

The minutes of the Special Public Meeting of the Township Council of the Township of Saddle Brook held on September 7, 2023, at 5:30 PM at the Saddle Brook Municipal Complex, 55 Mayhill Street, Saddle Brook, NJ 07663.

Council President Gierrek called the meeting to order.

The Township Clerk called the roll:

Councilman Cimiluca – present
Councilman Accomando – present
Councilwoman Sanchez – present
Councilwoman Mazzer – absent
Council President Gierrek – present

Mayor White – present
Mr. Schettino – Twp. Attorney – present
Ms. Ruane – Interim Township Administrator – present
Mr. Klein – Twp. Engineer – present
Mr. Dickerson – Twp. Planner – present

Council President Gierrek asked all to rise for the salute to the flag.

Council President Gierrek announced that adequate notice of this meeting has been sent to all council members and to all legal newspapers in accordance with the provisions of the Open Public Meetings Act, Chapter 231, P.L. 1975.

The Township Clerk announced that the public is hereby advised that any statements made during the meeting of the Township Council of the Township of Saddle Brook may not be privileged or protected, and that persons or entities who take issue with such comments, or are offended by same, may and have in the past sought legal redress through the courts.

Any member of the public who addresses the Council speaks for themselves and not for the Council.

Council President Gierrek asks for a motion to open the meeting to the public.

Motion: Councilwoman Sanchez

Second: Councilman Accomando

Roll Call:

Councilman Cimiluca – yes
Councilman Accomando – yes
Councilwoman Sanchez – yes
Councilwoman Mazzer – absent
Council President Gierrek – yes

Council President Gierak – Anyone wishing to address the Council please come up.

Omar Rodriguez of Saddle Brook comes forward. I just read the ordinance I'm wondering if it's legal to just change from an industrial zone to permitted into a B2 secondary business district because when I read the original ordinance and as we move along the maximum was 5,000 square feet for manufacturing. Any piece larger than that was supposed to go into the industrial zone so now if you're changing the B2 in order to accommodate one of the holders of the license into a 12,500 isn't your duty to advise the residents and businesses around that area at least instead of just changing it by the stroke of a pen? All along this was and I was here when this was passed and it was an assurance that it will not exceed 5,000 square feet. Otherwise they will have to look into the industrial area. I know all of you none of you live in that area of the corridor of forty six. I'm not saying that I'm against it or not but the law was very clear anything in excess of 5,000 square feet have to go to the industrial area. Once again I believe that the least you should have done before you take a roll call on this is to advise the business community in that area and the homeowners even though that they're not within the 500 feet but somehow could get affected because again all type of zoning is going into this area and you guys haven't even established the hours of operation. I don't know the manufacturing from what hours could be twenty four seven. Whether their operation is going to be twenty four seven. What kind of air system they're going to have? Is there going to be odor? I don't know those kind of things. What about the security and especially don't think by any stretch of the imagination that the two percent in taxes is going to come directly to the Town. You're going to be sued because those monies eventually have to go to social justice and it doesn't say it in the ordinance that it's a clear violation. Those ordinances that you're passing around are in clear violation of state statute. You have to dedicate a percentage of those monies in order to fund projects for social justice. Thank you.

Mr. Schettino – A couple of comments and to address some of the statements that were made. The ordinance that is scheduled for a hearing and adoption does not change the business zone to an industrial zone. In the business zone cannabis manufacturing was already permitted in the existing ordinance. The only change that was made was increasing the size of the manufacturing facility based upon research about the sizes from other communities because there is a competition for these facilities and if someone can build a 12,000 manufacturing facility for example. I'm not saying it is in Elmwood Park but if Elmwood Park had that versus 5,000 in Saddle Brook well they're going to go to Elmwood Park because the larger the facility the more revenue for the business and of course more revenue for the Town. Secondly notice was provided not only to the business district but notice was provided to the entire community. In fact more than the entire community because as with all ordinances when this ordinance was introduced the hearing had to be advertised. So it was advertised in the newspaper by State Law that is the extent of the required noticed advertisement that is required for a municipality to adopt any ordinance including a municipal land use ordinance with respect to this type of change. If in fact we were changing a zone so if we were changing a residential zone to a business zone we would have to notify surrounding municipalities to that zone but that was not the case here. With respect to zoning ordinance changes not only was it

advertised in the newspaper and a public hearing provided for the members to attend from the community or from adjacent communities the Planning Board also had a hearing with respect to the ordinance as required. It was forwarded to the Planning Board for review and comment so that was another opportunity for members of the public to comment on the ordinance change and the Planning Board concluded that the changes that were requested were in fact consistent with the Master Plan. Further and we do have our Planner here this evening the Planner was involved with respect to the consistency of the ordinance with the Master Plan and whether it was a change that could be recommended in light of our zoning and as our professional and expert he agreed that this change was in fact consistent with our Master Plan and could be justified. I believe under the circumstances and of course it hasn't been adopted yet so there still is an opportunity for the public to be heard as this gentleman already commented as to his concerns otherwise the full legal process has been followed. Notice has been provided as required by law and residents and businesses have had an opportunity to comment and it's my understanding that no one has forwarded any letters to the Governing Body or any objections to this ordinance and it's been going on now for over thirty days hasn't it from when we introduced it?

