

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

**15 September 2021 - 7:00 pm
Public Safety Building, 91 Union St. & via Zoom On-line Conference**

Attorney Christopher Norman called the meeting to order at 7:06 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: Cocivera, Hamilton, Meehan, Pullman, Rickards, Simmers, Symons, Umba, Wolf
Absent: None
Professional Staff: Appointed Attorney Christopher Norman, Engineer Christopher Noll, Planner Michelle Taylor, Secretary Beth Portocalis

MINUTES:

August 18, 2021 Regular Meeting – Vice Chairman Cocivera made a motion to approve the August 18, 2021 Zoning Board Regular Meeting minutes. Mr. Wolf seconded the motion. Mr. Rickards abstained. A unanimous voice vote of the other members (6-0) carried the motion.

CORRESPONDENCE: None

RESOLUTION TO BE MEMORIALIZED:

Carlie Cattanea, 12 East Lake Circle, Block 3804/Lot 5, ZVE-1098 Resolution #2021-30
Memorialization of Bulk Variance approvals to construct a new addition of 477 sf and landing with handicap ramp 129 sf; building coverage 22 % existing, 26% proposed, 12% permitted; lot coverage 29% existing, 33% proposed, 30% permitted; rear yard setback 19.33' existing, 9' proposed, 50' required; front yard setback 44.56' existing, 44.56' proposed, 50' required; first side yard setback 14.85' existing, 14.85' proposed, 30' required; second side yard setback 3.94' existing, 3.94' proposed, 30' required, with landing and ramp .42' from side yard property line.
Zone: GD

Recorded Vote:

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

APPLICATIONS/OFFICIAL

DePetris Family Associates 2, LLC, 2702.01/12.03, 207 Tuckerton Road, ZVE-1044

On remand from the Superior Court of New Jersey, applicant is seeking a Use Variance to demolish the existing PNC Bank and build a 4,846 sf building containing up to three tenants, including a fast food restaurant with a drive-thru, and up to two other retail tenants. Applicant is also seeking Bulk Variance approvals as required for lot area whereby 0.898 acres is provided, 0.912 existing, one (1) acre is required for CC Zoning District and 2.5 acres is required for a

fast-food restaurant with a drive-thru; for lot frontage whereby 179.69' is existing, 153.9' is proposed, and 300' is required for a conditionally permitted fast food with drive-thru use; for front yard buffer whereby 19.9' is proposed and 40' is required; for rear yard buffer whereby 7.9' is existing, 11.2' is proposed and 15' is required; for parking spaces whereby 25 are proposed and 87 are required; for side yard setback 39' existing, partially 15' provided, 15' required; lot coverage 63% existing, 62.9% proposed, and 60% is permitted. A Variance is required to provide parking spaces in the required buffer area of 40'. Proposed signage requires Variance relief for facing two public rights-of-way, whereby the sign ordinance only allows signs to face one public right-of-way; and for two walls signs for each tenant, whereby the sign ordinance allows one wall sign for each tenant. **Zone: CC**

SWORN: Robert Baranowski, Esq., Hyland, Levine & Shapiro
Gregory Elko, PE, Langan Engineering
Nathan Mosley, Traffic Engineer, Shropshire Associates
James Miller, PP, Planner
James, Steven & David DePetris, Applicants/Owners

Christopher Norman, former Board Attorney and Township appointed attorney for the litigation, opened the testimony by summarizing the history of the application from the denial of the original application by the Board through the appeal process and the Appellate Court Judge's decision to remand the application back to the Board. Her decision was specifically to hear more testimony on the applicant's late offer during the original meeting to prohibit left turns out of the site onto Taunton Boulevard during the peak hours of 7:00-9:00 am. Mr. Norman instructed the public that all testimony during public comments at the original hearing was still a part of the record, and further, that any comments at this meeting should only be specific to this new testimony and amended documents submitted. He also instructed that public comments should only be on this block & lot and this proposed development.

