

RESOLUTION

**KEANSBURG PLANNING BOARD OF ADJUSTMENT
282 CARR AVE, LLC
282 CARR AVENUE
KEANSBURG, NJ
BLOCK 92, LOT 14**

INTRODUCTION

WHEREAS, representatives of 282 Carr Ave, LLC have submitted an Application to the Keansburg Planning Board of Adjustment for the property designated as Block 92, Lot 14, located at 282 Carr Avenue, Keansburg, NJ, with the Borough's R-7 Zone, for the following approval: potential Site Plan Approval, potential Waiver of Site Plan Approval, Use Variance Approval, Bulk Variance Approval, and potential Change of Use Approval to convert an existing mixed-use building (commercial / residential) to a 2-family home.

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on June 10, 2024, Applicant's representatives having filed proper proof of service and publication in accordance with Statutory and Ordinance Requirements; and

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Planning Board of Adjustment Application Package, undated, introduced into Evidence as A-1;*

- *Schematic Floor Plans, prepared by Eclipse Group, LLC, dated April 3, 2024, consisting of 1 sheet, introduced into Evidence as A-2;*
- *First Floor As-Built Plan, prepared by Eclipse Group, LLC, dated March 9, 2023, consisting of 1 sheet, introduced into Evidence as A-3;*
- *Survey of Property, prepared by Morgan Engineering & Surveying, LLC, dated March 7, 2023, introduced into Evidence as A-4;*
- *Zoning Office Denial Letter, dated March 30, 2023, introduced into Evidence as A-5;*
- *Tax Certification, dated October 12, 2023, introduced into Evidence as A-6;*
- *Owner's Affidavit of Authorization / Consent, dated July 13, 2023, introduced into Evidence as A-7;*
- *Ownership Disclosure Statement, undated, introduced into Evidence as A-8;*
- *Property Owner's List, dated on or about September 14, 2023, introduced into Evidence as A-9;*
- *Site Plan Application, introduced into Evidence as A-10;*
- *T&M Associates Review Memorandum, dated June 5, 2024, introduced into Evidence as A-11;*
- *Illustrated Engineering Plan, introduced into Evidence as A-12;*
- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the Application was presented by the following:

- Kimberlie Newsome, one of the Members of the Corporate Applicant;
- Sal Alfieri, Sr., Esq., appearing

BOARD WITNESSES

WHEREAS, Edward Striedl, the Municipal Zoning Officer / Construction Official / Flood Plain Official was sworn in conjunction with any testimony / information he would provide in connection with the subject Application; and

WHEREAS, Robert F. Yuro, P.E., CME, the Board Engineer, was also sworn with regard to any testimony / information he would provide in connection with the subject Application; and

TESTIMONY AND OTHER EVIDENCE SUBMITTED ON BEHALF OF THE APPLICANT'S REPRESENTATIVES

WHEREAS, testimony and other evidence presented on behalf of the Applicant's representatives revealed the following:

- The Applicant is the Owner of the subject property.
- The Applicant has owned the subject property for approximately 2 years.
- There is an existing 2 story building located at the site.
- Upon information and belief, the existing building was constructed in or about the 1920's / 1930's.
- Details pertaining to the existing uses at the site include the following:

FIRST FLOOR

A. Most Recent Use: Delicatessen Use

Size: Approximately 516 SF

Occupancy Status: The commercial unit is currently vacant

B. First Floor Residential Apartment

Number of Bedrooms: 1

Number of Bathrooms: 1

Occupancy Status: Occupied

SECOND FLOOR

A. Residential Apartment

Number of Bedrooms: 3

Number of Bathrooms: 1

Occupancy Status: Vacant

- Representatives of the Applicant previously submitted a Development Application (pertaining to the same property) to effectuate the following:
 - A. Conversion of a delicatessen use to an art / professional office use; and
 - B. Enlargement of the first-floor residential apartment.
- The said Application (delicatessen use to art / professional office use and increase in the size of the first-floor apartment) was previously withdrawn / dismissed.
- The Applicant's representatives now propose to effectuate the following
 - Conversion of the existing mixed use building (commercial / residential Unit #1 / residential Unit #2) to a 2-family home.
- Details pertaining to the proposed 2-family home, as amended, include the following:

