

**MONTGOMERY TOWNSHIP ZONING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
MAY 26, 2015**

**MINUTES**

Chairman Cheskis called the meeting to order at 7:40 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman Cheskis; Vice Chairman Voitach; Mr. DeRochi; Mr. Post; Ms. Chenette, Alternate #4

**ALSO PRESENT:** Mr. Drollas, Jr., Board Attorney; Mr. Sullivan, Board Planner; Mr. Cline, Board Engineer; Mr. Angelastro, Traffic Engineer; Mr. Palmer, Zoning Officer; Ed Trzaska, Township Committee Liaison

**I. SALUTE TO THE FLAG**

**II. RESOLUTION**

**Case BA-07-13                      Applicant: Montgomery 206 Realty**  
Block 28005 Lot 64  
Submission Waivers Associated with A “d”(3) Conditional Use Variance, Bulk Variance and Preliminary and Final Major Site Plan

A motion to memorialize the resolution was made by Mr. DeRochi, which was seconded by Vice Chairman Voitach. This was carried on the following roll call vote:  
Ayes: DeRochi and Voitach  
Nays: None

**Case BA-01-15                      Applicant: Michael Foxx**  
Block 30003 Lot 70  
D(4) Variance

A motion to memorialize the resolution was made by Mr. DeRochi, which was seconded by Vice Chairman Voitach. This was carried on the following roll call vote:  
Ayes: DeRochi and Voitach  
Nays: None

**III. APPLICATION**

**Case BA-07-13                      Applicant: Montgomery 206 Realty**  
Block 28005 Lot 64  
“d”(3) Conditional Use Variance, Bulk Variance and Preliminary and Final Major Site Plan  
Expiration Date – 7/22/15  
Affidavit of Notification and Publication Required

Notice was in order. Jeff Lehrer, Esquire represented the applicant. The application is for a Dunkin Donuts restaurant with a drive through window. A drive through on this site deviates from two of the four conditional use standards. The site is not located in a shopping center and there will be direct driveway access to two public streets. There are several bulk variances primarily attributable to the sites pre-existing size of a little over half acre where one acre is required. The applicant tried to purchase an additional one half acre of land from the property to the west of the site but the owner declined to sell. Mr. Lehrer’s letter to the property owner was marked as Exhibit A-1. Some of the bulk variances are exacerbated by the Somerset County Planning Board’s request for a ten foot wide roadway dedication along Route 518. The abandoned service station will be replaced with a modern Dunkin Donuts facility which will present a significant improvement over the existing condition of the site. The Delaware and Raritan Canal Commission has issued a letter of exemption dated March 3, 2015. The NJDEP issued a letter of interpretation on February 21, 2014. The Somerset Union Soil Conservation District issued approval on March 12, 2015. The Somerset County Planning Board issued a report dated May 26, 2015 asking for additional information.

Paul Ferriero, Ferriero Engineering, 180 Main Street, was sworn in. Mr. Ferriero gave his educational and professional background and was accepted as a professional engineer. Mr. Ferriero referenced an exhibit that shows a photograph of the site in its current condition and a proposed architectural rendering created by the architect. He discussed Sheet 1 of the site plan drawings. The property is located on the northwest quadrant of the intersection of Route 206 and Route 518. The property is approximately 0.51 acres after the dedication required by Somerset County.

Mr. Ferriero referenced a colored rendering of the site which was marked as Exhibit A-2. The plan shows the existing building on the subject property. There will be a right in, right out access from Route 206. There is a two lane drive through configuration with a bypass lane around the building. There is a full access driveway to Route 518. The site is currently configured with 21 parking stalls; conventional in front of the building and parallel parking in the rear. The

parallel parking will be designated as employee parking. The trash enclosure is in the northwest corner of the site. A retaining wall is proposed on the north side of the site because the grade needs to be raised.

Tony Nader, Principal of Montgomery 206 Realty, was sworn in. Mr. Nader discussed the business operation. He currently owns 62 Dunkin Donuts in New Jersey and New York. The hours of operation will be 5:00 a.m. to 10:00 p.m. seven days a week. There will be 4 employees for the morning shift, 3 employees for the noon shift and 2 employees for the evening shift. The employees will be hired locally. The 21 proposed parking spaces are more than adequate to accommodate this restaurant. There will be no baking on site; only defrosting and heating. The doughnut deliveries are made with small box trucks between 1:00 a.m. and 3:00 a.m. every day so a loading space for deliveries is not needed. Dry and frozen good deliveries come once a week for an average of one half hour. Those hours of delivery and size of the truck can be controlled by Mr. Nader depending on what the Board requires. Garbage is picked up a maximum of three times a week usually at midnight but no later than 5:00 a.m. Other than security lighting, building and sign lighting will be turned off at the close of business. This store is the average size; he has some that are smaller and some that are larger. Many of his other stores are located on a corner lot.

