

**PLANNING BOARD MINUTES
PUBLIC MEETING
February 24, 2014**

A public meeting of the Planning Board of the Township of West Caldwell was held on February 24, 2014, in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Chairman Mudd called the meeting to order at 7:00 p.m. and read the opening statement.

ROLL CALL

Members present: Mr. Martorana (via Skype), Mr. Palmisano, Mayor Tempesta, Chairman Mudd, Mr. Christopher Smith, Ms. Marchetti, Councilman Wolsky.

Members absent: none

Advisors present: Gregory J. Castano Jr., Esq. and Tamara E. Bross.

MINUTES

On a motion by Mr. C. Smith and a second by Mr. Palmissano the minutes of February 10, 2014 were approved 6-0-1 with an abstention by Mayor Tempesta.

HEARING

1. Application P13-13, Max Lite Inc., 12 York Avenue, Block 1201, Lot 14, M-1 Zone District, West Caldwell, NJ. Property owner Maxeast Property, LLC. Major application for an Amended Site Plan with variance and Notice required. Applicant proposes to install a natural gas powered 150 KW standby generator and transfer switch in the side yard whereas accessory structures are permitted only in the rear yard (Ordinance section 20-19.1.e.).

Present was Jack Dusinberre, Esq. Ms. Bross said the application was properly noticed. The evidence marking list A-1 to A-9 and B-1 to B-5 was entered into the record.

Mr. Jack Dusinberre made a brief opening statement for the applicant.

Todd Kim was sworn in and is General Manager for Max Lite. Mr. Kim provided the following direct testimony and answers to questions from the Board:

- Max Lite is an assembly plant for energy saving light bulbs
- They have been at this location for approximately 3 years.
- There is one shift for this plant.
- The maximum number of employees on any one shift will be fifty-five (55).
- Power failures in the past have caused a need for the generator as past shipments were delayed to customers.
- The proposed placement of the generator in the side yard is immediately adjacent to the utility room of the plant.

There were no questions for Mr. Kim from the public based on his testimony.

Mr. Chuck Stewart was sworn in and is testifying as an Engineer and Planner for the applicant. Mr. Stewart provided the following direct testimony and answers to questions from the Board:

- Review of the site plan shows building of approximately 45,000 square feet with adequate parking and loading docks.
- Green Brook runs across southern part of property
- Residential properties back up to the east side of property with frontage on Natalie Drive.
- Property location is in M-1 zone a commercial area
- Proposal is to install emergency generator on concrete pad in first two parking spots on westerly side and relocate handicapped parking farther down the building.
- Proposed location of generator is as far from residential zone as can be (approx. 350 feet) with the large size of the building acting as a buffer between them
- Concrete pad will be approx. 15 x 10 feet
- Generator is approximately 5 feet high
- Applicant has proposed to surround pad with a chain link fence with a gate facing front of property
- Safety bollards can be installed around the pad
- The benefits outweigh the detriments for location of this generator in the side yard for the applicant and the neighboring residential homes.
- Additional landscaping will be added and maintained to screen the generator

Michael Manfro of 13 Natalie Drive asked if the Generator would be seen from his back yard and was given confirmation that it would not.

There were no further comments or questions from the Public for Mr. Stewart.

Mr. Edward M. Clark P.E. of Ostergaard Accoustical Associates was sworn in. Mr. Clark provided the following direct testimony about his report and answers to questions from the Board:

- Findings conclude that proposed generator comply with NJ State standards for commercial properties.
- The proposed location in side yard versus the required rear yard location will result in a great amount of noise reduction for the residential properties.
- The applicant would agree for the testing time during regular business hours of 9am-5pm.

There were no questions for Mr. Clark from the public based on his testimony.

