

HAMILTON TOWNSHIP ZONING COMMISSION  
March 9, 2020

The meeting was called to order at 7:00 p.m.

Members present: Cadi Kelly, Dan Riegner, Amanda Webb, Brady Hood and Julie Perelman.

*(((Please add in approval of minutes here along with who made the motion, seconded the motion and the roll call)))*

All members reviewed and discussed the new Zoning Commission By-Laws. Mr. Kraemer noted the discussion and will be making the requested changes before bringing this back to the Board at their next meeting for an extensive conversation on them.

Mr. Riegner made a motion with a second from Mr. Hood to close the discussion about the Zoning Commission By-Laws.

Roll call as follows:	Cadi Kelly	Yes
	Julie Perelman	Yes
	Dan Riegner	Yes
	Amanda Webb	Yes
	Brady Hood	Yes

Ms. Kelly explained that this hearing is for the Consideration of Zoning Regulations for CBD Oil Establishments.

Mr. Alex Kraemer, Director of Economic Development and Zoning, presented the staff report explaining that this was brought forth on December 4, 2019, when the Hamilton Township Trustees passed a 1 year zoning moratorium on the issuance of zoning related permits and approvals for the principle and conditional use of land for hemp related/CBD oil purposes. The Trustees requested Zoning Commission review this matter to determine what, if any, regulations should be placed on CBD oil-specific retail stores. This is the second hearing on this matter. An ad was placed in The Pulse Newspaper for this hearing giving the description, date, time and location that this meeting would take place.

Looking at local municipalities such as Deerfield Township; they placed a one year moratorium on this matter approximately six months before Hamilton Township did. They have a proposal that actually went through the Warren County RPC approximately two weeks ago so we can review that. Mr. Kraemer also called and spoke with Anderson Township about any zoning regulations that they may have and they stated that they have only seen one CBD store pop up and do not have any regulations. The City of Montgomery also does not have regulations and they have one operating retail store. West Chester Township also only has one operating CBD retail store. The previously interested party that wanted this in Hamilton Township has since moved to Lebanon who does not have any regulations either.

Things that were discussed at the first hearing were not placing any regulations on the CBD Oil specific retail locations, having locational restrictions such as not allowing them within a certain distance of schools or within a certain range from another CBD retail location, permitting only CBD stores that sell USDA certified organic grade CBD Oil, or placing a cap on the number of stores allowed in Hamilton Township.

Deerfield Township's considerations for text amendments for regulations contain definitions for CBD Oil, CBD Oil Establishments (a retail establishment have 50% or greater of its merchandise dedicated to the sale of CBD products) and Hemp. They are also proposing that the owner shall demonstrate that the issuance of the zoning certificate would not increase the number of such CBD Establishments operating within the township at the time of the application to be more than one per each ten thousand (10,000) inhabitants residing in the township according to the most recent decennial census; any lot containing a CBD Establishment shall be located at least 2,500 feet from any lot containing another CBD Establishment; and the cultivation and/or processing of hemp shall be prohibited. Mr. Kraemer stated that there was actually a discussion at RPC amongst staff that they would like to see the percentage of sales dedicated to CBD products be lowered to between 30-40%. There was also no mention of the percentage of THC to be contained within the products. They are defining CBD as CBD, regardless of the THC in it.

Mr. Riegner asked if there was any discussion on the regulation or limits of "baked goods" containing cannibidoil. Mr. Kraemer replied that there was not a discussion of that type. Mr. Riegner is in agreement with the locational restrictions that Deerfield has proposed.

Mr. Hood stated that Kroger is currently selling CBD Oil and they are directly across a parking lot from a school and no one seems to be complaining.

Austin Musser with Frost Brown Todd spoke on the legalities of placing regulations/restrictions on CBD Oil Establishments within Hamilton Township. He explained that the Board is very much able to do this, however they should be diligent and realistic with the regulations that they would like to place. Each application is considered on its own; one business may want to open in the middle of a shopping center and another one may want to open on the fringe of a subdivision; those are obviously very different locations.

Ms. Kelly mentioned that Kroger currently sells CBD products, Dr. Titus who spoke at the last meeting sells products, as well as Walgreens and possibly even CVS. So there are already multiple locations in the township and if someone wanted to "get around" the regulations, they could just make sure they sell more of other products than they do CBD products. Who is really going to regulate this?

Mr. Musser responded that there are definitely enforcement issues with this. Most of the communities are proactive about the kind of uses that they do not like but it is dependent on how this is all defined within each municipality.

Ms. Kelly mentioned that the State of Ohio already categorized this as a cosmetic; therefore how can we regulate one cosmetic but not regulate another?

Mr. Musser again stated that they have to be very careful how those definitions are written as most of them could create a challenge for staff for enforcement.

Mr. Riegner commented that just because there could be challenges does not mean that they should not place regulations. He believes that having regulations will ensure that we get good stores and companies who know that there are rules to follow.

Ms. Perelman mentioned that we have a limited space of retail coming into the township so we should have the opportunity to know what it is that will be in our community.

Ms. Kelly stated that we have to protect ourselves from annexation therefore we need to know if our surrounding communities are looking into any of this as well. If we place regulations but a community next to us does not, then we risk negatively impacting a business and driving them away.

Continued discussion amongst staff occurred about their opinions on locational restrictions.

Mr. Musser gave his opinion from a legal perspective that based on the discussion during this hearing as well as reading through the minutes of the last hearing, the policy for wanting to keep them from clustering and to keep them spread out is better than the policy of locational restrictions such as being near schools and churches. If this board does want to place those restrictions and definitions, it is better to list the exact distances and make sure that the definitions are spelled out.

Ms. Kelly asked if anyone from the audience would like to speak in favor or in opposition of this subject. She then swore in all persons wishing to give testimony.

Dan Phipps commented that businesses usually know if there are too many close to one another, one or more will be driven out over time. He also referenced past annexations due to too many zoning restrictions.

Dan Wilson commented that Dr. Titus did not speak ill of this at the last meeting and we need businesses here in the township. His opinion is that we cannot keep running businesses out of Hamilton Township.

Ms. Kelly closed the public comment portion of the hearing.

Ms. Perelman asked for clarification that if they were to come up with any kind of conditional uses, there have to be definitions in place?

Mr. Musser responded that that is correct otherwise they are just a standard retail establishment.

Mr. Riegner and Ms. Kelly both stated that they think more information is important. They would like information on conditional uses as well as better ideas of what the Board thinks appropriate definitions might be.

Mr. Kraemer stated that he would get a drafted version of everything together and they could all discuss it extensively at the next hearing.

Ms. Webb mentioned that it might be helpful for the Board to have a visual of the zoning districts to also consider at the next hearing.

Ms. Kelly asked Mr. Kraemer if he could reach out to Maineville, Morrow and South Lebanon to see if these kind of regulations are on their radar or not?

Mr. Riegner made a motion with a second from Mr. Hood to table this discussion until the next Zoning Commission meeting.

Roll call is as follows:	Julie Perelman	Yes
	Dan Riegner	Yes
	Amanda Webb	Yes
	Brady Hood	Yes
	Cadi Kelly	Yes

Motion carries.

Ms. Kelly made a motion to adjourn the meeting. There was a second from.....

All in favor.