

PUBLIC HEARING  
**AUSTINTOWN TOWNSHIP TRUSTEES**  
April 26, 2016

In accordance with Section 519.12 of the Ohio Revised Code, the Austintown Township Trustees held a public hearing on April 26, 2016, at the Austintown Township Administration Building, 82 Ohltown Road, Austintown, Ohio, for final determination of amendment request 2016-03-Z.

The following Trustees were in attendance:

Kenneth A. Carano – Chairman -Absent  
Rick Stauffer– Vice-Chairman  
James C. Davis – Trustee

The Public Hearing was opened at 7:30 P.M. with the Pledge of Allegiance.

Court Reporter in attendance, complete transcript taken of the hearing.

Mr. Stauffer read the following statement:

The Public Hearing before the Austintown Township Board of Trustees for April 14, 2016 is now in session. Let the record show that under the provisions of Ohio Revised Code 519.12, notice of this hearing has been given in one newspaper of general circulation in the Township at least ten (10) days before the date of this hearing and notice was given by first class mail to property owners of interest.

After a reading of the legal notice and the recommendations of the Mahoning County Planning Commission and the Austintown Township Zoning Commission, the Board of Trustees will first hear testimony from the applicant, than all testimony in support of the proposed amendment, then all testimony against the amendment. If testimony is offered against the request, the applicant will be given a short rebuttal opportunity. All testimony and questions are to be directed to the Board of Trustees.

We ask that only one person speak at a time. Prior to testifying you must state your name and address.

When all testimony has been given, the Board of Trustees will act by motion upon the recommendations of the Austintown Zoning Commission.

**AMENDMENT 2016-03-Z**

Sabatine BK Development, LLC, 1305 Boardman-Canfield Road, Unit #8, Youngstown, Ohio 44512, requests the rezoning of a 135.36' x 100' (0.310 acre) rectangular north easterly portion of a parcel of land containing a total of approximately 2.480 acres, 1101

North Canfield-Niles Road, Lot Nos. 1 & 2, Replat of Clarkins Youngstown Plat No. 1, and Lot Nos 18, 19, & 20 Replat of the Young and Webb Plat, Austintown Township, from a Business B-2 District and an Agricultural A-SER District to a Business B-2 District in its entirety. Said property is irregular in shape, has a frontage of approximately 366.18 feet on North Canfield-Niles Road and a frontage of 308.43 feet on Clarkins Drive, a mean depth of 337 feet as measured from North Canfield-Niles Road, is located at the northeast corner of the Clarkins Drive-North Canfield-Niles Road intersection; and is zoned as a Business B-2 District with the south easterly 93.27 x 189.17' zoned as an Industrial I-1 District and the north easterly 135.36' x 100' portion zoned as an Agricultural A-SER District.

Zoning Inspector Crivelli referenced the zoning commission minutes from the April 7, 2016 public hearing, the applicant's letter of request dated March 1, 2016, two plat maps submitted with the letter of request, the case mailing list, and three plat maps prepared by the zoning office. Also referenced were the following:

- Exhibits "A-H" submitted by the applicant at the zoning commission hearing;
- Exhibit "I" - a letter of opposition submitted at the zoning commission hearing by Nadine Macejko;
- The sign-in sheet for the zoning commission hearing;
- An April 14, 2016 article from the Youngstown Vindicator regarding the Sheetz project;
- An e-mail from Sheetz regarding the type of brick to be used on the exterior of the building; and
- An e-mail from Atty. Nils Johnson on behalf of Nadine Macejko requesting the proposed fence be placed 20 feet from the property lines.

Zoning Inspector Crivelli stated the following:

**MAHONING COUNTY PLANNING COMMISSION:** Recommended **APPROVAL** of the request per the agenda (March 22, 2016).

**AUSTINTOWN TOWNSHIP ZONING COMMISSION:** Motion by Mr. Hendricks to **MODIFY** the recommendation of the Mahoning County Planning Commission and recommend **APPROVAL** of the request to a **Business B-2 District** for the southerly 80 feet with the northerly 20 feet to remain as an **Agricultural A-SER District** and with the following stipulations:

- 1) Exterior lighting shall consist of dark sky compliant light fixtures with a photometric site plan indicating zero (0) foot candles of light on adjacent residential properties; and
- 2) A solid fence measuring eight (8) feet in height to be placed a minimum of ten (10) feet west and south of Lot No. 16 located on Lou Ida Boulevard and ten (10) feet south of Lot No. 17 located on Lou Ida Boulevard.

Seconded by Atty. Price.

Roll call vote: Mrs. Sovik – Yes; Atty. Price – Yes; Mr. Swoger, III – Yes; Mr. Hendricks – Yes; and Mr. Latone – Yes.