The hearing was closed. After Board deliberation Ms. Marchetti made the following motion:

WHEREAS, Max Lite (“Applicant”) has submitted Application No. P13-13 to the Planning Board of the Township of West Caldwell (“Board”) for a Site Plan with Variance approval with regard to the premises, Block 1201, Lot 14 in the M-1 Zone as shown on the Tax Maps and having a street address of 12 York Avenue; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on the subject property, and the Applicant has presented an ownership disclosure statement as required

by New Jersey Statutes; and

WHEREAS, this Board has classified this application as a Major Site Plan Application with Variances requiring public notice; and

WHEREAS, the Applicant has presented evidence of having given required notice; and

WHEREAS, this Board has considered all documents submitted in connection with this Application; and

WHEREAS, said documents have been entered into evidence and marked as items A-1 thru A-9 and B-1 thru B-5; and

WHEREAS, this Board has considered all testimony of the Applicant and its witnesses including Mr. Charles Stewart and Mr. Edward M. Clark qualified by the Board as experts in the fields of Engineering, Planning and Sound Engineering respectively; and

WHEREAS, both said documents and testimony includes but is not limited to the following representations by the Applicant and/or its witnesses:

1. This Application seeks approval for the installation of a 150 kilowatt natural gas powered stand-by generator and transfer switch in the side yard on a concrete pad.
2. The proposed location for the generator is in the westerly side yard, whereas accessory structures are only permitted in the rear yard, (Ordinance section 20-19.1.e.)
3. The applicant proposes a six (6) foot high chain link fence, whereas screening from the public view and adjacent properties is required (Ordinance section 20-21.12)
4. The easterly side yard and rear yard of this property abut residential properties.
5. The noise and vibration levels of proposed generator during testing will not exceed the levels established by the state of NJ.
6. The proposed location of the generator will increase the distance from the generator to the residential properties and is at a point which is the farthest from the residences (approximately 350 feet).
7. The proposed location of the generator will result in the principal building being located between the generator and the easterly residential properties.
8. The proposed location of the generator will result in a reduction of noise levels at the residential properties.

WHEREAS, this Board has made the following findings of fact and conclusions based thereon:

1. The structure requested in this application is a stand-by generator which is a permitted accessory structure in this zone district.
2. This application is for Site Plan approval with variances with no change in principal use.
3. Other than the variances requested, this application substantially meets all other requirements of Chapters 18A & 20 of the revised general Ordinances of the Township of West Caldwell.
4. The grant of the variances requested can be made without substantial detriment to the public good. It will not impair the intent and purpose of the zone plan or zoning ordinance, and the benefits of the deviation substantially outweigh any detriment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this **24th day of February, 2014**, that the said Application be and the same is hereby **APPROVED**, subject to the following conditions:

1. The Applicant shall comply with all representations made in the testimony before this Board and all evidence presented to this Board.

2. In addition to all requirements contained herein, the Applicant shall comply with all Federal, state and local laws, rules and regulations; and obtain any other governmental approvals required for the lawful implementation of this Site Plan.
3. The Applicant shall plant an additional evergreen in front of concrete pad which shall serve as screening of the generator.
4. All routine testing of the generator shall be conducted during regular business hours (but not before 9AM and no later than 5PM), on business days.
5. Within six months of the completion of the installation of said generator, the Applicant, at their expense shall conduct a test under the supervision of an expert selected by the Township of West Caldwell, and in accordance with said experts requirement to establish that the proposed generator complies with all applicable standards to the satisfaction of the Township. In the event that the generator installation does not comply, the Applicant shall within 30 days submit a remediation plan to the Minor Site Plan Committee of the Board for their approval in accordance with guidance provided by the Township expert. All costs associated with the implementation of this condition shall be at the Applicant's expense.
6. Protective, decorative bollards satisfactory in style and number to the Construction Official shall be installed around the perimeter of the generator pad.
7. The Applicant shall submit revised drawings including all of above stated conditions.

All approvals, the issuance of construction permits and certificates of occupancy are subject to all applicable laws of the State of New Jersey, any required governmental agency approvals, ordinances of the Township of West Caldwell and Rules and Regulations of the Planning Board.

The motion was seconded by Mr. Smith and APPROVED by a vote 7-0.

INVITATION FOR PUBLIC COMMENT

There were no questions or comments from the public

ABJOURNMENT

The meeting adjourned at 7:46PM

Respectfully submitted,

Tamara E. Bross, Board Secretary