

Tinicum Township Planning Commission Minutes
May 23, 2023

Members Present: Dr. David Upmalis, Chair; Carl Ruthardt, Vice Chair; John Clement, Secretary; Neil Sullivan; John Cole; Terry Johnston. Absent: Tim Cashman

Others In Attendance: Karen Giordano of 59 Byram Road, Dave Fox, Adam Crews, Glen Steffen. Supervisor Rich Rosamilia. Various members of the community.

Call To Order: Dr. Upmalis

Public Comment: None.

Approval of Minutes:

MOTION by Mr. Cole and seconded by Mr. Ruthard to approve the minutes of the Planning Commission meeting held on April 24, 2023. Unanimous Vote to Approve. Dr. Upmalis abstaining due to absence.

New Business

1. Zoning Hearing Board Application ZHB 2023-2 Giordano TMP 44-030-015, 59 Byram Rd, Pt Pleasant
 - Application Received 4-21-23
 - Presented to Supervisors 5-2-23
 - Planning Commission 5-23-23
 - Board of Supervisors 6-6-23
 - ZHB 6-8-23

Applicant seeks relief from multiple requirements for a nano brewery and tasting room including flood, setbacks use, lot and parking requirements.

Note: Due to the constrained timeframe and to hasten submission to the Board of Supervisors, Mr. Clement prepared the minutes for this application during the course of the meeting. The minutes were then read aloud and approved by the Commission. See attached.

Old Business

1. Cryptocurrency and Bitcoin Mining

A review of a draft ordinance regulating cryptocurrency mining operations presented by Mr. Clement at the last meeting, incorporating regulations from various ordinances throughout the country, with particular focus on communities where a cryptocurrency mining operation has had a negative impact on neighboring residents.

Mr. Ruthardt asked how you could require one type of operation to offset its electrical use with renewable sources and not other operations. It was agreed to remove that provision.

MOTION by Mr. Clement to approve the draft ordinance with the removal of the provision that a cryptocurrency operation be required to offset its electrical use with renewable sources. Seconded by Mr. Johnston. Unanimous vote to approve.

2. Draft Entertainment Ordinance, etc.

Mr. Cole agreed to provide the Township with the final approved language.

MOTION to submit to the Board of Supervisors for approval the draft entertainment ordinance, the draft event center and draft Section 700.1 addition to the ordinance. Seconded by Mr. Sullivan. Unanimous Vote to approve.

3. Septic Ordinance Amendment

A discussion of the existing regulations regarding repairs of existing septic systems. It was agreed that the Ordinance should be amended to clarify that when a repair is made to an existing system a permit from the Township is not required.

It was agreed that Mr. Ruthardt would prepare language to be reviewed at the next meeting.

4. SALDO Amendment for Non-Conforming Lots

A lengthy discussion of what happens when an approved subdivision results in the creation of non-conforming lots, particularly where the owner of the resulting lot could subsequently seek relief for such non-conformance in the form of a variance. The pros and cons of requiring that applicants for a subdivision include development plans for proposed lots was discussed, but no consensus was reached. Mr. Ruthardt agreed to talk with Steve Harris about possible solutions.

5. Warehouse Use

Mr. Johnston presented a draft definition for a warehouse. He agreed to provide definitions for different types of warehouses and distribute for further discussion.

6. Deer Fence Height Clarification

It was agreed that the deer fence height clarification would be addressed once the codification of the Ordinance has been approved.

Discussion. None

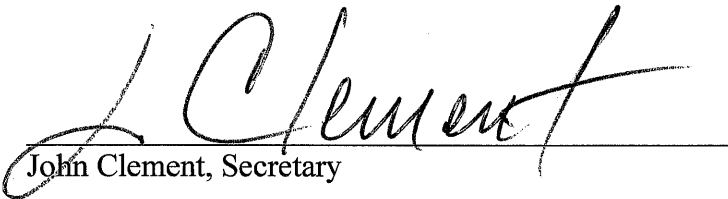
Adjournment

MOTION by Mr. Cole to adjourn. Seconded by Mr. Sullivan. Unanimous Vote to Approve.

