

TOWNSHIP OF SADDLE BROOK PLANNING BOARD

Following are the minutes of the Saddle Brook Planning Board's Regular Meeting, held on Monday, July 19, 2021 at 7:34 p.m.

1. FLAG SALUTE

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

3. CHAIRMAN ANNOUNCES – OPEN PUBLIC MEETINGS ACT

4. REVIEW AND RECOMMENDATION - Ordinance # 1707-21

M. Pellino – New Jersey recently adopted legislation which legalized marijuana. More importantly, what it did for municipalities is establish six different classifications of participation in the marijuana industry. There's a cultivator license, manufacturing license, wholesaler license, distributor license, retailer license and delivery license. The act provided that municipalities have 180 days from the adoption to either adopt an ordinance that would prohibit or allow, all or in part. If you failed to do that, for a period of five years, every form or license would be permitted in every industrial zone in every municipality. If you prohibit some or all, you can change your mind later on to authorize additional forms of marijuana participation. The Mayor and Council have proposed to prohibit wholesale, distribution and delivery services. They're going to authorize, as conditional uses, cultivation, retail and manufacturing. A conditional use is a cross between an outright permitted use and a prohibited use. It basically says, you can do it, but only if you meet the specific conditions of the ordinance. If you fail to meet those conditions, you need what's called a "d" or a use variance, which goes to the Board of Adjustment. It has a difficult legal standard to accomplish. If you meet the conditions, you come in front of the Planning Board for conditional use approval. What this ordinance has done is to establish specific conditions for the different forms of licensure. For instance, manufacturing shall only be permitted in the Industrial Zone, not to be located within 500 feet of any public or private elementary school, vocational or secondary school or a licensed day care or any residential zone. Distance is measured from the closest point on the perimeter of the applicant's property to the closest point of the property of the school, daycare center, residential zone. Manufacturing operations have to be conducted completely within the enclosed building. They have to use ventilation systems that prevent the odors from leaving the business premises and there are parking requirements. Cultivator license, similarly, located only in the Industrial Zone, has the same distance requirements from the schools, day care centers, etc. All cultivation has to be done within the premises and they have to use the ventilation system. There are specific parking requirements. The retailer license is to only be permitted in CH1 and CH2, as well as B-2, but only adjacent to Route 46. Again, it must be 500 feet away from those sensitive areas. They have to use ventilation systems. There are additional parking requirements. Specific on-premises consumption is allowed, but is limited under strict conditions (listed on page 8). The municipality does propose to take advantage of the tax receipts that are permitted under the law. That's one of the incentives to do it. It is 2% from the sale of the cultivator, 2% manufacturer, 1% wholesaler and 2% from the retail. Although Saddle Brook proposes to prohibit delivery, you can't prohibit delivery into your town. It's a very

comprehensive ordinance that seeks to take advantage of the tax revenues and to take a balanced approach to the licensing.

Mayor White – This will not be widespread overnight. It will take years. It will be difficult to get a license for retail. They will be issued slowly.

Mr. Pellino – You need a state license to do this.

Mayor White – We've had people interested in the industrial area. Companies have called up about manufacturing and cultivation. We have a lot of big factories, like Enterprise Corrugated, to grow it. Garfield was dead set against it. They passed an ordinance saying no, but now they're going to do it because if everyone around them is going to have it, they'll go there.

Mr. Cook – If we allow the retail, do we have to allow the on premise consumption? That's the part I'm not crazy about.

Mr. Pellino – I think so.

Mr. LaGuardia – What's the enforcement for being stoned while driving?

Mayor White – You can be arrested for being under the influence, but there's no test for it. You have to have what they call Drug Recognition Officers, who are trained extensively.

Mr. Cook – If we permit this now, in five years, can we say we don't want retail anymore?

Mr. Pellino – According to the statute, you can.

Mr. LaGuardia – But if we approve retail, would they be grandfathered in?

Mr. Pellino – They probably will be.

Mr. LaGuardia – I see we have to have this in by August 21st.

Mr. Pellino – If you don't do it by the 21st, all six forms are permitted in every zone.

