



**BOROUGH OF SOUTH RIVER
PLANNING BOARD
REGULAR MEETING MINUTES REVISED**

MAY 21, 2024 – 7:00 PM

Location: Criminal Justice Center, 61 Main Street, 2nd Level, South River

The Regular Meeting of the Borough of South River Planning Board was called to order by Chair Zammit at 7:00 pm followed by the Pledge of Allegiance. She read the following announcement in compliance with the Open Public Meetings Act: *In compliance with Chapter 231 of Public Laws of 1975, adequate notice of this meeting was given by way of Annual Notice filed with the Borough Clerk, the Home News Tribune, The Sentinel and posted and posted in the window of Borough of South River Municipal Building on January 17, 2024.*

The Planning Board may take formal action at this meeting.

Roll Call

Present: Monica Almeida (Mayor's Designee), Richard Byrne, Councilman John Frost, Michael Clancy, Shirley Dockery, Cynthia Urbanik, Cynthia Wilk, Nick Giannakopoulos, Jesse Hare (Alt. 2), Donna Zammit

Absent: Mayor Peter Guindi

Also Present: Art Londensky, Administrator, Thomas Barlow, Attorney, Bruce Koch, Engineer, Todd Bletcher, Planner

Members

Nick Giannakopoulos was appointed as Alternate 1 and sworn in prior to the start of the meeting.

Councilman Dziemian was replaced as Council liaison by Councilman Frost. Councilman Frost was sworn in prior to the start of the meeting.

Agenda

Chair Zammit announced the change to the agenda; the completeness hearing will be heard before the public hearing.

Approval of Minutes: April 16, 2024

The motion to approve the regular meeting minutes *April 16, 2024* as presented was first moved by Councilman Frost, seconded by Ms. Urbanik, all in favor by voice vote.

Abstained: Urbanik

Resolution

PB-2023-04 ROSA SOARES

92 Browns Lane Block: 329 Lot: 1.02

Resolution to Dismiss without prejudice.

Mr. Barlow explained that this application has been pending for approximately a year now; it has been scheduled for completeness several times. Board professionals has repeatedly requested updated plans, which has not been provided. This is a dismissal without prejudice; applicant can return with a new application when ready.

The motion to approve the resolution to dismiss *File PB-2023-04, Rosa Soares* without prejudice was first moved by Ms. Urbanik, seconded by Mr. Byrne

Roll call in favor: Almeida, Byrne, Clancy, Dockery, Frost, Giannakopoulos, Urbanik, Wilk, Zammit



Abstained: None

Completeness Hearing

PB-2023-07, MAIN STREET INVESTMENT

213 Prospect Street Block: 64 Lot: 1.07

Application to subdivide lot to construct second dwelling

Jay Weiner, Esq. represented the applicant, Lukas Grzech, who was also present. Mr. Weiner explained the application, submissions and the process to date, requesting this Board to deem the application complete. Mr. Koch stated that he has no issues if this Board chooses to waive his request. However, he takes exception, reinforcing to the applicant, that there is potential wetlands on the corner of the property. If deemed complete, the applicant will have to address his wetlands concerns at the public hearing. Mr. Barlow informed the Board that this matter was heard in 2018, *File #2018-03* with the previous owner, *Nationwide Title and Abstract*; their application was for a two lot subdivision which was not granted. He provided background information on the previous application and some details of the current application process to date. The previous owner agreed to the condition in the resolution, that they or subsequent purchaser, when they decide to build the house, the Board would retain jurisdiction, so the items requested to be waived can be addressed at that time. The applicant constructed a house on the site. The current house met building guidelines, therefore did not need any variances; the house was built and CO was issued. The current applicant is now seeking to subdivide the lot, however the 2018 resolution states that they need site plan approval for the existing house. These concerns were raised in the TRC meeting in March 2024. Mr. Barlow discussed his concerns with Mr. Weiner; Mr. Barlow requested a Letter Brief with case law supporting his testimony. Mr. Wiener opined that the Borough gave up their rights to review when the Building department issued the permits and CO; Mr. Barlow does not agree. Mr. Barlow and Mr. Bletcher opined that the applicant should come before this Board and explain why that condition should be removed from the 2018 resolution; essentially amending the resolution. This way the information that would have been previously reviewed by our professionals, can be reviewed and decided by the Board. If approved, then the current application can move forward. Mr. Weiner responded regarding the issues of the resolution, which allows one lot. The applicant is proposing a subdivision of the lot, creating two new lots. Mr. Weiner gave his opinion for the purpose of the Letter Brief. He opined that once the CO was issued, everything merged into the CO. Mr. Weiner explained how they propose to subdivide the current lot, which will make the lots conforming. The applicant proposes a newly constructed conforming house without any need for bulk variances. Per Mr. Weiner, by creating a new lot and subdivision, the condition of the current lot will no longer apply if this Board grants the subdivision. Mr. Barlow did not agree with his statement, that he consented that with an issuance of a CO, that it would void a condition of an approval; he requested case law stating so. Mr. Barlow requested Mr. Weiner to provide all his positions set forth with legal basis of saying. Mr. Barlow read a portion of the resolution regarding the site.

