



October 20, 2025

West Orange Township – Zoning Board
66 Main Street
West Orange, NJ 07052

Re: *MPB Realty LLC – Planning Review #4*
470 Eagle Rock Avenue
Block 153, Lot 38
Zone: B-2
Our File No. WRZ0153.V01

Dear Chairman and Board Members:

This is our fourth review of this application. For prior comments and zoning information please see our previous planning review letters dated October 29th, 2024, March 17, 2025, and September 12th, 2025.

The applicant has provided revised materials in response to comments received from the Board at the September 18th, 2025 Zoning Board Hearing.

The revised plans and materials provided below indicate the following changes from the previous submission reviewed by our office:

- The architectural plans have been revised to indicate the locations and types of HVAC systems on the roof of the building.
- A sustainability checklist form has been completed to indicate the degree of which the proposed building uses sustainable design and building practices.
- Additional sound level samples from the surrounding residencies were collected on September 29th, 2025 to measure the sound levels from the HVAC units and exhaust fans. The supplemental memo indicates that the applicant believes that sound levels will not exceed any state limits.

1. Project Summary

The property is located on the corner of Eagle Rock Avenue and Rosney Terrace. The applicant is proposing to develop the property with a combination Popeye's fastfood and drive-thru restaurant and a IHOP restaurant, primarily within the existing building on site that was previously used as a Chinese restaurant. D-3 conditional use variances are required to permit the fast food restaurant on the property as proposed, along with other variance relief.



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2. Variances & Waivers Required

It appears that the following conditions are not in compliance with the Township's land development regulations and may require variance or design waiver relief from the Board to permit the project as proposed:

- a. **§25-24.2.b.2(i) Conditional Use** – The following conditional use standards are not met. These are d-3 conditional use variances:
 - 1) The Popeyes will be located within 500 feet of the lot that contains another fast food restaurant.
 - 2) The Popeyes will be located within 1,000 feet of a residential district.
 - 3) The Popeyes has less than 200 feet of frontage on a corner lot.
 - 4) An entrance driveway will be located less than 100 feet from an intersection.
- b. **§25-Attachment 3 Impervious Cover** – The maximum permitted impervious cover of 60% will be exceeded. *75.7% is proposed.*
- c. **§25-11.14(j) Drive Thru Uses** – Any restaurant containing a drive-thru window service must be situated on a lot of at least 5 acres. The property is 1.07 acres in area.
- d. **§25-8.1.a Accessory Uses** – No accessory structures or uses are permitted in a front or side yard, where the parking lot is proposed within the front yard.
- e. ~~**§25-8.1.b Accessory Structures**~~ – ~~Accessory structures are required to be setback a minimum of 10 feet from any property line, where the garbage dumpster will be 9.4 feet from the rear property line.~~ *The garbage dumpsters are now proposed to be 14 feet from the eastern property line and 28.9 feet from the southern property line.*
- f. **§25-11.3.a Buffer** – A buffer of at least 50 feet in width is required where a non-residential use abuts a residential use in a residential district. A buffer of 8.8 feet is proposed along the southern boundary line. However, it is not clear whether or not this applies, as it appears that the two residential properties immediately to the south are also located in the B-2 district and not in a residential district.
- g. **§25-12.1.b Curbing in Parking Lot** – Parking lots are required to be enclosed by a concrete curb and be a minimum of 5 feet away from any building walls, where the drive-thru curb will be directly adjacent to the building.
- h. **§25-12.1.I Parking in Front Yard** – Parking is not permitted in a front yard.



