

BOROUGH OF SPRING LAKE HEIGHTS LAND USE BOARD

Minutes

March 12, 2025

Meeting Commences at 7:00 PM

Announcement Made by Secretary:

THIS MEETING IS CALLED PURSUANT TO THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, PUBLIC LAW 1975. ADEQUATE NOTICE HAS BEEN PROVIDED TO THE COAST STAR AND THE ASBURY PARK PRESS POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND THE BOROUGH WEB-SITE. NOTICES ARE ON FILE WITH THE BOARD SECRETARY. OFFICIAL ACTION MAY BE TAKEN ON THE MATTERS LISTED.

A. Flag Salute

B. Roll Call:

Board Members present: Chair Eileen Eilenberger, Michael Milano, Anna Kuntz, Brian Brendle, Dennis Pearsall, Tom Martin, Roy Francolino

Board Members absent: Nancy Maclearie, Councilwoman Degnan-Spang, Councilwoman King, Joseph Layton, Adam Anzzolin

Board Professionals present: Mark Kitrick Esq. , Gerald Freda, PE, Christine Bell, PP
Barbara Van Wagner, Secy.

A. Minutes: Meeting of February 19, 2025

Motion to approve: Brian Brendle Seconded by: Chair Eilenberger

Voted in favor: Brian Brendle, Dennis Pearsall, Michael Milano, Chair Eileen Eilenberger

B. Resolutions:

1. Resolution #2025-08 Application #2025-01 John & Sheryl Colucci
601 Mercer Avenue, block 69 lot 1 R-5 Zone

Motion to approve: Brian Brendle Seconded by: Dennis Pearsall

Voted to approve: Dennis Pearsall, Brian Brendle, Michael Milano, Chair Eilenberger

Opposed: None

2. Resolution #2025-09 Application #2024-14 Cecelia and William Findlay
608 Brighton Avenue, block 55 lot 16 R-5 Zone

Motion to approve: Brian Brendle Seconded by: Chair Eilenberger

Voted to approve: Dennis Pearsall, Brian Brendle, Michael Milano, Chair Eilenberger

Opposed: None

3. Resolution #2025-10 Amending Spring Lake Heights Land Use Board Rules and Regulations

Motion to approve: Brian Brendle Seconded by: Chair Eilenberger

Voted to approve: Dennis Pearsall, Brian Brendle, Michael Milano, Chair Eilenberger

Opposed: None

C. Application:

Carried from January 8, 2025

Application #2023-08

Ronak Donut, LLC

7 – 11 Highway 71, block 14, lots 221, 222 & 223

B2 Zone

Use Variance, Bulk Variances, Preliminary and Final Site Plan to renovate the existing Dunkin Donuts structure, reducing the size of the building and constructing a drive through Window and drive through lane.

Mark- Anna Kuntz listened to the recordings of the prior meetings and is eligible to vote

Eileen- want to remind everyone that this is a legal proceeding. The audience can come up to the mic to ask a question of each witness. When the applicant is finished presenting their case, then people can come up to make a statement for or against the application. They need to give their name and are sworn in to give testimony and are subject to cross examination. No new matters will be heard after 9:00 pm and no new testimony after 9:30. Meeting ends at 10:00 PM

This application was in the B2 Zone but it is now the MU2 Zone which is a Mixed Use with commercial and can have residential above. 20% set aside for Affordable Housing. There are Commercial Use and Conditional Use. (Eileen reads the permitted uses in MU2 Zone)

Tom- if they – Dunkin- choose to leave, someone can come and do any of those uses

Keith Henderson, Esq, attorney for the applicant – we ended at the last hearing with presenting all but the Planner’s summary. Want to call Joe Kocuiba to speak

Mark- all professionals remain under oath

Kocuiba – there were a number of questions regarding the menu board. Worked with the architect with the sound pressure report. Identified the distance from the speaker, the decibel reduction based on ambient noise. The speaker at one foot is 84 decibels and reduces as the distance increases. At 40 feet, it is 52 decibels. It would be about 65 decibels during the day and 50 decibels in the evening. The ambient noise automatically reduces the decibel level. At 16 feet away, it is 36 decibels. They close at 9:00 PM. 50 decibels is for 10 PM and beyond which is below the requirement