TINICUM TOWNSHIP PLANNING COMMISSION



Dr. David Upmalis, Chair



John Clement, Secretary

Partial Minutes of the Planning Commission Meeting on May 23, 2023
Pertaining to Zoning Hearing Board Application
ZHB 2023-2 Giordano TMP 44-030-015

Zoning Hearing Board Application ZHB 2023-2 Giordano TMP 44-030-015, 59 Byram Rd, Pt Pleasant

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Applicant seeks relief from multiple requirements for a nano brewery and tasting room including flood, setbacks use, lot and parking requirements.

Nathan Fox, Attorney for the applicant, introduced Adam Crews from Crews Surveying and building contractor Glenn Steffen and presented an overview of the project, including state requirements, seating, parking, etc, as well as a list of the variances requested. He referenced Tinicum's Ordinance which defines the Village District as being specifically structured to accommodate higher density residential uses along with a limited number of retail sales and services which are considered essential to the proper functioning of residential neighborhoods. The Ordinance states that "Commercial facilities permitted in this district are generally required by a family at intervals of a week or less." Mr. Fox said the applicant proposed a limited production facility with a projected output of 1500 gallons of beer a year, which Ms. Giordano said would serve approximately 25 people per day. He said Ms. Giordano's desire to sell the beer necessitated a brewing license from the state,

which would require minimum seating for ten, to be provided by enclosing the existing deck. Because parking requirements can't be met on site, he added that the Kolbe property across Byers Road was offering their lot, with additional overflow parking at Bucks County River Country.

Mr. Crews presented the proposed plan, indicating the location of the existing building, driveways, off-site parking areas, access, etc. It was noted that the footprint of the building was not being enlarged and that the deck that is proposed to be enclosed is above the base flood elevation. Mr. Fox asked about the safety of customers walking on the road between the proposed brewery and the parking lots, and Mr. Crews replied that it is "fairly walkable, as walkable as it can be without sidewalks."

Ms. Giordano introduced herself and explained her history in the area and her goals with regard to operating a nano brewery.

Mr. Kolbe, owner of the business across the road, spoke in favor of the operation, noting that a business like the one proposed would help reinvigorate the local community, which once had several thriving businesses, including Gobblers, which was destroyed in the 2004 and 2006 floods. He confirmed that Ms. Giordano could use his property for off-site parking.

Dr. Upmalis questioned whether seating was required by the state Brewery G License, noting that the legislation stipulates that the product "may" be sold from the premises, thus necessitating seating, while Mr. Fox maintained that seating was a requirement. Mr. Fox offered to supply supporting documentation to the Township.

Kurt Genner from Wynn Associates reviewed the issues raised in Township Engineer Steve Baluh's review dated May 2, 2023, and his updated review dated May 19, 2023, and Township Zoning Officer Mark Fournier's memo dated May 19, 2023, was discussed.

During the course of the discussion, a number of issues were raised, including:

1. The allowable impervious in the VC is 15%, not 20% as shown in the plan.
2. The lot area for residential in VC is 1 acre, not 13,500 square feet per the plan, as there is no community sewage system on the premises.
3. The Setbacks are not accurate. In the VC, the front yard setback is 50', side yard is 30', Rear yard is 50'.
4. A lack of both an existing plan and a plan of proposed changes.
5. Riparian buffer is not correct as to create a Commercial Use will equate to a "Qualifying Improvement". Steep slopes are involved which can increase the setback to 150'.
6. Sewage system. A tasting room as well as the production of a brewery will increase sewage flows. Has the BCBH been advised?
7. Water Use. With the addition of a tasting room and a brewery production facility, water usage will be increased.

