

BEFORE THE TOWN OF DENTON BOARD OF APPEALS

IN RE: WEND BALTIMORE NORTH, *
LLC
APPLICATION FOR VARIANCE
FROM THE DENTON TOWN CODE
§128-163 K & §128-127 *
ATTACHMENT 9:3

CASE NO. BOA-25-002

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MINUTES, FINDINGS OF FACT, CONCLUSIONS AND DECISION

The Board of Appeals held a Public Hearing on Monday, June 9, 2025, at 6:00 p.m., at the Denton Town Office to consider an application for a Variance for Wend Baltimore North, LLC, (the “Applicant”) on property located at 601 Legion Road, Denton, Maryland (the “Property”).

Board Members present were Chairperson Troy Livingstone, Vice Chairperson Mary Lori Schmidt, Board Member Florence Doherty, and Alternate Christopher Neall. Also present were Counsel for the Board, Lyndsey Ryan, Town Administrator, Scott Getchell, Chief of Police, George Bacorn, Jr., and Director of Planning and Codes, Donna Todd. The Applicant’s Attorney, Brendan Mullaney, and Applicant’s Representative, Brad Toothman, were present.

PROCEDURAL HISTORY

On May 1, 2025, the Applicant filed an application with the Board of Appeals seeking approval for a variance requesting one (1) additional freestanding pylon sign and one (1) additional flat wall sign for property located at 601 Legion Road, Denton, Maryland, Caroline County Tax Map 105, Parcel 2477.

The application was advertised in the Times Record for two consecutive weeks on May 21, 2025, and May 28, 2025, a sign was posted on the Applicant’s Property on May 9, 2025, and all property owners within 200 feet of the Property received written notification of the Public Hearing. All public notice requirements have been satisfied.

SUMMARY OF PROCEEDINGS, TESTIMONY AND EVIDENCE

On June 9, 2025, Chairperson Livingstone opened the Public Hearing at 6:00 p.m., followed by the Pledge of Allegiance. Vice Chairperson Schmidt read the Public Notice advertisement that was placed in the Times Record for BOA-25-002 into the record.

Chairperson Livingstone swore in Brendan Mullaney and Brad Toothman.

The Applicant's Attorney, Brendan Mullaney, McAllister, DeTar, Showalter & Walker LLC, provided information regarding the application. Mr. Mullaney is seeking a variance for property located at Legion Road, Denton, Maryland Tax Map 105, Parcel 2477 for his client, Wend Baltimore North, LLC. Specifically, the Applicant seeks a variance to increase the number of freestanding signs, and increase the maximum permitted number of flat wall signs, to permit one additional of each sign. The Applicant seeks to construct a new Wendy's restaurant building on the Property, which is improved with another three-tenant building to the south, and a Dunkin Donuts.

The Wendy's is located to the west of Dunkin' and will have no direct access to Route 404. The Property is large enough to support multiple buildings and tenants. The variance is the last approval needed to move forward with the development of the project. Mr. Mullaney is requesting one (1) additional wall sign and one (1) additional freestanding sign. He explained the importance of the sign being visible to traffic along Route 404. The two (2) wall signs will be located at the front of the building and above the drive-through window, and are consistent with most Wendy's in the country. Mr. Mullaney highlighted that the Property is over six (6) acres and is large enough for multiple commercial buildings, and is located on both Route 404 and Legion Road. Access is only available from Legion Road and the building is located in the middle of the Property along Route 404. Mr. Mullaney said that the location of the building is a unique hardship that it is specific to the Property and due to the size of the Property it creates a hardship that justifies the request for the variance. The location of Wendy's will need to be visible to the customers traveling along Route 404 and needs adequate signage. He also noted that two other restaurants in close proximity to the proposed Wendy's have more significant signage than the Applicant is proposing. The requested signage will allow Wendy's to attract customers and ensure safety and navigation around the area since the Property does not have direct access to Route 404 and it's important for those

traveling Route 404. Mr. Mullaney explained that the fast food use is permitted by right on the Property and doesn't require a Board of Appeals special exception.

