

Mount Laurel Township Zoning Board of Adjustment  
Regular Meeting Minutes  
October 4, 2023

**Opening**

The meeting was called to order by Chairman Gray at 7:00 p.m.  
The Pledge of Allegiance and Moment of Silence let by Chairman Gray  
The Open Public Notice was read by the Board Secretary  
Roll call was taken by the Board Secretary

**Attendance**

Members: Chairman Gray, Vice Chair Andersen, Mr. Blum, Mr. Francescone, Mr. Holmes, Mr. Kramer, Mr. Sharp, and Mr. Desai Board Professionals: Ashton Jones, Board Planner; Drew Pavlick, Board Engineer; Michael Angelastro, Board Traffic Engineer, Mr. McVey, Fire Marshal and Ed Campbell Esq., Board Solicitor Staff: Suzanna Baskay, Board Secretary

**Absent**

Mr. Bhankharia

**Review of Board Procedures** by Chairman

**Announcements**

Chairman Gray announced that the applications for Outdoor Advertising, ZB23-D-10, and ZB23-D-13, will not be heard and the applicant will re-notice when a hearing date is determined.

**Minutes**

9/6/2023 motion to approve by Mr. Blum, second by Mr. Sharp. All voted affirmatively.

**Resolutions**

**R-2023-ZB21**, Naavi Realty, ZB23-D-15, Mr. Blum made a motion to approve, Mr. Sharp seconded, all members voted affirmatively and the motion was carried.

**R-2023-ZB22**, Capuano Realty Corp., ZB23-D-14, Mr. Blum made a motion to approve, Mr. Sharp seconded, all members voted affirmatively and the motion was carried.

**Board Professionals were sworn**

- All those who testified during the hearing were sworn in prior to their testimony.
- All Those who offered expert testimony were accepted as experts by the board.

**Petitions before the board**

1. **Earl and Deborah Dion, ZB23-C-18**, 5 W. Cortland Ct. Block 1510 Lot 24 R-4 zone. This applicant is seeking a bulk variance from Township Ordinance 154-64 to allow 322.81 square feet of impervious

coverage outside the building envelope and to allow a patio 1.59 feet from the rear property line where 10 feet is required.

### **Witnesses Sworn**

Earl Dion and Deborah Dion

### **Exhibits Entered**

A-1, Land Survey; A-2, HOA Approval; A-3, Photo of patio from the side, A-4, Photo of patio from common area; A-5, Photo of patio from the rear of the property ; A-6, Photo of lake from the patio; A-7, Photo of the patio from the lake an A-8, Photo of a drain in the patio

**Stuart Platt, Esq.** represented the applicant and summarized the application.

### **Mr. Dion's Testimony**

Through question and answer format with Mr. Platt, Mr. Dion testified that his home is a 1,200 square foot rancher that had a small concrete pad and no basement. The Dion's wanted to expand the patio area for family and friends. The new paver patio was approved by the HOA and has already been installed. Mr. Dion stated that a few feet from the back door, the property is graded down and unusable for tables and chairs. The patio was installed to level the space. The HOA would not allow the patio to extend past either side of the home so it had to be in only the rear yard. He said the property backs to a common area with a lake which is approximately 20 feet from his patio. Mr. Dion testified that there are 2 existing drains on the lake side of the patio and drains have been installed in the patio. He said the patio has been installed since approximately April of this year and there have been no drainage problems.

**Mr. Jones** asked if the contractor encroached on the common area during construction.

Mr. Dion replied that he did not. He continued his testimony stating that he has received only compliments from his neighbors and he believes the patio has no detriment to the neighborhood or zone plan. Mr. Dion said he would not have purchased the house if he knew about the setback.

**Chairman Gray** asked the board engineer, Mr. Gray, if the retaining wall is an issue due to its location.

**Mr. Gray** asked the applicant questions regarding the construction of the retaining wall. After the discussion, Mr. Gray said he did not see any issue with the structural integrity of the retaining wall as it is 1½ feet from the property line.

**Mr. Jones** asked if the Township had inspected the patio.

**Mrs. Baskay** replied that there has not been an inspection.

**Mr. Jones** asked if the property was graded.

**Mr. Dion** replied that the contractor had built up the property to level it out. He said that the grading did not encroach beyond his property.

**Mr. Sharp** asked if there is a way to confirm there is no issue with the wall.

**Mr. Gray** replied he would need to see pictures of the construction as the patio was being built.

**Mr. Holmes** asked if a utility mark out was done

**Mr. Dion** replied it was not, all utilities are in the front of the property.

**Chairman Gray** asked the applicant what happened to prompt him to come to the board now since the patio was installed in April.

