

A REGULAR MEETING OF THE PLANNING/ZONING BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY WAS HELD ON MONDAY, DECEMBER 20th, 2021 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Walter, Morgan, Smith, Pearson, Brothman, DiRenzo, Breitz and Lane

ABSENT: Daschko,

ALSO, PRESENT: Jonathan Frodella, Attorney
Cory Stoner, Engineer

The meeting was called the meeting to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald, posting copy of notice in the Borough Hall and on the Borough website.

OATH OF OFFICE:

The oath of office was administered to new board member Jason Lane, Class IV whose term runs 2019-2021.

MINUTES: None.

AUDIENCE PARTICIPATION: None.

CORRESPONDENCE: None.

FORMAL APPLICATIONS:

APPLICATION #:	PZ – 08-2021 – Sunn Kis – 28 Main Street
APPLICANT:	Marksman Enterprises, LLC
ADDRESS:	28 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE:	Block 5 Lot 6 Zone: C3
PREVIOUS USE:	Prior Site Plan Approval 5/16/2016
PROPOSED USE:	Amendment as submitted

F. William LaVigne, attorney for the applicant introduced Mr. & Mrs. Nixon, owners of Sunn Kis LLC to the board and stated that they are coming back before the board to amend Phase III of a prior approved plan approved on May 16, 2016 and seek variance approval as necessary. Their professional engineer Allan Campbell of Robert L. Campbell & Associates, Inc., 9 Cook Road, Branchville was sworn into testimony. Mr. Campbell reviewed the checklist comments prepared by the Municipal Engineer.

While the applicant states that Phase I improvements have been completed to include updating signage, repairing parking areas, installing fencing and landscaping; the applicant is requesting to amend a part of the Phase II approval. Variance approval for setback requirement of Phase II building constructed 97.9 feet whereas 100 feet is required, move Phase III building from north side of the lot to the south side of the lot, construct a 2nd story on the office building.

Mr. Campbell presented Exhibit A-1 to showing the modifications and improvements as reviewed per checklist comments to include: tax map sheet number is depicted in the Key Map on Sheet 1, additional building elevation and grading information has been added, sheet 5 depicts a lighting plan. His testimony continued to explain the landscape buffer to extend south to the proposed building and signage. Supporting documentation from a certification by David B. Johnson, PE, LLC for "proposed office renovation & second floor addition, block 5 lot 6, 32 Main Street, Andover Borough, Sussex County affirms that construction will comply with the requirements, to include construction with fire-resistance-rated elements where required. Additionally, motion-activated lighting shall be at all entrance doors.

Concerning the office, the applicant stated that the business he operates known as AquaClear will be using this space minimally. They will not have more than one car at a time and will operate Monday – Friday from 7 a.m. to 4 p.m. The free-standing signage will be for this business.

Mr. Stoner, Municipal Engineer, noted that the applicant is proposing to use the existing driveway to access Route 206. Since no change to the driveway openings are proposed and the amended plan will not drastically change the traffic patterns associated with this site, a NJDOT permit should not be required with this project.

The matter of the signage was addressed. There is currently a septic tank in the front yard which has been used as signage. The applicant reported that is now gone. The business is permitted one free standing sign provided that it is not located at least 15 feet from the right-of-way and variance approval is required. The area of the sign shall not exceed one square foot for each linear foot of setback from the street line. The proposed sign is 32 feet and will require variance approval.

The applicant addressed the board and assured them that equipment will not be stored outside of the fenced in area as it once had and which is not permitted. He also agreed that the yard will be maintained in a neat and orderly fashion.

A MOTION was made by Mr. Pearson, seconded by Mayor Morgan to pass a resolution approving site plan amendment and Variance Approval. The matter was opened to the public and closed without comment. Upon roll call the following votes were cast: AYES: Walter, Morgan, Smith, Pearson, Brothman, Breitz, DiRenzo and Lane. NAYS: None. ABSTAIN: None. Motion carried.

APPLICATION #:	PZ – 07-2021 – Dunkin Drive Thru – 165 Main Street
APPLICANT:	Krishiv Realty LLC
ADDRESS:	165 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE:	Block 23 Lot 6.01 Zone: C1
PREVIOUS USE:	Vacant Drive Thru Bank
PROPOSED USE:	Drive-thru coffee & donut shop with walk-in service and retail (no indoor seating); patio for outdoor seating

At the start of this meeting the Class I and III board members, Mayor Morgan and Councilman Peter Pearson recused themselves as application requires “D” variance. Additionally, Board member Frederick DiRenzo recused himself as he lives within the 200 feet notice buffer.

John Ursin, Attorney for the applicant, from the firm Schenck, Prince, Smith & King, LLP introduced Jason Dunn of Dykstra Associates to provide testimony for the applicant. Mr. Dunn began by addressing the municipal engineer’s report dated November 3, 2021. Mr. Stoner noted that the application for proposed Dunkin’ Donuts drive-thru at 165 Main Street, the location of a vacant bank, will raze the existing building and replace it with a new structure allowing for 12 vehicles to stack for the drive through. There will be an indoor counter for service, but there will be no indoor seating and an outdoor seating area is proposed.

The variance approval will be required for front yard setback and it should be noted the current building does not meet the setback. Variance approval is required for the use of the drive through as it “drive thru restaurants” are a conditional use in the C-1 Zone and as per code should be located in the C-3 zone. Because of this a D variance is required. Additionally, there outdoor dining is permitted in association with restaurants and with additional conditions that warrants additional D variance approval.

