

A REGULAR MEETING OF THE PLANNING/ZONING BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY WAS HELD ON MONDAY, MAY 15, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Wojcik, Smith, Morgan, Walter, Brothman, Pearson, DiRenzo (7:24 p.m.), and Breitz

ABSENT: Daschko

ALSO, PRESENT: Jonathan Frodella, Board Attorney
Cory Stoner, Board Engineer

The meeting was called the meeting to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald, posting copy of notice in the Borough Hall and on the Borough website.

EXECUTIVE SESSION:

A MOTION was made by Mayor Morgan, seconded by Mrs. Wojcik to adopt the following Resolution. Upon roll call the following votes were cast: AYES: Wojcik, Smith, Morgan, Walter, Brothman, Pearson, Breitz and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried.

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Planning Board wishes to discuss: Potential Litigation

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Borough of Andover will go into closed session: 7:02 p.m.

A MOTION was made by Mr. Smith, seconded by Mayor Morgan to adopt the following Resolution. Upon roll call the following votes were cast: AYES: Wojcik, Smith, Morgan, Walter, Brothman, Pearson, Breitz and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried. 7:13 p.m.

MINUTES:

A MOTION was made by Mayor Morgan, seconded by Mr. Breitz to approve the regular and executive session minutes of the meeting held on April 17, 2023. Upon roll call the following votes were cast: AYES: Wojcik, Smith, Morgan, Walter, Brothman, Pearson, and DiRenzo. NAYS: None. ABSTAIN: Breitz. Motion carried.

AUDIENCE PARTICIPATION: None.

CORRESPONDENCE: None.

***Mayor John Morgan and Councilman Robert Smith recused themselves as the application consists of D use variance.*

FORMAL APPLICATIONS:

APPLICATION #: PZ-06-2022 – North Jersey Cannabis Club – Site Plan
APPLICANT: North Jersey Cannabis Club LLC
PROPERTY OWNER: Same
BUSINESS NAME: N/A
ADDRESS: 118 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 11 Lot 10 Zone: C1
PREVIOUS USE: Vacant retail commercial
PROPOSED USE: Cannabis Dispensary Class 5

It was placed on record that Mr. Breitz has submitted certification that he has listened to the audio hearing from the meeting held on 4/17/23.

Mr. Williams, attorney for the applicant, opened the testimony of this client by introducing Corey Chase of Dynamic Traffic. Mr. Chase was sworn into testimony and provided his professional qualifications and experience. Mr. Chase provided a traffic impact study dated May 4, 2023. He explained his methodology for calculations for this premise transforming from former antique store to cannabis retail dispensary. Through substantial service analysis, Mr. Chase directed the board to page 6 table 4 showing no change in the level of service as his determination is that there will be no substantial impact or significant increase in traffic. He displayed an "Exhibit D" which shows an angle in parking change from prior submission. He testified that changing the stall from perpendicular to angular this permits vehicles from crossing over the depressed route 206 shoulder. Seven (7) parking stalls with one employee space for a total of eight (8). This proposal loses two (2) parking spaces from prior submission. Estimate turn over is eight (8) minutes, seven and a half (7.5) times an hour for a total of fifty-three (53).

Mr. Walter agreed that angular parking does appear to make it more convenient for parking it doesn't seem to improve the field of vision. Mr. Chase reported that it he believes angular parking helps to improve the field the vision. Mr. Stoner asked for explanation on how a vehicle could enter the line of traffic. Mr. Chase reported it is more of a merge then a turn. A U-turn would be taken at the next signal to circle the intersection to return Route 206 South. Mr. Chase stated he believes, in his professional opinion, the solution is better than what previously existed and the movement is much safer. He stated that the applicant is amiable to "no left turn" signage.

Mr. Walter asked if the NJDOT allows this close of parking. Mr. Chase testified he could testify the movement of parking on that private property. It was determined that the DOT would not take that away, but could not approve today. Movements should all be within the private property. The condition here today is preexisting. Mr. Chase reiterated that angular parking is the better solution and signage could be added. He reminded the board of the cannabis expert testimony that business will have repeat customers and utilize an appointment system.

Mr. Williams confirmed that one of the applicants will communicate on the change of parking. Mr. Stoner established that with this professional testimony the applicant is modifying and reducing the parking and provided another exhibit. Mr. Tucker Kunkel and Mr. Charles Robinson were before the board and reminded that they are still under oath. The applicants presented the board a plan to carpool their employees to the business site by utilizing a company passenger van which will pick up employees from the park and ride in Byram Township in front of Cranberry Lake at the intersection of Tamarack Road. This company van will use the singular employee parking space. Mr. Kunkel explained that the suggestion to park elsewhere in the borough turned out not to be an option, so they've investigated this new solution thoroughly. They would also

consider utilizing Uber to drive the employees in if necessary. A voucher system will exist and Mr. Robinson confirmed that the business will absorb that cost. He was asked if they will ever use that van for delivery. Mr. Robinson stated that they may. Mr. Williams confirmed that use is permitted within the Class 5 license. The number of employees was confirmed to be between four and five (4-5). Mr. Kunkel continued his testimony by confirming that they will not be pursuing parking in any other location in Andover Borough, specifically Crossed Keys, "even though they are never open".

Mr. Williams closed the testimony of his clients and addressed Mr. Stoners supplement report of 5/12/23 RE: Parks, comment #2A. Mr. Williams asking for clarify if the variance is required or not. Mr. Williams asked to carry the matter and address it within report so that it may be address formally. He noted approval granted on another application did not make note of this concern. He requested clarification in this report and to address at the next hearing.

Mr. Williams requested recusal with his clients to discuss. Upon return they determined that they would like to carry decision to the next meeting scheduled for 06/19/23.

Public Comment:

Al Burns introduced himself as working for the Newton Country Club as Administrator and friend of Mr. Tucker Kunkel. He's known Mr. Kunkel for years and found him to be courteous, professional with nothing he cannot do.

Gregory Pain spoke with the board explaining that he is stricken with M.S. which affects his mobility. He has shopped in this borough with his family for many years. He feels the location is nice and is easy to enter for shopping. There is no ramp or stairs which and is at street level which is easier for him. This would be a great place for shopping.

Katrina Kunkel approached the board and explained that here family is heavily invested in this project. She stated that they are working hard and there seems to be an unfair assessment in sum stating that any business would fail for parking there if the board considers parking a problem now.

Ariana Hollaver, business owner of Penny Lane Antiques and appraisal introduced herself has a small business owner on Main Street, Route 206. She explained she runs a family owned business. She explained the struggle of businesses and stated her livelihood depends on traffic. She continued to stated that the traffic is essential to their business and a business like the one presented will be a benefit to everyone. She felt that that business and location was no different than others in the town. She anticipates this business would bring the town alive.

Theresa Burn approached the board and discussed her many years of shopping the borough with her grandchildren. She is not opposed to a dispensary, but feels its too close to the shopping area and too closed to the highway. She is concerned for parents who take their kids to town.

Dr. Eric Lindquist of Sonopath, 141 Main Street reported to the board that he has spent a significant amount to invest in his business plans. He "loves Andover Borough" and wants to contribute to the environment. The traffic issue is obvious to him as he bikes locally and struggles with people using his lot to park in to shop at the antique stores. A dispensary in the borough would be best served in another area of the borough. He felt the applicant chose the wrong location for this business. He questioned who would be liable for any damages caused to pedestrians or property.

A MOTION was made by Mr. Pearson, seconded by Mrs. Wojcik to carry this hearing to the next meeting of 6/19/23. Upon roll call the following votes were cast: AYES: Wojcik, Walter, Brothman, Pearson, Breitz and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried.

There was a five minutes recess

APPLICATION #:	PZ-01-2023 – Andover Cannabis LLC – Site Plan
APPLICANT:	Andover Cannabis LLC
PROPERTY OWNER:	Guy & Barbara Puffer
BUSINESS NAME:	N/A
ADDRESS:	144/146 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE:	Block 22 Lot 1,2&3 Zone: C1
PREVIOUS USE:	Vacant retail commercial
PROPOSED USE:	Cannabis Dispensary Class 5

F. William LaVigne opened his testimony by introducing as having grown up and lived in Andover Borough for more than 55 years and a practicing attorney since 1970. He has initiated this project for his son who will live at the home he owns at 157 Main Street. He provided his credentials, licensure and expertise.

