

13-02

RESOLUTION OF APPROVAL
GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH USE AND BULK VARIANCES

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 60 LOT 6
Application # 13-02
108 BROAD STREET, LLC
108 BROAD STREET

WHEREAS, 108 Broad Street, LLC has applied to the Unified Planning Board of the Borough of Keyport for preliminary and final major site plan approval, with use and bulk variances, so as to allow for the conversion of an existing residential dwelling into a three (3) story mixed use building with a new garage and associated parking on site. The proposed mixed use building is located at property commonly known as 108 Broad Street, and officially designated as Block 60, Lot 6 on the official Tax Map of the Borough of Keyport; and

WHEREAS, the applicant has 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, jurisdiction over the within matter was accepted by the Unified Planning Board during a regularly scheduled public meeting held on June 27, 2013, and a public hearing on the application was conducted in the within matter during a regularly scheduled meeting of the Unified Planning Board held on July 25, 2013 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 applicant, 108 Broad Street, LLC, to be permitted to convert an existing residential dwelling located at 108 Broad Street, which is officially designated as Block 60, Lot 6 as shown on the official tax map of the Borough of Keyport, into a new 3 story mixed use building with a new garage and associated parking located on site.
2. At all times during the course of the application, the applicant was represented by Kinias K. Jafferian, Esquire who has offices located at 1462 Roosevelt Avenue, Carteret, New Jersey 07708.
3. According to the Engineering/Planning Review Letter dated June 21, 2013, co-authored by the Board's Engineer Donald J. Norbut, 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 requires

use variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1), so as to allow the renovation and occupancy of a residential dwelling for a commercial use. Such commercial uses are not permitted in the Borough's "RB" Residential Zone where the property is located.

4. In addition to "use variance" relief, the Board's professionals in Exhibit B-1, have also identified the following "bulk variance" relief necessitated by this application:

Variance	Required/Allowed	Existing	Proposed
Minimum Lot Area	7,500 sq. ft.	5,148 sq. ft.	5,148 sq. ft. ***
Minimum Lot Width	75 feet	59 feet	59 feet ***
Front Yard Setback	20 feet (Broad Street)	6 feet (Broad St)	1 foot (Broad St)
	10 feet (Third Street)	11.3 (Third St)	4.2 feet (Third St)
Rear Yard Setback	15 feet	33.4 feet	2 feet
Lot Coverage By Buildings	40 %	48.5 %	59 %
Maximum Stories	2.5	2.5	3
Maximum Percent Coverage - Principal Buildings	30 %	38.2 %	59 %
Maximum Percent Lot Coverage (Bldg and Impervious)	60 %	69.3 %	79.6 %
Parking	16 spaces	N/A	5 spaces - 3 interior garage spaces and 2 exterior spaces (one of the exterior to be ADA compatible)
Signage	None	None	One (1) freestanding sign (15 sq. feet wide, 12 feet high) and several wall mounted signs.

*** Pre-existing non-conforming conditions

It must be noted that the proposed numbers for "Lot Coverage By Buildings" and "Maximum Percent Coverage - Principal Building" were changed during the hearing by the applicant to the numbers reflected above. Those numbers therefore differ from those appearing in Exhibit B-1.

5. Both the Board Engineer, Donald J. Norbut, P.E., and the Board's Planner, Martin Truscott, P.P., (sitting in place of Stan Slachetka, P.P.) 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. They also agreed to the accuracy of the revised numbers for "Lot Coverage By Buildings" and "Maximum Percent Coverage - Principal Building" as indicated in the previous paragraph.

