

TOWNSHIP OF SADDLE BROOK

ZONING BOARD OF ADJUSTMENT MINUTES

February 6, 2023 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday February 6, 2023 at **(Saddle Brook Town Hall 93 Market Street)**

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

3. OPEN PUBLIC MEETING ACT: adequate notice of this meeting has been sent to all members of the Zoning Board and to all legal newspapers in Accordance with all the Provisions of the "Open Meetings Act", Chapter 231, P.L. 1975.

4. ROLL CALL

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – present. Mr. Champy is absent. Mr. Pellino the Board Attorney, Anthony Kurus the Board Engineer and Gary Paparozzi the Board Planner are also in attendance.

5. NEW BUSINESS

A.) Carrols Restaurant Group, 439 Market Street, Block 705, Lots 24, 25 & 26

Applicant is proposing a building remodel of the existing Burger King restaurant that will reduce the footprint from 3,319 square-feet to 2,866 square feet and reconfiguration of the drive-thru use to a dual-lane drive-thru with associated appurtenances. Additional site improvements include full-depth pavement reconstruction, restriping, concrete curbing, concrete walkways, concrete pad, relocated trash enclosure, relocated utility pole, drainage improvements, lighting improvements, and landscaping improvements that do not conform to the zoning ordinance for the Township of Saddle Brook as exists today.

Mr. Pellino confirms that the notice is in order for this application and they may proceed with their application.

Lawrence Calli is representing the applicant Carrols restaurant Group.

Mr. Calli – It is essentially an upgrade for the existing Burger King it's been here for a lot of years the look has been antiquated and corporate has been upgrading them sequentially from site to site. This is probably the sixth or seventh one we've been able to do in New Jersey in the past year or two on behalf of Carrols who is the owner operator of about 1100 Burger Kings. It's an aesthetic improvement and an upgrade with a modernization of a dual drive thru. No real net changes to the use nothing is changing about the operations what they cook, how they do it, their employees, their hours all of that is staying the same. We're here at the Board of Adjustment because the use is not permitted under the code so this is technically an expansion of that use an exacerbation of that use notwithstanding the fact that we think it's appreciable and positive the modernizing efforts that we're undertaking there is "D" relief so we're at the Board of Adjustment. A few ancillary bulk relief items as well and I'll let our engineer and our planner speak to them shortly Mr. Chairman and Members but this evening you'll hear from our project team which will include our project engineer Mr. Colucco who is the engineer of record on the plans you have before you. He is well versed in the operations of Carrols Burger King so he can speak to the current operations superficially and confirm there are no net changes. Our project architect will testify next Pat Mahoney he will walk you through the elevations as proposed to be improved. He'll walk you through the floor plan loop some of the back of the house operations get a little bigger the restaurant seating area

gets a little smaller but the same box essentially but we're repurposing a little of the space in here and Pat will walk you through that. Craig Peregoy our traffic engineer from Dynamic Traffic prepared a circulation and parking assessment that was submitted months ago Craig will walk everybody through the lack of impact under the proposed new improvements particularly the drive thru. Then lastly my project planner Matt Flynn who should be here shortly to walk you through the various proofs. These are all existing conditions for the most part but we are triggering relief so you'll have to hear the planning proof shortly. One more item of relief we did have the benefit of the original Neglia report which was a completeness review and we also have the benefit of Mr. Paparozzi's report that issued recently and I understand that there was a request that a representative of the ownership of the shopping center be here this evening which we do have. Mr. Mund is here this evening and what I was thinking Mr. Chairman is if there are any questions about the center generally sort of unrelated to the Carrols project we'd be glad to head it off now so we can allow Mr. Mund to leave and then we can get into the merits of the application if there are any questions related to the center which I understand there might be.

Mr. Duffy – I'd like to hear from Mr. Mund.

Mr. Calli – We'll bring Mr. Mund up first and then we'll get to our witness order thereafter Mr. Chairman if that's okay?

Mr. Duffy – We're good.

Mr. Pellino swears in Eric W. Mund and he gives his business address as 429 Market Street Saddle Brook.

Mr. Calli turns it over to the Board to allow them to question Mr. Mund. He puts on an easel a mounted site plan for the Board to use as they question Mr. Mund.

Mr. Duffy – Burger King is actually the one building that's what you're here for this evening.

Mr. Calli – That's correct.

Mr. Duffy – This is one lot that encompasses three buildings correct?

Mr. Mund – Actually the Burger king is on a separate lot. For an abundance of caution I think they over noticed.

Mr. Calli – All of this is in your ownership?

Mr. Mund – Yes.

Mr. Duffy – I would like to have our planner since he has a number of questions come forward. Aside from some of the things I have which is one of the dumpsters that's on a property adjacent to you that is opened up onto your property.

