

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD VIRTUALLY VIA www.GOTOMEETING.COM
TUESDAY, MAY 19, 2020 – 7:00 PM

MINUTES

The meeting was called to order at 7:00 PM by Mr. Cook.

Roll Call:

Present: Mayor Driver, Mrs. Engelhardt, Mr. Campion, Mr. Cook, Mr. Long @ 7:06 pm, Ms. Giffen, Mr. Budney, Mr. Hain, Mr. Hill, Mr. Norton, Attorney Kaczynski, Planner McManus

Excused: Mrs. Pedrick, Engineer Clerico, Traffic Engineer Troutman.

Ms. Kaczynski stated that the meeting was being held virtually in accordance with guidelines set by the State and had been properly noticed in conformance with the Open Public Meetings Act.

1. **Public Comments:** None. Ms. Parks discussed that no public comments had been submitted as of 3:00 pm to either the planning board email or the Borough's publiccomments email.

2. **Mayor Comments:**

Mayor Driver had no comments

Mr. Cook thanked the Mayor for supplying the Board with ipads.

3. **Council Comments**

Mr. Long was having an issue with his audio.

Motion to amend the agenda to move Council Items to after the Bills was made by: Engelhardt, seconded by Driver. All were in favor.

4. **HPC Comments:**

Jennifer Williford, member of the HPC, discussed that the next HPC was tomorrow night and would be held virtually via the gotomeeting platform, noting that there was one application that would be reviewed at the next meeting and noted that all HPC events had been cancelled or postponed.

Mrs. Engelhardt asked that all HPC applications after being reviewed be forwarded to Ms. Parks for distribution to the Board.

5. **Approval of minutes for the April 28, 2020 regular meeting.**

Motion to approve the minutes was made by: Engelhardt, seconded by: Hain.

Ayes: Driver, Campion, Giffen, Engelhardt, Cook, Long, Budney, Hain, Hill

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

6. **Discussion:** Amending The Land Development Ordinance Of The Borough Of Flemington To Expand And Further Outdoor Dining As A Permitted, Accessory Use Throughout The Borough

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Mr. Cook discussed that a copy of the introduced ordinance had been distributed and asked for any revisions. Mayor Driver asked if impervious surfaces had been addressed. The Board discussed impervious surfaces including increasing coverage on private property; whether an increase in impervious coverage would trigger a site plan; if the zoning officer issue a permit concluding that nowhere in the proposed ordinance did it allow an increase in impervious coverage and that discussed language to be included that a site plan shall not be required for any plan solely for outdoor dining and does not increase impervious coverage and no changes to ground cover. The Board discussed extending the cooking of food restriction on private property, concluding that the restrictions should extend to private property as a quality of life issue. The Board discussed Section O.3.b. regarding the location of the outdoor dining on the sidewalk area or privately owned property ... noting that it defeated the purpose of the ordinance and limits dining to only in the front of the building if the adjacent uses do not serve food, the Board concluded that verbiage should be added to clarify the location of outdoor dining that does allow the submission of a joint application with an adjacent property owner where at least one of the businesses is a food establishment in order to maximize the outdoor dining where appropriate.

Mrs. Engelhardt discussed some comments from her neighbor including if the Borough could establish common outdoor seating areas on municipal property such as the filling station. Mayor Driver discussed that there were no restrictions on seating at the filling station but that the property has recently been sold adding that the tables would be moved elsewhere in the Borough. The Board discussed concluding that while a good idea adding Borough properties for dining would muddy the ordinance.

Mayor Driver stated that the ordinance would only go in to affect when the Governor lifts the executive order. Ms. Kaczynski and Ms. McManus to provide a letter to Council per the Board recommendations for changes including not adding anything on impervious coverage and amend O.3.b. to reference the ordinance does not prohibit joint applications where at least one of the uses constitutes a food establishment per the definition. Ms. McManus discussed that the ordinance was specifically consistent with the Master Plan as page 54 of the reexamination report recommends revising the outdoor dining regulations to make it easier for restaurants to provide outdoor dining.

Motion to forward to Council the recommendations as discussed and find the ordinance specifically consistent with the Master Plan: Hill; second: Giffen

Ayes: Driver, Engelhardt, Campion, Giffen, Cook, Long, Budney, Hain, Hill

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

7. Discussion:

- Rules on Citizen Input During Planning Board Meetings

Mr. Cook thanked Mr. Hain for great amount of work put into the documents and noted Mr. Hain had provided an updated draft of the rules for citizen input which was distributed to the Board. Mr. Cook

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discussed that this document was solely for the Board to adopt and could be amended at any time with a simple majority of the Board members going forward. Mr. Cook suggested a correction in paragraph 1 to read that the Borough was incorporated in 1910 and suggested that the 2nd sentence which referred to the Board reviewing applications be placed as the first sentence where the 2nd sentence referred to the Board hearing appeals. Mrs. Engelhardt suggested taking “and is currently almost fully developed,” out of the 1st paragraph. Mayor Driver suggested that “..click on Department, Planning Board, Agendas)” be taken out for the location of the agenda and minutes on the website noting that the website will be revised soon. Mr. Budney suggested that under public questions and comment to add throughout when questions can be heard and when comments can be heard, Mrs. Engelhardt suggested adding that the public does not comment on completeness and that no public comments would be taken until after a completeness determination and not until the public hearing had been noticed and was presented before the Board. Mayor Driver recommended that details regarding the 15 minute Public Comment at the beginning of the meeting be added.

Mr. Budney suggested that an explanation should be provided under Application Procedure paragraph 2 regarding the order of comment and questions including the Board members then Board professionals and finally public and suggested that the public be sworn in for testimony. Ms. Kaczynski discussed that the public should be sworn in for comments not questions and when providing testimony adding that if a member of the public was represented by an attorney they should provide a name and address of all being represented verbally during the hearing and followed up by providing a written list noting that a member of public who was represented by an attorney cannot also represent themselves as an individual. The Board discussed whether a member of the public could refuse to give a street address noting that the Board may place a level of importance on an adjacent property or business owner which would be different from say someone that lives in another County. Mr. Cook discussed that having these rules adopted will give the Board something to have in place to explain the value of questions or comments for members of the public. The Board discussed that written statements or letter from individuals not present are not allowable per the MLUL as the Board or applicant would not have the ability to cross-examine the written statement.

Mayor Driver discussed that the Borough may continue a virtual option to ‘join’ a meeting when the Board returns to meeting in real life to help include more public. Mr. Cook added that this document could be amended to include any future changes.

Mr. Budney discussed that he did not see a time limit for public questions or comments. The Board discussed including that a time limit can be put in place by Ordinance and allowing the Chair to reserve

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the right to impose a time limit. Cook suggested adding that time frames may be adjusted to facilitate maximum public comment section of the hearing and noted that there was a caveat at the end of the document that the guidelines are for the purpose of assisting interested parties and shall not be considered a basis for an argument in any appeals of a decision rendered by the Board.

Mr. Cook and Mr. Hain to revised and will revisit the changes at another meeting.

- By-Laws and Rules of Procedure of the Planning Board

Mr. Cook discussed that he had substantive changes to the By-Laws and suggested that everyone send in comments to him and copy Ms. Parks where he would compile the changes to help streamline the conversation at the next meeting. The Board discussed the timing.

8. Chair Items:

Mr. Cook thanked Council for supplying ipads for the Board members.

Mrs. Engelhardt attended a Census 2020 meeting yesterday which stressed getting all residents to respond noting that there were no action items for the Board at this time and added that there would soon be census takers going door to door. Mayor Driver discussed that she would coordinate with the OEM coordinator and police to alert citizens that there would be census takers knocking on doors.

Mrs. Engelhardt had a phone call meeting with Robin Lapidus to discuss the beginning stages of the Master Plan and charettes. Mrs. Engelhardt discussed communicating with the new owners of liberty village and including them in the Master Plan and suggested that there be updates on all the redevelopment plans. Mayor Driver had some conversation with DEP regarding the liberty village site.

Ms. Giffen asked how the Environmental Commission could receive the recent plans to review. Ms. Parks to email the pdf files to the Environmental Commission chair for distribution to the members (as well as the HPC and Shade Tree Commission). Commission members can coordinate with the Borough Clerk to gain access to Borough Hall to view the plans. Ms. Giffen asked the timing of the Environmental Commission report to the Board. Report to be prepared after a completeness determination and at least 24 hours prior to the public hearing via email to Ms. Parks for distribution.

Ms. Parks to distribute of pdf files of applications to the Shade Tree Commission chair and HPC chair for distribution to their Commission members for review.

Next meeting June 9, 2020 would be held virtually again, and the agenda items would include completeness for 3 applications. Ms. Parks to confirm.

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9. Bills:

Motion to audit the bills: Driver; second: Giffen

Ayes: Driver, Engelhardt, Campion, Giffen, Cook, Long, Budney, Hain, Hill

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

10. Council Items

Mr. Long nothing further as the 2020 Census had been discussed.

11. Professional Reports:

Attorney: Nothing to report.

Planner: Nothing additional.

12. Executive Session: None

13. Adjournment:

Motion to adjourn the meeting at 10:05 p.m. was made by: Driver, seconded by: Hill. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary