

MINUTES – ZONING BOARD – March 25, 2024

The Cranford Zoning Board of Adjustment meeting scheduled for Monday, March 25, 2024 at 7:30 p.m. was conducted in-person.

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 Ms. Daly, Chair.

ROLL CALL:

Members Present:

Ms. Daly
Mr. Aschenbach
Mr. Cukierski
Mr. Lucas
Mr. Rees

Members Absent:

Mr. Marotta

Alternates Present:

Ms. Oliver
Ms. Vidwans

Alternates Absent:

None

Also, in attendance: Thomas Jardim, Esq., Kathy Lenahan, Board Administrator, Kevin Boyer, Board Engineer, Greer Patras, Board Planner and Maurice Rachad, Board Traffic Engineer

COMMUNICATIONS:

A letter from Justin Quinn, Board Member, was read into the record. Mr. Quinn stated he is resigning from the Zoning Board.

MINUTES:

A motion to adopt the minutes of the February 26, 2024 meeting, was made by Mr. Aschenbach, seconded by Mr. Rees and passed on unanimous voice vote.

A motion to adopt the minutes of the March 11, 2024 meeting, was made by Mr. Aschenbach, seconded by Mr. Lucas and passed on unanimous voice vote.

RESOLUTIONS:

None

OLD/NEW BUSINESS

None

The workshop portion of the meeting concluded at 7:35 p.m.

PUBLIC PORTION:

A public meeting of the Cranford Zoning Board of Adjustment was called to order by Ms. Daly on March 25, 2024, at 7:48 p.m. in Council Chambers. Ms. Lenahan announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader and the Star Ledger have been notified and the agenda posted in the municipal building, as required.

Ms. Daly reviewed the procedures for the evening.

1. Application # ZBA 23-023
Applicant: Janice Sheafer
23 Berkeley Place
Block 166 Lot 2, R-4 Zone

The applicant is requesting a c(2) variance for the construction of a new 3 season room and a new deck in the rear yard. Maximum allowed impervious coverage is 40%, where proposed is 44.2%. Minimum rear yard setback required is 48.23 feet, where proposed is 35.45 feet, §255-34, Attachment 1, Schedule 1.

Mr. Jardim reviewed the criteria for a c(2) variance.

Janice Sheafer appeared and was sworn in. Stated she has lived at that address for 31 years and has made many improvements to the property, including an addition that has handicap access. Requesting to add a 3-season porch which will be level with the house and will eliminate a step down that is very dangerous.

Arthur Henn appeared and was sworn in. Presented his qualifications and was accepted as an expert in architecture.

Mr. Henn stated they are requesting two variances. Proposing a 3-season room to the back of the house. The house is set back from the street and from the prevailing setback. The existing patio gets a lot of sunlight and is difficult to use in the summer. The 3-season room would provide shade and protection from insects. They added paving to the side of the house, due to water in the basement. The increase in impervious coverage is under 300 square feet, but the owner did put in a drywell when they added the sidewalk. It is a one-story addition on the southwest side. The neighbor in the rear has double the size of this lot. Presented photos showing the backyard and the setback from the adjacent houses. Stated there is no negative impact on the neighbors.

Questions from the Board for this witness ascertained the following:

The total increase is 203 square feet, including paved areas, plus the 3-season room. Paver work was done in July of 2023. There were no permits taken out for paver work, but drainage was added. They were replacing a sidewalk that was already there. Mr. Henn was not part of the drywell construction. Presented photos of the construction of the drywell. Underneath the deck is pervious. The patio will be removed and stone will be added. This house is setback about 12 ½ feet further than any other house. The drywell is a 3 x 8 pit with stone. The deck is more of a landing.

Ms. Sheafer stated the only thing connected to the drywell is the sidewalk on the side of the house. The roof drains drain into another well on the other side of the property.

Mr. Boyer, Board Engineer, does not have concerns with the drywell, since it is only picking up the patio area, not the whole house. The drywell does provide an improvement.

