

**LEON S. AVAKIAN, INC.** *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

LEON S. AVAKIAN, P.E., P.L.S. (1953-2004)  
PETER R. AVAKIAN, P.E., P.L.S., P.P.  
MEHRYAR SHAFAI, P.E., P.P.  
GREGORY S. BLASH, P.E., P.P., CPWM  
LOUIS J. LOBOSCO, P.E., P.P.  
GERALD J. FREDA, P.E., P.P.  
RICHARD PICATAGI, L.L.A., P.P.  
JENNIFER C. BEAHM, P.P., AICP  
CHRISTINE L. BELL, P.P., AICP  
SAMUEL J. AVAKIAN, P.E.

December 15, 2020

Kristie Dickert, Administrative Officer  
Zoning Board of Adjustment  
Neptune Township  
P.O. Box 1125  
Neptune, NJ 07754-1125

**Re: McDonalds Real Estate Company  
Jim McFarland, State Permits, Inc. (ZB#20/09)  
9 Highway 35  
Block 1004, Lot 6  
Use Variance  
Our File: NTBA 20-09**

Dear Ms. Dickert:

Our office has received and reviewed materials for an application for use approval in conjunction with the above referenced project.

**Submitted Documents:**

- A. Neptune Township Application for Use and/or Bulk Variances, dated April 20, 2020.
- B. Zoning Permit dated November 13, 2019.
- C. Use Variance Justification, prepared by James T. Kyle, PP, AICP, of Kyle + McManus Associates, dated June 10, 2020.
- D. Boundary, Location, and Topographic Survey, consisting of one (1) sheet, prepared by Craig Black, PLS, of Dynamic Survey, LLC, dated July 23, 2020.
- E. Site Plan for Proposed Menu Board Improvements, prepared by McDonald's USA, LLC, consisting of two (2) sheets, prepared by Douglas Grysko, PE, of Dynamic Engineering, dated last revised August 21, 2020.

Our comments are as follows:

**1. Site Analysis and Project Description**

- A. The subject application consists of a 1.5 acres l-shaped lot with frontage on N.J.S.H. Route 35 and N.J.S.H. Route 33 in the C-6 Route 33 East Commercial Zone District. The property is currently developed with a McDonalds restaurant and drive thru.
- B. The applicant is proposing to remove three (3) existing digital menu boards and replace with four (4) digital menu boards in the drive-thru area.

**2. Zoning and Land Use Planning**

- A. The property is situated in the C-6 Route 33 East Commercial zone. The purpose of the C-6 Zone District is to provide for business uses appropriate to the Route 33 highway corridor of Neptune Township situated east of Route 18. The existing drive-through restaurant is a conditionally permitted use in the zone district. **A d(3) use variance will be required to permit a use in which the conditions upon which the use is permitted have not been met.**

**3. Conditional Use Requirements**

- A. As per §415.08.D.2, two (2) internally illuminated menu boards not to exceed twelve (12) square feet in area may be provided within the building envelope.
- B. There is one (1) pre-browse board and two (2) menu boards currently existing on the site. The applicant is now proposing two (2) pre-browse boards and two (2) menu boards. **A d(3) variance is needed for the proposed number of menu board signs.**
- C. The existing pre-browse board has a sign area of 10.19 sq. ft. and the existing menu boards have a sign area of 43.66 sq. ft. each. The applicant is proposing a sign area of 13.7 sq. ft. for each pre-browse board and 27.4 sq. ft. for each menu board. **D(3) variances are required for area of each sign exceeding the 12 sq. ft. permitted.**
- D. The proposed signs are not within the building envelope. **A d(3) variance is needed.**

**4. Required Proofs for Variance Relief**

*D(3) Conditional Use Variance.* The application requires a d(3) use variance for the approval menu board signs for a drive-thru restaurant where the conditions upon which the permitted use is predicated have not been met.

- A. To meet the positive criteria for a d(3) variance, the applicant should prove the particular suitability of the site in accommodating the use, despite its failure to meet the conditions set forth in the ordinance.
  
- B. The negative criteria should focus on the impact of the deviation, not the impact of the use. The applicant must present evidence that the negative impacts of non-compliance with the conditions can be mitigated to the extent that the use will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**5. Additional Comments**

The applicant should provide testimony on all required variances and clarify all points where additional information is needed.

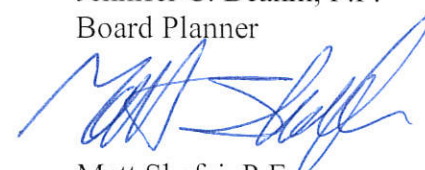
Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.  
Board Planner



Matt Shafai, P.E.  
Board Engineer

MS:clb/mcs  
cc: Leanne Hoffmann, P.E., Director of Engineering & Planning  
Monica Kowalski, Esq., Board Attorney  
Jim McFarland, Applicant ([jim@permit.com](mailto:jim@permit.com))  
NTBA/20/20-09a