

**Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
September 2, 2020**

Opening

The Seventh Regular Meeting of the Mount Laurel Zoning Board of Adjustment September 2, 2020 was called to order by Chairman Bailey at 7:00 p.m. This meeting was held via Zoom
Pledge of Allegiance and Moment of Silence were observed
The Open Public notice was read by Suzanna O'Hagan, Board Secretary

Board Members in Attendance

Chairman Bailey, Vice Chairman Kiernan, Mr. Francescone, Mr. Green, Mr. Killen, Mr. List, Mr. Kramer.

Absent

Mrs. Jones and Mrs. Liciaga

Board Professionals in Attendance

Joseph Petrongolo, Planner – William Long, Engineer – Michael Angelastro, Traffic Engineer – Brian McVey, Fire Marshal and John Armano, Board Solicitor

Announcements and Review of Board Procedures

- 1.) ZB#20-D-10, Dr. Asad Sadiq, has been carried to the October 7, 2020 Zoning Board Hearing
- 2.) ZB#20-C-12, Mr. and Mrs. Bratis, has been carried to the October 7, 2020 Zoning Board Hearing

Adopting the Minutes

Chairman Bailey asked for a motion to adopt the sixth regular meeting minutes of 8/05/2020, Mr. List moved the motion Mr. Kiernan seconded, all present voted affirmatively and the motion was carried

Memorialized Resolutions

R-2020-ZB11 - Mr. Francescone made a motion to approve Resolution R-2020-ZB11, Mr. Killen seconded, all present voted affirmatively, the motion was carried.

Swearing in of the Board Professionals

Petitions before the Board

1. **Curaleaf New Jersey, Inc., ZB#19-D-32**, 1315 Route 73, Block 1100.01 Lot 2, Ind. Zone. This use variance is being sought from section 154-56C(18)(d) & (e) of the Mount Laurel Township Ordinance to allow the applicants to open a medical marijuana retail facility within 1,000 feet of a residential zone and within 1,000 feet of a child care center facility. This is a continuation of the hearing which began on 8-5-2020

CheryLynn Walters Esq., Nehmad, Perillo, Davis & Goldstein, PC represented the applicant.

Exhibits:

A-1, Exhibit List; A-2, Witness List; A-3, Aerial (Site); A-4, Aerial (Zoning Lines); A-6 Use Variance Plan; A-7, Floor Plan; A-8, Building Renderings, A-9, Fire Apparatus Circulation Plan, A-10, updated exhibit list submitted on 9-1-2020 consisting of the following; A-11, Presentation Plan; A-12 Landscape Rendering, and A-13, Curaleaf Field Conditions PowerPoint

Chairman Bailey reopened the Public Portion of the meeting.

Witnesses sworn in:

All witnesses sworn in at the August 5, 2020 Zoning Board meeting were reminded and acknowledged that they remain under oath.

Jorge Vernaza, 122 Haines Rd. was sworn in and testified that the facility will not comply with the ordinance or be in the best interest of the community.

Dan McGovern, 255 Amberfield Drive was sworn in and reiterated his questions from the previous meeting.

Tyler Prime, 253 Amberfield Drive was sworn in and testified that he lives and owns a business in town. Marijuana is federally illegal and federal law prevails, the business is cash or pin card only because he believes the banks will not do business with them because they are money laundering. Mr. Prime believes the applicant will come back to the board to sell recreational marijuana and is concerned about break ins. He testified that it took him 2 minutes to walk from the proposed site to his property. He believes the applicant cannot meet the negative criteria and asked the board to deny the use.

Chairman Bailey called a brief recess to allow the applicants planner to join the meeting at 7:31.

Chairman Bailey reopened the meeting at 7:47

Rick Schwartz, 1317 Route 73 acknowledged that he is still under oath from the previous meeting. Mr. Schwartz stated that earlier this day he watched a person walk out of the gym through his property at 1317 Rt. 73 and into the neighborhood behind.

Chairman Bailey asked for anyone else from the public who would like to speak, seeing no one closed the public portion at 7:50.

