

Resolution prepared by:
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**RESOLUTION
MINOR SITE PLAN APPROVAL
WITH BULK VARIANCE RELIEF**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 94, LOTS 17, 17.01, 18, 19, 20, 20.01, 21, 23 & 25.01
Application # 23-14
KEYPORT YACHT CLUB INC.
93 FIRST STREET**

WHEREAS, Keyport Yacht Club Inc. has filed an application seeking Minor Site Plan approval for the purpose of constructing an additional off-street stone parking area, a new pavilion and an outdoor fireplace with a seating area as accessories to its existing yacht club located at 93 First Street which is officially designated as Block 94, Lots 17, 17.01, 18, 19, 20, 20.1, 21, 23 & 25 on the Borough of Keyport's Tax Map; 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 on the application were conducted on the within matter during a regularly scheduled meetings of the Unified Planning Board held on February 22, 2024, April 25, 2024 and May 23, 2024; 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 seeks Minor Site Plan approval for the purpose of constructing an additional off-street stone parking area, a new 8-foot wide by 14.5-feet high pavilion and an outdoor fireplace with a seating area as accessories to its existing yacht club located at 93 First Street which is officially designated as Block 94, Lots 17, 17.01, 18, 19, 20, 20.1, 21, 23 & 25 on the Borough of Keyport's Tax Map.¹
2. The subject property contains the nine (9) lots referenced in the previous paragraph, totaling 58,150 SF, and approximately 165 total feet of frontage on First Street and is improved with a one-and-a-half-story framed commercial building. Additional existing site improvements include: a front entrance canopy, paved parking lot, metal deck with concrete pad, and three sheds in the rear of the building, dumpster enclosure at the end of Atlantic Street, sidewalks,

¹ While shown on the submitted application and plans, Lots 20.01 and 25.01 are both non-terrestrial lots located within the Raritan Bay are therefore not included with the total square footage of the property.

concrete/stone walls, wooden boardwalk, dock, a paved driveway connecting the rear of the property to First Street, and one (1) wooden boat pier servicing the yacht club.

3. The proposed improvements in this application are located upon Lots 18 and Lot 19. Lot 18 is located at the northwestern corner of the First Street and Atlantic Street intersection and situated within the GMC (General Marine Commercial) Zoning District. Lot 19 is located east adjacent to Lot 18.
4. Lot 18 consists of 9,383.20 SF and contains 69.83 feet of frontage on First Street. Lot 19 consists of 9,578 SF. Lot 18 is vacant but improved with existing grading, a 4,300 SF stone area in the front portion of the Lot, three existing trees, a block wall, and a concrete wall. There previously was a house on Lot 18 but it has since been demolished.
5. As noted in the first paragraph of this Resolution, the applicant proposed to construct an additional off-street parking area, an 8-foot wide by 14.5-feet high pavilion, and an outdoor fireplace with a seating area on Lot 18. A proposed driveway apron connecting a previously vacated portion of Atlantic Street to the proposed parking area will serve as the only point of vehicular ingress/egress.² The pavilion, fireplace and seating area are proposed to the north (behind) of the new parking area. Additionally, the applicant proposes to update one (1) existing off-street parking space on Lot 19 to an Electric Vehicle (EV) Make-Ready Parking space, restrip one (1) existing ADA parking space, convert one (1) existing parking space to an ADA parking space, and add one (1) additional ADA parking space for a total of three (3) proposed ADA parking spaces.
6. As previously noted, the subject properties are all located within the Borough's GMC (General Marine Commercial) Zoning District which permits the existing yacht club and its assorted amenities.³
7. The following bulk variances, pursuant to the provisions of N.J.S.A. 40:55D-70(c), are necessary in order to for the applicant to proceed with its proposed improvements:

VARIANCE	REQUIRED	EXISTING / PROPOSED
Side Yard Setbacks - Eastern (Existing Shed on Lot 23)	6 feet	2.3 feet (No changes proposed)
Rear Yard Setbacks (Existing Shed on Lot 23)	16 feet	10.2 feet (No changes proposed)

² On September 6, 2011, the Borough of Keyport adopted Ordinance No. 16-11 which authorized the vacating and abandonment of a portion of Atlantic Street. The vacated, dead-end portion of Atlantic Street is now used as a private driveway for the yacht club and serves as a point of ingress/egress to the existing asphalt parking area on Lots 19 and 21.

³ During the Board's April 25, 2024 hearing a challenge was raised by an objector to the application, Michael Lane of 51 First Street, as to whether the applicant was a yacht club or a marina. Utilizing its interpretation powers pursuant to N.J.S.A. 40:55D-70(b) that the applicant was in fact a yacht club and that provisions within the zoning ordinance which only applied to marinas was therefore not applicable to this application.