Mr. Paparozzi – The Burger King is a leased area it's not a full lot. On the map they call it the leased area but that being said there is no easement for ingress and egress on the entire lot there's no cross parking easement so obviously even though the Burger King can be treated separately there are issues with the entire one piece that is drawn on the survey that we have in our package. The issues that I had were some of the dumpsters were not enclosed. This one in the east that opens onto the Saddle Brook realty's property. There were five ADA spaces in front of Burger King there was one and right across from the Burger King there is another one. They eliminated that but based on the number of spaces they need five ADA so they have to add another ADA space someplace on the site. These two ADA spaces in this space are not compliant meaning the size is not the correct size they are supposed to be. In the back over here, there was storage of material which is prohibited in the Township. There was also work being done someplace over here which is also prohibited in the Township. Aside from property maintenance there was when I was there an RV parked here a boat parked here there was a landscaping trailer parked on the site and I had to confirm it with Anthony and that would trigger another variance with each of those vehicles which are being allowed to park on the site not associated with the business. Those were the issues I had with the overall site for Mr. Mund to address.

Mr. Duffy – Does the configuration of this lot have an impact on how the parking is calculated?

Mr. Paparozzi – I can't calculate the parking requirement because we don't have floor plans for the pizzeria or this building here but whatever it is it's preexisting so it's not going to create a new variance. What is preexisting is the spaces are 9 by 18 and that is not code. Although some are changing for

example the ADA space that's over here that they eliminated that's going to 9 by 18 and it's supposed to be 10 by 20 according to Township code.

Mr. Duffy – Is that the one as soon as you pull in it's on the right?

Mr. Paparozzi – Exactly.

Mr. Duffy – There's one in front of the building.

Mr. Paparozzi – Right and there's one right across from it.

Mr. Duffy – It's still marked as ADA.

Mr. Paparozzi – It's still marked that way but not on the plan so I'm assuming they are going to eliminate it. One space has to be added just based in the number of parking spaces provided that's a state code.

Mr. Duffy – They need a minimum of two?

Mr. Paparozzi – They need a minimum for the entire site five when they eliminate that one they only have four.

Mr. Duffy – So we're saying five is the entire site which includes the building in the back the pizzeria and Burger King. My question is how does that affect just if we're looking at this lot area that Burger King sits on?

Mr. Paparozzi – It affects it because there has to be a separate easement for that then because otherwise they would be saying parking for Burger King only and parking for whatever the carpet place is or parking for the pizzeria only. If they don't do that obviously there's a parking agreement where I can park over here and go to Burger King I don't have to be in the 22 spaces that Burger King is allotting even though that's just their leased area. It's got to be consumed in the whole package because like I said there is no ingress or egress easement for the site. There's no forced parking agreement and there's no sign saying parking for Burger King only parking for the pizzeria only with that being said I put it in my report because the engineer put it in based on his square footage he needs 33 spaces they're providing 22. Technically it's a variance based on his lease but in reality it's not a variance because they have all that parking.

Mr. Pellino – I thought they said that Burger King was a separate lot is that not true?

Mr. Paparozzi – No it's part of a lot on one of my plans they call it the lease area. On sheet one you'll see a dotted line where Burger King is and it says approximate location of the leased area. It's not entirely one separate lot. If that was the case they would have done just a separate application with the one lot I would imagine and the survey provided shows the entire site and the survey is done by Dynamic which also did the site plan.

Mr. Pellino – The survey shows this as one lot?

Mr. Paparozzi – No it shows there are three lots but they're not broken up into separate businesses.

Mr. Duffy – Which lot is Burger King called.

Mr. Calli – It traverses all of them Mr. Chairman.

Mr. Duffy – So it's not a separate lot?

Mr. Calli – It's effectively an assemblage of lots here Burger King is not its own self-contained lot.

Mr. Duffy – So in regards to the trailer, the boat, the RV.

Mr. Mund – I'll take the RV home tonight.

Mr. Duffy – Oh it's yours?

Mr. Mund – If you drive by there tonight it will be gone.

Mr. Duffy – So I guess the boat's yours also?

Mr. Mund – No that's a favor to a friend I think the favor is expiring.

Mr. Duffy – Who's got the trailer then?

Mr. Mund – He runs the tile business in the back.

Mr. Duffy – Oh Angelo?

Mr. Mund – No Mike Ahmad.

Mr. Duffy – Oh Mike at Best Carpets okay. So those are concerns I visited the site within the last five days three times and every time I've gone I've seen something else removed. The work area that was set up that looked like a table saw was set up and everything I saw that was gone.

Mr. Mund – There was a pile of granite slabs in front of the place the turntable the slab cutter is gone. There was a pile of slabs out front for more than a week that's gone, one of the two boats is gone whatever the Board decides is gone.

Mr. Duffy – I guess we'll get Dollar General to get rid of that dumpster.

Mr. Mund – The Dollar General dumpster is unique. About three years ago the code enforcement department told us we didn't have any dumpster corrals on our site so I put four dumpster corrals in at the behest of the code enforcement official. One is the Dollar General dumpster, one is a paper dumpster. I couldn't put the paper dumpster in a corral because it cuts the driveway. The driveway on the southerly part of the property that goes around the back of the Dollar General if there's a corral there it was going to cut off that access and there was no other place to put it so that particular dumpster is on wheels so it can be rolled around and that property is not part of this application. I'll also let the Board know that almost a year ago I was in front of the Planning Board and got the Starbucks approved and they saw existing conditions which included that dumpster where it is now and they didn't say anything about it, in fact we ended up building a second dumpster in back of Starbucks so I did what I was told to do by the code enforcement folks. I added another dumpster on the site where there used to be one in back of the bank that didn't get caught and I now have a dumpster corral in back of the former bank current Starbucks and it's very problematic to eliminate that one dumpster that is not part of this application.

Mr. Duffy – I wasn't aware that you owned the property next door.

Mr. Mund – That's where the one exposed dumpster is next door.

Mr. Duffy – Okay I don't know if there's anything we could do about that then.

Mr. Pellino – Technically no it's not in front of us.

Mr. Duffy – We would like to see some of it.

Mr. Mund – In terms of the vehicles and stuff that will be gone if you want to bake it into your resolution it will give me some armor to yell at my tenants with But I'm the guy responsible for the camper.

Mr. Duffy – I don't mind giving you armor and I appreciate you taking the time to come and explain this to us tonight.

Mr. Mund – This Town has been very good to us as a family my dad was born here in twenty eight he's still alive. I still own a house on Saddle River Road the family's owned that house since he was born for ninety five years so we're not going anywhere we're accountable.

Mr. Marz – Would putting up signs cause more problems designating parking to each center versus keeping it the way it is?

Mr. Paparozzi – It would because technically let's say the pizzeria wouldn't need all that parking.

Mr. Duffy – Would that be a concern we should wait until we get to the actual application and someone else might be able to answer that?

Mr. Calli – Our traffic engineer can go over why that may not work as well as our civil engineer.

Mr. Duffy – So then we will revisit that question for sure I didn't know if it was anything Mr. Mund could answer right now.

Mr. Paparozzi – Chairman these spaces have to be made compliant and they have to add an additional space which is state code and my report was done on the twenty eighth so my two inspections were prior to the twenty eighth so if there's no outdoor work, no outdoor storage there was a dumpster over here someplace aside from this one that is on the neighbor's property. There is a dumpster over here that is not enclosed which needs to be enclosed.

Mr. Mund – That's a roll out dumpster Mike Ahmad's dumpster it reside inside his facility and comes outside a couple of hours a week for pickup and then it comes back in. It was problematic to provide him an enclosure based on the fact that both Harbor Freight and Mike do their drops and pickups there at that spot.

Mr. Paparozzi – That would make sense but you have to tell Mike to take it in when it's done. I was there twice and both times I saw it and I think it was empty so he's not taking it in.

Mr. Duffy – If there are no other questions can I have a motion to open to the public?

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Mr. Schilp makes a motion seconded by Ms. Murray to close to the public. All in favor – YES.

Mr. Calli calls up the project engineer Robert Colucco.

Mr. Pellino swears in Mr. Colucco he gives his business address as 245 Main Street Suite 110 Chester New Jersey.

Mr. Calli asks Mr. Colucco to give the Board his credentials so that he may be accepted as an expert witness. He states his credentials to the Board and they accept him as a witness.

Mr. Colluco – My first exhibit is an aerial map exhibit marked as A1 which is the same as the one in the packet except it has the zone lines in blue and the site is outlined in yellow. The date of the exhibit is December 5, 2022. This is the existing Burger King Block 705 Lots 24 through 26, 439 Market Street. The site is located within the B2 zone. To the north of the site you have the rest of the shopping center residential use is beyond. To the east of the site you have various commercial and restaurant uses. To the south you have Market Street and again more commercial and restaurant uses and to the west you have again more restaurant and commercial uses with KFC with a drive through also. The overall site consists of 112,011 square feet and it is fully developed with a shopping center and in the southeast corner is the Burger King which is what we are here for. Access to the site is currently one ingress only and one egress only drive aisles from Market Street. The ingress aisle would be in the southeast corner of the site there is counter clockwise movement around the site and then you have your egress on the southwest portion and in front of the building you have a pull through aisle so that allows the full circulation of the Burger King lot.

Mr. Duffy – The pull through aisle is a one way only correct.