CherylLynn Walters Esq. Testified that in consideration of the questions and comments raised at the previous meeting, the applicant submitted revised plans and supplemental traffic letter as well as exhibits A-10 through A-13.

David Kreck PE acknowledged that he is still under oath.

Mr. Kreck's Testimony

The applicant has revised the plan to show 1,000 feet of black chain link fence around the site, 850 feet is replacement fence, 150 feet is new fencing. Three quarters of the property will now be fenced in. The landscaping will be improved along the front of the site.

Jay Petrongolo, Board Planner asked if the applicant is still willing to work with Remington and Vernick regarding the landscaping.

Mr. Kreck confirmed that they are.

Robert Hoffman, PE Traffic Engineer, acknowledged that he is still under oath.

Mr. Hoffman's Testimony

There are very few dispensary only facilities. Two facilities were studied for the supplementary traffic report. The Garden State Dispensary in Woodbridge and the Botanist in Egg Harbor Township. The supplementary report showed that the original traffic analysis was very conservative and this supplemental report showed less trips during peak hours.

Mr. Angelastro, Board Traffic Engineer asked if these sites were similar in operation and size to the proposed facility.

Mr. Hoffman responded that they are but these sites also have a growing component so the traffic at the proposed site would actually be less because there is only a dispensary.

Mr. Angelastro stated that he did review the supplemental report and he has no objections, the applicant did provide real world data from similar facilities.

James Miller, PP, applicant's planner acknowledged that he is still under oath.

Mr. Millers Testimony

The applicant has extended the fence, Exhibit A-13, the extension will prevent people from crossing the parking lot and accessing the adjoining properties. Mr. Miller believes that this fence placement creates a distance in excess of 1,000 from the entrance of the proposed Curaleaf site to the daycare center.

Ms. Walters Esq. asked Mr. Miller if it is correct that the applicant is now meeting the intent and purpose of the ordinance even though they not meeting the ordinance technically.

Mr. Miller replied that that is correct.

Mr. Miller continued his testimony. The current fence is covered in Virginia Creeper and Poison Ivy to be replaced with 6 foot chain link black vinyl clad fence subject to the Board Planners review. The fence will close access between 1317 Rt73 and the proposed Curaleaf site. Mr. Miller further testified it is his opinion that the application meets the standards of Mount Laurel Ordinance 154-78 and is not a substantial impairment to the zone plan or ordinance

Ms. Walters Esq. clarifies that the negative criteria for a use variance requires the applicant to demonstrate that there is not a substantial impairment to the zone plan or ordinance, not just an impairment.

Mr. Petrongolo asked Mr. Miller what is stopping people from parking in the proposed Curaleaf parking lot and walking to other areas.

Mr. Miller replied that you cannot completely cut off access and the argument is that the uses are compatible.

Ms. Walters Esq. testified that the gym patrons are more able bodied and therefore more likely to walk across the property than the patrons of the medical marijuana facility.

Chairman Bailey calls for a motion to continue the hearing for Curaleaf ZB#19-D-32 past the 90-minute limit and to end the meeting by 9:30.

Mr. Francescone moves the motion, Mr. Killen seconded.

Those In favor; Mr. Francescone, Mr. Killen, Mr. Kramer, Mr. List, Mr. Green, Vice Chairman Kiernan and Chairman List. Motion to continue the public hearing is carried, approved.

Discussion took place regarding the existing side yard setback.

Chairman Bailey opened the meeting to new public comment at 8:56.

Kenneth Isdaner, 1317 Route 73, acknowledged that he is still under oath. Mr. Isdaner asked Mr. Hoffman, applicants Engineer, why they did not use the Bellmawr facility as a comparison for the traffic study.

Mr. Hoffman stated several reasons the sites are not comparable.

Mr. Isdaner then asked Mr. Miller, Applicants planner, why the Township Council wanted the Marijuana facility 1,000 feet from child care and residential areas.

Mr. Miller responded that he cannot render an opinion as he is not part of the Township Council.

Mr. Isdaner continued that he does not believe the applicant has shown the proposed use will be a positive impact on the community.

Mr. Armano, Board Solicitor reminded the audience and Board that, as discussed in the previous meeting, alternate location is not part of the board discussion because site suitability is not an argument of the applicant.

Jorge Vernaza, 122 Haines Rd. acknowledged that he is still under oath. Mr. Vernaza expressed concerns about people parking in the street.

Mr. Hoffman, Applicants Engineer replied that the original parking analysis demonstrated adequate parking.

Rick Schwartz, 1317 Route 73 acknowledged he is still under oath. Believes the patrons of the Curaleaf will be able to walk around the fence and there will still be an opening between the properties.

Mr. Miller, applicants Planner agreed that there will still be access between properties.

Janet Caniglia, 243 Amberfield Dr. acknowledged she is still under oath from the March meeting. Ms. Caniglia expressed concern regarding the law enforcement in the space between Amberfield and the proposed facility.

Ms. Walters Esq. stated that this is an enforcement issue and beyond the boards jurisdiction.

Mr. Armano Esq. Concurred with Ms. Walters Esq.

Ms. Walters Esq. summarized the application and applicant's testimony.

Mr. Armano Esq. summarized the application and variances sought citing the following conditions of approval:

- The applicant will occupy the 8,000 square feet of space indicated on the site plan and the additional space will remain vacant as a condition of this approval.
- An Amended Use variance will be required to use the vacant space in any way.
- There will be no use other than Medical Marijuana Dispensary at the site. Any use other than Medical Marijuana Dispensary will require Zoning Board approval.
- The applicant will comply with the ordinance for signage in the industrial zone, 154-92.7 or come back to the board for variance.
- The applicant will create a solid separation of uses with a fence and work with the township professionals for appropriate fencing
- The applicant will work with board professionals regarding a landscaping plan.
- The applicant will provide sidewalk along Route 73 if sidewalk is constructed up to the property.
- Applicant will submit a Letter of No Interest from the NJDOT.
- Minor Site Plan Alteration may be submitted and handles by Professional Staff.

Chairman Bailey calls for a motion to approve application ZB#19-D-32 with the conditions stated. Mr. Killen moved the motion. No second.

Chairman Bailey calls for a motion to deny application ZB#19-D-32. Mr. List moved the motion, Mr. Francescone seconded the motion.

Mr. List agreed to deny the application citing the option of the applicant to find a site that complies with section 154-78D of the Mount Laurel Township Ordinance.

Mr. Francescone agreed to deny the application citing that he did not find the applicants testimony compelling enough to show there is no substantial detriment to the surrounding neighbors, daycare and businesses nearby.

Mr. Kramer agreed to deny the application citing the negative impact on the neighborhood including Evesham and the availability of more appropriate sites in Mt. Laurel. Mr. Kramer also cited concerns about the traffic.

Mr. Killen disagreed with the denial of the application citing that he believed the applicant met their burden with the fence and limited use.

Mr. Green agreed to deny the application citing the potential traffic issues and impact on the neighborhood.

Vice Chairman Kiernan agreed to deny the application citing that the ordinance should be given its due weight. Additionally, he does not believe the burden of proofs has been met and he believes that the proposed variance would impair the intent of the Zoning Ordinance and create a substantial detriment to the residents. Vice Chairman Kiernan noted that he found the testimony of James Miller P.P., applicant's planner, to be less credible than the resident's testimony.

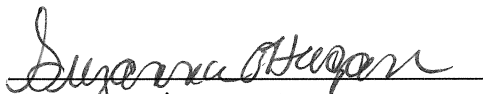
Chairman Bailey agreed to deny the application citing his agreement with the previous comments of the board members and the availability of other locations in the township that will comply with the conditions of the ordinance without impact on the neighborhood and daycare.

With six affirmative votes and one dissenting vote the application is denied.

Adjournment:

Chairman Bailey asked for a motion to adjourn at 9:49pm, Mr. List moved the motion, all present voted affirmatively and the motion was carried.

Adopted on: October 7, 2020


Suzanna O'Hagan, Secretary
Zoning Board of Adjustment