

**BOROUGH OF RARITAN**  
Land Use Board Reorganization & Regular Meeting  
**MINUTES**  
January 23, 2019

**CALL TO ORDER**

**APPOINTMENTS/OATHS OF OFFICE**

Mayor McMullin administered Oaths of Office to Denise Carra, Nick Carra, Richard Miller, John Gausz, Michael DeCicco and Samuela Sherwin.

**ROLL CALL & FLAG SALUTE**

**Present**

Mr. Miller  
Mayor McMullin  
Councilman Carra  
Mr. Cunningham  
Mr. Gausz  
Mr. Delacruz  
Ms. Goetsch  
Ms. Carra  
Mr. DeCicco  
Ms. Sherwin

**Absent**

Ms. Thomas  
Mr. Singara

**Also Present**

Susan Rubright, Board Attorney  
Stan Schrek, Board Engineer  
Angela Knowles, Board Planner  
Lou Gara, Zoning/Construction Official

**ELECTION OF OFFICERS**

**Motion** by Mr. Gausz, seconded by Mr. Delacruz and unanimously carried to nominate Rick Miller as Chairman. There being no further nominations, a single ballot was cast and **Rick Miller** was designated **Chairman**.

**Roll Call:**

**Aye:** *Mr. Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain**

**Motion** by Chairman Miller, **seconded** by Ms. Goetsch and unanimously carried to nominate Bill Cunningham as **Vice Chairman**. There being no further nominations, a single ballot was cast and **Bill Cunningham** was designated **Vice Chairman**.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain:**

**RESOLUTIONS**

**LUB-2019-01**

**Motion** by Mr. Gausz, **seconded** by Mr. DeCicco to adopt a resolution authorizing entry into agreements with Brach Eichler for Legal Services and Van Cleef Engineering and Professional Engineering and Planning services.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain:**

**LUB-2019-02**

**Motion** by Mr. DeCicco, **seconded** by Mr. Cunningham to adopt a resolution recognizing the Courier News and the Star Ledger as the official newspapers of the Board for 2019.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain:**

**LUB-2019-03**

**Motion** by Ms. Goetsch, **seconded** by Mr. Gausz to adopt a resolution setting forth the meeting dates for 2019, as amended to reflect a December meeting date of 12/18/19.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain:**

**LUB-2019-04**

**Motion** by Mr. DeCicco, **seconded** by Mr. Delacruz to adopt a resolution appointing the Board Secretary for 2019.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Ms. Carra, Mr. DeCicco, Ms. Sherwin*

**Nay:**

**Abstain:**

The Chairman opened the floor to public comment/questions at 7:16. Seeing as there were none, a **Motion** was made by Mayor McMullin and **seconded** by Mr. Cunningham to adjourn to the regular meeting.

**REGULAR MEETING**

**MINUTES**

**08/22/18 [Regular] Meeting (Executive Session)**

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Delacruz, Ms. Goetsch, Mr. DeCicco*

**Nay:**

**Abstain:**

The Secretary was directed not to publish the Minutes as the subject [potential litigation] was still pending.

**10/04/18 [TRC] Meeting.** The Minutes were approved, as amended to reflect the presence of Mr. Gausz.

**Roll Call:**

**Aye:** Chairman Miller, Mr. Gausz, Mr. DeCicco

**Nay:**

**Abstain:**

**10/24/18 [Regular] Meeting**

**Motion** by Mr. Cunningham, **seconded** by Ms. Goetsch to approve the Minutes, as presented.

**Roll Call:**

**Aye:** Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Mr. DeCicco

**Nay:**

**Abstain:**

**10/25/18 [TRC] Meeting.** The Minutes were approved, as presented.

**Roll Call:**

**Aye:** Mr. Miller, Mr. Gausz

**Nay:**

**Abstain:**

**11/08/18 [TRC] Meeting.** The Minutes were approved, as presented.

**Roll Call:**

**Aye:** Mr. Miller, Mr. DeCicco, Mr. Gausz

**Nay:**

**Abstain:**

**TRC MEETING UPDATE**

Chairman Miller advised that there were no TRC meetings scheduled.