Mr. Lo Dico – Yes.

Mr. Schettino – So outside of the individual here tonight the Governing Body hasn't received any objections to the proposed changes. I believe that addresses the comments that were made.

Council President Gierak – Thank you very much. Any comments from the Council or Mayor at this time?

There are no comments from the Mayor or Council at this time.

Council President Gierak – Motion to close the meeting to the public.

Motion: Councilwoman Sanchez

Second: Councilman Accomando

Roll Call:

Councilman Cimiluca – yes

Councilman Accomando – yes

Councilwoman Sanchez – yes

Councilwoman Mazzer – absent

Council President Gierak – yes

Council President Gierak asks the Planner and Zoning Officer to come up.

Mayor White – Mr. Ambrogio is here if any of the Council members have a specific question he's not doing a presentation.

Council President Gierak – I know that.

Mr. Schettino – I told the Planner to be here to answer questions I really didn't tell him to be prepared to do a presentation. I don't know if he is but he is prepared to answer specific questions but if you want him to do a presentation I don't know if he's prepared to do that.

Council President Gierak – I know there were questions regarding the 500 feet.

Councilman Cimiluca - Through the Chair. When we here last month we were looking over the ordinance and it talked about the cannabis facility being at least 500 feet from a residential zone. In thinking about it I was not sure whether or not that provision would take out the carve out or the overlay district I guess for cannabis because it would be within 500 feet. Some part of that would be 500 feet from a residential zone. Unfortunately apparently until a minute ago we didn't have the color coded zoning map which would make it relatively easy to figure out where the zones are the ones that we had were a thousand years old and they were copied many times so you can't really see. Now it should be easy to see. My concern was that if we put in that 500 feet in residential zone does that take away a lot of the area that we had designated for this specific purpose?

Mr. Dickerson – To answer your question again I'm looking at this for the first time so I apologize I don't have a great answer other than seeing that I guess this is this overlay for the cannabis designations but does this also include the B1 and the I?

Mr. Ambrogio – Correct.

Mr. Dickerson – This is the areas that are eligible because they're located in the zone.

Mr. Ambrogio – The striping is so wherever you see that including CH zones the B zones they're right here so those are designated for overlay of. If it's green it's retail, red it's cultivation, blue it's for manufacturing.

Mr. Dickerson – Okay thank you. So a 500 foot distance especially with residential areas can limit the area that it would be located in. I will say that this ordinance in comparing it to what the two ordinances that had previously been adopted also had that 500 foot restriction. Even though it seems to be underlined in this draft ordinance it seems to be a provision that's been in place that would have restricted it from the beginning. In that regard this ordinance isn't really changing that. The major point there is just the increase in size to 12,500.

Councilman Cimiluca – No one seemed to have a problem with the 12,500 as opposed to the 5,000 that's not really the issue but from looking at the map where you see residential zones is the overlay zone abutting residential zones because if that's the case then that overlay area is basically useless.

Mr. Schettino – It's certainly going to curtail a percentage if not a large percentage of the zone you are absolutely correct. The 500 feet which was always in the ordinance again that wasn't changed by the amendment so that was just a carry-over but you're a hundred percent correct it's going to restrict they'll need to get a variance if they're less than 500 feet.

Mayor White – I think it only restricts two that we gave resolutions to. The one that Mr. Accomando mentioned.

Councilman Accomando – I was just asking him about that. That's zoned for B2.

Mr. Schettino – No it's zoned for it but it still has to meet the 500 foot criteria.

Mayor White – It looks like there are homes there.

Mr. Ambrogio – I think the question is the house that's right next to that property that you're talking about the one that's right next to it that house is an existing nonconforming use. That house, even though it's a residence it's in a B2 zone but then as you move further away those other houses that's a residential that's an RB which is two-family and that is where the 500 feet would kick in.

Mayor White – So these two businesses that I'm aware of would require.