(Kocuiba completes the summary of what the Board asked)

One board member was in favor of moving the menu board to face north but it would eliminate our loading zone and is a detriment at that location. The speaker will pick up more noise if pointed at the street and reduce the cueing to 5 from the menu board to the street if it is moved to the north as opposed to 7 if it remains where proposed. The total cueing will remain 12-13. Could cause more back up onto the street

Tom- the original design is better for the flow of traffic

Mike – established that the exiting and entry for drive thru is from 71

Kocuiba – there will be a sign on Jersey to enter and exit from 71

Exhibit A-7 – Drive Thru Plan (discussed)

Brian – 60 decibel level – what is that like?

Kocuiba – I’m not a sound expert, but 60 decibels is a standard conversation at 1 foot away. Double the distance and reduces by 6 decibels, there is a logarithm for the reduction

Dennis – is there a Jersey entrance?

Kocuiba – for the parked cars not the drive thru

Eileen – the cue for the drive thru is entry from 71 and exit to 71

Kocuiba – no changes in parking

Public Questions:

Mark – I spoke with Timothy Middleton who is representing the Citerellas at 707 Jersey Ave

Middleton – have questions for the engineer and planner

Mark – can cross examine Mr. Kocuiba on the testimony given. Unfortunately you are here at the third meeting and not going into testimony from the other meetings.

Middleton- Mr. Kocuiba can talk of the design without the other professionals

Henderson – I object, need the architect to answer questions on design

Middleton – have questions on traffic report and on the design and hours of operation

Kocuiba – the store closes at 9 PM and opens 5 AM. Its at 60 decibels for one hour

Middleton – doesn't identify the make and model

Kocuiba – it does, on the first line but can be confirmed by the architect

Middleton – there is a component that adjusts to ambient noise?

Kocuiba – yes, 60 decibels is measured at one foot

Middleton – is there a sound expert?

Kocuiba – going by the report, max is 84 decibels

(speaker discussed)

Middleton – did you take into account the east winds?

Kocuiba – don't know, I didn't do the report

Middleton – the planner testified that the application met the positive criteria for special reasons that the site is suited for this use. According to Cox p.480- it needs to be particularly suited. Why is the Dunkin Donuts drive thru a positive use?

Mark – Joe, when did you provide planning testimony?

Christine – thought you did the engineering at the last meeting. And thought was going to finish the Planning testimony tonight.

Henderson- stated the Planning and Board asked for more info, so started but didn't finish

Mark – better you wait to ask questions til after his planning testimony

Mark – any questions for the engineering on the sound issue

Middleton – fine with the sound issue

Public Questions:

Kate Moloughney, 809 Lake Ave – is it the same exit and entrance on 71?

Kocuiba – same entrances and exits

Moloughney – is it the same owner as Sea Girt? Is there going to be an increase in traffic?

Tom – went through this at the last meeting

Kocuiba – 20% increase

Christine – it was part of the traffic testimony

David Healy – are the exits the same as the 2009 plan?

Kocuiba – can't speak to the 2009 plan, but same exits.

Healy – nothing new?

Kocuiba – one way around the building and exit to 71

Healy – exit to 71? Who will enforce that?

Kocuiba – Title 39 allows for the Police to enforce with tickets for non-compliance
(talking in audience)

Mark – please, no more outbursts from the audience

Eileen – please be respectful

Brian – there is a new traffic pattern? Can you enter on Jersey?

Kocuiba – can pull in and park

Eileen – can exit from 4 spaces, but not easily

Kocuiba – primary traffic pattern is counter clockwise

Public Questions:

Mary Quinlan, 713 Jersey Ave- (questioned the menu board facing Jersey)

MaryEllen Karamus, 817 Prospect Aven – which direction does the sound go from the menu board?
Into the car?

Kocuiba – yes

Rich Newman, 67 Maple Drive – why is there no dry well?

Kocuiba – there is a reduction in impervious coverage from 83.2% to 76.7%, not increasing storm water
No additional run off, no disturbance more than ¼ acre

Tom- this is an improvement, correct?

