

**HIGHLAND PARK PLANNING BOARD  
MINUTES  
September 9, 2021 @ 7:30 P.M.  
Council Chambers, Borough Hall  
221 South Fifth Ave. Highland Park, NJ  
Via Zoom**

**Call to Order**

The meeting was called to order by Chairperson Kim Hammond at 7:30 pm. Annual Notice of this meeting was provided to the Star Ledger on January 29, 2021 and to the Home News Tribune on January 29, 2021. In addition, notice of this meeting via zoom was faxed to the Home News Tribune and emailed to The Star Ledger and the Highland Park Planet on September 7, 2021, and was posted on the Borough website at www.hpboro.com and on the bulletin board and doors at Borough Hall, 221 So. Fifth Avenue, Highland Park, NJ on September 7, 2021, and has remained continuously posted as required by law.

**Roll Call:**

|                            |   |
|----------------------------|---|
| Present                    | Kim Hammond, Scott Brescher, Khalidra Hadhazy, Matthew Hale, Rebecca Hand, Alan Kluger, Paul Lanaris, Padraic Millet, Jeffrey Perlman left at 9:29 pm, Allan Williams |
| Absent                     | Steve Nolan, Jim Constantine, Planner   |
| <u>Board Professionals</u> | Roger Thomas, Esq, Bruce Koch, Engineer   |

**Minutes:**

June 10, 2021 Regular Meeting

It was MOVED by PERLMAN and seconded by MILLET that the June 10, 2021 Regular meeting minutes with revisions as distributed be approved and with a voice vote by all present, the minutes were approved.

July 8, 2021 Regular Meeting

It was MOVED by WILLIAMS and seconded by HAND that the July 8, 2021 Regular meeting minutes with revisions as distributed be approved and with a voice vote by all present, and two abstentions by Hale and Lanaris, the minutes were approved.

**Resolutions:**

Resolution P2021-06                      Consistency Review of Cannabis Ordinance

Roger Thomas, Esq. said at the July 8, 2021 meeting the Board reviewed as required to do ordinances that have to do with language activities and the Board did that in regard to the cannabis ordinance and ultimately indicated that it was not inconsistent with the Master Plan. The resolution reflects the actions that the Board took on the 8<sup>th</sup> of July. He indicated that this was a ministerial act they put that on the record because it is important that you did the action on the 8<sup>th</sup> of July that's the actual action that needed to be taken and that the governing body ultimately then adopted this ordinance prior to the 22<sup>nd</sup> of August. It is important because you needed as a community to take an action if you were going to limit in any way the statute that had been passed as a result of the referendum that had been passed and you have done that and therefore you have the right now to take the action that you have now taken limiting certain elements of the statute by way of cannabis activity and you've allowed it in some other areas so that is what you have done now you are in a position that if in fact during the next five years there is a desire to make modifications you have to have the right to do that but if you don't you certainly can continue on as you have it now in your ordinance for the next five years. The Borough is not permitted to eliminate anything that you have permitted for the next five years but you could add things if you choose and then it would come back to the Board again.

Mr. Williams asked if the medical cannabis dispensaries also have to be in the CBD or Commercial zone. Mr. Thomas, Esq. said he believes the answer is yes that was his recollection. Mr. Williams said on page three and four where you discussed that you might want to take a look at that, it sort of begs the way it is

written. Mr. Thomas, Esq. said that he would be happy to take a look at the ordinance again, he believes it is limited to those zones he will add that language.

Ms. Hammond confirmed that was what was discussed at the meeting that in terms of restricted areas the way it was defined was that it was in the CBD and a main factor in terms of where they could be located.

