

TOWNSHIP OF SADDLE BROOK PLANNING BOARD

Following are the minutes of the Saddle Brook Planning Board's Regular Meeting, held on Tuesday, August 21, 2018.

1. FLAG SALUTE

2. ROLL CALL: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Councilwoman D'Arminio, Mr. Verile (left at 9:50 p.m.), Mr. Maniscalco, Mayor White, Mr. Cook and Mr. Camporeale (left at 9:55 p.m.) - PRESENT Mr. LaGuardia and Mr. Mazzone – ABSENT
Also present were Stephen Pellino, Board attorney, Chris Briglia, Board engineer and Gary Paporozzi, Board planner.

3. CHAIRMAN ANNOUNCES – OPEN PUBLIC MEETINGS ACT

4. AMENDED SITE PLAN APPLICATION

Saddle Brook Mayhill Associates, LLC, 140 Mayhill Street, Block 910, Lot 2

Nylema Nabbie, attorney for the applicant came forward.

Ms. Nabbie – We are seeking amended site plan approval. The subject site was approved for a multifamily building in 2005. There are 150 units. The applicant is here this evening for a 5,500 square foot dog run with a fence.

Andrew Abramson, manager of the LLC that owns the property and the president of the company that manages the property, was sworn in.

Mr. Abramson – We want to construct a dog park. Being pet-friendly is important. We already allow pets at 140 Mayhill and have waste stations around the property. We expect residents to pick up. There will be more waste stations in the pet run area. Our landscapers and staff will supplement. We propose a six-foot fence to keep the pets contained while they are off leash.

Mayor White – What hours will it be open?

Mr. Abramson – From dawn to dusk.

Mayor White – I'm a little concerned about noise (barking).

Mr. Abramson – It will create less noise than the train. There's a high wood fence between our property and the condos behind us. I think we have a good barrier between us already.

Mr. Hickey – Will the fence have a self-latching gate so dogs don't get out and bite children who may be walking along Mayhill Street?

Mr. Abramson – This is in the right, rear section of the property; nowhere near where kids walk.

Mr. Browne – How many dogs are there in the complex?

Mr. Abramson – 30-40.

Mr. Browne – Will there be a place for people to sit?

Mr. Abramson – Yes. There will be benches.

Mr. Maniscalco – Will it have lighting?

Mr. Abramson – No.

Mr. Ambrogio – Will it be for residents only?

Mr. Ambrogio – Will it be for residents only?

Mr. Abramson – Yes. There will be no parking for outsiders.

Mr. Ambrogio – Is it possible to make it have a key fob/card entrance?

Mr. Abramson – I'd have to check.

Mr. Maniscalco – Do you have cameras?

Mr. Abramson – Yes and we will probably put one in this area too.

Mr. Hickey – Do you have size and breed restrictions?

Mr. Abramson – Yes. The dogs are limited to 25 pounds.

Mr. Compitello – Will it have a single or double gate?

Mr. Abramson – It will have a single gate, which is a standard design.

Mr. Browne – What's the purpose of the 3 foot high aluminum fence?

Wassim Nader, engineer for the applicant, was sworn in.

Mr. Nader – It's a 3 foot high gate and fence, intended to keep the dogs in the dog park. The rest of the fencing on the property is 6 feet high.

Mr. Nader – If the Board prefers, we can make the fence 3 ½ feet high.

Mr. Ambrogio – Does our Board engineer have any recommendations?

Mr. Briglia – In my report, I made some recommendations/comments geared towards public health and safety and environmental soundness of the proposal. I like what you're doing and why you're doing it. I've seen it before in other developments, but not in the detention pond.

Mr. Nader – It's not in the detention pond.

Mr. Briglia – It looks to me like it's in the detention pond.

Mr. Nader – That basin was designed to potentially handle the 100 year plus storm. Since we built the project, we've never seen water fill to that level. That's why we wanted to take advantage of that area.

Mr. Briglia – I'm worried about the pet waste and what's getting into the ground. It's an infiltration pond and also, when it overflows, it's going directly into the brook. We have a couple of environmental situations there that are pretty sensitive. The DEP has changed their standards over the past 5 years. They also renewed their statewide general permit, which holds townships responsible for detention ponds that they own. For private ponds, towns are supposed to ask owners to submit Operation Manuals and Maintenance Manuals and submit them to the DEP.

Mr. Nader – Part of the reason we proposed the fence was to prevent the dogs from running into the water. We do have a maintenance plan for the basin that was approved at the time.

Mr. Briglia – Does that operations and maintenance plan provide provisions for this?

