

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
April 18, 2011

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:35 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Pat Kelly, Sam Harkins and Kris Munn. Planner Michele Greig was also present. Members Charlie Laing, Sam Phelan, Wil LaBossier and alternate Brian Walker were absent

BUSINESS SESSION

Christine Kane said that the two public hearings had been deferred until the May 2 meeting. The April 4, 2011 draft minutes had been circulated among the members and reviewed. Kris Munn made a motion to adopt the minutes. Pat Kelly seconded the motion, and all members present voted in favor.

There were two announcements. Christine Kane said that a class on What Planning Board Members Need to Know was scheduled for April 20, 2011 at the Farm and Home Center in Millbrook. She said that there was also conference on Financing Smart and Sustainable Placemaking scheduled for Monday, April 25 at SUNY New Paltz. She said that members interested in either event should contact the Planning office or register themselves and notify the Planning office. Both would qualify for training hours.

REGULAR SESSION- OLD BUSINESS

Arvine & Wendy Coon – 7221 Route 9 – Special Permit

Arvine Coon was present for continued discussion of an application for a Special Permit to establish a Farm Market 2 on two parcels totaling 1.65 acres in the R1.5 Zoning District.

Mr. Coon said that he had filled out and submitted an application for enrollment in the Certified Agricultural District 20. He said he had requested enrollment for both Rte. 9 lots.

Christine Kane said that she had received several calls concerning substantial grading and excavating at the site. She said that no improvements were to be made to a site while an application for site plan approval for that parcel was under review by the Board. Mr. Coon said that he had been granted a driveway permit by the NYS Department of Transportation and that he was installing that driveway. He said he was also installing drainage and leveling a location for a greenhouse, for which he had already obtained a building permit.

Mr. Coon went on to say that he had discussed his project with his attorney Richard Cantor and that in Mr. Cantor's opinion, no Planning Board approval was necessary for the farm market. Mr. Coon said that "agriculture" is permitted in the R1.5 zoning district.

Michele Greig said that according to Zoning Regulations, a farm market is accessory to a “farm”, not accessory to “agriculture”.

Mr. Coon said that the Zoning regulations were full of contradictions and that he had begun the path leading to site plan approval because the Zoning Enforcement Officer had categorized his project as a “farm market”. In looking at his project again, he said he believed that what he wanted to do would also fit into the definition of “agriculture”, which was permitted by the Zoning regulations in all Zoning Districts without any Planning Board approvals. He said that the definition of “agriculture” was, in part, the “production, keeping or maintenance, for sale, lease or personal use, of plants and animals....”

Kris Munn said that he understood that sentence to mean that “agriculture” was the production of crops or animals that were *intended* for sale, lease, or personal use, not that “agriculture” included the actual selling of the products. Mr. Coon said that the regulation said “for sale”. Christine Kane said that the regulation did not say that a retail facility was permitted, just the growing of crops or animals that might end up in a retail facility. Sam Harkins said that in his opinion the Zoning Law was contradictory.

Michele Greig said that the Farm Market 2 was subject to Site Plan approval and the granting of a Special Permit. She said that while NYS Ag and Markets would not look favorably on a Town’s review of “agriculture”—the raising of crops and animals--, it had upheld municipalities’ right to review “farm markets” since these projects usually involve parking, lighting, driveway access, traffic impacts, etc.

Mr. Coon said that he would not establish a “farm market” but would rather adhere to the definition of “agriculture”. Christine Kane said that he could not, then, set up a retail facility. Mr. Coon said that the regulations did not prohibit a retail facility in the R1.5 District. He said that he had described his plans to Bob Somers of the NYS Department of Ag and Markets and that Mr. Somers had told him that, under “agriculture”, he could do exactly what he wanted to do without Planning Board approval.

Mr. Coon concluded that he would withdraw his applications for Site Plan approval and Special Permit. Christine Kane underscored that while he could locate his greenhouse and grow crops, he could not set up a retail facility on that site without Planning Board approval. Mr. Coon said that his attorney would then discuss the matter with the Town.

Red Hook Automotive Supply/CarQuest – 7307 South Broadway – Amended Site Plan

John Fragala was present for continued discussion of an application for Amended Site Plan approval to install a storage building on a 1.37-acre parcel in the B1 Zoning District.

Mr. Fragala said that he had turned the proposed building 90 degrees and that now there was no encroachment into the sideyard setback. He also said that there would be seven (7) parking spaces with one (1) handicapped space and that he would have the spaces re-marked. He said that the two spaces on the side would be removed. Sam Harkins said that the handicapped space must be wide enough to allow for a van with a lift. He said that the access space into the building could be used as that extra space as long as it was blue striped to prohibit parking and also equipped with a sign saying “Handicapped parking, van accessible”.

Sam Harkins also questioned whether the 4 feet between the principal building and the proposed storage building met the NYS Fire Code. Mr. Fragala said he would check with the Building Inspector.

A discussion about the location of the dumpster was deferred until a later time.

The Board then discussed with Mr. Fragala the building coverage and lot coverage resulting from the addition of the new building. The members concluded that he would likely need two area variances, one for relief from the 40% minimum open space requirement and one for relief from the 15% maximum building coverage requirement. There was some question about the accuracy of the scale of the drawings, and Mr. Fragala was advised to make sure his calculations about the total square footage of the buildings, the total square footage of the lot and the total square footage of the open space were correct so that he could request the proper variances from the ZBA.

Mr. Fragala said that he had considered planting hawthorn trees near the proposed buildings. Christine Kane said that growing conditions in that location were difficult so the trees he chose should be hardy. She said honey locust might be another possibility. She also suggested that the applicant contact the Town C.A.C. or Town Tree Committee about the trees.

The Board determined the project to be an Unlisted Action under SEQR. Sam Harkins made a motion to establish the Board as the Lead Agency for the SEQR review. Kris Munn seconded the motion, and all members present voted in favor.

The Board then tabled the project until the applicant had completed his appeals to the Zoning Board of Appeals.

Dunkin Donuts – 7329 South Broadway - Amended Site Plan

Owner Nelson Sousa and Jeff Schiller, P.E., were present for continued discussion of an application for amended site plan approval to reconcile a previously approved site plan with as-built site modifications.

Mr. Schiller said that the applicant had made revisions to the site plan map to reflect as-built features such as the lights on the free-standing and wall signs, the height guard, the correct size of the dumpster enclosure, and the light pole.

Mr. Schiller addressed the lighting and the GreenPlan memo. He said that he had revised the plan label for one light pole that was to have been removed but in actuality was replaced. He also said that the light trespass issue discussed in the memo had actually been approved as part of the earlier site plan approval. He said that Mr. Sousa had researched lower wattage light bulbs and had found some that would work for exterior use on the free-standing sign.

Mr. Schiller said that the applicant was concerned that bringing the lighting near the eastern property line down into conformance with the Town's exterior lighting standards would make the driveway unsafe at its junction with NYS Route 9. Christine Kane said that the Board did not have the authority to waive or modify the lighting requirements. Mr. Schiller said he would either install a shield on one side of that box light or install a lower wattage bulb.

Pat Kelly made a motion that the Board determine the project to be a Type 2 action under SEQR, requiring no further environmental review. Kris Munn seconded the motion, and all members present voted in favor.

Kris Munn then made a motion that the Planning Board administratively determine the project to be so limited in scope that it needed no referral to the Dutchess County Department of Planning

and Development and no public hearing. Pat Kelly seconded the motion, and all members present voted in favor.

The Board asked Mr. Sousa to revise the plan to indicate accurately the lighting on the free-standing sign and the wall sign, to choose either a shield on east side or a lower wattage bulb for the discussed light pole near the east property line, and to clarify the label for one light pole to say "new light pole at location of former light pole".

