

wide parking space, adjacent to the patio with 5 ft wide striping, will be increased to 8 ft wide striping.

Mr. Topping opened the floor to the public for questions.

Residents posed several questions. Would planting assist to minimize noise? Where is the material study for noise? What would be the impact of lights with additional ones added? Would expansion towards the parking area impact the driveway for two-way traffic? Would there be sufficient buffering for driveway?

Mr. Tesla responded that the plants would minimize the noise and no additional lights are to be added to the existing lights. There is no encroachment on landscaping by the driveway to allow sufficient room for two-way traffic. For screening, there will be steel type bollards every 5 ft to be cemented into the ground, along with arborvitae.

Mr. Topping invited additional questions from the public, no one responded, the public portion was closed.

In reference to Mr. Cosenza's memo, Mr. Renaud questioned the hours of operation and seating. Applicant does not comply with hours of operation as suggested by Mr. Cosenza and does not agree to decrease seating to 24 or 16. Aside from those two items, Applicant has agreed to comply with Mr. Cosenza's suggestions.

Mr. Tesla was in agreement with Mr. Renaud's statement.

The Board asked for explanation of additional buffering.

Mr. Tesla commented that Applicant is willing to comply with suggestions made by the professionals. Additional fabric and shrubbery will be added for buffering. Bollards are an upgrade. The rooftop fabric will conceal noise. Criteria that the Planner presented has been met. Light music will also buffer some of the noise.

There was a discussion between Mr. Tesla and the Board. Applicant must take the neighbors' concerns into consideration and adhere to the noise ordinance.

Mr. Renaud stated that based on the regulation, noise should not extend beyond the property line. A condition could be included that Applicant must comply with Borough's rules for noise. A response to the Engineer's request for bollards to be no more than 4 ft. apart was required.

Applicant was in agreement to Engineer's request.

Mr. Dubowsky reintroduced Mr. John Barre, Planner.

Mr. Barre stated that feedback given to the Applicant from the last hearing had been taken into consideration and mature trees would not be removed from the property. The patio will remain in place. Adding bollards will enhance safety. The issues raised by the Planner had been discussed. Positive testimony from previous meeting was also taken into consideration. Outdoor dining has become part of the restaurant business, in part, as a response to Covid and safety.

Mr. Topping opened the floor for questioning.

Residents inquired about the presence of a restaurant being suitable in a residential zone. Question was raised whether Covid fell under the expertise of a planner? Would patrons be gone by 10:00pm? Was use of the patio for dancing/events part of the application?

Mr. Barre responded that the restaurant is a suitable business for the area. This is a pre-existing non-conforming use that predates the zoning rules. Nature of the restaurant business and use have evolved. There is a need to adapt to changes. To scale back would not meet the demand. The restaurant would cease operation at 10:00p. Tables would not be cleared for dancing. The proposal is for a limit of 36 people and that number would not be exceeded.

Mr. Topping closed the floor for testimony of the Planner.

The Board inquired about the building of the pergola, inclusion of an ADA parking spot, and valet parking that was

to be provided. How would that be implemented? Applicant neglected to adhere to this condition

Mr. Dubowsky responded that it would be based on approval of the Board. Applicant wants what is best for the Borough and patrons. They will adhere to the approval. Condition for the valet parking was not required because cars did not need to be stacked. There were limited cars allowed in the lot.

Mr. Renaud said outdoor dining is allowed through to November 1, 2022, as mandated by the State, but beyond that date, Board approval would be required.

Mr. Constantine Papanicolaou, Applicant, who was sworn in from the previous hearing, stated that the application that received approval for a tent was withdrawn.

Mr. Renaud corrected that statement. Although the outdoor dining portion was withdrawn, the application was heard and approved by resolution with conditions. The Board may allow relief from those conditions.

Mr. Papanicolaou insisted that patrons do not park on Linden Avenue. Parking is allowed across the street from the restaurant and in the church's lot. The restaurant cannot compete with other restaurants without outdoor dining as an option.

The church's lot being available for patron parking was discussed by the Board. Conditions for parking could be included in the resolution. Valet parking may be stipulated as a condition when needed. Formalizing an agreement with staff parking may be of concern. Application shows that the noise level has drastically improved from last month's hearing. A repeat of Applicant's parking history was of concern.

Mr. Topping opened the floor for public comments.

Residents in support of the application stated noise was not an issue, considered the restaurant a great neighbor, felt parking in front of residents' homes was acceptable, thought dining outside was good for health reasons and compromise could be sought. It could succeed in this environment and help the community.

Residents in opposition of the application stated that application should be focused on fulfilling the requirements of the approved resolution and not ask for an expansion. Families do not want a garden party next door or in their backyard every day regardless of the type of music. There are older houses than the Inn just as historic. Parking, light, and noise all are negative aspects for the neighborhood. There has been no consistency for operation under the Master Plan. The restaurant is not suited for the location. Operating hours from 11a -10p everyday in someone's backyard is not a positive, especially with people spending more time at home. Driving is a hazard. Outside dining is not a necessary due to Covid. No credibility on the previous promises made. Patrons do park on Liberty Street. Claim that doctors do not want valet parking is untrue. Houses will not be sellable with a restaurant in the neighborhood. Intersection between Linden Avenue and Rt. 27 is dangerous for patron parking. Hard to see pedestrians crossing especially at night. Complaints about the noise has been reported to the Metuchen Police. Children have behavioral issues due to the constant noise. The proposal for arborvitaes as screen is insufficient. Linden Avenue resident distributed Exhibit, G1 to illustrate light going into the house. Safety is a concern. July 18, 2022 a tree prevented an employee's car from entering her backyard (Exhibit G2).

