

Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
March 1, 2023

Opening

The Regular Meeting of the Mount Laurel Zoning Board of Adjustment on March 1, 2023 was called to order by Chairman Gray at 7:00 p.m.

The Pledge of Allegiance and Moment of Silence were observed

The Open Public notice was read by Suzanna Baskay, Board Secretary

Roll call was taken

In Attendance

Chairman Gray, Vice Chair Andersen, Mr. Blum, Mr. Francescone, Mr. Holmes, Mr. Kramer, Mr. Sharp

Absent

Mr. Desai, Alt #1 and Mr. Bhankharia, Alt #2.

Professionals in Attendance

Ashton Jones, Board Planner, Drew Pavlick, Board Engineer, Mike Angelastro, Board Traffic Engineer and Brian McVey, Fire Marshal

Review of Board Procedures

Announcement

Jersey Wahoo's ZB23-D-03 has been carried to the April 5, 2023 Zoning Board hearing.

Adopting the Minutes

Chairman Gray asked for a motion to adopt the second regular meeting minutes of 2/1/2023, Mr. Francescone moved the motion Mr. Holmes seconded, all eligible members voted affirmatively and the motion was carried.

Approval of Resolutions

R-2023-ZB04, Carlucci's, ZB23-73-01, Motion by Mr. Francescone Second by Mrs. Andersen, all eligible members voted affirmatively and the motion was carried.

R-2023-ZB05, Katheryn Ruggieri, ZB232-C-30, Motion by Mr. Blum Second by Mr. Francescone, all eligible members voted affirmatively and the motion was carried.

R-2023-ZB06, Khai Hyunh, ZB22-C-29, Motion by Mr. Holmes Second by Mr. Francescone, all eligible members voted affirmatively and the motion was carried.

Professionals were sworn in.

All those who testified during the hearing were sworn in prior to their testimony.

Those who offered expert testimony were accepted as experts by the board.

Petitions before the board

1. Carlucci's Waterfront, ZB23-73-02, 876 Centerton Rd. Block 100 Lot 5. This temporary use approval is requested to allow 1 office trailer and 1 construction trailer to remain on the property for 12 months.

Jeffrey Hall Esq., Szaferman Lakind Blumstein & Blader, P.C. represented the applicant. Mr. Hall noted the previous approval for the subject trailers in March 2021.

Mr. Capuano summarized the application and previous approval. He requested the trailers to remain for 12 months and stated that the trailers are required for the second floor construction project.

Chairman Gray made the applicant aware that the trailers have been there for 2 years so the board is only able to approve 1 more year.

Mr. Kramer asked the applicant what the second floor project is.

Mr. Capuano replied that they would like the second floor to be for banquets.

Mr. Francescone asked Mr. Capuano when the construction will be complete

Mr. Capuano replied he does not know.

Mr. Sharp asked what the hardship is.

Mr. Capuano replied that they could live without the smaller storage trailer and the contents could be stored inside the building.

Mr. Campbell noted that there is no requirement to show hardship for a temporary use permit.

Mr. Holmes asked if the delay in construction is due to permits and the supply chain.

Mr. Capuano replied that there are permitting issues and supply chain issues.

Chairman Gray asked the Board Secretary if there are permits in.

Ms. Baskay replied that she is not sure if there are permits in but the applicant would need to come back to the Zoning Board in order to use the second floor of the restaurant for anything other than storage based on their prior approval.

Chairman Gray asked if there is no construction happening what is the construction office trailer for.

Mr. Capuano replied that Phase 1 of the project is happening to increase the structural integrity of the building to support the second floor.

Mrs. Andersen asked if the applicant will need the trailer again once the second floor construction begins.

Mr. Capuano replied that he did not know

Mr. Sharp asked Mr. Campbell if the applicant removed the trailer for 6 months and applied again would that restart the 3 year clock.

Mr. Campbell replied that he would have to see the application but if the temporary trailers are for the same thing it would appear they are not temporary.

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

Chairman Gray asked for a motion regarding ZB23-73-02. Mr. Francescone made a motion to approve, Mr. Sharp seconded. All members voted affirmatively and the motion was carried.

2. Patrick Whalen, ZB23-C-04, 9 Yearling Chase, Block 806.02 Lot 10 R-3 zone. This applicant is seeking a bulk variance from section 154-64 to allow an additional 208 square feet of impervious coverage outside of the building envelope.

