

MINUTES
RED BANK ZONING BOARD OF ADJUSTMENT
January 3, 2019

The Red Bank Zoning Board held its regularly scheduled meeting on Thursday, January 3, 2019 in the Municipal building, first floor Council Chambers, 90 Monmouth Street, Red Bank, New Jersey.

A workshop meeting was held at 6:00pm. The following members were in attendance: Lauren Nicosia, Ray Mass, Eileen Hogan, Christine Irwin, Sean Murphy, Anne Torre, Richard Angowski, Kellen Murphy and Matt Anderson. Also present were Glenn Carter, PP, Director of Planning/Zoning, Ed Herrman PE, T & M Associates, Kevin Kennedy, Esq., Board Attorney and Dina Anastasio, Board Secretary. At the workshop meeting the Board discussed the evening's agenda.

Board Chair Lauren Nicosia called the meeting to order at 6:30pm. She announced that notice of the meeting was mailed to the Asbury Park Press and the Two River Times; was filed with the Borough Clerk; and posted on the Municipal Bulletin board. A roll call showed the same members in attendance.

The Board saluted the flag and opened the meeting to the public for non-agenda items of which there were none.

Administrative Matters:

Board members Ray Mass, Anne Torre and Matt Anderson recited their Oaths of Office.

Ray Mass nominated Lauren Nicosia as Board Chair, Eileen Hogan seconded. A voice vote confirmed all in favor.

Lauren Nicosia nominated Ray Mass for Vice-Chair, Anne Torre seconded. A voice vote confirmed all in favor.

Lauren Nicosia nominated Dina Anastasio for Board Secretary, Ray Mass seconded. A voice vote confirmed all in favor.

Sean Murphy nominated Kevin Kennedy, Esq. Board Attorney, Ray Mass seconded. A voice vote confirmed all in favor.

Ray Mass nominated Ed Herrman of T&M Associates as Board Engineer, Anne Torre seconded. A voice vote confirmed all in favor.

Ray Mass motioned to approve as the official newspapers the Two River Times and the Asbury Park Press, Eileen Hogan seconded. A voice vote confirmed all in favor.

Anne Torre motioned to approve the Zoning Board By-laws, Richard Angowski seconded. A voice vote confirmed all in favor.

Richard Angowski motioned to approve the Zoning Board site committee consisting of Sean Murphy, Ray Mass and Eileen Hogan; Christine Irwin seconded. A voice vote confirmed all in favor.

Ray Mass motioned to approve Marc Leckstein as the Conflict Attorney, Anne Torre seconded. A voice vote confirmed all in favor.

Sean Murphy motioned to approve the minutes of the December 6, 2018 meeting; Ray Mass seconded. A voice vote confirmed all in favor.

Anne Torre motioned to approve the Resolution for the acceptance of the withdrawal of the application from Michael Ianelli, seconded by Lauren Nicosia. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Sean Murphy and Anne Torre. Nays: none.

A motion was made by Sean Murphy, seconded by Anne Torre to approve the three Resolutions for the Board Professionals, including Attorney, Engineer and Special Council. Ayes: Ray Mass, Eileen Hogan, Christine Irwin, Richard Angowski, Sean Murphy, Anne Torre and Kellen Murphy. Nays: none.

Public Hearings:

Phoenix of Matawan, Inc., 42 Monmouth Street, Block 31, Lot 26. Z12490

This application will be carried until the February 21, 2019 meeting, at the request of the applicant.

Orrie Schulman, 131 Spring Street, Block 52, Lot 49. Z12939

The applicant was represented by Pete Falvo, Esq. Glenn Carter was sworn. Orrie Schulman was sworn. The applicant is seeking approval for a 3-foot side yard setback for a condenser.

The following exhibits were entered: A-1; Denial; A-2; DPA: A-3; Narrative: A-4; Intent to Proceed: A-5; Disclosure of Ownership: A-6; Survey dated 3/26/13; A-7; (12) Photos of the existing home taken by the applicant, summer 2018.

Orrie Schulman did not know the condensers were improperly placed until she applied for the permit to replace the units and was denied. There were no approvals received from the previous homeowner.

Jacqueline Mattis, 133 Spring Street, was sworn. She has resided in this home for 31 years and has absolutely no problems with the condensers. They are noiseless.

Michael Havay, 133 Spring Street, was sworn. He has resided here for 20 years and also has no problems with the condensers.

Public portion was closed.

A motion was made by Ray Mass, seconded by Sean Murphy to approve the application. Ayes: Lauren Nicosia, Ray Mass, Eileen Hogan, Christine Irwin, Richard Angowski, Sean Murphy and Anne Torre. Nays: none.

390 Red Bank, LLC. (Dunkin Donuts), 390 Shrewsbury Avenue, Block 88, Lot 12.01. Z12780

The applicant was represented by Rick Brodsky, Esq. Ed Herrman was sworn.

Lauren Nicosia recused herself from the application, due to a conflict with the objecting attorney.

The property owner is Waseem Chaudhary. There were no conflicts with any other members. The notice was sufficient.

Ed McKenna, Esq. was the objecting attorney representing Goshan Chhabra (the owner of the Exxon station located across the street).

The following exhibits were entered: A-1; DPA; A-2; Denial Letter: A-3; Intent to Proceed & Disclosure of Ownership: A-4; Plans prepared by James Henry of Dynamic Engineering, revised 11/13/18: A-5; Traffic Report prepared by Nick Verderese of Dynamic Traffic, revised 11/16/18: A-6; Architectural Plans prepared by Kamlesh Shah, dated 4/10/18: A-7; Site Plan Variance List: A-8; ALTA Survey prepared by Joseph Wright, recertified 3/23/18: A-9; Applicant's Engineer Response Letter dated 11/16/18: A-10; Summary Statement of Operations: A-11; Review Letter by T & M dated 12/27/18: A-12; Review Letter from the Building Official dated 6/12/18: A-13; Review Letter from the Police Chief dated 6/12/18: A-14 – A-16; Review Letters from Monmouth County Planning Board dated 6/25/18, 8/13/18 and 12/10 18: A-17; Aerial Map of the location dated 1/3/19: A-18; Site Plan of the prior application dated 5/29/13 prepared by Dynamic Engineering: A-19; Color Site Plan for the current application dated 1/3/19: A-20; Color Rendering dated 3/16/18: A-21; Proposed Floor Layout Plan revised 1/2/19.

Rick Brodsky explained they will be bifurcating the application for the d(1) use variance. They plan to demolish the existing Shell Fuel Station, food mart and car wash and construct a 2,000 square foot Dunkin Donuts with a drive-thru. They will reconfigure the layout, including the ingress/egress onto the property, which will limit the turn movements to right turns in and out only onto both Shrewsbury Avenue and Newman Springs Road. They changed this after meeting with the Monmouth County Planning Board.

He also explained this application has significant changes than the prior application for this site back in 2013 for a proposed 7/11, which was denied. This was proposed as a 24-hour operation. The current fuel station and convenience store are open 24 hours. The proposed application will be for a small satellite Dunkin Donuts, which will be open from 5:00am – 11:00pm. There will be no cooking done on the premises, just reheating food items. The fuel station will be open 24-hours.

The applicant's team invited all those neighbors located within 200 feet of the property to discuss their proposal. The property is located in a commercial thoroughfare, which backs up to residential. They wanted to be proactive in addressing the concerns of the neighbors.

Jim Henry, Engineer from Dynamic Engineering, was sworn and accepted as an expert witness. Mr. McKenna had no problems with this witness.

Mr. Henry explained the application. There are currently 4 fuel pumps and the proposed application will also include 4 pumps. He also noted the Exxon Station across the street operates 24 hours. The underground tanks are not going to be replaced, but the applicant is willing to replace them if it is requested. There was a contamination issue at this site. The new tanks are double-wall fiberglass, which can reduce risks of further contamination.

The applicant is willing to redevelop the site, which is currently unsightly. This site is suitable for the proposed application. The lot is about 29,000 square feet (.068 acres). The Dunkin Donuts will have 12 seats. 12 parking spaces will be provided, whereas, only 8 are required. 6 will be located by the building and 6 in the rear of the property. There will be 1 ADA compliant space. The circulation pattern was designed to allow cars to travel primarily in the commercial area instead of the residential area. The entry via Newman Springs Road will remain essentially where it is now. A mountable island will be placed to accommodate for tractor trailers to enter. The canopy will be smaller.

He stated that after meeting with the neighbors they were happy that the store will not be open 24-hours.

The existing row of greenery will remain and a fence will be added along the northerly and westerly property lines. Additional trees will also be added. Driveways and sidewalks will be redone making it pedestrian friendly.

There will be 2-5 employees for the Dunkin Donuts, and 1-2 employees for the fuel station. Deliveries will be 2-3 times weekly for fuel. The applicant uses his own delivery service, so the times can be controlled. They will schedule deliveries between 11:00am – 6:00pm. Dunkin Donuts deliveries will be 1 time daily in the early morning (between 4:30 -5:00am) and 1 time weekly for the non-perishable items. Trash will be picked up 2-3 times weekly. There will be one dumpster for trash and one for recycling located in a concrete enclosure.

There are no noise concerns for the menu board, as they will abide by the state guidelines. Eileen Hogan confirmed the placement of the board will be about 36 feet from the residential property line.

They are reducing lot and impervious coverage and increasing green space. There will be zero foot candles on the outer edge of the residential property lines. The neighbors were happy with this. The condensers will be placed rooftop and screened in.

Mr. Henry explained the colored rendering presented (A-21) was slightly different than the original submission, as the franchise rebranded. Thus, the sign is a little smaller; a pitched roof and stone veneer are proposed.

Kellen Murphy confirmed the amount of employees will be about 5-6 depending on the time and most do not drive to work. He suggested possibly having employees park in the rear of the property, but the spaces would not be labeled employee only, so during peak times, patrons can park in the spaces.

Sean Murphy clarified the size of the existing car wash is about 42 X 19 feet and the proposed building measures 55 X 36 feet. The canopy will be about ½ the size of the current one.

Anne Torre confirmed the applicant is willing to replace the underground tanks into the existing location.

Ed Herrman clarified the circulation pattern for the delivery vehicles. They will enter and exit via Newman Springs Road. The direction of the pumps will be rotated to an east/west direction.

Mr. McKenna confirmed the prior application proposed a building about 2,225 - 2,250 square feet and the current application proposed 2,000. That is only a slight reduction in building size.

Mr. Henry explained the reorientation of the site does not make this a comparable application and the canopy is significantly reduced.

Mr. McKenna described a patron parking at the far end of the lot would have to negotiate across four lanes and the canopy to enter the store. There could also be cars stacked waiting for fuel.

Mr. Henry explained there are que positions for 8 cars. He has designed 100 gas stations, including one on the GS Parkway, which has a similar layout with a 24-foot wide aisle. This is adequately designed.

Mr. McKenna questioned the gas delivery schedule. This will be addressed by the traffic engineer.

He also questioned the amount of employees that would be required to sufficiently operate the business, including serving coffee and heating food. There would normally be 2 employees, with 4-5 people during peak operating hours. There would be 1-2 employees operating the fuel pumps.

He wanted to also clarify the noise level made at the drive-up windows for order placement and pick-up. When you are placing an order, you are speaking into a microphone and the employee is responding. When arriving at the window to pick-up the order, there are no microphones, but there can be conversation. Mr. Henry felt there would be the same level of noise at both locations. There have been no studies on the noise level, but corporate provides him with this information.

Cindy Burnham, 71 Wallace Street, was sworn. She clarified the HVAC will be placed on the roof. Thelma Gooding, 15 West Westside Avenue, was sworn. She questioned why we need another Dunkin Donuts in the area and stated traffic is horrible at that intersection. She is concerned that more people will turn down West Westside Avenue as a cut through.

Mr. Henry stated most traffic is traveling in a southerly direction on Shrewsbury Avenue and they will enter into the property and exit to proceed to the parkway.

Sean DeSoma, 142 South Street, was sworn. He confirmed Shrewsbury does not have jurisdiction of this property.

Mr. McKenna questioned how many gallons of fuel the delivery trucks can hold. Capacity would normally be at 9,200 gallons. Mr. Henry replied they generally aren't filled to capacity. He was also questioned as to the amount of typical sales for a location of this size would be. He did not know the answer, as he is not an operator.

The Board took a break from 8:14pm and resumed at 8:27pm. A roll call showed the same members in attendance.

Nicholas Verderese, Traffic Engineer, was sworn and accepted as an expert witness.

