

POHATCONG TOWNSHIP LAND USE BOARD

Regular Meeting

Tuesday, May 12, 2020

The regularly scheduled meeting of the Township of Pohatcong Land Use Board for May 12, 2020 was held on line at 7:35 p.m.

NOTICE

In accordance with N.J.S.A. 10:4, adequate notice of this meeting has been provided by mail to the Express Times; a notice of this meeting and all other regular meetings of the Land Use Board of Pohatcong Township, which notice sets forth the time, date and location of this meeting by prominently posting said notice on the bulletin board in the municipal clerk's office.

The meeting opened with a moment of silent prayer followed by the flag salute.

The meeting was called to order by Chairman Willever at 7:30 P.M. with the following members present: Mr. Williams, Ms. McGuiness, Mr. Swinicki, Mr. Mirenda, Ms. Smith-Bohn, Mr. K. Melvin, Ms. R. Melvin Mr. Cyphers and Mr. Willever. Also present was Engineer Wayne Ingram, Attorney Anthony Sposaro and Planner James Kyle. Mr. Babinsky was absent.

PUBLIC COMMENTS ON AGENDA ITEMS

None.

APPROVAL OF MINUTES

Mr. K. Melvin made a motion to approve the minutes for the April 27, 2020 meeting as written, seconded by Mr. Williams. The motion was carried with the following roll call vote.

Ayes: Swinicki, Mirenda, Williams, McGuinness, Willever, Smith-Bohn, Cyphers, K. Melvin, R. Melvin,

Nays: 0

Abstaining: 0

Absent: Babinsky

NEW BUSINESS

1. Dev Foods 3 (Burger King) – #20-02 - Block 75, Lot 1 – 1232 Route 22 - B-3 Zone
Preliminary & Final major site plan with Variances

In attendance for the applicant was their attorney David Shafkowitz and Engineer Michael Galante. The applicant is proposing to install modifications to its existing drive thru. Attorney Shafkowitz stated that

the applicant is proposing to make an adjustment to the existing Burger King; taking the single drive thru lane and making it double drive thru lanes. He stated that the applicant is proposing to install additional landscaping, install additional ADA measures and make some lighting changes. Mr. Shafkowitz stated that no building changes are being proposed. He noted that Planner Kyle had pointed out that there will be an additional 770 square feet of impervious surface coverage with this proposal.

Attorney Sposaro stated that the applicant's legal notice for this hearing was adequate and in order. He swore-in the applicant's two witnesses; Applicant Sanjay Patel and Engineer Michael Galante. Engineer Galante provided his credentials and was deemed qualified to testify as a Professional Engineer and Professional Planner.

Engineer Galante Entered for the record Exhibit "A-1", a PowerPoint presentation on the proposed project dated May 12, 2020. Mr. Galante referred to an aerial image of the site and pointed out that the current site is fully developed. He noted that access to the site is from St. James Avenue and State Highway Route 22. Mr. Galante stated that the current storm water on the site goes to a storm water basin on the site that was developed in 1996 and finalized in 1999. Mr. Galante referred to the existing Burger King building and noted that the building meets the township's bulk requirements. Mr. Galante presented a photo showing the previous signage and a photo of the site looking at it from Route 22. He presented the proposed improvement plan identifying the proposed ADA plan including a handicap accessible ramp. Engineer Galante presented the building floor plan, elevations and photographs of the proposed new modern façade and signage. He also presented a photograph of the proposed new menu board and new merchandiser signs on the building.

Mr. Galante reviewed the variances that the applicant is requesting. It was noted that the site is located in the B-3 Highway District and that a fast food restaurant is a permitted use in that zone. He stated that the existing building will be modernized and will become a viable use and will provide jobs. He stated that the additional drive thru will allow for greater social distancing.

The Board reviewed Planner Jim Kyle's review letter dated May 8, 2020. It was noted that Section 285-33 of the Zoning Ordinance sets forth requirements for signs and the following sections of that ordinance require relief.

