

BOROUGH OF RARITAN
Planning Board REGULAR Meeting
MINUTES
October 26, 2022

CALL TO ORDER & FLAG SALUTE

The meeting was called to order at 6:34 p.m. in the Borough of Raritan Municipal Building. Chairwoman Thomas read the Open Public Meetings Statement into the record.

ROLL CALL

Present

Chairwoman Thomas
Councilman Carra
Mr. Cunningham
Ms. Carra
Mr. Brown
Ms. Goetsch
Ms. Sherwin

Also Present

Larry Cohen, Board Attorney
Stan Schrek, Board Engineer
Lou Gara, Construction Official/Zoning Officer

Absent

Mayor Bray
Mr. DeCicco
Mr. Delacruz
Ms. Windrem

MINUTES

Motion by Councilman Carra, **seconded** by Ms. Carra to approve the Minutes of **September 28**, as amended by **voice vote**. Ms. Goetsch abstained.

DISCUSSION

A discussed ensued about the November meeting date in light of Thanksgiving. The Board concluded to move the meeting to 11/30/22. Mr. Schrek suggested that completeness for Raritan Crossing be undertaken prior to hearing based on his initial review of the plans. Ms. Thomas confirmed that the Doughty Street subdivision would also be heard then.

Motion by Ms. Goetsch, **seconded** by Mr. Cunningham and unanimously carried to reschedule the 11/23 meeting to November 30, 2022 AT 6:30.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Goetsch, Ms. Sherwin

NAY:

ABSTAIN:

ENGINEERING/PLANNING REPORT

Mr. Schrek spoke about the impacts of the new storm water regulations on design and developable area. He advised that amendments to several ordinances would be needed with respect to the Borough's MS4 permit and that new applications would need to be approved before the new regulations come into effect.

Mr. Schrek also spoke about a meeting that occurred with the new Economic Development Planner from the County as it relates to the study done for Raritan by FHI. Ms. Thomas remarked that the meeting was "positive" and called them proactive. She thanked Mr. Gara for providing the County with data on available commercial properties for lease in Raritan. She also shared that Angela Knowles is still working on a bike share program collaboratively with Duke Farms that targets Raritan, Somerville and Manville.

CONSTRUCTION/ZONING OFFICIAL

Mr. Gara discussed/provided updates on the following:

- Consideration of an Ordinance amendment to allow Tattoo Parlors. Mr. Gara shared information on a potential tenant for the old Shop n Stop property who wants to open a full service salon offering tattoo and massage. He suggested that massage should also be discussed. The Board resolved to table any further discussion on this until after the new year in light of the timetable for ordinances.
- Castillo Seafood. Will be replaced with a Costa Rican Restaurant.
- Old Nik's Pub. Pizza oven to be added. Plans look favorable. The upstairs apartment was discussed in response to a question from Mr. Cunningham. Mr. Gara explained that it had been cleaned up but he had not been inside. He confirmed that the property was not impacted by the last storm in response to a question from Ms. Sherwin.
- Mr. Gara reported on tenancy in the professional office buildings (Vones/202 and 575 Rt. 28).
- Drugstore renovation. Plans received but no application for use/tenant.

An extensive discussion about revenue generated by Construction ensued in response to a question from Mr. Brown about using same to fund projects such as parking. Mr. Gara explained that monies from Construction go to the General Fund and as such, would fall under the jurisdiction of Council. Mr. Cohen expounded on this.

Mr. Brown suggested that the sitting Council Member should look into it. Councilman Carra related that he had discussed same with Eric [Colvin] but understood that the funds might not be accessible until 2024. He also related that he spoke to Eric and Bill [Robertson] about the bank on Main Street. Mr. Brown asserted that they have to fund projects that they know need to be undertaken.

TRC UPDATE

Chairwoman Thomas advised that the TRC met jointly with Council to discuss the parking study and asked about next steps. Referencing his 9/26 report, Mr. Schrek explained that they would recommend an amendment to the existing ordinance in order to update the parking table as a result of changing the method for calculation from gross to net square footage. Mr. Cohen suggested that the Board refer Mr. Schrek's report regarding amendments to the parking ordinance for the downtown area to Council.

Shared parking and use of the [previously undertaken] project for merchant parking in the Thompson Street parking lot in particular, was discussed. Mr. Brown related that most nights after 5pm, the lot is full of Vinnie's customers. Mr. Shrek spoke about the intent of the project and Councilman Carra referenced Madison Borough as an example. Mr. Schrek explained that the Ordinance was still in effect but the concept failed because it wasn't enforced property. He offered to move it forward. Mr. Brown lamented that all roads lead back to enforcement and opined that it needs to be addressed separately. Mr. Shrek stated that he would move his report forward to the Council for their meeting on the 14th.

Motion by Mr. Brown, **seconded** by Mr. Cunningham to refer Mr. Schrek's 9/26 parking study to the governing body in consideration of amending parking standards, as discussed.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Goetsch, Ms. Sherwin

NAY:

ABSTAIN:

A discussion ensued between the Board Engineer and Board Attorney regarding procedure.

RESOLUTIONS

- **AREA IN NEED OF REDEVELOPMENT (BLOCK 116.01, LOT 11.01 – RARITAN MALL)**

Motion by Ms. Goetsch, **seconded** by Ms. Sherwin to adopt the resolution (as presented), memorializing the Board's determination that the property should be deemed an Area in Need of Redevelopment and referring same to Council for disposition.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Sherwin

NAY:

ABSTAIN:

Mr. Schrek explained that Council will either refer it back to the Board to develop a plan or develop a plan on their own and have the Board review it. Mr. Cohen explained further.

- **JANSSEN PHARMACEUTICALS – BUILDING 920 (BLOCK 2, LOT 17 – 1000 ROUTE 202)**

Motion by Mr. Cunningham, **seconded** by Mr. Brown to approve the resolution (as presented), memorializing the approval of Preliminary and Final Site Plan.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Sherwin

NAY:

ABSTAIN:

MASTER PLAN CONSISTENCY REVIEW

ORDINANCE #2022-14 An Ordinance by the Borough of Raritan amending Ordinance 2021-09 permitting Medical Cannabis Alternative Treatment Centers as a Conditional Use

Chairwoman Thomas explained the purpose of the review, suggesting consistency with the exception of item j as it relates to parking. Mr. Cohen explained that they would rule on consistency and then have the ability to exercise their right to comment on specific ordinance provisions, with the understanding that they want to comment on the provision concerning a change in parking requirements. Mr. Schrek explained that the ordinance for medical cannabis was passed as is. He read the definition of ATC dispensary [as revised] from page 2 and explained that this ordinance incorporates the first ordinance, adding recreational use.

With respect to paragraph j, Mr. Schrek explained that the original ordinance called for 4 parking spaces per 250 square feet while this ordinance would allow for a reduction (to 4 per 1000 square feet), (essentially cutting requirements in half). He reminded the Board that while traffic testimony during Site Plan supported a variance for medical use, the approval was conditioned upon return for Site Plan should there be any change in use. He offered that the Board would need additional testimony to support same.

Mr. Cohen offered that regardless of whether the ordinance is adopted with item j as currently written, the applicant would still need to return to the Board for Site Plan approval for the new use, citing the conditions of the prior approval as Mr. Schrek explained. He reminded the Board that there was a deficiency for the entire site and that the approval was based on testimony that this would be a medical use with the majority of visits being by appointment. He asserted that the need for a variance would be dictated by the action taken by Council.

Mr. Cohen reminded the Board of their previous finding that the medical use was consistent with the Master Plan and reiterated that they would first need to determine whether the proposed ordinance is consistent and then talk about the change/advise Council accordingly under their statutory rights, as outlined in 40:55D-70.26 which he read aloud.

Ms. Sherwin pointed out a discrepancy/inconsistency in the title which she related the agenda listed as "consistency review for recreational cannabis ordinance" while the title of document referred only to medical cannabis. Mr. Cohen explained that this is an ordinance to amend the existing ordinance, referring to the ATC definition referenced earlier by Mr. Schrek. Ms. Sherwin asked whether this was a separate ordinance. Mr. Cohen clarified that it was not because the majority of this ordinance has to incorporate what already exists.

Mr. Shrek explained that he did not know who wrote the ordinance and mentioned inconsistencies. Calling it a "mystery," Ms. Thomas pointed out spelling errors in the document. Discussion ensued about the author, consistency and quality. Mr. Cohen offered that it would be better if the title included reference to recreational use in addition to medical and explained that the Board had the right to comment on that as well.

Chairwoman Thomas opened the floor to comments.

Mr. Cunningham offered that medical customers would likely visit earlier in the day because they would receive a discount, ameliorating larger amounts of traffic later in the day. He asked whether the previously discussed proposed amendment to the traffic standard was applicable. Mr. Schrek explained that what they did pertained to ATC use and that a net calculation was used. He explained that the number put into the new ordinance "backs into the number" and asserted that any intensity to the use would need to be discussed. Mr. Cunningham made reference to the provision for return to the Board if recreational use was added.

Mr. Brown lamented that the issue of possible traffic generation was analyzed "ad nauseum" for the medical use and that it barely made it through. Citing the fact that it is still in the same location, he offered that it was in no way acceptable when considering recreational sales as a secondary use. He asserted that if the facility was to operate for both uses, it should be located elsewhere, citing the creation of a dangerous situation along side of a highway. Mr. Schrek offered that this was more for Site Plan.

Mr. Cohen offered that based on the way the ordinance is drafted, there is an implication that they currently meet the standard. Mr. Schrek asserted that this was because of the variance they received. Mr. Cohen reiterated that since they had a variance, another one would be required in Site Plan, if the ordinance is adopted. An extensive discussion ensued as to the need for an additional variance.

Mr. Brown suggested that it stands to reason that they will need more square footage if they are going to have more variations in product. Mr. Cohen spoke about the basis for having granted the variance in the first place, citing better control of parking and traffic for medical use. He reiterated that the Board could comment on the parking requirements/proposed changes to the ordinance pursuant to their right to determinate consistency and make recommendations for amendments to language.

Mr. Cunningham offered that all of the answers seem tied to Site Plan. Mr. Cohen reiterated that if Council were to adopt the ordinance in its current form, the applicant may not need a variance.

Chairwoman Thomas suggested that they focus on whether the ordinance is consistent, which she offered is, excepting the parking which she called "still inadequate" for the use. She reiterated that the parking is not adequate for the use and therefore should not be in the ordinance. Ms. Goetsch asked for clarification. Ms. Thomas explained that while they would still get the use, by taking exception to item j, the Board would be asking Mr. Cohen to compose a letter to Council explaining why they feel the parking is not "correct."

Mr. Cunningham asked why the applicant doesn't come before the Board with a proposal in order to determine whether they agree. Ms. Thomas explained that the first ordinance had to do with medical while this one says they are passing an ordinance allowing recreational. She further explained that the Board is saying to allow recreational because it is consistent with the Master Plan; however, they would be documenting that "somehow" the parking got changed in an ordinance whose source is unknown. Calling the parking "egregious," she reiterated that this is the part the Board does not agree with. Mr. Cohen explained that they can't come to the Board because it is not a permitted use. He responded to a question from Ms. Sherwin about whether the previous ordinance came before the Board.

Further discussion ensued about who authorized the ordinance. Chairwoman Thomas asserted that it allows for a negative impactful change and confirmed to Ms. Sherwin that most of the language was in the original ordinance. Mr. Schrek suggested that the Borough Attorney review it, given inconsistencies. Ms. Thomas asserted that this should have been done prior to going to the floor for a vote. Mr. Schrek offered to relay this to Bill Robertson.

Speaking from the audience, the Owner of Middle Valley Wellness, **Sarah Trent** advised that they are on track with their construction schedule and planning to open within the next 30 days. Ms. Trent offered that the Board's feelings were anticipated and apologized for the upset. She explained that at the time of her approval, there was a rule in their permit prohibiting conversions within the first year that was subsequently (recently) lifted. As such, she explained, she reached out to Council with the understanding that it would take time because of State procedures.

Ms. Thomas offered that speed was not the issue. She asserted that she did know where the ordinance came from and suggested that it had the appearance of being slid through. Calling the Board "process oriented," she asserted that the ordinance should have been crafted by Council/Borough Attorney and lamented that it was disrespectful to the residents to have an ordinance "crammed down" their throats.

Brian Tipton, Esq. (attorney for Middle Valley Wellness) offered that regardless of the change in use, they would need a parking variance. He related that their feeling was that the parking requirements were "overly aggressive."

Ms. Thomas asserted that they would decide upon return to the Board. Mr. Schrek mentioned the transcript from the first application. Mr. Thomas asserted that the Board has made every effort and done "more than enough" to accommodate.

There was an extensive discussion as to the wording of a motion that would memorialize the finding of consistency while documenting the exception being taken to the change in parking requirements. The Board concluded to vote on the consistency review and authorization to direct the Board Attorney to relay comments about parking to the Council in separate motions/votes.

CONSISTENCY FINDING

Motion by Ms. Goetsch, **seconded** by Ms. Sherwin to find the proposed use of recreational marijuana is not inconsistent with the Master Plan.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Goetsch, Ms. Sherwin

NAY:

ABSTAIN:

Motion by Ms. Carra, **seconded** by Ms. Goetsch to direct the Board Attorney (pursuant to the Board’s right to comment) to communicate to the governing body that they do not agree with the proposed change in parking requirements.

ROLL CALL:

AYE: Chairwoman Thomas, Councilman Carra, Ms. Carra, Mr. Cunningham, Mr. Brown, Ms. Goetsch, Ms. Sherwin

NAY:

ABSTAIN:

Mr. Cohen confirmed that he would prepare and circulate a letter. Calling the ordinance “an insult,” Ms. Thomas reiterated her feelings about it being disrespectful to residents when parking was already deficient.

PUBLIC COMMENT

Chairwoman Thomas opened the public comment portion of the meeting at 7:43.

Paul Malarcher of 23 Hidden Pond Road asked about revising the title of the ordinance. Mr. Cohen explained that his letter would include a suggested revision to the title of the document.

The public comment portion of the meeting was closed at 7:44.

A brief discussion ensued about the link sent to the Board members relative to revised Storm water regulations.

ADJOURN

Motion by Mr. Brown, **seconded** by Mr. Cunningham and unanimously carried to adjourn the meeting at 7:44.

Respectfully submitted,

Nancy Probst, Board Secretary

APPROVED _____