

A **SPECIAL PUBLIC** meeting of the Brick Township Board of Adjustment
Was held on Thursday, **May 30, 2019** at Township of Brick, Civic Plaza
270 Chambers Bridge Road.

The meeting was called to order at 7:00 PM.

Chairman Langer called the meeting to order. He led the Salute to the flag and read the following Open Public Meetings Act Statement.

Pursuant to Section 10 of the Open Public Meetings Act, notice of this meeting was sent and advertised in the Asbury Park Press and the Ocean Star. A copy of that notice was posted on the bulletin board, where public notices are displayed, in the municipal building. In addition, a copy of that notice is, and has been available to the public, and is on file in the office of the municipal clerk. Accordingly, this meeting is deemed to be in compliance with the Open Public Meetings Act.

Mr. Langer read a statement from the Insurance Company on proper meeting conduct.

The Roll was called

MEMBERS PRESENT

Harvey Langer
Frank Mizer
David Chadwick
Dawn White
Carl Anderson
Mike Jamnik
Frank Mizer
Louis Sorrentino
Michele Strassheim, Alt 1

ALSO PRESENT

Ron Cucchiaro, Esq.
Brian Bocanfuso, PE
Tara Paxton, AICP/PP, Municipal Planner
Christopher Romano, Zoning Officer
Denise Sweet, Court Reporter
Pamela O'Neill, Secretary

The Board Professionals were sworn

NEW BUSINESS

**PB 2829- PSP-FSP-C- -3/19
385 Adamston, LLC
Block 195, Lot 11.01
385 Adamston Road**

Board Attorney, Ronald Cucchiaro, Esq., provided an overview of the proceeding for the meeting. He explained the background of the application. The applicants, 385 Adamston LLC, had an application before the Board of Adjustment. They were seeking approval to have a medical marijuana dispensary with a growing facility. No decision of the Board of Adjustment was made.

The applicant applied to the Planning Board for a growing facility for marijuana, then changed to a growing facility for hemp and most recently to grow lettuce.

The Planning Board expressed concern that they lacked the jurisdiction to hear the case.

The Planning Board transferred the application to the Board of Adjustment to determine if certain uses are permitted on this site. He further stated this is not an application for a use.

The only task for the Board of Adjustment is to determine whether certain uses are permitted. If the Board determines the uses are permitted, the application will be heard by the Planning Board. If the Board determines that certain uses are not permitted, the application will go to the Board of Adjustment.

The Board will make a determination of what the ordinance means.

Mr. Cucchiaro noted the meeting was moved to the Civic Center to accommodate the public that wanted to attend the meeting.

The following attorneys were present:

Dennis M. Galvin, Esq., Davison, Eastman, Munoz, Lederman & Paone, PA, appeared on behalf of the applicants, 385 Adamston, LLC- Jersey Shore Therapeutic health Care

Edward F. Liston, Jr., Esq appeared on behalf of Marcel and Deana Diaz and other neighbors. He will provide a list to the Board.

Dina M. Vicari, Esq, RC Shea & Associates, appeared on behalf of the VFW, Brick.

Dennis m. Galvin, Esq. wanted the record to show he objects to this procedure. He said his client decided to go in a different direction from the original plan to have a medical marijuana dispensary and marijuana growing facility. At one point they considered Industrial hemp, but more recently decided to grow lettuce, arugula and kale.

Mr. Cucchiaro discussed the letter the Planning Board sent to the Board of Adjustment. He stated the property is in the RR-1 zone. Ordinance 245-80A under Permitted uses is Customary and conventional farming operation.

Mr. Cucchiaro noted the ordinance does not have a definition for Customary and Conventional, but he referred to Webster's and other definitions.

The Board will have to make a determination if the proposed use would be customary and conventional.

Mr. Cucchiaro went on to go over recent changes to the growing of Industrial; hemp on the federal and state levels.

Mr. Galvin stated they have looked into the state laws and agreed it is not currently allowed and that is why his client has decided to grow lettuce. He said innovation is not at odds with conventional.

Mr. Liston said he believed that the applicant was looking to grow lettuces in the same facility that they wanted to grow medical marijuana laying the groundwork for the original intent.

Mr. Cucchiaro said the Board should not take into account the intention of the applicant.

Ms. Vicarii said she had no objection to the way the avenue that Mr. Cucchiaro is taking and will reserve comments.

Mr. Liston brought a Planning witness.

Mr. Galvin objected to the Planning testimony. He asked Mr. Thomas how many times he has testified in a farming application. Mr. Thomas said none.

Mr. Cucchiaro advised the Board that the decision they had to make was a legal one, not a planning decision; therefore, they should consider the weight they want to place on the planner's testimony.

Andrew Thomas, AICP/PP, Brielle was sworn. He testified it was his opinion that the ordinance did not consider indoor farming in a 48,000 SF grow house to be a permitted use. In the RR-1 zone

Chairman Langer called for questions from the Public on the testimony of Mr. Thomas.

Seeing none he called for Public comments.

William Truex, Adamston Road, was sworn. He said the applicant is using the same building for the grow house as they did for marijuana, but you do not need a lab in lettuce growing. He further stated you cannot consider this facility as conventional and customary farming.

Nan Coll, 18 Greenbriar Blvd, was sworn. She asked where she can get a copy of the ordinance.

Bruce Baer, 225 Squan Road, was sworn; He gave a definition of customary and said it does not apply to a farm located in the middle of a protected wetlands area.

Sam Foster, Cedarwood Drive, was sworn. He suggested another site for the growing facility.

Mr. Cucchiaro noted that was not to be considered for tonight's decision.

Michael Doumas, 400 Adamston Road, was sworn. He said he did not believe the proposed farming was a customary and conventional farming operation.

Toni Parlow, 404 Adamston Road, was sworn. She read some sections of the Master Plan regarding preserving green areas of the Township of Brick.

Seeing no other members to comment, Chairman Langer closed the Public portion of the hearing

Closing comments were made by Dina Vicari, Esq, on behalf of the VFW. Their position is that a growing facility is not a permitted use.

Edward Liston, said the application is for industrial farming and not considered customary and conventional farming.

Dennis M. Galvin, Esq., said the growing of lettuce is customary and conventional. The proposed building is only 18% of the lot.

Mr. Cucchiaro told the Board their sole role is to determine what the ordinance means as it relates to the production of marijuana and hemp. Is it customary and conventional? He suggested the Board could do one motion or more. There was a brief discussion regarding the number of motions to be voted on.

Mr. Mizer made a motion that the proposed application is not a customary and conventional farming operation. The motion was seconded by Ms. White.

In favor: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Sorrentino, Mr. Mizer, Mr. Anderson, Mr. Langer

A motion was made by Mr. Chadwick and seconded by Mr. Jamnik growing of marijuana and /or hemp is not a conventional or customary farming operation.

In favor: Mr. Chadwick, Mr. Jamnik, Ms. White, Mr. Sorrentino, Mr. Mizer, Mr. Anderson, Mr. Langer

ADJOURNMENT

A motion to adjourn the meeting was made and all were in favor.

The meeting was adjourned at 8:25 PM...

Respectfully submitted by:
Judy Fox Nelson