

CITY OF OSWEGO

PLANNING BOARD

August 4, 2020

MEMBERS PRESENT: Daniel Breitweg, Kim McPherson, Jeffrey Hinderliter, James Scanlon, Matthew Bacon, and Chairman Freeman.

MEMBERS ABSENT: Cory Moshier and Brit Hallenbeck.

Chairman Freeman called the meeting to order at 6:33 p.m., Tuesday August 4, 2020. Roll call was duly noted.

A motion to approve the minutes of the July 2020 meeting was made by Jeffrey Hinderliter and seconded by Daniel Breitweg; minutes unanimously approved.

Chairman Freeman made a motion that all actions taken tonight are excluded, exempt or Type II actions for the purpose of the State Environmental Quality Review Law unless otherwise stated. Motion seconded by Matthew Bacon, unanimous approval.

NEW BUSINESS:

1. Review & Approval of Signage – Maria’s Family Restaurant – 111 West Second Street, Case 20-95; Downtown Oswego Design Standards B.2.4 – Signage (Awning/Wall).

DISCUSSION: Maria Conzone was present for the discussion. Ms. Conzone said she would like to put a sign on the front of the building and on the side. She showed an image of what the sign would look like. She said the sign on the side would say the same thing and would be black, gold, and white. She said it would say Maria’s Family Restaurant, Breakfast, Lunch and Dinner and the phone number. She said she wants to be able to be seen from Bridge Street. Jeff McGann said the B.2.4 downtown sign standards are a little different than everywhere else in the city. He said everywhere else in the city the wall sign standard is 3 square feet for every lineal footage of frontage. He said Maria has about 50’ of frontage so that would give her 150 square feet for a wall sign. He said the downtown guidelines say one square foot per lineal foot which would only allow for a 50 square foot sign. He said they don’t deny these when they come in because they are over the limit. He said they look at each case differently because everyone’s building size is different. He said she has a pretty good size wall there. He said she is proposing a 10x14 which is 140 square feet. He said he would encourage them to think about finding a middle ground between the 50 that is allowed and the 150 that is allowed in the different zone. He said maybe 90-100 square feet would be good. He said that is their decision if they decide to alter the 50 square feet. He said he feels 50 is a little small for the size of the wall. He said 150 would be pretty bold and brazen on that wall. James Scanlon asked if the square that is up there now is 150. Jeff McGann said the whole wall is bigger. He said there is no sign on the south side now. He said she redid the wall and it is done nicely and he likes the sign design. He said 10x14 looks a little bit like a billboard. He said they did the downtown design guidelines to control some of that. Kim McPherson asked if it would be seen from Bridge Street. Jeff McGann said even at 100 square feet you would be able to see it one and a half to two blocks away. Jeffrey Hinderliter asked if Councilor Hill had any comments on it. Jeff McGann said Councilor Hill questioned the fact that the downtown guidelines are 50 square feet and asked if the Planning Board had to stick to that or could they waiver from it. He said every building is different. He said the design standard would be a little small for the canvas that she has to work with. James Scanlon said if they go too small it will look proportionately odd on the white block. Jeffrey Hinderliter said that 10x10 would be just 4 feet smaller than the 10x14. He said it isn’t a huge difference. He asked if she owns the lot that the sign is facing. Ms. Conzone said it belongs to Bodified. Jeffrey Hinderliter asked if they are aware of any future uses that could block the sign. Jeff McGann said not to his knowledge. He said he isn’t aware of any future projects that are in the works. He said he didn’t receive any phone calls other than from Councilor Hill. He said Councilor Hill was concerned that the 140’ was too large and that there would be feedback after it went up if it was allowed to be that big. Matthew Bacon said he thinks 100’ is a good compromise. Kim McPherson asked if it is taking up the whole wall. Jeff McGann said no. Jeffrey Hinderliter said the image is a little out of scale. Jeff McGann said if it is 10x10 there would be about 5’ below and above the sign, depending on where they place it. He said it doesn’t have to be 10x10. He said if they approve 100 square feet then it could also be 8x12, etc. Kim McPherson asked if it is going to be lit up at all. Ms. Conzone said the front part

will be lit where the awning is. Jeffrey Hinderliter said if she is going to go high he would encourage her to do a more linear sign. He said rather than a square she could make it more like a banner. He said a banner across the top of the building wouldn't be blocked by something. He said then she could entertain down lighting on the roof. Kim McPherson said if it were up higher and longer with lighting, it would stand out. Jeffrey Hinderliter asked if there are any prohibitions to lighting. Jeff McGann said no, other than flashing lights. Jeffrey Hinderliter said he would encourage downlighting rather than up. He asked if their approval has to be for the exact sign that she is presenting. Jeff McGann said minor alterations wouldn't be a problem. James Scanlon asked if there would be a problem if she changes the colors. Jeffrey Hinderliter said they don't have a specific color regulation. He said they are really regulating the size. Jeff McGann said it is really just the size and the tastefulness of the sign which he believes is tastefully done. Chairman Freeman asked if there were any questions from the public and no one came forward.

