

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

The meeting was called to order at 7:00 PM by Chair Doshna.

Present: Mayor Karrow, Councilwoman Engelhardt-remote, Mr. Doshna, Mr. Levitt, Mr. Campion-remote, Mr. Cook, Ms. Weitzman-remote, Ms. Giffen, Mr. Hill-remote, Mr. Cimino, Mr. Eckel, Mr. Schoeb-remote, Attorney Kaczynski, Planner McManus, Engineer Clerico Traffic Engineer Troutman.

Excused: Ms. DiMario

1.Public Comments: None.

2.Mayor Comments: Mayor Karrow spoke with the redeveloper of Liberty Village in executive session. There will be a public presentation on December 6, 2023 at 6:00 pm to present the changes to the redevelopment plan. The redeveloper was now talking about the Redevelopment Plan being adopted late January or February.

3.Council Comments: Councilwoman Engelhardt would prefer that the Redevelopment Plan to not be rushed.

4.HPC Comments: Mr. Schoeb discussed that the next HPC meeting was December 13, 2023. Mr. Hatch was to investigate the historic map changes further which would push the public hearing on the element of the Master Plan to January 2024.

5. Approval of minutes for the October 24, 2023 regular meeting.

Ms. Parks noted changes to the minutes.

Motion to approve the minutes was made by: Karrow, seconded by: Cook.

Ayes: Karrow, Doshna, Engelhardt, Levitt, Campion, Cook, Weitzman, Hill, Giffen

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

6. Resolution: Flemington Realty Partners, LLC – Application #2022-04
Block 39, Lot 6 - 78 Church Street

Motion to adopt the resolution was made by: Karrow, seconded by: Levitt.

Ayes: Karrow, Doshna, Engelhardt, Levitt, Campion, Weitzman, Hill, Schoeb

Nays: (None)

Abstain: (None)

Motion passed: 8-0-0

7. Resolution: Douglas Stryker - Application #2023-02 - Block 35 Lot 60 - 13 Brown Street

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

Resolution was prepared, the applicant's attorney had some comments and requested it be deferred to the next meeting.

8. Public Hearing: Bless Wellness, LLC – Block 44, Lot 7 – 313 US Route 22

Attorney Larry Cutalo, appeared and discussed the application to convert the existing fast food restaurant building to a cannabis facility at the former 25 burgers building where the property was fully developed and had been the subject of numerous applications where they would like to refit the building for a cannabis retail use which was a conditionally permitted use in the zone. There would be no real outside changes and the application would comply with all conditional requirements. Mr. Cutalo had 4 witnesses including the owner/operator Leo Guzman who appeared remote due to a positive Covid test; Michael Elkin, architect; Betsy Dolan, engineer and traffic engineer and Jeff Stiles, planner, all were sworn in for testimony.

Exhibit A-1 – The application and document

Exhibit A-2 – Proofs of publication and mailing of notice of hearing

Exhibit PB-1 – Mr. Clerico's report dated November 22, 2023

Exhibit PB-2 – Ms. McManus's report dated November 22, 2023

Exhibit PB-3 – Mr. Troutman's report dated November 28, 2023

Ms. Kaczynski asked the Board if anyone had any conflicts, none were heard.

Elizabeth 'Betsy' Dolan, appeared as an expert in civil engineering with a traffic specialty, gave her credentials and was accepted as engineer and traffic engineer. Ms. Dolan discussed the application as shown on Sheet 1 of 1 which was part of the original submission, including the existing conditions with the interconnection of the surrounding sites adding that the site plan changes were minimal; there would be no drive thru operation where the existing drive-thru was to be changed to a loading zone for vans and fed ex delivery use area only. There were 83 parking spaces existing, the applicant will restripe to add ADA spaces if necessary without creating a variance and agreed to consider pavement improvements. Ms. Dolan discussed peak trip generation for the site on a State highway and review and DOT permitting where they will actually have a reduction in trips from the fast food prior use and therefore did not trigger any new DOT permitting. No parking variance was required, where there was a total of 110 parking spaces with 83 with close proximity to the building where the municipal boundary straddles property. There was more than enough parking for the demand with 10-12 employees on one shift at a time when there would be times where 20-24 employees would be there for overlap of shifts with peripheral parking available for employees. Fed Ex trucks would most likely park in the front of building with delivery of product would be through the secure rear door. Ms. Dolan noted that the dark black line on the site plan delineated an old lease line for Pizza Hut which has been extinguished.

Mr. Clerico confirmed that the applicant would comply with his recommendations including with the ADA parking spaces and ramps.

