

**BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 26, 2006**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Reading of Adequate Notice.

Salute to the Flag.

Roll Call. Present: Iradi, Lambros, Lesto, Novellino, Curcio, Finley, Barthelmes, Morelli and Devine.

Minutes of March 22, 2006 were approved.

RESOLUTION:

P05-15 LUX, GARY AND SUZANNE – Block 47.02, Lot 3. 18 East Pine Branch Drive. Located in the R-80 Zone. Applicant proposes to construct a 1,743 sq. foot addition and a 2-car garage to their existing single-family dwelling. Application Deemed Complete: 2/13/06.

Mr. Curcio made a Motion to Memorialize and Mr. Lambros offered a Second. Roll Call Vote: Curcio, Lambros, Finley, Iradi, Lesto and Novellino voted yes.

Z05-16 – FISHER, PETER – Block 31, Lot 30.01. 72 Rising Sun Tavern Road. Located in the R-80 Zone consisting of .89 acres. Applicant seeks approval to demolish existing 1 ½ story dwelling and construct a new 2-story dwelling. Applicant deemed complete 1/16/06. Approved 3/22/06.

Mr. Iradi made a Motion to Memorialize and Mr. Lesto offered a Second. Roll Call Vote: Iradi, Lesto, Curcio, Lambros, Finley and Novellino voted yes.

CARRIED APPLICATIONS:

P05-14 DJ'S CAPITAL ENTERPRISES (SAVOIA) – Block 16.01, Lot 2. 600 Rike Drive. 3.26 acres located in the BP Zone. Present use office and warehouse (under construction). Applicant proposed to utilize 21,000 s.f. for office, warehouse, commercial recreation (Batting cages). Deemed Complete. 2/7/06. Carried from 2/22/06.

Mr. Vella announced that the Applicant requested that the application be carried to the next meeting of May 24, 2006. The applicant will grant an extension of time and re-notice the application.

Z05-08 DUNKIN DONUTS – Block 56, Lots 12.01 and 13. Located on County 537. 4.16 Acres located in the HC-1 Zone. Application Deemed Complete 7/15/05. Applicant seeks approval of a Dunkin Donuts Facility with a drive-thru window. Carried from 10/26/05; 1/25/06; 2/22/06.

Attorney Vella announced that the applicant has re-notice on the application. Mr. Finley will be eligible to vote on the application since the applicant will present his application from the beginning.

Mr. Kenneth Pape, representing the applicant, offered a brief history of the property. He explained the driveway system, right of ways in place and the approvals received.

The applicant has been working with the State for the septic system. The County would have approved the application last year if the 1,200 s.f. kitchen was eliminated.

Mr. Pape advised a zoning change occurred and a D-3 variance is needed. The County's addition of a divider on Route 537 was also a recent change.

The Clark Family owned the property and planted the holly trees that were saved.

Mr. Peter Strong of Crest Engineering was sworn in as a licensed P.E. Referring to Exhibit A-6, Site plan drawing, Mr. Strong described the plan. The property consists of 4.16 acres of vacant land. To the NW is located the KFC drive and the facility is on the other side. Mr. Strong pointed to the location of the 537 divider and the holly trees and the proposed location of the 2,400 s.f. building. Mr. Strong pointed to the location of the parking area, loading zone and pick-up area, the drive-thru, storm water management area on the NE side.

Mr. Strong responded to Engineer Shafai's recommendations as set forth in his report of 10/01/05 and revisions were made and submitted to the Engineer on 3/17/06.

Mr. Strong presented Exhibit A-17, mounted colored landscape plan rendering, last revised 4/25/06. He explained the changes to the plan, including a 6 ft. sidewalk to the curb, access drive was moved to the basin, the storm drain system and the lighting. The dumpster was moved closer to the building. Technical changes that were recommended would be made.

Phase II Mr. Pape advised would be the second building used for retail. It will be added later. No tenant base for that at this time. He explained that the County requested two accesses to Dunkin Donuts by 2009.

Mr. Strong advised the Phase II plan presented ingress/egress. Exhibit A-18, the Proposed Phase II Plan, sheet 4 of 8 of the site plan. Mr. Strong discussed the detention basin and cul-du-sac but advised no firm plans are in place presently.

Mr. Pape advised that they received landscape and lighting revisions from Engineer Shafai and Board Planner Coppola. Mr. Shafai asked for septic approvals for Phase I. 2004 Stormwater regulations will require substantial changes for the Phase II, which will also come before this Board and should be stated in the approvals for the Phase I. Tonight, only Phase I is being considered.

Mr. Pape will supply the Board professionals with proof that the original plans for the warming oven were approved by the MCBOH.

The Board asked for clarification of the septic capabilities. Mr. Strong stated that the lack of cooking oils and water from a kitchen resulted in lack of need and they will be able to accommodate customer traffic. The kitchen use was clarified.

Mr. Coppola described the use as a permitted use with conditions. The drive thru makes the use a restaurant. If no drive thru, then it would be considered a deli or bakery. In order to receive septic approvals, the applicant had to eliminate the kitchen.

The applicant does not meet the acreage requirement of 6 acres. They can only provide 4.1 acres. The applicant shows the site can accommodate the use with the 4.1 acres.

