

BOROUGH OF TINTON FALLS  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
APRIL 6, 2023

The meeting was opened by Chairman Battista at 7:30pm.

Chairman Battista 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.*

Chairman Battista led the meeting in a salute to the flag.

Ms. Acken took roll call.

**Present:** Chairman Battista, Mr. Lomangino, Mr. Porzio (arrived at 7:39pm), Mr. McKinley, Ms. Hatami, Ms. DeMaio, Mr. Provines

**Absent:** Vice-Chairman Kuzmin, Mr. Palmieri

**Also Present:** Ms. Regina Acken, Board Secretary  
Mr. Thomas Neff, Board Engineer  
Ms. Christine Bell, Board Planner  
Mr. Mark A. Steinberg, Esq., Board Attorney

Chairman Battista read the Statement of Procedural Guidelines for Public Hearing.

### **MINUTES**

Chairman Battista indicated that the minutes of the regular meeting held on March 2, 2023, have been previously distributed via email for the Board Members to review.

*Mr. Lomangino offered a motion to approve the minutes of the March 2, 2023, meeting. The motion was seconded by Mr. McKinley. All in favor by those eligible to vote.*

### **RESOLUTION**

#### **BA2022-22**

Denholtz Tornillo 150 LLC and Maplewood 3, LLC  
150 Tornillo Way  
Block 120.04, Lot 1.02  
Use Variance

Chairman Battista advised that the proposed Resolution in this matter has been distributed to the Board Members prior to tonight's meeting. The Board approved this application on March 2, 2023.

Chairman Battista asked if any Board Members have any comment regarding the Resolution.

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*Ms. Hatami offered a motion to memorialize Resolution BA2022-22, the motion was seconded by Ms. DeMaio.*

**ROLL CALL**

AYES: Ms. Hatami, Ms. DeMaio, Chairman Battista, Mr. Lomangino, Mr. McKinley

NAYES: None

ABSENT: Mr. Palmieri

INELIGIBLE: Vice-Chairman Kuzmin, Mr. Porzio, Mr. Provines

**CONTINUED 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

Use and Bulk Variance, Site Plan Approval

Mr. Peter Wolfson, Attorney for the Applicant, requested a delay in proceedings in anticipation of Mr. Porzio's arrival. Permission was granted resulting in a two-minute pause to proceedings.

Mr. Porzio arrived. Back on the record at 7:39pm

Mr. Wolfson reviewed the proceedings regarding the application to date and outlined the anticipated testimony for this meeting.

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

Having been previously sworn, Mr. Thaon introduced Exhibit A-7, entitled "Signage Exhibit prepared by Bohler, April 6, 2023". He testified as to the proposed signage which will deter truck parking throughout the parking field and roads. The Applicant is granting Title 39 to the Borough, which gives the Borough the ability to ticket vehicles that are not following the proposed signage.

Justin Taylor, 1904 Main Street, Lake Como, NJ

Having been previously sworn, Mr. Taylor responded to Chairman Battista's concern regarding the density of the area due to the Capelli Sports Complex. Mr. Taylor stated that he doesn't foresee the activities, including tournaments, at the Sports Complex, having any negative traffic impact on the site. Although Mr. Taylor has not been present at the Sports Complex on a Saturday to do a traffic study, he asserts that it is a high volume area at all times.

Chairman Battista asked if there were any questions from the public.

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked what year the traffic study was carried out. Mr. Taylor responded that the original studies were done in 2021, and another study was published May 16, 2022.

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Mr. Oliviera asked what the ratio of demand generated for the operation of Burger King is. Mr. Taylor responded that he didn't understand what was being asked. Mr. Oliviera stated that the answer is 36 percent.

Mr. Taylor reviewed the anticipated number of additional trips to the area of the proposed development. Mr. McKinley confirmed with Mr. Taylor that there is a projected 23 percent increase in volume on Saturdays.

John Harris, 26 Orla Court

Mr. Harris asked if there were any considerations given to the traffic study regarding the development of Fort Monmouth area and the hospital? Mr. Taylor responded that they rely on the NJDOT reports which provide the background growth rates of a given area and use that information to project the volume implication on traffic.

Mr. Harris asked how many cars in the queue would force the traffic onto the shoulder where Route 18 merges with Wayside Road. Mr. Taylor responded that the anticipated queue for the northbound left turn is two vehicles, which gives him confidence in stacking the four-vehicle queue. He testified that he is not concerned about excessive queuing.

Chairman Battista asked for clarity as to the date of the traffic study. Mr. Taylor said the traffic counts were conducted in 2019 and "grown to" 2022 as a base year, and 2025 as a design year. These numbers were calculated in May 2022. He stated that he is confident in the traffic signal to accommodate the proposed development.

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked if there has been a traffic study done since 2019. Mr. Taylor agreed with Chairman Battista's conclusion that the new traffic study was based on the existing metrics which are the standard within the State of New Jersey, and not on a field count.

A discussion took place regarding the likelihood of sidewalks being installed.

Amanda Gavin, 152 Hamilton Road

Ms. Gavin asked for a percentage of additional traffic anticipated to Hamilton Road and inquired about a sidewalk being provided. Mr. Taylor responded that there is not a substantial traffic impact expected on Hamilton Road.

Chairman Battista stated for the record that he is very concerned about people walking from the Capelli Complex to the site.

John Taikina, P.P., All Things Planning and Development, South Brunswick, NJ

Mr. Taikina presented his qualifications to the Board and was accepted as a Professional in Planning.

Mr. Taikina explained that in order to approve the d(1) variance requested, the Board needs to find that the site is particularly suited for the use and that the proposal advances at least one of the purposes of zoning. In addition, the Applicant needs to reconcile the Medici criteria which addresses why the use is not permitted by

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ordinance. And finally, the negative criteria need to be satisfied proving that the proposal does not create a substantial detriment to the public good nor does it substantially impair the zone plan or Master Plan.

Mr. Taikina stated that the site location is unique based on the roadway access and exposure, while simultaneously be devoid of proximate residential neighbors that would require some concerns. The site has been previously approved for a convenience store with gas pumps which draws higher traffic. He further stated that the sites are a smaller portion of a larger planned industrial park so they will provide services to the patrons and employees of the entities located therein. He testified that the proposed restaurants are complimentary in their operating hours.

Mr. Taikina detailed the variances being sought as being for an accessory building in the front yard along Stavbro Lane and another for an accessory building structure that is closer than the height of the wall to the adjacent lot, however, this is internal to the development. He further testified regarding the sign and parking variances being sought.

Regarding the negative criteria, Mr. Taikina stated that there is no detriment to the public good as the quick service restaurants are permitted elsewhere in the Borough. There are no noises, smells, emissions and there are no neighbors who will be impacted. As far as the Master Plan, Mr. Taikina stated that the proposed uses will serve as a good amenity to the traveling public, to the adjacent business park and to the nearby sports complex.

Chairman Battista asked if the planner sees any negative criteria or if he has any concerns. He asked if Mr. Taikina had any concerns about the safety of the site for the residents and guests of the sports complex? Mr. Taikina responded that the smarter choice for a visitor to the Capelli Sports Complex would be to drive the mile to the site for food and refreshment rather than walk. He added that the Applicant is installing a sidewalk on the frontage of the site. He concluded that he doesn't think that there is a substantial detrimental impact as a result.

Mr. Porzio expressed concern that the proposed Dunkin Donuts will be similar to the Dunkin Donuts on Hope Road which often has an overflow of vehicles into the street. Mr. Taikina responded that the proposed Dunkin Donuts is different in several aspects including having a "double drive-thru" and substantial stacking on site. Any overflow would go to the substantial stacking room in the access road.

Mr. Wolfson requested the application be carried, which will allow the Applicant to research the concerns of the Board and address them in future testimony.

Mr. McKinley commented that he has concern regarding the traffic count that was conducted in 2019. Although he understands the buildout of those numbers, he is concerned about their relevancy considering the construction of the bubble and the additional fields.

Mr. Lomangino suggested that the Applicant address the difference between the Dunkin Donuts standalone stores versus what is being proposed in relation to traffic.

Chairman Battista asked if there were any more questions from the public.

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John Harris, 26 Orla Court

Mr. Harris asked that, considering the Applicant is proposing the doubling of permitted signage and lighting, is the Applicant trying to attract people off the parkway? Mr. Wolfson responded that the planner is not the appropriate person to ask, however, the Applicant will address the concern in further testimony. Mr. Harris asked which entity has jurisdiction of the traffic light at the intersection of the Garden State Parkway exit and Wayside Road? Mr. Neff responded that he was unsure.