Kocuiba – yes

Brian – the requirement is 75% coverage

Kocuiba – just slightly over the requirement but is a reduction

Public Questions:

Carey Murray, 710 Shore Road (questioned the sound)

Kocuiba – based on the report, it is minimal impact. 52 decibels is below the state standards and
automatically reduces to 34 decibels

Public Question:

Debra Mercora, 813 Jersey Ave – (question regarding the decibels)

Kocuiba – the menu board will change over time, the sound reduces as you move away from the
speaker. 84 decibels is the max and goes to 52 decibels at the property line, -the loudest it will be

Tom – didn't Sgt Willms state in the letter that he didn't object

Public Question:

Collin Chesney – (asked about the court case in Madison Township)

Kocuiba – that was citing accessory use, it was for clarification to the Board of accessory uses

David Healy, 714 Jersey Ave – define accessory use

Kocuiba – subordinate use to main use. Primary use is the restaurant, the drive thru is an accessory use

Kerry Murray – 710 Shore Road – decibel question – sound is not from the car

Tom – sound weakens as it travels

Kocuiba – (discussed the requested variances) There is a use variance which we objected to at the first
hearing. Bulk variances for lighting and for front setback. Parking – require 28 and will provide 23 and
stacking for 12 additional to the stalls. Stall size – 18 feet where 20 is required, NJDEP is 18 feet so will
provide stalls at 9 feet by 18 feet. Signs – 4 proposed and 2 is permitted. The signs were discussed by
the Architect in his testimony. Ordinance is inconsistent in size requirements. Free standing sign is
setback 6.9 feet where 10 feet is permitted. Will re-skin the sign. Directional signage and for the menu
board – need relief for directional signs for safety. There will be loading once a week.

Use variance – section 2 – to promote the general welfare and is particularly suited for this use. It's a commercial use and will be substantially beneficial with the fencing and landscaping. It is located at the South west corner of 71 and Jersey with frontage on 71. The drive thru traffic will exit onto 71. The site is oversized and will have some minor site improvements. The restaurant use is appropriate for the site and there is a demand for quick service. Want to revitalize the Dunkin with a drive thru, to offer an option for quick service, important for society especially after Covid. It's a convenience without the exposure to the weather, no crowded interaction and benefits to the disabled, seniors and those with children. Strategically located on Highway 71 and fills a need in the area. There is proper signage. According to NJDOT, there is no substantial increase to traffic. The use compliments the area, and particularly suited for this use. Purpose – this will reduce impervious coverage and meets the need of the community and promotes a desirable and needed service, will provide additional landscaping. There will be an EV space which is identified in the Master Plan. This application meets the positive criteria.

Dunkin use will be the same with the same deliveries. No reduction in light, air or open space and will actually provide a smaller building. Site can handle traffic based on Rea report. Same sound as is today except for the menu board.

Negative Criteria – the ordinance changed and was a prohibited use. Restaurants permitted. No substantial detriment to the public good.

Henderson – disagree that a D Variance is required, but Board has already ruled on that.

Kocuiba – the Board ruled it was a Use Variance.

Eileen – bike racks?

Kocuiba – yes, and will provide a speed table if required

Christine – already agreed to crosswalks

Jerry – want to discuss delivery and the recycling and garbage now and after

Kocuiba – will have deliveries once a week and don't anticipate more.

Public Questions:

T. Middleton – do you think the site is suitable?

Kocuiba – yes

Middleton – why? Why put the speaker board close to my client's property?

Kocuiba – based on stacking and brought in an example to move the menu board to the north. Moving the menu board forward closer to 71, creates an exiting problem. It's an operation restaurant now

Tom- Do you think there will be a car every 2 minutes all day?

Middleton – I am asking Joe Kocuiba a question. Can cars come and idly and make noise?

Kocuiba – not a substantial detriment

Middleton – the Dunkin in Sea Girt doesn't have a house within 300 feet.

Kocuiba – unaware of the distance for that site

Middleton – parking on the north side – 18 provided where 20 is required? Where is that located

Kocuiba – (indicated location on the plan) The drive thru lane abuts the building, the larger stalls are on the northern side. Could be a time when people may need to wait to pull out. Wait time is 30 seconds

According to Rea, don't anticipate a back up on 71

Mark – Joe Kocuiba did not prepare the report

Middleton – The handicap spot could be blocked when they go get coffee

Kocuiba – won't be blocked for long, it has to be located there close to the front door

Middleton- did it give you pause that the Rea report was done in September

Kocuiba – did not give me pause, Rea is an expert and used traffic counts and transactions

Middleton – the summer population balloons in the summer. To do a valid traffic study, could have done in the summer

Kocuiba – I don't know when he was hired

Middleton – 75% in Sea Girt use the drive thru, drive thru analysis for receipt analysis will cannibalize Jersey and Shore Road.

Kocuiba – 75% more only come if drive thru, identified in study with drive thru

Dennis – the receipts Mr. Rea used were for this store

Middleton – OK, I could be wrong. As a design engineer and planner, is it fair to take into account that this site is partially suited for this use?

Kocuiba – we took a conservative approach with the transaction data, the traffic report reflects that

Middleton – what if Rea is wrong and underestimated and cars back up on 71?

Kocuiba – 9 cars stack is typical and provides 12 car stack- 33% larger than standard stack

Tom- there is a 12 car stack?

Kocuiba – yes

Middleton – 6 or 7 before menu board

Kocuiba – 7

Middleton – the decibel level was the only factor for sound?

Kocuiba – I'm not a sound expert, relying on report by vendor. Decibels are by ordinance and state statistics, sound decibel report is within standards. It's in the comments that the afternoon traffic is less than the morning. The site is suitable and speaker is not detrimental, will be within allowable range for a commercial use.

Middleton – are there other sound boards in area?

Kocuiba – not to my knowledge

Mark – what is the relevance?

Middleton – I won't go any further. I had a client whose neighbor played Mary had a Little Lamb all day with a speaker on the lawn, wouldn't you find that annoying? Isn't that annoying?

Tom – a car door slamming is 80 decibels

Anna – were Dunkin Donuts there when your client purchased the home and aware it was a commercial use?

Middleton – yes

Anna – there are landscapers in the area with regard to the door slamming decibels

When they order, the sound goes directly to the board not out

Public Questions:

Mike Steppe - 812 Shore Road, 9-12 cars idylling, there will be noise and pollution

Kocuiba – it's 90 seconds from menu board to exit

Eileen – can accommodate 12 cars, how often are 12 cars actually all in the cue at the same time?

Kocuiba – during peak hours can have cars cue according to Rea, during the day, much less

Kathy Kelsy, 624 Jersey Ave – the No Left Turn sign is missing, is it going back?

Kocuiba – DOT doesn't prohibit No Left Turns, the driveway allows for two cars to exit at once.

David Healy, 714 Jersey Ave – can I ask the applicant a question?

Mark – if Mr. Henderson asks applicant to testify then can ask questions. Can make statement later

Henderson – there are no other witnesses, ready to summarize

Eileen – this is the plan proposed

Brian – same site plan with the arrows

Kocuiba – had to remove them

Mark – no other witnesses

Middleton – I have a planner Peter Stack but he wasn't available tonight. Want to have him testify another night.

Mark – This is the third meeting for this application and it wasn't until the other day were we told that Mr. Middleton was being retained by a neighbor – you are coming late to the game, and we were hoping to finish tonight. Mr. Middleton has a witness that is not available. We would hear him but he is not available, now have objecting attorney, need to give a date that he is available- understand you have a right to be heard. Pick a date accessible for all parties. Next meeting is March 19

Middleton – He is not available then

Henderson – we are allowing him to bring the planner but hadn't heard from Mr. Middleton until 2 days ago.

(Reviewed Board Schedule to decide on a date to carry the application)

Mark – this application will be carried to the May 14 Board meeting with no further notice

Motion to carry to May 14: Brian Brendle Seconded by: Chair Eilenberger

Voted in favor: Chair Eileen Eilenberger, Michael Milano, Anna Kuntz,

Brian Brendle, Dennis Pearsall, Tom Martin, Roy Francolino

Application Carried to May 14, 2025 with no further notice

Motion to adjourn: Brian Brendle Seconded by: Dennis Pearsall

All Members voted in favor to adjourn

Meeting adjourned: 9:45 PM