UNIT A

Number of Floors:	2 (the said unit will include the first floor portion of the building and a portion of the 2 nd floor)
Number of Bedrooms:	3
Number of Bathrooms:	2

UNIT B

Number of Floors:	1 floor (just the 2 nd floor of the existing building)
Number of Bedrooms:	1
Number of Bathrooms:	1

- There is no new exterior construction proposed in connection with the within Application. Rather, there will just be interior work completed so as to convert the existing use to a 2-family home.
- The Applicant's representatives anticipate that the conversion will be completed in the very near future.
- The Applicant's representatives will utilize licensed contractors for any interior construction associated with the proposal.

VARIANCE

WHEREAS, the Application as presented and modified requires approval for the following Variance:

USE VARIANCE: A 2-family home is not permitted in the Borough's R-7 Zone; whereas the Applicant's representatives herein propose such a 2-family use.

PUBLIC COMMENTS

WHEREAS, the following members of the public expressed questions, comments, obligations, and/or statements in connection with the Application:

- John DiStefano (who had a question / concern regarding the mailing address to which the notice was sent).

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of Adjustment of the Borough of Keansburg, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Board makes the following Findings of Fact and Conclusions of Law:

1. The Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 282 Carr Avenue, Keansburg, NJ, within the Borough's R-7 Zone.
3. The subject property contains 5,000 SF (0.115 acres).
4. The subject property is an interior lot, with frontage located along Carr Avenue.
5. There is an existing 2-story mixed-use building at the site (commercial / residential).
6. The Applicant's representatives propose to convert the existing mixed-use building (commercial / residential) to a 2-family home.
7. Such a proposal will require Use Variance Relief, Bulk Variance Relief, potential Change of Use Relief, potential Site Plan Approval, and potential Waiver of Site Plan Approval.

8. The Keansburg Zoning Board of Adjustment is statutorily authorized to grant the requested relief and therefore, the matter is properly before the said entity.

9. With regard to the Application, and the requested relief, the Board notes the following:

- The site is located in the Borough's R-7 Zone.
- The principal permitted use in the Borough's R-7 Zone is single-family use.
- The existing building is utilized as a mixed-use building (commercial and 2 residential dwelling units). (The commercial use was most recently utilized as a delicatessen.)
- Such a mixed-use building is not specifically permitted in the R-7 Zone.
- The commercial use is not permitted in the Borough's R-7 Zone.
- The 2 dwelling units (in 1 structure) are not permitted in the Borough's R-7 Zone.
- Thus, as referenced above, the existing use at the site is non-conforming.
- The Applicant herein proposes to convert the mixed use building (commercial use and 2 residential dwelling units) to a 2-family home.
- As referenced above, a 2-family home is not a permitted use in the zone.
- Consequently, among other things, the within Application requires Use / "d" Variance Relief.
- The Board is aware that, generally speaking, in order to satisfy Use / "d" variance standards, an Applicant must prove the so-called "positive" criteria and the so-called "negative" criteria. The so-called "positive" criteria references the need for the Applicant to prove that approval of the Application will advance some of the purposes of the Municipal Land Use Law. The so-called "negative" criteria requires an Applicant to prove that the requested relief can be granted without causing substantial detriment to the public good.
- The Board has evaluated the within Application in accordance with the aforesaid standards, and other relevant / applicable standards.

- Approval of the within Application will permanently eliminate the non-conforming commercial aspect of the site. Specifically, as a condition of the within approval, the Applicant's representatives have knowingly and perpetually abandoned any pre-existing non-conforming commercial use at the site.
- The Board Members recognize that there are a number of benefits associated with the permanent abandonment / elimination of the pre-existing non-conforming commercial use at the site.
- The elimination of the pre-existing non-conforming commercial use at the site will ultimately reduce the overall intensity of the property.
- The elimination of a pre-existing non-conforming commercial use will reduce the overall parking demands associated with the site.
- The elimination of a pre-existing non-conforming commercial use will reduce the number of business deliveries to the site.
- The elimination of a pre-existing non-conforming commercial use will reduce the number of individuals / patrons who would otherwise be expected to visit the commercial use on a daily basis.
- The elimination of a pre-existing non-conforming commercial use will reduce the overall number of vehicles associated with the site.
- The elimination of a pre-existing non-conforming commercial use will presumably reduce the overall lighting demands associated with the subject property.
- The elimination of a pre-existing non-conforming commercial use will presumably reduce the amount of overall garbage generated at the subject site.
- The elimination of a pre-existing non-conforming commercial use will eliminate the need for any commercial loading / unloading activity to take place at the site.
- The elimination of a pre-existing non-conforming commercial use will presumably reduce the overall noise associated with the site.
- The elimination of a pre-existing non-conforming commercial use will, generally speaking, result in a more benign (exclusively residential) use at the site.

- The elimination of a pre-existing non-conforming commercial use will result in a less intensely utilized site.
- The permanent elimination of the pre-existing non-conforming commercial use at the site will render the property more compatible with the surrounding single-family uses.
- The permanent elimination of the pre-existing non-conforming commercial use will result in a use which is less disruptive to the overall Zoning Plan (as compared to that which currently exists).
- As indicated, there are currently a totally of 3 uses in the existing building at the site; namely, 1 commercial use and 2 residential dwelling units.
- Approval of the within Application will reduce the number of overall uses at the site from 3 to 2.
- As referenced above, the Board is aware that currently, there are 2 residential dwelling units at the site. The Board is aware that approval of the within Application will not result in any more residential dwelling units being located at the site.
- The Board recognizes that the 2-family use is not a permitted use – and certainly, the non-conforming 2-family use generates certain issues / concerns as well. However, considering the totality of the circumstances, the 2-family use represents a more benign use than the non-conforming mixed use (commercial use and 2 residential dwelling units) which currently exist.
- Perhaps, if the subject development site were entirely vacant, and undisturbed, a non-conforming 2-family home might not be justified (in the absence of sufficiently compelling testimony). However, given that there is a pre-existing non-conforming mixed commercial / residential use at the site, the Board Members recognize the many benefits associated with the less intense 2-family conversion approved herein.
- The R-7 Zone permits / encourages single-family homes – and the 2-family use approved herein will be more consistent with the character of development in the neighborhood (as opposed to what currently exists).
- The Borough's Master Plan generally encourages the preservation of the residential neighborhood of the R-7 area – and the 2-family use approved herein will advance / fulfill such a purpose (much more than the currently existing mixed commercial / residential use at the site).

- There is no new exterior construction associated with the within conversion. Rather, as indicated, only interior construction work will be necessary to convert the mixed commercial / residential use to the 2-family home.
- Approval of the within Application will not materially change the existing building footprint at the site.
- Approval of the within Application will not change the existing building orientation.
- Approval of the within Application will not change the height of the existing building at the site.
- Notwithstanding that there is no new exterior construction associated with the within proposal, approval of the Application will likely result in a number of improvements, including new siding, etc.
- Additionally, in conjunction with the above, a new driveway will be installed and additional landscaping will be planted as well.
- The aforesaid improvements will improve the overall aesthetic appeal of the property.
- Under relevant New Jersey Municipal Case Law, aesthetic improvements can help justify variance relief.
- The aforesaid aesthetic improvements will help minimize some of the detriments otherwise associated with the non-conforming use approved herein.
- The aforesaid site improvements will be beneficial for the surrounding residential uses as well.
- Additionally, as a condition of the within approval, the landscaping will be perpetually maintained / replaced / replanted, as necessary, thereby further evidencing the long-term positive impacts associated with the within approval.
- As is typical, there was a significant discussion as to the overall parking situation at the site – i.e. the existing parking situation and the proposed parking situation.
- Currently, there are no off-street parking spaces associated with the existing mixed use building.

- The lack of any existing off-street parking at the subject property is problematic.
- The lack of any existing off-street parking at the subject property is not functional.
- The lack of any existing off-street parking at the subject property is disruptive.
- The lack of any existing off-street parking at the subject property is even more pronounced in terms of the pre-existing non-conforming existing commercial space at the site.
- In that there is currently no off-street parking spaces at the site, the existing tenants at the site need to rely, exclusively, on on-street parking.
- The Board is aware that because there is no space / parking on site, the current loading / unloading process (associated with the existing commercial use at the site) generally takes place on the street.
- It is believed that the overall parking demands generated by the existing mixed-use building are more intense than what is approved herein.
- Under the Borough's prevailing zoning regulations, the subject 2-family home requires 4 off-street parking spaces.
- As initially submitted, the Applicant's representatives proposed to install / place only 2 off-street parking spaces at the site.
- Thus, as initially submitted, the Applicant's representatives sought a parking variance for the number of off-street parking spaces. Specifically, 4 such spaces were required; and only 2 such spaces were initially proposed.
- While the improved parking count as initially submitted (0 off-street parking spaces to 2 off-street parking spaces) was appreciated, some Board Members were concerned that the overall parking requirement was not satisfied.
- Some Board Members expressed a desire for more off-street parking spaces than what was previously / initially submitted.
- The Board is aware that if there is a lack of parking spaces associated with the pre-existing commercial use, then, in that event, frustrated commercial patrons can simply choose to patronize other commercial venues (with ample parking). However, to the contrary, if there are

residential units at the site, and there are no available parking spaces for the same, the overall parking situation at the site will be problematic / stressful / inconvenient for future residential occupants.

- In 2024, all residential dwelling units should have sufficient off-street parking spaces – particularly if there is sufficient space available on the site to accommodate such parking needs.
- As referenced, and as initially submitted, the 2 proposed off-street parking spaces were still short of the required 4 parking spaces.
- As referenced, some of the Board Members were initially concerned with the proposed parking deficiency.
- After debate and discussion, the Board Members requested that the Applicant's representatives provide more / sufficient / compliant off-street parking spaces at the site.
- As a condition of the within approval, the Applicant's representatives are ultimately required to modify the plan so as to provide 4 off-street parking spaces at the site. That is, the Applicant will comply with the prevailing parking regulations (relative to the number of parking spaces).
- The elimination of the initially requested parking variance substantially improved the overall acceptability of the Zoning Application.
- The elimination of the initially requested parking variance mitigates any detriments otherwise associated with the subject proposal.
- Approval of the within Application will convert the site from non-conforming (in terms of the number of parking spaces) to conforming (in terms of the number of the number of parking spaces).
- Improved off-street parking is beneficial for the site, the neighborhood, and the community as a whole.
- Approval of the within Application will result in the occupants at the site not having to rely exclusively on on-street parking (which will be beneficial for the neighborhood as well).
- The benefits associated with the additional / sufficient off-street parking at the site helps outweigh any detriments otherwise associated with the proposal.

- As indicated, 1 of the existing residential units at the site has 3 bedrooms, and the second existing residential unit at the site has 1 bedroom, resulting in a total of 4 current bedrooms.
- As initially proposed, the Applicant was proposing 1 residential unit with 4 bedrooms and 1 residential unit with 1 bedroom, thereby resulting in 5 total bedrooms (as initially submitted).
- Some Board Members were concerned about the increase in the overall number of bedrooms at the site (from 4 overall bedrooms to 5 overall bedrooms).
- Some Board Members were concerned about the dimensions of some of the proposed bedrooms as well.
- Some Board Members were concerned that increasing the overall amount of bedrooms at the site would unnecessarily intensify the proposal.
- Some Board Members were concerned that an increase in the overall number of bedrooms at the site could, under certain circumstances, even constitute an expansion of a non-conforming use.
- Some Board Members were also concerned about the number of individuals who could lawfully occupy 5 bedrooms at the site (spread out over the 2 residential units).
- Some Board Members were concerned that the increase in the overall amount of bedrooms at the site could lead to potential overcrowding issues.
- Some Board Members were concerned that an increase in the overall number of bedrooms at the site (as initially proposed) could cause potential quality of life issues for future occupants, as well as neighbors.
- Some Board Members were concerned that the narrow hallway width had actually been sacrificed / compromised merely in order to add another bedroom at the site.
- Some Board Members were concerned that placing 4 bedrooms in Unit A (as initially proposed) was neither practical nor functional.
- Some Board Members were concerned that attempting to place 4 bedrooms in Unit A (as initially proposed) did not, under the circumstances, represent sound planning.

