

# R. C. SHEA & ASSOCIATES

COUNSELLORS AT LAW, P.C.

244 MAIN STREET

PO Box 2627

TOMS RIVER, NEW JERSEY 08754

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LAND USE FAX: (732) 505-5468

## BERKELEY TOWNSHIP OFFICE

HOLIDAY CITY PLAZA III

600 MULE ROAD, SUITE 16

TOMS RIVER, NJ 08757

**BRICK AREA**

(732) 451-0800

**MANCHESTER AREA**

(732) 408-9455

**ROBERT C. SHEA**

MARC S. GALELLA †

MICHAEL J. DEEM ▪

CHRISTOPHER R. SHEA \*

ROBERT C. SHEA II

VINCENT J. DELRICCIO

\* Member NJ & PA Bars  
LLM in Trial Advocacy

† Member Nat'l Academy of Elder Law Attorneys  
▪ Certified by the Supreme Court of New Jersey as a  
Civil Trial Attorney

Certified By The National Board of Trial Advocacy  
As A Civil Trial Advocate  
Rule 1:40 Qualified Mediator

September 19, 2024

### **Via Email and Hand Delivery**

Denise Nellis

Planning Board Secretary

70 W. Front Street

Keyport, NJ 07735

[\*\*dnellis@keyportonline.com\*\*](mailto:dnellis@keyportonline.com)

**RE: 3 Cass Street  
Block 33 Lot 16  
Our File No.: 15851**

Dear Ms. Nellis,

This office represents owner of the above referenced property. Enclosed please find the following:

1. Keyport Unified Planning Board Application including Schedule A with Exhibits A through D.
2. Escrow Agreement
3. Tax Payment Certification
4. Keyport Unified Planning Board Completion Checklist
5. Four (4) checks made payable to the Borough of Keyport:
  - i. One Application Fee in the amount of \$75.00 for an appeal under N.J.S.A.40:55D-70(a).
  - ii. One Professionals Escrow in the amount of \$200.00 for an appeal under N.J.S.A.40:55D-70(a).
  - iii. One Application Fee in the amount of \$75.00 for an interpretation under N.J.S.A.40:55D-70(b).
  - iv. One Professionals Escrow in the amount of \$200.00 for an interpretation under N.J.S.A.40:55D-70(b).

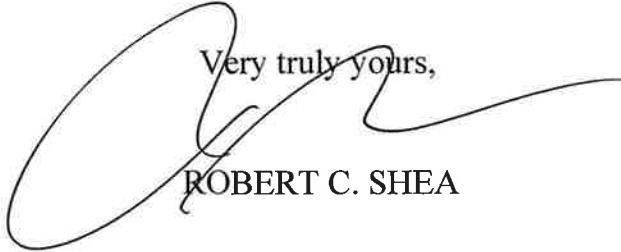
# **R. C. SHEA & ASSOCIATES**

COUNSELLORS AT LAW, P.C.

Page 2 of 2

Naturally, should you have any questions or wish to discuss the above, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RCS', written over the typed name 'ROBERT C. SHEA'.

ROBERT C. SHEA

RCS/kjn



# KEYPORT UNIFIED PLANNING BOARD APPLICATION

BOROUGH OF KEYPORT  
70 WEST FRONT STREET  
KEYPORT, NEW JERSEY 07735

**APPLICATION TO THE KEYPORT UNIFIED PLANNING BOARD**

**1. SUBJECT PROPERTY**

Location: 3 Cass Street

Tax Map: Block 33 Lot(s) 16  
Dimensions: Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Total Area \_\_\_\_\_  
Zone District: Industrial District

Location of the property is approximately \_\_\_\_\_ feet from the intersection of \_\_\_\_\_ and \_\_\_\_\_

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: Avrohom Schlaff / AP Cass Sheet LLC

Address: 1764 51st Street Brooklyn NY 11204  
(Street) (City) (State) (Zip)

Telephone Numbers: DAY 908-330-3677 EVENING \_\_\_\_\_

Applicant is a: ☒ Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Sole Proprietor \_\_\_\_\_ Resident

**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): See Schedule A.

5. APPLICANT'S EXPERTS / REPRESENTATIVES

Applicant Attorney: R.C. Shea & Associates

(Name and Firm if Applicable)

Address: 244 Main Street TOMS RIVER NJ 08754  
(Street) (City) (State) (Zip)

Telephone: 732-505-1212 Fax

Applicant Engineer: To Be Provided

(Name and Firm if Applicable)

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

Telephone:  Fax

Applicant Planning Consultant: To Be Provided

(Name and Firm if Applicable)

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

Telephone:  Fax

Applicant Traffic Engineer: n/a  
(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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER

\_\_\_\_\_ Informal Review of \_\_\_\_\_

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

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

\_\_\_\_\_ 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      | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |
| Borough of Keyport Planning Board   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |
| Freehold Soil Conservation District | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |
| NJ Dept. of Transportation          | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |
| JCP&L                               | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |
| Other: _____                        | <input type="checkbox"/> | <input checked="" type="checkbox"/> | _____                |

\*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): \_\_\_\_\_

\_\_\_\_\_

See Schedule A.

\_\_\_\_\_

10. CERTIFICATIONS

APPLICANT

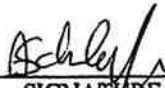
I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant that I am authorized to sign the application for the Corporation, or that I am a general partner of the partnership applicant. (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

19 day of September, 2024

Henry Teitelbaum  
NOTARY PUBLIC

HENRY TEITELBAUM  
NOTARY PUBLIC, State of New York  
No. 24-9300018  
Qualified in Kings County  
Commission Expires 2/28/2025

X   
SIGNATURE OF APPLICANT

Avrohom Schlaff  
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

\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

X \_\_\_\_\_  
SIGNATURE OF OWNER

\_\_\_\_\_  
Owner's Name (Print)

## **Schedule A**

### **Background and Facts**

On November 22, 2022, the property located at 3 Cass Street, Keyport NJ, Block 33, Lot 16 (“Property”) received a Zoning Approval for a change of use (**Exhibit A**). The application was submitted in the name of Automoby LLC, the tenant of the Property and applicant for the change of use, as well as AP Cass Street, LLC, as the owner of the Property. The application described the new use as, “dealership company that buys, sells and does overseas transportation of salvaged cars and parts.” The Property is located in the Industrial Zone, and as such, the Change of Use was indicated as “permitted by ordinance”. The Zoning Application was signed by Zoning Officer David Olsen. The Property was inspected and received a Certificate of Occupancy on January 10, 2023. (**Exhibit B**)

### **Current Application**

This application, regarding the property located, is being submitted pursuant to both N.J.S.A. 40:55D-70(a) and (b) which respectively grant a Zoning Board the power to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance; (“appeal”)
- b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act; (“interpretation”)

Specifically, on September 11, 2024, Zoning Officer Paul Murphy sent an e-mail to Property owner Avrohom Schlaff (“Schlaff”) indicating that “unapproved and illegal conditions at the property” have not been abated and that “multiple summonses” will be issued. (**Exhibit C**) The e-mail referenced a prior letter from June 28, 2024. (**Exhibit D**)

The letter, from Township Engineer CME Associates, indicated that the Property was being used as in violation of § 25-1-12 *et seq* of the Keyport Code, which governs the Industrial Zone. Specifically, the letter indicated that the Property’s use is that of a salvage yard/junk yard.

This application for appeal for appeal and interpretation is hereby made by Property owner Avrohom Schlaff/AP Cass Street LLC (“Owner”). Owner is an interested party to determinations regarding the Property and as such, has the right to seek this appeal and interpretation pursuant to N.J.S.A. 40:55D-72. Specifically, Owner is seeking the following relief from the Zoning Board: 1) overturning the Zoning Officer’s determination that the current use of the Property violates § 25-1-12.1 of the Keyport Land Use Regulations and requires a use variance; 2) finding that the use

of the Property is not a salvager or junk yard; 3) interpreting § 25-1-12.1 to allow the use of the Property to continue.

### **Grounds**

Under § 25-1-12.1 of the Keyport Code, the following uses are permitted in the Industrial Zone:

- a. All uses permitted in the Limited Industrial District.
- b. Manufacturing of light machinery.
- c. Fabrication of metal products.
- d. Fabrication of paper products.
- e. Fabrication of wood products.
- f. Processing and packaging of food and associated goods.
- g. Research laboratories.
- h. Other uses which are light industrial in nature. Such shall not include truck terminals, bulk fuel storage, raw material processing except for food and beverages, asphalt and concrete plants.

The uses permitted under subsection a are as follows:

- a. Wholesale storage and warehouse facilities.
- b. Lumber, building materials, and other storage yards, but not salvage or junk yards.
- c. Processing or assembly of materials for products sold on the premises such as a baking plant, dry cleaning plant, etc.
- d. Laboratory or research facilities.
- e. Boat yards and boat building facilities.
- f. Light industrial use provided same shall not create toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, offensive noise or vibration, glare, flashes, or objectionable effluent, the effects of which would be noticeable outside the Limited Industrial District.

