

4-8-2004 Planning Board

received
5-13-04
ORIGINAL

TOWN OF NEWBURGH PLANNING BOARD

NEWBURGH, NEW YORK

-----X

In Re:

20-2-40

KRISHNA DONUTS, INC. (2003-29)
(Amended Site Plan)

5277 Route 9W

-----X

Thursday - 7:16 p.m.
April 8, 2004
1496 Route 300
Newburgh, New York

B E F O R E:

TOWN OF NEWBURGH PLANNING BOARD

PRESENT:

- JOHN P. EWASUTYN, Chairman
- KENNETH MENNERICH, Board Member
- J. LEO GLYNN, Board Member
- CLIFFORD C. BROWNE, Board Member
- EDWARD T. O'DONNELL, Board Member
- NORMA JACOBSEN, Planning Board Secretary
- EDWIN GARLING, Planning Consultant
- PATRICK HINES, Engineering Consultant
- KENNETH WERSTED, Traffic Consultant
- MICHAEL H. DONNELLY, ESQ., Planning Board Attorney

LEWIS T. POWELL
Representing the Applicant

COVENANT REPORTING
Certified Shorthand Reporting
26 Fleetwood Drive
Newburgh, New York 12550
(845) 564-7477

1
2 CHAIRMAN EWASUTYN: The next item of
3 business this evening is the Krishna Donuts. It's
4 an amended site plan located on Route 9W in a zone B
5 and it's being represented by Lou Powell.

6 Mr. Powell, please?

7 MR. POWELL: Good evening, I'm Lou
8 Powell from Eustance and Horowitz. We're engineers
9 for Krishna Donuts, which is proposing a 4900 square
10 foot building which will be half of Dunkin Donuts,
11 Baskin Robbins, and the other half will be a retail
12 store. There is an existing building on to it which
13 I believe was retail plus car wash which will be
14 demolished.

15 The project is on the west side of 9W
16 just north of DeVito Drive, which I understand is
17 spelled wrong on the map and I think that's because
18 the tax map is wrong. We will get that corrected.
19 We do have a copy of the consultant's comments. And
20 we will address all those at future submissions.

21 This is a conceptual. And we
22 understand there is a question of what the board
23 considers Dunkin Donuts to be, fast food versus
24 retail or something, and I believe that issue may
25 need to be straightened out before we go any

1
2 further.

3 CHAIRMAN EWASUTYN: Thank you. I'll
4 let counsel speak on that issue for us and how we
5 will advise you to act on that.

6 MR. DONNELLY: There is some lack of
7 clarity in the ordinance as to what a fast food
8 restaurant is. And there has been some consistency
9 on the zoning board's part in granting use variances
10 for those, but apparently there are some other cases
11 where I'm told there may be operating facilities
12 that might arguably be fast food restaurants that
13 did not receive a variance. Therefore, it seems to
14 us that the best way to resolve this with finality
15 is to refer this matter to the zoning board for an
16 interpretation of what is the scope and contour of
17 the fast food restaurant use; and/or for
18 consideration of the granting of the use variance in
19 the event that the zoning board does not interpret
20 that phrase in a fashion that would allow your
21 project to move forward. And with the board's
22 permission, I can author such a letter to the zoning
23 board and then you can apply directly to them for
24 that interpretation and for that ruling.

25 MR. POWELL: Okay.

1
2 CHAIRMAN EWASUTYN: Okay. At this
3 point, with that being agreed on, we appreciate your
4 acceptance of that fact, it makes the following time
5 spent on this more effective. We did review it
6 during our work session and there are several areas
7 and comments that we will need further studies on
8 and I'll begin to address that now. I'll have Ken
9 discuss some of the traffic issues, internally. We
10 came up with a concept thought for something on 9W.
11 We also took into consideration the possibility of
12 the future widening of Route 9W and the possibility
13 of relocating this building somewhat back for that
14 road improvement that, again, may, in fact, not
15 happen for another ten years, but for the sake of
16 looking at it and planning ahead, we discussed it
17 during our work session.

18 But Ken, if you'll talk about some of
19 the issues we discussed, please?

20 MR. WERSTED: Sure. We reviewed the
21 site plan based on its currently proposed access, as
22 well as what's being provided to us today. Some of
23 the comments that we had included the existing
24 access as its shown proposed. Includes two entrance
25 driveways on the north side. We feel that should be

1
2 reduced down to a single entrance rather than having
3 two entering lanes. There's some "Do Not Enter"
4 signs around the backside of the building. We feel
5 that those signs should be moved down so that
6 one-way access is provided on the west side of the
7 building rather than two-way access. And it
8 appeared that truck access around the building is
9 adequate for a 30 foot design vehicle delivery
10 truck. However, there was a question as to whether
11 that will actually be the design vehicle that's used
12 and whether or not that may be deliveries to the
13 Dunkin Donuts and so forth might be from a larger
14 vehicle such as a tractor trailer.

15 Landscaping in the front shouldn't
16 impact the site lines for the driveway existing, so
17 any landscaping should be limited to such that it's
18 not going to block a driver's view. We looked at
19 what this project will potentially generate in terms
20 of traffic and feel that traffic study should be
21 generated for it and to base that study off of a
22 similar land use, ITE, which is an industry standard
23 for estimating a number of trips that a project is
24 going to generate, provides limited data on a land
25 use such as this. So we ask that in the traffic

1
2 study that similar land use is what's proposed be
3 used as a model to determine how much traffic is
4 going to be generated, as well as look at the
5 adequacy of the on-site parking in some facilities,
6 such as a demand for parking as such that limited
7 parking -- (interrupted by reporter; asked to
8 repeat.)

9 The site access basically provides
10 one-way entering traffic at the north end and
11 one-way exiting traffic at the south end. We like
12 that configuration because in the morning the
13 predominant flow of traffic is going to be
14 southbound on Route 9W, taking a right turn into the
15 site and again taking a right turn out of the site
16 heading out into the City of Newburgh.

17 In addition to those previous comments,
18 part of the traffic impact study we'd like you to
19 take a look at is the existing volumes on Route 9W
20 and look at the expected trip distribution of the
21 site and any impacts at that area. There's also
22 some talk at the work session about widening Route
23 9W and being able to provide that distance with the
24 site and the existing building and the proposed
25 building may need to be moved back to provide those

1
2 widenings. That's all I have.

3 CHAIRMAN EWASUTYN: And the possibility
4 of a turning lane or striping along that, can you
5 bring that up as we discussed that?

6 MR. WERSTED: Yes. There were some
7 discussions about providing a turning lane in front
8 of the site to allow left turn vehicles into the
9 site as well as left turn vehicles out of the site,
10 and to increase the capacity in that area to
11 accommodate site generated trips.

12 CHAIRMAN EWASUTYN: Okay. Pat?

13 MR. HINES: Realizing this is a concept
14 plan, there's not a lot of technical detail, but
15 some of the concerns we raised were the grading into
16 that slope in the back. That slope is currently not
17 stabilized and has very little vegetation on it.
18 Any additional grading should take into
19 consideration stabilizing the entire slope.

20 It's proposed to utilize the existing
21 septic system on the site. We're going to need the
22 design information for the original design of that
23 site and the expected hydraulic loading from the
24 building. Stormwater management will be an issue in
25 the future and we just noted that any changes to the

1 driveways will require DOT approval.

2
3 CHAIRMAN EWASUTYN: Ed?

4 MR. GARLING: One of our comments
5 related to parking. We'd like to see what the other
6 use is going to be, any limitations; the floor plan
7 of the Dunkin Donuts facility relative to counters
8 and seats.

9 Any limitations on the other use in
10 terms of water sewage usage, that would be relevant
11 to Pat's review of the septic design. We've got to
12 see a regrading in the rear, retaining walls. It
13 would appear that just looking at the plan we're
14 talking about a 12 foot retaining wall immediately
15 adjacent to the other property line. So you're
16 going to have to show what's on the other properties
17 and just how that detail will impact the whole area.
18 We don't have Karen's comments yet, but we're going
19 to need to see some planting in the back, some
20 stabilization of that hill.

21 Those are all our comments. The others
22 have been gone over.

23 CHAIRMAN EWASUTYN: Thank you. Turn it
24 over to board members with their comments. Cliff?

25 MR. BROWNE: I realize it's still

1
2 pretty early in the process on this. There's been a
3 large concern over a lot of the projects going in
4 along 9W corridor about the traffic in there. I
5 believe that the town is going to take an active
6 role in trying to get the state to do something with
7 that as soon as possible. Current plan is ten years
8 plus, but I understand that they're trying to bring
9 that in, so I think it would be advantageous to
10 think about moving yourself back so you're not
11 impacted by that when it does happen, now or in the
12 future. Other than that, all the other comments
13 that were already made by the consultants,
14 obviously, need to be looked at and looking forward
15 to more detail on it.

