

**PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – July 25, 2019
PUBLIC MEETING**

1. Statement of Adequate Meeting Notice: Read by Vice Chair Thompson and Chairman Graham.

2. Roll Call:

Present – Members Gardner, Graham, Kellogg, O'Dea, Paluck, Sellers, Simoff and Thompson.

Absent – Mr. Horowitz.

Board Professionals present: Ms. Maziarz and Mr. Szabo.

Also present: Borough attorney John Pidgeon, Esq. and C.G.P. & H. planner Dan Levin, P.P.

3. Minutes: Review of 6/27/19 draft meeting minutes.

Upon review, Ms. Thompson corrected two references to the Board Planner on page one.

Motion to approve the minutes as corrected: Mr. Simoff. Second: Ms. Kellogg.

Voice vote:

All eligible members voted in the affirmative.

4. Communications: The following were distributed to and acknowledged by the Board:

A. 6/19/19 S. Warner email to P.B. – 2/7/18 Guidelines for Quasi-Judicial Boards:

Chairman Graham expressed concern that the guidelines were overly strict as to Board members use of their own personal knowledge/awareness of application matters and the advisement against doing any research. Ms. Maziarz discussed this with the Board and said that there is nothing wrong with Board members using their own personal or professional knowledge to ask questions and elicit testimony on the record for an application. However, Board members should not do research as a means of gathering evidence. Information gained from the internet may not be reliable. Any information used in deciding an application must have been put on the record. If a Board member knows of discrepancies presented in an application they must be discussed on the record. If Board members from their own knowledge or experience believe that testimony being given is incorrect, they may refute it and should place counter testimony from their own professionals on the record. Once the record is closed, Board members may not use things that they learned outside the hearing to determine an application.

Mr. Simoff recommended amending the Board's by-laws to state that applicants need not dress formally for hearings since Board members do not. Because the by-laws are silent on the matter, the Board did not feel there was a need to amend them.

B. 6/28/19 T. O'Dea email to Mayor re Burgis Associates pre-petition services proposal.

Burgis Associates submitted a revised proposal after Mr. O'Dea relayed to the Mayor the Planning Board's recommended changes to the original Burgis services proposal. Mr. Szabo stated that the Council could simply act on the revised proposal as it likes and it would not be necessary for him to appear again before the Council.

C. 7/9/19 C. Beringer email referred Ordinance #19-1810 for P.B. D26 review (*re #8*).

D. 7/9/19 J. Pidgeon email re proposed revisions to affordable housing agreement (*re #12*).

E. 7/19/19 CSG letter to J. Pidgeon re Audi site P.I study (re #12).

F. 7/25/19 Email by Fire Chief Glenn Miller re Bernardsville Centre parking lot travel lanes.
As no plans have been submitted and this matter required Mr. Brightly's input and he was absent this evening, the Board tabled the matter until its next meeting.

5. Business of visitors not related to agenda: None.

6. Old Business: None.

7. New Business:

A. D26 Master Plan consistency review of introduced Ordinance #19-1810.

Mr. Pidgeon informed the Board that because there are errors in the text of the ordinance that must be corrected, it will have to be reintroduced by the Council. The 35 days allowed for the Board's statutory review of the ordinance will restart from the date it is reintroduced. An amended ordinance will be forwarded to the Board. Chairman Graham asked if there was an intent to prohibit the sale of THC or CBD because the draft ordinance does not do that. Mr. Szabo stated that THC is a regulated substance but that CBD is not. In response to Mr. Simoff's questions as to whether medical marijuana if prescribed by a doctor makes it an inherently beneficial use, Mr. Szabo stated, "No it's not, it's not entitled that, that's like saying a pharmacy is entitled to an inherently beneficial status, it's not...the burden of establishing that standard falls on an applicant, and it would have to be very convincing, and to my knowledge this does not fall within those conditions."

B. Review of 6/27/19 Bills List:

Motion to pay the bills in the amount of **\$1,581.50**: Ms. Thompson. Second: Ms. Sellers.

Roll call vote:

All members voted in the affirmative.

8. Evaluation Committee: None.

9. Subdivision & Site Plan Review Committee: None.

10. Business of Visitors, Second Opportunity: None.

11. Executive Session: Matters of ongoing and/or potential litigation.

Motion to close the public meeting and reconvene in executive session: Mr. O'Dea.

Second Ms. Thompson.

Voice vote:

All members voted in the affirmative.

It is anticipated that the matters discussed in closed session may be disclosed to the public upon determination of the Board that the public interest will no longer be served by such confidentiality.

Motion to close the executive session and reopen the public meeting: Mr. Simoff.

Second: Ms. Thompson.

Voice vote:

All members voted in the affirmative.

12. Emergent Matters: None.

13. Adjournment: Chairman Graham adjourned the meeting at 9:36 pm.

Respectfully submitted,

Frank Mottola, Planning & Zoning Boards
Administrative Officer & Recording Secretary

Keywords: Board-guidelines-Burgis-proposal-ordinance-2019-1810-affordable-housing-litigation.