

FLEMINGTON BOROUGH  
PLANNING/ZONING BOARD MEETING  
38 PARK AVENUE, FLEMINGTON, NJ 08822  
HELD IN PERSON AND VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM  
TUESDAY, OCTOBER 5, 2021 – 7:00 PM

MINUTES

The meeting was called to order at 7:02 PM by Mr. Doshna.

**Roll Call:**

**Present:** Mayor Driver, Mr. Doshna, Mrs. Engelhardt @ 7.05 pm, Mr. Budney, Mr. Hain, Mr. Long, Mr. Cook, Mr. Campion, Ms. Giffen, Mr. Hill, Mr. Norton, Mr. Levitt, Ms. Weitzman, Attorney Kaczynski, Planner James Kyle

**Excused:** Engineer Clerico, Traffic Engineer Troutman, Planner McManus

1. **Public Comments:** None.
2. **Mayor Comments:** Mayor Driver discussed that the sale of 144 Main Street closed today and was now owned by a company that plans to have a restaurant on the site and that a grant for preservation came in from the DCA for improvements throughout the Borough which would start with the intersection of Church and Main Street and thanked Robin Lapidus for submitting the grant which the FCP would be handling.

3. **Council Comments:** None

4. **HPC Comments:**

Chair, Don Eckel appeared noting that Richad Giffen, vice chair was also present for comment on item 6.

5. **Approval of minutes for the September 28, 2021 regular meeting.**

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

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

Nayes: (None)

Abstain: Doshna

Motion passed: 8-0-1

6. **Planning Board Consistency Review and Recommendations:** Council Ordinance 2021-24- Ordinance Amending Chapter 14, Section 1404 of the Borough Code Regarding the Historic Preservation Commission

Ms. Giffen abstained from all participation and discussion.

Mr. Doshna noted that Council had introduced the ordinance last night and would be on the agenda for adoption as the October 25, 2021 meeting.

Mr. Kyle discussed that the task for the Board was to review if the ordinance was consistent or inconsistent with the Master Plan where he had reviewed the ordinance with Ms. McManus and found several of the goals cited in the Master Plan pertained to preservation of the Borough's historic districts, and landscapes through designation activities. Mr. Kyle found that the ordinance was not inconsistent

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with the Master Plan. Mr. Kyle discussed that the changes to the ordinance were being made to allow the Borough to be designated as a Certified Local Government (CLG) agency where the ordinance must conform to the MLUL and State Local Government to allow the HPC to apply for preservation fund grants which were available annually noting that it was necessary to undertake this ordinance change to tap into the resources at the State and Federal level. Mr. Kyle disused that there were some procedural changes which were not significant as to how the ordinance functions currently; would now require continuing education for the members and filing an annual report with language changes for member requirements and procedures including allowing for emergency review at the cost to the applicant, changes to historic landmarks, district changes and a change to the procedure for demolition to significant properties unless there was a safety issued to be determined by the Borough engineer or if all alternatives to demolition have been explored. Mr. Kyle noted that the goals and objectives of the Master Plan were critical and found the ordinance not inconsistent.

Mr. Cook asked if there were any concerns for the Class B members no being residents of the Borough. Mr. Eckel had no concern as the Class B required a historical background where the HPC would be balanced. Mr. Doshna confirmed that the majority of Class C members lived in the Borough.

Mayor Driver asked for clarification on the demolition. Mr. Giffen discussed that demolition was not advisable where a 12 month period was imposed to provide input by SHPO but if there was a concern for public health, welfare or safety issue the demolition would not have to go through the 12 month review upon determination from the Borough engineer and clarified that this applied only to significant or contributing structures where non-contributing structures were referred to Section G.2 to follow the same procedures.

Mrs. Engelhardt asked if the Planning Board would still have the authority to overrule the HPC for demolition in site plan review if the HPC recommended that it should remain. Ms. Kaczynski confirmed that under 'J' an appeal could be granted by the Planning Board and recommended to add the verbiage 'operating as the Zoning Board'.

Mr. Budney asked if the ordinance would make the HPC not an advisory board to the Planning Board and make it a separate entity. Mr. Eckel responded yes under the MLUL the HPC would be an independent entity as a CLG but still advisory for site plan review and applicants can appeal the HPC decision to the Board.

Mr. Doshna discussed that the ordinance would now require a written report from the HPC in a period of 45 days for a site plan application which could hold up meetings for 4 weeks. Mr. Eckel discussed that if the HPC failed to comply within the 45 days then the application would be deemed acceptable. The Board discussed concerns regarding the 45 day time period for the HPC and the Board creating possible delays for 2 months where development may be slowed down for simple projects and longer if there was some demolition involved. Mr. Giffen noted that this was in line with SHPO to give the HPC time to

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comply with an emergency case they can hold a special meeting. Mr. Cook added that all the commissions would have a 45 day referral period where the Board would need to wait to hold a public hearing delaying applications. The Board discussed the HPC report being marked as an Exhibit during Planning Board review and if the HPC was no longer advisory HPC approval will become an outside approval condition with an appeal allowed to the Board.