He explained the original proposed entry accesses were revised upon review and recommendation from Monmouth County Planning Board.

He noted that crash data provided accidents that occurred from left turns out of properties showed the Exxon across the street had the highest in the area.

The traffic counts were done during peak times 7:00 -9:00am with a 1 - hour peak between 8:00 – 9:00am and 4:30 – 6:30pm, with a 1 -hour peak between 4:45 -5:45pm. There are about 90 trips (45 in and 45 out) during the am times, which is 1 ½ cars per minute: there are about 55 trips, 28 in and 27 out during the pm peak times. The Saturday data shows the amount to be 8% lower than the peak times.

1/3 of the traffic is considered new and 2/3 are passerby traffic. There are other surrounding Dunkin Donuts in the area. This station would generate a typical industry projection. There would be about a 3 second delay, which most drivers won't notice. There are three other projects in the area including Shop Rite and Quick Check. He also noted there are driveways near the intersection and this adds to the congestion when drivers are trying to make a left turn out of their properties.

Sean Murphy questioned if drivers will be making left turns out of the property when it wouldn't be permitted. Mr. Verderese stated the property owner is willing to lose the few customers by having a right turn only. They are trying to capitalize on those drivers heading to the parkway and capture the morning business. It is impossible to deter all lawbreakers. They have made the island larger, at the request of the county.

Ray Mass is concerned with the traffic increase. He described the cars lining up in the street at the nearby Dunkin Donuts.

Mr. Verderese explained the franchisee owns the two other Dunkin Donuts locations in the area and feels things will even out. They are not looking to make this a destination location.

Kellen Murphy questioned if the 2nd entrance could possibly be eliminated. It was explained that the design includes plans to discourage left turns and also the second driveway is important for the circulation of the trucks. Most drivers will use the first entry to go to the fueling area and the second one to go into the store.

Sean Murphy clarified the highest capacity for cars in que would be 9.

Richard Angowski questioned how many employees would be required to successfully operate the facility and what is unique about this intersection. Mr. Verderese stated the franchisee generally wants to be at a busy intersection. He noted a location on the GS Parkway in the Woodbridge area that has a similar layout. Richard did not feel this was comparable, as the parkway traffic is constantly moving and this is at an intersection with traffic lights.

Eileen Hogan feels they will get more people coming to this location, as it has a drive-thru.

Ed Herrman wanted Mr. Verderese to clarify the planning process regarding when the cars enter the property and the driver must confirm what side of the car their gas tank is on, so they can approach the correct pump. Did they consider possibly having the long hoses, as they do at Costco, this way all drivers can come in and face the same direction? Mr. Verderese stated there is sufficient room for the drivers to go around. Mr. Herrman asked if a possible safe zone was thought about for pedestrians. That is not typically done. He stated generally about 5% of the time will drivers park at the far end of the property.

Will the drive-thru accommodate a landscaper's truck, which has all their equipment in the rear trailer? Mr. Verderese stated usually they would enter the fueling area and the other passengers may enter the store to make their purchases, while the tank is being filled.

The diesel pump will be low-flow, so there will not be large rigs filling up here.

Ed Herrman also discussed the concept of a destination fueling station. This area is known for relatively higher priced gas. If the operator of this facility has prices that are substantially lower than the neighboring stations, this can become a destination location. Mr. Verderese explained the dynamics of the area are changing, as a lower priced competitor will be opening soon nearby.

Richard Angowski asked if there can be curbs to deter the left turn out. Probably not, but they may be able to place some bollards.

Ed Herrman clarified the box-trucks delivering will probably park in regular parking spaces, as the deliveries are so early in the morning and only take about 20 – 30 minutes. The donut deliveries should take about 10 minutes. He also stated the residents had concerns with the prior application, as they didn't want 2:00am deliveries.

He wanted clarification if the fuel delivery truck comes at noon, what impact will there be to the traffic.

The delivery driver can set up against the northerly property line taking up about 12 feet. This would leave about 22 feet for bypass traffic.

The application will be continued on March 21, 2019 with no further notice required. Consent was provided by Mr. Brodsky.

On a motion made by Ray Mass and seconded by Anne Torre, the meeting was adjourned at 9:40pm.

Respectfully Submitted,

Dina Anastasio, Secretary, Red Bank Zoning Board of Adjustment