

**RESOLUTION NO. 19-018**

**TOWNSHIP OF VOORHEES**

**PLANNING BOARD**

**RE: APPLICATION NO. PC 20-002**

**WHEREAS**, Dean Development Associates, LLC (“Applicant”), with a business address of 1958 Duncan Drive, Scotch Plains, New Jersey, has filed an application for development review under Application No. PC 20-002 seeking Amended Preliminary and Final Major Site Plan Approval with bulk variances and design waivers to permit construction of a 14,000 square foot retail building on a 2.58 acre parcel within the MB Major Business Zoning District, located at 122 Route 73 North, more particularly described as Block 252, Lots 9 and 9.01 on the Voorhees Township Tax Map (the “Subject Property”); and,

**WHEREAS**, the Applicant’s application was presented before the Voorhees Township Planning Board (“Board”) at a public hearing on September 9, 2020 in sworn testimony of (1) the Applicant’s Managing Manager Viken Kirian, the Applicant’s Engineer Richard Clemson, P.E. of James Sassano Associates, Inc, the Applicant’s Traffic Engineer, Jay S. Troutman, Jr., P.E. of McDonough & Rea Associates, Inc., the Applicant’s Planner, Steve Lennon, P.P. of Taylor Design Group, Inc., the Applicant’s Architect, Philip A. Ruggieri, P.A. of Ruggieri & Partners; and (2) by the legal representation of Robert Baronowski, Jr. Esquire; and

**WHEREAS**, it appears that all jurisdictional and procedural requirements of applicable Township Ordinances have been satisfied; and

**WHEREAS**, the Board has considered the recommendations and comments of its professional staff; and

**WHEREAS**, the Board opened the hearing to the public with significant comment and opposition from nearby residents at the public hearing on September 9, 2020; and

**WHEREAS**, the Board after carefully considering the evidence and examining certain exhibits, has made the following factual findings and statements of reasons:

1. The Applicant seeks Amended Preliminary and Final Major Site Plan Approval with bulk variances and design waivers to permit construction of a 14,000 square foot retail building with associated parking lot area of 75-spaces, drainage basin and other site improvements on a 2.58 acre parcel, located at 122 Route 73 North (Block 252, Lots 9 and 9.01 on the Voorhees Township Municipal Tax Map) within the MB Major Business Zoning District. The Subject Property fronts on State Highway Route 73 North at the corner the intersection at Signal Hill Road.

2. The Applicant was previously granted Preliminary Major Site Plan Approval to permit construction of a 14,000 square foot shopping center at the Subject Property by the Board by Resolution No. 05-031, memorialized on August 24, 2005. Final Major Site Plan Approval was granted for that same project by Resolution No. 06-012, memorialized on May 10, 2006. At that time, the Subject Property was located in an EB-Economic Business Zoning District. Since the time of granting the original site plan approvals in 2005-2006, the applicable zoning for the Subject Property has been amended to a MB Major Business Zoning District. Accordingly, no vested rights exist in the prior approvals that were previously granted.

3. The Applicant requests the following bulk variances in connection with the application: a) minimum side-yard setback (29.09 feet proposed; 50 feet required); b) minimum 100 feet buffer in rear yard; loading areas, access drive, and stormwater basin proposed in the first 50 feet of the buffer; c) minimum parking setback from Route 73 (39.4 feet proposed; 50 feet required); minimum parking setback from residential use (40.37 feet proposed from Lot 16; 50 feet required).

4. The Applicant requests the following design waivers in connection with the application: a) Route 73 streetscape standards installed minimum 50 feet from right-of-way; proposed parking improvements encroaches to within 39.4 feet and stormwater basin encroaches to within 31 feet; b) one-way internal collector drives minimum width (16 feet proposed; 18 feet required); c) all traffic islands minimum width (3.6 feet proposed; 8 feet required); d) two-thirds (2/3<sup>rd</sup>) of building not in same setback line; proposed building utilizing entirely same setback line; e) at least 50% of building façade positioned at required front-yard setback of 100 feet from Route 73, proposed building setback between 215 to 223 feet; f) all buildings on corner lots on Route 73 placed proximate to intersection of front-yard setback lines of 100 feet and 50 feet for Signal Hill Drive; proposed building setback between 215 to 223 feet from Route 73 and 51.39 feet from Signal Hill Drive; g) prohibiting parking from encompassing more than 50% of lot frontage within 170 feet of Route 73 right of way; proposed 74.3%; h) trash and refuse areas to meet setback requirements for parking lots and structures (50 feet required for side-yard; 8.28 feet for trash enclosure in side-yard)(100 feet required for rear-yard; 63.42 feet proposed in rear-yard); i) 10% of parking lot area shall be landscape with evergreen and deciduous trees; non-compliant; j) textured pedestrian crosswalks required; none provided; and k) no detention basins in required buffer area; basin #1 proposed in rear-yard buffer area).