Mr. LaVigne introduced Mr. Brian Sickora, cannabis consultant, to provide testimony on the operation of this proposed dispensary. Mr. Sickora was sworn and testified to his qualifications explaining that there is no change since his last appearance for a prior application. Mr. Sickora presented Exhibit A-1 a site plan showing customer flow and security. He explained that there will be eighteen (18) internal cameras plus four (4) on the exterior, plus added panic buttons. He presented the information on the vault shown on first floor and began calculations of anticipated purchases. He stated that 18% of general population smokes cannabis. He reported that half will purchase from a legal dispensary. He projected that 3000 customers per month will patronize this location. He presented the hours as seven (7) days per week from 9 a.m. to 9 p.m. with ten (10) employees on busy days. While they are asking for seven days 9 to 9. They anticipate that they will be open Tuesday through Saturday from 10 a.m. to 8 p.m. and Sunday from 1 p.m. to 8 p.m., but reiterated that they are seeking the full amount that the ordinance permits. He moved onto product and delivery explaining the detailed and controlled environment regulated by the state. He showed the delivery property at the back door of the property where product is moved directly to the secure vault. He elaborates that this is not a traditional vault like in a bank, but a secure and monitored room. He moved along to the traffic flow of patrons and the path they take from the front street along Route 206 into a "mantrap" room to view identification. From there patrons would move into the sales floor and then exit from another door. He pointed out the storage area that will not be utilized. He reported that there will not be an odor issue, as opaque sealed packing removes that possibility. This is a state requirement. He explained that security will not be armed, they are security that are educated in this type of response and will be stationed at the doors. The number of patrons allowed on a sales floor are regulated. The camera feeds are accessible from the State at all times. He explained that the likelihood of crime associated with robbery of the product is very low due the cost of the product. He elaborated that the information gathered from patrons is not collected. Unless the patron has agreed to have their information kept for promotions, the data cannot be collected. He expects the number of clients to double over the course of a year. The goal is to turn around as quickly as possible and service transactions should be somewhere between 8-10 minutes and he expects 100-300 orders per day with preorder. The limitation is that one ounce of product is what is

permitted to be purchased. The age limit is 21 and over. Minors must be accompanied by an adult. The conversation moved to parking. They stated that there are thirteen (13) parking spaces and that parking should be sufficient for the estimate of eight or less minutes. He expects 50 customer per hour on average and does not believe there will be a line buildup outdoors as the waiting room is substantial. He noted that there is street parking which is a benefit.

Elizabeth Dolan, Civil Engineer, provided her credentials, expertise and licensing. She provided testimony from traffic engineering. She began her testimony by addressing the conversion from antique store to cannabis dispensary and reporting that she has studied the trip generation during peak hour activity. She reported that the applicant has requested a letter of no interest from the NJDOT as they will not be generating more traffic. Her traffic study included one hour in the morning, one hour in the evening and one midday Saturday. She explained that the Institute of Engineers database is use and required from NJDOT for the purpose of this new land use to determine volume and identify peak hours into a trip generation rate. Her calculations are based on the whole gross building area of about 3500 square feet, even though the micro cannabis business can only utilize 2500 square feet. She reported that the NJDOT considers significant increase as 100 new trips per hour and she believes they qualify for a letter of no interest form the NJDOT. As the industry is new to New Jersey, she referred to a Colorado study compared to a dispensary in South Jersey in Mercer County for some of her testimony calculations as they have been open for a while. She stated that thirteen spaces are located at the site and could easily accommodate seventy-eight (70-80) customers per hour. They feel thirty-forty (30-40) is more realistic and there is parking on street as well. The Letter of No Interest from the NJDO will determine that additional traffic study is not required. Mr. LaVigne asked Mrs. Dolan to elaborate on traffic circulation. Ms. Dolan explained that three means of ingress/egress with a traffic signal located adjacent to the site is ideal for this business configuration. Ms. Dolan explained upon request the meaning of a trip generation which she explained as "a generate trip is a driveway movement entering or exiting". She elaborated further on different types of trip generation. Mr. Stoner asked for explanation if this trip is a destination or a pass-by trip. She continued to focus on parking by explaining that there are twelve (12) spaces for retail of the 2500 square feet that would be used for a micro business. The extra space cannot be used for the business according to the NJCRC. The applicant will be the sole occupant of the building.

Jason Dunn, Planner, Dykstra Associates, approached the board and provided his credentials, expertise and licensure to the board and continued testimony for this applicant pertaining to how the building would be used. He quickly reviewed the layout fo the building and then presented Exhibit A-2, an aerial photograph of the neighborhood and four photos of the building. He explained that the layout is pre-existing with no change suggested except dumpster location and loading area. He continued to report that the parking lot is paved and striped, a fence will be erected to enclose the proposed dumpster. He mentioned that the triangle layout of the road way includes two county roads, Gristmill Lane and Lenape 517, and the state highway Route 206. He testimony provided that most of the parking lot is curbed and that ADA parking will be provided in the same location except that it will be altered to come into today's compliance standards. The dumpster will be enclosed with PVC stockage fence north of the retaining wall in the back of the building. They are seeking relief from having curbing for all parking. He noted that all setbacks have been met with the exception of the front yard. Mr. Dunn presented Exhibit A-3 which a larger version of the site showing setback requirements. Mr. Dunn addressed school, church and park setbacks. Focusing on the front yard setback he noted that the D3 variance hardship exists as few buildings in the zone can meet that setback. He testified that there will be no odor, lighting is appropriate and access can support use and that there is no substantial impact to the public good. Adding lights for safety and to meet landscaping requirements is

suggested. Planting of landscaping will be done but be low growing at the eastern edge five-foot-wide and 30 feet long. He reported his determination is that this site will not be substantially impacted by this proposal.

