

Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
April 5, 2023

Opening

The Regular Meeting of the Mount Laurel Zoning Board of Adjustment on April 5, 2023 was called to order by Vice Chair Andersen at 7:00 p.m.

The Pledge of Allegiance and Moment of Silence were observed

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

Roll call was taken

In Attendance

Vice Chair Andersen, Mr. Francescone, Mr. Holmes, Mr. Sharp, Mr. Desai and Mr. Bhankharia

Absent

Chairman Gray, Mr. Blum, Mr. Kramer

Mr. Francescone and Mr. Campbell, Board Solicitor recused themselves from the Jersey Wahoos application ZB23-D-03, due to professional conflicts. Mr. Ron Cucchiaro, Planning Board Solicitor served as Zoning Board Solicitor for the application.

Professionals in Attendance

Ashton Jones, Board Planner, Drew Pavlick, Board Engineer, Mike Angelastro, Board Traffic Engineer, Board Solicitor, Ed Campbell Esq. and Board Solicitor Rod Cucchiaro for Jersey Wahoo's only.

Review of Board Procedures

Announcement

Vice Chair Andersen announced the recusals.

Adopting the Minutes

Vice Chair Andersen asked for a motion to adopt the third regular meeting minutes of 3/1/2023, Mr. Sharp moved the motion Mr. Holmes seconded, all members voted affirmatively and the motion was carried.

Approval of Resolutions

R-2023-ZB07, Carlucci's, ZB23-73-02, Motion by Mr. Sharp Second by Mr. Holmes, all members voted affirmatively and the motion was carried.

R-2023-ZB08, Patrick Whalen, ZB23-C-04, Motion by Mr. Sharp Second by Mr. Holmes, all members voted affirmatively and the motion was carried.

R-2023-ZB09, O'Connell and Scarano, ZB23-C-28, Motion by Mr. Sharp Second by Mr. Holmes, all members voted affirmatively and the motion was carried.

R-2023-ZB10, Daylite Cannabis, ZB23-D-01, Motion by Mr. Sharp Second by Mr. Holmes, all members voted affirmatively and the motion was carried.

Board Professionals were sworn

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

Petitions before the board

1. Jersey Wahoo's, ZB23-D-03, 4101 Church Road, Block 1301 Lot 1.02, B-zone. This applicant seeks a Use variance from section 154-43 to allow a second principal use as well as Amended Site Plan approval.

Salvatore Siciliano Esq., Siciliano Law, represented the applicant.

Mr. Cucchiaro confirmed with Mr. Siciliano that he is aware that the Zoning Board consists of only 5 voting members for this application and an approval would require all 5 affirmative votes. Mr. Siciliano said he is aware and consented to continue with the hearing.

Witnesses Sworn

B.J. Kraemer, Member of the Board of Trustee's for Jersey Wahoo's and Gerald DeFelicis, LLA, LA, PP, Senior Project Manager and Landscape Architect at Colliers Design

Mr. Kraemer's Testimony

Mr. Kraemer summarized the 2020 Site Plan approval granted by the Planning Board. The plan was to add a 2,700 square foot addition to the building. The purpose was to extend a weight room for the athletes with a complimentary use of a physical therapy office. He referred to this as a partnership that does athlete evaluations. Mr. Kraemer stated that due to Covid budget restraints, The physical therapy practice offered to be a partner in the building. He stated that 50% - 80% of the athletes in the club are their primary patients. Mr. Kraemer sees this as a complimentary partnership. He stated that 100% of the Jersey Wahoo's are treated by the physical therapist. Athletes family are also patients. To Mr. Kraemer's understanding, they have 3 physical therapists treating 3-6 patients at a time during the day and less at night. He testified that the existing parking is sufficient for both uses. When the renovation was completed the parking was addressed. He testified that the partnership has been active in the building for 2 years. With respect to signage, Mr. Kraemer stated that they removed the signage on the building during renovations and it was not replaced. The physical therapist, Breakthrough Physical Therapy, has offered to replace the Jersey Wahoo's signage and add their own. Mr. Kraemer explained that Jersey Wahoo's is a non-profit community-based swim club. They support high schools in the area and have been in business since 1973.