Mr. Nader – We will amend the plan to include this. We can include a line item about how we will refresh the pea gravel there.

Mr. Briglia – Have you presented this to the DEP?

Mr. Nader – I don't believe it has to be.

Mr. Briglia – I don't want the township to face any liability because of activities going on in this detention pond. Also, the plank over the bridge does not seem to be ADA accessible.

Mr. Nader – We debated this issue, but there is nothing in the guidelines that say it has to be accessible. Handicapped people can still walk pets in other areas.

Mr. Briglia – I think that the ADA code applies.

Ms. Nabbie – We're happy to submit a revised Maintenance Manual for the Board engineer's review. If any other approvals are required, the applicant will have to get them.

Mr. Briglia – The Bergen County Planning and/or engineering department should review this since it's draining across the county road. Bergen County Soil Conservation District should also be sent the plans.

Mr. Maniscalco opened the meeting to the public.

No public participation.

Mr. Verile made a motion; seconded by Mr. Compitello to close the meeting to the public.

Mr. Pellino – The application is for an amendment to an existing 2005 site plan approval. The dog run is an ancillary permitted use. They don't need any variances. The Board can't turn this application down, you can only tweak it. The issues raised that the Board may want to consider are: a self-latching gate, hours of operation (daylight hours), no lighting, the height of the fence, subject to DEP approval (if needed), Bergen County Planning and Bergen County Soil approvals (if needed) and an updated Operations Manual submitted to the Board engineer.

Mayor White – I think nonresident will try to come. There should be a "Residents Only" sign.

Mr. Abramson – No problem.

Mr. Ambrogio – I think there should be a restriction on the hours. I think 6:00 a.m. to dusk is reasonable.

Mayor White – Also, they need a camera in this area.

Councilwoman D'Arminio made a motion; seconded by Mr. Compitello to approve the application with the following conditions: 3 ½ foot aluminum fence, a self-latching gate, no lighting, open hours 6:00 a.m. to dusk, "Residents Only" signage, a camera in this area, submission of an updated Operations Manual to the reasonable satisfaction of the Board engineer and subject to approvals by the DEP, Bergen County Planning and Bergen County Soil, if applicable. VOTE: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Councilwoman D'Arminio, Mr. Verile, Mr. Maniscalco, Mayor White and Mr. Cook - YES

APPLICATION APPROVED

5. SITE PLAN APPLICATION

Unilux, Inc., 59 North 5th Street, Block 405, Lot 2

Mr. Verile recused himself (lives within 200' of subject property).

Mr. Cook sat in for Mr. Verile.

Michael Feltman, attorney for the applicant came forward.

square feet. It's been sublet to third parties over the years. The most recent tenant just left. That tenant was not such a good tenant. Mr. Aguilar wants to lease the back of the building to store solar panels in this area.

Michael Simonis, president of Unilux Corp. was sworn in.

Mr. Simonis – Unilux moved into the building in 1998. The building has been sublet since 1999. There are 60 parking spaces. Unilux has 24 employees at that site. They use the south side parking area. Unilux manufactures inspection lighting systems. We have front offices, a machine shop, a warehouse, a production area and an engineering area and loading docks (north side of building). One loading dock is for us and the other is for the subleased area. Cesar Aguilar Madrid was sworn in.

Mr. Madrid - I am the owner of C & A, a distributor of solar panels. We pick up in Cranbury by tractor trailer 4-5 times per week during the afternoon. We bring them into the warehouse on pallets and set them up on straight trucks for shipping the next morning. We park the trucks on the opposite (south) side of the building, away from the residential side. There will be five drivers, including me and 2 office staff.

Mr. Feltman – We were very much aware that the last tenant, a moving company, was a noisy operation that disturbed the neighbors.

Mr. Browne – What is the size of the truck?

Mr. Aguilar Madrid- 48 feet plus the tractor.

Mr. Hickey – What are your hours of operation?

Mr. Aguilar Madrid - They vary. Freight comes in the afternoon. Delivery trucks leave at 6:00-7:00 a.m. If there's a delivery going to Massachusetts, that truck may pull out at 4:00.

Mr. Ambrogio – How many trucks? What size?

Mr. Aguilar Madrid - There are four 26-foot straight trucks and one tractor trailer.

Mr. Simonis showed the Board where (on the site plan) the trucks would come into the (north side) site and out (south side) of the site. Trucks are loaded and moved to the south side by 8:00-9:00 p.m. after Unilux employees are gone for the day.

Mr. Ambrogio – Will the trucks be idling?

Mr. Simonis – No.

Mr. Compitello – Will they operate only Monday – Friday.

Mr. Simonis – It varies.

Mr. Browne – They can't have outside storage.

Mr. Simonis – No.

Mr. Browne – Will they perform vehicle maintenance onsite?

Mr. Simonis – No.

Mr. Pappozzi – You will need a 3rd handicap parking space.

Mr. Simonis – Okay.

Mr. Compitello made a motion; seconded by Mr. Browne to open the meeting to the public. All in Favor - YES

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Angela Rogers and Wayne Rogers, 64 North 5th Street, were sworn in.

Mr. Rogers – They start at 5:30 a.m. We're afraid they will make it look like a dump. We'd like the trucks to not go through the barricades when the road is flooded.

Mrs. Rogers – I don't want these people doing a repeat of what we had there for the past two years. Now that the trucks moved to the south side, they are in front of our house.

Mr. Browne – You're saying they're parking there now?

Mrs. Rogers – Absolutely.

Mr. Feltman – No phones or offices are in there. They will not sign the sublease until they get Board approval.

Mr. Hickey – But they're operating there?

Mrs. Rogers – Yes.

Mr. Hickey to Mr. & Mrs. Rogers – Is it better than the previous tenant?

Mr. and Mrs. Rogers – Yes, much better.

Mr. Simonis – We're trying to be considerate to everyone.

Mr. Compitello made a motion; seconded by Councilwoman D'Arminio to close the meeting to the public. All in Favor - YES

Mr. Pellino – This is an application for site plan approval. It is a permitted use. They don't need any variances. The Board is in a position again where you can only tweak the site plan with reasonable conditions. Whether they park in the north lot or south lot, they're going to be disturbing some residents. There is a handicap spot required and I suggest we get something from Branca (the property owner) giving permission for this application.

Mr. Maniscalco – Does the ordinance have a time restriction?

Mr. Ambrogio – The noise ordinance for loading and unloading says it can't be done between 10:00 p.m. and 6:00 a.m.

Councilwoman D'Arminio – How many trucks leave at 4 a.m. each week?

Mr. Aguilar Madrid – On an average, two.

Mr. Maniscalco – Will the number of trucks increase?

Mr. Aguilar Madrid – If I got more trucks, I'd have to park them somewhere else.

Mr. Ambrogio – I think we should limit the number of trucks to 6; a tractor trailer and 5 straight trucks. That would allow them to expand by one straight truck. If they want to have more than 6, they would have to come back to the Board.

Councilwoman D'Arminio made a motion; seconded by Mr. Compitello to approve the application with the conditions that they add one handicap parking space, six truck maximum including 1 tractor trailer, 5 straight trucks (if more, they would have to come back to the Board) and applicant must provide proper form of property owner's permission to make this application. VOTE: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Councilwoman

D'Arminio, Mr. Maniscalco, Mr. Cook and Mr. Camporeale – YES Mayor White – ABSTAIN (I would disapprove if I could. I think there's going to be problems.)

APPLICATION APPROVED

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6. PROPOSED ORDINANCE #1646-18 REVIEW

Mr. Pellino – Under state statute, proposed zoning ordinances need to be referred to the Planning Board for comment on whether or not it is consistent with the Master Plan and for any comments or suggestions. The Board should, at some point come together to formulate a letter/report to forward to the mayor and Council.

Mr. Paparozzi – I've seen the ordinance banning retail marijuana in other towns. They have made it not permissible in any zone. At one point the medical may get challenged in the Supreme Court and at that point, everyone is off the hook. Most towns don't want to invite issues.

Mayor White – Our ordinance doesn't have anything to do with medical. We don't want to ban medical.

Mr. Pellino – I don't think the proposed ordinance is clear on that. If the idea is that you want to completely exempt the medical from that ordinance, you should probably rework it. When you read the statute about medical marijuana, which hasn't been challenged yet, the legislature almost makes it sound like an inherently beneficial use. An inherently beneficial use has an important meaning.

Mr. Paparozzi – Most towns I'm in said let us get challenged and we'll work it out that way. They banned both medical and recreational marijuana. In my opinion, I think it's better.

Mr. Hickey – The governor did approve this and he's going forward with it. Years ago, the porn store was banned, but it's still there. If you maybe set it a certain distance from schools and residences, then it's not that bad. These other towns will have trouble if the governor is for it.

Mr. Paparozzi – If there's so many towns that ban it, it will go through the Superior Court.

Mayor White – I have a problem banning something that's legal.

Mr. Pellino – Not only is it legal, but there saying it is a medical treatment.

Mayor White – I can see banning the recreational adult use. From what I understand, most of the bills the legislation has come through with, the recent ones all have a provision that the towns are allowed to ban the sale of recreational adult use in the first year.

Councilwoman D'Arminio – If we don't ban the recreational now, and it's passed within the first year of this bill we can't ban it for five years. It's an unknown.

Mr. Paparozzi – If people are allowed for medical reasons, do they have a card? So then do the police stop everyone they see smoking and ask them for their medical ID card?

Mr. Verile – You can't walk down the street smoking marijuana. It's limited.

Mayor White – Isn't there supposed to be a use in town for every legal business? The new bills are saying that the town can prohibit it.

Mr. Pellino – We're anticipating what's going to happen. We don't know.

Mr. Pellino – There are numerous cases centered around the 1st amendment with the sex shops or strip clubs. Towns tried to ban them outright and they were overturned. Some towns had to accept it in areas that don't want. So there is something to be said for the approach that says, for instance, we'll make it a conditional use. If it turns out that there's no place in town that meets those conditions, too bad.

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Mr. Ambrogio – We already have an Adult Business zone in town.

Mr. Verile – I don't know if that's the same thing; if it applies to medical.

Mr. Paparozzi – The sex shops were a law that you had to have that.

Mr. Pellino – Basically, the Supreme Court said you can't completely outlaw that form of expression.

Mr. Paparozzi – You're going to have to have a zone for it. Your zoning map will have to be revised.

Mr. Ambrogio - Why can't we make it go into the Adult Business overlay zone in Zuckerberg's? It's away from schools.

Mr. Pellino – I think you can.

Mr. Paparozzi – If they pass recreational, you can pick a zone then.

Councilwoman D'Arminio – My personal feeling is to prohibit it because they're saying we can. If it comes out and we can, then we can amend this ordinance to say put it in a specific zone.

Mayor White – I agree that we have to put the language in the ordinance about the medical.

The governor put in 6 manufacturing throughout the state for medical. If someone wants to put in a request for a medical marijuana manufacturing plant, is it okay? What does Tony do? Our ordinance isn't clear.

Mr. Ambrogio – It doesn't say who enforces this?

Mr. Pellino - From a zoning perspective, the recreational use isn't permitted in any zone.

Mr. Ambrogio – Would the medical marijuana be my enforcement?

Mr. Pellino – If I understand the intent of Council, it would make uses related to medical marijuana, permitted uses. Since it's a retail sale, it's permitted in the zone that permits retail sales, if it's manufacturing, it's permitted in a zone that permits manufacturing.

Mr. Paparozzi – It can be sold in a smoke shop?

Mr. Pellino – No. You have to have a license.

Mr. Compitello – A dispensary would be like a pharmacy.

Mr. Pellino – Yes.

Mr. Paparozzi – I think there's a lot of issues unanswered. I don't see a down side to banning both.

Mayor White- I have a problem banning something that's legal. I don't think Council would go along with banning medical either.

Councilwoman D'Arminio to Mr. Pellino – If you would, please do the language that you would suggest so we can bring it back to the Council.

Mr. Pellino to Mr. Paparozzi – Do you find the ordinance inconsistent with the Master Plan?

Mr. Paparozzi – No.

Mr. Pellino – My recommendation would be that we write a letter stating that: 1.) we find the proposed ordinance consistent with the Master Plan, as per the planner; and 2.) we make a recommendation to clarify the medical marijuana as to the legality.

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7. MINUTES

Mr. Compitello made a motion to adopt the minutes of the May 15, 2018 meeting. All in Favor – YES

8. COMMUNICATIONS

Mr. Compitello made a motion; seconded by Mr. Ambrogio to accept and file communications. All in Favor –YES

9. VOUCHERS

Mr. Compitello made a motion; seconded by Mayor White to pay the following vouchers provided funds are available:

Stephen F. Pellino, 06/01/18, Belle Properties, LLC \$250

Carroll Engineering, 06/07/18, Belle Properties, LLC, \$511

Stephen F. Pellino, 08/03/18, Second Quarter Retainer, \$607.75

All in Favor - YES

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Mr. Compitello made a motion to open the meeting to the public. All in Favor - YES

No public participation.

Mr. Compitello made a motion; seconded by Mr. Browne to close the meeting to the public.

All in Favor - YES

11. ADJOURN

Mr. Compitello made a motion; seconded by Councilwoman D'Arminio to adjourn. All in Favor - YES

Meeting adjourned 10:00 p.m.

Respectfully Submitted,

Jayne Kapner
Planning Board Secretary