Ms. Daly asked if there were any questions from the Public for these witnesses, no one appeared.

Ms. Daly asked if there were any comments on the application from the Public, no one appeared

Mt. Jardim asked if permits have been taken out for work that was already done.

Ms. Sheafer stated no, permits have not been taken out.

2. DELIBERATION OF Application # ZBA 23-023
Applicant: Janice Sheafer
23 Berkeley Place
Block 166 Lot 2, R-4 Zone

The applicant is requesting a c(2) variance for the construction of a new 3 season room and a new deck in the rear yard. Maximum allowed impervious coverage is 40%, where proposed is 44.2%. Minimum rear yard setback required is 48.23 feet, where proposed is 35.45 feet, §255-34, Attachment 1, Schedule 1.

Board comments consisted of the following:

Can tell they have done a lot of work at the property. The setback is unusual and does add a lot of impervious surface, also considered a hardship. There is screening in the backyard for the neighbors. Addresses the drainage on southeast side. The setback is causing the pushback in the rear of the house, but because there are two drywells, it addresses the issue. The applicant is trying to stay in the house. Seniors want to stay in their homes. There should be a condition about getting permits for the previous work.

A motion to approve the application, with the condition they receive permits for work already done, was made by Mr. Rees, seconded by Mr. Cukierski and passed on roll call vote:

Affirmative: Ms. Daly, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas, Mr. Rees, Ms. Oliver, Ms. Vidwans

Opposed: None

- 3.. Application #ZBA 22-012 – Continued from December 11, 2023
NACT Donuts Inc.
333 North Avenue East
Block: 318 Lot: 22 NC Zone

The applicant is requesting a d(1) Use variance for the purpose of utilizing the property as a Dunkin drive-thru fast food restaurant. §255-36(c)(1). This is a bifurcated application.

Joseph Paparo, Esq., appeared. Reviewed the application and stated this application is for a use variance. If approved, they would come back with a site plan. Provided an overview of who has already testified including operational testimony, civil engineering testimony and Connie Justice, who testified to the drive-thru for the location. Also, their traffic engineer and the planner have given testimony. Due to the late hour at the last meeting, there was no public comment and the Board did not start their deliberations. Based on the comments from the Board and the Board's consultants about the absence of

pedestrian accessibility, the proposal now includes a pedestrian accessible component. A revised plan was sent in to the Board for their review.

Mr. Paparo recalled Ms. Dolan, who was reminded she was still under oath.

Questions from Mr. Paparo to Ms. Dolan ascertained the following:
Displayed the revised architectural plan sent to the Board on March 6, 2024. Indicated in the upper right-hand corner of the plan (SE corner of the building) is where the new pedestrian accessible area is located. Stated customers can order or pick up their pre-ordered items at that location. It is the only change to the plan. There will be a customer door on the right side of the façade. There will be a key pad where the customer can come in and order. If picking up from the mobile app, they can meet an employee and pick up their order. There will be no additional employees needed for this component. This is just a modification for people who would like to pick up an order. They have also incorporated a pedestrian sidewalk connection. There is no change to the circulation. There were also some benches that have been added to the lawn area. There were no other changes to the plan.

Questions from the Board for this witness, ascertained the following:
There will be a maximum of seven employees at any time. There are nine parking spaces and one is an ADA space. Expecting this site to be primarily a drive-to site. When they did their traffic study, they did not have pedestrians from outside the area. If all the employees were driving to the site, there would be one spot available (not counting the ADA space) for a customer to park and go into the site to pick up an order. They have agreed to provide a bike rack. The employees would be coming out the rear door to hand someone an order. The employees would be able to take cash at the lobby entrance. EV charging is required and they would comply. The seating area is about 20 feet from the curb of North Avenue to the bench area. The border between the Dairy Queen and Dunkin is a curb and landscaping. The applicant would consider a pedestrian path. The applicant is willing to give up the left turn out, subject to DOT approval. The owner of the Dairy Queen property, through his attorney, said he has no intention of relocating an easement to relocate the traffic to Elizabeth Avenue. The post occupancy study will monitor the situation and be done with the engineer and police department, which allows for a proactive responsive before there is an issue. The Edison location has the same operation with the double drive-thru. That site had a max of 110 vehicles in an hour. The ambient street traffic would mask the speaker system which will be facing the side and not toward the residents. They have not changed anything about the lighting and are not seeking any relief from that. The loading zone is in the rear of the parking lot. This plan is being presented for a use variance only. If the use variance is granted, they would be back before the Board to request any possible variances. The popularity of the app has been increasing. The apps can be turned off if it gets very busy. This is designed as a drive-thru facility, with a small building. The loading zone in the back could lend itself to overflow parking.

Mr. Paparo stated the application complies with Cranford's parking ordinance for this use.

Mr. Boyer, Board Engineer, had no questions for this witness.

Mr. Jardim asked about the DOT possibly overturning any of the applicant's requests for a no left turn.

Ms. Daly asked if anyone from the Public had questions for this witness, the following appeared:

John Hamock – 25 John Street appeared. Asked what the proposed hours are.

Ms. Dolan stated they are the same hours as already testified to, which were 5am to 9pm.

Rita LaBrutto – 104 Arlington Road – Asked about the memo from the police department requesting a no left turn and the DOT overriding it. Asked about making the left turn and prohibiting it. Asked about the driveway sizes and about the Clark versus Edison site.

Ms. Dolan stated yes, DOT could override the local police. The applicant is willing to restrict the left turn, but is subject to DOT approval. They would either go around the block or pick another convenience store. Stated the 20-foot width is appropriate for one-way flow. The Clark site does not have a double drive-thru.

Ms. Daly asked if anyone from the Public had comments for or against this application, the following appeared:

John Hamock – 25 John Street appeared and was sworn in. Stated there are representatives here from John Street. John Street is very welcoming. There is a bus stop there and there have been several accidents in front of the buses. There are children and grandchildren on John Street. They don't want to see any of them get hurt. John Street is 30 feet wide. The bus stop is right there and people park on John Street to take the bus. This will increase the traffic flow down John Street. There needs to be another plan. There are 38 children on John Street every day. Two years ago, there was a rat problem at Dunkin and residents of John Street had to get an exterminator. No one on the Board lives on John Street. There are only seven spaces, which is not a lot.

Steve Shupp – 44 John Street appeared and was sworn in. Stated the traffic in the area is a nightmare. Cranford is not Edison. Dairy Queen gets crowded and if the cut through is block off, it will be worse. When there is an accident, trucks and buses come down the one block street. Does not feel it is going to be safe. The block is always filled with kids.

Steve Van Pelt - 32 John Street appeared and was sworn in. Stated he rather have people making a left-hand turn, than making a right and speeding down John Street and hurting one of their kids.

Phillip Van Pelt – 35 John Street appeared and was sworn in. Stated he grew up at 32 John Street and moved back to John Street. Worked at Dairy Queen. With the increase of drive-thrus, they are urbanizing the small town that Cranford strives for. Feels it is a negative for Cranford. Feels there were inconsistencies in the testimony tonight. Cranford is not in charge of how the traffic moves.

Jennifer Loffa – 30 John Street appeared and was sworn in. Grew up on John Street and moved back. There is traffic on the corner of John Street and North Avenue every morning and it takes a few minutes to make the right hand turn to the train station. No matter whether it is a right or left turn for this project, there will be a backup of cars during rush hour and will not help any of the residents in the area.

Rita LaBrutto – 104 Arlington Avenue appeared and was sworn in. Stated that a use variance is very difficult to get. Should be a high bar. Having to check the traffic every 6 months does not seem to be an inherently beneficial use or further the zoning. The ORC is zoned not to have drive-thrus and to make the area less intense. Police would not have requested a no left turn if they did not want it. If people can't make a left, making a right will be onto John Street and putting that traffic on that street is a huge negative impact on a residential area. Cannot be sure that the loading zone area will be vacant for overflow.