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- i. **§25-12.3.a.2 Loading** – At least one off-street loading space is required, where no designated loading space is provided.
- j. **§25-14.3 Lighting** – A minimum of 2.0 footcandles is required to be maintained in parking areas, where lighting levels will be as low as 0.6 footcandles in portions of the parking lot.
- k. **§25-15.3.C.2.b Signage** – One façade sign per business is permitted, where 8 façade signs are proposed, 4 for each business.
- l. **§25-15.3.C.2.b Signage** – The maximum permitted sign area for façade signs is 120 s.f., per business, where 139.0 s.f. of façade signage is proposed for the Popeye's.
- m. **§25-27.8.g Tree Replacement** – ~~With the removal of trees on site, a minimum of either 109 2" caliper trees or 49 2.5" caliper trees is required as replacement trees. 53 total new trees are proposed on site.~~

3. Planning Comments

- a. The applicant should provide testimony discussing the updated acoustical study and information as requested by the Board, and how the HVAC units on the roof of the building will impact adjacent residences in terms of noise.
- b. The applicant should address the sustainability checklist provided, and any measures being taken to improve the sustainability profile of the project. We note that the applicant has indicated that no energy star certified appliances will be utilized. Does this refer only to the building construction and major HVAC systems selected, or would this also apply to the specific appliances that will be used by the Popeye's and IHOP? The applicant should clarify.
- c. All of our previous comments regarding the requirements for the d-3 conditional use variances and all other required bulk variance and design standard relief remain outstanding.
- d. We defer any comment on grading, drainage, utilities, and stormwater management to the Board Engineer.
- e. The applicant should address the status of any necessary outside agency approvals.



***Consulting & Municipal
ENGINEERS***

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If you have any questions about this report, please do not hesitate to reach out to our office.

Sincerely,

CME Associates

A handwritten signature in blue ink, appearing to read 'C. Dochney', with a long, sweeping horizontal line extending to the right.

Christopher N. Dochney – PP, AICP
Program Manager

cc: MPB Realty LLC – Applicant
Matthew Bersch, PE. – Applicant's Engineer
Robert A Grimaldi – Applicant's Architect
Mallory Clark – Applicant's Planner
Lewis Goodfriend & Associates – Applicant's Acoustical Engineer



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4. Materials Submitted

The following materials have been submitted and reviewed in association with this application:

- Application form and submission checklists dated July 1, 2024;
- Two (2) page application cover letter from Jason Tuvel, Esq. dated August 12, 2024;
- Twenty-one (21) sheet set of site plan drawings prepared by Dynamic Engineering, dated June 7, 2024, ***last revised August 22, 2025;***
- Two (2) sheet set of architectural drawings prepared by G 141 Architecture, dated June 12, 2024;
- Acoustical Evaluation report, prepared by Lewis S. Goodfriend & Associates, dated June 17, 2024, revised February 3, 2025;
- Drainage statement for subject property, prepared by Dynamic Engineering, dated June 2024;
- Environmental Impact Statement, prepared by Dynamic Engineering, dated June 2024, revised February 2025;
- Stormwater Management Operation and Maintenance Manual, prepared by Dynamic Engineering, dated June 2024;
- Traffic Impact Study, prepared by Dynamic Traffic, dated October 21, 2022, last revised June 4, 2024;
- Variance & Waiver Request List, prepared by Dynamic Engineering, dated June 7, 2024;
- Planning Report and Justification for Variances, prepared by Dresdner Robin, dated August 2, 2024, ***revised to September 5, 2025;***
- Tree Removal Report, prepared by Dynamic Engineering, dated June 2024, revised February 2025;
- Solid Waste Management Plan, prepared by Dynamic Engineering, dated June 7, 2024;
- Copy of Resolution PB-97-18, dated October 8, 1997;
- Copy of Resolution dismissing previous application without prejudice, dated March 21, 2024;
- One (1) sheet survey drawing prepared by Dynamic Survey, LLC, dated May 13, 2021
- ***Eight (8) page response letter prepared by Dynamic Engineering, dated September 8, 2025;***
- ***One (1) sheet sustainability checklist report;***
- ***One (1) page Rooftop Mechanical and Equipment Acoustical response letter prepared by Lewis S. Goodfriend & Associates, dated October 8th, 2025.***



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- ***One (1) sheet proposed rooftop mechanical and equipment plan prepared by G141 Architecture, LLC, dated June 6th, 2024, and last revised October 9th, 2025.***
- ***One (1) sheet cover letter provided by Dynamic Engineering, dated October 8, 2025;***