

**Mount Laurel Township Zoning Board of Adjustment**  
**Regular Meeting Minutes**  
**April 7, 2021**

**Opening**

The Fourth Regular Meeting of the Mount Laurel Zoning Board of Adjustment April 7, 2021 was called to order by Chairman Francescone at 7:04 p.m.

Pledge of Allegiance and Moment of Silence were observed

The Open Public notice was read by Suzanna O'Hagan, Board Secretary

Roll call was taken

**Board Members in Attendance**

Chairman Francescone, Vice Chairman List, Mrs. Andersen, Mr. Gray, Mr. Killen, Mrs. Liciaga, Mr. Sharp, Mr. Kramer Alt #1, Mr. Holmes Alt #2

**Board Professionals in Attendance**

Joseph Petrongolo, Planner; Michael Angelastro, Engineer; Brian McVey, Fire Marshal; Ed Campbell, Board Solicitor

**Announcements and Review of Board Procedures**

The Board Chairman announced that Legal Landscaping, ZB20-D-14 is carried to the May 5, 2021 Zoning Board meeting. Notice will be required

**Adopting the Minutes**

Chairman Francescone asked for a motion to adopt the regular meeting minutes of 3/03/2021. Mr. Killen moved the motion, Mr. Gray seconded, all present voted affirmatively and the motion was carried.

**Memorialized Resolutions**

1. **R-2021-ZB08** – Mr. Killen made a motion to approve R-2021-ZB08, Mr. Gray seconded, all present voted affirmatively and the motion was carried.
2. **R-2021-ZB09** – Mrs. Liciaga made a motion to approve R-2021-ZB09, Mrs. Andersen seconded, all present voted affirmatively and the motion was carried.

**The Township Professionals were sworn in.**

**Petitions before the board**

1. **Jay Patel, ZB#21-C-09**, 17 Sarah Court, Block 607 Lot 14.04, R-3 zone. This applicant is requesting variances from sections 154-65.E(1) of the Mount Laurel Township Zoning Ordinance to allow a 320 square foot pool house which is a second accessory structure where only one accessory structure is allowed, from section 154-16 to allow 20.4% of the lot to be covered by buildings where 15% is allowed and from section 154-64.A(2) to allow a patio 327 square feet outside the building envelope where 250 is allowed.

**Witnesses Sworn:**

Jay Patel, Homeowner and Harry Rice, contractor

Ronald DiSimone, Esquire represented Mr. Patel

**Mr. Patel's Testimony:**

Mr. Patel testified to the size and shape of his lot and his agreement with the measurements shown on the survey and pool plan submitted with his application. Mr. Patel stated that he would like to have the pool house to complete the aesthetic of the back yard and also to provide a convenient bathroom for his children and his aging parents to access from the pool. The nearest restroom is currently on the main floor of the home about ten steps up from the yard. He testified that there is a retention basin on both the rear and side of his property. On

the rear of the property is a tree line and his neighbor to the right is quite a bit away. The additional concrete requested is needed to put chairs for the pool. Mr. Patel does not believe the granting of the variance would be detrimental to the public good or impair the Zone Plan or Master Plan of the Township because it is not visible to anyone.

### **Harry Rice's Testimony**

Mr. Rice is the contractor for the proposed project. He testified that the proposed pool house is 16'x20' and 12' high. It will have a full bathroom and storage area with a seating area in front.

**Mr. DiSimone Esq.** summarized the requested variances as follows: 1.) From section 154-64 to allow the additional 327 square feet of concrete outside the building envelope. 2.) From section 154-65.E(1) to allow a second accessory structure being the pool house. Mr. DiSimone reiterated that there is a retention basin on two sides of the property and that the pool house will not impede on any of the neighbors. He stated that the hardship is the narrowness of the lot, the lot is 100' wide by 200' long and the home is over 3,500 square feet. He stated the home already covers 18.8% of the property and is an existing nonconformity. 3.) From section 154-64.A(2) to allow 20.4% of the property to be covered by buildings when 15% is allowed. Mr. DiSimone testified that the applicant has applied to the MUA.

Mr. DiSimone believes that under the C2 statutory criteria, the benefits outweigh the detriments of the project. The pool house would block the view of the retention basin and beautify the property. The variance can be granted without substantial detriment to the public good or impair the intent of the Zoning Ordinance. Under the C1 statutory criteria, Mr. DiSimone testified that the lot is narrow and is already overbuilt. This variance is required to have full enjoyment of the home.

**Mr. Kramer** stated his concern about water runoff from the yard. He asked if there has been engineer review to address water runoff.

**Mr. Patel** responded that the retention basin on the left of the property stays pretty full but the basin at the rear of the home is usually empty. That basin is there in case there is an overflow from the property which there has never been. He does not believe the pool house would affect the basin or his neighbor's yards in any way.

**Mr. DiSimone** referenced the grading plan showing that the water runoff would go toward the rear basin.

**Mr. Angelastro** agreed that no water runoff would go to the neighbor's property.

**Mr. Petrongolo** stated that the applicant has the burden of demonstration the positive and negative criteria. Stormwater runoff is a key issue that has been raised. The increased in paved area could have an impact although it may be minimal. A question that needs to be addressed is why are two structures needed.

**Mr. Patel** responded that the existing gazebo is part of the deck and does not have a solid roof therefore could not contain a bathroom.

Chairman Francescone opened the meeting to the public for question or comment. Seeing none, he closed the public portion.

The board decided to vote on the three requested variances separately.

**Chairman Francescone** asked for a motion to approve the variance from section 154-65.E to allow the second accessory structure. Mr. Killen moved the motion, Mr. Sharp seconded. Roll Call vote: Mr. Killen agreed; Mr. Sharp agreed; Mrs. Liciaga agreed; Mr. Gray agreed; Mrs. Anderson disagreed stating that she does not believe the applicant has shown a benefit to anyone but himself and the project does not advance the purposes of zoning; Vice Chairman List agreed and Chairman Francescone agreed. Motion carried variance approved.

**Chairman Francescone** asked for a motion to approve the variance from section 154-16 to allow 20.4% of the lot to be covered by buildings. Mr. Killen moved the motion, Mrs. Liciaga seconded. Roll Call vote: Mr. Killen agreed; Mrs. Liciaga agreed; Mr. Sharp disagreed stating that the applicant showed only a benefit to himself and concerns about stormwater runoff; Mr. Gray disagree stating the applicant did not meet the statutory criteria for a C2 variance; Mrs. Andersen disagreed stating the applicant did not meet the required criteria and concerns

regarding flooding; Vice Chairman List agreed and Chairman Francescone disagreed stating he concurs with previous statements that the applicant did not meet the required criteria for a C2 variance. Motion to approve is denied.

**Chairman Francescone** asked for a motion to approve the variance from section 154-64.A. No motion to approve. Chairman Francescone asked for a motion to deny the variance from section 154-64.A. Mr. Gray moved the motion, Mrs. Andersen seconded. Mr. Gray agreed to deny stating the benefits do not outweigh the negatives, no public good was shown, the intent of the zone plan would be impaired and he does not believe the property to be exceptionally narrow; Mrs. Andersen agreed to deny stating that the applicant did not establish positive criteria and she does not believe the property is exceptionally narrow; Mr. Sharp agreed to deny stating the required criteria was not met; Mrs. Liciaga agreed to deny stating the required criteria has not been met, not enough of a hardship; Mr. Killen agreed to deny stating no hardship was shown; Vice Chairman List disagreed stating that the ample retention basin would stop any water runoff issue and Chairman Francescone agreed to deny stating the required criteria was not met. Motion to deny is carried, the variance is denied.

**2. Trichome Analytical, LLC., ZB#21-D-02, 6000 Commerce Parkway, Block 1100 Lot 28, I zone.** This D(3) Conditional Use variance is being sought from section 154-56(18) to allow a marijuana testing facility within 1,000 feet of a residential zone or use. The applicant is also requesting a waiver of Site Plan review. Richard Wells Esquire, Archer & Greiner, P.C. represented the applicant.

**Witnesses Sworn:**

Kristen Goedde, COO & Laboratory Manager, Trichome Analytical; Eric Snyder President & CEO, Trichome Analytical, Thomas Barkley, Technical Manager of the Chemistry Department and James A. Miller, AICP, Professional Planner.

**Exhibits Entered:**

A-1 Power Point Presentation pages 1-12.

**Mr. Wells** summarized the application and explained the requirements for a D3 Conditional Use variance. He stated that due to recent marijuana laws the applicants use of a cannabis testing laboratory has effectively been legislated into necessity. The law imposes a requirement to have certain testing, compliance and reporting standards on these products which are performed by the applicant. Mount Laurel Township Ordinance 2018-17 allows, as a conditional use, certain marijuana businesses as long as they comply with a series of conditions. The applicant is required to show that the use is suitable for the site and to show that the specific deviation from the standard does not create a detriment to the neighborhood or substantially impair the purpose or intent of the zoning ordinance.

**Ms. Goedde's Testimony:**

Ms. Goedde testified to her background and role as manager of laboratory, accreditation, oversight of day to day sample processing, sales and marketing.

She shared Exhibit A-1 power point presentation. Ms. Goedde stated the purpose of third party testing is to protect the consumer. Trichome tests the product for contaminants and accurate dosing or percentage of cannabinoids in the product. Using Exhibit, A-1 Ms. Goedde explained the difference between marijuana and hemp. The difference can only be distinguished at a chemical level. Trichome currently tests hemp products from hemp producers for contaminants and potency for both adult recreational use and the medical market. Ms. Goedde explained the process for testing the product. Once the testing process begins the material is no longer consumable and the samples are very small, no more than 20grams. Trichome is the first ISO 17025 cannabis testing facility in NJ and Ms. Goedde is not aware of any other lab doing hemp testing onsite. The testing occurs at every harvest of every strain that a grower grows to test for harmful contaminants, the testing is a necessary part of the supply chain.

Currently Trichome employs 4 full time and 2 part time employees processing 5-7 samples a day. If the variance is approved staffing will change to approximately 20-25 full time employees over 2 shifts. Hours will be Monday to Friday 9am to 5pm. Samples are accepted 10am to 4pm. The majority of samples are mailed in through USPS approximately once a week a licensed producer will drop off a sample. Drop off is more

common during harvest season. If the lab tests marijuana it is likely that the lab will send an employee to the producer to retrieve the sample and bring it back to the lab, however the regulations have not yet been released so it is difficult to say. These pick ups would be no more than 3-5 times per day and would be done in a regular car or small van. The sample fits in a small cooler.

Each sample that comes in to the facility is given a unique ID. The weights of the sample are tracked throughout the facility ever time any material is removed for analysis the weight is recorded and the retained sample is sealed with tamper evident tape and stored in secure areas. The retained material has no real value it is a very small sample that has been milled and homogenized by the laboratory. It is not recognizable as a marijuana product. The solvents used to test the product are disposed of as hazardous waste through US Waste. After the retention period of 30 days expires the remaining retained sample is mixed 50/50 with soil and disposed of also with US Waste. No product is sold to consumers or other companies. This is a certified independent third party laboratory, therefore, the owners of this laboratory cannot have ownership in any other companies in this industry.

Ms. Goedde further testified that Trichome Analytical is licensed with the DEA for hemp compliance testing and registered to handle schedule 1 drugs and holds a NJ CDS Laboratory license for handling schedule 1 drugs. The ISO 17025 certification held by Trichome is a certification across multiple industries for third party laboratory testing demonstrating quality management system, security, impartiality etc. during the analytical process.

