

RESOLUTION NO. 2023-16

Applicant: Munson of West Berlin Drive, LLC
Munson of West Berlin Wings Go, LLC

Property: 299 Route 73
Block 1203, Lot 1

Zone: C-2 Highway Commercial Zoning District

Application: Preliminary and Final Major Site Plan Approval, Conditional Use Approval and
Variances

Whereas: on June 13, 2023, the Applicants, Munson of West Berlin Drive, LLC and Munson of West Berlin Wings Go, LLC, being represented by Kenneth D. McPherson, III, Esquire, of Gibbons, P.C., with the permission and authorization of AAA Land Holdings of West Berlin, LLC, owner of the lands and premises situate at 299 Route 73, Block 1203, Lot 1, which property is located in the C-2 Highway Commercial Zoning District, did appear before the Berlin Township Planning/Zoning Board requesting Preliminary and Final Major Site Plan Approval, Conditional Use Approval for the drive-thru and drive-in spaces with Variances, to partition the existing building into two (2) business units to be occupied by Buffalo Wild Wings Go and Sonic restaurants, including indoor dining and pick-up ordering for Buffalo Wild Wings Go and pick up order and drive-thru order and designated pick-up locations at Sonic; and

Whereas: the Applicants have submitted a Preliminary & Final Major Site Plan, dated January 31, 2023, prepared by John W. Kornick, P.E., P.P.; an Overall Floor Plan and Exterior Elevations Plan, both dated April 21, 2023, prepared by Anthony Sirizzotti, R.A.; a Stormwater Management Report, dated March 13, 2023, prepared by John W.

Kornick, P.E., P.P.; a Plan of Existing Conditions, dated February 9, 2023, prepared by Timothy R. Corcoran, P.L.S.; including a Trip Generation and Drive-Through Queuing Assessment Letter, dated June 1, 2023, prepared by Daniel McGinnis, , P.T.O.E., P.E and various other documents in support of the Application; and

Whereas: the Applicants provided the testimony of John W. Kornick, P.E., P.P., Anthony Sirizzotti, R.A., Daniel McGinnis, , P.T.O.E., P.E. and Jack Litman, a representative of the Applicant in support of the Application; and

Whereas: the Board has reviewed and considered that certain Review Letter dated May 19, 2023, prepared by Charles J. Riebel, Jr., P.E., P.L.S., P.P., C.M.E., Township Engineer for Berlin Township; and

Whereas: the Applicants have agreed to revise the plans submitted in accordance to the review comments and recommendations set forth on that Review Letter dated May 19, 2023, prepared by Charles J. Riebel, Jr., P.E., P.L.S., P.P., C.M.E., Township Engineer for Berlin Township; and

Whereas: the Board has determined that it has jurisdiction to hear the Application submitted, has given careful consideration to the application and testimony of the Applicants and the Applicants' experts and witnesses, and has reviewed and considered the Review Letter dated May 19, 2023, and it further appearing that the public was given an opportunity to question the Applicant, and no member of the public objected to the relief requested by the Applicant.

NOW THEREFORE, BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin as follows:

1. The Applicant is granted Preliminary and Final Major Site Plan Approval in

accordance with the Preliminary & Final Major Site Plan, dated January 31, 2023, prepared by John W. Kornick, P.E., P.P. subject to the following conditions:

a. The Applicants shall comply with the review comments set forth in that certain Review Letter dated May 19, 2023, prepared by Charles J. Riebel, Jr., P.E., P.L.S., P.P., C.M.E., Township Engineer for Berlin Township.

b. There shall be no advertising on the windows located on the North and South side elevations.

c. The Applicant shall plant low growing evergreen shrubbery along the spaces along D'Angelo Drive. Irrigation shall be provided, if determined by the Township Engineer to be necessary.

2. The Applicant, having demonstrated compliance with Section 340-53.A(2) of the Zoning Ordinance, by establishing that no adverse impact will occur as a result of the construction of the proposed drive-in eating establishment, is granted Conditional Use Approval for the drive-thru and drive-in spaces for the Sonic Restaurant.

3. Based on the professional planning testimony of John W. Kornick, P.E., P.P. the Applicant is granted the following bulk variances pursuant to N.J.S.A. 40:55D-70c(2), the Board recognizing that purposes a, c, g and I of the Municipal Land Use Law are advanced by the deviations from the Zoning Ordinance requirements and that the benefits of the deviations substantially outweigh any detriment:

a. A variance from Section 340.55.A(5) of the Zoning Ordinance, which requires a minimum front yard setback of 50 feet, so that the Applicant can construct the proposed improvements within 14.2 feet of D'Angelo Drive and within 43 feet of Route 73. The canopy is located over an existing impervious area, utilizing an open air system

similar to other Sonic locations and similar to solar canopies seen over existing parking lots. There is no impact to visual perspective or to access to and from the adjoining roadway network.

b. A variance from Section 340-819.A(8) of the Zoning Ordinance, which provides that no more than two (2) accessory structures are permitted on a single lot, so that the applicant can construct and maintain three (3) accessory structures consisting of a trash enclosure, storage shed and the canopy for the drive-up spaces. The existing trash enclosure will remain. The drive-in canopy has no impact to drainage or impervious cover and the storage shed's façade will match the building.

c. A variance from Section 340-94 of the Zoning Ordinance, which requires a designated on-site loading area, so that the Applicant will not be required to provide a designated on-site loading area at the site, based on Applicant's operational testimony.

d. A variance from Section 340-93I(1) of the Zoning Ordinance which requires that any two (2) way drive aisle be a minimum of 25 feet wide, so that the Applicant can maintain a two (2) way drive aisle with a width of 22 feet for the drive along the rear of the property. There is minimal impact to the site circulation and operative conditions as the drive aisle width is consistent with existing conditions.

e. A variance from Section 340-93I(1) of the Zoning Ordinance which requires that any single drive aisle be a minimum of 12 feet wide, so that the Applicant can maintain a single drive aisle with a width of 11.8 feet along the south side of the building. The Board finds this deviation from the Zoning Ordinance to be de minimus and an existing condition.

f. A variance from Section 340-83J of the Zoning Ordinance which requires that

any pylon sign box be located no closer than 10 feet from a property line, so that the Applicant can utilize the existing pylon sign box 8.5 feet from the property line, which is consistent with existing conditions.

g. A variance from Section 340-83.J of the Zoning Ordinance which requires that only one free-standing sign be allowed, so that that the Applicant can utilize multiple free-standing signs, specifically signage along Route 73, on-site menu boards and a drive-thru gateway sign. The proposed freestanding signs improve visibility, circulation and access to and from the site.

h. A variance from Section 340-83.I of the Zoning Ordinance so that the Applicant can have two (2) façade signs facing Route 73. The façade signage along Route 73 is consistent in size within the overall commercial zone and will have minimal visual impact.

i. A variance from Section 340-83.I of the Zoning Ordinance to permit façade signs along the south and east sides of the building, which do not face a public street. The site location as a pad site warrants additional signage beyond that permitted by the Zoning Ordinance.

j. A variance from Section 340-83.J of the Zoning Ordinance which requires that free-standing signs do not exceed 64 square feet on any one side. The deviation will improve way finding at the site which is imperative to the safe operation of drive-thru operations.

k. A variance from Section 340-83.I of the Zoning Ordinance which limits a total façade sign area to 64 square feet, so that the Applicant can install and maintain a total of 332 square feet of façade signage, including the window signage. The signage

allows visibility to the site when entering the area and will aid in mitigating driver confusion and access issues that could otherwise occur.


l. A variance from Section 340-82.N of the Zoning Ordinance which requires that that total of all window signs, shall not exceed 20% of the glass area, so that the Applicant is permitted to maintain advertising signage not exceeding 50% of the total window area, but no advertising on windows facing the North and South elevations and only allow product advertising window signage along the west elevation. The window signage will take up less than half of the window area on the West and East elevations.

m. A variance from Section 340-83.H of the zoning Ordinance so that the Applicant is permitted to install directional signs and pavement directional markings as set forth on the plans submitted. The directional signs and markings will improve safety and circulation throughout the site.

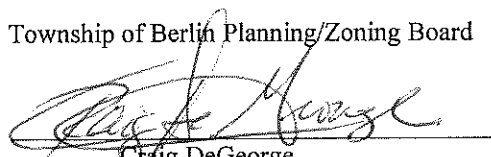
n. A variance to permit two (2) digital changeable menu boards. The menu board signage is consistent in size within the overall commercial zone and will have minimal visual impact.

4. This Preliminary and Final Major Site Plan Approval with Conditional Use Approval and Variances is further conditioned upon the Applicant obtaining any and all other approvals which may be required from any and all other State, County or Local governmental agencies.

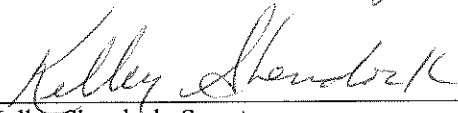
Attest:


Kelley Shendock
Secretary

Township of Berlin Planning/Zoning Board


Craig DeGeorge
Chairman

The undersigned, Secretary of the Township of Berlin Planning/Zoning Board, hereby certifies that the above is a true copy of a resolution adopted by the Board on the 20th day of July, 2023, 2023.



Kelley Shendock, Secretary
Township of Berlin Planning/Zoning Board