- Some Board Members were concerned that placing 4 bedrooms in Unit A (as initially proposed) would result in too many people living at the site.
- As a result of the above concerns, the Board Members respectfully requested that the Applicant's representatives consider the possibility of reducing the number of bedrooms in Unit A from 4 to 3.
- The Applicant's representatives ultimately agreed to such a 3 bedroom concession (for Unit A).
- The Board Members appreciate the willingness of the Applicant's representatives to satisfactorily address the aforesaid planning concerns (by reducing the overall number of bedrooms in Unit A).
- The reduction in the overall bedroom count from 4 bedrooms to 3 bedrooms (in Unit A) substantially improved the overall merits / acceptability of the proposal.
- The reduction in the overall bedroom count from 4 to 3 (in Unit A) significantly reduced the overall intensity of the proposal.
- With the approval of the within Application, the Board is aware that the overall number of bedrooms at the site will remain the same as currently exists. That is, currently, there are a total of 4 bedrooms – and with the within approval, there will continue to be only 4 total bedrooms at the site (i.e. 3 bedrooms in Unit A and 1 bedroom in Unit B).
- Per the testimony and evidence presented, the Board appreciates the significant site improvements which the Applicant's representatives have already effectuated.
- Given the nature of the existing non-conforming use, and the proposed non-conforming use, and given the nature / size of the existing structure, the Board finds that the subject property is, under the circumstances, particularly situated to host the proposed 2-family home (subject to the conditions set forth herein).
- One purpose of the Municipal Land Use Law essentially encourages the approval of Applications which result in appropriate uses being operated in appropriate locations. Given the nature of the existing non-conforming uses at the site, and given the fact that there is no new exterior construction proposed herein, the Board finds that the subject property is, under the circumstances, appropriate to host the non-conforming 2-family home (subject to the conditions set forth herein).

- As referenced, there is no new exterior construction proposed in connection with the within proposal.
- Approval of the within Application will not change the height, orientation, size, or footprint of the existing structure.
- The within Application will advance a number of important objectives – including, but not limited to, the following:
 - The elimination of a non-conforming commercial use at the site;
 - The overall reduction in a number of uses in the existing dwelling from 3 (commercial, residential Unit #A and residential Unit #B) to 2 overall uses (residential Unit #1 and residential Unit #2); and
 - A significant improvement in the overall parking situation at the site.

Based upon the above, the Board unanimously finds that the subject Application can be granted within causing substantial detriment to the public good.

- Subject to the conditions set forth herein, the subject site can accommodate the development conversion proposed herein.
- Subject to the conditions noted herein, the benefits of the requested variance sought in connection with the within Application outweigh any detriments associated with the same.
- Subject to the conditions set forth herein, the proposal will have no known negative impact on adjoining properties; thus, the variance relief can be granted without causing substantial detriment to the public good.
- Approval of the within Application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- Subject to the conditions set forth herein, and subject to the variance, and waivers requested, the Application as presented and modified satisfies the Site Plan requirements of the Borough of Keansburg.

Based upon the above, and subject to the conditions contained herein, a majority of the Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good and without causing substantial impairment to the intent and purposes of the Zoning Ordinances / scheme.

CONDITIONS

During the course of the Hearing, the Board has requested, and the Applicant's representatives have agreed, to comply with the following conditions: (Note: Unless otherwise indicated, all Plan Revisions shall be subject to the review and approval of the Board Engineer.)

