

WEST CALDWELL BOARD OF ADJUSTMENT PUBLIC MEETING MINUTES

June 9, 2022

A remote Public Meeting of the Board of Adjustment of the Township of West Caldwell was held on June 9, 2022 at 7:00 p.m. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Board Chairman Christopher Massaro opened the meeting and read the opening statement.

ROLL CALL

Members Present: Chairman Massaro, Vice Chairman Adriaenssens, Mr. Schott, Mr. Persad, Ms. Hunter, Mr. Prenderville and Mr. Cascarano

Members Absent: Ms. Matey

Advisors Present: Larry I. Wiener, Esq. and Lynda Korfmann, Board Secretary, Joseph Pomante, P.E. from Boswell Engineering and Frank Dobiszewski, P.E. from Boswell Engineering

APPROVAL OF MINUTES

A motion to approve the Minutes of the May 31, 2022 Special Public Meeting were approved by the Board members present who were entitled to vote on the Minutes. (7-0-0)

RESOLUTIONS

None.

HEARINGS

ZB21-06 West Caldwell Plaza, LLC, 780 Bloomfield Avenue, Block 2101, Lot 2, B-3 Zone District.

Applicant seeks minor site plan approval with N.J.S.A. 40:55D-70(d)(3) conditional use variance relief and several N.J.S.A. 55D-70(c) bulk variances. The subject property is known as the West Caldwell Plaza shopping center, which has frontage along Passaic Avenue and Bloomfield Avenue in the B-3 General Business District, where fast-food restaurants are a permitted conditional use. The Applicant proposes to relocate the existing Starbucks Coffee shop within West Caldwell Plaza shopping center to the northernmost tenant space, closest to Bloomfield Avenue, which was previously occupied by a bank with a drive-up window. The Applicant proposes to reconfigure the existing drive-up area and install signage and menu boards to serve the proposed 55-seat fast-food restaurant. D(3) conditional use variance relief is required where the application does not comply with conditions related to the following: drive thru lanes are not permitted in the front yard, parking is not permitted in the front yard, drive-up windows are not permitted to face the front yard, only one wall sign is permitted whereas six are proposed, proposed directional signage exceeds the maximum permitted sign area and sign height, and menu boards and product display boards are proposed within the front yard without landscape screening from public view. Bulk variances are requested for maximum lot coverage, wall signage not being centered within the tenant façade, and maximum height of wall signage.

Chairman Massaro noted that this application was being continued from the May 31, 2022 Special Meeting date. He noted that during that meeting several conditions were discussed if an approval were to be granted involving a 6 month review period after operations for lighting. He also recalled a recycling plan was required from the applicant. Mr. Meese stated those conditions were deemed acceptable to the applicant.

Mr. Meese recalled Gary Dean, the applicant's traffic expert. Mr. Dean was reminded that he remained under oath and he stated that his license remains in good standing and that there has been no material change in his qualifications.

Mr. Dean discussed the circulation in the mall, which was a topic of discussion at the last meeting. He stated he discussed the matter with Boswell Engineering, the Township professional and they agreed to certain adjustments. He stated that no real changes were discussed or proposed since they agreed so as not to compromise the overall flow at the mall. The box will be painted to call attention to the area rather than striping. White wording will be installed in the box area to note "do not block the box". The handicap spot will be shifted down and an additional ramp. He noted that the Township ordinance requires a stacking lane that accommodates 6 vehicles and the current design exceeds that requirement and accommodates 8 vehicles. Also, since the driveway adjacent to the drive through area is an egress only, there are no concerns with incoming traffic in this area.

Mr. Frank Dobiszewski, the Township traffic expert, was recalled and reminded that he remained under oath and he stated that his license remains in good standing and that there has been no material change in his qualifications. He stated he heard Mr. Dean's testimony and agree with it. He stated he is in agreement to inspect lighting after 6 months and check circulation to see if it needs to be tweaked. He added color pavement is a good idea.

Chairman Massaro asked Mr. Dobiszewski in his professional opinion if the circulation plan presented reasonably safe and practical within acceptable standards. The witness responded in the affirmative.

No Board members had questions for Mr. Dobiszewski.

Chairman Massaro asked if anyone in the public had questions for Mr. Dobiszewski. No one in the public used the hard raise feature or typed in the chat.

