

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF HAWTHORNE

WHEREAS, an application has been made to the Planning Board of the Borough of Hawthorne for preliminary and final site plan approval together with variances or waivers by the applicant, Hawthorne GG Corp, for property known as Block 8, Lot 8, located at 68-84 Goffle Road; and

WHEREAS, the applicant caused to be published and served notice of the application in form satisfactory to the Board's Attorney; and

WHEREAS, the Planning Board conducted a public hearing regarding the application for on August 17, 2021 and received both expert and lay testimony in support of the application including testimony from Matthew Clark, P.E., of MCB Engineering Associates, the project engineer; Gary Kliesch, R.A., of GK&A Architects; John Corak, P.E., of Stonefield Engineering & Design; and Hossam Sorour, the principal owner of the applicant; and

WHEREAS, the Board received into evidence the following documents submitted by the applicant:

A-1 Site Survey prepared by Lakeland Surveying dated March 23, 2020;

A-2 Preliminary and Final Site Plan, prepared by Mr. Clark, consisting of 7 sheets and dated November 19, 2020;

A-3 Steep Slopes Map, prepared by Mr. Clark, consisting of 1 sheet and dated November 19, 2020;

A-4 Proposed Dunkin Architectural Plan, prepared by Mr. Kliesch, consisting of 6 sheets and dated December 11, 2020; and

A-5 Traffic Report, prepared by Mr. Corak, dated June 5, 2021; and

WHEREAS, the Board also received reports and heard comments from the Board Engineer concerning the application; and

WHEREAS, the Board, having considered the documentary evidence, plans and reports submitted as well as testimony adduced during the public hearing in this matter makes the following findings of fact and conclusions of law:

1. The application involves the construction of 2,080 square foot single-story building to be used as a Dunkin store with drive-thru. The property is located in the B-3A Zone, which overlays the I-1 Zone otherwise applicable. The use is permitted in the Zone. In addition, by virtue of ordinance adopted by the Municipal Council, a drive-thru is permitted for a coffee-based business such as the one proposed.

2. The site is developed and contains thereon an existing Dunkin Donuts shop (the name has since changed to Dunkin) as well as a restaurant, now closed, known as Skuffy's Sandwich shop. The square footage of the two stores, which share a common wall, are

1,797 square feet and 1,804 square feet, respectively. The structures are to remain however the Dunkin business will be relocated to the new, stand-alone building.

3. The application was deemed complete by the Board however a waiver was sought by the applicant prior to commencement of the hearing as to the requirement that a topographic survey be submitted. The applicant contended that as a "mature" and largely developed site, such would not be of any particular use to the Board and would simply add to the cost of the development for no purpose. The Board granted such waiver to the applicant.

4. Mr. Clark described the location as being near the southwest corner of Goffle Road and Mohawk Avenue. There is access from Goffle Road as well as access from Mohawk Avenue through an easement behind the existing 7-11 on an adjoining lot. He described the area as mixed in use with commercial uses on three sides and residential uses to the rear. He testified that the former Dunkin Donuts shop would be converted to a permitted retail use while the former Skuffy's location would be continued as a restaurant.

5. Mr. Clark testified that the new building would be located to the rear of the site and contain 2,080 square feet of space. There would be a drive-thru lane and a by-pass lane. Required parking for the site, in accordance with the ordinance, would be 22 spaces. The applicant proposes 27 spaces, thereby

exceeding the requirement. Mr. Clark also noted that the Hawthorne Police Department Traffic Bureau, by letter dated August 11, 2021, took no issue with the application and expressed in its letter the thought that there would be an enhancement to the existing business parking and traffic flow in the area.

6. Mr. Clark testified that the rear of the property had a significant slope with residential uses being substantially "above" the site. The applicant proposes to cut-into the slope and will install retaining walls with a maximum height of 14 feet. Underground detention would be added to pick-up run-off from the newly added impervious coverage.

7. There are areas of concern that Mr. Clark touched upon. Fire flow and sanitary sewer capacity tests need to be provided. County of Passaic Planning Board approval has not yet been received. Lighting has been designed however it is a frequent policy of the Board to retain jurisdiction for up to one year in order to ensure adequacy and no spill-over onto neighboring lands. These would be conditions of approval if the application was favorably acted upon by the Board.

