

**PLANNING BOARD OF THE TOWNSHIP OF MANSFIELD**

**RESOLUTION NO. 2016-9-15**

**CONCERNING THE APPLICATION OF  
STA-SEAL, INC.  
FOR VARIANCE AND PRELIMINARY AND FINAL MAJOR SUBDIVISION  
APPROVAL**

**WHEREAS**, Sta-Seal, Inc. has applied to the Planning Board of the Township of Mansfield for Variance Approval and Preliminary and Final Major Subdivision Approval for property located at 5205 Route 130, known as Block 66, Lot 8 (the "Property") on the Official Tax Map of the Township of Mansfield, for the purpose of subdividing Lot 8 into two (2) lots; and

**WHEREAS**, a variance pursuant to *N.J.S.A. 40:55D-70(c)* is required because the proposed subdivision does not provide the 10% open space as required by Chapter 65-76 of the Mansfield Zoning Ordinance; and

**WHEREAS**, the Property is located in the Heavy Industrial (HI) Zoning District of the Township and the proposed subdivision is considered an industrial subdivision and a major subdivision by Ordinance; and

**WHEREAS**, by Resolution No. 2013-11-12, the Planning Board granted Variance and Preliminary and Final Major Subdivision to the Applicant for the subdivision of the Property as currently proposed but the subdivision was not perfected in accordance with the requirements of *N.J.S.A. 40:55D-52*;

**WHEREAS**, the application was deemed complete by the Board on September 26, 2016; and

**WHEREAS**, a public hearing to consider the application was held by the Planning Board on September 26, 2016, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the official newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

**WHEREAS**, the Applicant presented evidence to the Board through testimony, plans and other evidence and introduced the following exhibits at the September 26, 2016 Public Hearing:

A-1 Plan of Major Subdivision;

A-2 Property Survey; and

**WHEREAS**, the following review letters were submitted to the Board by its Professionals:

- August 26, 2016 Review Letter of the Board Engineer, Stout & Caldwell Engineers and Surveyors, by Robert R. Stout, PE, PLS;
- September 21, 2016 Review Memorandum of the Board Planner, Environmental Resolutions, Inc, by Barbara J. Fegley, PP, AICP; and
- August 9, 2016 Review Memorandum of the Board Traffic Engineer, Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP; and

**WHEREAS**, the Board after carefully considering the evidence presented by the Applicant in support of its application for variance and major subdivision approvals, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is the operator of the asphalt plant located on the Property. The Property is 15.158 acres in area and is improved with a one (1) story block garage, a two (2) story brick building used for offices and other improvements used for the asphalt plant. Material stockpiles are scattered throughout the Property.

2. The Applicant has submitted an application for Variances and Preliminary and Final Major Subdivision Approval, providing the Board with a proposed set of plans, reports, studies and testimony.

3. The Applicant is proposing to subdivide the Property into two (2) lots, Lot 8.01 to be 13.052 acres and Lot 8.02 to be 2.106 acres.

4. The taxes on the Property are current or exempt.

5. The Applicant has paid and/or posted all required fees and agreed to keep its review escrow current.

6. Proper notice of the application for Variances and Preliminary and Final Major Subdivision Approval has been given, based upon the certified list from the Office of the Mansfield Tax Assessor.

7. The Applicant is requesting a variance from the Ordinance requirement for 10% open space.

8. As no improvements are proposed by the Applicant, the Applicant is requesting waivers of certain submission requirements as identified in the review letters of the Board's Professionals.

9. John A. Giunco, Esquire, of Giordano, Halleran & Ciesla, represented the Applicant at the September 26, 2016 Public Hearing. Allan Sampson testified on behalf of the Applicant.

10. Mr. Sampson testified at the September 26, 2016 Public Hearing as follows:

- a. He is a Professional Land Surveyor, licensed in the State of New Jersey, and has been qualified to give expert testimony in his field by land use boards in the State of New Jersey;
- b. The purpose of the subdivision is to separate the existing office and garage buildings to be located on Lot 8.02 from the balance of the site;
- c. The asphalt processing plant will be located entirely on Lot 8.01;
- d. No improvements are proposed as part of the subdivision;
- e. The lot areas for Lot 8.01 and 8.02 will be 13.052 acres and 2.106 acres, respectively;
- f. Material stockpiles and fencing have been relocated as the Board required in the 2013 approval;
- g. Cross access, utility, drainage and sight triangle easements are shown on the Subdivision Plan;
- h. The edge of stone, as shown on the plans as encroaching onto adjacent Lot 5, was removed and the plans will be revised to correct this drafting error;
- i. An application has been filed with the Burlington County Soil Conservation District;
- j. The Applicant will comply with the comments contained in the review letters of the Board's professionals; and
- k. The granting of the variance requested for open space will not impair the health and welfare of the community or the zoning plan as no physical changes are proposed to the Property other than a subdivision line separating the asphalt plant from the garage and office buildings.

11. During the public portion of the September 26, 2016 hearing, Robert Tallon testified as to the history of environmental problems on the Property and questioned the location of the Delaware River Flood Plain.

12. Except as otherwise required herein, the Board Professionals did not object to the waiver of the submission requirements as requested by the Applicant as the submission requirements relate to applications in which new streets, utilities and storm drainage facilities are proposed, unlike the current application in which no improvements are proposed by the Applicant.

**AND WHEREAS**, based upon the above factual findings, the Planning Board has come to the following conclusions:

1. The Applicant has submitted sufficient information in the form of testimony, plans, reports and photographs for the Board to make an informed decision on the Application for waivers, variances and preliminary and final major subdivision approval.

2. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and of the zoning ordinance of the Township of Mansfield would be advanced by the deviation from the zoning ordinance requirement pertaining to open space, as specified herein, as requested by the Applicant.

3. The benefits of the deviation from the zoning ordinance requirement specified herein would substantially outweigh any detriment to the public good as variance approval would promote the safety, health and general welfare of the community.

4. Relief as requested by the Applicant 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 of the Township of Mansfield.

5. Except as otherwise provided herein, the requested waivers are appropriate based on the recommendations of the Board's Professionals and no new improvements are required.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Mansfield, on the 26<sup>th</sup> day of September, 2016, that this Board hereby grants to the Applicant the following:

1. Waiver of the Checklist Items as identified on the review letters of the Board's Professionals;

2. Variance to permit less than the 10% open space required; and

3. Preliminary and Final Major Subdivision Approval to subdivide the Property into Lots 8.01 and 8.02, in accordance with the Application, plans and testimony submitted by the Applicant, which approvals are subject to the following conditions:

a. Subject to the Applicant obtaining all other approvals that may be required for the development, including, but not limited to Burlington County Planning Board approval, Burlington County Soil Conservation District approval and New Jersey Department of Transportation approval. Copies of all other approvals shall be submitted to the Township upon receipt. Proof that the Applicant has applied for the necessary approval(s) from all other agencies having jurisdiction over the Applicant's use of the Property shall be filed with the Township's Land Use Coordinator.

b. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Township, which may cause such reports to be verified in an appropriate manner. Only upon the fulfillment of all of the conditions shall the required building permit, certificate of occupancy or zoning permit be issued and the subdivision plat signed for recording.

c. Subject to the testimony by the Applicant and its agents and representatives at the September 26, 2016 Public Hearing.

d. Subject to the comments of the Board Engineer as contained in the August 26, 2016 Review Letter of Stout and Caldwell Engineers, LLC, by Robert R. Stout, PE, PLS, except as may be modified herein.

e. Subject to the comments of the Board Traffic Engineer as contained in the August 9, 2016 Memorandum of Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP, except as may be modified herein.

f. Subject to the comments of the Board Planner as contained in the September 21, 2016 Review Letter of Environmental Resolutions, Inc., by Barbara Fegley, PP, AICP, except as may be modified herein.

g. Subject to the Applicant submitting all easements required for access, utility, drainage and sight triangles. The easements shall be reviewed and approved by the Board's Professionals prior to recording.

h. Subject to the Applicant making its contribution to the sidewalk trust fund prior to the subdivision plat being signed by the required Township and Board officials. The

amount of the contribution is \$13,640.00 representing the cost to the Applicant of installing the 3,410 square foot of sidewalk along Route 130. The trust fund will be responsible for the installation, costs and payment for any sidewalks that may be required by any other approving agency requiring sidewalks to be installed along the Route 130 frontages of Lots 8.01 and 8.02, in connection with this Application.

i. Subject to the Applicant posting all inspection fees and performance and maintenance guarantees, if required.

j. Subject to the Applicant's escrow account for the review of its Application being current. Failure of the escrow account to be current will result in the non-issuance of permits and the subdivision plat not signed by Township and Board officials.

k. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicant obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicant obtaining those approvals.



**ROLL CALL VOTE**

Those in Favor:       6  
Those Opposed:       0  
Those Abstaining:    0

**CERTIFICATION**

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Planning Board of Township of Mansfield in accordance with its decision at its regular meeting on September 26, 2016.

**THE PLANNING BOARD  
OF THE TOWNSHIP OF MANSFIELD**

**Attested:**

\_\_\_\_\_  
**SCOTT PREIDEL, CHAIRMAN**

\_\_\_\_\_  
**ASHLEY JOLLY, SECRETARY**

Dated: \_\_\_\_\_  
Date of Approval: \_\_\_\_\_  
Date of Memorialization: \_\_\_\_\_