

**AMENDED PRELIMINARY & FINAL SITE PLAN APPROVAL
WHITE CASTLE SYSTEM, INC.
Block: 670, Lot 3 & P/O Lot 4
Property Address: 2778 Hooper Avenue, Brick, New Jersey**

**Resolution: R-33-17
Application No.: PB 2660-A-PSP-FSP-V 1/17
Date: August 23, 2017**

**RESOLUTION OF MEMORIALIZATION OF THE
BRICK TOWNSHIP PLANNING BOARD
AMENDED PRELIMINARY & FINAL SITE PLAN APPROVAL
WITH VARIANCES**

WHEREAS, White Castle System, Inc. 550 West Goodale Street, P.O. Box 1498, Columbus, Ohio, has made application to the Brick Township Planning Board for Amended Preliminary and Final Site Plan Approval with variances for Block 670, Lot 3 & P/O Lot 4 on the Township Tax Map pursuant to N.J.S.A. 40:55D-46,-50, and -60; to construct a 2,812 sq. ft. White Castle restaurant with a drive through lane, parking and other site improvements; and

WHEREAS, the applicant has requested the following variance in conjunction with said amended preliminary and final site plan approval:

(A) A variance for impervious coverage whereas 65% is the maximum required and 81.8% is proposed (presently existing is 83.9% of impervious coverage); this proposal thus would reduce this non-compliant pre-existing condition; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on June 28, 2017 in the Brick Township Municipal Building at which time testimony was given and certain exhibits hereinafter described

*File
Appl.
D.A. Marino
Nelson
ARH
Hend.
Assessor,
Zoning, Eng. 8/24/17*

were presented on behalf of the applicant and all interested parties having had an opportunity to be heard; and

WHEREAS, the applicant has consented to a 30 day extension of the time to adopt this Resolution; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is designated as Lot 3 & P/O Lot 4 in Block 670 on the Municipal Tax Map of the Township of Brick and is located at 2778 Hooper Avenue, Brick, New Jersey.

2. The property in question is located in the B-3 Highway Business Zone where the proposed use is a permitted use, to wit a one story fast food restaurant.

3. The applicant produced testimony from John Whitaker, the Regional Director of Restaurant Operations with White Castle System, David Boesch, the Project Manager for Nelson Engineering and Justin Taylor, a Professional Engineer and Certified Professional Traffic Operations Engineer.

4. Mr. Whitaker testified that he is currently the Regional Supervisor in the New Jersey region for White Castle Systems. He testified that the restaurant would operate on a 24 hour a day basis with an average of five to six employees working three shifts, with as many as nine to ten employees on weekends. The restaurant would contain 46 seats for customers. The company controls all deliveries, allowing same to be done between the hours of 9 p.m. to 2 a.m. White Castle would provide its own garbage collection in two dumpster for recyclables as well as garbage, with pickup after 7 a.m. The restaurant will contain a state-of-the-art hood ventilation system and fire suppression system based into same. White Castle, because it steam grills its burgers, installs a ventilation system that captures a majority of exhaust.

5. Mr. Boesch testified and explained the site layout and presented the following

exhibits:

- A-1 Aerial photograph of the property.
- A-2 Photograph of a similar building in South Brunswick.
- A-3 Site plan
- A-4 Site plan drawing.
- A-5 Current site plan.
- A-6 Original site plan.
- A-7 Truck-turning movement plan.

Mr. Boesch testified that the restaurant was originally proposed at approximately 2,500 sq. ft. with a one-way circulation pattern in a counter-clockwise direction. The site plan shows a channelized island entering the site with one-way parking adjacent to the restaurant, the drive-through queue lane for the window, and the ability to exit out onto Hooper Avenue making a right-hand turn only.

6. Mr. Boesch advised that the need for an amended site plan approval arose from difficulties in negotiating with Investor's Bank, an adjoining property owner, that was to share a driveway with the applicant herein. Investor's Bank refused to coordinate dual usage of the driveway, and thus the applicant was required to revise its plans to relocate its driveway further from the Investor's Bank driveway and the intersection. In addition, over the course of time, White Castle Systems redesigned its buildings to add an additional six feet of length to the building making the structure 74 ft. long and 2,812 sq. ft. The facility would only continue to have 46 seats, and thus, the parking dynamic did not change. Because the original approval was for a facility with 60 seats, the calculation of a 14 seat reduction results in the applicant still being in compliance with the parking requirements notwithstanding the loss of two parking

spaces as now depicted on the amended plans.

7. In addition, testimony including an explanation of the Hooper Avenue sidewalk that was proposed to extend into the site along the Western edge of the ingress driveway in a semi-circular manner to a point where it is opposite the front entrance of the building, same would be brought in straight to reduce the pedestrian viscous. In addition, with the Amended Site Plan Application, the applicant is proposing to install LED light fixtures rather than the old, metal halite. The applicant agreed with the Board's Engineer to conduct foot candle measurements on the other side of the highway and adjust the lighting with an appropriate notation on the plans. The lighting would additionally be shielded with backside shielding to prevent light from falling into the roadway and directing it into the White Castle tract only.

8. The applicant's engineer testified that as far as storm water management, it has remained as was in the preliminary approval but the applicant would be replacing 9,000 sq. ft. of impervious coverage with landscape coverage and would be adding depressed curbing and re-reviewing the grading plan as per the comments in the letter from the Board's Engineer, Mr. Wilkinson.

9. Mr. Boesch additionally testified that the applicant was re-applying to both the Ocean County Planning Board because of access to the county highway and the relocation of the driveway necessitated by the Investor's Bank's hesitancy to use a common driveway. The engineer testified that representatives of the County were more satisfied with the now proposed location of the driveway.

10. The applicant will additionally seek a re-affirmation of the MUA approval as well as re-submission of the plans to the Traffic Safety and Fire Officials.

11. In response to the Board's Planner's report offered by Mr. Michael Fowler, the

applicant agreed to coordinate and work with Mr. Fowler for additional shade trees. Inasmuch as the property is located in a CAFRA area, the applicant's experts testified that if 50 additional parking spaces were created, a CAFRA permit would be required, but inasmuch as only 46 spaces were necessitated by this application, there is no need for CAFRA approval.

12. In addressing the Board's Engineer, Mr. Wilkinson's correspondence of June 20, 2017, the location of the monument sign was addressed. The applicant requested that the previously approved variance to allow a 2 ft. set-back for the sign be continued instead of the Ordinance required 15 ft. set-back. A great deal of discussion arose concerning the placement of the 13 ft. high monument sign. Notwithstanding the fact that a prior variance had been approved for its location, issues arose concerning sight lines at the present location. The applicant subsequently produced testimony from its traffic engineer, Mr. Justin Taylor, regarding the sign. The applicant agreed to the recommendations by Mr. Wilkinson, the Board's Engineer, that the monument sign be located 12 ft. from the right-of-way line in lieu of the previously approved variance for a closer location to the property line.

13. In continuing to address issues concerning site remediation from the prior use as a gasoline station, although the testimony revealed that the property owners had received No Further Action letter from the DEP in 2009, monitoring wells continue to be located on the site. The applicant's witnesses testified that three monitoring wells from the previous gasoline station can be relocated on the property, and the applicant would continue to comply with all DEP requirements regarding the site. The applicant agreed that gasoline station's licensed site remediation professional (LSRP) would coordinate obtaining correspondence from the DEP indicating that the proposed development of the property could proceed with the removal or relocation of monitoring wells.

14. The applicant additionally agreed to work with the Board's professionals to channelize circulation around the entire building to permit access to the drive-through lane by way of the possible installation of flexible bollards that would eliminate motorists trying to quickly drive into the drive-through lane by way of the rear site access from the shopping center parking lot.

15. Mr. Taylor, the applicant's traffic engineer, on behalf of the applicant, agreed that all cross walks and terminuses would be ADA compliant. The applicant, through its traffic engineer, also agreed to review decreasing the 55 ft. radius down to 40 ft. at the exit of the site.

16. In response to issues concerning ADA parking spaces, the applicant agreed to revise the plans to show an 11.5 ft. wide handicap space.

17. The Board received the following reports from its professionals and staff, which reports and correspondence shall remain part of the Board's file:

- a. Reports of Michael P. Fowler, AICP/PP dated June 12, 2017 and June 23, 2017
- b. Reports of Theodore Wilkinson, PE, of ARH Associates dated June 20, 2017.
- c. Report of Township of Brick, Bureau of Fire Safety dated February 13, 2017.
- d. Report of Township Engineer, Elissa C. Commins, PE, PP, CME, CFM, dated February 8, 2017.
- e. Report of Traffic Safety Officer dated February 13, 2017

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board on this 23 day of August, 2017 that the application for Amended Preliminary and Final Site Plan approval with variances is hereby granted subject to the following conditions:

1. The applicant must submit proof of payment of all currently due taxes to the Brick Township Planning Board.

2. The applicant must post all bonds and guarantees as required and recommended by this Board and the Township Board Engineer. Moreover, the applicant must post all required engineering and inspection fees.

3. All representations and statements made by the applicant, as well as the applicant's representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an express condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review on this Board's own motion.

4. In the event the Planning Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that event any approvals previously given may be rescinded and any improvements at the time in place on the premises in question shall not be in compliance with the ordinances of the Township of Brick.

5. The applicant must comply with all conditions contained in the reports of Michael P. Fowler dated June 12, 2017 and June 23, 2017, as noted herein and as discussed and in the manner agreed to at the hearing on this matter, unless otherwise indicated herein.

6. The applicant must comply with all conditions contained in the report of Theodore Wilkinson, PE, of ARH Associates dated June 20, 2017, as noted herein and as discussed and in the manner agreed to at the hearing on this matter, unless otherwise indicated herein

7. The applicant must obtain the consent of the property owners to consolidate Lot 3 and Lot 4, which must be consolidated within 90 days after the issuance of a Response Action Outcome (RAO) by the LSRP for Lot 3. Said consent shall contain provisions for mutual easements between the two properties and prohibitions against the separate sale of each pending

the consolidation. Said consent shall be in a form reasonably satisfactory to the Board Attorney.

8. No building permit shall be issued until the Board Secretary confirms that the Planning Board professional fees have been paid in full. In the event a building permit is issued and there are outstanding Planning Board professional fees, a stop work order will be filed against the applicant/contractor until all professional fees have been paid.

9. In the event there is an existing violation, the applicant shall have thirty (30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time prescribed will result in the issuance of a summons.

10. The applicant must comply with all conditions outlined in Schedule A attached hereto.

11. The applicant shall apply for and receive approvals from all other municipal, county, state and federal agencies having regulatory jurisdiction over this development as may be required.

BE IT FURTHER RESOLVED that the Planning Board Secretary shall cause notification of this favorable Resolution to be published in an official newspaper of the Brick Township within ten (10) days of the adoption of this Resolution.

Certified copies of this Resolution shall be forwarded to the applicant, the Township Construction Official, Zoning Officer and all other parties in interest.

This Resolution memorializes an action taken at the regular meeting of the Brick Township Planning Board held on August 23, 2017 on a roll call vote that evening as follows:

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PB -2660-A-PSP-FSP 1/17
WHITE CASTLE SYSTEMS, INC.

August 23, 2017

VOTE ON MEMORIALIZATION

MOVED BY: Mr. Osipovitch

SECONDED BY: Mr. Aiello

VOTING IN THE AFFIRMATIVE: Mr. Gross, Mr. Aiello, Mr. Cooke, Mr. Philipson, Mr. Osipovitch

VOTING IN THE NEGATIVE:

INELIGIBLE: Mr. Nugent, Ms. Lambusta, Ms. Della Volle

IN-CONFLICT:

ABSENT: Mr. Clayton, Mr. Occhiogrosso, Councilman Mummolo

ABSTAINING:

PRESENT BUT NOT VOTING :

CERTIFICATION

I, PAMELA O'NEILL/Secretary to the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that I am duly authorized to certify Resolutions. I certify that the foregoing Resolution was adopted by the Planning Board of the Township of Brick at a regular meeting held on the 23rd of August, 2017.


PAMELA O'NEILL/Secretary
Planning Board/Zoning Board

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR SITE PLAN APPROVAL

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1. Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
2. All materials, methods of construction and details shall be in conformance with the current "Engineering Specifications and Construction Details" of the Township of Brick, which are on file in the office of the Township Engineer.
3. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Brick Township Planning Board for approval of that change.
4. Applicant shall submit this entire proposal for re-approval should there be any deviation from the terms and conditions of this Resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.
5. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
6. Prior to the issuance of a construction permit, the applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.
7. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.

8. No soil shall be removed from the site without the written approval of the Township Council.

9. The applicant shall comply with all provisions and pay all fees established under Article VB (Mandatory Development Fees) of Chapter 190 of the Code of the Township of Brick.

10. For all residential uses the subdivider or site plan applicant shall provide for a trash receptacle.

11. In order to insure uniformity of trash receptacles and compatibility with the automatic trash collection system, all trash can receptacles required herein shall be obtained from the Township of Brick.

12. Applicant shall provide proof of application for Title NJSA 39:5 A-1 to the Planning Board.