**Mr. Platt** replied that there is no municipal court action.

**Mr. Dion** replied that he got a notice from the township.

**Mrs. Andersen** asked if this should have been inspected.

**Mrs. Baskay** said there is no inspection for a patio alone.

**Mr. Kramer** stated that the HOA approval is dated July 2023.

**Mr. Platt** stated that the HOA approval was updated in July.

Chairman Gray opened the meeting to the public for questions or comments.

**Dianna Wessner**, 7 West Cortland Ct. spoke in support of the application.

**Elizabeth Donahue**, 3 West Cortland Ct. stated that her father is a neighbor and she is his caregiver. She spoke in support of the application and said the patio is beautiful. She said she had not seen any drainage issues.

**Helen Christine West**, 1 West Cortland Ct. spoke in support of the application.

Seeing no one else, Chairman Gray closed the public portion.

Chairman Gray asked for a motion. Mr. Blum made a motion to approve ZB23-C-18, and Mr. Francescone seconded. Roll call vote. Mr. Blum, Mr. Francescone, Mr. Kramer, Mr. Holmes, Vice Chair Andersen and Chairman Gray voted aye, to approve, Mr. Sharp voted nay, to deny, stating he has concerns regarding how the patio is affecting the ground.

Chairman Gray called for a break at 7:38 and reconvened at 7:40

2. **Martha Santucci, ZB23-C-19**, 6 Autumnwood Lane, Block 807.02 Lot 3, R-3 zone. This applicant is seeking bulk variances from Township Ordinances 154-64, 154-19, and 154-65 to allow 564 square feet of impervious coverage outside the building envelope and to allow a 318 square foot shed to be 3 feet from the property line.

#### **Witnesses Sworn**

Mrs. Santucci

#### **Mrs. Santucci's Testimony**

Mrs. Santucci testified that she is planning a pool and the requested impervious coverage is part of the pool project. The shed was installed in 2017 or 2018.

**Chairman Gray** asked for clarification on the amount of impervious coverage being requested outside the building envelope.

**Mrs. Baskay** replied that the total amount of impervious coverage outside the building envelope in the rear yard, including a concrete pad outside the shed, is 564 square feet. 250 square feet are allowed so the variance is to allow 314 square feet of coverage over the permitted amount.

Discussion took place regarding the Ordinance changes that went into effect on October 3, 2023. The changes include permitting 3 feet of concrete around a pool which is exempt from the impervious coverage calculations and that sheds are now permitted to be 200 square feet.

Mrs. Santucci continued her testimony stating that the proposed location of the concrete is due to a slope in the yard and to preserve as much grass area as possible. She also stated that the proposed patio is pavers not concrete.

**Chairman Gray** asked why they need the concrete between the pool and the shed. He noted that there are 2 decks, a patio and concrete on the side of the pool.

Mrs. Santucci replied that it is a common area to gather and for pool toys. The plan is to put some type of shade structure in that space due to the afternoon sun.

**Chairman Gray** explained the difference between a c(1) and a c(2) variance and the required testimony for each. He asked the applicant to give testimony for either type of bulk variance.

Mrs. Santucci replied that there is enough land remaining in the yard, there are also 3 existing drains in the yard and the engineer's plan calls for an additional 3 drains. Additionally, she stated that the property behind hers is a 2-acre tree lined lot. The homeowner would not be impacted in any way.

**Mrs. Andersen** asked if Mrs. Santucci would consider the project without the coverage between the pool and the shed.

Mrs. Santucci replied that the design is to allow a good amount of lawn to remain for her boys to play sports. That was the reason for shifting the project to the side of the yard rather than the center.

**Mr. Sharp** suggested Mrs. Santucci use stone instead of concrete or pavers.

Mrs. Santucci replied that stone is difficult with patio furniture.

Chairman Gray opened the meeting to the public for questions or comments. Seeing no one, he closed the public portion.

The board decided to vote on the shed and the impervious coverage separately.

Chairman Gray made a motion to approve the shed size and location and Mr. Francescone seconded. Roll call vote, Chairman Gray, Mr. Francescone, Mr. Sharp, Mr. Kramer, Mr. Blum, and Vice Chair Anderson voted agree. The motion was carried.

Chairman Gray clarified that the remaining variance is to allow 314 square feet of coverage outside the allowable 250 square feet.

