

**TOWNSHIP OF LOPATCONG
PLANNING BOARD
REGULAR MEETING
7:00 pm**

June 26, 2024

Chairman Samson called the Planning Board Meeting to order.

A Prayer was offered followed by the Oath of Allegiance

Chairman Samson stated “Adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Coyle, Palitto, Caughy, George, Chairman Samson. Also present was Engineer Wisniewski, Planner Ritter and Attorney Bryce.

Old Business:

Minutes – March 27, 2024 - Motion to approve by Member Palitto, seconded by Member George. Roll call vote:

AYES: Members Palitto, Caughy, George, Chairman Samson.

NAYS: None

ABSTAIN: Member Coyle

Double J – Block 77, Lots 1 and 1.02 – Minor Site Plan, Bulk Variance Relief. Completeness and hearing.

Attorney Peck - Good Evening Mr. Chairman. I have to say it is strange not seeing Chairman VanVliet up there, you know, for so many years he was there. It is good to see you and the rest of the Board. For the record, I'm Mark Peck. I'm an attorney with the Florio, Perrucci, Steinhardt Law Firm here on behalf of the applicant Double J which is the Key City Diner. As the Chairman indicated, we are here for minor site plan with bulk variance relief but before we get started, we do need to be deemed complete. We reviewed Mr. Wisniewski's June 24 memo. He identified two completeness deficiencies. The first was a tax certification which we did actually apply for back on June 5th but we saw Adam's letter and realized we hadn't received it and thanks to Beth's intervention, we were able to get that and I believe the Board has a copy and the other is the consent of the owner to file the application; to file for the owner. You know, I looked and I can't find the application, at least the form that we used a spot for consent of owner but Double J is owned 50% by Mr. John Theodoropoulos and his son Greg and they're

both 50% owners each and they're both here tonight so they can affirm that they consent to the application. So, with those two items out of the way, I'd like to respectfully ask that we be deemed complete so we can proceed with the hearing.

Chairman Samson – Asked if everyone approved the completeness. All indicated by saying Aye. No Nays.

Attorney Peck – Again, for the record I'm Mark Peck with the Florio, Perrucci Law Firm on behalf of the applicant Double J. We've now just been deemed complete and we did publish and service the required notice and we provided the affidavit to Ms. Dilts, so, accordingly, the Board has jurisdiction to hear this application. We can proceed with the hearing. So, Double J, better known as the Key City Diner is seeking minor site plan with bulk variance relief for property located at Lots 8 and 9 in Block 77. It is also known as 958 Rt. 22. It's six tenths of an acre located in Lopatcong's Retail Business; RB Zone District where the diner is a permitted use. The lot is fully developed with the diner structure, parking areas and associated improvements. The applicant seeks to reconstruct and rehabilitate the diner structure which was heavily damaged by fire a couple of years ago. The building footprint is not changing and other than some esthetic changes to the building and the addition of the dumpster enclosure to shield the dumpster, no exterior changes are contemplated. Notwithstanding the rebuild, same use, same footprint; not really many exterior changes. Some variances were identified by Mr. Ritter; the first is a front yard setback and this is sort of a unique property because there is technically three front yards. Anyway, this is a front yard setback even though the dumpsters; like you think the front yard was Rt. 22 but the dumpster is within 16.6 feet of sixth street and the ordinance would call for 25 feet. So, we're looking for a variance for that. For the dumpster enclosure, there's another variance that was triggered. The variance doesn't permit walls or solid fences in this front yard setback area over two feet tall. The dumpster enclosure is proposed to be 7.5 feet of masonry wall and then finally, the third and final variance is for signage. The aggregate signage on the building is not supposed to exceed 100 square feet. The signage that's on the building, that's going to be on the building is 121.5 square feet so that's the signage on the Sixth Street frontage, on the Fifth Street frontage and on the Rt. 22 frontage and then Mr. Ritter also identified a number of other existing non-conformities that are not being affected by the application. So, as witnesses tonight, we do have Mr. Greg Theodoropoulos and his father, if needed and then we have our architect, Emmanuel Kavrakis. So, without any further ado, I'd like to call up Greg.

Attorney Bryce – Raise your right hand. Do you swear and affirm that the testimony you are about to give this Board is the truth, the whole truth and nothing but the truth?

Greg Theodoropoulos – Yes.

Attorney Bryce – Please state your name and spell your last name.

Greg Theodoropoulos – Greg Theodoropoulos; t-h-e-o-d-o-r-o-p-o-u-l-o-s.

Attorney Peck – Greg, what is your relation to the applicant Double J?

Greg Theodoropoulos – 50% owner.

Attorney Peck – With your father having the other 50%?

Greg Theodoropoulos – And, just for the record, you consent to this application.

Attorney Peck – How long has your family operated the diner at this location?

Greg Theodoropoulos – 24 years, this year.

Attorney Peck – Was there a diner there before your family took it over?

Greg Theodoropoulos – Oh yeah, it's been there since 1955.

Attorney Peck – Since 1955 and there was a fire, when was that?

Greg Theodoropoulos – September 16, 2020.

Attorney Peck – And, that shut operations down at the restaurant?

Greg Theodoropoulos – Almost two years; close to two years.

Attorney Peck – So, now you're here tonight because you're basically rebuilding, new construction, rehabilitating the diner. Are you expanding the building footprint in anyway?

Greg Theodoropoulos – No.

Attorney Peck – Making any site changes that you're aware of? And, of course, we need to go through the site with more detail with Mr. Kavrakis. Are there any site changes?

Greg Theodoropoulos – Not that I know of, no.

Attorney Peck – Really, just the esthetic appearance and the interior.

Greg Theodoropoulos – It needed an update; it's seventy years old. Update the electric, update the plumbing because also seventy years old; we had an electrical fire so, we figured we would do it all and be good for another seventy years.

Attorney Peck – The dumpster now is proposed to be at 16.6 from Sixth Street. Where was it before the fire?

Greg Theodoropoulos – The same place it is now.

Attorney Peck – Was it within an enclosure?

Greg Theodoropoulos – It was not.

Attorney Peck – Just a dumpster in the parking lot. How many seats will be in the diner now?

Greg Theodoropoulos – About 150 somewhere in there; between 145 and 155.

Attorney Peck – And how about before the fire?

Greg Theodoropoulos – I think that was 155-158.

Attorney Peck – So, maybe a little less.

Greg Theodoropoulos – Yeah, we got rid of the salad bar. We also lost counter space. We opened up the diner a little bit with less tables so there's a little more room there.

Attorney Peck – And, how many total employees are there at the diner?

Greg Theodoropoulos – A let's see, probably about 45/50.

Attorney Peck – And, what would, you know, your heaviest shift, Sunday, you know, Brunch kind of time. What's the maximum employees that would be

Greg Theodoropoulos – One shift?

Attorney Peck – Yeah, on anyone shift?

Greg Theodoropoulos – Sixteen employees.

Attorney Peck – And, how about your hours of operation?

Greg Theodoropoulos – Seven am to ten pm.

Attorney Peck – Is that seven days a week? Are you closed for any holidays?

Greg Theodoropoulos – Christmas we're going to close, maybe Thanksgiving; we haven't decided that yet. We're going to see how it goes.

Attorney Peck – Maybe like 363 days out of the year.

Greg Theodoropoulos – Something like that yeah.

Attorney Peck – And, how about what were your hours before the fire?

Greg Theodoropoulos – Covid obviously changed things. It used to be 24hours but then – people talking over each other.

Attorney Peck – And, deliveries, what kind of deliveries? How often do they come?

Greg Theodoropoulos – Six/seven deliveries a week.

Attorney Peck – What kind of trucks?

Greg Theodoropoulos – I'd say mid-size, not like a full big truck. I would say like a

Attorney Peck – A box truck.

Greg Theodoropoulos – Yeah, maybe a little bigger than a box truck but not like a huge one. Not like the big, big ones but I wouldn't say it's a little box truck, you know a U-Haul truck maybe a little bigger than a U-Haul truck at the biggest.

Attorney Peck – And, where do deliveries come into the building?

Greg Theodoropoulos – They come from the other side of the building for the most part.

Attorney Peck – You say the other side of the building.

Greg Theodoropoulos – The side from Speedway.

Attorney Peck – So, would that be the Fifth Street side?

Greg Theodoropoulos – Correct.

Attorney Peck – And, how about garbage pickup? How often does that occur?

Greg Theodoropoulos – So, pre-covid we were once a week. We weren't as busy so we had one dumpster there. The neighbor said we had a scent that smelled a little bit every now and then especially, in the summer when it got hot so now, we try doing it three days a week and three days for recycling as well.

Attorney Peck – Very good and uh I don't believe I have anything further from you so if the Board has questions

Member Coyle – What time of day are the deliveries; is it the same time of day each time or

Greg Theodoropoulos – It depends, like the milk and bread companies they come there as soon as we open so they're there by probably by 6:30/7:00. The food deliveries we try to get them there from like 8 to 11 at the latest. Sometimes they will come after 2:00 sometimes.

Member Coyle – That parking lot is pretty full. I don't know where they would come to deliver.

Greg Theodoropoulos – Yeah, we're trying; we might actually change a few of them to come later in the day or come even earlier also as well so it doesn't during peak hours.

Member Coyle – Depending on the traffic and how

Greg Theodoropoulos – Well, we just opened so the whole town loves it in there. Everyone's seeing the diner town so I don't think it's going to stay like this forever but I think for the next couple of weeks, yeah, I think we definitely need to adjust it a little bit so it's not in the middle of peak hours.

Chairman Samson – Anyone else have any questions? I think that's it.

Attorney Bryce – You may want to open it up to the public for any comments.

Chairman Samson – Anybody have any questions? For this witness?

Attorney Bryce – Questions of the witness. You’ll have an opportunity for comments later.

Attorney Peck – So, then I’ll call my next witness Emmanuel Kavrakis.

Attorney Bryce – Do you swear and affirm that the testimony you are about to give it the truth, the whole truth and nothing but the truth?

Mr. Kavrakis - I do.

Attorney Bryce – Please state your name and spell your last name.

Mr. Kavrakis – Emmanuel Kavrakis - K-a-v-r-a-k-i-s, Architect.

Attorney Peck – Manny, what’s your educational background?

Mr. Kavrakis – Educational background is graduate professional degree in architecture at (inaudible) Institute graduated May of 1992. I’ve been practicing architecture since.

Attorney Peck – Are you a licensed architect in the State of New Jersey?

Mr. Kavrakis – I am. With an addition of approximately 20 US States.

Attorney Peck – And, where are you currently employed?

Mr. Kavrakis – I own the firm; Emmanuel Kavrakis Architects out of Elmwood Park, New Jersey. I passed the NJ state exam about, I think 30 years ago.

Attorney Peck – And, your license is still in good standing?

Mr. Kavrakis – It is.

Attorney Peck – And, you’ve been accepted as an expert before other land use boards here in the State of New Jersey?

Mr. Kavrakis – I have, thereabouts about 100 times.

Attorney Peck – I would move Mr. Kavrakis is an expert in the field of architecture.

Attorney Bryce – Great.

Attorney Peck – All right Manny, if you could, could you just walk the Board quickly through the site plan and identify features and whatnot?

Mr. Kavrakis – Sure. Sure. I will do geographically what Greg said verbally but basically, this is a three-sided site approximately .6 or 6/10 (tenths) of an acre. I have you here Sheet 3 of 9.

Attorney Peck – And, these are the plans that we submitted with the application, correct?

Mr. Kavrakis – Yes, it is with one small, there was a small typo that the planner most diligently picked up. For some reason the site plan came over from the survey engineer as a .06 which is 6/100ths and its actual 6/10’s – it was a typographical error. I have made my notations over here and it will be corrected as per the recommendation of the planner. Just for academic purposes but it’s not 2000 square feet; it’s 24,000 some odd square feet but nevertheless, we have an

existing building over here as you see today's application is an existing building to be refurbished. It's certainly more than just a cosmetic but to the eye, cosmetic changes it suffered a fire about 18 months ago and we've, you know, purpose to rebuild the entire diner. It is on its original footprint on the foundation with very minor bulk changes whatsoever. We haven't encroached, we haven't enlarged the building footprint. We haven't enlarged the seating. The intensity of the interior or the exterior.

Attorney Peck – What about the height Manny?

Mr. Kavrakis – There was one very small augmentation on the character of the front. I'm going to go ahead and just to orient you right at this portion, where I'm drawing my line, okay, for the benefit of the town, for the benefit of the building, for the benefit of the establishment, just to shield the air conditioning units as you know, buildings of this nature, as you're coming up from this portion, from the west, as you're going from west to east, it gets down at this level is where I have my hand you can almost see so, Greg was very concerned about the appearance of the building, the handsome quality of the building as we're spending, you know, absolute large amounts of money of course, so we raised the ... I think about a foot and a half.

Attorney Peck – And, that's to shield the HVAC equipment on the roof?

Mr. Kavrakis – Ministerial. I have done restaurants and diners of this nature perhaps a 100 times under diner designer and you know, esthetics are very important to me, you know and we attack from the left, from the right; we drive around, I go up a block, whatever, like wow you can see it over there and made the mistake before, yeah and it's important so we just raised it maybe, it's not noticeable but the fact that when you're coming down, you can see that.

Attorney Peck – And, you're still within the height limitations.

Mr. Kavrakis – Absolutely. It doesn't nearly encroach. I did a quick little study; we're less than 50% of the bulk of what is permitted. So, if you take the setbacks from here to here to here to here and you raise it 35 feet, this is probably not even ten percent of what the overall bulk would permit on this site but of course, it is located off to the edge in the back .. condition the height changed about this much and it's more handsome, you know, in terms of scale.

Attorney Peck – So, other than the esthetic changes, you know, the building itself, the appearance of the building and the slightly raised parapet, are there any changes to the exterior now that weren't there, you know, say pre-fire.

Mr. Kavrakis – Yes, there were very necessary need to repairs; the parking lot, it had cracks and divots and potholes and things. I would tell you that they spent an enormous amount of time and money on the exterior of the sidewalks. The existing portion of the sidewalks had seven- and eight-inch curbs; this is not allowable. Curbs cannot be more than six inches. They have rebuilt them. They brought them into conformance. There are certain things that an ownership and an architect for that matter, can do, and you can't, you know, just move the entire building; move the earth but the things that were able to be done things like pedestrian walkways and so they were brought into conformance in terms of their height. We have the existing two handicap spots that never had proper handicap island between. We shorten up one of the areas here for a

parking space to allow for that; bring them into conformance. They had hand rails that were never there before extending all the way for the purposes of ingress and the rest of the site is basically

Attorney Peck – What about the dumpster enclosure?

Mr. Kavrakis – And, the dumpster enclosure was always there in the back of the building. We're proposing an enclosure around it, out of masonry of course. I will tell you that we proposed were the six-inch water relief and seven-foot high. I'd like to propose to the town, we met earlier, at the diner just to do a last minute once around. The dumpsters are about four to four and a half feet tall; something like this. I believe that seven and a half feet tall is quite exaggerated. I'd like to repurpose to the town to bring it down to a total of five feet; again, you'll never see anything that's inside with any site line vision but they have such a structure not high and I think it would be adverse so

Attorney Peck – And Manny, the ordinance actually since technically that's a front yard, the ordinance would limit the height of that wall actually to two feet. So why is two feet not practical?

Mr. Kavrakis – Two feet is not practical I believe is because of other purposes in the ordinance in the front yard. For this type of commercial establishment, I think it would better serve the town and the entire community if you have proper shielding of sorts two foot would not shield the four-foot dumpsters but four and a half to five foot certainly would.

Attorney Peck – So, we're proposing five-foot walls now modifying the application?

Mr. Kavrakis – You know, five-foot total.

Attorney Peck – So, five feet tall. Manny, can you review the signage on the building? Now, I know there's the free-standing monument sign; has that changed at all?

Mr. Kavrakis – No, the free-standing monument sign has not changed; there are probably many people (inaudible) it's an nostalgic sign; it's a beautiful sign and I don't think I would ever want to change it; it's there, they'd like to preserve it and it's a hallmark.

Attorney Peck – But on the facade there is a sign, so.

Mr. Kavrakis – Yeah, on the facade there's a sign as there was before. The location has not changed; I believe they have added one more additional hallmark sign on the side. As you're coming down from Rt. 22, we thought it would be appropriate, again, it's a very small sign. It's small, it's cute, its boutique, it doesn't scream with no discrimination to it, Dollar General or stuff like that. It's a cute, small sign reminiscent of the quality of the ownership and the (inaudible) in the community.

Attorney Peck – And, you have signage on each street frontage, correct?

Mr. Kavrakis – This site is unique, a large street with three street frontages. The greatest of which is on the front of the building and as you turn in, you have the other two smaller signs.

Attorney Peck – So, the ordinance has a maximum of 100 square feet with the signage and we’re purposing a 121.5 but you say that’s driven because of the three frontages.

Mr. Kavrakis – Well, yes. So, according to my experience in other jurisdictions and I understand it’s not this jurisdiction and I respect this jurisdictions law but because of three additional signages for commercial business of this nature and the public built a use, I think it’s, you know, it would call for additional signage on the elevation. Not every car passes only on 22 sometimes they ingress and egress on the sides. Again, ministerial in my opinion.

Attorney Peck – Now, let’s talk briefly about utilities to the site. Is there any issues getting, you know, water, electric, sewer, you know, any utilities that the diner would use?

Mr. Kavrakis – No. All the utilities that are present today, were present unchanged before with the exception of running electricity and I’ll get to that; gas, telephone, underground sewer were had been unchanged. They haven’t been increased or decreased as the building has sufficient means before. The electricity for that matter, was augmented. A brand-new electrical service to the building; it was updated, it was brought in accordance with code conformance and it cleaned up if you will. As buildings get older and older and they change throughout time, different levels of generations of work and usually a major renovation like this, with just one fell swoop usually brings everything into compliance and we had the opportunity with this renovation to do that. It’s in the same location. It’s fed from the same telephone pole.

Attorney Peck – Now, how about site lighting? Is there lighting fixed to the building? Is there lighting on poles in the parking lot? Can you explain to the Board how the site is lit.

Mr. Kavrakis – The majority of the lighting is fixed to the building with a special type of light. It’s what we call a cut off light. So, a cut off light is nature of the light that shines its lights downward as opposed to out. On certain types of perhaps warehouse lighting, they’ll have a light that streams straight out. We don’t like to use this type of light especially on a highway location because it is bothersome to the other vehicles. The majority of the lighting we have along the entire thing as you see over here there are two outlets and they face strictly downwards. We have to light the sidewalks. We have to light parking lots. We have to do that for many important reasons like safety and so on but it is a cutoff type of light that shines down.

Attorney Peck – Is the site lighting adequate to serve, to safely serve the dinerees?

Mr. Kavrakis – I do. The property has between one- and two-foot candles on the sidewalk levels and then the rest of the parking lot as it gets lower but for that reason, we have lights and so and so forth.

Attorney Peck – Okay. Did you have opportunity to review Mr. Wisniewski’s engineering report?

Mr. Kavrakis – Yes.

Attorney Peck – And, that calls for some various plan revisions and things like that. Do you see anything in that report that we can’t comply with?

Mr. Kavrakis – No. I have it right here and I made my notations and markings. In terms shall be constructed out of masonry, identification for parking, details dimensions which is sometimes for my benefit. We added an additional ADA parking space; we can most certainly remove it. I don't know exactly what the grade and cross slopes are but the sidewalks are in place; the sidewalks are established but the two that we produced is certainly on a slope.

Attorney Peck – I know there was some question as to maybe obstructing the ramp but it is my understanding that the parking space has a lot more depth than is required.

Mr. Kavrakis – It does.

Attorney Peck – Would it be possible to maybe bring like the curb stop back?

Mr. Kavrakis – Sure.

Attorney Peck – And, shrink the size of that.

Talking over reach other

Engineer Wisniewski – That's what we were discussing. One space is 25 feet deep. I don't have an architectural scale with me; 25 feet deep the other one is approximately 18 ... so that's a standard space. The other one is sort of extra depth so certainly a wheel stop would be helpful there. The other item, not asking for the sidewalk to be replaced but certainly you know, we want to make sure that it is meeting all the building code requirements, barrier free sub code and all that that there's no displacements or uneven portions of that sidewalk and I don't know if that was reconstructed as part of the renovation but that was my question on that I was seeking clarification on that.

Mr. Kavrakis – Right, well, whenever pavement was done, it was milled and paved so it falls under preexisting condition and adequate access is given to the facility; it's location, I think is proper, off one of the side streets and not in the front, as it was refurbished under a rehab code, it meets the requirements. We will go ahead and check that.

Mr. Wisniewski – The other item that Mr. Ritter had indicated in his report also associated with the spaces you have these five handicap spaces perpendicular to the configuration of the building; ADA compliant space is here so I guess the question there is do those vehicles parking head on need access to ... the handicap space adjacent to it .. Is there an opportunity to potentially relocate the immediate space further towards the trash enclosure away from potential vehicle overhang of a bumper or something that might impede someone getting in or out of their car.

Mr. Kavrakis – Well, that would reduce the slope a little bit. So, what you're saying is to take these two handicap spaces and move them upward.

Planner Ritter – Just slide them over.

Engineer Wisniewski – So, you get separation between that head on parking space someone parking up against you know, it's tougher to get in and out of your door and we want to make

sure someone is in need of that handicap space has the ability to pull open their door to get in and out or their passenger for example.

Mr. Kavrakis – I have a question. When you have two spaces and again, when you have two spaces separated by the isle, is there any reason why this car can't back up if they're on the other side.

Engineer Wisniewski – They certainly could.

Mr. Kavrakis – I don't want to speak for anyone maneuvering in these able/disabled situations, first of all I'll take that into consideration; there's no reason why we can't move it up and quite frankly, there's no reason why we just can't simply stripe that and have people backup you know, depending

Engineer Wisniewski – Have some additional width.

Mr. Kavrakis – Absolutely. We have the space for that.

Engineer Wisniewski – Yeah. We're okay with that certainly and George had indicated as well, that we do need two handicap spaces; one per 25 spaces.

Chairman Samson – That's the only place we're worried about; the spot elevations in that handicapped area, right? The sidewalk in the front

Engineer Wisniewski – Typically, you still want, you know, 2%; running slope can be greater than and you mentioned there are hand rails for the ramp up to the building. So, where your sidewalk slope exceeds 5%, you've got railings.

Mr. Kavrakis – We ended up a bit turning and because we found that we had that extra length to the building we had the ability to turn to grab more length in the ramp. Whenever anything is close in question, we like that we had the ability to add length on that.