Mr. Topping invited additional questions for the Board. No one responded, the floor was closed.

Mr. Dubowsky expressed appreciation to the Board for their time. Applicant would like to compete with other restaurants and offer outdoor dining. Applicant has attempted to execute what is expected. Mr. Papanicolaou has had contact with the residents directly behind the restaurant to rectify issues. The Inn was given variance approval. Parking and seating capacity has not changed, just the request to include outdoor dining. People like to have options. Applicant has always done what is expected when granted the variance.

Mr. Renaud explained the details of a motion to grant or deny the variance. Motion to grant the variance would require the conditions to be discussed and a vote to follow. It is a D2 Use Variance to permit the expansion of a non-conforming use. There has to be special reasons for the granting of the variance contained in the MLUL. Variances are related to land uses and not economics. Motion to approve would require a discussion for conditions and would require five votes. A motion to deny would require four votes.

The Board discussed Conditions before the motion; 36 seating capacity, handicap stop to be rectified, landscaping subject to Planner's approval. Application has been improved. The noise and light issues have not been quantified or addressed by the Applicant. Three new trees offered to buffer the noise were inadequate. Mask has become part of society and there is a need to support this option. Applicant can require a vote or return with additional solutions for noise and light. Expert witnesses were unable to testify to the light and sound levels. Application lacks key information for vote to be taken unless the Applicant insist.

Mr. Constantine elected to return in August with additional expert testimony for sound and light.

Mr. Topping announced that the Application would be carried to August 11th, 2022, in the Council Chambers at 7:45pm, and no additional notice would be given.

NEW BUSINESS:

22-1333 Classic Tattoo Club – Applicant is applying for approval of a use variance to operate a tattoo studio in A B3 Zone/Arts District.

327 Main Street

Block 145

Lots 17 and 18.02

Mr. Renaud stated that the Application is for a D Variance for a use not considered at the time the Zoning Ordinance was adopted.

Mr. Jace McColley, Applicant's Attorney, stated that Principal Owner of Classic Tattoo is Mr. Michael Riveley, who has operated a tattoo shop in Edison since 2019. He would like to open a shop in Metuchen, but the area is designated for other uses. Classic Tattoo would satisfy the requirements for a tattoo shop and will service the public needs. It is a high-end studio, specializing in custom drawn art. This type of business is agreeable with the character of the neighborhood.

Mr. Michael Riveley was sworn by Mr. Renaud. He is a resident of Metuchen with over 18 years experience in the tattoo business. He has worked in several towns throughout New Jersey, including Trenton, Somerville and New Brunswick. Modifications for the shop includes the addition of three sinks to the rear, and a half wall approximately 6 ft from the entrance for a waiting area. A total of three artists will be employed with the possibility for a fourth. Each artist will have their own cart of supplies. Shop will have adequate lighting, barbers' chairs and tattoo tables as needed. There will be six onsite parking spaces dedicated to the business, with additional parking in the area. The back area of the property has 20 total parking spaces with two designated for handicap. There is no odor or loud noise from this business. Artists will have one to two appointments per day. Hours of operation are 12:00p – 9:00p with artists setting their own schedules. All required New Jersey sanitary code courses have been completed. OSHA rules will be practiced including disposal of needles as mandated. New signage measuring 26in x 96in is proposed similar to the Edison shop. Approval of signs will be required. No free-standing sign is proposed.

Mr. McColley presented Exhibit E (photographs of the Edison studio). The appearance and layout of the shop proposed will be similar to the one in Edison. Exhibit F was presented to illustrate sign changes. The shop will create a modern, desirable visual effect for the town. Granting of the variance will not be a detriment. There will be no disturbances. The business will not be burdensome to the neighboring businesses. With no site changes proposed, a waiver of site plan approval was requested.

Board agreed that the use is considered personal care and habitation of the space would be agreeable with area.

Motion to approve was made by Ms. Sielski and seconded by Mr. Rabinowitz. Ms. Sielski, Mr. Tobin, Mr. Rabinowitz, Mr. Schuchman, Mr. Capp and Mr. Topping voted yes. Motion was approved.

Motion to close the Public Portion was made by Mr. Capp and seconded by Mr. Rabinowitz.

CORRESPONDENCE:

Minutes, June 9, 2022

Motion to approve was made by Mr. Capp and seconded by Mr. Sondergard. Voice vote, with all in favor, the

minutes were approved.

ADJOURNMENT:

Motion to adjourn was made by Ms. Sielski and seconded by Mr. Rabinowitz. With all in favor, the meeting was adjourned by 11:19pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.E. Hamilton". The signature is written in a cursive style with a large initial "D" and "H".

D.E. Hamilton