

## MINUTES – ZONING BOARD – NOVEMBER 23, 2020

**The Cranford Zoning Board of Adjustment meeting scheduled for Monday, November 23, 2020 at 7:30 p.m. was conducted virtually in order to avoid potential impacts from Covid-19.**

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided to the Westfield Leader and the Star Ledger with the agenda specifying the time, place and matters to be heard having been posted on a bulletin Board in the Town Hall reserved for such announcements and the filing of said agenda with the Township Clerk of Cranford. Formal action may be taken at this meeting.

The workshop portion of the meeting was called to order at 7:31 p.m. by Mr. Marotta, Chairman.

### **ROLL CALL:**

#### **Members Present:**

Mr. Marotta

Ms. Daly

Mr. Aschenbach- Recused himself from App. #ZBA-20-004 – joined at 8:18 p.m.

Mr. Ashrafi

Mr. Lucas

Mr. Quinn

Mr. Salomon

#### **Members Absent:**

None

#### **Alternates Present:**

Mr. Savino

Mr. Rees

#### **Alternates Absent:**

None

Also in attendance: Mark Rothman, Esquire, and Kathy Lenahan, Board Administrator, Jacqueline Dirmann, Board Engineer and Greer Patras, Board Planner

### **COMMUNICATIONS:**

None

### **MINUTES:**

Motion to adopt minutes from the October 5, 2020 meeting was made by Mr. Salomon, seconded by Mr. Quinn and passed on unanimous voice vote.

Motion to adopt minutes from the October 26, 2020 meeting was made by Mr. Ashrafi, seconded by Mr. Rees and passed on unanimous voice vote.

### **RESOLUTIONS:**

None

### **OLD/NEW BUSINESS**

None

The workshop portion of the meeting concluded at 7:41 p.m.

**PUBLIC PORTION:**

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on November 23, 2020 at 7:45 p.m. via **Google Meet**. Mr. Marotta announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader or Star Ledger has been notified and the agenda posted in the municipal building as required.

Mr. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

1. Application #ZBA 20-004  
Applicant: Jesse R. Hynes  
109 Miln Street  
Block: 187 Lot: 16 D-B Zone

Applicant is requesting a d(3) conditional use variance to utilize the first floor of an existing structure measuring 1,250 sq. ft. for the purpose of a law office (professional office). Offices are only permitted on the first floor measuring less than 1,000 sq. ft. §255-39B(18)(b).

Gary Goodman appeared and was sworn in. He explained the application. Reviewed the past uses of the property and the various zones of the property. It is now in the D-B zone and has a restriction of more than 1000 sq. ft. Stated that in 2002 the property owner was approached by Kathleen Prunty on behalf of the Township asking property owners with underutilized areas to development those areas for parking in the Downtown. Belgian block curbing was installed along with a seepage pit and plantings in the rear. Waivers were requested for parking spot sizes and the width of the driveway. It has remained like that for about 15 years. There is street parking and across the street is a municipal lot.

The applicant is requesting a conditional use variance. Site was developed and the back area of parking lot can hold 25 cars. Rear portion with garage was in residential zone so there was a split zone. There was a zone change and the entire property is now in the D-B zone. In 2006 a site plan was approved. For proofs for this application, Mr. Goodman reviewed various properties in the area. The area continues to be used for professional office. Stated there are no problems with the use. Stated there is no detriment to the public good or the surrounding properties if this is used as a law office. Free standing signs are allowed in this zone. Mr. Hynes would just be removing the lettering for Elena's kids and putting in his own letters in the sign.

Jesse Hynes appeared and was sworn in. Stated he is an attorney in the State of NJ. He is a sole practitioner and has one employee. He would like to occupy 109 Miln Street as his office. The office is 1250 sq. ft. and the ordinance states anything more than 1000 sq. ft. must appear before the Zoning Board.

Questions from the Board ascertained the following:

He practices elder law and estate planning. He has one client at a time. He will be not be changing any of the illumination of the sign.

Questions by Mr. Rothman to Mr. Hynes ascertained the following:

There are no exterior alterations. The parking for the site is to be maintained.

Questions by the Board to Mr. Goodman ascertained the following:

Miln Street is use mostly for professional office. The applicant is using the existing floor plan. There is no exterior expansion.

Jacque Dirmann, Zoning Board Engineer asked about ADA parking spaces and ADA access.

Mr. Goodman stated there is one handicapped parking space. Also stated there is a ramp in the rear of the property. Stated if another spot is required, the property owner would do what Town requires.

Greer Patras, Zoning Board Planner, asked about a site plan or survey.

Mr. Rothman stated the as built would be the building permits. Stated the applicant is requesting a waiver from site plan.

Mr. Marotta asked if anyone from the Public wanted to asked questions of this witness.

No one appeared

Mr. Marotta asked if anyone who wished to speak in favor or against this applicant.

No one appeared.

Mr. Goodman summarized the application. Stated in reviewing the positive and negative criteria, feels this is an appropriate use and does not see any problems with this use. As for the negative criteria, does not feel it is a detriment to the public good and there is no negative affect on the surrounding properties.

2. **DELIBERATIONS of** Application #ZBA 20-004  
Applicant: Jesse R. Hynes  
109 Miln Street  
Block: 187 Lot: 16 D-B Zone

Applicant is requesting a d(3) conditional use variance to utilize the first floor of an existing structure measuring 1,250 sq. ft. for the purpose of a law office (professional office). Offices are only permitted on the first floor measuring less than 1,000 sq. ft. §255-39B(18)(b).

Board comments consisted of the following:

Does not think it is a detrimental to the zoning plan. It is slightly over the 1000 sq. ft. It is an appropriate use and sees a benefit to the applicant.

Motion to approve the application was made by Ms. Daly, seconded by Mr. Quinn and passed on roll call vote:

Affirmative: Mr. Marotta, Ms. Daly, Mr. Ashrafi, Mr. Lucas, Mr. Quinn, Mr. Salomon, Mr. Savino

Opposed: None

3. Application # ZBA 19-020 – Continued from October 26, 2020  
Applicant: NATC Donuts Inc.  
49 South Avenue West  
Block: 473 Lot: 1 ORC Zone

Applicant is requesting preliminary and final site plan approval, a d(1) use variance, numerous “c” variances as well as design waivers/exceptions for a drive-thru restaurant.

Mr. Paparo appeared and summarized the previous October 5<sup>th</sup> meeting. Stated the applicant has rested and tonight is the public portion of the hearing. Mr. Paparo asked if anyone from public has presented any exhibits for tonight's hearing. Requested that if nothing has been submitted, that nothing be allowed to be entered into the record. Asked if there is a time limit on public comment.

Mr. Rothman asked if anyone had submitted any photos for tonight's meeting. Stated the Board's Chair does have the ability to limit questioning or repetitive comments.

Ms. Lenahan stated nothing was submitted by the Public for tonight's meeting.

Mr. Marotta asked if anyone from the Public had comments on this application. The following appeared:

Anne Marie McNamara – 31 Lincoln Avenue W - appeared and was sworn in. Stated the neighbors as a group hired a planner. Her husband was hit by a car eight years ago in that intersection. She does not want a Dunkin Donuts across from her house. Understands about the triangular property. She is a lifelong resident of Cranford and wanted her voice to be heard.

Wendie Walsh – 24 Lincoln Avenue W - appeared and was sworn in. Stated the fire, police and ambulance stations are all located on the North side of town. There are three roads to and from the North and South side. Corner is a lifeline. Putting the residents in this section of town in harms way. This does not just affect residents that live near the intersection but other streets as well. The intersection is already very busy. Picture shown by Mrs. Howard was taken from her second floor. That traffic is Monday through day. She cannot walk to Walgreens. There have been many accidents at that intersection. Speaking for most of the residents in this area of town. Application should not be approved and would do a disservice to the southwest residents. This corner is a gateway to Cranford.

Rita LaBrutto – 104 Arlington Road - appeared and was sworn. Stated her comments are on the traffic and the safety issue. This site is similar but worse than Starbucks, due to the bus. Police are consistently enforcing the queuing on North Avenue and sometimes have an off-duty police officer there. Relevant because this applicant never discussed an alternative for when cars que on South Avenue or Lincoln Avenue. Does not believe the no left turn from 6 am to 12 pm helps. There is no left turn on South Avenue on high traffic sites that are at less intensive than this application. The no left turn at Walgreens does not have time constraints. Does not believe it fits the "d" variance criteria and you cannot use economics for positive criteria. Does not see a lot of positives, but sees a lot of negatives, especially for the residents. Opposite of what the Master Plan intended. Applicant has tried to be accommodating. If approved, it will have a significant impact on public safety. Hopes that the Zoning Board will not approve this application.

Robert Pipchick – 107 Lincoln Ave E. - appeared and was sworn in. Stated Lincoln Avenue was not built to handle the present traffic. It is a narrow residential street. There is a steady stream of traffic on Lincoln Avenue going north. There is a back up of traffic already. There would be cars leaving the site and going into the traffic stream and would cause additional traffic backup. Lincoln Avenue is used to get to the high school. He has to wait to get out of his driveway for cars to pass. An alternative would be for the Lincoln Avenue driveway be an exit only, but does not feel it is good for the neighborhood.

Sara Thode – 325 Walnut Avenue - appeared and was sworn in. Stated she has lived on south side for 30 years. Driven through the intersection taken kids to school. It is very crowded already. Agrees it is a gateway to Cranford. Suggests that the Board not approve the application and consider a pocket park.

Donna Bacich - 5 Denman Place - appeared and was sworn in. Stated her concern is pedestrian safety and idling cars. Also stated the quality of life of the residents has to be considered. A pocket park is a good idea. Against the Dunkin Donuts on the corner of Lincoln and South Avenue.

Phyllis Howard – 5 Burnside Avenue - appeared and was sworn in. Stated that back in 2019 Mr. D'Amore had a meeting. She attended the meeting in good faith. Wanted to have input and gave them suggestions. When she saw the plans, they did not listen to what the residents had to say. Was not aware of the application being a drive-thru. Feels traffic speaks for itself. A drive-thru goes against the Master Plan. The signage and lighting will have a negative impact on the neighborhood. Asked if the applicant would consider a walk up. Her concern is the traffic. Owner has done nothing to improve the property. Cranford has a downtown feel which is part of the Master Plan. Picture is worth a thousand words. Followed what she was told to do to be able to show her photos. Other Dunkin Donuts have more room. Inconsistent with the Master Plan and zoning laws and not the appropriate use. Requesting the Board votes no.

Elizabeth Salerno – 28 Lincoln Ave W - appeared and was sworn in. Stated she has been in this location for 35 years. Objects to the application. Knows the space is an eyesore. Would like to get a more appropriate use. Owners should try to advertise to builders. Not a good reflection to the gateway to Cranford. Has had five cars hit. It is a busy intersection. Objects to the application.

Eric Fekete – 23 Lincoln Ave W - appeared and was sworn in. State he has 3 young kids and one travels out of town through busing. Since working from home has seen traffic extending past South Union Avenue. Pictures presented at the meeting are a reality. Police cannot be on the corner 24/7. There is growth in the area which will increase traffic exponentially. Consider some of the other ideas that were suggested. Finds trash on his lawn from the park. There 19 Dunkin stores within 5 miles of this area. Cranford does have several coffee shops. Great town to grow up in. This type of business is not good for the environment. Wants a safe place for his children to grow up. Against this application.

Jessica Fekete – 23 Lincoln Avenue W - appeared and was sworn in. Stated the problem is the drive-thru. Lincoln is a busy street but has gotten worse in the last 10 years. Drives to parkway and passes the Starbuck's on North Avenue. It is significantly worse in the area because of the Starbuck's. Hopes Board will consider what having a drive-thru has done to North Avenue and consider that when voting.