Mr. Weiner stated that even if this Board wants to address the issue Mr. Barlow discussed, it is in the auspices of the application in granting the subdivision if the Board feels the need to tidy up the record by negating the prior condition. Mr. Barlow would like to see all documents in place to review. Chair Zammit asked Mr. Barlow if the current lot has not been approved for subdivision, should we be looking at it as the existing lot and the conditions not met before we move on. Per Mr. Barlow, procedurally, the issue should be cleaned up before we move forward. He does not have all the documents to review. Per Mr. Weiner, creating a subdivision, the 2nd house would be on a newly created lot, thus not constructing on the existing lot listed in the resolution. Ms. Urbanik agrees that the applicant should request relief for the prior resolution before moving forward. Mr. Weiner will submit his Letter Brief to Mr. Barlow. Mr.



Bletcher explained how the condition was concluded in the 2018 resolution; the buildable portion of the lot has a limited area to construct on, approximately 75' x 100'. Mr. Bletcher opined in his report, the condition of approval precludes anyone from asking for a subdivision because this lot was created with the condition that it would only be a single lot. The applicant is entitled to request the condition be removed from this Board. Mr. Bletcher believes that the condition precludes this Board from hearing a subdivision application until the condition is dealt with first. Mr. Weiner does not agree with Mr. Bletcher. Questions from the Board was accepted.

The motion to carry over *File PB#202-07, Main Street Investments* for completeness to the June 18, 2024 meeting, was first made by Mr. Clancy, seconded by Ms. Almedia, all in favor by voice vote.

Roll Call in Favor: Almedia, Byrne, Clancy, Dockery, Frost, Giannakopoulos, Urbanik, Wilk, Zammit
Opposed: None *Abstained:* None

Public Hearing:

PB-2024-01, DaCOSTA

186 George Street Block: 103 Lots: 1, 2
Application for bulk variance to construct dwelling on Lot 2

Lawrence Sachs, Esq. represented the applicant. Mr. Sachs summarized the application for a minor subdivision with bulk variances. The lot was two separate tax lots; the applicant is seeking to reinstate the subdivision line. Mr. Sachs explained the bulk variances requested. Applicant proposed to construct a 2 story house on Lot 1.01; proposed elevations has been submitted.

Marc Leber, Engineer was introduced and sworn in. Mr. Leber provided his credentials and was accepted by this Board. Mr. Leber described the property. He marked in *Exhibit A-1, Four Photographs of Existing Conditions*, dated May 21, 2024. Mr. Leber addressed the photos and explained the site and variances requested. Mr. Leber marked in *Exhibit A-2, Lot Size Analysis in R75 Zone*, which is basically the tax map. The lot is surrounded by R100, OP and R75 zones. Mr. Leber pointed out the non-conforming lots and described the various lot sizes in the area. 80-90% of the lots are non-conforming in the R75 zone. Mr. Leber opined that the proposed application is in character regarding the lot sizes with the area; many of the lots are 4,000 sf or less with existing homes. Mr. Leber addressed Mr. Koch's report dated April 3, 2024. Mr. Sachs addressed Mr. Bletcher's report dated April 8, 2024; the rear setback is at 14.5 sf. Mr. Bletcher requested that the proposed house be similar to the surrounding houses; the applicant can chose a house with a smaller footprint. The applicant will provide a front 20' setback and keep back yard. Mr. Leber provided planning testimony; he provided the positive and negative criterial. Chair Zammit took questions from the Board.

The motion to open to the public was first moved by Ms. Urbanik, seconded by Councilman Frost, all in favor by voice vote. Seeing none, the motion to close to the public was first moved by Mr. Clancy, seconded by Councilman Frost, all in favor by voice vote.

Mr. Sachs provided his closing summary.

