

FRANKLIN TOWNSHIP LAND USE BOARD

MINUTES

JUNE 8, 2022

7:30 PM

202 SIDNEY ROAD, PITTSTOWN, NEW JERSEY 08867

This meeting will be held remotely on Zoom

Zoom Meeting Information is below

Roger Soltys called the meeting to Order & read the Open Public Meeting Statement

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in the Hunterdon County Democrat and the Express Times and the notice of this meeting was posted on the bulletin board in the Municipal Building.

Pledge of Allegiance: Roger Soltys led all present in the flag salute

Roll Call

Roger Soltys	present	Mike Chabra	absent
Ken Weiss	present	Dave Dallas	present
Philip Koury	present	John Thonet	present
Stephen Willis	absent	Jennifer Fisher	present

Mr. Gibbons, Board Attorney was also present.

Approval of Minutes: Carried to next meeting

Approval of Bills

New Business

1. **Hearing:** Applicant: Yum & Chill WEN Holdings, LLC Project: Proposed Wendy's Block 5 Lot 20, 39 Walmart Plaza Drive. Applicant has filed an application for preliminary and final site plan approval, use variance and bulk variance relief, with the Land Use Board of Franklin Township. Applicant may or may not require additional variance relief.

Dave Dallas stated that he is the Chairman of the Board of Unity Bank and Yum and Chill is a customer of the bank. He asked if this was viewed as a conflict. Mr. Loucher stated that he had

no objection. The Board attorney was of same opinion. Mr. Dallas stated he believed he could be unbiased.

Phil Koury recused himself due to the fact that it is a use variance application.

Alan Loucher introduced himself as the attorney for the applicant Yum and Chill LLC. He then gave a brief summary of the application. Yum and Chill LLC (Wendy's) is looking to convert the old PNC with the drive thru in the Walmart plaza into a Wendy's with a drive thru. They will be seeking variances for impervious coverage, parking, sign, and use due to the fact that a drive thru is not a permitted use in the CN zone. He asked that the Board keep in mind that this is a great example of an adaptive reuse in a shopping center of a space that has been vacant for some time.

Adam Wisniewski, Board engineer stated that all documents had been submitted including site plan and variance applications. It was his opinion that the application could be deemed complete at this time.

John Thonet made a motion to deem the application complete.

Dave Dallas seconded the motion.

All members present voted in favor by saying aye.

Mr. Nirav Mehta was sworn in by the Board attorney. Mr. Mehta stated that he was involved in operations since 2006, including Dunkin Donuts, Golden Corale, Taco Bell and 6 Wendy's in the development process.

The hours of operation being requested are 6 am – 2:30am for the drive thru and 7 am-11 pm for the inside. Anticipated number of employees will be 25-30. On a big shift there are 8-9 employees and on slower shifts about 6 employees. There will be about 24 seats proposed. He said there are deliveries twice a week brought in by tractor trailer. The engineer will detail how this will be done. Anticipated deliveries occur between midnight and 6am.

There were no questions from the Board at this time.

Darlene Green asked if there were other Wendy's with the same proposed hours. Mr Mehta stated there is one in Passaic which has been granted approval to stay open until 3am, there are others which are requesting 2:30am as well. The Wendy's in Passaic is in a neighborhood on a Main Street across from the Community College. This Wendy's is surrounded by other businesses and residential homes. The 6 Wendy's are all in the development process. They have 8 Taco Bells which are open.

Mr. Marc Leber was sworn in by the Board attorney. Mr. Leber stated that he received his BS from Drexel University in Civil Engineering, his MBA from Rutgers and was licensed as an engineer in 2004, licensed as a planner in 2005, certified Municipal Engineering program in

2006, started East Point Engineering based in Marlboro, Nj in 2006. He has testified for many projects similar to this one.

Mr. Lieber displayed aerial map as a new exhibit marked A-1. Mr. Lieber went on to explain the site. The address is 39 Walmart plaza, Block 5 Lot 20. The Total site is 36 ½ acres which lies to the East side of Pittstown Road. There are 3 main structures on the property, Walmart, the Shoprite Shopping Center and a 54' x 400' strip mall. The area is developed with paved parking lots, approximately 1281 parking spaces. Beyond the site is a Cracker Barrel, Hampton Inn, and a Church. The zone district is CN. There are two ways to get into property, these access drives serve the entire site.