The definition of a “junkyard” pursuant to § 25-1-3 is:

The use of any lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of structures, automobiles or other vehicles, equipment and machinery or parts thereof, provided, that this definition shall not be deemed to include any of the foregoing uses which are accessory and incidental to any agricultural and industrial use permitted in any zone. The term "junkyard" as herein defined includes automobile wrecking yards.

“Salvage Yard” is not defined. It should be noted that neither the Zoning Officer, nor CME have specifically called out what activity is taking place that is at odds with the Zoning Permit or the applicable ordinance. Rather, both simply make the conclusory statement that the Property is operating as a junk yard. Notwithstanding the Zoning Officer’s failure to specify the exact conduct

that constitutes a violation, there can be not serious reading of the above ordinances that indicate that the Property is in violation of same.

Firstly, the Zoning Permit application clearly stated that the proposed business activity would include buying, selling, and oversees transportation of salvaged cars and parts. Naturally in order to effectuate the shipment of salvage parts, one must remove same from the automobile in question, and store same until it is shipped. In fact, the definition of “junkyard” specifically accommodates for this reality.

As noted above, “accessory and incidental” uses to permitted industrial uses that happen to overlap with the activities set forth in the definition of “junkyard,” do not make the use a junkyard. In other words, the ordinance contemplates a “junkyard” as a principal use/ In order to qualify as a junkyard, the property’s main purpose would need to be, “storage, keeping or abandonment of junk, including scrap metals or other scrap materials” or “the dismantling, demolition or abandonment of structures, automobiles or other vehicles.” This is not the case here.

In the instant case, the primary use of the property is the buying, selling, and shipping of salvaged cars and parts. Any dismantling and storage of same are purely incidental to the otherwise permitted use. As such, the Property cannot be considered a junkyard.

Furthermore, it should be noted that the Industrial Zone specifically contemplates some assemblage uses. Specifically, “boat yards and boat building facilities,” “lite industrial uses,” manufacturing of machinery,” and various fabrication uses are all contemplated within the Industrial Zone.

### **Conclusion**

For the foregoing reasons, we ask that the Zoning Board overturn the Zoning Officer’s determination and interpret the ordinance as permitting the use taking place at the Property.

## **EXHIBIT A**



# ZONING APPLICATION

Borough of Keyport  
70 West Front Street  
Keyport, N.J. 07735  
P - 732-739-5135 F - 732-739-3479  
www.keyportonline.com



Estimated Cost of Work: \$ \_\_\_\_\_

Fee: \$ \_\_\_\_\_

Address of Proposed Work or Use: 3 Cass Street, Keyport NJ

Block: 33 Lot(s): 16 Zone: \_\_\_\_\_ CN: \_\_\_\_\_

Owner's Name: AP Cass Street LLC / Avrohom Schlaff Telephone: 908-330-3677

Address: 1764 51 Street Brooklyn NY 11204 E-Mail: \_\_\_\_\_

Contractor or Applicant (If different from above) Information:

Name: Automoby LLC - Davit Kverenchkhiladze Telephone: 631 703 7707

Address: 60 Asbury Road, Suite 404, Hackettstown, NJ 07840 E-Mail: automobyusa@gmail.com

License #: 06551 90000 78401

Type of Work and/or Use (Check all that apply):

☐ Addition ☐ Renovation ☐ Alteration ☐ Reconstruction ☐ Repair ☐ Flat Work

☐ New Construction ☐ Change of Use ☒ Commencement of Use

☐ Accessory Use/Structure: ☐ Shed ☐ Fence ☐ Other: \_\_\_\_\_

Size of Property: Lot Area \_\_\_\_\_ Sq Ft. Frontage: \_\_\_\_\_ Ft Depth: \_\_\_\_\_ Ft

Principal Building: Type: \_\_\_\_\_ Gross Floor Area: \_\_\_\_\_ Lot Coverage: \_\_\_\_\_

Lot Coverage \_\_\_\_\_ Percent Building Height: \_\_\_\_\_ Ft

Accessory Building: Total Area \_\_\_\_\_ Rear Yard Set Back \_\_\_\_\_ Ft Side Yard set back \_\_\_\_\_

Automoby LLC is the Dealership company, that buys, sells, does the overseas transportation of salvage cars and parts as well.

Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Keyport Unified Planning Board prior approvals or applications: Has this property, to your knowledge, ever been subject of any prior applications to the Keyport Unified Planning Board? ( ) No ( ) Yes

If yes, provide date(s): \_\_\_\_\_

#### Notes:

- 1) All Zoning Permit Applications must be accompanied by a current Property Survey drawn to scale and including locations and distances to property lines of all structures, improvements, proposed work, etc..
- 2) Elevations shall be measured at five (5) separate points five (5) feet out along the entire front facade of the principal structure and around the entire perimeter of accessory structures to determine the average grade for purposes of confirming the structure's height.

## **EXHIBIT B**



Change of Occupancy Certificate  
Borough of Keyport, New Jersey  
70 West Front Street, Keyport, NJ 07735  
732-739-3900

☒ Rental/Apt.

☐ Business

☐ Transfer of Title

No.: 2023-003 Fee Paid: \$245 Date: Jan 5 2023

Seller/Owners Name: Avrhom Schlaff

Address: 1764 51st St, Brooklyn This Occupancy certificate is granted  
for the building/dwelling located at: 3 Cass St, Keyport

Block: 33 Lot: 16 Qualifier: \_\_\_\_\_ Unit #: 11, 11B, 11c, 12, 13, 14A  
14B, 14C, 15A

to the following Buyer(s)/Occupant(s): David Kverenchkhiladze (Salvage Auto Parts)

Number of Bedrooms: \_\_\_\_\_ Total Occupancy Permitted: 25

☒ The installation of all Smoke Detectors, Carbon Monoxide Alarms, and Fire Extinguishers meet the New Jersey  
Uniform Fire Code Requirements for Smoke Detectors, Carbon Monoxide Alarms and Fire Extinguisher installation compliance.

1/10/23  
DATE

  
HOUSING INSPECTOR

## **EXHIBIT C**

## Vincent J. DelRiccio

---

**From:** Alley Property <avrohom@alleypropertymanagement.com>  
**Sent:** Wednesday, September 11, 2024 12:39 AM  
**To:** Paul Murphy  
**Cc:** Chaim Lev; Robert C. Shea; Vincent J. DelRiccio  
**Subject:** Re: 3 Cass St - Deadline passed

Paul,

We've retained our attorney Rob Shea cc'd here to represent us in this case.  
He will be responding to you very soon regarding this matter.

On Tue, Sep 10, 2024, 11:33 PM Paul Murphy <[pmurphy@keyportonline.com](mailto:pmurphy@keyportonline.com)> wrote:

The cease and decist order that was issued on June 28 was given until September 1 to be satisfied, and in return for extending the deadline the lighting ordinance, property buffer zone and vehicles traffic regulations were to be followed. This was conveyed to your attorney via email.

Nothing has been abated.

Paul Murphy  
Property Maintenance / Zoning Enforcement  
Borough of Keyport

On Sep 10, 2024 23:27, Chaim Lev <[chaim@alleypropertymanagement.com](mailto:chaim@alleypropertymanagement.com)> wrote:  
Which items it I may ask?

Sent from my iPhone

On Sep 11, 2024, at 6:14 AM, Paul Murphy <[pmurphy@keyportonline.com](mailto:pmurphy@keyportonline.com)> wrote:

Chaim, the September 1 deadline that was scheduled for the violations at the property to be abated, is now 10 days past due.

As such, I will be issuing multiple summons for the unapproved and illegal conditions at the property.

Each calendar day the conditions continue to exist, summonses will be issued.

I am sorry that an amicable reconciliation could not be reached with this matter.

Paul Murphy  
Property Maintenance / Zoning Enforcement  
Borough of Keyport

## **EXHIBIT D**



JOHN H. ALLGAIR, PE, PP, LS (1983-2001)  
DAVID J. SAMUEL, PE, PP, CME  
JOHN J. STEFANI, PE, LS, PP, CME  
JAY B. CORNELL, PE, PP, CME  
MICHAEL J. McCLELLAND, PE, PP, CME  
GREGORY R. VALES, PE, PP, CME

BRUCE M. KOCH, PE, PP, CME  
LOUIS J. PLOSKONKA, PE, CME  
TREVOR J. TAYLOR, PE, PP, CME  
BEHRAM TURAN, PE, LSRP  
LAURA J. NEUMANN, PE, PP  
DOUGLAS ROHMEYER, PE, CFM, CME  
ROBERT J. RUSSO, PE, PP, CME  
JOHN J. HESS, PE, PP, CME  
KEITH CHIARAVALLA, PE, CME

June 28, 2024

**Sent via Email ([automobyusa@gmail.com](mailto:automobyusa@gmail.com)) and Regular Mail**

Davit Kverenchkhiladze  
Automoby LLC  
60 Asbury Road, Suite 404  
Hackettstown, NJ 07840

**Re: Zoning Application Review  
3 Cass Street  
Block 33, Lot 16  
Zone I (Industrial)  
Borough of Keyport, Monmouth County**

Dear Mr. Kverenchkhiladze:

I have reviewed the zoning application (#ZA-22-283) dated November 17, 2022 and Zoning Approval dated November 22, 2022 for the above referenced property. I have also reviewed the current operation of the site. Both have been reviewed in accordance with Chapter 25 'Land Use Regulations' of the Borough's 'Revised General Ordinances of the Borough of Keyport', herein referenced to as the "Code". Specific reference is made to the following sections of the Code:

**§ 25-1-12 INDUSTRIAL DISTRICT (I) REGULATIONS.**

*Purpose. The purpose of the Industrial District is to provide suitable locations for the development of intense industrial uses, including clean manufacturing, warehousing and distribution operations, as well as adaptive reuse or redevelopment of older existing commercial and or industrial sites for newer technologies, research and development, computer software, electronics and other high tech industries.*

**§ 25-1-12.1 Permitted principal uses [of the Industrial District].**

- a. All uses permitted in the Limited Industrial District [as follows]:
- i. Wholesale storage and warehouse facilities.
  - ii. Lumber, building materials, and other storage yards, **but not salvage or junk yards**.
  - iii. Processing or assembly of materials for products sold on the premises such as a baking plant, dry cleaning plant, etc.
  - iv. Laboratory or research facilities.
  - v. Boat yards and boat building facilities.



Automoby, LLC  
Re: Zoning Application  
Block 33, Lot 16 (3 Cass Street)

June 28, 2024  
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HKP00003.24

- vi. Light industrial use provided same shall not create toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, offensive noise or vibration, glare, flashes, or objectionable effluent, the effects of which would be noticeable outside the Limited Industrial District.*
- b. Manufacturing of light machinery.*
- c. Fabrication of metal products.*
- d. Fabrication of paper products.*
- e. Fabrication of wood products.*
- f. Processing and packaging of food and associated goods.*
- g. Research laboratories.*
- h. Other uses which are light industrial in nature. Such shall not include truck terminals, bulk fuel storage, raw material processing except for food and beverages, asphalt and concrete plants.*
- i. Adult entertainment uses.*

In review of the zoning application dated November 17, 2022, the Applicant submitted the zoning application with the following description of the proposed use: "Automoby LLC is the Dealership company, that buys, sells, does the overseas transportation of salvage cars and parts as well". The zoning application was approved on November 22, 2022 as a "change of use" permitted by ordinance.

In review of the Code, the Industrial District specifically prohibits salvage yards and junk yards from the permitted uses. Discernibly, the submitted application did not clearly identify the proposed use. Had the Applicant provided specific details on the actual use that was proposed on the property (the storage of salvaged and junk vehicles), the issuance of the zoning permit for a "Change of Use" could not have been approved as "permitted by ordinance".

With this being said, the current operation of a salvage and junk yard is not permitted by the Code, and in fact is specifically prohibited as a permitted use. The continuance of the use in its current operation requires use variance approval from the Borough Land Use Board.

***§ 25-1-12.6 Other required conditions [of the Industrial District Regulations].***

*Any use which is not conducted wholly within a completely enclosed building shall not be less than 50 feet distant from a residential district and shall be screened as required in Subsection 25-1-14.6.*



Automoby, LLC  
Re: Zoning Application  
Block 33, Lot 16 (3 Cass Street)

June 28, 2024  
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It appears that the salvaged vehicles and trailers are within 50 feet of a residential district which is a violation of this section of the Land Use Ordinance.

**§ 25-1-14.6 Landscaping, lighting and buffer regulations.**

- c. *Lighting regulation. No exterior light source shall emit direct glare beyond the lot lines of the site on which located. Further, no pole lights shall exceed 12 feet in height when located within 25 feet of a residential zone boundary.*

Pole mounted light fixtures have been installed on the site without site plan approval. It appears that the lighting emits glare on to the neighboring residential properties which is a violation of this section of the Code. Further, site plan approval is required from the Borough Planning Board for the installation of lighting within the Industrial District.

**§ 25-1-15.19 Wellhead protection.**

- a. *The purpose of this section is to protect the public health, safety and welfare through the protection of the groundwater resources underlying the municipality to ensure a supply of safe and healthful drinking water for the present and future generations of local residents, employees and the general public in this municipality as well as users of these water supplies outside the Borough of Keyport. The area of land surrounding each public community well, known as a "Wellhead Protection Area (WHPA)," from which contaminants may move through the ground to be withdrawn in water taken from the well, have been delineated. Through regulation of land use, physical facilities and other activities within these areas, the potential for groundwater contamination can be reduced. The purpose of the regulations contained in this section is to prevent pollutants from potentially entering areas within a WHPA that may migrate into groundwater that is withdrawn from a public community well.*

The property is located within a Tier 1 Wellhead Protection Area, defined as follows:

**TIER 1 WELLHEAD PROTECTION AREA**

*That area of land within a WHPA from which groundwater may enter the well within two years.*

In accordance with the Code, junk yard/auto recycling facilities are considered a major potential pollutant source. This chapter of the Code states that any change in land use or activity that adds a major or minor potential pollutant source (PPS), shall be prohibited within a Tier 1 WHPA. With this being said, the junk yard facility is not permitted within the Tier 1 WHPA and the continuance of the use is in violation of this section of the Code.



Automoby, LLC  
Re: Zoning Application  
Block 33, Lot 16 (3 Cass Street)

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Based on the above, and in summary, the current use is in violation of the following sections of the Borough's Code:

**§ 25-1-12.1 Permitted principal uses.**

**§ 25-1-12.6 Other required conditions.**

**§ 25-1-14.6 Landscaping, lighting and buffer regulations.**

**§ 25-1-15.19 Wellhead protection.**

Considering the use is a major potential pollutant source and is located with a Tier 1 WHPA, the use is prohibited and shall not continue. Operation of the salvage/junkyard facility on the property shall cease and all junked and salvaged vehicles shall be removed from the premise within 30 days. Penalties may be assessed by the Borough in accordance with section 1-5.2 of the Borough's 'Revised General Ordinances of the Borough of Keyport'.

Should you have any questions or require additional information, please do not hesitate to contact our office.

Very Truly Yours,

**CME Associates**

Trevor J. Taylor, PE, PP, CME  
*Borough Engineer's Office  
Interim Zoning Officer*

cc: Kim Humphrey, Borough Administrator  
Victoria Flynn, Esq., Borough Attorney  
AP Cass Street, LLC (Avrohom Schlaff), Property Owner  
1764 51 Street  
Brooklyn, NY 11204



# ZONING APPLICATION

NOV 17 2022 Borough of Keyport  
70 West Front Street  
Keyport, N.J. 07735  
P - 732-739-5135 P - 732-739-3479  
www.keyportonline.com



Estimated Cost of Work: \$ \_\_\_\_\_ Fee: \$ 25

Address of Proposed Work or Use: 3 Cass Street, Keyport NJ

Block: 33 Lot(s): 16 Zone: \_\_\_\_\_ CN: \_\_\_\_\_

Owner's Name: AP Cass Street LLC / Avrohom Schlaff Telephone: 908-330-3677

Address: 1764 51 Street Brooklyn NY 11204 E-Mail: \_\_\_\_\_

**Contractor or Applicant (If different from above) Information:**

Name: Automoby LLC - Davit Kverenchkhiladze Telephone: 631 703 7707

Address: 60 Asbury Road, Suite 404, Hackettstown, NJ 07840 E-Mail: automobyusa@gmail.com

License #: 06551 90000 78401

**Type of Work and/or Use (Check all that apply):**

- ☐ Addition ☐ Renovation ☐ Alteration ☐ Reconstruction ☐ Repair ☐ Flat Work  
☐ New Construction ☐ Change of Use ☒ Commencement of Use  
☐ Accessory Use/Structure: ☐ Shed ☐ Fence ☐ Other: \_\_\_\_\_

Size of Property: Lot Area \_\_\_\_\_ Sq Ft. Frontage: \_\_\_\_\_ Ft. Depth: \_\_\_\_\_ Ft.  
Principal Building: Type: \_\_\_\_\_ Gross Floor Area: \_\_\_\_\_ Lot Coverage: \_\_\_\_\_  
Lot Coverage \_\_\_\_\_ Percent: \_\_\_\_\_ Building Height: \_\_\_\_\_ Ft.  
Accessory Building: Total Area \_\_\_\_\_ Rear Yard Set Back \_\_\_\_\_ Ft. Side Yard set back \_\_\_\_\_

Automoby LLC is the Dealership company, that buys, sells, does the overseas transportation of salvage cars and parts as well.

Owner's Signature: [Signature] Date: \_\_\_\_\_

Keyport Unified Planning Board prior approvals or applications: Has this property, to your knowledge, ever been subject of any prior applications to the Keyport Unified Planning Board? ( ☐ ) No ( ☐ ) Yes

If yes, provide date(s): \_\_\_\_\_

- Notes:**  
1) All Zoning Permit Applications must be accompanied by a current Property Survey drawn to scale and including locations and distances to property lines of all structures, improvements, proposed work, etc..  
2) Elevations shall be measured at five (5) separate points five (5) feet out along the entire front facade of the principal structure and around the entire perimeter of accessory structures to determine the average grade for purposes of confirming the structure's height.

2A-22-283



Borough of Keyport  
70 WEST FRONT ST  
P.O. BOX 60  
KEYPORT, NJ 07735  
(732) 739-5134

Date Issued: 11/22/2022  
Application Number: ZA-22-283  
Application Date: 11/17/2022  
Project Number:  
Permit Number: ZP-22-0214  
Fee: \$25.00

## CHANGE OF USE

Worksite: PERRY & CASS  
Location: Borough of Keyport, NJ

Block: 33

Lot: 16

Qualifier:

Zone:

Owner: AP CASS STREET, LLC & C H A B REALT

Applicant: AUTOMOBY LLC% DAVIT  
KVERENCHKHILADZE

Address: 152 SKILLMAN STREET  
BROOKLYN, NY 11211

Address: 60 ASBURY RD  
SUITE 404  
HACKETTSTOWN, NJ 07840

Application Approved Date: 11/22/2022

This Certifies that an application for the issuance of a CHANGE OF USE has been examined.

Use is: (None)

Nonconforming Use is:

Work Description:

SITE INTERPRETATION/ CHANGE OF USE - AUTOMOBY LLC IS THE DEALERSHIP COMPANY THAT  
BUYS, SELLS & DOES THE OVERSEAS TRANSPORTATION OF SALVAGE CARS & PARTS

Upon review it was determined that the CHANGE OF USE:

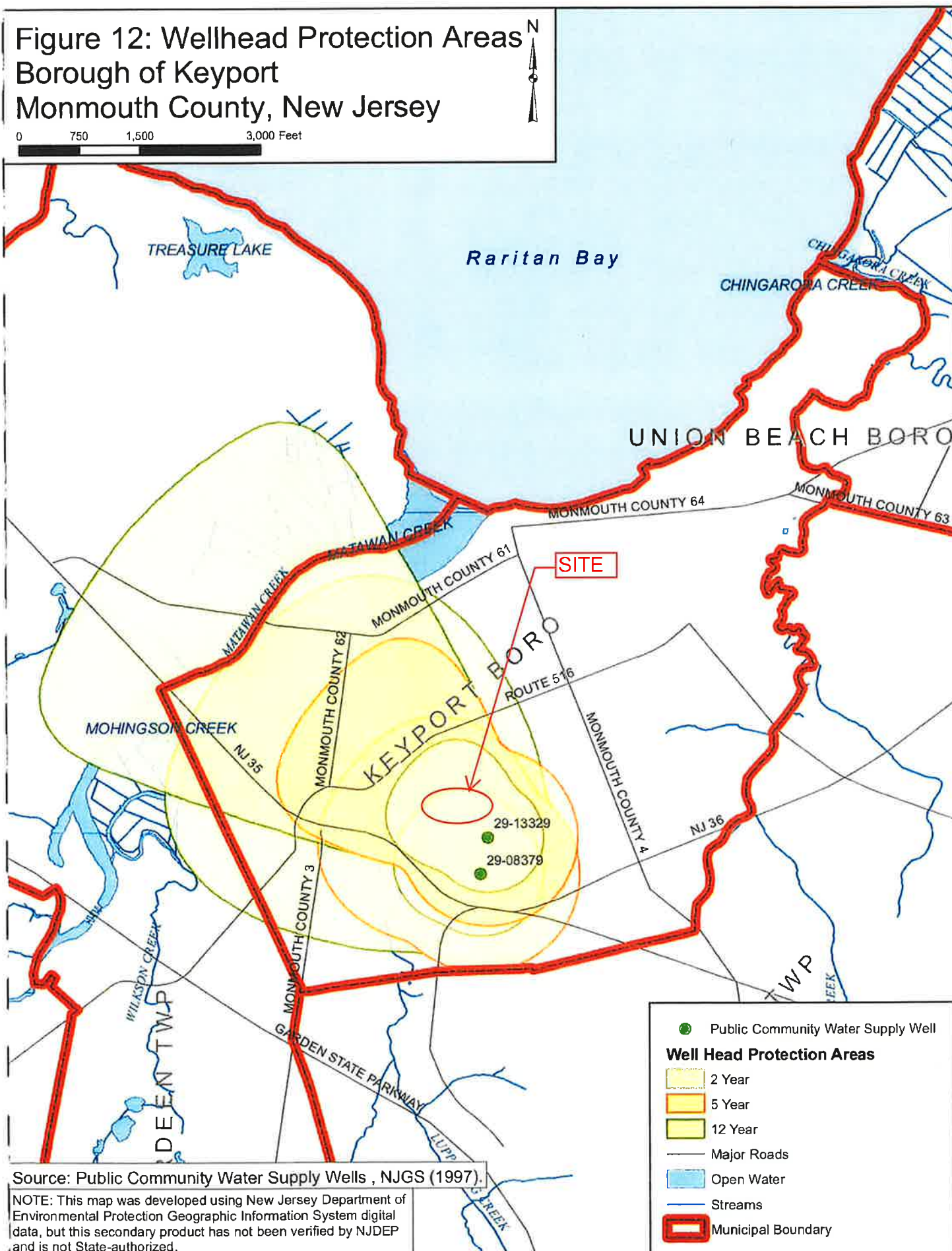
- ☒ Permitted by Ordinance
- ☐ Permitted by Variance approved on: \_\_\_\_\_
- ☐ Valid Nonconforming Use is established by
  - ☐ Zoning Board of Adjustment
  - ☐ Zoning Officer

  
DAVID OLSEN, ZONING OFFICER

11/22/2022  
Date

Figure 12: Wellhead Protection Areas  
Borough of Keyport  
Monmouth County, New Jersey

0 750 1,500 3,000 Feet



### ESCROW AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into this 19 day of September 2024 by and between the KEYPORT UNIFIED PLANNING BOARD (the "Board") and Avrohom Schlaff (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: 9/19/21

x [Signature]  
SIGNATURE OF APPLICANT

Arrohom Schlaff  
Owner's Name (Print)

Sworn to and subscribed before me this  
19 day of September, 2021

Henry Teitelbaum  
NOTARY PUBLIC

HENRY TEITELBAUM  
NOTARY PUBLIC, State of New York  
No. 24-9300010  
Qualified in Kings County  
Commission Expires 2/28/2025

Date: \_\_\_\_\_

\_\_\_\_\_  
BOROUGH OF KEYPORT

Date: \_\_\_\_\_

\_\_\_\_\_  
BOROUGH OF KEYPORT  
UNIFIED PLANNING BOARD

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 Aurachon Schlaff residing at 1764-51st  
Brooklyn NY 11204 and making an application for  
the following relief before the Unified Planning Board of the Borough of Keyport:

appeal and interpretation

Regarding property known as Block 33 Lot(s) 16 on the  
Tax Map of the Borough of Keyport, located at: 3 Cass Street,  
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: 9/19/24

Schlaff  
(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: 9/19/24

(Tax Collector) Laura Amato

**COMPLETION CHECKLIST  
UNIFIED PLANNING BOARD**

Application Number: \_\_\_\_\_ Date Received: \_\_\_\_\_

Applicant: \_\_\_\_\_

Property: Block \_\_\_\_\_ Lot(s) \_\_\_\_\_

Street Address: \_\_\_\_\_

**RECEIVED:**

\_\_\_\_\_ Application Fee in Amount of \$ \_\_\_\_\_ Paid by: \_\_\_\_\_

\_\_\_\_\_ Escrow Deposit in Amount of \$ \_\_\_\_\_ Paid by: \_\_\_\_\_

\_\_\_\_\_ Certification of Taxes Paid

\_\_\_\_\_ Proposed "Notice of Public Hearing"

\_\_\_\_\_ Signed Escrow Agreement

\_\_\_\_\_ Certified List of Property Owners Within 200 Feet

**ACTION TAKEN:**

\_\_\_\_\_ Copy of Application to Board Attorney on: \_\_\_\_\_

\_\_\_\_\_ Copy of Application to Board Engineer on: \_\_\_\_\_

\_\_\_\_\_ Letter \_\_\_\_\_ "Completeness" \_\_\_\_\_ "Incompleteness" sent on: \_\_\_\_\_

\_\_\_\_\_ Hearing Date Set for: \_\_\_\_\_

**NOTES:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_