Chairman Gray made a motion to deny the variance to allow the additional 314 square feet of impervious coverage, and Mr. Francescone seconded. Roll call vote, Chairman Gray, Mr. Francescone, Mr. Sharp, Mr. Kramer, Mr. Blum, and Vice Chair Anderson voted agree. The motion was carried. All members stated that the reason for denial is that the applicant did not prove the positive and negative criteria.

3. **Kushi Labs, ZB23-D-16**, 2000 Crawford Place, Suite D, Block 1300.03 Lot 4, I zone. This applicant is seeking a d(3) Conditional Use variance from Township Ordinance 154-56.C to allow a cannabis manufacturing facility 45.5 feet from the property line where 50 feet is required.

#### **Witnesses Sworn**

Ajay Patel, CEO of Kushi Labs and John Kornick, Applicant's planner and engineer

#### **Exhibits**

A-1, Resolution of Support from Township Council; A-2 Power Point 12 pages and A-3 Site Plan dated 2004

**Nicholas Talvacchia Esq.**, Cooper Levenson, represented the applicant and summarized the application. He stated that this is a conditionally permitted use. The facility is manufacturing not a dispensary. He stated that this is an existing building and existing condition. Mr. Levenson said there is no public contact.

**Mr. Patel's Testimony**

Mr. Patel introduced Exhibit A-2, power point presentation, and explained what Kushi Labs does. He stated there are 3 main parts to the supply chain. He testified that the manufacturer is in the middle spot. They take the flower and either package it for the cultivator or turn it into a material that could be used inside of a pen or a pre-roll or they pull a concentrate. He testified that no cash is exchanged and there are no smells or odors. Mr. Patel stated that they don't want anyone to know they are there so they will not have signage.

Chairman Gray stated that the variance is only for the 4.5 foot deviation and asked for testimony referencing that deviation.

**Mr. Kornick's Testimony**

Mr. Kornick introduced exhibit A-3, a previously approved site plan dated 2-9-2004. He noted the setback deviation of 4.5 feet in the rear of the building, at the bottom South property line.

Mrs. Andersen asked what is behind the rear of the property

Mr. Kornick responded that the tract is at the boundary between Mt. Laurel and Evesham and is in a regulated wetland and wooded area so it will never be developed with the current environmental regulations. He continued his testimony stating that all activity takes place inside with the exception of deliveries and parking. He said the standard is whether the site is still suitable for the use with the deviation of the setback. In terms of the positive criteria he stated that the application satisfied purpose (a), noting that the town council has already endorsed the application, purpose (b), and (c). In terms of negative criteria Mr. Kornick stated that the rear yard setback is an existing non-conforming use and has no substantial detriment to the zone plan or public good. He said in his opinion there would be no difference in impact to the community if the setback were 50 feet than the existing 45.5 feet. Mr. Kornick further testified that

**Mr. Talvacchia** stated that the Police Department toured the site and issued an email saying that the security plan is acceptable.

**Mr. Campbell** asked Mr. Talvacchia if it is correct that his application conforms to every part of the ordinance except the setback.

Mr. Talvacchia said that is correct.

**Mr. Campbell** noted Mr. Jones's review letter. He asked Mr. Talvacchia if it is his position that the submission waives being requested are appropriate because there is no change to the building.

Mr. Talvacchia answered affirmatively, he said they are just repurposing the building.

**Mr. Campbell** stated there is a c variance requested for parking space size and number.

**Mr. Jones** stated that the parking is deficient however, the zone would permit an office use, which is a more intense and could move right in. The manufacturing use is less intensive. The manufacturing use does not make the parking number deficiency worse. Mr. Jones said he believes the testimony for the d3 variance was sufficient.

**Mr. Angelastro** stated from a traffic perspective the use will have no impact.

**Mr. Patel** testified that the CRC requires any trash associated with the physical cannabis to be secured in a special room within the building. A private company will take it away. Non-cannabis trash will be disposed of in a shared dumpster.

**Mr. McVey** testified that the applicant has stated that they are not using any flammable process as part of the cannabis extraction. He stated that his comments have been satisfied.

**Mr. Sharp** asked about the delivery truck size and noted that the applicant stated there would be 8 employees but how many trips in and out with product?

**Mr. Kornick** replied that small sprint-type vans are used. He said there are 2 trucks per day.

Chairman Gray opened the public portion, and seeing no one he closed the public portion.

Chairman Gray made a motion to approve ZB23-D-16 and Vice Chair Andersen seconded. Roll call vote. Chairman Gray, Vice Chair Andersen, Mr. Sharp, Mr. Kramer, Mr. Holmes, Mr. Francescone, and Mr. Blum voted agree. The motion was carried.

