

MANSFIELD TOWNSHIP
JOINT LAND USE BOARD
REGULAR MEETING
December 8, 2021
Livestreaming meeting

The regular meeting of the Mansfield Township Joint Land Use Board was held on the above shown date with the following in attendance: Acting Chairman, William Tahirak, Michael Magee, Committeeman, Ralph Wainwright, Carl Schwartz, Jeffrey Grouser, Colleen Herbert, Frank Pinto, Dalpat Patel, Scott Senese, and Dominic Marchetti, Also present were Tom Coleman, Attorney, and Planner Ed Fox. Douglas Borgstrom and Robert Higgins were not in attendance.

The following opening statement was read: “Adequate Notice” has been provided for this Special Meeting and has been posted on the Official Bulletin Board of the Township of Mansfield, noticed to Burlington County Times and Trenton Times on December 1, 2021 and filed with the Municipal Clerk of the Township of Mansfield, notice of which contained the date, time, place, and purpose of this meeting, as so noted in the NJSA 10:4-18(d) Amended 1981, by including Section 10:4-18 which addresses Regular Meetings of a Public Body, which is addressed under “Adequate Notice”.

The meeting was called to order by Acting Chairman Tahirak followed by the salute to the flag.

REVIEW OF ORDINANCES FOR MASTER PLAN CONSISTENCY:

ORDINANCE 2021-33: AN ORDINANCE OF THE TOWNSHIP OF MANSFIELD, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY REPEALING ORDINANCE 2020-8 WHICH REPEALED CHAPTER 57 OF THE CODE OF MANSFIELD TOWNSHIP AND REPLACING IT WITH A NEW CHAPTER 57 ENTITLED “HOTELS/MOTELS” TO ESTABLISH PROVISIONS FOR LICENSING AND REGULATION OF HOTELS/MOTELS, LIMITING THE TIME PERIOD OF OCCUPANCY IN HOTELS/MOTELS IN THE TOWNSHIP, ESTABLISHING AN OCCUPANCY TAX, REQUIRING COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS REQUIRED FOR THE OPERATON OF HOTELS/MOTELS AND PRESCRIBING PENALTIES FOR THE VIOLATION OF SAME.

Attorney Coleman reviewed the history of the ordinance inasmuch as the Township Committee proposes to amend the previous ordinance that went to court and is being sent back to the Township. This ordinance is establishing standards on the three hotel/motels within the municipality to allow that an individual could stay at the hotel/motel not to exceed 6 months if that person is a township resident whose primary residence is temporarily uninhabitable or for active military member seeking permanent housing or otherwise in need of short term housing. The Land Use Board is to determine whether this Ordinance is consistent with the Master Plan.

Mr. Fox added some brief history wherein the ordinance was first introduced in 1949. A lot have changed since then. The preamble to the ordinance mentions the different public safety and security issues and problems the township’s fire, police, and EMS are having. The original ordinance was amended in 2020 to address these issues. However, this was referred back to address more of the issues regarding some folks are in these places for an extended period of time. In his review of the Ordinance, he did believe this should be at the LUB for review. He felt the changes recommended in the Ordinance are consistent with the master plan for the purposes of health and safety as well as homeland security issues.

It was noted that Dalpat Patel was removed from this discussion as he has a conflict.

Frank Pinto was concerned if the township did not reach out to the business owners to ask them the impact of the ordinance on their business. He felt this would be related to the Master Plan. **Attorney Coleman** noted that the businesses have been notified. Mr. Pinto felt the business owners should be able to express the impact on them. **Attorney Coleman** noted the Township's concern for the police. Mr. Pinto questioned if there were statistics in regard to long term and short term police concerns. Mr. Pinto was advised to address this during the adoption process during second reading of the Township Committee. Again, **Attorney Coleman** asked for comments to be made related to Master Plan consistency. Mr. Pinto was concerned to foster businesses in a small town.

Colleen Herbert asked for clarification of the JLUB's duty at this point. She was told the board is just to determine Master Plan Consistency.

Frank Pinto made a motion that Ordinance 2021-33 is not consistent with the Master Plan primarily it does not take into consideration the small businesses that could be impacted. Jeff Grouser was concerned over the impact of this ordinance and questioned where the individuals would go that are there staying longer. **Attorney Coleman** felt these are questions better posed at the public hearing.

