

PLANNING BOARD
TOWN OF COLONIE

COUNTY OF ALBANY

PANERA BREAD
601 TROY SCHENECTADY ROAD
APPLICATION FOR APPROVAL OF WAIVER

THE STENOGRAPHIC MINUTES of the above entitled matter by SUZANNE T. HARRINGTON, a Shorthand Reporter, commencing on August 7, 2018 at 7:00 p.m. at the Public Operations Center, 347 Old Niskayuna Road, Latham, New York.

BOARD MEMBERS:

PETER STUTO, CHAIRMAN
KATHY DALTON
BRIAN AUSTIN
LOU MION
CRAIG SHAMLIAN
SUSAN MILSTEIN
STEVEN HEIDER

ALSO PRESENT:

Kathleen Marinelli, Esq., Counsel to the Planning Board

Joe LaCivita, Director
Joseph Grasso, PE, CHA

Michael Tengeler, Planning & Economic Development Dept.

Josh Sewald, PE., Dynamic Engineering

CHAIRMAN STUTO: Hello. Welcome to the Town of Colonie Planning Board. We have several items on the agenda. Before we call up the first item on the agenda, Joe LaCivita, who's the head of the planning department; do you have any business matters you would like to discuss or announcements you would like to make?

MR. LACIVITA: Just to remind everyone and members of the board that are on the comp. planning committee, we are having a meeting tomorrow night, right here in this room, as we're advancing toward the final adoption of our comprehensive plan that we have been working on for two years.

We have a meeting tomorrow night, 6:00 p.m., here. Then we'll be having the public hearing or public meeting at the Crossings and that will be September 12th.

But tomorrow night here, kind of get an assembly of where we are to date for the past two years, six o'clock tomorrow, right here.

CHAIRMAN STUTO: Anything else?

MR. LACIVITA: That will do it.

CHAIRMAN STUTO: Thank you. The first

item on the agenda -- is this working or is it on and off? Okay. Panera Bread, 601 Troy Schenectady Road. Application for waiver request to allow for drive-thru within the front yard setback Incentive Zoning Request.

Mike Tengeler, do you have any introductory remarks on this one?

MR. TENGELER: Real quick, just to rehash where we are on this. They came in initially on May 8, 2018 to make the initial request. There were no real fundamental issues with the waiver request.

However, there were some concerns as to traffic queuing, with the Panera moving into the old Pizzeria Uno. So they have done a traffic study, engaged the TDE. Joe Grasso is here from CHA to comment on the traffic study that was done, and there is a CHA letter in there as well to corroborate. Josh is here from Dynamic Engineering to present.

CHAIRMAN STUTO: Okay. We'll turn it over to the applicant.

MR. SEWALD: Good evening everybody. My name again is Josh Sewald. I'm from Dynamic

Engineering. I'm here representing Panera LLC. Like Michael just mentioned, it's what appears to be a minor site plan application.

We're moving the Panera that's already within the existing shopping center to the former Uno's Pizza restaurant. We're here for two design waivers. That's why we're before your Board.

Drive-thru being within the front yard, and the second is a slight decrease in open space area. I testified in May as to why both of those are de minimus in nature. I believe the Planning Board also agrees with that finding.

One of the comments from the Board at the May hearing was about concerns with traffic along Erin Street. We did provide a comprehensive traffic study that also counted various other Panera Bread's with drive-thrus in the regional area, and how that will impact Erin Street, and up and down Erin Street.

I believe -- and he can speak for himself -- concluded with our traffic study. If there's any specific questions, I did bring traffic here with us this evening, in case there's any additional comments, and looking forward to

discussing the remainder of this project.

CHAIRMAN STUTO: Okay. As you said, you commissioned a traffic study, and it's been reviewed by CHA. Joe Grasso is here to report to the Board. Joe, can you tell us what you found?

MR. GRASSO: Sure. So the traffic study --

CHAIRMAN STUTO: I'm going to interrupt for one second. Can we get a sheet of paper up there for sign-ins? For the voting items that are on the agenda today, we will take public comment, and we ask you to sign up on the sheet that Joe will put on the table.

MR. GRASSO: So if you recall, when this project was last before the Planning Board, the primary concern was when the former Pizzeria Uno gets redeveloped into the Panera and a drive-thru gets added to the Panera, the traffic conditions are going to change obviously from existing conditions, and could even be more than they were when it was just a Pizzeria Uno restaurant.

In addition, the Planning Board a few months back approved a project on the other side of Erin Street, along the side of the Dick's and

Field and Stream with the Core Life Eatery, another restaurant there, which is going to add traffic onto Erin Street.

So one of the concerns that the Planning Board had at the last meeting, the last time the project was reviewed was, how congested are things going to be on Erin Street, when traffic is coming in off Route 7, and looking to make these turning movements?

As well as when projects on these two side street approaches are trying to get out onto Erin Street and exit back to Route 7.

So we had worked with the applicant's engineer to develop the scope for the traffic study. It's a pretty limited traffic study. One of the key things was for them to build into the traffic study the projected traffic that's going to occur from the development across the street.

Because, obviously, that's already been approved by the town. It's not on the existing system, but it's approved. And there were no improvements identified as part of that project.

So they did evaluate the redevelopment of the Pizzeria Uno. They have accurately modeled

the traffic coming out. There is -- based on results of the study, there isn't going to be any queuing along Erin Street as a result of this project or the project, you know, across the street.

You know, there's a left turn lane there as you come in off Route 7, trying to take a left toward what would be the Panera Bread. And that queue lane is sufficiently long enough to accommodate any queues that are going to occur.

What the traffic study did show, though, is there are going to be increased delays by the two side street approaches. The driveway that comes up from the Panera Bread, as well as on the opposite side, the driveway that comes up between the -- is it the Brick House -- and I would call it the Core Life Eatery Development.

And we go through in our letter and we talk about what the impacts are. The peak hour, because we're dealing with a shopping center type setting, the peak hour of traffic is Saturday afternoon peaks, so that's really what we focused on.

For the most part, all along Erin Street

those intersections are going to operate adequately with minimal levels of delay during all the other times of the week. The one time where pretty significant delays are going to occur for the side street approaches are going to be the Saturday afternoon peak hours.

So what the traffic study demonstrated is that during the Saturday p.m. peak hour when you're trying to get out of that Brick House driveway, right now it's a level of service E with a 38 second delay.

When you just take into account the development on the other side of the road, it would become a 54 second delay. And then when you add in the redevelopment of the Pizzeria Uno with Panera Bread, it becomes still level of service F, but a 66 second average delay. So that's pretty significant.

Normally when side streets are getting delayed, we don't have a concern, because the main flow of traffic along Erin Street will continue to flow unimpeded, and those cars are just going to have to wait until they get out.

And a one minute delay at the worst time

of the week isn't necessarily something that you can't live with. So in our letter we go through some, you know, options that could be looked at to mitigate that situation.

The traffic study didn't consider the -- when the light on Route 7 and Erin Street goes through its normal cycle, that cycling is going to create gaps in the amount of traffic on Erin Street coming into the site.

So every time, you know, there's no traffic inbound, that's going to create gaps that these cars are going to be, you know -- so that's going to make this situation better than what the model actually tells us.

The other thing is, if you can recall the Core Life Eatery Development project, the development of that site plan provides that a cross-connection between -- let's call it the Brick House driveway and the driveway out in front of the Dick's store.

So the cars that are coming out of the Brick House driveway have an option to get away from that intersection, then go down to that other driveway that's more towards the north, if they

think that they're going to experience delays at that intersection.

And that's based on results of the previous traffic study. It will be easier to take a left out of that intersection onto Erin Street. Conversely, on the other side of the road -- and you can see it from the plan for this project. When you're coming out of the Panera Bread, and if you're expected to have delays when you pull up to Erin Street, there is also a cross connection to another curb cut to the north.

Which also provides opportunities for somebody else to, you know, go up to that curb cut and then take a left and not experience the delays at that first Erin Street intersection. So -- but the data is the data, and that's why we wanted to present it that way.

There are a couple other things that could be done in order to try to improve traffic conditions at that intersection.

One would be to add signage that could direct traffic that's coming from the Panera Bread to that northerly intersection. So that if somebody is going up there to take a left, they

can actually head down to the north and then come out and take the left. It will be easier to get out.

CHAIRMAN STUTO: What would the sign say?

MR. GRASSO: It would say northbound traffic, you know, turn here basically, at that first intersection.

MR. SEWALD: And the applicant has no problem providing that way finding signage through various different landscape islands to direct you to that northern driveway.

MR. GRASSO: So then the other thing that could be done is on either side of the side street approaches, you could actually develop a three lane section. Because the delay that is created by all the cars that are coming up there, looking to either take a left or a right, those are all in one exit lane.

Once you start to split the exit lane and you provide a separate lane for the left turning cars and right turning cars, you start to reduce the average vehicle delay across the whole intersection.

So you could either consider a three lane

section on the Panera Bread side of the road or a three lane section on the Brick House side of the road. Either option starts to split off some of these vehicles and then improves the operation of that whole intersection.

CHAIRMAN STUTO: Do you know if there is enough pavement there now on the Panera side?

MR. GRASSO: I don't know. Do you know the width of the driveway? Because normally when you look for a three lane section, you know, say you could go like three ten foot lanes -- so you need about 30 feet, 32 feet, to accommodate a three lane section.

MR. SEWALD: I do believe we have 30 feet, and the applicant has no problem recommending it, but unfortunately we don't own this property. So there might be a little bit of complications to convince either the Brick House owner as well as the office to provide those areas.

We're not against it. We believe it's a great recommendation, but because it's a public right-of-way as well as not our property, we really don't have, unfortunately, a say on how we

improve those areas.

I do believe and agree with your consultant that because of the movements out of the Brick House driveway, which is the driving factor of the negativity of the traffic, because of that now new cross driveway -- it's not built yet, but it will be.

On the Saturday in that one hour where there's a negative detriment, I believe that if someone knows that on that Saturday, okay, I have to wait now this 60 seconds. I'm going to make the right though this driveway, then come out of Erin Street, I know there's less of an impact.

Same way with Panera Bread on that Saturday afternoon. If they know the area and they know that you're going to wait that 60 seconds, they're going to go to that second driveway where there's minimal delays.

So we're more than happy to provide that way finding signage. And if there's any way to help the town or even speak with Brick House, we could discuss that, but we unfortunately don't have control over that driveway.

MR. GRASSO: I guess one of my questions

would be, on the west side of Erin Street, though, do you control -- do you have access rights to that property? I would think that you would, because that is your egress from your site.

MR. SEWALD: We have a cross-access agreement with this owner. But this right here in the bold white line is our property line.

MR. GRASSO: So the question is, do you have the right to go in there and make improvements to that drive lane?

MR. SEWALD: It would require an agreement with this property owner.

MR. GRASSO: Understood.

MR. SEWALD: We're more than happy, as a condition of that, to provide documentation of what we have in an agreement with them. And if they do agree with it, we would be more than happy to stripe that, as long as it doesn't require further work of the Brick House.

MR. GRASSO: Understood.

MR. SEWALD: If that's okay with the Board.

CHAIRMAN STUTO: Let's talk -- is the Board interested in pursuing the conversation on

that particular -- making that into a three lane? Because I want to ask some follow up questions on that.

MR. SHAMLIAN: Yes.

CHAIRMAN STUTO: Does that help or hinder the office building, the next door neighbor?

MR. GRASSO: It helps the office building. We wouldn't expect that they're going to be caught up in this traffic during the Saturday afternoon. But if they were, it would help their vehicles as well.

CHAIRMAN STUTO: Okay. Any questions on that? What's your recommendation? Try to fix the side the Panera is on?

