

CITY OF SOUTH AMBOY PLANNING BOARD

RESOLUTION PB- 10 -19
Application Number 402-19

Resolution granting Minor Subdivision Approval.

Block 161.01 - Lot 26
City of South Amboy

WHEREAS, pursuant to the applicable provisions of the City of South Amboy Development Regulations Chapter 53, the within application has been submitted to the City of South Amboy Planning Board (the "Board") by McManimon, Scotland & Baumann, LLC (Karl P. Kemm, Esq., appearing) on behalf of the South Amboy Redevelopment Agency (the "Applicant") for Minor Subdivision Approval and Bulk Deviations for Minimum Lot Area, Minimum Lot Width, and no frontage on an approved street as to Block 161.01, Lot 26 on the Tax Map of the City of South Amboy in the Northern Waterfront Redevelopment Area;

WHEREAS, the application reviewed by the Board consisted of those plans and documents as identified in the completeness report prepared by Jason C. Valetutto, P.E., P.P., the consultant to the Board dated May 9, 2019;

WHEREAS, the application was certified as complete on May 22, 2019 and a public hearing with respect to the Application was held by the Board on June 26, 2019 as per public notice and personal notice pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, as part of the application and based upon the original plans submitted and reviewed by the consultant to the Board, the Applicant required Deviations from the Northern Waterfront Redevelopment Plan for proposed new Lot 26.03 as follows:

Deviations	<u>Required</u>	<u>Proposed</u>
Minimum Lot Area	100,000.00 sf	87,120 sf
Minimum Lot Width	200 ft.	167.87 ft.

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

<u>Description of Report</u>	<u>Date of Report</u>
Planning Report AJV Engineering Inc.	June 5, 2019

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 Report), makes the following findings of fact:

CITY OF SOUTH AMBOY PLANNING BOARD

RESOLUTION PB-19-19
Application Number 402-19

Resolution granting Minor Subdivision Approval.

Block 181.01 - Lot 28
City of South Amboy

WHEREAS, pursuant to the applicable provisions of the City of South Amboy Development Regulations Chapter 83, the within application has been submitted to the City of South Amboy Planning Board (the "Board") by McManimon, Scotland & Bumann, LLC (Karl P. Kemm, Esq., appearing on behalf of the South Amboy Redevelopment Agency (the "Applicant") for Minor Subdivision Approval and Bulk Deviations for Minimum Lot Area, Minimum Lot Width, and no frontage on an approved street as to Block 181.01, Lot 28 on the Tax Map of the City of South Amboy in the Northern Waterfront Redevelopment Area;

WHEREAS, the application reviewed by the Board consisted of those plans and documents as identified in the completeness report prepared by Jason C. Valente, P.E., P.P., the consultant to the Board dated May 8, 2019;

WHEREAS, the application was certified as complete on May 22, 2019 and a public hearing with respect to the Application was held by the Board on June 28, 2019 as per public notice and personal notice pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, as part of the application and based upon the original plans submitted and reviewed by the consultant to the Board, the Applicant requested Deviations from the Northern Waterfront Redevelopment Plan for proposed new Lot 28.03 as follows:

<u>Proposed</u>	<u>Required</u>	<u>Deviations</u>
87,120 sq ft	100,000.00 sq ft	Minimum Lot Area
187.87 ft.	200 ft.	Minimum Lot Width

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

<u>Date of Report</u>	<u>Description of Report</u>
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June 5, 2019	Planning Report ALV Engineering Inc.
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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 Report), makes the following findings of fact:

FINDINGS OF FACT

1. The Applicant was represented by Karl P. Kemm, Esq.
2. Mr. Kemm made certain representations to assist the Board in its consideration of the application as follows:
 - a. The basis for the application was a lawsuit (the "Litigation") involving the South Amboy Redevelopment Agency ("SARA", the "Applicant"), the City of South Amboy, and NRG REMA, LLC (the "Property Owner").
 - b. The Litigation was settled resulting in the Property Owner giving to the Applicant two (2) acres of property subject to the applicant obtaining Minor Subdivision Approval.
3. Mr. Kemm acknowledged on behalf of the Applicant receipt of the Planning Report of AJV Engineering Inc. of June 5, 2019.
4. Mr. Kemm produced Mr. Mark J. Rasimowicz, P.E., P.P., C.E., C.F.M. as a Licensed Professional Engineer and Professional Planner in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Engineer and Professional Planner.
5. Mr. Rasimowicz testified as follows:
 - a. He is the City Engineer for the City of South Amboy.
 - b. The property is located in the Northern Waterfront Redevelopment Area and subject to the Northern Waterfront Redevelopment Plan.
 - c. Currently on the site are remnants of a former power plant with some existing power equipment on site and in operation.
 - d. The subdivision will result in the two (2) acre lot to be dedicated to SARA, being proposed new Lot 26.03 (the "SARA Lot") with the remaining 26.36 acres to remain with the Property Owner, being proposed new Lot 26.02.
 - e. The SARA Lot does not front on an approved street as required by N.J.S.A. 40:55D-35.
 - f. There are no improvements proposed at this time on the SARA Lot.
 - g. An aerial photo was marked as Exhibit A-1 identifying the two (2) proposed lots.
 - h. The three requested Deviations were described: no lot frontage, Minimum Lot Width, and Minimum Lot Area.

