

FOR OFFICIAL USE ONLY

Planning Board

Zoning Board of Adjustment

Name of Applicant: Tabatchnick Fine Foods Inc.

Docket Number : _____

PART A

Explain, in detail sufficient for the Board to understand the nature of the proposal, the exact nature of the proposed application and proposed physical modifications to be made to the site and/or building(s) including the proposed use of the premises.

See Rider attached

Applicant requests the Site Plan Approval(s) indicated below (check all that apply):

Preliminary Major Site Plan *and/or*

Final Major Site Plan

or

Check below if Waiver of Site Plan is requested

Waiver of Site Plan Provide explanation why Waiver of Site Plan is sought: _____

PART B

APPLICANT: Individual Partnership Corporation

APPLICANT: Owner Applicant Other _____

Name Tabatchnick Fine Foods Inc

Street Address 1230 Hamilton Street **Apt./Ste/Unit #** _____

City Somerset **State** NJ **Zip Code** 08873

Phone 732-247-6668 **Fax** _____

Email _____

OWNER (if different from Applicant):

Name _____
Street Address _____ Apt./Ste/Unit # _____
City _____ State _____ Zip Code _____
Phone _____ Fax _____
Email _____

PART C

SUBJECT PROPERTY:

Block/s 92 Lot/s 5-48 Zone R-10

Street Address 1230 Hamilton Street

City Somerset State NJ Zip Code 08873

Approximate Site Size: 2.84 Acres/ 123,704 Sq. ft.

Present use of the property, specify: food processing & freezer facility

Proposed use of the property, specify: food processing & freezer facility

Area of new disturbance: 62.8 % of the gross lot area: 77,738 Sq. ft.

Gross square footage of the building: Existing: 28,220 Sq. ft.
Proposed: 36,349 (ADDITION) Sq. ft.

Public water available: Yes No If not, proposed? Yes No

Public sanitary sewer available: Yes No If not, proposed? Yes No

Is the site located within a Township-designated Historic District and/or located within 1000 feet of the Delaware & Raritan Canal?: Yes No

Describe any off tract improvement required or proposed N/A

Deed restrictions, covenants, easements, association by-laws:

Yes (Provide a copy) No Proposed (Must be submitted for review)

Does the applicant own any contiguous property? Yes No

If yes, state the address, block and lot of such property: _____

PART D

Has there been any previous appeal, request, or application to this or any other Township Boards or the Technical Review Committee involving this property? Yes No

If yes, in the space below state the type of approval (e.g., site plan and/or variances), docket number, the nature of the application and approval date. In particular, describe whether this submission is intended to supersede or further effectuate such previous approval(s) – e.g., site plan approval for a previously granted use variance.

See Rider attached

Identify the associated development approvals sought at this time (check all that apply):

Note: Applicant must consult the respective Instruction Sheet(s) and Submission Checklist(s) for the associated development approvals (e.g., subdivision, variances) being sought at this time. The submission will not be deemed an Application for Development unless all required submissions are provided for all requested development approvals.

"C" Variance(s):

- The strict application of the provisions of the Development Ordinance would result in peculiar and exceptional practical difficulties or exceptional and undue hardship - N.J.S.A. 40:55D-70.C(1)
- The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment - N.J.S.A. 40:55D-70.C(2)

"D" Variance(s):

- Use or principal structure in a district restricted against such use or principal structure – N.J.S.A. 40:55D-70.D(1)
- Expansion of a nonconforming use - N.J.S.A. 40:55D-70D(2)
- Deviation from a specification or standard pertaining solely to a conditional use - N.J.S.A. 40:55D-70. D(3)
- Increase in the permitted floor area ratio - N.J.S.A. 40:55D-70.D(4)
- Increase in the permitted density - N.J.S.A. 40:55D-70.D(5)
- Height of a principal structure exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure - N.J.S.A. 40:55D-70.D(6)

- Minor Subdivision**
- Preliminary Major Subdivision**
- Final Major Subdivision**
- Other(s) Specify:** _____

Check below if Conditional Use Approval is sought at this time and in the space provided demonstrate compliance with the applicable conditional use requirements (provide separate sheet if necessary). Note: Non-compliance with one or more conditional use requirements requires a D-3 use variance (Applicant must consult the respective Instruction Sheet and Submission Checklist)

Conditional Use Approval

PART E

LIST OF PLANS, REPORTS AND OTHER MATERIALS SUBMITTED: *See attached list*

<u>Quantity:</u>	<u>Description of Item:</u>
_____	_____
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PART F

CONTACT PERSON INFORMATION/ CERTIFICATION

The person indicated below shall serve as the point-of-contact with the Township Department of Planning and Zoning and shall be the sole recipient of official correspondence from the Department. By signing this form, in Part G below, the Applicant and Owner certify that that the party listed below is authorized to act on their behalf as the designated contact person with the Department.