Engineer Wisniewski – Was that ramp reconstructed as part of the building renovations?

Mr. Kavrakis – Yeah, I mean at the end it was deteriorating. There was a ramp there, it had a certain slope and a certain length; it was repaired and it was refurbished yes. Was it reconstructed no because it wasn't all taken down and you know, you work within those limits to stay within the footprint.

Chairman Samson – The ramp didn't turn before; didn't come like straight down?

Mr. Kavrakis -Yeah, it came straight down

Chairman Samson – And they added the turn to it.

Mr. Kavrakis- Right, yeah, because if it would have come straight down it would come right into the front of the bumper of that car. Now, it turns to the side, to the isle giving it more ample space and I literally had parked right here and this is where we came out and I saw, I was pleasantly surprised.

Planner Ritter – So, just to understand, you are going slide it over toward the dumpster, the enclosed dumpster area to create some separation between the cars in the parking area

Mr. Kavrakis – Yes.

Planner Ritter – to get a reasonable separation. That’s fine. That was my concern was that people theoretically could pull their car in and literally be against the side of that handicap space.

Engineer Wisniewski – There are no wheel stops I’m assuming.

Greg Theodoropoulos – There are not. If you want us to put them there we can.

Planner Ritter – I don’t have a problem with no wheel stops. I don’t think you need wheel stops as long as you move the handicap space over a little bit to get some room.

Attorney Peck – Well, I think that’s all the direct I have. I know Mr. Ritter issued a report but you might need some collaboration between the applicant and the architect. I have no further direct outside of you know except for Mr. Ritter.

Planner Ritter – Probably a good part of what’s in my letter the other issue that I had was since we are going to consider, which I actually think needs an improvement would be the dumpster enclosure even though encroaches technically in their yard, I think that’s going to be a very positive thing in terms of helping screen the area; makes the service to the restaurant. The only question I had whether the applicant would consider but from the back of the dumpster enclosure and now you have reduced the height to about five feet which I have no problem with doing that but from the back of the dumpster to running along the retaining wall, whether you could extend the board on board fence or something that would match the height of the dumpster and carry it back to the corner of your restaurant where the service entrance is, to just give you a little screen service area and that would block the view from the residential neighborhood to the other side and actually give you a little bit of private space to do your thing.

Mr. Kavrakis – Who owns the wall?

Planner Ritter – I assumed it was his. It’s been improved.

Greg Theodoropoulos – It’s a gray area – it’s a public alleyway right there.

Planner Ritter – And, just carrying it back. Just screen that area so that what you do for service and that stuff remains your own business. Like a board-on-board wood fence.

Mr. Kavrakis – A visual barrier I would recommend. A standard equally faced you know, one neighbor/two neighbor privacy fence. I would recommend on the wall because it goes all the way remember you have the alleyway – you can mount it on the wall. Existing concrete masonry retaining wall right now is let’s say 36 inches and with the slopes there were at five feet – a gap of about two foot well, if you would like that on top would be two feet at least everything would tie in together and you would get a barrier on the high side of the back. That corral will do wonders for the immediate area. It’s unsightly, it needs special door in the back so they can enter it easily.

Attorney Peck – Is there any other feasible location for the dumpster?

Mr. Kavrakis – No, this is almost the only location and it's because of the back way and so on and so forth. You're asking for two foot along that side.

Planner Ritter – Yeah, I think that will go a long ways

Chairman Samson – The neighbor, that wall is about three foot tall and then the neighbor is on the high side, right?

Mr. Kavrakis – Right.

Chairman Samson – Even if you put a seven-foot fence right there, you would still be looking over the top of the fence wouldn't he, unless you put seven foot on top of the wall.

Planner Ritter – I thought basically, based on the new dumpster location, if the Board agrees with me, to carry that wall back would be enough to provide good screening for whatever is going on in that little space. Now, will he see over the wall, he might but it's clearly not like it is today where it's totally open and then you have a two-foot-high wall running along that back edge. I think it will do a lot to improve and screening; will it block it 100%, maybe not but I really don't see the need to go eight feet in the air or anything like that. I just really thought matching the height of the dumpster a way to tie everything in.

Mr. Kavrakis – The slopes do change at the street level. You're at the street level here there is no grade change. The grade change happens as the you're driving up. So, you have a very good point actually but as you drive even further up you will be able to see more if you go into the house; at some point you are at higher elevation; about three feet, three and a half feet. Those will be able to look over. The establishment has, you know, now the capabilities; certainly, a brand-new place and a corral to properly manage their product so on and so forth, you know, by building so much over here.

Planner Ritter - the applicant is making the proper effort and putting a nice fence along there, will be a big improvement.

Mr. Kavrakis – What I will do is make a suggestion to go a little bit higher which will be another solution – I'll make is a minimum 48 inches from the grade of the other side to have a proper barrier to create a fence condition; a secure fence condition for any pedestrian at that point over there so it will be below the seven but above the front somewhere 42 inch which will create a barrier so nothing falls off.

Planner Ritter – I think that's a suitable solution and I say it is an improvement over all.

Mr. Kavrakis – It also meets a matter of safety.

Planner Ritter – The only other think in my review letter other than the variances was 106 spaces which has been historically what's there but quite frankly, most of the circulation through the parking lot is dependent on the pavement. Much of that extends into the public right-of-way's; Fourth Street, Fifth Street, 22, it's basically paved curb to curb which is the way it has been historically. The one other thing I thought which is a very limited thing to try would be a slight

greening of the lot at the Fifth Street side where you have your long row of parking running along the retaining wall, the Fifth Street right-of-way which is just that little tip whether the asphalt could be taken out of that and you could put a little curbed island in there just to break the line and basically define that corner so that when you come in off Fifth, you have a defined turning point and it just blocks your view down that wall line. It's a very minor thing and I think this will reduce the impervious cover.

