

**EAST WINDSOR TOWNSHIP ZONING BOARD OF ADJUSTMENT
MINUTES OF February 15, 2018**

The meeting of the East Windsor Township Zoning Board was held on Thursday, January 21, 2016, in the East Windsor Township Municipal Building, 16 Lanning Boulevard, East Windsor, New Jersey, 08520. Chairperson Rochelle Shifman called the meeting to order at 8:00 p.m.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, a notice of this meeting's date, time, place, and agenda was mailed to the news media, posted on the Township bulletin board, and filed with the Municipal Clerk.

ROLL CALL

Members Present: Ms. Berdzik, Mr. Cosenza (Arrived at 8:24 PM), Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago

Members Absent: Mr. Bailey

Professionals and Staff Present: Allison Quigley, Zoning Board Secretary
Peter Klouser, Board Attorney
Edward Snieckus, Township Planner
Daniel Dobromilsky, Township Landscape Architect
A. Maxwell Peters, Township Engineer

NEW AND REAPPOINTED MEMBERS

Joseph Primiano, Regular Member, Term Expires: December 31, 2021
Christopher Cosenza, Regular Member, Term Expires: December 31, 2021
David Illuminate, Alternate #1, Term Expires: December 31, 2019

Mr. Klouser administered the Oath of Office to reappointed members.

ELECTION OF OFFICERS:

Nomination/Election of Chairperson for 2018

MOTION TO NOMINATE ROCHELLE SHIFMAN AS CHAIRPERSON MADE BY: Mr. Primiano

MOTION SECONDED BY: Ms. Berdzik

ROLL CALL

AYES: Ms. Berdzik, Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago
NAYES: None
ABSTAINS: None

Nomination/Election of Vice-Chairperson for 2018

MOTION TO NOMINATE JOSEPH PRIMIANO AS VICE-CHAIRPERSON MADE BY: Ms. Shifman

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Ms. Berdzik, Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago

NAYES: None

ABSTAINS: None

APPOINTMENTS

REPORTS/CORRESPONDENCE/ANNOUNCEMENTS

PUBLIC FORUM

Chairperson Shifman opened the meeting to the public. There being no public comment, the public forum was closed.

MINUTES

September 28, 2017

MOTION TO APPROVE MINUTES MADE BY: Mr. Primiano

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Ms. Berdzik, Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago

NAYES: None

ABSTAIN: None

RESOLUTION 2018-01 – Approving Annual Meeting Calendar for 2018

RESOLUTION 2018-02 – Designation of Official Newspaper/Notice of Meetings and Fees for 2018

RESOLUTION 2018-03 – Adoption of Rules and Regulations for 2018

RESOLUTION 2018-04 – Appointment of Allison Quigley as Administrative Secretary to Zoning Board of Adjustment

RESOLUTION 2018-05 – Appointment of Lawrence Sachs as Attorney to Zoning Board of Adjustment

RESOLUTION 2018-06 – Confirmation of Zoning Board of Adjustment Planner Edward Snieckus

RESOLUTION 2018-07 – Confirmation of Zoning Board of Adjustment Engineer A. Maxwell Peters

RESOLUTION 2018-05 – Confirmation of Zoning Board of Adjustment Landscape Architect Daniel Dobromilsky

MOTION TO APPROVE RESOLUTIONS MADE BY: Ms. Berdzik

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Ms. Berdzik, Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago

NAYES: None

ABSTAIN: None

Chairperson Shifman stated that Mr. Cosenza had notified Board Secretary Ms. Quigley that he was on route to the Zoning Board meeting and would be arriving shortly. Mr. Shane stated that the applicant would agree to a recess until Mr. Cosenza arrived to being the hearing.

Chairperson Shifman agreed to recess at 8:10 PM.

Chairperson Shifman called the meeting back to order at 8:24 PM at the arrival of Mr. Cosenza.

NEW AND REAPPOINTED MEMBERS

Christopher Cosenza, Regular Member, Term Expires: December 31, 2021

Mr. Klouser administered the Oath of Office to Mr. Cosenza.

APPLICATIONS/PUBLIC HEARING

EWT File #ZB17-001 Old Trenton Donuts Inc.
325 Princeton-Hightstown Road
Block 3, Lot 10
Preliminary and Final Major Site Plan with Bulk and Use
Variances
(Continued from September 28, 2017)

Mark Shane, Esq. of Shane & White is representing Old Trenton Donuts LLC, who has filed an application regarding the subject property located at 325 Princeton Hightstown Road, also known as Block 3, Lot 10. Mr. Shane introduced his witnesses present tonight; Thomas Thill, John Rea, Creigh Rehankamp, and Michael Marinelli. Mr. Klouser swore in Mr. Shane and the applicant's witnesses.