Mr. Desai asked if other people besides Jersey Wahoos use the physical therapist and expressed concern for increased traffic.

Mr. Kraemer responded that people other than Jersey Wahoo's athletes do use the physical therapist.

Mr. Angelastro responded that the trip generation by ITE, Institute of Traffic Engineer's, 8 new trips in am peak hours and 10 new trips in the pm peak hours are expected. He stated the increase is very minor. No noticeable change in level of service is expected. Based on the township code the facility, including this use, is required to have 83 parking spaces and they are providing 176.

Mr. Sharp asked if there will be an increase in ADA requirements for parking.

Mr. Angelastro replied that the applicant has agreed to provide additional ADA spaces.

Mr. Cucchiaro confirmed with Mr. Siciliano that the applicant will comply with the new EV requirements.

Mr. Siciliano confirmed they will comply.

Mr. DeFelicis's Testimony

Mr. DeFelicis testified that the physical therapist is a complimentary use to the swim club. He said the physical therapist will see outside patients. He stated that the site is in a B zone and across the street is an I zone, there is no Residential zone surrounding the facility. Mr. DeFelicis stated that the use is particularly well suited to the site and setting and special reasons exist to grant the variance. He stated the proposed use serves the public good by providing access to the public for recreational or therapeutic uses. He stated that the property can accommodate the use without undue hardship to the property owner. Further, he stated that both uses are approved uses in the B zone. With regard to the negative criteria, Mr. DeFelicis stated there is no substantial detriment to the public good, and the use does not impose a substantial impact on the neighborhood. He stated that the proposal is not inconsistent with the zone plan or surrounding zoning. There will be no impact on the infrastructure such as water or sewer. The proposal promotes a desirable visual environment through creative development techniques and encourages coordination with public and private procedures. He noted that there is sufficient space on the site to accommodate the uses.

Mr. Cucchiaro asked the applicant if they are arguing that the use is inherently beneficial or particular suitability.

Mr. Siciliano replied both.

Mr. Cucchiaro stated that the statute for inherently beneficial uses lists specific uses and while not all-inclusive, this use is not one of them. He noted that he believes that particular suitability should be what the applicant is arguing.

Mr. DeFelicis continued his testimony and stated that the applicant is asking for 3 signs where 2 are permitted. The plan submitted shows 2 signs on Church Rd. The 3rd sign is facing the service driveway to direct visitors to the Physical Therapist. The sign will be above the door. The signs will be on the façade of the building. No monument sign is proposed. He stated that the addition is in the rear of the Jersey Wahoos building and is barely visible from the road. He testified that all of the current existing signs will be removed.

Mrs. Andersen noted that there are currently 5 signs, one on Church Rd., a temporary sign right next to that one, one on the access road and two signs on the double doors.

Mr. Siciliano testified that Breakthrough would like to have the sign above the door and keep the stickers on the doors.

Mrs. Andersen asked the applicant's attorney if he would agree that there would be one sign above the doors and the others would be removed as well as the other 3 signs.

Mr. Siciliano agreed.

Mrs. Andersen asked the Board Planner if the signs on the front of the building were combined into one, would that sign comply.

Mr. Jones replied that that sign would comply.

Mr. Jones reviewed his letter dated 2/21/23. He noted that most of his questions have been answered. He asked the applicant if they agree to pay any affordable housing fees

Mr. Siciliano stated they agree

Mr. Jones asked if the spots within the barriers indicated around the parking area are being counted as parking.

Mr. Kraemer replied that that parking area is blocked off until they have the money to complete the lighting in that part of the parking area.

Mr. Jones asked if the facility will be operating before the lighting is complete.

Mr. Kraemer replied that the facility is already operating and if those spaces are a requirement they will expedite the activation of that parking area.

Mr. Jones stated that if we are going to count that as parking then we should require it to be completed in a certain period of time.

Mr. Angelastro stated that the lighting was a condition of their previous approval however the lighting plan was never submitted.

Mr. Kraemer stated that there are bids being reviewed for lighting.

