

RESOLUTION NO. 2015-15

Applicant: Mahesh Patel - Parade Enterprises LLC
Burger King Restaurant and Retail unit
Property: 593 & 595 Route 73
Block 1002 Lots 10, 10.02 and 11

Preliminary and Final Site Plan Approval - with variance

RESOLUTION OF THE BERLIN TOWNSHIP PLANNING/ZONING BOARD
GRANTING PRELIMINARY FINAL SITE PLAN - WITH VARIANCE

WHEREAS. The applicant appeared before the Board on October 27th 2015, and is applying for preliminary and final Site Plan approval for property known as Block 1002 Lots 10, 10.02 and 11, and

WHEREAS. The applicant previously received preliminary final site plan approval February 24th 2015 (R-2015-8). The applicant never proceeded with the approvals, and

WHEREAS. The applicant has submitted a new site plan for approval, which plan has been reviewed by Charles J. Riebel Jr. P.E., P.L.S., P.P. the Engineer for the Board. The report of the Board's Engineer is dated October 21st 2015. Also, the report of the Berlin Township Fire Marshal/Official Joseph Cornforth dated October 23rd 2015. The applicant appeared before the Board and was represented by the law office of Spenser B. Robbins Esq., and

WHEREAS. Also representing the applicant was Mehesh Patel, owner/applicant, ECO Architects LLC Emmanuel Obiora RA, Key Engineers Gregory B. Fusco P.E., P.P., C.M.E, C.P.W.M., and

WHEREAS. The applicant provided the following reports;

- a. Preliminary Final Site Plan dated September 1st 2015 by Gregory B. Fusco P.E., P.P. with Plan of Survey dated October 27th 2015 by Robert Scott Smith P.L.S., P.P.
- B. Drainage calculations date September 1st 2015 by Gregory B Fusco P.E., P.P.
- c. Architectural building elevations and floor plans for the Burger King Restaurant and Shopping Center dated October 3rd 2015 by Emmanuel Obiora R.A. with color building elevation plan, undated.

WHEREAS. All intended witnesses were sworn-in by the Board Solicitor,

WHEREAS. The Board determined that the application is properly before the Board and the proof of notice and publication is appropriate, and

WHEREAS. The Board has received and reviewed all reports filed by the applicant and the Board engineer, and

WHEREAS. The site is located in the C-2 Commercial District. The proposed Retail uses are permitted uses in the C-2 Commercial District, and

WHEREAS. The applicant proposes one extended building to contain the Burger King Restaurant at 2,756 square feet and retail use at 1,207 square feet.

WHEREAS. The applicant has received and reviewed a copy of the Board Engineer's report. The applicant introduced a proposed building rendering, and proposed site plan. As part of the application, the applicant seeks the following variances and waivers;

Variances:

1. The applicant seeks a variance from providing a designated loading area.
2. The applicant seeks a variance for the proposed site lighting to LED site lights.
3. The applicant seeks a variance to permit a multiple façade signs, for the Burger King and Retail use at 32 square feet.

WHEREAS. Following a review of the application, and the receipt of testimony, the Board determined;

A). The parcel is located in the C-1 Commercial Zoning District. The proposed Burger King use, and retail use is a permitted use in the zone.

B) There was much discussion concerning the demolition of the existing building and testing for any possible contamination. The applicant agreed to conduct the necessary testing and to secure any required approvals including State and County regulations to include the abandoned cesspool. The applicant also agrees to consolidate the lots into one lot.

C) The plan depicts a total of 30 parking spaces for the site. The proposed parking exceeds the minimum requirement of 20 for the restaurant and 7 for the retail use.

D) The plan reflected a 30 feet wide cross easement. The applicant will be required to record the easement with the County Clerk's Office.

E) There was some discussion on the need for a delivery loading area. In support of the applicants request for a waiver of the need for a delivery loading zone, the applicant provided testimony that deliveries will be at off peak hours of operation, mostly when the restaurant is closed. Deliveries will be to the rear door of the building. The applicant also testified that small deliveries, such as bread truck deliveries will be between the hours of 5:00 am and 6:00 am, and would take only about a ten minute delivery.

The retail use will also require delivery at off hours. The applicant stated that the lease for the retail unit will contain the requirement that all site deliveries are to be at off hours. Based on the testimony presented, the Board was satisfied that there would be no need for a delivery loading area for this use. The Board stated to the applicant that any change in the intended off hour delivery would require an application to the Board to possibly amend the site plan to address the need for a delivery loading area.

F) The site plan depicted a 26 feet by 16.67 feet trash enclosure. All food waste and grease from the restaurant will be contained inside the restaurant for pick up and disposal. The applicant agreed that the exterior of the trash enclosure will match the exterior of the building. The applicant

also agrees to clearly mark the trash enclosure area as a "NO Parking Area".

H) There was discussion on site drainage. The applicant agreed with the Board Engineer's comment and recommendation at paragraph 13 of his report, and that the design will meet all requirements of NJ Storm water Management Rules.

I) Regarding the landscape and irrigation requirements, following a discussion the applicant agreed to comply with the Board Engineer's comment and recommendation contained in paragraphs # 14a and 14b and 15 of his report.

J) The applicant proposes a freestanding sign for the Burger King Restaurant at 76.11 square feet. The applicant testified the freestanding sign will be for the Burger King only. The retain use will contain a façade sign only. The applicant presented testimony for multiple façade signages for the Burger King and one for the retail use. The Board determined that the intended multiple façade sign is not detrimental to the site and appropriate for identification for the store and retail use.

J) There was much discussion concerning the architectural building elevations and façade on the building. The Board Engineer recommended the material and façade scheme be consistent. The applicant agreed to continue to coordinate with the Board Engineer on the façade variations.

L) At the conclusion of the applicant's presentation, the meeting was open to the public for comment. There was no public response to the application.

NOW THEREFORE, BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the application for preliminary and final site plan approval, be and is hereby GRANTED.

BE IT FURTHER RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the following variances is Granted;

1. a variance from providing a designated loading area.
2. a variance for the proposed site lighting to permit LED site lights.
3. a variance to permit a multiple façade signs, for the Burger King and Retail use at 32 square feet.

BE IT FURTHER RESOLVED, that the following conditions of this approval have been approved and agreed to by the applicant;

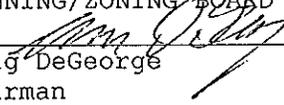
1. The applicant will install a KNOX BOX at both locations
2. The applicant will record a deed of consolidation for all lots into one.
3. The applicant will secure all NJDOT approvals.
4. The applicant will prepare and record the required cross easement.
5. The applicant will assure a condition in the retail use lease that deliveries will be at off hours when the store is closed.
6. The area of the trash enclosure is to be clearly marked "No Parking".
7. All landscaped areas will contain a sprinkler system with regular usage.
8. The applicant will coordinate with the Board Engineer for acceptable façade variations and architectural elevations.

9. The applicant shall receive all approvals as may be necessary from applicable Local, County, State or Federal agencies, and shall comply with all such laws, rules and regulations. The applicant shall post any necessary performance and maintenance guarantee and inspection escrow as may be determined necessary and required pursuant to MLUL.

ATTEST:



KELLY McCAULEY
Secretary

BERLIN TOWNSHIP
PLANNING/ZONING BOARD


Craig DeGeorge
Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Berlin Township Planning/Zoning Board at a meeting held on October 27th 2015.



KELLY McCAULEY, Secretary