DECISION: James Scanlon made a motion for approval of signage. Motion seconded by Daniel Breitweg, unanimous approval.

2. Discussion of Business Plan/Review & Approval of Signage – The Organic Earthling – 43 West Bridge Street, Case 20-96; Downtown Oswego Design Standards B.2.4 – Signage (Wall).

DISCUSSION: Lindsay and James Gaffney were present for the discussion. Ms. Gaffney said they brought a couple of products so they could get an idea of what they will be carrying in their store. She said they have an established online presence. She said they are looking to bring all-natural and organic products to the City of Oswego. She said they currently carry over 150 all-natural and organic products ranging from shampoos, soaps, toothpaste, teas, juices, dried fruits, nuts, vitamins, minerals, and herbal botanicals branded exclusively with their Organic Earthling name. She said they are currently working with several local and regional farmers to serve the City of Oswego with their products. She said they are dedicated to give downtown Oswego the best all-natural products to help the community boost their immunities and live a healthier, chemical-free life. She said they looked at several cities to bring their unique and beneficial products to market and they chose Oswego. She said the loft area at 43 West Bridge Street is perfect for their future plans for opening up a subdivision within their business of a healthy smoothie and frozen yogurt bar. She said they were warned to keep quiet about their CBD line of products. She said they were told that some would not understand the healing benefits of the hemp plant compound and that they would surely receive pushback on some of the products that they carry. She said some do not know the difference between medical marijuana and CBD products. She said they were skeptical at first to carry CBD but it worked so well on her husband's brain tumor and now there are so many great reviews from their customers. She said they are now strong advocates of CBD for inflammation and pain. She said in a country that has seen way too many atrocities with opiates and synthetic pain killers; they see it as an obligation to their customers to carry a natural remedy for pain and inflammation. She said CBD and an all-natural organic diet have reduced her husband's tumor to a point that brain surgery is no longer necessary. She said they will carry CBD products in their store and it is completely legal. She said they are not a CBD store. She said they are an all-natural health and wellness store. She said CBD accounts for just a fraction of their products. She said they looked into the code and it states that head shops and marijuana dispensaries are restricted. She said there is a distinct difference between having CBD in your store and being a marijuana dispensary. She said the main difference is the products available at each establishment. She said a CBD store only sells products that are CBD infused. She said this means that no products have a THC level that is above 0.3% if it is present at all. She said these are two different compounds from two different plants. She said one is the marijuana plant with high levels of THC and the other is the hemp plant that has a high concentration of CBD compound. She said CBD has no psychoactive properties but reduces inflammation and pain. She said marijuana dispensaries may have CBD in some of their available products but they may also contain higher levels of THC. She said the products at marijuana dispensaries are also medically approved by the New York State Medical Marijuana Program and you must have a license to sell marijuana in New York State. She said that is a license that they will not be pursuing. She said they cannot be considered anything close to a head shop. She said they will not offer any vaping or smoking products, marijuana novelties, and they do not support the smoking or taking of marijuana – medical or recreational. She said they are there to help

