

# **City of Batavia Planning & Development Committee Minutes**

**June 17, 2014, 6:00 p.m.**

**Council Board Room  
City Hall, One Batavia City Centre, Batavia NY**

**Attendance:** Edward Jones, David Difante, Duane Preston, Paul Viele

**Late Arrival:** Jeff Scott

**Also in Attendance:** Ralph Baranes, Mike Barrett, Donna Barrett, Randy Bebout, Joanne Beck, Joe Conditorio, Kip Finley, Robert Fitzgerald, Donald Fryling

Edward Jones called for the roll.

Edward Jones declared a quorum at 6:09 p.m.

## **1. Approval of Minutes – May 20, 2014**

**Motion by:** Duane Preston

"I move the minutes of the meeting of the Planning and Development Committee on May 20, 2014 to be approved as submitted."

**Seconded by:** David Difante

Vote for: 4 (Edward Jones, David Difante, Duane Preston, Paul Viele)

Vote against: 0

Vote Abstain: 0

**Results of motion: Approval of May 20, 2014 meeting minutes.**

(SEE MINUTES ON FILE IN CITY CLERKS OFFICE)

**2. Address:** 401-409 West Main Street

**Applicant:** Kip Finley (agent for Dunkin Donuts)

**Business:** Dunkin Donuts

**Proposal:** Minor Subdivision – to divide an existing parcel into two separate parcels and construct an approximately 1,700 sq. ft. Dunkin Donuts restaurant with a drive-through window on the newly created parcel

**Actions:**

- Review application
- Public hearing for the project
- SEQR for the project
- Discussion and action by the Board

a. Review of application

Chairperson Edward Jones summarized the application: "The applicant, Kip Finley, agent for owner has submitted plans for a minor subdivision for the property at 401-409 West Main Street. The proposed subdivision is associated with a proposed Dunkin Donuts drive-through restaurant at this property. The proposed development would be for the construction of a 1,700 square foot quick service restaurant with a drive-through. Separate actions associated with this property consist of a Site Plan Review, Special Use Permit, Special Sign Permits and an Area Variance Recommendation to the Zoning Board of Appeals (ZBA)."

Mr. Edward Jones stated that when Mr. Finley had last been before the board two months ago, the board had made recommendations and now they were ready to know how the plans had been adjusted since that time. Mr. Finley explained that Robert Fitzgerald, engineer for the project, had been responsible for addressing issues in design and could answer questions concerning those aspects, and that Mr. Finley himself had been taking care of other matters, such as attending the meeting of the Genesee County Planning Board (GCPB). Mr. Finley asked about the decision of the planning board. Mr. Jones read the decision of the board into the minutes. The GCPB was not able to reach a decision with a majority vote on any of the items, and Mr. Jones said the Planning and Development Committee (PDC) would have to proceed without a recommendation from the planning board.

Mr. Fitzgerald stated that he worked on a landscaping plan for the project as had been requested. He said he also worked on signs, adding a couple of directional signs, as well as changing the curve of the drive-through queue. Mr. Fitzgerald and Mr. Finley explained how the traffic study had been conducted. Mr. Finley stated that though it may not be the perception locally, that the number of accidents on Main Street in Batavia is below the DOT's average.

Paul Viele asked what happens if the drive-through traffic backs up onto the road as it did with Tim Horton's and the restaurant had to move the drive-through farther back. Mr. Finley answered that they put the drive-through as far back on the property as they can. They figured it would be possible to fit 11 cars in the queue. (At a later point it was clarified that this means 11 cars from window to road.) Mr. Finley said that typically their stores have four-five cars in the queue at any time. He said that this figure is based on the 20 Dunkin Donuts they have. He said that generally, most people will not wait if they see more than four-five cars in a queue; they will go to the next place. Mr. Finley said he would not anticipate having traffic back out onto the road with the possible exception of the first couple of days after the store opens.

Mr. Jones asked about the number of parking spaces, which Mr. Finley applied to have reduced from the 68 required by Batavia Municipal Code to 26. Mr. Finley said that he thought Batavia's requirement for the number of parking spaces to be determined by the amount of square footage of the building was unusual and Dunkin Donuts would never need that many spaces. Mr. Jones asked about the average number of spaces on their other Dunkin Donuts lots, and Mr. Finley answered that they usually manage with 21 spaces. He said there is space along the west side of the project if they ever had to expand the parking lot, but they would have to work with the neighbor in order to put in more spaces. Mr. Preston asked about the number of employees that would be working at any given time. Mr. Finley replied that during the morning rush time there would be four to five; then in the afternoon it would be two; and at night it would be one. Mr. Preston said that five employees with five cars would reduce the parking to 21 spaces. Mr. Finley responded that many of the employees are high school kids who get dropped off.

