

**RESOLUTION
BOROUGH OF BUTLER
PLANNING BOARD
In the Matter of Bergen Middlesex, LLC
Application No.: 22-75SD
Proposed Minor Subdivision with Bulk Variances**

WHEREAS, Bergen Middlesex, LLC (hereinafter referred to as the “Applicant”) has made application to the Butler Planning Board (hereinafter referred to as the “Board”), for a minor subdivision with bulk variances for the subject premises, known as Lots 45 & 46, Block 37.01, as shown on the Tax Map of the Borough of Butler, and which is more specifically located at 6 Center Street and 16 Center Street, in the R-3 Residential Zone; and

WHEREAS, public hearings were conducted on November 9, 2023; and

WHEREAS, the Board deemed said application complete by motion; and

WHEREAS, the Board heard comments and testimony from the Applicant’s Surveyor, Robert Cigol, PLS., and with the public having had a full opportunity to be heard; and

WHEREAS, all required fees as required where submitted and all jurisdictional matters were satisfied; and

NOW THEREFORE, the Planning Board makes the following finding of fact and conclusion of law based on evidence presented at the public hearings, at which record was made.

1. The application before the Board is for a minor subdivision with for bulk variances.
2. The subject property is located in the R-3 Residential Zone and one of the two lots would not be conforming.
3. Variances or waivers were requested, pursuant to the review letter of Darmofalski Engineering Associates, Inc., dated October 12, 2023.
4. The following exhibits were submitted:

Applications and Plans

A1 – Easement document with imbedded plot plan

5. All submissions have been reviewed by the Board's Engineer.

NOW, THEREFORE, the Panning Board hereby makes the following conclusions of Law, based upon the foregoing findings of fact.

1. The application before the Board is a request for a minor subdivision
2. The Municipal Land Use Law, provides the Planning Board with power to grant an amendment to a site plan condition, when the Applicant satisfies certain criteria which are enunciated in the Statute and Ordinances.

This request is for approval of the following variances under the C(2) criteria.

Lot 46

- a. Minimum Lot Depth - 115 feet exists and is proposed where a minimum of 125 feet is required.
- b. Minimum Front Yard Setback - 28.55 feet exists and is proposed where a minimum of 35 feet is required.
- c. Minimum Back Yard Setback, DECK - 26 feet exists and is proposed where a minimum of 35 feet is required.
- d. Minimum Setback, POOL - 4.5 feet exists to the pool deck where a minimum of 10 feet is required pursuant to Butler Borough Code § 207-5.

Lot 45

- a. Minimum Lot Area - 8,266 SF exists and 10,136 SF is proposed where a minimum 10,250 SF is required.
- b. Minimum Lot Width - 50 feet exist, and 68 feet is proposed where a minimum of 65 feet is required. *The proposed subdivision would eliminate the pre-existing nonconformity.*
- c. Minimum Side Yard Setback - 2.38 feet (Left), and 2.55 feet (Right) are existing and proposed where a minimum of 10 feet is required.

The Board finds that the MLU and the Borough's ordinances would be advanced by the granting of the variance.

3. Upon consideration of the plans, testimony and evidence, the Board finds that is has been furnished sufficient proofs so as to enable it to approve the requested minor subdivision with bulk variances.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of Bergen Middlesex, LLC is granted and the request for bulk variances are approved, pursuant to N.J.S.A. 40:55D-70 et. seq., based upon the reasons stated above and contained on the record.

The undersigned certifies that the within Resolution was adopted by this Board on November 9, 2023 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on December 14, 2023.

For:
Against:
Abstain: