

TOWNSHIP OF SADDLE BROOK

ZONING BOARD OF ADJUSTMENT MINUTES

November 6, 2023 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday November 6, 2023 at **(Saddle Brook Municipal Complex, 55 Mayhill Street)**

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

3. OPEN PUBLIC MEETING ACT: adequate notice of this meeting has been sent to all members of the Zoning Board and to all legal newspapers in Accordance with all the Provisions of the "Open Meetings Act", Chapter 231, P.L. 1975.

4. ROLL CALL

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Manzo, Ms. Nobile, Mr. Duffy – present. Mr. Champy is absent. Anthony Cialone the Board Attorney, Anthony Kurus the Board Engineer and Gary Paparozzi the Board Planner are also in attendance.

Mr. Duffy – Before we go into the first application this evening in our last meeting Mr. Schilp had asked for an opinion. He had a question in regard to the resolution of approval from the Township regarding the cannabis stores.

Mr. Cialone – Correct.

Mr. Duffy – Could you provide him with that answer.

Mr. Cialone – I read through all of our ordinances and there's only one mention of that resolution in all the cannabis ordinances and it's just part of a list of what is required for the applicant to get an approval a license from the Town. That resolution is required in order to get the State license and the State license is part of the list of what they require to get the Town's license. There's no requirement that they obtain that resolution before getting any type of zoning approvals. In fact the zoning approval I shouldn't say zoning approvals but compliance with all zoning laws is something else they have to show when they have to submit the application. So it's just a list of things and again like I said I went through all the ordinances it's only mentioned once. In my opinion they don't need that resolution in order to get zoning approval because there's no requirement that they need it. Anyone can apply for zoning application obviously if approval is given which is something they need to show they're in compliance with the zoning ordinance the approval alone is just one of the requirements in order to get the license from the Town. Obviously, any time we approve resolutions it's always subject to any other licenses or approvals they need from any municipal authority.

Mr. Schilp – There's no pecking order of what they have to do?

Mr. Cialone – Correct it just says here's a list of ten or eleven things that they need and that's just one of them along with proof that they're in compliance with the zoning ordinances.

Mr. Schilp – Thank you.

Mr. Cialone – You're welcome.

5. NEW BUSINESS

A.) Imran Shaikh, 453 Dewey Avenue, Block 703, Lot 20

Applicant requests a garage extension that does not conform the Zoning Ordinance for the Township of Saddle Brook, as it exists today. **(Application was carried without further notice from the October 2nd meeting due to a request from the applicant to adjourn, so that he may obtain architectural drawings to address the concerns of the Board).**

Mr. Shaikh comes forward and Mr. Cialone swears him in.

Mr. Duffy – When we were here last month I'd like you to take us you submitted new plans architecturals so would you walk the Board through the changes that you made?

Mr. Shaikh – Changes are I hired a professional architect. He signed and sealed the new architecture plan and I submitted you guys should see that. That states everything including one hour firewall, roof side and the under footing of the structure.

Ms. Murray – Just so you're aware I have listened to the testimony from last meeting so I can sit on this application. The question is you're going to remove everything and start from scratch?

Mr. Shaikh – to make it correctly there is under footing is only 18" it has to be 36" which will be done it's called under footing digging out ten feet at a time and the upper rift they are required by code two by eight so it's going to be replaced. Right now it's two by six so it will be replaced with two by eight.

Ms. Murray – I went by there and what it looks like is you have a slab on grade right now.

Mr. Shaikh – Yes.

Ms. Murray – You'd have to take that out unless you're going to somehow dig up and create something underneath. My question is you're so close to the fence on the other side how are you going to do that without compromising the fence and the fence structure?

Mr. Shaikh – Probably cut it out from my side remove the existing without disturbing the neighbor's property.

Mr. Mazzer – I'm good he came in with plans. They do that all the time they put footings underneath buildings all the time. They just do it in sections.

Mr. Burbano – I'm okay with it they're going to underpin the footing wall. They underpin so they'll dig maybe three feet and then they'll go six feet dig another three feet go six feet dig another three feet they'll do that pinning and then they'll go back to the area they missed until it's all done. That way the structure doesn't come down. They have everything laid out on the plan how they're going to do it.

Mr. Duffy – It was in the minutes Mr. Burbano had asked about it if there was an intention of operating a business.

Mr. Shaikh – There is no intention.

Mr. Duffy – There was a box truck in your driveway yesterday. What's the size of that box truck?

Mr. Shaikh – It's a twenty six footer.

Mr. Duffy – That's your business or that's what you drive?

Mr. Shaikh – I have a warehouse at 109 Fifth Street. I do own a business and I do have a warehouse and I do have a space for the truck.

Mr. Duffy – You have a space for the truck.

Mr. Shaikh – Yes.

Mr. Duffy – Eighteen feet I believe is the maximum the Town has permitted.

Mr. Shaikh – I'll remove it. I had some stuff coming into the garage and was taking out from the garage. I do acknowledge I've been parking there and now I'll remove it.

Mr. Paparozzi – Chairman I believe I wasn't here last month I don't recall the application but it seems the extension is built on the line and just a concern roof eaves and gutter will actually then be over the property line. There aren't a lot of offsets on the survey but the projection looks like it's on the line. Mr. Ambrogio says it looks like a zero setback as well. If that's the case roof eaves and gutter will be over the property line. It would be an encroachment.

Mr. Duffy – From what I understand I thought there was a note I read here that roof and gutter would not be on the one side due to the fire rate wall. I thought I read something to that effect. In any event the roof runoff should be steered away from the adjacent property.

Mr. Paparozzi – You can't even have roof eaves that extend past the wall. It has to almost like a flat roof type of construction.

The Board discusses the fact that the garage is on a slant so as it extends backward it is almost on the property line and if there are gutters or any eaves they will be on the neighbor's property. The Construction Official also has the setback at zero.

Mr. Paparozzi – If you have zero setback any kind of roof eaves that extend beyond the building even if there is no gutter are encroaching. The architect drew it on a skew as well and he shows it close to the line. There should have been an offset on it.

Mr. Duffy – The front of the garage is at the line and tapers back.

Mr. Paparozzi – Even if there's a couple of inches a gutter is four inches alone without any roof eaves. As you're extending it further back you're going closer to the property line. The eight inches you have in front according to Mr. Ambrogio and it looks like it as well it's zero when you get back to the twenty feet extension. At that point if he puts a roof eaves on like an A-frame they extend past the end of the building even without a gutter you're onto the neighbor's property. I know they're big lots maybe the neighbor doesn't care but the Board should be aware you can't have a possible encroachment.

Mr. Schilp – He's got to dig it up to put the foundation on his property right.

Mr. Paparozzi – Yes.

Mr. Schilp – He's got to dig it up for the foundation.

Mr. Paparozzi – He could hold it in but that's not what he proposes.

Mr. Burbano – we can make an approval based on a revised plan just to pull that in six inches couldn't you?

Mr. Duffy – Yes.

Mr. Schilp explains to Mr. Shaikh what it is the Board is suggesting.

Mr. Paparozzi – Just move six inches you keep it eighteen six just slide the extension a little bit six inches beyond the existing garage toward the house.

Mr. Shaikh – Sure we'll do that.

Ms. Murray – Is the shed coming down?

Mr. Shaikh – That's a separate structure it's been there.

Ms. Murray – The reason I'm asking is the garage accessory coverage?

Mr. Barrale – The garage goes under building coverage.

Ms. Murray – Okay.

There are no more questions.

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Schilp makes a motion to approve the application with the stipulation that he moves the new building six inches off the property line.

Mr. Burbano seconds the motion.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

B.) Manuel Brito, 139 Alberta Drive, Block 1503, Lot 13

Applicant requests a garage addition, open front porch & add-a-level that does not conform the Zoning Ordinance for the Township of Saddle Brook, as it exists today.

Mr. Cialone confirms that the notice is in order and that the Board has jurisdiction to hear the application. Manuel Brito is sworn in he gives his address as 139 Alberta Drive Saddle Brook, New Jersey.

Lawrence Parisi is the architect for Mr. Brito and he is sworn in and gives his business address as 183 Market Street in Saddle Brook, New Jersey.

Mr. Parisi gives his qualifications and is accepted as an expert witness.

Mr. Parisi – Right now the residence is a story and a half very modest. They have approximately 1200 square feet of living space. The intent is to expand to add-a-level. We're maintaining the existing perimeter of the original structure. The same side yards the same front yard even though the front yard exceeds the required by quite a bit and we don't have any problem with the addition which is a garage. We have our twenty foot rear yard so we're good with most everything that is required by the code. The one area that we do need some help here is the building coverage requires 26% the existing is only 15% and what we're doing with the new addition only takes us up 27% so it's we're one point over the allowable. We exceed the lot depth by a foot and a half. Lot area we're under the lot area but we're existing nonconforming with that. It's not like we created the situation it's the way it is. The lot coverage again the allowable is 44% broken down into building and accessory. There is an accessory on there but it's coming off so in total we have 35.8% for the proposed addition. We're kind of underneath the allowable 44%. We don't exceed the height. The front yard we have more than what's required. The corner side yard we're looking for we're not changing anything but I believe that there is a variance there because the required is twenty feet and what we have which is existing is 14.9 feet. We're not exceeding it the porch that's there is an open porch it doesn't it's not counted as part of any kind of encroachment because it's open. The side yard on the west side the requirement is 10 feet what it is now is 7.43 feet that's existing we're not exaggerating it we're just maintaining the same side yard. The rear yard as I said before is good we have no problem with that and there's no accessory coverage required. Overall we're in pretty good shape with this we're not looking for a lot we're basically just trying to add-a-level on and in doing that we're going to make a house that'll be more livable for the Brito's and their daughter. We're going to end up with 2,046 square feet of livable space and the garage is only a car and a half garage. It's going to be like under 500 square feet. In practical terms we're very modest in this addition. That's the project in a nutshell.

