

PLANNING BOARD  
CITY OF SOUTH AMBOY

RESOLUTION PB-07-13  
RESOLUTION APPROVING PRELIMINARY AND FINAL SITE PLAN AND USE AND  
BULK VARIANCES FOR PROPERTY LOCATED ON BLOCK 18.02, LOT 12 LANDS OF  
THE CITY OF SOUTH AMBOY

WHEREAS, application has been made by Lillian Applegate, (“Applicant”) to the Planning Board of the City of South Amboy (“Board”) for Preliminary and Final Site Plan approval and Bulk variances related to property located at 331 Bordentown Avenue, (Block 18.02, Lot 12) (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 vacant one-story garage formerly utilized in connection with a service station on the Property; and

WHEREAS, the Application seeks to construct a shed to be utilized in connection with soil vapor extraction remediation of contamination under the Property; and

WHEREAS, the Application requires a use variance, where the proposed use of the shed as an accessory structure for a non-conforming use is an expansion of a non-conforming use; and

WHEREAS, the Application requires a variance for maximum lot coverage, where 25% is permitted, and 26.19% is proposed; and

WHEREAS, the Application requires a variance for an accessory structure in the front yard; and

WHEREAS, the Planning Board held public hearings on March 27, 2013, April 24, 2013 and May 29, 2013 and has carefully considered the Application as well as the testimony and exhibits presented by the Applicant; and

WHEREAS, said Applicant was represented by Robert Morris, Esq. and Frank J. Brennan, Esq.; and

WHEREAS, the Applicant presented the testimony of Eric Schlauch, LSRP, Craig Stires, P.E., and Robert Barns; and

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

- A. Signed and sealed Site Plan, prepared by Stires Associates, P.A., dated 12/11/12, revised through 4/08/13 and consisting of one sheet;
- B. Drawing entitled "Temporary Remediation System Layout", prepared by Peak Environmental, Inc., dated 7/31/12, consisting of one sheet;
- C. Plan entitled, "Plot & Elevation Exxon RAS 3-3425", prepared by Carbonair, dated 5/19/97;
- D. Exhibit A-1 consisting of a board with five photographs;
- E. Exhibit A-2, a colored version of the site plan.
- F. Exhibit A-3, Certification of Lillian Applegate.

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 plans were reviewed by Angelo J. Valetutto, P.E., P.P., the consultant to the Planning Board, who provided reports to the Planning Board, dated March 25, 2013 and April 17, 2013; and



WHEREAS, Mr. Schlauch testified as to the history of operations at the site as a service station and the efforts to remediate contamination resulting from historical operations. Mr. Schlauch further testified as to the method selected to remediate the remaining contamination, soil vapor extraction, the equipment for which will be located in the shed proposed by the Application. Mr. Schlauch further testified regarding the issue of noise and odors, and hours of operation estimated to be necessary in order to achieve remediation approval from the New Jersey Department of Environmental Protection.

WHEREAS, Mr. Schlauch testified that they have designed the system to be in compliance with all applicable noise level restrictions, and that they expect the noise level from the equipment to be less than 50 decibels at the property line; and

WHEREAS, Mr. Stires testified regarding the existing conditions on the property, the need for the use and bulk variances and variances related to pre-existing conditions that will not be changed; and

WHEREAS, Mr. Barns testified as to his experience in utilizing the type of equipment to be located in the proposed shed for other remediation projects and that he has not experienced complaints about noise from use of the equipment for solely soil vapor extraction; and

WHEREAS, the Board deemed said Application complete and further the Board did review the Application, including but not limited to the submitted plans and heard testimony and reviewed the aforesaid reports of Mr. Valetutto, at public meetings held on March 27, 2013 and April 24, 2013 and May 29, 2013; 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 be in conflict with the Master Plan, the Official Map or the Development Regulations of the City Ordinances and will not adversely affect adjoining or nearby properties.
- (C) During the course of the proceedings Applicant agreed to comply with all of the comments offered by Mr. Valetutto, as well as the items set forth in his review letters.
- (D) During the course of the proceedings, the Applicant agreed to the following conditions:
  - 1. The property will not be used or rented until the remediation is complete and the equipment is removed from the property.
  - 2. The Applicant will test the house owned by Mr. Oliver for vapors within 3 weeks from starting the remediation, at a time to be agreed to by Mr. Oliver.
  - 3. In the event the equipment is not in compliance with the applicable noise regulations, it will be completely shut down until full compliance can be achieved.
  - 4. The property will be maintained in conformance with the property maintenance regulations.

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

- 1. Applicant seeks a use variance necessitated by the addition of an accessory structure to a non-conforming use to allow for the construction of a shed to house remediation equipment related to contamination from historical operation of a service station.
- 2. Applicant seeks a variance to allow an accessory structure in the front yard.
- 3. The Board's Engineer, Angelo Valetutto, P.E. prepared reports dated March 24, 2013 and April 17, 2013, which were reviewed by the Applicant and made a part of the record.
- 4. That the Applicant has put forth evidence to justify the grant of a use variance as well as the bulk variances for lot coverage and accessory structure in the front yard.
- 5. That the requested Use Variance, Lot Coverage Variance and Accessory Structure Variance are herein granted. The benefit of granting such variances 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 26th day of June, 2013 that Preliminary and Final Site Plan Approval, use variance, maximum lot coverage variance and accessory use in front yard variance in conformance with the plans submitted by the Applicant and as amended during the hearing and pursuant to the conditions set forth in this Resolution shall be and are hereby granted, subject to the following conditions:

1. Submission and approval of revised plans in accordance with the aforesaid reports of Angelo J. Valetutto, P.E., P.P.
2. Submission and approval of revised plans in accordance with the conditions set forth in this Resolution and during the hearings before the Board.
3. The property shall not be used or rented until the remediation is complete and the equipment is removed from the property.
4. The Applicant will test the house owned by Mr. Oliver for vapors within 3 weeks from starting the remediation, at a time to be agreed to by Mr. Oliver.
5. In the event the operation of the equipment is not in compliance with the applicable noise regulations, it will be completely shut down until full compliance can be achieved.
6. The property will be maintained in conformance with the property maintenance regulations.
7. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives, including but not limited to approval by or an exemption letter from the Middlesex County Planning Board.
8. Each and all other applicable approvals, if any, required by law or statute or regulation.
9. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearings held on March 27, 2013, April 24, 2013 and May 29, 2013.