

**Mount Laurel Township Zoning Board of Adjustment
Special Meeting Minutes
December 16, 2020**

Opening

The First Special Meeting of the Mount Laurel Zoning Board of Adjustment December 16, 2020 was called to order by Chairman Bailey at 7:09 p.m. This meeting was held via Zoom
Pledge of Allegiance and Moment of Silence were observed
The Open Public notice was read by Suzanna O'Hagan, Board Secretary

Board Members in Attendance

Chairman Bailey, Mr. Francescone, Mr. Green, Mr. Killen, Mrs. Liciaga, Mr. List, Mr. Kramer.

Absent

Mrs. Jones and Mr. Kiernan

Board Professionals in Attendance

Joseph Petrongolo, Planner – William Long, Engineer – Michael Angelastro, Traffic Engineer – Brian McVey, Fire Marshal and Evan Crook, Board Solicitor

Announcements and Review of Board Procedures

Swearing in of the Board Professionals

Chairman Bailey informs the meeting participants that the 1½ hour time limit for an applicant will be waived however the meeting will conclude at 10:00pm.

Board Solicitor, Evan Crook explained the duties, responsibilities and limitations of the Board of Adjustment as well as an overview of the rules of testimony, evidence and protocol.

Board Planner Jay Petrongolo described what a D3, conditional use, is and what the board may consider. He explained that the board need not consider whether the use is compatible with the area or site as it is a permitted use, but if it is appropriate and compatible when considering the deviation from the conditions under which the use is allowed.

Petitions before the Board

1. **Laurel 38 Developers**, ZB20-D-09, 3230 Rt.38/205 Hartford, Block 301.09 Lots 5-7 & 12-14, B-zone. This applicant seeks Preliminary and Final Site Plan approval and D(3) Use variance from section 154-43.B with associated bulk variances to allow a Wawa convenience store with fueling station.

Exhibits:

A-1 Existing Conditions Aerial Exhibit, A-2 Aerial Map, A-3 Site Plan Rendering, A-4 Wawa U45 MA facade, A-5 Wawa Gas Canopy Stacked 6 with 23 Kiosks and trash enclosure, A-6 Signage Exhibit, A-7 pages 1-9 Planning Exhibits for Laurel 38 Developers LLC.

Witnesses sworn in:

Matt Sharo, PE, PP, AICP - John McDonough Associates LLC. - Nick Verderese, PE, PTOE, LEED AP, Dynamic Traffic - Mike Redel, Wawa Project Engineer

Tyler Prime, Prime & Tuvel, represented the applicant.

Tyler Prime, Esq. presented the application stating that the use of the convenience store is a permitted use with the fueling station a conditional use subject to the requirements of the ordinance. Mr. Prime stated that the Coventry Square case is the governing case for this application and the economic impact of neighboring businesses cannot be considered.

Matthew Sharo's Testimony

Mr. Sharo, Dynamic Engineering presented Exhibits A-1, A-2, A-3, A-4 and A-5. Mr. Sharo stated that the lots will be consolidated. There will be no construction trailers onsite and the existing use at the corner of Sixth and Walnut avenue as well as the billboard will be removed. The site will have six dispensers with 16 fueling positions under a canopy and will operate 24 hours a day. Three new access points include a right in only off Route 38, a full access point off of Sixth Avenue and a right in right out only driveway to Hartford Road. He described the internal drive isles and parking. There will be no oversized vehicle parking as Wawa no longer provides them to discourage large vehicles from remaining onsite after their business is complete.

Mr. Sharo described the sidewalks and stated that in addition to what is on the plan they will add additional sidewalks at the intersection of Hartford and Sixth Avenue connecting the two driveway. Deliveries happen 7 days per week. The trash enclosure fence is 9 feet high to screen the contents of the enclosure. Trash pickup will be 3 times per week and recycle pick up will be 2 times per week. The trash enclosure and fueling canopy will maintain the stone veneer and the fueling canopy will have a metal seemed roof and signature Wawa winged canopy.

Mr. Sharo testified to the state of the art underground storage tanks and monitoring system. Fuel tanks will sit above the tanks to deliver fuel. Maintaining a 25 foot drive isle. Two free air stalls will be provided.

Lighting is low profile, shielded LED lighting throughout the site. The canopy lights have been lowered to meet the township requirements. Shrubs and trees will be provided on all frontages to block lighting from headlights. The plan provides 213 new trees and shrubs in 14 varieties. Non mulched areas will be sod. They have agreed to add trees along Route 38. The DOT does not like to have trees in their right of way.

