

RESOLUTION
DECLARING PROPOSED LUNCH PROGRAM A CUSTOMARY & INCIDENTAL USE
ASSOCIATED WITH EXISTING PRINCIPAL CHURCH USE AND WAIVING
NECESSITY
FOR SITE PLAN APPROVAL

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 77 LOT 1
Application # 14-02
COMMUNITY CHURCH OF KEYPORT
125 DIVISION STREET

WHEREAS, the Community Church of Keyport currently operates a lunch program within its existing Fellowship Hall at its church site which is located at property commonly known as 125 Division Street which is officially designated as Block 77, Lot 1, as shown on the Tax Map of the Borough of Keyport; and

WHEREAS on or about June 8, 2013, the Borough's Zoning Officer issued a determination a use variance was required in order for the Community Church of Keyport to operate its lunch program; and

WHEREAS the applicant having failed to appeal the determination of the Zoning Officer within twenty (20) days pursuant to the provisions of N.J.S.A. 40:55D-72(a), has now filed an application seeking use variance relief, along with a request for a waiver of site plan approval, so as to allow for the continuation of the existing lunch program; 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 in the within matter during regularly scheduled meetings of the Unified Planning Board held on August 28, 2014 and September 25, 2014; 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 constitutes a request by the applicant, Community Church of Keyport, to be allowed to continue operating a lunch program within its Fellowship Hall on its church property which is located at 125 Division Street, and is officially designated as Block 77, Lot 1, as shown on the official tax map of the Borough of Keyport.
2. The applicant's property is located within the Borough's RA (Residential District) wherein Churches, eleemosynary and philanthropic institutions are all permitted uses.

3. Throughout the entire application, the Church was represented by its legal counsel, Michael B. Steib, Esquire who has offices at 16 Cherry Tree Farm Road, Middletown, New Jersey 07748.

4. In support of the application, Mr. Steib introduced the following exhibits into the record:

A-1	E-mail correspondence dated January 24, 2013, written by Marty Villeux, a volunteer for the lunch program, describing meeting with Borough Clerk Laurie Graham and Church representatives
A-2	Planning Board Application
A-3	Monmouth County Planning Board Application
A-4	Site Plan of Property titled "Keyport Ministerium Food Pantry" as prepared by Perry M. Petrillo, P.A. and dated December 20, 2011, last revised December 12, 2012
A-5	Colorized version of Site Plan (Exhibit A-4)
A-6	Series of 14 Photographs demonstrating existing Church activities
A-7	Layout of Fellowship Hall
A-8	Traffic and Parking Impact Analysis dated August 28, 2014 prepared by Scott T. Kennel of McDonough & Rea Associates, Inc.

5. The Board also marked several exhibits of its own with respect to this application:

B-1	Code Enforcement Officer Violation Letter dated March 12, 2014
B-2	Denial of Application by Zoning Officer dated June 8, 2013
B-3	Engineering and Planning Review letter dated August 6, 2014 authored by Board Engineer Fran Mullan, P.E., C.M.E. and Board Planner Stan Slachetka, P.P., A.I.C.P.

6. The applicant presented sworn testimony from its Reverend, Dawn Seaman, as to the mission of the Church. She indicated that serving food to those in need was an essential element of the congregation's faith. The lunch program was designed to help effectuate that mission.

7. Reverend Seaman also noted that the lunch program was not a "soup kitchen". The program caters to those of lower incomes who are in need for food rather than to those who are homeless as a normal "soup kitchen" would do. She emphasized that this is a "community lunch program", noting it serves approximately 125 people, a large number of whom walk to the program while the remainder usually car pool. All food is brought to the site by the volunteers preparing the meals. There are no truck deliveries.

8. Reverend Seaman further testified that all activities associated with the lunch program occur indoors during the hours of 11:30 am and 12:30 am on Monday, Wednesday and Friday. The food program does not operate on Tuesday and Thursday which are the days dedicated to the Keyport Ministerium Food Pantry which will soon operate on the site pursuant to a

Resolution of Approval granted by the Planning Board on June 23, 2011. A copy of that earlier Resolution, which was part of Planning Board Application # 11-01, is attached to this Resolution as an appendix. However, if the lunch program was ever expanded to Tuesdays and Thursdays, the hours would be set at 12:30 to 1:30 so as to not interfere with the Food Pantry operations.

9. The applicant also presented sworn testimony from Dr. Gregg Mast, an elder of the Church who also has a doctorate in Religious and Theological Studies. Dr. Mast testified as to history of the Church's Protestant Faith, noting that it is one of the oldest in the Country. The call of the church is to respond to the needs of the poor, which includes the feeding of those in need on a daily basis. The applicant's parishioners believe they must assist the poor as an essential part of their worship.
10. The applicant presented sworn testimony from its site engineer, A.J. Garito, P.E. who testified that nothing new was being proposed to the site from an engineering stand point. There were absolutely no improvements being proposed from what already exists at the location. In fact, he did not believe the proposed lunch program would even increase the amount of roadside garbage being generated at the site.
11. The applicant presented sworn testimony from Scott Kennel, who although not a licensed engineer, is employed by the traffic and transportation consulting firm of McDonough & Rea Associates. Mr. Kennel indicated that he has over thirty (30) years of traffic study experience and has been qualified before the Superior Court of New Jersey as an expert in the subject. Mr. Kennel relied upon the traffic report he had generated which had been marked into evidence as Exhibit A-8. This report established that the Church and surrounding streets can accommodate approximately fifty (50) vehicles. He believed this capacity was more than sufficient to meet the needs of the lunch program since, as testified to by Reverend Seaman, the majority of participants walk or car pool to the site. Mr. Kennel believed the lunch program was compatible with the surrounding neighborhood which was already accustomed to the existing church use. Further, the lunch program took place during lunch hours when most residents would not be home.
12. The applicant also presented sworn testimony from its professional Planner, Christine Mazzaro Cofone, P.P. Ms. Cofone testified as to her belief that the proposed "lunch program" was a use which is customary and incidental to the existing church use. She did not believe that any variance relief should be required for this application. Nevertheless, as she understood that the application was proceeding as one seeking a "use variance" she gave testimony in that regard. She testified that a church is an "inherently beneficial use" and she could not envision any negatives associated with the program, noting that it has already been

operating for almost nineteen (19) months without any detrimental impact on the community. She further noted that the site is clearly particularly suited for the proposed use being that a church has already existed at the site for ages. Additionally, a food pantry has also been approved for the site pursuant to an earlier application, demonstrating that the Planning Board had already recognized the site as being appropriate for the distribution of food to the needy. Indeed the site was actually already zoned for such eleemosynary and philanthropic institutions.

13. The following members of the public also spoke with relation to this application, all in support of the proposal. No one spoke in opposition to the plan.
 - a) Mary Ann Dedarti - 197 Washington Street, Keyport
 - b) John Barone - 69 Washington Street, Keyport
 - c) Ezia Cooper - 135 Atlantic Street, Keyport
 - d) Robert Ludwig - 50 Beers Street, Keyport
14. After considering all of the testimony presented, the Board Members became convinced that the proposed "lunch program" was indeed a customary and incidental use for the existing Church activity. They therefore determined that there would not be any need for the applicant to seek use variance relief or site plan approval from the applicant. It was the Board's determination that the applicant was not proposing anything which was outside of the normal functions of the Church or what was already permitted under the existing Zoning Ordinances of the Borough.
15. Although the Board determined that use variance relief would not be required, the applicant nevertheless agreed to certain conditions be placed upon it so as to ensure the safe and efficient functioning of the "lunch program". These agreed upon conditions are indicated below.
16. The Board's Professionals, all of whom were sworn, did not have any objections from a professional standpoint to the Board ruling that the proposed use was customary and incidental to the existing use, nor did they object to any of the conditions which were agreed upon by the parties.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of the Community Church of Keyport seeking the continuation of their existing "lunch program" held in the existing Fellowship Hall at the church property commonly known as 125 Division Street and officially designated as Block 77, Lot 1 is found to be customary and incidental to the already existing church use. Nevertheless the following conditions are agreed to between the parties:

1. Frying shall never be conducted on the premises.
2. Food associated with the “lunch program” may not be taken outside of the Fellowship Hall.
3. The “lunch program” will never be held when there are other uses being conducted on site.
4. All trash collection associated with the “lunch program” will be done indoors.
5. The conditions contained within the Keyport Ministerium Food Pantry Resolution of June 23, 2011 are incorporated into this Resolution. A copy of that earlier Resolution is attached to this Resolution as an appendix.
6. If the lunch program is ever expanded to Tuesday and Thursday, the hours of the program on those days will be 12:30 p.m. to 1:30 p.m. so as to not interfere with the Keyport Ministerium Food Pantry operations. Otherwise, the hours of the “lunch program” will be 11:30 a.m. to 12:30 p.m. on Monday, Wednesday and Friday.
7. Attempts will be made to instruct participants of the “lunch program” to utilize the church’s onsite parking before parking offsite.
8. While buses are not anticipated for the “lunch program” should they ever be utilized, they will not be able to remain on site during the hours of operation. Rather, they must drop off their passengers and return to pick them up at the conclusion of the program. This is to ensure that the surrounding parking areas remain available for those participating in the program rather than being taken up by buses.
9. All representations made under oath by the applicant or his 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.
10. 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.
11. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
12. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
13. 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 fees which might be required.
14. 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 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.

