

**CITY OF SOUTH AMBOY PLANNING BOARD**

**RESOLUTION PB-8-18**  
**Application Number 379-17**

**Resolution granting Preliminary and Final Major Site Plan approval, Bulk Deviation for maximum impervious coverage, and design waivers with respect to minimum parking space size, minimum distance between parking spaces and building, minimum number of loading spaces, maximum permitted fence height, minimum 50' distance between proposed driveway and intersection and maximum number of signs.**

**Block 62, Lots 10, 11, and 12  
Main Street and Broadway  
City of South Amboy**

**WHEREAS**, pursuant to the applicable provisions of the City of South Amboy Land Use Ordinance the within application has been submitted to the City of South Amboy Planning Board (the "Board") by Wilentz, Goldman & Spitzer, P.A. (Donna M. Jennings, Esq., Appearing) on behalf of DeVimy Equities, LLC (the "Applicant") for Preliminary and Final Major Site Plan approval, Bulk Deviation for maximum impervious coverage, and design waivers with respect to minimum parking space size, minimum distance between parking spaces and building, minimum number of loading spaces, maximum permitted fence height, minimum 50' distance between proposed driveway and intersection and maximum number of signs on Block 62, Lots 10, 11, and 12 on the Tax Map of the City of South Amboy in the Broadway-Main Street Redevelopment Area; and located at the intersection of Main Street and Broadway;

**WHEREAS**, the application reviewed by the Board consisted of those plans and documents as identified in the completeness report prepared by Angelo J. Valetutto, P.E., P.P. the consultant to the Board dated June 21, 2017; and application review reports prepared by Jason C. Valetutto, P.E., P.P. the consultant to the Board, dated July 19, 2017 and December 18, 2017;

**WHEREAS**, the application was certified as complete on October 25, 2017 and public hearings with respect to the Application were held by the Board on November 20, 2017, December 21, 2017, February 28, 2018, March 5, 2018, and March 28, 2018 as per public notice and personal notice pursuant to NJSA 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 a deviation from the Redevelopment Plan and wiavers as set forth in the ordinance:



<u>Description</u>	<u>Required</u>	<u>Proposed</u>
<b>Deviations</b>		
Maximum Impervious Coverage	80%	85%
Minimum Off Street Parking	15 spaces	11 spaces
<b>Waivers</b>		
Size of parking space	10' x 20'	9' x 18'
Parking locations	Minimum 20' from building	6'
Loading Area	Minimum 1 space	0 spaces
Fence Height	Maximum 4' in front yard	6'
Driveway distance from intersection	Minimum 50'	44.1'
Signs	Not permitted in RA Zone	8 signs

**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.	July 19, 2017
Planning Report AJV Engineering Inc.	December 18, 2017

**WHEREAS**, Gasiorowski and Holobinko Attorneys At Law (R.S. Gasiorowski, Esq. appearing) appeared on behalf of Janak Patel and Dilip Patel, Owners of the Krausers Convenience Store, located at 200 N.Broadway, collectively the "Objector")

**WHEREAS**, the Board, after carefully considering the evidence presented to it by or on behalf of the Applicant and carefully considering the evidence presented to it by or on behalf of the Objector, 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 facts:

**FINDINGS OF FACT**

1. The Applicant was represented by Donna M. Jennings, Esq.
2. The Objector was represented by R. S. Gasiorowski, Esq.

**Public Hearing November 20, 2017**

3. Ms. Jennings on behalf of the Applicant acknowledged receipt of the Planning Report of July 19, 2017,

- 4 Ms. Jennings produced Mr. Josh Sewald as a Licensed Professional Engineer in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Engineer.
- 5 Mr. Sewald testified as follows:
  - a. Exhibit A-1 was introduced, which was a colorized aerial exhibit prepared by Dynamic Engineering dated July 19, 2017.
  - b. The property is unique in that it is three parcels combined with three frontages, Main Street, North Broadway and a 10 ft alleyway.
  - c. The building on the property is a one story building with a garage component.
  - d. Exhibit A-2 was introduced, which was a colored Site Plan rendering.
  - e. There is to be a full movement driveway on North Broadway, and a right in/right out driveway on Main Street, which is under the jurisdiction of the County of Middlesex.
  - f. The Applicant has a conditional approval from the Middlesex County Planning Board with a fair share contribution obligation for improvements and upgrades to the intersection.
  - g. The application does comply with the bulk standards relating to building coverage on the site.
  - h. Waivers requested are:
    - (1) Parking space size
    - (2) Parking location in proximity to building
    - (3) Number of loading spaces
    - (4) 6 ft. fence along western side of site
    - (5) minimum 50' distance between proposed driveway and intersection
    - (6) Number of signs.
  - i. This is a 24 hour 7 day a week operation with once a week articulating tractor trailer vehicle on site.
  - j. Testimony was provided on trash enclosure, pick up times, lighting, landscaping, utilities and drainage.
  - k. As to drainage there will be an overall positive result to the drainage



situation on the property due to Applicant's construction.