Member Doherty stated that if there's going to be further development on the Property, the Property owner will not be able to add a freestanding sign for each building.

Mr. Mullaney stated that there's no current plans for any additional freestanding signs and that future development would add to the existing sign if needed.

Member Doherty expressed her concerns regarding freestanding signs and how it may impact other new businesses asking for additional pylon signs. She also mentioned that Wend Baltimore North, LLC, knew the location prior to the project.

Mr. Mullaney stated that Wendy's has already been approved by the Planning Commission, and he's only there for approval for the extra signs.

Lyndsey Ryan, Town Attorney, explained that the property owner is not allowed more than two (2) freestanding signs and would not be allowed to come back for another regardless of the number of new businesses that could be built on the property. Specifically, pursuant to Denton Town Code §128-126(J)(2), the Board of Appeals may grant a variance for one (1) additional sign per lot where special or unusual conditions of the lot justify increasing the number of signs. The Board does not have the authority to exceed one additional sign.

Ms. Ryan explained that the new Zoning Ordinance, which goes into effect next week, allows wall signs up to twenty percent of the building. Therefore, if the Applicant includes more than one wall sign, but it does not exceed twenty percent of the building, they can do so without seeking additional Board of Appeals approval.

Ms. Ryan noted that the request is based off the old version of the Zoning Ordinance and on June 15, 2025, when the new Zoning Ordinance becomes effective, the Applicant will be allowed the additional wall sign without the Board's approval since it's below the twenty percent of the façade.

Member Doherty questioned the drive-thru and asked if the Applicant plans on putting up signs that will direct traffic flow.

Mr. Mullaney stated that signs to direct traffic or establish a traffic pattern do not require approval.

Vice Chairperson Schmidt asked Ms. Ryan if the variance is approved through Wend Baltimore North, LLC, would it be grandfathered back to the property owner Strato Holdings if Wendy's were to close.

Ms. Ryan stated it would remain with the property and whoever owns the property at that time. Mr. Mullaney said that the Applicant originally applied for more than two (2) additional signs on the Property, but scaled back their request based on the Zoning Ordinance. He said that the additional signs are paramount for attracting customers to the Property and ensuring safe navigation. Member Doherty made comments about existing free standing signs along Route 404. She mentioned a prior variance given for a property to exceed the permitted size of free standing signs due to particular circumstances of the property and its location necessitating a larger sign. Mr. Ryan reminded the Board that they were to evaluate this application and determine whether special or unusual conditions existed on the Property, and not compare it to prior applications.

DELIBERATIONS

During and following the receipt of all testimony and evidence, the Board deliberated in Open Session.

Member Doherty commented that the Wendy's building needs adequate signage for safety reasons. She expressed concern about the location of the Wendy's and traffic issues.

Vice Chairperson Schmidt stated that the Property needs a sign along Route 404 for people to know of the location ahead of time and not at the last minute to avoid traffic accidents. It's a thirty-foot sign and travelers can see it ahead of time, which is important. He added that the proposed free standing sign is not as tall as an existing Taco Bell sign.

Member Neall stated there will be multiple businesses in that location and it will need adequate signage.

Vice Chairperson Schmidt stated MDOT needs to place signage along Route 404 showing what is ahead for travelers.

Member Neall noted it would be a safety issue if they didn't add the freestanding sign.

FINDINGS AND DECISIONS

Variance Request – Vice Chairperson Schmidt made a motion to adopt the findings provided in the supplemental variance narrative provided by the Applicant, and to grant the variances requested in the application filed by Wend Baltimore North, LLC, BOA-25-002, for one additional freestanding sign and one additional wall sign.

The motion was based on the testimony, evidence, and deliberations for the variance criteria.

Member Doherty seconded the motion. The motion passed 3:0.

ATTEST:

DENTON BOARD OF APPEALS:

Donna R. Todd

Troy Livingstone, Chairperson

Date

Mary “Lori” Schmidt, Vice Chairperson

Florence Doherty, Board Member

Christopher Neall, Alternate