Mr. Baranowski opened the applicant's testimony. He reiterated Mr. Norman's comments about the Appellate Judge's decision regarding the left turns onto Taunton Boulevard from 7:00-9:00 am, a peak timeframe according to the traffic study conducted. He stated that the decision allowed the applicant to amend the application, which the applicant's have done. The revised application submitted to the Board calls for a total of 4,900sf in total, with 1,804sf allocated for the Dunkin Donuts inclusive of a drive-thru. There is now proposed to be two additional tenants instead of three, and the applicant will accept a condition that only one other tenant will be an eatery—i.e. a sandwich shop. (without a drive-thru)

In addition, Mr. Baranowski continued the queue length for the Dunkin drive thru has been increased, and the impervious surface coverage now conforms to the 63% as permitted. The applicants also agree to conform to the Board Planner's review letter comments regarding the architecture and building aesthetics for the height of the building, roof peaks and the like. The applicant's testimony will focus on the changes from the original application, and offer more testimony on the traffic and left turns onto Taunton.

Gregory Elko, the Applicant's Engineer, was next to testify. He referenced his revised site plan dated August 9, 2021, and summarized the changes from the original plan. Specifically, he called attention to the 25% reduction in the square footage to 4900sf, and the elimination of one tenant space. Any other eatery/sandwich shop will be limited to no more than one, and that one tenant space will be no more than 2,000sf. The parking spaces provided have been reduced from 29 spaces to 25 spaces, but there will be one less tenant. In addition, the queue for the Dunkin drive thru has been increased to eleven (11) vehicles.

In terms of site amenities, there will be a 6' wide sidewalk providing pedestrian connections along both Taunton Boulevard and Tuckerton Road. There is also proposed a plaza near the corner with benches. Per Section 411 of the Land Development Ordinances (LDO), this type of feature permits an applicant to have a maximum of 63% impervious coverage, whereby without it the maximum would be 60 percent. The original application called for 71% of impervious coverage. Mr. Elko noted there is some inconsistency with Section 602 of the LDO.

Mr. Elko continued that the lot is non-conforming to the Community Commercial (CC) Zone District, and the County is requiring an additional 610 square feet of Right-of-Way dedication. There are no other changes to the original application for existing site conditions in terms of the need for variance relief for lot frontage, etc.

Mr. Simmers inquired about the signage for the no left turn prohibition from 7:00-9:00 am; and who would have enforcement. Mr. Baranowski replied that there will be testimony about this, but the applicants propose to grant Title 39 powers to the municipality who can then enforce it.

Nathan Mosley, Traffic Engineer, was next to testify. He referenced his updated traffic report dated August 12, 2021. This report included projections for build out of currently vacant commercial space in 2022 and beyond. He also updated the trip analysis, with the number of trips reduced due to the overall reduction of the square footage of the proposed commercial space. His report also includes an updated level of service analysis, in which the level of service fell from a "C" to a "D." The level of service is reflective of the time to make turns, which fell by only a couple of seconds, but the new time does rate as a "D."

Mr. Mosley continued that the design to increase the queue did not impact any circulation on-site. Compared to the Dunkin on Route 70 and the one at Route 541 & Church Road pre-COVID, the queuing during the weekday PM peak was 17 percent higher than the AM peak. (400-450 cars per hour average) so the Dunkin being heavy in the AM during the peak is less of an impact. IN addition, it is expected that at least three out of the four vehicles that access the site will have already been on the roadway, and are counted as pass-by visitors.

Mr. Norman asked specifically about the left turns; to which Mr. Baranowski responded that Mr. Mosley will address that in his testimony.

Chairwoman Symons asked Mr. Mosley how much future growth he incorporated into his report. The Chairwoman noted that the Planning Board and Council have designated the commercial

areas of the Taunton & Tuckerton intersection as an Area in Need of Redevelopment, which is anticipated to facilitate additional commercial uses. Mr. Mosley stated he referred to national standard charts that anticipate 1-3% growth.

Mr. Mosley continued that the County Planning Board also asked for a left turn analysis on both roads, as they are both under their jurisdiction, and he will submit his same report he prepared for this Board to them. The County has indicated they will want a new left turn lane in the northbound side of Taunton Road into the site, which will be accomplished by re-striping.

