

PLANNING BOARD
CITY OF SOUTH AMBOY

RESOLUTION PB- 12 -15
RESOLUTION APPROVING BULK VARIANCE FOR PROPERTY LOCATED ON BLOCK
43, LOT 9 LANDS OF THE CITY OF SOUTH AMBOY

WHEREAS, application has been made by Bill Leary ("Applicant") to the Planning Board of the City of South Amboy ("Board") for a Bulk Variance for impervious coverage related to property located at 217 John Street, (Block 43, Lot 9) (the "Property"); and

WHEREAS, Applicant is the owner of Property; and

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

WHEREAS, the Property is currently improved with a two-story single family residential building; and

WHEREAS, the Application seeks a bulk variance in order to obtain approval for work done at the Property without obtaining zoning or building department approval, including new cement along with sides of the existing home, a new poured cement patio and replacement of existing cement slabs and front steps which work resulted in the need for a variance for impervious coverage; and

WHEREAS, the Property is undersized for the RA Zone, being 25' by 100.54', whereas the minimum width required is 50' and only 2,513 sq. feet whereas the minimum required is 5,000 sq. feet; and there are existing non-conformities as to front yard, side yard and total side yard setbacks;

WHEREAS, the Planning Board held public hearings on August 26 and September 30, 2015, and has carefully considered the Application as well as the testimony and exhibits presented by the Applicant; and

WHEREAS, the Applicant was not represented by counsel; and

WHEREAS, the Applicant presented the testimony of Bill Leary; and

WHEREAS, the Applicant submitted and the Board considered, the following documents:

1. A marked-up copy of a survey dated 4/23/15 prepared by Max V. Raffaele, L.C. of A-1 Land Surveys, Inc.
2. Several photographs of the property.

WHEREAS, proper proof of advertisement and service of notices of a public hearing in regard to this Application have been furnished; and

WHEREAS, the aforementioned plan and photographs were reviewed by Angelo J. Valetutto, P.E., P.P., the consultant to the Planning Board, who provided reports to the Planning Board, dated August 4, 2015 and August 28, 2015; and

WHEREAS, Mr. Leary acknowledged receipt of the reports by Mr. Valetutto dated August 4, 2015 and August 28, 2015; and

WHEREAS, Mr. Leary testified that Applicant is seeking approval for work that has already been performed and that he was not aware that he needed a zoning permit in order to undertake the work, which he felt was replacing an existing sidewalk; and

WHEREAS, Mr. Leary testified that as to the new concrete work on the sides of the house, only one side was new, while the other already had existing concrete. The existing side

was in poor condition, and in deciding to replace it, he also decided to put concrete on both sides of the house, and the patio was removed a new cement patio installed in its place; and

WHEREAS, Mr. Leary testified that he is not going to reside in the house, but rather to sell or rent the property; and

WHEREAS, Mr. Leary testified that he is willing to comply with the items set forth in Mr. Valetutto's August 4, 2015 report and August 28, 2015 report and to seek an easement from the City of South Amboy in relation to the stairs encroaching on the City's John Street right-of-way; and

WHEREAS, Mr. Valetutto pointed out that the Applicant had not provided information to support the Applicant's assertion that the concrete work on the sides of the house and patio existed prior to his purchase of the property, and thereafter the Board carried the hearing to the next meeting date in order for Mr. Valetutto to provide information as to whether the cement work on the sides of the house and rear yard patio existed at the time that the Applicant purchased the Property; and

WHEREAS, at the September 30, 2015 meeting, Mr. Valetutto testified that his review of publicly available information indicated that the cement work on the sides of the house and rear yard patio existed at the time that the Applicant purchased the house, but that there was no record of permits being obtained for the original installation of such work; and

WHEREAS, Mr. Leary testified regarding the status of the fence in the rear portion of the yard and that he would construct the fence in compliance with the applicable building code; and

WHEREAS, the Board has considered the plans, the respective testimony aforesaid and the reports to it by its consultant, Angelo J. Valetutto, P.E., P.P., and finds that:

- (A) The Planning Board has jurisdiction in this matter.

- (B) Applicant's proposal will not adversely affect adjoining or nearby properties.
- (C) During the course of the proceedings Applicant agreed to comply with all of the items set forth in the August 4, and August 28, 2015 review letters by Mr. Valetutto.

WHEREAS, the Board has made the following findings and conclusions:

1. Applicant seeks a bulk variance for impervious coverage necessitated by the cement work which was installed on the sides of the home and the rear patio prior to the time which Plaintiff purchased the Property.
2. The Board's Engineer, Angelo Valetutto, P.E. prepared reports dated August 4 and August 28, 2015, which were reviewed by the Applicant and made a part of the record.
3. That the Applicant has put forth evidence to justify the grant of the requested bulk variance.
4. That the requested bulk variance is herein granted subject to the conditions set forth herein. The benefit of granting such variance outweighs the detriment, and can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, Be It Resolved by the Planning Board of the City of South Amboy, on this 28th day of October, 2015 that a Bulk Variance for impervious coverage in conformance with the plans submitted by the Applicant, and pursuant to the conditions set forth in this Resolution shall be and is hereby granted, subject to the following conditions:

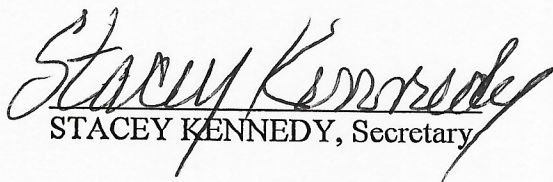
1. Compliance with all conditions set forth in the August 4 and August 28, 2015 review letters of the Board's Engineer.
2. The property will be maintained in conformance with the property maintenance regulations, including but not limited to the obligation to install a fence at the rear of the Property as set forth in the August 28, 2015 review letter by the Board's Engineer.

3. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives.
4. Each and all other applicable approvals, if any, required by law or statute or regulation.
5. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearings held on August 26 and September 30, 2015.
6. All other matters set forth above, and/or incorporated herein.
7. Payment of all outstanding unpaid taxes, and other municipal charges and assessments.
8. Payment of all sums now and/or hereafter due for application fees and/or escrows.
9. The Applicant shall publish a brief notice of this determination in an official newspaper of the municipality 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.

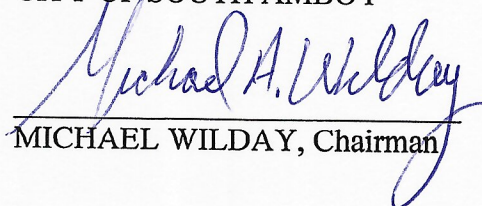
Be it Further Resolved that,

1. This Resolution shall take effect as provided by law.

ATTEST:


STACEY KENNEDY, Secretary

PLANNING BOARD OF THE
CITY OF SOUTH AMBOY


MICHAEL WILDAY, Chairman