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BY: 18-06A

APPLICATION TO THE KEYPORT UNIFIED PLANNING BOARD

1. SUBJECT PROPERTY

Location: Waverly Street
Tax Map: Block 128 Lot(s) 2,3,4.01
Dimensions: Frontage 160 Depth 152 Total Area _____
Zone District: _____

Location of the property is approximately 0 feet from the intersection of
Waverly and First Street

The property is located within 200 feet of another municipality: ☒ NO ☐ YES
If yes, name of municipality _____

The property fronts on a County Road or State Hwy: ☒ NO ☐ YES
COUNTY ROUTE NO. _____ STATE HWY NO. _____

2. APPLICANT INFORMATION

Full Legal Name: Keyport Homes LLC
Address: 60 Third Ave Long Branch NJ 07740
(Street) (City) (State) (Zip)

Telephone Numbers: DAY 7328881400 EVENING _____

Applicant is a: ☐ Corporation ☐ Partnership ☐ Sole Proprietor ☐ Resident

LLC

3. OWNER IF DIFFERENT FROM APPLICANT

If the owner of the property is someone different from the Applicant, then please complete the following:

Owner's Name: _____
Address: _____
(Street) (City) (State) (Zip)

Telephone Numbers: DAY _____ EVENING _____

4. **ADDITIONAL PROPERTY INFORMATION**

Restrictions, covenants, easements, homeowners/condo association by-laws, existing or proposed on the property:

___ YES (attach copies and/or copy of deed) ___ PROPOSED (attach description) ___ NONE

NOTE: All Deeds Restrictions, covenants, easements, association by-laws, either existing or proposed, must be submitted for review, and must be written in easily understandable English in order to be approved.

Present use of the premises and proposed use (describe in detail):
Completed development

5. **APPLICANT'S EXPERTS / REPRESENTATIVES**

Applicant Attorney: Sal Alfieri
(Name and Firm if Applicable)

Address: 955 Hwy 34 suite 200. Matawan. NJ. 07741
(Street) (City) (State) (Zip)

Telephone: 7325837474 Fax _____

Applicant Engineer: WJH Engineering
(Name and Firm if Applicable)

Address: 257 Monmouth Road. Oakhurst. NJ. 07751
(Street) (City) (State) (Zip)

Telephone: 7322231313 Fax _____

Applicant Planning Consultant: _____
(Name and Firm if Applicable)

Address: _____
(Street) (City) (State) (Zip)

Telephone: _____ Fax _____

Applicant Traffic Engineer: _____
(Name and Firm if Applicable)

Address: _____
(Street) (City) (State) (Zip)

Telephone: _____ Fax _____

6. OTHER EXPERTS

List any other expert(s) who will submit a report and/or testify on behalf of the Applicant.

Name: _____ Field of Expertise: _____

Address: _____
(Street) (City) (State) (Zip)

Telephone: _____ Fax _____

7. RELIEF BEING REQUESTED

SUBDIVISION APPROVAL

_____ Minor Subdivision

_____ Major Subdivision

_____ Major Subdivision – Final

_____ Number of Lots to be Created

_____ Number of Proposed Dwelling Units

Note: A "Plan of Subdivision" must be submitted in accordance with the submission requirements set forth in the Submission Checklist and the Borough of Keyport Ordinance.

SITE PLAN APPROVAL

_____ Major Site Plan Approval _____ Minor Site Plan Approval

_____ Preliminary Site Plan Approval (phases – if applicable) _____

_____ Final Site Plan Approval (phases – if applicable) _____

_____ Amendment or Revision to an Approval Site Plan (Area to be disturbed – square feet)

☒ Request for a Waiver from Site Plan Review and Approval. Reason for Request: _____
Relief from underground utility installation for power cable and phone