Mr. Jones stated that at the last meeting there had been some concerns about what the building was going to look like. He asked if Mr. Finley has some information for them. Mr. Finley pointed out the picture of a Dunkin Donuts in the packet of handout materials. He said that it is the picture of the new Dunkin Donuts prototype but that there are differences in the current project from the picture, such as where the lighting would be located. He said also that they would probably put in a few more windows facing Main Street. He said that in the picture the side facing the parked cars could actually be facing the drive aisle, and the dining room would be at the Five Star end.

City of Batavia Code Enforcement Officer Doug Randall said that the City is concerned that there is no design and that the board would be making a decision without knowing what the building is going to look like and what materials are going to be used. Mr. Finley responded that they don't usually spend thousands of dollars without knowing if they are going to get approval. He said that the building will look like the prototype, and Mr. Randall repeated that the City is concerned that approval will be granted without knowing exactly what the building will be. Mr. Jones pointed out that Mr. Finley already said that the lighting is going to be different and

that the board would like to know more about what it is going to look like before they give approval. Mr. Jones said, "We don't want to cut a blank check." Mr. Jones told Mr. Finley that the City might want to know more about the floor plan and the interior, the "nuts and bolts" of how the project will come together, and Mr. Finley wanted to know if there was another review board they could go in front of, such as an architectural board.

Mr. Jones indicated that there is reluctance to make a decision based on a prototype. He and Mr. Finley went back and forth about the differences and Mr. Finley said that from their perspective, there are times when they spend tens of thousands of dollars on plans and there are a couple of people on the board who do not want to approve and then they have thrown money out the window. Mr. Randall stated that to the best of his knowledge the board has never approved anything when they did not know exactly what it was going to look like.

Mr. Finley said that having built Dunkin Donuts all around the state, it is usually just the cities that want all the detail. He said that most communities want one so badly that they say yes, that's your prototype, that's fine. He said it is mostly just Victor, Greece, and Batavia that want lots of detail; most others are satisfied. He said that the material is basically stucco like you see in the picture, and the colors are like what is in the picture, and the signs are basically the same as the picture. He said that if the board requires them to have an architect, they can hire one and draw it up.

Mr. Jones said he wanted to have the public hearing so they could get some input from the public. He said that the board would also not want Dunkin Donuts to expend more money if the project was not going to work and that it might be possible to know tonight if the project would go forward or not. Mr. Finley agreed that he would have a sense of what would happen tonight and that he would put an architect on his list of things needed.

Mr. Jones said that he noticed they needed a number of sign permits in addition to what is usually allowed, which includes two special signs for walls and a free-standing sign that exceeds the square footage allowed. Mr. Jones pointed out that the Board has been sticking pretty close to the maximum allowance. He stated that the one at the back and the one facing the parking lot should not be an issue, but the free-standing sign, at 50 square feet, should come closer to the allowable amount of 40 square feet. Mr. Randall pointed out that Mr. Finley might want to note that they did not apply for a menu board, which as a free-standing sign, requires a special permit.

#### b. Public hearing

Edward Jones opened the public hearing at 6:31 p.m. Mike Barrett, from Batavia Marine, was the first to speak. Mr. Barrett stated that he has lived in Batavia his entire life and that he believes that regardless of what the DOT says regarding auto accidents, during the summer, there is an accident in the proximity of his store every week to a week and a half. He pointed out that traffic from the restaurant would exit onto River Street, and he related a personal experience which he said is a common occurrence. He said that earlier in the day, when he went to his home on Richmond Avenue for lunch, he had to turn onto River Street, then turn around on River Street and come back to the light at Main and River Streets, make a left-hand turn, and then a right-hand turn onto Redfield Parkway. He said that it's nearly impossible to out of his driveway and make a left turn directly onto Redfield Parkway because the traffic is usually backed up too far. Mr. Barrett explained that another problem with the location is snow removal. He said there is no place to put snow.

Mr. Barrett wanted it known for the record that he intends to keep the back part of his property open. He said that semi-trucks make deliveries to the back and need the space. Also, there are propane tanks in the back accessed by motor homes. He indicated that it was a matter being handled by his attorney.

Donald Fryling, of Redfield Parkway, also spoke. He said he has lived on Redfield Parkway for over 30 years. Mr. Fryling expressed concern over the traffic congestion. He pointed out the Tim Horton's has traffic backed out onto Route 5 and that he expected the same thing to happen with Dunkin Donuts. He said that there are times when it is difficult to get down Main Street as it is without the restaurant. Traffic already backs up on River Street, and just last week he observed an accident there. (Mr. Fryling also wrote a letter which is attached.)

