

BOROUGH OF FAIR HAVEN PLANNING BOARD

Regular Meeting Minutes

June 18, 2019

1. The meeting was called to order at 7:35 by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act statement and pledge to the flag.

2. ROLL CALL

Present: Mr. Folker, Mr. Borneo, Mr. Rice, Mr. Rolff, Mr. Bordelon, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Absent: Mr. Criscola

Also Present: Mr. Kovats, Board Attorney, Mr. Gardella, Board Engineer, Ms. Gable, Board Planner

3. ADMINISTRATIVE ITEMS

804 River Rd. Resolution – Mr. Kovats stated that to his writing the resolution he was in contact with Mark Aikins, Attorney for the applicant, who had requested several amendments. One request was to clarify that the added trees would be shade trees. The additional requested changes were related to lighting. Mr. Aikins was presented and there was discussion with the Board regarding the changes being requested. The Board noted there were some obligations to the neighbors and the resolution should be conditioned on consideration of the neighbors' concerns as well as code enforcement to follow up on concerns.

MOTION Sobel, second Rice, to approve the resolution as amended

In Favor: Borderlon, Borneo, Folker, Ingle, Koch, Rice, Sobel, Rolff, Lehder

Opposed: None

4. OLD BUSINESS

Fair Haven Retail, LLC – Application for Amended Preliminary and Final Site Plan Approval – 560 River Rd., B32, L2 – Dunkin

Mr. Borderlon recused himself and left the dais.

Mr. Kovats explained that the application has been resubmitted to the Planning Board following the Zoning Board hearing at which the Zoning Officer's decision was upheld. He noted that the initial PB meeting ended at the point of cross examination of the witnesses.

Ex. PB-7- Zoning Board Resolution (ZBR 19-09)

Ron Gasiorowski, Attorney for one of the appellants stated that Dolan and Dean lists DD as one of their clients. He said this was not appropriate and thought a 2nd impartial study should be ordered. Mr. Lehder noted that a representative of Dolan and Dean was not present. He added that while there was not necessarily a conflict of interest he was concerned about the appearance of a conflict of interest. Mr. Gasiorowski wanted the Board Attorney to tell Board members to discount the Dolan information. Michael Bruno, Attorney for the Applicant noted that this hearing is a continuation of the last hearing. He made it clear that Dolan did not represent the applicant therefore there was no conflict of interest, and he objects to Mr. Gasiorowski's request. Mr. Kovats stated the Board has the option to regard the report or not and they are not obliged to get another study. Mr. Gasiorowski stated he did not have an opportunity to cross examine and wanted to enter **OBRG-3** – a printout of a portion of the Dolan website.

Mr. Bruno reviewed the testimony of the past meeting. Dan Hughes, Principle of the firm, and Matt Kelly, Senior VP and asset manager of property, were sworn. Mr. Kelly responded to the points in the review letter prepared by Mr. Gardella. He noted that the pallets had been removed and Acme had been notified about the violations of the truck parking. The canopy in the parking lot was removed pending proper approval. Drivers' behavior was discussed with Acme personnel. The pre-existing free-standing sign was removed, and, they are working with the town regarding the trench.

Mr. Hughes stated that the company manages about 60 shopping centers. He described the Fair Haven site as a neighborhood shopping center and stated no effort is made to draw people from a distance. The aim is to meet the need of the town. They tried but failed to get a pharmacy. He stated that Dunkin meets a need and people like it. It is a good place for seniors to sit around coffee. Traffic flow is helped by morning traffic; other tenants are busier in the afternoon. It is complimentary. There have not been traffic complaints in other centers. The company has spent time and money enhancing the center and they take pride in how they manage.

Mrs. Koch mentioned a minimum sales quota and asked how DD would meet their needs. Mr. Hughes stated that DD does their own study and they are confident.

Mr. Folker noted there were bad accidents on River Rd.

Mr. Sobel asked if the applicant was open to modifying the parking lot. Mr. Bruno responded that the Board approved the site plan and stated modifications have downsides. Mr. Hughes said the question was hypothetical; what are you asking for? Mr. Bruno stated they reviewed the traffic engineers report regarding the appropriateness of the parking. Mr. Hughes noted that the breezeway provides access to the rear parking lot, there is access from either direction.

A lot of thought went into the lot configuration and it is functioning well now. Mr. Bruno reviewed the number of parking spaces on the River Rd, Forman St. and Smith St. sides of the lot.

Mr. Lehder expressed concern about 90 cars at peak hours; the cars will be stacked, will stop traffic on River Rd. The exit is not wide enough. Can the traffic be channeled in any way? Mr. Bruno stated that permitted use is not grounds for denial.

Mr. Rice stated he had observed the parking occupancy and it is much heavier in the later hours. The problem is River Rd. How could cars be directed to a back entrance?

Carl Pehnke, previously sworn, stated that his report focused on parking. He reviewed what he did in preparing the report. He said DD is a typical shopping center user. The center is used by neighbors. They are familiar with the site. The driveways are an adequate width, the sight line is adequate, and the tree line is a modest height. He said there are some problems with a two way land. He did not do a traffic study. There is no criteria study for specific stores in a center. Upgrades have brought the center up to acceptable standards. The town is familiar with the center as it is. There are alternate ways out of the site, sidewalks, traffic is distributed. Mr. Lehder said there were no entry lanes for pedestrians. He gave an example of a pedestrian lane in the middle of a parking lot.

Robert Freud, Dynamic Engineering, was sworn and stated he wanted to introduce an additional exhibit into testimony. **Ex. A- 18** – site plan color rendering dated 4/18/17. He stated that at the original PB meeting there was a lot of discussion regarding circulation and safety and a breezeway was provided. There is a sidewalk in front of the DD site measuring 8.9', which is well over size. With one way circulation traffic is more controlled. The driveway is 24', adequate for 2 way. The plan was reviewed and approved by Monmouth County PB and

Engineers. Mr. Folker asked if the driveway could be for exit only and Mr. Freud stated that causes more backup. Mrs. Koch asked about a crosswalk on River Rd and was told it was a county road. Mr. Pehnke reviewed the delivery methods – there is a box truck delivery at 4:30 AM. Trucks products are delivered via the loading area in the rear to the door in the breezeway.

Mr. Sobel asked if the rear lot was used more now that there was a breezeway and was told that it was.

Mr. Bruno stated he had finished their testimony.

The meeting was open to the public for questions.

Tracy Cole, 123 Grange, sworn, asked how they would address her concern that commuter traffic would wander off the lot onto the back streets. Mr. Freud noted the two way exit on to River Rd.

Karen , 34 Cedar Ave, sworn, noted the school bus stop at Cedar and River and high school students might be running across the lot. Mr. Pehnke stated that sidewalks and paths exist.

Kirk Donaldson, 80 Battin, sworn, asked if there were any studies of pedestrian traffic. No. No accidents? How much revenue comes from DD? Can't answer.

Ann Dixon, Poplar Ave, sworn, asked if any of the applicants had been in the shopping center between 7 and 9 AM. Mr. Kelly stated he is often there in the morning.

Nancy Freeman, 148 Grange, sworn, asked if assumptions about the traffic study are the basis for a decision. Mr. Pehnke stated the data as supplied by the operator of other sites.

Bennett Coleman, sworn, noted students going out for lunch and asked about traffic at lunch time. She was told that the report has projections.

Andrew Reger, 52 Battin, sworn. Asked for clarification that this was a parking study as opposed to a traffic study. Was a Friday in July accurate? It was re-studied in January. Trying to get traffic more into River Rd? Was the closing of Third St Considered? No.

Susan Boos, sworn. Should one tenant have the right to fundamentally change Fair Haven?

Robin Candria, Lake Ave, sworn, asked, "Do you think having a DD will improve the quality of life?"

Meghan Christner-Keefe, Beechwood Pl, sworn, asked how many vacancies remain. Three. Are they being held until this is filled? No. Signed lease for Over

Easy. Are they considering parking needs of all the sites? Yes. Of total parking, what is the % in the front? About 30%.

Lee Ricker, 25 Doughty La, sworn, asked how much traffic would be generated by drivers using apps such as Waze. Dominic Sequeira, previously sworn, stated he did not have exact data regarding percentages from an app. Five % from the DD app but he did not anticipate out of town traffic.

Skip Laufer, Grange Ave, sworn, asked how many vacancies there were and the response was 4. Where is their closest center to Fair Haven? Morristown. How do you anticipate full? Shopping center is not full in DD peak hours.

Rachel Stellar, sworn, asked if there was plan to use mobile delivery or curbside pickup. Yes, to mobile, no to pick-up, no to 3rd party now, but it is always an option. How many parking spots lost to snow?

Diane Mevorach, Navesink Rd, sworn, asked Mr. Pehnke if he had read the FH 2017 traffic study. No

Ruth Blaser, River Rd, sworn, asked if there was a non-compete clause in the lease? There are some. What plans necessitated dropping the Donut part of the name? It was a corporate decision, done for marketing and not changing what they do. Are you considering outside tables? No.

Sam Skinner, 28 Gentry, sworn, asked how many parking spots there were to the east of the breezeway and was told there were 82.

Andrew Reger asked how many properties the company owner and how long they kept them. About 15 years. Was the study just related to parking? Yes, there was no traffic study because there was no change.

There were no further questions from the public.

Mr. Gasiorowski questioned Mr. Pehnke. He asked if prior to the application has there ever been a similar, high intensity tenant. He asked Mr. Sequeira if he needed to apply for a franchise. Yes. Is there criteria, did he need to show the number of people within the area? No, he didn't have to.

Mr. Bruno reserved the right to call experts back.

Mr. Gasiorowski said he might want to bring another expert. Mr. Bruno asked for a report.

Tracy Cole stated she had an expert witness who might not be able to come to the next meeting and asked for 5 minutes for a presentation. She stated she is not represented by counsel. Mr. Bruno stated he would need a chance to cross-

examine. Mr. Kovats stated that if Mr. Bruno cannot cross examine the Board would have to disregard the testimony.

Michael Dannemiller was sworn. He stated he is a licensed Professional Engineer, specializing in traffic and trained in Complete Streets. He said he looked at what was and wasn't analyzed. 1) DD would be 200 trips in peak hours. This would require a traffic analysis and queuing analysis. 2) Pedestrian circulation – dedicated pedestrian space. Pedestrian access route was not done. Also bike access.

Mr. Kovats about what was site specific. He responded pedestrian crossing.

Mr. Bruno asked if he visited the site? Yes, today about 4:40 PM. Familiar with site and plans? Yes. Do you need a traffic study with every change in tenant? Yes. Site distance is good. On paper pedestrian circulation looks good. **Ex. OBTC** – print out from ITE Trip Generation Manual-10th Edition. Mr. Dannemiller conceded that this is not an issue of parking. Are the cars already on the street? He responded that he did not know. The crux of the case is that a traffic expert needs to testify, the case is based on traffic.

At the close of the meeting Applicant's Counsel asked that the Planning Board send any and all suggested recommended changes to them through the Board's Counsel or professionals.

MOTION to carry the application to the July 16, 2019 meeting with stipulation of time and no need for further notice.

In Favor: Borneo, Folker, Ingle, Koch, Newell, Rice, Sobel, Rolff, Lehder

Opposed: None

MOTION to adjourn carried unanimously by voice vote.

Meeting adjourned at 11:25 PM.

Respectfully submitted,

Judy Fuller, Board Secretary