

**PLANNING BOARD MINUTES
PUBLIC MEETING
February 8, 2016**

A public meeting of the Planning Board of the Township of West Caldwell was held on February 8, 2016, 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, Mr. Palmisano, Chairman Mudd, Mr. Smith, Ms. Marchetti and Councilman Cecere

Members absent: Mayor Tempesta,

Advisors present: Greg Castano Esq. and Tamara E. Bross.

PLEDGE OF ALLEGIANCE

HEARINGS:

1. P15-23 Atos Foods LLC d/b/a Cinair II Restaurant, 632 Bloomfield Ave, Block 2203, Lot 1, B-1 Zone; Property Owner: Kevton Holdings, LLC; Site plan approval with a conditional use Increase in number of seats from previous restaurant requires a hearing for a Conditional Use Approval. Notice required

Ms. Bross confirmed that this application was properly noticed.

Michael Rubin Esq. appeared representing the Applicant and stated he received and accepts the evidence list from Ms. Bross.

Tunc Ozlu, Applicant and owner of Cinar Turkish Restaurant was sworn in, and provided the following direct testimony and answers to questions:

- Has 20 years' experience in the restaurant industry currently owns a Turkish Restaurant in Cliffside Park
- The West Caldwell location was previously used as a restaurant.
- Site plan that is currently laid out is similar to what exists today.
- No exterior changes planned only to the sign.
- The restaurant will be open 7 days a week, the kitchen will be open from 11:30am to 10pm, and the employee count will average 10 people
- the dining area is 1058 square feet
- Going through the floor plan there will be 3 more benches.
- Plan calls for 64 seats in the restaurant.
- Meets parking space requirements with extra spaces

- Deliveries to the back door before kitchen hours 3 times a week; 1 each for soda, uniform and specialty foods.
- James Haas was hired for landscaping and snow removal

Chairman Mudd asked for clarification and confirmation of 64 seats. 64 seats is confirmed Essex County Planning Board reply with exemption was marked **A-10**.

There were no questions or comments from the Public for the Applicant or this Application.

The hearing was closed.

Mr. Smith made the following motion:

WHEREAS Atos Foods, LLC, the (“Applicant”) doing business as a restaurant, has submitted **Application No. P15-23**, to the Planning Board of the Township of West Caldwell (“Board”) for site plan approval with conditional use approval, with regards to the premises **Block 2203 , Lot 1** in the B-1 zone as shown on the Tax Maps and having a street address of **632 Bloomfield Avenue, West Caldwell** ; and

WHEREAS, there are no taxes or assessments for local improvements due and delinquent on said property and the Applicant has presented an ownership disclosure statement as required by New Jersey statutes; and

WHEREAS, the Board has classified this Application as a major application requiring public notice; and

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

WHEREAS, the Board has considered all documents submitted in connection with this application, and marked A-1 through A-10 and B-1 through B-5; and

WHEREAS, the applicant has provided testimony in regards to operation, number of employees, parking requirements, hours of operation, loading and unloading per the rules of occupancy; and

WHEREAS, both said documents and testimony include but are not limited to the following representations by the applicant:

1. The use proposed by this application is a 64 dining seat restaurant with take-out available,
2. The occupant will be Atos Food, LLC doing business as Cinar II Restaurant
3. The operations will be 11:30am to 10pm Sunday through Saturday
4. The average amount of employees on any shift will be 10
5. The dining area required by ordinance for 64 seats is 960 sq. ft and 1068 sq. ft of dining area provided
6. The number of parking spaces required by local ordinance for 64 dining seats is 26 and 37 parking spaces are available
7. Deliveries will be made through the rear door
8. Garbage and trash removal will be by private contractor,
9. Excluding signage, there will be no changes to the exterior of the building.

WHEREAS, the Board has made the following finding of facts and conclusion based thereon, the use requested in this application is a restaurant which is a conditional use in this zoning district,

the application does meet all conditional use standards required by chapters 20.17.17 of the revised general ordinances of the Township of West Caldwell; and WHEREAS, the application does substantially meet all other requirements of Chapters 18A and 20 in the Revised General Ordinances of the Township of West Caldwell.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell on this **8th day of February, 2016**, that the said Application be and the same is hereby **APPROVED**, subject to the following conditions:

1. The Applicant will comply with all representations made in testimony before this Board, and all evidence presented to this Board
2. In addition to all requirements contained herein the Applicants shall comply with Federal, State and Local Laws, Rules and Regulations, and obtain any other governmental approval required for the lawful implementation of the site plan.
3. The application subject to new approval in the Essex County Planning Board which is stated in evidence A5, and as stated in evidence A10 no further action is required.
4. All signage of any kind, including but not limited to direction signs, and grand opening banners require separate application to approval by this Board's sign committee.

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 the Rules and Regulations of the Planning Board.

The Motion was seconded by Mr. Palmisano and Approved by a vote 7-0.

2. P15-20 Investors Bank, 820 Bloomfield Avenue, Block 2100, Lot 4, M-3 Zone;

Property Owner Lourenco Service Center, LLC; Major Application for Site Plan with variances approval for demolition of existing structure and construction of new structure for use as a bank; notice required.

Clara Harelik Esq. present stated she received the evidence list from Ms. Bross and that she agreed with the evidence listed. Ms. Bross verified that the taxes were current and the application was properly noticed.

Chairman Mudd requested that the letter from JDA Associates, dated February 8, 2016 be marked **B-8**.

Ms. Harelik made a brief opening statement. There are eight variances required as stated on exhibit A-4.

Mark Haas, of Haas Associates was sworn in as Architect, licensed in the state of New Jersey, and answers to questions from the Board:

- Presented colorized rendering of proposed bank marked **A-14**
- Reviewed drawings of proposed floor plan, SK-4; and proposed elevations, SK-6 (A-11)
- Hours of operation will be Monday-Wednesday and Friday 9am – 5pm
Thursday 9am – 6pm
Saturday 9am – 12pm
- Dumpster location shown and will be minimal garbage.

Peter Korzen of Korzen Engineering, LLC was sworn in and provided the following direct testimony and answers to questions:

- Reviewed existing conditions
- Presented colorized site plan dated 2-5-2016 marked as A-15 and reviewed variances
- Parking in front yard required as there is not another feasible placement
- Reviewed drainage plan
- Utilities are sufficient, however above electric will be updated to underground placement
- Lighting plan reviewed and designed for security and façade lighting
- Landscaping plan reviewed and updated with environmental committees recommendations
- There will not be any freezing issues in parking lot

There were no questions for Mr. Korzen from the Public based on his testimony or the application in question.

Dennis O'Hara of NW Sign Industries and submitted sign package (A-13) with application. Mr. O'Hara offered the following testimony and answers to questions:

- After meeting with the TRC, the freestanding sign is now in compliance
- Reviewed variances requested for signs and is important to obtain third sign at ATM for safety and identification

There were no questions for Mr. O'Hara from the Public based on his testimony or the application in question.

Joseph Staiger of Dynamic Engineering was sworn in and testified as traffic engineer and planner and provided the following direct testimony and answers to questions:

- Traffic impact on site will be less with bank than current use of service station
- Removing the two driveways closest to intersection positively impacts safety concerns of entering and exiting the property
- After reviewing JDA report, there are not any safety concerns exiting the driveway turning left onto Passaic Avenue.
- In terms of planning: reviewed all variances and offered opinion why should be granted.
- Proper permits will be obtained from DEP for remediation
- Benefits of this application far outweigh any negative impacts as the use is softer for this downtown prominent corner and will be enhanced with a new beautiful building.

There were no questions for Mr. Staiger from the Public based on his testimony or the application in question.

The hearing was closed.

Mr. Martorana offered the following motion:

WHEREAS, **Investors Bank** (the "Applicant") has submitted **Application No. 15-20** to the Planning Board of the Township of West Caldwell ("Board") regarding the premises located at Block 2100, Lot 4 in the B-3 Zone District as shown on the Tax Maps and having a street address of **820 Bloomfield Avenue**, West Caldwell, N.J. (the "Property"); and

WHEREAS, there are no taxes or assessments for local improvements due or delinquent on the Property and the Applicant has presented an ownership disclosure statement as required by New Jersey Statutes; and

WHEREAS, the Board has classified this Application as a major site plan with variances requiring public notice and the Applicant has presented evidence of having given the required notice; and

WHEREAS, a motor fuel service station currently exists at the Property, which is a permitted use in the zone district; and

WHEREAS, the Applicant proposes to demolish the existing use and improvements and construct a new retail banking facility, which is a permitted use in the zone district; and

WHEREAS, the Application, as presented, requires the following variances from the requirements of the Code of the Township of West Caldwell:

1. A rear yard setback of 32.2 feet is proposed for the drive-thru canopy and 43.9 feet for the main building, whereas a 60 foot rear yard setback is required, ordinance section 20-5.4;
2. A minimum property line setback for accessory structures of 5 feet for a trash enclosure is proposed, whereas 15 feet is required, ordinance section 20-19.1.f;
3. Parking within the front yard is proposed, whereas parking in the front yard is prohibited, ordinance section 20-23.4e;
4. Parking within 6.3 feet of the building is proposed, whereas parking closer than 10 feet is prohibited, ordinance section 20-23.3.g;
5. Parking within 8.1 feet of the Property line along Bloomfield Avenue is proposed, whereas parking within 10 feet is prohibited, ordinance section 20-23.3g;
6. A minimum parking stall size of 10 x 18 feet is proposed, whereas 10 x 20 feet is required, and 9 x 18 feet for employees is proposed, whereas 9 x 20 feet is required, ordinance section 20-23.5.d;
7. Lighting of .8 and 1.0 footcandles is proposed, whereas lighting of less than or equal to .5 footcandles is required, ordinance section 20-23.3e; and
8. Three wall-mounted identification signs are proposed, whereas two are permitted, ordinance section 20-24.4.a.1.

