

**Alexandria Township
Land Use Board
Meeting Minutes September 19, 2019**

Chair Phil Rochelle called the regular scheduled meeting of the Alexandria Township Land Use Board to Order at 7:30pm. The meeting was duly noticed.

MEMBERS PRESENT: Chair Rochelle, Papazian, Fritsche, Freedman (7:31), Canavan, Tucker, Committeeman Pfefferle, Giannone, Pauch, and Kimsey

MEMBERS ABSENT: Mayor Garay, Daniello, and Hahola

OTHERS PRESENT: David Banisch – Planner, Kara Kaczynski – Attorney, Tom Decker - Engineer Jay Thatcher – applicant attorney, McPherson – applicants.

Approval of the August 15, 2019 Regular Meeting Minutes

A motion to approve the minutes of the August 15, 2019 Regular Meeting was made by **Papazian** and seconded by **Tucker**. **Vote: Ayes: Chair Rochelle, Papazian, Fritsche, Canavan, Tucker, Giannone, Pauch and Kimsey. Abstain: Committeeman Pfefferle. No Nays. Motion Carried.**

New and Pending Matters

Application 2019-01 – Resolution
Milne, Block 21 Lot 3,
630 County Road 513

Pauch asked why the use is not permitted based on page four of the Resolution. **Banisch** advised that the applicant did not go for an interpretation and the applicant concluded that the use is not permitted. **Banisch** did not see that the use is permitted in the AR Zone. He explained that based on the ordinance for list of permitted uses the use of a barn for weddings are not permitted. Any use that is not specifically permitted by ordinance is prohibited. Some of the Board members felt that the statement on page four that says the event use is not permitted in the AR Zone was confusing since the applicant did not go for the interpretation. **Kaczynski** advised that she can delete the sentence in the Resolution that states the Event Use is not permitted in the AR Zone since the applicant did not ask for an interpretation of the use.

Papazian moved for the Board to approve the Resolution as amended and seconded by **Giannone**. **Vote: Ayes: Papazian, Fritsche, Freedman, Canavan, Tucker, Giannone, and Pauch. No Nays. Motion Carried.**

Lot Line Adjustment/Subdivision – McPherson 2019-03 – Completeness Review

Block 21.04 Lots 20 & 49

200 Race Street & 206 Race Street

Decker advised that the application is for a lot line adjustment which is basically the same as a minor subdivision. **Decker** reviewed the application against the township checklist and recommends that the Board deems the application complete. They have satisfied all the submission requirements for a minor subdivision. Jay Thatcher, applicants attorney, asked if a notice was required for the lot line adjustment. Decker advised that a variance is needed due to the undersized lot and it is a new lot configuration.

Banisch advised that the notice should be for a variance and technically it should be called a minor subdivision with a variance for an undersized lot. The next meeting is for the applicant is October 17th at 7:30pm.

Chair Rochelle entertained a motion to deem the application complete. A motion was made by **Tucker** and seconded by **Kimsey**. **Vote: Ayes: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Committeeman Pfefferle, Giannone, Pauch and Kimsey. No Nays. Motion Carried.**

Draft Ordinance Review from Township Committee

Cannabis Ordinance

Special Events Ordinance

Chair Rochelle advised that the township committee has asked the LUB to review two ordinances. The first being the Cannabis Ordinance, at 7:42 Mr. Fritsche recused himself. **Banisch** advised the Board that the municipality was approached by a couple interested parties creating this use in town. In each case, the request came to the municipality identifying a specific site for the use and when the governing body discussed how to permit this the question came up if it could be zoned through an overlay, meaning areas where it could be placed. This sets up a permitted use designation within an overlay zone and designates three lots in the town for the permitted use. This would be fairly intensive development for a warehouse sized building for production and growing cannabis. The standards would be pretty straight forward. Since the original draft there have been some suggestions for revision, one is for water consumption, since the plants are hydroponically grown. **Banisch** would recommend limiting the consumption of water and possibly the requirement of testing the water on adjoining residential properties to see what effects it has on water production. **Banisch** explained that the Ordinance has generous setback lines as well as buffering requirements. There are also security requirements in the ordinance. One town requires a 9.5' fence, 8' chain link with 1.5' of barbed wire on top. The facility is gate controlled with 24-hour presence of security.

Canavan asked why the township will be enacting the ordinance, if cannabis is legal in NJ, and why the specific lots have been chosen. **Committeeman Pfefferle** advised these would be for medical marijuana facilities initially. **Banisch** said one question that came to mind was how does the municipality get something more substantial than just a ratable value of a grow facility. **Committeeman Pfefferle** advised the whole reason for looking at this is the 2% coming back on the gross revenue. **Papazian** asked since right to farm does not come into play with this, would the applicant need to come in for a full site plan to which **Banisch** replied yes. He clarified it would be a regular site plan like it would be for a warehouse. Discussion ensued about how the growers are licensed and how the municipalities receive 2%. **Banisch** advised he will do more research on the subject.

