

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023**

The meeting was opened by Vice-Chairman Kuzmin at 7:35 PM.

Vice-Chairman Kuzmin read a statement of compliance with the *New Jersey Open Public Meetings Law* as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Coaster and the Asbury Park Press.

Vice-Chairman Kuzmin led the meeting in a salute to the flag.

Ms. Acken took roll call.

Present: Vice-Chairman Kuzmin, Mr. Palmieri, Mr. Lomangino, Mr. Porzio, Mr. McKinley, Ms. Hatami, Ms. DeMaio, Mr. Provines

Absent: Chairman Ronald Battista

Also Present: Ms. Regina Acken, Board Secretary
Mr. Thomas Neff, Board Engineer
Ms. Christine Bell, Board Planner
Mr. Thomas Hirsch, Esq., Board Attorney

Vice-Chairman Kuzmin read the Statement of Procedural Guidelines for Public Hearing.

MINUTES

Vice-Chairman Kuzmin indicated that the minutes of the regular meeting held on January 5, 2023, have been previously distributed via email for the Board Members to review.

Mr. Porzio offered a motion to approve the minutes of the January 5, 2023, meeting. The motion was seconded by Mr. Palmieri.

ROLL CALL

AYES: Mr. Porzio, Mr. Palmieri, Vice-Chairman Kuzmin, Mr. Lomangino, Ms. Hatami, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Chairman Battista

INELIGIBLE: Mr. McKinley

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023**

NEW BUSINESS

BA2022-13

Stavola Realty Company
157 Hamilton Road & 1810 Wayside Road
Block 109, Lots 12.01, 13.01, 15, 16, 18-24 & 29.02
Site Plan Approval, Bulk & Use Variance

Attorney Hirsch stated for the record that he has reviewed the proofs and affidavit of service from the Applicant. He stated that all is in order as to form and that the Board has jurisdiction to hear this matter.

Mr. Palmieri made a motion to accept service. The motion was seconded by Mr. Lomangino. All present voted in favor.

The following exhibits were presented:

A-1 Preliminary and Final Major Subdivision dated 6/28/22
A-2 Aerial Photo of Property dated 9/8/2021
A-3 Overall Site Plan Layout
A-6 Proposed Dunkin Donuts exterior

Peter Wolfson, Esq., Attorney for the Applicant

Mr. Wolfson referenced the Resolution dated Oct 13, 2021, which consolidated twelve lots and created six reconfigured lots. In 2022, an updated configuration was approved by the Planning Board. At that time, the Applicant was granted subdivision approval as well as preliminary and final site plan approval for Lots A, B, and E. Lot F received preliminary approval for a 10,400 square foot flex space warehouse with parking. The Applicant is seeking approval for Lots C, D, and F which have proposed uses that are not permitted. Mr. Porzio asked if the building on Lot F is proposed to be solely retail or a combination of uses? Mr. Wolfson answered that they are seeking permission to be all of one or all of the other depending upon the tenants they attract. Mr. Wolfson stated that there are bulk variances being sought as well as design waivers. The Applicant participated in a Site Plan Review Committee with the Borough's Professionals. There is a pending application with the Freehold Soil Conservation District and the Applicant has received conditional approval from the Monmouth County Planning Board for sub-division and site plan and a Letter of Interpretation line verification from the NJDEP.

Attorney Hirsch swore in the following witness.

James F. Thaon, P.E. Bohler Engineering NJ, LLC, 125 Half Mile Road, Red Bank, NJ

Mr. Thaon presented his credentials, and the Board accepted him as an expert in Civil Engineering.

Referencing Exhibit A-2, Mr. Thaon highlighted the 26.69 acres which make up the property. He pointed out that Stavbro lane will be relocated to align with the traffic light and will be dedicated to the Borough. The proposed Burger King location is in Lot C and the proposed Dunkin Donuts is in Lot D. The design includes a thirty-foot-wide driveway providing access to the proposed Burger King lot along with twenty-five-foot-wide drive aisles surrounding the buildings. The proposed Burger King has a ten-car vehicle stack with a dual order

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023**

point lane, and the Dunkin Donuts has an eleven-vehicle stack, with an additional "on-the-go" lane. There is a bypass lane which will help prevent any overflow onto Stavbro Lane.

Vice-Chairman Kuzmin asked the Applicant to discuss the traffic area at the newly proposed intersection. Mr. Thaon stated that the intersection of Stavbro Lane and Wayside Road will have dedicated left hand turn lane onto Stavbro Lane as well as a traffic light.

Mr. Neff asked the height of the drive-thru lanes? Mr. Thaon replied that there are canopies which will state height requirements and will prohibit large trucks from entering the drive-thru lanes. Mr. Thaon stated that there are "Do Not Enter" signs located along the bypass road which direct traffic flow.

Mr. Thaon stated that they are proposing 23 parking spaces for Burger King, where 94 are required and 20 parking spaces where 58 are required for Dunkin Donuts. The Applicant's traffic expert will provide testimony regarding that variance request.

Mr. Thaon stated that they are seeking relief for the location of the parking spaces on both lots. As a result of grade changes on the property, there is a 9.4-foot-high retaining wall proposed, whereas 6 feet is permitted. According to the ordinance the proposed retaining wall must be setback 9.4 feet, whereas 6.5 feet is being proposed.

Mr. Porzio asked if there are any residences in the area? Mr. Thaon responded that the closest residence to the site is 1,160 feet from the Burger King and testified that there is no negative drainage effect on the homes. Mr. Wolfson interjected that the home being referenced is in a non-residential zone.

Mr. Thaon pointed out that the Borough ordinance requires one loading space per proposed use, whereas zero are proposed. He stated that having a loading space for Quick Service Restaurants is not typical given the configuration of the buildings, however, there is a small area for loading available for the Dunkin Donuts to accommodate smaller box truck deliveries.

A variance is being sought for the location of the trash enclosures which are in a front yard and do not meet the setback requirements. Mr. Thaon pointed out that the Burger King lot is a corner lot which doesn't allow many options for the trash enclosures other than to be in the front yard. The Applicant has committed to buffer the trash enclosures of both restaurants with trees.

Vice-Chairman Kuzmin asked for clarification on how the proposed layout will operate when a tractor trailer comes for delivery? Mr. Thaon answered that there is room for customers to access the drive-thru during any deliveries.

Mr. Thaon summarized the compliant components of the proposed development and explained the waivers being requested. He detailed the monument signs being proposed along with the variances being sought.

Vice-Chairman Kuzmin asked if any member of the public had a question for the Applicant.

BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023

John Harris, 26 Orla Court

Mr. Harris inquired about the location of the garbage and asked if there will be a buffer in the road for the trucks on Stavbro Lane.

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked if any of the lots had proposed manufacturing use. The response was no from the Applicant.

Attorney Hirsch swore in the following witnesses.

Stephanie Moreira, 90 East Harvey Road, Parsippany, NJ

Ms. Moriera presented her credentials, and the Board accepted her as an expert in Architecture.

Ms. Moriera described the fiber cement siding, stucco, and earth tones of the two proposed buildings. She stated that it is a simple design which includes standard branding for both Burger King and Dunkin Donuts. She reviewed the variances requested.

Court took a ten-minute break at 8:55pm

John Cheng, 105 White Oak Lane, Old Bridge, NJ

Mr. Cheng presented his credentials, and the Board accepted him as an expert in development of Burger King and Dunkin Donuts.

Mr. Cheng confirmed operational hours, expected number of employees, delivery times of goods. He has built or remodeled approximately 120 Burger Kings and 30 Dunkin Donuts since 2013 and testified that the proposed parking ratio is sufficient. He stated that 70% of their revenue is derived from drive-thru business.

Vice-Chairman Kuzmin asked about the suitability of the location for a Burger King location. Mr. Cheng answered that Burger King headquarters approved the site based upon traffic patterns and exposure among other factors.

Mr. Palmieri asked the Borough professionals if there is a parking standard for Quick Service Restaurants. Mr. Neff responded that the Traffic Engineer for the Applicant will testify on that issue.

Mr. Neff and Mr. Cheng agreed that QSRs in general are shrinking in size and that the drive-thru efficiently facilitates the majority of revenue.

Vice-Chairman Kuzmin asked if any member of the public has a question for the witness.

John Harris, 26 Orla Court

Mr. Orla asked how many employees would be working during the peak time. (Recording skipped the response)

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023**

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked how many parking spots are for mobile app orders? Mr. Cheng responded that the Application doesn't reflect any, however, they are open to creating two spots, if needed.

Vice-Chairman Kuzmin expressed that he would like to see Burger King's internal business reports which support Mr. Cheng's testimony that the drive-thru accounts for 60% of the business, if possible.

Attorney Hirsch swore in the following witness.

Sanjay Patel, 387 Stelton Road, Piscataway, NJ, Burger King Franchisee

Mr. Patel owns and operates approximately 100 Burger King restaurants in New Jersey. He confirmed that approximately 70% of revenue is derived from drive-thru customers and that the proposed number of parking spots is adequate. The average time from ordering to pick up is under three minutes, with the longer times being during lunch and dinner hours. He is confident that the two-lane drive-thru is sufficient to handle demand without creating lines.

Mr. Palmieri asked when deliveries occur. Mr. Patel answered that the deliveries are made overnight. In the rare instance that a delivery is later than official hours (approximately between 2am – 5am), the delivery will be postponed.