Mr. Colluco – Yes it is one way from west to east. Moving on to proposed conditions this exhibit is a site plan also dated December 5th 2022 I can mark it as A2. The site is located in the B2 zone fast food restaurants with drive thrus are a non-permitted use it has been operating for the last fifty years or so. The improvements are a modernization of the Burger King building itself. We're also performing ADA site improvements we're converting the existing single lane drive thru to an improved drive thru and we're relocating the trash enclosure that is directly behind the building and putting it on an angle. From a bulk standard requirement we're complying with the bulk standards with exception of the front yard setback currently 25 feet is required we're at 24.3 feet is proposed which is an improvement over the 20.8 feet that exists today. From a lot coverage perspective the overall shopping center 50% is permitted 94.2% is proposed and 94.9% exists today so again another improvement over existing conditions. Access to the site will remain the same there are no changes proposed to either of the driveways to Market Street no changes to any of the circulation. From a parking perspective the ordinance requires one space for 200 square feet of gross floor area or one space for three seats or one space per three persons maximum occupancy. From this standard maximum occupancy would hold for that thus 33 spaces would be required 21 exist today and 22 are being proposed. The reason for adding that space is that there is an existing ADA space here and some striping we're proposing to remove that you only need one for ADA code for the site we thought it would be better to have the extra parking space if it's something that needs to be addressed later we can either add it back in or work with Mr. Mund to find another place on the site. From a parking perspective we are aware there are some broken and missing wheel stops along the east side anything that is broken or missing will be replaced. The existing trash enclosure is right along parallel with the rear of the building because of the new drive thru we are proposing to relocate that so the trash truck can adequately access it. It would still come in from Market Street as it does today it would do a rear load pickup and then circulate the site east to west and onto Market Street as it does today. From a signage perspective currently there is one building mounted sign as part of the Burger King remodel Carrols likes to bring a new signage package it's a standard Burger King package it comes from corporate. They like to put it in locations on the front of the building also identify where the customer is supposed to go also identify the building from the street. We have three 25 square foot signs you have one on the east side over the entrance door, one on the front of the building where the vestibule is and one on the west side above the drive thru pickup for visibility from Market Street. One sign per building frontage is permitted for code we're proposing three. If you look at it from a size perspective the total permitted area 137.8 square feet is permitted if you combine the three signs you're only at 75 square

feet. From a landscaping perspective there's a little bit of landscaping next to the existing trash enclosure we are adding three trees and about fifty seven shrubs to screen the equipment and provide a better visual screen for the new trash enclosure. Last on my list is a summary of the variances I've proposed with the application you have fast food with a drive thru restaurant not a permitted use in the B2 zone, minimum front yard setback 25 feet is required 20.8 feet is existing and 24.3 feet is proposed. Maximum lot coverage 50% permitted 94.2% proposed and 94.9% existing. Parking spaces that we consider the Burger King lease area 33 required 21 existing and 22 proposed. Then the building signage one sign permitted and three are proposed. I conclude my testimony and happy to answer your questions.

Mr. Duffy – The lease area what encompasses the lease area?

Mr. Colluco – The lease area encompasses parts of all three lots 24, 25 and 26. I will go over to the site plan (Mr. Colucco shows the Board the site plan on the easel and points out the area occupied by the Burger King).

Mr. Duffy – You said there is 21 spaces?

Mr. Colluco – Correct.

Mr. Paparozzi – Before you go to the Commissioners I had two other variances that were not mentioned. One being no front yard parking allowed and although front yard parking exists because it's being altered by the ADA space here and the ADA space here I included it as a variance and the second variance that was not mentioned was only one ground sign is permitted and there are three. There are two for the drive thru and one the sign on the ground saying drive thru with the arrow.

Ms. Murray – The only concern I have and I don't know if it's Mr. Colucco is that the drive thru now is tight so it looks to me that the first lane is going to be that really tight turn.

Mr. Colluco – We ran it with your typical cars our traffic engineer can get into it as needed but based on the templates we ran it would be adequate circulation.

Ms. Murray – Okay.

Mr. Duffy – The additional signs which are the markings on the pavement the arrow markings you are proposing how many three or two?

Mr. Colluco – We're proposing one that says drive thru, one that is painted exit sign if you look at the survey there's an existing exit painted striping on the site today so we are basically just moving it to where that new bypass lane is and then we have a directional arrow post drive thru.

Mr. Duffy – There's nothing that directs traffic outside for customers that park and eat inside and come out because I'm just curious the driveway between the pizzeria and the drive thru lane isn't that one way.

Mr. Colluco – It is one way out.

Mr. Duffy – There's no marking stipulating that.

Mr. Colluco – No there's no marking there is a directional arrow right at the end here. I would say half of it is part of the pizzerias lot based off of lot 24 versus lot 25 we could add it if you want to.

Mr. Duffy – Only because I just had an experience the other day coming out of there not through the drive thru but what troubled me was the pass through in front of the building is a west to east so it's designed to go around counter clockwise as I came out somebody decided that it was okay to come from the other direction and zip across and nearly hit me. I was always under the impression it was one way in and one way out but it doesn't seem to be demarcated.

Mr. Colluco – If you would like we could add a do not enter sign and striping here to deter cars from making that turn.

Mr. Duffy – He was in a rush but it's a dangerous situation because the pizzeria has a door on that side so it opens up so I just have a concern there.

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Calli – Our second witness project architect Patrick Mahoney. Pat knows this operation through and through he's been involved in just about every architectural upgrade that Carrols and Burger King has been doing for the past several years and once he's sworn in he'll explain the improvements.

Mr. Pellino swears in Mr. Mahoney he gives his business address as 4080 Ridge Lea Road Amherst New York.

Mr. Mahoney gives the Board his qualifications and is accepted as an expert witness.