Committeeman Pfefferle advised he would like to talk about the overlay and how they want to identify specific properties. He advised the reason why the committee identified specific properties was to have

only a small number of growers. He also advised that part of the application process with the state is for the growers to identify properties. **Banisch** said the state has an RFP process and as part of the application process the applicant needs to show municipal support and approval of the Use. **Canavan** asked for clarification as to how these properties were picked. **Committeeman Pfefferle** advised that the town was not involved with the growers finding these properties and that the investors reached out to the individual owners or the individual owners reached out to them. Discussion ensued about having the right properties for these growers; **Papazian** advised that the site plan would cover those concerns. **Banisch** advised that if it is a permitted use and the applicant comes in for site plan approval and they meet the requirements of the ordinance then the LUB has to approve the application. **Papazian** asked why make a permitted use to which **Banisch** advised that as part of the application to the state the applicant needs to have a supportive municipality. He also advised that if the township feels they have enough growers in the municipality the Ordinance could be repealed. Discussion ensued whether or not to have an Ordinance in the Township. **Banisch** advised the Board with the issues of not making this a permitted use. **Banisch** advised the one town that has approval to have a facility adopted an Ordinance over a year ago. The town completed the Ordinance in order to prove to the state that it was a permitted use. The town then adopted the ordinance and there is currently a site plan application. The town permitted and limited it to certain zoning districts. However, the applicant needs a use variance because the applicant picked another site in the town. **Canavan** said that he would like to make this an allowed use but does not want it limited to certain sites. **Chair Rochelle** advised the ordinance should give everyone the opportunity to benefit from the ordinance, even though there is a very limited amount of property owners who would be able to fit the criteria. He feels the Board should come up with a way for everyone to be eligible but they would need to fit the strict criteria. **Giannone** brought up the condition currently being proposed in the ordinance regarding visibility would narrow down the properties that would be eligible. **Committeeman Pfefferle** advised that the committee's objective was to limit the number of applicants so that it doesn't become a Mecca for growers. **Banisch** explained that the other issue to consider is that with permitting it everywhere and not limiting it to the 3 lots identified is that the entire municipality would need to be noticed because you are essentially changing the permitted uses and classification of the AR Zone. The Municipality may be able to use the Reexam report process instead due to the cost of noticing. If only 3 sites are chosen, the township is only obligated to notice the property owners within 200' of these properties. **Banisch** advised he will look into the ratable, if the township is not satisfied the ordinance can be repealed. The cost to repeal is not prohibitive. **Chair Rochelle** took a poll with the Board that the Board is recommending the use be expanded to the entire township as long as they meet the criteria to be qualified for the site plan. All board members were in favor to expand the use to the entire AR Zone.

Fritsche rejoined the board at 8:08pm. **Chair Rochelle** advised he is very concerned about the water consumption and depleting the aquifer. **Decker** believes the water consumption is about 100,000 gallons per day. **Chair Rochelle** is also concerned about growing the plants with hydroponics and then what happens to the waste water and would like testing of the waste water. Discussion ensued regarding the consumption of water and how the growers use the water. **Fritsche** advised after doing research most of the water is recycled due to the nutrients that are needed for each specific plant and the water is not wasted due to the cost of the nutrients. **Banisch** advised there is no harm in there being a standard in water consumption and waste water. **Fritsche** advised his understanding is that an applicant is not allowed to do all three processes in one place, i.e., grow, package and distribute.

Chair Rochelle reminded the Board of the water testing and to have adequate water for the projected usage. **Banisch** suggested it should be checked through a well test requirement. **Chair Rochelle** advised yes and also would like a projected usage to be adhered to in the Ordinance. **Banisch** advised

that the overlay zone has limestone karst geology which has high water storage. He didn't map it however if you designate the overlay zone on just that geology it almost assures you that water consumption would not be an issue.

Canavan asked if the ordinance is just for growing and processing and not a dispensary. **Banisch** advised that dispensaries would not be a permitted use. **Freedman** brought up to what extent we should allow the processing due to the odors that could be omitted. Discussion ensued about processing and odors. **Banisch** advised he would do more research regarding that. He did cover this topic in the draft ordinance that testimony shall be provided regarding the odor emitted from the facility at the time of the site plan review and that the LUB may require additional odor mitigation technology if it is found to emit nuisance producing odors in the vicinity of the facility. **Fritsche** advised that the state also puts controls on the odors from processing.

