

**MEDFORD TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING**

21 February 2024

7:00 p.m.

Public Safety Building, 91 Union St.

REGULAR MEETING AGENDA

Attorney Jerry Dasti called the meeting to order at 7:00 p.m. and read the Statement of Conformance with the Open Public Meetings Act and the Municipal Land Use Law.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Hamilton, Morrison, Rickards, Simmers, Umba, Meehan, Voorhees,
Wolf, Cocivera
Absent: Meehan, Rickards
Professional Staff: Attorney Jerry Dasti, Engineer Christopher Noll, Planner Michelle
Taylor, Secretary Ann Bell, Recording Secretary Beth Portocalis

CORRESPONDENCE: None

MINUTES: None

REPORTS: None

RESOLUTIONS TO BE MEMORIALIZED:

Resolution #2024-08, Christine Suchecki, 21 Shadow Oak Drive, 3202.14/7, ZVE-1115
Approval of a one-year extension for bulk variances approved per Zoning Board Resolution #2022-18.

Recorded Vote:

Ayes: Hamilton (M), Morrison, Simmers (2), Umba, Wolf, Cocivera
Nays: None
Abst.: None
Motion carried: 6 - 0 - 0

Resolution #2024-09, Goodwill Industries, 11 Tomlinson Mill Rd, 5605/7, ZVE-1161 –
Denial of Use Variance and Minor Site Plan for a donation drop-off center within a larger suite in the Community Commercial District.

Recorded Vote:

Ayes: Hamilton, Morrison, Simmers (2), Umba, Wolf (M), Cocivera
Nays: None
Abst.: None
Motion carried: 6 - 0 - 0

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Resolution #2024-10, Mathoan Gas #7, LLC, 174 Route 70, 903.02/26.03 & 26.04, ZVE-1156 – Approval of Use Variance and Minor Site Plan for a gas station and convenience store in the Highway Commercial 1 (HC-1) District.

Recorded Vote:

Ayes: Hamilton (M), Morrison, Simmers (2), Umba, Wolf, Cocivera
Nays: None
Abst.: None
Motion carried: 6 - 0 - 0

APPLICATIONS/OFFICIAL ACTIONS:

Julie Blinderman – Bennett, 26 S. Wendover, 6103/18, ZVE-1134 – Seeking a one-year extension for a bulk variance approved per Resolution #2022-48.

Mr. Dasti stated that staff had received an email from Ms. Blinderman-Bennett indicating delays in contractors and permitting had just extended past the approved one-year timeline in January.

MOTION: Mr. Hamilton made a motion to approve the one-year extension. Vice Chairman Wolf seconded the motion. Application also requires a Certificate of Appropriateness for historic zone designation.

Recorded Vote:

Ayes: Michael Hamilton, Morrison, Simmers, Umba, Voorhees, Wolf, Cocivera
Nays: Christina None, Owner
Abst.: Jason None, Architect
Motion carried: 7 - 0 - 0

Christina Mull, 12 Trimble Street, 2002/4.01, ZVE-1179 – Seeking bulk variance approvals for exceeding front yard and side yard setbacks for a one and a two story addition to the rear of the dwelling, relocation of existing shed, and construction of a 20' x 20' detached garage in the RHO Zone District. Application also requires a Certificate of Appropriateness for historic zone designation.

SWORN: Michael Maley, Esq.
Christina Mull, Owner
Jason Patchel, Architect

Mr. Maley opened the testimony by explaining that the additions and the detached garage were proposed by Ms. Mull for additional living space for her growing family. The dwelling is already pre-existing, non-conforming to the zoning requirements, as are most properties along Trimble Street. While there is an existing detached garage on the property, it is not accessible for vehicle parking as there is only one "man-door." The proposed garage location will necessitate that the driveway not be 10' from the property line as required by the Ordinances.