Mr. Lieber then displayed plan 2B which shows the endcap of the strip mall. He explained that the proposed space has been vacant for about 4-5 years. The proposal is to convert this into a Wendy's with a drive thru. A few modifications will be made, the canopy and center island will be removed from the drive thru, allowing for a better turning radius. A new menu board and an ordering station

Sheet 3, a new trash area will be added in the back. This will be for Wendy's use only. The proposed changes will increase the impervious coverage by 510 sq. ft. In addition there will be a new cross walk and depressed curb ramps in the front of the building. 5 parking spaces which will be used for employee parking.

Sheet 2A, overall survey, proposing 2 signs, one is a warning sign which alerts that there will be pedestrians crossing ahead, and one is a small wendy's directional sign. At the main intersection of Pittstown Road there is a monument style sign, they are proposing to occupy one of the spaces with the Wendy's name and logo.

The facade will be completely renovated facing the pick up window and the front of the building. The architect will explain the changes in detail. The end cap will be modernized to include colors consistent with the Wendy's brand.

Sheet 3, shows the menu board, when the plans were created they included a fixed menu board that was 65 sq. ft.. Since then Wendy's has approved a 45 sq. ft. LCD screen sign which would be preferred by the applicant if the Board agrees. Regarding deliveries, the trucks would enter the driveway from Pittstown Road, the drivers park in the back of the building in the existing loading zones. The Drivers have a key card, they unload by hand truck, lock up and leave. This is consistent with the way deliveries are made to the other stores in the plaza.

Proposed lighting on the building, facing the car stack. The restaurant will generate jobs for about 25- 30 people. Proposed hours for the drive thru are 6 am – 2:30 am, and the inside dining area 7 am - 11 pm.

Under canopy in front of the restaurant they would like to put 2-3 tables that seat 2 people. They would not interfere with pedestrian flow but would add a nice touch if allowed.

Roger Soltys asked for confirmation that delivery hours will be after hours and not during main business hours. Mr. Lieber confirmed that typically deliveries will occur after hours. Ken Weiss asked what the likelihood would be that deliveries would be made outside of the proposed hours. Mr. Mehta stated that 99.9 % of the time deliveries would occur during those hours with the exception of weather related issues.

Mr. Lieber went thru the technical review prepared by Board Engineer and highlighted some of the items

Starting on Page 2, part A: completeness, this was covered

Part B item 1.01: there will be planning testimony provided

1.02: applicant will provide one make ready parking space as requested in the comments

Item 2.01 which pertains to site layout: all items have been addressed

Item 2.02 the applicant will replace the signs and stripe the areas as noted in the comments.

Item 2.03, the applicant is uncertain who the dumpster belongs to but does not belong to this space. This can be worked out with the owner of the building.

Item 2.04, applicant will be deleting two parking spaces to provide better pedestrian access

Item 2.05, the requested information will be added to the plan

Item 3.0, Public water and sewer are provided, the applicant will provide a letter from the Town of Clinton saying that these will be maintained.

Item 3.03, in lieu of providing stormwater facility, the area on the inside of the drivethru is an area of existing paving which was going to be repaved. This area is not needed so the curb can be ripped out and the area changed to grass. This will be a good solution and will eliminate the need for the impervious coverage variance. The area will be ripped out including the subbase, new topsoil and grass will be planted along with a new curb.

Item 3.04, applicant will update storm grates.

Item 4.0, Landscaping, a tree will be removed to accommodate trash area. Another tree will be planted along with shrubs and other landscaping.

Also area that screens drivethru from delivery area will be planted with some evergreens as well.

Regarding lighting; applicant would like to add building mounted lights on side of building to illuminate the entire area.

The applicant has no objections to any of the recommendations. Compliance with the report will be required as a condition.

Mr. Erik Liepins was sworn in by the Board Attorney. Mr. Liepins is a registered architect. He received his BA from NJIT. He is a principal architect with Zelta Design, located at 45 Sussex Ave, Newark, NJ. He has testified before many boards in the state of NJ.

Mr. Liepins shared his screen displaying updated architectural marked A-2. First image showed the floor plan. The restaurant will have 20 seats with 2 restrooms. Slight bump out for drive thru window which allows for the employee to get a bit closer to the cars. There will be a double door in the front and a rear egress door.