Owner Applicant Attorney Engineer Architect Other

Name Francis P. Linnus, Esq.

Street Address 21 Clyde Road Apt./Ste/Unit # 101

City Somerset State NJ Zip Code 08873

Phone 732-873-0500 Fax 732-873-0505

Email fplesq@comcast.net

PART G

APPLICANT'S CERTIFICATION

I, Rita Tabatchnick, of full age, being duly sworn according to law and upon my oath, depose that: I ^{have offices} reside at 1230 Hamilton St, Somerset in the County of Somerset and State of New Jersey, and that the above statements contained in this application and in the papers appended thereto are true. I further certify that I am the individual applicant, or a general partner of the partnership applicant, or an officer of the corporate applicant and I am authorized to sign the application for the partnership or corporation.

Tabatchnick Fine Foods Inc.

Sworn to and subscribed before me this 9 day of

March, 2021


NOTARY PUBLIC

By


APPLICANT'S SIGNATURE

OWNER'S CERTIFICATION

(If the owner is a corporation, this section must be signed by an authorized corporate officer. If the owner is a partnership, this section must be signed by a general partner.)

I, Rita Tabatchnick, of full age, being duly sworn according to law and upon my oath depose that: I ^{have offices} reside at 1230 Hamilton St, Somerset in the County of Somerset and State of NJ, and that the above statements contained in this application and in the papers appended thereto are true. I further certify that I am the owner of the property which is the subject of this application, and I am the applicant or I have authorized the applicant to make this application, and I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant.

Tabatchnick Fine Foods Inc

Sworn to and subscribed before me this 9 day of

March, 2021


NOTARY PUBLIC

By


OWNER'S SIGNATURE

RIDER TO SITE PLAN APPLICATION
TABATCHNICK FINE FOODS INC.
BL 92, LOTS 5 – 48

PART A

On July 21, 2016, the Board approved a memorializing resolution granting the applicant use variance relief, bulk variance relief and site plan approval; see attached resolution in Docket No ZBA-15-00018. The applicant received approval to construct a 31,188 sf expansion of applicant's food processing facility; the approved expansion was in order to accommodate a new product food line (the manufacturing of peanut butter). The 31,188 sf expansion was never built. The applicant is now seeking site plan approval to construct a building addition totaling 36,349 sf (consisting of a 27,176 sf first floor and a 9,173 sf mezzanine) which would supersede and replace the previously approved site plan. The purpose of this minor expansion is to expand applicant's food processing facility as well as to create a physical covered connection for equipment and foot traffic between the existing building and the proposed expansion. The applicant is proposing to add an equipment lift on the building exterior and has reconfigured the second floor office layout from the previously approved but not built site plan. A use variance and bulk variances were previously granted by the Board in connection with the previously approved site plan. The applicant is also seeking a front yard setback variance from Codrington Avenue along with a variance for an increase in lot coverage necessitated by this proposal.

PART D

August 6, 1998 Board of Adjustment resolution in Docket No Z97061UP memorialized use variance, bulk variances and site plan approval to expand applicant's nonconforming use with an addition to its facility on a portion of the subject property known as BL 92, Lots 12-43.

April 19, 2007 Board of Adjustment memorialized use variance and site plan approval with variances to construct a 2-story office and warehouse, plumbing, heating & cooling facility on a portion of the property known as BL 92, Lots 5-11 & 44-48 (owner at the time was Anthony's Plumbing & Heating), Docket No ZBA-2006-00013; site plan never built; property was sold to applicant

July 21, 2016 Board of Adjustment resolution in Docket No ZBA-15-00018 memorialized use variance, site plan and associated variances for the construction of a food processing addition to the existing building on the expanded property. The approved site plan was not built; this application is intended to supersede and replace all prior approvals by way of amending the site plan, bulk and use variance approvals previously granted but not built.

**RESOLUTION OF BOARD OF ADJUSTMENT OF THE TOWNSHIP
OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY**

**TABATCHNICK FINE FOODS, INC.
DOCKET NO. ZBA -15-00018**

WHEREAS, Tabatchnick Fine Foods, Inc. (hereinafter, Applicant) has applied to the Franklin Township Board of Adjustment for Use Variance and Site Plan with associated Variances in order to construct a food processing addition to the building located at 1230 Hamilton Street, Somerset Block 92, Lots 5-48 on the Franklin Township Tax Map, pursuant to N.J.S.A. 40:55D-70(d); and

WHEREAS, a public hearing was held on said application by the Board of Adjustment on April 7, 2016; and

WHEREAS, no members of the public spoke on the application; and,

WHEREAS, the Board, after carefully considering the evidence presented to it by the Applicant, the application and the documents filed by the Applicant, and the comments of the appropriate township officials and agencies together with the public comment has made the following findings of fact:

1. The property is located at 1230 Hamilton Street, Block 517.05, Lots 5-48, in the M-1 Zone on the tax map.
2. The following variances are required:
 - D-1: Use Variance: Food processing is not permitted in the R-10 zone.
 - D-6: Building height 38.5 ft. proposed, 35 ft. permitted.
 - Front yard setback: (Hamilton Street) 40 ft. minimum; 25 ft. proposed for addition.
 - Front yard setback: (Codington) 25 ft. minimum; 15 ft. proposed for the refrigeration units.
 - Lot coverage: 20% maximum; 41.8% proposed
 - Impervious coverage: 30% maximum; 71.8% proposed
 - Sign: One (1) sign on building permitted, and two (2) proposed.

2. Francis Linnus, Esq., appeared on behalf of the Applicant. The Applicant seeks to construct a 31,188 square foot expansion of Tabatchnick's food processing facility. The Applicant is also seeking Preliminary and Final Site Plan approval and other variance relief. The property is a 2.84-acre site located on the southwesterly corner of Hamilton Street's intersection with Wheeler Place, within the R-10 zoning district. The site is currently developed with a 28,220 sq. ft. food processing business on the easterly portion of the site while the westerly portion of the site is undeveloped. Mr. Linnus stated that this particular site received Use Variance and Site Plan approval in 1997 in order to expand the non-conforming manufacturing use through a 13,090 sq. ft. addition to the building along with variances with respect to lot coverage and impervious coverage. Mr. Linnus advised the Board that in 2007, this site received Use Variance and Site Plan approval for Anthony's Plumbing, Heating & Cooling, Inc. for the construction of a two-story office and warehouse plumbing, heating and cooling facility which included variances with respect to lot coverage and impervious coverage. He indicated that this approval was never constructed, and Tabatchnick subsequently purchased the adjoining property for the sole purpose of expanding its food processing facility on the property.

3. Ms. Rita Tabatchnick, President of Tabatchnick Fine Foods, Inc., came forward and was sworn in. Entered into the record as Exhibit A-1, a series of slides that were shown on the Board's screen. Ms. Tabatchnick discussed the history of Tabatchnick Fine Foods, Inc. Tabatchnick is seeking to expand their company with a product line called RUTF, ready to use therapeutic foods, given to malnourished children. Ms. Tabatchnick wants to bring the manufacturing of RUTF to her New Jersey facility. Ms. Tabatchnick is seeks to expand her Somerset facility in order to accommodate this product line, by relocating the plant from Georgia which produces RUTF. Tabatchnick Fine Foods, Inc. is only one (1) of three (3) national companies that is certified by the USDA to make RUTF products. Currently, there are approximately 31-35 employees on site. She indicated that the cooks arrive at 1:00 a.m. and stay until 9:00 a.m., manufacturing employees' shifts start at 7:00 a.m. until 3:00 p.m. and the office staff remains until 5:00 p.m. Many of the workers walk to work, so parking is not an issue. She discussed deliveries that will include tractor trailers and smaller vehicles

to make deliveries between the hours of 7:00 a.m. and 3:00 p.m. She plans to expand Tabatchnick Fine Foods, Inc. for the manufacturing of peanut butter. Nineteen (19) additional employees will be hired to cover two shifts of operation. The hours of operation are not expected to change.

4. Ms. Tabatchnick advised the Board that she will fulfill any and all of the punch list items from the prior approval. She indicated that she would like to preserve the previously planted trees on the site and request a waiver for curbing to allow for tree preservation. She also acknowledged the required affordable housing fees. Ms. Tabatchnick indicated that the proposed insulated building will contain odors and the production process will use very fast heating, cooling and packaging.

5. Mr. Oliver Wilhelm, Architect, came forward and was sworn in. The Board accepted his qualifications. Mr. Wilhelm discussed the manufacturing process and the building location. He testified that there will be efficient use of space in both the manufacturing and warehouse portions of operations. The second floor of the building will accommodate the office staff. Entered into the record as Exhibit A-2, a rendering of the south elevation. Entered into the record as Exhibit A-3, a 3D aerial photo projection. Entered into the record as Exhibit A-4, a western elevation a visual simulation showing a new entranceway. He then entered into the record as Exhibit A-5, a visual simulation of the loading dock. Mr. Wilhelm discussed the building material and insulated metal panels that will be installed on the exterior of the building. The panels will include an attractive exterior product that provides insulation necessary to maintain proper temperatures inside the building while also providing an easily washable product that can be painted any color. Mr. Wilhelm indicated that the Applicant will utilize a beige color.

6. Mr. Wilhelm then discussed the building height, noting that the Township allows for 35 ft. and that the Applicant is proposing 38.6 ft. He further explained that the machinery that produces the peanut butter is very large and will require additional height. Lot coverage variance is also needed, for the manufacturing and storage of the product. Mr. Wilhelm then discussed the proposed building signs and their potential location. Both of the proposed signs will be mounted on metal awnings having the name "Tabatchnick Fine Foods". Mr. Wilhelm testified that the proposed signs will be ground

lit and architecturally in scale with the building size. Mr. Wilhelm then addressed the placement of the proposed refrigerator units, which will be located in the front yard facing an unimproved portion of the Codington Place right-of-way. He indicated that the refrigerator units are to be placed there in order to work more effectively and efficiently.

7. Mr. Mitchell Ardman, Engineer, came forward and was sworn in. The Board accepted his qualifications. Entered into the record as Exhibit A-6, was a colorized Dimension Plan with Landscaping. Mr. Ardman discussed the 2.84 acre site, which includes the addition of the newly purchased property. Mr. Ardman discussed the location of the new driveway, located off Hamilton Street, with the inclusion of 18 new parking spaces (a few being ADA accessible). Mr. Ardman then discussed the M-2 standards for comparison, as this location is in an R-10 residential zone. Mr. Ardman explained that the Applicant is unable to utilize the existing warehouse because the peanut butter product requires separate warehousing and processing. Mr. Ardman indicated that the Applicant will comply with all comments in all Staff Reports.

8. Mr. Ardman stated that Applicant will comply with the Township's Engineer report. Mr. Ardman testified that there is a storm water management plan in place for the site. The plan includes a bio-retention basin for improved water quality and re-charge. The run-off water will be controlled through large over-sized underground pipes. Mr. Ardman then discussed curbing and the fact that the Applicant would like to preserve as many trees as possible on site and will work with Township staff to their satisfaction. Mr. Ardman indicated that the Applicant will comply with the Township's Planning report. He added that the design of the building is going to serve as a buffer to cut off any light spillage onto neighboring properties. He also indicated that the Applicant will re-locate the light pole. He does not believe there are any negative impacts upon either the zone plan or the neighboring properties.

9. Mr. Kevin O'Brien, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien discussed the unique aspects of this application. He spoke about the peanut butter product being manufactured for malnourished children, promoting good worldwide, not just locally. He also indicated that 19 new manufacturing jobs will be created. Mr. O'Brien indicated that the proposed application is the same type of operation (warehouse and office space) that was previously

approved by the Board in 2007 for this site. Mr. O'Brien discussed the 2006 Master Plan that encourages commercial and industrial development and will least likely impact residential neighborhoods. The 2016 Master Plan continues to encourage such uses of manufacturing along roadways. Mr. O'Brien addressed the Municipal Land Use Law (MLUL) and the special reasons in items (e), (f), (g) and (m) that demonstrate sufficient space within the appropriate locations. Mr. O'Brien believes that there are no negative impacts and the building expansion will benefit the surrounding area. This approval is granted based on the specific need for the production of peanut butter. The Board will allow the Applicant to produce and manufacture peanut butter and/or similar food products with nutritional supplements that are in the same line of peanut butter related products, if beneficial for the same need in feeding and aiding malnutrition children.