Mr. Cucchiaro asked if those blocked-off spaces are required to meet the parking requirement.

Mr. Jones replied that with two businesses in the building, they do not comply with the parking requirement while the spaces are blocked off.

Mr. Angelastro stated that we need that lighting plan sooner rather than later.

Mrs. Andersen asked when the lighting can be completed.

Mr. Siciliano suggested by Fall when the lights are needed.

Mr. Angelastro stated he suggest the board say a specific time by which the lights need to be completed maybe September or October.

Mr. Holmes asked the applicant to clarify their business hours.

Mr. Kraemer replied that during the school year, they have programs starting at 5:00 am but the bulk of the programs go from 3:00 pm to 10:00 pm. In the summer due to the ability to hold programs outside, the bulk of the programs are earlier in the day during the daylight hours.

Mr. Siciliano asked if the end of September is acceptable to the board as a time by which the lighting has to be complete.

Mr. Angelastro suggested the board require the lighting by the end of September 2023.

Mr. Desai asked if the applicant will install sidewalk.

Mr. Kraemer stated that you would invite more risk than you would solve with a sidewalk on that portion of Church.

Mr. Angelastro noted that the bridge will be expanded and with the guide rail, it would be very difficult to install sidewalk.

Mr. Kraemer noted they do not own that portion of the property, it is a right of way.

Mr. Pavlic reviewed his letter of 2/14/23. He asked if there will be a second trash enclosure

Mr. Siciliano replied there will not.

Mr. Angelastro reviewed his report of 2/20/2023. He stated the applicant has agreed to the comments in his letter.

Vice Chair Andersen opened the meeting to the public for questions or comments. Seeing none, closed the public portion.

Vice Chair Andersen stated the conditions as follows

1. The lighting will be completed by the end of September 2023. Mr. Cucchiaro added that the lighting plan has to be submitted now.
2. The five existing signs will be removed.
3. The applicant will comply with affordable housing requirements
4. The applicant will comply with the comments of the board professional's review letters

Vice Chair Andersen asked for a motion. Mr. Sharp made a motion to approve, Mr. Holmes seconded. Roll Call Vote. All present voted affirmatively.

Vice Chair Andersen called for a break at 7:55 and reconvened the hearing at 8:00.

Mr. Francescone and Mr. Campbell, who recused themselves from the previous application due to professional conflict, joined the board for the remainder of the hearing.

2. Levaughn Nelson, ZB23-C-07, 119 Oakmont Road, Block 1103.06 Lot 1. R-1 zone. This applicant is seeking a variance from section 154-144 to allow a fence in a side yard adjacent to a street with a 1-foot setback where 25 feet are required.

Mr. Nelson's Testimony

Mr. Nelson testified that they are seeking a variance to allow the fence one foot from the property line due to the fact that a large portion of their yard is the side yard adjacent to the street. He stated that the variance would allow them to protect their young children and would have no impact on the neighbors.

Mrs. Andersen asked if he has testimony that the variance would be a benefit to the community.

Mr. Nelson said he does not.

Mr. Francescone asked the applicant to describe his property and asked, if the yard was a normal yard would he need a variance.

Mr. Nelson said he would not. He stated that people drive fast down Brentwood Drive and they (the applicants) have young children.

Mr. Francescone asked the applicant to speak about the uniqueness of his lot.

Mr. Jones asked Mr. Nelson where the narrowest part of his property is located

Mr. Nelson said in the side yard.

Mr. Jones clarified the side/rear where the fence is proposed. He asked, considering the narrowness of the property, if the board were to follow the ordinance of a 25 foot setback, how much yard would he have.

Mr. Nelson said he would have about 4 feet.

Mr. Jones asked the applicant if it is correct that strict adherence to the ordinance would prevent him from enjoying his yard due to its location on a corner and narrowness.

Mr. Nelson said that is correct.

Mrs. Andersen clarified that there would be 4 feet on the side yard adjacent to the street in addition to the remained of the rear yard.

Mr. Nelson agreed.

Mrs. Andersen asked how far the landscaping comes from the side of the home.

Mr. Nelson said about 10 feet.

Mrs. Andersen asked, if the fence was installed 1 foot from the property line would it stick out into a space that is otherwise open.

Mr. Nelson replied that it would. The rest of the yards on that street are front yards where his is a side yard adjacent to a street.

Mr. Campbell noted to Mr. Nelson that there are 2 ways to ask for the variance. 1.) that there is a benefit to what you are doing and 2.) the irregularity of the lot, he stated that it seems like the testimony is regarding the irregularity of the lot. He stated there is a concept to consider that asks if the relief you are requesting is the minimal relief you need. He asked if there are any other fences on Brentwood Drive going to 1 foot from the property line.

Mr. Nelson stated that there are not.

Mr. Campbell continued and asked if there is a lesser variance that he could ask for that would still provide him with a safe backyard.

Mr. Nelson suggested 5 feet.

The board discussed the possible setbacks that would be acceptable to the board.

Mr. Francescone asked if there is a site line issue.

Mr. Jones replied there is no issue.

Vice Chair Anderson opened the public portion for questions or comments.

Peter McCaffrey, 117 Oakmont stated that he is the applicant's next-door neighbor and expressed his support for the application. He opined that there is a safety issue and the fence will provide safety for the applicant's children. He stated that people speed on Oakmont Road.

Seeing no one else, Vice Chair Andersen closed the public portion.

Mr. Campbell asked if there is anything proposed for the backyard that needs to be enclosed.

Mr. Nelson replied that there is a swing set.

Mr. Francescone asked what the average square footage of a yard in the neighborhood is.

Mr. Jones replied approximately 4,000 square feet, if approved the applicant's request would give him 4,500 square feet of yard.

Mr. Pavlic responded that another yard is 7,000 square feet, if the applicant's yard were fenced in without a variance it would be approximately 2,500 square feet, with a 5 foot setback the applicant would gain about 750 square feet.

Mrs. Nelson stated that their property is significantly smaller than all the neighbor's properties and they are trying to get a decent-sized yard for the children.

Mr. Francescone told the applicants to decide what they would like to amend their application to ask for.

Mr. and Mrs. Nelson, after some discussion, stated that they would like to amend the application to request their fence be installed with a 7-foot setback from the property line along Brentwood Avenue.

Vice Chair Andersen asked for a motion.

Mr. Francescone made a motion to approve the application to allow a 7-foot setback from the property line along Brentwood Drive, Mr. Holmes seconded the motion. Roll Call Vote. Mr. Francescone, Mr. Holmes, Mr. Bhankharia, Mr. Desai and Mr. Sharp agreed. Vice Chair Andersen disagreed stating the deviation was too great and provided no benefit to the community. Motion Carried

3. Naavi Realty, LLC, ZB23-D-02, 1134 Route 73, Block 1306.01 Lot 7.01, B-zone. This applicant seeks Conditional Use Approval per Ordinance 154-43.D to allow a cannabis retail facility with less than required setbacks as well as bulk sign variances relating to existing freestanding signs from section 154-92.6(c).

CherylLynn Walters Esq. Nehmad Davis & Goldstein, P.C. represented the applicant.

Witnesses Sworn

Nirmit Patel, Applicant's representative; George Tsougarakis, Security Consultant for building security; Kelly Conklin, Security Consultant for onsite security; Andrew Feranda, PE, PTOE, CME- Traffic Engineer and James Miller, PP, AICP - Planner

Exhibits Entered

A1 - a 6 page packet containing the Witness and Exhibit List, Aerial Plan, Colored Site Plan, Rendering of proposed front façade, rendering of proposed front façade from the west side view and proposed signage and A2 – Black and white Site Plan

Vice Chair Andersen noted for the record that the board has 6 members this evening and asked Ms. Walters to confirm that she would like to proceed with 6 voting members.

Ms. Walters replied that she would like to proceed.

Ms. Walters presented and summarized the application. She stated that the applicant received Subdivision approval from Planning Board in February 2023 and described the current building on the property as vacant. She noted the existing setbacks and testified that the applicant will renovate the existing building for cannabis retail use. She stated that the requested minor site plan requires some bulk variance including side yard setback and signage. Ms. Walters described the existing conditions of the lot and stated that the applicant will be submitting their compliance subdivision plans to the Planning Board shortly and that plan will include cross easements with the Roadway Inn. She noted the requirements of the approved subdivision including the requirement to install sidewalks on Rt. 73 if DOT does not. Ms. Walters entered exhibit A1.

