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Collette J. Kennedy Class I

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Harry M. Aumack II
Kenneth Howe
Juan Carlos Oviedo
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Joanne Royster

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W. McDermott
G. Kotzas

The Pearl of the Bayshore℠
Keyport
NEW JERSEY

Class II
Nick Vecchio

Class III
Lori Ann Davidson

Chairman
Mark Sessa

July 23, 2021

Salvatore Alfieri, Esq., Partner
Cleary /Giacobbe/ Alfieri /Jacobs LLC
955 State Route 34, Suite 200
Matawan, NJ 07747

RE: 174 Church Street
KUPB 21-02

Dear Alfieri;

Attached please find the Resolution for Application number 21-02 which was adopted at the Planning Board Meeting dated July 23, 2021.

Notice of this Approval must be published in the public notice section of the Asbury Park Press within 10 days of your receipt of this Resolution.

Proof of Publication should be filed in my office within thirty days.

If you have any questions, please do not hesitate to call me direct at 732-739-5123.

Very truly yours,

Denise Nellis

Denise Nellis
Planning Board Secretary
Borough of Keyport
dnellis@keyportonline.com

Encl.
Cc: Applicant
G. Falco
M. Clark
K. Stencel
T. Taylor

Resolution prepared by:
Marc A. Leckstein, Esquire
Leckstein & Leckstein, LLC
463 Prospect Avenue
Little Silver, NJ 07739

RESOLUTION GRANTING BIFURCATED USE VARIANCE APPROVAL TO ALLOW FOR CONSTRUCTION OF SIX DUPLEX UNITS AND TWO SINGLE FAMILY HOMES

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 85, LOTS 4-10 & 13

Application # 21-02
174 CHURCH STREET, LLC
174 CHURCH STREET

WHEREAS, 174 Church Street, LLC has applied to the Unified Planning Board of the Borough of Keyport for a grating of bifurcated use variance approval to allow for the construction of six duplex units and two single family homes located on property commonly known as 174 Church Street officially designated as officially designated as Block 85, Lots 4-10 & 13 on the 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, a public hearing was held in the within matter at a regularly scheduled meeting of the Unified Planning Board held on June 24, 2021; and

WHEREAS, due to the ongoing covid-19 pandemic, the meeting was held utilizing an online virtual format which ensured all persons having an interest in said application were heard; and

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicants;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the following findings of facts and conclusions are made:

1. The applicant, 174 Church Street, LLC, seeks bifurcated use variance relief in order to construct six (6) duplex units and two single family homes on property commonly known as 174 Church Street which is officially designated as Block 85, Lots 4-10 & 13 on the official Tax Map of the Borough.
2. The site in question is located within the Borough's RA (Residential District) wherein duplexes are not a permitted use, 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. The applicant's property is located at the intersection of Church Street, Atlantic Street and Hurley Street. The rear of the property also fronts upon Osborn Street. The site is currently developed with three (3) single family dwelling units as well as a commercial warehouse.

4. As background, when the applicant initially filed its application, its request was for the construction of eight (8) duplex units. During the course of the public hearing however the applicant modified its request so as to only request use variance relief for six (6) duplex units. The remaining two (2) duplex units would be converted into single family homes. Those two (2) single family homes are permitted uses within the RA Zoning District, meaning use variance relief is not required to construct them.

5. Under the applicant's original proposal, the existing lots would have merged and then been subdivided into two (2) new lots. Proposed lot 10.01 would have held the proposed eight (8) duplex units, with six (6) of the units fronting of Osborn and two (2) of the units fronting on Church Street. Proposed Lot 10.02 would have retained the existing single dwelling unit which fronts on Atlantic Street. Following modification of the plan from eight (8) to six (6) duplex units with (2) single family homes, it was unclear whether the applicant would still be seeking a two (2) lot subdivision or instead would now be seeking a four (4) lot subdivision so as to allow the two (2) new single family homes to be placed upon their own lots. Resolution of this question would be left to site plan phase of the application. Nevertheless, the agreed upon configuration of the modified plan was that the six (6) proposed duplex units would front upon Osborn with the two (2) new single family homes fronting upon Church Street. The plan to retain the existing single family home fronting on Atlantic Street did not change.

