

RESOLUTION OF APPROVAL
FOR BIFURCATED USE VARIANCE APPROVAL
FOR THE PURPOSE OF CONSTRUCTING A FOUR STORY APARTMENT BUILDING
WITH TWENTY-SIX (26) DWELLING UNITS AND ASSOCIATED PARKING
WHERE SUCH A USE IS NOT PERMITTED

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 116 LOT 1 and BLOCK 133, LOT 1
Application # 05-13
KEYPORT REALTY DEVELOPMENT LLC
101 GREEN GROVE AVENUE

WHEREAS, Keyport Realty Development LLC has applied to the Unified Planning Board of the Borough of Keyport for bifurcated use variance approval so as to allow for the construction of a four story apartment building consisting of twenty-six (26) new dwelling units with associated parking at property commonly known as 101 Green Grove Avenue, and officially designated as Block 116, Lot 1 and Block 133, Lot 1 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 November 21, 2013 and December 19, 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, Keyport Realty Development, LLC, as the first part of a bifurcated land use application, to be permitted to construct a four story apartment building consisting of twenty-six (26) dwelling units with associated parking at property commonly known as 101 Green Grove Avenue, which is officially designated as Block 116, Lot 1 and Block 133, Lot 1 on the official tax map of the Borough of Keyport.
2. The property is located within the Borough's Residential District C (RC) Zone which does not permit residential uses containing more than two dwelling units. As such, use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1) is necessitated by this application.
3. At all times during the course of the public hearings, the applicant was represented by Christopher J. Hanlon, Esq. of the law firm Hanlon Niemann whose office is located at Juniper Business Plaza, 3499 Route 9 North, Suite 1-F, Freehold, New Jersey 07728.

4. As noted within the Engineering/Planning Review Letter dated November 15, 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**, in addition to aforementioned (d)(1) use variance, this application also necessitates relief from the provisions of N.J.S.A. 40:55D-70(d)(5) as the proposal exceeds the permitted density in the zone, which as previously indicated is limited to no more than two dwelling units.
5. It was also recognized that the applicant might necessitate variance relief from the provisions of N.J.S.A. 40:55D-70(d)(6) due to the eventual height of the structure which may exceed more than 10 feet or 10% of the zoning ordinance's height limitation of 2.5 stories at no more than 30 feet. During the course of the application, it was agreed that the applicant would be seeking to raise its building in order to provide additional on-site parking spaces. As a result, the actual height of the proposed building was unknown at the time of this portion of the application. The request for (d)(6) variance approval was therefore deferred for consideration as part of the site plan phase of the application.
6. Donald J. Norbut, P.E., the Board's Engineer, Stan Slachetka, P.P., the Board's Planner, and Martin Truscott, P.P., (sitting in place of Stan Slachetka, P.P. during the November 15, 2013 meeting) were all sworn and certified as to the information contained within the T&M review letter (**Exhibit B-1**). The letter is incorporated in this Resolution by reference.
7. As noted within **Exhibit B-1**, the applicant's property consists of approximately 5 acres, however only a small portion, approximately 2.5 acres, is capable of being developed due to environmental conditions existing at the site. The applicant has planned its development for the western corner of the parcel, which is located just outside of the wetlands area and 100-year flood hazard zones.
8. The wetlands area of the property is located in a conservation easement for a freshwater transition area issued by NJDEP 6-30-08 (File No. 1322-04-0004. 1; FWTW1 & FWTW4R).
9. The property, which is located at the intersection of Green Grove Avenue and Williamson Street (a dead end street) is currently occupied by a small trailer park with a capacity of about thirteen (13) trailers along Williamson Street.
10. Currently, Williamson Street is the only access road for the residents of the existing trailer park homes and is also one of the access road for the Green Grove Apartment complex which is located directly across Williamson Street from the applicant's property.
11. The land uses surrounding the applicant's property consist of the aforementioned Green Grove Apartments, residential uses on the opposite side of Green Grove Avenue and the Green Grove Cemetery. Single family homes are also located to the east and northeast. The Chingarora Creek, which serves as the border between Keyport Borough and Hazlet

Township, is located to the east and southeast of the property.

12. In support of the application, the applicant submitted the following exhibits into evidence:

A-1: Conceptual Layout Plan, dated November 6, 2013, consisting of one (1) sheet, as prepared by Michael Geller, P.E. of Geller, Sive & Company.

A-2: Proposed Elevations, dated June 27, 2013, last revised on November 8, 2013, consisting of three (3) sheets as prepared by John M. Montoro, A.I.A. of the Montoro Architectural Group.

A-3: Colorized version of **Exhibit A-1** as prepared by Michael Geller, P.E. dated November 21, 2013.

A-4: Colorized version of **Exhibit A-2** as prepared by John M. Montoro, A.I.A., with additional information added.

A-5: Photograph of existing trailers on the applicant's property taken from Williamson Street.

A-6: Photograph of the applicant's property looking down Williamson Street toward Green Grove Avenue.

13. A principal of the applicant, Jeff Kurtz, was sworn and testified that his family is the owner of the Green Grove Apartments, which is located directly across Williamson Street from the subject property. The applicant, Keyport Realty Development, LLC, has been formed for the specific purpose of acquiring the subject parcel. The applicant is currently the contract purchaser for the site.

14. Mr. Kurtz indicated that his family has owned the Green Grove Apartments, which consists of 164 units, for approximately 30 years. He therefore has a great deal of experience in the area of apartment complex ownership and the area in general.

15. Mr. Kurtz testified that it is the applicant's objective to acquire the subject parcel, remove the existing trailer park from the site, and construct a new four story apartment complex consisting of twenty-six (26) units which would operate in conjunction with the existing Green Grove Apartments.

16. Christopher Knight, who has been the manager for the Green Grove Apartments over the past 10 years, was also sworn. Mr. Knight addressed concerns raised by Board Members as to debris located at the trailer park site, such as shopping carts and tires. Mr. Knight testified that if the application were approved, the applicant would work with the Borough's Environmental Commission to clean up any debris located on the parcel. This would be a condition of the application's approval.

17. The architect for the applicant, John Montoro, P.A. of the Montoro Architectural Group, who has offices at 150 West Saddle River Road, Saddle River, New Jersey 07458, was sworn.
18. Mr. Montoro testified that initially the applicant had proposed twenty-two (22) units for the property. It is these twenty-two (22) units which are reflected on the plans submitted into evidence as **Exhibits A-2 and A-4**. However, after concerns were raised by the Board regarding the sufficiency of available parking at the site, the applicant had now agreed to raise the structure so as to provide additional on-site parking. This would lead to a total of twenty-six (26) units being available. This change would also necessitate a revision to the architectural plans. These revised plans would be submitted as part of the site plan phase of the application.
19. Although the applicant would be submitting revised elevations, these revisions would nevertheless stay as consistent as possible with the drawings included on **Exhibits A-2 and A-4**. As testified by Mr. Montoro, the applicant was proposing to construct eight (8) one bedroom units and eighteen (18) two bedroom units.
20. The building would be a half raised structure which would allow for extra parking spaces underneath. Four (4) of the eighteen (18) two bedroom units would be located on the right side of the building. The building would consist of four (4) stories and would have a parapet roof. The applicant would attempt to remain under 30 feet, as required by the Borough's Zoning Ordinance. If this was not possible however, the necessary height variance would be sought as part of the site plan application.
21. With regard to concerns expressed by the Board as to the potential of the dens shown on the proposed plans (**Exhibit A-2**) being turned into additional bedrooms, Mr. Montoro indicated he would remove all closet space in those rooms from the design. When the plans were revised, five foot wide openings would be left in place of the closet areas so as to ensure closets could not be constructed. This revision would be a condition of the approval.
22. Mr. Montoro also testified that the plans (**Exhibit A-2**) depicted an internal elevator. As the building would now be a raised structure, the elevator would be changed on the revised plans to reflect an exterior elevator at the parking lot level which then rises up into the building internally.
23. Mr. Montoro confirmed that the building would have a sprinkler system, as required by the fire code. The attic space depicted on the plans (**Exhibit A-2**) would house this sprinkler system. The attic would not be available for storage and tenants at the complex would therefore not have access to the attic area. It would not be accessible from the units. This would be a condition of approval.

24. Mr. Montoro also testified that landscaping would be provided at the property corner of Green Grove Avenue and Williamson Street so as to screen the proposed parking areas. The specifics of this plan would be included as part of the site plan phase of the application. This would be a condition of approval.
25. Referring to the exteriors of the proposed building as depicted on **Exhibits A-2 and A-4**, Mr. Montoro noted he had designed a more modern building than what exists across Williamson Street at the Green Grove Apartments. He felt the proposed design was more visually desirable for the area than what currently exists at the Green Grove Apartment site.
26. The applicant next elicited sworn testimony from its professional engineer and planner, Michael Geller, P.E. & P.P. of Geller, Sive & Company, which has offices located at 958 Adelphia Road, Adelphia, New Jersey 07710.
27. Mr. Geller testified as to the current condition of the property. He confirmed the information found in the review letter produced by the Board's Professionals (**Exhibit B-1**), noting that the site consists of an unattractive trailer park. There are currently twelve trailers situated on the property and one vacant pad. These conditions were shown in greater detail by way of the photographs submitted into evidence as **Exhibits A-5 and A-6**.
28. Mr. Geller testified as to his belief that the proposed development was appropriate for the site. He noted that a residential use was already envisioned for the site and had traditionally existed on the property. It was belief however, the existing trailer park was not attractive nor really appropriate for the neighborhood. He advocated that the proposed apartment building, in conjunction with the applicant's commitment to work with the Borough's Environmental Commission to clean up the property, would constitute a significant upgrade for the site from an aesthetic standpoint, thereby creating an enhancement to the fabric of the community.
29. Mr. Geller explained that the proposed improvements met the goals of good planning in that they would lead toward the promotion of a more desirable visual environment as well as ensure the availability of sufficient living space in appropriate locations. Additionally, the development would work to provide additional rental housing possibilities and eliminate an existing blighted condition.
30. Mr. Geller also indicated that the applicant would be locking into the borough's sewer system. This would be another enhancement to the property that currently does not exist. This would be addressed more specifically as part of the applicant's site plan. However, such a sewer connection would be a condition of use variance approval. The issue of whether the applicant would be required to grant a sewer easement to the Borough so that other neighboring properties could be tapped into the new sewer line was deferred by the both the applicant and the Board to the site plan phase of the application.

31. It was noted that the applicant would be bringing the property into compliance with all environmental regulations. This included, but was not limited to, removal of any old septic or oil tanks that might be located on the property.
32. Mr. Geller also spoke as to the existing site. Being located in such an environmentally sensitive area, he did not believe it was conducive to single family homes as envisioned by the Borough's Master Plan. He instead believed that when considering those environmental concerns, as well as the property's proximity to the nearby Green Grove Apartments, the site was far more conducive to the multi-family apartment building being proposed. Rules and Regulations could be promulgated by the building's management to ensure that environmentally sensitive areas were not infringed upon. The inclusion of such Rules and Regulations as part of any tenant's lease would be a condition of approval.
33. With regard to the (d)(5) density variance variance, Mr. Geller testified as to his belief the proposed development fit in well with the densities found on surrounding properties. He again referenced the Green Grove Apartments located directly across Williamson Street.
34. Mr. Geller could not envision any negatives associated with the proposed application. He believed the entire proposal would act as a benefit for the whole community since it would, as previously noted, enhance the quality of the neighborhood where it would be located.
35. Mr. Geller also took note of the indication in **Exhibit B-1** that the proposed project would be in significant violation of the Borough's Front Yard Setback ordinance. Whereas 20 feet are required, the applicant would not be providing any setback, instead creating a condition of -3 feet. He further noted that this was a consequence of the environmentally sensitive conditions of the property. So as to help relieve this condition, the applicant was committed to have Williamson Street vacated by the Mayor and Borough Council. As noted in **Exhibit B-1**, Williamson Street is a dead end street. It was the applicant's belief that it would be successful in having the street vacated and incorporated into this project. The applicant asked that the vacating of Williamson Street be made a condition of approval for the application as it was also vital to creation of a proper parking plan for the site. Absent the vacating of Williamson Street, the applicant would have to re-apply for use variance approval. This would be a condition of approval.
36. Board Members did express concerns associated with the utilization of Williamson Street by residents and management of the Green Grove Apartments. However, these concerns would be addressed during the site plan phase of the application as that complex was going to be made part of the application with the required notice to surrounding properties being given.

37. With regard to the parking situation, the specifics of the plan would be discussed as part of the site plan phase of the application. However, a condition of use variance approval would be the agreement all parking associated with the new building would be located on the subject premises. Management for the building would be required to assign parking spaces and issue permits to park. Management would also be required to monitor the lot for offending vehicles. This would be a condition of approval.
38. As to issues relating to recreation associated with the site, the applicant indicated one of the reasons the Green Grove Apartments property was going to be incorporated into the site plan portion of the application was that of dealing with recreation concerns. Recreation would therefore be dealt with as part of that greater site plan. It was explicitly understood that the grant of any use variance approval was dependent upon a satisfactory recreation plan for the proposed apartment building being submitted. Absent the submission of a such a plan, use variance approval could not possibly be sustained. It was however noted by Mr. Montoro that even though much of the applicant's property was protected by a conservation easement, that area still remained open for use by the prospective tenants of the proposed apartment building.
39. The following members of the public were sworn and spoke with regard to the application:
- A) **Michael Lane - 51 First Street, Keyport:** Mr. Lane complimented the applicant on the way they currently manage the Green Grove Apartments. However, he indicated his preference for a duplex or town homes on this specific piece of property. He was also concerned about the lack of a recreation plan as part of the use variance phase. It was noted that recreation will be addressed as part of the site plan phase of the application. Mr. Lane also inquired as to what type of buffer would be created to separate the proposed building from the wetland areas. The applicant indicated there would be a marker installed, possibly a split fence to identify the boundaries of the area. This would also be addressed during the site plan phase of the application.
- B) **Peter Volpe - 131 Quail Run Court, Freehold:** Mr. Volpe indicated that he is the owner of neighboring properties at 106-108 Green Grove Avenue. He advocated the ability of allowing his and other neighboring properties to be able to tie into the proposed new sewer line so as to ensure those properties are not left without the possibility of having access to the public sewer system. He also expressed concerns about storm water management associated with the site. It was noted that these issues will be further addressed as part of the site plan phase of the application.
40. No one else from the public testified with respect to this application.

41. The Board's professionals had no objections, from an engineering or planning perspective, to this bifurcated portion of the application being approved as proposed.
42. In considering this application, the Planning Board finds that the requested 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 proposal, once constructed, would constitute a significant upgrade from what currently exists at the site. The Board recognizes that the proposed elevation plans (**Exhibit A-2**) are to be modified in order to accommodate a raised structure with more on-site parking. However, if the general concepts outlined in those plans are adhered to during the revision process, they will act as a great benefit for the surrounding neighborhood and the Borough as a whole.
43. The Board finds that not approving this application would leave the Borough with the unsightly trailer park which currently exists at the site. The Board Members agree with the the opinion of the applicant's planner, Michael Geller, P.P., that the existing trailer park is a "blight" on the community and is therefore a detriment to the Borough. If the property is developed in the fashion depicted in **Exhibit A-2**, it will serve as a much needed aesthetical improvement for the surrounding neighborhood and the Borough as a whole.
44. 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 an apartment building, it is nevertheless approved for residential development and is surrounded by other multi-family residential uses such as the adjacent Green Grove Apartments. Additionally, as previously noted, the property currently houses a trailer park which is already a multi-family use. The proposed development will therefore not actually change the residential nature of the site. Accordingly, the proposal is not actually in opposition to the Borough's Master Plan and Zoning Ordinance which already envisions a residential use for this site.
45. The Board finds the testimony of the applicant's planner, Michael Geller, P.E., P.P., to be persuasive with regard to his opinion that the proposed use will meet the purposes of good planning in that it will promote a desirable visual environment and create sufficient living space in appropriate locations.
46. The Board also finds the applicant's intention to make the property environmentally conforming by working with the Borough's Environmental Commission to clean up debris located at the site to be a benefit. Absent the granting of this approval, such a cleanup would not take place.

47. Finally, the Board must acknowledge the positive enhancement of having this property tied into the public sewer system. This is an enhancement to the neighborhood which would not occur absent the granting of variance relief.
48. Based upon all of the above, the Board finds that the requisite enhanced proofs for obtaining (d)(1) variance relief have been presented establishing why the requested use is appropriate for this particular location.
49. With regard to the sought after (d)(5) density relief, the Board sees no reason why the applicants' property should be seen as not appropriate for the requested number of apartments. When considering the testimony presented by the applicant, combined with the personal knowledge of the neighborhood held by its Members as to the existence of other nearby multi-family uses such as the Green Grove Apartments, the Board finds that it agrees with Mr. Geller that the proposal fits in with the densities of neighboring properties.
50. The Board finds that the applicant's property can support the densities being proposed at the site. There is nothing about this new proposal that threatens to alter the existing dynamic of the neighborhood in such a manner that could lead anyone to believe the site is not appropriate for such populations.
51. The Board finds that if any site plan issues emerge which would prevent the proposed twenty-six (26) apartments from being built upon the site, these issues can be dealt with during the site plan phase of this bifurcated application.
52. Finally, The Board is hard pressed to envision any negatives associated with this application. Provided the applicant complies with all of the conditions agreed to during the course of this application, and submits a proper preliminary and final site plan application during the second phase of these bifurcated proceedings, then the requested (d)(1) and (d)(5) variance relief may be granted without causing any detriment to the Keyport Zoning Ordinance and Master Plan. In actuality, the proposed project will serve as a much needed improvement from what currently exists at the applicants' property.
53. The Board finds that if the application were not to be granted, the Borough would be negatively impacted as the existing blighted trailer park would continue to exist at the property. The Board Members cannot imagine how such a result would benefit anyone.
54. Based upon all of the aforesaid reasons, the Board finds that the application for bifurcated use variance relief should and can be granted as proposed, subject to the conditions stated hereafter.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Keyport Realty Development, LLC seeking bifurcated variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1) and (d)(5), so as to be able to construct a new four story apartment building consisting of twenty-six (26) dwelling units with associated

parking and improvements on premises commonly known as 101 Green Grove Avenue and officially designated as Block 116, Lot 1 and Block 133, Lot 1, be granted subject to the following conditions:

1. Subject to the submission of a complete site plan application and the granting of approval of same by the Unified Planning Board.
2. During the site plan phase of these proceedings, the applicant shall adhere as closely as possible to the plans submitted into evidence as **Exhibits A-1, A-2 and A-4**. The Board recognizes these exhibits will need to be revised so as to accommodate the raised building and increased on-site parking. Nevertheless, this approval would not have been granted absent the favorable reaction by the Board to these exhibits.
3. Subject to all requirements contained within the Board Engineer and Planner's review letter dated November 15, 2013 except as might be modified by this Resolution or unless waived during the site plan phase of the application. (**Exhibit B-1**)
4. Subject to creation of a site plan which has all parking associated with the proposed apartment building located on-site. Parking spaces are to be numbered and residents are to be given permits to park on the property. Management shall be required to monitor the lot so as to keep offending vehicles from being parked on the site.
5. Subject to the Mayor and Council agreeing to vacate Williamson Street.
6. Subject to revisions being made to **Exhibit A-2** so as to eliminate closet space in the apartment dens depicted on the plans, thereby eliminating the potential of those rooms being utilized as additional bedrooms. The dens shall be redesigned so as to have a five foot wide opening left in the place of the closets, thereby ensuring new closets cannot be installed in those rooms.
7. Subject to tenants being prohibited from having access to the attic areas that are to be constructed. The attic is intended to house the building's sprinkler system. Attics shall not be accessible from within tenants' apartments.
8. Subject to the environmentally sensitive nature of the property being addressed within the leases that will be used by the apartment building's management. Additionally, the boundaries of the conservation easement shall be delineated in some fashion, such as by way of a split fence. Said marking to be specifically addressed as part of the site plan phase of the application.
9. Subject to the property being tied into the Borough's sewer system.
10. Subject to further discussion between the Board and applicant, during the site plan phase, of the applicant being required to grant a sewer easement to the Borough.
11. Subject to the applicant including the Green Grove Apartment property as part of its site plan application.

12. Subject to the applicant providing a recreation plan as part of its site plan application so as to adequately satisfy the needs of the residents of the proposed apartment building.
13. Subject to the applicant working with the Borough's Environmental Commission as to clean up any debris which may be located at the site.
14. Subject to submission of a landscaping plan as part of the site plan phase of this application so as to ensure all parking areas located on the site are adequately screened.
15. Subject to compliance with any and all environmental regulations.
16. All representations made under oath on behalf of the applicants, or by its agents, shall be deemed conditions of this approval, and any misrepresentations or actions by the applicants contrary to the representations made before the Board shall be deemed a violation of this approval.
17. 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.
18. This approval shall be deemed void by abandonment if the applicants do not seek site plan approval within one year of the date hereof.
19. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
20. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
21. 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.
22. 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.
23. 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. Burlew**

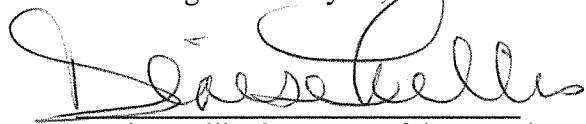
Seconded by **Mr. Musson** and on Roll Call, the following vote was recorded:

Affirmative: **Chairman Sessa, Mr. Burlew, Mr. Fotopoulos, Mr. Kovacs, Mr. Musson, Mr. Oviedo**

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 January 23, 2014.


Denise Nellis, Secretary of the Board