

MINUTES
RED BANK ZONING BOARD OF ADJUSTMENT
March 21, 2019

The Red Bank Zoning Board held its regularly scheduled meeting on Thursday, March 21, 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: Ray Mass, Eileen Hogan, Christine Irwin, Sean Murphy, Anne Torre, Richard Angowski, Sharon Lee, and Matt Anderson (arrived 6:30pm). Also present were Ed Herrman, P.E. from T&M Associates, Kevin Kennedy, Esq., Board Attorney and Dina Anastasio, Board Secretary. At the workshop meeting the Board discussed the evening's agenda.

Acting Board Chair Ray Mass called the meeting to order at 6:30pm. He 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:

A motion was made by Anne Torre, seconded by Sean Murphy to approve the minutes of the February 21, 2019 meeting. Ayes: Ray Mass, Eileen Hogan, Christine Irwin, Richard Angowski, Sean Murphy, Anne Torre and Sharon Lee. Nays: none.

A motion was made by Anne Torre, seconded by Ray Mass to approve the amended Resolutions appointing the Board Attorney and Engineer. Ayes: Ray Mass, Eileen Hogan, Christine Irwin, Richard Angowski, Sean Murphy, Anne Torre and Sharon Lee. Nays: none.

Public Hearings:

390 Red Bank, LLC. (Dunkin Donuts), 390 Shrewsbury Avenue, Block 88, Lot 12.01, Z12780 (continued from January 3, 2019)

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

The following Exhibits were entered: B-1; Certification of Eligibility for Sharon Lee: A-22; Use Variance Plan revised 3/7/19: A-23; Traffic Report prepared by Nick Verderese revised 3/6/19: A-24; Architectural Plans prepared by Kamlesh Shah revised 3/7/19: A-25; Site Plan Variance List prepared by Dynamic Engineering revised March 2019: A-26; ALTA Survey prepared by Joseph Wright (1 sheet) revised 2/8/19: A-27; (2) Response Letters from Applicant's Engineer, James Henry, dated 11/16/18 and revised 3/8/19: A-28; Monmouth County Planning Board Conditional Approval: A-29; Review Letter from Police Chief, Darren McConnell: A-30; Third Review Letter issued from Ed Herrman: A-31 A-G; 3D Colored Renderings of proposed plan.

Rick Brodsky explained the revised plan of the bifurcated application for a d(1) use variance, which will include a 1,500 square foot Dunkin Donuts to be placed where the current car wash is located. This will be a satellite location. There will be no seats or cooking done on the premises. Hours of operation will be 5am – 11pm. The building has been slightly relocated and the size reduced (originally 2, 000 square feet). This will enable more cars to stack in que on site. This

commercial property backs up to residential. The property owner has recently obtained the neighboring property.

Nick Verderese, Traffic Engineer, was previously sworn and is still under oath. There were no objections.

Exhibit A-32; Photo of Existing Property from Newman Springs Road, taken by Dynamic Traffic office staff, was entered.

Mr. Verderese referred to Exhibit A-31 and explained the changes of the plan revisions. The building was relocated to the south, the pick-up window was moved to face the southerly direction, enabling additional spaces for cars to queue. There are also separate ordering lanes for the drive-thru. The existing underground tanks will be moved towards the west. This enables the fill-up truck to be moved and allow for staging to benefit overall circulation.

Richard Angowski confirmed there are 6 parking spaces on the east side of the property and there can be 13 vehicles in queue; whereas, originally only 8 were able to. The order board has been relocated to face the west side, which is the commercial side of the property. You can fit 20 vehicles on the property with this revision.

Ray Mass clarified the height of the island to be flush at the sidewalk then graduate to a 6" angle. The street side is curb height to deter left turns. This was approved by the County. He also confirmed there will be "no left turn" signage placed.

Mr. Verderese performed studies on Thursday February 7, 2019 and Saturday February 9, 2019 of the vehicles in queue at the Dunkin Donuts located on Shrewsbury Avenue in Tinton Falls, which is operated by the same owner as this property. Studies were done between 6 – 10am and the results showed on Thursday, 15 vehicles were in queue and on Saturday, 14 vehicles.

He feels this new location will pick up some of these vehicles, since they are in close proximity. The parking will remain the same as originally proposed; 6 spaces along the property front and 6 along the east side. 8 fueling stations under the canopy. Since the building size has been reduced, the parking requirement has also been reduced from 8 to 6 spaces. The applicant has provided excess parking.

Since the building is smaller, the trip generation study originally presented by Mr. Verderese still stands, as the result would actually be slightly reduced.

Sean Murphy clarified trash pick-up won't be scheduled early in the morning during the rush hour times and there will be a clearance bar.

Exhibit A-34; Aerial Photo of Dunkin Donuts located on the Garden State Parkway South in Iselin; A-35; Aerial Photo of Dunkin Donuts located on Terrill Road, Plainfield were entered.

They both represent similar facilities to the proposed site. The Iselin location is also operated by the owner of this one.

Richard Angowski clarified why there are 2 entrances proposed on Newman Springs Road. Mr. Verderese stated for convenience. The 1st entrance will be used by those drivers getting gas and the 2nd will be used by those patrons going into the building. He also clarified the site circulation and the ability of a car coming out of the drive-thru to exit via Shrewsbury Avenue. They can, but the majority will exit via Newman Springs Road.

Sean Murphy has questions regarding multiple cars entering and exiting at the same time.

Mr. Verderese explained the projected volume increase is 65 vehicles per hour, which is about 1 every minute. The traffic light turns green after a cycle of 110 seconds.

Eileen Hogan feels this will be a destination location during the rush hour and feels there is no order. Mr. Verderese stated they can only do their best to restrict left turn movements. The County requirements have been met and the vast majority of traffic is already passing by. Everyone is aware of the congestion at this intersection and he feels people will not go out of their way to come to this location.

Richard Angowski is concerned with the speed limit on Newman Springs Road (40mph), as it has a higher limit than the other locations mentioned. The limit on Shrewsbury Avenue is 30 mph and Terrill Road is 35 mph. Mr. Verderese stated the shrubs will be kept low as not to inhibit the site lines. Most gas stations have a similar layout.

Ed Herrman asked Mr. Verderese to clarify the impact of the overall circulation of the different vehicles. Mr. Verderese referred to Exhibit A-31 to discuss the turning plans for the fuel truck circulation on the premises, which will include entering the driveway near Shrewsbury Avenue and exiting via the westerly driveway on Newman Springs Road. Box trucks will enter via Shrewsbury Avenue, park in the 10 X 70 loading area on the north-side and can either circle the site to exit the same way they entered or exit via Newman Springs Road. Trash pick-up is anticipated to do the same and the come during off-peak hours. Autos can enter 3 ways to get to the canopy.

Sharon Lee confirmed there will be 5 employees during peak times; 2 employees during off-peak times and (2) eight hour shifts. They don't anticipate all the employees to drive to work, but if they do, they will be instructed to park in the furthest spaces.

Sean Murphy clarified the fuel truck will have to maneuver a bit to set the truck up for tank fueling. There will be a 20-foot aisle for cars to pass around during this time. The delivery times can be controlled, as the owner is the fuel distributor also.

Ed Herrman confirmed there is no concern with the truck exiting the property.

He also clarified the double stack ordering method will be an alternating merge. The plan will include to have a sign placed. There will be only one single order board proposed.

Exhibit A-36; Colored Rendering of Fuel Truck Entry prepared by Dynamic Engineering dated 3/21/19 was entered.

They plan to place a planter box near the building to deter people from walking into the drive-thru lane when exiting the building.

Tracy Kohnstam, 376 Shrewsbury Avenue was sworn. She explained her concerns with the hearing the noise from the "ordering" box and also how cars are currently backed up in front of her house. Mr. Verderese explained the order box was moved to the commercial side of the building to face west and they must also meet the noise guidelines.

Ms. Kohnstam also stated how cars constantly exit illegally. Mr. Verderese stated there are currently no signs posted. They also plan to have a physical island to deter the illegal left turns and are prepared to issue Title 39 jurisdiction to the municipality to issue citations.

Ed McKenna cross examined Mr. Verderese, stating that the temperatures on the days he performed his traffic studies had temperatures of 44 and 33 degrees respectively and February is the most inactive month of the year. There were higher counts.

Mr. Verderese stated if there were higher peaks in a short period, it would not cause a back-up. This is not the first gas station located near a residential location. There will be 8 fueling

stations, so he doesn't anticipate a wait. People will enter via the different drives. He also reminded everyone that it is only 1 truck a day for a period of 15-20 minutes.

Mr. McKenna questioned if the placement of a planter would actually deter people from entering the car lane, as there was no way to visibly see the car, if they are looking down at the cell phones. Mr. Verderese explained this design feature is common. He also stated there are buildings and driveways all over. Mr. McKenna disagreed with the comparison. Mr. Verderese said those patrons exiting the building would be stepping down off the sidewalk onto the concrete, which they will be aware of the change.

Ray Mass asked if a sign could be placed. Yes, there can.

Sean Murphy clarified if the front of a driver's car is placed as is shown on the rendering, this would enable the driver to see the line of site.

Mr. McKenna confirmed the traffic study did not have the percentage of cars enter via northbound on Shrewsbury Avenue. He also noted that Title 39 could be given, only if the municipality accepted. Mr. Brodsky confirmed with Mr. Verderese that a municipality would not deny it.

