

RESOLUTION OF APPROVAL  
USE VARIANCE WITH PRELIMINARY AND FINAL SITE PLAN APPROVAL TO  
CONSTRUCT SIX UNIT TOWNHOUSE DEVELOPMENT

UNIFIED PLANNING BOARD  
BOROUGH OF KEYPORT

BLOCK 128 LOTS 2,3 & 4.01  
Application # 18-06  
KEYPORT HOMES, LLC  
26 WAVERLY PLACE

WHEREAS, Keyport Homes, LLC has applied to the Unified Planning Board of the Borough of Keyport for Use Variance relief with Preliminary and Final Site Plan Approval as to property which currently houses the Keyport Fire Patrol building and is located at 26 Waverly Place which is officially designated as Block 128, Lots 2, 3 & 4.01 on the official tax map of the Borough of Keyport so as to construct a six unit townhouse development made up of three (3) separate two family dwelling structures; 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 September 27, 2018;

WHEREAS, Board Members John Kovacs, Jacqueline Kovacs-Olsen and Roger Benedict did recuse themselves from all aspects of this application due to their membership in a fire company which owns property onto which the Keyport Fire Patrol would relocate if the application were granted and the existing Keyport Fire Patrol building at the subject property was demolished; 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, Keyport Homes, LLC, is seeking approval to develop property at 26 Waverly Street, which is officially designated as Block 128, Lots 2, 3, and 4.01 on the tax map of the Borough of Keyport, so as to construct a six (6) unit townhouse development, made up of three (3) separate two-family dwellings, which will be operated as a condominium association.
2. The property was previously the subject of a Use Variance and Site Plan application brought by the same applicant seeking to construct a two and half (2.5) story, eight (8) unit townhouse development. That application was denied by the Planning Board by way of a Resolution of Denial dated May 22, 2018.

3. The property in question is a 20,929 square foot lot located on the southeast corner of the intersection of Waverly Street and First Street and which is currently the site of the Keyport Fire Patrol building.
4. The property is located in the Borough's Residential A (RA) District which does not currently permit the proposed multi-family development. As a result, this application requires use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1).
5. Each of the six (6) proposed units will be 2.5 stories and be 18 feet in width by 55 feet in length. All of the units will have a driveway and single car garage. Concrete walkways will lead to the entrance of each unit and patios will be constructed at the rear of each unit. The rears of each unit will be separated by a five (5) foot board on board fence.
6. In addition to the actual dwelling units, the applicant also proposes grading, drainage, a sanitary sewer extension, sidewalk and curb improvements and the paving of Waverly Street. Finally, the applicant proposes the construction of a 6 foot high vinyl fence along the sides and rear lines of the subject property, including along First Street and along the rear yards of 151 Second Street (Block 128, Lot 6.03) and 153 Second Street (Block 128, Lot 6.02). There is currently existing fencing along 151 Second Street and 153 Second Street, however the applicant would be replacing what exists and installing new fencing in its place. This had been requested by the owners of 151 Second Street and 153 Second Street.
7. Based upon what has been proposed, the applicant will require bulk variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(c), in order to construct the proposed six foot high vinyl fence along First Street.
8. Throughout the course of this application, the applicant was represented by Salvatore Alfieri, Esquire of the law firm of Cleary, Jacobbe, Alfieri, Jacobs, LLC which has offices at 5 Ravine Drive, Matawan, New Jersey 07747.
9. In support of the application, the applicant marked into evidence the following exhibits:

