

TOWNSHIP OF SADDLE BROOK PLANNING BOARD

Following are the minutes of the Saddle Brook Planning Board's Regular Meeting, held on Tuesday, April 21, 2020 at 7:30 p.m., via teleconference.

1. FLAG SALUTE

2. ROLL CALL: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Mr. LaGuardia, Councilman Gieriek, Mr. Verile, Mr. Maniscalco, Mayor White and Mr. Cook - PRESENT
Mr. Mazzone and Mr. Camporeale - ABSENT
Also present was Stephen Pellino, Board attorney.

3. CHAIRMAN ANNOUNCES – OPEN PUBLIC MEETINGS ACT

4. NEW BUSINESS - Review and Recommendation – Ordinance #1680-20

Mr. Pellino – The mayor and Council are required to send all ordinances pertinent to zoning to the Planning Board for comments and recommendations and to make sure it is consistent with the Master Plan. The proposed ordinance is basically making findings about vaping and restricting vape shops to one corridor along route 46 west between Outwater Lane and Fifth Street. The ordinance defines vape shops as “retail electronic smoking device establishments, whose primary business is the sales of electronic smoking devices and vape devices.” One of the goals of the MP is to provide suitable locations for the development of all kinds of business. The mayor and Council have restricted the business to a small area in town based on the finding that vaping is a hazard, particularly to young people.

Mr. Maniscalco – If this goes into effect, what will this do to existing stores?

Mr. Pellino – Under general principals of zoning law, they would be a pre-existing, nonconforming use and allowed to continue in place.

Mr. Hickey – Why didn't they pick Zuckerberg, where there's no residents around it? I think this is a bad location.

Councilman Gieriek – The idea was to keep it as far away from residents as we could. Most people driving on 46 won't be going into Saddle Brook, in general. Zuckerberg doesn't have much retail space.

Mayor White – There are currently two vape shops in town: one on route 46 West, the other on the south side of Market Street.

Mr. Ambrogio – There's one more on Saddle River Rd. at the corner of Pehle Ave. The ordinance is talking about businesses whose principle business is vapes. Vapes are not the principle business in the store on Saddle River Rd. They also sell cigars. How do we clarify “principle”?

Mr. Pellino – That's a judgement call and I don't know how you would gauge that.

Mr. Ambrogio to Council Gieriek – If it's Council's goal to not have these shops, maybe they should just say don't sell vape products.

Mr. Gieriek – The main purpose is to protect kids. The term principle is unclear. It would be a good thing to bring up to Council.

Mayor – I think Garfield outright banned it. When you do that, most of the time, when contested you lose in court. We were hoping to limit it to a designated area. The problem with these shops is they market to young kids. It's flashy, colorful, big signs.

Mr. Maniscalco – Can we add something to this to put pressure on these places (no lights, bells and whistles)?

Mr. Ambrogio – The shop on Saddle River Road is going on the second floor, so they won't have a lot of signs. They will have a sign in the pylon and another on the second floor.

Mr. Cook – Why can't we restrict all vape products to a limited area?

Mr. Pellino – Like the mayor said, the stricter you make it, the closer you come to being overturned in court.

Mr. Hickey – The location proposed is three blocks from Franklin school.

Mr. LaGuardia – The 46 corridor has one or two spots they could possibly have a vape shop. You have to broaden the area, otherwise you're effectively banning it. You have to be 21 years old to buy it, so we should enforce the law.

Mayor White – I think there is something in the ordinance that does not allow it in the mall. Councilman Cimiluca said that would be too close to Franklin School.

Mr. LaGuardia – The area should include the rest of Route 46 or maybe something on Midland Ave.

Mayor White – I think you're right. It should include all of Route 46.

Councilman Gieriek – The premise was to deter people. If they challenge it, we could make a decision to broaden the area.

Mr. Ambrogio - We already have the AB (Adult Business) zone. Maybe we should put this in that same zone.

Mayor White – There really isn't anywhere in Zuckerberg's that I could see them going. There are warehouses, not stores. I agree with what Dave said. If I had it my way, I wouldn't want any of them in town.

Mr. Ambrogio – If one of the three existing businesses goes out of business, can we prohibit a new one from coming in?

Mr. Pellino – The general rule (state law) is that the use is grandfathered until it is abandoned (6 months).

Ms. Kapner – Are they intending to keep the name of this zone B2? Can they give it a new name?

Mr. Gieriek – We will ask Mr. Suarez.

Mr. Pellino – You can make this what's called a conditional use, limited to certain zones with conditions. You would be able to tailor the restrictions.

Mr. Ambrogio – The ordinance says if it is a conditional use, it would have to go to the Planning Board for approval.

Mr. Pellino – A conditional use generally gets approved by the Planning Board. If you don't meet the conditions, you would have to go to the Zoning Board.

Mayor White – I think we should vote and make recommendations for changes to Council.

Mr. Pellino – that would be appropriate.

Mr. Ambrogio – The wording that begins "This prohibition shall extend 1,500 feet from the driveway of any and all properties in the afore stated permitted area." What does that mean?

Councilman Gieriek – It was meant to discourage people from coming into town.

Mr. Pellino – It seems to expand the area where these are permitted to include 1,500 feet from the driveway.

Mr. Ambrogio – Was that to limit the number of these shops in the mall? I would like Council to clarify that.

Mayor White – Yes, we need to clarify it.

Mr. Pellino – I would urge Council to make this a conditional use and limit the locations where these shops can be. Conditional use can really target the limitations you want such as signage, location, distance from schools/homes, etc. The Township Planner can come up with those conditions.

Suggestions for Council:

1. Clarification of 1,500' section.
2. Expand area to include all of Route 46 to prevent lawsuits to avoid litigation.
3. How do we define "principle business" and may want to include signage.
4. Consider new zone name to give this a designation.
5. Consider it as a conditional use.

Mr. Cook – Liquor stores sell vaping products. How do we restrict these sales at liquor stores?

Mr. Pellino – You could get yourself in trouble with a flat out ban.

Mr. Compitello made a motion, seconded by Councilman Gieriek to have Mr. Pellino send a letter to Council stating that the proposed ordinance is consistent with the Master Plan and making the recommendations listed by the Board.

VOTE: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Mr. LaGuardia, Councilman Gieriek, Mr. Verile, Mr. Maniscalco and Mayor White - YES

5. MINUTES

Mr. Compitello made a motion; seconded by Mr. Verile to adopt the minutes of the January 21, 2020 reorganization meeting and the January 21, 2020 regular meeting.

VOTE: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Mr. LaGuardia, Councilman Gieriek, Mr. Verile, Mr. Maniscalco and Mayor White – YES

6. RESOLUTIONS

Mr. Compitello made a motion; seconded by Councilman Gieriek to adopt the following resolutions: appointing chairman, appointing vice chairman, appointing secretary, regarding compensation of professionals, authorizing contract with Board attorney, authorizing contract with Board engineer, authorizing contract with Board planner, regarding completeness determinations, authorizing 2020 meeting schedule and designating official newspaper.

VOTE: All in Favor – YES

7. COMMUNICATIONS

Mr. Compitello made a motion; seconded by Councilman Gieriek to read and file the communications.

VOTE: All in Favor – YES

8. VOUCHERS

Mr. Compitello made a motion; seconded by Councilman Gieriek to pay the following vouchers, provided funds are available:

Carroll Engineering, 02/25/20, John P. Fontana, \$1,525.75

Carroll Engineering, 03/31/20, John P. Fontana, \$894

9. OPEN AND CLOSE THE MEETING TO THE PUBLIC

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

No public participation.

Mr. Compitello made a motion; seconded by Councilman Gieriek to close the meeting to the public. All in Favor - YES

10. Adjourn

Mr. Compitello made a motion; seconded by Councilman Gieriek to adjourn the meeting. All in Favor - YES

Meeting adjourned 8:43 p.m.

Respectfully Submitted,

Jayne Kapner
Planning Board Secretary