Off Street Parking	73 spaces	63 spaces, including 3 ADA spaces and 1 EV charging stations proposed (35 spaces, including 1 ADA space currently exist)
Parking Space Dimensions	9 ft. x 20 ft. required	Nearly all of the existing and proposed spaces do not meet the requirement
Off Street parking and Loading Areas	Shall be screened	Required screening not provided
Off Street Parking and Loading Areas	Shall not be located closer than five feet to any Residential Zone property	A setback of zero (0) feet to a residential property is proposed
Off Street Parking and Loading Areas	Parking areas must be surfaced with an asphalt or Portland cement pavement	Proposed new parking area will not be paved, instead being surfaced with stone
Fencing along residential property	6 foot high fence required	4 foot high metal fence exists and will remain

8. During all portions of these proceedings, the applicant was represented by Salvatore Alfieri, Esquire of the law Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices located at 955 State Route 34, Suite 200, Matawan, New Jersey.
9. In support of the application, the following exhibits were marked into evidence:
 - Exhibit A-1 :** Planning Board Application
 - Exhibit A-2 :** "Site Plan For Keyport Yacht Club" prepared by Robert T. Kee, Jr., P.E., P.L.S. of Kee Engineering Enterprises dated July 5, 2023, last revised October 18, 2023 (consisting of 6 sheets)
 - Exhibit A-3 :** "Existing Condition Plan" prepared by Robert T. Kee, Jr., P.E., P.L.S. of Kee Engineering Enterprises dated July 5, 2023, last revised November 30, 2023
 - Exhibit A-4:** Boundary and Topographic Survey prepared by Bruce R. Heuser, P.L.S. of Richard K. Heuser, P.C. dated November 17, 2023, last revised December 8, 2023
 - Exhibit A-5:** Photo Board of eight (8) photographs depicting the property as it previously appeared and how it looks today
 - Exhibit A-6:** Revised Site Plan (**Exhibit A-2**) last revised March 18, 2024
 - Exhibit A-7:** E-mail from Borough Fire Marshall, Anthony Vecchio approving proposed layout of proposal
 - Exhibit A-8:** Final revised site plan (**Exhibit A-2**) last revised May 10, 2024
10. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:
 - Exhibit B-1:** Engineering & Planning review letter dated as prepared by T&M Associates dated February 15, 2024.
 - Exhibit B-2:** Fire Marshall E-mail dated September 19, 2023
 - Exhibit B-3:** Police Review E-mail dated September 11, 2023
 - Exhibit B-4:** Colliers Special Food Hazard Permit Letter dated September 15, 2023

11. It was agreed, as a condition of approval, that the applicant would consolidate all of the lots into a single entity provided that such a consolidation would not result in an increased tax obligation for the yacht club.
12. In addition to the aforementioned exhibits, the applicant also presented sworn testimony from its site engineer, Robert Kee, P.E. , who testified as to the basics of the proposed application noting that Lot 18 had been bought for the sole purpose of creating a new parking lot area for the yacht club. Parking has traditionally been a significant problem at the yacht club. This would help relieve that issue. The addition of a pavilion and fire pit were simply driven by a desire to use the additional space now available with the extra land.
13. It was noted that the proposal would not impact site drainage and no off-tract improvements were being provided. The proposed pavilion had also been moved outside of the flood hazard area per the request contained within Colliers' review letter. (Exhibit B-4)
14. Lighting was proposed for the new parking lot area. These would include two (2) new lamp posts and six (6) new baluster lights. The lighting would be properly shielded so as to ensure they would not shine onto neighboring properties. These new lights would also be placed on timers so as to ensure they would be shut down by midnight during the summer and by 10 pm in the winter. These would be conditions of approval.
15. As a condition of approval, notes were to be added to the final plan making clear which fencing already exists and which new fencing is to be added.
16. The applicant agreed that (2) new sections of fence of eight (8) feet each would be added along the last 20 feet of the existing four (4) foot high metal fence along the westerly property line so as to properly shield the adjacent residential neighbor. This was acceptable to the Board's Planner.
17. The applicant further agreed, as a condition of approval, that plantings would be installed between the end of the fence line to the water front along adjacent Lot 15. The existing fence along Lot 15 shall also be relocated so that it is six (6) inches onto the applicant's property and no longer encroaches on Lot 15. Additionally, any landscaping along the street side of Lot 15 shall not rise above two (2) feet so to maintain the line of sight. The final landscaping and fence relocation plans would be subject to the review and approval of the Board's Engineer & Planner.⁴. The addition of such improvements was confirmed under oath by the Yacht Club's Commodore, Sherry Dietz.

⁴ Paragraphs J(3) and J(4) of the T&M review letter (Exhibit B-1) advocated for the providing of new fencing and additional landscaping. After considering the applicant's request however, T&M agreed that the limited landscaping and fencing being offered would be more than sufficient to properly protect neighboring property owners.

18. With respect to the proposed pavilion, it was agreed as a condition of approval, that no electric would be added to the structure. Additionally, there would not be any table service provided to the pavilion area, nor would any music be played there. Garbage cans would also be added to the pavilion area so as to allow for proper waste disposal. Said cans placement to be subject to the review and approval of the Board's Engineer and Planner. Finally, the floor of the pavilion would be required to be set so as to ensure privacy for the neighboring home owner. Specifically, the floor elevation would be 17.5 feet with the lawn elevation being 17 feet.
19. With respect to the proposed fire pit area, it was agreed, as a condition of approval, that construction details would be provided for review and approval by the Board Engineer.
20. As to the proposed new parking lot, it was agreed, as a condition of approval, that the space could only be utilized for motor vehicle parking. Storage of boats in this area would be absolutely prohibited.
21. It was agreed as a condition of approval, that the emergency access drive would in fact be paved. Additionally, proper signage would be added to the access drive making clear that parking is prohibited on the opposite side of parking spaces 15 through 20 as shown on the second sheet of **Exhibit A-8**. All signage was to be subject to the review and approval of the Board's Engineer and Planner.
22. While the majority of the new parking spaces being proposed would not require striping, spaces 15 through 20, as shown on **Exhibit A-8**, would also be stripped appropriately since they were located along the emergency access drive. The remaining newly proposed spaces, unless striped, would have wheel stops installed. These would be conditions of approval.
23. It was noted that there is an existing Verizon telephone post located on the property that is no longer being utilized. As a condition of approval, the applicant agreed to contact Verizon and ask that it be removed. In the event Verizon refuses to remove same, it would not negate any approvals granted. Proof of the attempt to contact Verizon must be supplied to the Board's Attorney for his review.
24. Mr. Kee believed that what was being proposed here was a significant improvement from what currently exists at the site. He noted that not only was the yacht club gaining additional parking, but a fire lane was also being added to the site to make emergency access to the property more efficient. This was all shown on **Exhibit A-8**.
25. In response to the proposed application, several members of the public spoke as to concerns over the proposed new parking areas and whether proper shielding was being included. Many of these concerns resulted in the creation of the final plan included as part of **Exhibit A-8**. The members of the public who spoke were as follows:

(A) John Fahey of 121 First Street and 117 First Street who indicated concern over the proximity of parking spaces to the home at 117 First Street, submitted the following exhibits into evidence:

Exhibit F-1: Five photographs of his house located at Lot 24 (117 First Street)

Exhibit F-2: Three photographs of the same house from the rear

Exhibit F-3: Photograph of about five years ago showing no parking on grass

(B) Michael Lane of 51 First Street who submitted the following exhibits into evidence:

Exhibit L-1: Five page exhibit showing parking conditions

Exhibit L-2: Two pages listing conditions he would like to see imposed

(C) John Ziemian of 89 First Street who indicated concern over whether there was sufficient screening for his property submitted the following exhibits into evidence:

Exhibit Z-1: A packet showing current conditions

Exhibit Z-2: A two packet concerning the proposed pavilion

(D) George Wahling of 54 Second St. who was concerned over boat storage in parking areas

26. In addition to those neighbors who expressed concerns about the application, the Board also heard testimony from Chris Bolte of 205 Broadway who indicated that she was a member of the Yacht Club and urged the Board to approve the application as the entity was a dying breed and needed the extra parking areas in order to survive. She felt that the use met the requirements of the Master Plan and Zoning Ordinance and there was absolutely no reason to deny the requested relief.
27. Board Engineer, Francis W. Mullan, P.E., C.M.E. who was sworn, indicated he had no issues with the application provided the comments of T&M's letter were adhered to. **(Exhibit B-1)** The applicant agreed to do so, with the obvious exception for those comments related to variances which were being granted.
28. After considering all the testimony and evidence, and assuming all representations were adhered to, the Board finds that proposed site will function properly as proposed under the site plan once it has been revised to meet the conditions of this Resolution.
29. The Board agrees with the testimony of the applicant's engineer that once the improvements to the site have been made, the yacht club will be much improved due to it now having additional parking spaces as well as a new emergency access drive.
30. Based upon the evidence presented, the Board finds that the requested variance relief can be granted pursuant to the provisions of both N.J.S.A. 40:55D-70(c)(2) since the benefits of granting the variance and approving the entire project, so as to ensure the site is properly developed and is therefore able to continue to survive, far outweighs whatever benefit would be obtained by strictly adhering to the ordinance requirements.