Ms. Kaczynski clarified the lease easement with Pizza Hut had been extinguished with the termination of the lease agreement.

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

Councilwoman Engelhardt noted that there were 3 parking spaces close to Pearl Vision which overlap into Raritan Township and asked if there could be excluded from the parking count as cannabis use not permitted in Raritan. Mr. Cutalo discussed that they do not intend to use any spaces in Raritan Township and agreed to limit where patrons can park and could provide signage.

Mr. Levitt asked if the connection to Burger King would be restored. Mr. Cutalo agreed that the fencing would be removed.

Mayor Karrow discussed the sewer and water capacity, if the restaurant would have a higher capacity than needed for this dispensary and asked if some capacity would be returned to the Borough. Mr. Cutalo would need to work with the water and sewer departments.

Michael Elkin, of GK+A Architects, gave credentials as a professional architect and was accepted as same and discussed a plan submitted which was revised to replace freezer with a storage room was marked as Exhibit A-3 last revised 11-14-2023. Mr. Elkin discussed the application including the circulation within the building facility where the existing glass of restaurant was to be covered with a glaze to provide privacy per State regulations and discussed the separate counters for consultation and pickup services as well as the other rooms in the building including a vault room for product, office, refrigerator/break room to be converted to storage. Mr. Elkin described how the product was recorded when delivered and moved to the product room for distribution with lots of space, and a simple operation with customer ingress and egress from same door and a secure employee and delivery door. The existing boxes on the roof would be reused for the signage as well as the existing pylon sign was to be reused, plan R1.0 was marked as Exhibit A-4 color rendering of the building. A plan with an existing photo of the building and a photo of the proposed rendering of building was marked as Exhibit A-5 dated Nov. 14, 2023 Sheet R-2.0, signage to be reused and lighted plus the pylon sign to remain the exact same size.

Mr. Clerico clarified that the secure rear door of the building would be for employees and product, side door for delivery, front door customers.

Ms. McManus discussed the sign boxes to be reused but if too damaged will replace to exact same dimensions and determined that the sign boxes were removed 2 weeks ago to paint the roof and they were still on site; the privacy glass was required by State licensing to limit view of customers or product.

Ms. Giffen asked if the proposed window film which effectively the company logo would have been considered signage and if that would meet ordinance requirement. Mr. Cutalo answered that would not count as signage and would be addressed by a planner.

Leonardo (Leo) Guzman, part owner of Bless Wellness, appeared remotely as he tested positive for covid in the morning, discussed his role as part owner with his wife and her father where his wife was face of business and was in quarantine with son. Mr. Guzman discussed his business history in retail, father-in-law where they have other business and experience in retail including Fernandez supermarket in Trenton discussed inventory management would be a lot easier with Bless Wellness, and had experience in

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

selling tobacco in Trenton. The emphasis would be on home grown employees as the goal with rigorous background checks required; committed to hiring managers with cannabis experience. Mr. Guzman explained the transaction including identification verification, guidance on services needed to direct customers; with some preorders using a POS systems; a counter where orders were fulfilled, a counter for consultation, transaction would be made with cash or a debit card ATM machines would be on the property, noting that banks will not process credit cards for cannabis, All products were prepackaged comply with CRC regulations for labeling and packaging, drive thru would not be used for retail sales with no curb side pickup. Security features will comply with regulations; they have hired a security company that has fitted out cannabis outfits across the country, with full cameras where they agree to give Flemington police access to the feed as well as the State access was mandatory, there will be panic buttons behind counters, onsite security, limited employee key fob access to the vault and product which will be provided to police along with a Knox box to be provided. Hours of operation would be 9 am to 9 pm and will conform to Flemington conditional use with staff present 1 hour before and 1 hour after customers with 10-12 employees per shift with an opening shift of 9-5 and closing shift from 2-9 pm, all employees will park in rear of property parking spaces, delivery to site would be a cargo van unmarked frequency of delivery would depend on volume of sales at the store, right now anticipate every couple of weeks but could change, delivery at the rear door which would supervised by employees, disposal of cannabis waste any expired product which was always in locked vault would be sent to an incinerator. Lease of site would be a 10 year lease with the option to extend for two 5 year options, for a total of 20 years, lease covers the building and 83 common parking spaces, curb ramps, ADA parking, updating dumpster enclosure, Mr. Guzman had authorization from the landlord to do the improvements in the professional reports with the letter received today. Mr. Guzman discussed that Bless Wellness had a State conditional license as of December 5, 2022 with no onsite cannabis consumption areas. Aunt Mary's operates a facility in same zoning district, company has second license issued by Flemington Borough, only 2 dispensaries allowed in Borough.

