

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, APRIL 17, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Wojcik, Daschko, Smith, Morgan, Walter, Brothman, Pearson, and DiRenzo.

ABSENT: Breitz

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.

The witness and testimony policy was announced to the audience.

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, Daschko, Smith, Morgan, Walter, Brothman, Pearson 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: 7:01 p.m.

A MOTION was made by Mayor Morgan, seconded by Mr. Smith to adopt the following Resolution. Upon roll call the following votes were cast: AYES: Wojcik, Daschko, Smith, Morgan, Walter, Brothman, Pearson and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried. 7:19 p.m.

MINUTES:

A MOTION was made by Mayor Morgan, seconded by Mr. Pearson to approve the regular and executive session minutes of the meeting held on March 20, 2023. Upon roll call the following votes were cast: AYES: Wojcik, Daschko, Smith, Morgan, Brothman, Pearson. NAYS: None. ABSTAIN: Walter and DiRenzo. 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

Attorney John Williams opened the hearing by providing his own background as a local attorney for 30 years practicing many forms of law to include cannabis law for the last five years. He confirmed that the “dba” for North Jersey Cannabis Club and the “LLC” for the application are the same as required by the New Jersey Cannabis Regulatory Commission (NJCRC). He introduced his clients and principles in application Charles Robinson and Tucker Kunkel, as well as their witnesses/ professionals, Brian Secora, who is a cannabis consultant, and Donna Holmqvist, their professional planner. He continued to introduce Joseph Golden, Engineer by telephone. Mr. Williams confirmed that Mr. Golden will not be providing testimony by phone.

Mr. Williams reviewed the requests being made by the applicant to include waivers as reviewed by Mr. Stoner. Cover letter dated 10/9/22 replaced by requested dated 12/14/22. There are three variances in question within this application, conditional use variance for store, D3 for eligible locations, D3 for 50-foot setback to include other variance waivers and approvals indicated by Mr. Stoner in his report.

Mr. Charles Robinson and Mr. Tucker Kunkel were sworn in and they attested to the following. Mr. Kunkel is a local realtor who grew up in the area. Mr. Robinson is also born and raised in Sussex County and a family man as is Mr. Kunkel. He entered into the cannabis industry in about 2010 which has brought him to this area near his family. His involvement in adult use cannabis was mainly in California.

Mr. Williams asked Mr. Robinson to describe the space and explain the use. Mr. Robinson started with the upstairs. Mr. Robinson testified that the upstairs would be mainly used as storage, office space and server room for camera and security which is a locked room. He stated there will be no retail and very little employees. Mr. Robinson explained that he has enough room to create an experience for customers. He said the north side of the building will be a waiting room area with desk where ID's will be checked, there will be a locked door to lead to the main dispensary door. The first room and into the next room will be a waiting area with digital displays where budtenders will be waiting. The intent is to create a comfortable and memorable environment.

Mr. Robinson explained the craft cannabis experience was one they intended to create. One that is handpicked from the finest cultivations for customers over 21 years of age.

Mr. Williams segued into the matter of parking. Mr. Williams showed the planning board a document that he says stated the owner of Crossed Keys in has approved five parking for Mr. Robinson to use at his business. The document was marked as exhibit “A-1”. Mr. Stoner, the Borough Engineer, asked if this parking arrangement was part of the application. Mr. Williams stated it was not and that he was trying to show that a neighbor has approved the employees of his client to park on their lot. Mr. Stoner stated that the Crossed Keys has their own site plan so how is their parking affected. Mr. Robinson stated that it is part of their parking lot, but they don't use it.

Mr. Robinson continued to testify that the hours of operation will be from 9 am to 7 pm seven days a week. Mr. Williams asked Mr. Robinson what the business was at this location prior to his taking over. Mr. Robinson stated it was an antique business for about 18-19 years.

There was a minor disruption by an audience member and they were reminded to wait until public comment.

The testimony continued with Mr. Robinson acknowledging through questioning that he does not object to resealing and relining the parking lot. He also described the enclosure for the dumpster on the North side of the building in the back. This fence will be a white vinyl fence with a gate. Mr. Robinson stated that trash pickup would be scheduled for early morning by a commercial service. That is not what occurs now because it is required by the ordinance for compliance within this business application.

There will be no landscaping or building changes. They replaced the doors already. They will paint the trim, but that is all. Mr. Wojcik asked about the locked doors and Mr. Robinson showed her the process of how that system will work. Mr. Williams confirmed that the cannabis consultant will be able to provide further testimony on that. Mr. Robinson continued to explain that the majority of the right side of the lawn on the right side of the building is owned by the State of New Jersey. The former owner took care of it and he expects to do as well.

The matter of lighting was discussed. Mr. Robinson testified that the lighting will basically remain the same. He stated that he is still working on the necessary "lumens" necessary and those are what he will order. Mr. Stoner confirmed that condition of approval is agreed to include a lighting plan submission.

