

R-12-07

BRICK TOWNSHIP PLANNING BOARD
AMENDED FINAL MAJOR SITE PLAN APPROVAL

File 2
App
App Att
App Eng
PB Att
PB Eng
Zoning
Eng 2

RESOLUTION R- 12 -07
CASE NO. PB-2573-A-FSP-V-2/06

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March 14, 2007

WHEREAS, BRICK TOWNSHIP PUBS, INC., AS APPLICANT, having a mailing address of 2 Woodland Drive, Dallas, Pennsylvania 18612, has applied to the Brick Township Planning Board for Amended Final Major Site Plan Approval pursuant to N.J.S.A. 40:55D-46, 50, 51, 60, and 70; and

WHEREAS, ONE MORE ENTERPRISE, INC, AS OWNER, having a mailing address of c/o Dover Mall, Route 166 & 37, Toms River, New Jersey 08753 has consented to this application;

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 February 28, 2007, in the Municipal Building, at which time testimony and exhibits were presented on behalf of the Applicant, and all interested parties having been heard; and

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

1. This property is known and designated as Block 672, Lots 12 on the Municipal Tax Map #39, consisting of four (4) sheets, last revised 12/28/06 and prepared by Edwards & Kelcey.

2. The Applicant has previously received Site Plan Approval with Resolution R-09-03 (case number PB-2393-PSP-FSP), which included certain additions and alterations to the T.G.I. Fridays Structure.
3. The subject property is located on the southeast corner of Chambers Bridge Road and NJSH Route 70. This location is within the Township's B-3 (Highway Development) Zone. The subject property is developed with the T.G.I.Fridays restaurant structure and associated improvements. An Arby's restaurant (formerly Krispy Kreme) is located on adjacent Lot 11.
4. The Applicant proposes the construction at the east side of the T.G.I. Fridays structure, of a one hundred and ninety-seven (197) square foot addition for a bathroom expansion. All other proposed additions shown on the site plan (ie, five hundred and seven (507) s.f. seating area expansion; the eighty-one (81) s.f. foyer expansion; and service yard/trash enclosure expansion) are not yet constructed, however, but were previously approved, and will require (and the Board does grant) an extension of approval. The proposed preliminary and final site plan is shown on plans entitled, "Amended Preliminary / Final Site Plan, Proposed T.G.I. Fridays, Building Expansion for Brick Township Pubs, Inc. Block 672, Lots 12, Tax Map #39, Township of Brick, Ocean County, New Jersey," last revised 12/28/06, consisting of four (4) sheets, as prepared by Edward & Kelcey.
5. Applicant, Brick Township Pubs, Inc. testified through its Professionals, that the reason previous approvals for expansion were not acted upon, was due to the T.G.I.Friday's restaurant upgrading program. The Applicant now wants to proceed with construction and expansion, on its revised plan. Applicant's Project Manager Ray Newcomber, and Applicant's Engineer from Edward & Kelcey testified that the expansion of the foyer and bathrooms are customer amenities that are long overdue, and the sign modifications represent a part of a corporate

change to L.E.D. efficient lights. (Applicant further modified its application from six building-mounted signs to three signs at Rt 70/frontage plus a smaller than existing, 25 foot high freestanding sign. The fact that Applicant has revised its plan to conform with this Board's concerns, and the concerns and recommendations of Board's Professionals, indicates that they aspire to continue to be "good neighbors" here in Brick Township.

6. James A. Priolo P.E./ P.P./ C.M.E. of Birdsall Engineering, Inc, Board's Engineer, prepared a report to the Board dated February 22, 2007 and a report of March 7, 2007 concerning Neon vs. LED lighting. The Board hereby adopts the findings in both reports and incorporates both documents into this resolution by reference.

7. Michael P. Fowler, AICP/PP, Municipal Planner, Board's Planner, prepared a report to the Board dated February 27, 2007. The Board hereby adopts the findings in that report and incorporates that document into this resolution by reference.

8. Kevin Batzel of the Brick Township Bureau of Fire Safety/Bureau Chief/Fire Marshal, prepared a report to the Board dated January 12, 2006. The Board hereby adopts the findings in that report and incorporates that document into this resolution by reference.

9. The Applicant has agreed to comply with all the terms and conditions of the original approving Resolution R-09-03 dated January 9, 2003, unless specifically modified or changed in this Resolution.

10. The Applicant initially sought variances for:

(a) The maximum building coverage permitted in the B-3 Zone is 25%, whereas twenty-six (26) % is approved, and twenty-seven (27) % is proposed.

(b) The maximum permitted impervious coverage is sixty-five (65) %, whereas, eighty-three (83) % exists and (84) % is proposed.

(c) In accordance with section 245-313, projecting signs may not project further than twelve (12) inches from the face of the wall to which it is mounted, whereas, a four (4) foot projection, and a four (4) ft. eight (8) inch projection was proposed.

(Applicant modified this variance to a 2' projection)

(d) In accordance with 245-313 A. 12, one wall- mounted sign is permitted on each side of a façade facing on a public street, whereas, two building mounted signs are proposed on the Route 70 frontage. (Applicant modified its requested variance to limit itself to the T.G.I. FIDAY'S 2'3" x 16'9" at far left of front of building/Rte. 70 side, and to the "tumbler main sign" over the entrance and both are L.E.D. signs -- not neon)

(e) In accordance with Section 245-315 C 5,) a 50 s.f. 25 foot high freestanding ground sign is permitted and a sixty (60) s.f. sign 25 foot high sign is proposed. (Applicant further agreed to add the number "709" and landscape around base of the freestanding sign).)

(f) In accordance with Section 245-410 A. the minimum required landscaped area is twenty-five (25) % whereas, seventeen (17) % is approved and sixteen (16) % is proposed.

(g) Minimum side yard setback variance of (due to bathroom expansion) 4.85 ft whereas thirty feet is required ; further noted that portion of TGI Friday's structure is less than one (1) foot from side property line.

11. Applicant has sought design waivers for:

(a) In accordance with Section 190-207 which requires sidewalks and curbs Applicant does not propose curbs or sidewalks on Chambers Bridge Road / Rt. 70.

12. Each of these variances and design waivers may be granted as appropriate after testimony and Applicant's revisions to the original proposed plan. Each of these variances and design waivers are of limited nature, and as they are regarding

an existing commercial site, to accommodate customer comfort and ease of visibility, are reasonable. The modified application is improved with the recited changes to the original plan, and does not do substantial detriment to the public good, the zone plan or the zoning ordinance. Therefore, under these circumstances, the variances and design waivers may be granted.

13. With the exception of the variances and the waivers granted hereinabove, the Applicant has complied with the requirements of the site plan ordinance. The plan is consistent with the intent and purpose of the Master Plan and the Municipal Development Ordinance. Accordingly, the Board finds that the benefits of the proposed development outweigh any detriments, and the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Township Zoning Ordinance or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board, on this 14th day of March 2007, that this application be approved subject to the following conditions:

1. The Applicant shall comply with all standard Planning Board conditions for preliminary site plan approval as set forth on Attachment 'A.'
2. The Applicant shall comply with all representations and agreements made by the Applicant, its Attorney or any of its Professionals during the presentation of this case.
3. The Applicant shall comply with the following comments contained in the report from James A. Priolo, P.E./ P.P./ C.M.E., of Birdsall Engineering, Inc. Board's Engineer, dated February 22, 2007: 3.(The Applicant has provided an architectural rendering which depicts the revised/modified "T.G.I. Friday's" signs over the entrance foyer. The Applicant provided acceptable testimony regarding the sign's L.E.D. illumination. The Applicant has further agreed to

provide landscaping around the freestanding sign to satisfy Board's Engineer. The Applicant has also agreed to eliminate a number of the other signs proposed, and shall construct and install only those signs that are facing Rte. 70 frontage as shown on the architectural renderings submitted.); 4.(Applicant has agreed that Ocean County Planning Board approval will be indicated on the plan.); 5. (Applicant has agreed to submit to, and appear before other Local, State, and Federal jurisdictional agencies for appropriate permits pertaining to this project.); 6. (Applicant has agreed, prior to commencement of construction, to post a performance guarantee and inspection fund in accordance with the provisions of the Township's Land Use Ordinances and the Municipal Land Use Law.)

