YOUR GOALS. OUR MISSION.

KUPB-R2110

November 22, 2021

Keyport Unified Planning Board
70 West Front Street
Keyport, New Jersey 07735

Via email and mail

Attn: Denise Nellis, Recording Secretary

Re: 156-158 Main Street – Variance Application (21-15)
Block 44, Lot 6
First Completeness, Engineering & Planning Review

Dear Board Members:

As requested, we have reviewed the following documents submitted by the applicant in support of this applications:

1. Planning Board Application, dated October 7, 2021, consisting of seven (7) sheets.

2. Architectural Plans, prepared by Jeremiah J. Regan, AIA, dated August 1, 2021, consisting of two (2) sheets.

A. Project Description

The applicant is seeking approval to construct a one-story addition, with associated porch and patio, to an existing mixed-use building, which is not a permitted use in the Neighborhood Commercial District (NC) Zone. The existing building contains a business and residential units.

The subject property, consisting of 11,775 square feet, is located at the corner of Main Street and Maple Place (CR-516). The site is currently developed with an existing mixed-use building and detached accessory building. The entirety of the site is located within the Neighborhood Commercial District (NC) Zone.

Zoning Data: Neighborhood Commercial District (NC) Zone

	REQUIRED	EXISTING	PROPOSED
Minimum Lot Requirements			
Minimum Lot Area	7,500 S.F.	11,775 S.F.	No Change
Minimum Lot Width	75 feet	75 feet (Main Street) 157 feet (Maple Place)	No Change
Principal Building Setbacks			
Front Setback	5 feet	1.5 feet ***(ENC)*** 0.8 feet ***(ENC)***	No Change
Side Setback	N/A	N/A	N/A
Combined Side Setback	10 feet	6.2 feet ***(ENC)***	No Change
Rear Setback	25 feet	74.61 feet	58.61 feet

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	REQUIRED	EXISTING	PROPOSED
Accessory Building Setbacks			
Side Setback	3 feet	3.9 feet	No Change
Rear Setback	15 feet	3.2 feet *(ENC)*	No Change
Maximum Building Height			
Principal Building Stories	2.5 stories	3 stories *(ENC)*	No Change
Accessory Building Stories	1.5 stories	2 stories *(ENC)*	N/A
Maximum Percent Lot Coverage			
Principal Building	75%	23.6%	30%
Accessory Building	15%	8.4%	No Change
All Buildings Coverage	75%	32%	38%
All Buildings & Impervious Surface	90%	N/A	30%

(ENC): Existing Non-Conformity (V): "c" Variance Required.

B. Completeness Review

Based on our review of the variance completeness checklist, the following items must be submitted, or completeness waivers must be granted prior to the application being deemed complete:

Item 2.C. Wooded areas and topography with two (2) foot intervals. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant revises the plans to include the same.***

Item 2.E. Utility and drainage plans and information. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant revises the plans to include the same.***

Item 2.H. Preliminary plans for parking, lighting, load signs, landscaping and buffers. ***I have no objection to the Board granting a completeness waiver for this item provided that the applicant revises the plans to include the same.***

Item 2.K. A survey prepared by a licensed surveyor of the State of New Jersey shall accompany the plan, showing existing and proposed monuments and all existing and proposed lot lines and all set back lines. ***I have no objection to the Board granting a completeness waiver for this item provided that the applicant submits the survey on which the plans were prepared from.***

Item 2.L. The following legend shall be on the site plan map:
Site plan of _____

Block _____ ***Lot*** _____ ***Zone*** _____

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Date _____ *Scale* _____

Applicant _____

Address _____

I consent to the filing of this site plan with the Planning Board

_____
(Owner) *(Date)*

I hereby certify that I have prepared the site plan and that all dimensions and information thereon depicted is correct.

_____
(Name) *(Title & License)*

I have reviewed this site plan and certify that it meets all codes and ordinances under that jurisdiction

_____
(Date) *(Municipal Engineer)*

Approved by Planning Board:

Preliminary _____

Final _____

_____
(Chairman) *(Date)*

I have no objection to the Board granting a completeness waiver for this item, provided the applicant revises the plans to include the same.

Item 3. Certification by Borough Tax Collector that all taxes including current taxes are paid. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits proof of taxes paid prior to the public hearing.***

Item 4. Payment of all applicable fees for preliminary site plan review. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant pays all applicable fees prior to the public hearing.***

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Item 5. Submission of Environmental Impact Statement. ***Due to the limit scope of improvements, have no objection to the Board granting a completeness waiver for this item.***

Item 7. Stormwater management plan. ***Due to the limit scope of improvements, have no objection to the Board granting a completeness waiver for this item.***

Item 8. Referral to Monmouth County Planning Board for review and approval. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits to the Monmouth County Planning Board as a condition of approval.***

Item 9. Six copies of completed checklist. ***I have no objection to the Board granting a completeness waiver for this item, provided that the applicant submits the required checklist.***

Item 13. Variance(s) from Section(s) and reasons, if necessary. ***I have no objection to the Board granting a completeness waiver for this item, provided that the plan is revised to include the same.***

Item 14. Waiver required from Section(s) and reason. ***I have no objection to the Board granting a completeness waiver for this item, provided that the plan is revised to include the same.***

Item 15. Owners signed Certificate of Concurrence with the plan. ***I have no objection to the Board granting a completeness waiver for this item, provided that the plan is revised to include the same.***

The applicant shall address Items 3, 4 as noted above prior to the public hearing.

C. Fee Calculation

The Application Fee for this project is $300.00 as shown below. Additionally, the Ordinance Fee Schedule requires an Escrow Fee be posted in the amount of $400.00. The applicant is required to post any remaining balance prior to the application being schedule for public hearing.

Site Plan	Application Fee	Escrow Fee
"D" Variances	$150.00	$200.00
"C" Variances	$150.00 ($25.00/variance)	$200.00
Total Fee	$300.00	$400.00

D. Planning and Engineering Review

1. The minimum front yard setback for principal structures for the NC Zone of the Borough is 5 feet, whereas 0.8 feet and 1.5 feet currently exists. This is an existing non-conformity.

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2. The minimum combined side yard setback for principal structures for the NC Zone of the Borough is 10 feet, whereas 6.2 feet currently exists. This is an existing non-conformity.

3. The minimum rear yard setback for accessory structures for the NC Zone of the Borough is 15 feet, whereas 3.2 feet currently exists. This is an existing non-conformity.

4. The maximum number of stories for principal structures for the NC Zone of the Borough is 2.5 stories, whereas 3 stories currently exist. This is an existing non-conformity.

5. The maximum number of stories for accessory structures for the NC Zone of the Borough is 1.5 stories, whereas 2 stories currently exist. This is an existing non-conformity.

6. The principal building currently operates as a mixed-use building, which is not specifically permitted in the NC Zone of the Borough. The existing building contains a business and residential units. The applicant shall provide testimony regarding any previous use variance relief received for the site. If the site is a lawfully created, pre-existing non-conforming use, a d(2) variance will be required. A d(1) variance will be required for the expansion of the use previously permitted by d(1) variance or for a use that has not received approval for such use and that use is not permitted.

7. In order to be entitle to d(1) use variance relief, the applicant must demonstrate that the application satisfies both the positive and negative criteria of the Municipal Land Use Law:

   a. Positive Criteria: There are two prongs to the positive criteria that the applicant must satisfy for the variances:

      i. That the site is particularly suited to the use. The applicant must identify the specific characteristics of the site that make it appropriate for the use despite the regulatory requirements.

      ii. There are special reasons that allow a departure from the zoning regulations in this particular case. The purposes of zoning are established by the Municipal Land Use Law (N.J.S.A. 40:55D-2) and the applicant must demonstrate that the variance promotes one or more of those purposes to establish special reasons. Alternatively, the applicant may offer as a special reason proof that that refusal to grant the variance would result in undue hardship. Proof of undue hardship for a "d" variance requires that the applicant prove that the property cannot be reasonably adapted to conform to the zone requirements.

   b. Negative Criteria: There are two prongs to the negative criteria that the applicant must satisfy for both variances:

      i. That the variance can be granted without substantial detriment to the public good. This prong requires an evaluation of the impact of the variance on surrounding properties and a

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determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

ii. That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

Enhanced Burden of Proof for the d(1) Variance: In Medici v. BPR Co., 107 N.J. 1, 5 (1987), it was made clear that municipalities should make zoning decisions by ordinance rather than variance. The intention is to safeguard against the improper exercise of variance power. Where a master plan does not specifically address the type of use for which a variance is sought, a board has the more difficult task of determining whether the proposed use is inconsistent with the intent and purpose of the zone plan. The enhanced proof must reconcile the proposed use variance with the expressed intent of the zone plan and Borough Master Plan for the NC Zone designation.

The planning testimony should clearly show that the development provides a benefit that outweighs any detriment it may cause and provide a better zoning alternative for the property, not just merely advance the purposes of the owner or applicant.

8. The applicant shall provide testimony to address the positive and negative criteria for the requested 'c' variances. The applicant's testimony should focus on the following:

   a. Positive Criteria: The applicant shall provide testimony to the board regarding the physical conditions of the property and how the strict application of the provisions of the ordinance would result in a hardship that is inconsistent with the purpose and intent of the ordinance. Alternatively, the applicant may testify that the required variance furthers the purposes of the Municipal Land Use Law and that the benefits of granting the variance will substantially outweigh any detriments

   b. Negative Criteria: The applicant must demonstrate that the variance can be granted without substantial detriment to the public good, and that the granting of the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

9. The applicant shall provide testimony regarding the use of the existing principal building, the type of business and number of residential units.

10. The applicant shall provide testimony regarding the use of the existing accessory building on site.

11. The applicant shall provide testimony regarding how the parking requirement for the site will be met.

12. The site is not located in a flood zone and therefore, is not subject to the Borough Flood Damage Prevention Ordinance.

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13. The applicant will be required to repair any pavement, curb, sidewalk or pavement that is damaged as a result of the proposed improvements.

14. The applicant should confirm that the property is not subject to any existing easements, deed restrictions and/or covenants.

15. The applicant will be required to obtain any necessary municipal building permits if any are required.

16. An aerial of the site, prepared utilizing Google Maps, has been attached to this report and is for general reference and may not accurately reflect existing conditions.

If you have any questions or require additional information, please do not hesitate to call.

Very truly yours,

T&M ASSOCIATES

FRANCIS W. MULLAN, P.E., C.M.E.
PLANNING BOARD ENGINEER

KENDRA LELIE P.P., A.I.C.P., LLA
For Stan Slachetka, PP, AICP
PLANNING BOARD PLANNER

FWM:DMD:AWD:lkc

cc: Marc Leckstein, Planning Board Attorney
Mark Sessa, Planning Board Chairman
Lawrence Kantor, Applicant's Attorney (kllaw@optimum.net)
Jeremiah Regan, Applicant's Architect (jeremiahregan@aol.com)
Anthony Triano, Applicant, 156 Main Street, Keyport, NJ 07735

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