

**Joint Land Use Board
1200 Mountain Ave., Middlesex, NJ 08846
Minutes
August 11, 2021**

1. Call to Order

Chairperson Conahan called the meeting to order at 7:05 pm.

2. Open Public Meeting Act Statement

Chairperson Conahan read the Open Public Meeting Act Statement.

3. Roll Call

The following members were present:

CLASS IV MEMBERS:

FRANK RYAN DEC/2024 [PRESENT]	MARK KRANZ DEC/2023 [PRESENT]
JOSEPH DESCENZA DEC/2021 [PRESENT]	MICHAEL CONAHAN DEC/2022 [PRESENT]
ROBERT SHERR DEC/2022 [PRESENT]	PAUL WOSKA DEC/2023 [PRESENT]
JOSEPH CARUSO DEC/2021 [PRESENT]	ALTERNATE 1

ROBERT DESSINO DEC/2023 [PRESENT] CLASS I MEMBER
STEPHEN GRECO DEC/2021 [PRESENT] CLASS II MEMBER
JEREMIAH CARNES DEC/2021 [ABSENT] CLASS III MEMBER

ALSO PRESENT: BOARD ATTORNEY-MR. BILL ROBERTSON
BOARD ENGINEER- MR. BOB BUCCO
BOARD PLANNER- MR. PAUL RICCI
ZONING OFFICER- MR. JOE COSTA

4. Minutes

Member Descenza made a motion to approve the July 14, 2021 minutes, seconded by Member Greco. Vote: All in favor. Motion passed.

5. New Business

JLUB 2021-007

Certificate of non-conformity

Randall Kurachik

1231 Bound Brook Rd

Block 59 Lot 15

Jamie Goldman, 371 Hoes Lane, Suite 200, Piscataway NJ 08854 stated that she is representing Randal Kurachik.

Mr. Robertson duly swore in Mr. Randall Kurachik, 14 Long Rd, Martinsville, NJ.

Ms. Goldman stated that Mr. Kurachik purchased the property in 1986.

Exhibit A1 8/11/2021 was entered as the application dated 12/23/1986 for Certificate of Occupancy.

The Certificate of Occupancy was dated 1/29/1987 this was entered as Exhibit A2 8/11/21.

Ms. Goldman referenced Exhibit A1 8/11/21 stating on the application all equipment in the garage and nothing has changed over the years.

Exhibit A3 8/11/21 was entered as application for certificate of occupancy dated October 25, 1999 showing the same equipment listed on the previous application.

Exhibit A4 was entered as Certificate of Occupancy with "may be occupied for the purpose of service station" issued on October 26, 1999.

Exhibit A5 8/11/21 was entered as hand drawing of property that was submitted for Certificate of Occupancy.

Exhibit A6 8/11/21 was entered as survey of the property showing one story gas station.

Mr. Kurachik stated that when he purchased the property there were gas pumps, 2 bays, 2 lifts, bathroom and office.

Mr. Kurachik stated that the gas pumps and tanks were removed in 1993.

Mr. Robertson duly swore in Michael Wick, 35 Dayton Ave. He stated that there had been a station there since 1960's/1970's as he used to purchase gas there.

Mr. Robertson duly swore in Mr. Keith Kermizian, 1212 Bound Brook Rd. He stated that the gas station had previously been owned by an Armand Petulo and that he sold the property in the 1960's/1970's.

Mr. Robertson duly swore in Raymond Hills. He stated based on his knowledge it has been there for at least 30 years.

Mr. Robertson duly swore in Mr. Jeffrey Bevan Jr. He stated that his parents used Mr. Kurachik to service their vehicles in the early 1980's.

The Board confirmed that the property is only being used as a service station for vehicles and the gas station portion had been abandoned in 1993.

Mr. Costa explained that the Borough Ordinance 420-59 (J) Conditional Uses has 17 conditions and that the zoning changed in 2000 requiring a minimum lot size. The lot size for this lot doesn't meet (1) of the conditions.

Gasoline service stations and public garages. Gasoline service stations and public garages may be permitted in the G-B and CLW Zones, provided that:

(1)

Minimum lot size shall be 15,000 square feet for a station.

[Amended 12-19-2000 by Ord. No. 1515]

Mr. Kurachik stated that he may want to lease the property and wants to have all his paperwork for the property in order.

Mr. Robertson explained to the Board the MLUL 40:55D-68 gives the applicant to show that it was pre-existing and provide that the use lawfully existed.

Mr. Robertson stated that the property had been used as a service station since 1950's and was a pre-existing conditional use. The applicant had been issued Certificate of Occupancies in 1987 and 1999 and had the use approved. The site has been continuously used since 1950's. The site is not being used for a gas station; that use has been abandoned and would require a variance in the future. He stated he had no objections to granting the certificate of non-conformity, that the property can't be expanded.