Mr. Persad asked if the wait and see position is meant as a condition of approval similar to the lighting and recycling. The witness responded that the site may be reevaluated later once it is operational. He stated it provides the Board with some flexibility since it is unknown how the operations will function. Mr. Persad asked the Board Attorney who will monitor the site. Mr. Wiener stated that likely any issues will be reported to Township professionals and then the professionals would notify the applicant. Chairman Massaro noted that it is not easy to change traffic other than to add a sign, but that if the witness means that traffic will have to be addressed more substantially by the applicant, then the approval really is not an approval if the Board retains oversight. Mr. Meese stated the applicant has no problem being asked to install additional signs, installing pavement markings, but the Board cannot issue an approval and then come back later and ask for the parking circulation to be redone. Larry Wiener responded that the professional will have to give a foundation to move forward and after operations commence, allow for glitches to be fixed without terminating the approval. Mr. Wiener clarified for Mr. Meese that the Board is not saying the approval can be terminated by the Board once issued if there are glitches to be addressed after operations begin. Mr. Persad stated that the parameters of the 6 month review need to be established. Mr. Dobiszewski stated no wholesale changes are being suggested in the 6 month review, rather minor changes to address any traffic such as signing or striping. Mr. Pomante stated he believes that drivers will adjust and that the only change in the 6 month review would be to add a sign or relocate a sign. Mr. Pomante also was reminded that he remained under oath and he stated that his license remains in good standing and that there has been no material change in his qualifications. Chairman Massaro stated that after the real world date for review, the applicant may work with the Township to address any minor adjustments to signage, striping, height of signs, etc. Mr. Pomante added that no construction work is intended by this qualification, no curb work, only signage or striping. Chairman Massaro asked about oversight and it was agreed that the Township Traffic Engineer would be best qualified to oversee such a review. Mr. Persad stated that there was testimony at the first hearing about traffic studies, ITE/DOT tables and studies at the Livingston facility and it appears that the daily trips on a weekday will increase 4-fold. He asked if that assessment is accurate. The witness responded in the affirmative, but he added that a Starbucks will have more traffic than a bank. Mr. Persad asked in his professional opinion with the 4-fold increase in traffic and only 8 stacking cues, if there are any

safety or traffic control problems. The witness responded that there will be an increase in traffic, but he did additional checking with services known as QSR (quick service restaurant) that are high efficiency best practices study data and he believes the site will be satisfactory. He stated he cannot guarantee there will be no problems, but the plan will allow the site to be safe and efficient in its use. He stated there always is a wild card, but he again stated he believes that the presentation gives the most efficient and safe plan. Mr. Persad asked if the plan meets acceptable standards and the witness responded in the affirmative.

Ms. Hunter asked about the potential for serious traffic back up and asked if any more significant condition could be added to any approval. Chairman Massaro noted that the Board cannot go that far with an approval since the applicant does not want an illusory approval. Mr. Wiener added that if there are minor adjustments to be made after operations begin, that is reasonable, but if the Board is not at a comfort level based upon the testimony from the experts, then maybe the application cannot be approved.

Mr. Meese asked his professional\ could differentiate the Livingston Starbucks site from the West Caldwell site. He added that Township ordinance requires 6 cues in the stacking lane and the applicant has provided 8 cues. Chairman Massaro stated that he would have the time to address that item after the current witness finished. Chairman Massaro also added that while the stacking lane needs 6 cues, the ordinance does not take into account the placement of the building, driveway, etc. which are other factors which can come into play because of a unique property.

Mr. Schott asked for a clarification of the agreement between applicant's traffic engineer Mr. Dean and the Township traffic engineer Mr. Dobiszewski. Mr. Schott stated that he understands that the changes have not been included on the plan yet, but will include a painted box with a solid surface and wording and a 6 months look back period after operations for traffic signage or striping. Mr. Meese recalled his civil engineer Mr. Sehnal.

Mr. Sehnal was reminded that he remained under oath and he stated that his license remains in good standing and that there has been no material change in his qualifications. He screen shared the site plan and referred to page 3. He stated the existing handicap stall will be shifted down about 2 spaces and the 2 mobile order spots will shift down to where the ADA space had been located. He stated a new crosswalk will be painted on the driveway from the ADA space to the curb. He noted a new handicap ramp will be installed at the end of that new crosswalk. He added that the handicap ramp that will start at the corner where the drive through lanes exit the window will be lengthened so that it flattens out (less than 2% slope) at about the same location as the new ramp. This location will be down from the pick up window and this configuration will reduce congestion by the pick up window. He stated the box will be painted a solid color (perhaps green or any color the Township desires) and contain white lettering "do not block the box". Textured paint will be used so it is not slippery. The stop bar and stop sign will remain at the western leg of the 4 way intersection. At the end of the drive through aisle, a one way sign pointing toward Bloomfield Avenue will be installed.

Ms. Hunter asked the witness if he believes that there will never be more than 8 cars in the stacking lane and if there are more cars waiting, it will be infrequent. She asked that a car heading towards Bloomfield Avenue driving along the drive aisle that runs adjacent to the building will have to stop before the "box" if there is traffic waiting to turn onto Bloomfield Avenue so that the "box" is not blocked. The witness responded in the affirmative that he assessment of how traffic should progress, is correct.