Vice Chairman Cocivera stated that if a vehicle is headed north on Taunton Road, and enters this new left turn lane, it will still need to go across three lanes of traffic to access the driveway entrance. He asked Mr. Mosley how he accounted for that. Mr. Mosley responded that the County will have to evaluate that turn. He admitted that this left was not incorporated in the analysis since the majority of the traffic entering the site is expected to be the pass-by traffic along Tuckerton Road, and that only seven (7) additional vehicles per hour are anticipated to make that left turn during the hours' studied.

Mr. Mosley responded that a "courtesy queue" is expected that will allow those turning left in the northbound lane to make the turn. Multiple Board members expressed their opinions that this will not occur, as the traffic stacks so far back already, and during the peak hours it's fairly consistent that drivers must wait thru multiple lights in order to get thru the traffic light at the intersection. Mr. Umba noted specifically that during the PM rush, traffic headed southbound on Taunton stacks all the way back to Middlegate Drive at Taunton Trace. So those leaving the site during the PM peak would also have to rely on a 3-lane courtesy queue to turn left and continue north on Taunton. He opined that this is both dangerous since a driver cannot see on-coming traffic, and also unrealistic that three drivers will all simultaneously stop to allow a vehicle to exit during either the AM or PM peaks.

Mr. Mosley noted that there are other options to avoid making a left turn exiting the site, but did not offer any specifics.

Chairwoman Symons asked for a 5-minute recess at 8:15 pm. The meeting resumed at 8:22 pm.

Mr. Mosley continued with his testimony that the other uses at this location will generate an average of 17 trips per hour, which will be off the peak hours of the Dunkin. Mr. Noll noted that the Saturday peak trips in the report are noted to be much higher.

He concluded his testimony that he lives and works in the area, and knows this intersection well having transversed it at many different times. He and his firm have studied many Dunkin Donuts and similar use sites, and this one is suitable for the proposed development.

Mr. Miller was next to testify. He too summarized the positive criteria, specifically how the proposed changes to the revised site plan are better suited to the parcel. The reduced square footage lowers the intensity of the use; there is a 24% reduction in the gross floor area, the on-

site circulation is superior to the original plan, inclusive of the increased queue. He also discussed how the pandemic has heightened the need for drive thru services; how what was once customary and incidental is now vital. Dunkin Donut coffee shops on average experience 78% of their business being conducted via the drive-thru; and coming out of COVID these percentages are even higher. Reduced availability of staff has left many Dunkin shops serving customers via the drive-thru only.

Mr. Miller touched on the Township's recently adopted Redevelopment Plan, which reinforced the goal for adaptive re-use of vacant commercial properties in the CC Zone located in the study area. The applicant's willingness to comport to the Township's design standards and to also present the first rehabilitation of a vacant commercial property also meet the positive criteria standards.

In regards to the negative criteria, the proposed site plan offers no intent or degradation of the community commercial zone plan. There will be no detrimental impact on any of the adjoining properties, which are for the most part undevelopable wooded wetlands. Mr. Miller acknowledged that the use will have an impact on traffic, but the zoning is community commercial, which assumes that development in and of itself will generate traffic.

Mr. Miller concluded that the proposed application is consistent with the CC Zone District requirements and with the Redevelopment Plan.

Mr. Umba asked if Mr. Miller had an opinion on curbside pick-up, a newer service offered by both food establishments and retailers. Business locations have started to dedicate parking spaces for curbside pick-up, and with the applicant stating there is a strong possibility of a second restaurant/sandwich shop type business, how would this impact the parking, especially since the applicant is seeking a variance for a significant reduction in the number of parking spaces?? Mr. Miller responded that curbside would most likely reduce the need for parking spaces since they will turn over more quickly.

Vice Chairman Cocivera asked about the density. The LDO calls for a 2.5 acre site for a fast food restaurant with a drive thru. This site is less than one acre. Medford has specifically included this requirement in the Master Plan and also in the new Redevelopment Plan. Mr. Miller replied that his testimony stands—the site is conducive to the proposed development and use.

Mr. Baranowski commented that the applicants have no intent to lease to a tenant who would take up all the parking (for example-Panera who typically requires 4,000sf) Any restaurant will be 2,000sf or less, more typical of a sandwich shop. As to density, the applicant has not requested a density variance. The Board considered and treated this application as a d(1) variance, whereas the Courts looked at it as a d(3) use variance.