5. The following documents and exhibits were reviewed and considered by the Board and are incorporated herein by reference:

(a) A-1 Voorhees Commons Amended Preliminary and Final Major Site Plans Minor Subdivision Plans, prepared by James Sassano Associates, dated January 3, 2020, consisting of twenty-one (21) sheets;

- (b) A-2 Survey of Premises; prepared by RMS Land Surveying, dated December 6, 2019;
- (c) A-3 Voorhees Township Development Review Application, dated February 6, 2019, consisting of four (4) pages;
- (d) A-4 Voorhees Township Planning Board Resolution No. 05-009, denying Preliminary Major Site Plan Approval for Subject Property;
- (e) A-5 Voorhees Township Planning Board Resolution No. 05-031, granting Preliminary Major Site Plan Approval for Subject Property;
- (f) A-6 Voorhees Township Planning Board Resolution No. 06-012, granting Final Major Site Plan Approval for Subject Property;
- (g) A-7 Aerial Photograph with Site Plan Layout, marked as Exhibit A-1 at the Public Hearing;
- (h) A-8 Four Colored Photographs of Subject Property, Dated January 24, 2020;
- (i) A-9 Traffic Impact Study, prepared by McDonough & Rea Associates, dated January 22, 2020, consisting of fourteen (14) pages and Appendices;
- (j) A-10 Stormwater Management Compliance Report, prepared by James Sassano Associates, Inc., dated January 3, 2020, consisting of thirteen (13) pages with Exhibits;
- (k) A-11 General Stormwater Inspection, Maintenance and Repair Plan, prepared by James Sassano Associates, Inc., dated January 3, 2020, consisting of fourteen (14) pages with Exhibits;
- (l) A-12 Conceptual Building Elevation (Colored), prepared by Ruggieri & Partners, last revised to 12/18/06;

(m) A-13 Building Elevations and Floor Plans, prepared by Ruggieri & Partners, last revised to 9/30/06, consisting of two (2) sheets;

(n) A-14 Report of the Voorhees Township Environmental Commission, dated March 11, 2020, consisting of one (1) page;

(o) A-15 Voorhees Township Fire Department Email to Board Secretary, consisting of one (1) page, undated;

(p) A-16 Report of Voorhees Township Sanitary Sewer Engineer, Churchill Associates, dated March 5, 2020, consisting of five (5) pages;

(q) A-17 Report of Environmental Commission's Planner, CME Associates, dated March 9, 2020, consisting of three (3) pages;

(r) A-18 Report of Board Engineer, Environmental Resolutions, Inc., dated March 9, 2020, consisting of three (3) pages; and

6. The Applicant's Engineer, Rick Clemson, P.E. presented an aerial photograph of the proposed retail shopping center on the subject 2.6 acre parcel and testified that the Board previously granted preliminary and final site plan approvals for a 14,000 square foot shopping center in 2005 and 2006. At that time, the Subject Property was zoned EB Economic Business and is now zoned MB Major Business. The Applicant's Engineer testified that the previously approved site plan design has been modified to move the shopping center approximately twenty (20) feet closer to State Highway Route 73 to provide a larger buffer and separation from the two residential lots in Quail Ridge, located adjacent and to the rear of the shopping center. To protect these residential properties to the rear, Mr. Clemson testified that the Applicant would accept a 50-foot conservation easement to the rear of the subject property to ensure that a permanent buffer is maintained. Mr. Clemson described the properties to the north as vacant land, to the northeast as

the areas of the Signal Hill School and to the south as a vacant single-family dwelling. Mr. Clemson testified that 60 compensatory trees would be planted to replace the 36 trees to be removed.

7. The Applicant's Traffic Engineer, Jay Troutman, P.E., testified that he prepared a traffic impact study, which concludes that the peak hour is mid-day afternoon on weekdays and during the AM hours on Saturday morning. Mr. Troutman testified that traffic counts are not significant while school is in session. Mr. Troutman testified that one-third of traffic generated by the shopping center would ingress/egress directly onto to Route 73. Traffic on Signal Hill Road predominantly originates from the residential communities at Sturbridge Lakes and from the Lakeside Drive area on the southbound side of Route 73. Mr. Troutman testified that the proposed addition of the shopping center would increase the existing traffic delay by less than one second. Mr. Troutman opined that site access will be safe and efficient and that DOT is anticipated to reaffirm the DOT Access Permit it had previously granted in 2005. Mr. Troutman testified that when school hours end at Signal Hill School, there is back up for a 30-minute period in the AM and early afternoon. Mr. Troutman suggested that traffic signalization changes could be pursued for the Signal Hill/Route 73 intersection during the school hour period to provide for a 150-second cycle for the traffic light.

8. The Applicant's Landscape Architect and Planner, Steve Lennon, P.P., testified that the proposed landscaping would meet the Route 73 design requirements and would include plantings in the stormwater basin with rain gardens. Supplemental landscaping would also be provided in the parking lot area, but interspersed in a manner to promote traffic safety, and would be sufficient to not require any contribution to the Township's Tree Compensation Fund. Irrigation would be installed to maintain the landscaping. Evergreens and Juniper bushes would be planted

around the trash enclosure to provide adequate visual screening. Mr. Lennon testified that an 8-foot fence would be installed along the back perimeter of the property to screen the adjacent residential properties, per the recommendation of the Voorhees Township Environmental Commission. The Applicant would also agree to install timers to cut-off lighting approximately 30 minutes after the shopping center closes.

9. Mr. Lennon testified that the proposed shopping center is consistent with the requirements of the 2012 Master Plan Reexamination Report and that it would promote the purposes of zoning set forth in N.J.S.A. 40:55D-2(i) for aesthetics and – 2(c) through avoiding site encroachment with mitigation from Route 73 and through the buffering of residential properties to the rear through installation of landscape plantings and fencing and with a parking lot area setback approximately 40 feet from Route 73.

10. The Applicant's principal, Viken Kirian, testified that approximately 7-9 retail stores are contemplated for the shopping center, including two restaurants. Kirian testified that the shopping center would function as a neighborhood shopping center, servicing nearby residential areas including Sturbridge Lakes. Proposed lighting would have cutoffs and there would be no light spillage. Deliveries would be restricted to avoid conflicts with peak hour periods during the school commuting time and would be restricted to Route 73, ingressing to and egressing from the shopping center. The Applicant would consider the installation of security cameras to ensure public safety. No bollards are proposed at the front of the building. The Applicant would provide a person-gate at the trash enclosure. The Applicant would comply with the recommendations of the Township Sanitary Sewer Engineer's Report, including the addition of grease traps to the plans for restaurants. The Applicant further agreed to coordinate with the Board

Engineer on any signage and striping of pedestrian access from Signal Hill Road to ensure public safety, particularly for students coming from the nearby Signal Hill School.

11. During the public portion of the meeting, Birdina Brookins of 2 Quail Hollow Court testified that she resides directly to the rear of the shopping center and has concerns with traffic, particularly during drop-off and pick-up times when school buses and parents are transporting children to/from the school. George Peters of 29 Brookview Drive similarly expressed traffic concern with motor vehicles making a right-turn movement onto Signal Hill Road in order illegally U-turn and head back across Route 73 or desiring to turn southbound on Route 73.

12. Edward Ferrugia testified that he is President of the Sturbridge Lakes Homeowner's Association and attempted to put expert traffic testimony on the record from William Green, P.E. The Board has considered the professional credentials of Mr. Green and finds that he lacks the requisite professional experience and expertise to testify as a traffic engineer because he testified he could only recall two projects (in Mansfield and Millstone Townships) in which he testified on traffic related issues in nearly 40-years of practice as a licensed engineer. On cross-examination of Green's credentials, the Applicant's attorney adduced further evidence that Mr. Green was not employed at an engineering firm, was not a member of the Institute of Traffic Engineer's (ITE) and operated a one-person business operation called W.H. Green & Associates, from his home address. The Board considered this evidence and finds and concluded by motion and a unanimous vote that it does not accept Mr. Green as a traffic engineering expert. Mr. Green did not provide any further testimony after his disqualification.

13. Mr. Ferrugia continued his testimony that the Sturbridge Lakes Homeowner's Association is not opposed to reasonable development of the Subject Property, just that what is currently proposed is excessive, because it is substantially non-compliant to current zoning and



planning design requirements. Ferrugia testified that current design requirements of the MB Zone would require a reduction of building size, and that the previous 2005-06 zoning standards had been amended to reduce the development potential for this site. By way of example, Ferrugia emphasized that the parking lot area is required to encompass no more than 50% of front of the building and what is proposed is 74%. Ferrugia testified that the Subject Property is a tight-lot and cannot accommodate nine (9) retail stores. Ferrugia suggested redesigning the shopping center with a smaller building footprint.

14. Nancy Masterston of 14 Kings Croft Lane testified that she opposed the shopping center location because of its close proximity to a school and because there is ample vacant retail space in Voorhees Township which should be occupied before a new retail shopping center is considered.

15. Greg Offt of 25 Fox Hollow Drive testified that he has resided in the local neighborhood since 1987 and raised similar concerns with waiting 3-4 traffic light signal changes to enter Route 73 during the busy school time commute hours in the early morning and early afternoon hours.

16. Adam Austino of 167 William Feather Drive, Elsa Anzideo of 20 Signal Hill Drive, Connie Wagner of 172 William Feather Drive, Michael Twist of 57 Bethany Hill Drive and Pamela Rosenberg of 117 William Feather Drive each testified that the Signal Hill School would be located too close in proximity to the shopping center location. In combination, the two uses in close proximity to the Route 73 traffic light intersection would create unacceptable traffic delays and safety issues at the Signal Hill Road/Route 73 intersection during the school commuting hours.

17. David Phung of 4 Quail Road testified that he resides directly behind the proposed shopping center location and questioned the addition of a shopping center when school bus traffic is already a major concern, including bus traffic from the middle school and high school.

18. Maryann Twist of 161 William Feather Drive testified that school children would frequent the shopping center and would have their personal safety threatened when the school day ends.

19. John Martin of 14 Redstone Drive, Melissa Shack of 19 Fox Hollow Drive and Mike Cianfrone of 23 Tenby Chase each testified that the Applicant should reduce the building size and submit a conforming plan that is proportionate to the size of the lot.

20. The Board finds and concludes that it agrees the proposed scope of development of the Subject Property for a 14,000 square foot shopping center is excessive on this 2.58 acre-lot and that the requested variance relief and design waivers should not be granted when the benefit therefrom only allows the developer to maximize its profits. The Board emphasizes that the zoning standards have been amended since the 2005-06 prior approval was granted. No expectation should be conferred to grant relief, to ensure the same development potential for the site. The Board further finds and concludes that the Applicant has not met its proofs on the "negative criteria" and that the existing traffic conditions on Signal Hill Road and at the Route 73 intersection are particularly acute during two hours of each weekday and on Saturday mornings. The Board finds that to grant variance relief to allow for greater development potential than is otherwise permitted, immediately adjacent to a notorious traffic prone area, would make bad traffic conditions worse, particularly at the point of ingress/egress at Signal Hill Drive. The Board finds there is simply no additional capacity for Signal Hill Road to accept more development than is otherwise permitted by zoning.


**NOW, THEREFORE, BE IT RESOLVED,** by the Township of Voorhees Planning Board, that the said application for Amended Preliminary and Final Major Site Plan Approval with bulk variances and design waivers for real property at 122 Route 73 and Signal Hill Drive is hereby denied for the reasons set forth above.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the Applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

RECORD OF VOTE						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Ron Schwenke, Chairman	X					
Mayor Michael Mignogna						
Andrew Schallenger, Mayor's Designee			X			
David Kleiman, Vice Chairman	X				X	
Jason Ravitz, Committeeman				X		
Subash Rashatwar			X			
Mario DiNatale			X			
Anthony Nicini				X		
Andrew Brzozowski			X			
Mark Kleinman			X			
Troy Brocco				X		
Bryan Stein	X					X

I, Wendy Flite, Secretary of the Planning Board of the Township of Voorhees, County of Camden and State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 2400 Voorhees Town Center, Voorhees, New Jersey, on the 11<sup>th</sup> day of November, 2020.

  
 \_\_\_\_\_  
 WENDY FLITE, Secretary  
 VOORHEES TOWNSHIP PLANNING BOARD

  
 \_\_\_\_\_  
 RON SCHWENKE, Chairman