The building has key card access on the front and rear door and the laboratory. Security cameras are located around the perimeter as well as inside in all areas except the rest rooms and lunch room. The applicant has met with the Mount Laurel PD to discuss the security of the facility. Trichome's goal is to be in total state and federal compliance in case cannabis becomes federally legal.

The testing process does not produce any discernable odor, noise, vibration or dust and there is no reason for anyone on the outside to suspect what business is present in the facility. Trichome is not open to the public and there is no advertisement. There are other analytical testing laboratories in this zone including ITL and pharmaceutical compounding facilities, one being in the same building that Trichome is in. Ms. Goedde stated that it is not viable for this business to continue testing only hemp.

Ms. Goedde further testified that she understands the facility is within 1,000 feet of a residential use, 1,000 feet of a child care center and 2,000 feet of a behavioral health facility. She stated that there is no signage on the building and no indication of the testing of Cannabis or Marijuana. In Ms. Goedde's opinion, based on her experience in the industry, granting the requested variance would not have a detrimental impact on the surrounding area or sensitive uses.

**Mr. Campbell** asked Mr. Wells if his clients testimony is consistent with exhibit A1. Mr. Wells responded that it is.

### **James Miller's Testimony**

Mr. Miller described the uses adjacent to 6000 Commerce Parkway as primarily flex space and industrial uses and restated the required variances. Mr. Miller believes that the variance if approved would advance purposes A and G of the MLUL 40:55D-2. He believes the site remains appropriate for the use despite the deviation from the standards based on several reasons including that there will be no discernable change to the physical appearance of the building and the external activity of the use is limited to deliveries and commuting of the employees. these activities are indistinguishable from any other facility within the district including laboratories and testing facilities some of which are within the same building. He further testified that there will be no public visitation to the business, no retail use and no aspect of the use that would attract public visitation and no reason for the public to even know it is there. The impact of the use is identical to the impact of any other use in the industrial park. The quantities used for testing are very small and rendered unusable by the preparation procedure. The product is tracked throughout the facility and the facility will not cultivate, buy, sell or manufacture cannabis products at all.

Mr. Miller stated that the use will contribute to public health and safety by providing a needed testing service. He believes that all the stated factors combine to achieve the objectives of the proximity control and the use

remains fully appropriate for this site despite the deviation from the standards. He believes the positive criteria, as established by the Coventry Square case, is met.

Mr. Miller believes the negative criteria is met. He believes that the use will advance the public welfare by providing a testing facility that will ensure the safety of the products that it tests. He believes the testimony has shown that the proposed use will not adversely impact behavioral health facilities, residential areas or child care facilities. Mr. Miller stated that the Township Code was established before the procedures and regulations were in place and as a consequence it does not distinguish between a testing, cultivation, manufacturing and retail facilities. He stated that as the zoning protocols for regulating this use are evolving, there needs to be a distinction between the different marijuana related uses and that the controls that regulate them should reflect the impact of the given segment of the industry. Mr. Miller stated the difference in impact from retail, manufacturing/ cultivation and testing facilities. He stated that the residential, child care and behavioral health uses as well as the general public will all be protected and that the overall objectives of the ordinance will be achieved if this use is approved.

**Mr. Petrongolo** reviewed his letter dated 2-18-2021. He recommended that the board grant the submission waiver requests. Mr. Petrongolo disagreed with Mr. Miller regarding the establishment of ordinance stating that this use was contemplated while drafting the ordinance and agrees with Mr. Millers testimony regarding the use and site. Mr. Petrongolo asked for testimony to justify the waiver of the sidewalk requirement and asked the applicant to acknowledge the possible affordable housing requirement and their willingness to comply with the requirement if there is one. Ms. Goedde responded in the affirmative.

**Mr. Miller** addressed the sidewalk requirement stating that the applicant is a leasee in 1/6 of the building and does not have the legal right to install sidewalks. Further, there are no sidewalks in the balance of Commerce Drive. He does not believe there is pedestrian activity on Commerce Drive.

**Mr. Petrongolo** agreed with Mr. Millers assessment.

**Mr. Angelastro** did not prepare a report because there are no site improvements proposed, however he did review the existing conditions plan and it appears to be in general conformance with the zoning ordinance. Mr. Angelastro stated that parking is more than adequate.

**Mr. McVey** required his report dated 2-26-2021. The applicant is willing to comply with all comments.

**Mrs. Andersen** questioned the need for variance from the 50 foot setback requirement.

**Mr. Petrongolo** responded that the 50 foot setback is required for the marijuana use but not the current use of hemp testing.

**Mr. List** asked if the approval can be restricted to specific types of testing and procedures and storage. He further asked what the sample size is that will be brought into the facility

**Mr. Petrongolo** responded that the approval will be restricted to the use, procedure and storage testified to.

**Ms. Goedde** responded that an upper limit could not be decided on now because she cannot say what the state is going to require, but it would be unrealistic to think they would require more than .5% of the entire lot. A sample size for full panel testing is currently 20 grams. While Ms. Goedde stated that she cannot speak to what the state will require she can say that it will be less than one pound per sample.

**Mr. Petrongolo** responded that if the facility were to test over one pound the applicant would have to come back to the board.

**Mr. Wells** agreed that a substantial change in the operation would require the applicant going back to the board, for example large box trucks being used for deliveries.

**Mr. Campbell** asked what the maximum storage capacity is currently.

**Ms. Goedde** responded that they have one large freezer with double doors and indicated that the sample containers are approximately 2" by 2". Most of the storage is in that freezer and there are some stored at room temperature.

**Mr. Sharp** asked if the applicant is currently licensed by the state.

**Ms. Goedde** responded that there is currently no licensing process established although the Cannabis Regulatory Commission has said that is their first item to address.

**Mr. Petrongolo** stated that one of the conditions of the variance is that the applicant shall be licensed.

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

**Mike Bukacz**, 239 Amberfield Drive was sworn in. Mr. Bukacz stated that the site is very quiet and questioned the operating hours and number of employees when the facility is at full capacity.

**Ms. Goedde** responded that two shifts would work between the hours of 5-6am and 9-10pm with more employees on the earlier shift.

Mr. Bukacz questioned the type of chemicals used and how they are handled.

**Ms. Goedde** responded that the area is already zoned for laboratory testing so all the chemicals they use are allowed in the zone.

**Mr. Barkley** testified that Trichome uses liquid nitrogen, gaseous helium and argon along with typical solvents. The gases are inert therefore not hazardous. There will be no change in process from testing hemp to testing marijuana.

Mr. Bukacz stated that last summer the smell of marijuana was very strong at his property and he believes the smell was coming from the direction of the proposed site.

**Ms. Goedde** replied that Trichome did not begin testing until October/November so the smell could not have been coming from their facility last summer. If there is a problem with smell in the future Ms. Goedde testified that Trichome is willing to add filtration to address the issue.

Seeing no one else from the public wishing to comment, Chairman Francescone closed the public portion.

**Amy Latham**, was sworn in. Ms. Latham, works in the complex late at night and testified that other uses in the building are working 24 hours a day with no problems and she does not predict any problems with this use.

**Mr. Campbell** summarized the conditions of approval as the following.

- The applicant will conform to the testimony and exhibits presented.
- If the size and quantity of material used for testing should change substantially the applicant would have to come back to the board.
- If method of delivery should materially change the applicant would have to come back to the board.
- The applicant will comply with all licensing provisions.
- If there are complaints about odors the applicant will adapt the facility with additional filters.
- The glass of the rear door will be treated to no longer be transparent.

Mr. Gray made a motion to approve ZB21-D-02 with the conditions stated, Mrs. Andersen seconded. Roll Call Vote. All present voted affirmatively. Motion carried, approved.

Chairman Francescone called for a recess at 9:50, the meeting was called back into order at 10:02.