Mr. Duffy – The maximum building coverage you said the proposed is 27%.

Mr. Parisi – Yes.

Mr. Duffy – Mr. Ambrogio's letter of denial states proposed 34.4%.

Mr. Parisi – Okay.

Mr. Duffy – Do you know what the difference would be?

Mr. Parisi – I don't I'm not sure what he's counting.

Mr. Duffy – There's a couple of differences we have to take a look at.

Mr. Parisi – Okay.

Mr. Duffy – There are a few discrepancies.

Mr. Parisi – What are the discrepancies?

Mr. Cialone – The maximum building coverage, the maximum lot coverage.

Mr. Duffy – Your maximum lot coverage is 35.8% there's 45.9% the code is 44%.

Mr. Parisi – What does Mr. Ambrogio have on the maximum building coverage?

Mr. Cialone – He has existing 18.2% and proposed 34.4%.

Mr. Duffy – Your existing is 15% proposed is 27%.

Mr. Parisi – I wonder if he used the right scale.

Mr. Duffy – Both of you are in two different stratospheres.

Mr. Parisi – Yeah I don't know.

Mr. Burbano – The open porch did you include that in your lot coverage?

Mr. Parisi – No that's not required.

Mr. Paparozzi – Well it is it's not in the front setback but you'll notice it's also a side setback that is a variance. You're proposing the open porch at 9.8, 9.9 and it's minimum 15 feet for a corner lot on a side setback for a porch. There's no encroachment for the front but for a side there is. You obviously didn't include that. Everything that Mr. Ambrogio included is the garage, the concrete walk and the porch and the building which seems to be half the lot so I'm going to guess that Mr. Ambrogio's number is more accurate again I didn't have those numbers as well. You don't show a number on the porch I don't know what your porch is coming out toward Alberta or toward Fairlawn Parkway. I'm assuming on Fairlawn

Parkway we just subtract the two offsets but on the front you don't have any dimension. Is it six feet five feet?

Mr. Parisi – Five feet.

Mr. Paparozzi – It should have been noted on the plan. You have very few.

Mr. Parisi – From what I read in the zoning ordinance the open porch is not counted.

Mr. Paparozzi – In the setback it's counted as coverage and it's counted to the side setback.

Mr. Parisi – As far as I know it's not counted as coverage.

Mr. Paparozzi – Mr. Ambrogio counted it as coverage. I'm going to have to go with the Construction Official since he's been here more years than I can count.

Mr. Schilp – It counts as coverage.

Mr. Paparozzi – I just talked to Mr. Ambrogio today Mr. Chairman most towns if it's roof covered they count it in the setback Saddle Brook is one that does not. I mentioned that to Mr. Ambrogio but that's the code. I wanted to confirm that because I don't know what the front porch is. I thought there was an encroachment for front setback but it's not included even with roof coverage and most towns it is but Saddle Brook it is not. I'm assuming Mr. Ambrogio counted that because he said there's a porch encroachment to Fairlawn Parkway as a variance.

Mr. Duffy – Do you have something to address that Mr. Parisi?

Mr. Parisi – My understanding is it doesn't get counted as coverage. Whether it gets counted as the side yard setback that might be a different story. We're looking for a variance for the side yard setback. That's one of the things that we're requesting.

Mr. Paparozzi – You're not requesting it on the front porch the house is even though it's preexisting it should've been counted because it's being exacerbated by going up the full story. It should've been the three that Mr. Ambrogio have and the side setback for that building as well because it's being exacerbated by going up so the 14.72 you're adding a level and you're exacerbating the 14.72 so it should be actually four variances for the application.

Mr. Parisi – We're not exacerbating it we're staying within the confines of what's existing. We're just raising it an additional level.

Mr. Paparozzi – By raising it that exacerbates the 14.72.

Mr. Parisi – The side yard.

Mr. Paparozzi – Yes.

Mr. Parisi – Okay.

Mr. Paparozzi – It's preexisting on the first but when you add the second floor you're just adding more to the existing nonconformity so it should be considered a variance.

Mr. Parisi – Okay.

Mr. Kurus – Other than the discrepancies in the math between the Zoning Officer's report and the zoning table which we noted that's really it.

Mr. Parisi – Let's say that Mr. Ambrogio is correct are we still in the ball park to achieving a variance here?

Mr. Duffy – Let me have our Board members ask any questions they wish at this point before I commit to something like that.

Mr. Mazzer – I like the idea I don't see why we should be holding this up. If he needs something for that second floor okay. It looks nice and it'll be a nice for the neighborhood.

Mr. Parisi – Thank you.

Ms. Murray – Most of my questions were because the numbers didn't match and the discussion has already been had regarding the numbers. If we go with Mr. Ambrogio's numbers it's just we have to include the variances he's asking for and I don't see a problem with granting the variances.

Mr. Tokosh – The shed is that's going to stay there is that correct?

Mr. Parisi – No that's going.

Mr. Burbano – Other than they would just have to request a variance for the front as well?

Mr. Paparozzi – No not the front because the setback now for the front is 29 feet and the porch doesn't count even though it's roof covered for a front setback.

Mr. Burbano – I just wanted to make sure that everything was covered for you now so that way it would be done and finalized now.

Mr. Paparozzi – I would just include Mr. Ambrogio's three and the side setback for the corner lot for the building.

Mr. Duffy – We're going to review that once I finish around like this we're going to review specifically that before we go any further.

Ms. Nobile – The existing fence is that coming down?

Mr. Brito – No.

Ms. Nobile – What was your intention with the fence? I know the fence is almost to the curb and what is your intention with the fence?

Mr. Brito – We're going to leave it.

Ms. Nobile – The wrap around porch you're taking that all the way around the house it's not going to interrupt your fence?

Mr. Brito – I'm going to try and keep the fence at the back of the house. The porch in the front is not going to wrap behind the house.

Ms. Nobile – So you're not touching the fence you're going to wrap around the porch and stop where the fence is right now?

Mr. Brito – That's the rear of the house.

Ms. Nobile – Okay.

There is some confusion about the existing fence and how it will be after the project is finished and it is determined that the fence on the side of the corner side of the house will have to come down and then be reinstalled to accommodate the wrap around porch.

Mr. Paparozzi explains the situation to the Board and the applicant. The fence going into the house on the corner side will have to be brought back in order to have the porch built and it will then be put back butting up to the new porch.

Mr. Duffy – Can I have a motion to open to the public?

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Duffy – Mr. Paparozzi just walk through so we have an understanding what variances that we're going to need here.

Mr. Paparozzi – Maximum building coverage allowed is 26% and 34.4% is being proposed. Maximum lot coverage, which is everything driveways, walkways, porch, garage 44% is allowed 45.9 is proposed. Open porch setback on a corner yard 15 feet which is a front yard it's considered a side yard 9.72 is being proposed and because they're adding a corner lot setback on the building is 20 feet 14.72 is existing but it's existing at a story and a half it's now going to be two stories and a half so it's exacerbated. Those are the four variances requested.

Mr. Kurus – Single side too on the west side.

Mr. Paparozzi – Yes that's right I'm sorry.

Mr. Kurus – 10 feet required 7.4 feet proposed.

Mr. Paparozzi – The same situation it's being exacerbated by going up.

Mr. Duffy – We need maximum building coverage, maximum lot coverage, open front porch 20 feet and what was the fourth?

Mr. Paparozzi – There's five the corner lot setback for the building which is 14.72 and 20 is required and the single yard setback 10 feet is required and 7.43 is existing. It's being exacerbated by going up.

Mr. Duffy – So that's five variances. Anyone have anything further?

There are no further questions.

Mr. Duffy makes a motion to approve the application amending the variances to the five variances stated which will include the math in the resolution and then that will be as part of the requirements that you coordinate with the Building Department and make sure that all these numbers do match. A revised set of plans be supplied to the Building Department.

Mr. Parisi – You want me to update these plans?

Mr. Cialone – Yes once you coordinate with Mr. Ambrogio.

Mr. Parisi – Okay.

Mr. Duffy – So we have a motion.

Mr. Schilp seconds the motion.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

Mr. Duffy calls for a five minute recess.