- a. The Applicant shall comply with all terms, conditions, promises, and representations made at or during the public hearing process.
- b. The Applicant shall comply with the terms and conditions set forth in the T & M Associates Review Memorandum, June 5, 2024 (A-11).
- c. The within approval shall be contingent upon the Board adopting a Resolution of Dismissal Without Prejudice (and the successful expiration of any applicable appeal period) (with respect to the Applicant's previously submitted Application seeking approval to convert the delicatessen use to an art use / professional office use, and further seeking to increase the size of the first floor apartment).
- d. The Applicant's representatives shall cause the plans to be revised so as to portray and confirm the following:
 - Confirmation that 4 zoning compliant on-site parking spaces shall be added to the plans, located on the right side of the property, with the further confirmation that the said parking spaces shall be designed, installed, and maintained in accordance with the Borough's prevailing design standards (and as otherwise approved by the Board Engineer);
 - Confirmation that the lot coverage for the site (entire lot coverage) shall not exceed 67%;

- Confirmation that 40 feet of the 80 foot driveway (i.e. that portion of the driveway closest to the road) shall be paved;
- Confirmation that the hallway width in the 2 units shall comply with any minimum prevailing size / width regulations;
- Confirmation that Unit A shall only contain 3 bedrooms (and not 4 bedrooms as initially proposed);
- Confirmation that the driveway shall measure 12 ft. wide x 80 ft. deep;
- Inclusion of zoning compliant air conditioning details on the plans;
- Confirmation that the bedroom dimensions shall be placed on the plans;
- Confirmation that the eliminated 4th bedroom (as referenced above) (in Unit A) shall not be labeled as office space, bedroom space, a sitting room, or other such ambiguous designation);
- The inclusion of a note confirming that the Applicant's representatives shall fill in the basement, if the prevailing Building Code / Construction Code Regulations so require;
- Confirmation that the area where the proposed HVAC system / hot water heater is located shall be consolidated;
- Confirmation that a laundry room shall be included in the 3 bedroom unit;
- Confirmation that the off-street parking situation at the site shall comply with the Borough's prevailing zoning regulations (in reference to the number of off-street parking spaces) (that is, confirmation that no variance has been granted for the number of off-street parking spaces) at the site;
- Confirmation that the new siding shall architecturally / aesthetically complement the existing siding; and

- Confirmation that the pull-down staircase to the attic shall comply with any prevailing Building Code / Construction Code regulations; and
 - The inclusion of a note confirming that any landscaping at the site shall be perpetually maintained, pruned, replaced, and replanted, as necessary.
- e. The Applicant's representatives shall submit a Plot Plan with driveway details, parking details, and other details as specifically referenced in the T&M Associates Review Memorandum, dated June 5, 2024 (A-11).
 - f. In conjunction with the successful expiration of any appeal period associated with the within approval, the Applicant's representatives shall officially abandon any pre-existing non-conforming commercial use at the site.
 - g. The Applicant's representatives shall submit an Elevation Certificate to the Board Secretary and Board Engineer.
 - h. The Applicant's representatives shall comply with any prevailing / applicable "substantial improvement" requirements (based upon submission of appropriate cost estimates, cost details, and other requirements requested by municipal officials).
 - i. The Applicant's representatives shall obtain any necessary County Approval for the driveway work / improvement authorized herein.
 - j. The Applicant's representatives shall submit larger, clearer, and more legible plans which clearly delineate the "existing" conditions at the site and the "proposed" conditions at the site.
 - k. Prior to the issuance of any Building Permit, the Applicant's representatives shall submit dimensioned Floor Plans.
 - l. In accordance with N.J. Laws, there shall be no further expansion / intensification of the structure, unless formally authorized by the Keansburg Planning Board of Adjustment.
 - m. Unless waived by the Board, the Applicant's representatives shall sign a Deed Restriction confirming that Unit A shall only be utilized as a 3-bedroom unit. The said Deed Restriction shall be reviewed and approved by the Board Attorney and, thereafter, the same shall be recorded in the Office of the Monmouth County Clerk. Moreover, proof of such recording shall be submitted to the Board Secretary.

