



MEMORANDUM

To: **Jacqui Guenther, West Vincent Township Manager**

From: **Tracey Franey, Township Zoning Officer**

Subject: **Conditional Use Application, Butterscotch Pastry Shop**

Date: **May 14, 2024**

Conditional Use Application to open Butterscotch Pastry Shop

Hearing date: May 2, 2016

Decision Date: June 6, 2016

Approved with the following conditions:

1. The Applicant must comply with the testimony and exhibits presented by the Applicant at the public hearing before the Board of Supervisors on May 2, 2016.
2. The Applicant must comply with all other conditions of the Township Zoning Ordinance, including, but not limited to, all conditions pertaining to the pavement of the associated parking lot, or obtain appropriate zoning relief from the Township Zoning Hearing Board.
3. As agreed to by the Applicant, the hours of operation for the proposed Café that is subject to such conditional use approval shall be limited to 8:00 a.m. to 3:00 p.m. on Monday through Friday, and 9:00 a.m. to 4:00 p.m. on Saturday and Sunday.

Testimony relevant to the current hearing can be found in “Findings of Fact” from the May 2, 2016 hearing (only relevant findings were added here):

7. According to the Café Renovation Plans attached to the Application, Exhibit B-1, the total ground floor area of the proposed café will be two thousand (2,000) square feet or less.
9. Carnevale testified that the Cafe will preserve the historic nature of the Birchrunville Village District, complement the uses of the district, have minimal impact on the surroundings, and preserve the safety and nature of the district.
10. Carnevale testified that the historic nature of the structure will be preserved as the exterior will remain the same except for the existing stone/gravel parking area will be paved for a handicapped accessible parking space and unloading zone, the small bridge existing over the creek will be resurfaced and sloped to meet accessibility requirements, and the existing



double doors will be replaced with a single handicap accessible door so that the Café will be handicap accessible.

11. Carnevale testified that the interior renovations consist of the installation of a handicap accessible restroom, a small service counter, and sinks for cleaning utensils.
12. Carnevale testified that the Café will complement the uses in the area as the preparation of pastries will be done at the restaurant across the street and the Café use is complementary, in general, to the village nature of the area.
13. Carnevale testified that there will be a maximum of 14 seats in the facility and that there will be no increase in cooking activities on the facility.
14. Carnevale testified that there is a clear sight distance and a four- way stop sign on the street that will enable patrons and employees to safely cross the street. Currently people park in the gravel parking lot on the Subject Property and cross the street to the post office.
17. The Applicant testified that the Café will have no outside seating.
19. The Applicant testified that the Café's hours of operation will be 8:00 a.m. to 3:00 p.m. on Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday and Sunday.
20. The Applicant testified that the restaurant's hours of operation, involved in shared parking arrangement, identified as the Birchrunville Store Café, will be 6:00 p.m. to 11:00 p.m. on Wednesday through Saturday, and the restaurant is closed Sunday through Tuesday.
21. Accordingly, the Café' s hours of operation are separate and distinct from the restaurant's hours of operation.
22. The Applicant testified that the parking lot for the Café is not expected to be paved except for the handicapped space and loading zone. However, if the Township Zoning Officer opines that the Café parking lot must be paved to comply with zoning, the Applicant will either pave the parking lot accordingly or seek appropriate zoning relief from the Township Zoning Hearing Board.
26. The Applicant testified that he would agree to a condition on the Subject Property that the Cafe's hours of operation will be 8:00 a.m. to 3:00 p.m. on Monday through Friday, and 9:00 a.m. to 4:00 p.m. on Saturday and Sunday.

Conditional Use relief requested with this current application (A, B, C, etc.), zoning ordinance compatibility and effect on neighboring properties and corrective measures for approval consideration (a, b, c, etc.), pertinent ordinance sections in *Italics* and explanation (i., ii., iii., etc.):

- A. The Applicant is seeking to continue to use outdoor seating for the pastry shop.
 - a. The practice started during the COVID-19 pandemic (as it did in many towns) and has continued. According to the application, the current number of seats for eating outdoors is 58 seats in addition to the approved 14 seats inside, bringing the seat count to 72.
 - b. PAUCC occupancy codes and parking requirements should determine the suitable amount of seats at the establishment.



