirements contained within the Board Engineer and Planner's review letter dated August 8, 2014 unless otherwise modified by this Resolution. **(Exhibit B-1)**
9. All representations made under oath on behalf of the applicant, or by its 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. This approval shall be deemed void by abandonment if the applicant does not seek site plan approval within one year of the date hereof.
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 issuance of a building permit.
14. 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.
15. 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 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.

16. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at their sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

The foregoing was Moved by **Mr. Fotopoulos**

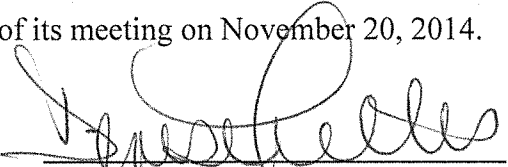
Seconded by **Mrs. Kovacs-Olsen** and on Roll Call, the following vote was recorded:

Affirmative: **Chairman Sessa, Mr. Musson, Mr. Fotopoulos, Mr. Kovacs, Mr. Sappah and Mrs. Kovacs-Olsen**

Negative: None

Abstentions: None

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 November 20, 2014.


Denise Nellis, Secretary of the Board