

BOROUGH OF FAIR HAVEN PLANNING BOARD

Regular Meeting Minutes

February 19, 2019

1. The meeting was called to order at 7:36 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. Criscola, Mr. Sobel, Mr. Lehder

Absent: None

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

3. ADMINISTRATIVE ITEMS

Mr. Lehder noted the number of attendants and stated that the Board would deal with brief administrative matters and would then adjourn and reassemble at Sickles School.

MOTION by Sobel, second by Borneo, to approve the Portera resolution

In Favor: Mr. Borneo, Mr. Rice, Mr. Rolff, Mr. Bordelon, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Opposed: None

MOTION Lehder, second Koch, to approve the minutes of the January meeting

In Favor: Mr. Borneo, Mr. Rice, Mr. Rolff, Mr. Bordelon, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Opposed: None

MOTION to adjourn by Rice, second Koch, approved unanimously by voice vote

The meeting adjourned at 7:40 and moved to Sickles School.

The meeting was called to order at 7:55.

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

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

Mr. Borderlon recused himself and left the dais.

4. NEW BUSINESS

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

Mr. Kovats noted that the application is for a use that is permitted in the zone. No variances are required but the applicant does need to show they fit in the zone. Issues to be dealt with include trash, signage, lighting, traffic, deliveries, and whether the store will include a Baskin Robbins. It was noted that there is a discrepancy between plans in regard to the square footage. Present concerns noted related to dumpsters and canopies for shopping carts installed in parking stalls.

Mr. Kovats proceeded to swear in the witnesses expected to testify and reviewed the exhibits already entered. (see attached sheet).

Michael Convery announced his appearance on behalf of Tracy Cole. The following were entered into exhibit: **Ex. MC-1** – letter from Mr. Convery dated February 15, 2019, and **MC-2** – follow-up letter from Mr. Convery, also dated February 15, 2019.

Ron Gasiorowski announced his appearance on behalf of Mr. Reger. He stated he was filing an application for an appeal, which was marked for identification only as **Ex. OBRG-1** which is not yet filed.

Mr. Lehder explained the procedure to be followed, noting there will be cross examination of the witnesses, followed by the objectors.

Mr. Gasiorowski stated he had 2 motions. In regard to the notice he stated the wording was not sufficient. Additionally, the Board doesn't have jurisdiction to interpret use.

Mr. Bruno, attorney for the applicants objected to a motion prior to hearing the applicant present its case.

Mr. Bruno stated that this was the first he is hearing about a use issue and he has not had time to hire a Planner. Historically the town has not required change of use for several other businesses.

Mr. Convery stated the letter is clear. A request for an interpretation can be made by a property owner prior to any appeal. Property owners are not aware of the timing of the Zoning Officer's decision within 20 days for an appeal.

Mr. Bruno noted an important distinction in that the applicant never requested an interpretation. The applicant asked for an exemption and were denied. They chose to come before the Board with an amended site plan rather than appeal that determination. They chose to address the Board regarding issues such as safety.

Mr. Kovats stated that in response to Mr. Gasiorowski's comments he reviewed **Ex. A-15** – notice, and found the notice was adequate and the Board had jurisdiction. He read the notice into the record. In regard to Mr. Convery's comments he cited NJSA 40:55D-70 (a) and (b) and 40:55D-72. At this time the Board isn't referring the matter to the Zoning Board for an interpretation because that would be an appellant's obligation. The Board is guided by 40:55D-72 and in absence of a filed appeal can't stop proceedings without allowing the applicant to present its case. Mr. Bruno noted objections to delay or hinder the application but historically this is not the law or the way the town has operated. The applicant knows it is permitted. The question is one of safety.

Mr. Bruno stated the application is for an amended site plan. Dominic Sequeira, previously sworn, stated he represents DDG Inc., not a large corporation. He along with his father and brother are owners and operators of several Dunkin Donuts in the area. They live in the area and intend to become a part of the community. They support their communities and feel they will fit well in this shopping center. They provide jobs for youth. The store hours would be 5:30 AM to 10 PM. Employees would park in the rear parking lot. Nothing is made on site – there are deliveries daily from a 16' box truck, before 5:30 AM. He anticipated having 6-8 employees during peak hours and 2-3 off peak. There is a designated area for trash and recycling in the rear. Recycling consists of glass, cardboard and plastic.

Mr. Gasiorowski asked to clarify that Mr. Sequeira is the operator, not the owner. He asked if Mr. Sequeira visited the site daily and was told he did. In response to further questions he said he has been in area in 1968. Most of the business is carry-out.

Mr. Convery asked if there was a sliding window and was told there was not.

Karl Pehnke, VP of Langan, previously sworn, presented his credentials as a Licensed Engineer with a specialty in traffic. He stated he prepared the traffic report **Ex. A-4** entitled Parking and Circulation Evaluation. He obtained and reviewed the site plan and interacted with the operator regarding traffic in the other stores. Data was taken over a 6 month period. The site was observed on a full day with ½ hours counts of parking from 6 AM to 6 PM. It was rechecked last week. He noted that 50% of the DD business is completed by 11 AM, with 7-8, 8-9 and 9-10 being the busiest hours. There are about 70 -80 patrons/hour but there is some synergy with other occupants of the shopping center such as the Post Office and Acme. The residents are familiar with the center and the roads. This is not a use that generates traffic from distant areas. There is ample access. The driveways and circulation are adequate. Parking is ample – there are 250 spots where the ordinance requires 180. Mr. Pehnke stated the busiest areas was the site of the Wash House and Pilates Studio, where there were 42 spaces. The Acme distributes front and rear spaces. The breezeway next to the spot under discussion provides access from the rear lot. Mr. Pehnke stated the loading area complies. It is wide enough for larger trucks than those used by DD. There is a bi-weekly large delivery.

Mr. Bruno asked him to address the safety. Mr. Pehnke stated the circulation existed. The lot was 86% occupied during their study and should be adequate if the center is fully occupied.

Ex. A-16 – plan of stores. When asked how that was calculated he stated it was a rough estimate based on 5 vacancies.

Mr. Lehder asked if the spots were at a reasonable walking distance. The response was that there was access from the rear. There are 70 spaces shared by stores facing River Rd. DD primarily uses spaces in the morning and there are complementary uses.

Mr. Sobel asked if he would recommend re-configuring the parking lot and he stated they were not introducing anything new. There are benefits to Mr. Gardella's suggested plan involving 2 way circulation but there was a downside because it brings the aisle up to the wall and makes turns on to River Rd difficult.

Mr. Folker asked if the pattern changed after the Cellar moved to its new location and was told there wasn't, the numbers were similar. At the peak there were 108 vehicles. 12PM peaked at 34 in the front lot. None of the businesses there have a preponderance of use in the morning. Mr. Sobel asked if there was concern about people not finding a spot, circling around, coming to the west entrance and encountering traffic from Chase Bank. Mr. Pehnke did not see a problem and added that the walk through added convenience.

Mr. Gasiorowski asked Mr. Pehnke performed the studies personally and the response was that it was done by a technician, under his direction, according to standards. Mr. Gasiorowski asked how many tables were in the store and was told 5 or 6. He questioned how the information could be trusted. He questioned the number of people in the store as opposed to coming in and out. He disagreed that the store was a category 2 restaurant. Mr. Pehnke stated he had not studied other DDs.

Mr. Convery asked if he had been hired to the applicant to do the study on Friday and recommended going back out after seeing Mr. Gardella's report. He questioned the choice of dates used for the study. He asked if he did counts and Mr. Pehnke stated he did a parking count. Table 2 is a summary of reports provided by the owner, used as a basis for this site. He was asked to describe the study. He said table 3 was observations by the technician on 7/27/18. When asked why he picked that date, Mr. Pehnke said he picked a Friday because that is the busiest time. There were no trip generation counts. He saw no need to do a traffic impact study on an existing shopping center and no need to do a count every 15 minutes. He is confident in his experience with shopping centers and said the use is complementary. In response to a question he said he did not think that new tenants might interfere. He was asked if he was aware of the possibility that Over Easy wants to come in. He said he was not but he thought it would fit well, there was enough parking. He did not do a count of traffic on River Road. The history of the center may not have had a morning traffic generator but believes the design can accommodate it. He does not believe a traffic study is necessary. Mr. Pehnke was then asked if he thought a left hand turn would be a hazard with intensification. He did not think it was an intensification. He has not reviewed the Borough's bike and pedestrian report and is aware of the accident in 2010.

Mr. Lehder asked Mr. Pehnke what his calculations are based on. He responded that he used the Fair Haven ordinances – 20-30 cars peak area. The Smith St. spaces are the only place that would be critical. There are 40 spaces, compared to 70. Mr. Lehder stated he was looking to understand how parking will function once the shopping center is filled. Are we creating limitations for other tenants? He doesn't know how the Board can take that on. No recommendations have been made for changes to the parking.

Mr. Gasiorowski asked of the people doing the study were employees of Langan and was told they were. Asked if he relied on information from the technicians and the operator Mr. Pehnke said he was. He agreed there would be an increase in traffic from when the site was Lairds.

Cynthia Falls, Architect with GK&A, previously sworn, noted she has been a Registered Architect since 2001. Her office does many DD sites. She stated this one will be similar but slightly different. There will be a front line and a back line. Fourteen seats are proposed. There are 2 accessible restrooms open to the public. There will be a convection oven for reheating frozen muffins and sandwiches but no cooking. She described it as a next generation store with more technology in the ordering system and more environmentally friendly. The store in the site plan is listed as 2000 sq. ft. She stated that includes the outside walls. He has the figure at 1800 sq. ft. There is an HVAC unit on top of the building and there will be an additional unit in front of it. There is no additional lighting on the exterior other than the lit sign. The sign will be composed of individual internally lit letters. The letters are 30", the sign 170" long, 35.7 sq. ft. She noted they were previously allowed 60 but are not using it. There is one window sign 1 x3. The window is 42.7 sq. ft. and coverage will comply.

Mr. Borneo asked if the HVAC would be visible from the street.

Mr. Ingle questioned if she was referring to the drawing in Ex. A-1. He stated that a wall is shown that doesn't exist. The plan was originally drawn before the walkway was build. He was looking for confirmation that the wall doesn't exist and has taken a picture to show the wall is gone.

Mr. Gasiorowski asked Ms. Falls if she had reviewed the layout and she stated she had. There is just one line for take-out or sitting at tables. The employees do not serve. He asked what percentage was take-out. Council objected that she was not qualified to answer that question.

Mr. Convery questioned the difference between the plans prepared in 4/30 and 2/6. Ms. Falls stated some equipment changed model numbers and the sign was changed. There have been no changes to the walls, vestibule, seats; equipment is slightly different.

Mr. Bruno asked to carry the application to accommodate the audience but said one more month was the limit.

Mr. Lehder asked about the number of witnesses remained. The objectors will be presenting.

MOTION to adjourn carried unanimously by voice vote.

Meeting adjourned at 10:45 PM.