C.) Inhale Industries Inc., 249 Route 46, Block 120, Lot 5

Applicant requests a microbusiness cannabis cultivation and retail establishment that does not conform the Zoning Ordinance for the Township of Saddle Brook, as it exists today. **(Applicant was carried without further notice from the October 2nd meeting due to a request from the owner of a neighboring property objecting to the application and requesting an adjournment so they may be heard at this meeting).**

Mr. Cialone confirms that the notice is in order for the application and that they may proceed.

Mr. Duffy – Ms. Kasetta there were some questions regarding the D3 variance so I think initially let's discuss that.

Ms. Kasetta – Sure let me just enter my appearance for the record.

Ms. Kasetta introduces herself and hands the original proof of service to Mr. Cialone.

Ms. Kasetta – this application does request a D3 variance from the conditional use requirements for cannabis establishments. I did send in a letter on October 18th which I hope you've all had a chance to review. I know there has been some discussion leading up to this hearing about the prior approval and whether that applicant had forfeited the approval that was granted. I don't think it's necessary to even debate that point because we have requested the D3 variance ourselves despite the fact that it was already granted and that's in recognition that there is a different operator and it is a conditional use so part of satisfying your burden as an applicant for conditional use approval is demonstrating that you can comply with the various conditions. It's a little bit different than a straight D1 use variance where if the Board approves the use generally it runs with the land so we do recognize that because it's a different operator the site layout is a little bit different because the subdivision was approved and recorded in between so we are again requesting that variance. My point in my letter which we can discuss in more detail was that the facts underlying the Board's findings in granting the D3 variance are all the same. Our esteemed engineer and planner is not here yet but we are planning on presenting his testimony. I also have an excerpt from the November 7, 2022 meeting when the previous cannabis establishment was approved just to kind of talk through the points and the findings that like I said were the basis for the Board's findings in granting that variance. That's been our position on it and we can talk about it further but like I said I thought it would make more sense to have Mr. Costa here as a professional planner when we really get into the details of the previous testimony and how we believe the circumstances are the same.

Mr. Duffy – Mr. Cialone do you have any comments on that at this point?

Mr. Cialone – No I think I'll just kind of repeat what counsel said. There was subsequent to the D3 variance there was a subdivision that was granted by this Board. The lot size is smaller now than it was when the D3 variance was originally granted so an argument could be made that the use is now intensified because the lot is smaller. I also noted and counsel mentioned that their setup floor plan is different than the prior applicant. The noted especially the retail the size of the retail square footage is smaller so they definitely do have a very small waiting area and a smaller sales floor than the prior applicant so that may or may not affect the residential use that's in the building and that was the reason for the D3 variance because it's residential units in the code.

Mr. Duffy – Since they have requested a D3 variance there's no further discussion necessary and look at the application as all at this point.

Mr. Cialone – If the Board determines that they need the D3 variance and I don't know if there is anybody here objecting if you want to hear from them at this point on that issue.

Mr. Duffy – Does any of the Board members have any questions regarding the D3 variance that they would like to ask Ms. Kasetta or do either of our professionals have any other guidance on that?

Mr. Paparozzi – The alteration of the lot itself, parking and the interior as well and the ordinance says not only with the residents but other businesses in the same building so it's not just the residents upstairs but shared tenants in the same building.

Mr. Duffy – Initially when I introduced this application what had put in a position to carry it to this meeting there were objectors to it so at this point right now I'd like to ask anyone in the public who has an objection to this please come forward. Having heard none what I'd like to ask the Board right now is actually what we need to do is formalize it to make a motion.

Mr. Cialone – Correct.

Mr. Duffy – So the question in front of us now is does the Board agree that we require a D# variance or do we disagree with it?

Mr. Schilp – I make a motion that this application needs the D3 variance.

Ms. Murray seconds the motion.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

Mr. Duffy – That is just that we agree that it's a D3 variance not a granting of a D3 variance.

Ms. Kasetta – I understand Mr. Chairman.

Mr. Duffy – I would ask that you present your application.

Ms. Kasetta – I apologize if it seems I am getting into too much detail but even though there is no objector present in the audience we were put on notice of an objection so I want to be really clear and make a good record just because we don't know what's going to happen after tonight. As you said this is the property designated as Block 120 Lot 5.01 on the tax map formerly Lot 5. It's 249 Route 46 and again the applicant is seeking preliminary and final major site plan approval and conditional use approval to convert approximately 9,300 square feet of commercial space within the existing building for use as a micro business cannabis cultivation and retail establishment which is a conditional use in the B2 zone. As we mentioned a little bit there's some prior history before the Board. On November 7, 2022 site plan approval and conditional use approval were granted to Budz Prime, LLC and Garden State Recreational Grown, LLC for a similar but slightly different micro business cannabis operation. However those applicants chose not to pursue this property and they moved on to a different location. Then on June 5, 2023 this Board granted subdivision approval to the contract purchaser of the adjacent property to take approximately 14,000 square foot portion of what's now Lot 5.01. It was Lot 5 at the time and add it to the adjacent Lot 6 so make Lot 6 a little bigger make Lot 5 a little smaller so as a result this lot became Lot 5.01 the adjacent lot became Lot 6.01. Because both myself and our engineer were also involved in that application we were able to develop a site plan for this application that showed all the conditions as they are now subsequent to the subdivision so that helped to keep the record clear and avoid confusion as to what the property looked like when we first filed this as opposed to now. The subdivision has been recorded so the new lots do exist today. We are requesting a couple of variances. The conditional use variance that we were just discussing as well as a couple of bulk variances one being parking in the front yard. That's not permitted and we are proposing it. One for minimum parking space dimensions, minimum driveway aisle width and I want to note and again we can get into this in more detail as we go through the testimony that of those bulk variances the only one that's new is for parking in the front yard. That one was not granted in connection with either of the previous applications although in my opinion it should have been because there's parking in the front yard today and it was also proposed on the site plan by the previous cannabis applicant. The other bulk variances were all granted in one fashion or another in connection with the previous cannabis application or the subdivision or both. Although the configuration of the property has changed somewhat each of those bulk variances was granted by the Board for this lot previously. Again my letter don't need to go into detail about that. Our witnesses tonight will be our architect and then a representative of the applicant. Then our traffic expert and finally our civil engineer

and professional planner who is the same person. We already confirmed that the notice was satisfactory so with that I'd like to call our architect Davis Kaplan.

Mr. Cialone swears in David Kaplan he gives his business address as 7100 Euclid Avenue, Suite 200, Cleveland, Ohio 44103.

Mr. Kaplan confirms that he is licensed in New Jersey. He then gives his qualifications and the Board accepts him as a witness.

Ms. Kasetta – Your office did prepare the architectural plan that was submitted with this application correct?

Mr. Kaplan – Yes.

Ms. Kasetta – If you would I'd like to walk the Board through the proposed design.

Mr. Kaplan – It's going to be 2500 square foot micro retail dispensary. The remainder of the portion of the building will be for cultivation. We've indicated with red outline where the delineation occurs on sheet A-110.

Mr. Paparozzi – Can we have the date for the record as well?

Mr. Kaplan – It's dated August 14, 2023. The red outline space is the delineation of the retail dispensary again outside of that is the cultivation portion. The retail is very limited in space we have a simple check in room which leads to the main sales area which is a mostly open space that may or may not have display cases. We're still working out some of the details but that will be of course where the product is and a main point of sale desk for the transactions. Back of house spaces, product vault, fulfillment area where the packages are made and given to the front POS area and a back house corridor leading to an employee entry on the east side. In the cultivation space these rooms support the growing and the cultivation of the plant. By regulation we are allowed to have 2500 square feet of mature plant canopy which is what we provided in the largest of the spaces within that plan. There are many spaces around it all serve to support that. Mother room, vegetation, trimming, drying all of those processes are for the growing and then the later picking if you will and preparation of the plant which will then be sent out for actual processing. There's no processing or manufacturing here it's just growing and cultivation. There is a delivery entry in the rear where there is today a garage door as well as a rear entry there. On sheet A-200 exterior elevation dated August 1, 2023. The street facing façade we're looking to improve the look of it. As you know there's another tenant next to the space so to delineate the dispensary from the adjacent tenant we're proposing to give a little bit more presence, dress up the exterior with some prefabricated siding. It's going to be a fiber cement product Nichiha or Techwood are two examples we use quite often. They are nice because they are low maintenance they come prefinished they look like wood they feel like wood but they're not wood they are actually a composite similar to what you have in your decks at home. We want to have a store front system to give it more of a store front presence along with a prefabricated steel canopy. Then we also proposed to raise the height of the entry portion just below the existing gutter line of the two story portion of the building. The remainder of the outside really is not being altered. Today it's a painted concrete block building which will remain that way with the exception of the addition of a few entry doors which are noted on the drawings. There's very minimal happening we're really keeping it the same just looking to improve the store front.

Ms. Kasetta – I just want to ask a couple of questions before the Board asks their own. The interior will be ADA compliant correct.

Mr. Kaplan – Absolutely.

Ms. Kasetta – Including the bathrooms.

Mr. Kaplan – Yes.

Ms. Kasetta – I think there was a question from the Board professionals about whether we're proposing any building mounted lighting.

