

RESOLUTION OF APPROVAL
FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCES
FOR THE PURPOSE OF CONSTRUCTING A MULTI-FAMILY RESIDENTIAL
BUILDING

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 39 LOTS 12, 13 and 14
Application # 03-12
ALARIC PROPERTIES, LLC
45 BEERS STREET

WHEREAS, Alaric Properties, LLC had previously applied to the Unified Planning Board of the Borough of Keyport for bifurcated use variance approval, with bulk variance relief, so as to allow for the demolishing of two (2) existing apartment buildings, containing a total of fifteen (15) dwelling units, and constructing a new multi-family residential building consisting of twenty-four (24) dwelling units, with associated parking located on site. The proposed multi-family residential building is located at property commonly known as 45 Beers Street, and officially designated as Block 39, Lots 12, 13 and 14 on the official Tax Map of the Borough of Keyport; and

WHEREAS, the applicant was granted the requested use variance and bulk variance relief during a meeting of the Unified Planning Board held on July 25, 2013 and more directly by way of a Resolution of Approval adopted by the Board on August 22, 2013; and

WHEREAS, as a condition of the use variance approval previously granted by the Board the applicant was required to return to the Board of Adjustment for preliminary and final site plan approval; and

WHEREAS, the applicant is now seeking the required preliminary and final site plan approval, 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, public hearings on the application were conducted during regularly scheduled meetings of the Unified Planning Board held on September 26, 2013 and October 24, 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, Alaric Properties, LLC, for preliminary and final site plan approval, with associated bulk variances, to be permitted to demolish two (2) existing apartment buildings, containing a total of fifteen (15) dwelling units, and subsequently construct a new multi-family residential building, consisting of twenty-four (24) dwelling units, with associated parking on the site.

2. The property in question is located at 45 Beers Street, which is officially designated as Block 39, Lots 12, 13 and 14 as shown on the official tax map of the Borough of Keyport.
3. The property is in the Borough's Residential District C (RC) Zone which does not permit multi-family residential uses containing more than two dwelling units.
4. This application is the second and final stage of a bifurcated use variance application, the first phase having been considered during public hearings of the Unified Planning Board conducted on June 27, 2013 and July 25, 2013. The requested use variance application was granted by the Board on the latter evening and was ultimately memorialized in a Resolution of Approval of the Board adopted on August 22, 2013.
5. Also approved during the first phase of this application was certain bulk variance relief. Specifically the Board has previously granted the following:

Bulk Variance	Required/Allowed	Bulk Variance Approved
Maximum Principal Building Coverage	30 %	40 %
Maximum Impervious Coverage	60%	70.9 %

6. At all times during the course of the public hearings, the applicant was represented by Gary S. Rosensweig, Esquire, of the law firm Archer & Greiner, P.C., whose office is located at 700 Alexander Park, Suite 102, Princeton, New Jersey 08540.
7. As per the Engineering/Planning Review Letter dated September 20, 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 site plan application requires certain additional "bulk variances"

Variance	Required/Allowed	Proposed
Maximum Principal Building Coverage	30 %	32.3 % ⁽¹⁾
Minimum Front Yard Setback	20 feet	15 feet
Maximum Building Height	2.5 stories / 30 feet	32 feet
Maximum Impervious Coverage	60%	75.7 % ⁽²⁾
Parking Spaces	60 spaces	52 spaces
Parking Space Dimensions	9' x 20'	9' x 18'

¹ As noted in paragraph 5, the Board has already granted the applicant a variance of 40% for maximum principal building coverage. The applicant has reduced the percentage being requested.

² As noted in paragraph 5, the Board previously granted the applicant a variance of 70.9% in maximum impervious coverage. The applicant is seeking to increase that coverage.

