

RESOLUTION OF APPROVAL
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Decided: June 1, 2016
Memorialized: July 6, 2016

NM FOOD CORPORATION D/B/A MANHATTAN BAGEL
Amended Site Plan Approval
With “c” Variances
575-581 Northfield Avenue
Block 168, Lot 30
PB-16-08

WHEREAS NM Food Corporation d/b/a Manhattan Bagel (the “Applicant”) having an address at 1275 Bloomfield Avenue, Building No. 5, Unit 22, Fairfield, NJ 07004 having made application for Amended Site Plan Approval with “c” Variances for premises at 575-581 Northfield Avenue, West Orange, NJ also known as Block 168, Lot 30 on the tax map of the Township of West Orange (the “Premises”); and

WHEREAS the Board having conducted a public hearing on this application on June 1, 2016; and

WHEREAS the Applicant having appeared by its attorney Robert C. Williams, Esq., and by witnesses Jose Carballo, RA and Gerardo Donatiello, and the Board having received a review letter from Paul Grygiel, AICP, PP, Township Planning Director dated May 20, 2016, and having deliberated on the merits of the application, and having granted an opportunity for public comment;

IT IS HEREBY RESOLVED:

EVIDENCE SUBMITTED

In summary, the following evidence was received and/or introduced in connection with this application:

1. A Planning Board application, and the following:
 - i. Proposal (1 Sheet), Schedule 4F – Exhibits to Application;
 - ii. Resolution of the Planning Board dated November 5, 1986;
 - iii. Resolution of the Planning Board approving variances dated November 5, 1986;
 - iv. Planning Board Resolution dated August 15, 1990;

fence and landscaping. An existing pay telephone in this area would be removed. Applicant proposes 7 signs including 3 on the awnings and 3 on the side of the building. Applicant also seeks to use letters which are 20" tall, although the Ordinance only permits 8" tall letters.

Responding to Board questions, Mr. Carballo acknowledged that bollards would be added on the east side of the building to protect the new seating area from vehicles in the parking lot. Mr. Carballo further noted that although the new outdoor seating area will be impervious, that the site is still under the lot coverage maximum. When asked about why Applicant needed so many signs he testified that the building is setback from the Avenue and is narrow and the signs will help promote visibility for the store.

5. Applicant called Gerardo Donatiello who testified that he is a principal of Manhattan Bagel, the proposed tenant. He answered that the equipment on the roof would be the same as was there for the previous tenant Dunkin Donuts and that the equipment would not exceed the height of the proposed parapet wall. He noted that Applicant would also be willing to install bollards on the east side of the store to protect the building from vehicular traffic and the parking area.
6. During public comment an individual requested that Applicant maintain the existing pay telephone or provide Wi-Fi service at the store.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. The Premises are located in the B-2 Zone which permits retail stores.
8. Applicant seeks to amend site plan to permit the conversion of a 1,600 sq ft space previously occupied by Dunkin Donuts into a bagel shop with eat-in and takeout service. New seasonal outdoor patio seating is also proposed.
9. The property is located along the commercial stretch of Northfield Avenue across from the South Mountain Recreational Complex. To the east is a McDonald's Restaurant to the west is a BP Service Station.
10. The store is currently vacant and restoring it to occupancy will further the goal of promoting business uses in the B-2 zone.
11. The application requires variances as follows:

	Required/Allowed	Proposed
Maximum Height of Fence in Front Yard	4 ft	5 ft

Building Signs	1 on the principal façade of the use is allowed	3 façade signs and 3 awnings signs
Maximum Number of Signs	4 signs of all types	6 signs are proposed
Maximum Height of Awning Sign	8"	20"

12. The Board finds that the variance relief sought can be granted on “c(2)” grounds because the public benefits outweigh any detriments. The Board finds that signage is needed for this location given the narrowness of the building, the manner in which it sits sideways to the street, the distance from the building to the street, and the desire to make the location easily visible for traffic along a busy 4-lane commercial avenue. Applicant has voluntarily reduced the height of the fence which buffers the outdoor seating from 5 ft to 4 ft thereby eliminating that variance. The Board finds however that not all of the sign proposed are needed and suggests that the awning signs on the west side of the building be eliminated. The Board finds that the proposed retail store will function with this amount of signage. The Board finds that the restoration of occupancy at this site will promote business development along Northfield Avenue which is a goal of the Master Plan. The Board finds that the proposed variances create little, if any, detriment to the public good nor substantial impairment of the zone plan and ordinance. Applicant seeks to redevelop the store with a new tenant, provide new landscaping, provide an outdoor seating area and provide bollards for safety purposes all in connection with an attractive redesign of the store. The Board finds the benefits of the proposed improvements outweigh the detriments and that the variances are therefore warranted.

THE DECISION

WHEREAS, the Board, having reviewed the application for Amended Final Site Plan approval and associated variance relief and having considered the impact of the proposed application on the Township’s master plan and zoning ordinance and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the land use and zoning ordinances of the Township of West Orange and the Municipal Land Use Law; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that the application for Amended Final Site Plan approval with variance

relief as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is granted subject to the following conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.

2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.

3. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

5. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.

6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

7. Applicant agrees to install bollards 6 ft on center on the eastern side of the proposed outdoor seating area and also in front of the storefront all subject to the review and approval by the Township Planner.

8. Applicant shall eliminate the awnings on the west side of the store, but leave the sign which says "Manhattan Bagel".

9. The new fence next to the outdoor seating area will be no more than 4 ft in height.

Certified to be a true copy of the Resolution adopted on the 6th day of July 2016.



Robin Miller, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BAGOFF		*	*			
CARLUCCI			*			
EBEN			*			
GHEBREMICAEL			*			
GURLAND			*			
KLEIN (1 st alt.)			*			
LESTER						*
MCCARTNEY			*			
WEGNER (2 nd alt.)			*			
WILKES						*
WESTON	*		*			

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BAGOFF		*	*			
CARLUCCI						*
EBEN			*			
GHEBREMICAEL			*			
GURLAND						*
KLEIN (1 st alt.)			*			
LESTER						
MCCARTNEY						*
WEGNER (2 nd alt.)			*			
WILKES						
WESTON	*		*			