Mr. Jones read an email from Robert Klinkroth into the minutes (see attached). He then recapped City Manager Jason Molino's letter from April expressing traffic concerns, and also recapped Chief of Police Shawn Heubusch's letter from April expressing traffic and safety concerns.

Mr. Jones closed the public hearing at 6:30

d. Discussion and action by the board

Upon closing the public hearing, Mr. Jones stated his concern about exiting onto West Main Street. Mr. Finley said that the problem is that they share a drive with Five Star and he did not think that the bank would be willing to close off that driveway. Mr. Jones said he saw an accident with injuries in front of the bank on Friday. There was discussion about restricting turns to the left coming out of the driveway, but Mr. Randall stated that left turns into the driveway cannot be regulated there because they come under the jurisdiction of the DOT.

Mr. Jones commented that maybe Mr. Finley needed to think further about developing a modified traffic plan. Paul Viele stated that he believed the traffic is problematic already and would only get worse if the project were to be located at that site. He said that he thinks Dunkin Donuts needs to look for a location farther down on Main Street. He pointed out that the Race Track will be opening in July, making the traffic in that location even busier. He said that it is nearly impossible to make a turn onto Main Street from Redfield Parkway as it is. Mr. Jones said he thought it would be necessary to go to the DOT to modify the intersection in order for the project to go through. It was pointed out that there had been a traffic light at Redfield Parkway until a few years ago, but it had been removed because it froze traffic. Mr. Viele stated that he thinks the site will not work. He said that he believes the project is a good idea but the site is not a good area on which to locate it.

Mr. Finley once again stated his reluctance to put more money into going to the DOT for traffic modifications only to find out that the project would not be approved next month. Further discussion from the board came back to the need for elevation plans, and more concerns about the length of the queue. Mr. Preston said he did not think the proposed length was great enough and Mr. Jones agreed. Mr. Jones that even though the length of the queue may only pose problems for an hour or two per day, that was enough to cause huge difficulties on Main Street. In a view to lengthening the queue, Mr. Randall stated that it would be possible to design the building set all the way to the back of the property but it would have to be constructed according to flood codes because it would be located in the Flood Zone. Mr. Preston pointed out that with the building located back that far you would lose line of sight. The board concluded that the site was too tight for current development.

**Motion by: Edward Jones**

"I move to table the application with the concerns being expressed that egress onto West Main Street needs to be discussed and be fine with the DOT, the only way to get out of there is going to be on River Street, and we're going to need a longer stacking queue in the drive-through. I'm not so concerned with the number of parking spaces, but there is some concern with the proximity to the adjacent property."

At this point, there was a brief digression while Mr. Jones clarified for Mr. Finley's benefit the issue with the proposed driveway. It is going to be at the property line of the adjacent neighbor. Normal driveway distance is 20 ft. away from the property line of the adjacent neighbor; the proposed project driveway is 6 ft. from the property line. Mr. Randall clarified that this is a matter for the Zoning Board of Appeals and that their decision would depend on their interpretation of the definition of driveway versus drive lane.

Mr. Jones asked the board if they wanted to add any additional concerns to the motion. Mr. Preston said he believed the site has room for five additional parking spaces. Mr. Jones added the City's request for a more formalized elevation.

Mr. Jones asked for someone to second his motion.

**Seconded by: David Difante**

Vote for: 4 (Edward Jones, David Difante, Duane Preston, Jeff Scott,)

Vote against: Paul Viele

Abstained: 0

**Results of motion: Application tabled**

- 3. Address:** 113-119 Main Street  
**Applicant:** Joe Condidorio (contractor for the occupant)  
**Business:** Tompkins Insurance  
**Proposal:** Alterations to the exterior of this building located within the BID  
**Actions:** a. Review application  
 b. Public hearing  
 c. Discussion and action by the Board

- a. Review application

The applicant, Joe Condidorio, contractor for the occupant, has applied for a permit for exterior changes to this commercial building located in the Batavia Improvement District (BID). The applicant is proposing the following: Fill in three existing window opening with masonry material that matches the existing wall surface by toothing-in the new brick to match the existing brick pattern; and adding four new window openings on the east elevation of this commercial building.

Mr. Condidorio explained that the new owner the building needs more space so they are going to move some of their employees to the second floor of the new building. There are some windows on the east wall but they are looking for some natural lighting. Currently there are three small windows in bathrooms that they would like filled in. All of the work will be done on the east side, not the Main Street side. Work will consist of filling in three small windows and cutting two new windows. After the windows are filled in, they will be painted. The applicant thought he would have to apply for permission to paint separately, but Mr. Randall clarified that they are allowed to paint without a permit.