Ms. Mull was next to testify. She purchased the property two years ago for herself and three young children, and they need more room. She is proposing both a one-story and a two-story addition onto the rear of the dwelling representing an additional 330sf footprint of 15 feet width and 22 feet depth. In designing the additions, she replicated those of her neighboring property. She continued that the garage is proposed as Trimble Street is a narrow, one-way street with limited on-street parking only on one side of the street. The existing concrete garage cannot be used at all, so in addition to her vehicle the new garage would be used to store her children's bicycles and other play equipment. She added that a small Rubbermaid garage will be removed once the new garage is completed.

Mr. Patchel was next to testify. He detailed the architectural plans. The two additions will total 580 sf. The first floor addition will be 330 sf and contain a family room, mudroom, closet and upstairs and downstairs steps. The second floor additional will total 250sf and includes an expansion of the master bedroom and a hall closet. The additions will be inset one foot on each side so they cannot be seen from the street. He continued that the exterior improvements will match the current dwelling, including the roof shingles, horizontal siding, and window patterns. He confirmed no alterations to the front of the dwelling facing the street are proposed.

He concluded his testimony by stating that he had submitted Exhibit A-15; a historical impact response letter to Mrs. Taylor's January 11, 2024 Review Letter.

Mrs. Taylor concurred with the Mr. Patchel's testimony, and agreed that the addition could only be placed where proposed. She opined that the issuance of the Certificate of Appropriateness is appropriate. She also noted no issue with the Rubbermaid shed remaining, as long as it is moved to meet the setback requirements.

Mr. Maley summarized the application by going thru the positive and negative criteria standards for a c(1) or c(2) variance.

PUBLIC: None

Mr. Hamilton made a motion to close the public portion. Vice Chairman Wolf seconded. The voice vote was unanimous in favor.

MOTION: Mr. Hamilton made a motion to approve the application as submitted, to issue the Certificate of Appropriateness, and the design waiver for the driveway, contingent upon the shed being relocated to a conforming location. Vice Chairman Wolf seconded.

Recorded Vote:

Ayes:	Hamilton, Morrison, Simmers, Umba, Voorhees, Wolf, Cocivera
Nays:	None
Abst.:	None
Motion carried:	7 - 0 - 0

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Michael Adams, 2 Chief Massasoit Road, 721/1, ZVE-1177 – Seeking retroactive bulk variance approvals for exceeding the front yard setbacks for an existing 480sf second story deck and a shed; and side yard setback for a 240sf second story deck.

SWORN: Michael Adams, Applicant

Mr. Adams opened his testimony by acknowledging he is seeking retroactive approvals. He has lived in the property for four years. He built the second floor decks for better views of the Rancocas Creek areas.

Mrs. Taylor stated she was most concerned about the shed in the front yard, which Mr. Adams was there when he purchased the property. The dwelling itself is located closer to Lenape Trail than permitted, hence the need for setback relief.

Chairman Cocivera asked Mr. Adams if he would be willing to plant trees in the front yard to enhance the visual impacts by hiding the shed from view. He responded yes.

PUBLIC: None

Vice Chairman Wolf made a motion to close the public portion. Ms. Umba seconded. The voice vote was unanimous in favor.

MOTION: Mr. Simmers made a motion to approve the application as submitted, with the condition to plant trees in the front yard to screen the shed from street view. Ms. Voorhees seconded.

Recorded Vote:

Ayes:	Hamilton, Morrison, Simmers, Umba, Voorhees, Wolf, Cocivera
Nays:	None
Abst.:	None
Motion carried:	7 - 0 - 0

Res-Care, Inc., 268 Hopewell Road, 5604/6, ZVE-1170 – Seeking bulk variance approvals for exceeding the maximum lot coverage for the construction of a driveway. (Continued from the November 2023 Zoning Board meeting)

Ms. Voorhees attested to viewing the livestream of the November 2023 meeting, and Mr. Dasti confirmed she is qualified to vote on this application

SWORN: Jeff Brennan, Esq.
Lisa Kubisiak, Executive Director

Based upon testimony and Board comments at the November 2023 meeting, the Applicant had submitted a revised site plan/survey dated February 8, 2024 and marked as Exhibit A-8.