4. The Applicant shall comply with the following comments contained in the report from Michael P. Fowler, A.I.C.P./ P.P. Municipal Planner, dated February 27, 2007: III. Comments: A. (The Applicant has provided details of the 25 foot high freestanding sign, which shall include the numerical "709" street address; Applicant has also provided testimony that the replacement sign is actually smaller than the existing freestanding sign.); B. (The Applicant has agreed to utilize L.E.D. lighting- and agreed it will not use neon on the signage or for accents on the building); C. (The Applicant has provided testimony on the previously approved vestibule expansion. Applicant has also agreed to provide depressed curbing on the east and west sides of the vestibule addition where proposed addition will block the sidewalk); D. (The Applicant has provided acceptable testimony to the Board regarding the Township's Zoning Regulations, Municipal Land Use Law, and Township's Master Plan and Zoning Ordinance);

5. The Applicant shall comply with the comments contained in the report of Kevin Batzel fire Marshal/ Brick Township Bureau of Fire Safety dated January

12, 2006. 1. (All existing currently marked fire lanes on site including signs and striping will be indicated on plan.); 2. (Note to be installed on plan indicating all fire lanes, signs, and free striping to be in accordance with Township Chapter 191.); 3. (As indicated on sheet 4 of 4 striping to be added from rear kitchen exit door through service yard enclosure and loading zone area to existing fire lane to allow clear, unobstructed egress from the building rear exit kitchen door. Area to be kept clear and accessible at all times, note on plan and striping separately of loading zone.)

6. The Applicant has agreed that all the terms and conditions of the original approving Resolution R-09-03 dated January 8, 2003 shall be in full force and effect, unless specifically modified in this Resolution.

7. The Applicant has further agreed that, with the exception of building-mounted security lighting, all site lighting (including signage) is to be turned off one hour after close of business.

8. The Applicant has agreed that it will comply with the Board's requirements imposed upon the Applicant to meet the comments contained in the reports recited, and any/all conditions herein shall continue during the operation of these premises by this entity, its successors, and or assigns.

9. The Applicant has agreed to comply with Board's direction that Applicant shall modify its site's landscaping (particularly at the base of the freestanding sign) to the satisfaction of Board's Engineer/Planner.

10. The Applicant has further agreed that this approval is contingent upon the review and approval of the revised plans and specifications by the Planning Board's Architectural Committee.

11. The Applicant has agreed that it shall add the number "709" to the free standing sign, in keeping with a desirable site identification/traffic safety issue resolution.

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12. The Applicant has agreed to have its Attorney supply any/all drainage, utility, access or sight triangle easements (if any), to the Board's Attorney for review and approval, prior to recording of same with the Ocean County Clerk.

MOVED BY:

Mr. Reilly

SECONDED

BY:

Mrs. LaDuke

VOTING IN THE
AFFIRMATIVE:

Mr. Petoia, Mrs. LaDuke, Mr. Reilly, Mr. Dockery,

Mr. Lazroe, Mr. Liloia, Mr. Underwood

VOTING IN THE
NEGATIVE:

INELIGIBLE TO
VOTE:

Mr. Catalano

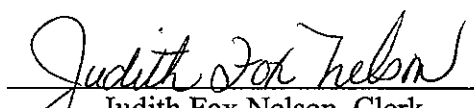
ABSTAINING:

ABSENT: Mr. Aiello, Mr. Hahn, Councilwoman Scaturro

CERTIFICATION

I, **JUDITH FOX NELSON**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that the foregoing resolution was duly **ADOPTED** by the said Planning Board of the Township of Brick at a regular meeting held on the 14th day of March, 2007.

IN WITNESS WHEREOF, I have set my hand this 16th day of March, 2007.


Judith Fox Nelson, Clerk
Township of Brick, Planning 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.