Chairperson Shifman asked Peter Klouser, Board Attorney, to swear in the Board's professionals: Edward Snieckus, Township Planner; A. Maxwell Peters, Township Engineer; and Daniel Dobromilsky, Township Landscape Architect. Mr. Klouser swore the professionals in.

Mr. Shane stated that at their last public hearing, they presented their application to take the existing gas station at 325 Princeton Hightstown Road and renovate the existing building to a Dunkin Donuts. Mr. Shane introduced Michael Marinelli of Menlo Engineering, the project engineer. Mr. Shane stated that Mr. Marinelli had testified as an expert witness on this application at the previous public hearing. He asked Mr. Marinelli to review the changes that have been made to the proposed plans since the last hearing.

Mr. Marinelli entered into evidence Exhibit A-6, titled "Getty Gas Station Conversion Revised Site Plan Exhibit," dated February 15, 2018. Mr. Marinelli also referenced previously entered Exhibit A-2, titled "Getty Gas Station Conversion – Use Variance Plan Exhibit," dated June 22, 2017. Mr. Marinelli stated that he is showing these exhibits side by side to demonstrate the changes the applicant has made to the proposed site plans. He stated that the gas station canopy was reduced in size and moved further away from the frontage of Old Trenton Road. The original site plan showed the gas station canopy measuring 46 by 48 feet and only one foot away from the property line, and now the revised plans propose a gas station canopy measuring 36 by 42 feet and 5.3 feet away from the property line. The area west of the canopy was revised to add an additional parking space. The second ADA space that was initially proposed on the northwest side of the building has been replaced with additional landscaping features. The revised plans also show four land banked spaces in the existing septic field on the south side of the site. The site will be connected to public sewer and water once the connection is possible and the septic system would be removed. Landscaping islands with ornamental trees were added along the north and south sides of the building with additional sidewalk on the south side for pedestrians. Three parking spaces on the north property line have been designated as employee parking. Additional landscaping has been added around the proposed cooler and condensing units along the building. Additional landscaping was supplemented along the north side and the south side of the property, with additional street trees added along the south property line. The proposed tree count for the site has been brought from one street tree to six and fourteen evergreen trees.

Mr. Marinelli stated that the lighting plan had also been revised. He stated that the entire site would be converted to LED fixtures. The original site plan proposed three new pole mounted light fixtures at 18 feet in the parking areas. Now the revised plans propose six LED pole mounted light fixtures mounted at 16 feet in height throughout the parking area. Mr. Marinelli stated that the illumination levels for the site have changed due to these revisions. The average site illumination was original 3.7 foot candles, with a minimum illumination level of 0.5 foot candles. The revised plan shows a minimum illumination level of 0.9 foot candles with a site average of 2.79 foot candles. Mr. Marinelli stated that the Board had concerns regarding the under canopy lighting at previous hearings. He stated that the lighting levels under the canopy were reduced from a 40 foot candle average illumination level to 19.14 foot candles.

Mr. Marinelli stated that the requested bulk variances have changed since the last site plan iteration. He stated that the requested canopy signage variance was initially for 11% and had since been reduced to meet the ordinance requirement of 10%. The canopy was moved from a 1 foot

setback to a 5.3 foot setback, improving the condition. The applicant had also requested a variance from the fuel pump setback requirement initially of 10 feet, but had since relocated the fuel pumps to allow for a 14 foot setback.

Mr. Peters asked Mr. Marinelli if the applicant had applied to the East Windsor Municipal Utilities Authority (EWMUA) to connect the site to public water and sewer. Mr. Marinelli stated that they have reached out to the EWMUA to connect to the system, however they need an easement from the county, as the county won't allow those connections in the county right of way. They are in the process to obtaining those easements to make the connection possible. Mr. Shane stated that the applicant will not have any indoor seating for the Dunkin Donuts until the site is connected to sewer and water. Mr. Snieckus asked what would trigger the construction of the land banked parking spaces. Mr. Marinelli stated that generally it was handled on the municipal level through the engineer's office and would be triggered by public complaints or by the determination of the Zoning Officer that there was an existing parking issue.

Mr. Primiano asked Mr. Marinelli if the applicant had considered restricting the left turns out of the site on to Route 571. Mr. Marinelli stated that they had not considered it, as that was under county jurisdiction and they would be filing an application with the county for the access driveways. Mr. Primiano stated that other properties along Route 571 either have signage posted or aprons designed to restrict left turns onto Route 571. He asked if generally those designs are approved by the Township or implemented by the County. Mr. Marinelli stated that he would defer that to the traffic engineer.