Mr. Whalen Testified that the variance he is requesting is for three reasons. The first is safety, the home has a raised deck on the rear of the house and with 3 children he is concerned the children would be tempted to jump off. Pushing the pool toward the rear of the yard away from the raised deck but further outside the building envelope alleviates that concern. The second is energy, pushing the pool toward the rear of the yard

puts it in the sunlight so less or no heating will be necessary. The third reason is runoff, the natural grade of the property drains water to the rear of the yard. Moving the pool further back would assist with the runoff. He noted that there is a drainage easement in the rear of the yard. He stated that the proposed plan represents only 2.5% of the 8,200 square feet of usable space.

Mr. Sharp asked the applicant how much water the easement can handle.

Chairman Gray noted that there is an actual drain behind the property also.

Mr. Francescone asked where the water would go if the pool overflowed.

Mr. Jones said the water would follow the contours of the land to the drain.

Mr. Whalen stated that he asked his engineer if there would be any water runoff to the neighbors and the engineer said that there will not.

Mr. Sharp asked how much water would be directed to the drain.

Mr. Whalen replied there is no way for him to know that.

Mr. Jones stated that about ½ of the pool is in and ½ is out of the building envelope. He noted that the applicant actually needs more than 208 square feet of impervious coverage. Mr. Jones stated the calculation of 1,160 total feet of improvement outside the building envelope, of which 480 is pool and therefore not counted toward the maximum impervious coverage, which leaves 680 square feet of impervious coverage. Subtract the permitted 250 square feet and the variance is for what is left. Mr. Jones misstated the remaining impervious coverage as 330 square feet. The remaining impervious coverage based on Mr. Jones's calculation is 430 square feet.

Mr. Whalen noted that if he were to stay within the building envelope, he would be permitted up to 3,500 square feet of patio which is 3 times more than he is requesting, he is just shifting the patio outside the envelope.

Discussion took place regarding the positioning of the pool.

Mr. Holmes asked the applicant if the position of the pool is to maximize the heat from the sun.

Mr. Whalen replied that it is.

Mr. Campbell noted that the applicant is requesting less impervious coverage than he could have if he located it inside the building envelope and that if the applicant agreed not to add any additional impervious coverage without first coming to the board it may be a condition to consider.

Chairman Gray asked Mr. Whalen if he is willing to accept as a condition of approval, that he not add any more impervious surface without first coming to the board.

Mr. Whalen chose to move forward with the application as is, without conditions.

Chairman Gray opened the meeting to the public for questions or comments, seeing none, he closed the public portion.

Chairman Gray asked for a motion regarding ZB23-C-04. Mr. Blum made a motion to approve the plan as is without any conditions, Mr. Holmes seconded the motion. Roll Call vote. Mr. Blum, Mr. Holmes, Mr. Kramer, Mr. Francescone, Vice Chair Andersen and Chairman Gray voted to approve the motion. Mr. Sharp voted against the motion stating he believes the proposed coverage would cause a drainage problem. The motion was carried.

3. Austin O'Connell and Jenny Scarano, ZB22-C-28, 8 Bloomfield ct., Block 907.03 Lot 10 R-3 zone. This applicant is seeking a variance from section 154-64 to allow 340 square feet of impervious coverage outside the building envelope where 250 square feet is allowed.

Exhibits

A-1, page SP1 of plan submitted & A-2 Photo of fence

Mr. Damien Del Duca Esq., Del Duca, Lewis, represented the applicant and summarized the application. Mr. Del Duca described the property in its current condition noting that the existing gazebo will be removed. He stated that the home is in the Stonegate community, which has its own set of bulk standards separate from those in the R-3 zone. The rear setback line is 20' from the rear of the property. The current patio and deck are a total of 300 square feet outside the building envelope. The proposed project would add 90 square feet outside the building envelope. Mr. Del Duca noted that the R-3 zone requires 20,000 square foot lots however, the Stonegate community was approved with smaller lots. This lot is 8,517 square feet. Mr. Del Duca stated that this reduction of lot size results in a smaller building envelope. This is a unique condition that creates a hardship and therefore satisfies the positive criteria. With respect to the negative criteria, he noted that this variance is for only 90 square feet over the ordinance and 40 square feet more than there is currently. Mr. Del Duca noted the fence in the Stonegate property behind the applicant's home, stating that the property line is not visible to the naked eye and there is plenty of open space. He stated that this is another unique condition and the patio will not have an adverse impact visually or look crowded. Mr. Del Duca stated that the plan submitted to the Zoning Board on February 13, 2023 (plan date 2/9/2023) is the correct plan showing correct dimensions.

Mr. Giorgio Testimony

Mr. Giorgio, Lammey and Giorgio, is the applicant's architect and prepared the submitted plans. Mr. Giorgio explained the patio size and placement is due to the way the home and family function. The plan allows for a dining table for 6 and other furniture. He stated that the patio cannot be placed inside the building envelope because of the setback. The patio is generally consistent with the neighborhood and he does not believe there will be adverse impact on the neighbors. The applicant has agreed to remove the existing octagonal deck as a condition of approval.

Mr. Sharp asked why the applicant cannot do a wooden deck.

Mr. Giorgio stated that the home is slab on grade so the door is at grade.

Mrs. Andersen asked if the lot is significantly smaller than others on the street.

Mr. Del Duca replied that it is not smaller than others within Stonegate but smaller than others in the R-3 zone.

Chairman Gray opened the meeting to the public for questions or comments. Seeing none, he closed the public portion.

Chairman Gray made a motion to approve application ZB22-C-28 as shown on the plan, Mr. Francescone seconded. Roll call vote, all members voted to approve.

Chairman Gray called for a break at 8:08 p.m. and reconvened the hearing at 8:14 p.m.

4. Daylite Cannabis, ZB23-D-01, 1136 Rt. 73, Block 1306.01 Lot 8, B-zone. This applicant seeks Conditional Use Approval per Ordinance 154-43.D to allow a cannabis retail facility with less than required setbacks as well as Amended Site Plan approval

Witnesses Sworn

Steve Cassidy, Owner of Daylite Cannabis; Justin T. Ruby, P.E., Mainstay Engineering Group, Inc. and Rianna Kirchof, P.E. Dolan & Dean Consulting Engineers, LLC.

Exhibits

A-1, witness and Exhibit List; A-2, list of variances and waivers; A-3 Aerial image survey and A-4, Driveway improvement plan

Richard Wells Esq., Archer & Greiner, P.C. represented the applicant and summarized the application. He stated that the application is to allow a retail cannabis location at 1136 Rt. 73.

Mr. Steve Cassidy's Testimony

Mr. Cassidy is the owner of Daylite Cannabis. He testified that he has a background in hospitality and has received a conditional license for retail cannabis. He has also received a resolution of support from the Mt. Laurel Township Council. He stated that he has a conditional license from the State of New Jersey and is in the process of perfecting that license. Mr. Cassidy confirmed that, to perfect the license, the State Regulatory council will have to approve all policies and procedures and that he will comply with any recommendations of the state. Mr. Cassidy testified that deliveries will be made through the door in the rear of the building. Deliveries will be in Amazon type vans, no 18-wheelers or large trucks. There is an existing 11 x 17 parking space that will be enlarged to be 11 x 18. This will be the loading zone space. Deliveries will be made before opening or during off peak hours. There will be no more than 5 deliveries per week.

Chairman Gray asked Mr. Angelastro if an 11 x 18 space for loading is sufficient.

Mr. Angelastro replied that it is.

Mr. Cassidy testified that the only other site modification will be to widen the drive isle from the current 14 feet width to 18 feet width as requested by the township. He stated that the change will not adversely affect the functionality of the site.

Mr. McVey agreed.

Mr. Cassidy described the lighting that will be provided at the site. The lighting is not depicted on the current plan. A revised plan will be submitted showing the lighting.

