

# Franklin Township

Somerset County, New Jersey



## DEPARTMENT OF PLANNING AND ZONING

Planning – Zoning – Affordable Housing  
Planning Board – Zoning Board of Adjustment

## MEMORANDUM

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To: Zoning Board of Adjustment

From: Mark Healey, PP, AICP  
Director of Planning

Date: May 27, 2021

RE: Tabatchnick Fine Foods Inc. - Use Variance and Site Plan (ZBA-15-00018)  
1230 Hamilton Street (Block 92, Lot 5-48)

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As requested, I have reviewed the application materials listed below and issue the following report for the Board's consideration:

- 14-sheet set of site plan drawings prepared by The Reynolds Group, last revised 1/12/21
- 4-sheet set of architectural drawings prepared by Cybul Cybul Wilhelm Architects, dated 1/12/21

### Site Description and History

The 2.84-acre subject site is located on the southwesterly corner of Hamilton Street's intersection with Wheeler Place, within the R-10 (Residential) zoning district (see Figure 1). The site also fronts Codington Avenue which runs parallel with Hamilton Street. The site is currently developed with a 28,220 square foot food processing business on the easterly portion of the site while the westerly portion of the site is undeveloped and forested. The site is served by public water and public sewer.

The site is located opposite residential uses to the south, east and north and a residence fronting Hamilton Street adjoins the site to the west. Figure 2 shows the location of the site in relation to surrounding zoning - i.e., residential zones to the south, east and north and a nearby M-2 (Light Manufacturing) zone to the west along Shirley and Veronica Avenues.

#### Docket #Z97061UP

The site received use variance and site plan approval in 1997 to expand the non-conforming manufacturing use via an 13,090 square foot addition to the building (as well as associated site modifications). Variances were also received with respect to lot coverage (31.5% proposed where 20% is permitted) and impervious coverage (49.5% proposed where 30% is permitted). The approval involved the easterly 2.04 acres of the site (Lots 12-43)

Docket No. 2006-00013

The westerly portion of the site (Lots 5-11 & 44-48) was the subject of a use variance and site plan approval (Anthony's Plumbing, Heating & Cooling, Inc. under Docket No. 2006-00013) in 2007 for construction of a 2-story office and warehouse plumbing, heating and cooling facility. Variances were also received with respect to lot coverage (24.8% proposed where 20% is permitted) and impervious coverage (48.2% proposed where 30% is permitted). That approval was not constructed.

Docket #ZBA-15-00018

In 2015, the applicant obtained a use variance, bulk variance and site plan approval to construct a building addition on the westerly portion of the site with a footprint of 23,481 square feet and a 7,707 square foot second floor mezzanine. The addition totaled 31,888 square feet and would bring the total building square footage to 59,408 square feet. Associated site modifications included additional parking and stormwater management. The building would be roughly U-shaped with refuse, loading and parking areas (totaling 22 spaces) within the middle of the "U", facing Hamilton Street and screened from Codington Avenue and Wheeler Place by the building. Site access would consist of two 2-way curb cuts on Hamilton Street, with no site access on Codington Avenue or Wheeler Place. The 2015 approval was never constructed.

## Project Description

The applicant is now seeking approval to expand the facility in a slightly different manner. The rider to the application form indicates that the new submittal would "supersede and replace the previously approved site plan" and indicates that the purpose of the current proposal is to "expand the applicant's food processing facility as well as to create a physical covered connection for equipment and foot traffic between the existing building and proposed expansion."

A detailed description of the proposal is provided below (note: changes in relation to the 2015 approval are noted in underline/ ~~strikeout~~ for the Board's reference):

- Construction of a building addition on the westerly portion of the site. The addition would have a footprint of ~~23,481~~ 27,176 square feet and would have a ~~7,707~~ 9,173 square foot second floor mezzanine. The addition would total ~~31,888~~ 36,349 square feet and would bring the total building square footage to ~~59,408~~ 64,569 square feet.
- The building would be roughly U-shaped with refuse, loading and parking areas (totaling 22 spaces) within the middle of the "U", facing Hamilton Street and screened from Codington Avenue and Wheeler Place by the building.
- An additional 18-space parking lot is proposed to the west of the proposed building.
- Site access would consist of two 2-way curb cuts on Hamilton Street, with no site access on Codington Avenue or Wheeler Place
- A detention pond is proposed in the area of the proposed 18-space parking lot with underground detention facilities also proposed under parking areas.
- Placement of "refrigerator units" within the required front yard along the unimproved portion of Codington Avenue. An equipment lift would be placed on the southerly side of the building (i.e., the side facing Codington Avenue).
- A new 6'-6" tall monument sign is proposed adjacent to the westerly curb cut.
- The site will be consolidated into new lot 5.01 (in block 92)
- The proposal complies with applicable parking requirements (40 spaces provided where ~~32~~ 34 are required)

- The applicant would extend the improved portion of Codington Avenue by about 150 feet and would eliminate the informal vehicular access to the site from connection from Codington Avenue.
- Variances required:
  - *Use Variance (D-1)*: Food processing facility not permitted in the R-10 zone
  - *Building Height (D-6)*: 38'-6" proposed where 35' is permitted
  - *Required Front Yard (Hamilton Street)*: 40 feet required where 25 feet is proposed for the building addition
  - *Required Front Yard (Codington Avenue)*: 25 feet required where ~~45~~ 11 feet is proposed for the ~~refrigerator units~~ equipment lift
  - *Lot (aka building) Coverage*: 20% permitted where ~~41.8%~~ 44.8% is proposed
  - *Impervious Coverage*: 30% permitted where 71.8% is proposed
  - *Building-Mounted Signage*: 1 sign permitted where 2 signs are proposed

## Review Comments

1. D-1 (Use) Variance. The resolution of the previous approval in 2016 states the following:

“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.<sup>1</sup> In the event that a new product other than peanut butter or food products/ nutritional supplements satisfying the same need of the peanut butter is proposed to be manufactured at the site further Board review and approval will be required.”

As there is no mention in the application it would *appear* that the current proposal is not for production of such a specialized product line. The applicant should clarify.

Either way the applicant must address the following to the Board’s satisfaction:

- *Special Reasons/ Positive Criteria*. A d(1) use variance should only be granted if the Board of Adjustment, on the basis of the evidence, feels that the use would advance a purpose of zoning (e.g., promotion of the general welfare). In order to address the general welfare issue, the applicant must demonstrate that the proposed site is *particularly suited* for the use.
- *Negative Criteria*. With respect to the negative criteria, the applicant must prove that the variance can be granted without substantial detriment to the public good.

In addition, the applicant must prove that grant of the variance would not be inconsistent with the intent and purpose of the master plan and zoning ordinance (e.g., they must reconcile the proposed use variance with the zoning ordinance's omission of the use from those permitted in the zoning district).

In particular, it is recommended that the applicant address the following to the Board’s satisfaction:

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<sup>1</sup> The previously approved building expansion approved in 2016 was intended for the production of a specialized food product provided to malnourished children.

- The degree to which business activities will be screened from surrounding residences visually and in terms of noise.
  - The degree to which odor from the facility will be mitigated so as not to significantly affect nearby residences.
  - Demonstrate that traffic from the facility will not significantly affect surrounding roadways including Hamilton Street and nearby residential streets.
2. Bulk Variances. As indicated above, the application requires bulk variances for: front yard setback along Hamilton Street (building) and Codington Avenue (equipment lift); lot and impervious coverages; and the number of building-mounted signs. Some of these were granted in the 2016 approval, while certain of them are proposed to be modified in this application (see updated identification of variances on page 3, above):
- a. With respect to the variances, the applicant needs to demonstrate whether each would satisfy the c-1 (hardship) and/or c-2 (advancement of the MLUL) criteria. With respect to c-1 variances, the applicant must prove that there exists unique condition(s) on the property that cause an undue hardship or practical difficulties in creating compliant development. With respect to c-2 variances, the New Jersey Supreme Court (Kaufmann v. Planning Bd. for Warren Twp.) tells us that “no c(2) variance should be granted when merely the purposes of the owner will be advanced. The grant of approval must actually benefit the community in that it represents a better zoning alternative for the property.” The applicant must also prove that the variances can be granted without substantial detriment to the public good.
  - b. With respect the requested bulk variances I offer the following:
    - Compared to the 2016 approval, the current proposal proposes no increase in proposed impervious coverage (71.8%) and a *slight* increase in proposed building coverage (41.8% vs. 44.8%).
    - What is the justification for the placement of the equipment lift in the required front yard facing the unimproved portion of Codington Avenue?
    - The requested signs are the same as previously requested/ approved. In my opinion, the signs are architectural compatible, and in-scale, with the building.
3. Height Variance. With a proposed building height of 38'-6", the proposed building addition is 10% higher than permitted (35'), making the height variance a D variance. It is noted this variance was previously granted in 2016, however the proposed building is *slightly* larger than previously proposed.
4. Site Plan Comments.
- a. Per Chapter 222 and the calculations on the plan, there would be a remaining tree replacement value of 94. In my opinion, the applicant has essentially maximized potential on-site tree replacement. Therefore, the balance may be addressed by payment-in-lieu to the Township tree fund, per ordinance.
  - b. An elevation for the south side of the building (i.e., the side facing Codington Avenue) should be added to the plan sheets. The applicant should describe same at the hearing.

- c. At the hearing the applicant should present three-dimensional color-renderings of the building (or other such exhibits) for the understanding of the Board and public.
- d. The applicant should address their intent to comply with conditions of the 2016 approval (including but not necessarily limited to the applicant's agreement to paint both the old and the new building with the same Beige color in order to obtain consistency)
- e. The development is subject to the payment of affordable housing development fees (equal to 2.5% of any increase in equalized assessed value).