Mr. Patel's Testimony

Mr. Patel testified that he is the president and Chief Operating Officer of Naavi Realty as well as a licensed practicing pharmacist in New Jersey. He is the founder and owner of a medical cannabis dispensary in Somerset New Jersey. He stated that Naavi owns the property and leases the property to Nirvana Dispensary.

Nirvana will own the retail cannabis dispensary. Nirvana is a wholly-owned affiliate of Naavi Realty. The owner of both companies is Jessie Vikani. Mr. Patel is the president of Nirvana Dispensary. He stated that they received a resolution of support from the township in September 2022 and holds a class 5 cannabis license. Mr. Patel stated that the dispensary will be open 9:00 am to 9:00 pm 7 days a week. He anticipates 8-9 employees including an onsite manager. He noted there will always be an onsite manager on duty and deliveries will be made with small box trucks. There is a secure location and delivery process for cannabis products. All product is tracked with a "seed to sale" system per Cannabis Regulatory Commission requirements. Cash pick-up is made through a secure process. Trash and recycle will be normal office trash and recycle and the existing trash enclosure and dumpster will be shared with the hotel. Cannabis products are stored in a vault consistent with CRC regulations. If a cannabis product needs to be disposed of it is quarantined and marked in the seed to sale system and picked up by an authorized vendor. No noise or odor is expected all product is received and sold prepackaged. On-site security ensures there is no product consumption onsite. There are two types of security on site. Building security which involves IT, cameras and the like and on site security is security for the lot. Mr. Patel testified that he has met with the Police Chief and Police Captain regarding the security plan and will continue to work with them moving forward.

Mr. Tsougarakis's Testimony

Mr. Tsougarakis testified that he is the owner of Skytech Solutions. They specialize in life safety security products. Life safety refers to access control, camera surveillance and intruder detection systems. He stated that his company is handling security for Nirvana Dispensary. They are providing full-service IT for the point of sale machines as well as life safety activities including cameras and access in the building and parking lot. The building is key card accessible and not everyone has access to all doors.

Mr. Campbell asked Ms. Walters if it is true that the applicant has submitted a security protocol program that is consistent with state regulations and best practices in the industry and that the security protocol will help to ensure that the property remains suitable for the use despite the deviation from the side yard setback.

Ms. Walters replied that that is the applicant's position.

Mr. Campbell continues that while the testimony is interesting he is not sure how much it has to do with the side yard setback.

Vice Chair Andersen asked the board if anyone has any questions regarding security. No one had any questions.

Mr. Conklin's Testimony

Mr. Conklin owns Superior Protection Professionals and will be providing armed security for Nirvana Dispensary. His security personnel consists of current, active and retired police and military. Both armed and unarmed security will be on site from approximately 30 minutes before opening until the last employee safely leaves the site. The security officer will assist with guarding deliveries and cash pick-up. He testified that they have and will continue to coordinate with the Police Department.

Mr. Feranda's Testimony

Mr. Feranda testified that he is a licensed traffic engineer and did a traffic assessment for the site as the proposed use. He stated that the site has two buildings, the Roadway Inn and the former restaurant, now vacant building. He calculated trips for the proposed dispensary based on ITE. There will be 99 trips in the afternoon pm peak hour, on Saturday afternoon there will be 151 trips. He stated that these numbers are

slightly higher than those for restaurant use but the peak times are different. There are two driveways one on a state highway and one on the County Road. He testified that there will be significant DOT roadway improvements at the intersection of Church and Rt. 73. He testified that his analysis at the driveway showed that operations will work satisfactorily with the building as a dispensary use. The Church Rd. access will operate at a level C or better and the Rt. 73 access will operate at a level C for the pm and level E on Saturday. The DOT improvements will improve the level of service significantly. The applicant has a Letter of No Interest from the DOT. He noted the shared easement with the motel. He stated that 32 parking spaces are being provided where 27 are required with 190 spaces provided between the dispensary and motel. Mr. Feranda testified that he communicated with the DOT Engineer earlier in the day and they indicated that the DOT does intend to install sidewalks as part of the "Zero Initiative" to provide safe pedestrian pathways however, they cannot guarantee the sidewalks until their plan is finalized.

Mr. Desai asked Mr. Feranda compared the Edgewater facility with the proposed facility in terms of the ITE.

Ms. Walters noted that the facility Mr. Desai is referring to is Curaleaf and Curaleaf is a medical dispensary therefore not an apples to apples comparison. Additionally, the Curaleaf facility is approximately 2,200 square feet larger than the proposed Nirvana facility.

Mr. Desai asked if Mr. Feranda knows when the NJDOT project will happen and noted that the project could be postponed for many reasons. Regarding sidewalks, Mr. Desai expressed concern that if the DOT project does not happen the sidewalk would not be installed.

Ms. Walters responded that the condition of approval for the applicant's Subdivision is that the applicant will install sidewalks if the DOT does not.

Mr. Feranda stated that the numbers provided for increased trips include the trips for the motel.

Mr. Angelastro stated that he had a briefing with DOT this morning and they indicated that they will not start acquiring right of way until final design begins which will be late 2023 to early 2024 and the project is slated for funding construction in 2027.

Mr. Desai asked if there will be any issues with site circulation on Church Road or Rt. 73.

Mr. Feranda replied that the levels of service indicate there will be no backup.

Ms. Walters stated that the site has adequate on site queuing capacity and the site has always been operated as a site with two uses. She stated that Mr. Feranda's testimony is that the trips generated for the retail cannabis use are less than those for the previous restaurant use.

Mr. Millers Testimony

Mr. Miller testified regarding exhibits A1 and A2. He stated that no building footprint changes are proposed and that 4 EV parking spaces will be added. He noted that any improvements to the site are mainly improvements that are required due to changes in regulation since the original development of the property. These changes include Electric Vehicle spots, ADA parking space, and an ADA ramp for access. He noted that the original plan showed a designated loading area of 10' x 20' on the side of the building but the applicant has agreed to make the area 12' x 20' thereby complying with the ordinance requirement. Mr. Miller noted that the site meets all the requirements of the Conditional Use standards except the setback from the adjoining property as shown on Exhibit A1. He stated that the proposed project advances purpose A and G of the Municipal Land Use Law. He stated that the site remains appropriate despite the deviation because the deviation is minor at only 3.9' and the neighboring property is slated to become another cannabis dispensary. Mr. Miller testified that they were alerted by Mr. Jones, Zoning Board Planner, that because one of the

proposed signs is on Church Rd. and off-premises it would require a D1 variance. Mr. Miller stated that the applicant did not notice for the required D1 variance and therefore the applicant would like to withdraw the request for the Church Rd. sign. He opined that the purpose of the ordinance is to create adequate separation between cannabis use and other uses. In this case, the deviation from the standard is minor and the neighboring use is another cannabis use. He stated that for these reasons the negative criteria are satisfied.

Ms. Walters noted that previously requested variances for loading space size and lighting are no longer being requested and the applicant will comply with the ordinance in both cases.

Mr. Patel Continued His Testimony

He agreed that he would return to the board with an appropriate application to seek relief for the Church Rd. sign. Regarding pages 4 and 5 of Exhibit A1 he stated that the rendering is accurate. He stated that the signs depicted in the exhibit packet will not be addressed tonight.

The board discussed the time and possibility of carrying the application for DJJZ Enterprises, ZB23-D-06 and Grande Properties, ZB23-C-05. The attorney for DJJZ Enterprises stated that they can be available for the May 3, 2023 hearing. The attorney for Grande Properties stated that they have a quick presentation and have out of state people prepared to testify, they requested to be heard at this hearing rather than carry to May 3, 2023.

Vice Chair Andersen asked if anyone in the audience was there to speak regarding DJJZ Enterprises or Grand Properties. No one replied.

Mr. Campbell stated for the record that the application for DJJZ Enterprises, ZB23-D-06 is carried to May 3, 2023 and no further notice is required.

Mr. Campbell asked Ms. Walters to confirm that her client has agreed to comply with all the comments of the board professional's review letters.

The board professionals noted that their review of the current application for Naavi Realty, LLC will be brief as the applicant has agreed to comply with their comments.

Mr. Jones reviewed his letter dated 2/24/23. He noted all of his comments have been or will be addressed.

Mr. Pavlick reviewed his letter and stated that his comments have been or will be addressed.

Mr. Angelastro reviewed his letter and stated that his comments have been or will be addressed.

Vice Chair Andersen opened the meeting to the public for questions or comments. Seeing none, closed the public portion.

Vice Chair Andersen asked for a motion to approve the Conditional Use portion of ZB23-D-02.

Mr. Campbell noted the condition of approval as the following

- 1.) The applicant will comply with comments in the professional reports
- 2.) The applicant will comply with the Subdivision approval requirements with regard to sidewalks

Mr. Francescone made a motion to approve the D3 Variance, Mr. Sharp seconded. Roll call vote. All members voted affirmatively. Motion Carried.

Vice Chair Andersen asked for a motion to approve the Minor Site Plan for Naavi Realty, ZB23-D-02. Mr. Francescone moved the motion, Mr. Sharp seconded. Roll call vote. All members voted affirmatively. Motion Carried

4. Grande Properties, ZB23-C-05, 550 Fellowship Rd., Block 1204 Lot 1, I-zone. This applicant is seeking Bulk sign variances from section 154-92.7.A(2)(f) to allow 5 façade signs where 1 is allowed some of which exceed the allowable 30 inches in high and 50 square feet.

Peter Flannery Esq., Bisgair Hoff represented the applicant and summarized the application.

Exhibits Entered

A1, 6 page packet featuring images of Monterey Grill signs, floor plans and interiors of Monterey Grill restaurants in other locations.

Witnesses Sworn

Mr. Miller, PP was previously sworn, Patrick McBride, Director of Development with The Restaurant Group and Thomas Juliano, Principal with Grande Properties

Mr. McBride's Testimony

Mr. McBride testified that they are trying to create an upscale restaurant and they need to differentiate from the Aloft Hotel. The signs will let travelers on Route 73 and the Turnpike know there is a high-end restaurant there.

Mr. Miller's Testimony

Mr. Miller testified that the property is zoned Industrial. He stated that the ordinance assumes industrial uses which require simple signage. This location is different, at this location, most of the uses are hotels and restaurants as well as a Walmart. The site has issues in regard to visibility from the surrounding road systems. Mr. Miller stated that he believes that the variance would advance purposes A and purpose I of the Municipal Land Use Law. He believes there are significant benefits with the proposed sign package which include essential identification of the restaurant. For the restaurant to survive it must be visible. The Hotel has a deep setback from the highway and the area is congested with a lot of traffic. He stated that there is no way to identify the restaurant without the signs. In regard to detriments, Mr. Miller stated that the signs are in scale with the building and located in a unique section of the township with mostly hospitality-type uses. He noted the Miller's Ale House sign, which is part of the substantial monument sign on Rt. 73. He opined that historically the larger signs have worked very well. He does not believe there is any detriment to the relief being sought and there is significant benefit. He believes that the application does satisfy the balancing criteria, is a better zoning alternative and it would advance the purposes of the Municipal Land Use Law. He stated there is no detriment to the public and no impairment to the zone plan or zoning ordinance and in fact supports a permitted use. He stated that the signs would be a benefit to the public and that any impact would be contained within the area. He stated that the proposal will contribute to the township's economic base by providing a service to the surrounding community, will not detract from the neighborhood, and will not result in negative impact on public welfare or services.

Mrs. Andersen asked why not put a sign for the restaurant on the monument sign.

Mr. Miller replied that the monument sign does not relate to this location.

Mrs. Andersen stated that the sign is for this location.

Mr. Miller stated that the restaurant is not proximate to the monument sign because of the length of the building and the size of the parcel. He stated that the proposed signs have greater functionality because they show the location of the restaurant whereas the monument sign would not accomplish that. He noted that the location of the restaurant is below grade and has a deep setback and is in a location where, if you are coming off the turnpike, you won't see it.

Mr. Sharp asked if they could put a sign on the monument sign and a smaller sign on the building.

Mr. Juliano testified in response, that the Monterey Grill will be on one of the interchangeable boards on the monument sign. The Monterey Grill will be an upscale restaurant that needs to identify separately from the hotel or else it will fail. He stated that if the sign is only on the monument people will think it is just a restaurant within a hotel like a lounge. He said the group is investing a lot of money to bring the restaurant that, in his opinion, is even nicer than Red Stone. He said it needs to be differentiated from the Aloft Hotel. He testified that there is a new façade on the outside of the building as well as an outside seating area.

Mr. Holmes asked if the sign is only visible from the Turnpike.

Mr. Juliano responded that it is visible from Rt. 73.

Mr. Miller stated from a design standpoint the sign is a nice fit on the scale of the building.

Mr. Holmes asked if it will be overpowering and bright.

Mr. Miller responded that it will not.

Mr. Bhankharia asked if there is any other location with 5 signs

Mr. Miller replied that the justification is that the other signage on the building advertises the hotel. These signs give you visibility from the Turnpike interchange and from Rt. 73.

Mr. Francescone asked for clarification on the number of signs being proposed.

Mr. Jones explained the five signs as 3 signs on the Rt. 73 side and 2 signs on the side of the Turnpike ramp.

Mrs. Andersen stated that she believes the signs being proposed on the front of the building are visible from the Turnpike ramp so the signs on the side of the Turnpike ramp are superfluous.

Mr. Miller responded that they are visible from the toll booth and provided additional recognition for the building but does not have an impact on the balance for the township since you can't see them from anywhere but the turnpike ramp and that side of the parking lot.

Mr. Juliano stated, in response to Mr. Francescone, that the monument sign will have a tenant identification space for the Monterey Grill.

Mrs. Andersen stated she does not see the need for a sign on the building if one is on the monument and that Miller's Ale House has a sign that is not this big.

Mr. Juliano replied that the Millers Ale House sign is larger.

Mr. Miller stated that the Miller's sign spans the entire façade.

Mr. Francescone asked Mr. Jones if the restaurant was a stand-alone restaurant, what would the allowable signage be.

Mr. Jones replied it would be allowed a 40 square foot façade sign only.

Mr. Sharp asked, do you really need the one visible from the Turnpike.

Mr. Juliano agreed to withdraw the request for the 2 signs on the side of the building facing the Turnpike entrance.

Mr. Holmes asked if the front of the hotel is being remodeled
Mr. Juliano replied that the remodel is going on right now.

Mrs. Andersen asked about the lights shown on the edge of the signs in Exhibit A1.

Mr. McBride clarified that the exhibit is intended to demonstrate the restaurant's "feel". The proposed signs will not have the "Hollywood" type light bulbs on the edge of the Monterey Grill sign. The face of the sign is flush, the bulbs are inside the sign casing and do not stick out.

Mrs. Andersen opened the meeting to the public for questions or comments. Seeing none, she closed the public portion.

Mr. Jones testified that all of his comments in his letter have been satisfied.

Mr. Pavlick testified that he has no engineering comments for this application

Mr. Angelastro testified that he has no traffic comments for this application.

Mr. Flannery reiterated that they are amending the application to request the 3 signs facing Rt. 73 only. And withdrawing the request for two signs facing the NJ Turnpike onramp. He agreed to work with the board professionals regarding sign brightness.

Mrs. Andersen asked for a motion to approve the 3 proposed Monterey Grill signs on application ZB23-D-05. Mr. Sharp moved the motion, Mr. Desai seconded. Roll call vote. All present voted affirmatively. Motion carried.

Adjournment:

Vice Chair Andersen asked for a motion to adjourn at 10:55, Mr. Francescone made the motion all voted in favor.

Adopted on: May 3, 2023

Suzanna Baskay
Suzanna Baskay, Secretary
Zoning Board of Adjustment