**3. Cambridge Crossing, ZB#21-D-08**, 4200 Dearborn Circle, Block 512 Lots 1.05 & 1.06, Business Overlay zone. This applicant is seeking a D(1) use variance from section 154-16 to allow a Dental Office Use where such use is not permitted.

Craig Gianetti, Esq. Day Pitney LLP represented the applicant.

**Witnesses Sworn:**

Paul Rizzardi, Senior Director of Real Estate for Affordable Care LLC.

**Exhibits Entered:**

A-1, Aerial View of Cambridge Crossing; A-2 Ground level view of the proposed space, A-3 Proposed Floor Plan

**Mr. Gianetti** summarized the application. The variance is requested to allow a new proposed tenant known as Affordable Care LLC. They specializing in tooth extraction, dentures and implants. They are also seeking a Site Plan Waiver, there are no proposed changes to the exterior of the building.

### **Mr. Rizzardi's Testimony**

Over the last 3 years Mr. Rizzardi has developed over 90 practices all in shopping centers like Cambridge Crossing. He testified that Affordable Care LLC is a Dental Support Organization also known as a DSO, that supports 365 dental practices all specializing in tooth replacement. A DSO does not provide any clinical care, they are prohibited under licensure to do so. They provide support such as human resources, marketing, call center, real estate services etc. for affiliated dentists. Some dentists own and operate their facility however Affordable Care LLC. owns all the equipment and leases it to the dentist. Ninety percent of the business is removing people's teeth, taking molds and making dentures. This is a same day service.

Mr. Rizzardi described the floor plan with Exhibit A-3. He stated that maximum number of dentists the space could hold is 2 and the maximum number of employees will be 11. Deliveries will be by Fed-Ex and UPS. Medical waste pick up, shredding pick up and heavy metal pick up will be done with a panel van. Peak time will be in the morning for surgeries. The slow season is between Thanksgiving and Christmas and the busy season is around April.

James Miller, PP was reminded that he is still sworn in.

### **Mr. Miller's Testimony**

Mr. Miller testified that the proposed use satisfies purpose A and G of the Municipal Land Use Law 40:55D-2. He believes that the site is particularly suited for the proposed use and as such represents an appropriate use for the site. He stated that the proposed use has a very similar visitation pattern as the previous hair salon use. The prior use required 22 parking space and the proposed use requires 27 however the shopping center has 31 spaces more than required. Therefore, the parking remains compliant with a surplus of 24 spaces. Mr. Miller testified that the use is consistent with the surrounding uses and the use will occupy a currently vacant space. For those reasons Mr. Miller believes the application satisfies the positive criteria. Mr. Miller believes the use will contribute to the public welfare by providing a dental health facility and there will be no potential adverse impact on the surrounding area. There will be no substantial detriment to the public welfare. Mr. Miller testified that the impact of the proposed use is fully consistent with the zoning district. He opined that he sees no potential problem with parking.

**Mr. Petrongolo** reviewed his letter dated 3-19-2021. Mr. Petrongolo has no disagreement with Mr. Millers testimony and believes there is plenty of parking onsite.

**Mr. Angelastro** reviewed his letter dated 3-22-2021. Mr. Angelastro testified there is sufficient parking and that the use is similar to the previous use.

**Mr. McVey** reviewed his letter dated 3-22-2021. Mr. McVey asked the applicant to update their keys and Knox Box for the Fire Department.

**Mr. Wells** responded that the applicant will agree to update the keys and Knox Box.

**Chairman Francescone** opened the meeting to the public for questions or comment at 10:23, seeing none closed the public portion at 10:23.

**Chairman Francescone** asked for a motion to approve ZB21-D-08. Mr. Gray moved the motion, Mr. Sharp seconded. Roll Call Vote. All present voted affirmatively. Motion carried, approved.

### **Adjournment:**

Chairman Francescone asked for a motion to adjourn. Mr. List moved the motion. All present voted affirmatively. Meeting adjourned 10:44 P.M.

Adopted on: May 5, 2021

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Suzanna O'Hagan, Secretary  
Zoning Board of Adjustment