

**CITY OF SOUTH AMBOY PLANNING BOARD
RESOLUTION PB 11-21**

Application Number 391-18A

Resolution granting Amended Approval for Use Variance of multiple uses on the property and Bulk Variances for minimum parking and maximum signage

**Metaline Products Company, Inc.
101 N. Feltus Street
Block 71, Lots 18 & 19
B-1 Building Zone
City of South Amboy**

WHEREAS, pursuant to the applicable provisions of the City of South Amboy Land Use Ordinance, the within Application for Amended Approval has been submitted to the City of South Amboy Planning Board (the “Board”) by Metaline Products Company, Inc. (the “Applicant”) for Use Variance of multiple uses on property and Bulk Variances for minimum parking and maximum signage as to premises located 101 N. Feltus Street, also known as Block 71, Lots 18 & 19 located on the Tax Map of the City of South Amboy (the “Current Application”); and

WHEREAS, on July 25, 2018, the Board memorialized Resolution PB 14-18 on the prior Application of Metaline Products Company, Inc., granting Use Variance for multiple uses on the property and Bulk Variances for minimum parking and waiver of buffer area between business and residential; and

WHEREAS, the Current Application reviewed by the Board consisted of those plans and documents as identified in the Completeness Reports prepared by Jason C. Valetutto, P.E., P.P. the consultant to the Planning Board dated December 9, 2020 and March 19, 2021; and

WHEREAS, the Current Application was certified as complete by the Completeness Committee on March 23, 2021 and Public Hearings with respect to the Current Application were held by the Board on May 26, 2021 and June 23, 2021 as per public notice and personal notice pursuant to NJSA 40:55D-12; and

WHEREAS, based upon the plans submitted and reviewed by the consultant to the Planning Board, the Applicant required a Use Variance and Bulk Variances from the zoning requirements of the City of South Amboy as set forth in the applicable ordinances as follows:

Variances Required

Use Variances

Max. Businesses	1 unit	3 units
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Bulk Variances

	Requirement	Proposed
Max. Signage	1 unit	3 units
Minimum Off-Street Parking	42	10

WHEREAS, at the aforesaid public hearing, the following reports were entered into the record:

Description of Reports

Date of Report

AJV Engineering Inc.
Amended Approval Application Review

April 23, 2021

WHEREAS, the Board, after carefully considering the evidence presented to it by or on behalf of the Applicant and upon the advice and recommendations of the advisory municipal personnel, and consultants (including, without limitation, those set forth in the aforesaid Planning Reports), makes the following findings of facts:

FINDINGS OF FACT

HEARING DAY ONE
MAY 26, 2021

1. The Applicant was represented by Thomas E. Downs IV, Esq.
2. The Board Chairwoman requested that Mr. Downs provide an update to the Board as to incomplete aspects of the permitting and compliance with the prior Resolution of Approval.
3. Mr. Downs than reported as follows:
 - a. The current application is an amendment to the original application approved in 2018.
 - b. The facility was originally a manufacturing facility and changed by Board Approval to office space and showroom.
 - c. Under the prior approval, Metaline showroom and ProStaff offices on the first floor and Metaline offices on the second floor were granted.
 - d. As to ProStaff there are remaining issues as to the signage.
 - e. As to Metaline he suggested the only remaining issue is landscaping.
 - f. At the present time the building consists of a Metaline showroom on the first floor to the left, ProStaff offices on the first floor to the right, and Metaline offices on the second floor
 - g. The present application is to permit Mr. Downs' Law Office where the Metaline

showroom presently exists on the first floor.

4. Mr. Downs then presented Mr. August Zilincar, III.
5. Mr. Zilincar was sworn in and testified as follows:
 - a. He is the CEO of Metaline.
 - b. Metaline has offices on the second floor pursuant to the prior approval.
 - c. ProStaff has its offices on the first floor.
 - d. The parking lot is not completed, landscaping has been delayed due to Covid but is to be completed soon.
 - e. Signage has been ordered but not installed.
6. Mr. Downs then presented Mr. Juan Carlos as CEO and President of ProStaff.
7. Mr. Diaz testified as follows:
 - a. He has had his offices in South Amboy for approximately 3 years.
 - b. The location is used for administrative offices: executive positions, payroll, and phone interviews.
 - c. The office is occupied Monday through Friday by six individuals, except on Wednesday there are usually eight to nine individuals due to a weekly meeting.
8. Mr. Downs then presented himself, was sworn in and testified as follows:
 - a. He is a licensed attorney in the State of New Jersey.
 - b. His office is presently at 415 Main Street, South Amboy.
 - c. The Landlord at his present location received Board approval to return the building to a residential use, causing Mr. Downs to relocate his law office.
 - d. Mr. Downs would be utilizing the space in the building that is currently occupied by the Metaline Showroom.
 - e. His office hours are 9am to 5 pm with one full-time secretary and one part-time secretary.
 - f. He does real estate closings from his office and during those closings, if not by mail or at another office, in addition to himself, there will be his client, the broker, the other attorney, and possibly the other attorney's clients. For will executions, he will have himself, his secretary, a witness, and the individuals executing the will.
 - g. As to signage there will be one sign inside the office.
9. Mr. Downs then presented Mr. James Higgins, as a licensed Professional Planner whose qualifications were accepted by the Board. Mr. Higgins testified as follows:
 - a. The prior approval contemplated 23 total building occupancy load for both Metaline and ProStaff combined.

- b. Mr. Higgins indicated that the prior testimony given that evening indicated a current maximum total building occupancy of 16 employees.
 - c. There could be some additional customers/clients but 23 occupants would appear to be the maximum.
 - d. The proposed change in the use is actually less intensive than when the prior application was approved, with fewer employees currently occupying the building than was previously approved.
 - e. There is therefore no substantial negative impact.
 - f. There are substantial positives in granting the application and no substantial negative to what has been previously approved by the Board.
10. The meeting was opened to the public for comment and questions.
11. There was no comment from the public.
12. Since there were only six voting members of the Board present, Mr. Downs requested that the hearing remain open to permit additional members to review the transcript of the hearing and certify to same in order that there were seven voting members at the next meeting.
13. The Board on motion made and approved, carried the hearing to the June meeting date without any further notice.

HEARING DAY TWO
JUNE 23, 2021

1. Mr. Downs reported to the Board as follows:
- a. The Handicapped Parking sign had been installed.
 - b. The plants required for landscaping were ordered.
 - c. The Irrigation system had not as yet been installed.
 - d. Permit applications had been submitted but not yet approved.
2. Board member George Baranowski who was not present for the May meeting read the transcript of that meeting and certified as required under the MLUL, providing a total of 7 voting members for this application
3. There was a discussion amongst the Board and Mr. Downs as to conditions to the Approval in connection with closing out the prior approval and conditions attached to it.
4. The hearing was open to the public for comments and questions.
5. No one from the Public wished to be heard, and the hearing was closed to the Public.

CONCLUSIONS

Based upon the findings of facts and for reasons set forth below:

The Board concludes as follows:

1. Applicant has received prior approval for two uses in the building where only one is permitted, a parking variance permitting ten parking spaces provided where 46 are required, and maximum signage of two units where only one is permitted.
2. Applicant's Current Application now seeks three uses in the building where two were approved, maximum signage of three where two were approved, and no change in the parking variance obtained.
3. Applicant is reducing the intensity of the use by eliminating the showroom for Metaline and replacing it with offices for Mr. Downs which will result in fewer potential occupants.
4. The grant of the variances would not substantially impair the intent and purpose of the zone plan and planning ordinance of the City of South Amboy and would actually be a positive impact by reducing the occupancy load in the premises.
5. There are existing violations with respect to occupancy which must be closed prior to any further issuance of Certificate of Occupancy.
6. The Use Variance and Bulk Variances can be granted without substantial detriment to the City of South Amboy for the reasons set forth in the record and this resolution and further do not create substantial detriment to the public good. The Applicant has satisfied its burden of proof as to both the positive and negative criteria required for the granting of the requested relief.

NOW, THEREFORE, BE IT RESOLVED that the City of South Amboy Planning Board hereby **grants** Application #391A-18 for Use Variance for multiple uses on property and Bulk Variances for minimum parking and maximum signage, as to premises located 101 N. Feltus Street, also known as Block 71, Lots 18 & 19 located on the Tax Map of the City of South Amboy (the "Application") with the following conditions:

1. The Applicant agreed that it would comply with the recommendations set forth in the Planning Report dated April 23, 2021
2. All conditions of the prior approval under application 391-18, except where modified by this approval, shall remain in full force and effect.

3. The maximum occupancy of the premises shall not exceed 23.
4. The granting of the relief as requested by the Applicant is not intended to and does not in any manner approve or waive the failure of the Applicant to comply with the City of South Amboy requirements to obtain a Certificate of Occupancy prior to the occupancy of Thomas Downs, IV, and Esq.
5. The obligation of the Applicant to comply with the requirements of the City of South Amboy and compliance with all rules and regulations remains in full force and effect.
6. Compliance with each and all other applicable approvals, if any, required by law or statute or regulation.
7. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearings held on May 26, 2021 and June 23, 2021.
8. All other matters set forth above, and/or incorporated herein.
9. Payment of all outstanding unpaid taxes, and other municipal charges and assessments.
10. Payment of all sums now and/or hereafter due for Application fees and/or escrows.
11. The Applicant or Board Secretary shall publish a brief notice of this determination in an official newspaper of the City of South Amboy within twenty (20) days of the date of receipt of a copy of this Resolution by the Applicant, and the Applicant shall furnish to the Planning Board Secretary an Affidavit of Publication by said newspaper.
12. Prior to the commencement of any site work, all professional escrow fees due the Board Planning Consultant and Planning Board Attorney shall be paid in full.

THIS IS TO CERTIFY that the foregoing is a true copy of the Resolution adopted by the Planning Board of the City of South Amboy at its public meeting held on September 22, 2021.

Amy Russo, Planning Board Secretary

Planning Board Voting

	Aye	Nay	Abstain
Chairwomen Mary Szaro	X		
Vice Chairman Scott Kominkiewicz			
Mayor Henry	X		
Councilman Tom Reilly			
Thomas Kelly			X
Janet Kern	X		
Dr. Jorge Gonzalez Gomez	X		
George Baranowski	X		
Gary Forshner	X		
Alternates			
William DeMasi	X		
Andrew Horezga			X
Robert Paulukiewicz			X
Francis Mulvey			X