MR. GRASSO: Yes, I would do the side that Panera is on. Obviously it's one that we think would be controlled -- or the applicant would have some control over that access and then do the internal signage.

CHAIRMAN STUTO: What does the Board think? Any comments or questions?

MS. DALTON: I don't think it could hurt to talk to the Brick House folks and see if they're willing to put up some signage as well,

because they'll be generating a significant amount of traffic as well. So, you know, the more that we can do, if people are okay with us doing it, the better it is, in my opinion.

CHAIRMAN STUTO: I agree. No harm in talking to them. Let's go back to the approval.

MR. GRASSO: So if the Board decides to go in that direction, I would just condition your approval on, you know, pursuing that option; but not make it, you know, a requirement of the project.

And we can work with the planning department and the applicant to flesh out that option. I don't know if whether or not it would be the Brick House that we would be working with or the developers of the Core Life project.

CHAIRMAN STUTO: Are you done with your presentation?

MR. SEWALD: Yes, unless there's any other questions for us.

CHAIRMAN STUTO: Any members of the public want to be heard on this one? Okay, we'll turn it over to the Board. Chief, we'll start with you. Any questions?

MR. HEIDER: No, I'm good with it.

CHAIRMAN STUTO: Craig?

MR. SHAMLIAN: The study showed no further backup on Erin, correct?

MR. GRASSO: No, when the two E car is queuing. And it's really because the opposing traffic is not that significant. So there will be enough gaps in the opposing traffic that they would be able to take the left --

MR. SHAMLIAN: On the southbound traffic?

MR. GRASSO: -- and it's not really a lot of cars that are taking the left into this curb cut, because so many cars can go more to the north and take the next curb cut to take a left in.

MR. SHAMLIAN: Okay.

CHAIRMAN STUTO: Brian? Lou? Kathy? Okay. Where are we with SEQR on this?

MR. TENGELER: SEQR has been completed, it's in your packets. Rebecca Kennedy from our attorneys office reviewed it.

CHAIRMAN STUTO: Is she saying it's a Type 2 action?

MR. TENGELER: Yes, Type 2 action.

CHAIRMAN STUTO: So nothing further needs

to be done, okay. Joe, I would ask for your help to guide us through the rest of this process. We have the waivers that they're requesting and we also have our recommendation on traffic.

How do you best recommend that we lock in, as far as we can, the traffic recommendations? Which would be, in terms of priority, widening the access driveway on the Panera side. And secondarily, but importantly, the access on Brick House side.

MR. GRASSO: Yes. But to word it that we would pursue those measures as conditions of approval, but those are not binding conditions, you know, or those are not binding or --

CHAIRMAN STUTO: Okay -- that doesn't create much of an incentive for him. Who's going to help us make that happen, from staff side?

MR. LACIVITA: We're going to work with Kimco who is the actual property owner. And they have the present one working with Core Life. They also own the Brick Warehouse (sic).

CHAIRMAN STUTO: Okay. Is it the same owner on both sides?

MR. LACIVITA: No, different owner on

this side, but the whole Latham Farms is Kimco. And they have to come back to us a number of times with changes in tenants and --

CHAIRMAN STUTO: So that will be next on the Board anyway --

MR. LACIVITA: Yes.

MR. SHAMLIAN: But we are --

CHAIRMAN STUTO: Go ahead.

MR. SHAMLIAN: -- regardless of that, internal signage, right?

MR. SEWALD: More than happy to do the internal signage. I already know that this, our side, is wide enough to provide the three ten foot lanes. I just need his sign off. Which I do believe it's an improvement, so I don't expect that to be too big of a deal. So I believe you can put those in there.

It's just, like Mr. Grasso said, we will do everything we can to improve the documentation to your planning department --

MR. GRASSO: And we'll try to get it in writing, you know, whether or not there's a commitment or not --

MR. SEWALD: Because that also would just

be striping. That driveway is wide enough to handle those three lanes.

CHAIRMAN STUTO: Okay. Is the Board ready to move forward on that basis? Okay, the land use waivers. Is that next?

MR. TENGELER: Yes, there's two waivers

--

CHAIRMAN STUTO: Can you just tell us what they are, in lay terms, then read the title and then --

MR. TENGELER: Yes. In laymens terms the two waivers are in regards to having a drive-thru lane with a front yard building setback, as well as an Incentive Zoning Request for the depletion of green space.

CHAIRMAN STUTO: And they're making a payment for that, correct?

MR. TENGELER: Resulting in a payment of \$37,986.

CHAIRMAN STUTO: Any comments or questions from the Board? Okay. Can you read the title? And then -- and I would ask the stenographer to put the whole resolution into the record.

MR. TENGELER: Planning Board Findings,
Land Use Design Standard Waivers. 601
Troy-Schenectady Road.

WHEREAS, BE&L Inc.(the "applicant"), has
proposed a redevelopment of an existing 6500 SF
building on a 9.98 acre parcel of land located in
a Highway Commercial Office Residential Zoning
District (HCOR) at 601 Troy-Schenectady, Town of
Colonie, Albany County, New York. The project
also involves the addition of a drive-thru lane
accessory to the primary use; and

WHEREAS, the applicant is requesting a
waiver from the Design Standards from the Town of
Colonie Land Use Law, Article IX-Chapter 190-41,
(A), (3) (a), which specifies that "New parking in
the front yard shall be prohibited. Further,
drive-thru access aisles and stacking spaces shall
be prohibited within the front yard", and

WHEREAS, the applicant is requesting an
Incentive Zoning consideration per Town of Colonie
Land Use Law, Article VI-Chapter 190-27, (E),
equating to a fee of \$37,986.00, and

WHEREAS, the Town of Colonie Planning
Board (the "Board") may waive these standards to

the extent it deems necessary in order to secure reasonable development of the site. In such case, the applicant must establish that there are no practical alternatives to the proposed waiver; and

WHEREAS, the shape and location of the parcel create three front yard setbacks, resulting in the drive-thru within the front yard; and

WHEREAS, the drive-thru lane has been located to allow for the most sensible and safe means to access the building; and

NOW, THEREFORE BE IT

RESOLVED, the Board hereby recognizes that the extent of the requested waivers are not considered substantial as they will not overload municipal sewer, water or school districts; and be it further

RESOLVED, the Board hereby recognizes that the applicant has established that there are no practical alternatives to the proposed waivers that would conform to the standard, and the waivers are necessary in order to secure a reasonable development of the project site; and be it further

RESOLVED, the Board hereby finds the

waiver request reasonable to allow the drive-thru lane to be located within the front yard setback; and be it further

RESOLVED, the Board hereby finds the Incentive Zoning request, resulting in a payment of \$37,986.00 due to the reduction of green space on site is reasonable; and be it further

RESOLVED, this waiver findings be kept in the project file in the office of the Planning and Economic Development Department.

CHAIRMAN STUTO: Do we have a motion on that resolution?

MR. MION: I'll make a motion.

CHAIRMAN STUTO: Lou. Second?

MR. AUSTIN: Second.

CHAIRMAN STUTO: Second, Brian. Any discussion?

(There was no response.)

CHAIRMAN STUTO: All those in favor say aye.

(Ayes were recited.)

CHAIRMAN STUTO: All those opposed, nay.

(There were none opposed.)

CHAIRMAN STUTO: The ayes have it. Now

on the main question before the Board -- I guess that's --

MR. TENGELER: Yes.

CHAIRMAN STUTO: So we set the conditions that you're going to try to get -- you're going to do the signage, and you're going to try to get the three lanes on both of those --

MR. SEWALD: On both approaches, correct.

CHAIRMAN STUTO: Who on staff will follow up with that?

MR. TENGELER: I'll follow up with that.

MR. SEWALD: Thank you, everybody. Have a great evening.

(Whereas the above entitled proceeding was concluded at 7:20 p.m.)