6. In support of the application, the applicant submitted the following exhibits into evidence:
 - A-1: Architectural Plans, titled "Proposed Renovation For 108 Street, LLC", dated June 14, 2013 as prepared by Joseph M. Tinley, Jr., P.A. of KON/STRUCTION.
 - A-2: "Preliminary and Final Major Site Plan", consisting of six (6) sheets, dated June 10, 2013, last revised June 20, 2013, as prepared by A.J. Garito, Jr., P.E. of Two River Engineering.
 - A-3: Series of six (6) photographs of the existing property.
 - A-4: Colorized version of sheet 3 of Exhibit A-2.
 - A-5: Photograph of "World Class Kitchen and Bath Design Center" in Matawan on Route 34.
7. In support of the application, testimony was elicited from the principal member of the applicant, Timothy Telymonde.
8. Mr. Telymonde explained that he was looking to convert the existing structure at 108 Broad Street into a home improvement showroom with an office/apartment on the third floor. The first two floors would consist of the showroom with primarily kitchen cabinets located on the first floor and bathroom vanities located on the second floor. He intended to personally occupy the third floor office/apartment, as he would be the one running the business.
9. As a condition of approval, Mr. Telymonde indicated he would agree that occupancy of the third floor apartment would be limited to the owner/operator of the approved home improvement business.
10. Mr. Telymonde explained that the business staff would consist of himself, as the owner, and one (1) other employee to help with the showroom. As the business improved, he would be looking to add additional clerical staff at the location.
11. Mr. Telymonde noted that additional employees would not be necessary since the majority of business at the location would be by appointment only. He did not anticipate much walk-in traffic at the showroom.
12. Mr. Telymonde did not believe deliveries to the site would be more than approximately once a month.
13. The proposed hours of operation for the business would be 8:00 am to 6:00 pm, Monday through Saturday, unless someone requested a later appointment or to meet on Sunday.
14. In addition to the proposed mixed-use building, the applicant also proposed to install a freestanding, digital sign, at the premises. After much discussion with the Board, the applicant agreed, as a condition of approval, that the freestanding sign, although digital in nature, would be limited to the activities of the proposed business. Outside activities could

- not be listed on the sign. Additionally, the images on the sign would have to be static in nature and could not move. This condition was necessary so as to keep the sign from becoming a distraction to drivers of vehicles passing the property. Finally, the hours of operation for the sign would be limited to 7:30 am to 8:00 pm at night.
15. With regard to the wall mounted signs, they were prohibited from being illuminated.
 16. In further support of the application, sworn testimony was given by Marc Leber, P.E., P.P. of Two River Engineering.
 17. Mr. Leber testified this site was appropriate for the proposed use for a variety of reasons. He noted that the property is currently being under utilized, as it is immediately adjacent to other mixed uses in the Borough. He further noted that the lot is at the perimeter of Keyport's Commercial Zone. It was noted that there are commercial uses located to the south and west of the property. The municipal library is located directly across Broad Street from the site. Mr. Leber therefore believed that if the site was allowed to become commercial in nature, it could be done so without causing any detriments to the Borough's Master Plan.
 18. Referring to the photographs introduced into evidence as Exhibit A-3, Mr. Leber testified the current structure at the site was unattractive and an eyesore. The property is situated at a gateway location for the Borough and, in its current state, is therefore a detriment for the community. As demonstrated by the architectural plans marked into evidence as Exhibit A-1, the applicant was proposing to enhance the site into a much more aesthetically pleasing building, one which would act as a much welcomed gateway into the Borough.
 19. Mr. Leber also felt that the property was particularly suited for the proposed mixed use since the business would be mostly benign in nature, not attracting much in commercial traffic other than that made by appointments. It was also recognized that the municipal parking lot is located close by. If additional parking was necessary for the business, the public parking spaces could be easily utilized.
 20. With regard to the proposed garage, Mr. Leber testified that the applicant would be supplying five (5) parking spaces. The existing garage would be demolished, and a new one would be built. Three of the spaces would be located inside the garage and two would be located outside of the garage. One of the exterior spaces would be ADA compatible. The interior spaces would, as a condition of approval, be limited to the owner of the business and staff.
 21. Additionally, as a condition of approval, the site plan (Exhibit A-2) would have to be revised so as to show the five (5) proposed spaces. This was confirmed by Mr. Leber.
 22. With regard to the site plan in general, the applicant agreed, as a condition of approval, that it would revise its site plan (Exhibit A-2) so as to identify a required six foot high fence or

- evergreen screen along the side yard. (See item 1.3.10 of Engineer's Review Letter, Exhibit B-1) This revision would be subject to the review and approval of the Board's Engineer and Planner. This was confirmed by Mr. Leber.
23. With regard to the frontage of Broad Street, the applicant agreed, as condition of approval, to install decorative pavers that match the existing paver design. Said design to be subject to the review and approval of the Board's Engineer and Planner. (See item 2.2 of Engineer's Review Letter, Exhibit B-1). This was confirmed by Mr. Leber.
 24. The applicant, through Mr. Leber, agreed that a dry well would be installed underneath the driveway and pavers. Plans for said dry wall would, as a condition of approval, be submitted to the Board's Engineer for review and approval. (See item 3 of Engineer's Review Letter, Exhibit B-1)
 25. The applicant also agreed, again through Mr. Leber, as a condition of approval, that its lighting plan would be revised and submitted to the Board's Engineer and Planner for review and approval. (See item 6 of Engineer's Review Letter, Exhibit B-1)
 26. Mr. Leber also acknowledged that the applicant is not proposing any new water service for the site. The existing water service would be utilized.
 27. Mr. Leber confirmed that the applicant would comply with all of the conditions set forth in the Engineer's Letter. (Exhibit B-1)
 28. The final witness presented by the applicant was its Architect, Konstantinos Aravantinos, P.A. of KON/STRUCTION, who was sworn.
 29. Mr. Aravantinos testified that the architectural plans marked into evidence as Exhibit A-1, accurately depicted the renovations being proposed by the applicant. He described the renovated building as being "traditional/colonial" in style, much like what already exists throughout downtown Keyport.
 30. Mr. Aravaninos testified that from an architectural perspective he found the proposed renovations to be a significant aesthetic improvement from what currently exists at the applicant's property.
 31. A Borough Resident, Michael Lane of 51 Front Street, appeared before the Board in opposition to the application. Mr. Lane submitted sections of the Borough's Master Plan into evidence as support for his objections. This submission was marked as Exhibit O-1.
 32. Mr. Lane urged the Board to deny the application as he did not believe the proposed site was appropriate for a mixed use. He noted that the property was zoned Residential and should therefore be kept residential in nature. He argued that the presence of so many variances in this application was evidence that the proposed use was not appropriate for the site.

33. Mr. Lane acknowledged he is not a licenced planner and has no professional planning experience.
34. No one else from the public spoke with respect to this application.
35. 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 this property is located right at the edge of the Borough's Commercial Zone and is immediately adjacent to other commercial uses. The Board therefore finds that the requisite enhanced proofs have been presented establishing why use variance relief is appropriate for this particular location.
36. The Board also agrees with the applicant, and its professionals, that the site is a gateway property into the Borough and, as such, when considering the current state of the existing structure, as evidenced by the photographs marked into evidence as Exhibit A-3, is in much need of aesthetic improvement. If the applicant adheres to the submitted architectural plans (Exhibit A-1), the proposed building will be a significant positive addition to the surrounding neighborhood and the Borough in general.
37. Based upon its location at a gateway property, the Board finds that this property is particularly suited for the use being proposed. In fact, due to its close proximity to other commercial uses and the Borough's Commercial Zone, the Board finds the site to be more particularly suited as a commercial site than it is as a residential property.
38. The Board does recognize that the main concern with any commercial entity is always the availability of sufficient parking to support the proposed business. In this case, the applicant has testified that his business is typically one based upon appointment rather than walk-in traffic. Five parking spaces, including one which is ADA compatible, are being provided on-site. Additionally, the property in question is located in close vicinity to a municipal parking lot. Based upon these factors, the Board finds that the applicant has more than resolved any parking concerns which might have existed.
39. With regard to the requested bulk variances, the Board finds that absent the grant of same the applicant will not be able to complete the renovations that are being proposed. The unfortunate consequence of such a result would be that the existing structure would remain, depriving the Borough of the benefits of having this gateway location being aesthetically improved.
40. As the Board is satisfied that the applicant has resolved any concerns relating to parking deficiencies, it is hard pressed to envision any detriments that may be created for the surrounding neighborhood if the application were to be granted.

41. The Board finds that all of the bulk variances may be granted, pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) because the benefits of granting the requested relief will lead to a far better result for the immediate neighborhood, and the Borough in general, than strict adherence to the zoning ordinance would otherwise allow.
42. As to the proposed preliminary and final site plan, the Board Members believe that the property will function properly, as proposed, as long as the applicant adheres to all of the conditions referenced in this resolution.
43. The Board finds that provided the applicant complies with all of the conditions agreed to during the course of this application, the proposed preliminary and final major site plan, with its associated variances, may be granted without causing any detriment to the Keyport Zoning Ordinance and Master Plan. In actuality the proposed project will compliment and improve what already exists along Broad Street in the Borough.
44. Based upon all of the aforesaid reasons, the Board finds that the application should and can be granted as proposed.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of 108 Broad Street, LLC seeking Preliminary and Final Major Site Plan Approval for premises commonly known as 108 Broad Street and officially designated as Block 60, Lot 6 be granted subject to the following conditions:

1. Subject to the applicant, other than as modified by this resolution, adhering to the preliminary/final major site plan dated June 10, 2013, last revised June 20, 2013, which was prepared by A.J. Garito, Jr., P.E. of Two River Engineering. (Exhibit A-2)
2. The applicant's site plan (Exhibit A-2) shall be revised to reflect any changes necessitated by this approval.
3. Subject to the applicant, other than as modified by resolution, adhering to the Architectural Plans submitted into evidence. (Exhibit A-1)
4. Subject to all requirements contained within the Board Engineer and Planner's review letter dated June 21, 2013. (Exhibit B-1)
5. Subject to the condition that the only approved use at the site is the proposed home improvement showroom, with an office/apartment located on the top floor, as testified to by Mr. Telymonde.
6. Subject to the condition that the approved office/apartment may only be occupied by the owner of the premises, who must also be the operator of the business located at the site. A non-owner tenant, who does not operate the business located on the site, is expressly prohibited.
7. Subject to the proposed free standing digital sign being limited to activities associated with the approved business. Messages related to other entities are expressly prohibited by this

approval. The messages on the sign shall be static in nature. They may not move. The sign shall only be in operation during the hours of 7:30 am to 8:00 pm.

8. The wall mounted signs may not be illuminated.
9. Subject to the site plan (Exhibit A-2) being revised so as to reflect the five (5) proposed parking spaces.
10. The three interior parking spaces shall be limited to the owner and staff of the business.
11. Subject to the applicant submitting, for approval by the Board's Professionals, appropriate grading and drainage plans. It is understood a dry well will be installed under the driveway and pavers.
12. Subject to the applicant submitting, for approval by the Board's Professionals, revised lighting plans.
13. Subject to the applicant submitting, for approval by the Board's Professionals, a revised site plan demonstrating the required six foot high fence or evergreen screen along the side yard as required by the zoning ordinance.
14. Subject to the applicant installing decorative pavers that match the existing paver design along Broad Street. Said design to be subject to the review and approval of the Board's Engineer and Planner.
15. All representations made under oath by the applicant or his 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.
16. 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.
17. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
18. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
19. 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.
20. 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.
21. 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 J. Kovacs

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

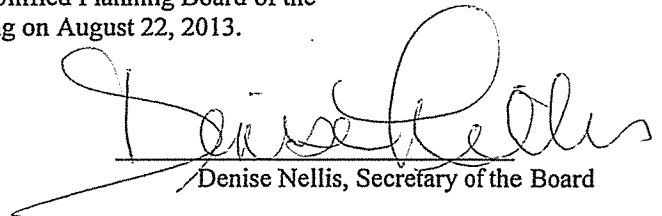
Affirmative: R. Burlew, M. Sessa, T. Musson, D. Fotopoulos, J. Kovacs

Negative:

Abstentions: Mayor Aumack, Councilman Sheridan, A. Hudson, J. Oviedo

Absent: R. Benedict

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 August 22, 2013.



Denise Nellis, Secretary of the Board