Mr. Calli – Anything that you're going to show the Board that's discrepant from what was on file we'll just note it, identify it and mark it as we go through we'll be starting with A4 shortly but if you can walk the Board through the existing what I'll call box we have now that is in desperate need of improvements and upgrades which you have endeavored to perform here we can walk through those please.

Mr. Mahoney – This sheet was not submitted it's essentially photographs of the existing building it's labeled EX it's dated as 1/14/22 sheet EX.

Mr. Calli – We'll mark it as A4 it's a series of five photos exterior and interior of the restaurant.

Mr. Mahoney – I think it was mentioned the store was built in 1974 it was a prototypical store then it had mansard roofs around it then it didn't have this square box at the front the mansard roof would have been wood shingles then so it's gone through a series of renovations over the years. I think the boxes were probably put on about 20 years ago and a repaint job was done about 10 years ago. This remodeling is intended to be more substantial and really gut the interior of the restaurant. What we find is after 30 years or so particularly in walls that about the kitchen enough water from cleaning and what not has gotten in there that the walls need to be reframed so we'll find a fair amount of rot I expect when we open up all those walls. This is going to be a ground up renovation at the same time the rest rooms in the store are not ADA compliant they're larger in number than we need I think there's three fixtures in each we'll propose to relocate them slightly taking up part of the dining room and only have two fixtures in each which will be ADA compliant. The next sheet is the demolition floor plan which shows what's being removed and this sheet is labeled D1.0 dated 1/23/23.

Mr. Calli – We'll mark this as A5.

Mr. Mahoney – This is showing currently there is an exterior cooler which is being moved inside. The dumpster enclosure is attached to the building which is being moved farther away from the building and the non-compliant restrooms here and the kitchen so all this dotted are is being removed and reconfigured. The net result will be about 20 fewer seats in the restaurant currently there's 68 in all likelihood we'll have less than 50 or less than 48 the gist of it is there's less demand for in store dining than there used to be more demand for the drive thru less demand for dining in. Whether that's a COVID thing or I think it's even before that so this is reacting to that. This next sheet which is labeled A2.0 dated 1/14/22 are the same set of elevations that were submitted to you with minor change in that the colors of the materials are shown and the dumpster enclosure which is no longer attached to the building is no longer shown.

Mr. Calli – We will mark this as it's slightly different as A6 the updated elevation plan of all four elevations.

Mr. Duffy – We have received that.

Mr. Calli – The updated sheet?

Ms. Murray – We received the little one.

Mr. Calli – That's right.

Mr. Mahoney – Much of the walls of the building which are painted brick currently are staying and are being updated. The upper parts of the building are being covered in a prefabricated material which is a cement base and a baked on color finish part of the reasoning for this is that it allows them as opposed to past years when they used the material if you're familiar with exterior finish it requires relatively warm temperatures to apply. This because it's already colored and finished beforehand can be done even in the winter. Like previously mentioned there is we call these archons little elements at the drive thru, the front entry and the side entry. The side entry currently is down here and in reconfiguring the interior of the restaurant the area in the back is being taken up by those so we're trying to have more of the activity of the restaurant be towards the front and part of that is looking to have visual surveillance from the counter of the dining room. We find that when we do that we have far fewer problems in the dining room then if there are large areas you're not looking at. If somebody can see that they're being watched they don't do things that are inappropriate or they do it less. The panels that go around on top are similar to the ones on these elements the ones on the elements are a narrower material so we're trying to get a

difference in color and texture and scale. It's similar to other restaurants that have been done around New Jersey and across the country it's part of a major reimagining project that Burger King is struggling to do. It's really expensive to do these kinds of changes so we just don't seem to be able to do it fast enough. The next sheet is the proposed interior of the restaurant which I believe has been submitted. In it you'll see these new restrooms that I talked about toward the back and the new location of a vestibule in the front corner giving you a view from the side. The small vestibule that kind of stuck out into the sidewalk area has been removed and the new vestibule is taken out of the space in the restaurant. That's all I want to talk about are there any questions?

Mr. Duffy – The reduction in the size is that attributed to the removal of the walk-in boxes outside?

Mr. Mahoney – The walk-in boxes and this vestibule.

Mr. Duffy – That's the reduction in size?

Mr. Mahoney – I'm going to say it's about 20 square feet on the side the rest being the cooler because that is fully enclosed with a brick wall.

Mr. Duffy – There is landscaping going there now if I'm correct.

Mr. Calli – Yes there is.

Mr. Schilp – Is the overhang coming down?

Mr. Mahoney – The overhang is coming down and there will be some small canopies at the areas where your car would pull up as well as the front and side only out about two feet. Even though we put up the bars that say nine feet which are really like an eight foot nine and we just can't seem to stop people from hitting the building all the way around it's banged up.

Mr. Duffy – Can I have a motion to open?

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Calli – Our third of four witnesses is Craig Perego of Dynamic Traffic his office prepared the circulation and parking assessment.

Mr. Pellino swears in Mr. Perego he gives his business address as 245 Main Street Chester, New Jersey.

Mr. Perego gives his credentials and is accepted as an expert witness.

Mr. Perego – The only traffic circulation items to discuss are the addition of the double drive thru. This is becoming the new standard at these drive thru restaurants the reason being is most of these buildings were designed when the drive thru line was about forty or fifty percent of the traffic arriving now it's upwards of eighty percent of the traffic arriving and it was only accelerated by COVID. What you typically see is in a single drive thru line the queue is behind the menu board then you have a gap to the pickup window where no vehicles are so the idea of being able to process those orders quicker fills in that gap pulls the queue around the building and lessens them extending into the parking area or worse the street. It improves the operational efficiency substantially. Another competing facility is a name I won't mention that has some arches has done a lot of these and I've done over forty of them in the past ten years and we've had the opportunity to go back to revisit them after they've installed the double drive thru and pretty much across the board you see about five percent increase in the drive thru volume but that queue behind the order board is basically cut in half where it was seven or eight vehicles it's now three or four at most so it is effective and is working. The other thing it sort of helps is when you have mom with half the soccer team in the minivan ordering a huge order you can still process people around that. There's a couple of benefits to it but it's been put in practice and has become the standard of new construction for these. It certainly benefits and is going to improve the existing condition. The parking discussion from earlier I don't think we want to be signing these parking spaces it should be shared throughout the shopping center for whatever reason Burger King is having a busy day why shouldn't somebody be able to park in a safe location. We don't want to see those signs parking for this only and for that only it just doesn't look good.

Mr. Kurus – The only question was I know it's an existing drive thru lane there's really not much you can do with it. You've got eleven feet coming in and it all necks down to that nine the wall is there it's tough.

Mr. Peregoy – Nine feet is the width of a parking space so you don't want to sweep I heard the mention of that radius being a little tight it works for the biggest pickups out there but you don't want people flying around that corner necessarily you kind of want it to be a little tight and slowly progress people through. I agree with the assessment of striping and putting a sign there it is not clear that it's a one way.

Mr. Kurus – Would you say that's bare bones minimum width?

Mr. Peregoy – Nine feet I've seen Dunkin's eight and a half feet.

Mr. Kurus – Not with a wall on the side though.

Mr. Peregoy – Yeah nine feet I think is like I said it's the size of a parking space.

Mr. Tokosh – So people are going to place their order in two lanes is that right?

Mr. Peregoy – Yes two lanes place the order and then they merge together.

Mr. Tokosh – And then they what alternate cars you're going to have a single right.

Mr. Peregoy – The nature of the order is it's sort of flipping back and forth so one goes then the other goes. It's pretty effective it really fills in the gap between where people are ordering and where they're picking up the food so instead of hanging out back in the parking lot that queue's pulled around the corner of the building.

Mr. Tokosh – Ever have an occasion where you would have two cars in the bottom lane and one on top where there is some confusion with the ordering?

Mr. Peregoy – No the system they use I don't know how this location does it but I know a lot of them have license plate readers so they know which vehicle is which.

Mr. Schilp – Is there going to be two windows on the west side one to pay and one to pick up?

Mr. Peregoy – Yes.

Mr. Schilp – So one is going to pay and the other is going to take.

Mr. Peregoy – Yes.

Mr. Duffy – There's only one right now so there's going to be an addition?

Mr. Peregoy – Yes there is one right now there is going to be two.

Ms. Murray – The height of the wall is there I know that's where people scrape their cars I mean is there something you can put at the top of it to let people know it's there I mean once you get around that just a visual. I don't know how high it is as far as because I don't like to use that drive in.

Mr. Schilp – The curb is what four inches there?

Mr. Peregoy – At the top it's just regular curb.

Ms. Murray – I'm just wondering if you could put something so that people see that it's the edge of the curb so that they know it's cut in.

Mr. Schilp – Paint it stripe it.

Mr. Peregoy – I suppose.

Ms. Murray – The wall up the driveway.

Mr. Peregoy – This wall along the edge of the drive thru?

Ms. Murray – Yes.

Mr. Duffy asks that they bring their engineer back to answer the Board's question about the wall.

Mr. Mahoney – I'd say at the beginning you're around two feet and then as you get closer to the end it's upwards of three maybe four at its highest point.

Ms. Murray – I think at the turn if you put something visual I don't think it's a problem when you get to the windows I think it's at that turn so the people know it's there so they're not cutting into their tires or hitting it with their bumper and scraping it.

Mr. Mahoney – There is a concrete bollard there if anything maybe a fresh coat of paint.

Mr. Calli – Something bright.

They agree that a fresh coat of yellow paint will suffice.

Mr. Duffy – So the parking size dimension by ordinance is 180 square feet correct?

Mr. Paparozzi – Its nine by twenty or ten by eighteen.

Mr. Peregoy – These are all preexisting nine by eighteen is pretty much the industry standard.

Mr. Pellino – Since we're sharing the parking shouldn't there be a shared parking easement agreement.

Mr. Peregoy – It's all one property is it not.

Mr. Pellino – It's three different lots.

Mr. Calli – It's three different lots I think we have a commonality of ownership if that's the request we can certainly put together cross access and cross parking agreement that we can speak to Mr. Mund whether or not it would be documented and he would like it recorded or not but we can certainly prepare something submitted for your review and approval and then I suppose to memorialize it we'd have to record it but we can certainly do that.

Mr. Pellino – I think it makes sense.

Mr. Calli – The reality with divesting yourself of the multiple lots is usually a financial subdivision purpose so there is a chance that Mr. Mund could divest himself of a portion of this sight without the balance of it so in that instance Mike owns two of the lots Jim owns the other one they would need that cross access right at that point because there is no commonality of ownership at that point.

Mr. Duffy – The Burger King lot is not a lot of its own so some kind of agreement would probably be in order.

Mr. Calli – There are instances where that might make sense we're glad to if it's a condition of the approval that we prepare one and submit it we're glad to do that.

Mr. Duffy – Are there any other questions for this witness?

Mr. Tokosh – When you exit the lot are you going to encourage people to make a right turn or can they make a left without any difficulty?

Mr. Perego – We're not changing any of that you can make the left and it's really helped by the way you have the two way center turn lane there and it's pretty wide at that point.

Mr. Duffy – I don't think there's that would be a County issue that would be out of our realm at this point and that center lane is set up for that purpose anyway. There's a few spots that have no left turn coming out which nobody pays attention to but that's a different issue.

Mr. Burbano – It's better to have a left turn anyway because you have people pulling out of Mario's you know what I mean.

Mr. Duffy – It appears to be working now as long as somebody doesn't cut across the front the wrong way. Then again it's on a county road and it would be outside our jurisdiction anyway.

Mr. Duffy – Can I have a motion to open to the public?

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Mr. Schilp makes a motion seconded by Ms. Murray to close to the public. All in favor – YES.

Mr. Calli calls his project planner Matthew Flynn.

Mr. Pellino swears in Mr. Flynn he gives his business address as 101 Gibraltar Drive Morris Plains New Jersey.

Mr. Flynn gives his credentials to the Board so he may be accepted as an expert witness.

The Board accepts his credentials and he is approved to testify.

Mr. Calli – Just a few baseline confirmations. You are familiar with the site and the surrounding area is that right?

Mr. Flynn – I am.

Mr. Calli – You're familiar with the code and the zone this property is located in?

Mr. Flynn – I am.

Mr. Calli – And the plans that were filed in connection with this application as well as the operations is that right?

Mr. Flynn – Yes.

Mr. Calli – Please walk the Board through the relief sought this evening as well as justification for same which includes both "D" relief and bulk variance relief.

Mr. Flynn – The main relief we're seeking is known as the "D" 2 variance which is for the expansion of a nonconforming use as was mentioned previously we have an existing fast food restaurant with a drive thru which is not a permitted use in the zone but it is there today. We're looking to improve it which is the basis of that "D" 2 test in other words the essence of the test is not site suitability we're not looking at a new use where we would have to look at whether a use belongs here in the first place we're looking at a

use that is already there so we're looking to improve that use which is really the crux of this application is the remodel and modernization of an existing fast food restaurant and just to walk the Board through those proofs it's the typical positive negative criteria. Positive criteria we heard from our architect in terms of ADA accessibility inside the building. We heard from our traffic engineer the improved operational efficiencies and traffic flow and convenience outside the building in terms of that dual lane drive thru. We have a use that is again it's there we're improving it aesthetically that will be more in line with contemporary Burger King standards and I would say all of the above promote purposes of the Municipal Land Use Law including purpose "A" promotion of the general welfare, purpose "G" a variety of uses in appropriate locations, purpose "I" desirable visual environment and purpose "M" efficient use of land. The negative criteria no changes are proposed in terms of the way the site is going to harmonize with the other land uses that are around it again we have an existing fast food with drive thru and what we're proposing improves fast food with drive thru again going to function safely and efficiently. We're actually taking a little bit of the building mass off in the back so in terms of mass and scale there's a slight improvement there as well. We're looking at a use that's going to provide jobs including first time jobs for local youth and renovations will benefit an existing long standing business that's been here for about fifty years and just to quote the Master Plan here one of the goals is to encourage the maintenance and upgrading of business zones along Market Street and Route 46 recognizing that Market Street is a major commercial corridor that is essential to the vitality of the community as a whole. I would say upgrading this long standing business is in line with the purposes of the Master Plan all of that goes towards that "D" 2 variance to slide over to the "C" relief being sought. The first would be the front setback relief 24.3 feet versus 25 feet required which is .7 feet deviation that's an existing nonconforming condition and is actually an improvement over the existing of 20.8 feet so bringing that closer to conformance. Parking 22 spaces are proposed 33 are required that's an existing nonconformity again being improved with this application an improvement over 21 spaces so we're adding one space. Lot coverage is another existing nonconforming condition 94.9% is existing 94.2% is proposed and 50% is the maximum permitted. Front yard parking again that's an existing nonconforming condition there's parking in the front yard today there's going to continue to be front yard parking with this application which is typical in this area we see other businesses on Market Street with front yard parking so it's not going to stand out. Then two variances for signage the first of which number of building signs three versus one we heard from our architect that this is in line with the brands modern appearance necessary for visibility and we heard from our engineer that the signage only amounts to 75 square feet in total so despite we have more signs than are permitted it is actually substantially under the square footage that's permitted which is 137.8 square feet. The next variance for signage the number of ground signs three versus one three proposed one is permitted. Two of those are the menu boards again that comes down to the whole purpose of this application to provide that dual purpose drive thru in order for that to have maximum efficiency we need two menu boards to effectuate that. Then the third ground sign is actually on the ground and is not popping up as what we think of as a sign is actually painting on the pavement which is necessary for safe and efficient circulation so cars know where to go. All of the "C" variances that I outlined are justified by the "C" 2 balancing test all those benefits from improving that long standing business that I went through for the "D" variance carry forth all of the "C" relief is necessary to effectuate a beneficial project and most of that "C" relief is actually an improvement over existing conditions. In terms of negatives the only new "C" variances we're proposing are related to that signage which again is inherent to the land use itself and inherent to the dual lane drive thru. I don't think any of the signs represent over branding we saw some nice renderings and it's all going to work well with what's out there today and what's being proposed. With that I can close and open for questions.