Mr. Pavlick noted that the survey does not show what is at the site currently with respect to lighting. Mr. Cassidy testified that the landscaping will receive some "TLC", no significant landscaping will be done. He testified that totes will store trash and recycling within the building, no dumpster is proposed. Cannabis waste is disposed of with a distributor, the distributor will pick it up. With respect to signage, there will be a window sign in addition to the existing monument sign. Mr. Wells noted the state regulation requires the windows to be covered. The proposed window sign is opaque vinyl which will allow natural light in but will not allow people to see in the window. The window sign will be the size of the window requiring a variance for façade sign size to allow 49.77 square feet where a maximum of 40 square feet is allowed. Mr. Wells noted that there is no available space on the building itself for a façade sign. The existing monument sign will be refaced. Mr. Cassidy testified that the parking lot cracks will be filled and the entire lot will be sealed and restriped. He stated that he will meet with the P.D. regarding traffic control at the time of grand opening. Mr. Wells confirmed with Mr. Cassidy that he is aware of the impending NJDOT project which will potentially go through the property. Mr. Cassidy testified that he has no objection to providing any information requested in the professionals review letters.

Mr. Wells requested to amend the application to include a temporary construction dumpster onsite. Chairman Gray noted the amendment.

Mr. Ruby's Testimony

Mr. Ruby referred to exhibit A-3 and noted the existing and surrounding conditions. Using Exhibit A-4 Mr. Ruby described the site vehicle access. Access is right in and right out onto Rt. 73. The site triangle and stopping distances are compliant. He testified that the monument sign creates no sight obstruction. Mr. Ruby testified that the widening of the drive aisle will result in more impervious coverage however the impervious coverage is still well within the acceptable level. He stated that the widening will not have any effect on drainage or the fence on the property. Mr. Wells noted the applicant is requesting 4 inches of setback relief on the eastern side and 14 inches on the western side. Mr. Ruby testified that the deviation from the ordinance will not have any impact on the site's functionality or the neighboring properties.

Mr. Wells described the proposed various parking space sizes including some 9' x 18' spaces.

Mr. Ruby continued and testified that he believes it will be more beneficial to request relief for the 9 x 18' spaces than to reduce the number of spaces by making them compliant at 10' x 20'. Mr. Ruby testified that the spaces adjacent to the rear drive isle will be lengthened from 17 feet to 20 feet reducing the drive isle to 25 feet. He does not believe there will be a negative impact to the site. Mr. Ruby stated that the proposed monument sign is consistent with the surrounding signs.

Mr. Angelastro stated that he has no objection to the parking spot size variance. Based on ITE the average parking demand for this use, cannabis retail, is 19 spaces. Reducing the number of stalls may create a problem. He believes it is better to have more smaller spaces than fewer larger spaces.

Mr. Pavlick asked Mr. Ruby to testify as to how the 23 foot parking drive aisle in the front will function. He noted that ordinance requires 25 feet and RSIS requires 24 feet.

Mr. Ruby stated that the 23 feet will be adequate.

Mr. McVey stated that the aisle will work however it is a tight sight. If they (The Fire Department) need to, they are able to use a neighboring parking area. He stated that the applicant is making the site more accessible than it is currently.

Ms. Kirchhof's Testimony

Ms. Kirchhof will submit a report including a review of traffic counts with this use and a Letter of No Interest from the NJDOT. The site is eligible for a Letter of No Interest because 1. No work is proposed in the DOT Right of Way 2. There is no proposed lot consolidation or subdivision 3. There will be no significant increase in traffic. Using the ITE trip generation manual to estimate the traffic this site would contribute to the roadway network, Ms. Kirchhof found that the a.m. peak hours would not be impacted because the site will not open until 9:00 am. The p.m. peak hours would add an estimated 43 trips total. Saturday is estimated at 65 trips. NJDOT defines a significant increase as 100 trips or more during peak hours. Ms. Kirchhof said she will provide a draft of her letter to the Boards traffic engineer for review.

Mr. Kramer asked how many retail cannabis locations are in New Jersey right now.

Mr. Wells replied that it is difficult to say how many are operational now but over 600 retail licenses have been issued in the last 10 months.

Mr. Kramer noted the locations in Bellmawr and Edge Water Park have traffic issues. He has concerns that the parking will be inadequate and asked if the traffic exiting the parking lot will continue to yield to traffic entering the parking lot.

Mr. Angelastro replied that the yield was due to the 14 foot drive aisle which did not allow two-way traffic. He stated that that is the reason the applicant is being asked to, and has agreed to, widen the drive aisle to 18 feet, allowing two-way traffic.

Mr. Kramer restated his concern regarding parking demand.

Mr. Wells responded that Daylite Cannabis will have online ordering capability which will reduce the amount of time a customer will be in the building and parked. Additionally, his client will work with the Police Department regarding traffic upon opening. It is his experience that traffic will die down over the first couple of weeks.

Mr. Kramer asked when the facility will open.

Mr. Cassidy replied that they are going through the final stages of the full license to allow them to operate, the CRC has to do another walk through. He stated that the best case scenario is mid to late April (2023) but could be many months after that. He stated there are other dispensaries that will be open before that.

Mr. Jones noted that any other retail business would be compliant with respect to side yard setbacks, the requirement of a 20-foot side yard setback is exclusive to cannabis use, otherwise, 15 feet is the requirement. Mr. Jones asked if the applicant is requesting landscape waivers.

Mr. Wells replied, yes they are, exhibit A-2 is a list of requested variances and waivers.

Mr. Jones asked the applicant if they are willing to provide sidewalks.

Mr. Wells replied that there is a potential for NJDOT to knock down this site and he does not believe it is appropriate to add sidewalk if the site will be demolished. He requested a waiver for the sidewalk.

Mr. Jones noted that on a previous application to the Planning Board, it was decided that the applicant would ask the NJDOT what they want the applicant to do regarding sidewalks, and the applicant will comply.

Mr. Wells stated that they are happy to make the same request with the same condition.

Mr. Campbell clarified that the condition would be that sidewalks will be installed unless NJDOT says not to.

Mr. Jones continued that he believes there is room on the site for landscaping.

Mr. Wells agreed to work with Mr. Jones's office regarding landscaping.

Mr. Jones asked Mr. Wells to go through the D3 criteria before closing.

Mr. Pavlick asked Mr. Wells where the water runoff will be directed with the driveway expansion and if the runoff will go toward the Wendy's

Mr. Wells responded that the first sheet of their revised site plan shows the grassy area covering about half of the property and that all the runoff is directed to the rear of the property. The applicant's engineer has confirmed that no runoff will be toward Wendy's.

Mr. Angelastro reviewed his report dated 2/16/23 and noted that the applicant has agreed to comply with all his comments and major items. He stated that the ordinance requires 11 parking spaces and the applicant is providing 22.

Mr. McVey reviewed his report dated 1/23/23. The applicant has agreed to comply with item #1, he asked if the applicant will provide a Knox Box and if the applicant agrees to register with the Fire Department.

Mr. Wells replied that they agree to both.

Chairman Gray opened the meeting to the public for question or comment, seeing none, closed the public portion.

Mr. Wells stated that the applicant is requesting a Conditional Use variance, the standards are governed by Coventry Square. In general, the standard focuses on the impact of the deviation. He stated that the site remains suitable for the use notwithstanding the deviations. In terms of the negative criteria, Mr. Wells stated that the deviations do not have a negative impact on the surrounding neighborhood or on the Zoning Plan or Master Plan. With respect to the positive criteria, the deviations of 4 inches and 14 inches do not affect site functionality, circulation, access, traffic or overall operation of the site, in fact the applicant is improving site circulation by widening the drive isle. The increase in impervious coverage has no negative impacts. Therefore, the positive criteria outweigh the negative criteria. Further, the site does meet the ordinance for sensitive use buffers. Mr. Wells stated that the sign variances are subsumed within the Conditional Use variance so if the board finds that the applicant has met the positive and negative criteria then the sign variances are effectively proven as well.

Chairman Gray made a motion to approve ZB23-D-01 with the following conditions

1. Applicant will comply with recommendations and comments in professional reports.
2. Applicant will work with the Township Planner to maximize landscaping, particularly at the frontage on Rt. 73 and a waiver is granted for landscaping that cannot be practically provided

3. Sidewalks are required unless the applicant can demonstrate to the Board professionals that the NJDOT has recommended that they not be installed.

Mr. Campbell listed the variances and waivers being requested as shown on Exhibit A-2.

Mr. Sharp seconded the motion, Roll Call vote. All members voted affirmatively and the motion was carried. The application is approved including the amendment for a temporary dumpster.

Adjournment:

Chairman Gray asked for a motion to adjourn at 9:10, Mr. Blum made the motion all voted in favor.

adopted on: April 5, 2023

Suzanna Baskay
Suzanna Baskay, Secretary
Zoning Board of Adjustment