

Victory Gardens Planning Board Minutes  
October 28, 2020

Diane Feola called the meeting to order at 7:00 p.m.

Pledge of Allegiance to the Flag of our Country.

This meeting has been advertised in one newspaper, The Daily Record, in compliance with the New Jersey Open Meeting Act.

**IN ATTENDANCE:** Mayor Dave Holeman                      Diane Feola                      Jim Glass  
John Cegelka    Anne Davis                      Barrie Palumbo  
(arrived 7:04 p.m.)

Attorney:              Eric Bernstein, ESQ  
Planner:                Jessica Caldwell  
Engineer:               Leon Hall

**ABSENT:**                      Avis Byfield

**MINUTES: From January 15, 2020**

Mayor Dave Holeman made the motion to accept the minutes from January 15, 2020. Anne Davis seconded it.

A roll call vote was taken:	Mayor Dave Holeman	Yes
	Jim Glass	Abstain
	Diane Feola	Yes
	John Cegelka	Not present when this was voted on.
	Avis Byfield	Absent
	Anne Davis	Yes
	Barrie Palumbo	Yes

**RESOLUTION: Marijuana dispensary Zoning amendment**

Attorney, Eric Bernstein, explained that at the October 13, 2020 meeting of the Mayor and Borough Council, introduced Ordinance 2020-01, Amending the "Permitted Uses," Subsection 23-7.1, under the Supplement Chapter XXIII of the Borough Code of the Borough of Victory Gardens, entitled "Zoning." This amendment to the "Permitted Uses" will permit a Cannabis Dispensary in the B District and to add a new Subsection to Section 23-7 entitled "Performance Standards for a Cannabis Dispensary." This has now been deferred back to the Planning Board for determination if it is consistent with the Master Plan of the Borough. This has now come to this Board to see if it wants it to go back to the Mayor and Council for possible adoption. The issue is for the land use role allowing for the possibility of a Cannabis Dispensary permitted use in the business district according to subsection 23-7.1 of the district Borough Code. (Mr. Bernstein announces to let the record reflect that John Cegelka has joined the Board at 7:04 p.m.) It is up to this Board to decide if they would like to adopt this ordinance as per provided by my office and send it back to the Mayor and Council for their consideration. Jessica Caldwell spoke about something but it was totally inaudible. She spoke for a few minutes. Jim Glass has stated he could not hear anything. Diane Feola wanted to be correct in that everything that was underlined was an addition to the Ordinance? Eric Bernstein confirmed everything that was underlined was an addition and everything in brackets was a deletion. Barrie confirmed with the Board that they are here to determine if it is consistent with the master plan. Diane says the Planner said that it is. Barrie states that this is for recreational and medical use and we are basically limiting it to so there is only one in the Borough. She also asked that we do not have an application for a dispensary before us. Eric explained, correct you do not, this is if someone were to come in with an application for one, the information is here. Eric went on to say that in the absence of such that if someone were to come before you for such then most of it will be spelled out in the ordinance. This is what they would need to conform with, hours, signage and such, when presenting an application. So, Diane asks this is just the guidelines, yes answered Eric. If someone wanted to come in with something different, they would have to apply for a variance from the conditions established here. Diane asks if anybody had any questions? Anne Davis asked if anyone from the public will be allowed to ask questions, yes.

Anne Davis made the motion open this portion of the meeting to the public. Barrie Palumbo seconded it.

All were in favor and none opposed.

Jim Janone, wanted to know who drafted this resolution? Eric said he drafted it at the request of the Borough. Jim had said more but inaudible. Eric Bernstein again said she was not asked by this board to write this ordinance up; he was asked by the Mayor and Council. Jim wanted to know where he obtained this from, was it based on something, in audible. Jim went on to say this board has not discussed this before and this is the first time it has been in print. The board has not even seen it to make comment on it. There are some things missing like signage, which needs to be limited like non-descript. Eric explained that the applicant will be governed by the code sing ordinances of the Borough. Jim said he does not think the sign ordnances is too descriptive to the type of business. Also, he asked there was not anything about licensing in the ordinance. He said other towns are creating revenue from it. Eric went on to say that he licensing fee is currently a misnomer. The medical marijuana provisions are established according to the existing law of what revenue the municipality can or cannot receive. Any ordinance adopted by a municipality relative to recreation will probably be subject assuming the public passes the ballot question on Tuesday. Jim said this has nothing to do with that. Eric said that he establishment of medical marijuana revenue is established by law. Jim went on to say about the licensing fee because licensing fee does not fall privy to this board. Jim went onto ask about the storage and what other towns are doing? How it can be grown and dried and you do not want it being done outdoors and how come this ordinance does not say anything about that? Barrie explained that is it grown and dried indoors. Jim then asked who is voting on this? Barrie and Eric explained it is a land use item and therefore this board will be voting on it. Eric went on to explain this is a resolution we are voting on not an ordinance. The board is being asked to adopt the resolution proving the adoption and referring it back to the governing body.

There was no more public comment.

A motion to close this portion of the meeting to the public was made by Barrie Palumbo. Anne Davis seconded it.

All were in favor and none opposed.

Barrie Palumbo made the motion to adopt this resolution and referring it back to the Mayor and Council that it is consistent with the master plan.

A roll call vote was taken.	Mayor Dave Holeman	Yes
	Jim Glass	No
	Diane Feola	No
	John Cegelka	No
	Avis Byfield	Absent
	Anne Davis	No
	Barrie Palumbo	Yes

The vote was two yes and four nos. The resolution does not pass.

Eric informed the board that the Governing Body has the right, so that you are all aware, in the absence of approving this resolution, they have 35 days to take an action from introduction and move forward to adopt it. Barrie asks if this board needs to give them reasons as to why they did not approve this. Eric says they should. Barrie asks the board members who voted no, why they think this is not consistent with the master plan? Diane says because is it a new thing and we need to look into it and look at what other towns do as far as restricting signage or other things. So, Barrie asks you don't feel it is detailed enough? Diane and Anne say yes. Diane then says once it's passed it's passed. No one else had a reason to give for voting no. Anne asks this now goes back to council. Eric says yes it goes back to the governing body. He will write up a letter to the Mayor and Council stating the resolution was not adopted and some members of the board were concern the ordinance was not sufficiently detailed. Barrie asks if they need a motion to do that?

Barrie made a motion for the board to approve Eric writing a letter to the Mayor and Council. Anne seconded it.

All were in favor and none opposed.

**CORRESPONDENCES:** None

**BILLS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** None

Barrie announces that this is her last meeting, she is retiring. She introduced Kevin Lewthwaite as her replacement. She says she has done this for 12 years for the Borough and thanked everyone. The board thanked her for her service.

Barrie made the motion to adjourn the meeting. Anne seconded it. All were in favor and none opposed.

Meeting adjourned at 7:21 p.m.

Minutes typed by Debbie Devery