Mr. Brennan described the changes to the original plan, including the addition of stormwater/recharge trenches along both boundaries, substantially reduced impervious coverage (41% reduced to 31%), and two rows of evergreens to be planted along the rear boundary line. The plan was filed with the consent of the property owner, as Res-Care remains the tenant.

Mr. Brennan also pointed out a 2002 aerial photo that showed the horseshoe driveway in place; which would indicate that it was existing prior to the Ordinance changes in regards to two driveway openings on a residential property.

Mr. Noll concurred that the driveway configuration is indeed grandfathered. He stated that since there were no grades on the plan, he could not approve the proposed stormwater trenches. He recommended that the Board consider making a condition that any such trench be with the approval of the engineer at any low spot on the property that could affect adjoining properties.

Mrs. Taylor did not prepare a review letter for this application. Her only comment was to recommend that in areas where existing paving was to be removed, the ground be scarified, topsoil added, and seeded. She also recommended that some landscaping be added along the south boundary line and all plantings should be Pinelands native species.

Mr. Brennan stated that the applicant would agree to these conditions.

PUBLIC:

Lora Webster, 28 Pocahontas Trail, was concerned about potential site triangle issues from Sacajawea Trail entering onto Hopewell Road as a result of new plantings. She was advised that there were no new sight triangle issues as the planting will be far back from the roadway.

Brian Green, 265 Hopewell Road, asked what type of trees which will be planted along the southern boundary line. He was advised that the trees to be planted will be in accordance with those listed in the Township Code, which are Pinelands native species. Thereafter he was in general favor of the application.

Valerie Hairrell, 19 Pocahontas Trail, testified that the home is not in conformance with the neighborhood. There will be still be too much macadam on the site which will adversely impact on the neighboring lakes and the well water utilized by the neighborhood.

John Weidmann, 24 Pocahontas Trail, testified that his property is located to the rear of the subject property. He testified that the Applicants are "great neighbors". He is happy with the proposed trees to be planted along the rear of the property. He has had no problems in the past and is in support of the application.

Mr. Hamilton made a motion to close the public portion. Mr. Simmers seconded. The voice vote was unanimous in favor.

MOTION: Mr. Hamilton made a motion to approve the revised application as submitted per the site plan/survey dated February 8, 2024, with the conditions (1) conform to the Board Engineer's recommendation for the drainage trenches, (2) agree with the Board Planner's recommendation in regards to plantings and re-seeding. Vice Chairman Wolf seconded.

Recorded Vote:

Ayes:	Hamilton, Morrison, Simmers, Umba, Voorhees, Wolf, Cocivera
Nays:	None
Abst.:	None
Motion carried:	7 - 0 - 0

The Board took a brief recess from 8:05 pm to 8:15 pm.

J & J Development Group, LLC, 122 East Route 70, 902/1.03, ZVE-1178 – Seeking d(3) Conditional Use Variance approvals to permit the demolition of existing building and on-site improvements and construction of a 13,905sf multi-tenant shopping center that includes a 2,400sf quick-service/fast food restaurant with pick-up window only. (Carried from the January 2024 meeting)

SWORN: CherylLynn Walters, Esq., Nehmad, Davis & Goldstein
John Corak, Civil & Traffic Engineer, Stonefield Engineering
Jonathan Baske, Chipotle Regional Construction Manager & PE
Leah Furey Bruder, PP, Planner. LFB Land Planning

Gary Zangerle, Esquire, objected to the application being heard per a letter he submitted to the Board and the Applicant's Attorney dated February 20, 2024. He was retained on February 1, 2024 by a neighboring property owner. The objection was based on his assertion that he had requested the application documents, but only received the Planner's updated review letter and revised plan on Monday, February 19th.

Mr. Dasti recommended moving forward with the application.