8. Questions were raised as to whether or not multiple buildings could be located on the same lot in the Zone. The agreed to answer was, yes, provided the uses are all permitted. A question was also raised as to whether or not the retaining wall,

at 14 feet, required the grant of a variance. This also appeared to be the case.

9. As to variances, the applicant seeks the following:

a. Hours of operation from 5 a.m. to 11 p.m. versus the 6 a.m. to 10 p.m. as permitted by the Ordinance.

b. Drive-thru lane width of 10 feet versus 12 feet required.

c. Order-board operation until 11 p.m. versus 10 p.m.

d. Order-board height of 10.04 feet versus 8 feet permitted.

e. Maximum front-yard set-back of 105 feet versus 35 feet, it being noted that the existing building is 32 feet from the property line.

f. Maximum impervious coverage of 74.4% versus 70% permitted, existing coverage being 50%.

f. Minimum buffer along property line adjoining residential uses, 5.8 feet versus 25 feet required.

g. Waiver of streetscape improvements due to insufficient work area.

h. Maximum disturbance in steep slope areas.

i. Maximum retaining wall height of 14 feet where 8 feet is permitted.

10. Mr. Clark addressed other concerns implicated by the

application. He noted that 37 trees would be removed. To the extent able, in-fill trees would be added. A planting strip is required in the zone in the front-yard. Given the existing improvements, such is not possible and a waiver is sought. Soil movement approval would be sought and again would be a condition of any approval.

11. It was noted during the proceedings by a member of the Board that Fire and EMS took no issue with the plan. Mr. Clark stated that if lighting becomes an issue, it would be addressed by the applicant after construction. Finally, he noted that the installation of defined streetscape elements such as a defined entrance and sidewalks are largely not possible given the very low curb and wide, poorly defined ingress and egress currently in place. It was agreed that if the County required a defined entrance, then streetscape elements such as sidewalks would be added if deemed appropriate.

12. Mr. Kliesch testified that the store would have 19 seats with no baking or frying on premises. He addressed the sign variances sought by the applicant, noting that three separate signs are requested. He testified that the total square footage of the signs was 67 square feet where the ordinance would permit 114 square feet and he therefore felt the variance was in keeping with the intent of the ordinance.

13. He testified that all lighting is internal or downwardly lit. He testified that the rooftop mounts, such as HVAC, could not be seen from Goffle Road. He noted that a free-standing pylon sign of 29.6 square feet is proposed which is substantially smaller than the 42 square foot sign on site. Finally, he testified that the digital menu and order board are all standard for Dunkin and he did not feel the grant of a variance would have any negative impact given the distances to existing homes or businesses.

14. Mr. Corak testified that it has been common for Dunkin to relocate a store on the same site so as to accommodate a drive-thru. He looked at the site as reconfigured in terms of ITE standard and found no significant increase to the road system. He noted that the drive-thru permitted stacking of 7 vehicles and felt that was adequate for the site. He felt that the distance from Goffle Road to the store would add a natural additional stacking feature to prevent spill-over onto the road. He agreed to provide a turning radius analysis for emergency vehicles.

15. Finally, Mr. Sorour testified. He has been a member of the Hawthorne business community for a number of years and wanted to remain in this location. He noted the need to compete with surrounding Dunkin stores like Haledon, which is 24 hours, and North Haledon, which has expansive hours. He felt the 5:00 a.m. to

11:00 p.m. times were necessary to be competitive and felt there is a market for this use at those times. He agreed nevertheless to revisit the hours of operation after one year and make adjustment if appropriate. He agreed that deliveries would be made during those times and would typically take place once per week between 11 a.m. and 1 p.m.

16. Based upon the foregoing, there being no testimony from any neighbor in opposition, the Board determined to grant the preliminary and final site plan approval, together with variances and waivers. The Board sets forth the following as conditions to be met or basis for the action taken:

a. The applicant shall provide fire flow testing and sanitary sewer demand calculations to the Engineer for his review and approval.

b. The Board approves the lighting plan proposed however reserves the right to review the same for a period of up to one year following issuance of a final C/O so as to require modification by the applicant.

c. The Board grants waivers as to tree removal and planting, recognizing that there is limited ability to add plantings on the site. The applicant agrees to locate plantings where possible on the site.

d. The variance relative to hours of operation is

granted, the applicant demonstrating that the deviation is consistent with the industry standard and surrounding Dunkin stores. The Board nevertheless retains jurisdiction for one year following issuance of a final C/O to revisit this issue. Order board hours would follow this grant.

e. The variances for drive-thru lane width, order board height, and signage are granted, it appearing that the same are consistent with the Dunkin product and will not have an adverse impact on surrounding uses. As such, a C-2 variance can be granted as the deviation is slight and a better alternative to the requirements of the zone without negative impact.

f. The variances for impervious coverage and set-back from the road are granted, the same largely being dictated by existing development of the site.

g. As to the variance for minimum buffer, the Board notes that the residential uses sit significantly above the site and there is little purpose served by a horizontal buffer when there is a natural vertical buffer to eliminate or reduce any adverse impact of the development. As such, it may grant the variance.

h. The Board grants the waiver for streetscape improvements however repeats that noted above regarding County approval. If the County requires a more defined entry from Goffle Road, then the applicant shall be required to install sidewalks and

make other streetscape improvements as deemed feasible, practical and appropriate.

i. Finally, the Board grants the variances as to disturbance in steep slope areas and height of the proposed retaining wall. The same are dictated by the site conditions. Notwithstanding the same, the final wall design for the retaining wall shall be subject to review and approval by the Board Engineer.

16. Based upon the foregoing, the Board grants preliminary and final site plan approval, with variances and waivers as noted above. The improvement to the site would allow for viability of a long-standing use in the community through the addition of a drive-thru aisle. This modernization in and of itself is grounds for the grant of approvals including the variances sought. With adherence to the terms of this resolution, the Board finds that there is basis for the grant of all approvals sought without undue impact on the neighborhood or the zoning scheme.

WHEREAS, at its Regular Meeting of August 17, 2021, the Board approved the application for preliminary and final site plan pursuant to NJSA 40:55D-46, together with variances and waivers, subject to the preparation of a memorializing resolution;

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Hawthorne, for the reasons set forth on the record

and herein, that the Board does hereby grant Preliminary and Final site plan approval and variances and waivers as set forth herein.

The grant of approval hereunder is subject to the following terms and conditions:

1. Compliance with all terms and conditions of this resolution as set forth above.

2. Approval of such governmental agencies as may have jurisdiction over any aspect of the application including specifically the County of Passaic and the Hudson-Essex-Passaic Soil Conservation District as well as soil movement approval from the Borough of Hawthorne.

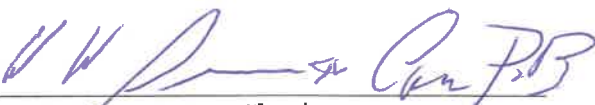
3. Submission by the applicant of revised plans, drawings or studies as required hereunder. These include fire flow testing, sanitary sewer calculations and retaining wall design.

4. The applicant shall add plantings where able and will install streetscape improvements where feasible, practical and appropriate if the County of Passaic requires a more defined entry from Goffle Road.

5. For a period of one year following the issuance of a Certificate of Occupancy for the site, the applicant may be required, at the discretion of the Planning Board, and based upon recommendation of the Borough Engineer, to modify lighting at the site and also modify hours of operation.

6. The applicant shall adhere to all recommendations of the Borough Engineer, to the extent not inconsistent herewith, as contained in his reports. These include specifically a snow storage plan that does not obstruct parking and installation of ADA compliant parking stalls. In addition, volume on the speaker at the message board shall be kept to an acceptable level so as not to impact and neighboring use.

The undersigned, Chairman of the Hawthorne Planning Board, does hereby certify the within to be a true copy of a Resolution adopted by the Planning Board on October 5, 2021.


WALTER GARNER, Chairman