Chairwoman Symons called on Board Planner Michelle Taylor for her comments. Mrs. Taylor referred Board members to her review letter on September 3, 2021. On page 3 of her letter, she stated that the Master Plan does not specifically address the conditionally permitted use of fast

food restaurants or the conditional use standards which accompany the use. The Community Commercial Zone district requirements in Section 411 at the time of the remand are still in effect, which does require a d(1) use variance to permit a fast food restaurant, as defined, which did not exist as of June 1, 1992 and therefore is not a permitted principal or conditional use in the CC District (Section 411.A.20 and Section 203/Definitions. The Redevelopment/Rehabilitation Plan adopted changes to the underlying zoning; however fast food restaurants with a drive-thru remain as a prohibited use and were specifically excluded.

Mrs. Taylor continued that her letter also states that although the conditional use requirements do not technically apply; the Board may wish to look to those requirements to inform their review of the use variance application. Mrs. Taylor also delineated the variances and waivers required, which are stringent and which this application does not meet without the granting of same.

Mrs. Taylor concluded by summarizing her general comments delineated on pages 4 and 5 of her review letter that Board members must ultimately decide if the proposed use promotes the intent of the Zone requirements in the LDO and satisfy the intent and purpose of the Master Plan and Redevelopment Plan.

Chairwoman Symons then asked the Board Engineer Christopher Noll to comment. Mr. Noll referred to his September 9, 2021 review letter, which are primarily about the traffic, parking and on-site circulation. His letter did recommend the approval of submission waivers for the proposed buffer and landscaped areas and environmental impact statement. Several of his traffic comments on page 2 of the letter were addressed during the testimony; however, comment 2 regarding the left hand turn study onto Taunton Road has not been provided to the County nor was it clear in Mr. Mosley's report or testimony. Per his comment #3, the applicant's traffic engineer analyzed the retail space as a "shopping center." This is a very broad land use for 3,096sf of retail space plus the 1,800sf Dunkin space. The traffic engineer's report requires a better analysis using potential uses for the 3,096sf of space with trip generations for these uses; along with accompanying traffic and parking analysis for said uses. It is Mr. Noll's stated opinion that no credit should be given for pass-by or internal capture for the retail uses as the end user has not been identified. Mr. Mosley did respond to Mr. Noll prior to the meeting stating that the shopping center use is most conservative. However, he would like the traffic engineer to provide examples of uses typical of an area of 3,096sf (i.e. pet store, hardware store) and how their trip generation and peaks would relate to a Dunkin.

Mr. Noll noted the traffic numbers are significantly higher at the AM peak and Saturdays. There was no mention about the effect of mobile ordering either in the report. It was his opinion that the traffic engineer should look at the Dunkin, a 2000sf restaurant, and 1900sf of retail in the aggregate, as those traffic counts would be much higher than a shopping center. He further referred to his review letter about the level of service at the intersection currently operating at a level "F" during both the AM and PM peak hours, and during the Saturday peak hours will drop to an "E."

Lastly, Mr. Noll concluded that the trash enclosure and how trash collection would need to be addressed, and recommended a cross-easement for a potential future connection to the adjacent lot to the west (Lot 12.02).

PUBLIC: Mr. Umba made a motion to open the application to the public. Vice Chairman Cocivera seconded. The voice vote was unanimous in favor.

Derrick Minor – 55 Oakwood Drive. He is opposed to the application. Living so close to the intersections, he has witnessed the chances that drivers take all the time making lefts into the existing businesses, as well as the accidents that have occurred. He asked if the Board can consider oversaturation, given the number of coffee shops in Medford, to which Mr. Norman responded no—the Board has no statutory authority to limit the number of any type of commercial development.

Jeffrey Wagner – 3 Shannon Court. He is opposed to the application. He rhetorically asked if this proposal is inherently beneficial, and stated not on this site. There were many assumptions made about traffic and traffic safety. Areas with channelization prohibiting left turns (ShopRite, Dunkin at Rt. 541 & Church Road) he has personally observed where the signage is routinely disregarded resulting in numerous violations. He has also personally observed where the queuing at other drive thru coffee shops (the aforementioned Dunkin & the Starbucks on Stokes Road) has gone all the way into the roadway, blocking traffic and resulting in numerous accidents. As a retired Lieutenant for the Medford Police Department overseeing traffic safety, and is a 49-year resident who has witnessed Medford's growth. He has investigated many serious accidents where drivers have attempted to make lefts in and out of prohibited areas. He stated that making a left onto Taunton Road/Boulevard at any time of day is risky, as drivers cannot see on-coming traffic due to the number of lanes. A left turn into the site is also going to be challenging as the traffic stacks for multiple hours during the AM rush and the PM rush, which starts early in Medford due to school dismissals. Mr. Wagner also reiterated the intersection is rated as an "F" based on delays, and this proposed development will surely exacerbate the conditions, as pass-by drivers on Tuckerton will slow down to turn right into the site or slow to avoid drivers making a right exit onto Tuckerton. In regards to courtesy turns, Mr. Wagner said his experience has shown that perhaps one driver may let a driver in to turn, but that driver still cannot see the other oncoming lanes. A prime example of where this occurs in the McDonalds on Stokes Road, also the scene of many accidents from this very same situation.

Mr. Wagner also commented on the variances requested; there is a reason why the Township requires 2.5 acres for a fast food restaurant with a drive-thru; so this proposal seems as if too much is being squeezed on the site of less than one acre. He also mentioned that less than 30% of the parking spaces required are being provided. This proposal does not fit the intent of the zone plan, nor does it embrace the rural characteristics of the Township since there will be no greenery. This will not benefit the surrounding neighborhoods, as there is already other retailers and restaurants that offer the same type of menu items.

Mr. Wagner also pointed out the Mr. Mosley made a comment that if drivers opt against making a left turn exit onto Taunton Road, there are other options. These other options include cutting thru the Hoot Owl neighborhood where he resides, an older development where the roads are not wide enough to accommodate any added traffic, and there are no curbs or sidewalks and the houses are close to the roadways. Mr. Wagner also took exception to Mr. Mosley's comment that the left turn prohibitions are common around the country. Mr. Wagner noted that he has read many articles about resulting traffic issues nationally caused by drive-thru coffee shops, even mentioning one referring to \$162 cups of coffee where Police had repeatedly been compelled to issue summons for illegal left turns in and out. He concluded by stating that it is his professional opinion that this is not a safe location for a coffee shop with a drive-thru, or an appropriate use for the zone district.

Julia Adams- 42 Oakwood Drive. She is opposed to this application. She stated the applicants and those testifying on their behalf do not live here. She has resided in Medford for 15 years and has adult drivers in the family, all of whom have witnessed the traffic in the AM & PM peaks. This proposed development is not a benefit to the surrounding neighborhoods. She is also concerned about the trash that will be generated from the site, as the Wawa already creates a lot of trash strewn on the surrounding roadways. She also seconded Mr. Wagner's comments about the traffic stacking on roadways at other coffee shops in and around Medford.

Thomas Wolfe – 97 Taunton Road. He is opposed to the application. He lives almost directly across the street from the parcel and concurred about the trash issues from the Wawa. He stated that there have been instances where it has taken him up to 10-15 minutes to exit his own driveway. He said there is no courtesy, he has to routinely muscle his way into the roadway. There is stacking and traffic delays all day long. He has even witnessed the southbound traffic on Taunton Road back up all the way to the Hartford/Himmelein/Taunton intersection.

Kathy Duffy-8 Cedar Falls Drive. She is opposed to the application. She likened the proposed development to "fitting a square peg in a round hole." The proposal simply will not work in this location. If it was further down Tuckerton Road away from the intersection, it would be a better location.

Barbara Gardner – 228 Forest Avenue. She is opposed to the application. She stated the intersection is already congested and there is already too much traffic. There is no ability to make a left into or out of the site from Taunton Road. She avoids the Wawa on Tuckerton because of the safety concerns with those attempting to make left turns in and out there. She is pleased the application proposed sidewalks.

MaryAnn Brookes – 38 Red Oak Trail. She is opposed to the application. She stated to the Board members that they also need to focus on Tuckerton Road. Drivers will be accelerating when headed westbound when the light turns green at the intersection, then will have to slow for vehicles turning into the site and/or for cars exiting the site. This could also be a potentially dangerous situation with potential for collisions.

