

**Village of Airmont
Special Planning Board Meeting
Tuesday February 15, 2022
7:00pm - Via ZOOM**

Members Present: Yehuda Friedland, Chairman
John Cornelius
Mordechai Grinberger
Russell Hock
Maurice Roth

Members Absent: Morris Friedman, Ad Hoc

Others Present: Dan Kraushaar, Deputy Village Attorney
Eve Mancuso, Village Engineer
Lou Zummo, Building Inspector
Suzanne Carley P&Z Clerk

Others Absent: Valerie Monastra, Village Planner

The meeting was called to order by Chairman Friedland at 7:30 pm followed by the pledge of allegiance and roll call. Jeffrey Stewart one of the representatives for Dunkin Donuts stated that he appreciated the PB having this special PB Meeting, taking the time out and thank the PB for everything.

**Application of V3 Real Estate LLC -14 N. Airmont Road
Proposed Drive -Thru for Existing Dunkin Donuts
Amended Site Plan
No Public Comment. Public Hearing was closed on 1/27/2022**

The applicant and its representatives are here this evening to review the prepared documents for a final Site Plan and Special Permit Resolution and an override resolution as directed by the PB from the 1/27/2022 PB Meeting for a final vote on their application. The public hearing was closed on 1/27/2022.

John Cornelius inquired about the legal agreement with the neighboring property owner Airmont Gardens. Dan Kraushaar indicated that they need a final document outlining the responsibilities for maintenance prior to Chairman's Endorsement and that the document be provided in advance for final review and approval. Ken Moran, attorney for the applicant noted that they have a draft of an agreement in recordable form for review. Once the applicant receives full approval it will be finalized with the owners in proper form and will be sent to the Village's Attorney for review to ensure it's in fillable form. What was previous submitted to the Boards was a draft agreement so that they were aware the neighbor was in favor of the application and recommendations and that they would go forward with a full legal agreement if the application is approved.

Eve Mancuso, Village Engineer noted in the GML override item #10 that the landscaping is out of the drainage easement but not out of the right of way (ROW). She noted that N. DeBaun is private and is proposed to remain that way. She recommended that the second part of the paragraph end with “Neighboring Property” and the PB agreed, and it was updated by the P&Z Clerk.

Eve also suggested to make a minor change in the override #2 in the second to last sentence to read “A majority of the Applicant’s customers want to use a drive-thru rather than get out of their cars “to enter the market”. The PB agreed to add the wording at the end of the sentence which was also updated by the P&Z Clerk.

P& Z Secretary read into the record the GML dated 12/21/20. The Application requires three overrides from the GML Items #1, #2 and #10. The P&Z Secretary read each of the overrides and responses into the record. All members received copy of the ZBA override resolution to see how the ZBA handled their overrides.

Overrides

GML Item #1 – The traffic patterns associated with a gasoline station and a drive-thru fast-food establishment are mutually incompatible and cannot both be adequately accommodated on an undersized parcel. A drive thru funnels vehicle to a single access point while a gas station can create haphazard traffic pattern as vehicles queue and jockey for open pump stations. The onsite traffic circulation has significant deficiencies and creates several points of conflict, some of which will likely produce traffic overflows onto the County highway. *Response: There is already a Dunkin and convenience store on this site together with the gasoline pumps. The site has been redesigned to improve circulation, including separating the drive-thru traffic from gasoline traffic at pump islands. All drive thru existing traffic is also separated from the gasoline traffic by the provision of a separate driveway connection to North DeBaun Avenue. The presentation plan highlights the designated drive-thru lane, by-pass lane and separate driveway connection to North DeBaun Avenue.*

GML Item #2 – Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The proposed lot area is 37% of the required minimum, and the lot width is only 55% of the required minimum. The North DeBaun Avenue front setback is deficient by 33%. Both front yards require a 95% variance to be compliant. The side and rear setbacks are deficient by 28% and 38% respectively. The side and rear yards are only 10% and 43% complaint, respectively. The required buffer from the residential area has been eliminated and the development coverage ratio exceeds the maximum standard by 7%. The ability of the existing infrastructure to accommodate the increased intensity of use on undersized parcels is a county wide concern and must be evaluated. The evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such as development. Given the concerns in the previous comment that arise from placing an intense use on an undersized parcel, and the extent of the required variances, the application

must be disapproved, and the property developed in a manner more consistent with the bulk requirements of the Village.

Response: The number of variances required is not the criteria to determine if they should be granted. The criteria are what if any, negative impact there will be if the variances are granted. Based on all the modifications and safeguards that were made, there will be no negative impact. The drive thru will have a positive effect, will be a benefit, and accommodate the community needs to minimize exposure and protect the public from COVID and other similar viruses. Since the pandemic started over a year ago, the public has changed its buying habits and businesses have been forced to change the way they conduct business. A majority of the Applicant's customers want to use a drive-thru rather than get out of their cars to enter the market. The applicant meets all the criteria for granting bulk and area variances required by state and local law. All 12 variances were granted at the 10/14/2022 ZBA Meeting and the PB has received and reviewed a copy of the ZBA Resolution and Override Resolution.

GML Item #10- The proposed landscaping along North Airmont Road and North De Baun Avenue is located beyond the property line and within the County right-of-way and the private road portion of North DeBaun Avenue, which is a further indication of the overutilization of the site. Approvals for these encroachments must be granted by the appropriate entities or the landscaping must be relocated to within the property. *Response: The Applicant has received permission to landscape the neighboring property.*

Yehuda Friedland made a motion to override #1, #2, #10 of the GML dated 12/21/2020 which was seconded by Russell Hock.

Roll Call Vote on the GML Overrides:

Cornelius – yes to the overrides as he thinks the applicant has addressed all issues brought up by the GML.

Hock -yes, I also agree that the design of the new layout they proposed does actually improve the traffic flow and safety of the people.

Grinberger – yes as the applicant came back with improvements and I agree for the safety of the motorists.

Roth – Yes for the same reasons and they did a thorough job with traffic and improved the flow for the motorists and congestion.

Chairman Friedland – Yes, I echo what all the PB Members have stated. They came back with improvements and adequately addressed all concerns. Did a professional job. The site looks good and with the improved traffic flow.

Motion carries 5 to 0 all in favor of the three GML Overrides.

Special Permit

Chairman Freidland made a motion to approve the Special Permit for 14 N. Airmont Road which was seconded by John Cornelius with the standard conditions for payment of all fees, supply all

required agreements, landscaping requirements, etc. all issues that have been brought up tonight and at previous meetings either in memo form or verbal request by consultants and agencies.

Cornelius – Yes think the special permit is going to be a good thing for the community

Grinberger -Yes

Hock -Yes

Roth – Yes

Friedland -Yes

Motion carries unanimously 5 to 0 for the Special Permit.

Amended Site Plan

Chairman Friedland made a motion to approve the Amended Site Plan for 14 N. Airmont Road which was seconded by Russell Hock with all the conditions previously mentioned - payment of all fees, supply all required agreements, landscaping requirements, etc. all issues that have been brought up tonight and at previous meetings either in memo form or verbal request by consultants and agencies. For the record all members have a copy of the drafts of these resolutions and overrides and have thoroughly reviewed them.

Roll Call:

John Cornelius – Vote yes, originally was not in favor but have shown enough which was my major with traffic was major concern which has been addressed

Grinberger – Vote yes and agree with John Cornelius’s comment and for the traffic safety and made a lot of progress on it and it seems to be safer.

Hock – Yes, same as earlier the Amended Site Plan and site designs have improved the traffic flow and safety for the folks; plus, with the agreements with the neighbors for landscaping and the changes to the one entrance//exit improving the traffic flow.

Roth – Vote yes, main concern was with the traffic which I believe all the requirements have met and believe has been met and all other requirements have been met.

Chairman Friedland – Yes as all issues and concerns raised have been addressed. They did a great job.

Motion carries 5 to 0 unanimously for the Amended Site Plan.

Jeff Stewart noted and thanked the PB for the cooperative working arrangement that they have had with them and feels it helped them come back with a better plan. They are appreciative of everyone’s time and the opportunity to work with them. Chairman Friedland thanked the P&Z Secretary for making sure everything runs smoothly. Ken Moran and Dave Panella also thanked the PB for everything and the P&Z Clerk which made the process more efficient.

John Cornelius advised he is unable to attend the 2/24/22 PB Meeting. Chairman Friedland made a motion to adjourn the meeting at 8:25pm which was seconded by Maurice Roth. All in favor meeting ended.