Councilwoman Engelhardt asked how many applicants were in competition to sign the lease with this landlord, Mr. Guzman was not sure, but the landlord spoke on their behalf during the licensing process with Flemington where he had multiple applicants for that site for cannabis. Councilwoman Engelhardt asked how many years the site had been vacant. Mr. Guzman estimated 2 or 3 years.

Jeffrey Stiles, appeared as a professional planner, gave his credentials and was accepted as same. Mr. Stiles discussed the application and planning testimony including the signage with the existing pylon sign on Route 22 which was currently blank would be repainted using the same size and discussed the signage on the roof of building which were 48 square feet each and were removed 2 weeks ago for painting and maintenance where the applicant would use the exact same size and location adding that the signs would be a good break in the roof line noting that roof signs were not permitted by ordinance but they are reusing and replacing in kind and therefore still entitled to use as a pre-existing condition. Mr. Stiles discussed the window film, which was required by law with the company logo on within tinting on the glass and opined that the logos were not a sign but to lettering which provides some interest and variety to a large blank area. If the Board determined the logos to be a sign it provides an aesthetic feature rather than a blank window and he saw no down side as the building was removed from view noting that the positive criteria would provide access and direction to vehicles and promote public good

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

and welfare where this was a mostly drivable use and the public was better served with the proposed signage in place which was unique to the site and would not set precedent where the Board would be within its rights to grant any variance deemed necessary where the positive criteria promotes the welfare of the public good adds an aesthetic visual and provided a good use for the site. Negative criteria were that the signs were there previously there would be no substantial detriment to the zoning or the Master Plan and meets C2 criteria.

Ms. McManus discussed that if the logos were window signs and required a variance could they get an area estimate adding that the ordinance prohibits roof signs where these would not need an area variance. Ms. Kaczynski discussed the removal of the roof signs for painting where the Board would need to determine if this abandoned the signs or was for maintenance as testified.

Ms. Giffen asked if the window signs were more of a design element than a sign.

Mr. Guzman, appeared and discussed the landscaping which was designed by Rutgers Landscape Design adding that he was open to suggestions per recommendations in the reports. Mr. Guzman stated that he would eliminate the existing tree to the right which was blocking a light pole and had decided not to place new tree there.

Mayor Karrow asked if he could prune the tree or move the light fixture noting that she would like to see more trees added where new State regulations will be requiring more trees. Mr. Guzman was open to that and welcomed any suggestions. Ms. McManus suggested that the applicant submit a landscape plan with planting details and a revised landscape plan with placement of additional trees to the satisfaction of the Board planner as a condition. Mr. Guzman agreed to consider adding places that can accommodate more plantings. The Board discussed the option to prune the tree and keep the light in location if possible but if the light needed to be moved an amendment of the lighting plan would be necessary to satisfaction of Board professionals.

Councilwoman Engelhardt confirmed if the light pole or tree moved that safety will be taken into account as a priority and was hoping a revised landscape plan as the site is overparked, would recommend adding landscaping by removing parking spaces and pavement. Ms. McManus added that there may be some striped areas that could be removed to add trees.

Mr. Cutalo asked the Board to grant minor site plan and conditional use approval along with the variances as discussed with the testimony provided in support of those approvals.

Motion to close public hearing made by: Cook, seconded by, Karrow

Ayes: Karrow, Doshna, Engelhardt, Levitt, Campion, Cook, Weitzman, Hill, Giffen

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

8:58 pm meeting recessed

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

9:08 pm meeting resumed

Ms. McManus summarized the reports including a revised landscape plan whether to add green areas or replace pavement areas that are not parking spaces may be a challenge with landlord. Lighting plan to be revised if they add a light fixture or move the light; Signage: the freestanding pylon sign to be refaced, they applicant could provide additional pylon sign; the roof signs do not need new variance to be on the roof as clarified by testimony; window tinting signs with a logo had no size but was close to 6 square feet; they would need to determine if they were comfortable with the window signs on each or side of building to provide interest on the tinted glass which would require a variance of say not larger than 6 square feet.

The Board discussed the intent of sign ordinances to allow logos on glass; if this would set a precedent; clarified that the logo would be the sign not the tinting film which was required by State regulations; the unique large building; location of the building away from downtown and not on a road front; need for some visibility; scale of the signs to the building; agreeing that the logo signs would need relief and suggested 6 square feet maximum for each. The Board discussed the roof signs which were not permitted; not abandoned but removed for maintenance and painting of roof, but lack of communication with Board planner by applicant; applicant's should not do improvements to the site while still before the Board, but wait until permits are obtained and application is through the Board; roof signs were a good use of space for this particular building with a large roof line. The Board discussed that the applicant was entitled to have a second pylon sign which would have to go before sign review committee if it met the ordinance requirements. The Board discussed the landscaping including some areas to remove pavement and install additional trees; a complete plan with details and species; keep tree by the light pole and add additional trees with focus on parking requirements; Ms. Kaczynski cautioned on imposing conditions on the applicant where they could not get the owner's consent. Landscaping to the satisfaction of the Board professionals. Mayor Karrow would like to add getting back water and sewer capacity.

Ms. Kaczynski discussed the conditions including: compliance with the reports as discussed with a third ADA space installed if necessary, all parking to be within the Borough with appropriate signage; vehicle connections on site to be restored; compliance with recreation cannabis act and regulations; ongoing compliance with all conditional use requirements; Flemington access to security camera feed and installation of a Knox-box and key fob to police; landscaping plan with details and species to the satisfaction of the Board professionals; keep the existing tree by the light by pruning if possible and greater compliance with island parking; lighting relocation to insure safety if necessary; pylon sign to be reused, roof signs to be replaced determined to be not abandoned; 2 window signs with logo permitted with a variance for each window logo of no more than 6 square feet to be consistent with the renderings on the film for privacy windows per State requirements.

Ms. Kaczynski discussed that the subject property by deed was one lot that was location both in Raritan Township and the Borough and discussed the applicability of ordinances by the Township on the application noting that there was a disagreement with counsel; but there was case law dealing with one metes and bounds parcel divided by a municipal boundary line; a unique situation where all parking for

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

the cannabis use was located in the Borough; would make sense for Raritan Township to have no interest; and discussed a condition to receive some response from Raritan Township. The Board discussed that cannabis retail use was prohibited in Raritan Township where they could invoke their authority, the Board could make a letter from Raritan Township a condition of compliance with any and all outside approvals. Mr. Cutalo discussed that Flemington Borough approved the original site plan 1984 and obtained site plan from both opining that Bless Wellness was simply a change of tenant for an existing building with no portion of the use into Raritan Township and found no need to go to Raritan and no need to have any condition where the recent application for Burger King had no similar condition.

Board discussion that this was application on a parcel that is in both towns; with a straw poll on whether to address the issue under: Any and all outside approvals or add a condition of some letter from Raritan Township be required. The Board agreed that a letter from Raritan Township would be appropriate.

Mr. Cutalo asked the Board professionals to cooperate with a presentation to Raritan Township. Ms. McManus discussed that she would review for compliance and did not want to have a gray area.

Motion to approve minor site plan, approve the conditional use along with the 'c2' variances for signage and subject to the conditions as discussed including requiring a letter from Raritan Township was made by Giffen; seconded by: Hill.

Ayes: Karrow, Doshna, Engelhardt, Levitt, Campion, Cook, Weitzman, Giffen, Hill.

Nayes: (None)

Abstain: (None)

Motion passed: 9-0-0

9. Public Hearing: Central Station, LLC – Application #2023-05; Block 34, Lot 7 - 37 Mine Street
Continued from October 3, October 24 & November 28, 2023

Mr. Doshna announced that this matter would be continued to the December 19, 2023 meeting in this building at 7:00 pm and that no further notice would be provided.

10. Chair Items:

- Public hearing on the Historic Element of the Master Plan to be scheduled in 2024.
- Mr. Doshna discussed the 2024 meeting dates and offered suggestions where there were conflicts with holidays.
- Next meeting: December 12, 2023: Resolution: Douglas Stryker- 13 Brown Street; Resolution: Bless Wellness; Public Hearing: Chick-fil-A, Inc.; Public Hearing: Wertsville Road Properties, LLC. continuation announcement to a later date to allow sufficient time to review and prepare reports on the revised plans submitted today.
- Living Wall Update: Mayor Karrow: the structure is starting to decay, there are missing panels and some panels are slipping; tax assessor to deem substantially complete. Ms. Kaczynski discussed options.

11. Bills:

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 28, 2023 – 7:00 PM

MINUTES

Motion to audit the bill was made by: Cook, seconded by: Karrow

Ayes: Karrow, Doshna, Engelhardt, Levitt, Cook, Campion, Giffen, Weitzman, Hill.

Nayes: (None)

Abstain: (None)

Motion passed: 9-0-0

12. Professional Reports: None.

13. Executive Session: None.

14. Adjournment:

At 10:29 pm. Motion to adjourn was made by: Karrow, seconded by: Cook. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary