

BOROUGH OF RARITAN
Land Use Board Meeting
MINUTES
October 23, 2019

CALL TO ORDER

Mr. Miller called the meeting to order at 7:05 p.m. and read the open public meetings statement in accordance with the law.

FLAG SALUTE & ROLL CALL

Present

Mr. Miller
Mayor McMullin
Mr. Cunningham
Mr. Gausz
Mr. Delacruz
Mr. Sinagara
Ms. Sherwin

Absent

Councilman Carra
Ms. Thomas
Mr. DeCicco
Ms. Goetsch
Mr. Krajewski
Ms. Carra

Also Present

Susan Rubright, Board Attorney
Angela Knowles, Board Planner

Not Present

Stan Schrek, Board Engineer
Lou Gara, Construction/Zoning Official

MINUTES

Motion by Mr. Cunningham, **seconded** by Mr. Gausz to approve the **September 25, 2019** Minutes by voice vote. Mayor McMullin, Chairman Miller and Mr. Delacruz abstained.

The August 14, 2019 TRC Minutes were tabled again.

ENGINEERING REPORT

In the absence of Mr. Schrek, there was no engineering report.

PLANNING REPORT/ PEDESTRIAN BIKE & SAFETY COMMITTEE UPDATE

Ms. Knowles advised that she was continuing to work on the Circulation Plan update and Pedestrian Bike & Safety Plan and that the subcommittee would re-convene in order to go over the next steps. She spoke about plans to install crosswalks and ADA ramps on Old York Road and another location using funds from the 2018 Regional Center grant in the interest of making a multi use trail for walking/biking.

Ms. Knowles advised that she met with the Environmental Commission regarding certification for the Sustainable Jersey Certification and explained that they will need some documentation from the Planning Board [Bike & Pedestrian Safety Plan]. Mayor McMullin provided an update on the plan for relocation of the jug handle and spoke to the significance of the new location with respect to the pedestrian walkway and ultimately a pedestrian overpass on Route 206.

Mayor McMullin indicated that he had been working with some residents in the audience on the issue of the land (park) behind their homes which he acknowledged that the Borough had been maintaining. He related that they were anxious to be involved and encouraged them to share their thoughts.

Diane Kinser (29 Woodmere Street) related that the park in question has not been maintained since Super storm Sandy and that they cut the grass for access to the sewer line only. She indicated that trees have fallen and that other trees are in danger of falling/damaging their properties. Ms. Kinser advised that while they initially wanted a cleanup of the park, they are now concerned that the new proposal would diminish privacy. She related that they also want to understand the necessity of turning it into a park. She mentioned the presence of an abundance of wildlife and asked what "park" means. She expressed concerns over the potential for mischief and reiterated concerns over trees that are in bad shape. Ms. Kinser suggested that they take care of the trees and then have more meetings over what would be entailed.

Chairman Miller assured her that any planning in creating a park type environment would be a public process with feedback. Mayor McMullin spoke about issues with the trees due to Green Acres restrictions. He clarified that it is already a park and asked Angela to have Stan coordinate a walk thru with DPW.

Joan Dobrosky (25 Woodmere Street) expressed concerns over having strangers behind her house in light of losing her dog last year to a marijuana cigarette left by a passerby. She asserted that what was there before was "they just maintained it."

In response to a question from Mr. Sinagara, Mayor McMullin confirmed that there are no swing sets, etc. on the site; just a manhole, sewer pipe and "meandering stream" that overflows its banks into the backyards periodically. He advised that it has been maintained by DPW because of access to the interceptor.

CONSTRUCTION/ZONING OFFICIAL

In the absence of Mr. Gara, there was no Construction/Zoning Official report.

TRC MEETING UPDATE

Chairman Miller confirmed that there were no TRC meetings scheduled.

DISCUSSION/OLD BUSINESS

Medical Marijuana Alternative Treatment Centers (Draft Ordinance)

Mayor McMullin read the following excerpt from dialogue at the Council meeting into the record:

"Nick Carra said, The Planning Board would like more guidance from the Governing Body regarding medical marijuana. Mayor McMullin said that there was an understanding in 2017 that there would be a state [inaudible] legislation which has not happened. Mayor McMullin said the Planning Board is in a difficult position at the moment. Councilman Giraldi said the Council has agreed medical marijuana would be permitted in Raritan but not recreational. Mayor and Council agreed to have the Planning Board determine appropriate location for a medical dispensary." He suggested that based on the foregoing, what the Council is really looking for from the Board is where to put it ["locations"].

The importance/relevance of the Board submitting their recommendation for adoption in ordinance format was discussed. Mr. Cunningham explained that the approach he took in chairing the Subcommittee was that it would be up to the Governing Body/residents to determine whether the use would be desirable and if so, then it would be for the Board to suggest/determine what areas/zones would be appropriate to accommodate it. Mayor McMullin re-read part of the excerpt reiterating that Council has agreed medical marijuana would be permitted.

Concerns over grandfathering of recreational sales were discussed at length. Chairman Miller advised that he read the legislation again that was adopted in July and no longer saw language regarding this. Encouraging the Board to just focus on the medical use, he asserted that he was confident the State would require local permission if legislation passes regarding recreational sales.

Mr. Cunningham advised that they still needed to discuss the B2 and B3 zones and related that he had equated

dispensaries to pharmacies at the last meeting. Chairman Miller asserted that their responsibility as a Planning Board is to provide the governing body with language that they recommend for adoption, including standards for zoning which would be up to Council to wordsmith further or reject. Ms. Rubright concurred and confirmed that while the ordinance does not talk about specific properties, it does cover specific locations by way of zone including frontages [relevant because of access issues] and standards as set forth in the ordinance.

A discussion ensued on the distance required between ATC's and certain "sensitive uses."

Speaking from the audience, **Seth Tipton, Esq.** of Florio Perrucci Steinhardt & Cappelli spoke about local controls and statutory restrictions as well as earlier comments on grandfathering. Mr. Tipton advised that the only statutory control is a distance of 1000' from elementary and secondary schools and confirmed that the State does not address parks, drug rehabilitation centers or churches. He offered that states want to see compliance with local ordinances and that the first thing an applicant needs to do is show that they have a local approval.

After further discussion, the Board concluded to amend the draft ordinance to say that ATC's shall not be located within 1000' of an elementary/secondary school or 500' of a childcare center, nursery school, drug rehabilitation center or public park/pool. There appeared to be consensus among the Board members for location of ATC's within the B2/B3 zones located along state highways.

An extensive discussion ensued over the prevention of emissions and disposal of material in response to comments from Mayor McMullin on Section 10 of the ordinance.

Speaking from the audience, **Sarah Trent** confirmed that there would be no incineration or consumption/burning of product on site and clarified what the procedures for disposal are in accordance with Department of Health regulations. Ms. Rubright read Sections 10(i), (ii) and (iii) aloud. In response to a question from Ms. Rubright about whether there is a detectable odor in the store, Ms. Trent asserted that there is not. How to alter the wording in order to ensure proper disposal of product was discussed. Ms. Knowles confirmed that section 8 on page 4 covered consumption of marijuana [prohibited].

Mayor McMullin spoke about tightening up the definitions in fairness to the applicant. Mr. Tipton spoke about interior controls [HVAC] regulated by the Department of Health as well as an intensive inspection and monitoring process that covers "seed to sale." Ms. Rubright suggested that it say that all State regulations concerning ventilation, emissions and disposal with materials shall be in accord with Department of Health regulations. Mr. Gausz suggested that they leave 10(ii) regarding disposal intact. The Board appeared to concur.

Transportation of product was discussed. Ms. Trent provided details on the type of vehicles used. She also advised that there would be a security guard on site during hours of operation and provided information on the video surveillance system which covers both the inside of the store and the parking lot.

The manner of disposal was discussed again. Ms. Trent advised that the Department of Health requires that the State Police transport product that is unusable to a state licensed incinerator.

Chairman Miller confirmed that 10(i) and 10(iii) would be removed and (ii) and (iv) would be combined. The Board Attorney confirmed that she would revise the section to cover emission control, ventilation and disposal.

An extensive discussion on the definition of the term "immediate area" on page 4 ensued. Ms. Trent offered that the parking lot is monitored for diversion and to ensure customers are leaving promptly. Further discussion on enforceability ensued as it relates consumption on the premises/loitering. The term "adjacent grounds" was discussed at length. Mayor McMullin offered that he was looking for enforceable language over loitering concerns. Reiterating that the State has a direct feed into the video, Mr. Tipton related that they would be

happy to collaborate with the Borough on this. Mayor McMullin clarified that he was trying to figure out how they could use the ordinance in order to create jurisdiction. Ms. Rubright suggested that they take out the words "adjacent grounds."

Mayor McMullin referred to another instance in the ordinance where the term "adjacent grounds" was used. An extensive discussion on redundancy and the need for same throughout the document was discussed. Mayor McMullin offered that there was work to be done on the definitions.

The definition of "premises" was discussed further in response to comments from Ms. Sherwin regarding policing the surrounding area. The idea of limiting the use to standalone areas was discussed. Mr. Tipton offered that the statute adopts the smoke free areas designation ensuring a "blanket prohibition" on using product anywhere in the surrounding area.

Chairman Miller asked whether the State would require monitoring of the entire parking lot if the store were located in a strip mall. Ms. Trent indicated that while this was unknown it would be likely. Mr. Tipton spoke to the security plan. Mayor McMullin suggested it was important to keep everyone moving along. Mr. Cunningham offered that he did not want to discourage doing business in Raritan. In response to his comment, Ms. Trent spoke about benefits to surrounding businesses.

The size of the facility was discussed. Ms. Trent advised that while there is no minimum size, the Department of Health does require an appropriate vault. She advised that occupancy would be dictated by code.

Ms. Trent provided details of business operations, including the requirement of an initial [intake] counseling session for every new patient. Inflow was discussed. Mr. Tipton likened it to a pharmacy consultation. He spoke at length to the anticipated number of licenses to come in New Jersey.

Ms. Trent responded to questions from Mayor McMullin about her projected revenues for year one and how this factors into sizing of the facility.

Parking was discussed. Ms. Trent responded to questions regarding the length of consultations and anticipated foot traffic. She advised that there would be a part time Pharmacist on site. She described the layout and protocol/procedure for entry into the dispensary floor. The average allotment/purchase per patient was discussed.

Discussion ensued on how to determine the size of the waiting area. Mr. Tipton related that the Department of Health is trying to loosen the restrictions on the amount that can be purchased in a single visit in order to reduce the number of trips to facilities. Ms. Trent advised that she anticipated 5 to 10 seats in the waiting area, 6 stations and 2 consultation booths. She advised that she envisioned approximately 6 staff members, depending on time of day and varying needs.

Ms. Trent responded to questions from Mr. Delacruz about the manner in which product is prescribed. She provided an overview of the process for obtaining a medical marijuana card.

After another lengthy discussion on terminology with respect to enforcement, the Board concurred to remove the term "adjacent properties" from the ordinance.

Ms. Trent confirmed that her facility would be a "single use facility." She confirmed that she would be selling paraphernalia.

Language on page 6 regarding zoning permit revocation was discussed at length. Ms. Rubright spoke about the

manner in which zoning violations are handled and resolved to revise this wording.

An extensive discussion ensued on parking standards for the use. Deliveries and the need for a separate loading dock were included in the discussion. Ms. Trent provided information on hours of operation and anticipated traffic. The Board concluded to establish a new standard for the use of 1 parking space per 125 square feet for a total of 20 spots based on projected staff and anticipated number of customers. Ms. Trent offered that the number was concerning but "workable."

Ms. Rubright asked whether the Board wanted to re-review the ordinance with changes as discussed or move it along to the governing body. The Board encouraged her to share the revised version prior to sending it directly to the governing body so as to avoid any further or extensive delays.

Motion by Mr. Delacruz, **seconded** by Mr. Sinagara authorizing the Board Attorney to amend the ordinance language and forward directly to the Governing Body for disposition.

Roll Call:

Aye: Mr. Miller, Mayor McMullin, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Mr. Sinagara, Ms. Sherwin

Nay:

Abstain:

There was a brief discussion about timeframes for adoption of the ordinance. Conflicts for the November meeting were discussed and it appeared there would be an issue with quorum. As such, the Board resolved to cancel the November meeting.

APPLICATION

- **Otto Properties, LLC**
83-85 West Somerset Street (Block 103, Lot 5)
Preliminary & Final Site Plan, D Variance

The Board Attorney advised that the matter was adjourned until further notice.

DISCUSSION/NEW BUSINESS

Borough Resolution 2019-09-142 authorizing/directing the Land Use Board to prepare a Redevelopment Plan for Block 93, Lots 1&2 (57&59 LaGrange Street) pursuant to N.J.S.A.40A:12A-7(f)

Chairman Miller announced that the matter would be tabled due to issues with escrow.

MISCELLANEOUS

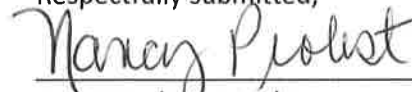
PUBLIC COMMENT

The Chairman opened [and subsequently closed] the floor to public comment at 9:06.

ADJOURNMENT

Motion by Mr. Cunningham, **seconded** by Mr. Gausz and unanimously carried to adjourn the meeting at 9:06.

Respectfully submitted,



Nancy Probst, Board Secretary

APPROVED 12/18/19