Mr. Duffy – Mr. Paparozzi?

Mr. Paparozzi – No questions I agree with the testimony.

Mr. Duffy – Do we have to change the ground signs to four because we talked about an additional arrow or direction is that necessary?

Mr. Paparozzi – In my opinion no I thought it would just be a safety issue not only for the community but for the site so I don't think it's related to the proposal.

Mr. Duffy – So we're just making it a safety issue it's not we don't have to change the numbers here?

Mr. Paparozzi – In other words if they didn't have it the operation would still be the same it's not something they're looking to do.

Mr. Duffy – It's a request on our part. Can I have a motion to open?

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Calli – That's all we have Mr. Chairman and members relatively straightforward project it's rare that we get to bring a project that is nothing but an improvement to an existing condition so it's refreshing we get to do so. We thank you for your time.

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Schilp makes a motion to approve the application with the following stipulations.

Mr. Pellino reads the list that he has created.

The directional arrow, number two parking on site is for employees and customers vehicles are not to be stored so the stored vehicles are to be removed and not brought back, the wall on the drive thru lane is to get some bright paint on the top I think that's all I have.

Mr. Calli – The cross access in parking.

Mr. Paparozzi – They have to make the ADA spaces compliant and add an additional one for state compliance.

Mr. Pellino – They should work that out with Mr. Kurus right.

Mr. Paparozzi – Absolutely.

Mr. Duffy – That would be the entire lot, correct?

Mr. Paparozzi – Yes. Just so the Board knows there is no one building on one lot that's why and quite frankly the doctrine of merger it should have been one lot but it is one owner they can't separate it without doing a subdivision and a ton of easements. That's why Mr. Pellino asked for the cross parking agreement.

Mr. Duffy – There's three other dumpsters that have to have the enclosures fixed or corrected. The cut through or whatever we call that in the front of the building, the do not enter and the striping to keep the control going counterclockwise west to east. We have a motion.

Mr. Burbano seconds the motion.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

6. RESOLUTIONS

- A.) Approval for Joseph Del Greco, 134 MacArthur Drive, Block 503, Lot 9
- B.) Approval for Priscilla E. Rotondo, 722 Saddle River Road, Block 1602, Lot 7

Mr. Schilp makes a motion seconded by Ms. Murray to approve the resolutions.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Burbano, Mr. Duffy – YES.

7. MINUTES

Meeting of January 9, 2023 Reorganization Meeting
Meeting of January 9, 2023 Regular Meeting

Mr. Schilp makes a motion seconded by Ms. Murray to read and file the minutes.

All in favor – YES.

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 8/15/22 (439 Market Street)
Zoning Board of Adjustment Secretary to the Zoning Board Annual Report

Ms. Murray makes a motion seconded by Mr. Schilp to read and file.
All in favor – YES.

9. VOUCHERS

Basile Birchwale & Pellino, 1/03/23, Senedzuk, 78 Kuhn Drive, Block 1302, Lot 43 \$250
Basile Birchwale & Pellino, 1/23/23, ZBA Annual Retainer for FY 2022, 93 Market Street \$2431
Neglia Engineering Assoc., 1/18/23, Rotondo, 722 Saddle River Road, Block 1602, Lot 7 \$150

Ms. Murray makes a motion seconded by Mr. Schilp to pay if the funds are available.
All in favor – YES.

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.
Mr. Duffy – Hearing none.
Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

11. ADJOURN

Ms. Murray makes a motion seconded by Mr. Schilp to adjourn. All in favor – YES.

Meeting adjourned at 8:33 pm.

Respectfully submitted,

Frank Barrale
Zoning Board Secretary