8. Production involved with a Brewery is Manufacturing and is only permitted in the PI district with a minimum of 5 acres. E11 use is not permitted in VC and is a minimum of 1 acre in a different zone. Residential use in the VC is a minimum of 1 acre.
9. There are blacked out shaded areas on the plan. Going forward, using a color that doesn't obscure the underlying features would be preferred.
10. Determination of front yard, side yard, and rear yard is vague.
11. Offsite parking is not permitted in the Township.
12. Brewing will take place in the lower level, which is in the flood plain.
13. There are restrictions in place when raising a property you cannot increase the usable interior space and that any lower area can only be used for parking and miscellaneous storage.
14. The proposed impervious is 46.53%, more than 3 times the allowable 15%.
15. Parking areas, including parking for the residence, loading zones and handicapped parking, are not clearly defined nor properly delineated.
16. The property is assessed per the county website as a 4 Bedroom Structure, not 3.
17. Back raised addition foundation corner is in the Floodway.
18. Commercial use is classified as qualifying improvement per Ordinance 232 – So the septic system must be 150 feet back from the top of the back. Also riparian zones may be increased due to the steep slopes on the property.
19. The item on the plan marked "Gate" is the only access point to the neighboring property to the east which is located on the canal. Is there an easement through the applicant's property within the 4-car proposed parking area to this gate for access to the property? (51 Byram Way)
20. Handicap space per section 901.02 is a minimum of 17' wide and 20' long. The plan shows an 8 ft. wide handicap parking space.
21. An off-street loading berth is required to be at least 15' wide and 50' in length. The proposed loading berth is 8 ft. wide.
22. The garage structure Permit was issued on 9-26-2003 with the following conditions: Residential accessory garage/ Storage use only/ No commercial use.
23. There appears to be no hardship. In this case, the property is being used for a permitted purpose, i.e. a residential dwelling.
24. It's unclear how a nano brewery qualifies as an essential service required by a family at least once a week.
25. Lighting is vague and undefined.
26. Mr. Ruthardt quoted the requirements for a variance as per the PA Planning Series #7:

"A use variance requests permission to use property in a manner prohibited by the zoning ordinance (e.g., a commercial garage in a single family residential zone). An applicant for grant of a use variance must satisfy the criteria for the grant of a variance set forth in Section 910.2 of the MPC (stated above).

In addition, the courts have determined that an applicant for use variance must establish that an unnecessary hardship attends the property that is the subject of the variance by providing evidence that:

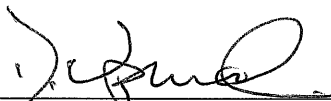
1. The physical conditions of the property are such that it cannot be used for a permitted purpose; or
2. The property can be conformed for a permitted use only at a prohibitive expense; or
3. The property is valueless for any purpose permitted by the zoning ordinance.”

It was agreed that these conditions were not met by the application as presented. The applicant indicated that they would request a delay in the timeline to address the various issues.

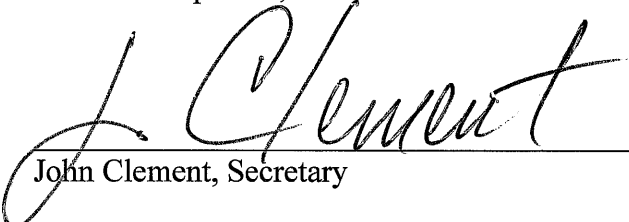
MOTION by Mr. Sullivan to recommend that the Board of Supervisors deny the application given the broad scope of issues discussed above. Seconded by Mr. Ruthardt. Unanimous vote to approve.

Mr. Clement read the minutes he had prepared during the course of the meeting.

MOTION by Mr. Johnson that the minutes of this meeting relevant to this application be released to the Board of Supervisors as quickly as possible to accommodate the tight schedule. Seconded by Mr. Clement. Unanimous vote to approve.



Dr. David Upmalis, Chair



John Clement, Secretary