people get well and not to get high or do damage to themselves. She said they believe their business will be a great benefit to the community. She said they will have a certified nutritionist and health coach that will be working on site. She said upon approval they will schedule an inspection with Barbara from Oswego County for their food prep and their ability to sell farm fresh eggs, goat's milk, and cheese. She said their goal is to get the public thinking more about their health. She said long-term they would like to open the upstairs loft to have healthy fruit smoothies and frozen yogurt during the summer months. She said they have a letter of support from Mayor Barlow. Mr. Gaffney said in January he was practically bedridden with excruciating pain in his head. He said now he is up and about and starting a business. James Scanlon asked if they will be bringing any more of Comley's products in other than their milk. Mr. Gaffney said they are going to try to get as many of his products into their store as possible. Jeffrey Hinderliter asked what their business logo is. Mr. Gaffney said it is the earth with a praying/meditating figure. Jeffrey Hinderliter said it looks like there is a hemp plant behind it. Mr. Gaffney said they started with that logo but they aren't going to go with it. He said the sign on the front of the building will be a representation of the new logo going forward. Kim McPherson said CBD is not the emphasis of their business. Mr. Gaffney said it is not. Jeffrey Hinderliter said they spent a significant amount of time talking about CBD. Ms. Gaffney said they knew that was the reason they wanted them to come before them so they decided to attack it head on. Mr. Gaffney said the addressed it because it is a slam dunk without it. Jeffrey Hinderliter said he is aware there are some other businesses in town that sell some CBD products. Mr. Gaffney said there are a couple a stone's throw away from them. Jeffrey Hinderliter questioned if the day comes that marijuana products are legalized then what will be their business' position at that point. He questioned if research comes out and medicinal marijuana becomes readily available and people say it has benefit to health in some fashion would their position of business altar at that point to meet a market demand. Mr. Gaffney said their business is strictly health and wellness. He said they wouldn't dabble in recreation at all. He said they don't condone it at all. He said they probably wouldn't pursue a license for it. He said, long story short, if Governor Cuomo legalized marijuana tomorrow they are still the Organic Earthling with Comley's milk and nothing changed. Jeffrey Hinderliter said part of the reason he asks the question is so the answer will be on the record for the public's benefit. Jeff McGann said he would recommend they include that in a motion. Mr. Gaffney said if the business does well they would like to open up a healthy fresh fruit smoothie and frozen yogurt bar in the upstairs loft. Jeffrey Hinderliter asked if they need to approve/disapprove anything like that. He asked if they would have to come back to the Planning Board or could they approve it all tonight. Jeff McGann said it is definitely a different use. He said if that is definitely part of the plan then he would encourage that be included so they don't need to come back for a change of use. Jeffrey Hinderliter said it would be better to gain the approval now because once they approve the use it is for the life of the business. Chairman Freeman read an email from the City Attorney that stated "The question has been raised that since the business intends to sell CBD products, among other things (the owner's testimonial and company's business plan clearly state the sale of CBD products) is this a permitted use in the Traditional Downtown District. "Head Shops" are prohibited. However, the definition of head shop does not prohibit the sale of CBD products. If the product contained cannabis (THC, the component that makes one "high" then clearly this would be a prohibited (and still illegal) activity

anywhere in the City of Oswego – not just the Traditional Downtown District. I would not define the proposed uses to be operated out of the business as constituting a head shop. Frankly, there are other businesses within the downtown district that sell CBD products at this time. And, this is to be distinguished from those businesses that propose to sell vaping products, smoking paraphernalia, and other traditional products associated with a head shop (I encourage you to read the definition if you have questions). The signage is not offensive, nor does it give the impression that the use is inappropriate in any way. In the final analysis, I have no concerns with adopting a resolution approving the request”. Jeffrey Hinderliter asked if Councilor Hill had any comments on this. Jeff McGann said he had some of the same concerns that have been raised. He said it isn’t so much that CBD is being sold but what ratio and what extent CBD is being sold. He questioned what their ability to control it is so it doesn’t just turn into a CBD dispensary. He said is it truly 5% of the products have CBD in it or is it 10% or is it much more than that. He said the application emphasizes all the other products but the presentation focused much more on CBD. He said he thinks that’s the one thing the Board has to look at and try to determine - what percentage of CBD is it and are you comfortable with that and how do they control it if it becomes the biggest part of the business’ sales down the road. Jeffrey Hinderliter said a CBD store is not a prohibited use. He questioned how you would track that number and how do you legally enforce a percentage. Kim McPherson asked if they are similar to Green Planet. Mr. Gaffney said they are similar. He said the difference between them and Green Planet is that they actually have their own branded products. He said Green Planet is a store that sells multiple people’s products. He said Organic Earthling will also sell other people’s products but they could also take their own branded products to Green Planet to sell. Kim McPherson said Green Planet also has the CBD oil and it is a small fraction of their store. Mr. Gaffney said they have over 150 different products and only 12 or 13 are CBD products. Jeffrey Hinderliter said in their decision they have to be comfortable with the fact that if CBD becomes a cash cow they could see the business change if they needed to bring in more products to sustain the business. Mr. Gaffney said the store is 1,100 square feet. He said he doesn’t know that he could fill that up with CBD. James Scanlon asked if all their lotions are CBD. Mr. Gaffney said no. He said they aren’t going to sell hemp flower or pre-rolled hemp cigarettes. He said they don’t believe in smoking or anything like that. Matthew Bacon said he feels the sign fits in. He said he doesn’t feel you can put a percentage on it. He said it isn’t going to be a smoke shop and he is fine with it the way it stands. Jeffrey Hinderliter said they may want to make the approval conditioned upon they will not sell vaping products, smoking paraphernalia, or other products associated with a head shop.

DECISION: Matthew Bacon made a motion for approval of signage and business plan with the condition that it will prohibit the sale of marijuana, vaping products, smoking paraphernalia, and other products associated with marijuana. Motion seconded by James Scanlon, unanimous approval.

Jeffrey Hinderliter made a motion to adjourn at 7:26 p.m. Motion seconded by Daniel Breitweg, unanimous approval.

Approved: _____

Richard Freeman

Planning Board Chairperson

Jeff McGann

Planning Board Secretary