Signage so as to comply with New Jersey's <u>Predatory Towing Prevention Act</u> , N.J.S.A. 56:13-7, <u>et. seq.</u> and N.J.A.C. 13:45A-31.1, <u>et. seq.</u>	N/A	36 inches x 36 inches (or 9 sq. feet) ⁽³⁾
--	-----	--

8. Both the Board Engineer, Peter Bondar, P.E., C.M.E. (sitting in place of Donald J. Norbut, P.E., C.M.E.) and the Board's Planner, Stan Slachetka, P.P., A.I.C.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.
9. In support of the application, the applicant submitted the following exhibits into evidence:
 - A-1: Application package
 - A-2: "Survey of Property", dated February 20, 2013, last revised on September 5, 2013, as prepared by Charles Surmonte, P.E.
 - A-3: "Site Plan For Alaric Properties, LLC", dated August 28, 2013, consisting of eleven (11) sheets, as prepared by Mathew R. Wilder, P.E., of Maser Consulting, P.A.
 - A-4: "Proposed Apartment Complex" floor plans drawing "A-2", dated March 12, 2013, last revised on September 4, 2013, as prepared by Lawrence P. Quirk, AIA.
 - A-5: "Proposed Apartment Complex" elevation plans drawing "A-4", dated March 12, 2013 as prepared by Lawrence P. Quirk, AIA.
 - A-6: "Stormwater Management Statement", dated September 2013, as prepared by Mathew R. Wilder, P.E., of Maser Consulting, P.A.
 - A-7: Monmouth County Planning Board approval dated September 23, 2013.
 - A-8: Oversized colorized rendering of proposed site plan, with proposed landscaping and aerial image of surrounding community.
 - A-9: Oversized colorized version of proposed building facade (**Exhibit A-5**) with notations as to building height of 32 feet to the midpoint.
10. In support of the application, sworn testimony was given by Brian M. Leff, P.P. of Maser Consulting, P.A. which has offices at 331 Newman Springs Road, Suite 203, Red Bank, NJ.
11. Mr. Leff testified the variances necessitated by this application were in line with what had previously been presented to the Board during the Use Variance phase of the application. Each was necessitated by the fact that the applicant was attempting to replace what the Board had already recognized as a troubled site for the community, with a more modern, better operated and more aesthetically pleasing facility.

³ The signage variance was added during the public hearing, at the Board's suggestion, so as to ensure the applicant would be able to legally tow vehicles from the property and therefore maintain proper security at the site.

12. Mr. Leff discussed some of the improvements to the site that would be completed in conjunction with the new development. Specifically, he referenced the following:
- A) New landscaping to shield neighboring property owners **(Exhibit A-3 and A-8)**
 - B) Addition of a trash enclosure area to help keep trash on site and handle all recycling for the premises. **(Exhibit A-3 and A-8)** It was noted that trash pick-up would take place approximately twice a week by a private hauler. If it turns out that this was not sufficient for the building's needs, the private hauler would be asked to increase the number of pick-ups during the week.
 - C) Addition of curbing to the parking lot area to keep vehicles from hitting the new landscaping and neighboring property's fences. **(Exhibit A-3 and A-8)**
 - D) LED lighting is going to be installed throughout the rear parking area so as to add a new level of security and better shield neighboring property owners from unwanted glare. **(Exhibit A-3)**
13. With respect to the new landscaping plan, the applicant agreed as a condition of approval, to provide landscaping plans to the Board's Engineer and Planner for their review and approval. Any vegetation lost during the construction would be replaced. Additionally four (4) large shade trees would be installed at the rear of the complex so as to provide additional screening. Specific agreement was made that the landscaping along Beers Street would be designed to match other downtown improvements which have been made.
14. There was also a discussion regarding a three (3) foot retaining wall which is located at the rear of the property, running from 34 Kearny Street to 30 Kearny Street. The topography jumps approximately 13 feet in the air along this stretch and the slope is no longer in good shape. Instead, the property has been sliding down on to the applicant's property. It was agreed, as a condition of approval, that the applicant would have its structural engineer look at the retaining wall so as to make any repairs that might be necessary and also to ensure that any regrading done at the site would not cause any additional damage to the slope. In order to add extra protection during this process, the regrading and structural repair plans would have to be submitted to the Board's Engineer and Planner for their review and approval.
15. With respect to recycling, the applicant agreed, as a condition of approval, that it would provide a recycling plan to the Borough's Recycling Committee for its review and approval. The applicant also agreed, as a condition of approval, to revise its plans subject to the Board Planner's approval, so as to utilize more decorative and visually appealing front gates to the enclosure area since that area would be visible from Beers Street.