Stormwater runs from Route 38 to an inlet on Sixth Avenue that will be maintained. An underground basin will be in the parking lot on the Southwest corner of the site and an above ground basin will be at the corner of Hartford Road and Sixth Avenue. Drainage from a proposed retaining wall will be shown as a condition of final approval.

Signs are as shown on exhibit A-6 and are similar to other Wawa signs in the area.

Nick Verderese' s Testimony

Mr. Verderese presented Exhibit A-3. The proposed driveways have been approved by the DOT as all frontages are under DOT jurisdiction. Traffic counts were conducted on the four site corners during

peak hours as well as a 24 hour traffic count on Route 38 for approximately one week. Anticipated traffic volume was also identified given all the variables of this site using the Department of Transportation Trip Generation Data as required. The majority of the traffic that will visit this site is traffic already traveling past the site. This is not new traffic.

During peak hours approximately 4,000 to 5,000 vehicles traveling through the Route 38 and Hartford Road intersection. Approximately 24% of the traffic to the Wawa will be new traffic. A "No Build Analysis" showed that the intersections will continue to operate similarly to the way they would if weather Wawa built there or not and will continue the current level of service.

Mr. Verderese explained the DOT standards for driveways. The inbound only drive on Route 38 is required to be 100 feet from Walnut Avenue. This plan provides 111 feet. They are required to be 24 feet away from the neighboring driveway. This plan provides approximately 40 feet away. The DOT recommended placing the driveway as close to the neighboring property as possible. Any user developing this property will have the same recommendations from the DOT. The driveway on Hartford Avenue is a right in right out only due to DOT recommendations. The Driveway on Sixth Avenue is a full movement driveway due to very low traffic volume on Sixth and Walnut.

Mr. Verderese describing the proposed parking and truck turning radius as shown on Exhibit A-3.

Mike Redel's Testimony

Mr. Redel Wawa Project Engineer gave a history of Wawa and its involvement in Mount Laurel community projects and support in local events. Wawa will employ 40 people and currently employs 180 people in Mount Laurel. Wawa provides health benefits, paid time off, tuition assistance and good wages.

Chairman Bailey calls for a break at 8:30. The meeting resumes at 8:39

John McDonough's Testimony

Mr. McDonough, John McDonough, Assoc. LLC. presented Exhibit A-7 Pgs 1-9. He believes that the evidence on the record established that this application does meet the statutory test that apply for the board to move favorably for the relief that the applicant is seeking.

Mr. McDonough testified that this is a predominantly vacant lot with an equipment sales facility that will be demolished. The 4,736 square foot Wawa food market with 6 fuel pumps under a 5,280 canopy with 50 parking stalls fits nicely at this location.

He stated that the project advances the public good by making food and fuel accessible, promoting efficient land use and promoting a positive visual environment. The project complies with most of the conditional use standards.

Mr. McDonough described the requested bulk variances and stated that a number of court cases recognize convenience stores and fueling stations as a single use.

He stated that the positive criteria in a conditional use variance is presumptively met. Statute 40:55D-1 purpose a, the use would provide for public welfare by providing the public with basic everyday needs such as food and fuel, purpose g by providing for a variety of uses in appropriate locations, purpose h, by providing efficient land use at a signalized intersection with a service use on a service corridor purpose l, by providing a positive visual environment and purpose m, by providing an efficient use of land.

With respect to the negative criterial none of the deviations from the standards are substantially impairing the intent of the ordinance. The lot width pertains only to the side street, the building setback only applies to Sixth Avenue, the building height is logical for this proposed use as the ordinance generally applies to repair garage buildings, the outside sales pertains to a propane tank exchange only and many jurisdictions now recognize convenience store and fuel stations as a single

use. Mr. McDonough listed the proposed relief and the justifications for that relief including the sign variances. He believes the positives outweigh the detriments for this project and the statutory burden for granting of the relief has been met.

Mr. Prime noted that the nonconforming billboard will be removed and that there is significant environmental remediation that the applicant will complete. He restated that the economic suitability for neighboring businesses is not a factor to be considered.

Mr. Francescone, Board member, asked the applicants planner, Mr. McDonough what conditions of the ordinance the project complies with.

Mr. McDonough replied that the project complied with 154-21D-1, 3, 4, 9, 10, 12 and 13 stating the reason for noncompliance for 154-21D-2, 5, 6, 7, 8 and 11.

