

**SOUTH STRABANE TOWNSHIP  
ZONING HEARING BOARD  
REGULAR MEETING MINUTES**

**JUNE 13, 2022**

**APPROVED MEETING MINUTES**

On Monday, June 13, 2022 at 6:00 p.m., after due advertisement according to law, a Public Meeting of the South Strabane Township Zoning Hearing Board (“ZHB”) was held at the Municipal Building (550 Washington Road, Washington, PA 15301) and the following were present:

Art Sullivan, Chairperson  
James Stewart, Vice-Chairperson  
Michele Tysiak

Also Present

Brandon Stanick, Township Manager  
Jim Sutter, Assistant to the Township Manager  
Jordan Cramer, Fire Chief  
Paris Szalla, Administrative Intern  
Michael Cruny, ZHB Solicitor  
Sheila Rozanc, Stenographer

**1. PLEDGE OF ALLEGIANCE**

Chair Sullivan lead the Pledge of Allegiance.

**2. APPROVAL OF THE ZONING HEARING BOARD MEETING MINUTES – MAY 9, 2022**

Chair Sullivan moved to approve the May 9, 2022 Meeting Minutes as presented. Mr. Stewart seconded the motion. The motion passed on a unanimous voice vote.

**3. ADMINISTRATION OF OATH**

Ms. Rozanc administered the oath to those in attendance.

**4. PUBLIC HEARING: CONTINUED CONSIDERATION OF AN APPLICATION BY FOX JR. DEVELOPMENT, INC. FOR A USE BY SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 1075-1077 E. BEAU STREET IN THE R-1 ZONING DISTRICT TO CHANGE THE USE FROM DELICATESSEN TO CARRY-OUT RESTAURANT PER SECTION 245-194C OF THE ZONING CODE REGARDING THE CHANGE OF NONCONFORMING USES**

Chair Sullivan introduced the item, which was originally considered at the May 9, 2022 meeting of the ZHB.

Mr. Bill Scrip, a franchise owner of several Fox’s Pizza restaurants and the ultimate end user of the Property, stated the net floor area of the store following renovations will be 78 square feet.

Upon a question from Chair Sullivan, Mr. Scrip stated this figure is based on the revised site plan provided to the ZHB. Chair Sullivan expressed his disappointment the Applicant was unable to provide a legible site plan to scale so that the ZHB can evaluate the plan properly.

A discussion ensued on the site plan. In response to a question from Chair Sullivan, Mr. Scrip confirmed the building can occupy a maximum capacity of 12 people according to the site plan. Chair Sullivan asked if the Applicant had provided a layout of the parking area. Mr. Scrip stated the Property already has 10 parking spaces. Chair Sullivan stated the ZHB needs to verify if parking can be accommodated. Mr. Scrip stated Jim Fox could provide this as he will be the purchaser. Mr. Scrip noted he is the operator of the restaurant. Chair Sullivan asked if this is something that could be provided so the matter could be resolved at the following meeting. Mr. Scrip stated he assumes this can be done.

Mr. Stewart expressed his concern regarding ingress and egress of cars between the Property and East Beau Street. Chair Sullivan stated Solicitor Michael Cruny had recently provided a summary of a Pennsylvania Supreme Court decision (Manor Healthcare v. Zoning Hearing Bd.) to the ZHB which establishes their jurisdiction. Upon a question from Chair Sullivan, Mr. Cruny stated ingress/egress would be regulated by the Commonwealth and is beyond the purview of the ZHB.

Chair Sullivan asked the Applicant if they had given any thought in how they would control ingress/egress. Mr. Scrip stated they cannot control other drivers and referenced Police Chief Drew Hilk's previous correspondence indicating there had been no accidents in that location in the past 10 years.

Mr. Scott Day, current owner of the Property, was sworn in at this time.

Mr. Day stated the only accidents since August 2016, when they purchased the Property, involved cars speeding going around the bend and sliding through the parking lot. He added there have been no accidents involving cars pulling out onto East Beau Street or as a result of the parking lot itself. A discussion ensued on decreasing the speed limit of East Beau Street. Chair Sullivan stated they cannot control the speed limit or install traffic control devices on East Beau Street as this is entirely under the jurisdiction of PennDOT. He stated they can look at controlling traffic on the Property and limiting ingress/egress and asked again if the Applicant had given any consideration to this issue. Mr. Paul Rock, a franchise owner of several Fox's Pizza restaurants and the ultimate end user of the Property, expressed his agreement on the need to consider vehicular safety. A discussion ensued. Mr. Rock stated the Applicant will seek to comply with any Township request.

Ms. Tysiak asked if the Applicant had any data on the traffic at the Property when the Beau Mart was open and what is anticipated for the operation. Mr. Day stated the most recent study he saw showed 8,000 cars traveling on East Beau Street per day. Upon a question from Ms. Tysiak, Mr. Day stated this figure is not specific to Beau Mart. Mr. Day stated their busiest time was lunch, approximately 11:30 a.m. through 1:30 p.m. and expressed his opinion Fox's Pizza's traffic will not be significantly busier.

Ms. Panasik expressed concern over the franchising aspect of the business. A discussion regarding ownership ensued.

Chair Sullivan noted the application question regarding fire protection has been completed with “not applicable” and asked how they plan to address this. Chair Sullivan also noted there is a concern due to the proximity of a residence to the structure. Mr. Scrip detailed several standards they need to adhere by according to the International Fire Code. Mr. Rock stated they will have to abide by all Township and State regulations. Chair Sullivan stated this information was not provided in the application. Mr. Scrip noted there are descriptions of their proposed fire protection systems on the site plan provided. Chair Sullivan noted he is unable to read the drawings due to poor quality.

Township Manager Brandon Stanick asked if there was intent for the architect who provided the site plans to be in attendance to better explain these concerns. Mr. Scrip stated they had been told he would be in attendance. Chair Sullivan asked if the provided site plan is adequate for the record or if a full size hard copy is necessary for inspection by the Public. Mr. Stanick stated comprehensive plansets will be required by the Building Official and Fire Chief for review. Chair Sullivan requested the Applicant provide those items in advance to be included in the Public Record.

Upon a question from Chair Sullivan, Mr. Scrip stated the ovens would be heated by gas. Chair Sullivan asked if the electricity demand will be significantly different than the Beau Mart. Mr. Scrip stated the demand will be the same. A discussion ensued on the capacity of the ovens. Mr. Day stated they have auctioned off all of the existing appliances and have upgraded to 220-amp service. He stated the Applicant will have no electricity issues given the operations of the business.

Upon a question from Mr. Stewart, Fire Chief Jordan Cramer stated he and the Building Department will be responsible for ensuring all electrical, fire and building codes are followed prior to occupancy being issued.

Chair Sullivan asked if any lighting is proposed to be installed. Mr. Rock stated there are existing lights, but none would be added. Mr. Scrip stated a light may be installed on the sign, but it would be facing towards the building. Ms. Tysiak asked if the parking lot is lighted. Mr. Day stated there is a streetlight and motion detectors on the building.

Ms. Panasik expressed concern regarding signage. A discussion on signage followed and Chair Sullivan stated the Applicant is not proposing any signage as part of this application, and any proposed signage will need to adhere to the requirements of the Zoning Code.

Chair Sullivan inquired on any actions the Applicant has taken to address runoff and erosion down the hill behind the Property. Mr. Day stated run-off has not been an issue. Mr. Day stated new gutters and downspouts have been installed and there has never been any water in the basement. Mr. Day stated they have never received complaints from neighbors. Mr. Scrip stated a French drain could be installed if there is an issue.

Mr. Cruny stated the Applicant is not asking for any zoning relief based upon the statements on the application, indicating compliance with all the regulations of the Code. Further, the Applicant will be permitted to install any proposed signage provided it is within the standards of the Code. A discussion on signage in the R-1 Zoning District ensued. Mr. Stanick asked the Applicant if they understand the signage regulations for the Property. Mr. Scrip stated he does not know offhand. Mr. Stanick stated in his experiences, corporate will adjust to an individual municipality's regulations. Ms. Panasik reiterated her concern regarding signage.

Mr. Cruny, upon consulting the South Strabane Township Zoning Code, stated a business identification sign for a use by special exception in the R-1 Zoning District is permitted one nonilluminated or indirectly illuminated wall sign or freestanding ground identification sign, provided the signs shall not exceed 12 square feet in area, and a maximum height of a freestanding sign shall not exceed six feet. Mr. Cruny stated any proposed signage will be reviewed to ensure compliance with these standards. Ms. Panasik reiterated her concern regarding signage.

