

CITY OF SOUTH AMBOY PLANNING BOARD

**RESOLUTION PB # 7-21
APPLICATION Number 414-20
116-118 David Street – Brian McGuinness**

RESOLUTION GRANTING USE VARIANCE AND BULK VARIANCE APPROVAL

**Block 39, Lot 10
116-118 David Street
City of South Amboy
RA ZONE**

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 Thomas E. Downs IV, Esq. on behalf of Brian McGuinness (the “Applicant”) for Use Variance and Bulk Variance approval, in Block 39, Lot 10 on the Tax Map of the City of South Amboy in the RA Zone and located at 116-118 David Street.

WHEREAS, the application reviewed by the Board consisted of those plans and documents as identified in the Report prepared by Jason C. Valetutto, P.E., P.P., the consultant to the Planning Board, dated March 16, 2021 as further identified as follows:

1. Signed and sealed Survey titled “Plan of Survey, 116-118 David Street, Tax Lot 10 in Block 39, City of South Amboy, Middlesex County, New Jersey “, prepared by Formosa Engineering, Inc., dated 9/28/2020, consisting of one page.
2. Signed and sealed Site Plan titled “Variance Plan, 116-118 David Street, Tax Lot 10 in Block 39, City of South Amboy, Middlesex County, New Jersey prepared by Formosa Engineering Inc., dated 9/28/2020 revised through 2/22/2021, consisting of one page.
3. Signed and sealed Architectural Plans titled “New Duplex, 116-118 David St., South Amboy N.J. “prepared by Andrew Podberezniak, R. A., dated 10/26/2020 consisting of three pages.

WHEREAS, the application was certified as complete and a public hearing with respect to the Application was held by the Board on March 24, 2021 via remote access per public notice and personal notice pursuant to NJSA 40:55D-12; and

WHEREAS, as part of the application and based upon the plans submitted and reviewed by the consultant to the Planning Board, the Applicant required the following

Use Variance and Bulk Variances from the zoning requirements as set forth in the ordinance:

Use Variances Required

	Requirement	Proposed
RA Zone	Single Family	Two-family

Bulk Variances Required

	Requirement	Proposed
Minimum Lot Area	10,000 sf	5,000 sf
Minimum Lot Width	100 ft	50 ft
Minimum Front Yard	25 ft	18 ft
Minimum Total Side Yard	15	12 ft
Maximum Lot Coverage	25%	45.58%
Maximum Dwelling Units Per Acre	8.71 du/ac	17.42 du/ac
Maximum Dwelling Units Per Building	1 du	2 du
Maximum Building Height	2-½ stories	3 stories

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

DESCRIPTION

DATE OF REPORT

Planning Report - AJV Engineering, Inc.

March 16, 2021

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 facts:

FINDINGS OF FACT

The Applicant was represented by Thomas E. Downs, IV, Esq.,

1. Mr. Downs acknowledged receipt of the AJV Engineering, Inc. planning Report of March 16, 2021.
2. Mr. Downs introduced Brian McGuinness, the Applicant who was sworn in.
3. Mr. McGuinness testified as follows:
 - He is the owner 116-118 David Street, in the City of South Amboy.

- He has owned the property for approximately a year and some months. He desires to demolish the present buildings on the property and construct a two family duplex.
 - Both units will be owned by the Applicant with one unit initially occupied by a member of his family and the other unit being a rental with the possibility that the Applicant may move into the rental unit in the future.
 - The existing facility which is to be demolished was substantially damaged by the Super Storm Sandy.
 - At some point and time the structure on the Property was a three (3) family dwelling.
4. Mr. Downs introduced James Higgins as a Licensed Planner in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Planner. Mr. Higgins testified as follows:
- He inspected the plans and the application submitted on behalf of the Applicant.
 - He visited the site on a number of occasions and reviewed the Zoning and Master Plan.
 - He reviewed the AJV Engineering, Inc. Report of March 16, 2021.
 - The structure was a three (3) family dwelling. The Applicant plans to eliminate the existing buildings and construct a two (2) family dwelling.
 - The large structure at the rear of the lot, which is a garage and non-conforming, is to be removed.
 - The premises consist of a 5,000 sq. ft. parcel with a 100 ft depth and a width of 50 feet.
 - The land use in the area is mixed.
 - The blocks on either side of the premises have at least 19 two-family dwellings in three blocks.
 - Many of the dwellings are on 2,500 sq. ft. lots and a number of the two family dwellings are on lots that are 5,000 sq. ft. as proposed in the present Application.
 - Zoning permits single family residences on a 5,000 sq. ft. lot and permits two-family dwellings as a Conditional Use on a 10,000 sq. ft. lot. The

Application being on a 5,000 sq. ft. lot and the Application being for a two-family use not meeting all of the conditions, a Use Variance required.