Chairman Massaro asked the witness if the stop bar and stop sign will be in opposition the entry to the drive through lanes. The witness agreed both will be present.

Chairman Massaro asked if anyone in the public had questions for the witness. No one in the public used the hard raise feature or typed in the chat.

Vice Chairman Adriaenssens asked what if the traffic becomes a nuisance. Chairman Massaro stated that this question is just the question that the Board is wrestling to understand.

Mr. Dean, the applicant's traffic engineer, was recalled and again was reminded that he remained under oath and he stated that his license remains in good standing and that there has been no material change in his qualifications. Mr. Dean stated that the Livingston site is different than the West Caldwell site. He that the Livingston site is much smaller in size and the interior of the store is older so it is not as efficient as the West Caldwell store will be. He said that there are longer prep times in Livingston. He added that there is no good parking and the lot is shared with a restaurant and has no walk up window. He said in contrast, West Caldwell has abundant parking, more efficient mechanics inside to be faster and a walk up window. He stated the West Caldwell site is better than the Livingston site.

He also screen shared the site plan and referred to page 3. He stated an existing arrow on the ground will be repainted and moved opposition the exit from the drive through aisle to show drivers only may turn right.

Mr. Dean also screen shared exhibit A-14. He explained that the applicant also could install a directional sign for the drive through in the island at the end of an angled drive aisle which runs down the middle of the lot (close to the building where TJ Maxx is located) and then install one at the end of that angled drive aisle in the island adjacent to the sidewalk along Bloomfield Avenue to show that the driver needs to turn right to head to the drive through. Chairman Massaro stated that the Board does not make the decisions about these items, rather they must rely on the recommendations of the professionals.

Mr. Schott asked for an identification on the site plan where these new proposed directional signs would be located. Mr. Dean offered a new exhibit A-19, a marked up site plan drawing of the parking lot with the locations for these proposed new directional signs marked.

Ms. Hunter stated based upon her local knowledge of the mall, she thinks there will be more foot traffic in the back parking spaces by Bloomfield Avenue in the afternoon. Mr. Dean responded that the peak use will be in the morning hours. Ms. Hunter repeated her concern for traffic and children in the afternoon when school ends.

Mr. Persad stated that there is less use of the parking spaces in the area of the proposed Starbucks and wondered if the applicant professionals considered using any of those spots for cuing. Mr. Dean responded in the negative adding that the design is a rehabilitation of only the drive through with no reduction of the existing parking. The augmented design will shift the ADA stall, but the applicant is not opening the entire site plan for review or amendment. Mr. Persad asked if these changes were made to the site plan, would it be safer. The witness responded in the negative.

Ms. Hunter stated that it seems that Mr. Dean does not feel the proposed directional signs are deemed necessary. Mr. Dean responded that in his opinion safety is not being compromised with the design. The changes are to make the site more efficient. He added that all the discussion with the Board involve site efficiency, not site safety.

Chairman Massaro asked if anyone in the public had questions for the witness. No one in the public used the hard raise feature or typed in the chat.

Chairman Massaro asked if Mr. Dobiszewski agrees with Mr. Dean or disagrees with him. Mr. Dobiszewski stated he agrees with Mr. Dean. He stated the discussions are involving how to make the site more efficient.

Chairman Massaro asked if anyone in the public had questions for the witness. No one in the public used the hard raise feature or typed in the chat.

Mr. Meese asked the Board for a 5 minute recess and it was granted at 8:25 pm. The hearing resumed at 8:45 pm.

Mr. Meese called the applicant's professional planner John McDonough. Mr. McDonough was sworn in and stated his business address at 101 Gibraltar Drive, Suite 1A, Parsippany, NJ. He provided his education and experience and was accepted by the Board as an expert in professional planning without objections or question.

Mr. McDonough screen shared Exhibit A-16 and reviewed the site and the conditional use standard. He then reviewed the d3 variance that is sought which involved the drive up lane in the front yard, the parking in the front yard and the drive up window facing the front yard (side or rear permitted). He discussed the existing layout of the mall and the drive through. He discussed positive criteria for the d3 variance. He commented that the plan promotes the public welfare by repurposing an empty storefront, provide an improved economic impact (stable ratable base), it provides a good tenant; provides a good service for the general welfare, allows an existing tenant to remain in the mall, provides a drive through feature that helps customers, provides an efficient use of land, provides positive aesthetics, promotes a good visual environment. He mentioned the negative was impacted by the existing conditions of the mall such as parking in the front yard, drive through lanes in the front yard and a drive up window in the front yard, but he testified that the proffered design is efficient. Mr. McDonough also reviewed the B-3 sign package and relief sought. He stated that there are two instructional signs by the drive through, the drive up menu board and the order board sign are in the front yard, but are screened with landscaping and are not pointed at the road with these signs not being visible from the street even though the canopy may be visible from Bloomfield Avenue. He stated the Shopping Center Standards limit height of signage at 24" where the applicant is proposing 36", but he notes the signs are not overbearing or excessive. He noted the sign orientation asks for the storefront sign to be centered over the entry door and not over the entire storefront. He testified that this design is better. He noted the max lot coverage is 96%, but the applicant is proposing 96.7%. He also stated regulations limit wall signs. The property fronts on two streets and the applicant is proposing 3 logo signs and mobile order sign, He testified that the proposed sign package is suitable for the site and will make it safe and efficient.

Chairman Massaro asked if the Board had questions for the witness. No one had any questions.

Chairman Massaro asked if anyone in the public had questions for the witness. No one in the public used the hard raise feature or typed in the chat.

Chairman Massaro asked if anyone in the public had questions any statement or testimony to offer. No one in the public used the hard raise feature or typed in the chat.

Mr. Meese offered a brief summation. He reviewed the preexisting shopping mall conditions and stated that the Starbucks seek to relocate within the mall. The current location is congested and the proposed new location with a drive through and walk up window will be less congested. He stated that the Township ordinance requires a 6 vehicle stacking lane and the applicant is providing an 8 vehicle stacking lane. He stated the applicant's experts say that the proposed design is both safe and efficient. The applicant also has agreed to a 6 month look back for more signage or striping or lighting. He stated the design will help traffic flow, the drive through provides a benefit to the public. He noted that the tenant is a quality tenant relocating to a vacant storefront and has been in the mall for the past 25 years. He added that a sidewalk will be added for safety by the drive through lanes. There will be an interior meeting room space in the store. He stated that the sign package is reasonable for the store. He asked the Board to approve the application.

Chairman Massaro asked for a motion to close the hearing. The motion was made by Mr. Schott and seconded by Mr. Cascarano and approved unanimously.

Chairman Massaro stated that the Board is providing a de novo review based upon 2 nights of hearings. He stated that the evidence offered by the professionals is that there is no safety issue on site and the design promotes efficiency. He stated there is an expansion of the ADA access. The drive through and walk up window add convenience features. He noted that the storefront currently is vacant and the plan will provide improved aesthetics. He noted that testimony regarding the d3 standard has been provided. He noted the signage is a

package that has been represented as typical of a drive through site. He added that the applicant has agreed to a 6 month review after operations commence for lighting and traffic flow to allow for added signage or striping if deemed necessary. He noted the c2 variances have provided testimony that the benefits outweigh the detriments. He indicated that in his opinion the lot coverage variance is a de minimus variance. Overall, the testimony provided reflects that the proposed plan is a good plan. Mr. Schott agreed with the analysis and indicated he appreciated the plan and the flexibility of the professionals to improve the plan. He stated the proposed new location for Starbucks will not be as busy a location and the plan is a better plan for the property. Mr. Prenderville agreed with his fellow Board members and noted it was a good plan. Mr. Persad asked for clarification on the 6 month review regarding signage and striping. Chairman Massaro agreed to review these conditions at the end of the deliberations. Mr. Cascarano echoed the analysis of his fellow Board members and noted he initially was concerned with the plan and how it would work, but based upon the testimony and presentation, he feel comfortable with the approach. Vice Chairman Adriaenssens stated he remains worried about the traffic, but feels testimony has been presented to support the application. Ms. Hunter stated she concurred in the analysis. She noted that she appreciated the testimony differentiating the Livingston Starbucks facility from the current site. She added she likes the repositioning of the driveway arrow across from the drive through exit lanes and believes the benefits outweigh the detriments. Chairman Massaro then noted that any motion to approve would require inclusion of conditions previously discussed. These conditions were listed as: interior aisle condition to add two signs to direct drivers to the drive through lanes (one at the start of the drive aisle along the westerly building frontage and a second at the end of the drive aisle); 6 month review after operations commence to review lighting, signage and striping; applicant will submit a recycle plan; handicap space shall be shifted down; a new crosswalk and handicap ramp will be installed opposite the ADA space; regrading of the ramp at the entrance to the mall adjacent to the drive through exist lanes so that it levels off past the walk up window; stop bar and stop sign opposition the entrance to the drive through lanes; box in front of drive through lanes will be painted solid with white lettering noting "do not block the box" at both ends; a "no left turn" sign will be installed by the exit to the drive through lanes along with a one way sign with Township Traffic Engineer to provide recommended location for the signage; movement of the directional arrow in from of the drive through exit lanes; and no vesting of sewer rights per the Scarce Resource Order.

Mr. Meese agreed to these conditions.

Motion made by Mr. Cascarano, seconded by Vice Chairman Adriaenssens to approve the application subject to the above conditions. Approved (7-0-0).

ADJOURNMENT

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Lynda Korfmann, Secretary to the Zoning Board of Adjustment