Mr. Kaplan – As of right now no. We don't currently show that. It's certainly something that could be introduced if the Board would like it or require it.

Ms. Kasetta – Is it not something we think we need from an operational standpoint?

Mr. Kaplan – We're going to need them at egress doors just by code you have to have some light at the door itself. Usually a typical wall pack will achieve that. I would I guess ask when we get to the civil portion

of this if the parking lot is sufficiently lit with other lighting not on the building. If it isn't we could enhance that with some wall mounted lights if needed.

Ms. Kasetta – Going back to the interior for a second. These two spaces are completely separate correct.

Mr. Kaplan – That's correct.

Ms. Kasetta – There's not one entrance to both spaces.

Mr. Kaplan – That's correct.

Ms. Kasetta – Each has its own ingress and egress.

Mr. Kaplan – Correct both from the exterior and also there is no connection on the interior as well. You can't walk from one space to the other.

Ms. Kasetta – I think this was another question from the Board professionals. The Board would like to know about mechanical and HVAC equipment. Where that's going to be will it be properly shielded any noise issues with that?

Mr. Kaplan – Typically the dispensaries are handled with a prepackaged air handling unit. Everything I'm envisioning being located on the roof. They'll be a separate system for the dispensary then for the cultivation. The cultivation of course requires an enhanced mechanical, humidity control and its own supply. This is a one story building we have a lot of roof to work with. We could locate the units they have not been located yet but they can be located away from the street as much as possible if that is the desire of the Board. There's not a lot of room on the site to locate anything pad mounted but I think we did discuss on the west side of the building there was a pad area that could possibly be utilized.

Ms. Kasetta – That is not shown on our site plan and we can cover that with Mr. Costa but I did take a look back at the previously approved site plan and they had proposed a concrete pad on the north side of the building. This is away from the driveway for a generator or any mechanicals that would need to go there. We can talk about that later but your testimony I think is we're proposing it on the roof top if we need more space we could also provide a pad on the side of the building.

Mr. Kaplan – Correct and we could be sensitive to the location of it. Either use the two story building to screen it from view or set it as far away from the street as possible to be sensitive to what people see from the road.

Ms. Kasetta – Speaking of mechanical equipment I'm sure it's very important to the Board I know it often is with these types of uses. Are there special ventilation systems to ensure that there are no odors escaping from the cultivation facility?

Mr. Kaplan – There's ionization systems that some facilities use that help filter or carbon filtration that helps filter that air so that we don't have intense fumes egressing the building. One of those two methods would likely be utilized in this situation.

Ms. Kasetta – The Board likely noticed we are not showing any signage on the plans. We're not proposing any at this time. The idea is that would be a separate application and it would either go to the Building Department if it's compliant or back to this Board if it did need any variances. We wanted to keep this application focused on the use and the site plan and deal with signage later on.

Mr. Duffy – We'll come back to the signage because I have some concerns about that.

Ms. Kasetta – Understood. Those were all the follow up questions that I had so if the Board would like to ask questions feel free.

Mr. Duffy – I'd like to go to Mr. Kurus just on the architectural.

Mr. Kurus – We went through what's proposed everything else existing as far as the other store front the residential units is what the overall plan will look like.

Mr. Kaplan – Correct and again the exterior enhancement is limited to the front façade at the main entry to the dispensary.

Mr. Kurus – What changes anywhere else is there?

Mr. Kaplan – Aside from the additional employee doors that we show on the exterior no none.

Mr. Kurus – I don't have any other questions.

Mr. Duffy – When we had our previous application we were given a crash course in this type of operation. One of the things I do recall that I'm looking at the layout what type of irrigation system is in here. None of this is listed in here. I know that irrigation is critical in how much is used when it's used a lighting plan

is there a fire suppression plan for the inside of this building. Let's take the retail store first and then we'll go into the back of the house. The entry is clearly stated. This is a double entrance a secured entrance so you're stepping into a foyer.

Mr. Kaplan – Correct.

Mr. Duffy – You enter the door closes behind you and then you come into the sales area.

Mr. Kaplan – Correct.

Mr. Duffy – That's what this design is for, am I correct?

Mr. Kaplan – Is it required to be a man trap?

Mr. Duffy – I see two doors that's why I'm asking.

Ms. Kasetta suggests that the Board swear in a representative of the applicant that will be able to answer some of these questions.

Mr. Cialone swears in Anthony Dellavecchio he gives his address as 499 South Broad Street, Glen Rock, New Jersey 07452.

Ms. Kasetta – You are a representative of the applicant correct.

Mr. Dellavecchio – Yes I am.

Ms. Kasetta – You'll be responsible for overseeing the operations.

Mr. Dellavecchio – Correct.

Mr. Duffy – When we did this before the retail was under one name and the cultivation was another name yet this is one applicant. Am I missing something?

Mr. Dellavecchio – After February of 2022 you were allowed one entity to apply for multiple license which they call it vertically integrated. One applicant can be a cultivator, manufacturer, distributor after I think it was February of 2022. So you didn't need to have separate entities to create separate licenses.

Mr. Duffy – Okay. I'll have to take you on your word for that.

Mr. Dellavecchio – I'm here to help.

Mr. Duffy – My question about the entry check in. It appears that you enter and there's a waiting area and then there's another door. Is that for security?

Mr. Dellavecchio – That's more to do ID verification check before they actually enter the retail space or the sales floor.

Mr. Duffy – Okay. How many people can actually be in that area how would that flow work?

Mr. Dellavecchio – I could see four people standing in at one time waiting for ID's to be checked.

Mr. Duffy – Okay. What's your anticipated occupancy in there?

Mr. Dellavecchio – At one moment?

Mr. Duffy – Not in the I guess the sales area.

Mr. Dellavecchio – At one moment.

Mr. Duffy – Yes. Not what you desire let's clarify that. What did you plan?

Mr. Dellavecchio – We do not want more than 20 people at one time roaming around and purchasing.

Mr. Duffy – Alright. I'm trying to figure out the sales area is just an open area.

Mr. Dellavecchio – Correct.

Mr. Duffy – This is all proposed that's what the plan says so I'm trying to visualize what this is actually going to look like.

Mr. Dellavecchio – We're in a room right now this will be perfect. You guys are the POS stations and they are roaming around this area.

Mr. Duffy – POS stands for.

Mr. Dellavecchio – Point of sale.

Mr. Duffy – So there's a counter.

Mr. Dellavecchio – You see on the plan it says one to six that would be the point of sale station.

Mr. Duffy – Like going to a jewelry store.

Mr. Dellavecchio – Correct.

Mr. Duffy – The sales area is open all the merchandise is going to be from that counter there the point of sale.

Mr. Dellavecchio – We're designing it based on traffic flow. If we're going to have display cases in the middle of that floor space and I would like to just to show product and to kind of direct traffic where it takes you to the point of sale and then there's nowhere else to go but out.

Mr. Duffy – I would like you to make note of that because I would like to see this what it would look like.

Mr. Dellavecchio – Okay.

Mr. Duffy – So we would have a clearer vision of what's being proposed to us.

Mr. Dellavecchio – Okay.

Mr. Duffy – Staying with the sales area I wanted you to walk us through not the whole interior let's just stay in the sales area because they are for all intents and purposes two separate entities. Maybe not corporate wise or that type of but you have to separate them completely from each other. There's no pass through there's no magic curtain. In order to get into the cultivation you have to actually exit the building go around the back and go in that way correct.

Mr. Dellavecchio – Right.

Mr. Schilp – Your talking about putting an island in the middle it shows no shelving in here it shows nothing. It shows us a blank room with a counter point of sale. What's by the point of sale you go down it's a shaded area?

Mr. Kaplan – It's a column.

Mr. Schilp – So you divide the two areas.

Mr. Kaplan – We're just enclosing existing structure there it's a pier in the room.

Mr. Schilp – Oh it's in there already okay. It doesn't show us very much.

Mr. Dellavecchio – I agree there's some models where...

Mr. Schilp – Everything we've had done before with many other businesses I want to see what shelving and if you out tables in the middle. Is there enough aisle room around it?

Mr. Dellavecchio – Understood. There are different models. One model could be like a kiosk model where they're just kiosks and there's no product no nothing so you can just touch screen order what you like. They also have what they call the pharmacy model where you just walk into a counter and order it. Then they have I guess the mobile model where you have a bud tender who walks around with an IPAD and kind of explains it to you. We're still trying to figure out exactly what we want.

Mr. Schilp – Is there going to be material on shelves around as you walk around the room to look at so you know what you're buying?

Mr. Dellavecchio – If we go the mobile digital technically no everything is just on the screen. That will help the traffic flow because if everyone wants to just look and browse and see what it looks like it's a different operation.

Mr. Schilp – That was my point.

Mr. Dellavecchio – Yes.

Ms. Kasetta – If I could add just from handling similar retail establishments I think from a security standpoint you want to be careful with how much product you're displaying out in the open as well. I know some stores will have a few empty containers on display so that people can see what the packaging looks like but I think there are probably security reasons not to have extensive displays in the room where the customers can sit and walk around correct.

Mr. Dellavecchio – Correct.

Mr. Duffy – If I'm to understand correctly you're not window shopping.

Mr. Dellavecchio – No.

Mr. Duffy – If you enter here you're anticipation is that they're a paying customer.

Mr. Dellavecchio – Correct.

Mr. Duffy – Curiosity seekers well they'll be those anyway it'll exacerbate the whole situation traffic flow and everything if people are coming in and so if you know they're not going to buy you can screen them and take care of them.

Mr. Dellavecchio – Yes I guess we're weeding out the tire kickers as we call them.

Mr. Duffy – As much as possible but to Mr. Schilp's concerns and then mine also we'd like to see in the sales area a little more definition. What are those to little things those are ATM's.

Mr. Dellavecchio – ATM's.

Mr. Schilp – Behind where it says POS there's looks like little doors.

Mr. Dellavecchio – It's a pass through window to the fulfillment space.

Mr. Schilp – Fulfillment room.

Mr. Dellavecchio – Yeah so the majority of the product will be stored in the vault which is accessed by the fulfillment area and then they can put that through the window to the point of sale people they get the product and give it to the customer. Another security measure having no product on the sales floor.

Mr. Schilp – How many employees do you plan on having at one time in the sales area?

Mr. Dellavecchio – Total employees so by state law we're only allowed to have a maximum of ten employees.

Ms. Kasetta – Those employees will be on shifts correct.

Mr. Dellavecchio – Correct.

Ms. Kasetta – They wouldn't all be there at the same time.

Mr. Dellavecchio – We wouldn't need ten at one moment no. I would say six to eight employees per shift.

Mr. Cialone – For retail.

Mr. Dellavecchio – For retail.

Mr. Paparozzi – Mr. Kaplan you said there was going to be some sort of filtration for the odor or to protect from odor it's not shown on here right.

Mr. Kaplan – It would be done mechanically like on the roof. There's not a room for it, it would be on the roof.

Mr. Paparozzi – That would be the exhaust on the roof right.

Mr. Kaplan – Yes.

Mr. Paparozzi – Isn't the odor eliminated before it's dispersed out into the air?

Mr. Kaplan – It's going to be filtered.

Mr. Paparozzi – So there's going to be a filtration system prior to going out to the roof right.

Mr. Kaplan – Yes.

Mr. Paparozzi – Neither one is showing.

Mr. Duffy – You're talking about the cultivation area.

Mr. Paparozzi – Yes.

Mr. Duffy – We're on the retail at the moment.

Mr. Paparozzi – We had questions on the architect's plan and that's where I'm going with the architect's plan.

Mr. Duffy – That's fine.

Mr. Paparozzi – I also the public entry for retail where they ID is 14 and a half by 8 and a half or close to that it's pretty small. I think they said that four people at a time could be in that entry area. What about the exit people exiting from the sales where do they exit from?

Mr. Kaplan – We'll use that same pathway for the exit.

Mr. Paparozzi – It seems rather small doesn't it for you have security you have a minimum of four people coming in for ID and then you have you don't know how many people but if it's a 20 people maximum you don't know how many people be leaving at once but don't you feel that's a little too tight?

Mr. Duffy – What's the little room next to the check in?

Mr. Kaplan – That's an electric room. There is some existing equipment in there right now for the building.

Mr. Duffy – Okay. You have access from the street and from inside.

Mr. Dellavecchio – That's an electrical room and a meter room so for PSE&G to do their meter readings they go in from the outside.

Mr. Schilp – It's not good for people.

Mr. Duffy – No not if it's electrical I understand that.

Mr. Dellavecchio – To go back to the processing for ID's they are electronically scanned so it's not like we're just scanning them. It gives us a light saying yeah or nay move on.

Mr. Paparozzi – Still if you have four people and security you still have a room that's 8 by 14 it's not exactly ideal.

Mr. Kaplan – It could be increased in depth if that was a requirement.

Mr. Dellavecchio – This is a micro retail which we're only by state allowed up to 2500 square feet of space.

Mr. Duffy – That's a new term I didn't hear that one before.

Mr. Dellavecchio – So this is a micro retail license so we're only allowed a maximum of 2500 square feet of retail space.

Ms. Kasetta – I think that's consistent with the Township ordinance.

Mr. Paparozzi – Yes it is.

Ms. Kasetta – The term is micro business in the ordinance.

Mr. Duffy – I've read a lot about all this and that one I didn't pick up on. In the retail store where is your emergency exit? What happens in the event of an emergency? They don't have access to go down the corridor and go out through the secure area that's retail access only so you have to go back out through the front where you came in.

Mr. Kaplan – The building code permits that. As long as I'm within a certain travel distance from the furthest point in the retail area to go out the front door that's permissible. We're not required by the building code to have a second means of egress from that space if my common path to travel to the exit door I believe it's 75 feet in a mercantile use.

Mr. Schilp – He's right Mr. Duffy.

Mr. Duffy – I'm sure he's right but those are the code is minimum. That's what you have to do I'm just thinking a little bit out loud which is one of the purposes of sitting in this condition of this application so I'm just saying okay we're limiting you have four people who are checking in you've got twenty people that could be inside the sales area and say 25% of them are getting ready to leave at the same time and there's an emergency something bad happens everybody is trying to get through a three o door two of them. That raises a concern because they can't get through the other way right.

Mr. Kaplan – Well I guess they

Mr. Duffy – Oh then you got twenty people on the sales floor and six to eight people employed so it's a concern. I'm not chastising please don't misunderstand.

Mr. Kaplan – I completely understand.

Mr. Duffy – I am a safety professional this is what I do.

Mr. Kaplan – So am I.

Mr. Duffy – I teach classes I do all this stuff in construction and pharmaceuticals and this is exactly what I think about.

Mr. Kaplan – The only other route at this point would be to permit people to go through the back of the house corridor to go out the employee entry. It would present a security concern for the owner just if somebody is smart enough and say they pull the fire alarm or something like that or they want to cause a scene where now people could go back there now product could be exposed to the public. It would be the kind of thing where if that door that you see swing out from the corridor into the sales area were to be permitted in emergency situations only to allow people to go out through there and keep going to the back of the house corridor security would have to be reviewed and just make sure that as an operator he's comfortable with that approach. That would be one way to address your comment.

Mr. Duffy – So you see why we need to have some more detail on this architect plan since it's proposed to fully understand that. If you can answer that in another drawing that would be good.

Mr. Schilp – On the west side if you're looking at it would be on the left if you could put an emergency exit door there all kinds of bar wells bells and whistles on it.

Mr. Kaplan – Yeah.

Mr. Duffy – There's something on the other side of that wall isn't there?

Mr. Kaplan – There's space there. Again having done a lot of these I have many clients that would say that door is where I'm going to be at 3:00 in the morning banging to try and break into this place. Now instead of a foyer separating that space you just have a single door everyone knows about it and they decide in the middle of the night I'm going to try. I have a lot of clients that wouldn't want that. That would be up to him if that were okay yes we could do that.

Mr. Duffy – On the left side.

Mr. Kaplan – Yeah the west side.

Mr. Schilp – By the bathrooms.

Ms. Murray – In the sales area into your file room there's a section of that wall that looks like a window. Why?

Mr. Kaplan – I don't think we're going to have.

Ms. Murray – It depicts a window so I'm just asking why all the other walls are solid.

Mr. Dellavecchio – yeah you're correct.

Ms. Murray – I know. So it's not a window.

Mr. Dellavecchio – No it will be a wall.

Ms. Murray – You need to correct the drawing.

Mr. Mazzer – Is the building sprinklered because it's a mixed use you have residential you have the vape shop a tire guy. For me I'm going to make you sprinkler the whole thing because there's just too much there and it's packed. I'm surprised they even let that tire place in. That's a big spot for you know. I don't even know where he changes tires or what he does he store tires in there. That's my problem. How many apartments are upstairs there?

Ms. Kasetta – There's two.

Mr. Mazzer – The vapes place downstairs.

Ms. Kasetta – Mr. Mazzer I don't have a ton of information about the interior of the building. What I thought was that it wasn't required to be sprinklered because of fire rated walls between the uses but to not discredit where you're coming from I understand my suggestion would be if the Board wanted to put a condition in that these spaces be sprinklered because we don't necessarily have control over what the property owner does and the other spaces but I can understand the safety concerns and that's something that would be within.

Mr. Mazzer – The property owner should say listen I'm going to sprinkler the whole place. He's got residential he's got people living there. You got a vape thing underneath a tire store which is a high hazard use and now we want to put a pot place there. There's a lot of stuff going on there. I'm almost tempted to tell the owner and say listen sprinkle and we're okay. Not for you to sprinkle but to sprinkle the whole place. It is a mixed use and the code addresses mixed uses differently. You can't just say mercantile because you know. It's just a lot and it's tight. You have an easement if somebody misparks a little bit you're not getting a fire truck or anything in the back there. It's going to be tough it's close. This building is very close. The wheel chair people that's close the idea with what he's saying another door on the outside I'm kind of agreeing with it. When they're in here they have one door to go out towards the driveway and then if you're in here and to get out the main entrance. There's another door where it says deck above or whatever put something in there where they have all the bells and whistles. You have to have a good steel door it's not going to be something that somebody can just push in. We're here basically for safety so that's I think where we're trying to go. I think it's good it's just that I would think I would want it I would like you to say listen when I come back the owner said he's going to sprinkle everything.