Exterior elevations A-3, Mr. Liepins reviewed the elevations shown on the plan. There will be one sign on each facad. Adam Wisniewski asked about building accessibility; at the main entrance there is a curb ramp that exists, and wanted to ensure tat this will meet current ADA requirements. Mr. Liepins stated that the entire building will be ADA accessible.

Darlene Green asked a couple of questions. First is the applicant committed to screening the HVAC equipment. Mr. Liepins stated yes. Second, regarding signage details, when will the Board receive the signage details? Mr. Liepins stated that this could be issued as additional documents and that the signage will comply with the size requirements of the ordinance. Third question, why does the applicant need two wall signs? Mr. Liepins stated for visibility.

A question was raised regarding the tower element in front of the building, weather it exists or if it is a new element. Mr. Liepins stated that they would be extending the column to create the tower element. It is a new wall that will be built when they are squaring off the facad. The wall is about 8' wide.

Mr. Frank Tota, 16 Upper Kingtown Road, asked if it was determined how many cars could be in the cue without extending into the parking area. Mr. Lieber answered that there would need to be 13 cars lined up before it went into the main drive.

Ken Weiss asked what would be done if the line begins to get longer and is going to go beyond 13 cars. Mr. Mehta stated that if the line was getting longer, employees will come out with an i-pad and take the order. Once the customer has ordered they can be steered to a parking space and the employee will bring the food out to them.

Dave Dallas commented that it is in the applicants best interest to move the line along by whatever means he chooses to do so. They will not want to raise frustration with their customers. We should have some confidence that the applicant is an effective business man.

The Board discussed concerns about the drive thru.

Mr. John McDonough was sworn in by the Board Attorney. He was the applicants planner. His degree was received from Rutgers, he is a licensed planner and is also certified on a national level with the AICP. He has testified in front of numerous Boards in the state of NJ.

Mr. McDonough said that he has a drone photo to share this was marked exhibit A-4. The photo was an overhead photo taken on the day of the hearing. The space is at a distinct

location of the center. This portion of the site is underutilized and that is inconsistent from a planning standpoint with what you would want to see of a strip mall like this. There is an abundance of unutilized parking spaces. The applicant would like to rectify that. The switchback drive thru is something that is being seen more and more. The reuse of these bank sites are becoming more and more popular. The benefit of the drive thru promotes efficiency. The primary relief being looked for is a D1 variance. The land and shopping center is there and readily able to accommodate the development being proposed. The site is not being used efficiently so looking at the land use law, changing this to an efficiently used space is a positive. Regarding promotion of general welfare, this will provide food. The extended hours will serve not only a daytime but also a nighttime use. The essence of a shopping center is to bring people in and then benefit the entire shopping center. Having a name brand will enhance the image of the community and the site. These points all tie back to the municipal land use law.

Regarding potential impacts, the protections are there so that this will not cause any harm or danger. The traffic management plan is in place. There will be no negatives functionally or visually.

Mr. McDonough felt that all four points of the Medici test had been met.

Mr. McDonough reviewed the list that Darlene Green provided which explained relief being sought.

1st C relief is for the slight uptick in impervious coverage which may be able to be balanced out as discussed.

2nd C relief relates to parking. There will be a drop in parking by 2 spaces, however parking is plentiful in this area of the center.

3rd C relief relates to aisle width which goes from 25' to 21' this is a design aspect and testimony shows that this will not cause any detriment.

There is then a bundle of relief being sought related to signage. The applicant is looking to install directional signs. They are also seeking relief for # of signs, the ordinance only permits 2, the applicant is seeking 3 wall signs, one on the front, one on the side and one on the monument. The applicant doesn't feel any of the signs are at all intrusive.

These are all of the C relief aspects, they would be under the C2 criteria, the benefits outweigh the detriments.

There is also a design exception which relates to the tree. The applicant is working with existing space.

From a planning standpoint the application offers positive impact to the community.

Dave Dallas pointed out and Adam Wisniewski confirmed that the impervious coverage relief would not be needed since the applicant was willing to remove the island and return it to pervious.

Darlene Green suggested that the applicant plant one tree and then remove the requested design waiver as well. The applicant agreed.