Jillian Olsen – 8 Burnside Avenue - appeared and was sworn in. Stated she is against the application. Commutes and has to wait five or six minutes to make right turn onto Lincoln Avenue. Will have to take back roads through neighborhood streets if this goes through.

Ihor Yanchak 7 Burnside Avenue - appeared and was sworn in. Stated he is against the application. The traffic on Burnside Avenue will increase. He has a small child and is concerned about the application.

Francheska Marquez - 6A Burnside Avenue- appeared and was sworn in. Stated she is against the application. Commutes and walks to Lincoln Avenue. It is hard to cross the street. Concerned about the noise level and the lights.

Bertha McPhaul – 16 Johnson Avenue - appeared and was sworn in. Stated she is a lifetime resident and a teacher in Linden. There is a lot of traffic on South Avenue at light at Lincoln. Cannot image how much more traffic there would be. Very bad idea to have a drive-thru right there.

Mr. Marotta asked if anyone wanted to speak in favor of the application.

No one appeared.

Mr. Paparo summarized the application. Discussed the process. Stated his client reached out to the neighborhood and set up a meeting with the community. Feels that is a positive and showed his willingness to be a good neighbor. These are his customers. Moved his corporate office to Cranford. At the DRC meeting met with police, fire and township professionals to discuss their concerns. Received feedback from residents, Board's consultants and Board members. Every letter that has been issued, the applicant has responded to and incorporated those requests into the application. Two of the items are

above and beyond what the town requires. Discussed the revisions which included: reduction of signs, size of signs, moving of lighting from internal to external, lighting levels reduced, appearance of the building, trash enclosure, supplemental landscaping and buffering, fencing, post approval on traffic, queuing or stacking, drive-thru dual order boards, pay/pick up windows. Applicant has agreed to restrict the hours on South Avenue driveway and to increase the stormwater management reduction to 20%. Applicant will limit hours of operation as an accommodation for the neighborhood. Delivery times will be done mid-afternoon as to not disturb the neighbors. Believes the Board can approve this application based on the number of concessions by the applicant. Expert testimony from the applicants' witnesses was supported by the Board's expert witnesses. This is a relocation of an existing business.

Ms. Howard's planner stated that the applicant needs a use variance. Nothing new was added. The Town's planner did state that no application is perfect. If an application was perfect, it would not be before this Board. This application is redeveloping the site responsibly with an owner that you know that has a business down the street. Dunkin Donuts is not Starbucks. It is a different product; a different turnaround time and the other site is substantially different than this location. Relocating to this location will allow the applicant to provide a drive-thru. Industry trend is to drive-thru. Board must decide, can this site accommodate a drive-thru. Believes it can function safely and properly. Reviewed the ORC zone designation. Discussed the opportunity for an operator already in town to relocate and make the site function safely and properly. This is a unique opportunity for the Board to allow the site to be development. The reality of a pocket park or medical office speaks for itself.

It is known that a Dunkin Donuts has a peak time in the morning and is dormant in the afternoon to evening. Offices are open late sometimes and medical offices generate more traffic. This proposal allows site to be development responsibility. For all the reasons stated, he requests the Board take this opportunity to approve this application and not be swayed by hoping that year after year an office user will appear and build an office building on a former gas station site. The zone allows for a bank with a drive-thru but not a coffee shop with a drive-thru. Based on the evidence presented, requests you approve this application.

Mr. Rothman stated there is a lot to consider and a "d" variance needs 5 affirmative votes.

Discussion was held regarding deliberating now or at the next meeting. Consensus of members was to deliberate at the next meeting which will be a virtual meeting on December 7<sup>th</sup>.

**PUBLIC PORTION:**

None

**CONCLUSION:**

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passes. The meeting concluded at 9:48 p.m.

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Daniel Aschenbach, Secretary