OTHER

_____ Informal Review of _____

_____ Appeal Decision of the Zoning Officer (N.J.S.A. 40:55D-70.a.) Describe nature of appeal: _____

_____ Interpretation of Map or Ordinance, or Decisions upon Special Questions (N.J.S.A. 40:55D 70.b.) Explain: _____

_____ Variance Relief-Hardship (N.J.S.A. 40:55D-70c (1)) Provide Reasons: _____

_____ Variance Relief-Substantial Benefit (N.J.S.A. 40:55D-70c (2)) Provide Reasons: _____

_____ Variance Relief-Use (N.J.S.A. 40:55D-70cd) Provide Reasons: _____

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED</u>
Minimum lot area:*	_____	_____	_____
Building coverage limit:*	_____	_____	_____
Front yard setback:*	_____	_____	_____
Side yard setback:*	_____	_____	_____
Rear yard setback:*	_____	_____	_____
Roadway setback:	_____	_____	_____
Impervious coverage limit:	_____	_____	_____
Parking spaces:*	_____	_____	_____
Building height:*	_____	_____	_____

*DENOTES ITEMS REQUIRED ON THE SITE PLAN.

7. **SUBMISSION REQUIREMENTS**

The Applicant is required to submit each of the following, unless otherwise noted:

- A. Application: An Original and nineteen (19) copies to the Board Secretary (Total 20) must be submitted (with attached site plan, plot plan, survey and/or other pertinent documents).
- B. Escrow Agreement (Form #1): Sign and submit with original copy of application
- C. Notice of Public Hearing (Form #2): DO NOT MAIL TO PROPERTY OWNERS UNTIL AUTHORIZED TO DO SO BY THE BOARD'S SECRETARY. Submit a draft copy (leaving date of hearing blank) and submit with original application. *(Not required for minor subdivision where no variances are requested)*
- C. Affidavit of Publication – Asbury Park Press: Evidencing that the Notice of Public Hearing (Form #3) was published at least ten (10) days prior to the hearing date: (DO NOT PUBLISH NOTICE IN NEWSPAPER UNTIL AUTHORIZED TO DO SO BY THE BOARD'S SECRETARY) Submit to the Board's Secretary as soon as received by the newspaper. *(Not required for minor subdivision where no variances are requested)*
- D. Affidavit of Service – with attachments (Form #4). Submit to the Board's Secretary along with Original copies of Certified Mail Receipts stamped by the US Post Office as to the date of mailing, and a copy of the Notice of Public Hearing (Form #2) with hearing date.
- E. Tax Payment Certification (Form #5). Submit with Original copy of Application.

8. **OTHER APPROVALS, WHICH MAY BE REQUIRED, AND THE DATES THAT PLANS/APPLICATIONS WERE SUBMITTED:**

AGENCY OR PERMIT	YES	NO	DATE PLANS SUBMITTED
Borough of Keyport Health Dept	_____	_____	_____
Borough of Keyport Planning Board	_____	_____	_____
Freehold Soil Conservation District	_____	_____	_____
NJ Dept. of Transportation	_____	_____	_____
JCP&L	_____	_____	_____
Other: _____	_____	_____	_____

*NJ Dept of Environmental Protection

*Check nature of approval(s) needed on next page:

_____ Sewer Extension Permit; _____ Sanitary Sewer Connection Permit; _____ Potable Water Construction Permit;
 _____ Stream Encroachment Permit; _____ Wetlands Permit; _____ Tidal Wetlands Permit; _____ Other _____

List of Maps, Reports and other materials accompanying this application (attach additional pages as required for complete listing): _____

9. **OTHER INFORMATION ATTACHED IN SUPPORT OF YOUR APPLICATION.**
(List specific information attached and its importance/significance to your application): _____
Testimony to be offered at meeting _____

10. CERTIFICATIONS

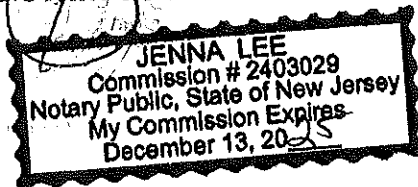
APPLICANT

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant that I am authorized to sign the application for the Corporation, or that I am a general partner of the partnership applicant. (If the Applicant is a corporation, this application must be signed by an authorized corporate officer as indicated in a resolution of the corporation which must be attached hereto. If the applicant is a partnership, this must be signed by a general partner).