Mr. Kavrakis – Are you talking about on the right-of-way or on the property?

Planner Ritter – On the right-of-way. Between the last parking space and the curb.

Attorney Peck – I have no further direct testimony so I don't know if there are more questions for Mr. Kavrakis?

Planner Ritter – The only thing I think we should talk about for a few minutes, the variance request I think we all understand, the only other question would be the sign variances. There are two signs out there now conform on the building, they're fine. It would be adding the one on the side facing Fifth Street pushed the number over and I guess the question I had and I agree with you, your main free-standing sign out on the highway is a great sign. Do you need another sign? Could you just keep it conforming. I was over there tonight and I had no trouble finding the Key City Diner. So that's my only question. Is it really necessary. The third sign isn't there is it? I saw of the signs.

Mr. Kavrakis – The overall square footage of the building signs did get reduced.

Planner Ritter – I'm not sure of that.

Attorney Peck – Do you know what it was pre-fire?

Mr. Kavrakis – I'd like to say that I didn't.

Talking over each other

Engineer Wisniewski – I drove by there and they're black signs and they don't really stand out.

Attorney Peck – It's really three front yards so I think that's what's driving the three signs.

Chairman Samson – Okay does anybody else have any questions?

Lyn Strouse – 110 S. Sixth Street – I live next to the diner.

Attorney Bryce – Is this a question or a comment?

Lyn Strouse – It's a comment.

Attorney Bryce – I'm just going to swear you in. Do you swear and affirm that the testimony you are about to give this Board is the truth and the whole truth and nothing more.

Lyn Strouse – Absolutely.

Attorney Bryce – Can you state you name and spell your last name?

Lyn Strouse – Lyn S-t-r-o-u-s-e. On February 7th I went to the Council Meeting. I asked the Council if they would have Key City Diner put the dumpsters on the east end of the building towards Fifth Street. There is enough room there. There is a six-foot high concrete retaining wall. Above that is a six-foot-high privacy fence that runs all the way out to Sixth Street. That would eliminate the smell and clanging of the dumpsters and everything else near my home. I don't want to see it. I don't want to see a fence on top of that retaining wall; it's absolutely ridiculous and I don't want to have to look at that the rest of my life but they can cut a door in the back of the bakery; there's enough room between there and the freezer to take the garbage right out there. There's enough room back there. It's not a parking place. There's enough room to put the dumpsters. They can put their oil containment system because they're cooking oil now is in five-gallon buckets and I think that's a violation of DEP. I haven't checked with them yet, but I will but they can put everything out there. It's not going to make any noise. There will be no smell. There will be no rodents. There will be nothing that I've had to deal with for the last 43 years. I mean it's just ridiculous. There's no reason they can't cut a door in there, they've got enough room. They can take the garbage right out there and put everything there. That's not a problem. The garbage is not picked up on Saturday and Sunday and that's their busiest times. They don't pick up on Friday nights so that way the garbage men could come in there Monday and Wednesday and I think Friday and they come early in the morning because they wake me up when they clang the dumpsters down and it would eliminate a lot of money. If they could save, they could save a ton of money not putting up a fence and putting up a dumpster thing and they could also gain an extra handicap spot to keep the people from parking in my handicap spot in front of my home. So, they could have three handicap spots which I think they really need. So, it would eliminate a lot of problems. That's my thing to Council but I don't want to see a fence on top of that wall, that would look totally stupid and I don't want to have to look at that all the time. The dumpsters are 54 inches tall; the main dumpster, the garbage dumpster. So, whatever they were proposing about a fence, if you're going to put a fence up, it's got to be six foot simple as that and the wall is stepped in increments so you put a fence on top of that, it's going to look pretty stupid. So, you know, the Mayor and Council assured me that the dumpsters would not be there at the meeting. I got everybody's word. I sent a letter to the Council President before the meeting certified, he received it; he read it at the meeting so, my attorney couldn't be here today. He's on vacation but he told me to come and oppose the garbage containment fence. I oppose the variance on that and I think I would have to sign for that and I won't do it. That's all I got to say.

Attorney Peck – If I may very briefly, address Gregg. Gregg is there anything interior to the diner that would prevent the door Mr. Strouse

Greg Theodoropoulos – We just put a walk-in freezer back there so and the door is all the way in the corner of the room. I don't even think we could put a wall back there, a door back there. I can't, I don't think there's any chance ... We put an eight-foot-deep freezer now back in that corner.

Mr. Strouse – That's plenty of room to carry a garbage bag. From the end of the freezer to the wall.

Greg Theodoropoulos – That can't work the way, the layout of the restaurant. The only other way to go downstairs to the other side of the property, is there's four stairs going down with a landing with a landing then take a few steps and you go all the way up the building and it's 14 more stairs going up to go to the other side of the property right now from inside of the building. The amount of garbage we're pushing right now. Nobody's going to be carrying this you know garbage containers down 14 stairs and up 14 stairs. It's torture. I have some photos if you guys want to see them. I figured this was going to pop up but it's, I can't see how we can do that.

Attorney Bryce – I think what your testimony is that somebody would literally have to be on 14 steps access

Greg Theodoropoulos – The other access, you know how there is a delivery going outside the building and if you're facing the front as soon as you open the door, there is a three foot landing, then you go down 14 stairs which is our storage with all our cooking and garbage is all upstairs so for us to bring all the garbage through the kitchen, the grill, prepping all that food, dishwasher, they would have to go down 14 stairs, a landing, another little step and then you would have to go up 14 more stairs and down another step

Attorney Bryce – Internally

Greg Theodoropoulos – inside the building to get a container to the other side of the building.

Member Palitto – How often would this be done

Greg Theodoropoulos – Garbage – every half hour to an hour we're getting a garbage bag from somewhere in the dinning room in the dumpster. That's why we did three pickups a week because we're going thru a lot more garbage. At least it doesn't sit. We spread it up evenly; Monday, Wednesday, Friday and the recycling we did it Tuesday and Friday originally but it wasn't enough we had a lot of boxes so we did Monday, Wednesday, Friday for recycling and the oil container, he is right, it is outside. They are supposed to bring us a dispenser for the like a drum thing, it's been delayed. They said they were going to have it to us. Now, they said they were going to bring a temporary one for us tomorrow and the bigger one is going to be there in the next two weeks.

Chairman Samson – So, what time does the garbage come in the morning?

Greg Theodoropoulos – I think between 7:30, 7 to 8:30 I would say, somewhere in that window.

Chairman Samson – And, that's a hardship for you Mr. Strouse?

Lyn Strouse – Yeah. My wife is very sick and she is undergoing treatment for a couple things that are very serious.

Mr. Kavrakis – I understand his position in the proximity, there is a few points. You wouldn't have that much room and it would impede this one parking space. On the other side, there is nothing in between. There is no parking in between the corral and the street. The other side the garbage truck has to enter the property backup all the way up to the building. If there were cars there at that time, it would be blocking cars. From a vehicular standpoint it's located at the best

spot. I recommend putting up a fence on that area for the purposes of ... on the high side you have a three- or four-foot drop. There was never one there before but there should be.

Chairman Samson – George, I know that when we were going through The Cubes the noise was going to be an issue, I want to say, ... material didn't that have an effect on the sound? Is there a way that we could you know

Planner Ritter – A noise barrier fence has to be a made of heavy enough material to actually make a difference. It would have to be thick enough to have mass and it would have to be high enough that it probably would block the dumpster, truck it self and whatever it's doing preventing the noise from going over the wall and it would have to be about 10 feet high

Engineer Wisniewski – It depends on the type of sound to.

Attorney Peck – I would still just try to again, remind us that the dumpster has been sitting in the same location for decades and it was there without an enclosure so now there's going to be an enclosure. It should have some salutary effect. So, it's definitely an improvement from that which was there but for the fire, you'd still have basically a naked dumpster sitting in the same spot.

Mr. Strouse – Gregg was at the February 7th meeting when I pleaded my case about moving the dumpsters to the west end of the building and I told him, I says, we want the dumpsters on the west end of the building and I went over all my points and everything. They just adamantly refused. Now, the freezers weren't installed until I think the middle of April. So, they had from February to April to make arrangements to put a door back there but they don't want to do that. They don't want to put a door there. You can put a door there. You can carry the garbage out through there. There's no reason I got to be subjected to the smell, rats, everything; it's ridiculous and I don't care how high you put a fence, you're still going to smell it. When you get that wind, I can't open the windows in the house and I can't hang laundry out. I'm sick of it. So, something has to be done.

Attorney Peck – We hear what Mr. Strouse is saying but it's just wildly impractical to flip the location of the dumpster. You'd lose several parking spaces; just picture the movements of a garbage truck coming it, it would be very unsafe. I mean cause you have the majority of the parking spaces you're going to have a garbage truck come right down that isle, you will lose several spots, you're going to have a garbage truck doing K-turns and whatnot in the parking lot, it's just wildly impractical not to mention you know we've already heard that there's the walk-in freezer that's been installed and everything else. The fact that the dumpster is still in the same location and understood that after complaints made at a Council Meeting in February but as the Planning Board knows the Township Council has no jurisdiction over this.

Mr. Strouse – The garbage trucks, they pulling in right in there now; they're backing back on Sixth Street, people are pulling in from the highway, I mean, they're doing the same thing. It's very unsafe where they are. They pull right in, the back right out with cars coming up Sixth Street. I mean, I got thrown back in the driveway. It's very unsafe the way it is. Plus, there's overhead wires; if you move them out too far, they will probably hit the wires.

Member Coyle – Is the alleyway, what kind of is it; a usable way

Gregg Theodoropoulos – It's not a usable alley. He has all his stuff over there. It's uh, we tried to divide it but the town did not want us to.

Chairman Samson – So, on his side of the wall, that's the alleyway?

Gregg Theodoropoulos – There's a wall and in theory 10 feet from the wall supposed to be I guess ours and 10 feet, ½ of that the next 10 feet is supposed to be his but he using all of it.

Mr. Strouse – It's abandoned, not vacated.

Gregg Theodoropoulos – It's abandoned

Mr. Strouse – It's abandoned not vacated – that means the town

Attorney Bryce – It's dedicated.

Mr. Strouse – The town won't maintain it; they won't do anything to it. I put gravel in there every year. I maintain it. I plow the snow, the whole nine yards but it's not vacated.

Gregg Theodoropoulos – The reason why the wall is falling down all these years, we've asked him numerous times, I have photos in my phone which I should have thought of printing but I didn't and he did it again the other day, he keeps parking his car right against the wall. I've asked him to not park there. The wall is coming down. I've spent nine thousand dollars for a new wall, he doesn't have any respect what's-so-ever he's still parking his car there.

Mr. Strouse – Your dad was parked there three nights ago.

Chairman Samson – All right. We're not going to go back...

Talking over each other

Chairman Samson – So, it sounds like they're making the attempt; they're building an enclosure, they want to put up a fence. It doesn't seem practical that we can go to the other side with the garbage so, I don't know what to do. I don't know what to tell you.