Ms. Walters stated on behalf of the Applicant she was unable to consent to the request. She stated that required noticing had been sent on January 19, 2024 as required under the MLUL, and the Board had announced at its January 31, 2024 meeting that they were carrying the application to this meeting. She advised Mr. Zangerle that the only change in the original application was a reduction in the size of the proposed building by 2,000 square feet.

The Board by voice vote unanimously agreed to move forward with hearing the application.

Ms. Walters made a brief statement on the bifurcated application, whereby the Applicant is seeking Use Variance approvals. If so granted, the applicant will return to the Board for Site Plan and all other bulk variances approvals required.

Mr. Corak was first to testify. He referenced Exhibit A-16, a display board with an aerial view of the site that was last revised on February 19, 2024. He then described the site situated along State Highway Route 70 and the adjoining properties. The site is 2.21 acres and presently contains a 7,000sf diner restaurant building with parking. He further described the access to the site via a cross easement to the shopping center next door and also onto Old Marlton Pike.

He next displayed Exhibit A-17, a colorized version of the proposed concept plan/site plan. Proposed is three tenant spaces plus a 2,400sf Chipotle restaurant with a drive thru pick up lane. (No menu board ordering in the drive thru lane) The overall size of the building has now been reduced by 2,000sf to a total of 11,955sf, with Chipotle as the east endcap. The building will be oriented towards Route 70. The building is proposed with a 210 foot setback from the center line of Route 70, and will also be set back further from Old Marlton Pike. Additional buffering is also being proposed per the Board Planner's recommendation.

Mr. Corak continued by referencing his October 2023 Traffic Study and Trip Generation Report. The concept plan shows a total of 93 parking spaces. The Medford Codes requires one parking space for every 30 square feet of a fast food restaurant, which would equate to 80 parking spaces. Notwithstanding that requirement, which the Township acknowledges should be updated for less, the Institute of Traffic Engineers recommends 42 parking spaces. There will be 75 parking spaces allocated to the Chipotle facility and 48 other parking spaces for the remainder of tenants.

NJDOT issued a Letter of No Interest, which was granted due to the non-significant increase in traffic anticipated by the new center. There are two areas for ingress and egress; being Route 70 and Old Marlton Pike. His study determined there would not be a significant increase of traffic. He summarized the peak hours, counts, and anticipated number of trips per the national standards to quantify his findings. He further explained the concept of the "ChipotLane," that does not require a queue since there is no ordering in the line. The proposed queue provides enough space for six vehicles, which is the maximum that Chipotle has found at other similar restaurants with this feature. If for any reason an order isn't ready when a customer arrives at the pick-up window, 2 parking spaces are provided for customers to park and await hand delivery of their order by an employee.

Mr. Zangerle, Attorney for the owners of the adjoining shopping center property, cross examined Mr. Corak. He asked if the traffic report compared the relatively new fast casual restaurant with a fast food restaurant with a drive-thru. With a pick-up window only, traffic can move much more quickly. Mr. Corak responded that his study compared the diner use versus the proposed uses. He did not specifically review lunch since NJDOT's own data shows lower traffic on Route 70 at that peak times. Mr. Zangerle then asked if the traffic study looked at the joint use including the Popeyes restaurant; to which Mr. Corak responded that neither restaurant is impacting the other. Mrs. Taylor clarified that the Land Development Ordinances state the need

to evaluate if two fast food restaurants with drive-thrus are located within 1500 feet of each other, can the roads accommodate the traffic, which is what Mr. Corak's testified to. Lastly, Mr. Zangerle questioned the proposed sidewalk, but was advised it is being proposed by the Applicant, but further discussion would be handled during any site plan application.

Mr. Baske was next to testify. He is the Northeast Regional Construction Manager for Chipotle. He holds a PE license and is duly licensed in New Jersey. He described that this will be a proposed fast casual restaurant with indoor seating, with a drive thru lane to pick up preorders placed online or via their app. The operating hours will be 10:45am to 10:00pm, 7 days per week. The restaurant, when opened, will have 8-10 employees on site at any time, and an on-site manager during all hours of operation. The total number of employees will be between 30 and 50.

He continued that the site will be sufficient to service tractor trailer deliveries. Since Chipotle serves fresh foods, deliveries for Chipotle will take place approximately 4-5 times per week. Each delivery visit will be between 15-20 minutes. Deliveries will take place prior to operating hours so as not to hinder on-site traffic flow. Trash removal will be scheduled through the landlord. Chipotle anticipates the need for trash removal for 4-5 times per week and will coordinate with the landlord if more pickups are required.

Mr. Baske stated that the national average for drive-thru "ChipotLane" facilities is 2-4 cars of stacking. Typically the maximum number of cars based on national average is 6 vehicles. Each car at most will be approximately 2 minutes in line getting their order at the drive-thru window with an average time at the pick-up window of 30 seconds. If there is a delay in the drive-thru line for whatever reason, sufficient parking spaces will be provided for the vehicle which is delayed. An employee will hand deliver the order to that patron at the marked vehicle.

He reiterated that the 2400 square foot Chipotle restaurant will also have indoor dining. In his opinion, the number of walk-in patrons versus pick-up patrons per the national average is approximately 50-50.

Mr. Zangerle, Attorney for the owners of the adjoining shopping center property, cross examined Mr. Baske. He mentioned on-line complaints about long lines at other Chipotle drive thru restaurants. Mr. Dasti replied that this is hearsay and cannot be considered. Mr. Zangerle then asked how much employees will be paid and how much training they will receive. Mr. Dasti responded that salary levels are not relevant. That being said Mr. Baske did confirm that all employees will receive at least 40 hours of training, and there will always be an on-site manager on duty.

Ms. Furey-Bruder was next to testify. She cited the d(3) Use Variance being requested. In preparation for her testimony, she reviewed the 2008 Master Plan, a 2004 Route 70 Smart Growth Plan, a 2014 Route 70 Draft Master Plan and the Land Development Ordinances.

She testified that there are many commercial uses in the area, keeping in mind that this property has perceived frontage on Route 70 and is the HC-1 Zone. There is large existing open frontage areas and Right of Way dedicated to the State. The concept plan itself is a permitted use in the HC-1 Zone pursuant to Section 410 of the Land Development Ordinances. She delineated the conditions which must be met pursuant to Section 602(d) of the Township Code inasmuch as the proposed drive-thru lane for the fast food facility is within 1500 feet of another drive-thru lane for fast food. She offered that this conditional use standard is in place primarily due to traffic concerns.

She continued that there are eight standards in the Land Development Township Code requiring conditional use permits for this type of facility. She detailed for the record the eight standards and also provided ample proof as to the reason that this Use Variance application will meet those standards.

Ms. Furey-Bruder opined there is nothing adverse to this proposal to the surrounding property or the Zone Plan of the Township. There will be no substantial detriment to the Zone Plan or the neighborhood in the event this application is approved. There has been a restaurant/diner on the property since at least 1982, open from early morning to late evening seven days per week and many holidays. Also, the property will be serviced by sanitary sewer and public water.

As to the positive and negative criteria, there will be many positive benefits to granting approval of this this application as it is suitable for the proposed use. The prior testimony notes the site can accommodate the proposed use. The on-site/off-site traffic will be similar to what currently exists. Additionally, this is an already developed parcel since at least 1982. The proposed uses will not draw regional traffic but rather should draw local traffic, and thus the level of service will not demonstrably be changed as a result of this application. Additionally, the community design standards will be upheld with a new building and enhanced landscaping, and this will not be a "big-box" type development.

She continued that there will be approximately 200 feet from this building to the adjoining Popeyes drive thru lane. There is approximately 150 feet of separation between drive-thru lanes. Further, this application will have the number of parking spaces which are adequate for this facility and similar to it, if not exceeding, the number of parking spaces for the adjoining Popeyes Restaurant.

Excess noise will not be a factor since there will be no outside speakers from an ordering menu board. There was testimony that all garbage trucks will be prohibited from entering the site before 7:00am.