- i. The Ordinance does not have rules allowing or denying outdoor eating at this time.
 - ii. *§390-219.A(2) Conditional use approval shall be required for any new uses, new construction, and the addition, enlargement or change in use or the increase in the level of activity or area of a previously approved conditional use.*
 - iii. Outdoor seating requires conditional use approval as it is a new use other than those granted by the conditional use in 2016.
- B. The Applicant is seeking to continue to allow or provide occasional live music to the patrons eating outside of the pastry shop on weekend mornings.
 - a. The outdoor concerts have started in the last year or so and begin when the weather turns warm and end when the weather turns cold again.
 - b. The property being used as a concert venue is a new use to the property and is loud enough to be heard on neighboring properties.
 - i. While the Township does not have a noise ordinance for music specifically, the Board and the Applicant can find ways to mitigate the music heard at the property line as well as find agreeable times and dates for musical entertainment.
 - ii. Outdoor concerts require conditional use approval as it is a new use other than those granted by the conditional use in 2016.
- C. The Applicant is seeking to continue to use a backroom with seating that was not permitted or approved prior to use. Application paperwork states there are 42 seats in the backroom, which would bring the indoor seating count to 56, and the total seating count indoors and out to 114 seats.
 - a. This additional seating count requires conditional use approval as it is an increase in the use granted by conditional use in 2016.
 - b. PAUCC occupancy codes and parking requirements should determine the suitable amount of seats at the establishment.
 - i. See D below regarding parking requirements.
 - ii. Using more area in the building requires conditional use approval as it is an increase in the area for use granted by the conditional use in 2016.
- D. The Applicant has listed parking as a change to their 2016 conditional use application. In 2016, it was established that the Birchrunville Café across the street, whose hours are in the evenings, and the subject property, would share parking as the pastry shop business hours are during the day.
 - a. There is room for 12 cars in the parking area located at 1403 Hollow Road, along the side of the Birchrunville Café building and Flowing Springs Road. The parking lot that belongs to the pastry shop can conservatively hold twenty (20) cars, possibly two (2) to four (4) more. Both parking areas are unstriped which means the patrons are left to their own devices and the spaces are not often used efficiently. This leaves a total of thirty-two (32) spaces for use by each business during their business hours. Section 390-135.F(18) requires



eating/drinking establishments to have one parking space for every two seats.

This means each business, Butterscotch Pastry Shop and Birchrunville Café, can only have 64 seats per establishment in order to be compliant with this requirement.

i. See information:

Section 390-135.F				
Entity Name	Ordinance Requirements	Number of spaces required	Day/Night Hours	Parking Available
Birchrunville Post Office	1 space for every 100 sf service area	2	Day	32 spaces across both lots
Birchrunville Café	1 space per 2 seats	Number of seats unknown	Night	32 spaces across both lots
Butterscotch Pastry Shop	1 space per 2 seats	57	Day	32 spaces across both lots
Apartment	1, 2, or 3, based on the number of bedrooms up to 3.	1, 2, or 3	Day/Night	32 spaces across both lots
Total:	---	At least 60-62*	Day would be peak time	32 Spaces

* This number assumes the Birchrunville Café has the same or fewer number of guest seats than the Butterscotch Pastry Shop.

ii. Additionally, Section 390-135.G. states:

Section 390-135.G. *Special exception or conditional use. For any use permitted by special exception or conditional use, it shall be the burden of the applicant to present evidence of the parking needs of the proposed use. The Zoning Hearing Board, in granting a special exception, or the Board of Supervisors, in granting conditional use approval, may attach specific parking requirements, which may be equivalent to, greater than, or less than the requirements set forth in this section.*

This means the Board of Supervisors has the sole discretion to determine how much parking is needed based on the practical uses of the businesses.

E. The Applicant has listed baking on the premises as a change to their 2016 conditional use application.



- a. The previous use prior to the pastry shop was that of an antique store and the 2016 conditional use said there would be no baking on the premises, only a room with a sink for hand washing capabilities.
- b. The combination of the previous use and the testimony above, it is presumed that any cooking appliances were installed without required building permits.
- c. It is unknown at this time if the food service license from the health department allows baking on the premises.
 - i. Baking on the premises requires conditional use approval as it is an increase in the use granted by the conditional use in 2016.

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