§285-33K (1) requires building mounted signs not extend more than 6" from the building face. The sign package does not detail the depth of the sign. The applicant should confirm this dimension. Variance relief may be required.

§285-33K(3) limits the maximum vertical dimension of any façade sign to 2', with any sign facing Route 22 permitted to be 4'. As all proposed "Burger King" façade signs are 6' in height, variance relief is required. Mr. Patel stated that the signs are similar to those that were previously there.

§285-33K(4) permits 1 façade sign for each tenant except where a building faces two streets, then a total of 2 façade signs are permitted, one for each frontage. In addition, this section states that where building entrances open to a parking area intended to be used by the public, an additional façade sign is permitted over that entrance. The architectural plans depict a total of four (4) "Burger King" façade signs, two on the drive-through side of the building (northeast side), one above the main entrance (southwest side) and one on the northwest side. While the applicant is entitled to 3 façade signs, a total of 4 are proposed,

including 2 on the side of the building facing Route 22 where the drive-through pickup window is located. As such, variance relief is required. Removing one façade sign on the drive-through side of the building would eliminate this variance. The applicant noted that the signs are needed for restaurant branding.

§285-33K (6) states that window signs and internal signs, when visible from the exterior, are to be considered façade signs. One such window sign is permitted in a window, and all window signs shall not exceed 15% of all available window area. The applicant should indicate whether window signs are proposed, and what their area would be. I interpret this section to characterize window signs as façade signs, therefore if window signs are proposed, variance relief would be required to permit additional façade signs beyond the 3 permitted.

The architectural plans note “merchandising” areas on the northeast and southwest facades of the building. Mr. Patel stated that these merchandising signs are photographs of Burger King food specials and that they are just graphics. Planner Kyle stated that if additional graphics or advertising is proposed, variance relief will be required.

§285-33L permits a canopy sign in place of a façade sign, subject to the area requirements for façade signs. As the applicant proposes a façade sign on the same building face as the canopy sign, variance relief is required.

§285-33O (1) permits directional signs not exceeding 2 square feet in area. As drive-through directional signs of 3 square feet are proposed, a variance is required.

§285-33S(1)(b) limits the area of permitted façade signs to 4% of the area of the wall to which it is attached or 40 square feet, whichever is less.

§285-33V (1) (d) limits LED screens to no more than 10% of the menu board area. As the entire menu board is an LED screen, a variance is required.

The applicant proposes 1 clearance bar and 1 ordering canopy per drive-through lane. The ordering canopy appears to contain a digital screen to confirm order information. Variance relief is required for these elements.

The public hearing was opened to board comments and questions. Mr. Melvin asked about the number of proposed signs versus the previous façade signs for this site. The applicant noted that they are proposing one channel sign and there previously were two and there were three medallion signs and now there will be four. Chairman Willever asked about the hours of operation. Mr. Patel stated that on Sundays to Thursdays the hours of operation will be 6:00 a.m. to 12:00 a.m. and Friday and Saturday the hours will be 6:00 a.m. to 1:00 a.m. Ms. Melvin asked about the location of the drive thru in relation to the Wells Fargo Bank area. Mr. Galante stated that the drive thru is closer to the Burger King building. Engineer Ingram pointed out that the area next to the trash enclosure could be eliminated and replaced with a grass area. He stated that they could save 200 square feet of impervious surface by doing this.

Mr. Patel stated that the area has a shed which can be eliminated. Engineer Ingram stated that the applicant has stated that they will comply with his April 7, 2020 review letter comments. Mr. Melvin asked about the area between the Burger King and the Wells Fargo bank. Planner Kyle stated that there is a small mulched median strip located there. Attorney Sposaro asked about the proposed merchandising signs. Mr. Patel stated that the merchandising signs will be custom made and will be 3 feet by 5 feet in size or 15 square feet. Mr. Galante noted that the medallion signs will be 6 feet in diameter whereas the previous medallion signs were 5 feet in diameter. Mr. Patel stated that the exterior of the building will be modernized and that the new exterior is called Garden Grill. He referred to a photo presented. Chairman Willever noted that the look is similar to the Burger King on Roseberry Street in Phillipsburg. Attorney Sposaro recommended that an in-service inspection be carried out by the Board's engineer post construction to make sure the signs are installed correctly.