Paul Oliviera, 5 Blueberry Lane

Mr. Oliviera asked in what year the weekend count of 500 vehicles was conducted, to which Mr. Taikina responded 2019. Mr. Oliviera asked for the Board Planner's opinion on the adequacy of only having 23 parking spaces for the two restaurants. Ms. Bell responded that she feels that the required 94 spaces is very generous and perhaps outdated based upon the volume of drive-thru business.

Chairman Battista asked if there were any more questions from the public or from the Board. Upon hearing none, Chairman Battista made a motion to close the public portion, which was seconded by Mr. Porzio. All present voted in favor.

After consulting with the Applicant, Chairman Battista stated that the application will be carried to June 1, 2023 with no further notice.

Chairman Battista called for a 5-minute recess. Back on record at 9:40pm.

**NEW BUSINESS**

**BA2022-19**

FLM Associates, LLC  
3212 Shafto Road  
Block 145, Lot 15.01  
Use Variance, Site Plan Approval

Mark R. Aikins, Esq, Attorney for the Applicant

Attorney Steinberg stated for the record that the proofs and affidavit of service from the applicant have been approved at the last meeting. He stated that all is in order as to form and that the Board has jurisdiction to hear this matter.

Mr. Aikins reviewed the application and the bulk and use variances being sought.

Attorney Steinberg swore in the following witness.

Tom Lanuto, Lanuto Architecture, LLC, Forked River, NJ

Mr. Lanuto presented his credentials to the Board and was accepted as an expert in Architecture.

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The following Exhibit was submitted:

A-1 FLM Associates, LLC, 2-page Site Layout Exhibit (color rendering)

Mr. Lanuto oriented the Board to the Exhibits. He described the materials, color, dimensions, and layout of the proposed buildings. A discussion regarding the windows ensued with the Applicant offering to work with Ms. Bell to create more symmetry between the two proposed buildings.

Chairman Battista asked if the Board has any questions for Mr. Lanuto. Hearing none, he asked if the public has any questions for Mr. Lanuto. Hearing none, Mr. Aikins introduced the next witness.

Attorney Steinberg swore in the following witness.

Patrick R. Ward, PE, PP., InSite Engineering, LLC

Mr. Ward presented his credentials to the Board and was accepted as an expert in Planning. He submitted the following Exhibit.

A-2 FLM Associates, LLC Aerial Exhibit taken October 2022.

Mr. Ward reminded the Board that they are seeking a d(1) use variance due to the multiple principal buildings. He explained that at the time of the initial application in 2018, the ordinance for flex space dictated one parking space per 250 square feet. This has since changed to one parking space per 800 square feet. As a result, the Applicant has three times the required parking spaces and wishes to maximize their space by adding a new building. The site is particularly suitable for the addition of the 4,320 square foot building as it requires minimum changes to the site, including drainage rerouting and rainwater management component. The lighting pattern will change minimally.

Upon questions from Ms. Hatami, Mr. Neff testified that the site is overparked. Mr. Ward commented that the vehicles on site are contractor size, however, there is space for elongated parking spots. He stated that there is an existing demand for more bays from the current tenants. Chairman Battista confirmed with the Applicant that the bays will remain independent units. Mr. Ward stated that a larger structure is permissible on the property and that the proposed use is less impactful.

Referencing Exhibit A-1, Mr. Ward reviewed the rear yard setback requirement and the variance that is being sought. He stated that granting the variance will have little to no impact on the new development to the east or on the public.

Mr. Neff confirmed with the Applicant that trees will be added to the site and the Applicant will meet any requirements set forth by the Board professionals.

Chairman Battista asked if the Board has any questions for this witness. Hearing none, he asked if the public has any questions for this witness. Hearing none, Chairman Battista made a motion to close to the public portion of the hearing. The motion was seconded by Mr. Porzio. All present voted in favor.

Mr. Porzio made a motion to approve BA2022-19. The motion was seconded by Mr. Lomangino.

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**Roll Call**

AYES: Mr. Porzio, Mr. Lomangino, Chairman Battista, Mr. McKinley, Ms. Hatami, Ms. DeMaio, Mr. Provines

NAYES: None

ABSENT: Vice-Chairman Kuzmin, Mr. Palmieri

INELIGIBLE: NONE

Chairman Battista offered a motion to Adjourn. Mr. Lomangino seconded the motion. All present voted in favor.

Time: 10:36pm

Respectfully submitted,

Regina Acken  
Zoning Board Secretary

APPROVED AT A BOARD OF ADJUSTMENT MEETING ON: June 1, 2023