4. **Higher Leaf, ZB23-D-17**, 813 East Gate Dr. Block 1201.04 Lot 1.02 I zone. This applicant is seeking minor site plan approval and a d(3) Conditional Use variance from Township Ordinance 154-56.C to allow a cannabis retail facility to be located 48.98 feet from the rear property line where 50 feet is required and to allow less parking than required.

#### **Witnesses Sworn**

Matthew O'Boyle, Architect; Greg D'Agostino, applicant representative and Matthew Seckler, Traffic Engineer and Professional Planner

#### **Exhibits**

A-1, Page 2 of the Site Plan

**Amanda Curley Esq.**, Day Pitney, represented the applicant and summarized the application. Ms. Curley stated that the applicant is not proposing any changes to the existing office building. The only standard the applicant does not meet is the required 50-foot setback, the existing setback is 48.9 feet. Ms. Curley noted that there will be 22 parking spaces dedicated to the Higher Leaf dispensary. With 22 parking spaces, the dispensary will have the required parking but the other tenants will be deficient. Therefore, the applicant is seeking a parking variance for the other tenants. The office building which currently has one tenant has 70 spaces and requires 80. She stated that this is an existing condition, the parking currently does not comply. Additionally, she stated that the applicant requires a variance for a loading spot. They will not have one. She stated that she does not believe the applicant requires bulk variances for EV stalls because this is not a Site Plan application and because the proposed retail use is less than 25 parking spaces. The remainder of the building is not retail. She stated that they also do not need a variance for parking space size. The stalls are 9x18, the ordinance required 10x20 but they are existing and the application is making no changes to the outside of the building. Ms. Curley said the only condition the applicant does not meet is the 1-foot setback deviation. She stated that Higher Leaf did receive a resolution of support from the Township Council and has met with the Police Department regarding the security plan.

**Chairman Gray** suggested we begin testimony with the parking and the planner. He asked Mr. Angelastro if he believes the site would have adequate parking.

**Mr. Angelastro** said he has no issues with the applicant's parking study and believes the site will have adequate parking. He said the site provides 92 parking spaces and the report shows peak parking demand of 81 spaces.

#### **Mr. Seckler's Testimony**

Mr. Seckler stated that the applicant has to show that the 14-inch deviation has no negative impact to the surrounding use. He stated that he does not see a negative impact to the surrounding area or zone plan. Using exhibit A-1, Mr. Seckler showed the area of the building where the condition is which is. He stated that the property remains appropriate for the proposed use despite the deviation.

**Chairman Gray** asked Mr. Jones if he believed the setback deviation negatively impairs the zone plan.

**Mr. Jones** replied that he did not.

Mr. Seckler continued his testimony. He stated that a loading space is not necessary because the deliveries will be made in sprinter-type vans. He said based on the ITE calculation there is excess parking so even if a van took up 2 spaces the parking would remain sufficient. Typically, deliveries occur during off-peak hours. He believes the ordinance requiring truck births is for spaces over 10,000 square feet and the retail portion of this building is 4,000 square feet. Additionally, he stated that the EV requirement does not apply because the retail component requires less than 25 spaces and because the lot is not a new lot. He stated that the parking spot size is preexisting. He testified that he believes the loading variance and the parking variance is a better zone plan than creating more impervious coverage on the site. He believes the variances satisfy purposes (a) and (g) of the MLUL and has no negative impact.

**Mr. Jones** stated there are 2 preexisting conditions regarding lighting and sidewalks noted in his review letter. Regarding the loading spaces, Mr. Jones believes it is better to take the building as a whole rather than for each tenant however, he does not disagree with the applicant's assessment noting that the majority of the building is office not retail and the loading spot is required only for retail.

**Mr. Gray** asked the applicant if the 22 dedicated spots would have signage and if there will be façade signs.

**Mr. Seckler** replied stated the applicant agrees that a bulk variance is required for the entire building but not for the purposes of the d(3) variance the applicant complies.

**Ms. Curley** replied that the applicant will be put on the monument sign and their façade signage will comply with the ordinance. The landlord has not agreed to sign the dedicated parking spots, he will provide a letter. The applicant's lease states they have 22 spots.

Mr. Gray asked about trash disposal

#### **Mr. D'Agostino's Testimony**

Mr. D'Agostino testified that the onsite dumpster will be used for regular trash. All cannabis is tracked seed to sale. If any product is recalled or needs to be destroyed, the product gets manifested into the seed to sale system and marked as waste. It is then stored in a vault until it is picked up by the wholesaler that sold the product to them. He testified that there is no consumption permitted on the property and the dispensary will have no outside storage of any product. The applicant met with Captain Baskay and Lt. DiPinto and walked

them through the security infrastructure onsite as well as the delivery process. They made amendments to the floor plan and infrastructure based on feedback from the PD and submitted the amendments to the PD. The applicant's conditional license has been converted to an annual license. The business will average 1 delivery per day.

**Mr. Kramer** asked how many customers are in the business per day at the peak part of the day and expressed concern regarding the backup of the traffic light.

**Mr. D'Agostino** replied approximately 250 per day.

**Mr. Angelastro** stated that the site should not impact the intersection at all reiterating that this is a permitted use in the zone. The traffic impact is already anticipated in the use.

Chairman Gray opened the meeting to the public.

**Michael Vuong**, owner of 400 Fellowship Rd., he objected to the variances for parking and the loading space. He said the location is not appropriate for the use and will cause significant parking issues. He stated that all 4 sides of the property are all first-class office buildings as was the previous tenant. He said the use is not consistent with the zoning code and the detriments outweigh the benefits. He noted the locations of other cannabis dispensaries in the township.

**Sunny Thakrar**, over 400 Fellowship Rd. stated that with the previous tenant, there were problems with employee overflow regardless of signage and notice. He stated that all the buildings share a common driveway. He said they are concerned with retail for a number of reasons.

**Mr. Holmes** asked if parking is still an issue after COVID

**Mr. Vuong** replied yes, their building will be 100% occupied in January. He stated that retail customers will not be familiar with the parking lot and there are blind spots.

**Mr. Holmes** asked if there have been accidents in that space before.

**Mr. Vuong** replied no, there have not.

**Mr. Sharp** asked Mr. Vuong if this were any other retail would you be objecting.

**Mr. Vuong** replied that generally he has an issue with retail and he does not believe it is an appropriate location for retail.

**Chairman Gray** noted that Township Council has said that a marijuana dispensary can go in this location and asked Mr. Vuong if the building was 14 more inches away from your property would that make that much of a difference.

**Mr. Vuong** replied that no it would not but parking and loading would be.

**Chairman Gray** said that their parking is compliant.

**Mr. Francescone** asked Mr. Thackrar and Mr. Vuong if they currently have a parking issue.

**Mr. Thackrar** replied no, they have 200 spaces but they are going to be fully occupied. He said there is a main parking lot where everyone wants to park and that is the lot directly in front of the applicant.

**Mr. Bhankharia** suggested signage on Mr. Vuong and Mr. Thakrar's parking spots.

**Mr. Vuong** and **Mr. Thakrar** responded that they tried that and it did not work.



Seeing no one else, Chairman Gray closed the public portion.

**Ms. Curley** stated that a large tenant occupying 11,000 square feet has vacated and her client should not be punished based on issues with a previous tenant.

**Mr. Francescone** asked if the applicant is taking the parking of the tenant that recently vacated.

**Ms. Curley** responded no, that tenant was in suits B and C there are 4 suites.

**Mr. Campbell** asked Ms. Curley to confirm that she does not represent the building owner but is asking for a variance on those uses and spaces on the balance of the building.

**Ms. Curley** stated that the owner did consent to the application and is fully aware of the variance request for the pre-existing, non-conforming condition. She stated that anyone going into this building is going to need a parking variance.

**Mr. Campbell** noted that it is confusing to ask for a variance for a building when you don't represent the owner.

**Ms. Curley** stated that the list of variances submitted with the application lists the bulk parking variance for the remainder of the building and the owner consented to that.

**Mr. Campbell** was satisfied that the request is clear and appropriate.

**Mr. Jones** noted that from a code standpoint, the proposed use has the same parking requirement that an office would require.

Chairman Gray made a motion to approve with the condition that the applicant will comply with the CRC requirements, Township ordinances, police department requirements and that there are no other deviations from any other conditional use standards and Mr. Sharp seconded. Roll call vote. Chairman Gray, Mr. Sharp, Mr. Kramer, Mr. Holmes, Mr. Francescone, Mr. Blum and Vice Chair Andersen voted agree. The motion was carried.

**Adjournment:**

Chairman Gray made a motion to adjourn at 9:15, Mr. Francescone seconded, all voted in favor.

Adopted on: November 1, 2023

Suzanna Baskay  
Suzanna Baskay, Secretary  
Zoning Board of Adjustment