The matter of parking was discussed and it was affirmed the applicant meets the required number of spaces with 4 employee and 8 customer parking spaces. The matter of the loading area which is to be located in the center of the customer parking area will discussed. After some back and forth, the owner assured the board the trucks are mid-size and his own. He has control and the truck is never there more than 30 minutes to an hour.

The outdoor dining will consist of 4 tables with no covering and the NJDOT will need to provide approval or a letter of no interest pertaining to the change in use.

The matter of signage was discussed at length. The engineer report outlines the signage request and variance requirements. The board reviewed each request and use of logo imagery as signage. The freestanding signage is will be changeable LED. The testimony determined that the proposed sign will scroll.

Septic, Water and wetlands buffers were determined to be subject to County Board of Health, Andover Borough Municipal Water Department and NJDEP authority. Permitting would be through those entities.

Mr. Ursin, with the support of Mr. Dunn submitted multiple exhibits for review A1- A-5 providing colored version of site plan, neighborhood plan, elevation site plan. Mr. Shean McCarthy, District Supervisor for

Dunkin' Donuts, and Mr. Ashwin Krishpathi, owner of this franchise, were sworn in and provided some testimony as to the franchise requirements for volume and marketing. They explained, using examples of other Dunkin' Donuts in the county, what kind of activity the board could expect.

The lighting will have shields to direct the lighting and cut down on over cast. It was at this time that the board was advised that the business will be opening at 5 a.m. and closing at 8 p.m. at which time all lights are turned off except security lights.

Rianna Kirchoff, of Dolan & Dolan was sworn in and provided testimony that the traffic plan has been reviewed and found to not create a greater impact than what was already there.

The matter was opened to the public.

Mr. F. William LaVigne, 157 Main Street, asked about nighttime operations and if lighting will be reviewed again. He expressed concern how the cast of the light could disrupt some residences. The lighting plan will be reviewed again at a later date with a test for brightness. He also asked about the fencing for the dumpster and how often the garbage is picked up.

Mr. Frederick DiRenzo, 156 Main Street, asked if the freestanding sign could be made to be more modest.

The matter was closed to the public with no further comment.

The board members discussed the matter of the multiple variance requests. There was a discussion if the scrolling sign was necessary. The applicant, Mr. Krishpathi spoke up and said it was not. The request for the scrolling portion of the free-standing sign was removed from the application.

A MOTION was made by Mr. Breitz, seconded by Mr. Lane to approve the application and the variances as per review. Upon roll call the following votes were cast: AYES: Walter, Smith, Daschko, Brothman, Breitz, Lane. NAYS: None. ABSTAIN: None. Motion carried.

OLD BUSINESS: There was a brief cannabis regulation discussion as the coming 2022 year will bring in applicants for the retail approval provided in 2021. The planning board secretary reported on the status of the "town zoning approval" letter being designed by the municipal attorney, expecting it to be done by the first week of 2022 as well as noting a clerical error in the main retail ordinance pertaining to the definition of class 3 which will pass through the planning board after amendment is introduced by the governing body.

NEW BUSINESS: *Review of 2022 Professional Service Agreements*

A MOTION was made by Mrs. Brothman, seconded by Mrs. Smith to approve the professional service agreement for planning board attorney with Jonathan N. Frodella of Laddey, Clark & Ryan LLP. Upon roll call the following votes were cast: AYES: Walter, Morgan, Smith, Pearson, DiRenzo, Brothman, Breitz, Lane. NAYS: None. ABSTAIN: None. Motion carried.

A MOTION was made by Mrs. Brothman, seconded by Mrs. Smith to approve the professional service agreement for planning board engineer with Cory Stoner of H.E. Pellow & Associates. Upon roll call the following votes were cast: AYES: Walter, Morgan, Smith, Pearson, DiRenzo, Brothman, Breitz, Lane. NAYS: None. ABSTAIN: None. Motion carried.

AUDIENCE PARTICIPATION: None.

RESOLUTIONS:

A MOTION was made by Mayor Morgan, seconded by Mrs. Brothman to memorialize a Resolution for PZ 10-2021 for Sara Boodram dba Sweet Lace Photography - 146 Main Street – block 22 lot 2 Unit 1 - Zone C1 – decided on November 15, 2021 – for waiver of site plan. Upon roll call the following votes were cast: AYES: Walter, Morgan, Smith, Pearson, DiRenzo, Brothman, Breitz. NAYS: None. ABSTAIN: Lane. Motion carried.

A MOTION was made by Mayor Morgan, seconded by Mr. Breitz to memorialize a Resolution for PZ 01-2020 made by SGP Century LLC of Gristmill Plaza at 5 Lenape Road – block 24 lot 47 - Zone C1 - decided on November 15, 2021 – for a Helistop within parking lot. Upon roll call the following votes

were cast: AYES: Walter, Morgan, Smith, Pearson, DiRenzo, Brothman, Breitz. NAYS: None. ABSTAIN: Lane. Motion carried.

A MOTION was made by Mrs. Brothman, seconded by Mr. Breitz to memorialize a Resolution for PZ 06-2021 for One Way Property Management LLC - 49 Main Street – block 4 lot 2 Unit 1 - Zone C3 – decided on November 15, 2021 – preliminary and final site plan approval. Upon roll call the following votes were cast: AYES: Walter, Morgan, Smith, Pearson, DiRenzo, Brothman, Breitz. NAYS: None. ABSTAIN: Lane. Motion carried.

A MOTION was made by Mayor Morgan, seconded by Mrs. Daschko to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.

Beth Brothman
Board Secretary