Mr. Ferriero discussed the various plan sheets contained in the plan set. The corporate coffee cup standard is not proposed to be on the building which makes it fit better in the surrounding area. He discussed the zone table and listed the existing and proposed conditions. The entire site will be demolished and everything on the site will be removed. The existing site is served by a septic system which will be removed and the building will be serviced by sanitary sewer. There are a total of four trees to be removed. There is a right turn in and right turn out on Route 206 and full movement access on Route 518. There are 21 parking stalls scattered around the site. Landscaping is proposed at the end of all the parking areas. There are two drive through order windows and one pick up window. The site has an accessible parking stall in the front. The trash area is in the northwest corner of the building. All utilities will be underground. There is a retaining wall to work with the grade along the north side of the property and a little on the west side. The drainage system has an inlet in the northwest corner and another in the northeast edge of the parking lot. Runoff is collected from the site and directed to the drainage in the State highway. Each drive through lane is 10' wide separated with a 3' island. The bypass lane is also 10' wide. The freestanding sign at the corner is offset from the radius of the proposed right-of-way dedication a total of 10'. The sign complies with the ordinance. The access onto Route 206 will have a concrete island as required by NJDOT which will enforce the right in right out better than a painted island. The site runoff flows from the southwest corner to the northeast corner. There will be curbing along the northern property line that directs the runoff to the two inlets. There is no detention on the site. The increase in impervious surface is a total of 830 square feet. There will be two boxwood hedges in front of the parking stalls to screen them from the road. The northern property line will have a row of arborvitae to be planted at a height of 6'-7'. At full maturity they will grow to 15'. Additional plantings will be installed along the rear portion of the site by the dumpster and an evergreen hedge installed along the northern property line to screen the back of the building and the parking stalls. Planting beds will be installed around the freestanding sign and some low growing shrubs planted along the corners of the property. Shade Trees will be planted on the corners of the large islands in the parking lot. Anything that is not planted will be grass with the exception of an area at the northwest corner of the building where there is decorative stone. The site has a number of freestanding lights and building mounted lights. The freestanding lights will be shoebox type fixtures, full cutoff so the light will be directed downward. The building mounted goose neck lights will add some additional light onto the walkway in front of the building. The goose neck lights have not been incorporated into the lighting plan. The average light level on the site does somewhat exceed the ordinance, but being in a well-lit area, it is justified.

Mr. Cline requested that future plan submittals incorporate the gooseneck lights into the lighting plan and the point to point depictions should proceed off-site. He noted that the mounting height of the fixtures is measured to the top of the fixture.

Mr. Ferriero testified that the freestanding sign, onsite traffic control signs, drive through signs, and building mounted signs are shown on the plan. The Dunkin Donuts sign message area is 17.36 square feet. Signs for the overhead clearance for the drive through are proposed for over height vehicles. All signs whether freestanding or wall mounted are compliant with respect to size. The site circulation plan shows what will happen when a tractor trailer enters the site. The truck circulation is not great. The distribution center will repack the deliveries into a smaller box truck vehicle which will easily be able to traverse the site. To make the circulation better, a few parking stalls along the front of the property may be eliminated to reduce the number to 16 or 18. If the number of parking stalls are reduced the net impervious will drop to 0. Most of the traffic on the site will be drive through. There is one way counter-clockwise circulation around the building. The distance from the ordering area and the Route 206 entrance is about 6 car lengths or approximately 100'.

The Board questioned Mr. Ferriero about the car circulation on the site and its impact on Route 206. Mr. Ferriero said the Traffic Engineer will provide testimony. The Board requested information on comparable restaurants to understand what the actual traffic pattern is and some photographic evidence to give more comfort that a traffic problem won't be created.

Mr. Lehrer discussed Mr. Cline's report. Mr. Cline asked if there has been comment from the Fire Department to ensure there is adequate circulation around the building for a fire truck. Mr. Ferriero said they will follow up with the Fire Department. Mr. Ferriero discussed the open items in the report. A waiver is being requested for the loading area. A box truck and trash truck circulation diagram will be provided. Sidewalks are not proposed on the property. They could provide pedestrian access in the site but it will require crossing the drive aisle. If the Board requires sidewalk along the

Route 206 frontage he would extend the sidewalk into the site along the driveway. The County issued an updated report dated May 19<sup>th</sup>. There are some comments that still need to be resolved. Currently, a car can drive from the Tigers Tale to this vacant property without fully entering the Route 206 right-of-way. The County has requested the applicant maintain some sort of shared access but it is the applicant's position that they do not want to provide access. There are physical and practical issues with retaining that access. The applicant can provide a connection to Lot 59 on the west side of the property but not to Lot 62. Information has been submitted to NJDOT and they will have a pre-application meeting. The trash enclosure will be modified to the satisfaction of Mr. Cline and Mr. Sullivan. The arborvitae screening to the north along the retaining wall will be planted at 6'-7' high and will grow to about 14'-15' high. It will probably take 8 years or so to grow to full height. There will be no construction access on or off of Route 206. Prior to construction beginning there will be a preconstruction meeting with the Township Engineer and County Engineer. Regarding the light pole and guy wire on the neighboring property, they will coordinate with the utility company first since they own the pole and then neighboring property owner. They need to consider whether they need a construction easement from the neighboring property owner for the construction of the retaining wall and associated planting. The existing wooden fence will be removed. A 15 inch pipe will be provided to tie into the existing subsurface system within the Route 206 right-of-way. The cut and fill analysis has not been completed yet. The additional details of the retaining wall and guide rail will be provided. The property is more than 500 feet from any residential zone. The lighting on the site plans and architectural plans will be coordinated. The additional lighting information will be provided. The proposed average foot-candle is 1.8. Mr. Ferriero will take light measurements at surrounding sites and provide the information to the Board. The applicant will comply with all the utility and environmental comments contained in Mr. Cline's memo. The septic tank will be abandoned.

Mr. Ferriero discussed the March 17, 2015 Environmental Commission report. "No Idling" signs can be installed. Low flow fixtures will be used. The lot coverage variance may be withdrawn. A vegetated swale on the downhill side of the site will not work. There is not a flat roof on the building so a green roof cannot be provided. The roof area is very small so it is not really practical to install solar panels. They will plant native species, LED lighting will be installed where feasible, the demolition material will be recycled as appropriate, there is no room on the site for outdoor dining and a bike rack can be provided if requested by the Board.

Mr. Ferriero discussed Mr. Bartolone's March 13, 2015 report. The applicant will comply with all the comments. Mr. Cline said comment 6 should be modified to require the 6' high wood fence to be constructed on top of the wall if the effectiveness of the evergreen plantings has been compromised by deer browsing. The arborvitae along the front property line will need to be pulled back to provide safe sight distance.

Mr. Lehrer referenced the February 24, 2015 report from Board of Health. The septic tank will be abandoned and retail food plans will be submitted.

Mr. Lehrer discussed the Open Space Committee memo. Sidewalks will be installed if requested by the Board. The applicant's engineer will work with the Board engineer. Mr. Ferriero said that if crosswalks and sidewalks impact the intersection of the County Road and State Highway the DOT will most likely require the applicant to upgrade everything on the traffic signal, which could be as much as \$300,000-\$500,000 worth of improvements. They can do things on the property but getting into the intersection is problematic.

Mr. Lehrer clarified that Montgomery 206 Realty, LLC will own the real estate and Mr. Nader is the franchisee. The duration of the franchise at this location is 20 years with the ability to extend it.

Cynthia Falls was sworn in. Ms. Falls gave the Board her educational and professional background and was accepted as an expert architect. A colored rendering of Sheet A-1 of the architectural plan was marked as Exhibit A-2 (should be Exhibit A-3). Ms. Falls has experience in designing new and remodeled Dunkin Donuts. Ms. Falls described the floor plan and what is proposed for the interior of the facility. The facility is 1,880 square feet with 17 seats. The drive through is located in the back of the building. The facility is engineered and designed to get people in and out the door in the least amount of time. There is a rear door to access the trash container and to bring in deliveries. The building will be ADA accessible. There is adequate room for customers to line up. This site has been designed in a colonial type image rather than the typical modern look. The signage will be externally lit. Although dormers are proposed, there is no usable space in that area. The back of the building will have a flat roof for the two HVAC units and a solid screening fence. There will be coordination with Mr. Ferriero to make sure all the foot-candles are included in the analysis.

At the suggestion of Mr. Sullivan, Ms. Falls will look into whether the dormers can be skylights for more natural light. Many of the design criteria referenced in Mr. Sullivan's report can't be complied with due to the size of the site. With the limits of the site, this is the best architecture design.

The Board discussed providing sidewalks. The applicant will talk to DOT to see what would be required if sidewalks are installed.

Michael Fedun, Esquire, representing Tigers Tale, said that at this juncture they are listening to the testimony. They have some issues that have been communicated to Mr. Lehrer. At some point they will address the Board.

A question was raised about the letter to the neighboring property asking if they were interested in selling a piece of their property and whether there was discussion about purchasing the whole property. Mr. Lehrer said he had a conversation with the property owner and the property owner is not interested.

The application was continued to the June 23, 2015 Zoning Board meeting. No further notice is required. An extension to August 31, 2015 was signed. The applicant will submit revised plans no later than June 12, 2015.

There being no further business to come before the Board, the meeting was adjourned at 10:18 p.m.