Member Descenza made a motion to approve the Certificate of Non-Conformity, seconded by Member Kranz. Vote: Member Sherr-yes, Chairperson Conahan-yes, Member Ryan-yes, Member Woska-yes, Member Kranz-yes, Member Descenza-yes, Member Dessino-yes, Member Greco-yes, Member Caruso-yes. Motion passed.

JLUB 2021-004 **Major Preliminary and Final Site Plan**
Bound Brook Dev. LLC (Popeyes)
229 Bound Brook Rd.
Block 6 Lot 3

Duncan Prime of Prime and Tuvel stated he is representing Bound Brook Dev. LLC for preliminary and final site plan for a Popeyes drive thru restaurant.

Mr. Duncan stated that in the General Business zone Borough Ordinance 420-59 H(2) states that the limited service restaurants have 1,000 sq feet of restaurant eating.

The proposed Popeyes will have only 936 ft to comply with the Ordinance.

Mr. Robertson duly swore in Josh Kline, 92 Park Ave, Rutherford NJ of Stonefield Engineering and Design.

Mr. Kline stated his education and credentials. The Board accepted Mr. Kline as an expert witness.

Mr. Kline stated that they will comply with the Board Engineer letter dated August 10, 2021.

Exhibit A1 8/11/21 was entered an aerial exhibit of the property prepared by Stonefield Design prepared on August 11, 2021.

Exhibit A2 was entered as Use and Operations Schedule.

Mr. Kline used Exhibit A1 8/11/2021 to show that the site is vacant and to the east is Gramercy Gardens, Vogel PI is to the left.

Mr. Kline stated that there had previously been a building on the site but had been removed.

Mr. Kline described the current conditions: two curb cuts, the site is in disarray, no stormwater basin, relatively flat site.

Exhibit A3 8/11/21 was entered as colorized site plan prepared by Stonefield Design.

Mr. Kline explained the site plan using Exhibit A3 8/11/21

- 2,339 sq ft one story building
- One-way drive way
- Diagonal parking spaces and ADA parking spaces
- 8 ft concrete block trash enclosure (parking space next to dumpster will be removed)
- Evergreen screening

Mr. Kline explained that there is new stormwater regulations; a new bio retention will filter the water and the applicant will comply with the stormwater regulations.

Mr. Kline stated that the building will have LED light fixtures and will meet the dark sky requirements. The lighting will be turned off during non-operating hours and there will be a motion sensor.

Mr. Kline stated that there will be 59 trees (54 will be Evergreens) and 200 shrubs and grasses.

Mr. Kline stated the utilities will be underground.

Mr. Kline explained the traffic impact study and the NJ DOT requirements. The applicant has already submitted the applicant for NJ DOT review and approval.

Mr. Kline stated that the customers will be already on the road and will be considered pass by traffic.

Mr. Kline stated that the driveway is considered a level C for the NJ DOT and that the site is designed for backup traffic to be on the property. The applicant must receive approval by NJ DOT.

Mr. Kline reviewed the variances the applicant is seeking for the signage on the property.

The applicant is seeking to install (1) pylon sign, 2 menu boards, 2 preview boards, 2 canopy signs.

The Board discussed the height of the pylon sign; the applicant is proposing 22ft where 15ft is permitted and proposing 75 sq. ft. sign where 46 sq. ft. is permitted.

The applicant is also proposing 2 directional signs.

Exhibit A4 8/11/21 was entered as Sheet A2 Exterior Elevations prepared by Zelta Design showing the columns of the building.

Exhibit A5 8/11/21 was entered as Sheet A3 Exterior Elevations prepared by Zelta Design showing "Love that Chicken" sign on the exterior wall; which is non illuminated.

Exhibit A6 8/11/21 was entered as Pylon Sign Exhibit prepared by Capital Signs.

Mr. Ricci asked if this sign was digital.

Mr. Robertson duly swore in Mr. Jerry Murphy, 68 Culver St., Monmouth Junction, NJ.

Mr. Murphy stated he is the Development Manager of AR Group that controls 60 Popeye's locations.

Mr. Murphy clarified that the Board was looking for the pylon sign to be 20ft. not 22ft.

Chairperson Conahan asked if the sign could be kept slightly lower than the building.

Mr. Ricci stated in his review letter dated August 6, 2021; he commented that he would like to hear more testimony on when the lights would dim.

Mr. Murphy stated that the lights would be on an automatic dimmer.

Mr. Ricci stated that the landscaping is close to the property line and confirmed that the landscaping would be irrigated.

Mr. Ricci confirmed that there would be a railing out by the door on the side where the drive thru is located so that customers do not walk into drive thru lane.

Mr. Ricci stated that the pre menu Boards are industry size and are needed for operations.

Mr. Ricci asked what type of material would be used on the base of the building.

Mr. Murphy stated that the material would be a cultured stone.

Mr. Ricci asked asked if the trash enclosure would match the building and if the gate would have slats for screening.