The Board took a small recess at 8:12pm and resumed at 8:19pm. A roll call showed the same members in attendance.

Christine Nazarro-Cafone was sworn and accepted as an expert witness. No objections from Mr. McKenna. She explained the reason for the "d" variance is due to the combination of the permitted uses. The Dunkin Donuts and the drive thru are permitted and the service station is a conditionally permitted use. The site is particularly suited for these uses and has been a developed site since the 1980's with a gas station, convenience store and car wash. These three uses are currently approved for this site.

The minimum lot size is 10,000 square feet. With this lot having 29,473 square feet, it is almost 3 times the required size. They are reducing the uses to 2 instead of 3. There are currently gas stations on 3 of the 4 corners of this intersection and the applicant owns the nearest residential property.

The requested variances are for front yard set-back (32.6 feet proposed, 21.5 minimum) and the parking aisle requirements are de-minimis. Building coverage is being reduced from 18.7 to 13.2; minimum unoccupied open space is being increased.

This is a challenging site lacking curb appeal. The property owner is willing to invest into the vitality of the site and the area. The number of uses is decreasing and there is no seating proposed.

The positive criteria involve (g) sufficient space in an appropriate location. This site being 3 times the required size, as well as other service stations on the surrounding properties, meet this requirement. Items (i) providing a desirable visual environment and (m) efficient use of the land, lowering the existing uses from 3 to 2 are also met.

The negative criteria (h) free flow of traffic – was mentioned by Ms. Cafone, although she did not want to use this, as the County has approved the plan.

It was also noted, that the applicant will make the site better and there will be a positive impact on the public good. There are currently about 10 existing non-conformities that will be improved with this application. The corner of the building closest to route 520 will be set back further and

this is exactly the type of development the town wants here. They are substantially improving the property and there is no detriment.

It also meets the expectations of the recently revised Master Plan. Circulation was referred to and specifically noting that a bicycle storage area can be proposed, having this a condition if the application is approved. The objective of providing economic vitality to facilitate a favorable business environment with a diverse economic base is also met.

The mixed use is permitted; however, 8 of the 16 items stated describing a service station are not included in this application. The Dunkin Donuts will operate from 5am – 11pm and the fueling station will be operating 24 hours. They have the ability to control the noise from the ordering box and will abide by the required guidelines. This is a better alternative than what is there currently.

Ed Herrman clarified his review letter and the mixture of uses.

Sean Murphy wanted clarification regarding a previous application submitted for this site back in 1984. He recalled there was possibly a limit placed on the size of the building for this property.

This will be researched into. Mr. Brodsky was not aware of any deed restrictions.

Richard Angowski requested Ms. Cafone to list any detriments. She indicated the site can become congested, at certain times. Drivers seeing this will continue driving and not stop.

Sharon Lee confirmed 1 person will pump the gas for the 8 fueling stations.

Mr. Brodsky confirmed with the owner there have never been times for 8 cars to fuel at once.

Ms. Cafone also noted the new Quick Check being built a short distance away, which traditionally has good prices.

Mr. McKenna questioned that a minimum size lot for a service station is 20,000 square feet in this zone. Ms. Cafone stated that the town does not consider this an auto body, as per the guidelines stated in the description. Mr. McKenna felt there is no distinction in the Ordinance. He also noted a distance of 100 feet between a service station and a residential zone is required. He questioned why the owner would not invest the money to enhance the property, without the need for a (d) variance. Ms. Cafone asked why the owner would abandon the current approved uses. Although the car wash is not currently being used, the use is not abandoned. She also noted that Dunkin Donuts is not a convenience store. The current store and car wash occupy about 1,300 square feet and the proposed store is 1,500 square feet.

Mr. Verderese could not testify to a statement that Mr. McKenna made about this application generating 600 customers daily. Ms. Cafone did not feel there would be any detriment to the Master Plan, if hundreds of trips were to be added to this intersection daily.

Mr. McKenna stated if a driver exits the property via the westerly drive, but wants to go north, they must go through residential areas, referring to A-29, the review email from Police Chief, Darren McConnell. Ms. Cafone stated there are other ways to go and indicated the email said it may impact.

There was also some discussion regarding the number of variances. Ms. Cafone stated some are subsumed by the “d” variance and there is no case law that states how many variances can be approved for an application to be viable. For example, an application for Hard Rock Café in Atlantic City was approved with 46 sign variances and they are a viable business.

Mr. McKenna feels this site would be overly developed with intense uses. Ms. Cafone felt the Board was being misled.

The application will be continued on May 16, 2019, with no further notice required. Mr. Brodsky consented to this time frame.

On a motion made by Ray Mass and seconded by Sean Murphy, the meeting was adjourned at 9:20pm.

Respectfully Submitted,
Dina Anastasio, Secretary, Red Bank Zoning Board of Adjustment