WHEREAS, the Applicant has submitted the October 6, 2015 site plans prepared by Korzen Engineering, an October 27, 2015 Traffic Impact Study prepared by Dynamic Traffic, December 30, 2015 Stormwater Management Calculations prepared by Korzen Engineering, and a January 7, 2016 Signage Plan prepared by NW Sign Industries; and

WHEREAS, unless otherwise specifically referenced, all signage is subject to a separate application to the Board's Sign Committee; and

WHEREAS, the Applicant has provided expert testimony in the fields of architecture, traffic engineering, planning and sign design; and

WHEREAS, documents marked A-1 through A-15 and B-1 through B-8 were submitted in evidence; and

WHEREAS, referrals and reports have been submitted by Township agencies and consultants, including a detailed reports by the West Caldwell Police Department dated December 10, 2015 and Maser Consulting dated January 22, 2016; and

WHEREAS, the Applicant has indicated that the current property owner will be responsible for all site remediation required by any and all environmental agencies with jurisdiction; and

WHEREAS, the Applicant has presented substantial expert testimony and detailed engineering reports that conclude that the circulation plan and all points of ingress and egress will provide adequate public safety; and

WHEREAS, the Board's expert traffic engineer, John Desch Associates, has submitted a report which notes the gap analysis that required further review and the Applicant's expert amended its report to address that concern; and

WHEREAS, Applicant's expert has testified that the modification to the report does not materially impact his conclusions and recommendations; and

WHEREAS, the Applicant has also provided extensive expert testimony and detailed drainage calculations in the field of professional engineering, which testimony concluded that the Application complies with the Township's Storm Water Management Ordinances and Regulations; and

WHEREAS, the Applicant has provided credible expert testimony in the field of land use planning, which testimony concluded that (a) due to the unusual shape and pre-existing conditions of the Property, certain regulations would present practical difficulties and unusual hardship to its development, and (b) the change of use, along with these variances, advance the purposes of zoning by the replacement of a motor fuel station with documented environmental concerns with a new bank structure and use with notable design and architecture, enhanced pedestrian circulation and safety and distinctive landscaping, such that the variances requested could be granted without any impairment to the public good and the zone district; and

WHEREAS, the Applicant has provided sufficient credible testimony that establishes sufficient showings to satisfy the C-1 and C-2 criteria, which such showings also advance the purposes of zoning in accordance with the provisions of the MLUL, and such testimony establishes that the variances can be granted without substantial impairment to the zone plan and public good, and are therefore granted as set forth below;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of West Caldwell that the Application conforms with the requirements of chapters 18A, 20 & 21 of the general ordinances of the Township of West Caldwell and be and is hereby **approved**, subject to the following conditions:

1. The Applicant shall work with the Municipal Engineer, Ralph Tango, to address any concerns raised in the Maser Reports or the TRC reports.
2. The Applicant shall comply with the recommendations of the Water Department in its referral.
3. The Applicant shall add a third street light in the Passaic Avenue right of way meeting the specifications of the existing West Caldwell streetscape design.
4. If any discrepancies arise between construction details in the plans and the standard construction details of the Town of West Caldwell, the Township details shall govern, at the discretion of the Township Engineer.
5. The Township reserves the right to require adjustments in drainage design to address any unforeseen field conditions as may be directed by the Township Engineer.
6. At the completion of the project the Applicant shall submit as-built plans, in both electronic and hard copy as directed by the Township Engineer.
7. All signage is subject to a separate application to the Sign Committee of the Planning Board.

8. The Applicant shall meet with the West Caldwell Police Department to review the adequacy of the site security and video observation system and shall add such components as may be required by the police department.
9. The landscape plan is subject to the review of the West Caldwell Environmental Commission, which shall file its recommendations with the Board's Minor Site Plan Committee, which shall have the authority to approve that plan or to refer it to the full Board for review.
10. The Applicant shall take special care during demolition to minimize hazards and disruptions to the public, to provide a clean and dust-free environment at all times to the greatest extent possible and to accurately locate all existing utilities and to identify and protect their locations during demolition and subsequent construction, and to seal all said utilities against any intrusion from construction debris.
11. The Applicant shall be bound by the testimony of its representatives and the representations made during the presentation of this Application and during the course of the hearing.
12. The Applicant shall comply with any conditions of approval of the Essex County Planning Board. If the Essex County Planning Board requires the Applicant to make any material revisions to its Application and/or site plan, then Applicant must return to this Board for review and approval of any such revisions.

Mr. Smith seconded the motion and it was APPROVED WITH CONDITIONS 7-0. This resolution will be memorialized at the next scheduled meeting.

INVITATION FOR PUBLIC COMMENT:

There were no questions or comments from the Public.

Meeting was adjourned at 8:52pm

Respectfully submitted,

Tamara E. Bross, Planning Board Secretary