Tammy Van Pelt – 32 John Street appeared and was sworn in. Stated the numbers are her concern. Right now, the cars can turn three ways, left on North, right on North or out the back-alley way. But if they can only make a right turn and some did not want to go right, then a lot of those cars will be going down John Street. When she bought her home, that is not what she bought into.

Mr. Jardim asked Mr. Paparo to address the notice issue residents spoke about.

Mr. Paparo reviewed the 200-foot notices and the addressed who was sent a notice.

Mr. Jardim reviewed the criteria for a d(1) use variance for the Board.

Mr. Paparo summed up the application. Stated they don't diminish everyone's concerns. Stated the applicant did spend money on two traffic reports. In order to apply to the DOT, there has to be a fully engineered site plan and survey of North Avenue. The MLUL does allow for applicants to apply for a use variance on a bifurcated basis. Discussed the special reasons for the use variance including site suitability, which he believes is the location, which is a state highway. The site has been a Dunkin Donuts since the 70's or 80's. The site configuration with the double lane driveway lends itself to site suitability. Advancing the Purposes of Zoning, which includes the appropriate use of land. This application will be back for site plan approval, if approved tonight. The Board would need to review and approve that plan. Reviewed testimony from several of witnesses, including Connie Justice and Betsy Dolan. Stated the operational use is very different for this Dunkin then other drive-thru brands. The Board's engineer and traffic consultant did not contradict any of the witness's testimony. Discussed the comparison of this Dunkin to the neighbor. That site is smaller with a single lane drive-thru with a different product line. Stated every case stands of its own merits and this application should be judged only on the evidence presented and the testimony. This operator has operated other locations in Cranford and is a good neighbor. Agreed to the post occupancy study. Applicant is commitment to this site and making it work.

4. DELIBERATION OF Application #ZBA 22-012 – Continued from December 11, 2023
NACT Donuts Inc.
333 North Avenue East
Block: 318 Lot: 22 NC Zone

The applicant is requesting a d(1) Use variance for the purpose of utilizing the property as a Dunkin drive-thru fast food restaurant. §255-36(c)(1). This is a bifurcated application.

Board comments consisted of the following:

Appreciated the time and effort put into the application and should be judged on its merits and not on any other application that has come before the Board. Has thought about the application a lot and visited the site. Does not want to add to the traffic on North Avenue nor onto John Street, if a restriction was put for a no left turn out of the site. Concerned about getting out of the site. People will try to turn left and will put other people at risk. Feels it is too congested of an area to add additional traffic on North Avenue. Thanked the operator, he is a good neighbor. Cannot support a d(1) use variance. Not so much the suitability of the site, but how it will fit with North Avenue. The no left turn would create a problem for John Street. Permitting a left turn will create a problem with the queuing. Appreciate the studies that were done, but does not believe this is promoting the Master Plan or the 2019 Reexamination Plan, which wants to improve pedestrian and automobile safety. Feels it will be a negative impact. The fact of where it is makes it unsuitable for this use. North Avenue, although a state highway, still is in Cranford and there is a reason drive-thrus are not allowed there. Does not believe it is a benefit to having this drive-thru in this location and sees a lot of detriments. Agrees it goes against the 2019 Master Plan update. Everyone wants the convenience, but there is a downside to that convenience. Believes they can handle the number of customers, but does not see how getting in and out of the site is possible. Can see the commitment to Cranford. There are already existing conditions for the residents of John Street, not being able to make a turn in the morning. It is unfavorable to the residents in the area. Concerned with the congestion and the safety issues. When comparing this site to Edison, it does not have the same turning in and turning out. Feels Edison is a different type of area.

A motion to deny the application was made by Mr. Rees, seconded by Mr. Aschenbach and passed on roll call vote:

Affirmative: Ms. Daly, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas, Mr. Rees, Ms. Oliver, Ms. Vidwans

Opposed: None

PUBLIC COMMENT:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 10:45 p.m.

Kent Lucas, Secretary