

**POINT PLEASANT PLANNING BOARD**  
**September 29, 2022**

The regular meeting of the Planning Board was called to order by Chairwoman Bavais. Ms. Bavais read the Notice of Compliance which states that adequate notice of the meeting had been given.

**Roll call:**

Present: Chairwoman Bavais, Mr. McHugh, Mayor Sabosik, Mr. Furmato, Mr. Vitale, Mr. Welch, Mr. Preiser, Mr. Potter

Attorney: Ryan Amberger, Esq., Engineer: Laura Neumann, P.E., Board Secretary: Claire Hense

Absent: Messrs. Pannucci and Faraldi

The August 25, 2022 **Minutes** were approved on a motion by Mr. Vitale and seconded by Mr. Potter, with all in favor.

**New Business**

Chairwoman Bavais stated the Board has one **informal application** to be heard this evening, that of **AKSH Donuts, LLC** regarding property located at 1039 Ocean Road, a/k/a Block 123, Lots 10 and 12.

**Jillian McLeer, Esq.**, of King, Kitrick, Jackson, McWeeney & Wells, LLC., Manasquan, New Jersey came forward. Ms. McLeer stated she was here this evening with Joseph Kociuba, P.E., P.P. and a representative of Dunkin' Donuts, Mr. Atul Patel. Ms. McLeer stated they appeared before the Board previously and received valuable insight from the Board at that time and they appear this evening with an updated application. Ms. McLeer further stated the applicant plans to demolish the existing business and construct a new Dunkin' Donuts, utilizing the adjacent lot.

Mayor Sabosik wanted to know if the client is a contract purchaser of Broadway Sign, to which Ms. McLeer responded they are in an LOI with the owner of the property.

**Joseph Kociuba, P.E., P.P.** of KBA Engineering Services, LLC, Manasquan, New Jersey came forward. Mr. Kociuba stated the applicant approached the owner of the neighboring property (1029 Ocean Road) about parking on said property. Mr. Kociuba stated they will utilize both lots completely, the entrance to the business would be from Arnold Avenue, they intend to move the entrance on Ocean Road further to the east, and the traffic flow would operate clockwise around the building. Mr. Kociuba stated all vehicles have to access the full length of the driveway of which there are twelve (12) spots which is more than adequate.

Mr. Kociuba further stated the refuse enclosure will be located in the back right corner, a couple of the parallel stalls will be dedicated to a 12 x 45 loading area which will be used once per week for general merchandise such as cups, etc., the donuts will be baked

off-site and delivered once per day, and this location will not just be a drive-through – that customers will be able to enter the store.

Mr. Kociuba stated the second floor is intended for offices or more commercial space, and the owner may later want apartments upstairs. Ms. Neumann stated that is not permitted in the zone. Mr. Vitale asked about the number of parking spaces as he could only locate 8 of them. Mr. Kociuba stated there are also two on the west side, one of which is designated a handicapped spot, as well as two parallel stalls on the north side. Mr. Vitale wanted to know how many employees would be on site, to which Mr. Kociuba stated there would be four. When questioned how many spots are available for customers, Mr. Kociuba stated the drive through is the primary function and there are twelve (12) stalls which is more than adequate.

Ms. Neumann stated she is not comfortable talking about apartments as the applicant would need a D-1 variance as it is not a permitted use. Mr. Welch asked if the loading area for supplies is on the north side of the building; Mr. Kociuba stated yes, and they would unload after busy hours which is approximately first thing in the morning and then again about mid-afternoon. Mr. Welch asked why the Board is hearing this now as there are no plans and they would need to appear before the proper Board. Ms. McLeer stated the plan now is to have a permitted use on the second floor. Mr. Welch stated there are too many variables and he would not give an opinion this evening. Mr. Vitale stated the applicant should come to this Board because this Board heard the first application and is more familiar with the matter. Ms. Neumann stated she was concerned with the way it is being presented and stated the conceptual comments from the Board should only be for a permitted use.

Mr. Vitale wanted to know the location of the entrance, to which Mr. Kociuba responded on the east side, and side doors on the north side. Mr. Vitale stated there is a 9 (9') foot driveway around the building and questioned if one would enter from the east and pick up their order on the south side, to which Mr. Kociuba responded there is an eleven (11') foot dimension and room for twelve cars in the line-up. Mr. Vitale asked if any studies had been done showing the load would be any lighter at the Bridge Avenue location if this application is permitted. Mayor Sabosik stated the Bridge Avenue location has been open for several years and is very nice, and then asked if this location is projected to do less or more revenue.

Mr. Atul Patel came forward and stated he is the current owner and operator of this store, further stating there are 114 Dunkin' Donuts located in Monmouth and Ocean counties, and he would like to increase the revenue by 30-40%. Mayor Sabosik stated he is aware of internal and external reports in big businesses, and asked Mr. Patel if he projected this store to increase revenue. Mr. Patel stated he opened the Bridge Avenue store in 2018, on average Dunkin' Donuts is at 35-50% depending, but is on average. Mr. Patel stated he expects this location to be less than the Bridge Avenue location. Mayor Sabosik stated if this location is 20% less than the Bridge Avenue location, there is no way to have any other use on the property as the intensity will be beyond its capacity.

Chairwoman Bavais stated she is concerned with the turn, asking if there would be right turn only onto Arnold Avenue, and a right turn only onto Ocean Road. Mr. Kociuba stated they will need to go to a number of agencies for the traffic – the county, the DOT, etc., further stating Ocean Road will be the one most likely to have a right turn only.

Mr. Preiser asked what the number of line stacking on Bridge Avenue would be; Mr. Patel responded “less than nine”. Councilman Furmato asked about the number of cars in the drive-through, to which Mr. Kociuba stated twelve. Mr. Patel stated Bridge Avenue has ten parking spots in front, which includes handicapped parking. Mr. Vitale wanted to know how the Board could get information on the number of cars stacked at any given time, to which Mr. Kociuba responded a traffic expert will provide that information.

Mr. McHugh had questions regarding the flow of cars coming into the location and stated he is more concerned with the ones coming in from Arnold Avenue because as they approach, he can see a situation where the cars who picked up their orders have to make a left turn. Mr. Kociuba stated they are trying to avoid a car by-passing and there will be signage. Mr. McHugh stated his other concern is the cars coming over the bridge heading east will need to come through the intersection and want to make a left into the lot which creates more traffic which might be a problem. Mr. McHugh stated for the Board to not limit to a right-only exit is a lot, further stating the only way this will go anywhere is if the Board’s Resolution says it can only be a one-story building, that there are enough problems here that a second story will be a problem.

Councilman Furmato stated he is concerned about the Ocean Road school because a lot of children cross at that spot and traffic will back up. Ms. Neumann stated should the applicant choose to proceed, she would first like them to meet with the DOT as well as the county so the Board will know what their questions were and can proceed accordingly.

Chairwoman Bavais stated the Board has one **application** to be heard this evening, that of Gerald and Katherine Malanga for a minor subdivision regarding property located at 723-731 Mount Place, a/k/a Block 275, Lot 7.01.

**Christopher J. LaMonica, Esq.**, 414 Princeton Avenue, Brick, New Jersey came forward. Mr. LaMonica stated he represents the applicants who come before the Board for a minor subdivision of their property located at 731 Mount Place.

Mr. LaMonica caused to have the following items marked into evidence:

- A-1 Outbound & topographic survey dated 11/15/21 from Lindstrom, Diessner & Carr, P.C.
- A-2 Minor Subdivision dated 2/4/22 from Lindstrom, Diessner & Carr, P.C.
- A-3 Packet of four (4) colored photographs with one depicting a style of a house applicants favor, in addition to 3 photographs of existing homes in their neighborhood from a previous subdivision.

Mr. Amberger swore in the following witness:

**Charles E. Lindstrom, P.E., P.P.**, a principal in the firm of Lindstrom, Diessner & Carr, P.C., 136 Drum Point Road, Brick. Mr. Lindstrom stated he has been practicing since 1979, which is over 40 years.