Sworn to and subscribed before me this

10th day of Sept, 2021

NOTARY PUBLIC



X

SIGNATURE OF APPLICANT

Leonard Rubinstein

Applicant's Name (Print)

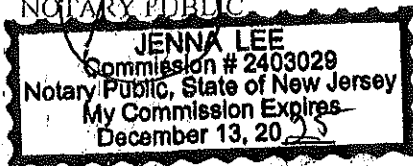
OWNER (IF DIFFERENT FROM APPLICANT)

I certify that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made by the applicant, and the decision of the Board in this matter.

Sworn to and subscribed before me this

10th day of Sept, 2021

NOTARY PUBLIC



X

SIGNATURE OF OWNER

Leonard Rubinstein

Owner's Name (Print)

FORM #5

TAX PAYMENT CERTIFICATION

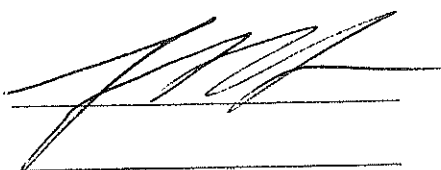
Pursuant to the New Jersey State Law, Chapter 174 of 1987, N.J.S.A. 40:55D-39e and N.J.S. 40:55D 65h, an applicant may be required to furnish proof that no taxes or assessments of local improvements are due or delinquent on the property for which any relief is being sought through the Unified Planning Board of the Borough of Keyport. An applicant must complete Section I of this form and request the Keyport Borough Tax Office to complete Section II which verifies that no taxes or assessments are due. When completed, the applicant should attach this form to the originally signed application that is to be submitted to the Board secretary.

SECTION I (To be completed by applicant):

I _____ residing at _____
_____ and making an application for
the following relief before the Unified Planning Board of the Borough of Keyport:

Regarding property known as Block _____ Lot(s) _____ on the
Tax Map of the Borough of Keyport, located at: _____
whose owner of the record is _____, who resides at
_____. I request the Tax Collector of the Borough of
Keyport to determine if all taxes and/or assessments are paid on the property that is the subject of
my application.

DATE OF REQUEST: _____


(Applicant's Signature)

SECTION II (To be completed by the Keyport Borough Tax Collector)

I certify that: _____ All taxes are paid up-to-date on the above referenced property
_____ All assessments due have been paid
_____ The following are delinquent and past due: _____

Date: _____

(Tax Collector) _____

ESCROW AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into this _____ day of _____ 20____ by and between the KEYPORT UNIFIED PLANNING BOARD (the "Board") and _____ (the "Applicant").

1. PURPOSE. The Board authorizes its professional staff to review, inspect, report to the Board, and study all plans, documents, statements, improvements and provisions submitted by the Applicant to the Board or pursuant to relief granted to the Applicant by the Board. The Board is entitled to reimbursement from an Applicant for all reasonable costs/fees incurred by the Applicants in accordance with N.J.S.A 40:55D-8, and N.J.S.A 40:55D-53 et seq. of the New Jersey Municipal Land Use Law ("MLUL").

2. ESCROW ESTABLISHED. The Board, Borough and Applicant, in accordance with the provisions of this Agreement, hereby create an escrow deposit account to be established with the finance office of the Borough of Keyport.

3. ESCROW FUNDED. The Applicant, by execution of this Agreement, shall pay to the Borough to be deposited in the account referred to in paragraph 2 above.

4. INCREASE IN ESCROW AMOUNT DEPOSITED. If, during the existence of this escrow agreement, the funds deposited into said escrow account are insufficient to cover any voucher or bill submitted by the Board's professional staff, the applicant shall, within fourteen (14) days of receipt of a notice from the Board or the Borough that a deficiency in the escrow exists, provide such funding as required to fund the existing deficit as well as to pay for projected costs and fees associated with the ongoing professional reviews, inspections, etc., pursuant to applicable Borough ordinances governing the same, as well as the MLUL.

5. DISPUTES AND APPEALS. Should any disputes arise by and between the applicant and the Borough and/or the Board with respect to either the funding of, or payment from, the escrow account established herein, then the settlement of any and all disputes, including appeals from any decisions made by the Borough and/or the Board regarding such escrow account shall be made as called for by the applicable ordinance of the Borough of Keyport and the provisions of the MLUL.