- n. In conjunction with the above-referenced 3-bedroom limitation for Unit A, all occupancy / marketing efforts shall reflect and acknowledge the said restriction.
- o. The plans / survey referenced an apparent encroachment into / onto a neighboring property. Per the on-the-record discussion at the public hearing, for record-hearing purposes, the Board has no authority to legitimize the same. Rather, the Applicant's representatives are encouraged to formally review the matter with their legal representatives, their title company representatives, their lender representatives, their surveying representatives, the affected neighbors, etc., relative to obtaining a greater understanding as to whether any type of actual easement exists for such an encroachment, or wither an implied easement exists for such an encroachment, etc. The Board also notes that the said issue could cause potential liability issues, insurance issues, and the same could be the subject of a question for future real estate transfers involving either of the affected properties. Again, the Keansburg Planning Board of Adjustment has no legal authority / guidance / recommendations in the said regard – other than a suggestion that the Applicant's representatives should more carefully review / investigate the matter.
- p. The Applicant shall comply with all Prevailing FEMA Rules and Regulations (including those Regulations pertaining to Flood-proofing Requirements, Flood Hazard Mitigation Requirements, etc.).
- q. The Applicant shall comply with all prevailing affordable housing regulations / contributions / directions / payments , as determined by the Borough of Keansburg, the State of New Jersey, C.O.A.H., the Court system, and / or any other Agency having jurisdiction over the matter.
- r. The site shall comply with all applicable / prevailing Provisions of the Americans with Disability Act.

- s. The Applicant shall obtain any and all approvals (or letters of non-applicability) from applicable outside agencies - including, but not limited to, the Army Corps of Engineers, the State of New Jersey, the Department of Environmental Protection, the Monmouth County Planning Board, the Freehold Soil Conservation District, the Keansburg Redevelopment Agency, the Keansburg Department of Public Works, the applicable Sewerage Authority, and any other Agency having jurisdiction over the matter. Moreover, if the Plans materially change as a result of such outside review / approval, then, unless otherwise waived by the Board, the Applicant shall be required to re-appear before the Land Use Board for further / modified relief.
- t. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate/required fees, taxes, and escrow charges.
- u. The Applicant shall submit appropriate performance guarantees in favor of the Borough of Keansburg.
- v. The within approval shall be deemed abandoned unless, within 24 months of the adoption of the within Resolution (or any agreed upon extension) the Applicant obtaining any necessary Building Permit.

BE IT FURTHER RESOLVED, that the within Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not have been approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate rules, regulations, and/or ordinances of the Borough of Keansburg, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicant's representatives or their agents shall be deemed conditions of the within approval, and any misrepresentations or actions by the Applicant's representatives contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the project, nor does the Keansburg Planning Board of Adjustment, the Borough of Keansburg, or their respective agents/representatives/employees accept any responsibility for the structural design of the proposed improvements or for any damage which may be caused by the use/development.

FOR THE APPLICATION: Mr. Sean Tonne, Mr. John Donohue, Mr. Daniel Shields, Mr. Raymond Preston, Mr. Michael Mankowski, & Mr. Dominick Grasso

AGAINST THE APPLICATION: Mr. Michael Flynn & Ms. Jennifer Perkel

ABSTENTIONS: None

The foregoing Resolution was offered by: Mr. Raymond Preston and Seconded by Mr. John Donohue, and adopted by Roll Call Vote:

IN FAVOR: Mr. Raymond Preston, Mr. John Donohue, Mr. Michael Mankowski, & Mr.

Dominick Grasso

OPPOSED: None

ABSTAINED: None

INELIGIBLE: Ms. Jennifer Perkel & Ms. Eileen Enright

ABSENT: Mr. Micheal Flynn, Mr. Sean Tonne, Mr. Michael Donaldson & Mr. Daniel Shields

*I hereby certify that the foregoing is a true copy of a Resolution adopted by the
Keansburg Planning Board of Adjustment on this 8th day of July, 2024.*


Mackenzie Bittle, Planning Board Secretary

KEK/cmp
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