

PLANNING BOARD MINUTES
PUBLIC MEETING
NOVEMBER 4, 2021 - 7:00 P.M.
HELD AT THE OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, NJ
www.oakland-nj.org

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting a copy of same at Borough Hall and the Borough's website
- ❑ Advertised in The Record more than 48 hours in advance of the meeting
- ❑ Mailing a copy to any person requesting same

**** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Andrea Levy, Gregory Liss, Joseph Marscovetra, Michael Rose, Thomas Connolly, Lee Haymon, John Morris, Councilman Kulmala, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:06 P.M., ROLL CALL:

Present Members: Ms. Levy Messrs. Liss, Marscovetra, Connolly, Haymon, Morris, Councilman Kulmala and Mayor Schwager.
Absent Members: Mr. Rose and Chairman Potash

EXCUSE ABSENCES:

Motioned by Councilman Kulmala and seconded by Mr. Connolly, to excuse the absences of Mr. Rose and Chairman Potash.

Mr. Joseph Russo, Esq., Board Attorney, Mr. John Yakimik, Boswell Engineering and Mr. Steve Lydon were in attendance.

BOARD PROFESSIONALS SWORN IN:

None

Mr. Morris will be chairing the meeting in Chairman Potash's absence. He announced that Mr. Liss will sit in for Chairman Potash and Ms. Levy will sit in for Mr. Rose. Mayor Schwager announced that Mrs. Coira resigned from her position as Board member.

OPEN MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Mr. Morris announced that there is no public so they will not be opening the meeting to the public for matters not on the agenda.

PUBLIC HEARING:

1. Karni – 637 Ramapo Valley Road, Block 1301, Lot 40. Public hearing for a major subdivision.

Mr. Morris announced that the Karni application has been carried, at the request of the applicant, to the December 9th meeting with no further notice required.

Mr. Russo informed the Board that Mr. Cascio is concerned that the County may reject the location of the driveway in the middle of the 2 properties facing 202. He questioned Mr. Connolly's opinion in this matter. Mr. Connolly responded that the County only looks at a section of 5 homes or more in a subdivision fronting a County road. He did not think the County would review this but suggested that Mr. Yakimik make sure that the driveways are not a safety hazard and also defer it to the Police Department. When proposing a double driveway fronting a county road, the county will request a letter from the Police Department verifying that the driveways will not cause a site issue for motorists, cyclist or pedestrians.

Mr. Russo brought up the subject of a new subdivision ordinance passed by County a few years ago which has caused further investigation into another subdivision up the road with an internal lot. Mr. Yakimik expressed that he believes the County will want to review this since it is a major subdivision because they reviewed the minor subdivision on Laura Lane a few years back and made comment. The County may not comment on the additional driveway cut if there is adequate site distance and the ability for a vehicle entering the driveway to turn around below and come back out head first. A turnaround for the driveway should be required and room for fire utility equipment to be able to access.

Mr. Russo explained that the applicant's intention is to go with what the Board suggested but wanted to make sure that this is something the County will consider.

ORDINANCE REVIEW:

Ordinance 21-CODE-858 – Restaurant Outdoor Dining Amendment:

Mayor Schwager questioned the definition of a night club since the ordinance does not define it as a restaurant. Mr. Lydon explained that the ordinance defines night club and restaurants differently because of a difficult experience the Borough had with one of the property owners. The Council wanted the outdoor dining ordinance drafted specifically for restaurants only.

This ordinance was drafted to enhance the business of property owners doing the right thing. Mr. Russo questioned the measures that will be taken to enforce that the total number of seats on the restaurant property do not exceed what exists prior to this ordinance. Mayor Schwager gave a situation she had while prosecuting in

Edgewater. She said that a property owner was accused of having too many seats between indoor and outdoor dining but nothing could be proven so the case was dismissed. Mr. Lydon responded that restaurants usually have a plaque on the wall indicating capacity. If someone suspected that a business is violating the number of chairs inside and out, the Zoning Officer could inspect the business and count the number of chairs and compare it to what the allowance given. A discussion ensued concerning the number of patrons and the number of seats. The number of seats has to do with the number of parking spaces and the capacity has to do with the fire code restrictions.