Mr. Stoner reviewed the plan and made the following comments, he asked if they would accept lighting and landscaping would be condition of approval, he noted that the loading area will be striped and designated as per the ordinance, he asked the applicant if they would agree to a night test, and noted that the ADA access doorway should open the other way. The applicant and professionals agreed to all. Mr. Stoner noted that the ADA protocol would have to be broken if a patron could not navigate the flow plan presented. The applicant and professionals agreed that in the situation a handler would be provided to help the ADA patron through the building to maintain security and handicap accessibility.

Mr. Dunn addressed the signage by presenting the three existing locations of signage on the premises. Sheet 2 shows the existing signs façade will be replaced with signage stating "Andover Cannabis LLC" as the dba needs to match the LLC. The three signs are located at the north side, the south side, and there is a middle freestanding sign. Mr. Stoner noted that the sidewalk info was not included on the sign and may be "turned off". That information should be resubmitted. The parking will be delineated as for only to be used for the business on this property. Mr. LaVigne was not concerned about the misuse of the parking by patrons of other businesses. He would only address that if it became a problem.

Public Comment:

William Haggerty on behalf of Sonopath stated that the location of Sonopath is is designated as a school. He asked Mr. Dunn if he had reviewed the definition of school and if Sonopath provides that service. Mr. Haggerty asked if that business is one hundred feet from this proposed location. Mr. Haggerty stated the setback requirement to Sonopath is negative. He stated that Sonopath is a school as per the treatise of information relied upon by professionals. His client has a problem with vehicles parking on his property. His client's property will be impacted that this proposed use is not appropriate. He stated that the board can only approve two locations for use variance approval. The ordinance states that there are two in its use and that two are permitted.

Mr. Lavigne asked Mr. Dunn to provide the definition of school. Mr. Dunn stated that the definition provides that it is an institution for the education of children K-12. Mr. Dunn stated that he was not aware that the Sonopath location refers to itself as a school. Mr. LaVigne interjected that a school is not permitted in the C-1 zone. If they are in fact a school they didn't seek that approval for use. If that's the case they should have to close down and come back to the board. Mr. LaVigne indicated that their resolution shows them as an educational facility, not a school. Mr. Dunn addressed these comments by providing testimony on the D3 variance. Criteria requires 100 feet from a school, still is appropriate use for this site, the location is hosting adults, the proposed use is for adults over 18/21 years old. Mr. Dunn addressed the right of way encroachment at the request of the Board Attorney, Jonathan Frodella. He stated that the property line does go through the street and the building has been there for many, many years.

Dr. Eric Lindquist owner of Sonopath stated that his location is an education facility, they operate as they have been approved by the board. He felt the proposed business is not proper for the business as traffic is already a "nightmare". He pondered how many patrons would try to use his property for parking as his location is next door and is the next easiest option. He felt the trail and issues with parking would be increased by the approval of this business. He felt he would be affected by ancillary smoke and if the variance should be approved he recommended closing off the route 206 entrance.

Mr. John Williams, Counsel for North Jersey Cannabis Club, referenced resolution of approval for PZ-05-2022 for Buddy's. He did not find any reference to school in the variance approval for that location. There is determination on the trail that runs behind that location. The board determination should not be an ad hoc determination and the determination should be on the planner or borough engineer. He mentioned CREMA is entirely in the purview of the municipality to make the determination. He thinks this should be made clear in its determination.

Donna Denny of Sonopath stated that she's from California and she understands that the seven to eight-minute turnover is ambitious and should be considered to be more like twenty minutes. Cannabis is not appropriate for this shopping area. The amount of traffic will impact their location.

A MOTION was made by Mr. Pearson, seconded by Mrs. Wojcik to carry this hearing to the next meeting of 6/19/23. Upon roll call the following votes were cast: AYES: Wojcik, Walter, Brothman, Pearson, Breitz and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried. 7:13 p.m.

There was a five minutes recess

OLD BUSINESS: None.

NEW BUSINESS: None.

AUDIENCE PARTICIPATION: None.

RESOLUTION: None.

A MOTION was made by Mr. Pearson, seconded by Mrs. Wojcik to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.



Beth Brothman
Board Secretary