James Sabatine, Jr., stated in order to be proactive the car wash will be placed closer to Route 46 with parking and green space closer to the residential. The lighting will not be dispersed onto the abutting properties. The height of the fence is being increased to eight feet. The fence will be board-on-board and finished on both sides. The project will not negatively impact other properties. This is a win-win for the township, the county, the developer, and for Sheetz. The building is all brick. Mr. Sabatine clarified they acquired the car wash, former Burger King, and three-quarters of an acre of additional property on Clarkins Drive. This will abut Dunkin Donuts and be a gateway off the exit that will help other businesses and future development. The existing buildings are eyesores. This is the best potential user for this site and they will pay a lot of sales tax to Mahoning County. He referenced the next exits with filling stations being in Trumbull County.

David Mastrostefano, P.E., 817 Brookfield Drive, Seven Fields, PA 16046, stated he is an in-house engineer for Sheetz and responsible for site development and permitting. He described the original plan and subsequent changes made including relocating the dumpster and enclosure to the west. Items generating noise such as the fuel canopy were placed closer to Route 46 and further away from the residential. The location of the fence will be 10 feet of the property line with the height being eight feet. The curb lines will be a minimum of 20 feet from the property lines. There is a gas line that runs thru the site and they have to place utilities within the site. There was discussion of the overhead power lines and the utilities that will need to be relocated and how they will be relocated. The Dunkin Donuts board-on-board fence is about five feet from the shared property line. The Sheetz fence cannot be connected to Dunkin Donuts in addition to the fact it will be placed ten feet west of the property line. No cross connect is being proposed from the Sheetz lot to the Dunkin Donuts lot. Full access is being proposed on Route 46 but the final approval will fall under the jurisdiction of ODOT. Clarkins Road will have a full entrance.

Zoning Inspector Crivelli advised about the gap that will be created between the chain-link fence and proposed fence. Mr. Mastrostefano stated they would cross-connect to avoid a gap behind the residential properties. The fence will be beige in color similar to the Dunkin Donuts fence and eight feet in height. Mr. Mastrostefano described the drive aisles and green space areas.

Mr. Davis inquired about connecting the Sheetz fence to the Dunkin Donuts fence. H.C. Fownes, Sheetz Company, stated Dunkin Donuts may tie into the Sheetz fence but Sheetz will not construct a fence on the Dunkin Donuts property. He stated they are competitors. There was discussion of eliminating pedestrian cut thrus between the properties. The site plan was marked as Trustee Exhibit "1". Mr. Sabatine stated site plan changes were made after the zoning commission hearing and the proposed design fits within the footprint and truck and traffic flow will be safe. However, there is no more that can be adjusted given the size of the site.

Mr. Stauffer inquired about water and electricity service levels. Mr. Mastrostefano stated they work with the utility companies and they provide capacity letters for service to the facility. He advised there is a multi-bay car wash and a Burger King versus a one bay car

wash and Sheets store. If there are going to be capacity issues the water and electric companies will let them know during their due diligence.

Joe Sadie, 4500 Mahoning Avenue, stated he and his family own the Salsita's building and this project will provide a tremendous positive impact on their property. The existing buildings are eyesores and this project will enhance the neighborhood and possibly lead to development behind it.

Nadine Macejko, 5482 Lou Ida Boulevard, agreed the existing buildings are eyesore. She inquired about the placement of the speakers for the take-out window. Mr. Mastrostefano stated touch screen placed inside the store will also be utilized at the drive-thru order point. He described the structure at the order point which allows for person to person communication for problems or if someone wants to order something from the store. The sound will be normal voice levels. Based on the distance of her house from the order point along with the natural vegetation and fence normal conversation will not carry that far and become a problem. The fuel islands will have voice assistance at the pumps that should not be a problem. The distance from the drive-thru order point to the fence will be approximately 105 feet and 115 from the property line.

Mrs. Macejko inquired about music playing at the pump islands. Mr. Mastrostefano stated the music and order point volumes can be turned down. She stated the Burger King is not even two football fields from her property. The Dunkin Donuts is closer. The wooded lot and her home are her assets and she wants them protected. She is not against the rezoning but against rezoning the existing buffer zone. She stated it was established in the late 1960's and it serves its purpose and keeps transients out. She requested 50 feet on each side of the fence. She appreciates the new proposed fence and is disappointed with the overhead wiring but understands why it has to remain. She speculated that 12 to 18 months there will be another request to reduce the buffer and it will be a domino effect. There are six residents on that side of the street (Lou Ida) who will be impacted. She agreed the area needs to be improved but they do not want to be overloaded. Mr. Davis inquired about her wooded lot. The undeveloped lot was located for him. She asked that the buffer not be tampered with and she wants the 50 feet on her side and pointed out she could build a home on her vacant lot. Mr. Stauffer asked when she purchased her home. She purchased her home in 1990 and the Burger King was active and an insurance agency was in the current Dunkin Donuts building. The car wash was also there. The drive thru drawings were marked as Trustee Exhibit "2".

Thomas Dawson, 5455-5461 Lou Ida, stated he lives behind the buffer strip but was not informed of the hearing and everyone abutting the buffer should have been informed. He stated they battled for the buffer in 1966 and wants the strip to remain as it is. He has lived there since 1948. Zoning Inspector Crivelli advised of the procedure for public notice and stated the procedure will not be changed to enhance participation.

Bill Hobbins, 5465 Lou Ida, spoke in opposition and stated taking the buffer will set precedent and will lead to further reductions in the buffer area.

No one else in attendance to speak in favor of the request.

No one else in attendance to speak against the request.

Jim Sabatine stated he was contacted by adult stores, second and third generation tenants, used car lots, and Speedway - a truck stop operator. He feels this will increase property values in the whole area. A new Sheetz with video monitor cameras is more conducive to selling a nearby home than a vacant field or truck wash. He also stated there are no immediate plans to reduce the buffer areas although in the future new development may be considered.

Mr. Mastrostefano reviewed the site plan and its relation to the abutting properties and stated a buffer of 50 feet will end the project. There was discussion of the existing buffer area. Trustees Exhibit "3" was marked.

Mrs. Macejko stated she does not want the buffer reduced. She is not against Sheetz but complained about the buffer being reduced from 100 feet to 20 feet. Mr. Mastrostefano stated if 50 feet is required the project will not happen.

It was explained by Mr. Sabatine that Sheetz will remove the portion of the chain link fence on the property and replace it with new fencing. Mr. Davis asked if they would like arborvitaes as a buffer. Mrs. Macejko answered in the negative and stated arbs are feasible and nice but she does not want the buffer reduced.

Zoning Inspector Crivelli advised the zoning commission wanted ten feet from the fence to allow for snow plowing and the event a car would go over the curb there would still be a small distance before the fence would be damaged.

There was discussion of mandating arborvitaes. Mrs. Macejko stated she is concerned about 50 feet and not arbs. Mr. Mastrostefano stated the most existing mature vegetation from her house to the southern property line is more than her house from the west property line. If it is already mature what benefit is it to put arbs on her side of the fence? Zoning Inspector Crivelli advised that her tree are deciduous. Mrs. Macejko stated she is not interested in an arborvitae buffer and concerned only with the distance.

Motion by Mr. Davis to adjourn.

Seconded by Mr. Stauffer.

Roll Call Vote: Mr. Davis – Yes; and Mr. Stauffer – Yes. Mr. Carano was absent.

The meeting was adjourned at 8:23P.M.

The meeting was reconvened at 8:25 P.M.

**2016-03-Z-Sabatine:** Motion by Mr. Davis to **ACCEPT** the recommendation of the Austintown Township Zoning Commission and **APPROVE** the request to a **Business B-2**

**District** for the southerly 80 feet with the northerly 20 feet to remain as an **Agricultural A-SER District** and with the following stipulations:

- 1) Exterior lighting shall consist of dark sky compliant light fixtures with a photometric site plan indicating zero (0) foot candles of light on adjacent residential properties; and
- 2) A solid fence measuring eight (8) feet in height is to be placed a minimum of ten (10) feet west and south of Lot No. 16 located on Lou Ida Boulevard and ten (10) feet south of Lot No. 17 located on Lou Ida Boulevard.

Seconded by Mr. Stauffer.

Roll Call Vote: Mr. Davis – Yes; and Mr. Stauffer – Yes.

Zoning Inspector Crivelli advised the applicant they have to move forward with the conditional use process. He advised those in opposition have the right to petition for the ballot as the board’s decision is a legislative act and/or they can seek legal counsel. He advised the mailing list for the upcoming conditional use request will remain the same.

Mr. Davis stated he represents 38,000 residents and the decision was made to enhance this particular area. The opportunity tonight was to approve a nice new development for the area which will be a better use than some other potential users. He commended Sheetz for the way they operate their existing facility on Mahoning Avenue. He also stated he would be willing to contact Dunkin Donuts to ask that the fences are connected. He suggested the new Sheetz store with video surveillance may eliminate transients from cutting thru the properties. He explained a future board of trustees could make a decision to further impact the buffer whereas with this decision everyone knows a great business like Sheetz will be locating there.

Motion by Mr. Davis to adjourn the public hearing.

Seconded by Mr. Stauffer.

Roll call vote: Mr. Davis – Yes; and Mr. Stauffer – Yes.

There being nothing further to come before the Trustees, the public hearing was adjourned at 8:30 P.M.

AUSTINTOWN TOWNSHIP TRUSTEES

Darren L. Crivelli, Zoning Inspector

APPROVED: \_\_\_\_\_  
Rick Stauffer– Vice-Chairman

DATE: \_\_\_\_\_

AUSTINTOWN TOWNSHIP TRUSTEES, APRIL 26, 2016

APPROVED: \_\_\_\_\_  
Laura L. Wolfe, Fiscal Officer

DATE: \_\_\_\_\_