Freedman advised that at a previous meeting, two of the potential applicants advised they would install cisterns to capture rain water. **Committeeman Pfefferle** remembered that two would recycle the water, however one of the applicants did not. He felt that if the water was cleaned it could go back into the aquifer. **Banisch** recommended a water collection and storage system on site.

Discussion ensued regarding the minimum requirement of 15 acres with regards to setbacks, screening, as well as other requirements on only 15 acres. **Banisch** clarified that the buildings would be 400' from the road and the minimum from the front yard would be 200' for example the parking lot could be 200' from the road. **Canavan** asked why the screening was so stringent when many greenhouses are not required to have this amount of screening. **Papazian** advised the buildings would look more like warehouses and they would be surrounded by security fencing, the idea was to keep these hidden when driving down the road for aesthetics.

Banisch asked to return to the point about the degree of manufacturing that would be permitted on site and if the board wanted to limit it just to growing. **Committeeman Pfefferle** felt that by limiting the manufacturing it would deter potential investors. The Board would be okay with processing, just not distribution and odors that would need to be mitigated by manufacturing. Discussion ensued regarding covering the fence with trees for screening with regards to security and expense for the applicant. **Papazian** advised a true processing plant to extract the oils and processing for candy would require equipment that could be as tall as 35-40 feet due to the process of vaporizing and distilling. Discussion ensued regarding the height of the building. The Board determined that the height in the ordinance should remain at 35-feet. An applicant would need to come in for a variance if that wasn't sufficient. **Fritsche** advised that Farmland Preservation advised that growing cannabis would be an approved agricultural use within a growing facility. **Banisch** advised he has a list of revisions to make regarding the ordinance and would speak with **Decker** for revisions regarding water consumption. The Board decided to have the revisions come back to the LUB with the revisions before going back to the Township Committee. **Fritsche** commented that the ordinance should have a stipulation regarding the pump down tests. **Decker** advised that there is an ordinance in Kingwood that has this information.

Next on the discussion are the Special Events Ordinance. **Banisch** advised that this is set up as a licensing ordinance and summarized the memo below from September 10, 2019:

Based on the Township Committee's discussion on this matter, we have attempted to make this process flexible by including a pre-application requirement for the applicant of a Special Event License to meet with the Township Clerk and Township Engineer to review the nature and scope of a proposed special event and determine the level of detail required in the application.

The ordinance will enable the owner of a farm qualified parcel (generally 6-acres or greater in size) to apply for and obtain a special event license, however, I believe that there is nothing in the ordinance requiring the municipality to issue a special event license.

The ordinance includes definitions and defines a Special Event with a number of limits, including a maximum of 15 special events per year and a limit that a special event is limited to 3 consecutive days. Private gathering events, school and religious events are not Special Events requiring a municipal license.

The standards set forth in the ordinance address a broad range of considerations that may be applied flexibly, depending on the initial pre-application review meeting where the Clerk and Engineer have a chance to review and understand the level of activity proposed. At that meeting or shortly thereafter, the Clerk and Engineer may make a determination and advise the applicant on the level of detail required in the application so that the applicant provides and the Township obtains a sufficient amount of information for the license. This is intended to "right-size" the submission requirements in the application in proportion to the nature and level of activity that's proposed in the Special Event. When required, the application has to conform to Township Code standards or the SADC standards for "On-Farm Direct Marketing Facilities, Activities and Events", except that where those standards may conflict, the township's Code standards will control.

Banisch gave examples of different intensities and advised that the clerk and engineer would determine what submissions would be required for the event. The other piece of this license is that it has to be qualified farmland. **Banisch** advised that farm qualified is a state law and is a parcel that has earned eligibility for a farmland assessment. **Tucker** asked if something like this would cover a winery. **Banisch** advised that level of intensity is really a site plan, because these events for licensing would be temporary. The SADC looks for an agricultural use on a seasonal or periodic basis, like growing pumpkins and then having an event that sells them. He advised that selling cider and wine is year-round because you can have an inventory and it is not seasonal. **Committeeman Pfefferle** advised the reason why the town wanted to do this was due to some complaints regarding farms that were doing additional activities for a little bit of revenue. Discussion ensued regarding the definitions for the Special Events and the frequency of 15x per year. **Giannone** advised that 15x per year is significant because any more than that would require more stringent building codes and enforcement through the state. He can issue a type-1 fire permit up to 15x per year. Barns and tents over 900 sq. feet are included in this.