A motion was offered by Acting Chairman Tahirak and duly second by Michael Magee to determine the proposed ordinance 2020-33 to be consistent with the Master Plan. The motion was carried on a Roll Call Vote, recorded as follows:

AYE: TAHIRAK, MAGEE, HIGGINS, WAINWRIGHT, SCHWARTZ, SENSE
NAY: PINTO ABSTAIN: GROUSER, HERBERT, MARCHETTI
ABSENT: BORGSTROM

RESOLUTION 2021-12-23
(A copy of this Resolution is spread on the following pages.)

ORDINANCE 2021-34
AN ORDINANCE AMENDING THE CODE OF MANSFIELD TOWNSHIP, CHAPTER 60B "TREE REMOVAL".

Mr. Fox explained that, at the prior meeting, this ordinance was reviewed by the professionals. The JLUB had voted to determine that this ordinance was not consistent with the Master Plan as it was not on the agenda and the Board members did not have the ordinance for their review. Now that the Board members have received the ordinance, he repeated his testimony from the prior meeting. He said that this ordinance improves some issues that the Township Forester and the Environmental Commission have been having with the implementation of the existing tree removal ordinance as well as how the ordinance is related to the decisions by the JLUB.

Mr. Fox said this ordinance redefines the category of the professional forester under the new state regulations. The ordinance also changes the responsibility of which professional would review applications before the board with consistency with tree removal. **Mr. Fox** felt the changes may be inconsistent with the Master Plan in terms of the Master Plan's Farmland Preservation Policy and the Township's Right to Farm Policies. He has spoken to the State Agricultural Development Committee and the Burlington County Farmland Preservation Office as well as the State Forester. They assured him that any farmland assessed property or

commercial farm operator that is removing trees for the purpose of agriculture, etc. those things are protected under the Right to Farm as well as other state plans. Therefore, Mr. Fox said he was incorrect in the presumption that it is inconsistent with the Master Plan. However, if the removal of a tree is unrelated to farmland, a tree removal permit would be required. In conclusion, Mr. Fox said Ordinance 2021-34 is consistent with the Farmland Preservation Plan of the Township's Master Plan.

Jeff Grouser asked for clarification. Mr. Fox explained that the main focus of the ordinance is to determine which professional or professionals should be reviewing tree protection and tree concerns when an application comes before the board. In addition, they have amended the definition of professional forester to be consistent with the state as well as other minor issues to be consistent with the state. Mr. Grouser asked if development already approved are affected. **Attorney Coleman** said any current application will not be impacted by the ordinance.

Carl Schwartz questioned whether the check list get updated to include that the materials are sent to the Commission and whether this is part of the process. **Mr. Fox** explained that the board should recommend this be added to the check list. Clerk Semus added that the check list has been updated.

Mr. Marchetti felt we should be sure that the exemptions from the original ordinance as still in place. He was told this is correct. However, Mr. Pinto noted that anyone to be exempt must submit to the forester a detailed plan of what they want to do. Mr. Marchetti wanted everyone to be aware of this. Mr. Fox agreed that there may be many concerns.

Committeeman Higgins felt questions in regard to this ordinance should be addressed during the public hearing at the Township Committee meeting. This is before this board to determine whether it is consistent with the Master Plan.

Attorney Coleman explained the duty of the board to determine whether it is consistent with the Master Plan. Planner Fox has already made that determination. However, he was concerned that it might be inconsistent with the Farmland Preservation and the State Certification Laws as well as procedures for the review of tree protection and tree removal issues when applications are before the JLUB.

A motion was offered by Frank Pinto and second by Mayor Magee that Ordinance 2021-24 is consistent with the Master Plan and approve the following attached Resolution Number 2021-24. The motion was carried on a Roll Call Vote, recorded as follows:

**AYE: PINTO, MAGEE, TAHIRAK, GROUSER (see below) HERBERT, HIGGINS,
WAINWRIGHT, PATEL, SCHWARTZ, SENESE, MARCHETTI**
NAY: NONE ABSENT: BORGSTROM

Jeff Grouser commented that he requested the board review the exemptions and let the exemptions be exemptions. Colleen Herbert agreed with Mr. Grouser's comments and encouraged the Committee to make those modifications. Mr. Wainwright and Mr. Marchetti agreed with the comments of Mr. Grouser and Mrs. Herbert.

RESOLUTION 2021-24
(A copy of this Resolution is on the following pages.)

ORDINANCE 2021-35

AN ORDINANCE OF THE TOWNSHIP OF MANSFIELD, COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF MANSFIELD, CHAPTER 65 "ZONING" TO CLARIFY THE ZONES IN WHICH "MASSAGE ESTABLISHMENTS" ARE A PERMITTED USE AND TO ADOPT AND CREATE A NEW CHAPTER 40A OF THE CODE OF THE TOWNSHIP OF MANSFIELD ENTITLED "MASSAGE ESTABLISHMENTS"

Planner Ed Fox explained that this is a new ordinance to insure the public health and safety of the community consistent with the Master Plan related to this specific type of use to make sure the uses are registered, there are qualifications and registration for the owners and licensing and also to make sure that the folks who work in the establishment are professionals and licensed. The licenses have to be displayed. **Mr. Fox** said he believed this ordinance is consistent with the Master Plan for the purposes of making sure of the public health and safety as well as making sure it is legitimate personal services. He did recommend that the JLUB request that the Ordinance specifically indicate that Massage Establishments are conditional principal uses and conditional accessory uses because they are treated differently than permitted conditional uses. Mr. Prime had agreed with this. Otherwise, he felt it is consistent with the Master Plan.

Mayor Magee made a motion that Ordinance 2021-35 is consistent with the Master Plan and adopting Resolution 2021-25, including comments made by Mr. Fox. The motion was second by Frank Pinto and carried on a Roll Call Vote, recorded as follows:

**AYE: MAGEE, PINTO, TAHIRAK, GROUSER, HERBERT, HIGGINS,
WAINWRIGHT, PATEL, SCHWARTZ**
NAY: NONE NOT VOTING: SENESE, MARCHETTI
ABSENT: BORGSTROM

BOARD COMMENTS:

Mr. Schwartz felt there should be clarification of procedures of the Board in considering Ordinance referrals. He felt people get confused about timing and not being clear about the process. Mr. Schwartz felt it would be helpful to review the process.

Mr. Fox said he could address Mr. Schwartz's concern by reviewing some literature available from the NJ League of Municipalities, NJ Planning Officials, and NJ Planning Association on the roles that the JLUB has in reviewing Ordinances for consistency with the Master Plan.

Attorney Coleman said he and Mr. Fox can obtain materials to help the Board members understand their role better. **Mr. Fox** added that he has, in other occasions, seen the municipality request that, before any land use ordinances are adopted, there would be a policy impact statement created by their professionals indicating, in their opinion, how the proposed action may affect the environment, economy, social justice, transportation, utilities, etc. Some municipalities have this although not many. This may be something they want to discuss with the Township Committee in the future, although this is costly.

Mayor Magee explained the statutory process for a land use ordinance begins with the first reading or introduction at the Township Committee followed by referral to the Planning Board for recommendations followed by second reading wherein the public can comment or ask questions. The Planning Board is to consider whether the ordinance is consistent with the Master Plan. The Township Professionals will guide the board wherein the board will consider the Professional's advice. If they have any comments about the contents of the ordinance, these comments can be made during the second reading of the ordinance at the Township Committee meeting.

Jeff Grouser felt that the consistency with the Master Plan is where the doubt is. He said he didn't know whether it was consistent or not and what does he have to look at to decide. Where do they look? **Mayor Magee** said the planner reviews the consistency and makes a recommendation. **Mr. Fox** further explained that this is an interpretation and opinion. There is a master plan which is available for review. **Mr. Fox** further explained that the Board's decision is whether they agree with the professional's opinion.

Mr., Marchetti felt any additional training material would be helpful.

PUBLIC COMMENT

There were no comments. A motion was offered by **Colleen Herbert** and second by **Committeeman Higgins** to close the public portion. Motion carried.

MOTION TO ADJOURN

A motion was offered by **Frank Pinto** and second by **Carl Schwartz** to adjourn. Motion carried.

PREPARED BY:

RESPECTFULLY SUBMITTED BY:

Barbara A. Crammer, Deputy Clerk

Linda Semus, Secretary

