

PLANNING BOARD
CITY OF SOUTH AMBOY

RESOLUTION PB-12-12
RESOLUTION DENYING USE AND BULK VARIANCES RELATED TO EXPANSION OF
A NON-CONFORMING USE LOCATED ON BLOCK 74, LOTS 22 & 23, LANDS OF THE
CITY OF SOUTH AMBOY

WHEREAS, application has been made by J. Inc., d/b/a “Munckee Bar”, (“Applicant”) to the Planning Board of the City of South Amboy (“Board”) for use, impervious coverage and parking variance approval related to the proposed expansion of a nonconforming use to permit outdoor dining in connection with an existing tavern on property located at 113 S. Feltus Street and 442 Henry Street, South Amboy (Block 74, Lots 22 & 23 (the “Property”)); and

WHEREAS, Applicant is the owner of Property; and

WHEREAS, the Property is located in the RA Zone; and

WHEREAS, the Applicant was represented by Francis Womack, Esq.; and

WHEREAS, the Applicant seeks to expand a pre-existing non-conforming use by adding outdoor dining and service area to an existing tavern located at the Property; and

WHEREAS, Applicant seeks to utilize a portion of 442 Henry Street for a trash area associated with the existing tavern, which would require a use variance; and

WHEREAS, the Application would require a parking variance as off-street spaces are required and zero spaces are proposed; and

WHEREAS, the Applicant was represented by Francis Womack, Esq.; and

WHEREAS, the Planning Board held a public hearing on November 28, 2012 and has carefully considered the Application as well as the testimony and exhibits presented by the Applicant; and

WHEREAS, the Application consisted of the following documents:

1. Two undated and unsigned sketches depicting the proposed layout of tables at the existing tavern and adjacent property.
2. Survey prints for 113 S. Feltus and 442 Henry Street, signed but unsealed;
3. Key/narrative sheet, undated and unsigned.

WHEREAS, the following Exhibits were submitted and considered by the Board:

A-1 through A-5 – Pictures showing before and after depictions.

A-6 Diagram

A-7 Legend / Key

TR-1 through TR-7 - Pictures

WHEREAS, the Board has made the following findings of fact:

1. Applicant seeks use, parking and lot coverage variances to permit the expansion of a pre-existing non-conforming use by the addition of outdoor dining and service to an existing tavern and adjacent residentially-zoned property.
2. During the hearings, the Applicant's attorney Francis Womack, Esq., stated the Application did not seek to increase the total number of patrons that could be served by the tavern, and that there has never been any off-street parking associated with the existing tavern.
3. During the hearings the Applicant presented the testimony of Mr. Munck, one of the owners.
4. Mr. Munck testified that he worked at the tavern from 1994 to 2001 and returned in 2009, and has been a part owner and manager since 2009.
5. Mr. Munck testified that the maximum occupancy is 90-100 people and the Application does not seek to increase that number.

6. Mr. Munck testified that he and his brother own the adjacent property and would consent to conveying a portion of 442 Henry Street to the adjacent property on which the tavern is constructed so that all tavern activity is located on a single lot.
7. Mr. Munck testified as to the proposal to provide outdoor dining and a fence that would allow only exiting, so that all entry to the tavern would be limited to the existing entrance through the building.
8. Mr. Munck testified that the Applicant would consent to a condition that there be an alarm installed on the gate and that the walkway behind the house be closed.
9. Mr. Munck testified that the Applicant would consent to the condition of no outdoor speakers and no glass bottles in the outside area.
9. The Application was opened to the public. Thomas Ryan testified that his house is 65 feet from the proposed dining area. Mr. Ryan testified that he can hear noise from the tavern even when the door is closed, his quality of life has suffered due to the noise from the tavern and there is loud talking and music late at night.
10. Matt Ryan testified that there is very little available parking the area, and that patrons and vendors of the tavern park in dangerous spots. He further testified that there is a lot of noise and swearing heard from the tavern.
11. Another member of the public who lives on Henry Street testified that there is insufficient parking for tavern patrons and therefore many patrons park on Henry Street, and that patrons emerge from the tavern drunk and arguing late at night.
12. Lauren Kararo testified that the tavern generates a lot of noise, especially on Thursday nights. Patrons often block her driveway with their cars and there are often fighting amongst the patrons. She also testified that the Applicant took down her fence and has not rebuilt her retaining wall as agreed to.
13. Daphne Russell spoke in support of the Application. Ms. Russell lives on Henry Street and is employed by the tavern. She works Monday, Thursday and Friday nights. She testified that the outdoor dining would provide a better experience for the patrons.

WHEREAS, the Board has made the following conclusions:

1. The Applicant has failed to demonstrate special reasons for the issuance of the requested use and parking variances in that the existing tavern is a busy, operating enterprise in its current configuration.

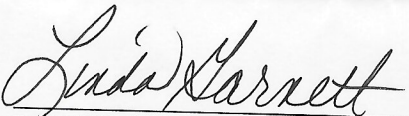
2. The Applicant has failed to demonstrate that that issuance of the requested use and parking variances will not result in a substantial detriment to the public good or that it will not substantially impair the intent and purpose of the zone plan and zoning ordinance. In particular, there was significant amount of testimony that the existing use of the Property contributes to parking and noise problems, and that the proposed variances would increase those problems.
3. The Applicant has failed to demonstrate that it will suffer exceptional or undue hardship if the requested use and parking variances are not granted.

NOW, Therefore Be It Resolved by the Planning Board in the City of South Amboy in the County of Middlesex and State of New Jersey on this 18th day of December, 2012 the use, parking and lot coverage variances are hereby **DENIED** and the Application of the Applicant is hereby **DENIED**.

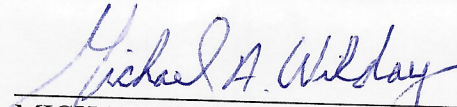
Be it Further Resolved that,

1. The Board Secretary shall publish a brief notice of determination in an official newspaper of the City and obtain an Affidavit of Publication by said newspaper.
2. This Resolution shall take effect as provided by law.

ATTEST:


LINDA GARNETT, Secretary

PLANNING BOARD OF THE
CITY OF SOUTH AMBOY


MICHAEL WILDAY, Chairman

CERTIFICATION

Certified to be a True Copy of a Resolution adopted by the Planning Board of the City of South Amboy on December 18, 2012 at a duly convened meeting.

DATE:

Linda Garnett, Secretary