Mr. Doshna asked who made the determination to designate the HPC as a CLG. Mr. Giffen discussed that an application was made to the DCA for the designation as a CLG. Mr. Eckel noted that bylaws needed to be updated as well as resumes of the members with a standard to be measured by. Mr. Doshna asked where the budget would come from for the HPC as a CLG and which attorney the HPC used. Mr. Budney discussed that as an independent Board the Lambertville HPC had their own budget and ability to hire consultants which was similar to this ordinance. Mr. Eckel noted that it would help to meet the standards and make us a better commission.

Mr. Doshna asked for comments back to Council.

Mr. Cook asked if some of the verbiage would cause undue hardship to applicants, which was not business friendly and may cause delays. Mrs. Engelhardt asked if the language was required for a minor application where the chair can act and questioned the 45 days to have a report. Mr. Kyle noted that adding 'minor' could alleviate some delays to residents. Mrs. Engelhardt noted that there was no definition for demolition adding that removing a wall was not demo in the rehad code – recommended to Council to define demolition with Jeff Klein. Mayor Driver to recommend to provide determination if this would make HPC an independent commission with CLG designation and asked if a redevelopment project would also get stuck for a year for review for demo. Mr. Doshna asked if this gives the HPC the determination of historic landmark status or if the Board has a say in the designation. Mayor Driver asked if there was a model ordinance from DCA for Council and the Board to review. Mr. Eckel noted that this was required for CLG designation, Mr. Giffen noted that ordinance they used was from Millburn. Mayor Driver requested one directly from DCA and asked for the CLG guidelines to be provided with sample verbiage. The Board discussed.

Motion to find the ordinance not inconsistent with the Master Plan was made by: Engelhardt, seconded by: Budney

Ayes: Engelhardt, Long, Cook, Budney

Nays: Driver, Hain, Campion

Abstain: Doshna, Giffen

Motion passed: 4-3-2

Motion to transmit the following comments to Council was made by: Hain, seconded by: Cook.

- Ordinance should define what a minor application would be.

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- Section 1 specifically 'K' – what the role of the HPC was and review the language regarding 45 days to review and what that may mean to the process of review of an application by the Board and scheduling public hearings.
- Concern on Section M about whether the designation of 'landmark' status was in the prevue of the Planning Board.
- Recommend Council review Section 1631 definition regarding demolition, alterations, and additions as they relate to the rehabilitation code and if the local code enforcement officer interprets – Jeff Klein to provide input.
- Concern for demolition regarding limiting the 12 month delay for projects.
- Determine if the language was required by the DCA for the Local Government designation or suggested by SHPO.

Vote on motion for recommendations.

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

Nayes: (None)

Abstain: Giffen

Motion passed: 8-0-1

Motion to amend the agenda to add Resolution 2021-17 to be signed by Chair Doshna to find the ordinance not inconsistent with the Master Plan and incorporate the recommendations and concerns to Council was made by: Engelhardt, seconded by: Budney. All were in favor except for Ms. Giffen who abstained.

Mr. Cook noted that the role of the Board was to determine consistency and asked if the Board would see the ordinance again. Mr. Doshna discussed that if there were substantial changes by Council the ordinance may need to come back to the Board.

**7. Resolution 2021-17** : Finding that Ordinance 2021-24 was not inconsistent with the Master Plan and provide the recommendations to Council as discussed.

Motion to allow Chair Doshna to sign the resolution was made by: Long, seconded by Cook.

Ayes: Long, Cook, Engelhardt, Budney

Nayes: (None)

Abstain: (None)

Motion passed: 4-0-0

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**8. Chair Items:**

Next meetings: October 26, 2021. Lee Roth – completeness determination. Captiva Main Street LLC – completeness determination pending submission of additional documents per Mr. Clerico by October 12, 2021. Extension of time to act for the Padovani application received for an additional 60 days. Mr. Doshna stated that the meetings would continue to be virtual.

Mr. Doshna received a letter regarding telecommunication installation on the new water tower in Raritan Township where the Board could provide comments if they wanted. Mr. Campion clarified that nothing would be on the new tower where the old tower would remain, with antenna removed temporarily while the old tower was rehabbed and would be placed back on the old tower. The Board had no comments.

Mr. Doshna scheduled an executive session for November 9, 2021 to review Board professional contracts.

Mr. Cook discussed the construction the Catalyst sign at the circle. Mayor Driver had been in contact with the developer who was having issues with supply demands which created the stop in construction, but was working to correct.

**9. Bills:**

Motion to audit the bills was made by: Cook, seconded by: Giffen.

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

**10. Professional Reports: None**

**11. Adjournment:**

9:26 pm. Motion to adjourn was made by: Engelhardt, seconded by: Driver. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary