

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL SPECIAL MEETING HELD ON JUNE 9, 2021

The meeting was called to order by Mayor Kaminski at approximately 5:30 P.M. with the opening statement that the meeting had been duly advertised and met all the requirements of the Sunshine Law. Also present were: Councilman Kula, Councilman Miller, Councilman Verrilli, Manager Carrine Piccolo-Kaufner and Clerk Jane Bakalarczyk. Township Attorney Fred Semrau and Township Attorney Robert Rossmeyssl of Dorsey & Semrau were present via conference call and Zoom. Deputy Mayor Cicerale was absent from this meeting.

SALUTE THE FLAG

ORDINANCES

1ST READING:

2021-07

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 185, ZONING OF THE REVISED GENERAL ORDINANCES TO PERMIT DRIVE-THRU ESTABLISHMENTS IN CERTAIN ZONES AS A CONDITIONAL USE AND ESTABLISH STANDARDS FOR DRIVE-THRU ESTABLISHMENTS

Purpose Statement- the purpose of this Ordinance is to amend the Township of Hardyston Zoning Ordinance establish standards for commercial drive-thru establishments, and permit said establishments as a conditional use in the B-1 and B-2 zones, and as an accessory use to a permitted shopping center use in the C-R zone.

BE IT ORDAINED by the Township Council of the Township of Hardyston as follows:

1. Section 185-4, Definitions, is hereby amended as follows:

a. Drive-in use is hereby repealed and replaced with the following:

DRIVE THROUGH FACILITY– A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle.

b. The following definitions are hereby added as follows:

RETAIL, DRIVE-THROUGH (also referred to as retail drive-through) – A retail business as defined herein that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their vehicle.

2. Subsection C, Conditionally permitted uses, of Article VIII, B-1 Neighborhood Business District, Section 185-34, Use Regulations is hereby amended to add the following:

(6) Drive through facilities for a use/commercial activity permitted as a principal use in the B-1 zone

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3. Subsection C, Conditionally permitted uses, of Article IX, B-2 Highway-Business Service District, Section 185-36, Use Regulations is hereby amended to read as follows:

(2) Drive through facilities for a use/commercial activity permitted as a principal use in the B-2 zone

4. Subsection H, Drive-in drinking and eating establishments, of Section 185-58, Specific Conditions for conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby repealed and replaced with following:

H. Drive through facilities.

(1) Queues:

- (a) Queues shall be wholly contained on the subject property and shall not interfere with parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle access.
- (b) Queues shall be incorporated into the overall site circulation plan and shall therefore not have separate dedicated ingress/egress to surface streets. Additional site ingress/egress driveways dedicated to queues shall not be permitted.
- (c) Queue length shall be measured from the point at which queued drivers are required to wait the longest for the proposed service, whether that be the initial ordering point or the point of service delivery, back to the point at which entering the queue cannot interfere with parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle access. Under no circumstances shall parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle accesses or surface roadways and shoulders be considered acceptable parts of a queue.
- (d) Applicants shall provide a traffic study prepared by a licensed professional documenting relevant and verifiable local/regional traffic data of peak hour drive-through turn-over rates for the proposed use, and/or using corporate/industry data for similar uses or nationwide Institute of Traffic Engineers (ITE) data if no other data is available. The required queue length, per service delivery lane, shall be determined by utilizing the latest NJDOT Highway Access Permit System calculation for peak hour trips of the proposed use, dividing by the accepted hourly turn-over rate per service delivery lane, rounding the product up to the nearest integer, and multiplying by 20 feet per vehicle. Where there proposed use does not exactly match NJDOT or ITE nomenclature the closest use with the highest peak hour shall be used.
- (e) Minimum Length. In no instance shall the queue length be less than 200 feet (10 vehicles x 20 feet) per service delivery lane.
- (f) Minimum Width. In no instance shall a queue lane be less than 10 feet wide.

- (g) Bypass Lane. Queue lanes shall have a bypass lane not less than 12 feet wide to permit queued drivers the opportunity to exit the queue and reenter the parking lot and/or to allow emergency vehicles and other motorists to circulate passed the queue through the parking lot. Where there are multiple side by side queues, such as but not limited to car washes and banking institutions, the bypass lane shall be adjacent to the outermost queue.
 - (h) Queue entrances, exits, height restrictions, lanes, and directionals shall be appropriately signed and striped. Stop signs shall be provided where the queue exit intersects site circulation aisles.
 - (i) Trash and recycling receptacles must be provided within the queue at a rate of 1 for every 100 feet of queue length.
- (2) Buffer. Where adjoining properties are zoned or used for residential purposes there shall be a solid 6 foot fence and a minimum 3 feet wide landscape buffer with dense shrubbery that matures at a minimum 6 feet height. The fence and buffer shall be installed continuously adjacent to the queue and/or bypass lane inclusive of locations where vehicle headlights entering and exiting the queue can shine across the property line. The buffering is intended to protect adjoining properties from light, noise, and exhaust fumes.
- (3) Noise. The maximum volume of any exterior speakers used for taking orders shall not exceed 65dB. There shall be no speakers or sound making devices that are not part of the ordering system and no ambient background music shall be permitted.
- (4) Hours of Operation. Where adjoining property is zoned or used for residential purposes:
 - (a) Drive-through hours are restricted to 7 a.m. to 10:00 p.m. for all potential uses.
 - (b) Where the hours of operation for the drive-through use are less than those permitted for the internal use, the closing and opening of the drive-through must be clearly signed for approaching drivers.
- (5) Light. Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in Article XXVIII Outdoor Lighting of the Zoning Ordinance. Drive-through lighting, inclusive of menu boards and ordering stations, shall be turned off when not in operation. Excepting that a lit "Drive-Thru Closed" sign conforming with shielding and light trespass requirements is permitted at the queue entrance to alert approaching drivers.
- (6) Pedestrian walkways. Pedestrian walkways must have clear visibility, and be emphasized by enhanced paving or markings when they intersect the queues. Drive-through lanes shall be designed and placed to minimize their crossing principal pedestrian access ways or otherwise impeding pedestrian access. The entrance/exit doors of internal uses shall be located in such a manner that a person entering/exiting such use is not required to immediately cross a drive-through exit lane.

(7) Parking. The provision of drive-through service facilities shall not justify a reduction in the number of required off-street parking spaces for the accompanying use.

5. Subsection BB, Shopping Center, of Section 185-58, Specific Conditions for conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby amended and supplemented to read as follows:

BB. Shopping center.

(1) Principal uses and structures permitted in a shopping center.

(a) A shopping center, as defined in § 185-4, which may include the following uses:

- i. Retail sales of goods.
- ii. Retail sales of personal services and minor appliance or office machinery repair.
- iii. Delicatessens, bakeries, candy stores, food markets and grocery stores.
- iv. Restaurants.
- v. Banks.
- vi. Offices.
- vii. Fitness centers.

(2) Permitted accessory uses and structures.

(a) Other uses customarily incidental to the principal permitted use.

(b) Drive through facilities associated with the principal permitted use subject to the conditions for drive through facilities in Subsection H of Section 185-58.

6. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.
7. Repealer. All existing ordinances or parts of existing ordinances which are inconsistent with the terms of this ordinance are to the extent of such inconsistency repealed.
8. Effect. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Township Engineer Mike Vreeland and Dave Battaglia of Van Cleef Engineering, Inc., both present via Zoom, discussed the above ordinance with the Council. There was a discussion of the Township Council that this is a significant ordinance and impacts a number of commercial properties, and that there be a vetting of all potential conflicts of interest to make sure that members of the Governing Body can consider the ordinance. The Township Attorney and Township Manager agreed to review this matter and advise the Governing body in a future meeting. After discussion, it was the consensus of the Council to table this ordinance to a future meeting.

BILLS TO BE PAID: A motion was made by Miller to approve the bill list as presented, seconded by Verrilli. All in favor. Motion carried.

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PUBLIC PORTION: A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

EXECUTIVE SESSION:

BE IT RESOLVED by the Township Council of the Township of Hardyston on the 9th day of June, 2021, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
2.
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - () b. (8) Personnel matters.
 - () b. (9) Deliberations after a public hearing that may result in penalties.
3. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Motion to adopt: Miller
 Seconded by: Kula

MOTION	YES	NO	ABSTAIN	ABSENT
Kula	<u> x </u>	_____	_____	_____
Miller	<u> x </u>	_____	_____	_____
Verrilli	<u> x </u>	_____	_____	_____
Kaminski	<u> x </u>	_____	_____	_____
Cicerale	_____	_____	_____	<u> x </u>

Motion carried.

A motion was made by Verrilli to come out of Executive Session, seconded by Miller. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Verrilli to adjourn at approximately 6:10 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
 Municipal Clerk