31. It seems clear to the Board that the benefits of granting this application and approving the proposed minor site plan is in the best interest of the Borough and such an approval far outweighs any detriments that might occur.
32. Based upon all of the above, the Board finds the applicant has met its burden in establishing that it is entitled to the requested minor site plan approval, with bulk variance relief. As such, the sought after application should be granted in its entirety.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of the Keyport Yacht Club be granted subject to the following:

1. Subject to substantial compliance with the plans submitted into evidence unless otherwise modified by this Resolution.
2. Subject to the applicant consolidating each of the lots into a single lot provided that such a consolidation will not result in an increased tax obligation for the yacht club. Should the applicant argue that consolidation will not occur because it would lead to an increased tax obligation, proof of same must be supplied to the Board Attorney for his review.
3. Subject to all new lighting being properly shielded so as to ensure they do not shine onto neighboring properties. These new lights must also be placed on timers so as to ensure they shut down by midnight during the summer and by 10 pm in the winter.
4. Subject to the condition notes be added to the final plan making clear which fencing already exists and which new fencing is to be added.
5. Subject to the condition two (2) new sections of fence of eight (8) feet each would be added along the last 20 feet of the existing four (4) foot high metal fence along the westerly property line so as to properly shield the adjacent residential neighbor. Said landscaping to be subject to the review and approval of the Board's engineer and planner.
6. Subject to condition plantings be installed between the end of the fence line to the water front along adjacent Lot 15. The existing fence along Lot 15 shall also be relocated so that it is six (6) inches onto the applicant's property and no longer encroaches on Lot 15. Additionally, any landscaping along the street side of Lot 15 shall not rise above two (2) feet so to maintain the line of sight. The final landscaping and fence relocation plans would be subject to the review and approval of the Board's Engineer & Planner.
7. Subject to the following conditions relative to the proposed pavilion: (i) No electric shall be added to the structure; (ii) there shall not be any table service provided to the pavilion area; (iii) there shall not be any music played there; (iv) garbage cans shall be added to the pavilion area so as to allow for proper waste disposal. Said cans placement to be subject to the review and approval of the Board's Engineer and Planner; and (v) the floor of the pavilion shall be required to be set so as to ensure privacy for the neighboring home owner. Specifically, the floor elevation would be 17.5 feet with the lawn elevation being 17 feet.

8. Subject to the construction details for the proposed fire pit area be provided for review and approval by the Board Engineer.
9. Subject to the condition that the new parking areas are to be utilized for motor vehicle parking only. Storage of boats in these areas are absolutely prohibited.
10. Subject to the condition that the emergency access drive be paved. Additionally, proper signage must be added to the access drive making clear that parking is prohibited on the opposite side of parking spaces 15 through 20 as shown on the second sheet of **Exhibit A-8**. All signage shall be subject to the review and approval of the Board's Engineer and Planner.
11. Subject to the condition that spaces 15 through 20, as shown on **Exhibit A-8**, be striped appropriately since they are located along the emergency access drive. The remaining newly proposed spaces, unless striped, shall have wheel stops installed.
12. Subject to **Exhibit A-8** being revised so as to remove the words "Proposed Stone Parking Lot."
13. Subject to the applicant contacting Verizon to ask that the abandoned telephone pole on the property be removed. In the event Verizon refuses to remove same, it would not negate the approval. Proof of the attempt to contact Verizon must be supplied to the Board's Attorney for his review.
14. Subject to compliance with the comments of the T&M Review Letter (**Exhibit B-1**) consistent with this resolution.
15. 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 which were made shall be deemed a violation of this approval.
16. 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.
17. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
18. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
19. This approval shall be deemed void by abandonment if a permit is not applied for within two years of the date hereof.
20. 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.
21. 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 Planning Board or its reviewing professionals and agencies accept any responsibility for the structural design of the improvements or any damage that may be caused by the development.

22. 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 M. Sessa, second by N. Vecchio
and on Roll Call, the following vote was recorded:
Affirmative: Mayor Araneo, H. Aumack, J. Oviedo, D. Pacheco, M. Sessa, N. Vecchio, C. Demarest,
J. Kovacs -Olsen
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, 2024.



Denise Nellis, Secretary of the Board