16. As to the new LED Lighting, the applicant would look into house side shields for the new light fixtures to further protect light spillage on to the residential properties which abut the rear of the site.
17. With regard to the new parking area, Mr. Leff spoke of how the new site was being designed to ensure there was more than adequate parking for all of the tenants who would live at the building. He believed the 52 proposed parking spaces were more than sufficient to satisfy the building's needs. In furtherance of this, the applicant agreed, as conditions of approval:
 - A) Parking spaces could not be used for storage. They would be expressly limited to parking of vehicles.
 - B) Every tenant lease would include a provision requiring the tenants to park on-site. Off site parking would not be permitted for tenants.
 - C) Each tenant would be assigned two parking spaces in the parking lot so as to ensure there would always be sufficient on-site parking for the tenants at the site.
 - D) The applicant would tow unauthorized vehicles from the premises and post the signage required by the State's Predatory Towing Prevention Act, N.J.S.A. 56:13-7, et. seq. and N.J.A.C. 13:45A-31.1, et. seq.
18. For safety reasons, Mr. Leff indicated that the applicant would agree, as a condition of approval, to have one way circulation around the parking lot. Traffic would enter from the south entrance and exit through the north.
19. Non-parking areas under the new building would utilize a pea gravel surface. Such a surface is often used a surface in playground lots. This would allow for a safe cushion in the event any children playing in these areas were to fall. It was also noted that due to the size of the parking lot itself, there would be more than enough room for children to play safely within it during the day when the majority of tenants would be off at work.
20. It was noted that there are open areas in the rear of the corner units of the proposed building where parking spaces will not be located. **(Exhibit A-3)** The applicant agreed, as a condition of approval, that this area would be gated, so as to provide exterior gated storage for the building's tenants where items such as bicycles could be kept. The area would not be permitted to become a storage for garbage.
21. Mr. Leff also reminded the Board that the applicant was required, as a condition of approval from the first phase of the application, to have a full time building superintendent residing at the property. This fact would help to ensure that the site was properly maintained and the conditions which had been agreed to would be properly enforced.

22. It was Mr. Leff's expert opinion that the entire development would act as a significant upgrade for the community, from a planning perspective, as it would turn what had been an acknowledged troubled community into a well managed and better secure development.
23. As to detriments associated with the project, Mr. Leff testified he did not envision any negatives associated with the development. Whatever negatives might occur were surely outweighed by the benefits which would be derived from the new development, such as the modernization of the complex and implementation of a new management plan that would help to eliminate the complaints raised by neighboring property owners during the first phase of the application as to how the existing complex had been previously managed.
24. Finally, it was noted that the applicant would agree to consolidate, by deed, the three lots which currently constitute the applicant's property. As a condition of approval, the consolidation deed would be submitted to the Board's attorney and engineer, for review and approval, prior to its recording with the county clerk's office.
25. In addition to the testimony of its professional planner, the applicant also offered sworn testimony from its professional architect, Lawrence Quirk, A.I.A., who has offices at 15 Union Avenue, Rutherford, New Jersey.
26. Mr. Quirk described the architectural elements of the new building, making reference to **Exhibits A-4, A-5 and A-9**. He indicated each of these new elements would act as significant architectural upgrades to what exists in the current buildings located at the site.
27. It was stated that the building would have brick veneer throughout, except that stone would be utilized along the lower level.
28. Referring to **Exhibits A-5 and A-9**, Mr. Quirk testified that the plans would be revised so as to provide gables in the rear of the building. This would help minimize the visual impact of the new building on the neighboring single family residences. Once revised, there would be three (3) gables in the rear and two (2) in the front of the building.
29. With regard to the floor plan of the one (1) bedroom apartments, which were submitted into evidence as part of **Exhibit A-4**, the applicant agreed, as a condition of approval, to revise the plan so as to eliminate the two bedroom closets which are depicted and replace them with a single walk-in closet. The larger walk-in closet, rather than two separate closets originally proposed, would act as a more attractive amenity for the type of young professionals the applicant was trying to lure to the new apartment complex.
30. Beyond the site's aesthetics, the applicant also represented, as a condition of approval, that it would adhere to the terms of a certain management plan which was reviewed and approved by the Planning Board. This management plan is attached to, and made forever part of, this Resolution as Exhibit "A".

31. Additionally, the applicant represented that it would be entering into a developer's agreement with the municipality. This would also be a condition of approval.
32. The following members of the public also were sworn and spoke with respect to the application:
- A) **Doreen Minutella - 34 Kearney Street, Keyport** - Ms. Minutella indicated her property borders on the applicant's. She advocated ensuring proper landscape screening at the site so as to protect her property.
 - B) **Honorable Harry Aumack - 52 Kearney Street, Keyport** - Mr. Aumack, who is also the Mayor of the Borough of Keyport, expressed concerns over the retaining wall which is located to the rear of the applicant's property. These concerns were addressed by the applicant during the course of the hearing.
 - C) **Michael Lane - 51 First Street, Keyport** - Mr. Lane spoke in opposition to the application. He urged the Board to deny the application primarily based upon his belief that applicant should be required to elevate the ground on which the building would be located. The Board rejected this argument as no evidence or expert testimony was introduced indicating such an elevation was necessary.
33. No one else from the public spoke with respect to this application.
34. In considering this application, the Planning Board finds that the requested bulk variance relief can indeed be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2). As indicated in the original Resolution adopted by the Board on August 22, 2013, which granted the applicant its requested Use Variance relief, the Board Members, based upon their collective familiarity with the property and area in question, believe the existing structures on the applicant's property are an eyesore and in much need of improvement. The Board finds that the proposed plans, if adhered to, will act as a benefit for the surrounding neighborhood, and the Borough as a whole, as they will greatly improve the aesthetics of the community. None of these improvements will take place if the variance relief is denied.
35. The Board also takes very seriously the complaints of several of the property's neighbors that were given during the first phase of this application as to the existing complex having been the origin of crime and littering around the surrounding community. The Board finds that the applicant's representations of having a superintendent residing on the site, and a new management plan with rules and regulations being put in place, will help deter the criminal and littering activities which have previously occurred. These preventive efforts will not occur if the requested variance relief is denied.
36. The Board also recognizes that sufficient parking has previously been a concern at the site. Under the proposed plan, more than adequate parking will be provided at the premises. Additionally, the Board is pleased to note that at least two (2) spaces will be assigned to each

tenant and those tenants will be required, as a condition of their leases, to park on-site rather than off. Such conditions will also serve as a benefit for the surrounding community, since tenant's vehicles will remain on-site rather than be parked on the adjacent streets.

37. The Board finds that the applicant has also proposed significant improvements in so far as landscaping and lighting is concerned. The integrity of the rear retaining wall will be addressed and adequate trash collection and proper storage space for unit owners is also being provided. Each of these factors will act as a benefit for the neighboring property owners since they will serve to eliminate what previously had been uncontrolled activities throughout the property and were often found to constitute a nuisance.
38. The Board finds that absent the grant of the requested bulk variance relief, the applicant will not be able to complete the improvements that are being proposed. The unfortunate consequence of such a result would be that the existing structures and the negative impact which results from their existence would remain. This would deprive the Borough of the benefits of a more modern building being constructed with its improved maintenance, security, and management plans.
39. As noted in this Resolution above, the Board is aware of all the concerns expressed by neighboring property owners as to the prior management of the applicant's property. The Board finds that any detriments which might be created by allowing this new development to occur are far outweighed by the benefits which will be created by the construction of a more modern complex at the site, such as the implementation of new management policies.
40. The Board finds 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.
41. When taking all of the above into consideration, the Board finds that provided the applicant complies with all of the agreed upon conditions, the requested bulk 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 applicant's property.
42. With regard to the request for preliminary and final site plan approval, the Board finds no reason to believe that the site will not function properly as designed. All evidence in the record establishes that the site plan may be approved as requested.
43. Based upon all of the aforesaid reasons, the Board finds that the application for preliminary and final site plan approval, with bulk variance relief, 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 Alaric Properties, LLC seeking preliminary and final site plan approval, with bulk variance relief, for premises commonly known as 45 Beers Street and officially designated as Block 39, Lots 12, 13 and 14 be granted subject to the following conditions:

1. Subject to the adherence of all conditions contained within the original Resolution adopted by the Unified Planning Board in this matter on August 22, 2013.
2. Subject to the applicant adhering, as closely as possible, to the site plan (**Exhibit A-3 and A-8**) and architectural plans (**Exhibit A-4, A-5 & A-9**) which were submitted into evidence, except as otherwise modified by this Resolution.
3. Subject to all requirements contained within the Board Engineer and Planner's review letter dated September 20, 2013 (**Exhibit B-1**) except as otherwise modified by this Resolution.
4. Subject to the applicant submitting a revised landscaping plan to the Board's Engineer and Planner for their review and approval. Said plan must include notations that any vegetation lost during the construction would be replaced. Additionally, it must show the four (4) large shade trees which are to be installed at the rear of the complex so as to provide additional screening for neighboring properties. Finally, the plan must show landscaping along Beers Street designed to match other downtown improvements which have been made.
5. Subject to the applicant having its structural engineer evaluate the three (3) foot retaining wall which is located at the rear of the applicant's property, running from 34 Kearny Street to 30 Kearny Street. The applicant shall make any repairs which might be necessary to this retaining wall as well as ensure any regrading done at the site would not cause additional damage to the slope. The applicant shall be required to submit all findings and plans regarding this retaining wall and related regarding to the Board's Engineer and Planner for their review, concurrence and approval.
6. Subject to the applicant submitting a recycling plan to the Borough's Recycling Committee for its review and approval.
7. Subject to the applicant revising its plans, subject to the Board Planner's review and approval, so as to utilize more decorative and visually appealing front gates to the trash enclosure area.
8. Subject to the applicant investigating whether house side shields should be installed for the newly proposed light fixtures to further protect unwanted light from spilling onto the residential properties which abut the rear of the site. Findings shall be reported back to the Board's Engineer and Planner for their review and approval.
9. Subject to the applicant not allowing parking spaces to be used for storage. All spaces shall be expressly limited to parking of vehicles.
10. Subject to the applicant including provisions in its rental lease assigning tenants at least two (2) parking spaces and requiring tenants to park onsite. Off site parking for tenants shall be

specifically prohibited in the tenant leases.

11. Subject to the applicant securing all signage required pursuant to the State's Predatory Towing Prevention Act, N.J.S.A. 56:13-7, et. seq. and N.J.A.C. 13:45A-31.1, et. seq., and thereafter towing all unauthorized vehicles from the subject premises.
12. Subject to the condition that the site shall have one way circulation, with traffic entering from the south entrance and exiting through the north. The site plan shall reflect this fact.
13. Subject to the open areas in the rear of the corner units of the proposed building, where parking spaces will not be located, as shown on Exhibit A-3, being gated so as to provide exterior gated storage for the building's tenants where items such as bicycles can be kept. These areas shall be expressly prohibited from being utilized for the storage for garbage. The applicant's plans shall be revised to show this gated area and submitted to the Board's Engineer and Planner for their review and approval.
14. Subject to the applicant consolidating, by deed, the three lots which currently constitute the applicant's property. The consolidation deed must be submitted to the Board's attorney and Board's engineer, for review and approval, prior to its recording with the County Clerk's office.
15. Subject to the elevations (**Exhibits A-5 and A-9**) being revised so as to provide gables in the rear of the building so as to help minimize the impact of the new building on the neighboring single family residences. Once revised, there would be three (3) gables in the rear and two (2) in the front of the building. These revised plans must be submitted to the Board's Engineer and Planner for their review and approval.
16. Subject to the floor plans (**Exhibit A-4**) being revised so as to eliminate the two bedroom closets located in the one bedroom units, and replacing them with a single walk-in closet.
17. Subject to the applicant adhering to the terms of the management plan which was reviewed and approved by the Planning Board. This management plan is attached to, and made forever part of, this Resolution as Exhibit "A".
18. Subject to the applicant entering into a developer's agreement with the municipality.
19. All representations made under oath on behalf of the applicant, or by 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.
20. 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.
21. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
22. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to

the issuance of a building permit.

23. 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.
24. 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.
25. 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 T. Musson, Seconded by R. Burlew and on Roll Call, the following vote was recorded:

Affirmative: R. Burlew, M. Sessa, R. Benedict, A. Hudson, T. Musson, J. Oviedo

Negative:

Abstentions:

Absent: Mayor Aumack, Councilman Sheridan, 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 24, 2013.

A handwritten signature in cursive script, appearing to read "Denise Nellis".

Denise Nellis, Secretary of the Board