Jill A. Neall – 208 Taunton Blvd. She is opposed to the application. She stated its obvious to everyone who travels this intersection that its inherently dangerous. She has lived at this address for 38 years and seen the changes in the traffic. The increased traffic is becoming a blight on the Lake Pine neighborhood. People moved here for the peace and natural beauty. She asked how this development would complement the natural surroundings. She also asked why there had been no discussion about the dangers to anyone using the bike lane along Taunton Road which ends at Tuckerton. If a driver is making a left into or out of the site, anyone using the bike lane could be hit. She concluded by stating that it is apparent that no residents want this proposed development on this site. The application is driven by the owners' profits at the expense of Medford residents.

Julie Adams - made additional comments that no single person who has testified as the most affected by this proposed development wants this to be approved.

Stephanie Moore – 2 Georgia Trail. She is opposed to this application, and stated that there is not one positive aspect of this application. She concurred with the comments about the traffic, the trash and the other vacant properties.

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

As the Board typically adjourns meetings at 10:00 pm, Chairwoman Symons asked Board members if they would be willing to continue with the meeting. Mr. Umba made a motion to continue with the application to bring it to a close. Mr. Rickards seconded the motion. The voice vote was unanimous in favor.

Mr. Baranowski asked David DePetris to make comments on behalf of the DePetris family, the owner/applicants. Mr. DePetris opened his testimony by listing the new leases in the Village at Taunton Forge Center, located across the street at 200 Tuckerton Road, which his family also owns. He agreed that there is a lot of traffic, but opined that Medford lives “inside of the community” and supports the various community commercial zone districts in and around the Taunton & Tuckerton intersection and along Stokes Road. If all of the commercial development was directed to the State Highway/Route 70, there would be even more traffic generated. He noted that the intersection has nothing architecturally significant in terms of commercial properties, other than the improvements they have made at the Taunton Forge Center. This intersection is the “gateway” to the southern side of Medford, and no other commercial development or improvements are taking place except at the Taunton Forge Center. There are just older buildings and paving. There are no sidewalks, no benches nor other amenities of note. He further stated the retail world is changing due to COVID, and is not ever expected to return to the way things were. He offered that this new center’s design will be architecturally relevant and will be an impetus for additional redevelopment. Mr. DePetris concluded his comments by stating that the number of coffee shops in Medford provide drivers with options, and he personally would opt to go to another location if he didn’t want to chance making the left turn in or out.

Mr. Baranowski briefly summarized the testimony by reiterating that the applicants have made changes to address the two main reasons for the original denial, and have agreed to make additional aesthetic changes to the architecture per the Board professional's recommendations for the good and welfare of the community. He asked the Board members to follow the criteria and recognize the changes made to the application based on comments from the original meeting and the Board professional's review comments.

Mr. Umba made a motion to deny the application. Mr. Hamilton seconded the motion.

Recorded Vote:

| | |
|-----------------|---|
| Ayes: | Hamilton, Pullman, Rickards, Umba, Wolf, Cocivera, Symons |
| Nays: | None |
| Abst.: | None |
| Motion carried: | 7 - 0 - 0 |

GENERAL PUBLIC:

Mr. Umba made a motion to open the meeting to the public. Vice Chairman Cocivera seconded. The voice vote was unanimous in favor.

No one from the Public spoke.

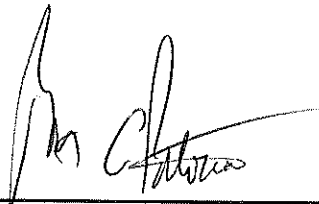
Mr. Umba made a motion to close the general public portion of the meeting. Mr. Hamilton seconded the motion. The voice vote was unanimous in favor.

EXECUTIVE SESSION: None

ADDITIONAL ACTION(S) BY THE BOARD: None

MOTION FOR ADJOURNMENT:

Mr. Umba made a motion to adjourn the September 15, 2021 Zoning Board of Adjustment meeting at 10:15 pm. Mr. Hamilton seconded the motion. The voice vote was unanimous.



Beth Portocalis, Zoning Board Secretary & Recording Secretary