The board opened the public hearing up to the public. Ms. Ingrid Gray, Township Council Member, asked about the traffic flows on the site. She asked where excess traffic will go and if any accommodation has been made for overflow. She referred to the McDonalds in Clinton which has a large amount of cars go through their drive thru. Engineer Galante stated that the double drive thru will allow for a more efficient flow of cars. Ms. Melvin noted that the parking lot will allow for more cars. Attorney Sposaro pointed out that if there are too many cars people will go to one of the other many fast food restaurants in the area. Planner Kyle noted that the traffic will not impact the main entrance or the Wells Fargo parking area. As there were no further comments or questions from the public, the board closed the public comment portion of the public hearing.

A motion was made by Mr. Swinicki seconded by Mr. K. Melvin to approve the preliminary and final major site plan and the noted requested variances as amended. The motion carried with the following roll call vote:

Ayes: Swinicki, Mirenda, Williams, McGuinness, Willever, Smith-Bohn, K. Melvin, R. Melvin, Cyphers

Nays: 0

Abstaining: 0

Absent: Babinsky

Planer Kyle left the meeting as he did not have a report for the Tesla application.

2. Tesla, Inc. – #19-05 - Block 75, Lot 1 – New Brunswick Avenue - I-1 Zone - Minor site plan Completeness Determination and public hearing

In attendance for the applicant was their attorney Duncan Prime and Applicant representative Jesse Karp. The applicant is proposing to construct a charging stations at an existing WAWA convenience store. The Board reviewed Engineer Wayne Ingram's completeness review letter dated July 30, 2019. Engineer Ingram noted that the following waivers were being requested by the applicant and that he recommended that the waivers be granted by the board.

A motion was made by Mr. K. Melvin seconded by Mr. Mirenda to deem the Tesla minor site plan application as complete as per the recommendation made in Engineer Ingram's July 30, 2019 review letter and that during the public hearing the applicant should present alternatives that were considered. The motion carried with the following roll call vote:

Ayes: Swinicki, Mirenda, Williams, Willever, Smith-Bohn, K. Melvin, R. Melvin, Cyphers, McGuinness

Nays: 0

Abstaining: 0

Absent: Babinsky

The Board announced that the applicant was proceeding with its public hearing and that adequate legal notice had been provided. The applicant's representative Jesse Karp was sworn-in. He explained that the supercharger network allows for long distance travel for the electric fleet of cars and that they bring patrons to the businesses where the chargers are located. He stated that the chargers would be available 24 hours per day, 7 days a week. He stated that cars stop for recharging and that takes about 15 minutes. Mr. Karp stated that Tesla wanted to put a charging station near Route 78. He stated that there are charging stations in Allentown and Philadelphia and that there are 930 stations throughout North America. Mr. Karp noted that Tesla is proposing to install 8 charging parking stalls. He stated that 6 of those spaces will be available for other patrons and 2 will be dedicated to Tesla vehicles.

Attorney Duncan Prime stated that this is a minor site plan application. Exhibit "A-1" was presented showing the Tesla minor site plan created by Black and Veatch Engineers. The charging posts were identified on the plans. It was noted that all transactions are done on the cloud and that there is no point of sale on the location. Attorney Sposaro how many miles will one charge give. Mr. Karp stated that if you approach the charging station with an empty battery you will get 220 miles with a full charge. He stated that this is a D-3 supercharger with 250 KW. He stated that Tesla encourages customers to keep moving and that after 15 minutes there is a \$1 per minute surcharge.