The motion to approve *File PB-2024-01, DaCosta*, was first made by Councilman Frost, seconded by Ms. Almedia

Roll call in favor: Almedia, Byrne, Dockery, Frost, Giannakopoulos, Urbanik, Zammit
Opposed: Clancy, Wilk



Mr. Clancy felt that there will be too much for the small property. Ms. Wilk did not feel the proposed house will keep in character with the area.

Motion carries 7 – 2

RECESS

PB-2024-02, GARDEN RIVER, INC.

411 Whitehead Avenue, Ste 8 Block: 369 Lot: 1.01

Application for Cannabis Manufacturing in LI Zone

Lawrence Sachs, Esq. represented the applicant. Mr. Sachs summarized the application for minor site plan approval to operate Class 2 Cannabis Manufacturing facility. The applicant has their NJS Cannabis Class 2 License. This is a permitted use in the zone; applicant requires a minor site plan.

Ibrahim Khalifa, Principal for Garden River, LLC was introduced and sworn in. Mr. Khalifa explained the proposed manufacturing operation details. All cannabis license procedures are strictly regulated by the NJS Cannabis Regulatory Commission (CRC). He explained how the air will be filtered, product pickup and delivery and trash pickup as regulated by the CRC. Licensed transportation groups will pick up product. Licensed trash removal company will pick up product trash; regular office trash will go in dumpster. There will be approximately 2–3 employees who will be working in rotation based on work load; proposed hours of operations are Monday–Saturday, 7 am to 11 pm and Sunday, 12 pm to 8 pm. They will have 24–hour security monitor. Pick up will be approximately once every two weeks by state licensed transportation company. He explained how product will be secured on site; product trash will be stored in DEA cage until it is picked up; it will be brought out only when the trash company is on site, not before. The 24–hour security monitors will also be accessible by the CRC. Applicant will comply with the CRC and South River cannabis guidelines. The facility is not open to the public; there will be a double door entry to access site. Mr. Khalifa explained how the odor will be remediated and no residue will be filter into the water system.

Kelley O'Such, Engineer was introduced and sworn in. Mr. O'Such provided his credentials and was accepted by this Board. He provided the history of the site and its current conditions. The overall site received amended site plan approval in 2023. The site has 109 parking stalls, which includes 29 spaces for large trucks and 82 spaces for cars, which includes 7 ADA spaces. Mr. O'Such explained, that the applicant will lease Unit 8 for the proposed cannabis manufacturing and will have 5 assigned parking stalls. The unit is located on the western portion of the site and based on the elevation, that portion is on the lower level, therefore screened from the public. There are no proposed changes to the site; only internal renovations. The applicant has the State Class 2 Cannabis License from the CRC; it is a permitted use in the LI zone. Mr. O'Such explained how the product will be stored, how trash will be secured and picked up and that there will be adequate electric supply to the unit and the overall property. Mr. Khalifa explained how product trash will be stored and picked up by a licensed trash hauler; regular office trash will be placed in the dumpster. There were no questions from the Board.

Joseph Hyland, Architect, was introduced and sworn in. Mr. Hyland provided his credentials and was accepted by this Board. Mr. Hyland described the site, building materials and interior layout. The trash cage will be added to drawings. Clean air design system will be designed by a mechanical engineer. Mr. Hyland testified that there will be sufficient water & electricity supply. He explained fire emergency access; the building will be fully sprinkled; construction plans will include the details. There were no questions from the Board.

Mr. Bletcher went over the Borough's Cannabis ordinance. Mr. Khalifa provided details of the manufacturing process.



The motion to open to the public was first moved by Councilman Frost, seconded by Ms. Almeida, all in favor by voice vote.

Anita Chadha, 46 Rotunda Lane

Ms. Chadha was sworn in. Per Ms. Chadha, this site is 500' from the Heritage Landing development. Mr. Barlow stated that the applicant's site is located in an industrial LI zone, where this is a permitted use. She is concern that this site is close to their development. She asked how many units are on this site; Mr. Sachs was not aware of how many units are on site. Mr. O'Such pointed out the distance between the applicant's location to Whitehead Avenue and Heritage Landing. Per Mr. Sachs, there will be no impact to this development. Mr. Barlow explained that the applicant will have enough parking; 5 spaces allocated to the applicant. Ms. Chadha asked about the hours and operations and number of employees. She asked if there will be future growth and how it impacts the residents and the value of their homes. Mr. Sachs responded that the site is LI zone, which allows this use. He stated that there will be no impact to the residential area; there will be no external activity, no retail sales and no public access.