**ENGINEERING REPORT**

Mr. Schrek provided updates on the following projects:

**Labcorp** [work continuing on new building but still working on access issue with Transit]

**Block 81** [construction underway but proceeding "slower than expected with an expectation to see the parking deck done in early February]

**Raritan 503 "Strip Mall"** ["most work proceeding".

He related that he had received inquiries on other developments in town and that although Construction was active, the Planning Board was quiet with respect to applications.

**PLANNING REPORT**

Ms. Knowles provided details on an upcoming workshop for the way finding and streetscapes improvements which she explained are part of the DOT grant. She advised that Council adopted a resolution with respect to the same. She also spoke about grants through PSE&G (Sustainable Jersey) and updating the Circulation Plan Element/implementing a Bike & Pedestrian Safety Plan.

**AD HOC COMMITTEE (Pedestrian & Bike Safety)**

Prospective and established membership/recruiting for the new Committee were discussed.

**AD HOC COMMITTEE (Cannabis Dispensaries)**

Mr. Cunningham read the Committee report of findings/recommendations into the record. A discussion ensued about the impending state legislation as it relates to the Borough's inability to take any formal action at this time.

The Chairman opened the floor to public comment.

**Enrico Malfatano of 1018 Arnold Avenue** offered that he did not see the benefit of legalization citing the potential for crowds as well as an increase in crime/DUI.

**Marcin Rzeszotko of 1016 Arnold Avenue** asked why the Borough was "looking into getting it." He spoke about it draining resources. He also commented on taxes, citing traffic and construction of apartment buildings. Mr. Rzeszotko said he did not want to live in a town "known for marijuana."

**Lucy Sandler of 812 Old York Road** identified herself as the owner of a business at 7 First Avenue. She spoke in support of the topic and remarked that it would be good revenue stream/attract different people.

Citing the need to have a "thoughtful path," Mayor McMullin provided commentary on the reasoning behind the action the Board has taken by looking into the issue.

**Tom Brown of 18 Elmer Street** spoke about security concerns given the nature of the transactions [cash only businesses because of banking regulations related to the [legal] sale of cannabis].

**Sarah Trent** related that she plans to apply for licensure/open a medical marijuana dispensary and spoke specifically to banking/secure transport in response to Mr. Brown's concerns regarding security. She indicated that she was not a resident of Raritan in response to a question from Mr. Rzeszotko.

The public comment portion was closed at 7:55.

#### **RESOLUTION**

**Candyland (44 West Somerset Street)**  
Site Plan Waiver

**Motion** by Mr. Gausz, **seconded** by Mr. Delacruz to adopt a resolution memorializing the grant of a Site Plan Waiver, as presented.

#### **Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Mr. DeCicco*

**Nay:**

**Abstain:**

#### **APPLICATION/HEARING**

- **Shree Swaminaryan Mandir Loyadham Inc.**  
10 West Somerset Street (Block 91, Lot 18)  
Site Plan, Bulk Variance

An announcement was made that the matter was being adjourned to February. Ms. Rubright advised that new Notice would be provided by the applicant given deficiencies in the prior Notice.

- **Raritan Johnson Associates**  
1, 2 & 5 Johnson Drive (Block 62, Lot 3)  
Preliminary & Final Site Plan

Ms. Rubright recused at 7:59 . **Frank Linnus, Esq.**, assumed the role of Board Attorney.

Larry Bravman provided an overview of the site/application as it relates to adequate/sufficient parking for the permitted uses on the site. Discussion ensued on waivers/completeness in accordance with Mr. Schrek's review letter of 12/5/18. Mr. Schrek recommended that the application be deemed complete for purposes of hearing. Mr. Linnus provided clarification on one of the waivers regarding hours of operation.

**Motion** by Mr. Cunningham, **seconded** by Mr. Gausz and unanimously carried to deem the application complete:

**Roll Call:**

**Aye:** ~~Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Mr. DeCicco, Ms. Carra, Ms. Sherwin~~

**Nay:**

**Craig Stires, P.E.** was sworn and qualified. Mr. Stires addressed the checklist waivers/submission requirements Steven Brightman [7 Johnson Drive] who identified himself as the managing member/sole owner of Raritan Johnson Associates was sworn in. He explained that the property was developed in the late 60's/early 70's and that since purchasing it in 2007, the majority of his tenants received CO's by way of administrative approval until recently [when they were directed to come to the Board]. He spoke about his personal business [Zepko] operations as well as the operations of Arctic Glacier and LabCorp, identifying them on an aerial photograph.

**Exhibit A-1** was identified by Mr. Stires as a DOT aerial photo from 2015 and marked into testimony. Mr. Brightman provided an overview of the operations on the site and spoke to the tenant mix within the various buildings. He offered that parking was the same in 2007 with the exception of 150 spaces provided [temporarily] to LabCorp. He confirmed that striping had not been done in 2007 but been done for the LabCorp spaces.

Mr. Brightman spoke about vacancies as a result of the recent referrals to the Board instead of administrative approvals. Calling it a "destination," he described the traffic flow as "very little" with minimal foot traffic and confirmed that there are no cut thru streets on the site other than Johnson Drive.

A discussion ensued on a recent loss of tenant [Ping Pong facility] who were deterred by the time and cost associated with a Board approval. Mr. Bravman offered that the applicant would take care of striping, etc. to "be in a better situation" and "capture the ability of all permitted uses" to get CO's.

Hours of operation on the site [Somerset Wood Products and prior tenant, UFP in particular] were discussed. Weiss Terrace, as it relates to the site was discussed.

The Chairman opened the floor to questions of Mr. Brightman at 8:34.

Referencing a letter [referenced as dated 9/28/01] he received regarding an old approval that the prior owner received for a staging/storage area, Enrico Malfatano asked whether the applicant was planning to remove all of the trees that were on the old plan but missing on the new one. Mr. Malfatano pointed out the differences in the proposed plan as compared to "Conti's Plan" with respect to the fenced in area and shrubbery.

**Exhibit O-1** was identified as a Site Plan relative to the previously referenced letter from 2001, provided by Mr. Malfatano and marked into testimony. Mr. Malfatano identified a paved/fenced in area on the plan that had been used for storage but he related, was supposed to have been removed when Mr. Conti vacated the property. Referencing the removal of grass as it related to the prior approval for storage, Mr. Malfatano asked whether the applicant would object to removing the area in order to obtain more pervious ground.

Mr. Rzeszotko agreed to save a question he was prepared to ask for the Engineer. Speaking to the area previously identified by Mr. Malfatano, Mr. Brightman indicated that it is crushed stone; not blacktop. Referring to the tall plantings shown on the exhibit, Mr. Bravman indicated that they were not planning to remove them or the

fencing. Intentions for the continued storage of maintenance equipment within the enclosure were discussed.

Mr. Gara asked the applicant whether they had a copy of the 2001 approval. Mr. Bravman indicated that they did not. Mr. Gara confirmed that the Borough did not have it on file either and advised that while the property was developed in 1966, the Zoning Ordinance was adopted in 1972. He explained the need for a Site Plan in order to make administrative decisions/concerns over striping (site issues).

Referencing changes in tenancy on the Levin property as an example, Mr. Schrek explained how the Ping Pong facility triggered the need for referral to the Board rather than administrative approval. Mr. Stires spoke to parking, lighting and improvements on the site.

**Exhibit A-2** was identified as a "Historic Aerial" photo from 1970, marked into testimony and discussed. Parking calculations were provided/discussed. Drainage/screening/landscape issues and general appearance were discussed. Mr. Schrek asked why corrective action wasn't taken sooner. Further discussion ensued about runoff/screening and impervious coverage.

**Exhibit A-3** was identified as a colorized version of the "Overall Site Plan, Sheet 3 of 10" and marked into testimony. Testimony on parking stall sizes/aisle width in the various buildings as well as lighting was provided by Mr. Stires. He provided additional testimony on circulation and ADA access which he identified. Referencing an email from RFD, elimination of parking on the north side of Johnson Drive in order to create better access for apparatus was discussed. Mr. Schrek advised that there had been no input from RPD. Further discussion on drainage and capacity ensued. Mr. Stires confirmed the number of ADA compliant parking spaces [11 not including LabCorp] at the behest of Mr. Gara.

The Chairman opened the floor to questions/comments at 9:13.

Mr. Rzeszotko asked whether the applicant could provide a more significant sound barrier with respect to the mounted dust collector. Mr. Bravman indicated that Somerset Wood Products already relocated from Building 10 to 1 in response to resident concerns about the direction dust was blowing in and that they conclude operations at 3pm/operate within noise ordinance guidelines. He advised that it had been established that they were not in violation at a TRC meeting and spoke further to steps they had taken with respect to sound attenuation.

Mr. Stires provided further testimony with respect to plantings. Mr. Rzeszotko offered pictures representative of the situation. Further discussion ensued about the elevation of the blower and noise levels at the property line. Mr. Gara confirmed that a study had been done by the County and that [at 63/64 decibels], the recordings were just below the maximum permitted. He offered that a violation would have resulted in a shut down and added that there have been other owners of common property who have gone "over and above."

Mr. Shrek suggested that they could address the hours of operation. Mr. Bravman indicated that the tenant would need to know. Mr. Brightman testified that the equipment does not run constantly/starts at 7am. Mr. Miller suggested an acoustic shield. Mr. Brightman testified that another barrier [deflector] had already been added and that the elevation of the dust collector is above the tractor trailer. Mr. Shrek suggested that he and Mr. Stires could work together towards further remediation.

**Allison Coffin, P.P.** was sworn and qualified. Ms. Coffin provided a planning analysis with respect to impervious coverage, lot coverage and parking. She provided testimony as to the proofs for the variances under c1 and c2.

A brief discussion ensued about paving that had may have been done inadvertently with respect to striping and ADA access for Building 5. Mayor McMullin asked about parking for tenants only.

The Chairman opened the floor to questions of the Planner at 9:43. There were none.

Mr. Schrek advised that an O&M manual was required with respect to the MS4 permit and spoke about continuous rights of access/the need to change to eco-heads in the basin.

The Chairman opened the floor to public comment at 9:44.

Referring to a Site Plan from 1970, Mr. Malfatano identified the parking area and indicated that the impervious area was paved prior to approval and that curbing should have been first. He spoke to the need for a secondary swale in order to facilitate proper drainage and lack of lawn/evergreen maintenance which has impeded water flow. Mr. Schrek offered that he would work it out with Mr. Stires. Mr. Malfatano opined that the applicant was trying to circumvent the process and asserted that he is entitled to quiet enjoyment, referencing issues with flooding and noise in particular. He advised that his decibel readings were at 67/68. Mr. Rzeszotko concurred.

**Vicky Malfatano** of 1018 Arnold Avenue related that she was nervous about a "blanket waiver" and asserted that they want to enjoy their property. She asked whether retail uses were approved by Mr. Gara or the Board. The process for administrative approval was discussed.

The Chairman closed the public comment/question period at 10:00.

Mr. Linnus began to outline the prospective conditions of approval, including the addition of curbing subject to Mr. Schrek's review, Fire Department review/approval and the making of a "reasonable effort" to reduce noise. Mayor McMullin clarified that continued oversight was required as there had been a noise issue "since Somerset Wood moved there." Mr. Miller added that it was an enforcement issue and Mr. Cunningham added that testing for the loudest output should be done while milling was in progress. Mr. Schrek added that the hours of operation needed to be maintained and the need remained for deflection/absorption material. Mr. Gara advised that letters had been sent to Somerset Wood. Further discussion ensued about sound attenuation.

Mr. Linnus resumed his recital of the prospective conditions of approval. Mayor McMullin commented on tying the curb into the pavement. Mr. Shrek related that he and Mr. Stires would address that. He explained what ecoheads were. Mayor McMullin offered that parking should be for onsite purposes only

**Motion** by Ms. Goetsch, **seconded** by Mr. DeCicco and unanimously carried to approve the applications with conditions, including those outlined by Mr. Linnus.

**Roll Call:**

**Aye:** *Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. Gausz, Mr. Delacruz, Ms. Goetsch, Mr. DeCicco, Ms. Carra, Ms. Sherwin*

**Nay:**

**Abstain:**

There was no further public comment.

**ADJOURNMENT**

Motion by Mr. Delacruz, seconded by Mr. Gausz and unanimously carried to adjourn at 10:35.

Respectfully submitted,

*Nancy Probst*

Nancy Probst, Board Secretary

**APPROVED** 2/27/19