Mr. Patel stated that average number of employees are 6-8 per shift. His experience is that most of these employees are dropped off and don't require a parking spot.

Vice-Chairman Kuzmin asked if any member of the public has a question for this witness.

Dominic Sequeira, 88 Hickory Lane, Lincroft, NJ, Dunkin Donuts Franchisee

Mr. Sequeira owns and operates 8 Dunkin Donuts in Monmouth County, New Jersey. He confirmed that approximately 65-75% of revenue is derived from drive-thru customers and that the proposed number of parking spots is adequate.

Vice-Chairman Kuzmin asked about the suitability of the location for a Dunkin Donuts. Mr. Sequeira answered that the traffic patterns, local parks and residences and exposure are key factors. The average time from ordering to pick up in the drive-thru is 2.5 minutes.

Mr. Neff pointed out that the drive-thru lane at a sister-store impedes the maneuverability of the parking lot and asked how the proposed parking at this location would be different. Mr. Sequeira responded that "on-the-go" orders will help minimize the time patrons will spend in the queue.

Vice-Chairman Kuzmin asked if any member of the public has a question for this witness.

Attorney Hirsch swore in the following witness.

**BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023**

Justin Taylor, 1904 Main Street, Lake Como, NJ

Mr. Taylor presented his credentials, and the Board accepted him as an expert in Traffic Engineering.

Mr. Taylor explained the efficiency of the layout of the proposed QSRs including well-spaced drive-thru configurations. Based upon Institute of Transportation Engineers (ITE) Trip Generation Manual guidelines and the drive-thru utilization research, he testified that the proposed parking lot is more than adequate for the two restaurants. Mr. Palmieri questioned if this assessment considers employees. Mr. Taylor said that it does. Mr. Neff expressed no concerns in response to Mr. Taylor's testimony.

Mr. Taylor added that the two QSRs complement each other as far as peak hours which will ease traffic at the site. Mr. Taylor stated that the traffic in the area will have an overall grading of a D during peak times, which, Mr. Neff stated is an acceptable level of service. Mr. Neff contributed that the traffic assessments are based upon three different scenarios: current traffic patterns, a no build scenario and a build scenario. Mr. Taylor testified that the traffic analysis is comprehensive and includes potential warehouse buildout. The analysis included Lot F as a retail location.

Mr. Neff mentioned that the Ordinance isn't exact when considering QSRs and therefore, the Board relies on the testimony of the Applicant as well as resources such as the ITE.

Mr. Neff asked the traffic impact on the residential neighborhoods along Hamilton Road? Mr. Taylor stated that most of the traffic will be headed toward Wayside Road, which is in the opposite direction. Mr. Neff asked how the large number of trucks in the area will be managed? Mr. Taylor said that they will manage the truck population with signage.

Mr. Porzio expressed concern about the traffic patterns at the entrance to the Route 18 North on Wayside Road. Mr. Taylor responded that the change in the traffic light timing at the GSP exit ramp will help alleviate confusion and careless driving in that section. Mr. Taylor described a proposal which the Applicant presented to the DOT to improve the Route 18 entrance ramps.

Vice-Chairman Kuzmin asked if any member of the public has a question for this witness.

John Harris, 26 Orla Court

Mr. Harris inquired as to whether the traffic assessment considered the volume associated with the nearby sports complex. Mr. Taylor responded that it did and testified that there will be sufficient parking. A conversation ensued regarding different scenarios including sports tournaments with hundreds of people in attendance.

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked if the traffic report is available to the Board. He asked for specific traffic information and dates. Mr. Taylor responded with data from his research. Mr. Neff stated that ultimately the county has jurisdiction over the roads being impacted by the proposed development. Vice-Chairman Kuzmin informed Mr. Oliviera that he is welcome to look at the traffic report at Borough Hall during business hours.

BOROUGH OF TINTON FALLS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 2, 2023

Vice-Chairman Kuzmin carried the Application to the March 2, 2023, meeting with the intent of establishing a hearing date at said meeting.

Mr. Wolfson stated that their Planner will testify regarding Lots C & D as well as regarding utilizing Lot F for retail use. Ms. Bell interjected that the Applicant needs to consider if they want testimony regarding Lot F to be heard concurrently with Lots C & D. Mr. Palmieri asked if the Board will be voting on each variance individually. Attorney Hirsch confirmed that the Board will be voting on each individually and further explained bifurcation and its potential effect on outcomes. Mr. Wolfson requested a special meeting to which the Board was amenable. The Board Secretary will attempt to organize all parties and will follow up with the Board, the Professionals, and the Applicant.

Vice-Chairman Kuzmin made a motion to Adjourn. Mr. Palmieri seconded the motion. All present voted in favor.

Time: 10:43pm

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Racken' or 'Acken', with a long horizontal flourish extending to the right.

Regina Acken
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: March 2, 2023