Mr. LaGuardia – Are we adopting it tonight?

Mr. Pellino – No. The Planning Board just makes a recommendation to the mayor and Council.

Mr. Compitello – How does the tax part of this work? Who keeps track of the receipts?

Mr. Pellino – I think it's through the state. The state puts a tax on it.

Mr. Lo Dico - I think it's like the hotel room tax. The state keeps track of it and then sends us a check.

Mr. Pellino – The Planning Board can authorize me to write a letter to the Mayor and Council saying that the ordinance is not inconsistent with the Master Plan. Then we can give whatever recommendations, if any, that we want to make or say that we have no recommendations and recommend its adoption.

Mr. Cook – I don't like the consumption onsite.

Mr. Pellino – I don't think you can...

Mr. Cook – Are we in favor of not having any retail?

Mayor White – I kind of would like to see no retail, but it's limited to certain areas.

Mr. Pellino – Remember, you've got to get a state license. It's not as if because it's zoning you could open up tomorrow and start selling pot. You also have to have that distance from schools, day cares, etc., which will further limit the sites where this will be permissible.

Mr. LaGuardia – If this is adopted, how soon could we change it?

Mr. Pellino – You could make modifications to it within the five years. If you don't adopt an ordinance, then you have to wait five years to make any changes.

Mr. Compitello made a motion; seconded by Mr. Browne to recommend the ordinance to the Mayor and Council that it be adopted as written. VOTE: Mr. Browne, Mr. Compitello, Mr. LaGuardia, Mr. Cook, Mr. Maniscalco and Mayor White - YES

5. REVIEW AND RECOMMENDATION

Ordinance # 1708-21

Mr. Pellino – This ordinance has to do with the town's settlement of its affordable housing obligations. This is a project that is going to be undertaken by a company by the name of Ingerman. That site plan application is going to come before you for the next meeting. I've also

recommended that we have a special meeting at the end of August to adopt the resolution. This is driven by the fact that it is a 100% affordable housing project. This is for 58 units.

Mr. LaGuardia – Where is this?

Mayor White – At the Rosol Lane property, behind the cemetery on North Midland Avenue.

Mr. Pellino – The 100% affordable is made possible through financing from the New Jersey Mortgage Financing Home Agency (NJMFHA). They have to get their application in before the end of the month and they need preliminary site plan approval. Most of the time when we hear site plan applications, they're really for preliminary and final site plan. But the law provides, if a developer wants, that you follow a twostep process. There's the preliminary approval, which legally only really locks in the zoning, so you can't pull the rug out from under them after they get their approval. The final is when you give them the blessing and tell them they're okay. Ingerman needs preliminary before the end of the month to satisfy the NJMFHA in order to get their financing and make this work as 100% affordable. I think the way it works is with tax credits. They sell tax credits to investors to raise the money to make this work. Otherwise, it doesn't make financial sense to build 100% affordable project. In terms of the ordinance, there was significant review and participation by me, the Township attorney and by the Township Planner. Nobody is really happy with the zoning this is going to put in place. The parking is really tight, with undersized spaces and maybe some issues with circulation, but it is necessary. We have to do it and this is the best we can do. If this ordinance is adopted, what it will do is make sure that the Ingerman plan is variance free. The ordinance is tailored to their proposed development. It's as good as we think we can get it.

Mr. Maniscalco – We're going to review preliminary drawings?

Mr. Pellino – You're going to get a preliminary site plan and hopefully approve it. Then it will come back to you again for final site plan approval. For the preliminary, we've allowed them not to submit all the drawings, which I think is appropriate.

Mr. Maniscalco – We're not going to be stuck if we say yes now, when they come back with new drawings later and we have issues?

Mr. Pellino – This is going to come to you as a, assuming the ordinance is passed, as a variance free application. The law says, it's almost impossible to deny a site plan. You could make changes for recommendations. There's not much room here to do much. This is pretty tight. One of the things they've done is try to work to keep this as a low rise or midrise rather than a high rise and that means you've got to pack a lot of stuff in a relatively small lot. It will come back to you. We had a pre-application meeting. The developer is willing to do whatever they can within limits.

Mr. Maniscalco – When they come back for the final, if we list items we want them to change, will that mess anything up for them?

Mr. Pellino – If it's ultimately approved, I think it's fine. Once we do the preliminary, their timing issue is over. I assume they'll have time for the final.

Mr. LaGuardia – For affordable housing, are there any requirements that they issue with this?

Mr. Pellino – Yes. They have to meet all of the state requirements for affordability. The units have to be deed restricted. These are rentals. There's a certain bedroom mix that they have to meet. Residents have to be income and asset qualified in order to get in. In Bergen County, the numbers are pretty high. The little rub, is with the parking. There's a provision in the ordinance for compact spaces. The ordinance requires 1 ½ spaces per unit, which is below the Residential Site Improvement Standards.

Mr. Maniscalco – What was the breakup of the number of bedrooms?

Mr. Pellino – 11 one-bedroom, 30 two-bedroom and 17 three-bedroom for a total of 58 apartments.

Mr. Cook – The parking is only 1.5 spaces per unit, not per bedroom?

Mr. Pellino – That's right. This is a compromise that the Township has to make in order to accommodate this development. Although their plan will meet the ordinance, it doesn't meet the

Residential Site Improvement Standards, which under state law, govern residential parking. They will need, from the Planning Board, not a variance, but a waiver from the RSIS standards. The reality is the township needs this.

Mr. Cook – I agree we need it. What if they build 50 units and add 10 more spaces?

Mr. Maniscalco – Are we required to build 58 units?

Mr. Pellino – Under the township's settlement agreement, there were certain sites that were specifically identified to bring forth some of the units.

Mr. Lo Dico – 58 units came up with the Master and the court.

Mr. Maniscalco – Maybe we could change the quantity of bedrooms?

Mr. Pellino – The bedroom mix is a matter of state regulation. When you build affordable housing, you have to have a certain mix of one, two and three bedrooms.

Mr. LaGuardia – Can we add a bus stop on Midland Ave. there?

Mr. Lo Dico – Sure.

Mayor White – There is a bus stop on the corner by Rosol Lane.

Mr. Cook – Can we require them to limit the parking to each tenant?

Mr. Pellino – Assigned parking would be a reasonable mandate.

Mr. Browne – They're going to lose spots in the winter time, when the snow is plowed.

Mr. Pellino – We may want to see a snow removal plan.

Mr. Maniscalco – We're going to want to make sure the Fire Department can get back there.

Mr. Pellino – When they come back for the final approval, they will submit everything required. Snow removal, circulation and fire safety are all legitimate concerns.

Mr. Compitello made a motion; seconded by Mr. Browne to recommend the ordinance to the Mayor and Council that it be adopted as written. VOTE: Mr. Browne, Mr. Compitello, Mr. LaGuardia, Mr. Cook, Mr. Maniscalco and Mayor White - YES

6. MINUTES

Mr. Browne made a motion; seconded by Mr. Cook to approve the minutes of the June 21, 2021 meeting. All in Favor - YES

7. COMMUNICATIONS

Mr. Compitello made a motion; seconded by Mr. Browne to accept and file the communications. All in Favor - YES

8. VOUCHERS

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

Carroll Engineering, 05/25/21, Method Tactical, LLC, \$2,741.36

Carroll Engineering, 06/21/21, Chefler Foods, LLC, \$1,957.25

Basile Birchwale & Pellino, 07/01/21, Ingerman, \$562.50

All in Favor – YES

9. OPEN AND CLOSE THE MEETING TO THE PUBLIC

Mr. Compitello made a motion; seconded by Mr. Browne 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

10. EXECUTIVE SESSION TO DISCUSS 270 Market, LLC v. Township of Saddle Brook

Mr. Compitello made a motion; seconded by Mr. Browne to go into executive session to discuss litigation. All in Favor - YES

Mr. Compitello made a motion; seconded by Mr. Browne to come out of executive session. All in Favor - YES

11. ADJOURN

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

Meeting adjourned 8:49 p.m.

Respectfully Submitted,

Jayne Kapner
Planning Board Secretary