

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank A. Tomasello, presiding. Members present were Wayne Cain, Wayne Choyce, William Christman, Bruce Strigh, Elaine Valentino, Amanda Zimmerman and alternate member, George Samuelsen. Also present was the Board Solicitor, Robert Cooper; Planner, Robert Watkins; Engineer, Kevin Dixon; Landscape Consultant, Christopher Carey and Zoning Officer, Philip Sartorio.

The Statement of Compliance was read.

Announcements: Application #19-2013; Joseph Larrimore; Block 1317.02 Lot 12; 23 Clubhouse Lane has been tabled to the next meeting at the request of the applicant.

ARF Corp.; App. #17-2013; Block 1134 Lot 17.02; located at 4458 Black Horse Pike (Festival at Hamilton) was present along with their attorney, Keith Davis. They are seeking a Use Variance; Determination of Completeness, Preliminary and Final Major Site Plan Approval to construct a new Dunkin Donuts with a drive thru at the Festival of Hamilton.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Davis testified the property is located in a DC zone and shopping centers are permitted to have specified uses and fast food restaurants are not a permitted use and requires a Use Variance for relief. If this same restaurant was located on an independent lot outside of a shopping center in the same zoning district it would be a permitted use. Variances for front, side and parking are also being requested. Variances for wall mounted signs are also being requested along with a monument sign.

The following witnesses for the applicant were sworn in:

Bill McManus-Planner with Duffy, Dolce, McManus & Roesch
Thomas Roesch-Engineer with Duffy, Dolce, McManus & Roesch
Tracy Craig-Paci-Architect with Pedit Group
James Vena- Engineer with Schropshire Associates
Arun Mandi-Applicant

The following witnesses for the Zoning Board were sworn in:

Robert Watkins-Planner with Mott Associates
Kevin Dixon-Engineer with Dixon Associates
Chris Carey-Landscape Consultant with EDA

The following Exhibits were introduced:

A-1 & A-2 (depicting the front, rear and sides of the building)

Ms. Craig-Paci testified that the building will be 1,800 sf with a stucco like finish. The height will be 18'-21' with the colors being will be beige and brown earth tones & orange bands on 2 sides. The windows will have awnings which will have writing on it (dark roast; coffee). An awning is located over the front door & will have "Welcome" written in cut out letters. The sign details are as follows:

Above the front door- Dunkin Donuts & Dunkin cup (to indicate the front entrance)
Drive thru sign on same elevation (indicates the building is a drive thru)
Left & Right Elevations-Dunkin Donuts sign
Back of building-A mural which will break up the building
Over the Drive thru-A "Late" sign

Discussion ensued regarding the signs.

They are proposing for 2 signs parallel to the street and where 1 sign would be permitted. They are proposing 3 signs perpendicular to the street where 1 sign would be permitted. The total linear feet permitted is 60 and they are proposing 85.4 lf for signs.

Mr. Davis stated the signs would allow customers to identify the use and Ms. Craig-Paci commented that Dunkin Donuts has rebranded itself and by having the signs help identify it. Mr. Davis gave testimony regarding the Exhibits and stated it will be similar to the one located in Somers Point but the signage slightly different.

Mr. Roesch gave testimony regarding exhibit A-3 (aerial view) and identified where the Festival @ Hamilton is located and includes lots 17.01 to 17.04. The total property is over 20 acres and is zoned as Design Commercial (DC), the most intense commercial district in the township. The store will be located in lot 17.02 (2 acres) along with an underutilized parking lot and 3 stores (Sleepys, Any Time Fitness & existing Dunkin Donuts). The total square footage of leasing area is 184,000 +/- and is located on the South side of the Black Horse Pike (Rt. 322) and North side of Harding Highway (Rt. 40). He gave a detailed account of surrounding shopping and eating establishments. There are 2 access roads located near the proposed building. One runs parallel to the Black Horse Pike and the other runs to the traffic light at Leipzig Ave.

The following Exhibit was introduced:
A-4 (rendered landscape plan)

The project will be a new 1,869 sf Dunkin Donuts with a drive thru facility in an underutilized parking area. There are currently 103 parking spaces and on average ¼ of that is used under normal conditions. The restaurant will be placed on the Eastern portion of the property with the front facing east and drive thru window will face the Festival @Hamilton.

The 2 egress driveways will be kept for circulation and the radii will be extended. Vehicles will be able to enter the Eastern portion of the drive and can park directly in front of restaurant or continue parallel to the Black Horse Pike in a one way fashion for parking in the back or the drive thru.

The loading area will be along the Black Horse Pike for the tractor trailer that comes once a week to deliver all the goods. Every day (early in the morning) a van will drop off all food products and is there for a short time period.

A new trash enclosure will be located in the North corner of the property unless the professionals recommend it be placed somewhere else.

There are 61 parking spaces proposed and impervious coverage will be at or below the existing condition. Drainage will continue to the same place and there will be no need for additional drainage facilities. There will be a sidewalk connecting the Black Horse Pike to the entrance drive. There will be 1 light removed for the building location and 2 additional will be added. Canopy trees will be added along the access road. Trees will be removed for the sidewalk; the area will be regraded & trees replanted. Lower decorative trees will also be planted.

A front yard setback variance for 48' where 200' is permitted is being requested and a side yard setback of 81.6' where 100' is permitted is being requested. The building is about 60' in length.

Ms. Valentino asked about the delivery trucks and Mr. Davis clarified the tractor trailer will deliver once a week while the food truck (small van) will deliver once a day. The donuts are made off site and delivered on a daily basis to various stores.

Mr. Vena testified about a parking traffic study that was performed which was performed on a Tuesday (11 am - 7pm) & Saturday (11am -7pm) and noted that on a Tuesday, around 12:30, 314 of the 793 spaces were occupied. The area where the Dunkin Donuts will be located the spaces will be reduced from 103 to 61 spaces. Typically 60% of the business will use the drive thru. A letter of no interest from the DOT has been received and will have minimum impact on the state roadways.

A monument sign is also being requested along the Black Horse Pike to provide advance warning for motorists that a Dunkin Donuts is in the shopping center.

Mr. Tomasello asked why the traffic study was done in February when that is probably the slowest time for business in that area.

Ms. Valentino stated the gym that was located by Pier I is now next to the current Dunkin Donuts and it has no set hours (open 24 hours). She asked where they would park and Mr. Davis answered there will not be any signs restricting parking spaces for Dunkin Donuts customers. There will be employee parking (8 narrow spaces) located furthest away in the parking area. These spaces will not have signs but the manager will let employees know where they are to use first.

The restaurant will have 22 seats and the existing seating is the same and a drive thru will reduce the number of people walking in. The radius to turn into the parking lot will change from 5 to 15 which

will accommodate SUVs. The tractor trailer will have to come in by the back entrance of the shopping center (by Toys R Us) in order to enter the parking lot.

There will be 61 parking spaces with 4 spaces allotted for handicap and no restrictions on who can park there.

Mr. McManus gave testimony regarding the zone this shopping center is located in. In shopping centers fast food restaurants are not permitted. A D variance is being asked for since it is not a permitted use. The Dunkin Donuts will be smaller than what is permitted and be in a state of the art building which will have national branding. The parking lot is underutilized and this restaurant will hopefully draw more shoppers into the center.

Mr. McManus stated the amount of signs and coverage is consistent with the zone. The other fast food restaurant signs were looked at and concluded it is not dissimilar with the other signs. The mural and coffee cup are unique and he does not feel there is an over abundance of signs. The ordinance allows for a certain amount of signage space depending on the length of the building but does not take into account of a building on a corner lot or one you can go around.

The square footage of the signs is 197.9 square feet. That includes the awnings and murals.

Exhibit A-6 – Depiction of lettering on awning (Photo on iPad)

Mr. McManus testified the monument sign meets the setback requirements & doesn't infringe on site triangles. It is about 500 feet from the McDonalds monument sign and 480-490 feet from the main pylon sign for The Festival. The sign will be able to be seen from Leipzig Avenue, after the traffic signal and will give advance warning if anyone wants to come to Dunkin Donuts.

Exhibit A-5-Photos of monument signs along the Black Horse Pike in that area

On average the monument signs are 7 feet high and 7-8 feet wide. The Dunkin Donuts sign will be smaller and sit on a cultured stone pedestal. It will be similar to the IHOP sign. It will be internally lit like the other signs.

Above the doorway the Welcome sign is 6' and the board does not consider it a sign.

Mr. Mandi testified he is the principal of ARF Corp. and has been involved with Dunkin Donuts in the Atlantic and Cape May counties area for the past 13 years. He is the operator of the facility in Festival @Hamilton and the one to be built. On occasion there will be interior window signs, typically not more than 2 and will comply with window sign standards.

One van will be at the site delivering donuts before 5:00 a.m. every day and a tractor trailer will deliver paper products before 7:00 a.m. once a week.

The drive thru consists of 65% of their business.

Mr. Strigh asked about the difference between a sign and a poster. Mr. Mandi stated the poster is located in the store, can be seen from the window and is temporary. The window signs cannot exceed 25% of the window and they will adhere with the ordinance.

Mr. Christman feels the wording on the awnings is more of an aesthetic look, not advertising.

The applicant agreed the awnings will not have any advertising and the words will remain generic.

Mr. Tomasello recessed the meeting at 8:23 pm and reconvened at 8:33 pm.

Mr. Watkins gave testimony regarding his report of October 4, 2013 and noted a number of the waivers the applicant has requested can be waived due to the site being developed. He concurs with everything Mr. McManus stated regarding the variances. The front yard setback being requested is 48.1 foot and the requested side yard is 81.6 feet. There are 839 parking spaces required and they are proposing 751 spaces. They are also proposing 5 signs along the parallel walls (2 murals and 1 stacked Dunkin Donuts sign and 2 awnings) along the Black Horse Pike and 5 perpendicular signs for a total of 197.9 feet. Mr. Watkins requested 1 of the drive thru signs be eliminated. A variance for 1 additional free

standing sign to be located on specific lot and as shown on the site plan is also being proposed. A variance for the total square footage of 197.9 for the signs is also being requested.

Mr. Watkins noted a handicap ramp is being proposed along with a crosswalk on the East side (toward Pier 1 imports). The turning radius of the entrance drive (15 feet) and the applicant agreed to extend it. The exit lane coming out of the drive thru will be larger (10 feet). The signs at the entrance and exit will be lowered to 3.5 feet from the pavement and the top of the sign will be 36" above the pavement.

Mr. Choyce confirmed that the reason the Use Variance is required is because this is a fast food restaurant with a drive thru which are not permitted.

Mr. Dixon gave testimony regarding his report from October 1, 2013. The parking being proposed is 751 with Dunkin Donuts being in place and this is over the amount required. The traffic counts were done during the lowest part of the year and he feels during the summer when the traffic is increased the parking lots will not be filled. The reduction is acceptable for this use.

There have been recommendations made, with the applicant agreeing, to have sidewalks extend along with markings for midblock crosswalks. The waivers the applicant is requesting can be granted and are listed on the report. The utility plan is also shown and is subject to Hamilton Township MUA approval for sewer connection. It is recommended that the applicant provide testimony to site circulation, truck traffic and pedestrian circulation.

Mr. Choyce asked about parking for the existing retail stores during the construction. Mr. McManus replied that during the construction there will be parking at the rear portion and across the aisle. The existing Dunkin Donuts will remain open during the construction and it will take about 15 weeks to build. There will be a construction fence around the site and 1 entrance will be closed off during construction.

Mr. Roesch spoke to Steve Mazur regarding comment 14 and it was decided a 4' wide sidewalk going directly across and a stripe aisle 4' to 5' wide going across and the parking would be reduced by 1 space. They would also like to move the curb line 4' reducing the parking by an additional space. The striped area would be where customers would walk. A total of 4 parking spaces will be reduced, leaving 57 parking spaces (this includes the spaces lost to the dumpster being relocated).

Mr. Carey recommended relocating the trash enclosure and losing the 3 parking spaces, by moving this enclosure the existing vegetation will remain. The applicant will place vegetation between the truck loading area and employee parking, as a buffer from Rt. 322.

There was testimony given regarding directional signs. There will be one on the eastern entrance on the right side, 12' – 15' from the curb line (Drive Thru). There will be another one on the western enter/exit area at the inbound lane, 12' – 15' from the curb line (Dunkin Donuts). The size will be 3 square feet per sign. The freestanding monument sign will say Drive Thru.

Discussion ensued regarding the drive thru signs.

Mr. Carey stated the applicant is proposing new light standards. The landlord is responsible for the light and they will bring it to their attention.

Ms. Valentino asked if the arrows in the road will direct traffic and Mr. Roesch stated Drive Thru can be painted on the pavement along with an arrow.

Mr. Tomasello asked if anyone would like to speak during this portion of the hearing for public comment and there was no response. Mr. Cain moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Cooper confirmed that the Board would like to have the directional sign on the pavement at the westerly entrance as a condition.

Mr. Strigh moved, seconded by Mr. Choyce, on App. #17-13, Block 1134 Lot17.02 located at 4458 Black Horse Pike to grant a Use Variance for a fast food restaurant with a drive thru window.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE
MR. STRIGH -AYE
MR. TOMASELLO-AYE

MR. CHOYCE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MS. ZIMMERMAN-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Yes.

MR. CHOYCE: I vote yes. I see no detriment in granting a Use Variance for this site. The aerial photo the applicant used shows the adjacent properties that have fast food restaurants with drive thru windows. The alignment of this property is a continuation of what is going on with the adjacent properties. I see no negative impact.

MR. CHRISTMAN: Yes.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: Yes. I think the use proposed is consistent with the other restaurants that are located in the adjoining area. If this was an isolated lot, separate from the shopping center, it would not be an issue if it was permitted. For a township as large as this one we are not inundated with fast food restaurants.

MS. ZIMMERMAN: Yes for the previously stated reasons and it follows along the site and flow of shopping and restaurants in that area.

MR. TOMASELLO: I vote yes. I believe positive criteria have been shown. The applicant is intending to use an underutilized portion of the parking area. It preserves the light, air, free space and traffic flow. The negative criteria are also satisfied, in such that not much is going to change. The area has already been built out and there are other franchises in that area and there is not much of a change.

Mr. Strigh moved, seconded by Ms. Valentino, on App. #17-13, Block 1134 Lot17.02 located at 4458 Black Horse Pike to grant a front yard variance of 48'.1"; a side yard variance of 81'.6"; a variance for parking spaces totaling 747 spaces of which 57 are specifically allocated for this area. The sign variances are for 5 signs parallel to the street; 5 signs perpendicular to the street; 197.9' of linear signage on the building and 1 free standing sign on the site where the building is located. There are a total of 7 variances.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE
MR. STRIGH -AYE
MR. TOMASELLO-AYE

MR. CHOYCE-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
MS. ZIMMERMAN- AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: I would also like to that the applicant and the professionals for all the information that was provided. Based on the testimony of our professionals and the applicant I vote yes.

MR. CHOYCE: I vote yes. I think the setback variances are in line with the other properties along Rt. 322 and it doesn't create a detriment or negative impact. The signage request is part of the branding and is being done in good taste

MR. CHRISTMAN: Yes. I think the project will have a positive impact to that area.

MR. STRIGH: Yes.