Ms. Kasetta – I'm hearing that the Board wants to see more details on these plans and would like some things cleaned up so my suggestion would be that we speak to the property owner in the meantime about the sprinkler issue.

Mr. Mazzer – That would go a long way.

Ms. Kasetta – I understand where you're coming from completely it's just that I don't represent the owner so I can't.

Mr. Mazzer – I know the owner just keeps wanting to say oh let me send you guys here and you're trying to fit it in and it's great but we're here for Saddle Brook and for Saddle Brook safety is a big thing. Knowing that that's all sprinklered you don't have to worry about how many people are getting out of that three o door you know what I mean. That's only my opinion and I'm only one guy.

Ms. Kasetta – Thank you for your input we appreciate it.

Mr. Cialone – I see the square footage for the retail and that's 2,496 what's the square footage on the cultivation space?

Mr. Kaplan – The entire space is 9300 I believe.

Mr. Dellavecchio – It's like 7000 I believe.

Mr. Kaplan – Doing the area on the inside not the gross but the net inside that cultivation I have 6400 just over that.

Mr. Cialone – I would think we need to see what's going in each of these rooms. We need specificity and I'm just going to give you an example we had an applicant in the Planning Board who showed just an empty room oh I'm just doing this and they pressed him and pressed him and finally they said you have to come back. Then he came back with all this machinery that was going to be in there so I think as part of a site plan approval it's part of what we're doing here we should really see what's going to be in each of these rooms until we know what we're approving. I know we discussed that a little bit in the sales area with the display cases or whatever they're going to do but just in my opinion the entire architectural floor plan should show what's going on in each room. What kind of equipment is going to be there whether there's shelving, tables, equipment safes what have you.

Mr. Paparozzi – Ventilation.

Mr. Tokosh – You mentioned you had a carbon filtration system are you talking about an activated carbon filtration system or just plain carbon.

Mr. Kaplan – I don't have an answer on that I have to talk to my mechanical engineer for the exact system.

Mr. Tokosh – My guess is you probably need activated carbon because you want to remove impurities which I think that's what you want to do. My next question is going to be how do you know when the carbon needs replacement? Is it tested or is it on a timed basis?

Mr. Dellavecchio – From the past I'm familiar with the carbon charcoal filters and for ionizer systems. The charcoal filters have a lifespan depending on the size of it so it would be replaced every required interval based on the manufacturer's specs. The ionized I kind of like it's on all the time twenty four seven but there's always pros and cons to each system so it would be one of the two sometimes both.

Mr. Tokosh – Are you talking activated carbon or just plain carbon?

Mr. Dellavecchio – It's just carbon charcoal filter just pellets where it just runs through and passes. It has a prefilter also if I remember correctly.

Ms. Kasetta – That's something we could show on a revised plan correct give more detail on that.

Mr. Kaplan – Sure.

Mr. Marz – This is your first micro business cannabis retail shop here?

Mr. Dellavecchio – In New Jersey yes.

Mr. Marz – In the country?

Mr. Dellavecchio – No not in the country.

Mr. Marz – How does it work for you in other states the size you're going to have with four people in the corridor and twenty people inside?

Mr. Dellavecchio – What happens with this type of business every new state it gets excited in the beginning it's trend tends to lose out and it's normal operations. Then we don't have the concern of forty people waiting on lines that go outside. It's like the hottest night club in New York City there's always a line three months later you're like where's the line? Then it goes into delivery systems and they're starting delivery now in New Jersey.

Mr. Marz – Just curious.

Mr. Burbano – At what point would you decide what kind of fixtures you're putting in because I know somebody had asked what's going to be in the space. I know the sales area POS systems shelving and all that really doesn't make a difference for certain aspects but again we've had people come in here and say they're going to do one thing with a vanilla big box and then they do something completely different. I was just wondering at what point you know a kiosk system or a person walking around there's not going to be anything there's not even going to be POS systems in there they would all be IPAD's and you wouldn't even have showcases.

Mr. Dellavecchio – Correct so we kind of try to go with the demographics then we also like to hear the Board's opinions on stuff and then it's like now going back to the drawing board it will be easier for us to dictate how we want to run this system.

Mr. Burbano – Okay.

Mr. Dellavecchio – We have all these models it's which one. Sometimes you hybrid the two models together and it works better and then again it's all assumptions sometimes we do it and it doesn't work out we have to change the system.

Mr. Burbano – If you do go to a kiosk system do you make the sales area smaller or do you keep it the same footprint?

Mr. Dellavecchio – It's hard with kiosks because when it's new to the public everybody there to learn and touchy feely type of clients. Once they all learn then they want to be in and out. I would like to do a kiosk system. I almost want to do like an Amazon Locker Box where you already preordered and you just run in and grab it. Sometimes you can even take the approach where okay cigarettes come out of a vending machine do you even need a brick and mortar store at some point so challenges.

Mr. Burbano – I do understand I'm familiar with retail. I know that kiosk spaces tend to have smaller front house area which expands the back house area which allows for more storage in the back and things of that nature. I know that there's a big buzz on cannabis now and there's lines everywhere and touchy feely and stuff like that but I would imagine there's enough cannabis locations out there right now within New Jersey. I know of four or five in this area that your customers are basically going to be coming from those or have bought at this point. Not too many people are going to be coming that are new. When you don't know what you're doing in the front of the house and you don't know the space you're going to need I'm just curious if that space is going to stay the same. We take some retailers and they have an entire front of the house of 2000 square feet and they go to kiosk and it's a true kiosk so now the space becomes that front entry way of 400 feet they just walk in push the button somebody comes out hands them what they need and what do they do with that other 2500 square feet it becomes part of maybe the cultivating. It becomes part of something else within that business so I just want to make sure what we're approving we're approving based on what you're going to be doing now not what you're intentions are later. If you're plans are a kiosk and it is smaller I'm not saying that's what it's going to be but if it is smaller we would want to know how the space is going to open as opposed to okay we're going to approve you with this and then we find out we approved it building plans changed the back of the house is now bigger than the front of the house and it changes the dynamics of it. I understand that you can condense later on but we just want to know what it looks like when it opens. That's the only point that I have with the questions I asked.

Ms. Kasetta – So Anthony to answer both of their questions is that something we can nail down a little bit and show on the revised plans that we're going to submit to clean up these other items as well?

Mr. Dellavecchio – Yeah we can choose a business model and stick with it. No matter what the 2500 square foot footprint will stay because again it's not that big.

Mr. Burbano – If it's a kiosk location if it's a point of sale location whatever it is is that 2500 square feet going to stay the same and there's just going to be more people to roam? That was my initial question. If it's going to remain the same then it really doesn't matter if you're putting a couple of POS stations, even the islands in the middle as a showcase if when the Fire Inspector does his review he's going to make sure you have your lines of egress. He's going to make sure that your fixture plan and in most cases after everything is all done before you get your CO they have to make sure the Fire Marshall goes in there and does the measurements to make sure in any retail establishment that you have your fire lanes within the fixtures that are provided because a lot of times they don't have a fixture plan going into it.

Mr. Kaplan – One clarification I just want to make sure it's understood that the sales area is not 2500 square feet. The entirety of the retail structure including it's back of house functions the vault, the fulfillment, the security room, the bathroom that's all 2500 square feet.

Mr. Burbano – Okay.

Mr. Kaplan – The sales area is just a part of that.

Mr. Dellavecchio – The red outline is the whole retail space measuring under 2500 square feet.

Mr. Duffy – I understood and I just wanted to clarify do not misunderstand Mr. Burbano when he used the word approved.

Mr. Dellavecchio – No, not at all.

Mr. Duffy – You're here for approval it's if we approve.

Mr. Manzo – My concern is they have apartments on the top of this building that's where the residents live.

Mr. Duffy – The apartments are actually off to the side. They're over the vape shop and that aspect of it not directly over where the retail is going to be.

Mr. Manzo – Are there other air conditioning units up there or air filtration things because I'm figuring the noise might be affecting the residents.

Mr. Duffy – Good question I don't know the answer to that. I know there's a patio up there on one side and a picnic table and a grill but I didn't see anything.

Mr. Manzo – Yeah I'm thinking the noise from the air filtration or air conditioning might affect the residents. Or the generator.

Mr. Duffy – There are a couple of roof top units up there.

Mr. Kaplan – If I could direct you to the exterior elevations again I'm happy to show you as well.

Mr. Kaplan shows Mr. Manzo on the drawing where the units are in relation to the apartments.

Mr. Duffy – I think we're all on the same page so we'd like to see some details. What is a mother room?

Mr. Dellavecchio – The mother room is a larger plant where they take the clones or cuttings and you create another batch of plants from it.