WHEREAS, the Board has made the following ultimate findings and conclusions based upon the foregoing findings of fact:

- A. The Applicant has shown special reasons to satisfy the requirements for granting a D(1) Variance and D(6) Variances with Site Plan and associated "C" Variances pursuant to the provisions of N.J.S.A. 40:55D-70. The site is particularly suited for the proposed expansion project. The Board finds that the Applicant has demonstrated special reasons to support the granting of the variances and adopts the testimony of the Applicant's Planner in this regard.
- B. The Board concludes that there are no significant detrimental impacts on the neighborhood. The Board concludes that the conditions to be imposed reduce or eliminate any negative impacts.
- C. The application for the D(1) Variance and D(6) Variances, Site Plan and associated "C" Variances applied for as hereinafter conditioned, can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan, Zone Plan and the Zoning Ordinance of the Township.

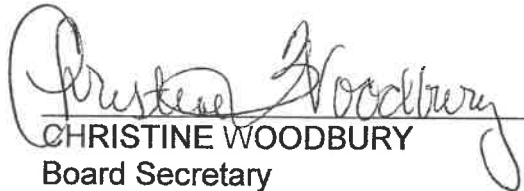
WHEREAS, at the conclusion of the hearing on April 7, 2016, the Board has taken action by voting on said application in accordance with N.J.S.A. 40:55D-10(g) of the Municipal Land Use Law and has directed that a resolution memorializing such action be prepared.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment on this 21st day of July, 2016, on the basis of the evidence presented to it, the foregoing findings of fact and ultimate findings and conclusions, that the Board does hereby grant the Use Variance, Site Plan and associated Variances applied for by the applicant subject to the following conditions:

1. The granting of the Use Variance, Site Plan and associated Variances shall not be construed to eliminate satisfaction of any other requirements of the zoning ordinance and/or other requirements of the agencies, boards, and authorities of the Township of Franklin, County of Somerset or State of New Jersey.
2. Compliance with Applicant's representations and agreements as well as the conditions set forth in the findings of fact hereinabove.
3. Any and all fees properly due and owing the Municipal Board of Adjustment for hearing the application must be paid in advance of building permits being issued.
4. Applicant shall comply with representations and agreements as well as all staffing reports except as otherwise indicated herein this Resolution.
5. Applicant agrees that the building and landscaping, when constructed, will be in accordance with the designs and examples shown in the hearing exhibits.
6. Applicant agrees to paint both the old and the new building with the same Beige color in order to obtain consistency.
7. Applicant will work with Township staff regarding curbing and tree issues.
8. The granting of this approval is based in significant part on the importance of the unique nature of the peanut butter product to be made and its humanitarian value. In the event that a new product other than peanut butter or food products/nutritional supplements satisfying the same need

of the peanut butter product is proposed to be manufactured at this site further Board review and approval will be required.

9. The Board's approval of a peanut butter manufacturing/processing addition at this site, subject to conditions, is based on the need to have a separate area from other food manufacturing/processing, therefore, the reasoning and conclusions for granting the above approvals is linked to the products identified in Condition 8 above this product and as such the approval is for the manufacturing/processing of those products only and any other food product will require further Board review and approval.


CHRISTINE WOODBURY
Board Secretary

VOTE ON MOTION: 04/07/2016

FOR

Raymond Betterbid
Alan Rich
Robert Shepherd
Gary Rosenthal
Joel Reiss
Cheryl Bergailo
Chairman Thomas

AGAINST

NONE

ABSTENTIONS

NONE

VOTE ON RESOLUTION: 07/21/2016

FOR

AGAINST

ABSTENTIONS

TABATCHNICK FINE FOODS INC. – LIST OF PLANS, REPORTS & OTHER MATERIALS SUBMITTED:

- 25 Site Plan & Variance application forms
- 2 Site Plan checklist
- 2 Variance checklist
- Disclosure Statement
- Tax certification
- Proof of submission to outside agencies
- 3 Preliminary & Final Site Plan dated 8/7/15 revised 1/12/21 consisting of 14 sheets
- 3 architectural drawings dated 1/12/21 consisting of 4 sheets
- Checks for application & escrow fees with Form W-9
- CD with all application materials & plans in pdf format