

**Town of Phillipsburg  
Planning Board Meeting  
535 Heckman Street  
Minutes for Sept 12, 2019**

Vice Chairman Keith Zwicker called the meeting to order at 7:00 pm and led the meeting with the Pledge of Allegiance. Those Present were: Mayor Stephen Ellis, Councilwoman Danielle Degerolamo, Keith Zwicker, David P. Morrisette, Derik Lewis, Dominick Vangeli, Roseanne Rohm, Darren Bodogh. Also in attendance were William Mandry, Planning Board Attorney; Mr. Stan Schrek, Engineer and Ms. Charee Carney, Recording Secretary.

**Case 19-002 - 55 South Main - Major Site Plan - change of use for Medical Marijuana  
Alternate Treatment Center**

Mayor Ellis and Councilwoman Degerolamo were recused from the meeting. The Mayor left the meeting and Councilwoman stayed. The attorney for the applicant replied that it was up to Councilwoman and Mayor that they do not have an objection if they stay.

Attorney Mandry said that there was an ordinance that was passed and posted, but there was not a second reading which caused some confusion. Attorney Mandry cited a case that gave the board of adjustment jurisdiction to hear a case from a non-developer property owner, which is similar to tonight's case. It was his opinion that tonight's meeting can be heard without having council amend the redevelopment plan and the ordinance.

As per Attorney William Edleston request, all the witnesses were sworn in for testimony at once.

Mr. Schrek went through the completeness review and said that it was long because, a major site plan review was required due to the size of the building and the change of use. A temporary waiver will be required for 1a, d, g, h, i, 3a, c, d, and waivers required for 2b, c, 3e, f. Mr. Schrek recommended that the application be deemed complete.

Mr. Morrisette motioned to deem the application complete and Mr. Bodogh seconded. The motion carried.

Mr. Evan Kolakoski, regulations manager, gave his fact-based testimony. They plan to open their medical cannabis treatment facility that's going to serve 53,000 patients throughout the state that are currently enrolled in this program and operate under strict regulations under the Department of Health Medicinal Marijuana Program. Everyone entering the site must have a medical marijuana card issued by the State of NJ. Attorney Mandry asked if he can give an expert opinion on medical necessity. Mr. Kolakoski said there are 17 conditions that are approved through the state of New Jersey (chronic pain, PTSD, AIDS, opioid addiction, etc.). Attorney Mandry asked if they will be distributing CBD at the site and it was responded, yes. The board asked questions about CBD and medical marijuana. THC in medical marijuana is for pain relief and CBD is helpful for anxiety, but they both have two separate uses and plan to help

both. The medical Marijuana Card will stipulate what they can receive and Terrascend will help guide the patient on what they need and how it is used. A minor must always have a guardian with them.

The facility will be a dispensary only. There is about a 15 to 20-minute length of stay for each patient. Mr. Zwicker asked the expected count and Mr. Kolakoski responded about 1,000 patients a week, based on an analysis of their other facilities. They will be open from 9am to 6pm, 7 days a week, with a mix of appointments and walk-ins. They anticipate 10 to 15 walk-ins, during the peak hours of 9am to 11 am, 1230 pm to 2pm, Fridays, Saturdays and Mondays, around the 15th of the month and the 30th. There are 7 operating dispensaries currently in the State of NJ. There will be about 12 to 15 onsite employees, which includes full time security as well. Security will be there for about 12 hours a day. Most employees will be there during business hours only staying maybe 45 minutes after hours. The busiest time is the end of the night because the product needs to be stored in the DEA vault and locked up for the night.