The gate details will be added to the plan.

Chairperson Conahan asked the applicant to coordinate the Grand Opening with the police department.

The applicant agreed to the shade tree comments and will not plant pin oaks.

Member Descenza asked about the fence along the property line referring to page C3.

The applicant will likely remove and replace portions of the fence.

Mr. Costa, Zoning Officer stated his concerns regarding lighting and impact on Gramercy Gardens condominium complex.

Mr. Costa asked that sanitation not arrive before 6am and consider the residential areas surrounding the property.

Chairperson Conahan asked about the opening time.

The Board was informed that the opening time is 10:30am.

Chairperson Conahan stated the concerns about traffic and suggested that the police could direct traffic at the cost of Popeye's not Borough.

Mr. Costa stated that he would like to have fencing and security monitoring during construction.

Mr. Robert Pollara and Mr. Sean Young representing the Fire Department asked about putting a fire hydrant on the property.

The Fire Department stated their concerns about left hand turns and traffic accidents.

The Board and the applicant discussed installation of a no left hand turn sign and possibility of having a right hand turn only sign on the property.

The applicant did not agree and stated that NJDOT has to approve the application.

The Fire Department asked if the parapet enclosed the entire roof or was it open in the back of the building.

The Board was informed that the parapet is 3ft in height around the entire roofline.

Member Descenza asked about the time frame for construction.

The applicant stated that they will start as quick as they can get through the approval process through NJDOT.

Member Caruso asked about contamination on the site.

Mr. Bucco stated that there will be an LSRP (Licensed Site Remediation Professional) on the site.

Mr. Bucco stated the gas station on the corner of Vogel and Rt 28 had water plumes onto surrounding properties.

The applicant can and will comply with the Najarian Engineering letter.

Member Caruso asked how much time does it normally take for a customer to get an order.

The Board was informed that overall time is about two minutes.

Chairperson Conahan opened the meeting to the public, there being no public questions he closed the public portion of the meeting.

Member Greco made a motion to approve the major preliminary and final site plan with conditions: applicant will comply with the Najarian Engineering letter dated August 10, 2021, applicant will comply with Ricci Planning letter dated August 6, 2021, obtain NJ DOT approval, customer eat in area to be less than 1,000 ft, NJ DOT approval for the digital sign, height of pylon sign to be 20ft, dim lighting at 12am, trash enclosure-cladding to match building, trash enclosure- block enclosure color scheme to match building, trash enclosure fencing to have brown slats, coordinate with the police department the grand opening, comply with shade tree commission memo, remove and replace fence, no trash pickup before 6am, if traffic issue become a problem to work with police to direct traffic and any costs to be incurred by the applicant, safety fencing to be installed during construction and security for the site, Board recognizes that NJDOT has to approve application-no parking in front of the building, understanding that if there is problem with left hand turns they will work with the Borough, add railing to west side entrance, pylon sign to be 20ft, granting variance for size of wall sign, granting variance for size of directional sign, granting variance for electronic sign, waivers to be granted, seconded by Member Descenza. Vote: Member Sherr-yes, Chairperson Conahan-yes, Member Ryan-yes, Member Woska-yes, Member Kranz-yes, Member

Descenza-yes, Member Dessino-yes, Member Greco-yes, Member Caruso-yes. Motion passed.

6. Correspondence

A. Facciponti Letter- 585 Union Ave.

Chairperson Conahan read the letter from the applicant's Attorney Mr. Sullivan asking for an adjournment to September 22, 2021. The Board agreed to adjourn to September 22, 2021.

B. Cannabis Ordinance

Linda Chismar, Borough Clerk forwarded to the adopted Ordinance No. 2037-21 to the Joint Land Use Board. No further action required by the Board.

C. Fenelly Env. Associates Letter for NJ DEP permit

No action required by the Board.

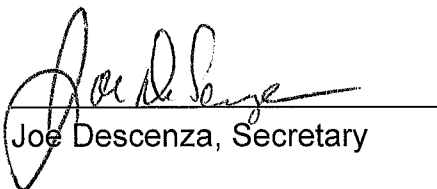
7. Board Comments

The Board discusses 7-11 on Lincoln Blvd fueling large trucks, 140 Union Ave- mattress on the site, Fee Schedule changes to include certificate of non-conformity, website forms updated.

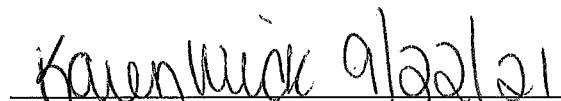
8. Public Comments

Chairperson Conahan opened the meeting for public comments, there being no public comments he closed the public portion of the meeting.

There being no further business Member Descenza made a motion to adjourn the meeting at 9:20pm, seconded by Member Caruso. Vote: All in favor. Meeting adjourned.



Joe Descenza, Secretary



Karen Wick, Board Clerk