

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, MARCH 18, 2024 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Daschko, Pearson, Wojcik, Morgan, Brothman, Breitz, and King

ABSENT: Walter and Smith

ALSO, PRESENT: Thomas Molica, Attorney

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:

Mr. Peter Pearson was sworn in as Class IV (3 year) term to end 12/24 by the Board Attorney.

MINUTES:

A MOTION was made by Mr. King, seconded by Mrs. Wojcik to approve the minutes of the meeting held on January 22, 2024. Upon roll call the following votes were cast: AYES: Daschko, Wojcik, Morgan, Brothman, King, and Breitz. NAYS: None. ABSTAIN: Pearson. Motion carried.

AUDIENCE PARTICIPATION: None.

CORRESPONDENCE: None.

FORMAL APPLICATIONS:

APPLICATION #: PZ – 01-2024 – Petracca – Joyful Journeys Academy
APPLICANT: Carrie Petracca
ADDRESS: 76 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 5 Lot 8 Zone: C3
PREVIOUS USE: Daycare / Childcare
PROPOSED USE: Daycare / Childcare

Ms. Carrie Petracca appeared before the board with her attorney Heather Testa. Ms. Petracca was sworn in by the Board Attorney. The applicant testified that she is the owner and CEO of Joyful Journey's Child Care. Ms. Petracca purchased the business from the prior owner, Ms. Helen LaVerda. She explained that she will be changing two signs that are currently on the property to reflect her business name and contact information. The applicant assured the board she was making no other changes. The hours of operation are 6 a.m. to 6 p.m. Monday through Friday. They have ten

employees with a mixture of part time and full-time employees. The Board Attorney acknowledged this is consistent with the prior approval. There was no further testimony. The applicant attorney reiterated that everything is the same as prior owner, there are no changes.

A MOTION was made by Mr. Smith, seconded by Mr. King to grant the waiver of site plan as presented. Upon roll call the following votes were cast: AYES: Daschko, Wojcik, Morgan, Brothman, King, and Breitz. NAYS: None. ABSTAIN: Pearson. Motion carried.

OLD BUSINESS: None.

NEW BUSINESS: It was commented by the Board Secretary that cannabis licensing looks to be imminent.

AUDIENCE PARTICIPATION: None.

RESOLUTION:

A Motion was made by Mr. King, seconded by Mrs. Wojcik to approve the memorialization of a Resolution for application PZ 07-2021 for Dunkin Drive Thru – Site Plan Amendment – 165 Main Street, Andover NJ 07821 – block 23 lot 6.01 - Zone C1 – Amendment of resolution approved on November 20, 2023. Upon roll call the following votes were cast: AYES: Daschko, Pearson, Wojcik, Morgan, Brothman, King, and Breitz. NAYS: None. ABSTAIN: None. Motion carried.

**RESOLUTION OF MEMORIALIZATION
BOROUGH OF ANDOVER
PLANNING/ZONING BOARD
In the Matter of Krishiv Realty LLC
Application #PZ-07-2021
Decided on November 20, 2023
Memorialized on March 18, 2024
Amended Site Plan and “Use” Variance Approval**

WHEREAS, Krishiv Realty LLC (the “Applicant”) has made application to the Andover Borough Planning/Zoning Board (the “Board”) for amended or site plan approval and “use” variance approval pursuant to N.J.S.A. 40:55D-70d(1) for the subject property known and designated on the Andover Borough Tax Map(s) as Block 23, Lot 6.01 and located in Andover Borough’s C-1 Zone (the “Property”); and

WHEREAS, the Applicant seeks approval to amend the site plan and use variance approval previously granted to the Applicant for the Dunkin’ (formerly Dunkin’ Donuts) drive thru, walk-in/carryout beverage and food restaurant on the Property, which is generally located along Route U.S. 206 (generally, the “Application”); and

WHEREAS, as referenced herein, the Applicant previously received preliminary and final site plan and “use” variance approvals from the Board for the

Dunkin fast food restaurant at the Property, as memorialized by Board Resolution dated January 24, 2022 for the Property (generally, the “Prior Approval” or “Prior Approvals”); and

WHEREAS, plans and documents submitted in support of the Application included the following: plans entitled, “Site Plan for Proposed Dunkin’ Drive Thru, Tax Block 23, Lot 6.01, Tax Map Sheet11, Borough of Andover, Sussex County, New Jersey”, prepared by Dykstra Associates, P.C., consisting of six (6) sheets, dated September 07, 2021 and last revised September 11, 2023 (the “Site Plans”); and Land Development Application and other supporting documents; and

WHEREAS, as set forth on the Site Plans, the Applicant seeks approval to amend the Prior Approvals to effectuate rather minor changes to the site and Property as set forth on the Site Plans, including the locating of four parking spaces on the southern end of the parking lot, increasing the concrete pad which extends from the menu board to the pick-up window, the installation and/or expansion of concrete pads at both the entrance and minor changes to the proposed wall; and

WHEREAS, the Applicant does not seek or require any new variances as per the Application; and

WHEREAS, pursuant to N.J.S.A. 40:55D-25, Andover Borough has by ordinance established the Board which has dual powers of planning and zoning; and

WHEREAS, a public hearing for the Application was accordingly conducted on November 20, 2023 (the “Public Hearing”), after the Board determined it had proper jurisdiction over the Application; and

WHEREAS, Board Members Morgan and Smith were recused from reviewing and adjudicating the Application and took no part in the Public Hearing; and

WHEREAS, the Applicant was represented by Robert McBriar, Esq. of the law firm Schenck, Price, Smith & King LLP;

NOW, THEREFORE, the Board makes the following findings of fact and conclusions, based on evidence presented at the Public Hearing, at which a record was made.

1. The Applicant’s counsel introduced the Application, explaining the nature of the Property and the Dunkin restaurant located thereon, the Prior Approvals, and the Applicant’s need to amend the Prior Approvals to effectuate rather minor changes to the site and Property as set forth on the Site Plans, including the locating of four parking spaces on the southern end of the parking lot, increasing the concrete pad which extends from the menu board to the pick-up window, the installation and/or expansion of concrete pads at both the entrance and minor changes to the proposed wall.
2. The Applicant’s site plan engineer, Owen Dykstra, PE of Dykstra Associates, was sworn-in for the purpose of providing expert testimony to the Board in support of the Application. His qualifications as a licensed, professional civil engineer were reviewed and accepted by the Board.

3. Mr. Dykstra testified generally about the Site Plans, the relief required, and the Prior Approvals, and opined that the Site Plans comply with the Borough's site plan ordinance.
4. He also addressed the comments set forth in the report of the Board Engineer, Cory Stoner, PE, dated November 17, 2023 (the "Board Engineer Report"), a copy of which is attached hereto and fully incorporated herein by reference.
5. The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., (the "MLUL"), states that site plan approval *shall* be granted based upon the submission of a "site plan and other such information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met."
6. After careful review of the requirements under the Borough's site plan ordinance, the Site Plans, expert testimony offered during the course of the Public Hearing, the Board Engineer Report, the MLUL and related case law, and all other submissions, the Board finds that the Site Plans, their specifications, and other evidence in support of the Application conform to the standards established by ordinance requiring the Board to approve the Applicant's request to amend the Prior Approvals in accordance with the Site Plans.

NOW, THEREFORE, BE IT RESOLVED, by the Andover Borough Planning/Zoning Board, that the application of Krishiv Realty LLC for amended site plan approval for property known as Block 23, Lot 6.01 as shown on the Tax Map of the Borough of Andover, located on 165 Main Street in the C-1 commercial zone, is granted, pursuant to N.J.S.A. 40:55D- 40:70c and 70d, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the Site Plans submitted and approved, and as may be amended by this approval.
2. No construction permit certificate of occupancy shall be issued, nor occupancy of the structure permitted, until final site plan approval shall have been granted, based on a final "as built" plan with all required improvements having been installed and conditions of this resolution satisfied.
3. The Applicant is bound to comply with the representations made to the Board by the Applicant and Applicant's professionals.
4. The Applicant shall comply with all applicable terms and conditions of the Prior Approvals and the Board Engineer Report, except as amended by this approval of the Application.
5. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of any request by the Board's Secretary or Treasurer.
6. Certificate that taxes are paid to date of approval.
7. The Applicant shall obtain any and all other required governmental approvals for the Application and the Property.
8. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is in

receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.

9. Any condition without a specific time limit shall be complied with within six months of the date of this resolution's memorialization.

The undersigned secretary certifies the within resolution was adopted by this Board on November 20, 2023, and memorialized herein on March 18, 2024 pursuant to N.J.S.A. 40:55D-10(g).

ADJOURN:

A MOTION was made by Mrs. Wojcik, seconded by Mr. King to adjourn the meeting.

AYES: All in favor. NAYS: None. Motion carried.

A handwritten signature in black ink, appearing to read 'Beth Brothman', with a long, sweeping underline that extends to the right.

Beth Brothman
Board Secretary