Tony Gallo, licensed security consultant, has been in the cannabis security for the past 6 years, designed 59 cannabis facilities, dispensaries and groves, based on state and city regulations. They had a 3rd party company do a crime analysis of the location. Average is 100 and can go up to 1,000. Downtown Phillipsburg has a score of 60. Easton PA has 200. The White House is 765. Exhibit a1, The Crime Cast Report, 8 pages, was brought before the board. It shows the site location, 3-mile radius score, a blow up of the location, the White House example, a breakdown of the scores when it comes to robberies, burglaries, larceny, etc. The police will have access to their inside and outside camera system, 24 hours a day and the data is available for 90 days. Only medical marijuana patients with an ID and employees will be allowed inside. There is an alarm system, an access control system and a backup on the safe. They have emergency procedures for the employees and meet with the police prior to opening to show them the system. Attorney Mandry asked if there is any correlation with crime before and after the facilities open? They have no increase in crime at the other facilities. In the 6 years and the 59 facilities, they have never had an armed robbery, 2 break ins (teenagers through the window) and the grow facility in CA. Their specialty is high risk businesses.

Mr. Zwicker asked if he gave his card to someone else, if they could use it to get in. Mr. Gallo responded no, they will know who is going in and will have an audit trail with the police having access to the information. There will be 90 days of data stored. At this point in time, the guards are not armed and are more customer service and patrols the area but will be from an outside agency and will not be at the facility after hours. There will be just a few daytime deliveries a week, stagnant hours. The deliveries will come in an unmarked sprinter van that has GPS control, an alarm system, and an alert system. Mr. Schrek said that there isn't a guaranteed loading spot. Mr. Gallo said that they usually designate an area and save that spot for the delivery and there's more than enough parking in the front. Mr. Schrek said that's the current conditions and one of the reasons they are here is to help drive development. There will be about 1,000 patients a week. Mr. Lewis was concerned about malicious intent from the outer lying areas. Mr. Gallo said that they have not seen an increase of crime at the other facilities,

because of the security and you're walking into a locked environment, it would be better for an individual to rob another retail store.

Jerry DeLorenzo, Director of Operations, will oversee staffing, transportation, inventory, etc. There are 23 immediate parking spots in the area, about 10 to 14 employees - required to use the public parking lot. They will be getting about 2 shipments a week, which will be security guards. The employees will have background checks and fingerprinted and will be issued a department of health ID card. There will be an armored service picking up the cash from the facility. There will only be cash onsite, which is in a drop safe within the vault. The federal laws do not permit the sale of medical marijuana, so credit cards are not used. The patients cannot get help from the health insurance companies.

Angela Knowles asked if there will be anything else that will be sold, besides the medicine. There will be some paraphernalia, but it has not been decided yet. There was a question about the average purchase and how much it costs. There is not an average a patient would purchase. Currently it costs about \$350 per ounce. Some will buy 20 grams a day.

Mr. Shrek asked about sales tax and if it's collected. They believe that there is sales tax collected and will be a certain amount through the years. It will get lower and lower until its null. Everything sold is registered with the state. Any cannabis waste is bagged and sent back to the Booton facility where it is destroyed. The only waste onsite will be office waste.

When the patient leaves the facility, they must leave the product in the packaging and the barcodes trace them back to the facility. The state police are highly trained when it pertains to recognizing the medical marijuana. The patient will be able to cross state lines if the federal laws allow, currently it is not permitted. PA has a fully operational medical marijuana facility about 15 miles west. Patients will be traveling from 45 minutes to half an hour away in the state of NJ. The closest facility to Philipsburg is in Montclair.

Edwin Caballero, Civil Engineer, submitted exhibit a2 which was a dimension plan exhibit - site plan set. They will have a handicapped ramp and an 8-foot-high aluminum fence. In addition, they will have trash area enclosure, which will be screened from South Main Street and the whole rear of the east section of the property. They have existing building coverage of 21.43% and will have no change to the building.

Exhibit a3 is the parking area. They will designate the one existing parking spot for the deliveries. 1 parking spot is required for every 150 square foot of office, which equates to 32 parking spaces. The parking that will be utilized will be the on-street parking. There are currently 26 parking spaces within the front of the building and the municipal parking has 103 parking spaces and did a physical count of the spaces being utilized during the day and saw that there were 17. He feels that there is ample parking for the complex.