Mr. Kluger asked about the whereas clause on the last page, he agrees that the Board certainly found that it is not inconsistent with the Master Plan but there is also language that says that we found it in the best interest of the residents of the Borough of Highland Park and he is not sure we agree or we came to that conclusion or we were just looking at the consistency with the Master Plan or are you saying that in order to find it not inconsistent we have to find it in the best interest of the residents. Mr. Thomas, Esq. said the language in the ordinance indicates that the Borough Council found this ordinance was in the way it was handled in terms of cannabis was in the best interest of the residents of Highland Park. He said he included that language, if the Board believes that in fact what you want to say is that you find it to be not inconsistent with the Master Plan and choose not to include the language that is in the ordinance that is fine, it does not affect the ordinance, the language will still be in the ordinance. Ms. Hammond said he agreed with Mr. Kluger's assessment because it implies it was our assessment. Mr. Millet said it was not the Board's role and to keep it to our role. Mr. Thomas, Esq., said he would be happy to take it out.

It was MOVED by MILLET and seconded by PERLMAN to approve Resolution P2021-06 with revisions.

ROLL CALL: Ayes - Brescher, Hadhazy, Hand, Kluger, Millet, Perlman, Williams, Hammond  
Nays - None  
Abstention - Hale, Lanaris

There being eight (8) ayes, no nays and two (2) abstentions motion passed.

**Action on any other business and work session.**

Mr. Williams asked if Mr. Koch would be the person who would worry about compliance for 238 Cleveland as far as environmental issues. Mr. Koch said yes he would be the primary person. Mr. Williams said that Suburban Development never produced a phase 2 report; he believes what was provided by the LSRP is inadequate it mentions that they never did any ground penetrating radar on lot 33, they did not do any magnetometer studies on there where the phase 1 said they should and the LSRP just rolled over that. The testing that was to make the neighbors feel more comfortable is from a sample from somewhere on the lot given that they mixed all the soil up, some of the ground up cement and distributed the area a great deal, so any one test is probably not adequate. They probably should have done multiple samples, the testing performed for asbestos, which was thing of concern was the most insensitive of the asbestos EPA tests that are available. They screwed up and did not follow through in a complete manner. Alan Kluger in that meeting was concerned about this not happening again, that the Borough has an obligation, as does the developer to assure that the property is safe to build residential properties. Next month he would like to propose some changes to our completeness criteria in the rules and regulations and would like to propose some changes to the site application. Finally, if there is question about the environmental issues for a site that they cannot disturb the site until they have submitted a plan of how they are going to deal with it or test results where they have resolved all the issues.

Mr. Thomas, Esq. said that was certainly within the Board's prerogative, you can make recommendations to the governing body, it is an ordinance change, you can make those recommendations and you can discuss that at the meeting in October.

Mr. Koch said he got a set of plans on Tuesday for resolution compliance, and will conduct that review prior to the next meeting and will issue a letter to the Board, which will explain whether there are deficiencies. He said that he thinks there are some gaps, it may not be the rules of the Planning Board you may want to

see if the governing body would amend the ordinance as well because as you observed in this case you know the developer decided to do what he was going to do and that isn't over yet because ultimately an LRSR has to sign off and he won't sign off on the project until happens so that there is something on file for the public, a potential buyer of a home to look at and see and feel some level of comfort that the professional who's responsible for this has done all the review that they should do and put them as well as himself and the Board in a conformable position. He said he will need Mr. Constantine's input but not as it relates to the environmental issues but as part of resolution compliance. If Mr. Constantine is not prepared to issue his report at that time, he will issue his report as it speaks to the engineering and environmental issues and Mr. Constantine can follow up with a separate memo.

Ms. Hadhazy asked Mr. Koch if he could point them in the right direction of where we might find any information regarding what the current requirements are for a commercial building demolition. Mr. Koch said that he does not govern that, only his experience but the building department could tell you more about when somebody comes in and asks for demolition permits. Mr. Brescher said it depends on what they are coming in for, if they are coming in for a demo permit we ensure that the utilities are disconnected, they have capped the water and sewer lines at the main and then they can take down what they want to take down, we get an asbestos report for the commercial building and extermination letter and that is about it.

Ms. Hammond asked Mr. Brescher if he felt the ordinance as it stands supports what you would want in a demo permit. Mr. Brescher replied yes.