|                     |                                                                                                                                                            |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Exhibit A-1:</b> | Application package dated June 18, 2018.                                                                                                                   |
| <b>Exhibit A-2:</b> | Site Plan package dated December 5, 2017, last revised June 8, 2018, as prepared by Walter Joseph Hopkin, P.E. of WJH Engineering (consisting of 6 sheets) |
| <b>Exhibit A-3:</b> | Architectural plans dated August 10, 2018 as prepared by Monteforte Architectural Studio (consisting of 3 sheets)                                          |
| <b>Exhibit A-4:</b> | Stormwater Management Report dated December 5, 2017, last revised June 14, 2018 as prepared by Walter Joseph Hopkin, P.E. of WJH Engineering               |
| <b>Exhibit A-5:</b> | Colored rendering of site plan dated July 25, 2018 as prepared by WJH Engineering                                                                          |
| <b>Exhibit A-6:</b> | Colored rendering of Elevations from Waverly Street as prepared by Monteforte Architectural Studio (consisting of 1 sheet)                                 |

10. In addition to the exhibits presented by the applicant, the Board marked its own Exhibit into evidence as follows:

**Exhibit B-1:** Completeness, Planning and Engineering Review letter dated August 3, 2018 as authored by the Board's Engineer, Francis W. Mullan, P.E., C.M.E. and its Planner, Donna Miller, AICP, PP.

11. The Board Engineer, Francis W. Mullan, P.E. and Board Planner Donna Miller, AICP, PP, both of T&M Engineering, were present at the meeting. Both professionals were sworn and certified as to the information contained within the T&M Planning and Engineering Review letter (**Exhibits B-1**) which was incorporated into this Resolution by reference.
12. The applicant presented sworn testimony from its engineer Walter Joseph Hopkin, P.E.
13. Mr. Hopkin explained that the applicant was seeking to demolish the existing Fire Patrol building and construct a new six (6) unit townhouse development on the property, made up of three (3) separate two-family dwelling structures. The proposal would be consistent with what was depicted in the Exhibits marked into evidence.
14. The applicant planned to provide sixteen (16) off street parking spaces for the development, one (1) within each townhouse garage with space to park three (3) vehicles in the driveway area serving the two outer multi-family dwelling structures and space to park four (4) vehicles in the driveway area of the center multi-family dwelling structure. This was reflected upon the site plan (**Exhibit A-2**) and the colored site plan (**Exhibit A-5**) which were marked into evidence. It was also noted that if vehicles were to stacked on the driveways, with a car in each of the garages, a total of twenty-six (26) parking spaces would be available at the site.
15. Mr. Hopkin noted all of the utilities for the site would be located underground so as to help improve the aesthetics for the premises. As a condition of approval it was agreed the applicant would mill and pave the full width of Waverly Street along the property frontage following the installation of the utilities. This would be noted upon the applicant's site plan.
16. It was noted that the applicant is providing a ten (10) foot wide right-of-way easement dedicated to Monmouth County along First Street. Based upon concerns that the building closest to First Street would be too close to the easement, the applicant agreed to move the development at least four (4) feet from it. The site plan (**Exhibit A-2**) would be revised to reflect the at least four (4) feet of distance from the right-of-way easement.
17. As a condition of approval it was agreed the applicant would need to provide a final landscaping plan to the Board's Engineer and Planner for their review and approval. The landscaping would be designed to shield the view of the property from First Street as well as the neighboring properties on the rear and sides. Additionally, the applicant would try and incorporate a rain garden if possible. Finally, it was noted two shade trees would be added on the sides of the property with additional trees being added to the rear of the property.

18. With regard to grading and drainage, Mr. Hopkin noted that Monmouth County would not allow the applicant to connect the development's onsite recharge system to the inlet on First Street to serve as an drainage overflow. This had been recommended in item 6.2 of the T&M review letter (**Exhibit B-1**). Since such a connection would not be possible, the applicant agreed to upgrade their drainage pipes to 18 inches so as to allow for additional volume capacity. This would be a condition of approval.
19. Mr. Hopkin further requested a waiver from having to provide a Groundwater Mounding Analysis as recommended within the T&M Review Letter (**Exhibit B-1**) at item 6.8. Mr. Mullan, the Board's Engineer indicated he had no objection to the Board granting such a waiver as he believed the information within the Stormwater Management Report (**Exhibit A-4**) should be sufficient.
20. With the exception of items 6.2 and 6.8, the applicant agreed to comply with all other recommendations contained with the T&M Review Letter (**Exhibit B-1**). This would be a condition of approval.
21. It was agreed as a condition of approval that the existing lots would be consolidated. The Consolidation Deed would be submitted to the Board Attorney and the Board Engineer for their review and approval before being recorded with the Monmouth County Clerk's Office.
22. Mr. Hopkin testified that he believed the site plan had been properly designed and would function as intended without any difficulties.
23. In addition to the testimony from its engineer, the applicant also presented testimony from its architect, James Monteforte, R.A. of Monteforte Architectural Studio.
24. Mr. Monteforte testified with respect to the lighting plan for the site. It was agreed as a condition of approval that all of the lights at the site would be shielded so as to ensure they do not cast light on to neighboring properties.
25. With respect to the elevations, it was agreed, as a condition of approval, that the colors of the buildings would alternate so as to add further character to the development. This would be shown on a resubmitted front elevation rendering (**Exhibit A-6**). Additionally, side elevations would be resubmitted to further embellish the architectural features of the building. (**Exhibit A-3**) Both of these re-submissions would be subject to the review and approval of the Board's Planner.
26. The proposed town homes would be governed by a condominium association. The Master Deed of the association would be subject to the review of the Board's Attorney, Planner and Engineer prior to its recording with the Monmouth County Clerk's Office. It was agreed as a condition of approval that the Master Deed of the Association would include the following restrictions which could not be altered by the Association without having first received

approval, upon notice to the public, from the Borough of Keyport Planning Board, or its successor of similar jurisdiction:

- (A) So as to avoid unsightliness, all garbage cans must be kept inside of the townhouse garages except for on garbage pick-up day. The storage space for the garbage cans within the garages may not interfere with the ability to also park vehicles inside.
  - (B) Due to the limited space available at the site, the townhouse garages must be kept storage free (with the exception of the aforementioned garbage cans) so as to ensure the ability to park a vehicle inside.
  - (C) The Association would be required to maintain all landscaping as approved by this Resolution. A copy of the final approved landscaping plan would be included as an exhibit to the Master Deed.
  - (D) The attic of each unit shall be prohibited from becoming habitable space. There shall not be any flooring or storage in the attic.
  - (E) The approved facade for the Townhouses may not be changed. The resubmitted and approved facade plan would be included as an exhibit to the Master Deed.
  - (F) All fencing approved by this application must be maintained by the Association.
27. The final witness presented was the applicant's professional planner, Allison Coffin, P.P. of James W. Higgins, Associates.
28. Ms. Coffin testified that in her professional opinion, the applicant's proposed townhouse development was an appropriate use for the site. She noted that the site was zoned for a residential use but had long housed a fire department building. While it was true that a multi-family development was not permitted at the site, the proposal was nevertheless a residential one. This meant that the property was being brought into conformance with neighboring uses which were also all residential in nature.
29. When considering the size of the property, Ms. Coffin opined that it would be inappropriate to build a single family home on the site. The property was just too large for that use. It was also noted that there are other multi-family homes located in the immediate neighborhood, thereby ensuring that the development would not be out of character with the area. Based upon these factors, Ms. Coffin believed the proposed multi-family residential development was particularly suited for the site.
30. Ms. Coffin also commented as to her opinion that when considering the proposed townhouse development would be replacing a fire department building, the neighborhood would be receiving an aesthetic improvement.

31. Ms. Coffin further recognized that the facade of the development (**Exhibit A-6**) had been designed, as much as possible, to reflect the look of three single family homes which are the permitted use in the RA Zone and the use sought after within the Borough's Master Plan. As a result, she believed that since the proposed development would fit in with neighboring properties, enhanced proofs had been shown establishing that the application could be granted without any detriments to the ordinance or zone plan.
32. Ms. Coffin spoke with regard to the bulk variance relief required to allow for the construction of a six(6) foot fence along First Street. She believed it could be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) since without such relief First Street would not be shielded from the development. She believed the benefits to the community in allowing the development to be shielded from public view would lead to a better result than strict adherence to the zoning ordinance would otherwise allow.
33. Ms. Coffin could not envision any negatives associated with what the application.
34. The Board's Professionals had no objections to this application being granted from an engineering and planning standpoint provided the comments raised in their review letter (with the exception of items 6.2 and 6.8) were adhered to (**Exhibit B-1**) and that the applicant abided by the testimony and exhibits which had been submitted into evidence.
35. The following members of the public also spoke on the proposed application:
- 1) **Michael Lane - 51 First Street, Keyport** : Supported the application as long as the Resolution and the applicable codes and regulations were followed.
  - 2) **Elmer Graham - 22 St. Peter's Place, Keyport** : Supported the application and believed it would be an improvement for the neighborhood.
  - 3) **Higinio Bruno - 151 Second Street, Keyport**: Owns property bordering the applicant's property. (Block 128, Lot 6.03) He indicated he has no objection to the application provided adequate fencing is provided to shield her property from the development.
  - 4) **Angela Mateo - 153 Second Street, Keyport**: Owns property bordering the applicant's property. (Block 128, Lot 6.02) She also indicated that she had no objection to the application provided adequate fencing is provided.
36. No one else testified with respect to the application.
37. In considering this application, the Board agrees with the testimony of the applicant's professionals and with the testimony of the Board's own professionals, that the proposed site plan will function correctly as long as the submitted plan, with the proposed modifications, is adhered to.
38. With respect to the requested use variance relief, the Board finds that the proposed townhouse development is particularly suited for the applicant's property. The Board agrees that the development would act as an improvement from the fire department building which currently exists at the site. Further, the applicant had designed a facade (**Exhibit A-6**) which ensured that the property would not be out of place with neighboring properties.

Additionally, the applicant has agreed to alternate the colors in the facades and enhance the architectural features of the buildings. Finally, the Board notes that the subject property is located within walking distance of the Borough's downtown business district. Having new residences on the subject property will therefore benefit the Borough as a whole since it will create an additional customer base for the business community. Based upon all of these considerations, the Board finds that the subject property is particularly suited for the property and that sufficient enhanced proofs have been established and there will not be any damage to the zoning plan of the Borough if the use variance is granted.

39. The Board also agrees with the applicant's professionals that the requested bulk variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) so as to allow a six (6) foot fence to be built along First Street. Absent the granting of such relief, the proposed development would not be properly shielded from First Street. Such a result would not benefit anyone. The Board can think of no legitimate reason why the requested bulk relief should be denied and instead can only find reasons why the application should be approved. As a result, the Board finds the benefits of granting the requested relief allow for a better alternative than strict adherence to the zoning ordinance would otherwise permit.
40. The Board cannot envision any legitimate negatives associated with the granting of this application. Based upon everything which has been presented to the Board, as well as the Board Members' own familiarity with the municipality and the property in question, it is hereby concluded that the benefits of granting this application outweigh the detriments and the application can therefore be granted without impairing the public good and Zone Plan.
41. Finally, the proposed preliminary and final site approval may be granted as the Board finds that the proposed development will function properly as designed if all of the agreed upon revisions to the plans are made.

**NOW THEREFORE, be it further resolved** by the Unified Planning Board of the Borough of Keyport that the application of Keyport Homes, LLC, for premises commonly known as 26 Waverly Street and officially known as Block 128, Lots 2, 3 & 4.01 on the tax map of the Borough of Keyport, be granted subject to the following conditions:

1. Subject to the applicant adhering to all of the exhibits marked into evidence unless otherwise modified by this Resolution.
2. Subject to the applicant complying with all conditions contained within the T&M Review letter (**Exhibit B-1**) with the exception of items 6.2 and 6.8 which are being waived.
3. Subject to any revisions to the applicant's site plan noted within this Resolution being subject to the review and approval of the Board's Engineer and Planner.
4. Subject to the site plan being revised so as to place the development at least four (4) feet from the right-of-way easement being dedicated to Monmouth County along First Street.