- b. Edward Jones opened the public hearing at 7:04 p.m. There was no one present to speak. Edward Jones made a motion to close the public hearing at 7:05 p.m. Paul Viele seconded. All in favor.

- c. Discussion and action by the board

**Motion by: Paul Viele**

"I move that the proposed exterior changes to the commercial building at 113-119 Main Street, as presented to the City of Batavia Planning & Development Committee on June 17, 2014 be approved."

**Seconded by: Duane Preston**

Vote for: 5 (Edward Jones, David Difante, Duane Preston, Jeff Scott, Paul Viele)

Vote against: 0

Vote Abstain: 0

**Results of motion: Approval of exterior changes to structure in the BID.**

4.     **Address:**     55 Main Street  
          **Applicant:** Ralph Baranes, Premiere Sign Systems  
          **Business:**   M & T Bank  
          **Proposal:**   Placement of a 3 ft. x 20 ft. interior lit wall sign on the north elevation, one unlit 12 sq. ft. wall sign on the north elevation and one 3 ft. x 20 ft. interior lit wall sign on the south elevation  
          **Actions:**     a. Review application  
                           b. Public hearing  
                           c. Discussion and action by the board regarding issuance of two special Sign Permits and one permitted sign located within the BID
- a.     Review of application

The applicant, Ralph Baranes from Premier Sign Systems, had applied for two Special Sign Permits and one permitted sign on this commercial building located in the BID. All existing signs would be removed and would be replaced. The application for the following: to place one 3 ft. x 20 ft. interior lit (M & T Bank) wall sign on the north elevation; place one unlit 12 sq. ft. ATM wall sign on the north elevation; and place one 3ft. x 20 ft. interior lit (M & T Bank) wall sign on the south elevation of this commercial building.

Mr. Baranes said that 15 years ago the bank agreed to gooseneck lighting, however, the bank's preferred style of sign is one that is internally lit. He said that he saw where the code allows for illuminated signs, and even though it is not the type of lighting the City prefers for this district, because it is in the code the bank requested he present it. The bank has made changes to its brand over the 15 years since the current sign was installed and they believe it is time to change the sign. The bank is proposing an internally lit sign, but the gooseneck lights could probably light the sign as well. They understand that it is not the City's preference but because the opening is in the sign code they felt they had to ask.

Mr. Baranes asked for clarification of the measurements. He reported how he arrived at his calculations for total square footage and Mr. Randall responded that the proposed signs are well under the 15% limit. Mr. Jones explained that the Special Sign Permit is for the sign facing the parking because they are allowed one sign facing street frontage and technically the parking lot is not street frontage. He said that historically the board has looked favorably on putting signs in that area because it is a large parking lot with a lot of traffic going through there. Mr. Baranes said that the fascia is the same on both sides of the building so it made sense to the bank to place the same sign on both walls. There is a small sign on the front of the building indicating an ATM. They are replacing that and would like to put the same sign on the rear wall, but Mr. Baranes noted that they had not made a request for that.

Mr. Jones explained that even though a sign is permitted, because the bank is in the BID they have to come before the board for approval. Referral to the GCPB was required because the bank is on State Route 5. Mr. Jones read the board's decision into the minutes. The GCPB gave approval with recommended modification for lighting. They recommended that the lighting conform to the guidelines established by the BID. He

pointed out that the PDC could overrule with a super majority. Mr. Baranes said that the internal lighting would be more effective with the bank's green and gold colors. Mr. Viele said that an internally lit sign was fine. Mr. said that he preferred gooseneck lighting. Mr. Baranes pointed out the First Niagara has an internally lit sign and they are M & T's competitors. Mr. Scott said that while he does not have a problem with an internally lit sign, he thinks if the City is trying to achieve a characteristic look, it could set a counterproductive precedent to approve something other than what is desired for downtown.

b. Edward Jones opened the public hearing at 7:19 p.m. There was no one present to speak. Edward Jones made a motion to close the public hearing at 7:20 p.m. Duane Preston seconded. All in favor.

c. Discussion and action by the board

Mr. Jones stated that while he applauds the bank for trying to rebrand itself, he believes there is a need to balance that with what BID is trying to accomplish on Main Street. He said that a lot of people have made an investment in a certain look and that gooseneck lighting creates a certain character that he thinks should be maintained. Mr. Viele commented that he does not like the BID dictating what he can and cannot do. The board agreed to allow for the application to be amended to include the small sign on the rear of the building.

#### **Motion by: Edward Jones**

"I make a motion to approve three special sign permits and to approve a permitted sign on the north elevation for the commercial property located in the BID at 55 Main Street with the understanding that the main signs on the north and south elevations will be externally lit using existing goosenecks, and to approve the ATM signs on the front and south elevations.

#### **Seconded by: Paul Viele**

Vote for: 5 (Edward Jones, David Difante, Duane Preston, Jeff Scott, Paul Viele)

Vote against: 0

Vote Abstain: 0

**Results of motion: Approval of three Special Sign Permits and approval for a permitted sign.**

- 5. Address:** 573 East Main Street  
**Applicant:** Randy Bebout, Agent for McDonalds USA  
**Business:** Proposed McDonald's Restaurant  
**Proposal:** Placement in the southwest corner of this project site of a 5 ft. x 5' McDonald's arches pole sign with a 3.42' x 5' digital reader board sign  
**Actions:**  
 a. Review application  
 b. Public hearing  
 c. Discussion and action by the board regarding issuance of Special Sign Permit

a. Review application

The applicant, Randy Bebout, Agent for McDonalds USA, has applied for a special sign permit for the proposed McDonalds Restaurant at this property. The site plan and other special sign permits were approved earlier by the Planning and Development Committee. The present application is for the placement in the southwest corner of this project site a McDonald's arches pole sign with a 3.42 ft. X 5 ft. digital reader board sign. The pole sign would be a total of 20 feet in height.

Mr. Jones reported that the GCPB had reviewed the application and recommended approval. He read their decision into the minutes.

Mr. Bebout clarified that the address, 573 East Main Street, has been assigned to the McDonald's. He told the PDC that it is the intent to start construction within the next 30 days. He said that when he had been in front of the board the previous year, McDonald's had been asking for 80 sq. ft. Since last year, McDonald's has come out with what they are calling their next generation signage. Mr. Bebout said that the good thing is that the new signs are smaller compared to what they have used in the past, so this new design is one of the smallest they have. The McDonald's logo is 60 in. x 60 in. internally illuminated. There is a digital board located below. The graphics can be changed on it if so desired. They understand that it cannot be flashing and that they would be limited to changing the sign once per day. It is two feet over the 40 sq. ft. limit but it is a standard sign and to make it any smaller is not an easy thing to do, especially if in the future they need to change parts or make modifications to it. Mr. Bebout said he believes the sign meets the intent of the code and is esthetically pleasing.

Mr. Jones said that he thought it was a very nice sign and that it looks modern. He said it is very close to the size limit and he did not see any reason against granting the permit. Mr. Bebout added that it is still located in the same position as on the original plan.

b. Mr. Jones opened the public hearing at 7:32 p.m. There was no one present to speak. Edward Jones made a motion to close the public hearing at 7:23 p.m. Jeff Scott. All in favor.

c. Discussion and action by the board  
Mr. Jones pointed out that this site is not in the BID so that different rules apply to the kind of lighting that can be used for the sign. He said that the site is in a shopping plaza so the lighting is appropriate but he wanted to make it part of the approval for the permit that the sign cannot scroll, flash, or be changed more than once per day. Mr. Jones stated that he was glad to hear that the project is moving forward and noted that there has been a lot of interest in the community. Mr. Bebout explained that the last time he had been in front of the board a franchise owner had yet to be assigned and that was part of the reason for the delay. He said that a lot of things had to fall in place but that it has been reported to him that work is going to start within the next 30 days.

**Motion by: Paul Viele**

"I move that the Special Sign Permit for the proposed 20 foot tall, 5 ft. x 5 ft. McDonald's arches pole sign with a 3.42 ft. x 5 ft. digital reader board sign at the southwest corner of the proposed McDonald's restaurant at 565-587 East Main Street in the City of Batavia, as presented to the City of Batavia Planning & Development Committee on June 17, 2014, be approved subject to the following conditions: it can't scroll, flash, or change more than once per day."

**Seconded by: Jeff Scott**

Vote for: 5 (Edward Jones, David Difante, Duane Preston, Jeff Scott, Paul Viele)

Vote against: 0

Vote Abstain: 0

**Results of motion: Approval of one Special Sign Permit.**

**6. ADJOURNMENT**

The next meeting will be July 15, 2014 at 6:00 p.m.

**Motion by:** Edward Jones made a motion to adjourn.

**Seconded by:** Jeff Scott.



Vote for: 5

Meeting adjourned at 7:40 p.m.

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read "Meg Chilano". The signature is written in a cursive, flowing style.

**Meg Chilano**