As for the utilities, they are extending the gas main to the building. All of the other utilities will remain the same. The lighting consists of four proposed LED light fixtures. One light fixture will

be centered in front of the building, three along the front, and two along the southside of the building. They increased the foot candle trace along the southside of the building to provide additional lighting along the stairs and Main Street. There are two additional sconces, one along each pillar. There are four security flood lights along the rear of the building for safety. The light fixtures at the rear of the building are ten feet above existing grade. All others are eight feet above existing grade. The fixtures are time clock operated. They will work with Mr. Schrek to make sure the lighting is up to code.

About the variances, the ordinance allows seven feet high fences and they would like eight feet. The next variance would be for off street loading, there sprinter van would be using the on-street parking in front of the facility. The next variance they are seeking is for the number of off-street parking. There will be one to two deliveries a week, one parking spot on the street is required. As for permits, they submitted to the Warren County Planning Board and waiting for approval. They do not exceed the limit of 5,000 square feet so they don't technically require approval from the Soil Preservation District. He plans to meet with Mr. Schrek to go over any improvements to the sidewalks etc. If they exceed the 5,000 square feet, they will go to the Soil Conservation District.

Mr. Schrek asked Ms. Carney if we heard back from the police or fire, and she said yes to the fire and no from the police.

Mr. Bodogh said that he's lived in this area his entire life and welcomes the proposed project, but he was concerned about the parking and traffic. He asked what their alternate plan for the people who cannot walk from the municipal parking lot with the uphill grade. It was responded that there will be approximately 16 spaces per hour being utilized and more spaces to the south - there was only 17 spaces being used in the parking lot. Mr. Schrek discussed having a designated handicapped space. Mr. Zwicker asked if they reached out to the owner of the old Elks building for shared parking and Attorney Edleston responded that the owners of the building are not interested. Mr. Schrek said that there is clearly a lot of parking because there is nothing there, but the intent is to bring in a business that will hopefully revitalize that area. The architect that is on their team owns a large percentage of those buildings and spent years trying to rejuvenate. Mr. Schrek feels that there might be a parking problem in time and when the area gets more businesses, council might have to address it and will have to arrange for new possibilities for parking. Mr. Schrek agrees with the applicant's civil engineer and currently there are spaces available and there will be times when it is difficult and then you have the traffic from the people who avoid the toll. The handicapped space and curb cut will be helpful. Mr. Morrisette informed the applicant that there will be a problem with parking when the Easter Train and other events are running.

The board took a five-minute break.

James Guerra, architect, explained the exhibit g100. He described the outside of the building, the handicapped ramp, and the inside of the building. They will be taking out most of the second floor. The inside of the building will be mostly all new construction. The outside of the building

will be clean, new windows, and will have the same character. The rails on the windows in the back of the building will remain. G200 exhibits the front of the building on South Main Street. Mr. Schrek asked about the weeds in the front of the building. The site engineer will clean that up and is only grass right now. There's a trailer in the space currently.

Dan Bloch, licensed planner, considered an expert witness, showed the exhibit a5 photo of the site surrounding properties taken the day of the testimony. The building was at one time Phillipsburg Trust Company, there are mostly empty buildings nearby, SoMa Restaurant, The Sand Bar and an empty parking lot. The building was a converted office building years ago. They plan to do some interior work but mainly keeping the site as it is. In terms of zoning, the property is within the Main Street Redevelopment Zone, district 2, sub area 3 of the redevelopment plan which permits retail, specialty shops, bed and breakfast, office, restaurants, etc. The medical marijuana facility is not a permitted use in the redevelopment zone, so they are seeking a d1 use variance.

Mr. Bloch said that there is no case law saying that this is inherently a beneficial use, because it's a new type of use in this state. Mr. Edleston said that the League of Municipalities discussed the use in the past November and there was a split opinion, but the majority felt it was not an inherently beneficial use.

Mr. Bloch will explain the special reasons this is a beneficial use. He feels the old bank is ideal for the use, they will not be making a lot of modifications to the outside of the building. There's a modest amount of traffic and foot traffic, it's in an accessible location for the customer. Mr. Bloch said that the ordinance that was supposed to be passed was for this purpose. It operates much like a bank, the customers come in, make their transactions and then they leave. The other beneficial reasons are that they are putting in the first medical marijuana treatment center in Warren County, in this northwest region of the state. This will reduce the driving time for the people in the area that had to go to Montclair. They will have a more efficient use of the land and not a lot of changes needed to change the site and preserving the historic nature of the structure.

Mr. Bloch feels that there is no substantial detriment to the use, but any new business will have an impact on the neighborhood pertaining to cars, traffic, people in the area. When it comes to no onsite parking, you'll have that problem with any use that comes into that building. It's a limited amount of area, and there isn't anywhere to put any parking on the property.

The intent and purpose of the Main Street Redevelopment Plan is enhanced by this particular use, a catalyst for economic development and hopefully bring in new customers for other businesses. He feels this is the reason why the governing body wanted this type of use. There are two goals in the redevelopment plan, to increase the economic base in the redevelopment district.

Regarding the c variance, the facility in the drug free zone - chapter 263 - which is not in the zoning ordinance, Mr. Bloch feels that there was a typo on the report and feels they don't need

a variance. The drug free zone issue is for criminal activity and this is not applicable to medical marijuana. They are within 500 feet of the park and believes that there should be a waiver. Mr. Schrek feels that this is a police matter and Attorney Mandry said that the Warren County Prosecutor should decide which is a condition of this application.

As for the fence height, for security purposes, the benefits outweigh the detriments. For the c1 variance the minimum off street parking and loading requirements, there isn't any opportunity to provide these on the site. Attorney Mandry feels that that parking is a c2 variance. Mr. Bloch disagreed but said they'll say it's both. As for the lighting, it was identified as a waiver. Attorney Edelston said they can consider the parking a c2 variance.

The board opened the meeting to the public. No comments were made by the public.

Angela Knowles Town Planner from Van Cleef Engineering made a comment about the redevelopment plan and said that the use is not inconsistent with other retail uses that are permitted in the zone. The site appears to be suited for the use. The parking doesn't seem to be an issue but the whole point of this application is to help create economic activity in this area and we hope that parking becomes an issue someday. It is something we'll have to deal with down the road. The testimony satisfied all the tests. As from the planning criteria, this would be an appropriate use for the zone. Attorney Mandry said that Angela can give her opinion as for planning issues. From the Town Planner and the town engineer's perspective, the variance should be granted.

Mr. Morrisette motioned to accept the d1 variance and Ms. Rohm seconded. The motion carried - with one no - Mr. Vangeli.

Mr. Zwicker motioned to accept the c variances and Mr. Bodogh seconded with the condition of the verification from the prosecutor's office from the facility being in the drug free zone. The motion carried with one no - Mr. Vangeli.

Ms. Rohm motioned to accept the variance for the fence and Mr. Morrisette seconded. The motion carried with one no - Mr. Vangeli.

Mr. Morrisette motioned to accept the variance to allow the lack of a loading spot and Mr. Lewis seconded. The motion carried with 2 no's - Mr. Vangeli and Mr. Bodogh.

Mr. Morrisette motioned to accept the variance to remedy the off-street parking and Ms. Rohm seconded. The motion carried with 2 no's - Mr. Vangeli and Mr. Bodogh. Mr. Bodogh's said that he is voting no because of his comment from before.

Mr. Zwicker motioned to accept the variance to allow the parking and Mr. Morrisette seconded. The motion carried with 2 no's from Mr. Vangeli and Mr. Bodogh.

Ms. Rohm motioned to accept the design waivers with a condition that they must give a complete lighting review as stated in the engineer's report and Mr. Bodoogh seconded. The motion carried with an abstention from Mr. Vangeli.

Ms. Rohm motioned to accept the preliminary and final major site plan with the condition of meeting the requirements of the engineer's report and Mr. Morrisette seconded. The motion carried with one no - Mr. Vangeli.

There was a motion to adjourn and seconded.

Respectfully submitted,  
Charee Carney  
Recording Secretary