MS. VALENTINO: I vote yes. I think in conjunction with the comments made by my colleagues, the reduction of the parking spaces (61 to 57), and a majority of the business is suppose to be drive thru. We have an applicant who currently has a business and by moving it to the new location offers an opportunity for someone else to occupy that space and hopefully we will see a completed shopping center.

MS. ZIMMERMAN: For the previously stated reasons of my fellow Board members I vote yes.

MR. TOMASELLO: I also vote yes and agree with Mr. Cain that this was a well presented application and I appreciate that as well as the applicant willing to work with the professionals and the Board in compromising and coming to solutions that are agreeable to everyone. I think the bulk variances are necessary to improve the traffic flow and safety of the area. It has been shown that parking is not an issue in this particular development area and the spaces which were eliminated will not be missed. With regard to the signage, I understand corporate branding. It has been an issue in Boards I have served on in the past, including the Historic Commission. What is being proposed is pleasing and low key and I do not have a problem with the signage, which is why I am voting yes.

Mr. Cooper clarified that the determination of completeness is done by the professionals.

Mr. Strigh moved, seconded by Mr. Cain, on App. #17-13, Block 1134 Lot17.02 located at 4458 Black Horse Pike to grant Preliminary and Final Site Plan Approval with the waivers addressed by our experts, conditions that our experts have placed on the application along with the following conditions 1). In lieu of a sidewalk being constructed between the building and the original sidewalk, the area will be striped. 2). Painting on the pavement on the Westerly ingress/egress of a directional sign indicating the direction to follow to get to the drive thru. 3). Eliminate the dumpster area, as originally indicated on the plans, and relocate it to the parking area in the North Westerly area and those spaces will be eliminated. 4). Signage at the ingress/egress will be lowered to 36" high from the pavement.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE

MR. CHOYCE-AYE

MR. CHRISTMAN-AYE

MR. STRIGH -AYE

MS. VALENTINO-AYE

MS. ZIMMERMAN- AYE

MR. TOMASELLO-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CAIN: Based on the conditions by our professionals and the conditions that have been agreed upon, I vote yes.

MR. CHOYCE: I vote yes and I would like to thank the applicant again for their cooperation with our professionals and all the compromising that was done to get us to this point.

MR. CHRISTMAN: Yes.

MR. STRIGH: Yes. Thank you to all the professionals involved and good luck.

MS. VALENTINO: Yes for the reasons previously stated.

MS. ZIMMERMAN: Yes for the reasons previously stated and thank you to all the professionals involved.

MR. TOMASELLO: Yes. I have the upmost faith in the Boards professionals and the fact that the applicant has agreed to meet the conditions suggested indicates that this will be done in the proper manner.

Mr. Davis thanked the Board for their time and cooperation in this matter.

Approval of Minutes – Mr. Cain moved, seconded by Ms. Zimmerman to approve the minutes from the September 23, 2013 meeting. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

Memorialization of Resolution – Mr. Choyce moved, seconded by Mr. Strigh to adopt the resolution for Harding Brass, LLC-App. #16-2013; Block 616 Lot(s) 2-4. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING “AYE,” NO “NAY,” and ONE “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN-AYE

MR. CHRISTMAN-ABSTAIN

MR. STRIGH-AYE

MS. ZIMMERMAN-AYE

MR. SAMUELSEN-AYE

MR. TOMASELLO- AYE

SAID MOTION CARRIED.

Authorize Secretary to advertise for professional services for 2014- Ms. Zimmerman moved, seconded by Mr. Christman. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

Public Comment- Mr. Tomasello opened this part of the hearing for public comment and there was none. Mr. Cain moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Executive Session- Mr. Tomasello opened this part of the hearing for Executive Session. Mr. Strigh moved, seconded by Mr. Choyce to enter into Executive Session regarding litigation at 9:49 pm.

Mr. Choyce moved, seconded by Mr. Cain to end Executive Session at 9:58 pm. and reconvene the regular meeting.

Adjournment – Mr. Cain moved, seconded by Mr. Choyce to adjourn the Zoning Board of Adjustment meeting at 9:58 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment