

THE BOROUGH OF WATCHUNG
Planning Board
Regular Meeting
May 16, 2023
Adopted June 20, 2023

Tracee Schaefer called the Regular Meeting to order at 7:30 pm

ROLL CALL

Ms. Tracee Schaefer, Chairwoman	Mr. Paul Fiorilla
Mr. Donald Speeney, Vice Chairman	Mr. Troy Sims
Mr. Ronald Jubin, Mayor	Mr. Michael Birnberg (absent)
Mr. Curt Dahl, Councilman	Mr. Francis P. Linnus, Esq.
Ms. Ellen Spingler, Secretary	Mr. Mark Healey, PP
Mr. Al Ellis (absent)	Mr. Richard Calbi Jr., Board Engineer (absent)
Ms. Karen Pennett	Mr. John Jahr, Board Traffic Engineer (absent)
Mr. Steve Pote	Ms. Tammy Vetusch, Board Clerk

Chairwoman Schaefer read the statement indicating the meeting was being held in compliance with N.J.S.A. 10:4-6 of the Open Public Meetings Act, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. She then led the flag salute to the American flag. Roll call was taken and indicated a quorum to conduct business.

RESOLUTIONS

On motion by Ms. Spingler, seconded by Mr. Pote, the Appointment of New Board Clerk, Tammy Vetusch, April 17, 2023 was accepted and carried on voice vote.

MINUTES

On motion by Mr. Speeney, seconded by Ms. Spingler, the Regular Meeting Minutes, February 21, 2023, were accepted and carried on voice vote.

ORDINANCE COMMITTEE

The Ordinance subcommittee met prior to the regular meeting to discuss the ordinance and any recommendations. The subcommittee agreed with Mr. Healy's assessment of the ordinance and asked him to present it to the board.

ORDINANCE REVIEW

For the sake of new members of the Board, and this being the first Ordinance Review of 2023, Mr. Linnus, Esq. briefly outlined the straight forward process of Ordinance Review. The Ordinance is introduced by the governing body, the governing body is required by law to submit it to the Planning Board, the Planning Board has 35 days to review for consistency/inconsistency with the Master Plan and make recommendations to the governing body.

This ordinance was primarily generated by Covid; up until Covid and until this present day the zoning ordinance in Watchung did not permit outdoor dining but as a result of Covid in 2020 the State Legislature jumped in and passed legislation that enabled restaurants, bars and other business to grow and stay in business, and passed a statute that allowed temporary outdoor dining. The statute has been amended and under State Law the temporary outdoor dining temporary outdoor availability of alcoholic beverages are in effect until November 30, 2024, but the legislation is subject to local zoning. Chairwoman Schaefer reminded the Board that they review the ordinance and send a letter of recommendation to the Mayor and Council.

Mr. Linnus stated this does not empower the Board with anything other than review. If there are changes to the zoning ordinance, the Governing Body directs the Planning Board to review the ordinance for master plan consistency and return comments and recommendations to the Mayor and Council.

Mr. Healey briefly summarized the Ordinance so that everyone understands the nature of it:

The ordinance would change the land use to permit an accessory use to include food, with the following conditions: no cooking, noise ordinance, site cannot be within 100 feet of a residential property, no use in fire lane, there is language in the ordinance regarding no use outside the hours of operation, no use of public sidewalks, site plan approval would be required, use of temporary lighting and heating, This is all consistent with the Master Plan and the sub committee does agree with Mr. Healy on the consistency.

There is one specific recommendation in the Master Plan and a related objective that will be pointed out. In the Master Plan it talks about certain planning trends that are occurring. The Master Plan talks about the retail market. "Retail development constitutes a very significant component to Watchung Borough's Non-Residential tax base, ex.: Blue Star Shopping Center and other retail development along Route 22. Thus, it is important that the borough continue to monitor the retail market in the Borough and take necessary measures within its powers to improve the viability. Mr. Healy opined that he thinks the intent of an Ordinance like this, is to provide more options for businesses. Related Objective; "The development plan should strive to improve upon the vitality of Watchung and should promote new development of non-residential uses and appropriate locations with appropriate regulations overall goal is to promote a strong economy and a balance between residential and non-residential development so that the appropriate retail establishments are provided for the convenience of the Borough's residents, job opportunities are available as well and a balanced tax base created." Again, Mr. Healy believes this is consistent with the Master Plan.

There are a number of conditions in the proposed Ordinance that are intended to decrease the likelihood of impacts to surrounding properties particularly residential properties and speaks about protecting the integrity of residential neighborhoods. Again Mr. Healy feels this is consistent with the Master Plan. He feels the need to point out 1 thing recommended prior to Covid; the Zoning Board needs to do an annual report evaluating types of applicants that have made Council and Planning Board aware & make recommendations. Part of their review, after 2019 they made a general recommendation that the Borough should consider allowing outdoor dining and it is

reflected in the Master Plan, at that point, the Planning Board was not interested and not recommending it.

RECOMMENDATIONS

Section 3C use of the word site; concern of what the word may mean to different people, so it is recommended to change the language to “Subject Property” containing the outdoor dining. The Subcommittee recommends the entire language to read “Subject property containing the outdoor dining should not be permitted if located within 200 feet of a residential property.” The next recommendation talks about required notice if there is any relief required from the ordinance. The Sub Committee feels that notice to everyone within 200 feet should be required whether relief is required or not. The sub-committee also believes that everyone should be noticed of the Boards review of applications.

Chairman Schaefer understands the importance of the ordinance and the sub committee is not looking to deter outdoor dining but feels it their duty to protect the residents who may be an adjoining property; 100 – 200 feet notice is to keep it equal with the 200 ft notice that must be given anyway.

Mr. Fiorilla believes 100 ft. is fine; his question should not be allowed on sidewalk etc., does that affect places that are situated in a parking lot? Mr. Healy replied it does differentiate against public & private, use of “Public” sidewalk outdoor dining should not be permitted, subject to Land Use Board of Approval outdoor dining may be permitted on private sidewalk provided the same does not encroach or obstruct pedestrian traffic. Applicant will have to go before a Board regardless.

Mr. Linnus; by way of procedure on the 100 ft – 200 ft issue, if the Board determines recommendation should be 200 ft, obviously this could be rejected by the governing body then it gets rejected and the ordinance passed. If it is accepted change then legal question comes in that can be resolved by your Borough attorney as to whether it is a substantial change to the ordinance. If it is it will delay the adoption of the ordinance.

1st Motion: Chairwoman Schaefer made the motion and was seconded by Mr. Speeney, that the Ordinance, OR 23-05 is not inconsistent with the Master Plan.

NO DISCUSSION

ROLL CALL:

Ayes:	Ms. Spingler, Councilman Dahl, Ms. Pennett, Mr. Speeney, Mr. Pote, Mayor Jubin, Mr. Fiorilla, and Madam Chair
Nays:	
Not Eligible:	
Absent:	Mr. Ellis, and Mr. Sims

2nd Motion: Chairwoman Schaefer made the motion regarding section 3c and was seconded by Mr. Speeney, to change the verbage from “the Site of outdoor dining” to “Subject property containing the outdoor dining”.

NO DISCUSSION

ROLL CALL:

Ayes:	Ms. Spingler, Councilman Dahl, Ms. Pennett, Mr. Speeney, Mr. Pote, Mayor Jubin, Mr. Fiorilla, and Madam Chair
Nays:	
Not Eligible:	
Absent:	Mr. Ellis, and Mr. Sims

3rd Motion: Chairwoman Schaefer made the Motion regarding section 3c “The subject property containing the outdoor dining should not be permitted if located within 100 ft to 200 ft of a residential property unless relief is granted”

DISCUSSION

Councilman Dahl: Opinion is that anything to make the Borough more competitive to business as well as balancing our residents is a positive, he does not believe an extra 100 ft will make a difference but could scare potential businesses away to other towns.

Mayor Jubin: Member of Council during the Covid emergency and he has spoken to a lot of residents and continues to follow up. He has a good friend that lives 2 doors down from Water and Wine and he asked them to be honest and they advised that there have been no issues at all. Mayor Jubin feels that the restaurants this is how they make their money believes that they will continue to follow the rules, if they do not, they can face other penalties.

Mr. Speeney: The proposed 200 ft in the ordinance is for a reason, so that there are no surprises. If the initial recommendation was accepted by the Council, then it would be Rt. 22 HD Zone would not be an issue. As soon as you open up the entire Borough, competitiveness goes out the window because there are residents that have invested their money and live here in the communities and neighborhoods that they chose. By expanding the ordinance to include HD Zone in Mr. Speeney’s eye at least gives everyone a fair shake in knowing what is happening.

ROLL CALL:

Ayes:	Ms. Spingler, Councilman Dahl, Ms. Pennett, Mayor Jubin, Mr. Fiorilla, and Madam Chair
Nays:	Mr. Pote,
Not Voting:	Mr. Speeney
Not Eligible:	
Absent:	Mr. Ellis, and Mr. Sims

The meeting was opened to the public. There were no comments from the public.

ADJOURN

The Board unanimously voted to adjourn the meeting.

Respectfully Submitted,



Tammy Vetuschi
Board Clerk