

Resolution prepared by:
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Leckstein & Leckstein, LLC
463 Prospect Avenue
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RESOLUTION APPROVING CONSTRUCTION OF RESIDENTIAL DUPLEX

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

BLOCK 60, LOT 6

**Application # 22-01
ARJIKA PROPERTY INC.
108 BROAD STREET**

WHEREAS, Arjika Property, Inc. has applied to the Unified Planning Board of the Borough of Keyport for preliminary and final site plan approval to allow for the construction of a two family residential duplex on a vacant lot located at 108 Broad Street which is officially designated as Block 60, Lot 6 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, public hearings were held in the within matter at regularly scheduled meetings of the Unified Planning Board held on August 25, 2022 and October 22, 2022 during which 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, Arjika Property, Inc., seeks approval to construct a two family residential duplex on a vacant lot located at 108 Broad Street which is officially designated as Block 60, Lot 6 on the official Tax Map of the Borough.
2. The site in question is located within the Borough's Residential District B (RB). The proposed duplex is specifically permitted within the Borough's Zoning Ordinance.¹
3. The following bulk variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c) is required by this application:

Variance	Required/Allowed	Proposed
Minimum Lot Area	7,500 sq. ft.	5,162 sq. ft. ***
Minimum Lot Width	75 feet	59 feet ***
Front Yard Setback	20 feet	17.21 feet (West Third)
Rear Yard Setback	20 feet	9.5 feet
Lot Coverage By Buildings	30 %	32.5 %
Front Yard Coverage By Parking	30 %	38.4 %
Building Height	2.5 stories and 30 ft.	3 stories and 30 ft.

*** Pre-existing non-conforming conditions

¹During the initial review of this application, it was believed the applicant required (d) (5) density use variance relief. It was ultimately determined that such a use variance was not required. The use is permitted.

4. As background, the applicant previously sought approval for this property under Application # 21-07 seeking construction of a multifamily residential home consisting of four (4) units. That application, which did require (d)(1) and (d)(5) use variance relief, was denied by the Planning Board by way a Resolution memorialized on March 29, 2022.
5. Throughout the course of this new application, the applicant was represented by its legal counsel, F. Bradford Batcha, Esquire (on August 25, 2002) and Erin Batcha, Esquire (on October 27, 2022) of the law firm of Batcha and Batcha which has offices at 600 Broad Street, Shrewsbury, New Jersey 07702.
6. In support of the application, the following exhibits were placed into evidence:
Exhibit A-1 : Unified Planning Board application
Exhibit A-2: "Site Plan" dated March 18, 2022 as prepared by Marc S. Leber, P.E.,
P.P. of East Point Engineering, LLC.
(consisting of 5 sheets)
Exhibit A-3: Architectural Plans prepared by Salvatore La Ferlita, R.A.
(consisting of 1 sheet)
Exhibit A-4: Revised Elevations prepared by Salvatore La Ferlita, R.A.
7. In addition to those exhibits introduced by the applicant, the Board introduced the following exhibits of its own:
Exhibit B-1: First Engineering and Planning Review letter dated June 14, 2022 as prepared by T&M Associates.
Exhibit B-2: First Completeness Review Letter of T&M dated June 6, 2022.
8. The Board was advised that a condominium association would be formed for the duplex and that governing documents would be recorded.
9. In support of the application, two witnesses were presented:
 - (1) Christopher Ruby of Hillard Construction - The Applicant's Builder
 - (2) Salvatore La Ferlita, R.A. - The Applicant's architect
10. Mr. Ruby would testify as to the following:
 - (a) A Landscaping Plan would be submitted for review and approval by the Board's Engineer and Planner.
 - (b) Curbing along the property would be replaced
 - (c) The applicant would perform milling & paving roadway curb to curb
 - (d) The applicant would replace the existing chain link fence with a 6 foot PVC or wood privacy fence dropping down to 3 feet at the end of the building
 - (e) Trash cans will be kept inside the building until garbage day. This would be included as a requirement within the Association's Master Deed.

- (f) Space would always be kept available within the provided garages to park at least one (1) vehicle per unit within the garage. This would be included as a requirement within the Association's Master Deed.
11. The applicant's architect, Sal La Ferlita, RA testified with respect to the architectural plans marked into evidence. He testified as to the following:
 - (a) Each unit will have one (1) attached two-car garage and two (2) driveway spaces. This means there are eight (8) parking spaces provided for the duplex, including the garage spaces. As a result the property is fully compliant with R.S.I.S. standards. Those standards only require five (5) parking spaces.
 - (b) Condensers for the units would be located outside on pads situated on the sides of the building. The exact location would be subject to the review and approval of the Board's Engineer and Planner.
 12. Board Planner Kendra Lelie, P.P. and Board Engineer Francis W. Mullan, P.E., C.M.E., both of T&M Associates, testified that they had no objections to the granting of the application from a planning or engineering perspective provided the comments contained within their review letters (**Exhibits B-1 and B-2**) were complied with.
 13. A member of the general public, Michael Lane of 51 First Street, Keyport, spoke out in favor of the application.
 14. No one else spoke with respect to the application.

CONCLUSIONS

15. In considering the merits of this application, the Board expresses its appreciation that the applicant took the criticisms of its first application seriously and has returned with a new application that is fully compliant with the Zoning Ordinance and Master Plan from a use perspective.
16. The Board finds that the applicant does have a hardship which respect to several of its variances as they are the result of pre-existing conditions which are outside the control of the applicant.
17. The Board cannot envision any negatives associated with this application and none have been suggested to the Board by anyone appearing during the hearing.
18. Based upon the above, the Board finds that the applicant has established both the required positive and negative criteria necessary to warrant bulk variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c)(1) and (2). Clearly the property is deficient in size due to pre-existing issues unrelated to the application which create a natural hardship for the applicant. Additionally, the benefits of seeing the vacant property developed with a conforming use far outweigh what strict adherence to the provisions of the zoning ordinance would otherwise allow.

19. The Board also sees no reason why the property will not function properly as designed and has not been advised of any reason why it would not.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application brought by Arjika Property, Inc., for premises known as 108 Broad Street and officially designated as Block 60, Lot 6 is hereby granted subject to the following conditions:

1. The proposed construction shall be in substantial conformance with all of the exhibits marked into evidence unless otherwise modified by this Resolution.
2. Subject to the condition that a landscaping plan be submitted for review and approval to the Board's Engineer and Planner.
3. Subject to the condition that all curbing at the property be replaced.
4. Subject to the condition that the applicant mill and pave the roadway curb to curb.
5. Subject to the condition that the applicant replace the existing chain link fence with a six (6) foot PVC or wood privacy fence which will drop down to 3 feet at the end of the building.
6. Subject to the condition that the condensers for the building be situated upon pads on the sides (not rear) of the building at exact locations to be reviewed and approved by the Board's Engineer and Planner.
7. Subject to the condition that a condominium association be formed in order to assure proper maintenance of the site. The governing documents for the association shall be submitted to the Board's Attorney and Engineer for their review and approval.
8. Subject to the condition the Master Deed include a provision mandating that the trash cans must be kept inside of the building until trash pick-up day.
9. Subject to the condition the Master Deed include a provision mandating that the garages for each unit be kept clear enough to allow for the parking of at least one (1) vehicle per unit.
10. Subject to the requirements of the Planning/Engineering review letters marked into evidence. (Exhibits B-1 and B-2).
11. Subject to all representations made by the applicant during the application.
12. Subject to any and all affordable housing requirements mandated by the Borough or other governmental entity.
13. 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.
14. Subject to any and all other approvals as may be required by the Borough, prior to the issuance of any permits.
15. Subject to the payment of any fees, escrows and taxes as may be due to the Borough, prior to the issuance of any permits.

16. This approval shall be deemed void by abandonment if a building permit is not applied for within one year of the date hereof.
17. 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.
18. 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.

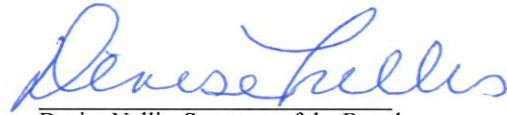
The foregoing was Moved by H. Aumack, second by D. Pacheco
and on Roll Call, the following vote was recorded:

Affirmative: M. Sessa, H. Aumack, W. McDermott, J. OViedo, D. Pacheco, J. Royster

Negative:

Abstentions: Mayor Kennedy, Councilmember Davidson

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board
of the Borough of Keyport during its meeting on November 3, 2022.


Denise Nellis, Secretary of the Board