Ms. Hadhazy said she wanted to ask a follow-up question about the asbestos letter, do we also require anything with regards to lead paint or any other environmental contaminants that can be found in an old building. Mr. Brescher said depending on the situation, this building was just cinder block and brick building, so he was not requiring any lead paint for that because it is really all the block. Mr. Williams said it did test for lead.

Mr. Hale said that he just wanted to ensure if we are expecting something from Mr. Constantine we need to communicate that to him. Mr. Koch said they are familiar with the process, he cannot sign off with their sign off, without all outside agency permits, he is kind of the clearinghouse everything goes through him or a person in his role and lets it be released when they feel that everything that is required comes in. He has had numerous conversations over the course of Mr. Constantine's involvement with the Borough with both and with Mr. Cosenza about the process. He thinks that they clearly understand. He said is only point was that we could issue separate letters on that but if we were getting to the point of having to bring it to conclusion and say it was ready I would not do that without Mr. Constantine's or Mr. Cosenza's sign off to me. We will also need if there is a county road permit, County Planning Board approval or waiver, soil conservation waiver all of that has to be routed through and he sort of checks off all those items and then eventually when that is all done, then we do the bond calculation, issue the letter that says they have complied with all conditions of the resolution. As talked about earlier, one of the them is going to be or it won't get released is a letter from an LSRP saying the sire is safe for occupancy as a residential property that is the ultimate letter in all of this. Somewhere an LSRP has to make that, prepare that letter and sign it and sign it and he will not accept it from anybody but an LSRP because they are audited by the DEP or open to audit by the DEP and therefore that is kind of their honor system. Mr. Williams said their license is at stake. Mr. Koch replied yes.

Ms. Hammond she thought there was something from Teri Jover about the redevelopment plan which goes back to Council on September 14<sup>th</sup>. Mr. Hale said he did not think there was anything, the suggestions of the wording that we talked about we did so he did not think there was any significant differences to bring up.

Ms. Hammond said the other suggestions we made about ordinance changes that we had talked about in our January meeting and then resurfaced again at the last meeting, Mr. Thomas, Esq. sent a letter to the Mayor and Council and we were copied just about the Board's request for the materials that go to the Redevelopment Entity also coming to the Planning Board and then those professionals being available to use for questioning. Mr. Thomas, Esq. said there was a suggested modification that he received from Mr. Schmierer and Teri Jover indicated that she wanted have some discussions with Borough Council and Mr. Schmierer before it was distributed to the Board. He said that he has not heard anything since that time and that was about a week and a half ago.

**Correspondence and reports.**

Zoning/Building Officer report – Scott

Ms. Hammond asked Mr. Brescher about the parking procurement for the property on the corner of Second and Raritan, the former International Shop. Mr. Brescher said that he had his parking requirements, he spoke with him today and he will be getting over copies of the parking agreement possibly by Monday. Ms. Hammond said he show you there is a contract, then that is the final piece of his compliance, and then you release the CO. Mr. Brescher said he was going to reach out to whom he has the agreement with just to make sure.

Ms. Hadhazy said that the property on South 7<sup>th</sup> Avenue, the subdivided one and asked about the status. Ms. Hammond said that whomever is going to answer that once an applicant gets their resolution they can sit on that for a long time if they choose to, we give them permission it does not mean that they need to act in a certain amount of time. Mr. Brescher said he did not receive any permits yet, he is seeing a lot of people push off their project with the increasing cost of building materials. For a standard house he was hearing in just lumber along the extra cost is about \$15,000.

Ms. Hadhazy said the developer in waiting to start their project, what responsibility do they have to maintain that lot because it is extremely overgrown. Mr. Brescher said that he would contact the developer tomorrow and let them know they have to cut it down and keep it maintained until he is ready to what he's going to do.

Rehabilitation Screening Committee report – Kim - none

**Public comment on any item not on the agenda.**

Ms. Hammond opened the meeting to the public, there being no one public comment was closed.

**Adjournment**

There was a motion to adjourn from MILLET and a second by WILLIAMS at 8:12 pm the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago  
Board Clerk