6. COLLECTION OF DELINQUENT ESCROW BALANCES. Should the Applicant fail to adequately and on a timely basis fail to fund its escrow account so that the payment of necessary fees of the Board's professionals can be made in accordance with the law, then the Borough and/or Board shall be entitled to pursue all remedies available at either law of inequity, including but not limited to all amounts due, and simple interest at a rate of 18% per annum on all sums unpaid, beginning from 30 days after the applicant received notice of such deficiencies, if permitted by law. The Borough and/or Board shall be permitted to place a lien against any and

all properties within the Borough owned by the Applicant until such time as all sums due and owed have been paid. The Borough shall also have the right to withhold and/or suspend any building permits, the conduct of construction inspections, the issuance of certificates of occupancy, and other actions, unless and until all escrow deficiencies have been satisfied by the Applicant.

Date:

Sept 10, 2021

X

[Signature]
SIGNATURE OF APPLICANT

Owner's Name (Print)

Sworn to and subscribed before me this
10 day of Sept 2021

[Signature]
NOTARY PUBLIC
JENNA LEE
Commission # 2403029
Notary Public, State of New Jersey
My Commission Expires
Date: December 13, 2025

BOROUGH OF KEYPORT

Date: _____

BOROUGH OF KEYPORT
UNIFIED PLANNING BOARD

RESOLUTION OF APPROVAL
USE VARIANCE WITH PRELIMINARY AND FINAL SITE PLAN APPROVAL TO
CONSTRUCT SIX UNIT TOWNHOUSE DEVELOPMENT

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 128 LOTS 2,3 & 4.01
Application # 18-06
KEYPORT HOMES, LLC
26 WAVERLY PLACE

WHEREAS, Keyport Homes, LLC has applied to the Unified Planning Board of the Borough of Keyport for Use Variance relief with Preliminary and Final Site Plan Approval as to property which currently houses the Keyport Fire Patrol building and is located at 26 Waverly Place which is officially designated as Block 128, Lots 2, 3 & 4.01 on the official tax map of the Borough of Keyport so as to construct a six unit townhouse development made up of three (3) separate two family dwelling structures; and

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and have 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, a public hearing was held in the within matter during a regularly scheduled meeting of the Unified Planning Board held on September 27, 2018;

WHEREAS, Board Members John Kovacs, Jacqueline Kovacs-Olsen and Roger Benedict did recuse themselves from all aspects of this application due to their membership in a fire company which owns property onto which the Keyport Fire Patrol would relocate if the application were granted and the existing Keyport Fire Patrol building at the subject property was demolished; 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. The applicant, Keyport Homes, LLC, is seeking approval to develop property at 26 Waverly Street, which is officially designated as Block 128, Lots 2, 3, and 4.01 on the tax map of the Borough of Keyport, so as to construct a six (6) unit townhouse development, made up of three (3) separate two-family dwellings, which will be operated as a condominium association.
2. The property was previously the subject of a Use Variance and Site Plan application brought by the same applicant seeking to construct a two and half (2.5) story, eight (8) unit townhouse development. That application was denied by the Planning Board by way of a Resolution of Denial dated May 22, 2018.

3. The property in question is a 20,929 square foot lot located on the southeast corner of the intersection of Waverly Street and First Street and which is currently the site of the Keyport Fire Patrol building.
4. The property is located in the Borough's Residential A (RA) District which does not currently permit the proposed multi-family development. As a result, this application requires use variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(d)(1).
5. Each of the six (6) proposed units will be 2.5 stories and be 18 feet in width by 55 feet in length. All of the units will have a driveway and single car garage. Concrete walkways will lead to the entrance of each unit and patios will be constructed at the rear of each unit. The rears of each unit will be separated by a five (5) foot board on board fence.
6. In addition to the actual dwelling units, the applicant also proposes grading, drainage, a sanitary sewer extension, sidewalk and curb improvements and the paving of Waverly Street. Finally, the applicant proposes the construction of a 6 foot high vinyl fence along the sides and rear lines of the subject property, including along First Street and along the rear yards of 151 Second Street (Block 128, Lot 6.03) and 153 Second Street (Block 128, Lot 6.02). There is currently existing fencing along 151 Second Street and 153 Second Street, however the applicant would be replacing what exists and installing new fencing in its place. This had been requested by the owners of 151 Second Street and 153 Second Street.
7. Based upon what has been proposed, the applicant will require bulk variance relief, pursuant to the provisions of N.J.S.A. 40:55D-70(c), in order to construct the proposed six foot high vinyl fence along First Street.
8. Throughout the course of this application, the applicant was represented by Salvatore Alfieri, Esquire of the law firm of Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices at 5 Ravine Drive, Matawan, New Jersey 07747.
9. In support of the application, the applicant marked into evidence the following exhibits:

Exhibit A-1:	Application package dated June 18, 2018.
Exhibit A-2:	Site Plan package dated December 5, 2017, last revised June 8, 2018, as prepared by Walter Joseph Hopkin, P.E. of WJH Engineering (consisting of 6 sheets)
Exhibit A-3:	Architectural plans dated August 10, 2018 as prepared by Monteforte Architectural Studio (consisting of 3 sheets)
Exhibit A-4:	Stormwater Management Report dated December 5, 2017, last revised June 14, 2018 as prepared by Walter Joseph Hopkin, P.E. of WJH Engineering
Exhibit A-5:	Colored rendering of site plan dated July 25, 2018 as prepared by WJH Engineering
Exhibit A-6:	Colored rendering of Elevations from Waverly Street as prepared by Monteforte Architectural Studio (consisting of 1 sheet)

10. In addition to the exhibits presented by the applicant, the Board marked its own Exhibit into evidence as follows:

Exhibit B-1: Completeness, Planning and Engineering Review letter dated August 3, 2018 as authored by the Board's Engineer, Francis W. Mullan, P.E., C.M.E. and its Planner, Donna Miller, AICP, PP.

11. The Board Engineer, Francis W. Mullan, P.E. and Board Planner Donna Miller, AICP, PP, both of T&M Engineering, were present at the meeting. Both professionals were sworn and certified as to the information contained within the T&M Planning and Engineering Review letter (**Exhibits B-1**) which was incorporated into this Resolution by reference.
12. The applicant presented sworn testimony from its engineer Walter Joseph Hopkin, P.E.
13. Mr. Hopkin explained that the applicant was seeking to demolish the existing Fire Patrol building and construct a new six (6) unit townhouse development on the property, made up of three (3) separate two-family dwelling structures. The proposal would be consistent with what was depicted in the Exhibits marked into evidence.
14. The applicant planned to provide sixteen (16) off street parking spaces for the development, one (1) within each townhouse garage with space to park three (3) vehicles in the driveway area serving the two outer multi-family dwelling structures and space to park four (4) vehicles in the driveway area of the center multi-family dwelling structure. This was reflected upon the site plan (**Exhibit A-2**) and the colored site plan (**Exhibit A-5**) which were marked into evidence. It was also noted that if vehicles were to be stacked on the driveways, with a car in each of the garages, a total of twenty-six (26) parking spaces would be available at the site.
15. Mr. Hopkin noted all of the utilities for the site would be located underground so as to help improve the aesthetics for the premises. As a condition of approval it was agreed the applicant would mill and pave the full width of Waverly Street along the property frontage following the installation of the utilities. This would be noted upon the applicant's site plan.
16. It was noted that the applicant is providing a ten (10) foot wide right-of-way easement dedicated to Monmouth County along First Street. Based upon concerns that the building closest to First Street would be too close to the easement, the applicant agreed to move the development at least four (4) feet from it. The site plan (**Exhibit A-2**) would be revised to reflect the at least four (4) feet of distance from the right-of-way easement.
17. As a condition of approval it was agreed the applicant would need to provide a final landscaping plan to the Board's Engineer and Planner for their review and approval. The landscaping would be designed to shield the view of the property from First Street as well as the neighboring properties on the rear and sides. Additionally, the applicant would try and incorporate a rain garden if possible. Finally, it was noted two shade trees would be added on the sides of the property with additional trees being added to the rear of the property.

18. With regard to grading and drainage, Mr. Hopkin noted that Monmouth County would not allow the applicant to connect the development's onsite recharge system to the inlet on First Street to serve as an drainage overflow. This had been recommended in item 6.2 of the T&M review letter (Exhibit B-1). Since such a connection would not be possible, the applicant agreed to upgrade their drainage pipes to 18 inches so as to allow for additional volume capacity. This would be a condition of approval.
19. Mr. Hopkin further requested a waiver from having to provide a Groundwater Mounding Analysis as recommended within the T&M Review Letter (Exhibit B-1) at item 6.8. Mr. Mullan, the Board's Engineer indicated he had no objection to the Board granting such a waiver as he believed the information within the Stormwater Management Report (Exhibit A-4) should be sufficient.
20. With the exception of items 6.2 and 6.8, the applicant agreed to comply with all other recommendations contained with the T&M Review Letter (Exhibit B-1). This would be a condition of approval.
21. It was agreed as a condition of approval that the existing lots would be consolidated. The Consolidation Deed would be submitted to the Board Attorney and the Board Engineer for their review and approval before being recorded with the Monmouth County Clerk's Office.
22. Mr. Hopkin testified that he believed the site plan had been properly designed and would function as intended without any difficulties.
23. In addition to the testimony from its engineer, the applicant also presented testimony from its architect, James Monteforte, R.A. of Monteforte Architectural Studio.
24. Mr. Monteforte testified with respect to the lighting plan for the site. It was agreed as a condition of approval that all of the lights at the site would be shielded so as to ensure they do not cast light on to neighboring properties.
25. With respect to the elevations, it was agreed, as a condition of approval, that the colors of the buildings would alternate so as to add further character to the development. This would be shown on a resubmitted front elevation rendering (Exhibit A-6). Additionally, side elevations would be resubmitted to further embellish the architectural features of the building. (Exhibit A-3) Both of these re-submissions would be subject to the review and approval of the Board's Planner.
26. The proposed town homes would be governed by a condominium association. The Master Deed of the association would be subject to the review of the Board's Attorney, Planner and Engineer prior to its recording with the Monmouth County Clerk's Office. It was agreed as a condition of approval that the Master Deed of the Association would include the following restrictions which could not be altered by the Association without having first received

approval, upon notice to the public, from the Borough of Keyport Planning Board, or its successor of similar jurisdiction:

- (A) So as to avoid unsightliness, all garbage cans must be kept inside of the townhouse garages except for on garbage pick-up day. The storage space for the garbage cans within the garages may not interfere with the ability to also park vehicles inside.
 - (B) Due to the limited space available at the site, the townhouse garages must be kept storage free (with the exception of the aforementioned garbage cans) so as to ensure the ability to park a vehicle inside.
 - (C) The Association would be required to maintain all landscaping as approved by this Resolution. A copy of the final approved landscaping plan would be included as an exhibit to the Master Deed.
 - (D) The attic of each unit shall be prohibited from becoming habitable space. There shall not be any flooring or storage in the attic.
 - (E) The approved facade for the Townhouses may not be changed. The resubmitted and approved facade plan would be included as an exhibit to the Master Deed.
 - (F) All fencing approved by this application must be maintained by the Association.
27. The final witness presented was the applicant's professional planner, Allison Coffin, P.P. of James W. Higgins, Associates.
28. Ms. Coffin testified that in her professional opinion, the applicant's proposed townhouse development was an appropriate use for the site. She noted that the site was zoned for a residential use but had long housed a fire department building. While it was true that a multi-family development was not permitted at the site, the proposal was nevertheless a residential one. This meant that the property was being brought into conformance with neighboring uses which were also all residential in nature.
29. When considering the size of the property, Ms. Coffin opined that it would be inappropriate to build a single family home on the site. The property was just too large for that use. It was also noted that there are other multi-family homes located in the immediate neighborhood, thereby ensuring that the development would not be out of character with the area. Based upon these factors, Ms. Coffin believed the proposed multi-family residential development was particularly suited for the site.
30. Ms. Coffin also commented as to her opinion that when considering the proposed townhouse development would be replacing a fire department building, the neighborhood would be receiving an aesthetic improvement.

31. Ms. Coffin further recognized that the facade of the development (**Exhibit A-6**) had been designed, as much as possible, to reflect the look of three single family homes which are the permitted use in the RA Zone and the use sought after within the Borough's Master Plan. As a result, she believed that since the proposed development would fit in with neighboring properties, enhanced proofs had been shown establishing that the application could be granted without any detriments to the ordinance or zone plan.
32. Ms. Coffin spoke with regard to the bulk variance relief required to allow for the construction of a six(6) foot fence along First Street. She believed it could be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) since without such relief First Street would not be shielded from the development. She believed the benefits to the community in allowing the development to be shielded from public view would lead to a better result than strict adherence to the zoning ordinance would otherwise allow.
33. Ms. Coffin could not envision any negatives associated with what the application.
34. The Board's Professionals had no objections to this application being granted from an engineering and planning standpoint provided the comments raised in their review letter (with the exception of items 6.2 and 6.8) were adhered to (**Exhibit B-1**) and that the applicant abided by the testimony and exhibits which had been submitted into evidence.
35. The following members of the public also spoke on the proposed application:
- 1) **Michael Lane - 51 First Street, Keyport** : Supported the application as long as the Resolution and the applicable codes and regulations were followed.
 - 2) **Elmer Graham - 22 St. Peter's Place, Keyport** : Supported the application and believed it would be an improvement for the neighborhood.
 - 3) **Higinio Bruno - 151 Second Street, Keyport**: Owns property bordering the applicant's property. (Block 128, Lot 6.03) He indicated he has no objection to the application provided adequate fencing is provided to shield her property from the development.
 - 4) **Angela Mateo - 153 Second Street, Keyport**: Owns property bordering the applicant's property. (Block 128, Lot 6.02) She also indicated that she had no objection to the application provided adequate fencing is provided.
36. No one else testified with respect to the application.
37. In considering this application, the Board agrees with the testimony of the applicant's professionals and with the testimony of the Board's own professionals, that the proposed site plan will function correctly as long as the submitted plan, with the proposed modifications, is adhered to.
38. With respect to the requested use variance relief, the Board finds that the proposed townhouse development is particularly suited for the applicant's property. The Board agrees that the development would act as an improvement from the fire department building which currently exists at the site. Further, the applicant had designed a facade (**Exhibit A-6**) which ensured that the property would not be out of place with neighboring properties.

Additionally, the applicant has agreed to alternate the colors in the facades and enhance the architectural features of the buildings. Finally, the Board notes that the subject property is located within walking distance of the Borough's downtown business district. Having new residences on the subject property will therefore benefit the Borough as a whole since it will create an additional customer base for the business community. Based upon all of these considerations, the Board finds that the subject property is particularly suited for the property and that sufficient enhanced proofs have been established and there will not be any damage to the zoning plan of the Borough if the use variance is granted.

39. The Board also agrees with the applicant's professionals that the requested bulk variance relief can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) so as to allow a six (6) foot fence to be built along First Street. Absent the granting of such relief, the proposed development would not be properly shielded from First Street. Such a result would not benefit anyone. The Board can think of no legitimate reason why the requested bulk relief should be denied and instead can only find reasons why the application should be approved. As a result, the Board finds the benefits of granting the requested relief allow for a better alternative than strict adherence to the zoning ordinance would otherwise permit.
40. The Board cannot envision any legitimate negatives associated with the granting of this application. Based upon everything which has been presented to the Board, as well as the Board Members' own familiarity with the municipality and the property in question, it is hereby concluded that the benefits of granting this application outweigh the detriments and the application can therefore be granted without impairing the public good and Zone Plan.
41. Finally, the proposed preliminary and final site approval may be granted as the Board finds that the proposed development will function properly as designed if all of the agreed upon revisions to the plans are made.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Keyport Homes, LLC, for premises commonly known as 26 Waverly Street and officially known as Block 128, Lots 2, 3 & 4.01 on the tax map of the Borough of Keyport, be granted subject to the following conditions:

1. Subject to the applicant adhering to all of the exhibits marked into evidence unless otherwise modified by this Resolution.
2. Subject to the applicant complying with all conditions contained within the T&M Review letter (**Exhibit B-1**) with the exception of items 6.2 and 6.8 which are being waived.
3. Subject to any revisions to the applicant's site plan noted within this Resolution being subject to the review and approval of the Board's Engineer and Planner.
4. Subject to the site plan being revised so as to place the development at least four (4) feet from the right-of-way easement being dedicated to Monmouth County along First Street.