Pat Kelly then made a motion to approve the amended site plan with conditions reflecting the above revisions. Sam Harkins seconded the motion and members present voted in favor.

James & Pamela Sheehan – pre-application conference

Bob Zimmerman, L.S. was present to discuss his clients' wish to subdivide into equal parts their approximately 90-acre parcel on Hapeman Hill Road. He said an existing fence line was at about the proper location for a dividing line. He further said that there was an agricultural exemption on the parcel, that the parcel was currently being used as a hay field and that it was located in the RD3 Zoning District.

The Board found that the parcel was in the Certified Agricultural District 20 and that it contained Soils of Statewide Importance. Christine Kane said that per Section 143-47D(4)(h) a Farmland Protection Plan must be created if any subdivision was to take place. The Plan should locate where development could occur and where farmland could best be preserved. She said that alternatively, the Sheehans could consider selling the development rights.

OTHER BUSINESS

The Board reviewed a memo from the Town Board requesting that the members determine whether the proposed Community Preservation Plan was consistent with the Local Waterfront Revitalization Program. Christine Kane asked the members to access the proposed Plan via a link from the Town's website and to be prepared to vote on the consistency question at the May 2 meeting.

ADJOURNMENT

Since there was no further business to come before the Board, Kris Munn made a motion to adjourn. Pat Kelly seconded the motion, and all members voted in favor.

Respectfully submitted,

Paula Schoonmaker

Attachments

Resolution granting Amended Site Plan Approval to Dunkin Donuts

Resolution Determining Dunkin Donuts Amended to be Limited in Scope Requiring No Further Review and Approving Construction Modifications

Name of Project: Dunkin Donuts Amended Site Plan

Name of Applicant: Nelson Sousa

Date: April 18, 2011

Whereas, the applicant submitted an application for Amended Site Plan approval dated April 7, 2011 to the Town of Red Hook Planning Board to reconcile as-built conditions with a Site Plan adopted by the Planning Board on February 1, 2010, on a $\pm$ 2.989-acre parcel located at 7329 South Broadway in the B1 Zoning District in the Town of Red Hook, Dutchess County, New York, and;

Whereas, the applicant submitted an amended Site Plan prepared by Schiller Engineering, titled "Commercial Site Development Dunkin Donuts", dated March 24, 2011; and

Whereas, on April 18, 2011 the Town of Red Hook Planning Board reviewed a Short Environmental Assessment Form dated April 7, 2011 and after comparing the thresholds contained in 6NYCRR617.4 and 5 determined that the project is Type II Action that meets the thresholds found in 6NYCRR617.5(c)(2) and therefore SEQR does not apply ; and

Whereas, the Zoning Law § 143-114C(1) authorizes the Planning Board to waive the requirements of full site plan review when a project is limited in scope; and

Now therefore be it resolved, that the Planning Board determines the project to be limited in scope, with compatible land use, site and building characteristics, as outlined in the Town of Red Hook Zoning Law, Section 143-114C(1), thus requiring no further review and approves the construction modifications upon the following conditions:

- A. That the fixture on the light pole on the north side of the site driveway in proximity to NYS Route 9 be shielded on the east side so that the light trespass at the eastern property boundary does not exceed 0.25 foot candles.
- B. That the plan be revised to indicate that the bulbs in the lighting fixtures illuminating the two free-standing signs shall each be of 50 watts or less.

- C. That the plan be revised so that the label on the light pole on the south side of the driveway reads “new light pole at location of former light pole.”
- D. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.
- E. Submission of Site Plan drawings for stamping and signing in the number and form specified under the Town’s Zoning Law.

On a motion by Pat Kelly, seconded by Sam Harkins, and a vote of 4 for, 0 against, and 3 absent, this resolution was adopted on April 18, 2011.

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

Betty Mae Van Parys, Clerk to the Board Date