

The Planning Board of the Town of Cicero held a meeting on **Monday, August 8, 2011** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

-Pledge of Allegiance

-Approval of minutes from the July 25, 2011 meeting (**approved**)

-Site Plan/Sketch Review, Tim Horton's USA Inc., 5920 Lakeshore Road/5917 Route 31, Proposed restaurant & drive thru (**to return**)

Board Members Present: Mark Marzullo (Chairman), Joe Ruscitto, Greg Card, Pat Honors, Chuck Abbey, Robert Smith and Sharon May

Others Present: Mark Parrish (P.E., O'Brien & Gere), Steven Procopio (Code Enforcement Officer), John Marzocchi (Esquire, Germain & Germain) and Tonia Mosley (Clerk)

Absent: Wayne Dean (Director, Planning & Development) and Neal Germain (Esquire, Germain & Germain)

The meeting opened with the Pledge of Allegiance. The Chairman noted emergency exits and requested that all cell phones be turned off.

**APPROVAL OF THE PLANNING BOARD MINUTES FROM JULY 25, 2011**

**Mr. Smith made a motion** to approve the Planning Board meeting minutes from July 25, 2011.

**Mrs. May seconded the motion.** The motion was **approved** with the following vote:

|               |     |
|---------------|-----|
| Mr. Ruscitto: | Yes |
| Mr. Card:     | Yes |
| Mr. Honors:   | Yes |
| Mr. Abbey:    | Yes |
| Mr. Smith:    | Yes |
| Mrs. May:     | Yes |
| Mr. Marzullo: | Yes |

**SITE PLAN/SKETCH REVIEW, TIM HORTON'S USA INC.  
5920 LAKESHORE ROAD/5917 ROUTE 31  
PROPOSED RESTAURANT & DRIVE THRU  
TDK ENGINEERING/PYRAMID BROKERAGE**

Representatives: Robert Bender, Tim Hortons USA, Inc.  
Joe Durant, TDK Engineering

Mr. Bender introduced himself and Mr. Durant. The last time we were together we went over the site located on Lakeshore Road, Lakeshore Spur and Route 31. We all agreed that the site is difficult to work with. But based upon the comments we received from that meeting and comments we received from the Department of Transportation (DOT) we have actually gone back to the drawing board. After that meeting we talked about the things that challenged us including the access from Lakeshore and the County's concerns about stack length, DOT comments to move the driveway down to here, truck routes, etc.

We have decided to move the building to the south and to the east as far as we could practically. We are happier with this site content. Everything seems to fall into place.

The DOT has told us Route 31 would have to be a right-in right-out access, which we are okay with. We have created a fairly open route through the site in this area which will allow our delivery trucks to get in here, do what they need to do, and get out the other way. We took the driveway on Lakeshore and moved it a little closer to the Spur. Now trucks can make turns around this corner. That solves the truck access issue and allows us to not have to re-locate this existing telephone pole.

We still maintain an escape lane through the drive-up and created a much lengthier queue beyond what is designated here. We have the ability for traffic from both directions to stack up within our parking lot and not affect any traffic on the road. We have increased our ability to get traffic off the street and onto our site.

This plan needs two variances. One would be for the building setback from Route 31. As you can see, we have not pushed the building forward further than any of the existing buildings on

Route 31. So, we are optimistic that we can plead a case for the ZBA to approve that. The other variance would be for the dumpster location. As we moved the dumpster around to different spots on the site, we kept coming back to this location for a couple of reasons. Number 1 would be the proximity to the back of the building. Number 2 is that we could not find a spot that was any further away from the two buildings located on adjacent properties. This appears to be the most logical spot.

I believe that we ended up with 31 parking spaces—two more than on the last plan. We were able to create a nice greenspace over by the front door, along with a nice spot for the patio. We would landscape those areas.

With this drive-up we have eliminated the need for a double stack drive-up. There is no reason to have two ordering points because of what we were able to do. The site flows better. We think that this concept works really well given the difficulties of the parcels as we discussed last time.

Mr. Durant added we also have GTS doing a traffic study on the site, based upon this traffic configuration and the right-in, right-out onto Route 31. The DOT asked for that.

Mr. Bender agreed. We sent this off to the State to get some feedback from them for this meeting. They all ready came back saying they would not accept full access off Route 31 because of its proximity to the intersection and the no left-hand turn here. You would not be allowed to turn left. Any one travelling east on Route 31 would have to go up Lakeshore, come into Lakeshore and come back out onto Lakeshore. Granted it is not an easy movement. We realize that we will not get a lot of traffic from that direction because it is not an easy movement. But that is how the site has driven us. There would be a raised island at the 31 access point to define that right-in, right-out.

Mr. Smith: The problem with this is you have a high school and elementary school right up the street. You have concentrated traffic there. You will have kids coming down Lakeshore to turn here trying to cut back across. That is my personal experience. I don't know how you or the DOT have planned but people are going to make every effort to avoid this and turn left. People go all the way down Lakeshore to Route 31 now and try to turn east. I can tell you that we are going to have accidents where your entrance is on 31 unless you come up with a better layout

than this.

