

**Village of Airmont
Zoning Board of Appeals
Village Hall
Thursday, June 24, 2019**

MEMBERS PRESENT: MARTY KIVELL, CHAIRMAN
ARTHUR KATZ
CHARLES PICARELLI
LAURIE DIFRANCESCO
SCOTT MEIER
ROBIN LUCHINS, AD HOC

MEMBERS ABSENT: MATT RYAN, AD HOC

OTHERS ABSENT: LOUIS ZUMMO, BUILDING INSPECTOR

PRESENT: DAN KRAUSHAAR, DEPUTY VILLAGE ATTORNEY
SUZANNE CARLEY, P&Z SECRETARY

The meeting was called to order at 8:00 pm by Chairman Kivell which was followed by the pledge of allegiance and roll call. Chairman Kivell then read into the record a summary of the public hearing notice for the application: 4 variances for the subdivision- minimum lot area; minimum lot width, minimum side setback and minimum side yard; they are seeking a special use requirement for minimum lot size for a fast food variance and they are seeking a variance for the number of the facade signs for their sign permit. A letter from the Town of Ramapo read into the record dated 4/11/19, Email to P&Z Secretary from the Village of Montebello dated 5/15/19 noted they had no comments as well, and an email from the NY State Thruway Authority indicating no comments at this time.

Ira Emanuel attorney present for the applicant. Ira explained that the application for Panera is to replace the existing closed Friendly's in the same location. It will be slightly larger and the configuration will be slightly different. There will be internal circulation and the entrances and exists will be the same as what Friendly's had. A negative declaration was issued on 5/23/19 whereby drainage and traffic was reviewed and there are no significant environmental issues.

Joshua Sewald, Engineer from Dynamic Engineering Lake Cuomo, NJ for the applicant explained that the subdivision is triggering variances intended to provide the financial instrument to take control of its own destiny and helps with financing. Its an integrated site with an imaginary line. The function will be the same as it always did. The site plan itself is not triggering any variances however they are seeking variances for the sign plan. Panera attended CDRC, ARC and two PB Meetings. The property is located at Airmont Rd and De Baun Avenue. They will be utilizing the existing driveways. The subdivision is an arbitrary line and noted in the block will be cross access and parking. The building itself will be 4,424 sf with a drive thru. The driveway lane and breezeway connects both. There are 4 elevations, southern faces DeBaun Panera and drive thru, west elevation faces Airmont Rd.; the Panera Bread and drive thru sign has the logo which is four sq. ft. on the west elevation by the door.

The final two elevations are north facing up the Thruway and the Panera Bread and drive thru where the drive thru window will be and where the cars will stack. The Village Code allows for one wall mounted sign per facade facing street frontage. There are a total of 8 building signs. The Village allows for 200 sf and all 8 signs in total are 182 sf. They are under by 5% of the total area. There are 4 other aspects with the subdivision in order for Ratan Hospitality to sell and close for them to subdivide and have no impact on parking – lot area, lot width, side set back, side yard when the draw line triggers the subdivision. The last item they are here for is the special use permit where a minimum of 2 acres are required and 1.59 is proposed. This is referenced in the Building Inspector's letter dated 6/24/19 summarizing the site plan.

Chairman Kivell asked how the fast food will work with Panera at the drive thru window. Joshua Sewald explained that there is a second kitchen for the drive thru area only for rapid demand and a second ordering system. There is no intention of Panera being a true fast food restaurant such as a McDonalds that has 22-26 cars stacked. Joshua also explained that Panera stacks 7-9 spaces as they don't have as huge of a drive thru demand and there is an area to the side that a car could go to and the food would be brought to the recipient.

Arthur Katz asked to see the documentation that the hotel has provided consent for them to be here to represent them. The P&Z Secretary will forward it to the ZBA. Laurie DiFrancesco inquired about the seating inside which Joshua explained is 125 seats inside and out. Laurie also pointed out that the covenant on the property was addressed by the Village Board at another meeting and it no longer will be on the deed as part of that.

In reviewing the GML #2 how the County viewed the total number of signs as 18 signs and #1 of GML which basically mirror one another. Joshua explained that the County believes there are more signs than there actually are. The total sign area allowed is 200 sf and their total sign area with 8 signs (not 18) is 152 sf which is smaller than the maximum allowed. Friendly's had one very large sign. Their proposed signs are no way out of character as each are less than 50 sf. and they overall blend with the architectural of a modern look. #3 of GML about an in ground sign. Right now the applicant does not propose an in ground sign and if it is proposed at a later they will deal with it at that time. Ira Emanuel explained that they are asking for an over ride on the number of signs in the GML #2, GML # 3 that the application for another entity has never been fore us so its not ripe and to answer GML #5 reasoning is that there is a lack of recognition, not changing anything.

Chairman Kivell made a motion to open the Public Hearing. Arthur Katz seconded. All in favor. Vincent Lauricella 32 N. Debaun sworn in and asked if there would be a pylon sign which it was noted would be discussed at a later date if one were to be proposed. Barbara Orlansky – 32 N. DeBaun sworn in and noted she had concerns with the traffic since she felt there would more traffic than what the Friendly's had. Joshua explained that two traffic studies were completed and reviewed by the Villages consultants and it was determined there was no negative impact. He also noted that it can't be defined whether or not there may be more or less business than the previous Friendly's. Laurie Di Francesco made a motion to close the public hearing, Chairman Kivell seconded it all in favor, motion carries.

Dan Kraushaar noted that if the Board is agreeing to disapprove or over ride in general an explanation needs to be provided. To the best of his knowledge the Village has never seen a flat out disapproval.

Laurie DiFrancesco made a motion of the ZBA of the Village of Airmont to override the disapproval of the RC Dept of Planning GML dated 4-24-19 in regard to the application for Panera inc for variances to be stipulated and signs of the facade. Upon careful review and analysis for minimum lot area; minimum lot width, minimum side setback and minimum side yard; they are seeking a special use requirement for minimum lot size for a fast food variance as there are unique circumstances whereby the existing proper variances created a tax lot.

Laurie DiFrancesco also made a motion to the sign approval and after careful review disagreed with the count of the number of signs that RCP has calculated (18)and there is testimony that there is less signage then currently in existence.

These items relate to #1 and #2 of the RCP GML dated 4-24-19 in regard to the application only for 8 signs not 18 of which the total square footage of the proposed signs is 152 sf which is less than the current Friendly sign and is less then the allowed 200 sf by the Village of Airmont Zoning Code. In #2 Laurie DiFrancesco noted that the public hearing was amended to reflect the total number of signs as 8 signs not 18 signs as reflected in the GML. Laurie DiFrancesco requested to amend her motion as is and Scott Meier seconded the motion.

For the override of RCP GML #1 & #2 roll call:

DiFrancesco – Aye for reasons previously stated

Picarelli – Aye agree with proposal based on existing conditions to modify what is there and is not a precedent for setting an example vote for an override.

Katz-Aye, agree with over ride for all reasons stated

Meier- Aye, agree as per colleagues

Kivell – Aye agree as per previous statements for an override,

Motion carries unanimously 5 to 0.

Laurie DiFranceco made a motion for the GML item # 3: At this time the applicant is not proposing the off premise sign and if they do in the future and the Building Inspector determines a variance is required that said application will be sent to RCP for review shown on the site plan not designed if in fact determined by the Building Inspector. Arthur Katz seconded the motion, all in favor motion carries.

Laurie DiFrancesco made a motion on GML #5 that all remaining items of the RCP GML dated 4/24/19 shall be complied with by the applicant. Scott Meier seconded. All in favor motion carries.

Laurie DiFrancesco made a motion that all requested variances sought by the adopted negative declaration dated 5/23/19 with a NOI agreed to by the ZBA be approved from Chapter 210 Table 8 for: minimum lot width -on the basis its currently in existence on the property and required by the subdivision of the lot, minimum side setback – has not been changed where there is a lot change only for minimum lot area; minimum side yard – is not a variance as it is

being created by a lot line change. Further more for Section 210-107A Special Use Requirement for a fast food variance be granted based on the unique situation. For the number of Facade Signs Chapter 210-65B(1) recommend that based on the total number of square footage being less (152 sf) than the total square footage of the current signs and permitted amount of 200 square ft in the Zoning Code that the variance they are seeking be granted. Scott Meier seconded the entire motion. Arthur Katz noted also based on the fact that the P&Z clerk get the papers showing the applicants representative is permitted to appear on behalf of the Ratan Hospitality Owners he votes yes.

Roll call:

DiFrancesco-Aye

Picarelli - Aye

Katz-Aye as per his statement on the paperwork

Meier -Aye

Chairman Kivell – agree with motion as we are replacing one restaurant brand with another see no issue.

All in favor, motion carries unanimously.

For the record a copy of the minutes and resolution approving such overrides to be sent to RCP as a response per the RCP GML dated 4/24/19.

Arhtur Katz made a motion to adjourn. Scott Meier seconded it. All in favor motion carries. Meeting adjourned at 9:56pm.