FINDINGS OF FACT

1. The Applicant was represented by Kah P. Kern, Esq.
2. Mr. Kern made certain representations to assist the Board in its consideration of the application as follows:
 - a. The basis for the application was a lawsuit (the "litigation") involving the South Amboy Redevelopment Agency ("SARA," the "Applicant"), the City of South Amboy, and HRG REMA, LLC (the "Property Owner").
 - b. The litigation was settled resulting in the Property Owner giving to the Applicant two (2) acres of property subject to the applicant obtaining Minor Subdivision Approval.
 3. Mr. Kern acknowledged on behalf of the Applicant receipt of the Planning Report of ALV Engineering Inc. of June 5, 2018.
 4. Mr. Kern produced Mr. Mark J. Rasimowicz, P.E., P.P., C.E., C.F.M. as a Licensed Professional Engineer and Professional Planner in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Engineer and Professional Planner.
 5. Mr. Rasimowicz testified as follows:
 - a. He is the City Engineer for the City of South Amboy.
 - b. The property is located in the Northern Waterfront Redevelopment Area and subject to the Northern Waterfront Redevelopment Plan.
 - c. Currently on the site are remnants of a former power plant with some existing power equipment on site and in operation.
 - d. The subdivision will result in the two (2) acre lot to be dedicated to SARA, being proposed new Lot 28.02 (the "SARA Lot") with the remaining 28.38 acres to remain with the Property Owner, being proposed new Lot 28.02.
 - e. The SARA Lot does not front on an approved street as required by N.J.S.A. 40:55D-35.
 - f. There are no improvements proposed at this time on the SARA Lot.
 - g. An aerial photo was marked as Exhibit A-1 identifying the two (2) proposed lots.
 - h. The three requested Deviations were described: no lot frontage, Minimum Lot Width, and Minimum Lot Area.

- i. The Deviations are de minimis and the result of the court settlement. Mr. Rasimowicz opined as a Professional Planner, the Deviations create an extraordinary and exceptional situation uniquely affecting this specific property, which is also defined as a hardship on the criteria for a C-1 variance.
 - j. Additionally, Mr. Rasimowicz opined that the benefits of the proposal substantially outweigh any potential detriments either to the City zone plan or the Master Plan.
 - k. The benefits include two (2) acres of land to be dedicated to the SARA.
6. Applicant's case having been completed, upon motion made, seconded and approved, the matter was opened to the public.
 7. No one from the public requested to be heard.

Based upon the above Findings of Fact, the Board concludes as follows:

CONCLUSIONS

The Board makes the following findings and conclusions:

1. The property is located in the Northern Waterfront Redevelopment Area and is subject to the Northern Waterfront Redevelopment Plan.
2. The subdivision will result in the two (2) acre lot (Lot 26.03) being dedicated to SARA with the remaining 26.36 acres to remain with NRG REMA, LLC (Lot 26.02).
3. The SARA Lot does not have frontage on an approved street and relief is required under N.J.S.A. 40:55D-35 and granted under N.J.S.A. 40:55D-36 and are the result of the court settlement.
4. The requested Deviations for Minimum Lot Area and Minimum Lot Width are de minimis and the result of the court settlement.
5. The Deviations create an extraordinary and exceptional situation uniquely affecting this specific property, which is also defined as a hardship under the criteria for a C-1 variance pursuant to the MLUL.
6. The benefits of the proposal substantially outweigh any potential detriments either to the City zone plan or the Master Plan.
7. The benefits include two (2) acres of land to be dedicated to the SARA.
8. The grant of the proposed subdivision and Deviations for no lot frontage,

The Deviations are de minimis and the result of the court settlement. Mr. Rasmowicz opined as a Professional Planner, the Deviations create an extraordinary and exceptional situation uniquely affecting this specific property, which is also defined as a hardship on the criteria for a C-1 variance.

Additionally, Mr. Rasmowicz opined that the benefits of the proposal substantially outweigh any potential detriments either to the City zone plan or the Master Plan.

The benefits include two (2) acres of land to be dedicated to the SARA. Applicant's case having been completed, upon motion made, seconded and approved, the matter was opened to the public.

No one from the public requested to be heard.

Based upon the above Findings of Fact, the Board concludes as follows:

CONCLUSIONS

The Board makes the following findings and conclusions:

1. The property is located in the Northern Waterfront Redevelopment Area and is subject to the Northern Waterfront Redevelopment Plan.
2. The subdivision will result in the two (2) acre lot (Lot 28.03) being dedicated to SARA with the remaining 28.38 acres to remain with NRG REWA, LLC (Lot 28.02).
3. The SARA Lot does not have frontage on an approved street and relief is required under N.L.S.A. 40:58D-38 and granted under N.L.S.A. 40:58D-38 and are the result of the court settlement.
4. The requested Deviations for Minimum Lot Area and Minimum Lot Width are de minimis and the result of the court settlement.
5. The Deviations create an extraordinary and exceptional situation uniquely affecting this specific property, which is also defined as a hardship under the criteria for a C-1 variance pursuant to the M.U.L.
6. The benefits of the proposal substantially outweigh any potential detriments either to the City zone plan or the Master Plan.
7. The benefits include two (2) acres of land to be dedicated to the SARA.
8. The grant of the proposed subdivision and Deviations for no lot frontage.

Minimum Lot Area and Minimum Lot Width can be granted without substantial detriment to the City of South Amboy Development Regulations Chapter 53 for the reasons set forth above and in the record and further does 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. The application will provide benefits to the City while resulting in no negative impact.

NOW, THEREFORE, BE IT RESOLVED that the City of South Amboy Planning Board hereby **grants** Application #402-19 Minor Subdivision Approval and Bulk Deviations for Minimum Lot Area and Minimum Lot Width from the Northern Waterfront Redevelopment Plan, and relief from no lot frontage as to new Block 161.02, Lot 26.03, and any existing deviations on new Block 161.02, Lot 26.02 are permitted to remain and continue. Subject to the following:

1. Compliance with recommendations set forth in the Planning Report dated June 5, 2019.
2. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives.
3. Compliance with each and all other applicable approvals, if any, required by law or statute or regulation to perfect a Minor Subdivision Approval.
4. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearing held on June 26, 2019.
5. All other matters set forth above, and/or incorporated herein.
6. Payment of all outstanding unpaid taxes, and other municipal charges and assessments.
7. Payment of all sums now and/or hereafter due for application fees and/or escrows.
8. Counsel for Applicant 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 this Resolution.
9. Prior to the commencement of any site work, all professional escrow fees due to the Board Planning Consultant and Planning Board Attorney shall be paid in full.

Minimum Lot Area and Minimum Lot Width can be granted without substantial detriment to the City of South Amboy Development Regulations Chapter 53 for the reasons set forth above and in the report and further does not create substantial detriment to the public good. The Applicant has shifted its burden of proof as to both the positive and negative criteria required for the granting of the requested relief. The application will provide benefits to the City while resulting in no negative impact.

NOW, THEREFORE, BE IT RESOLVED that the City of South Amboy Planning Board hereby grants Application #402-19 Minor Subdivision Approval and Bulk Deviations for Minimum Lot Area and Minimum Lot Width from the Northern Waterfront Redevelopment Plan, and relief from no lot frontage as to new Block 181.02, Lot 28.03, and any existing deviations on new Block 181.02, Lot 28.02 are permitted to remain and continue. Subject to the following:

1. Compliance with recommendations set forth in the Planning Report dated June 5, 2019.
2. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives.
3. Compliance with each and all other applicable approvals, if any, required by law or statute or regulation to perfect a Minor Subdivision Approval.
4. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearing held on June 28, 2019.
5. All other matters set forth above, and/or incorporated herein.
6. Payment of all outstanding unpaid taxes, and other municipal charges and assessments.
7. Payment of all sums now and/or hereafter due for application fees and/or escrow.
8. Counsel for Applicant 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 this Resolution.
9. Prior to the commencement of any site work, all professional escrow fees due to 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 July 24, 2019.


Kathryn Kudelka, Planning Board Secretary

Planning Board – **Block 161.01 - Lot 26**

	Aye	Nay	Abstain
Mary Szaro	X		
Scott Kominkiewicz	X		
Tom Kelly	X		
Mayor Henry	X		
Brian McLaughlin	X		
Francis Mulvey	X		
Holly Hughes	X		
George Baranowski	X		
Catherine Corey	X		
Alternates			
Janet Kern			
Jorge Gonzales-Gomez			

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 July 24, 2018.

Kathleen Kudala
 Kathleen Kudala, Planning Board Secretary

Planning Board - Block 161.01 - Lot 28

	Aye	Nay	Abstain
Jorge Gonzalez-Gomez			
Janez Kern			
Alfonso			
Catherine Corry	X		
George Branowski	X		
Holly Hughes	X		
Francis Mulvey	X		
Brian McLaughlin	X		
Mayor Henry	X		
Tom Kelly	X		
Scott Kominkiewicz	X		
Mary Szaro	X		