16 CHAIRMAN EWASUTYN: Ken?

17 MR. MENNERICH: I guess my impression
18 after reading over the comments and hearing the
19 discussion is that the square footage of the
20 building seems a little large for the usable area of
21 the lot because of the -- much of the lot is not
22 usable. The part that is usable seems to be a
23 little over-built.

24 That's all I have.

25 CHAIRMAN EWASUTYN: Ed?

1
2 MR. O'DONNELL: Well, I would expect
3 that this Dunkin Donuts, this Baskin Robbins will
4 look a hell of a lot better than what's there today
5 to start with. And secondly, I'd be kind of
6 interested in knowing, is the portion that's not
7 going to be Dunkin Donuts, is it going to look and
8 have the same facade? I think it's early for that.
9 But I think it will be worth your while to have that
10 and share it with us. I like how the Dunkin Donuts
11 looks like in the City of Newburgh but there's
12 another one that's over on North Plank Road that's
13 an absolute disaster. And I hope it would look like
14 the one in the city.

15 A FEMALE VOICE: We're the Newburgh
16 building.

17 MR. O'DONNELL: Good. That's all I
18 have.

19 CHAIRMAN EWASUTYN: Leo?

20 MR. GLYNN: No, I don't have anything
21 more right now. Thank you.

22 CHAIRMAN EWASUTYN: Do you have any
23 target proposed for the tenant to share this
24 additional square footage?

25 A FEMALE VOICE: Not at this point, no.

1
2 CHAIRMAN EWASUTYN: At this point I
3 would move for a motion to declare our intent for
4 Lead Agency.

5 MR. MENNERICH: So moved.

6 MR. O'DONNELL: Second.

7 CHAIRMAN EWASUTYN: I have a motion by
8 Ken, I have a second by Ed. I'll ask for a roll
9 call vote starting with Cliff.

10 MR. BROWNE: Aye.

11 MR. MENNERICH: Aye.

12 MR. O'DONNELL: Aye.

13 MR. GLYNN: Aye.

14 CHAIRMAN EWASUTYN: Aye. I move for a
15 motion at this point to refer this to the ZBA for an
16 interpretation and/or a use variance.

17 MR. DONNELLY: Right.

18 CHAIRMAN EWASUTYN: For fast foods.

19 MR. BROWNE: So moved.

20 MR. GLYNN: Second.

21 CHAIRMAN EWASUTYN: I have a motion by
22 Cliff, a second by Leo. Any discussion on the
23 motion? I'll ask for a roll call vote starting with
24 Cliff.

25 MS. STRADAR: Beth Stradar from

1
2 Northrop, Stradar and Glenn. In connection with the
3 referral, I had spoken with Mr. Donnelly today about
4 the Bagel World, which is just north, across the
5 highway from this and it's currently zoned, it's
6 operating as retail and I have the paperwork on that
7 if that would help.

8 MR. DONNELLY: I think it would be
9 helpful to the zoning board to see that information.

10 MS. STRADAR: This would assist you in
11 giving you strong comments in your referral.

12 MR. DONNELLY: I'm simply going to
13 clarify the issue in the referral unless the board
14 wants me to bring a particular matter.

15 CHAIRMAN EWASUTYN: The board doesn't
16 take a position to reference one matter or another
17 and we leave that area up to interpretation by the
18 ZBA to make it simple and firm. We don't look to
19 step on anyone's toes.

20 MS. STRADAR: Okay.

21 CHAIRMAN EWASUTYN: Thank you.

22 MR. DONNELLY: I believe it would be
23 relevant for you when you're there to bring to their
24 attention how other facilities are.

25 MS. STRADAR: Sure.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Mr. Powell?

MR. POWELL: That's it.

MR. MENNERICH: The board is still in
the vote.

CHAIRMAN EWASUTYN: I have a motion and
a second. I'll ask for a roll call vote starting
with Cliff.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried. Thank you.

(Time noted: 7:31 p.m.)

* * * * *

C E R T I F I C A T I O N

I, Charlene Koehler, a Certified Shorthand Reporter and Notary Public do hereby CERTIFY that I recorded stenographically the proceedings herein, at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same, to the best of my knowledge and belief.


Charlene Koehler