Mr. Rago asked for the operating hours of the Dunkin Donuts. Mr. Thill stated that they would be open 5:00 AM to 12:00 AM but that would be subject to change based on customer feedback.

Mr. Shane called his next witness to testify, Matthew Glasso of Ramoco Fuels. Mr. Shane stated that Mr. Glasso had been previously sworn in and testified on this project at the last public hearing. Mr. Glasso stated that there had been discussion regarding the times fuel would be delivered to the site. He stated that typically fuel deliveries take place at 4:00 AM, but they can control when deliveries are made.

Mr. Shane asked Mr. Glasso how old the fuel tanks are on site. Mr. Glasso stated that are about a year old and any contamination on site was removed when the tanks were replaced last.

Mr. Primiano asked that the Board set the times of fuel and food deliveries to the site. Mr. Thill stated that 70% of Dunkin Donuts business takes place between 6:00 AM and 10:00 AM, and suggested that any deliveries would not be permitted during those hours. Mr. Primiano stated that he thought that was a good suggestion.

Mr. Shane called his next witness to testify, Kaushik Patel of Old Trenton Donuts Inc, the applicant. Mr. Shane stated that Mr. Patel had been previously sworn and testified at the previous public hearing. Mr. Patel stated that he owned 33 different Dunkin Donuts locations, including two others in East Windsor. He stated that he has been operating Dunkin Donuts locations for over thirty years. Mr. Shane asked Mr. Patel if he had any control regarding the times donuts and paper goods would be delivered to the site. Mr. Patel stated that he could make a request regarding the delivery times, but they typically occurred at 3:00 AM.

Mr. Shane called his next witness to testify, John Rea of McDonough and Rea Associates, the project traffic expert. Mr. Rea stated that he is a licensed traffic engineer in New Jersey with over 40 years of experience. Chairperson Shifman accepted his credentials.

Chairperson Shifman asked Mr. Rea if, in his opinion, if the relocation of the fuel pumps would cause confusion for traffic trying to enter the site from Old Trenton Road. Mr. Rea stated that he believes the two curb cuts would actually make it easier for motorists entering site to access the fuel pumps because they could enter on the southern curb cut and immediately exit the site on the northern curb cut on the frontage. Mr. Rea added that they are anticipating that 75% of the traffic coming onto the site would follow a right turn in, right turn out pattern due to the convenience factor of that circulation flow. He stated that because these are both county roads, these access driveways would have to be approved by the county, and if they choose to impose any restrictions they would comply with that.

Mr. Primiano asked Mr. Rea if they anticipated any pedestrian traffic to the site and asked if they had considered any sidewalks along the street frontages. Mr. Rea deferred that to Mr. Marinelli. Mr. Marinelli stated that sidewalks would fall into the county right of way and would become the jurisdiction of the county. Mr. Marinelli also stated that there are no crosswalks at this intersection and many of the properties adjacent to the subject site do not have sidewalk currently. He stated that it was his opinion that introducing sidewalks to the site would promote a hazardous condition and encourage pedestrians to cross a five lane street to access the site when there are no crosswalks that allow for that to happen safely.

Mr. Shane called his next witness, Thomas Thill to testify. Mr. Thill stated that he works as a consultant for construction and development work for the applicant and that he retired from Dunkin Donuts in 2013, and has since worked with the applicant on developing sites like this one. Mr. Shane stated that Mr. Thill had been previously sworn in and testified in conjunction with this application.

Mr. Thill entered into evidence Exhibit A-7 titled "Photographs of Existing Conditions of Subject Site," dated February 15, 2018. Mr. Thill stated that he took all of these photos but did not have specific dates when these were taken. He stated that these photos were taken over the years and were meant to illustrate the condition of the subject site.

Mr. Shane called his next witness to testify, Creigh Rahenkamp of his own employment, the project planner. Mr. Shane stated that Mr. Rahenkamp had previously been sworn in and testified before the Board in conjunction with this application.

Mr. Shane asked Mr. Rahenkamp to review his testimony from the last hearing. Mr. Rahenkamp reviewed the requested bulk variances in connection with this application. He stated that the existing site is smaller than what is typically seen in the R-O Research Office zone, so some of the requested bulk variances are continuations of existing conditions on the site and were either kept the same or improved.