15. 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 **Mr. Musson**

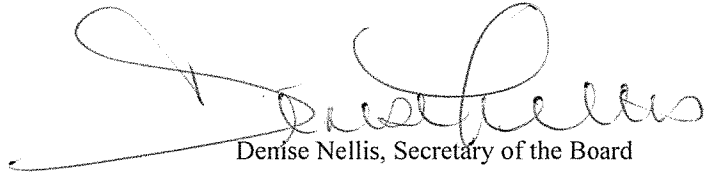
Seconded by **Mr. Kovacs** and on Roll Call, the following vote was recorded:

Affirmative: **Chairman Sessa, Mr. Musson, Mr. Fotopoulos, Mr. Kovacs, Mr. Sappah and Mrs. Kovacs-Olsen.**

Negative: None

Abstentions: None

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 23, 2014.



Denise Nellis, Secretary of the Board

APPENDIX

RESOLUTION OF APPROVAL
GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCES
TO CONSTRUCT A FOOD BANK AND ASSOCIATED GRAVEL PARKING LOT

UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT

BLOCK 77 LOT 1
Application # 11-01
KEYPORT MINISTERIUM FOOD PANTRY
125 DIVISION STREET

WHEREAS, the Keyport Ministerium Food Pantry has applied to the Unified Planning Board of the Borough of Keyport for preliminary and final site plan approval with bulk variances so as to allow for construction of a 2,400 square foot food bank and a 14 space gravel parking lot on property housing the Community Church of Keyport which property is commonly known as 125 Division Street and which is officially designated as Block 77, Lot 1, as shown on the Tax Map of the Borough of Keyport; 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 in the within matter during regularly scheduled meetings of the Unified Planning Board held on April 28, 2011 and May 26, 2011 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 constitutes a request by the applicant, Keyport Ministerium Food Pantry, to be allowed to construct a 2,400 square foot food bank and a 14 space gravel parking lot on property where the Keyport Community Church is situated and which is located at 125 Division Street, which is officially designated as Block 77, Lot 1, as shown on the official tax map of the Borough of Keyport.
2. The applicant's property is located within the Borough's RA (Residential District) wherein eleemosynary and philanthropic institutions such as a food bank are a permitted use.
3. As purposed, the food bank building and parking lot would be built as an accessory to the existing church structure.

4. Pursuant to the Board Engineer's Review Letter dated April 26, 2011, which is incorporated into this resolution by reference, the following variances are necessitated by this application:
 - a) A front yard setback of 15.62 feet is proposed along Elizabeth Street whereas 20 feet are required.
 - b) A front yard setback of 5.84 feet is proposed along Osborn Street whereas 20 feet are required.
5. The Board Engineer Francis Mullan, P.E., Board Planner John Maczuga, P.P., and Board Planner Stan Slachetka, P.P. were all sworn and reaffirmed the conclusions and comments contained within the aforementioned review letter. However, it was specifically noted by the professionals that the easements required by paragraph 3.5 of the letter should not have been included in the document and should be eliminated from any requirements imposed upon the applicant.
6. The applicants were represented at all times during this application by their legal counsel, Donald M. Pepe, Esquire of the law firm McCarter & English, LLP.
7. In support of the application, Mr. Pepe introduced the following exhibits into the record:

A-1	Letter sent by Deacon of the Keyport Community Church to neighboring residents detailing the proposed project.
A-2	Aerial Photograph of the proposed site with applicant's property highlighted
A-3	Site Plan dated February 1, 2011 prepared by John J. Stefani, P.E., L.S. of ESP Associates.
A-4	Color rendering of Architectural of proposed Food Bank dated April 28, 2011
A-5	Floor plan of proposed Food Bank dated October 5, 2009
A-6	Site Plan revision dated April 14, 2011, prepared by John J. Stefani, P.E., L.S. of ESP Associates.
8. In support of the application, Maureen Connors, a member of the applicant, appeared and was sworn. Ms. Connors testified that the purpose of the proposed food bank was to provide food for those families in need. She indicated that the Food Pantry was a 501(c)(3) non-profit organization.
9. Deacon William Seman of the Keyport Community Church also was sworn and testified as to the importance of having the food pantry become a part of his church. He believed that the food pantry would help further fulfill the mission of the Church of providing charity to those who need it most.
10. The project manager for the applicant, Kevin Kernham, was sworn and testified as to specifics of the proposed food pantry. He noted that the food pantry only distributes food on Tuesdays and Thursdays from 9:30 am to 11:30 am. Those hours are not expended during the holidays. Mr. Kernham indicated that the applicant would accept, as a condition of approval, that the hours of the food pantry would remain as testified.

11. Mr. Kernham further testified that the interior of the food pantry would include air conditioner units which were mounted to the walls along the parking lot side. There would be an office on site as well as refrigeration units which would be located in the garage area. Everything would be as indicated on the floor plan submitted into evidence as **Exhibit A-5**.
12. With regard to landscaping for the property, Mr. Kernham stated that such had yet to be determined. The applicant is looking to the Garden Club to participate in the care of property. The applicant agreed, as a condition of approval, that it would submit a landscaping plan to the Board's Planner and Engineer for their review and approval.
13. Mr. Kernham also noted that the two front yard variances which are necessitated by this application could have been avoided if the proposed building would have been situated elsewhere on the existing Church property. The applicant however wants the food pantry to blend seamlessly into the Church and in order to make that happen, the variances were necessary.
14. Mr. Kernham testified that the hall would not be rented out for any other use during the operation of the Food Pantry. This would be a condition of approval.
15. The applicant presented testimony of Mr. Cooper, the Executive Director of the Food Pantry. He testified that deliveries to the food pantry would occur every second Wednesday of the month. Anything not delivered to the Pantry on that date would be picked up by the members of the Pantry themselves.
16. Mr. Cooper also testified that the applicant's staff consists of only three to six people and visitors to the food pantry, when it is open, usually only stay fifteen minutes. It was noted by Mr. Cooper that the Food Pantry is already a functioning organization and that this will be a re-location for the organization to the Church site. As a result he is well aware of how the organization operates.
17. The applicant also presented sworn testimony of Trevor Taylor, P.E. of CME Associates to discuss the application.
18. Mr. Taylor testified that the roof line of the proposed building will be the same, if not lower than what currently exists on the church building. Mr. Taylor also testified that the addition will match the existing building.
19. Mr. Taylor further testified that the applicant would have one small sign at the entrance of the building. There would also be a portable sign that would be brought out when the food pantry was open. As a condition of approval, the applicant agreed that the portable sign would only be present while the food pantry was open.

20. Mr. Taylor noted that the parking lot was intended to remain gravel. The property on the West side will drain toward Division Street while the East side will drain towards Osborn and Third.
21. Mr. Taylor indicated that all garbage will be kept inside the building. There will not be any dumpsters on site. The applicant will dispose of garbage by bringing it out for the municipal garbage service to pick up on the appropriate days when the pick-up service occurs. The absence of a garbage dumpster is a condition of approval.
22. With regard to the comments contained within the Board Engineer's review letter of April 26, 2011, Mr. Taylor testified that the applicant would meet all of the requirements contained therein. Of particular note, the applicant agreed, as a condition of approval, that the existing curb and sidewalk, which is in poor condition, would be replaced.
23. Mr. Taylor indicated that the applicant requests a design waiver from Section 25:1-5.5 and 25:1-18.a.2 of the Borough's Zoning Ordinance as to delineated parking spaces being provided. Mr. Taylor felt that the parking lot size is consistent with RSIS standards. The Board's engineer indicated that he agreed with his sentiment and had no objection to the waiver being granted.
24. The applicant agreed to provide a lighting plan for the review and approval of the Board Professionals as a condition of approval.
25. The following members of the public also spoke with relation to this application, primarily with respect to concerns over the whether the new use would negatively impact the quality of life in the neighborhood.
- a) Michael Lane - 51 First Street
 - b) Michael Tomasello - 33 Warren Street
26. Michael Lane additionally argued his belief that a use variance was required for this application and that service had therefore not been appropriate. In support of his argument he entered the following exhibits into evidence:

O-1	A printout from the applicant's website as to the work the applicant performs
O-2	A copy of the applicant's client application

27. The Board rejected Mr. Lane's argument that a use variance was necessary as the Borough's Zoning Ordinance clearly states that eleemosynary and philanthropic institutions are permitted in the RA Zone. Nothing in the exhibits presented by Mr. Lane dispelled this fact.
28. Michael Lane additionally argued that quality of life issues would arise and submitted into evidence copies of two complaints he had personally filed with the Borough against the Church. These complaints were marked into evidence as **Exhibit O-3 and O-4** respectively.

29. The Board rejects the relevance of these submissions as they were raised against the Church, not the applicant. The Board further notes that the applicant has agreed to a condition of approval requiring that garbage will be stored inside the new structure and will only be brought out on garbage pick-up days.
30. The Board's professionals had no objections to the granting of this application from either a planning or engineering perspective provided the comments within their review letter are adhered to.
31. In considering this application, the Planning Board finds, based upon all of the testimony presented, that the proposed use is eleemosynary and philanthropic in nature and will be an inherently beneficial use for Keyport.
32. The Board also agrees with the testimony of the applicant that while the front yard variances associated with this application could have avoided if the applicant had located the proposed food pantry elsewhere on the existing Church Property, such re-location would not have been as aesthetically pleasing for the property as what has been proposed. Instead of having a separate building being constructed, the applicant is instead constructing a seamless addition to the existing building that will be in complete conformance with that structure.
33. The Board finds that the two front yard variances associated with this application can be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2) as they provide for a better zoning alternative than what strict enforcement of the zoning ordinance would allow.
34. The Board further believes that based upon the conditions which the applicant has agreed to place upon itself, such as extremely limited, off-peak hours and lack of garbage dumpsters on site, the impact of the food pantry upon the surrounding neighborhood will be negligible at best. The Board cannot envision any real negatives for the community associated with the granting of this application.
35. The Board finds that provided the applicant complies with all of the conditions agreed to during the course of this application, the proposed variances may be granted without causing any detriment to the Keyport Zoning Ordinance and Master Plan.
36. Based upon all of the aforesaid reasons, the Board finds that the application should and can be granted as proposed.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of the Keyport Ministerium Food Pantry for premises commonly known as 125 Division Street and officially designated as Block 77, Lot 1 be granted subject to the following conditions:

1. Subject to the Planning Board's Engineer and Planner reviewing and approving of the landscaping plan which shall be provided by the applicants.

2. Subject to the condition that there shall not be any dumpsters located on the site. All garbage must be stored inside the building and may only be brought out on garbage pick-up days.
3. Subject to the condition that the food pantry will be constructed in substantial conformance with the exhibits submitted into evidence and those submitted along with the application.
4. All refrigeration units must be kept within the structure.
5. All air conditioning units must be wall mounted on the parking lot side of the structure.
6. The hours of operation for the food pantry must be limited to Tuesdays and Thursdays from 9:30 am to 11:30 am. The Board understands that people may be present at the pantry within one half hour on either side of those times. Presence of such individuals during those one half hour periods will not be a violation of this approval.
7. Subject to the condition that deliveries to the Food Pantry will only take place on every second Wednesday of the month. All other deliveries for the Food Pantry will be purchased and brought to the site by the members of the applicant themselves.
8. Subject to the condition that the portable sign will only be utilized during the hours when the food pantry is open. It must be taken inside whenever the food pantry is not open.
9. Subject to the condition that the applicant replace the existing curb or sidewalk that is in poor condition and that the applicant will replace any curb or sidewalk damaged as a result of the construction.
10. Subject to the condition that the hall will not be rented during the hours which the food pantry is in operation.
11. Subject to a light plan being submitted and approved by the Board's Engineer and Planner.
12. Subject to compliance with the technical requirements of the review letter prepared by the Board's Professionals dated April 26, 2011, however the Board specifically eliminates paragraph 3.5 concerning easements as the Board's Engineer as indicated its inclusion in the letter was an error.
13. All representations made under oath by the applicant or his 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 any and all other approvals as may be required by the Borough, County, State or Federal regulations.
16. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.

17. 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 fees which might be required.
18. 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 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.
19. 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.

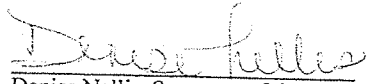
The foregoing was Moved by **Mr. Kovacs**

Seconded by **Mr. Sessa** and on Roll Call, the following vote was recorded:
Affirmative: **Mayor McLeod, Councilman Sheridan, Mr. Kovacs, Mr. Sessa, Mr. Hudson and Mrs. Tomczak**

Negative: **none**

Abstentions: **none**

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 June 23, 2011.


Denise Nellis, Secretary of the Board