5. Subject to the applicant milling and paving the full width of Waverly Street along the property frontage following the installation of its utilities which must all be installed underground. This would be noted upon the applicant's site plan.
6. Subject to the applicant providing a final landscaping plan to the Board's Engineer and Planner for their review and approval. The landscaping must be designed to shield the view of the property from First Street as well as the neighboring properties on the rear and sides. Additionally, the applicant must try and incorporate a rain garden if possible. Finally, two shade trees must be added on the sides of the property with additional trees being added to the rear of the property.
7. Subject to the applicant upgrading its drainage pipes to 18 inches so as to allow for additional volume capacity.
8. Subject to the existing lots being consolidated into a single lot. The Consolidation Deed must be submitted to the Board Attorney and the Board Engineer for their review and approval before being recorded with the Monmouth County Clerk's Office.
9. Subject to the condition that all lighting to be installed at site must be shielded so as to ensure they do not cast light on to neighboring properties.
10. Subject to the condition that the colors of the buildings must alternate so as to add further character to the development. This must be shown on a resubmitted front elevation rendering (Exhibit A-6). Additionally, side elevations must be resubmitted to further embellish the architectural features of the building. (Exhibit A-3) Both of these re-submissions shall be subject to the review and approval of the Board's Planner.
11. The applicant shall have fencing installed on all sides and the rear of the property so as to provide proper shielding of the property from its neighbors and from First Street. All fencing shall appear on the final approved landscaping plan.
12. Subject to the proposed townhouse development being governed by a condominium association. The Master Deed of the Association, which must be reviewed and approved by the Board's Attorney, Engineer and Planner prior its recording with the Monmouth County Clerk's Office, shall include the following restrictions which shall not be altered by the Association without having first received approval, upon notice to the public, from the Borough of Keyport Planning Board, or its successor of similar jurisdiction:
 - (A) So as to avoid unsightliness, all garbage cans must be kept inside of the townhouse garages except for on garbage pick-up day. The storage space for the garbage cans within the garages may not interfere with the ability to also park a car inside.
 - (B) Due to the limited space available at the site, the townhouse garages must be kept storage free (with the exception of the aforementioned garbage cans) so as to ensure the ability to park a vehicle inside.

- (C) The Association would be required to maintain all landscaping as approved by this Resolution. A copy of the final approved landscaping plan shall be included as an exhibit to the Master Deed.
 - (D) The attic of each unit shall be prohibited from becoming habitable space. There shall not be any flooring or storage in the attic.
 - (E) The approved facade for the Townhouses may not be changed. The resubmitted and approved facade plan would be included as an exhibit to the Master Deed.
 - (F) All fencing approved by this application must be maintained by the Association.
13. All representations made under oath by the applicant or 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.
 14. 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.
 15. 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.
 16. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations, including but certainly not limited to, CAFRA approval.
 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 of the Borough of Keyport 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. This approval shall be deemed void by abandonment if a permit is not applied for within one year of the date hereof.
 19. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at his sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

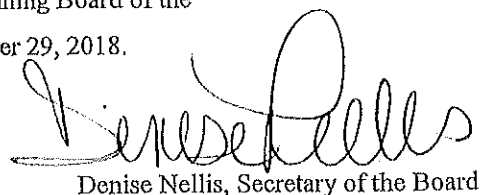
The foregoing was Moved by N. Vecchio, second by L. Davidson

Affirmative: N. Vecchio, M. Sessa, L. Davidson, D. Fotopoulos

Negative:

Abstentions: Mayor Aumack, Councilman Goode, R. Benedict, 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 29, 2018.



Denise Nellis, Secretary of the Board