5. Subject to the applicant milling and paving the full width of Waverly Street along the property frontage following the installation of its utilities which must all be installed underground. This would be noted upon the applicant's site plan.
6. Subject to the applicant providing a final landscaping plan to the Board's Engineer and Planner for their review and approval. The landscaping must be designed to shield the view of the property from First Street as well as the neighboring properties on the rear and sides. Additionally, the applicant must try and incorporate a rain garden if possible. Finally, two shade trees must be added on the sides of the property with additional trees being added to the rear of the property.
7. Subject to the applicant upgrading its drainage pipes to 18 inches so as to allow for additional volume capacity.
8. Subject to the existing lots being consolidated into a single lot. The Consolidation Deed must be submitted to the Board Attorney and the Board Engineer for their review and approval before being recorded with the Monmouth County Clerk's Office.
9. Subject to the condition that all lighting to be installed at site must be shielded so as to ensure they do not cast light on to neighboring properties.
10. Subject to the condition that the colors of the buildings must alternate so as to add further character to the development. This must be shown on a resubmitted front elevation rendering (**Exhibit A-6**). Additionally, side elevations must be resubmitted to further embellish the architectural features of the building. (**Exhibit A-3**) Both of these re-submissions shall be subject to the review and approval of the Board's Planner.
11. The applicant shall have fencing installed on all sides and the rear of the property so as to provide proper shielding of the property from its neighbors and from First Street. All fencing shall appear on the final approved landscaping plan.
12. Subject to the proposed townhouse development being governed by a condominium association. The Master Deed of the Association, which must be reviewed and approved by the Board's Attorney, Engineer and Planner prior its recording with the Monmouth County Clerk's Office, shall include the following restrictions which shall not be altered by the Association without having first received approval, upon notice to the public, from the Borough of Keyport Planning Board, or its successor of similar jurisdiction:
  - (A) So as to avoid unsightliness, all garbage cans must be kept inside of the townhouse garages except for on garbage pick-up day. The storage space for the garbage cans within the garages may not interfere with the ability to also park a car inside.
  - (B) Due to the limited space available at the site, the townhouse garages must be kept storage free (with the exception of the aforementioned garbage cans) so as to ensure the ability to park a vehicle inside.

- (C) The Association would be required to maintain all landscaping as approved by this Resolution. A copy of the final approved landscaping plan shall be included as an exhibit to the Master Deed.
  - (D) The attic of each unit shall be prohibited from becoming habitable space. There shall not be any flooring or storage in the attic.
  - (E) The approved facade for the Townhouses may not be changed. The resubmitted and approved facade plan would be included as an exhibit to the Master Deed.
  - (F) All fencing approved by this application must be maintained by the Association.
- 13. All representations made under oath by the applicant or 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.
  - 14. 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.
  - 15. 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.
  - 16. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations, including but certainly not limited to, CAFRA approval.
  - 17. 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.
  - 18. This approval shall be deemed void by abandonment if a permit is not applied for within one year of the date hereof.
  - 19. 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.

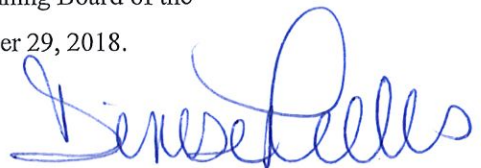
The foregoing was Moved by N. Vecchio, second by L. Davidson

Affirmative: N. Vecchio, M. Sessa, L. Davidson, D. Fotopoulos

Negative:

Abstentions: Mayor Aumack, Councilman Goode, R. Benedict, J. Kovacs

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 October 29, 2018.



Denise Nellis, Secretary of the Board