



Attorney Chip Gaudette introduced himself as the representative for Cafua Management Company. Mr. Gaudette then turned the presentation over to Mr. Beal.

Carl Beal, PE, of Civil Consultants, introduced himself, and gave a brief history of the project and provided photos and drawings of the current and proposed plan for the Dunkin' Donuts kiosk.

Attorney Paul Bulger, attorney with Lambert Coffin, introduced himself and mentioned he filled-out the ZBA application. Mr. Bulger then presented the appeal.

Mr. Bulger then asked if there were any questions by the Board and the Board proceeded to ask Mr. Bulger questions.

Shirley Sheesley, Code Enforcement Officer, introduced herself and presented the Town's position. She mentioned that there is no appeal because she has not taken any action and that the ZBA application wasn't filed in a timely manner.

There were questions by the Board and discussion on whether there even is an appeal.

Ms. Sheesley then went through the 8 criteria.

There were further questions and discussion by the Board.

Mr. Gaudette rebutted Ms. Sheesley's comments. He stated that he has been working on this project for 3 years and this issue of setbacks was just brought up at the December 11, 2006 Planning Board meeting. Mr. Gaudette mentioned he has exhausted all other avenues and feels that timeliness is a moot point.

Chairman Pippin asked if there were any comments for or against the project.

John York of 2 Thomas Street, Springvale, introduced himself as an abutter. He has no objection to Mr. Weston selling his property, just doesn't want a Dunkin' Donuts in the neighborhood. Mr. York has attended all the Planning Board meetings.

Ms. Sheesley then responded to Mr. York. She also apologized about saying she had not seen the current plans-she did see then in December, 2006.

There was much discussion about timeliness and Section 6.4 of the zoning ordinance regarding action taken by the Code Enforcement Officer.

The Board mentioned that Ms. Sheesley's memo to the Planning Board dated December 20, 2006, was taking action.

Chairman Pippin closed the meeting to public comment.

The first issue the Board discussed and voted on was there an action taken by the Code Enforcement Officer.

Mr. Chabot made a motion that the Zoning Board is able to take action on this variance appeal per the Code Enforcement Officer's December 11, 2006 memo to the Planning Board.

Ms. Khan seconded the motion.

The Board voted 3-2, with Mr. Plourde and Chairman Pippin voting against, to pass the motion.

The second issue the Board discussed and voted on was whether the appeal application was filed in a timely manner.

Ms. Gulnac made a motion that the appeal application was filed in a timely manner.

Ms. Khan seconded the motion.

The Board voted 3-2, with Mr. Plourde and Chairman Pippin voting against, to pass the motion.

The Board then discussed and voted on the 8 criteria as follows:

- 1) Chairman Pippin made motion that a drive-thru restaurant is allowed in the Urban Business zone. Mr. Chabot seconded the motion. The Board voted 5-0.
- 2) Mr. Chabot made a motion that there would be significant economic injury if the Ordinance was imposed. Ms. Khan seconded the motion. The Board voted 4-1, Mr. Plourde voting against.
- 3) Ms. Gulnac made a motion that the circumstances are unique to the property and not the general condition of the neighborhood. Ms. Khan seconded the motion. The Board voted 3-2, Mr. Plourde and Chairman Pippin voting against.

- 4) Ms. Gulnac made a motion that granting of the variance will not produce an undesirable change in character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties since the appellant is providing a natural buffer which will enhance the property. Ms. Khan seconded the motion. The Board voted 3-2, Chairman Pippin and Mr. Plourde voting against. (Mr. Plourde feels the strongest opposition to this question.)
- 5) Chairman Pippin made a motion that it is not the result of action taken by the appellant or prior owner. Ms. Gulnac seconded the motion. The Board voted 5-0.
- 6) Mr. Chabot made a motion that there is no other feasible alternative available. Ms. Khan seconded the motion. The Board voted 5-0
- 7) Chairman Pippin made a motion that the variance will not unreasonably affect the natural environment due to required buffer strip requested by the Planning Board.. Mr. Chabot seconded the motion. The Board voted 4-1, Mr. Plourde voting against.
- 8) Chairman Pippin made a motion that the property in located in whole or part within the shoreland zone. Mr. Chabot seconded the motion. The Board voted 4-0, Mr. Plourde abstaining.

Chairman Pippin made a motion to grant the dimensional variance with 155 foot setback from the 20 foot maximum from Main Street and a 3 foot setback from the 20 foot setback on Stiles Street.

Ms. Khan seconded the motion.

The Board voted 4-1, with Mr. Plourde voting against, to grant the dimensional variance.

Mr. Chabot made a motion to adjourn.

Ms. Khan seconded the motion.

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Jeffrey Pippin  
Chairman, Zoning Board of Appeals