Mr. Kavrakakis – There is one opportunity from the side of well, history, common sense, we know what the vehicular patterns and access is with the garbage corral being on this side because we've had 5, 10, 22 well more than 50 years. There's a pattern there's only 16 feet between the corral to the right-of-way to the roadway. Containers have to move from there to about there again I'm only just displaying this. If we move it to the other side, garbage trucks have to back up into a parking lot that's got 14 and 12 – 26 cars it will be blocking at least half of them. This is a new pattern. I don't know what's going to happen. At least we know that in the past it served and served well I understand ... at least we know and this time everything is just as it was before, we've updated it with an additional ramp for ingress and egress purposes. That's exactly why it is actually that important.

Chairman Samson – We understand.

Mr. Kavrakis – At least we know what we have over there. We want to make it as handsome as possible.

Chairman Samson – Any more public comments?

Attorney Bryce – Sir, if you could just raise your right hand? Do you swear and affirm that the testimony that you are about to give is this Board, is the truth, the whole truth and nothing but the truth?

Bob Bruce – Yes sir, I do. Bob Bruce – B-r-u-c-e. I don't dog in this fight. I would see Mr. Strouse address this on February 7th and I really was not deep in the weeds. Couple of things that have been addressed by this Council. Perhaps I missed it, I think I understood that it's 155 seats. I presume that those 155 seats is the maximum occupancy allowed. If there different, what are those numbers and in terms of the number of parking spots that are available, how did the number of parking spots work as a factor in the number of seatings and maximum occupancy and then finally I don't know what behind them but rather than 14 down and 14 up is there a means by which, all other arguments aside regarding the garbage trucks, is there a way to have them use the existing door and carry it towards a dumpster that is where Mr. Strouse had thought he was. Thank you.

Chairman Samson – Does anybody else have any questions?

Planner Ritter – Just to clarify the parking because that came up. The Township code has the minimum parking for a restaurant is one per three seats or one for 150 square feet whichever is greater. Everything on the plans submitted shows 162 seats which would require 54 parking spaces. That's what's out there today 54 parking spaces and when you actually take the gross square feet to the buildings this restaurant has a basement it has around 6,387 square feet approximately and that would be 43 spaces total for the whole restaurant so the bottom line is the restaurant does meet the Township code on the lot; it's not short and that's for basically 162 seats which is what's showing on the architecture.

Chairman Samson – So, then the vote should be that we approve the variances with the condition that we do the changes that we talked about here tonight which is signage is going to stay, they're going to do the buffer over there by Speedway, will meet spot elevations and make sure that your handicap is good and you're going to bump one over for the handicap

Attorney Bryce – They're going to extend the fence.

Chairman Samson – Yes, that's pretty much it right.

Mr. Kavrakis – Landscape buffer, signage ok, spot elevation, bump handicap, 36-to-40-inch fence on wall.

Chairman Samson – So, just to clarify with the spot elevations, all those parking spots they all have to be within the ADA and if it's not, they're going to have to

Engineer Wisniewski – relocate the spaces

Chairman Samson – Will have to be ADA compliant.

Engineer Wisniewski – And, that’s going to protect you

Chairman Samson – Okay, would somebody like to make the motion to approve?

Member George – I make the motion.

Member Caughy – I’ll second.

Roll call vote:

AYES: Members Coyle, Palitto, Caughy, George, Chairman Samson.

NAYS: None

Attorney Peck – Thank you very much.

Joseh Paranee- Block 76, Lots 1 and 1.02 – Minor Site Plan and Subdivision – Withdrawn.

Chairman Samson – I understand he withdrew but even though he’s withdrawn his application, we still have to

Attorney Bryce – There is a housekeeping, on the dais there is a resolution Denying without Prejudice the application.

Chairman Samson – Would somebody like to make that motion.

Member Palitto – Motion.

Member Coyle – I’ll second it.

Roll call vote:

AYES: Members Coyle, Palitto, Caughy, George, Chairman Samson.

NAYS: None

Chairman Samson – Okay, last but not least Ordinance No. 24-13 – Ordinance to Amend Chapter 199 of the Code of the Township of Lopatcong Entitled “Stormwater Management” to Reflect Amendments to the New Jersey Stormwater Management Rules at N.J.A.C. 7:8, adopted July 17, 2023. This Ordinance has been introduced on first reading at the June 5, 2024 Council Meeting and is referred for review and recommendation before second reading and adoption.

Chairman Samson – I read a little bit of that and I don’t think that affects us, does it?

Engineer Wisniewski – I can speak to that. So, this ordinance is really driven by the New Jersey DEP. The New Jersey DEP periodically updates the Statewide Stormwater Rules and those are principally related to any major developments. So, any developments that would disturb one acre of land or create one acre of new impervious surface. In this case, following Hurricane Ida really,

that's really what drove this whole adoption of the implemented stormwater rules in the State, as well as the various storms that we've had including in Lopatcong last year in July, you know, these rules really push forward the requirements for major developments to create more intensive stormwater facilities. Basically, what they're asking, you know, DEP with NOAH and other agencies analyze the factors that we were using before this rule and everything was underestimated in the flows that were actually seen over the last like two decades so progressively getting worse obviously, so, but now we require that anyone that comes in with a major development has to analyze their site for today's rains with an adjustment factor based on the County that they are in and the State and then they have to analyze it with a similar adjustment factor for the projected 2100 rain so less than a 100 years at this point, you know, 76 years from now, what their expected rain is and they have to design for the worst case scenarios.

Member George – This is basically in align with what the State's requirements are?

Engineer Wisniewski – That's correct.

Chairman Samson – So, the action here, this is just a recommendation.

Attorney Bryce – No, you actually don't need to really take any kind of action on this one because it's not really amending the zoning ordinance. So, the Board doesn't really have to look at this for a Master Plan perspective.

Chairman Samson – Would somebody like to make a motion to adjourn?

Member Coyle – Make a motion to adjourn.

Member Caughy – I'll second it.

All in favor.

Respectfully submitted,

Margaret B. Dilts
Secretary