

**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, NOVEMBER 20, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.**

**PRESENT:** Walter, Wojcik, Morgan, Smith, Brothman, Daschko, Breitz, and King

**ABSENT:** Pearson and DiRenzo.

The meeting was called 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.

**MINUTES:**

The minutes of the October 16, 2023 meeting were tabled.

**AUDIENCE PARTICIPATION:** None.

**CORRESPONDENCE:** None.

*\*\* Mayor Morgan and Councilman Robert Smith recused themselves*

**FORMAL APPLICATIONS:**

APPLICATION #: PZ – 07-2021 – Dunkin Drive Thru - 165 Main  
APPLICANT: Krishev 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: Amendment of resolution decided on 12/20/2021

Mr. Robert Brier, attorney from Schenk, Price, Smith, and King, appeared before the board for applicant Krishev Realty, LLC dba Dunkin Donuts. He is here this evening requesting amendment to approved site for minor changes to the plan layout. The changes include four parking spaces on the southern end of the parking lot and increase of the retaining wall on the southern side of the property as well as relocation of the dumpster. He presented the applicant engineer, Mr. Owen Dykstra of Dykstra & Associates, Inc. Mr. Dykstra was sworn into the testimony and provided his educational/experience credentials. Noting his license is current. Mr. Dykstra addressed the improvements and modifications of the site plan by presenting Exhibit A-1 a copy of the previously approved plans with the modifications. The major change of the plan is to expand the parking on the south end by 3 spaces. This is for overflow parking when orders are delaying the service. He showed the increased concrete pad and concrete pad on the inlet and outlet. The wall shown where new parking is, is now free standing and about seven feet.

Mrs. Brothman, asked why the space wouldn't be used for deliveries when the prior application spent much time trying to work on the loading zone within the small parking lot. Mr. Stoner asked what the landscaping plan was there on the side of the new parking spaces. He noted there is a drain pipe there and this past summer a drain pipe high up the hill had collapsed causing flooding on the property. As it could not be diverted properly.

There is no additional lighting being proposed. Mr. Stoner asked where the lighting is for this parking. He noted that additional light may be needed. Another light may be difficult, but could it be added? Mr. Dykstra did not think it was necessary. There was some discussion regarding lighting. The prior approval required the applicant to re-appear before the board if lighting issues arose. Mrs. Brothman asked if there would be any stop sign, sidewalk or anything there to protect an employee or customer crossing through there. There was none. She asked if this was a curb side pick up. Mr. Dykstra stated it was not. Mr. Stoner asked if a cross hatch could be put up. They agreed it could.

Mr. Breitz asked if someone pulling a trailer could park there and if consideration was made for that. Mr. Dykstra said it was not.

Mrs. Brothman asked how the drainage above the retaining wall would be handled. Mr. Dykstra stated an attachment to flow the water left was engineered in that space. She asked if the modification takes the run off from the hill into consideration. The retaining wall was installed to protect the hill. Mr. Stoner assured the board the engineering was such as to redirect the water to protect the wall. He approved the engineering during construction, but expansion of that use is what brings them to the board today.

Mrs. Brothman showed concern about the parking. Mr. Dykstra felt the expansion enhanced the safety and provided better access. He assured her that while parking varies it's all going in the same direction. He felt it made for a safer situation. Mr. Dykstra when asked stated that landscaping could be added to that area where the new parking is being installed. Mrs. Brothman wanted to add a buffer to that location.

Sean McCarthy, District Manager, was sworn into the testimony. He testified that the four spaces requested is needed when the 90 second service turn around cannot be met due to large orders. It keeps the line moving. He stated, when asked, that three would be sufficient.

Mr. Stoner confirmed that adding three spaces does not change the NJDOT permit approval. Mr. Stoner requested that lighting be reimagined for these spaces, so that it's provided sufficiently and still minimized off property.

Mr. Walter opened the matter to public comment.

F. William LaVigne spoke to the board. He is owner of block 23 lot 6, the adjacent property.

He stated that most changes directly affect him. He asked:

He asked: "Will the additional parking be used to add seating indoors?" Mr. Dykstra stated "No".

He asked: "Can customers entering the building use the bathroom facilities?" Yes.

He asked: "Will the additional parking spaces affect the septic plan for this facility?" There will be no impact.

He asked: "You have four employees on any shift?" Yes.

He asked: "How many shifts?" Two.

He asked: "Do you believe this will create a traffic increase as you previously testified to by your traffic planner?" No.

He asked: "Do you recall what the number was that was testified as the flow of the previous bank?" I do not. "It was 99 with 100 being the cut off, do you still agree there will be no increase?" I do.

He asked: "Have you been up on the Sussex Branch trail above the location?" Not since the rain issue this summer. Mr. LaVigne testified that the Park Service has altered the trail bed and where there was once a berm to stop water, that has been removed and the trail is flat. He explained that years ago the trail looked very different than today, redirecting water.

He asked: "Are you going to increase the size of the catch basin on the parking lot?" No. It is Mr. LaVigne's opinion that failing to do so will increase the water flow going onto the highway during a storm. He felt that vehicle and road pollutants will cross over the street into a pristine wetland and trout stream.

He asked: "What is the height of the wall at the rear of the property?" seven feet.

He opined that the location is being structured like an amphitheater which will direct all the noise to his home. He wanted the construction of an eight foot wall to protect his property from that affect and should be taken into consideration.

He continued to state that he suggests they take a look at the trail bed as the grading has been done as to direct the water to this property and as a result water runoff will impact this location exponentially. He feels strongly that the water going into an insufficient catch basin will be detrimental to the property and neighboring properties.

He felt the exit point to near the catch basin will "pond" as it historically has especially with the smaller catch basin. He stated for the record that cars will slide into the road and Mr. Dykstra stated they could design a new catch basin to accommodate this.

Mr. LaVigne then asked if anyone has notified Mr. DiRenzo of this run off as his is the owner of the property across the street where this water will be draining. He felt that gas and oil going into this trout bearing stream should be considered and he thought that Mr. LaVigne should be notified as he was not sure if he was through any of this process.

Mr. Stoner thought the comment/condition to review the NJDEP property improvements to see how they have changed and to understand how that may impact the property in review. This should be part of the conditions.

When asked if they can provide anything to address the additional storm water runoff. They will work with the Board Engineer on this. They will also work on the lighting with the board engineer to provide light and keep it off the neighboring property. Mrs. Daschko asked if a light could be attached to the wall. Mr. Dykstra added that lower light would be better. They will review this with the Board Engineer.

An six-foot privacy fence on the property line as per Mr. LaVigne's request was agreeable to the applicant.

Mr. Dykstra suggested porous pavers in the new parking area to mitigate water quality and Storm water infiltration. He also testified that the "ponding" issue has been addressed in prior engineering and clearing of drains.

The Board Secretary reviewed the conditions as discussed.

- Required to review NJDEP Parks drainage for affect.
- Address any imperivious storm water issues for that site. Work the Engineer.
- Six-foot privacy fence on property line and privacy fence in back south side.
- 3 additional parking spaces with a cross walk
- Additional light post in south corner as per engineer review.

A MOTION was made by Mrs. Brothman, seconded by Mr. King to approve the amended site plan with conditions. Upon roll call the following votes were cast: AYES: Wojcik, Walter, Daschko, Breitz, King. NAYS: None. ABSTAIN: Brothman. Motion carried.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

Discussion re: Land Use Administrator Memo re: recommendations for waiver review procedure and amendment to land use form was tabled at the request of the planning board secretary.

**AUDIENCE PARTICIPATION:** None.

**RESOLUTION:**

The Resolution to memorialize the denial of Application PZ02-2023 for Andover Therapeutics, LLC, site plan – 2&4 Lenape Road – block 11 lot 3 & 3.01 – Zone C1 – for Cannabis Dispensary Class 5 – denied on 10/16/23 was tabled to the next meeting.

The Resolution to memorialize approval of Application PZ04-2023 for Hampton Square Wealth – waiver of site plan – 219 Main Street – block 28.02 lot 1 – Zone C1 – for office space – approved on October 16, 2023 was tabled to the next meeting.

**ADJOURN:**

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

Beth Brothman  
Board Secretary