- l. Testimony was provided on the waiver requested for the requirement of a loading space. It was reported that all loading goes through the front door.
- m. There will be Security cameras inside and outside with two full time employees on site at all times.

**Public Hearing December 21, 2017**

- n. Based upon the comments from the Board and its consultants at the prior public hearing the Applicant
    - a. reduced the size of the proposed store from 2,940 square feet to 2,550 square feet which resulted in an elimination of the off street parking deviation, and
    - b. eliminated a propane tank feature from the site.
    - c. Further reduced the maximum impervious coverage deviation from 85% to 82.7% - only 2.7% over the Redevelopment Plan standard.
    - d. Eliminated the ATM sign on the front façade.
    - e. Agreed to eliminate the freestanding sign and propose a 5' monument sign.
    - f. Modified the elevations to provide two windows on the façade facing Main Street.
  - o. Exhibit A-3 was introduced which is a site plan rendering prepared by Dynamic Engineering dated December 20, 2017.
  - p. The plan was also changed to accommodate a concern about the proximity of the trash enclosure in order to create a 5 ft. buffer with landscaping.
6. Ms. Jennings produced Mr. Justin Taylor as a Licensed Professional Engineer in the State of New Jersey and a certified professional traffic operations engineer who provided his qualifications and was accepted by the Board as a Professional Traffic Engineer.



7. Mr. Taylor testified as follows:

- a. His office conducted traffic counts at the intersection to obtain a background feel for the project.
- b. The project contemplates destination-oriented use with 60 to 70 percent of the traffic associated with the project already there with minimal delay at intersections.
- c. The project reflects short term deliveries by box trucks at off peak times and once per week by a WB-50.
- d. There is safe access for pedestrians to walk along the front of the building while providing upfront parking.
- e. Parking now complies with the ordinance standard.

8. Ms. Jennings produced Ms. Christine Cofone as a Licensed Professional Planner in the State of New Jersey who provided her qualifications and was accepted by the Board as a Professional Planner.

9. Ms. Cofone testified as follows:

- a. The subject property is a permitted use and the deviation relief requested is de minimus.
- b. Since this is a permitted use the Applicant does not need to demonstrate particular site suitability and the use has already been determined to be appropriate at this site.
- c. The Project also advances the goals of the Redevelopment Plan including revitalizing the area by replacing an existing vacant building.
- d. As a result of the reduction in size of the building there is adequate parking.
- e. The exiting impervious coverage is about 94.64 percent so there is a substantial reduction due to the proposed application.
- f. The proposed project with a (c)2 deviation for coverage is a better zoning alternative than what presently exists. The benefits outweigh any detriments, and the Board must consider the hardship criteria as



to a lawful preexisting structure.

- g. Similarly the waiver for fence height, loading zone, minimum parking stall size and parking distance from building result in the more efficient use of the land and both the positive and negative criteria are satisfied.
  - h. It was also suggested that a monument sign be utilized in lieu of the proposed freestanding sign.
10. Applicant's case having been completed, upon motion made, seconded and approved, the matter was opened to the public.
  11. Ms. Margaret Canosa of 216 Second Street was sworn in and discussed concerns as to traffic, the 24 hour operation and safety.
  12. Mr. Mark Garrish of 219 North Broadway was sworn in and discussed parking and traffic.
  13. Ms. Maryann Murphy of 201-203 Broadway was sworn in and was concerned about the 24 hour operation, and parking.
  14. Mr. Tom Kross was sworn in and discussed other locations for a 7-Eleven.
  15. Ms. Cathy O'Grady of 266 Fourth Street was sworn in and was concerned about 24 hour operation and signage.
  16. Ms. Dawn Bussiere of 517 Henry Street was sworn in and complained about the traffic.
  17. Mr. John Salzmann of 137 Main Street was sworn in and objected to deliveries.
  18. Mr. R.S. Gasiorowski commenced cross examination of Applicant's witnesses.
    - a. Josh Sewald was examined as to:
      - i. Parking
      - ii. Loading zone
      - iii. Location of the building
      - iv. Trash pickup
      - v. Movement of vehicles on site
      - vi. Noise
      - vii. Other related issues.



**Public Hearing February 28, 2017**

19. A motion was made seconded and approved reopening the public session.
20. Mr. Gasiorowski continued his cross examination of Mr. Sewald.
  - viii. Requirements for buffers
  - ix. Impervious coverage
21. Mr. Gasiorowski introduced into evidence an Exhibit O-2, a circulation drawing.
22. Mr. Gasiorowski argued that the application was deficient due to the fact that there was no buffer area as to adjoining properties.
23. The Board's professional Mr. Angelo J. Valetutto P.E., P.P. of AJV Engineering, Inc. opined for the Board that he was the author of the Redevelopment Plan in which the premises were located, and as such there was no buffering in the Redevelopment Plan which required either compliance or a waiver.

**Public Hearing March 5, 2018**

24. Mr. R.S. Gasiorowski continued his cross examination of Applicant's witnesses.
25. Mr. R.S. Gasiorowski cross examined Mr. Justin Taylor.
  - a. Size of vehicles on site
  - b. Wheel path
  - c. Turning movements from and onto adjoining streets
26. Mr. R.S. Gasiorowski then proceed to begin his case in opposition to the application.
27. Mr. R.S. Gasiorowski produced Mr. Andrew Thomas as a Licensed Professional Planner in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Planner.
28. Mr. Thomas testified as follows:
  - a. He visited the site, reviewed the Site Plan, the Redevelopment Plan, the Zoning Ordinance, engineer's review letter and other items and exhibits.
  - b. He identified a previously marked exhibit O-1 prepared by Mr.



- Thomas as an aerial vicinity map of the proposed site.
- c. That his interpretation of the Redevelopment Plan contemplates buffers.
- d. That in his opinion the application does not satisfy the goals and intentions of the Redevelopment Plan.
- e. That the application is not consistent with at least two purposes of the MLUL.
- f. Objectors' Exhibits O-2 and O-3 were marked into evidence.
- g. Photographs of traffic movements O-5 was marked into evidence.

29. Mr. Craig Robbins was sworn in and testified as to his experience as a tractor trailer driver and in his opinion a tractor trailer would have to pass into the opposite lane to enter the site.

30. Mr. R. S. Gasiorowski then produced Mr. Alexander Litwornia as a Professional Traffic Engineer and noise expert who provided his qualifications and was accepted as an expert by the Board as a traffic and noise expert.

31. Mr. Litwornia testified as follows:

- a. Dumpster location had a problem with circulation and noise.
- b. Garbage truck and delivery vehicle noise
- c. Driveway movements

### **Public Hearing March 28, 2018**

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

### **CONCLUSIONS**

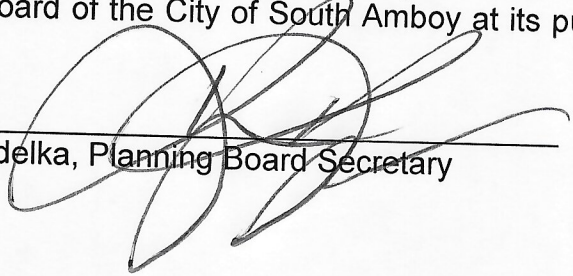
The Board finds that the proposed Preliminary and Final Major Site Plan and Bulk Deviation for maximum impervious coverage, and design waivers as to size of parking spaces, parking spaces being located in close proximity to building, minimum number of loading spaces, maximum permitted fence height, minimum 50' distance between proposed driveway and intersection and maximum number of signs can be granted without substantial detriment to the City of South Amboy Redevelopment Plan and Zone Ordinance for the reasons set forth 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 is a permitted use within one of the City's Redevelopment Areas and will provide an aesthetic addition to an entry point to the Broadway-Main Street entry 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 #379-17 for Preliminary and Final Major Site Plan Approval and Bulk Deviations for maximum impervious coverage, and design waivers as to size of parking spaces, parking spaces being located in close proximity to building, minimum number of loading spaces, maximum permitted fence height, minimum 50' distance between proposed driveway and intersection and maximum number of signs as to Block 62, Lots 10,11, and 12 on the Tax Map of the City of South Amboy in the Broadway-Main Street Redevelopment Area; and located at the intersection of Main Street and Broadway.

1. Compliance with recommendations set forth in the Planning Reports dated July 19, 2017 and December 18, 2017.
2. Entry into a Developers Agreement as required by the South Amboy Redevelopment Agency ("SARA").
3. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives.
4. Compliance with each and all other applicable approvals, if any, required by law or statute or regulation to perfect a Preliminary and Final Major Site Plan Approval.
5. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearings held on November 20, 2017, December 21, 2017, February 28, 2018, March 5, 2018, and March 28, 2018.
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. 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.
10. 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 May 23, 2018.



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Kathryn Kudelka, Planning Board Secretary