Mr. Durant: This plan does not reflect the right-in, right-out. We have not changed it since we got the comments back from the DOT last Friday. That access would be curved so that you come in and go out at an angle. It will have a raised island and it will have signs.

Mr. Smith: Your signs are still in place at the Route 11 site and it is not as bad. We have had fatalities just down the road on 31.

Mr. Bender: We have moved this driveway as far as we can to the east. There is no other property to extend this out. With the right-in right-out restriction, there are only so many ways that you can design that. I can not engineer this for people breaking the law.

Mr. Smith: Maybe this is an inappropriate site. Personally, I do not think this is an improvement from your last submittal.

Mr. Bender: From the original time that we looked at this, we felt that the proper access was completely off Lakeshore. We were told by Mr. Dean that was unacceptable and that we would never have access off of the Spur. We have been working around that restriction since day one. The only reason we showed that on the site plan last time was so that we could get the truck off of the site.

Mr. Marzullo: There was a lot of conversation about whether or not that made sense. I am not sure I knew the answer at that point.

Mr. Smith: I can absolutely tell you for certain that you are going to get high school kids cutting across here, and some of their parents. It is going to be a disaster. It was just in front of McDonald's not that long ago, exactly at the morning hour when you do most of your business, that we had a fatality.

Mr. Bender: With that in mind, there is no reason why we could not change this back to the double order station here, so that we could get more cars into the stack and open up an access from the Spur right here.

Mrs. May: No. I don't like that. I like this better than what you just said.

More discussion occurred.

Mr. Abbey: When do you expect the traffic study to be available?

Mr. Durant: Any day now.

Mr. Marzullo: Have you done the turning radii for the truck?

Mr. Durant: Yes, but that is not available tonight. We have to put the right-in right-out back in--similar to what we did on the previous site plan.

Mr. Marzullo: You don't think that you will have an issue with the variance---with the self-imposed difficulty? It is pretty significant.

Mr. Bender agreed that it was fairly significant. All we can do is ask the ZBA. We have all acknowledged the challenges of the site.

Mr. Honors: How many feet is the drive thru edge of the building from the road?

Mr. Durant: 23' from the building to the right-of-way. From the road itself, the edge of the building is about 40' off of the shoulder.

Mrs. May: Is one handicap spot enough for 43 seats?

Mr. Bender: No, we will change that to two. That is 43 seats total for Tim Hortons and the Cold Stone. That is interior seating only. It does not include outdoor seating. There are 16 seasonal seats. We have 31 parking spaces with 6 employees combined typically per shift for the Tim Hortons and the Creamery.

Mrs. May noted that the traffic flow at the Tim Hortons on Brewerton Road works well. It has a similar right-in right-out access.

More discussion occurred.

Mr. Marzullo: You should see if you can get the variance before we get too in depth with this.

Mr. Bender: We certainly wanted to come in and get some feedback from this Board before we took it any further.

Mr. Honors: I liked the access from the Spur. I don't think that road is traveled much and it does have a signal. But, I can understand not doing so if that is what you were told.

Mr. Smith agreed adding at least an exit.

Mr. Marzullo: It would keep cars off Lakeshore.

Mr. Smith: It is a Planning Board decision. I don't like the exit onto the Spur either, but it is the best option of the two. And it is going to be safe.

Mr. Bender agreed. That was the first concept that we came in with. It was all driven with access off the Spur. In our original plan the only access was off the Spur---we were not looking for access from Lakeshore or Route 31 because we thought the signalized intersection would help the situation.

Mr. Card: I still think that you need access from another road as well.

Mr. Bender: So the access that you are concerned about is the one from the State Road?

Mr. Smith: Yes.

More discussion occurred.

Mr. Bender: So in theory we could make this a right-in only. And then the only exit points would be on to Lakeshore and on to the Spur.

Mr. Smith: If you wanted to go east on to 31 you would go out to the by pass and then use the

red light. Granted, stacking would be in the way.

Mr. Bender: Maybe that is not the case. We will have to look at this again. Maybe the escape lane for the drive up becomes shared with this entrance. We would probably look at shifting the building closer to the Spur.

Mr. Durant: So you are saying right-in only off Route 31, exit only out of the Spur, and full ingress/egress from Lakeshore?

Mr. Marzullo asked about frontage and setbacks. I am not sure if it is an issue, but I want to make sure that it is done right.

Mr. Parrish: I don't think that you have three front yards on this site. I would defer to the Codes Office for an interpretation as to where front, side and rear yard setbacks are.

Mr. Procopio: The definition would indicate that it would be road frontage--50 feet from your road frontage to a building. It is true that your address is the front of the building all though the definition of required front yard states from the line tangent to the road.

Mr. Bender: In either case, we would be looking at a variance. Is there anything else? (There was no response.) I don't know how this is going to work. We will have to go back to the drawing board.

**Mrs. May made a motion to adjourn. Mr. Smith seconded the motion. The motion was approved** unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:30 P.M.

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Tonia Mosley, Clerk