Mr. LaMonica requested a waiver of architectural drawings to which Ms. Neumann stated the Board has previously not granted any subdivisions without them. Ms. Neumann further stated this application was flagged as a submission waiver because there is a variance waiver request, but she would defer to the Board and pointed out the variance requested is for lot width. Ms. Neumann agreed there is a current existing, non-conforming condition and creating two (2) lots should remove this. Mr. LaMonica stated they would return for administrative approval on whatever house is proposed, the lots will be conforming other than the width, and they will be curing an existing non-conformity. Ms. Neumann requested a survey, and Mr. Lindstrom furnished one which was passed around by Board members. Mr. LaMonica stated the survey is consistent with the Minor Subdivision Plan.

Chairwoman Bavais noted there was a fair amount of public in attendance in the audience, possibly neighbors, and she was attempting to see how this subdivision would be beneficial. Mr. McHugh stated he was willing to allow the applicants to move forward and they could present the architectural drawings later. Mayor Sabosik concurred and stated there were a lot of people in the audience, many of whom were in support of the application. Mr. Welsh stated there was a lot the Board would not know this evening, for example, outdoor showers, location of condensers, etc. Mr. Vitale stated applicants are looking for basic approval for two houses on two lots.

Mr. Lindstrom stated the plan is to remove both houses on the lot, divide it down the middle to create two lots, further indicating they would need a variance for the lot width on each lot, and they will meet all other bulk standards of the zone.

Mr. Amberger swore in the following witnesses:

**Gerald J. Malanga**, 731 Mount Place  
**Katherine Malanga**, 731 Mount Place

Mr. Malanga stated they currently reside in the first house at 731 Mount Place. Mrs. Malanga stated they plan to knock down the back house, they are currently trying to get architectural drawings for their current home at 731 Mount Place, and they are hoping to sell the second piece of property in order to use the funds to build their own home.

Mr. LaMonica stated the back house is coming down first and the subdivision has to be perfected by 190 days later, and the applicants will remain in the front house until they sell the rear property. Ms. Neumann stated the house has to be razed before a map is filed, further stating it will be a non-conformity until the applicants take down their house, which is a temporary condition.

Mr. McHugh wanted to know if the Board would direct the applicants to return for administrative approval, or approve and direct the new owners of the second lot to come before the Board for administrative approval of whatever they decide to construct. Mr. Vitale asked if they don't subdivide and remove the rear house, could they still subdivide, to which Ms. Neumann replied in the negative and stated once demolished, they lose the right to subdivide. Katherine Malanga stated their intent is to subdivide, sell the second lot, and continue to reside in their home for one (1) year. Mr. Vitale stated they have one year or they have to come back before the Board; Ms. Neumann stated they would not need an extension in one year, when they are ready to construct they will need to return to the Board with their architectural drawings.

Mr. LaMonica addressed numbers 5 and 6 in Ms. Neumann's review letter dated August 11, 2022, further stating his clients will stipulate as to the Pedestrian Safety Fund. Mr. Lindstrom stated there is currently a concrete gutter type of curb and no sidewalks. He stated they will contribute to the Pedestrian Safety Fund and make any repairs, if need be. Mr. LaMonica stated they have already received Ocean County Planning Board approval as of April 20, 2022.

Mr. Vitale wanted to know if the property is located in a flood zone, to which Mr. Lindstrom replied most of the property is in the A-5 zone but the back corner of the western lot is in the "X" zone. Mr. Lindstrom indicated most of the two houses will be constructed in the A-5 zone. Setbacks of the neighboring houses as well as the proposed houses was discussed with Mr. Lindstrom pointing out the Board required forty (40') foot setbacks in 2012 for those in the neighborhood from a previous subdivision, and stating these are at twenty-five (25') feet. Mr. Lindstrom stated the subdivision also includes the back house which was over the property line and they added more property so the Zoning Board had to look at it.

Katherine Malanga stated their front house was constructed in 1898. Mr. Lindstrom stated they believe this is a better plan, further stating several lots adjoining the property on Howe Street have the same width. Mr. Lindstrom stated this plan takes away 1 large lot with 2 houses, which are non-conforming, and creates 2 lots with conforming construction. Mr. Lindstrom stated this application meets the requirements of a C-2 variance. Mr. Lindstrom stated each house would sit on its own lot and the property is located in the single-family residential area.

Mr. LaMonica made a motion to amend the application to include a side yard variance, further indicating this would be a temporary situation until the home is removed. Mr. Preiser stated that until the new home is constructed, the current gravel driveway would need to be moved to Lot 7.02. Mrs. Malanga stated their current home has 2 bedrooms and her son is sleeping in what is a closet.

Chairwoman Bavais opened the meeting to the public for questions. The following person came forward:

**Maria Ritter**, 725 Mount Place

The meeting was closed to the public for questions.

Chairwoman Bavais opened the meeting to the public for comments or concerns. The following persons were sworn in by Mr. Amberger:

**Christopher Connolly**, 726 Howe Street

**Ellyn Shannon**, 723 Mount Place

**Maria Ritter**, 725 Mount Place

**Michelle Williams**, 727 Mount Place

Seeing there were no other members of the audience wishing to comment, Chairwoman Bavais closed this portion of the application.

Mr. Vitale questioned the sequence of this matter. Ms. Neumann replied that upon development of each lot, they would need to return, the applicants need to file for a demolition permit for the second house, file for the subdivision for 2 lots, and the buyers of lot 7.03 as well as the applicants at lot 7.02 would need to come to the Board for administrative approval. Mr. Amberger noted the neighbors would all need to be notified.

Ms. Neumann mentioned a waiver with the sidewalk, and stated the existing curbing would be repaired or replaced. Ms. Neumann further stated each lot requires two (2) trees be planted in the front of them, and if the Board grants the subdivision tonight, they should increase the front yard setback. Mr. LaMonica stated that with regards to a setback adjustment, the Board has control over what will be built on each lot and suggested it could be adjusted at the meeting. Mr. LaMonica asked the Board to not make a 40' adjustment at this time, but wait until they have plans.

A discussion ensued over the setbacks. Ms. Neumann stated if the Board approves the subdivision this evening, the applicants will then need to come back to the Board for administrative approval for each house, Ms. Neumann asked if based upon information provided, if the Board was agreeable to a subdivision with a variance, further stating if the merits are not warranted, the Board should not approve. Mr. LaMonica stated this is a unique case, the applicants have agreed to everything, and the Board will still have control over both lots.

Mayor Sabosik stated this is a two-part application. Part A is for a subdivision tonight and Part B, applicants cannot do anything with both lots until they come back with topography. The Mayor further stated this is not setting a precedent – if they get the subdivision tonight, they have to tear down the second house and each lot owner would have to return to the Board for approval of what is to be constructed on each lot. Mr. Vitale indicated he would like a topography of the entire property.

Gerald Malanga mentioned when it rains heavily, the front of his house by the Williams' house is already sitting below his water line, it does not flow any which way and is not a problem.

Ms. Neumann pointed out that the back house, number 729, has been unoccupied since August 28. Mr. Lindstrom stated the back house is pre-existing and non-conforming.

Mr. Amberger read the conditions for the Resolution from his notes. Mayor Sabosik stated he wanted to go on record to state this is not setting a precedent.

A motion was made by Mr. Welch and seconded by Mr. Potter to approve the application with the conditions stated. Roll call: YEAS: Brian Welch, Fred Potter, Mary Jane Bavais, John McHugh, Jr., Robert Sabosik, Joseph Furmato, Jack Vitale, Andy Preiser NAYS: None

### **Exempt Site Plan Committee**

Mr. Potter stated the Committee met with Mr. Jason Oakley and others regarding property located at 1115 Arnold Avenue. Mr. Potter stated Mr. Oakley is looking for approval to install a handicap ramp, an extension to the porch for the purpose of the ramp, to construct a new sign, install window wells for the basement, and replace asphalt with grass and shrubbery. Mr. Potter stated the actual lot coverage would be reduced by 1% and the Committee thought that would be acceptable.

### **Environmental Committee**

No comment as Mr. Faraldi was absent.

When the Board returned, a motion was made by Mr. Potter and seconded by Mayor Sabosik to approve the vouchers. All were in favor.

The meeting adjourned on a motion by Mr. Welch and seconded by Mr. Preiser. All were in favor.

Respectfully submitted,

Claire S. Hense