Mr. Williams confirmed through his client's testimony that the name of the business will be North Jersey Cannabis Club. There is no free-standing sign on the property nor a sign attached to the building. The applicant testified that signage on the building will be limited to decals on the windows. All four windows being the same message. The size will be 24 square feet as maximum is allowed by Andover Borough law. Mr. Stoner reviewed the signage request. The applicant pointed at the sign anticipated which was on his site plan. Grand opening signage was mentioned which can be discussed with zoning officer as per the ordinance.

There will be no loitering and no smoking of any kind allowed on the premises. There was some discussion regarding the State Park land which is next door on the South side and if people can loiter on it. Mr. Robinson assured the planning board it would be monitored and handled. Mr. Williams reported that the New Jersey Smoke Free Act will prohibit cannabis smoking anywhere smoking is prohibited. There was a brief exchange on the law pertaining cannabis lounges. Mr. Williams assured Mr. Stoner that was not the plan now or in the future.

Mr. Williams explained the NJCRC application process and the status this applicant is at this point. Mr. Stoner asked if the Planner would be addressing parking and other variances. She will.

Mr. Brian Sickora was sworn in and provided the following testimony. He described his start in the cannabis industry in 2018 from multi state operations (MSO). His involvement is primarily filing applications, designing, budgeting, obtaining permits, basically "soup to nuts". Mr. Sickora addressed this location specifically by explaining

how this process works. He began by describing the stringent product testing and regulated sales. He stated that as the product will be an opaque sealed container there is no odor. He repeated there is no odor out of the building. He stated the camera coverage covers everything except bathrooms. He continued to explain how a chain of custody is managed from product wholesale to the retail sale to an end customer. The presentation continued to the camera coverage. All of the cameras and angle, shots are accessible by the State in "real time". This allows them to ensure regulations are being followed.

Mr. Sickora stated that two un-armed employees will be certified as a security guard; this is not a requirement in NJ but a good practice. They will check ID. Then you move to the waiting room. Some customers may be provided an ipad to order. When your turn comes around, you will be moved through the locked door. He explained that they will use a "Deli Style" fulfilment model to move customers through quickly. One ounce can be sold per day. Recreational customers will present their ID, make the purchase and leave through a separate door. All product is on the first floor in one area. Staff only can be present where the product is located.

Theft is not typically ever for the product, it's for the cash. The cash registers will be left empty at the end of the night, with cash stored in a vault in a safe in a secure room with the product. Of course, debit and credit cards are also acceptable to use in this business. They will encourage pre-orders. Mr. Williams delved into how delivery is performed. Mr. Stoner confirmed this is only for Class 5 use. Mr. Williams agreed and confirmed how a Class 5 license holder is able to deliver. It was confirmed that Class 6 delivery is not being addressed in this application.

Mr. Sickora circled around to the matter of security again and stated that motion sensors help intensify the camera coverage which is at all angles. There is an alarm monitoring service who will notify the owner of any intrusion after hours. All management will be notified. Board Attorney, Jonathan Frodella asked Mr. Sickora how a customer will be encouraged to preorder. He stated that they will be offering discounts and incentives. Mr. Frodella was asking if the testimony would be helpful to show how parking will be affected by the preorder procedure. The presentation included information regarding the applicants focus on a wellness program to include the use of CBD and THC. Mr. Williams explained that the business would benefit medical patients as well. Mr. Frodella confirmed the sales tax collection of medical marijuana and that as a recreational facility there is still a 2% municipal tax collected.

There was some discussion over the number of times a delivery of product will be made to the store. Mr. Sickora stated that it would be one to two times a week. When asked the number of customers per day it was stated that about 100 is expected.

Mr. Sickora testified that there is little to no residual refuse from the sale of cannabis. Mr. Williams asked Mr. Sickora to explain the "seed to sale" process. In which the product is accounted for from the beginning.

Mr. Williams explained that the sale of marijuana is to 21 and over only. 18 to 21 can be accompanied by a 21-year-old, but only 21 can buy. It is possible for medical use to be approved to a person of a younger age than 21, however, in this facility to purchase they must be 21 or over.

Mr. Williams likened the NJCRC to the NJABC, by comparing the strict guidelines for licensing and use.

Mr. Pearson asked about the secure "vault". Mr. Sickora explained it is not a vault in the traditional sense. It is a secure room with alarms, sensors and cameras. His presentation mentioned a camera in every corner with a 360-degree camera in the center, however, this plan did not include that. He suggested that another camera could be added.

Mrs. Brothman asked where the employee bathroom is. Mr. Sickora pointed to the single public bathroom in the customer waiting room on the first floor on the plan. Mrs. Brothman asked why the general notes of the site plan indicate that there is an employee breakroom with bathroom, a safe room, and additional offices, but none shown. Mr. Robinson stated that in the initial application they thought they would have a corner store of some type, but put the "kibosh" on that but did not amend the notes. Mr. Stoner stated that #1 of general notes needs to be corrected. Mr. Golden was asked if he sees that. He did.

Mrs. Brothman asked how an employee can exit the secure room to go back to the customer area. Mr. Sickora stated he did not see it as a security issue. Mr. Stoner asked if this was the only restroom and it was confirmed it is. Mrs. Daschko asked if there was a breakroom for the employees. There is none.

Mr. Williams confirmed through questioning with Mr. Sickora that the NJCRC does inspect the locations for compliance with cameras and security. Mr. Frodella asked Mr. Sickora with his expertise and experience on other applications if the parking was sufficient. Mr. Sickora explained that the goal is to get people in as fast as possible. He anticipates 100 customers per day in a 10-hour day. A typical bartender can do 5-7 per hour. So, you're looking at 8 minutes a customer. Pre order will help reduce the transaction to 3 minutes. Mr. Sickora testified that there are 12 parking spots. He was corrected to note that the plan only shows 8 and states there is 10. There was clarification provided by Mr. Golden that 12 parking spaces are required and there are only 10. Mr. Sickora was asked if his testimony is based on parking. He stated that his opinion is based on 10 customers per hours.

Mr. Walter asked how a customer can park and leave the property. Mr. Robins stated that they have been testing this with full size trucks. He stated that there is sufficient space using the shoulder of the road. He was asked by Mr. Stoner if it was fully within his parking lot. Do you cross over the concrete curb? The flat curb is the curb. Mr. Robinson stated that he has a full-size Tundra and still has one foot between his tow mirror and the road. Mr. Stoner asked Mr. Golden if he has a truck turn template available. Mr. Golden stated that it is 16 foot from back of striping to the road. Mr. Golden was sworn into testimony. The striping includes an 18-foot space. Mr. Stoner stated that the curb line is on the plan.

It was asked how many employees does they have if there are only 2 spaces for employees? Mr. Robinson stated about 5-6 total maximum. Mr. Golden recommended some modifications to the parking. Mr. Robinson confirmed that he has four more employees than parking spaces available.

Mr. Williams asked Mr. Robinson to describe any conversation he had with the prior owner of the building regarding the parking matter. Mr. Robinson described as an antique shop. Mrs. Brothman asked Mr. Robinson if the intensity is more. Mr. Robinson stated "yes" and the business will be larger and that is why they are focused on flow.

Mr. Williams stated that Mr. Kunkel also has a verbal agreement with the owner of the Bike Shop to allow his employees to park there. Mrs. Brothman confirmed with Mr. Robinson that there is septic on the property as his application stated that there was sewer service.

Professional Planner, Donna Holmqvist, of Preferred Planning Group LLC was introduced and sworn in. She provided her training and qualifications. She provided a site plan map outline the site of this location. Colored maps marked Exhibit B Fig 1 – dated 3/13/23 and Exhibit C Fig 2 - dated 3/13/23 were entered into the record. She identified the land at the South end of the property as preserved. She stated that they are only asking for relief for the front yard setback. She stated that the C1 zone itself requires a 75-foot setback and cannabis only 50. Upon reviewing all other business in the C1 zone they find that their property meets the C1 setback more so than some other pre-existing buildings. This is why D3 variance relief it necessary. She continued to state that there will be no part of the building out of character than others and that the South side setback is an existing non-conforming that will not impact this application. She contends there will be no loading area and the plan does deviate from that requirement. She contends that scheduling the cannabis sales makes this operating space possible. She stated that the parking plan does include the ADA space. She proposed that 8-foot spots would make another spot if agreed upon. Mr. Stoner stated he would not agree to 8-foot spots. She explained that cannabis customers are frequents users who would preorder and reduce the transaction time. She testified that some of her other applications she has represented had turnaround times as low as 2 minutes. She predicts that this business would be no more than 5-10 minutes. She reported that this business would have a more frequent turnaround time and an antique store. Using a 5-minute transaction would use only 2-3 spaces full at one time. That is based on the traffic coming in.

There was some conversation on how many people you can fit in the store. Mr. Sickora explained after the reception area the customer will be let into a larger room where they will wait. 8 can fit in the budtender section. And customer will be let in as they are selling product. Mrs. Holmqvist explained that the intent is to move customers are rapidly as possible by offering marketing incentives and promotions. Mrs. Holmqvist didn't think she understood the board's concerns since any business would be required to seek variance for parking. She reiterated that they are only seeking the front yard setback variance and the board should only look at that impact. She does not see a negative impact to provide that approval. Mr. Stoner explained the parking for an antique store is meant for an hour or longer and the change of use to cannabis is more intensive. Mrs. Holmqvist agreed that the as Mr. Stoner stated the use is more intensive on parking because their customers know what they and will turn over quickly. She contends they can control the service and parking issue by offering incentives.

Mr. Stoner asked about the entrance of the building. He was directing his question toward ADA access to the building. Mr. Robinson stated that all doors are wheel chair accessible. He also stated that the sidewalk has a 4-foot radius. Mr. Stoner stated that any condition of approval would require compliance through construction and zoning as well as engineering.

Through discussion, the applicants agreed to move all 5 employee parking spaces to the to his property. Mr. Frodella stated that a condition of approval would require any off-site employee parking changes would have to come back before the board.

Mr. Williams explained to the board how the cannabis licensing compares to liquor licensing. It stated that like liquor licenses it is a highly regulated business.

The matter was opened to the public for comment.

F. William LaVigne stated that he did not hear any requests in testimony or the application about the setback from the park land on the back and south side of the building. Mrs. Holmqvist stated that the closest park is the Sussex Branch Trail.

She stated that they thought that property was in the R-1 zone. The tax map was retrieved and it was discovered through discussion that the 200-foot list provided to the applicant did not include block 11 lot 1.01 which is was subdivided off of block 11 lot 1. The tax map did not reflect this update. Mr. LaVigne and Mrs. Wojcik confirmed that the land is posted as owned by Kittatinny State Park. Mr. Williams and Mr. Robinson stated that they were unaware that the land was owned by the park. Mr. Kunkel stated that he did know from a deed that is was changed to park land in 2014. Mr. Williams noted that there was another notice issue as advised by the Township Clerk prior to the application hearing.

Ms. Bonita Burke stated that she is a member of the community and lives across the street. She said that the traffic is always a problem on Route 206 and that at rush hour its worse. She continued to state that 100 people per day with the existing traffic is a bit problem. She didn't think that someone can back out safely from those spaces on a regular basis with a full parking lot. She also stated that there is no shoulder on that road and backing out is significantly dangerous as it is. She recounted a number of times that traffic has been dangerous and damaged her property.

Mr. William Haggerty of Dolan and Dolan reported he was here on behalf of Sonopath at 141 Main Street. He stated that parking at the Crossed Keys Inn should not be considered unless an easement if offered. Without a deed easement the agreement isn't worth anything. He continued to state that parking out of that driveway at peak hours is a safety challenge, especially concerning SUV's. He further stated that garbage truck services only operate a certain hour. Lastly, he felt that the set back from the park was critical and that aspect should be focused on.

Dr. Eric Lindquist stated that when he created his educational facility he was held to the worst-case scenario compared to occupancy and he would like every business that comes before the board to be held to that standard. He explained his concern that taking any turn out of there would be dangerous and create hazardous situations with turning around. He also stated that he is constantly removing unauthorized vehicles from his lot.

Eon Hollander thinks this is a good business that will bring people to the town and good for the community. He thinks that the business that Tucker and his partner will be a good business.

Tim Schaffer asked that more data on backing out onto Route 206 should be sought. He stated that the parking radius of a Ford F-150 is 22 feet. He asked for numerical data so it is not hearsay. He also addressed the police department statements made by professionals because the Borough does not have a police department and the authority is under the NJ State Police.

Cody Kitral stated that traffic on Route 206 is a nightmare. It's a lucrative business and will be busy. He used an example of a cannabis store in another town and said that that particular business has a lot of traffic. He felt the numbers represented here tonight regarding traffic were underestimated.

Nick Cordato stated he is a licensed medical marijuana card holder and the traffic will be backed up as he knows those businesses are very much in demand. He thinks they will have many more customers than they are testifying to.

F. W. LaVigne stated that the application indicates it has an application with the NJDOT under review. He reminded the board of a local business which was not allowed parking backing out onto Route 206.

Bonita Burke came back to the board and reiterated the matter of State Police coverage. She reminded the board that the coverage is stationed very far away and should be a matter the board considers.

The board considered entering into a motion. Board Attorney, J. Frodella suggested that the matter be tabled until the next meeting to give the applicant time to provide a traffic study and consider the park notice matter.

A MOTION was made by Mr. Pearson, seconded by Mrs. Wojcik to table the application hearing until the next regular meeting scheduled for May 15th, 2023 at 7 p.m. Upon roll call the following votes were cast: AYES: Wojcik, Daschko, Smith, Morgan, Walter, Brothman, Pearson and DiRenzo. NAYS: None. ABSTAIN: None. Motion carried.

Due to testimony policy the following was tabled until the next regular meeting without prejudice. Notice requirements have been met and no new notice is required.

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


OLD BUSINESS: None.

NEW BUSINESS: None.

AUDIENCE PARTICIPATION: None.

RESOLUTION: None.

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


Beth Brothman
Board Secretary /