

BOROUGH OF FAIR HAVEN PLANNING BOARD

Regular Meeting Minutes - June 16, 2020 – Virtual Meeting via Zoom Platform due to the COVID-19/Coronavirus Pandemic.

The meeting was called to order at 7:32pm by the Chair, Mr. Lehder, with a reading of the Open Public Meetings Act statement followed by the Pledge to the Flag.

1. ROLL CALL

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

Absent: Mr. Bordelon and Mr. Criscola

Also, Present: Mr. Doug Kovats, Board Attorney; Mr. Richard Gardella, Board Engineer; Ms. Elena Gable, Board Planner; and Mr. Joe Mule, Borough Zoom Meeting Support.

Mr. Lehder wanted to state for the record that the Planning Board had a scheduled meeting on May 19, 2020. The Board invited any pending applicants to attend that meeting to see how the Zoom meeting format would be run and to ask any questions or state any concerns they may have using the Zoom platform for new business before the Planning Board. It has also been expressed to any pending applicants that are uncomfortable proceeding with their application on the Zoom platform that they can carry to a future in person meeting. The Board Secretary has also offered Zoom training sessions for all pending applicants.

2. ADMINISTRATIVE ITEMS

MOTION by Sobel, second Koch to approve the minutes from the 05/19/2020 Zoom meeting.

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

Opposed: None

3. NEW BUSINESS

Fair Haven Retail, LLC / Over Easy Restaurant – 588 River Road, Block 32, Lot 02, B-1 Zone - Application for Commencement / Change of Use for the Over Easy Restaurant.

Michael Bruno, Esq. and Adam Garcia, Esq. were promoted to panelists and announced themselves on behalf of the applicant, Fair Haven Retail, LLC. Mr. Bruno requested that additional professionals on the application Mr. Frank Brusco, Mr. Nicholas Graviano, Mr. Karl Pehnke, Mr. Matthew Kelly, and Mr. Dan Hughes also be promoted to panelists.

Mr. Kovats confirmed with the Board Secretary that the Planning Board had jurisdiction over the matter and then proceeded to mark application exhibits.

Exhibit A-1 – Development application, 4 pages, dated 03-11-2020.

Exhibit A-2 – W-9 Request for Taxpay Identification Number and Certification form, 1 page.

Exhibit A-3 – Application Checklist plus attachments, 13 pages.

Exhibit A-4 – Architectural rendering titled, ‘*Over Easy Kitchen Tenant Fit Out, 586 River Rd. Fair Haven, NJ 07704, Block: 32 Lot: 02*’, prepared by Monmouth Ocean Design Experts, signed and sealed by Daniel M. Condatore, RA, dated 08/26/19 with a revision date of 12/10/19, 17 pages.

Exhibit A-5 – Council letter from Michael A. Bruno, Esq., dated June 15, 2020, 2 pages.

Exhibit A-6 – Tenant identification and location list, prepared by Fair Haven Retail, LLC., one page.

Exhibit A-7 – Parking Analysis Table, prepared by Nicholas A. Graviano, JD, AICP, PP, dated June 16, 2020, one page.

Exhibit A-8 – Site Plan, prepared by Dynamic Engineering, signed by Robert P. Freud, PE, dated 12/09/16 with a last revised date of 09/04/19, one page.

Exhibit A-9 – Over Easy Kitchen menu.

Exhibit PB-1 – Board Planner letter dated June 5, 2020, 8 pages.

Exhibit PB-2 – Board Engineer Technical Review #1 letter dated June 12, 2020, 2 pages.

Exhibit PB-3 – Zoning Officer’s denial letter dated September 17, 2019 with revision dates of 10-16-2019 and 12-20-2019, 3 pages.

Witnesses Mr. Frank Brusco; Mr. Nicholas Graviano, professional planner; Mr. Karl Pehnke, Traffic Engineer; Mr. Matthew Kelly; and Mr. Dan Hughes were sworn. The professionals presented their credentials and were accepted by the Board.

Mr. Bruno began by stating that the application before the Board is for the Fair Haven Retail shopping center also known as the ACME shopping center. The application is for a Change of Use to allow for the opening of Over Easy Restaurant. Over Easy is classified as a category 1 type restaurant, a permitted Use in the B-1 Zone. The restaurant is proposed to occupy the space formally known as Bike Haven. The site has been previously approved by the Fair Haven Planning Board in 2017. The site plan was recently amended for the Dunkin Donuts application in 2019. There are no changes proposed to the existing site plan, this application is just a change of tenancy. The applicant does not believe relief is required by the Planning Board because it is a permitted Use in the shopping center and B-1 Zone in which the center is located but they were denied by the Zoning Officer and are therefore requesting relief for a Change of Use.

Witness Frank Brusco, owner and operator of Over Easy Kitchen presented testimony regarding the business operations consisting of hours of operation, employees, parking demands, facilities and menu in comparison to his other Over Easy Kitchen locations. He stated that Over Easy Kitchen is a breakfast, brunch, and lunch restaurant. Hours of operation are between 8am and 3pm, open 7 days a week, peak time between 10am and 12:30pm with the weekends being the busiest days of operation. The proposed restaurant in the ACME shopping center will have between 60 and 65 seats which would be the smallest of all their locations. The number of employees would range between 7 to 10 people and that includes servers, hostess, and kitchen staff. Deliveries would be dropped off before 8am at the rear of the store from a box van and would be about 2 to 3 times per week. The rear door would be used for deliveries and employees only. The restaurant would utilize the dumpsters onsite provided by the shopping center for all trash and recycling. There is no proposed outdoor seating. Take-out and delivery services will be provided using a third-party service such as Door Dash. Normally there are on average 5 to 15

takeout orders a day at their other restaurant locations, but their main business is sit-down dining. Mr. Brusco operates four other similar restaurants in Marlboro, Middletown and two locations in Holmdel. Two of the four other locations are Over Easy Restaurants and have a much larger capacity than the proposed Fair Haven location. The estimated peak parking demand is estimated to be about 30 to 35 cars based on the proposed 60 seats. Patrons average time spent in an Over Easy restaurant is about 45 minutes.

Mrs. Koch asked if all the cooking would be done on the premise and if approved, when do they anticipate opening to the public.

Mr. Brusco stated that all cooking is done on the premise. If approved and after all permits are received, he anticipates they will open within four months.

Mr. Lehder asked how the use of the rear door would be regulated so patrons do not use it as an entrance or exit. The rear entry/exit takes you right to the back of the building to where deliveries take place.

Mr. Brusco stated that the door will not look inviting to the general public, it looks more like a service door and will discourage patrons from using the door. The hostess stand will be at the front door so people will know to use the front door to be seated. A sign could be added to the rear door if the Board felt it to be necessary. Mr. Brusco believes the new corridor from the back of the building to the front of the shopping center will guide people to the front door of the restaurant.

Mr. Lehder then asked if there has been a discussion regarding deliveries and coordinating times with the other businesses at the shopping center.

Mr. Bruno stated the deliveries will only be 2 to 3 times a week by a smaller box truck and they do not foresee any major impacts to other deliveries at other business locations in the shopping center.

Mr. Borneo asked if any deliveries occurred at night or if any vendor had a key to the space to drop off deliveries

Mr. Brusco stated there are no night drops; deliveries only occur when there is an employee to accept the items and no outside vendor will have a key to the restaurant.

Mr. Borneo noted a beer station that was indicated on the proposed plans. He asked if they had planned to serve alcohol or apply for a liquor license in the future.

Mr. Brusco stated there is no proposal to server alcohol at any point in time in the restaurant. The beer station is an error on the plans.

Mr. Sobel asked if there were any plans to have a coffee bar or coffee station in the restaurant where someone could just go in and order a coffee to go.

Mr. Brusco said they do not provide that type of business; they do not propose to have a grab and go type set up.

Nicholas Graviano, professional planner, presented testimony as to the permitted Use and the nature of the Use and how it fits within the shopping center. Mr. Graviano began his testimony stating that the application is for a Change of Use for a new tenant in the shopping center as a category 1 restaurant which is a permitted Use in the B-1 zone. The tenant space is approximately 2,700 square feet. There is no proposed changed to the site or building, it is strictly a new tenant. Referring to exhibit A-7, the parking analysis table that he prepared, it demonstrates the type of

users in the shopping center as well as their parking demand, see Fair Haven code section 30-9.2b. The applicant has not reached the 25% threshold which is specified in the Borough's parking Ordinance. As the applicant has not reached this threshold and they are proposing a permitted category 1 restaurant, Mr. Graviano believes approval of this application would be without any detriment to the previously approved site plan.

Karl Pehnke, traffic expert, presented testimony as to the adequacy of the parking and how the facility will operate in conjunction with the other businesses in the shopping center. He began with stating that he agrees with Mr. Graviano's testimony and wanted it to be known that he is very familiar with the site as he did a parking analysis for the Dunkin Donuts application last year. He was able to observe and complete a parking analysis on the site in July of 2018 and February of 2019. The shopping centers Ordinance in Fair Haven for parking is 4 parking spaces per 1,000 square feet which matches the national standards for community shopping centers. It is the recommended standard that is contained in the Institute of Transportation and Engineers as well as the Urban Land Institute. It was found during Mr. Pehnke's parking observations that the parking demand that occurred at the site was about 3.5 spaces per 1,000 square feet which is what he expected. All Uses currently on site were there during the February 2019 observation. He believes there is a synergy between the businesses in the shopping center; they are all sharing the same infrastructure, same access, same parking spaces and are using the parking spaces at various time of the day. He stated that the center actually has an additional 68 parking spaces or 5 parking spaces per 1,000 square feet, more than what is required per the Ordinance. In terms of the adequacy of parking, the center meets the Ordinance as well as the industry standard. Mr. Pehnky believes that from a practical standpoint, a professional standpoint, and from an industry parking requirement standpoint this center has adequate parking and the Over Easy parking demands will be easily accommodated. In regard to the rear door, there is a sign that states 'Tenant D' and is not in anyway attracting any patrons to the door. From the inside, there can be a sign added that states 'emergency exit only' or 'employees only' to prevent any patron from exiting from the rear door which is the same as the other establishments at the center and he does not believe it will be an issue.

Mr. Bruno concluded stating the applicant is prepared to label the back door to prohibit the use to employees and deliveries only. He believes the applicant is a permitted use, there is no change to the site plan, there is adequate parking, there is a synergy of use between all of the businesses at the center. As far as peak timing, the businesses blend so the parking spaces will be available for each Use at the center and he is asking the Board to approve the Over Easy application.

Elena Gable asked to review her planning report asking if the applicant will comply with the Borough Ordinances with respect to window signs.

Mr. Bruno confirmed, yes, they will comply.

Mr. Gardella stated that the applicant's attorney answered all of his questions during testimony.

No questions or comments from the public.

Mr. Sobel believes that the presentation was as expected and well laid out. The issue with the rear door is a concern.

Mr. Borneo stated that he drove through the site during the day to look at the rear door and he agrees with the experts stating that it is not an inviting door and he doesn't believe it will be an issue. It is a solid metal door with no windows, not appealing to patrons.

Mr. Newell agrees with Mr. Borneo, it is a steel door just like the back of many other shopping centers. He believes it would be easy to add a sign on the door stating, 'employees only'.

Mrs. Koch agrees with the other Board members that adding a sign would help solve any concerns of patrons using the rear door.

Mr. Folker agrees that a sign is a very simple solution for the rear door concerns.

No further comments.

MOTION by Sobel, second Lehder to approve the Over Easy Restaurant 588 River Road, Block 32, Lot 02, B-1 Zone – Fair Haven Retail, LLC application for Commencement / Change of Use.

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

Opposed: None

4. PUBLIC COMMENT

No comments from the public.

MOTION to adjourn made by Sobel, second Folker and approved by voice vote.

Meeting adjourned at 9:20 PM.

Respectfully Submitted,
Jennifer Johnson, Board Secretary

Public Announcement of Compliance

This is a regular meeting of the Fair Haven Planning Board. Adequate notice of this meeting has been given pursuant to the provisions of the Open Public Meetings Act. At the time of the Board reorganization in January of this year, the Board adopted its regular meeting schedule for the year. Notice of the schedule of the Board's regular meetings was sent to and published in the Asbury Park Press, and was also sent to the Two River Times and the Star Ledger. Tonight's meeting was listed in the Notice of the schedule of regular meetings. That Notice was also posted on the bulletin board in Borough Hall, and has remained continuously posted there as required by the Statute. In addition, a copy of the Notice is and has been available to the public and is on file in the Office of the Borough Clerk. A copy of the Notice has also been sent to such members of the public as have requested such information in accordance with the statute. Adequate notice having been given, the Board Secretary is directed to include this statement in the minutes of this meeting.