

**PLANNING BOARD MINUTES  
PUBLIC MEETING  
March 10, 2014**

A public meeting of the Planning Board of the Township of West Caldwell was held on March 10, 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. Dremel, Mayor Tempesta, Chairman Mudd, Mr. Christopher Smith, Ms. Marchetti, Councilman Wolsky. Mr. Palmisano  
Members absent: none  
Advisors present: Sal Rocarro Esq. and Tamara E. Bross.

**MINUTES**

Minutes of February 24, 2014 shall be carried.

**ORGANIZATION**

A motion was made by Mr. Smith to approve Standing Committee assignments and seconded by Mayor Tempesta and approved 7-0.

**HEARING**

1. Application P13-24, Original Bagel, 2 Fairfield Crescent, Block 1504, Lot 1, M-1 Zone; Property Owner 2 Fairfield Crescent, LLC; Major application for Site Plan with variance approval; Notice required. Applicant proposes to install roof and ground mounted refrigeration and air conditioning units, remove certain existing ground and roof mounted units, and repave and restripe existing parking area. A variance is required for one ground mounted refrigeration unit which exceeds the maximum thirteen (13) foot permitted height of an accessory structure (Ordinance Section 20-19.1.d).

Present was Michael Rubin, Esq. Ms. Bross said the application was properly noticed. The evidence marking list A-1 to A-13 and B-1 to B-9 was entered into the record.

Mr. Rubin made a brief opening statement for the applicant.

Bruce Levenbrook was sworn in and is a principal of Original Bagel and landlord. Mr. Levenbrook provided the following direct testimony and answers to questions from the Board:

- Original Bagel manufacturers frozen bagels for wholesale distribution.
- They have been at this location for approximately 18 years.
- The maximum number of employees currently is thirty-eight (38) with four (4) additional office staff involved in sales.
- Approximately 25, 000 bagels are made an hour on an automated production line.

- The current processing equipment is outdated and uses Freon which will no longer be available, as it is not environmentally friendly.
- The installation of a spiral blast freezer system is state of the art, is government approved, and will increase the shelf life of their product.
- The proposed refrigeration house is enclosed and will hold 5 compressors versus the 10-12 currently used and the noise level will be greatly reduced.
- The proposed system is energy efficient and will use far less energy to operate; hence substantial PSE&G rebates
- The audit for the property states that there should be no vegetation around the building.
- Explained use of trailers on property and photos mentioned in Zoning Officers memo

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

Mr. Michael Kuybida was sworn in and is testifying as an Architect for the applicant. Mr. Kuybida provided the following direct testimony and answers to questions from the Board:

- Prepared plans for Applicant.
- Presented to the Board in detail each page.
- Highlighted transformer to be installed by PSE&G
- Made clear that existing compressors will be removed and replaced by refrigerator housing with fewer compressors.
- Testified that his experience with previous food processing plants consistently recommended that landscaping be removed from perimeter of the building for health / rodent harboring reasons.

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

Mr. John Kempf of J.P. Kempf Co. was sworn in. Mr. Kempf provided the following direct testimony as an expert in refrigeration installation and equipment and answers to questions from the Board:

- Designed and is manufacturing system for Applicant and summarized for the Board the equipment installation process
- Life cycle of existing equipment has come to an end due to the phasing out of Freon and currently is very costly to run.
- The air handler on the roof has a refrigeration coil and is similar to an air conditioning unit
- New system proposes removal of existing (10-12) compressors and housing will enclose 5 more efficient compressors and is a major improvement to system and production.
- Gases will be nonflammable as no chlorine will be used.
- The condenser is 14 1/2 feet high and is applicable for this system to have it run more efficiently, therefore a variance is required.

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

Mr. Norman Dotti of Russell Acoustics, LLC. was sworn in. Mr. Dotti provided the following direct testimony as an expert in acoustical engineering and answers to questions from the Board:

- Mr. Dotti summarized his findings reported in letter dated February 24,2014
- The noise levels will comply with all applicable standards, however regulation does not apply because of an industrial receiver (anyone hearing this noise is an industrial use).
- Agrees that fewer compressors will result in less noise emitted

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

Mr.Charles Stewart of GCStewart Associates. was sworn in. Mr. Stewart provided the following direct testimony as an expert in engineering and planning and answers to questions from the Board:

- Prepared site plan for Applicant, last revised 2/28/2014.
- Plan shows ADA space and striping of 15 spaces (9’x18’)
- Plan shows two compactors in rear yard
- Plan indicates height of condenser at 14 1/2 feet whereas accessory structure cannot exceed 13 feet
- Plan also indicates electrical cabinets three(3) feet of off the building where a ten (10) foot setback is required
- Variance is also required for side yard setback in nonresidential zone agreeing as 45 ½ feet
- New fence will be installed as indicated on plan
- The benefits certainly outweigh the detriments

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

There were no questions or comments about this application from the Public.

The hearing was closed. After Board deliberation Mr. Martorana made the following motion:

WHEREAS, **Original Bagel**, (“Applicant”) has submitted **Application No. 13-24** to the Planning Board of the Township of West Caldwell (“Board”) for site plan approval, with regard to the premises **Block 1504, Lot 1** in the M-1 Zone as shown on the Tax Maps and having a street address of **2 Fairfield Crescent, West Caldwell**; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on the subject property, and the Applicant has presented ownership disclosure statements required by New Jersey Statutes; and

WHEREAS, this Board has classified this application as a Major Site Plan 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 marked A-1 thru A-13 and B-1 thru B-9 submitted in connection with this Application; and

WHEREAS, this Board has considered all testimony of the Applicant and its witnesses, including witnesses qualified by this Board as experts in the fields of professional engineering, professional planning, operations, architecture, acoustical engineering and refrigeration in support of this application; and

WHEREAS, the Applicant has received previous approval for the operation of a food processing facility and associated offices; and

WHEREAS, said use is a permitted use in the M-1 zone district; and

WHEREAS, the Applicant has submitted a site plan prepared by GC Stewart Associates, revised through 2/28/2014 and architectural building plans and elevations prepared by Michael Kuybida architect, revised through 2/11/2014 to support the permitted uses existing on the site; and

WHEREAS, the Applicant is proposing the installation and/or construction of new refrigeration equipment and the removal of certain other equipment; and

WHEREAS, the new equipment is proposed for construction on both the roof and at ground mounted locations; and

WHEREAS, the one ground mounted unit exceeds the maximum permitted height of 13 feet for an accessory structure in accordance with section 20-19.1.d of the Code of the Township of West Caldwell; and

WHEREAS, the proposed electrical cabinets are approximately three (3) feet from the building where a minimum of ten (10) feet is required; and

WHEREAS, the ground mounted equipment is located within a rear yard requiring a setback equal to 100 % of the side yard setback which is 45.5 feet and only 18 feet is proposed; and

WHEREAS, the Applicant seeks a variance from these requirements; and

WHEREAS, the Applicant also proposes to repave and restripe certain portions of the parking area, as shown on the plan as permitted by the Code; and

WHEREAS, the Applicant desires to upgrade their facility with state of the art equipment which will enhance production capability and quality of the product, and will bring the facility into compliance with contemporary standards for refrigeration coolants and will be more energy efficient, quieter and safer to operate; and

WHEREAS, the Applicant has provided expert testimony satisfactory to the Board that the proposed equipment will be in compliance with applicable sound standards and regulations; and

WHEREAS, the expert testimony provided in the fields of engineering and architecture, indicates that the plan (other than the variances requested), substantially meets all other requirements of Chapters 18A and 20 in the Revised General Ordinances of the Township of West Caldwell; and

WHEREAS, the expert testimony of the Professional Planner and Refrigeration Consultant indicate that the configuration of the proposed equipment is the most energy efficient and compact plan, since complying with the height requirement would result in the need for several additional units, resulting in possible larger sound impacts from a more exposed area, and would therefore advance the purposes of zoning; and

WHEREAS, the proposed equipment is the most energy efficient way to achieve the desired result, with minimal visual and sound impacts, and would also advance the purposes of zoning; and

WHEREAS, with the proposed location and screening, the variances can be granted without impairing the zone district and zone plan and further the benefits outweigh any detriments.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this **10<sup>th</sup> day of March, 2014**, that the said Application be and the same is hereby **APPROVED**, and memorialized by this resolution adopted by the Planning Board on **April 21<sup>st</sup>, 2014**, 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) The Applicant shall comply with all requirements and recommendations of the TRC report dated February 26, 014 to the satisfaction of the Municipal Engineer.
- 3) Prior to the issuance of any construction permits, the Applicant shall cure any deficiencies or violations as may be found by an inspection of the Zoning Officer, to his satisfaction.
- 4) The documentation provided by the Applicant regarding foundation landscaping at a food processing establishment should be submitted to the Health Officer for his review. Should he find that conventional landscaping poses no unusual hazard; the Applicant shall submit an updated landscape plan to the Environmental Committee for review, and the Minor Site Plan Committee for approval.
- 5) After the new equipment is installed, the Applicant shall conduct a noise analysis to establish baseline data for future use. The analysis shall be conducted by an expert satisfactory to the Township at the expense of the Applicant.

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 8:15PM

Respectfully submitted,

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Tamara E. Bross, Board Secretary