Committeeman Pfefferle wanted clarification regarding how many times a person would need to come in for this license. **Banisch** advised the license issued would last for a year. They would have to come in again the following year. If the previous year worked out as the applicant specified, they would not need to reapply only renew. There license could also be rescinded if not adhered to. A question was asked if this applies to wineries. A winery that does not hold any events, has events 15 times or less per

licensing period, not year-round and is seasonal could come in to apply for a license each year. **Kaczynski** advised the 15 times a year is significant to this license. **Banisch** advised that if this licensing procedure usurps the zoning authority of the ordinance, that would be problematic because if the use is not permitted then it goes beyond the scope of licensing and that is why the number of events makes sense and not ongoing events which would require zoning approval. **Decker** advised that 15 a year helps him when he is reviewing the licenses because he wouldn't want to give an approval to somebody and they don't understand there are other codes that need to be met. **Decker** feels 15 is a good number and it would be on the license that it is also subject to any other code requirements, i.e. fire inspection, ABC permits or anything along those lines. **Tucker** clarified that the Board is talking about special events on a farm but not talking about ongoing events. **Banisch** advised any relief from these requirements would require the applicant to go to the governing body. **Kaczynski** asked what the appeal process is and will there be a determination made as to what qualifies as a special event. It is defined with some exceptions however would there be a situation where the engineer or clerk advise that this is not a special event and where does it go from there. **Banisch** would like to make it clear that if you are doing something in your yard like a birthday party or are a charitable organization this would not apply to you. **Committeeman Pfefferle** reminded the Board that they received a grant to write this Ordinance because many of the municipalities in rural areas are having issues with the farms trying to make extra money with special events and that is the basis of this. He advised that hopefully this will be the template that other towns could adopt and use. **Committeeman Pfefferle** felt that the application timeframe of applying before 60 days was too excessive. The Board would like a little more flexibility to the applicant and some lesser time frames were suggested. **Banisch** advised to possibly say that the municipality will do its best to expedite the application. A discussion ensued regarding the fees.

E. Fees.

- a. Application Fee: \$500.00
- b. Pre-application Review: \$50.00
- c. Special Event License fee: \$100. Upon approval of a Special Event by the Township of Alexandria and prior to conducting a Special Event, the applicant shall submit a \$100 Special Event License Fee.

Decker advised that if the applicant had enough information in the application, then the clerk could forward on the information to the engineer. It was determined that clarification is needed for the fees. Discussion ensued regarding different types of Special Events would have different requirements. **Kaczynski** advised wording in the event fees would have to say that all the events held are exactly the same. The events would have to be substantially similar. Discussion ensued regarding commercial farm or farmland assessed. **Banisch** clarified that the owner would have to be farmland assessed with the property tax class of 3B in order to apply for this application. **Decker** asked about enforcement and who would make the determination that the event is not in conformance. It was agreed that more than likely a complaint would trigger this issue. If an applicant had several complaints against them, their license could be revoked and they would not be able to reapply. The clerk would more than likely be the one to field the complaints. The Board would like to add that the committee has the right to revoke the license and not issue a new one. **Giannone** asked whether the township is expecting him to waive his fire code permit fees(if applicable). He was advised that they would not waive the fire code permit fees. **Pauch** asked if the application fee of \$500 would apply to the farmer who is giving hay rides in his pumpkin patch. **Banisch** advised this is an approved use through the CABD if he grows pumpkins then he would not need to come in for an application. Some Board members felt that \$500 was too much and suggested a fee of \$250 instead. Discussion ensued regarding the standards for the ordinance and that the more intense the event the more intense the details required will be. A sliding scale for fees

was suggested. **Banisch** will bring this to the county and the town attorney will weigh in as well and the Board will revisit at another date. Not-for-profit organizations are excluded from this; however, the board agreed that this needs to be mentioned in the Ordinance. The Board voted all Ayes to the professionals reviewing the Ordinance again and coming back to the Board at a later time.

Beneduce Vineyards

Kaczynski advised the board that Beneduces' did want to come in for an informal before the board to discuss what it is they are looking to do. There is a question as to whether or not they need a Use Variance and because of that this Board cannot consider, on an informal basis, anything that requires a Use Variance. So, what we advised them is they are proceeding before the CABD with whatever they are proposing to do and getting the proper approvals and determinations with regard to the uses. When and if there is a determination that they need or don't need a use variance then they would come back before this Board, if we are allowed to look at it on an informal basis then that is fine. If not, then they would come before us for a use variance but until that time there is nothing we can do. Everything is limited to the Township Committee and the CABD.

Approval of Bills

A motion was made to approve the bills for the professionals of the Land Use Board by **Committeeman Pfefferle** and seconded by **Tucker**. **Vote: Ayes: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Giannone, Pauch and Kimsey. No Nays. Motion Carried.**

A motion to adjourn was made by **Tucker at 9:29pm. Vote: Ayes: All Ayes. No Nays. Motion Carried.**

Leigh Gronau, Board Secretary