6. Throughout the course of the application, the applicant was represented by its legal counsel, Salvatore Alfieri, Esquire of the law Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices located at 955 State Route 34, Suite 200, Matawan, New Jersey.

7. In support of the application, the following was offered into evidence:

   Exhibit A-1: Application to Land Use Board

   Exhibit A-2: "Use Variance Plan" dated August 6, 2020, last revised December 2, 2020 as prepared by Walter J. Hopkin, P.E. of WJH Engineering.

   Exhibit A-3: Colorized verison of site plan placed over an aerial view

   Exhibit A-4: Aerial Exhibit showing the surrounding area as prepared by the Applicant's Planner, Christine Cofone, P.P. of the Cofone Consulting Group.

8. Beyond the applicant's exhibits, the Board also marked its own Exhibit:

   Exhibit B-1: T&M Associates Review Letter of March 22, 2021.

   Exhibit B-2: Review letter from the Police Department dated February 24, 2021

9. The applicant presented sworn testimony from John Fahey, who the principal of the applicant, who testified that he bought the subject properties in 2015 or 2016 as storage for his electrical business.

10. Mr. Fahey noted that a towing yard is located to the rear of the property, across Osborn Street. As a result he did not believe the property was appropriate for single family homes. Instead he felt the proposed duplexes could act as a transitional use from the towing yard into the more residential properties located in the RA Zone.

11. The applicant also presented testimony from its site engineer, Walter J. Hopkin, P.E. Referring to his plans marked into evidence as **Exhibits A-2** and **A-3**, he indicated that the proposed eight structures could fit on the subject site without any issues. Each of the duplexes would be given a one (1) car garage to accommodate off-street parking. It was yet to be determined the number of garages to accommodate the proposed single family homes. He further anticipated that each duplex would have three (3) bedrooms, but that was not yet confirmed.

12. Mr. Hopkin noted that his client would have to extend Osborn Street in order to supply access to all six (6) of the proposed duplexes which would be located along that portion of the property. He noted that it could not be extended further than the applicant's property however. If it were extended further, it would run across the nearby Henry Hudson Trail which is owned by the County of Monmouth.

13. It was noted that the duplexes would operate as part of a Homeowner's Association so as to ensure that the common area of the property was properly maintained. This common area would include an underground storm water management system. Specifics of that system would be provided during the site plan phase of the application. The creation of such a Homeowner's Association would be a condition of approval. It was not yet known whether the two (2) single family homes would be included within the Association.

14. With respect to the comments of the Police Department (**Exhibit B-2**), it was noted a request had been made for the installation of a stop sign on the southbound side of Osborn Street, at the intersection of Hurley Street. Mr. Hopkin indicated that the applicant would comply with this request as a condition of approval.

15. In response to concerns raised over the ability of fire department vehicles being able to access the site, it was agreed that the applicant would consult with the Borough's fire officials to ensure that this issue was resolved by the time the applicant returned to the Board for site plan approval. This would be a condition of approval.

16. New curbing and sidewalks with an ADA ramp would be installed on the corner of Hurley and Osborne. This would be a condition of approval.

17. The applicant would provide additional landscaping plans during the site plan phase of the application.

18. The final witness presented by the applicant was its professional planner, Christine Nazzaro Cofone, P.P. of Cofone Consulting Group.

19. Referring to **Exhibit A-4**, Ms. Cofone explained that the subject site was particularly suited for the proposed duplexes due to their proximity to the towing yard located across Osborn Street. From a planning perspective, she could not envision single family homes located at such a site. Instead, it would be far more appropriate to have a duplexes which would act as a transitional use from the towing yard into the more residential areas in the RA Zoning District.

20. She further noted that the Master Plan called for a variety of housing options in the RA Zoning District, which in her mind would include the proposed duplexes. These could be used to meet the housing needs of those looking to move to Keyport who might not be able to afford a single family home. This was all envisioned by the Master Plan.

21. Finally, Ms. Cofone noted that she could not envision any negatives associated with the subject application. The subject site was located across the street from a towing yard which most certainly would not be negatively impacted by this use. She felt comfortable that the proposed use could be granted without any issues arising.

22. The Board's Engineer, Francis W. Mullan, P.E. and its Planner, Stanley Slachetka, P.P., A.I.C.P., who were placed under oath, testified that they had no issues with the application from an engineering or planning perspective. They believed the proposed duplexes would be appropriate along Osborn Street when taking the surrounding properties into consideration.

23. No one else testified with respect to the application.

24. Michael Lane, who resides at 51 First Street, Keyport, did appear and voiced support for the application. He was glad to see that single family homes would be constructed along Church Street and believed that the multi-family use along Osborn was also appropriate.

25. In considering this application the Board has reviewed the materials submitted into evidence and listened to the testimony presented. The Board finds that the proposed six (6) duplexes are appropriate for the location along Osborn Street when taking the nearby towing yard into consideration. The Board agrees with Ms. Cofone that building single family homes at that site would make no sense. As such, the Board finds that the subject property is particularly suited for the proposed use.

26. The Board also finds the applicant has met its enhanced quality of proof in that the Master Plan does in fact call for the consideration of a variety of housing options to help those who might not otherwise be able to afford a single family home. As such, the Board felt the proposed duplexes would not offend the intent of the Master Plan or the Borough's Zoning Ordinance. Based upon the unique circumstances of the applicant's property, what was being proposed here would not be an extreme divergence from the residential use that would otherwise be allowed as of right.

27. The Board is hard pressed to envision any negative impact created if the requested variance relief were granted. As noted by Ms. Cofone, the neighbor across Osborn is a towing yard. It was very difficult to imagine how that yard would be negatively impacted by a six (6) duplexes being located across the street.

28. The Board does note that absent the modification from eight (8) duplexes to six (6) duplex, it would not have approved of this application. The density associated with the creation of eight (8) duplexes would have simply been too high for the RA Zoning District.

29. Based upon all of the above, and consideration of the modifications which were made to the application, the Board finds that the applicant has established special reasons and met the negative criteria required to warrant use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1).

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport, that the bifurcated use variance application of 174 Church Street, LLC for property located at 174 Church Street, which is officially designated as Block 85, Lots 4-10 & 13, may be granted subject to the following conditions:

1. The applicant must return to the Board with a full site plan application within one (1) year of the granting of this approval. Absent the granting of site plan approval, the use variance relief granted herein shall be null and void.
2. Subject to the applicant forming a Home Owner's Association to govern the six (6) duplexes which will be the subject of the site plan. The proposed two (2) single family homes do not need to be included as part of that Home Owner's Association although such would certainly not be prohibited if the applicant chooses to include them during the site plan phase.
3. Subject to the creation of an underground storm management system that will be presented to the Board during the site plan phase, said plan needing the review and approval of the Board's Engineer and Planner.
4. Subject to the applicant making clear in its site plan that two (2) single family homes, instead of two (2) duplexes, will be constructed along Church Street.
5. Subject to the applicant working with the Borough's Fire Officials to ensure that the site plan ultimately presented to the Board has their approval from a fire safety perspective.
6. Subject to the inclusion on the site plan of a stop sign on the southbound side of Osborn Street, at the intersection of Hurley Street.
7. Subject to the site plan showing new curbing and sidewalks with an ADA ramp being installed on the corner of Hurley and Osborne.

8. Subject to the applicant comply with all recommendations contained within the Engineering and Planning Review Letter. **(Exhibit B-1)**

9. Subject to all representations made by the applicant during the application.

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. Subject to any and all other approvals as may be required by the Borough, prior to the issuance of any permits.

12. Subject to the payment of any fees, escrows and taxes as may be due to the Borough, prior to the issuance of any permits.

13. 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.

14. 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 N. Vecchio, seconded by K. Howe and on Roll Call, the following vote was recorded:

Affirmative: K. Howe, D. Pacheco M. Sessa, N. Vecchio, W. McDermott

Negative:

Abstentions:Mayor Kennedy, Councilmember Davidson, H. Aumack, J. Royster

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport during its meeting on July 22, 2021.

Denise Nellis, Secretary of the Board