Mr. Kramer, Board member, questioned the fuel truck route and location of the ID sign.

Mr. Sharo replied the trucks will enter from Route 38 circulate counter clockwise and exit on Hartford Rd.

Mr. Verderese replied the traffic study was done in 2018 and 2019.

Mr. Bailey, Board Chairman asked about plantings along sixth avenue to screen the rear of the building.

Mr. Verderese replied that it is a DOT Right of Way but he will inquire if they can have low level plantings.

Mrs. Liciaga, Board member asked for hour of operation.

Mr. Sharo replied 24 hours per day.

Joseph Petrongolo, Board Planner, reviewed his report of November 16, 2020. The applicant has submitted revised plans and addressed a significant portion of the comments. Mr. Petrongolo noted the hardships on the site such as having four frontages and the notched out shape of the adjacent parcel has made a reduced setback necessary. He reiterated that the variance requested is for the deviations from the conditions of the proposed use. In regard to the setback from Sixth avenue Mr. Petrongolo clarified that it is 24 feet not 25. He questioned the applicant regarding the installation solar panels, justification for not installing sidewalks and if the outside ice chest still proposed. He suggested fencing as screening from the loading zone and confirmed that the applicant will work with his office regarding shade trees.

Mr. Sharo replied. No solar is proposed. The applicant will add sidewalk to connect Hartford to Sixth Avenue driveways, **Mr. Petrongolo** had no objections to this proposal. Mr. Sharo continued that the proposed retaining wall will have an 8 x 12 block wall type look in an Earth tone, Mr. Petrongolo suggested a stacked wall aesthetic. The applicant will provide a plan as a condition of final approval. The ice chest in in the rear only to store ice in the summer months and holidays not for public use or sales. Mr. Sharo agreed to work with Remington and Vernick regarding compensatory plantings, street trees and shade trees. Mr. Sharo agreed to a 3 foot sign base vs the proposed 3 ½ foot base and clarified there is only one canopy sign.

Mr. Prime acknowledged his client will comply with any affordable housing obligation.

William Long, Board Engineer, reviewed his report dated November 17, 2020. Most items in the report have been addressed. Mr. Long question if the applicant did a parking study at the Wawa on Marter avenue and Route 38.

Mr. Verderese replied they did not because the parking for the Wawa is shared with Martins Liquors and Dunkin Donuts.

Mr. Long continued.

Michael Angelastro, Board Traffic Engineer reviewed his report dated December 3, 2020. All road frontages are under the jurisdiction of the DOT. Parking is proposed at 50 spaces where 52 are proposed. The Institute of Traffic Engineers Parking Generation Manual indicates that the

approximately demand will be 40 parking stalls on the weekdays and 24 parking stalls on the weekend and requested the applicant submit the summary of parking counts in the area.

Brian McVey, Fire Marshal, reviewed his report dated October 29, 2020. All comments and concerns have been satisfied.

Mr. Kramer, Board member questioned the placement of the driveways and if there is any prohibition for having fuel pumps close together.

Mr. Angelastro replied that the NJDOT has requested the driveways be placed as proposed and they have sole jurisdiction.

Mr. Petrongolo reiterated that the adjacent businesses cannot be considered on this application and that the use is not being considered here only the deviations from the conditions of that permitted use. Case law prohibits the municipality from regulating the distance between same type businesses. The board is bound by the Municipal Land Use Law and cannot deviate from that.

Mr. McVey responded there are no fire codes regarding distance between pumps.

Mr. Crook reiterated that the board cannot consider the use.

Mr. Francescone asked the board planner to list the conditions with which the applicant does not comply.

Mr. Petrongolo listed the conditions to be considered as 1.) Minimum lot depth 2.) wall setback from Right of Way 3.) building height 4.) sales outside of the building (propane) and 4.) food sales and Motor Vehicle service station on one lot.

Chairman Bailey called for a motion to adjourn and continue to the next available Zoning Board hearing.

Adjournment:

Chairman Bailey asked for a motion to adjourn at 10:20pm and carry the hearing to a special meeting, date to be determined.

Mr. Prime, requested a special meeting date to be set immediately so he could comply with notification requirements.

Discussion of December 30, 2020 as the special meeting date took place and was ultimately announced as the date for the special meeting.

Mr. List moved the motion, to adjourn and reconvene on December 30, 2020. All present voted affirmatively and the motion was carried.

Adopted on: January 6, 2021

Suzanna O'Hagan, Secretary
Zoning Board of Adjustment