Mr. Russo expressed that the reason for this ordinance is to help the businesses and hopefully they will comply. Mr. Morris expressed that it may become a problem when people start complaining that they cannot find parking at a particular restaurant then it can be referred to the zoning officer.

Mr. Marscovetra questioned if there is a relationship between the fire code and planning as far as bodies and seats. Mr. Lydon responded no. It is normally based on area, number of exit points, travel distance, seats and parking spaces.

The Mayor questioned the definition of amplified music. Mr. Lydon responded that this definition is in the noise code. Mayor Schwager expressed this is very difficult to prosecute. Mr. Lydon explained that he believes the County has jurisdiction over noise levels which are measured by a machine by a certified operator which is still difficult to determine. Based on the state code, acceptable dba's change at 10:00 p.m. from 65 to 50 dba's. Ms. Levy questioned if sound proofing could be mandated. Mr. Lydon responded not outdoors.

Mayor Schwager confirmed that this ordinance would be for new businesses wanting to include outdoor dining and that restaurants who already have outdoor dining are grandfathered in. Mr. Lydon responded yes. Mr. Morris went over some typo's and section on page 2 that he felt was confusing. Mr. Lydon explained to the Board the point he was trying to make that approval for an accessory use would only occur in zones where restaurants are a permitted principal use. Therefore, if a restaurant was approved in a residential zone where it is not a permitted, outdoor dining would require a use variance.

Mr. Morris questioned the portion in the ordinance where it states, if the owner were to sell, it would go back to the original condition and the new owner will need to reapply for the license. He questioned if conditions remain the same, why can't the license run with the property. Mr. Lydon responded that outdoor dining and licenses are intended to run with the business not the property. The property owner will pay a fee and a yearly renewal fee and it gives the Borough an opportunity to ensure the property owner is complying with the ordinance. Mr. Morris expressed that he doesn't want the property owner to have issues with depreciation with the loss of the outdoor dining license when going to sell their business. No more questions. Mr. Morris entertained a motion to authorize Mr. Russo to draft a letter recommending the Ordinance 21-CODE-658.

Motioned by Mr. Liss and seconded by Mr. Haymon, to authorize Mr. Russo to draft a letter recommending Ordinance 21-CODE-858.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
 Councilman Kulmala and Mayor Schwager.
 Nays: None
 Abstain: None
 Absent: Mr. Rose and Chairman Potash.

Ordinance 21-CODE-859 – Revise Restaurant Parking Requirements:

Mr. Lydon explained that the amendment to this ordinance will change the parking requirement from 1 parking space for every 3 seats to 1 parking space for every 4 seats for restaurants outside the CBD-I and II zone. CBD-1 and II zones already have the 1 parking space per 4 seats count. This will make the restaurant parking requirements uniform throughout the Borough. Mr. Morris questioned how this impacts the business where parking will be amended. Mr. Lydon responded this will give these businesses a surplus of parking and could help them in the event they wish to expand their business or add more tables.

Mayor Schwager commented on a new business in town where the parking lot is packed and they use valet parking. A discussion ensued concerning that parking requirements must have been satisfied for the Board to approve that application. Mr. Russo verified that the parking amendment was for the B-2 Business zone. Mr. Lydon responded that this is correct, the CBD-I and II already have these parking requirements.

Mr. Marscovetra expressed that most of these restaurants are locating their outdoor dining in their parking lots taking up parking spaces. He questioned if that effects the calculations now that the owner has less parking spaces. Mr. Russo verified that the restaurants in question are the 2 Diners, Portobello, Cenzino's and Harvest and Ale. Mr. Morris entertained a motion to authorize Mr. Russo to draft a letter recommending the Ordinance 21-CODE-659.

Motioned by Mayor Schwager and seconded by Councilman Kulmala, to authorize Mr. Russo to draft a letter recommending Ordinance 21-CODE-859.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
Councilman Kulmala and Mayor Schwager.
Nays: None
Abstain: None
Absent: Mr. Rose and Chairman Potash.

Ordinance 21-CODE-862 – Amend Exempted Signs:

Mr. Morris asked if the Board had any questions concerning the amendment to exempted signs. No further questions. Mr. Morris entertained a motion to authorize Mr. Russo to draft a letter recommending the Ordinance 21-CODE-862.

Motioned by Councilman Kulmala and seconded by Mr. Haymon, to authorize Mr. Russo to draft a letter recommending Ordinance 21-CODE-862.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
Councilman Kulmala and Mayor Schwager.
Nays: None
Abstain: None
Absent: Mr. Rose and Chairman Potash.

MEMORIALIZATIONS:

None

PAYMENT OF BILLS:

Motioned by Mr. Connolly and seconded by Mr. Liss, to approve the bills list subject to the availability of funds.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
Councilman Kulmala and Mayor Schwager.
Nays: None
Abstain: None
Absent: Mr. Rose and Chairman Potash.

APPROVAL OF MINUTES:

Motioned by Mr. Connolly and seconded by Mr. Marscovetra, to approve the October 14, 2021 Minutes as amended.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
Councilman Kulmala and Mayor Schwager.

Nays: None
Abstain: None
Absent: Mr. Rose and Chairman Potash.

NEW BUSINESS:

None

OLD BUSINESS:

Review of draft Streetscape Ordinance for the B-2, CBD-I and CBD II zones:

Mr. Lydon explained that the draft ordinance discussed at the last meeting deals with the B-2, CBD I and CBD II zones and esthetic goals for the downtown area along Ramapo Valley Road. During a Downtown Sub-Committee meeting last month, streetscape improvements in the downtown area was discussed. This discussion included addition of bike racks, installation of benches, planting shade trees with street grates and stamped concrete in the public right-of-way. He recommended 6 different types of shade trees to be planted. All improvements would be installed by the developers at their expense in these zones. Mr. Lydon explained that stamp concrete patterns were selected and recommendation that no colors or stains be added in order to keep sidewalks uniform.

This draft ordinance has not been introduced to the Mayor and Council so it will come back before the Planning Board for recommendation. The Mayor questioned if the existing businesses will be grandfathered in. Mr. Lydon responded yes, this will only be imposed on property owners during a site plan or variance application. Mr. Russo questioned if the homeowners living along Ramapo Valley Road in the B-2 zone will be responsible to comply with the ordinance. Mr. Lydon responded that this ordinance only addresses commercial development.

Councilman Kulmala informed the Board that direction from the Council will be coming soon concerning downtown rehabilitation. He questioned if this plan would be compatible all the way from Franklin Avenue through Oak Street. Mr. Lydon responded yes.

Councilman Kulmala questioned if the shade tree recommendation for the downtown area will have a stunted grown and be no more than 14-feet. Mr. Lydon responded that they are smaller trees that fit in downtown areas. Councilman Kulmala questioned if DPW will be responsible for maintaining and pruning the trees. Mr. Lydon responded that there will be minimal maintenance to the trees selected. Councilman Kulmala questioned the trunk size of the trees. Mr. Lydon responded that trunk size will be approximately 6 – 8 inches in diameter. The trees selected will have a 15 year life span and produce no fruit or berries. Councilman Kulmala questioned if the roots of these trees will damage sidewalks. Mr. Lydon responded no. Mr. Haymon questioned if the Shade Tree Commission concur with Mr. Lydon's recommendations. Mr. Lydon responded that he reached out to Shade Tree Commission this past summer but there was no response. Mr. Morris expressed that most of the trees suggested will not be appropriate in the downtown area.

The narrowest tree is 15-foot wide and others are 20 to 25-feet wide. He expressed that there is little room in front of some of these stores for a shade tree to fit and still have sidewalk space. Mr. Lydon responded that the trees would need to be trimmed after being planted so that the bottom branches are 10-feet above the sidewalks. A discussion ensued concerning no room at the Oakland Drugs site to plant shade trees with the building being so close to the road. Mr. Morris commented that he does not think any of these trees will fit in front of those stores with little frontage. Mr. Lydon responded that those store owners will then have a valid reason to object to planting a shade tree if this causes an obstruction or blocks their sign. If a new business objected to planting a shade tree, they can opt to donate money to have a tree planted elsewhere. Mayor Schwager verified that the responsible party is the property owner not the store owner. Mr. Lydon responded yes these regulations will apply for new stores owners needing a site plan or variance. These regulations will help when there is rehabilitation, sewers come through or site plan approval needed. Mr. Morris and Mr. Lydon agreed that a lot of those properties in the downtown area with little frontage will struggle with these regulations.

Mr. Morris questioned if the concrete stamp were a standard product and will they be available in the future. He was concerned that concrete stamp could be discontinued making it difficult to keep the sidewalks uniform. Mr. Lydon responded that he will call the company and verify that the product will not be discontinued. He informed the Board that Mr. Connolly suggested that the town can buy their own frame/mold and lease it to the contractor or developer when it comes time to install the sidewalks. The Board concurred with this idea. Mr. Connolly explained how this worked in Demarest. The Mayor expressed that this will only be applicable if a store needed site plan approval or if the Borough were to do it. Mr. Lydon responded that the Borough can apply for grants for downtown improvements, infrastructure improvements to get this funded.

Mr. Connolly questioned the setback for Oakland Drugs. Mr. Lydon responded approximately 8.5-feet. It is very close to the road. Mr. Connolly questioned what the new setback is. Mr. Lydon responded that they are using the existing building so they are grandfathered to what exists.

Mr. Yakimik informed the Board that the since the property owner of Oakland Drugs is not changing the building, the County was not interested in reviewing the application even though it is on a County road. He explained that he asked the County, during the site plan review, if they could request the owner to widen the pedestrian sidewalk in front of the building and the County responded possibly.

Mr. Morris questioned if it needed to be added in the ordinance that the Borough will hold the frame/molds to be used when stamping the concrete. Mr. Lydon responded the ordinance says that the contractor/developer has to install the stamped concrete according to municipal specification found in the construction office. The frame/molds can be stored down at the DPW building. Councilman Kulmala questioned the cost of the concrete frame/molds. Mr. Connolly responded that it depends on the number you need and he believes 10 frame/molds will be sufficient for a typical sidewalk could run upwards of \$5,000.

Mr. Marscovetra suggested it be added in the ordinance that design specifics need to comply with Planning Board's standards. For instance, if the trees suggested do not work out, the Planning Board can suggest an alternative instead of going back and amending the ordinance. Mr. Lydon responded that it states in the ordinance that the selection of shade tree species are outlined on a list obtained from the construction office approved by Oakland. He said that he does not think the list of tree species is part of the ordinance but can be amend if the Borough sees fit. Mr. Marscovetra expressed that he would prefer that Planning Board have say in those changes. Mayor Schwager commented that the town should have an architectural review board and that is who should approve that. A discussion ensued concerning a review board to change certain things rather than amend an ordinance.

Councilman Kulmala brought up the topic of period correct architecture to bring everything together. Currently you have buildings that were built in the 1970's and 1980's presenting no uniformity. He informed that some direction will come from the Council to create some architectural consistency, bringing a design period, so that everything matches. Every store can have a different frontage but it will have to be period correct. Mr. Morris questioned if Councilman Kulmala was asking that the ordinance be deferred at this time. Councilman Kulmala responded that he did not see a reason to push this along so quickly. Mr. Lydon responded that because of a certain property and a certain application in the downtown area that received approval, will be returning to the Zoning Board with a site plan application. Councilman Kulmala expressed that the only thing that will affect that property is stamped concrete.

Mr. Lydon suggested that the Board move forward with this ordinance and later on modify the ordinance to include the things discussed this evening. It is easier to adjust an ordinance rather than not have the ordinance.

Mr. Morris explained that the ordinance should move forward because of a certain application but recognized that there are adjustment that are wanted down the road. His recommendation was to approve the ordinance which can be amended down the road. No further discussion. Mr. Morris entertained a motion.

Motioned by Mayor Schwager and seconded by Mr. Haymon, to authorize Mr. Russo to draft a letter recommending that Mayor and Council consider the draft Streetscape Ordinance.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris,
 Councilman Kulmala and Mayor Schwager.
 Nays: None
 Abstain: None
 Absent: Mr. Rose and Chairman Potash.

PUBLIC MEETING ADJOURNED AT 8:22 P.M.

Motioned by Ms. Levy and seconded by Councilman Kulmala, to adjourn the meeting by a unanimous vote by the Board.

Respectfully Submitted by,

Kathlyn Gurney, Administrative Assistant

*Next meeting on December 9, 2021