

**CITY OF NORTHFIELD
PLANNING BOARD**

RESOLUTION AND FINDINGS OF FACTS AND DECISION

RE: Yellow Cab Holdings, LLC
798 Tilton Road
Block 16.01, Lot 46.04
Northfield, New Jersey

Application for Minor Site Plan Approval,
“c” Variance and Waivers
GRANTED
Hearing Date: September 3, 2020

This matter having been heard by the Planning Board of the City of Northfield on Thursday, September 3, 2020, at a duly scheduled virtual meeting held via an electronic Zoom meeting, and a hearing having been conducted with a quorum present on the application submitted by Yellow Cab Holdings, LLC (the “**Applicant**”); and

WHEREAS, the Applicant is the owner of the real property located at 798 Tilton Road, identified as Lot 46.04 in Block 16.01 on the tax map of the City of Northfield, Atlantic County, New Jersey (the “**Property**”), which Property contains an existing Wendy’s Restaurant; and

WHEREAS, the Applicant was represented at the hearing by Lawrence A. Calli, Esquire of Calli Law, LLC; and

WHEREAS, the Applicant submitted an application together with a Proposed Zoning Plan dated July 24, 2020, last revised as of August 13, 2020, prepared by Consulting Engineers & Architectural, Inc., requesting minor site plan approval, “c” variance, and checklist waivers in order to add sixteen (16) permanent outdoor seats and four (4) tables to an area located in the front of the existing Wendy’s Restaurant, together with a relocated bun freezer and trash enclosure (collectively, the “**Project**”); and

WHEREAS, at the time of the hearing, Applicant presented testimony on behalf of the application from John Anderson, a qualified New Jersey licensed professional engineer and Thomas Morgan, a Regional Construction Manager for Wendy’s restaurants; and

WHEREAS, the Board received a report from Matthew F. Doran, Board Engineer dated August 24, 2020, a copy of which is attached hereto as **Exhibit “A”**; and

WHEREAS, no member of the public spoke either in favor of or against the Project; and

WHEREAS, after completing a full and thorough hearing on the application, the Board considered the evidence presented and made the following findings and conclusions which are reflected in the record.

1. The Applicant is the owner of the Property, which is located at 798 Tilton Road, and is shown as Lot 46.04 in Block 16.01 on the tax map of the City of Northfield. The Property is located in the CB-Community Business Zone, which allows primarily for commercial uses. The Property contains an existing Wendy’s restaurant, parking areas and access driveways to Tilton Road.

2. The Applicant has submitted a properly filed application, all required documents and has paid all required fees and has complied with the Advertising and Notice Requirements of the New Jersey Municipal Land Use Law (“**MLUL**”) and City’s Land Use and Development Ordinance (the “**Zoning Ordinance**”).

3. Applicant is seeking minor site plan approval, a “c” variance and waivers to permit the placement of sixteen (16) permanent outdoor seats in the area adjacent to the front of the existing Wendy’s Restaurant on Tilton Road, together with landscaping and other site improvements, relocation of an existing trash dumpster and installation of a new “bun freezer” in the rear parking area of the Property. Mr. Calli explained how the Project was intended to address issues raised by the Covid-19 pandemic requirement for outside dining and that there are no other changes being made to the operations of the Wendy’s Restaurant.

4. The Applicant, through the testimony of its licensed engineer, John Anderson, who was duly qualified as an expert, referring to Exhibits A-1, Google Aerial Photo of Site Area, A-2, Page C1-O, Proposed Site Plan, A-3, Proposed Enlargement Zoning Plan of Outdoor Dining, and Exhibits A-4, A-5 and A-6, comprised of multiple photographs of existing conditions at the Property, explained the existing conditions at the Property, including the fact that the Wendy's Restaurant was recently renovated to address ADA compliance requirements and to make other general facility upgrades and improvements. Mr. Anderson explained that the outdoor dining area is comprised of four (4) tables and sixteen (16) seats, is separated and screened from Tilton Road by a fifteen (15') foot wide newly landscaped area with some perimeter fencing for protection and separation from the existing drive aisles.