Engineer Ingram stated that there is additional impervious coverage that the applicant needs to provide to the board. He stated that that information needs to be provided to the board attorney. Attorney Sposaro stated that the applicant can take a photo of the zoning table on the plans and submit it to him with the additional information. Engineer Ingram asked about signage on the site. Mr. Karp stated that the customers are directed to the site by GPS and that there is no need for directional signage.

Engineer Ingram stated that there is a need for signage to denote that the 6 other parking spaces can be used by non-Tesla cars and signage to denote the two Tesla vehicle only spaces. He noted that signage should be provided stating that vehicles can only be parked for 15 minutes. Attorney Sposaro noted that there is ample parking for WAWA as 60 spaces are provided and only 38 spaces are required. The applicant agreed to comply with the comments made in Engineer Ingram's review letter of July 30, 2019.

There was discussion regarding the parking stall length. It was noted that the stall depth is to be 20 feet and that 18 feet of striping has been proposed. It was recommended that an additional 2 feet of striping be provided. It was noted that a 6 inch wide and 3 foot high steel bollard is going to be positioned before each charging station. Chairman Willever asked that the bollard width be increased to 8 inches.

Engineer Ingram asked about Fire Department access for firefighting. Mr. Karp stated that Tesla has a first responder plan and that there is a main disconnect switch. He stated that they test for thermal events and that there are many device safety checks. Mr. Karp stated that they can walk through the site with the Fire Department. He stated that Tesla can provide a Knox box for first responder rapid access if the Fire Department does not want a key.

The public hearing was opened to public comment. Bob Sickels, former Fire Chief, stated that there are no fire suppression systems installed for this site's transformer. He asked if there will be a fence or shrubbery enclosing it. Mr. Karp stated that there will be 3 feet of shrubbery on all sides except the front which will have 10 feet. Mr. Sickels asked about the shut off. Mr. Karp stated that the main disconnect will be located behind a locked front door or they can put it in a Knox box. Mr. Sickels stated that all people from the Fire Department may not want to go into the transformer area. He asked what would protect them from being electrocuted. Mr. Karp stated that there will be a switch gear and that there will be no electrical hazards. He said that the utility company would have to come to turn the main disconnect off. He stated that the center cabinet can have signage on it saying that it contains the main disconnect. Mr. Karp stated that Tesla can work with the Fire Department on signage.

As there were no other public comments or questions the public hearing was closed to further public comment. There were no further board comments or questions.

A motion was made by Mr. K. Melvin seconded by Mr. Williams to except and approve the Tesla minor site plan proposal with the conditions noted by the Engineer and with requirement that the Fire Department work with Tesla on the installation of the site improvements. The motion carried with the following roll call vote:

Ayes: Swinicki, Mirenda, Williams, Willever, Smith-Bohn, K. Melvin, R. Melvin,
Cyphers, McGuinness

Nays: 0

Abstaining: 0

Absent: Babinsky

PUBLIC COMMENTS - None.

Mr. Melvin noted that the Board should be adding the Fire Department and the Police Chief to their list of persons who receive application plans and documents. Engineer Ingram recommended that the board update the checklist and add the Fire Department and Police Chief to the checklists.

CORRESPONDENCE

1. Warren County Planning Department: JDJS at Pohatcong, LLC – April 28, 2020 – Disapproved.
2. Warren County Planning Department: Bank of America – April 28, 2020 – Exempt.
3. Warren County Planning Department: Pohatcong Solar Farm, LLC – April 28, 2020 – Conditional approval.
4. Warren County Planning Department: Notice of public hearing on revision to Warren County Development Review Regulations.
5. Warren County Board of Chosen Freeholders – Freeholder James Kern, III – May 5, 2020 – A letter encouraging Senator Paul Sarlo to vote for Senate Bill 2346 pertaining to the need for public meetings rather than virtual meetings for larger land use board applications that would have greater public participation and comments, and for the extension of time frames for boards to grant or deny applications.

Mr. K. Melvin made a motion to adjourn the meeting at 9:33 p.m., seconded by Ms. R. Melvin. All were in favor.

Respectfully Submitted,

Barbara Margolese
Land Use Board Secretary