She confirmed that the applicant has reviewed the review letters from the Zoning Board professional staff and agrees to comply with all recommendations and conditions set forth therein.

Ms. Furey-Bruder concluded that based upon the concept plan provided by the applicant, when a site plan application is eventually submitted it will need to, as proposed, apply for not only site plan approval but bulk variance approvals of numerous variances, many of which are included in the review letter from the Board Planner dated February 15, 2024; and thus the applicant also understands that if this application is approved it is still contingent upon favorable approval of a site plan and potentially bulk variance approvals.

Mr. Zangerle then cross-examined Ms. Furey-Bruder. He asked how far between the two drive thru lanes. Mr. Corak responded 150 feet per his testimony. Mr. Zangerle then asked about trash collection, which Mr. Baske had responded to. Mr. Zangerle then asked Ms. Furey-Bruder if the sidewalk is important; to which she responded it is to Medford Township since their Ordinances require it.

Mrs. Taylor stated that the applicant has appropriately addressed her review letters correspondence, which she appreciated. She opined that the application appears to be compatible and the site circulation seems to be adequate. She acknowledged that the parking requirements are not satisfied but Medford's current requirements are exceptionally high. She also noted there is a minimum increase in lot coverage proposed; from 60% currently to 64% proposed. Lastly, she stated the testimony for site suitability relative to the use variance being sought was acceptable.

Mr. Noll referenced his February 13, 2024 review letter. One submission waiver was requested in regards to the Environmental Impact Statement. He recommends approval of the submission waiver until the site plan application is submitted. He also noted the Popeyes parking has been adequate and is a relevant comparison.

PUBLIC:

Louise Driben of Evesham, NJ, testified that she was in approval of the concept but not in approval of additional fast food facilities.

Connor Falls testified that there are already many accidents on Route 70. There are also many stores already empty on Route 70. Therefore he did not believe there was a need for this facility on this site.

Carl Gross, Managing Member of the adjoining center to the east, testified that the easement was originally created for the Diner. He further noted there was little testimony on the other potential tenants in the additional commercial space and it is too much development on the site.

Mr. Dasti commented to clarify the legal standard for granting of a use variance, and noted many issues will be addressed during a site plan application.

Mrs. Taylor added that shopping centers were only permitted prior to 2004.

Vice Chairman Wolf made a motion to close the public portion. Mr. Simmers seconded. The voice vote was unanimous in favor.

Ms. Walters summarized the testimony by clarifying that the Applicant is only seeking conditional use approvals for the Chipotle fast food use; not a mixed use approval. She then read into the record the portion of the Municipal Land Use laws which permit approval of bifurcated applications. She concluded by briefly summarizing the testimony for the record.

Mr. Zangerle asked for a clarification of exactly what the Applicant is seeking approval for; to which Mr. Dasti and Ms. Walters responded.

MOTION: Mr. Hamilton made a motion to approve the application as submitted, conditioned upon any and all further approvals include site plan and any other variances and submission waivers requested and subject to the Board Engineer's and Planner's review letters. Vice Chairman Wolf seconded.

Recorded Vote:

Ayes:	Hamilton, Morrison, Simmers, Umba, Voorhees, Wolf, Cocivera
Nays:	None
Abst.:	None
Motion carried:	7 - 0 - 0

EXECUTIVE SESSION: None

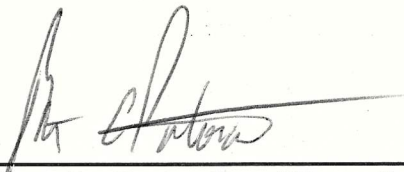
ADDITIONAL ACTION BY BOARD – None

MOTION FOR ADJOURNMENT:

Mr. Hamilton made a motion to adjourn the February 21, 2024 Zoning Board of Adjustment meeting at 10:26 pm. Mr. Simmers seconded the motion. The voice vote was unanimous in favor.



Ann Bell, Zoning Board Secretary



Beth Portocalis, Zoning Board Recording Secretary