Figure 1: Site Location

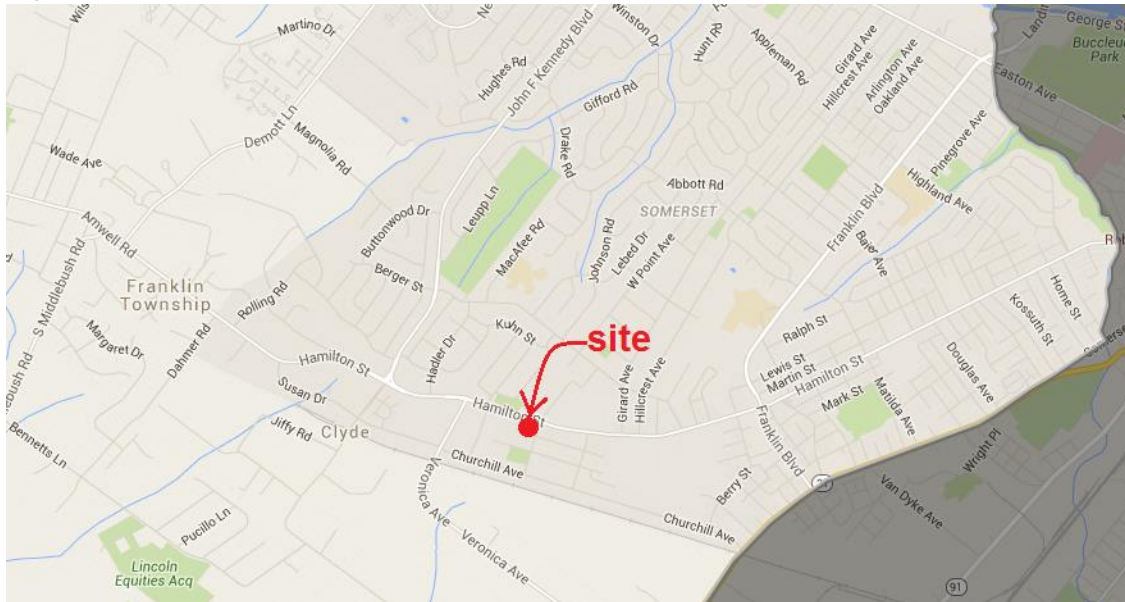


Figure 2: Site and Surrounding Area Zoning





Figure 3: Area of Proposed Construction

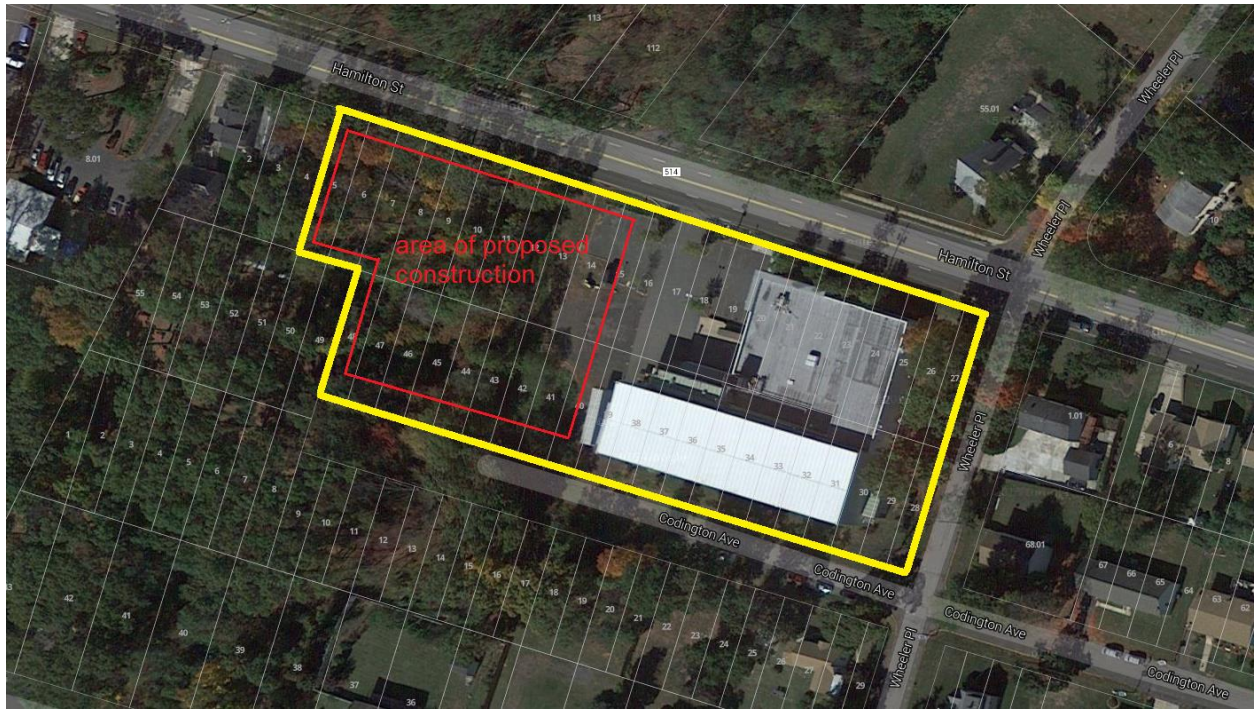


Figure 4: Aerial