5. Thomas Morgan, Regional Construction Manager for Wendy's, addressed a question regarding the proposed "bun freezer". Mr. Morgan explained that Wendy's has always had two (2) freezers on site, one being the main freezer for the building and the other being a "bun freezer". As depicted on Exhibit A-2, the "bun freezer" is simply being relocated closer to the existing restaurant building. He confirmed that no other changes are being proposed to the Property.

6. The Board found that the Applicant, through the testimony of its professional Engineer, adequately presented a case for the Board to approve the requested minor site plan application in accordance with the requirements of the City's Zoning Ordinance and requested variance and waivers for this Project pursuant to the provisions of N.J.S.A. 40:55D-70c(2), as the variance relief meets the goals of zoning as set forth in the MLUL, including the promotion of public health, safety, morals and general welfare. The Board found that the

proposed outdoor seating will promote public health, safety and welfare of the public as customers will be able to dine safely outdoors in a protected location both during the existing global pandemic and thereafter, which will clearly constitute a benefit to the residents of the City of Northfield and the public at large without substantial detriment.

7. The Board also found that the “c” variance for outdoor seating can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the City’s Zoning Ordinance.

8. The Board also granted the requested checklist waivers requested by the Applicant.

9. The Board found that the granting of the minor site plan approval, variances and waivers are further minimized by the conditions set forth below which were consented to by the Applicant.

NOW, THEREFORE, a Motion having been made and seconded, and for all of the above reasons, the City of Northfield Planning Board hereby grants Minor Site Plan Approval, “c” Variance Relief for permanent outdoor seating and the requested waivers to permit the Applicant to have sixteen (16) outdoor permanent seats and four (4) tables in the area adjoining the front of the existing Wendy’s restaurant, relocated trash enclosure and “bun freezer, all as more fully shown on the Proposed Zoning Plan (Exhibit A-2) and Proposed Enlargement of Zoning Plan of Outdoor Dining (Exhibit A-3), with conditions as follows:

1). Applicant shall conform with all conditions and requirements set forth in the Board Engineer's report dated August 24, 2020, a copy of which is annexed hereto as Exhibit “A” and by this reference made a part hereof, unless modified at the hearing and herein as modified by this Resolution.

2). Applicant shall file amended plans showing all modifications to said plans made at the hearing, if applicable.

3). Applicant must comply with all other state, county and local agencies having jurisdiction over the Project.

MOTION MADE BY: LEEDS

SECONDED BY: SHIPPEN

CHAIRPERSON LEVITT	- YES
CHAU	- ABSENT
BROPHY	- YES
LEEDS	- YES
NEWMAN	- YES
NOTARO	- ABSENT
ROEGIERS	- YES
ROWE	- YES
SCHARFF	- YES
SHIPPEN	- YES
UTTS	- YES
VAIN	- ABSENT
REARDON	- NO VOTE AS ALT. #4- 9 VOTERS PRESENT

ROBIN ATLAS
PLANNING BOARD
SECRETARY

DR. RICHARD LEVITT
CHAIRPERSON

Date of Adoption: October 1, 2020

EXHIBIT "A"
Engineering Report dated August 24, 2020

DORAN

ENGINEERING, PA
ENGINEERS • PLANNERS • SURVEYORS

840 NORTH MAIN STREET • PLEASANTVILLE, NJ 08232
(609) 646-3111 FAX (609) 641-0592

MEMO TO: City of Northfield Planning/Zoning Board

FROM: Matthew F. Doran, Board Engineer

DATE: August 24, 2020

RE: Yellow Cab Holdings, LLC
Doran #9683

LOCATION: Tilton Road
Block: 16.01 Lot: 46.01

STATUS: Variance Request

BASIS FOR REVIEW: Cornerstone Consulting Engineering & Architectural
Sheet C 1 of 3 dated 8/13/20 revised 8/13/20
Sheet A1.1 2 of 3 dated 5/19/20 revised 8/13/20
Sheet A1.2 3 of 3 dated 5/19/20 revised 8/13/20

USE: Wendy's Restaurant

ZONING REQUIREMENTS: This property is located in the CB- Community Business Zone which allows primarily for commercial uses. The following is a review of the bulk requirements for the proposed project:

ITEM	REQUIRED (Existing)	PROPOSED	CONFORMITY
LOT AREA	1 AC	59,677 SF	C
LOT WIDTH	200'	150.33' (EX)	ENC
SETBACKS:			
FRONT	50'	50' (EX)	C
SIDE	15'	56.9' (EX)	C
SIDE	15'	114.8' (EX)	C
REAR	30'	268.80' (EX)	C
HEIGHT	25'	15.35'	C
MIN. GROSS FLOOR AREA:			
ONE STORY	2,500 SF	2,399 SF (EX)	ENC
TWO STORY	2,500 SF	-	-
BLDG. COVERAGE	20%	4%	C
TOTAL COVERAGE	80%	EX	-
FLOOR AREA RATIO			
BUFFER (REAR)	25'	-	-

ENC- Existing Non Conformity

As per Section 215-157 C (3) Fast Food Restaurants are a conditional use in the CB zone, subject to the provisions of Article X, Section 215-148 , which outlines alternate bulk requirements.

PROJECT DESCRIPTION:

This is an application in order to allow for outside seating, sixteen (16) additional seats, at the Wendy's Restaurant on Tilton Road. The applicant is also proposing to relocate the dumpster area and to install a bun freezer in the rear parking area. No other site changes are proposed as part of the application.

COMPLETENESS REVIEW:

The applicant was reviewed utilizing the site plan checklist supplied with the application. The applicant should supply the information or obtain a waiver from the Board, prior to the application being deemed complete.

1. Signature lines for the chairman and secretary of the Board
2. Signature line for the Engineer
3. Signature block for the Atlantic County Division of Planning
4. All properties within 200'
5. Names of all owners within 200'
6. Approximate number of employees
7. Size and location of all fences
8. All driveways with 200' of the site
9. Location
10. Locate all landscaping, buffers, etc.
11. Existing contour at 2' foot intervals

ZONING REVIEW:

1. The applicant has requested a C (2) variance, in order to allow for sixteen (16) additional seats, to be located on the exterior of the building in front on the restaurant. The seating area is proposed to be enclosed by a 36" railing.
2. The Municipal Land Use Law generally authorizes the Board to grant "C" (1) or "C" (2) variances where:
 - A) C (1)...Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property,... the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional would be in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or a an

appeal relating to such property, a variance from such strict application of such regulation as to relieve such difficulties or hardship,..."or

B) C (2),... The Municipal Land Use Law generally authorizes the Board to grant C (2) Variances, where an application or appeal relating to a specific piece of property the purpose of this act would be advanced by a deviation from the Zoning Ordinance Requirements and the benefits of the deviation would substantially outweigh and detriment, an that the granting of the variance will not substantially impair the intent or purpose of the Zone Plan and Zoning Ordinance."

3. The applicant should provide arguments regarding the C (2) criteria, where the benefits out weight the detriment.

This testimony should be presented to the Board at the time of the hearing.

4. The applicant must also address the Negative Criteria where the granting of the variance can only made upon showing that the grant will not cause a substantial detriment to the public good, nor substantially impair the intent and purpose of the zone plan and zoning ordinance.
5. The site plan submitted shows a proposed bun freezer, and a proposed dumpster enclosure.

The applicant should discuss with the Board the process of approval of how the improvements were constructed.

6. The required parking for restaurants is one (1) parking space for each 35 SF of gross floor area.

Therefore, $2,399 \text{ SF} / 35 = 68.5$ spaces are required, plus additional spaces for the proposed exterior spaces. Normally, parking for a restaurant is one (1) space for each three (3) seats, for sixteen (16) seats, the requirement would be five (5) spaces.

Using this formula, 74 spaces would be required. The plan shows 70 spaces, of which 3 are designated as handicapped.

This should be discussed with the Board.

7. The existing pylon sign is to be refurbished and comply with the ordinance.

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Tilton Road
Doran #9683
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If you have any questions or require further information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew F. Doran". The signature is written in a cursive style with a large, stylized initial "M".

Matthew F. Doran, P.E., P.P., P.L.S.
Engineer