Dave Dallas asked if a land use plan would be provided. The applicant agreed that a landscape plan would be provided.

Roger Soltys asked about the 8' red panel in the front of the building. The architect stated that the extended portion does not block any windows, it works with the branding element. Dave Dallas questioned if there was a safety concern with this wall. The architect stated that the pedestrians will see the cars coming thru the drive thru and vice versa prior to stepping off the curb. There will also be the pedestrian crossing sign. Roger Soltys asked if this could just be left open and not extended. Ken Weiss asked if there was a possible line of sight issue with this element as well. The Board and professionals discussed this element in length.

The architect agreed to look into an alternative that has the same effect. They could possibly leave the sign at the top and leave the column as is.

Bruce DeRites, 119 Locust Grove Road, welcomed the Wendy's brand at this location and commented that it would benefit the township. His concerns were that currently there were no other businesses in this shopping center open until 2:30am and asked if this was necessary. He was concerned about police coverage as well with this establishment being open so late. There is also more of a potential for fire with this type of establishment. He asked where the closest fire hydrants were etc.

Jim Parker, 255 Oak Grove Road, was sworn in by the Board Attorney. Mr. Parker observed that earlier in the testimony it was discussed making the area in front of the building a dining area and if the tower was there he felt it would feel odd to sit between two solid walls. He also asked for clarification on the lighting on the side of the building. The engineer stated that while there will be some sconces on the walls for decorative purposes there may need to be lights near the roofline to provide supplemental lighting to meet the lighting required. The fixtures are directional LED lights so they will not be a visual distraction to the drivers coming thru the drive thru.

There were no more comments from the public.

John Thonet made a motion to close the public hearing

Dave Dallas seconded the motion

All members voted in favor.

Roger Soltys stated that he felt the hours of operation needed to be discussed. The Board briefly discussed the closing time. Applicant offered to a 12:00 am closing time. The indoor dining would close at 11:00pm.

Roger Soltys asked if any Board members had any additional comments on the drive thru area. Dave Dallas stated it was discussed that the island would be removed and returned to pervious coverage. Landscaping was also discussed. Roger Soltys asked if everyone was comfortable with the way the drive thru flowed. Jennifer Fisher asked why fast foods were at some point not allowed. Roger Soltys felt it had to do more with fitting in with the character of the town. Dave Dallas felt it was focused more on stand alone fast food restaurants. Jennifer Fisher also asked, it seems like there is limited seating, does the owner expect most business to come thru drive thru. Mr. Mehta answered that normally 50-70% is drive thru. Since covid now people have moved to ordering online and then coming in just to pick up.

The Board further discussed the traffic issue with the drive thru. Mr. Leber commented that he had data on this. On average there are 7-8 cars in the cue. On peak times there would be 10. He explained that being in a shopping center there is an advantage to having so much parking. From a driver standpoint as well if you showed up and saw 15 cars chances are you would go someplace else.

The Board requested from the applicant that a report from a traffic engineer be prepared on this.

Mr. Gibbons stated that it wouldn't be unreasonable to carry the application for a month to address, landscaping and lighting, drive thru traffic, sign details (wall signs and directional signs), HVAC screening

Dave Dallas made a motion to carry the hearing to the next meeting.

John Thonet seconded the motion

All members present voted in favor.

The meeting will be carried until July 13th 2022 no further notice will be provided.

Public Comment

Frank Tota stated that he is supportive of the application. He suggested that a lot of the drive thru issue could be eliminated by removing a number of the parking spots in that area.

Comments from the Land Use Board, Non-Agenda Items, Other Business to come before the board

The Board Secretary asked that the Board members send her an email with their contact information.

Roger Soltys wished everyone a Happy Fathers Day

Adjournment: Dave Dallas made a motion to adjourn the meeting

John Thonet seconded the motion.

All members present voted in favor.

Meeting adjourned at 9:45pm

No new business after 10:00PM unless agreed to by the Board. Any remaining items will be placed on the agenda for the next available meeting. Information pertaining to any item on the agenda is available for public review at the Municipal Building during normal business hours.

Topic: LUB meeting

Time: Jun 8, 2022 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

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Prepared by Catherine Innella

Catherine Innella

Approved November 9, 2022