Mr. Ambrogio – That particular location would require a variance from the Zoning Board. It would no longer be a conditional use. It wouldn't go to the Planning Board because it becomes a use variance at that point because it's not permitted because of the 500 foot.

Councilman Cimiluca – My thought process was that one of the reasons that we originally carved this area out is so it was allowed in that district and they wouldn't have to go for any kind of variances that that was basically where we wanted to place things but I missed it maybe it just slipped my mind or maybe I just didn't care at the time but now that I'm looking at it a little deeper, that 500 feet could potentially cut fifty percent of what the area we wanted to designate for that use and forcing people to go for a variance when that's what it's supposed to be for. It's supposed to be designated for that use and now we would say well it's designated for that use but you still have to go before the Board.

Mayor White – Through the Chair. Mr. Cimiluca I hear what you're saying but at the same time I think the reason we did that overlay zone was because we did not want it in certain areas. We tried to restrict it. I know to your point I get it; it does limit but they can get relief by going to the Zoning Board and the thing is too I mean what's there now look let's face it it's controversial there's some people that are totally against cannabis but when you think about it is it any different than the one location where the dentist office is now that used to be a liquor store for years so I mean is there really any difference between a liquor store and a cannabis shop many would argue no there isn't because really they're

selling and you can make the argument that with marijuana there is more of a medicinal use to it.

Councilman Cimiluca – You don't have to sell me on that I understand that. I'm just wondering I know that when we first again this is an evolving area and we're learning like everybody else. A different regulation comes out every day but I know that in the beginning what we did was we kind of changed it from 500 feet for a residential zone to 500 feet door to door or something like that. That's my recollection of what we did.

Mr. Ambrogio – Yes you did.

Councilman Cimiluca – This way when somebody comes at it you can be near a residential zone it could be zoned residential but there might not be a residence within a thousand feet of that but still as an applicant your kind of screwed because you're next to a zone. I'm just wondering if we can use the same type of language that we had done earlier and maybe some earlier incarnation of a cannabis ordinance.

Mr. Schettino – If it's five hundred feet from a residence then you're going to have nonconforming homes in a business zone and you'd have to have be five hundred it's going to be more restrictive. Your only option would be to lessen the amount of feet, not make it from any residence. You're actually it would be more prohibitive in my opinion anyway.

Mr. Ambrogio – It would because that's why the first one on forty six the old Lopes property that's a complete B2 zone but because that one piece of property had two apartments above it so because it was residents that triggered the variance automatically and go to the Zoning Board. So now if it's just a residential zone now you're not worried about just those residences that are nonconforming within a B2, or industrial or CH zone. Then you're just going like you said to the actual district itself. That would help if you're trying to accomplish what you're trying to accomplish.

Councilman Cimiluca – According to your and again it's late notice you just got this tossed at you but in terms of the map from what you see is there a lot of the overlay district that kind of adjoins the residential in R1 and R2 or is it just a small part because if it's a small part it's close to the problem.

Mayor White – Fifth Street.

Mr. Dickerson – Once you get to the B2 that's where it's abutting residential.

Mr. Ambrogio – Correct so we're talking about Fifth Street but we're also talking about this couple of areas off of Market.

Mr. Dickerson – The area along the Parkway isn't.

Mr. Ambrogio – And Midland Parkway and Midland you're okay.

Councilman Cimiluca – That's not what this ordinance is dealing with the 12,500 we're only changing the amount of square footage of that. Now again because somebody is going to come up later on my understanding was we did not allow this there's an overlay zone not just all B2 and somebody came up and said you're going to have this on Market Street and I kept saying no but you're scaring me a little bit by saying that Market Street there's no Market Street designation.

Mr. Ambrogio – If you're talking specifically about this ordinance manufacturing. So manufacturing is only permitted in certain zones so cannabis retail, retail was originally the only one that was allowed in the B2 zone then you had to go to the CH zone to get into the manufacturing. Then you altered it and you allowed it into a B2 zone so that's how it expanded.

Councilman Cimiluca – But it's not all B2 zones.

Mr. Ambrogio – It's not all B2 zones.

Councilman Cimiluca – It's just the forty six corridor.

Mr. Ambrogio – Route 46 is B2.

Councilman Cimiluca – No but I'm saying there are other B2 districts that cannabis would not be permitted in.

Mr. Dickerson – The way it's written yes it would be specified to for manufacturing it's along the B2 zone along Route 46 and specified blocks 104, 105, 118, 120, 121, 123, 405 and 412.

Councilman Cimiluca – And retail I know it's that's not crystal clear.

Mr. Dickerson – I would have to check that one.

Councilman Cimiluca – My understanding was retail was similar that we specifically did not want Market Street to be cannabis row.

Mayor White – It was.

Mr. Ambrogio – Market Street is red so what's red that's cultivation. That's cultivation on Market Street.

Councilman Cimiluca – It doesn't say anything there's no retail.

Mr. Ambrogio – It wasn't retail. The retail was originally designated to be in the B2 zones primarily which is on forty six and the lot and blocks that you guys specified.

Councilman Cimiluca – That answered my question.

Council President Gierrek – Are there any other questions?

There are no further questions.

ORDINANCES

1. ORDINANCE #1739-23 – SECOND READING

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 206 OF THE CODE OF THE TOWNSHIP OF SADDLE BROOK REGULATING THE OPERATION OF SPECIFIC CLASSES OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES

Council President Gierrek asks for a motion to untable the ordinance.

Motion: Councilman Accomando

Second: Councilwoman Sanchez

Roll Call:

Councilman Cimiluca – yes

Councilman Accomando – yes

Councilwoman Sanchez – yes

Councilwoman Mazzer – absent

Council President Gierrek – yes

Council President Gierrek asked that a motion is in order that the Township Clerk proceed to give same ordinance a second reading.

Motion: Councilwoman Sanchez

Second: Councilman Accomando

Roll Call:

Councilman Cimiluca - yes

Councilman Accomando - yes

Councilwoman Sanchez – yes

Councilwoman Mazzer - absent

Council President Gierrek - yes

The Township Clerk reads the ordinance by title on second reading:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 206 OF THE CODE OF THE TOWNSHIP OF SADDLE BROOK REGULATING THE OPERATION OF SPECIFIC CLASSES OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES

Council President Gierrek asked for a motion to open the meeting to the public for this ordinance only.

Motion: Councilman Cimiluca

Second: Councilwoman Sanchez

Roll call:

Councilman Cimiluca – yes

Councilman Accomando – yes

Councilwoman Sanchez – yes

Councilwoman Mazzer – absent

Council President Gierrek – yes

Council President Gierrek announces that the public hearing on this ordinance is open and that all persons interested may now have the opportunity to be heard.

Omar Rodriguez of Saddle Brook comes forward. Mr. Attorney you just referred that it's okay to increase the size you're totally wrong. You were not here when all this was dropped. I'm going to try and speed up on this. It specifically says what was approved. It should not exceed five thousand square feet on a B2 area. If he exceeds five thousand square feet have to go to the industrial area which is by Zuckerberg all that area. I'm not against it I don't want it to get back in your face for a simple reason. I just heard comments tonight about the B2 and Mr. Cimiluca is totally right when we bring up and try to keep it into Route 46 under the conditions and ordinance that you have put together. I don't know if he has read all the ordinances people that are just giving statements. It allows you to open retail on Market Street. I even brought the paperwork unless you guys turn to Mr. Attorney to review all the paperwork and try to restrict all kind of use just into Route 46. It will be no surprise that later on the that selling will be open retail on Market Street even though when I came on the first time they say no way because anybody is going to be able to do the five hundred feet. What I heard today you can go just for a variance. That will create chaos. Just look how that ordinance has been written. It doesn't take a magician just to read it again the ordinances but it clearly says in all B2 zones it states right now for retail so try to tie up that language and restrict it. I don't know if it's possible that what I'm giving to the attorney to just restrict it to Route 46. I would just finish that I'm not against either the manufacturing the packaging whatever you want to do but within whatever you guys have already passed the ordinances and if it exceeds the square footage what it takes as a good neighbor. That's not how you are a good neighbor just let

them know how things are happening for x, y, z reasons. The Mayor and I have discussed this it's very difficult to get any space in the industrial area because they don't want to rent them I agree. So they want forty six so let's just try and pick and choose in forty six and the overlay area but with the specifications or otherwise just pay attention to the ordinances properly because we don't want to have problems later on when someone open the door or open a store on Market Street. The way it is you can open on Market Street. Thank you very much.

John Duffy of 259 South Lanza Court comes forward. I just want to look at the zoning map because I got a little confused what you were talking about with some areas being close to five hundred feet. We were not able to see what you were talking about then and eventually this might be in front of the Board that I sit on so I'd like to be able to take a good look at this for the moment.

Council President Gierak – You may have potential questions or comments based off of what you see there.

Mr. Duffy – Yes because there was some allusion to there may be some areas that are within five hundred feet of a house. When you were discussing back and forth it was kind of it really was not transparent.

Mayor White – It's not a house Mr. Duffy it's the zone.

Mr. Duffy – The zone itself but then Mr. Ambrogio did mention a certain area where there might be a home that is a preexisting nonconforming use. We just didn't get to see that's really what I'm just concerned about.

Mayor White – You can take a look at the map.

Council President Gierak – I have a question for Mr. Ambrogio. When someone comes with a location they have to come to you right and you would inform them that they have to go in front of a Board that it meets the qualifications correct.

Mr. Ambrogio – What happens is well I guess they talk to you guys first then they come to me for a qualification letter. Based on the lot and block I go to these maps and the ordinances and then I'll let them know whether or not it qualifies for that particular use in that particular zone. If it does I write a qualification letter send them to the Planning Board. If not then I say they don't qualify and if you want to go you have to go to the Zoning Board, which we've already sent two. Then one of them ended up coming to the Planning Board just recently and that one passed. That's at the Staples location.

Council President Gierak – That's what I thought the process was I just want make sure.

Mr. Ambrogio – That's the process that's correct. Mr. Duffy this is the B2 zone that's in question it's a retail. It's permitted to be cannabis retail and it happens that there's a house

right here. That was the question because it's a residence but that residence is actually in a B2 zone but you can see that right here where this yellow starts that's the RB two family zone.

Mr. Duffy – Okay.

Mr. Ambrogio – So because it's within five hundred feet of this actual location that would kick them to your Board.

Mr. Duffy – Okay I understand now thank you. Mr. Lo Dico can I get a copy of this?

Mr. Lo Dico – I guess we could with the new machine.

Mr. Ambrogio – Yeah we could probably scan it and send it to you in a pdf but we can make a copy now.

Councilman Cimiluca – The engineer might have it as a pdf.

Mr. Ambrogio – Yeah that's who I got it from.

Councilman Cimiluca – I think that all Boards, all Board Members and all Council Members should have that.

The map will be available to all the members suggested.

Council President Gieriek (after all persons have had an opportunity to be heard) states motion is in order that the hearing on this ordinance be closed.

Motion: Councilman Cimiluca

Second: Councilman Accomando

Councilman Cimiluca – yes

Councilman Accomando – yes

Councilwoman Sanchez – yes

Councilwoman Mazzer – absent

Council President Gieriek – yes

Council President Gieriek directs the Township Clerk to read the resolution regarding final passage.

The Township Clerk reads the resolution as follows:

BE IT RESOLVED by the Township Council of the Township of Saddle Brook that the ordinance entitled:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 206 OF THE CODE OF THE TOWNSHIP OF SADDLE BROOK REGULATING THE OPERATION OF SPECIFIC CLASSES OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES. does now pass on second and final reading and that the Township Clerk be directed to advertise said ordinance or title thereof, in the press, together with a notice of the date of passage of said ordinance according to law.

Motion: Councilwoman Sanchez

Second: Councilman Accomando

Roll call:

Councilman Cimiluca – yes

Councilman Accomando – yes

Councilwoman Sanchez – yes

Councilwoman Mazzer – absent

Council President Gierrek – yes

COMMENTS

Mayor White – Dominic Mazzone before he passed away he had mentioned to me that years ago he was on both Boards for many years at different times. He had mentioned that the Town used to give the Board Members photo identification because I know Mr. Duffy a couple of times you've gone to locations to look at an application and sometimes you go on their property and just so you have ID to confirm you are who you say you are especially today being how people are so I think that's something we should consider doing. I know the Police Department has the photo ID machine. I think even Rec now has some kind of machine. I think that's something we really should consider doing.

Council President Gierrek – I know when we were meeting at the old Town Hall I had some concerns about the odor for manufacturing and I since have learned that there is not going to be a big issue with that. We had some of the residents come. One of the residents came and spoke at the Township meeting and had concerns and that individual sits on the Planning Board and I'm confident it's not going to affect any of our residents. If I wasn't a hundred percent sure I wouldn't be voting in favor of increasing the square footage from five thousand square feet to twelve thousand five hundred. I'm very confident that it's not going to create a problem in fact they say cultivation is more of a concern versus the manufacturing as far as any type of odors. That being said that's why I kind of changed my tune a little bit from originally when we did change the ordinance so I just wanted to state that for the record. Does anyone else wish to speak?

Nobody else has any comments.

Council President Gierrek – Motion to adjourn this special meeting.

Motion: Councilwoman Sanchez

Second: Councilman Accomando

Roll call:

Councilman Cimiluca – yes
Councilman Accomando – yes
Councilwoman Sanchez – yes
Councilwoman Mazzer – absent
Council President Gierrek – yes

Meeting adjourned at 6:06 P.M.

Respectfully submitted,

Peter Lo Dico, RMC, CMC
Township Clerk

David Gierrek
Council President

Approved: October 19, 2023