Cecilia Wong, 38 Charter Drive

Ms. Wong was sworn in. She expressed her concerns regarding health issues, traffic, safety, security and noise.

Rajesh Sethi, 39 Charter Drive

Mr. Sethi was sworn in. He expressed his concerns for security implications. He opined that they will be a targeted for robbery and the individuals would hang around in their neighborhood. He asked if there will there be large quantities of cash on site. It was testified that only business transactions will take place by electronic payment and ordinance only allows up to \$5,000 cash on site.

Logan Umageswaran, 157 Monticello Way

Mr. Umageswaran was sworn in. He asked if the Borough looked at other towns, if the LI zone is located near residential zones. He asked how this would impact their property values since they are supposed be the largest tax contributors in the Borough. Chair Zammit responded that his question regarding comparisons in other towns would have been for the Council during the zoning approval. Mr. Barlow responded that this is a permitted use in the LI zone; it is allowed to be there. The applicant will be heavily regulated by the state; there are no exterior changes proposed.

Ramu Vavilala, 45 Rotunda Lane

Mr. Vavilala was sworn in. He asked how many cannabis operations there are in town; there will be total of six. He expressed his concerns for security; what are their security measures? Mr. Vavilala asked if the public can tour the facility to get a better understanding how the process works. He asked if health care insurance will be provide to the workers.

Mr. Sachs summarized his responses to the public. Activities are strictly regulated by the State, odors cannot be emitted into the air, security measures are taken; trash is picked up by CRC licensed company. This site has limited activity on the property. There will be no noise; facility is closed up, doors will not be open to the public. Cash is limited, product purchased by normal business transactions. Mr. Sachs stated for the record that North Brunswick has an approved dispensary on Route 1 South adjacent to a residential neighborhood. No signage will be posted. HVAC system will not be shared. Work area is approximately 800 sf. Applicant will be required to comply with County Health laws and OSHA guidelines.



Anita Chadha, 46 Rotunda Lane

Ms. Chadha requested clarification of the three employees' work hours. Mr. Khalifa explained the operations process and hours. Monday–Saturday, operation hours (product processing) will be 8 am – 6 pm, Sunday, 12 pm – 6 pm. Staff will not be working 16 hours a day.

The motion to close to the public was first moved by Mr. Clancy, seconded by Mr. Giannakopoulos, all in favor by voice vote.

Mr. Sachs summarized his closing statement. Chair Zammit reviewed the conditions discussed. Mr. Byrne commented that the previous cannabis application, we did not request a security guard for that facility, which that location is directly adjacent to an R75 zone.

The motion to approve *File PB–2024–02, Garden River, Inc.* was first made by Ms. Urbanik, seconded by Mr. Giannakopoulos

Roll call in favor: Almeida, Byrne, Clancy, Dockery, Frost, Urbanik, Wilk, Giannakopoulos, Zammit
Opposed: None ***Motion carries***

Board Discussion:

Ordinance No. 2024–22: Chapter 350–28 “*Tree Removal & Woodlands Management*”

Borough Attorney Letter to Mr. Barlow – Correct Ordinance number is Ordinance 2024–22

Mr. Barlow explained the tree ordinance revision. The revised ordinance is only to remove *Item 3, Voluntary Recreation Improvement*; replacement cost remains as adopted in 2023. Councilman Frost expressed his concerns for the fee charged to the developer; it costs approximately \$500 per tree to be replaced, which is much more than indicated in the ordinance to plant a tree.

The motion for Mr. Barlow to send a letter recommending the removal of Item #3 from the tree ordinance and to revisit the cost for tree replacement was first moved by Councilman Frost, seconded by Ms. Dockery, all in favor by voice vote.

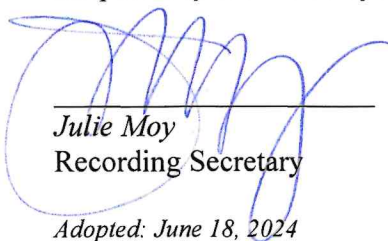
Public Comment

Chair Zammit opened the floor to the public. Seeing none, the motion to close to the public was first moved by Mr. Clancy, seconded by Councilman Frost, all in favor by voice vote.

Adjournment

The motion to adjourn at 10:15 pm was first moved by Councilman Frost, seconded by Ms. Dockery, all in favor by voice vote.

Respectfully submitted by:



Julie Moy
Recording Secretary
Adopted: June 18, 2024