- Variances are required from area and setback requirements.
- The Use Variance is whether or not the site can accommodate the use despite the need for the variance.
- The character of the proposed construction can be accommodated by the site without substantial detriment.
- The Master Plan adopted in 2017 recommends that the area be rezoned to a totally new zone labeled R-2.
- Such a rezoning would permit both single-family and two-family residences and eliminate the Conditional Use requirement for a two-family.
- As set forth in the Master Plan, the proposed Application for a side yard setback is consistent with the Master Plan. The plan recommends a 5 ft side yard instead of a 10 ft side yard that is now required.
- Three existing Bulk Variance conditions are to be reduced and one existing Bulk Variance is to be eliminated based on the eight variances set forth in the AVJ Engineering, Inc. Report. The reduction and elimination of these variances required for existing conditions is an improvement over the existing conditions and there are two increases to existing non-conformities which result from a better design of the building.
- The present use consists of a three-family structure is being eliminated. Each of the variances here directly relate to the existing undersized nature of the lot.
- Such variances are being reduced in nature or eliminated.
- Existing building does not comply with flood regulations as the new proposed building will be.
- The intensity of the development on the undersized lot will be further reduced by removing the non-conforming garage at the rear of the site.
- Variance for number of stories is a direct result of the current regulations in terms of flood proofing the building in order that the first floor cannot be a habitable floor. The first floor will be the garage and then there will be two habitable floors directly above the garage.

5. Mr. Downs then introduced Mr. Andrew Wu as a licensed Professional Engineer.
6. Mr. Wu was sworn in, provided the Board with his credentials and was accepted as a Professional Engineer.
7. Mr. Wu testified as follows:
 - He received a copy of the AJV Engineering, Inc. Report dated March 16, 2021
 - The Applicant can comply with everything mentioned in the Report.
 - Mr. Wu further indicated that there were some minor numerical discrepancies between the site plan and the architectural plans because of rounding off some of the dimensions.
 - Mr. Wu indicated that he would work with the architect to reconcile those numbers.
 - Water and sewer services will be located on the plan.

The Applicant's case having been completed, by a Motion made, seconded, and approved the matter was opened to the public. No one from the public requested an opportunity to speak. Public portion was closed.

CONCLUSIONS.

The Board makes the following findings and conclusions:

- The large structure at the rear of the lot, which is a garage and non-conforming, to be removed.
- The premises consist of a 5,000 sq. ft. parcel with a 100 ft. Depth and a width of 50 feet.
- The land use in the area is mixed.
- The blocks on either side of the premises have at least 19 two family dwellings in three blocks.
- Many of the dwellings are on 2,500 sq. ft. lots and a number of the two-family dwellings are on lots that are 5,000 sq. ft. as proposed in the present Application.

- Zoning permits single family residences on a 5,000 sq. ft. lot and permits two-family dwellings as a Conditional Use on a 10,000 sq. ft. lot. The Application being on a 5,000 sq. ft. lot and the Application being for a two-family use not meeting all of the conditions, a Use Variance is required.
- Variances are required from area and setback requirements.
- The Use Variance is whether or not the site can accommodate the use despite the need for the variance.
- The character of the proposed construction can be accommodated by the site without substantial detriment.
- The Master Plan adopted in 2017 recommends that the area be rezoned to a totally new zone labeled R-2.
- Such a rezoning would permit both single-family and two-family residences and eliminate the Conditional Use requirement for a two-family.
- As set forth in the Master Plan, the proposed Application for a side yard setback is consistent with the Master Plan. The plan recommends a 5 ft. side yard instead of a 10 ft. side yard that is now required.
- Three existing Bulk Variance conditions are to be reduced and one existing Bulk Variance is to be eliminated based on the eight variances set forth in the AVJ Engineering, Inc. Report. The reduction and elimination of these variances required for existing conditions is an improvement over the existing conditions and there are two increases to existing non-conformities which result from a better design of the building.
- The present use consists of a three-family structure is being eliminated. Each of the variances here directly relate to the existing undersized nature of the lot.
- Such variances are being reduced in nature or eliminated.
- Existing building does not comply with flood regulations as the new proposed building will be.
- The intensity of the development on the undersized lot will be further reduced by removing the non-conforming garage at the rear of the site.

- Variance for number of stories is a direct result of the current regulations in terms of flood proofing the building in order that the first floor cannot be a habitable floor. The first floor will be the garage and then there will be two habitable floors directly above the garage.

NOW, THEREFORE, BE IT RESOLVED that the City of South Amboy Planning Board hereby **grants** Application #414-20 for Use Variance for a two-family in an RA Zone, and Bulk Variances from the requirements for Minimum Lot Area, Minimum Lot Width, Minimum Front Yard, Minimum Total Side Yard, Maximum Lot Coverage, Maximum Dwelling Units Per Acre, Maximum Dwelling Units Per Building and Maximum Building Height on Block 39, Lot 10 on the Tax Map of the City of South Amboy in the RA Zone at 116-118 David Street.

1. Compliance with recommendations set forth in the Planning Report dated **March 16, 2021**.
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 Use Variance and Bulk Variance Approval.
4. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearing held on March 24, 2021.
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. 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 26, 2021.

	Aye	Nay	Abstain
Chairwomen Mary Szaro	X		
Vice Chairman Scott Kominkiewicz	X		
Tom Kelly			
Mayor Henry			
Councilman Tom Reilly			
Janet Kern	X		
Holly Hughes	X		
Dr. Jorge Gonzalez-Gomez	X		
George Baranowski			
Alternates			
Gary Forshner			
William DeMasi	X		



 Amy Russo, Planning Board Secretary