Mr. Pape asked Mr. Strong about the drive-thru's demand on the septic. Mr. Strong responded that it will decrease the demand because customers will not use the facilities generally.

The Board asked about customer seating. Originally 48 seats were planned, but it has been downsized to 28.

The lighting was described as gooseneck lighting.

Mr. Patel was sworn in as applicant's professional licensed architect. He presented his credentials as was accepted as an expert. Entered into evidence, Exhibit's A-19, revised 3/14/06, reduced version of A-14. Introduced into evidence was Exhibit A-20, actual color scheme to be used in the project.

Mr. Patel described the project as 2,400 s.f., one-story, tri-colored building. All exterior lighting will be 100 watts in gooseneck lamps. There will be three types of building lights: recessed, incandescent and awning lights. The intensity of the lights will need to be tested per the Board Engineer.

The proposed signage was discussed. Mr. Coppola suggested the signage be changed to a monument sign consisting of the same materials as the building, 55 s.f., doubled sided with lighting from the ground up. Mr. Pape said the sign will be lit from within. The applicant agreed to decrease the signage by 2 feet. The 8-foot sign will keep the integrity. No variance will be needed for the sign.

Professional Planner, Michael Javishoff was sworn in as a Licensed P.P. and presented his credentials, which were accepted by the Board.

Mr. Javishoff went over the proofs of the D-3 variance. He explained the property logistics. The property is located in the HC zone. He went over the bulk standards required that the applicant could not meet and the variances needed. He explained that a D-3 variance is a permitted use. Mr. Javishoff went over the fiscal analysis as set forth in Exhibit A-21, introduced into evidence, prepared by Phillips, Price dated 3/3/06. Mr. Javishoff went over the ratable base for the Board.

Mr. Javishoff went over the lot depth can be met and is sufficient for a building of this size. No residents are located within the required acres. Mr. Javishoff explained how the proposed project meets the intention of the Master Plan.

The applicant asked that the hours of operation will 5:00 a.m. until 12:00 midnight.

The mechanicals of the building will be screened by parapet per Mr. Patel.

The applicant will designate a conservation easement to be included in the stormwater area, subject to the approval of Mr. Coppola.

The owner of the property, Mr. Kumar was sworn in. He testified that he approached an adjoining neighbor, the Raskankis', to sell some of their property to square his off. He advised that the property is being considered for Green Acres preservation. Engineer Shafai advised the actual size of the building is 2,499 s.f., not 2,400 s.f. Mr. Coppola asked that the awnings be lighted. The architect agreed to those two awnings above the window.

Mr. Pape summarized the application. Chairman Novellino asked if the professionals were satisfied. Mr. Coppola said the planning issues have been addressed. Mr. Shafai advised the septic appears in scale to limit the use and all of his items have been addressed.

Chairman Novellino opened the matter to the Public. Mr. Vinciguerra, of Jackson had concerns about the drainage. He feels the septic is too small. Mr. Strong advised the stormwater management system is in compliance with the regulations. The MCBOH approves the septic system flow. A water meter in the building will determine the flow. Mr. Pape advised that the County requires 30 day water readings and he explained.

At 9:35 p.m., the matter was closed to the public.

The Board discussed the application.

Mr. Barthelmes offered favorable comments on the project.

Mr. Lambros has septic concerns. To address septic concerns, Mr. Pape advised that Dunkin Donuts will operate for two years prior to Phase II, if Phase II even occurs.

Mr. Finley suggest that there be no outdoor patio, banners or flags and suggests that this be noted in writing. He suggested a clean-up agreement with Dunkin Donuts.

Mr. Vella went over the conditions of approval in this application to include the lighting issue, the square footage, the removal of outdoor patio and benches, temporary signs and banners to be removed except for the main signage that must meet the Ordinance requirements. 9-17 will be on the plans. Hours of operation will be drive-thru open 24 hours. Lobby Monday – Thursday 11a.m. –5p.m. Saturday – Sunday 12 p.m. to 5 p.m. Conservation Easement to the NE subject to Mr. Coppola's approval. The exit will be where the KFC drive is presently. The entrance will be Rt. 537.

Mr. Lambros asked for proof of the offer made to the neighbor to purchase property.

Mr. Finley made a Motion to approve the application as conditioned and Mr. Lesto offered a Second. Roll Call Vote: Finley, Lesto, Barthelmes, Iradi, Morelli and Novellino voted yes to approve. Mr. Lambros voted no.

NEW BUSINESS:

The Board discussed requiring an applicant to re-notice for a carried application. The Board decided that if the applicant requests that a matter be carried, then full renoticing is required. If the Board requires the matter be carried, then no re-noticing is required. Attached hereto and made a part hereof is the agreement the Board was presented and agreed to.

Mr. Novellino made the Motion to adopt this rule and Mr. Iradi offered a second. Roll call vote: Novellino, Iradi, Barthelmes, Finley, Lesto, Lambros, Morelli voted yes to adopt the new rule.

At 10:35, the meeting was adjourned by Motion to Mr. Lesto with a Second offered by Mr. Curcio and unanimous roll call vote.

Respectfully submitted,

Pamela D'Andrea
Board Secretary.