Upon a question from Chair Sullivan, Assistant to the Township Manager Sutter stated the Township has no records on any action by the Zoning Hearing Board regarding the Property.

Upon a request from Chair Sullivan, the ZHB adjourned into Executive Session to discuss potential litigation at 6:49 p.m. The ZHB returned from Executive Session at 7:04 p.m.

Chair Sullivan stated it is the consensus of the ZHB to not take action on the application due to issues the ZHB would like to have clarified. He stated the ZHB needs to hear testimony from the architect and a detailed lighting plan. Chair Sullivan asked if it would be possible to have a representative from the Fox's Pizza corporate office to discuss ingress and egress. Mr. Stewart requested clarification if a drive-through will be a part of the plan and if so, how will it comply with the standards of the Zoning Code. Chair Sullivan requested a layout of the proposed parking and a legible site plan drawn to scale. Chair Sullivan asked if the applicant is willing to continue to next month and respond to these six items. Mr. Scrip stated they would.

Ms. Panasik expressed concern regarding the overall project and for the ZHB providing the Applicant additional time. Chair Sullivan reiterated the ZHB is limited in its authority regarding the Applicant's request and referenced the Pennsylvania Supreme Court decision provided earlier by Mr. Cruny. Chair Sullivan stated the Township has a desire to see development in our community and for businesses to succeed.

In response to a statement made earlier by Ms. Panasik, Mr. Scrip clarified he and Mr. Rock do not own the Fox's Pizza in Burgettstown, Pennsylvania. Mr. Scrip continued noting the business arrangement with the franchise in Myrtle Beach, South Carolina. Upon a request from Chair Sullivan, Mr. Scrip confirmed they will respond to the six issues noted for the following month's meeting.

Mr. Ralph Dixon, resident on Floral Hill Drive, expressed his concern regarding the speed of cars on East Beau Street. Mr. Dixon asked how the ZHB can make a decision on this matter when the Township has no control over traffic flow on East Beau Street. Chair Sullivan

reiterated the Pennsylvania Supreme Court limits what they can do, but they will do all they can in the best interests of the Township. A discussion followed regarding the traffic on East Beau Street.

Mr. Cruny read the following items into the record:

- Exhibit H – Revised Site Plan;
- Exhibit I – Proof of advertisement in Observer-Reporter (May 29 & June 6, 2022);
- Exhibit J – Neighbor notification letter dated May 27, 2022;
- Exhibit K – Staff memorandum dated June 8, 2022;
- Exhibit L – Correspondence from James Blue, resident on 4 Floral Hill Drive; and
- Exhibit M – Memorandum from Fire Chief Jordan Cramer dated June 6, 2022.

Chair Sullivan moved to enter Exhibits H-M into the Public Record. Ms. Tysiak seconded the motion. The motion passed on a unanimous voice vote.

Upon a request from Ms. Panasik the following item was entered into the record:

- Exhibit N – Correspondence from Jack Kiesling, resident on Green Crescent Drive.

Chair Sullivan moved to enter Exhibit N into the Public Record. Mr. Stewart seconded the motion. The motion passed on a unanimous voice vote.

Chair Sullivan moved to continue the Public Hearing until July 11, 2022 to allow the architect and a representative from Fox's Pizza corporate office to be present to provide clarification on drive-through service and for the Applicant to provide additional testimony related to the site plan, lighting and parking. Mr. Stewart seconded the motion. The motion passed on a unanimous voice vote.

## **5. PUBLIC COMMENT TIME**

The ZHB allocates a period of time during this item for those individuals who would like the opportunity to address the ZHB on any matter. Each person addressing the ZHB is asked to limit their comments to a maximum of three (3) minutes.

There were no comments from the Public.

## **6. ADJOURNMENT**

As there was no further business to come before the ZHB, Chair Sullivan moved to adjourn. Mr. Stewart seconded the motion and the meeting adjourned at 7:23 p.m.

Respectfully Submitted,

Brandon J. Stanick  
Township Manager / Zoning Officer