Mr. Schilp – You are aware that there's going to be a big place within a hundred yards at Staples that are going to be selling and I was made aware the other day that Elmwood Park approved a big one as well on the corner of Molnar Boulevard and Route 46 so that's maybe a half a mile away and they just approved one down there so we're kind of this is going to be the capital right here of the potdum. How many dispensaries can you have in half a square mile and we also have a couple of other applications looking to put more around the area in Saddle Brook. We're allowed three in Saddle Brook so there could be three and another one a quarter mile away. I just want to make you aware of that. The market is when they had the first one in Rochelle Park on Route 17 the line was on 46 they were parked in all the businesses out there and you go in there now and there's nobody in the stores. Not many people in there so they lost a tremendous amount of business.

Mr. Dellavecchio – I'm aware thank you.

Mr. Duffy – You mentioned something which has not been brought up in a previous application, delivery. Would you expand on that for me?

Mr. Dellavecchio – You can get a class 5 retail license you can retail and have delivery service. Then class 6 you can have a delivery service but you're just doing deliveries. I guess an Uber a we'll call it pot. At some point there will be deliveries so then again you go back to your retail space where some people don't want to leave their house and just deliver it. That's why we like the retail cultivation model for us in our mind it is a farm to table situation. You know where you're getting your product from its right in house. We're not getting it from who knows where in the state. If you like our product you know it's right here and that's what you're getting and that's the idea behind having the retail and cultivation together.

Mr. Schilp – Do you intend on delivering shortly after you open?

Mr. Dellavecchio – I don't think so.

Ms. Kasetta – Isn't that a separate license from the state for delivery?

Mr. Dellavecchio – On the class 5 retail you can do delivery.

Ms. Kasetta – I see.

Mr. Dellavecchio – if you want to be just a delivery person or service you get a class 6 license.

Ms. Kasetta – I see.

Mr. Kaplan – Which means the retailer will call a delivery service and say pick this up for Mr. and Mrs. John Doe and Jane Doe and deliver or we could run the operation ourselves under class 5 retail.

Mr. Schilp – Are you going to be a class 5?

Mr. Dellavecchio – Yes it would have to be.

Mr. Duffy – That would probably get into your site plan because if you had your own vehicles your own delivery people that would change right. That opens up an entirely different view of this whole thing.

Mr. Dellavecchio – Correct. On the timeline three years from now yes now we have a parking lot for a fleet of cars I guess.

Mr. Duffy – I know there's one if not two companies already in New Jersey that have a fleet of delivery. One is proposed in Essex County and he's got twelve vehicles.

Mr. Dellavecchio – Okay.

Mr. Duffy – Like I said I've done a lot of reading on this it's amazing how this topic is like this when 70% of the townships or municipalities in the state are not touching pot they're not doing it. It seems to be hitting hard up in this area but you know Atlantic City is getting hit they're putting up a lot there so is outside Camden, Princeton. It's just an interesting thing it's evolving so when you bring up delivery it raises a number of issues it might be down the road. I just want the Bboard to think about it a little bit because it may have an impact on us. Do any of the Board members or professionals have any other questions regarding the architectural? I have one thing you wanted to look at the signs at a different point. Why is that?

Ms. Kasetta – Just to make that a separate application because I think when we filed this application we weren't settled yet on what the proposed signs would be and we really wanted to keep it focused on seeking approval for the use and the site plan because those are the immediate concerns.

Mr. Duffy – So a retail name hasn't been chosen yet. I wouldn't think you'd I don't find anything catchy in Inhale Industries sign on the building.

Mr. Dellavecchio – It would be Inhale.

Mr. Duffy – Okay. You understand that the Board would definitely need to see more detail on this architectural plan so e better understand as far as the ventilation is concerned, what these rooms mean what particular equipment. I think that your decision as to what methodology you're going to use in the retail area you can almost give a good idea whether you are going to go with kiosks or not. I'm not asking you to choose just give us something that's a little bit more that we can understand.

Ms. Murray – The last application mentioned something about CO2 tanks or something.

Mr. Duffy – That was for manufacturing. They have water tanks. I told you e got quite an education on potency how it's regulated through minerals in the water and they have their own so will you be doing something similar?

Mr. Dellavecchio – Obviously, you need water for the plant so you want to start with a reverse osmosis system. Start with I guess PH leveled water it's just a helping factor to minimize your yields. Just think tomato plants right you feed them and take care of them the right way you end up with bigger product so that's all it is. It's not that difficult at the end of the day.

Mr. Duffy – I understand that but in our previous application I'd go back because it stuck in my head they talked about the water. He had a separate tank because he gave us a cut sheet on the water tank and that the water you could actually increase the potency of your product by natural minerals in the water and they had a separate water tank in order to be able to do that.

Mr. Dellavecchio – You add nutrients to the water supply or the water tank and that's what's going to feed your plant. That will give you your maximum yield slash and potency. It only goes by strains certain strains you can't get so much potency out of it. It's engineered to be X amount so let's call it 20% that plant will not give you 28% no matter what you do to it. It's almost genetics to it in a way.

Mr. Schilp – The same thing with the area we're talking about in the back now. When they first came in they had plans like this. We wanted to see where the water tanks are they had several water tanks that they had in whatever is going to be there. Is the building the floor cement that's there capable of handling a big tank? We never did get an answer from them. A five hundred gallon tank you're talking about three thousand pounds of weight in one small area. I want to see and I'm sure everybody else wants to see where the tables are going to be the whole nine yards everything whatever you're going to do back there.

Ms. Kasetta – All of the programming within the building is essentially what you want to see.

Mr. Schilp – Which store are you modeling this after?

Mr. Dellavecchio – it's our own design.

Mr. Duffy – you've done others you said before.

Mr. Dellavecchio – Yeah in California.

Mr. Duffy – This is as you said farm to table so you're only going to be selling smokable pot correct.

Mr. Dellavecchio – Correct.

Mr. Duffy – There's no gummies or any of that.

Mr. Dellavecchio – No that would be manufacturing and you've got explosive gases and it's like a big chemistry lab.

Mr. Cialone – What you grow in the cultivation business is that solely going to be for the retail or are you going to sell to other dispensaries?

Mr. Dellavecchio – Ideally with a 2500 square foot footprint you can't grow that much it's only I want to say a hundred pounds so it's going to stay in house.

Mr. Cialone – Is there a possibility you could sell?

Mr. Dellavecchio – Of course if someone needs it if there's a market shortage and we have it business is business at that point but the idea is us internally.

Mr. Duffy – Do any of your witnesses have anything further to add?

Ms. Kasetta – I would like to cover a few more things with Mr. Dellavecchio that aren't really related to the architectural plan but will be related to later testimony from the two engineers.

Mr. Duffy – Is Mr. Kaplan's testimony required any further?

Ms. Kasetta – Not in my opinion.

Mr. Duffy – Are there any other questions for him?

Mr. Schilp – You're removing a door an exit way door is there going to be sufficient room and distances to get out one of the other doors from all the way up in that far corner because there's no measurements on here so I really can't tell.

Mr. Kaplan – You'd be able to go through the intake room as another means of egress so from the back of the house space I can either turn right and go out through that vestibule and then to the east where the secure door is shown in that common area or I'll be able to go into the intake room and go out that door that goes to the parking lot.

Mr. Schilp – So you're going through the work area and out.

Mr. Kaplan – Yeah.

Mr. Schilp – Okay. What kind of security are you going to have in this place?

Ms. Kasetta – I was actually going to ask Mr. Dellavecchio to testify about that.

Mr. Duffy – That wouldn't be an architectural testimony.

Ms. Kasetta – I don't think so I think it's more operational.

Mr. Kaplan – I would say that if we do end up with that extra door that you had mentioned for a second means of egress I have done several such doors where to your point yes somebody could take a battering ram hit that and knock it in there. There's three point locking mechanisms there's heavier gauge doors. There are some that are made just for the cannabis industry for this very incident. That would be one thing in terms of passive security that we could provide if we end up going that route.

Mr. Schilp – Are you going to have surveillance cameras and where?

Mr. Dellavecchio – Inside and outside.

Mr. Schilp – Are you going to have any security personnel?

Mr. Dellavecchio – During operational hours yes.

Mr. Schilp – Are they trained or are they some guy go stand over here and guard the place.

Mr. Dellavecchio – I'm going to hire a security contractor firm to supply security personnel.

Mr. Duffy – I would say then if you have some questions for Mr. Dellavecchio let's keep Mr. Kaplan also just in the event he raises a question then we'll open it up.

Ms. Kasetta – Okay so just a couple of follow ups for you. Trash removal that will be done by a private hauler correct.

Mr. Dellavecchio – Correct.

Ms. Kasetta – You can schedule the frequency the times I'm assuming you would do that for off peak hours not when the store is at its busiest correct.

Mr. Dellavecchio – Correct.

Ms. Kasetta – Deliveries what kind of vehicle do you expect deliveries to be from?

Mr. Dellavecchio – I would love to use Tesla if possible since we're going to have three charging stations back there but they are supposed to be inconspicuous vehicles for security so.

Ms. Kasetta – Would they be vans or the reason I'm asking these is are traffic expert and our engineer will need to speak to circulation issues on the site so we're speaking about vans and those types of vehicles correct not box trucks or tractor trailers.

Mr. Dellavecchio – Are we talking about deliveries for running operations or deliveries to homes of the product.

Ms. Kasetta – Deliveries to the property for your operations.

Mr. Dellavecchio – More like a Pro Master Sprinter type thing we don't need anything bigger than that. Once operation is set up there's not big equipment that comes in and out nor supplies.

Ms. Kasetta – Any idea what the frequency will be at this point?

Mr. Dellavecchio – Once you set up I would say four times a month.

Ms. Kasetta – That's not that often and I'm assuming those can be scheduled for off peak hours.

Mr. Dellavecchio – Correct.

Ms. Kasetta – Can you confirm for the Board that we are not proposing on site consumption and that you would agree to a condition of any approval granted prohibiting that.

Mr. Dellavecchio – No consumption.

Ms. Kasetta – There was a question in the reports from the Board professionals about vehicles currently parked at the rear of the property and whether they were there by lease agreement with the property owner whether they'll stay. Can you explain what the deal is with that and what will happen assuming you receive approval?

Mr. Dellavecchio – My discussion with the landlord those are month to month leases and once we occupy the space they're all being removed and we have to actually redo the whole site paving striping and they'll be no more parking of outside vehicles.

Ms. Kasetta – Thank you.

Mr. Schilp – We went through this with someone else and the Town officials are going crazy trying to get them to do what they agreed to do. I don't know whether you're allowed but a letter stating from you that you will not open the store unless that stuff is cleared out of there because we've gone through it several times. We tell people you got to move the boat you got to move the trailer you got to move this you got to move that and we give them permission and they oh yeah no problem and you go back there a month later two months later three months later four months and it's going on in another place now they're being fined for it and these companies said you approved it we're here we don't care. I hate to be a pain but we've approved enough in this Town they say no problem I swear I'm going to do it. You go back there and it's just the same way it was when it started.

Mr. Duffy – Let me ask this question to our attorney can we if this was approved can we put something in a resolution that could stop it if they didn't comply?

Mr. Cialone – Typically you put it in as a condition and in order to get their final approval CO what have you they're supposed to comply with all the conditions if they don't they shouldn't be getting a CO and without the CO they can't operate. That's the point of the conditions.

Ms. Kasetta – I have something that might help.

Mr. Duffy – I'm not making you a test job.

Mr. Dellavecchio – This is for the truck removal?

Mr. Duffy – Yeah.

Ms. Kasetta – I have something that might help and I want to show you the site plan you might not want me to mark it because we haven't gotten to it yet and this is a colorized version so if you want I can mark this.

Mr. Cialone – Sure.

Ms. Kasetta – Exhibit A1.

Mr. Cialone – Colorized version of the site plan.

Ms. Kasetta – I don't know exactly where these vehicles are parked but we are proposing to extend the paved area back here. You see the hatched area that's all not paved as of now. Presumably, these vehicles are over here somewhere.

Mr. Duffy – Actually the vehicles are if you go into the middle of your grey area now go up. They're all alongside the building all along there.

Mr. Paparozzi – And there are trailers parked on the unpaved area. There's a bus a box truck there's landscaping trailers.

Ms. Kasetta – My point is in order to do this site work those vehicles are going to have to move anyway.

Mr. Duffy – Yeah so there's on the weekends there's a landscaper comes and washes his lawn mowers uses the water supply from the place and the landlord has given him carte blanche to do this so the question that I understand what Mr. Schilp is talking about and what our contention is so I don't know how far we can go. We have to make sure they don't do that to you.

Mr. Schilp – They move the trucks out today you pave it and they put them all back tomorrow.

Ms. Kasetta – I would say my client would have a big problem with that because that would interfere with his business once he's up and running so I don't think he would allow them to put them back there.

Mr. Duffy – Hopefully not I don't know if there's you know we have some teeth. It's a frustration we work with a lot of businesses coming into Town to get things set and help them be good neighbors and there's a number of them who have turned around and literally slapped us in the face and done whatever they want. It's making everybody here a little bit like well we're doing everything to help you what are you doing to help us to be good neighbors.

Mr. Dellavecchio – If I'm paying rent and building a brand new parking lot trust me those trucks are not coming back.

Mr. Duffy – Anything further?

Ms. Kasetta – That's it for me.

Mr. Duffy – Anybody else? Can I have a motion to open the meeting to the public?

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Mr. Schilp makes a motion seconded by Ms. Murray to close to the public. All in favor – YES.

Ms. Kasetta – Mr. Chairman I understand the Board wants more detail on these architectural plans. We are happy to provide it. I do have two more witnesses our traffic expert and our engineer who probably will come in at any minute but I think those two witnesses their testimony is very much interrelated so it doesn't make sense to start one and not the other so I wanted to ask for your opinion if we should leave it here submit a revised architectural and come back next time to clean up anything we need to with the architectural and then go into both of the engineering witnesses.

Mr. Duffy – I would agree with that. We'll be here for quite a while and I don't want to rush through any of the testimony or cut short any of the Board members or professionals asking questions.

Ms. Kasetta has decided to continue at the next meeting.

Mr. Cialone – We need a motion to adjourn and carry the application without further notice. The applicant would need to consent to the tolling of the time.

Ms. Kasetta asks that it be adjourned until the December 4th meeting and if they are unable to get the revisions done in time she will let the Board know and adjourn again if necessary.

Mr. Schilp makes a motion to carry this application to December 4th without further notice.

Ms. Murray seconds the motion.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

This application was added to the agenda on 11/3/23.

D.) Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9

Applicant requests a one year extension of the approvals that were granted on November 7, 2022 by the Zoning Board of Adjustment.

Mr. Duffy – They have not done any work whatsoever that we've approved. Their variances expire on November 11th and their attorney contacted Mr. Barrale this past Friday to ask for an extension. It is entirely up to the Board if we will grant an extension or not. I believe it's prudent for us to do it because then we can push and have our Building Department go after and get him to finally do what he's promised to do. If we don't extend the variances I'm not sure how it's going to play out. Two things have changed he does not have the amount of trucks as bad as it was and he's blocked the fire lane on the other side of the building by the residents. He put a gate up and chained it so his people can't go down there. It's not paved and that was a stipulation that it was to be paved and lined so we would know the size of the trucks and the where their locations were.

The Board members each had a turn to give their opinion and let each other know how they feel about the situation. There was discussion about Mr. Sarlo's letter and the information contained in it. They had also considered granting less time than was requested. They debated back and forth for quite a while discussing whether or not it should be extended and for how long. They also discussed the condition of the property and the fact that nothing had been done to improve the site or address the concerns that were voiced by the Board at the original hearings and what was memorialized in the resolution. There were a number of questions that the Board had for the applicant and his attorney neither of which was present at the meeting. The Board members decided that they would like the attorney and the company representative to appear in person so that they could hear from them as to why the Board should extend the time and to answer the questions that the Board had. In the end the Board agreed to table the request and ask that the applicant and his attorney appear at the next meeting to answer questions regarding the request and the original application.

Mr. Duffy makes a motion seconded by Mr. Schilp to table the extension to the December 4th meeting and that the applicant and his attorney attend the meeting.

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano, Mr. Duffy – YES.

6. RESOLUTIONS

NONE

7. MINUTES

Meeting of October 2, 2023 Regular Meeting

Ms. Murray makes a motion to read and file seconded by Mr. Schilp. All in favor – YES.

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board of Adjustment, 10/09/23 (139 Alberta Drive)

Anthony Cialone to the Zoning Board of Adjustment 10/11/23

Allyson Kasetta to the Zoning Board of Adjustment 10/18/23

Ms. Murray makes a motion to read and file seconded by Mr. Schilp. All in favor – YES.

9. VOUCHERS

Basile Birchwale & Pellino, 11/01/23, Carrols Restaurant, 439 Market St., Blk 705, Lots 24-26 \$156.25

Basile Birchwale & Pellino, 11/01/23, Inhale Industries, 249 Route 46, Block 120, Lot 5 \$125

Basile Birchwale & Pellino, 11/02/23, Imran Shaikh, 453 Dewey Avenue, Block 703, Lot 20 \$56.25

Neglia Engineering Assoc., 10/16/23, Imran Shaikh, 453 Dewey Avenue, Block 703, Lot 20 \$175

Neglia Engineering Assoc., 10/16/23, Deugen Development, 210 Rt. 46, Block 105, Lots 2 & 3 \$190

Neglia Engineering Assoc., 10/16/23, Inhale Industries, 249 Rt. 46, Block 120, Lot 5 \$959

Ms. Murray makes a motion to pay if the funds are available seconded by Mr. Schilp. All in favor – YES.

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Ms. Murray makes a motion to open to the public seconded by Mr. Schilp. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion to close to the public seconded by Mr. Schilp. All in favor – YES.

11. ADJOURN

Mr. Schilp makes a motion to adjourn seconded by Ms. Murray. All in favor – YES.

Meeting adjourned at 10:14 pm.

Respectfully submitted,

Frank Barrale
Zoning Board Secretary