

**AMENDMENT TO RESOLUTION
GRANTING PRELIMINARY AND FINAL SUBDIVISION APPROVAL
WITH ASSOCIATED VARIANCE RELIEF**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 22 LOTS 26, 30 and 31
Application # 17-01
DEPUTY VENTURES, LLC - MYSTIC AT KEYPORT
(WAS: MICHAEL AND CATHERINE CUMMINS - MYSTIC AT KEYPORT)
44 BEERS STREET**

WHEREAS, Michael and Catherine Cummins were granted bifurcated use variance approval for the purpose of constructing nine (9) new single family dwelling units by the Unified Planning Board of the Borough of Keyport by way of a Resolution dated November 14, 2013 and were subsequently granted Preliminary and Final Subdivision Approval by the Planning Board by way of a Resolution dated December 14, 2017; and

WHEREAS, pursuant to Condition # 4 of the December 14, 2017 Resolution, the applicant was required to provide a public access easement to the Borough of Keyport over proposed lot 26.01 with the ownership of said lot remaining with the applicant; and

WHEREAS, pursuant to Condition # 5 of the December 14, 2017 Resolution, if the applicant failed to maintain proposed lot 26.01, the owners of the remaining proposed lots were required to pay an equal share of the costs to maintain lot 26.01; and

WHEREAS, pursuant to Condition # 6 of the December 14, 2017 Resolution, the owners of proposed lots 31.05, 31.06, 31.07, 31.08, 31.09 and 26.01 were to share costs for the maintenance, repairing or replacement of a gabion wall which was located across the property; and

WHEREAS, the property has now been purchased by Deputy Ventures, LLC which wishes to proceed with the approved project; and

WHEREAS, during the process of attempting to fulfill its obligations under the December 14, 2017 Resolution, Deputy Ventures, LLC was advised by the Borough of Keyport that it did not wish to accept the public access easement required by Condition # 4; and

WHEREAS, rather than granting a public access easement to the Borough of Keyport, Deputy Ventures, LLC has instead been able to grant such a public access easement to the New Jersey Department of Environmental Protection (DEP), and

WHEREAS, Deputy Ventures, LLC also wishes to have a homeowners' association formed to undertake the maintenance obligations required by Condition #'s 5 & 6 of the December 14, 2017 Resolution rather than having those obligations be assigned to individual homeowners; and

WHEREAS, Deputy Ventures, LLC has therefore turned to the Board for administrative relief from Condition #'s 4, 5 and 6 of the December 14, 2017 Resolution so as to convert the obligation of assigning a public access easement to the Borough of Keyport contained within

Condition # 4 to an obligation of assigning that easement to the DEP and further to allow the formation of a homeowners' association to assume the obligations of the individual property owners contained within Condition #'s 5 and 6; and

WHEREAS, the Board did review the administrative request of the applicant during its regular public meeting held on March 28, 2019 and has found that all of the requested resolution modifications are within the spirit of the original approval and in fact actually strengthen those requirements by having a State Agency control the public access easement and by having an organized homeowners' association maintaining what will now be common elements rather than having responsibility for the maintenance of Lot 26.01 and the gabion wall left to individual homeowners;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the administrative relief requested by Deputy Ventures, LLC is hereby granted as follows and made subject to these conditions:

1. Condition # 4 of the December 14, 2017 Resolution is hereby modified to read as follows:
"Subject to the condition that in order to ensure public access to the walkway which will be constructed upon new Lot 26.01, a public access easement must be granted to the New Jersey Department of Environmental Protection. Said easement language must be reviewed and approved by the Board's attorney and engineer so as to ensure compliance with the intent of this Resolution."
2. Condition # 5 of the December 14, 2017 Resolution is hereby modified to read as follows:
"Subject to the condition that all lots created by this approval shall be made part of a homeowners' association and that said association be required to manage the maintenance of proposed vacant Lot 26.01. The association's governing documents shall be reviewed by the Board's attorney and engineer prior to their recording with the county clerk."
3. Condition # 6 of the December 14, 2017 Resolution is hereby modified to read as follows:
"Subject to the condition that the governing documents for the homeowners' association required by Condition # 5 of this Resolution also include the obligation of maintaining, repairing and replacing the gabion wall which is on the subject property, with said gabion wall being declared a common element for the association. The association's governing documents shall be reviewed by the Board's attorney and engineer prior to their recording with the county clerk."
4. Subject to all other conditions of the Planning Board's Resolutions of November 14, 2013 and December 14, 2017 being adhered to as originally drafted.

5. 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 K. Howe, second by R. Benedict

Affirmative: M. Sessa, H. Aumack, R. Benedict, L. Davidson, K. Howe, D. Pacheco

Negative:

Abstentions:

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 May 23, 2019.

A handwritten signature in blue ink, appearing to read "Denise Nellis", is written over a horizontal line.

Denise Nellis, Secretary to the Board