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March 16, 2026

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

Re: *MPB Realty LLC – Planning Review #6*
470 Eagle Rock Avenue
Block 153, Lot 38
Zone: B-2
Our File No. WRZ0153.V01

Dear Chairman and Board Members:

This is our sixth review of this application. For prior comments and zoning information please see our previous planning review letters dated October 29th, 2024, March 17, 2025, September 12th, 2025, October 20, 2025, and December 12, 2025.

The applicant has provided revised materials in response to comments from the Township Forester.

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

- The tree removal report has been revised to reflect that 43 trees will be removed from the site.
- The demolition plan has been revised to accurately depict the 43 trees that will be removed.
- The landscaping plan has been revised to swap out several species of proposed trees and shrubs and replace them with native species. The overall number and location of plant materials proposed has not changed, only the species selection.
- A revised planning report has been provided addressing variances and waivers being requested.

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 fast-food and drive-thru restaurant and an IHOP restaurant, primarily within the existing building on site that was



West Orange Zoning Board
Re: MPB Realty (Popeyes & IHOP)
Planning Review #6

March 16, 2026
Our File No. WRZ0153.V01
Page 2

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 bulk variance relief.

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 fast food restaurant will be located within 500 feet of a lot that contains another fast food restaurant.
 - 2) The Popeyes fast food restaurant will be located within 1,000 feet of a residential district.
 - 3) The Popeyes fast food restaurant 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. *75.0% 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 **11.8 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.



West Orange Zoning Board
Re: MPB Realty (Popeyes & IHOP)
Planning Review #6

March 16, 2026
Our File No. WRZ0153.V01
Page 3

- 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.
- 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. 64 total new trees are proposed on site, each with a minimum caliper of 2.5" per the landscape plans.~~
- n. **§28-4.e(1) Tree Canopy** – Each application for development shall preserve at least 50% of the tree canopy, where the majority of the existing trees on the site will be removed.
- o. **§28-4.e(8) Tree Cover** – A minimum of 50% of the area of a parking lot shall be covered in shade within 25 years, where less than half of the parking area will be shaded by the proposed trees around the parking lot.

3. Planning Comments

- a. The applicant should provide testimony discussing the proposed revisions to the plans and the changes that have been made in response to previous Board and professional review comments.
- b. The applicant's materials should be revised to be consistent in terms of the number of proposed replacement trees. The landscaping plans and the tree removal report indicate 64 total replacement trees, while the planning report notes 53 replacement trees.
- 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, and should be addressed through testimony and evidence by the applicant.
- d. We defer any comment on grading, drainage, utilities, and stormwater management to the Board Engineer.



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West Orange Zoning Board
Re: MPB Realty (Popeyes & IHOP)
Planning Review #6

March 16, 2026
Our File No. WRZ0153.V01
Page 4

- e. We defer any additional comments on landscaping and tree species selection to the Township Forester.
- f. The applicant should address the status of any necessary outside agency approvals.

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

Sincerely,

CME Associates

Christopher N. Dochney – PP, AICP
Senior Program Manager

cc: Geniece Gary-Adams – Township Zoning Official
Zayibeth Carballo, PE, PLS, PP – Township Engineer
Steven Warner, Esq. – Board Attorney
Alex Fisher, Esq. – Board Attorney
John Hess, PE, PP, CME – Board Engineer
Ryan MacNeill, PE – Board Engineer
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



West Orange Zoning Board
Re: MPB Realty (Popeyes & IHOP)
Planning Review #6

March 16, 2026
Our File No. WRZ0153.V01
Page 5

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 November 25, 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 ***December 5, 2025;***
- Variance & Waiver Request List, prepared by Dynamic Engineering, dated June 7, 2024;
- 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.***
- ***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;***



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West Orange Zoning Board
Re: MPB Realty (Popeyes & IHOP)
Planning Review #6

March 16, 2026
Our File No. WRZ0153.V01
Page 6

- ***Two (2) sheet cover letter addressing revised submission materials, prepared by Dynamic Engineering, dated December 8, 2025;***
- ***Three (3) sheet response letter prepared by Dynamic Engineering, dated March 9, 2026;***
- ***Two (2) sheet set of demolition, tree removal, and landscape plan exhibit, prepared by Dynamic Engineering, dated March 6, 2026;***
- Planning Report and Justification for Variances, prepared by Dresdner Robin, dated August 2, 2024, ***revised to March 2026;***
- Tree Removal Report, prepared by Dynamic Engineering, dated June 2024, ***last revised March 2026;***