Mr. Rahenkamp stated that, in his opinion, there are three variances that are being requested that are new variances to the site or require extra relief that existing conditions. He stated that the first variance is regarding signage. He stated that all of the proposed signage conforms to the ordinance standards regarding size, however they are requesting three façade signs where only two are permitted. He stated that this is because the orientation of the building requires a third sign to properly identify the site to the intersection. The second variance is for impervious coverage. Mr. Rahenkamp stated that the zoning ordinances allow for 65% impervious coverage in the R-O zone. The existing condition has been measured at 69% impervious coverage. The applicant is proposing 73% impervious coverage. He stated that the extra paving was required to allow for proper circulation around the site. Mr. Rahenkamp stated that he wanted to point out that if the proposed land banked spaces were constructed, impervious coverage on the site would increase to 75%. Mr. Rahenkamp stated that the third variance is for the construction of the gas station canopy to the site. He stated that the canopy is a substantial benefit to customers and employees on site as it would protect them from the elements. In the R-O zoning district, an accessory structure requires a 200 foot setback, however they cannot conform to the standard due to the smaller size of the lot. Mr. Rahenkamp pointed out that there is a large setback from the roadway to the canopy which would make the impact visually less.

Mr. Rahenkamp reviewed his testimony from the last public hearing regarding the requested use variance. He stated that previously gas stations were paired with car repair businesses and were considered together. Since that time, repair stations are finding their own place and gas stations are more frequently being paired with convenience stores or fast food options. He stated that the switch from the repair shop on site to the proposed Dunkin Donuts restaurant was just an update in that vein that would make the site more convenient and consumer friendly. He stated that the building would receive a much needed renovation, the site would get additional landscaping and other features, and the site would be cleaned up and improved overall. Mr. Snieckus asked Mr. Rahenkamp if anything was being proposed to reduce the impact of the canopy on the site as an accessory structure. Mr. Rahenkamp stated that the canopy is above the line of sight and would not have any significant visual impact on the site or for passing motorists.

Mr. Shane called his next witness to testify, Kamlesh Shah of KSD Architects, the project architect. Mr. Shane stated that Mr. Shah had been previously sworn in and testified in conjunction with this application.

Mr. Shah stated that at the last hearing there was discussion regarding the façade materials and colors for the Dunkin Donuts building and a reference was made that the preference would be to utilize colors and materials similar to an existing location in Robbinsville along Route 130. The previous design presented utilized hearty plank and asphalt shingles. Mr. Shah entered into evidence Exhibit A-8 titled "Sheet SK 2.2," dated January 25, 2017, revised October 31, 2017. Mr. Shah also referenced previously entered Exhibit A-5, dated September 28, 2017 and stated that Exhibit A-5 shows a rendering of the initial architectural design of the building that was previously presented. Mr. Shah stated that they have revised the architectural plans in response to the comments from the last hearing to utilize colors and materials similar to the Dunkin Donuts along Route 130 in Robbinsville. He stated that this new design utilizes brick on all four sides of the building with breakup points with stone trim and white wood trim along the entrances. Façade signage would be wooden plaques with external lighting in contrast to the previously presented

internally illuminated channel letters. The wooden signs would incorporate muted tones of the Dunkin Donuts corporate colors to allow for easy identification to passing motorists.

Mr. Shah stated that another potential option the applicant would agree to is to swap out the channel letter façade signage as shown on Exhibit A-5 with wooden plaque signage as proposed on Exhibit A-8.

Mr. Primiano stated that he is okay with either design. He stated that at the last hearing he had comments regarding tying in the canopy to the building architecturally and he did not see any changes in that regard. Mr. Shah stated that they did concentrate on the building rather than the canopy, as the canopy is being installed by Gulf Gas Company so he did not have much jurisdiction over that. Mr. Thill stated that they could potential wrap the columns of the canopy in similar materials to the building to make it more architecturally seamless. Mr. Glasso stated that Gulf tends to be strict on requiring their corporate colors be utilized on the gas station canopy structure. Mr. Primiano stated that he didn't have any issue with the colors of the canopy, but rather the lack of creativity in regards to the style of the canopy. He stated that other gas station sites along Route 571 utilize decorate canopy designs. Mr. Primiano stated that he would request that design change be included as a condition of the application. He suggested shingle roofing along the canopy top where the Gulf signage is not located and the columns be wrapped in similar materials to the building. Mr. Primiano stated that he also asked to see a colored rendering of the site from the other side of the adjacent roadway to get a visual perspective as to the canopy versus the building on site. Mr. Shah stated that they wanted to get the Board's feedback regarding the architectural design first before providing that rendering. Mr. Shane suggested that if the rendering and revised canopy design were imposed as conditions of the approval, they could be subject to the approval of the Board's professional consultants, including the engineer and planner to the Board's satisfaction. Mr. Primiano stated that he could provide a descriptive list of conditions tonight that would be reflected in the meeting record and that the Board's consultants could review any revised materials for the Board's satisfaction. Mr. Shane stated that they would agree to that as long as any conditions are in line with what Gulf finds agreeable in terms of canopy design. Mr. Primiano stated that this should be opened up to the opinions of other Board members to determine which presented architectural design was going to be implemented on the site. Mr. Cosenza stated that he would defer to the applicant on that, as he did not want to design the project for the applicant. Mr. Thill stated that the applicant preferred the original design shown in Exhibit A-5 and that the revised architectural plan was only submitted due to the commentary at the last hearing. Mr. Rago stated that he thought a bare bones canopy like the one shown in the renderings would clash with the brick design in Exhibit A-8. He also expressed concerns that while the Board may express their desires regarding the design of the canopy, he was unsure how much Gulf would want to incorporate those design details on the canopy. Chairperson Shifman stated that there would definitely have to be compromise between the Board, the applicant, and Gulf. Mr. Primiano stated that Dunkin Donuts has compromised during this process so he would expect the same from Gulf. Mr. Shane asked the Board which architectural design they wanted the applicant to utilize because they could discuss design specifics for the canopy from there. Mr. Primiano stated that he preferred the original design shown in Exhibit A-5. Chairperson Shifman agreed. Ms. Berdzik stated that she also preferred the original design, as the second design would clash with the canopy. Mr. Primiano stated that he would like to see a stone veneer wrap around the base of the canopy columns which matches the stone veneer on the building. He stated that the same water table or

sill on the building should also be wrapped around the columns. The columns should be painted the rest of the way up to match the building. The top of the canopy should have skirt roofing or a mansard roof around part of it with a certain area for signage. Mr. Shah stated that they could do that and leave the corners flat for the signage. Mr. Thill stated that he thinks this would be agreeable to Gulf. Mr. Shah asked the Board if it would be agreeable to have final approval of the revised architectural design of the building and canopy subject to review by the Board's consultants. Mr. Primiano stated that would be fine if all three professionals reviewed it.

Mr. Cosenza stated that on sheet eight of the submitted plans, the trash enclosure was depicted as a chain link fence. He asked the applicant if they could utilize a cap on the trash enclosure and revise the materials to match the building with wood cedar gates. Mr. Thill stated that would be fine.

Mr. Shane stated that concluded their direct testimony. He stated that this application is proposing to redevelop and redesign a poorly maintained site that is a focal point of the township. The gas station will continue to exist with a newer, more modern secondary use to make it more convenient for consumers. Improvements to the site include landscaping, improved circulation, regulated deliveries, renovated architectural designs, improved lighting, drainage, and other amenities. He stated that they do not see any detriment to this application and only see positive implications.

Chairperson Shifman opened the meeting to the public. There being no public comment, the public forum was closed.

Mr. Peters stated that he wanted to put on the record that he had concerns regarding the sanitary and sewer systems on site. He stated that it may be some time before the applicant can connect the site to public sewer and water service and obtain the proper easements. He stated that they did offer to eliminate any indoor seating until that connection is made, which is a step in the right direction. However, the Environmental Commission provided a memorandum to the Zoning Board dated April 19, 2017 stating that the existing septic system is not functioning properly. Mr. Peters stated he would like to include a condition in any approval that the applicant conducting testing to determine that the septic system is functioning properly and that is appropriately sized for the site and its use. Chairperson Shifman agreed with Mr. Peters.

MOTION TO APPROVE THE APPLICATION MADE BY: Mr. Primiano

MOTION SECONDED BY: Ms. Berdzik

ROLL CALL

AYES: Ms. Berdzik, Mr. Cosenza, Mr. Illuminate, Ms. Shifman, Mr. Primiano, Mr. Rago

NAYES: None

ABSTAIN: None

ADJOURNMENT OF MEETING

There being no further business, the meeting was adjourned.

CERTIFICATION OF SECRETARY

I, undersigned, do hereby certify;

That I am the Zoning Board of Adjustment Secretary of the Township of East Windsor Zoning Board of Adjustment and that the foregoing minutes of the Zoning Board of Adjustment, held on February 15, 2018, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Zoning Board of Adjustment this 19th day of July, 2018.

Allison Quigley, Board Administrative Secretary
East Windsor Township