

**MINUTES
Township of West Milford
PLANNING BOARD
REGULAR MEETING**

August 3, 2023

7:00 p.m.

Main Meeting Room

LEGAL

In accordance with Chapter 231, Public Laws of 1975 of the State of New Jersey, adequate advance notice of this Regular Meeting was published in the Herald News. A copy has been filed with the Township Clerk's office and posted on the bulletin board in the main corridor of the Town Hall. Please take note of the fire exits in this room in the event of an emergency.
7:05 PM

THE PLEDGE OF ALLEGIANCE WAS RECITED

ROLL CALL

Regular Members: Michael Gerst, Linda Connolly, Joanne Blom, Steven Castronova Christopher Garcia
Date: Councilwoman Erik – arrived 7:10 PM
Absent: Mayor Michele Dale, James Rogers, Geoffrey Syme
Recused:
Board Attorney: Thomas Molica, Esq., VCC&S
Board Engineer: Joseph Byrne, Ferriero Engineering
Board Planner: Alison Kopsco, J Caldwell & Associates

PUBLIC PORTION

The meeting was opened to the public at 7:06 PM.
Seeing no one, Steven Castronova moved to close
Second, Michael Gerst

New Applications were taken prior to memorialization's.

NEW APPLICATIONS

PB 06-23-03 **Complete: July 13, 2023**

JSK Real Estate Holdings LLC

3055 Route 23 Oakridge

Block 16001 Lot 3 Zone HC

SEEKING

Minor Site Plan

To divide an existing Restaurant and bar into two separate stores within the existing footprint.

*Restaurant/Bar

*Retail Cannabis & Dispensary

Each store to have separate entrance and bathroom.

Bulk Variance(s) for pre-existing non-conforming conditions as listed on the Agenda.

Alternates Steven Castronova (alt 1) Joanne Blom (alt 2) appointed as voting member.

Mr. Joseph Byrne from Ferriero Engineering, appearing for the first time, stated his professional affiliation, was sworn in and accepted as the Boards expert Engineer.

The Applicant is represented by Mr. Robert Moshman

Councilwoman Erik is present 7:10 PM

Board Attorney stated he examined the content of the Applicants Notice, stating it appears acceptable. There are additional Bulk Variances noted in the Professional Reports. The catch all statement encompassing “*other variance relief as required for the application*” appeared in the Notice.

Brian Murphy, Architect for the Applicant stepped forward stating his credentials, he has appeared before this Board and others as an expert witness many times. He is licensed in NY and NJ, both current.

Mr. Murphy stated there are several existing non-conformities on this property. No changes to the existing building footprint are proposed.

Referencing **Site Plan SP1**, the lot area required for the HC zone is 1 acre, existing is just above ½ acre. The Applicant did attempt (unsuccessfully) to purchase neighboring property. The property has frontage on 2 sides. Minimum frontage is 150 feet. Lot width required is 150 feet, 178.94 feet exists, lot depth 150 required, 135.73 exists. Side yard 25 feet required 23.62 (left) 35.97 (right) Front (South bound) 50 foot required, 47.24 exists, (North bound) 15.53 exists. Building coverage permitted 25%, 21.81% exists. Impervious coverage permitted 66%, 100% exists. The floor area ratio is .26, existing without change .2038.

Exhibit AA – August 3, 2023 – (a picture that appears in the Planners Report), a satellite image shows the previous parking layout for the former Ichiban Restaurant and Tuscani Brew House. Parking spaces are shown “in this triangle” and along the North bound lane. The spaces were not in conformance with applicable standards. The new site plan brings the parking onto the Applicants property that were half way on the neighboring property. An easement (on the convenience store side) will allow existing parking to remain as it is. The isles and spaces are improved and removed from the highway right of way. There is more parking on the site plan than needed. Additional ADA parking has been added, from two to three where two is required.

As described by Mr. Murphy

Page A1 of the Site Plan – existing first floor plan.

Mr. Murphy recalled when the establishment was The Spaghetti Western then Tuscani Brew House and Ichiban, noting all served good food and had good employees yet unable to stay in business. Mr. Murphy stated his opinion, *as a professional architect*, designing and working many restaurants and personal experience- The current layout is a poor plan, not appealing and doesn't have a comfortable flow. The proposed plan is a smaller pub with separate space for the cannabis retail to make the building a viable place of business.

As described by Mr. Murphy

Page A2 of the Site Plan – Proposed first floor, a legend in the upper right corner. The same center entrance for the cannabis establishment for J & J Flowers with a vestibule and secure check in area and a door for a waiting area and two new ADA accessible toilets. The display area is located in part of the old dining room. Also shown, retail counter and a packing room, secure product room and a secure hallway with locked doors to an office and storage closet and small janitor closet. The back corner has a breakroom. The kitchen and dining room are proposed to be reduced in size. Outdoor dining is proposed in the existing cloister with a side entrance (north side) into a vestibule with 2 doors. A smaller business will help to fill the building and is a better business model.

As described by Mr. Murphy

Page A3 of the Site Plan – Second floor to be used as offices for the Restaurant. Two front spaces are open outside terrace spaces with employee lounge for the restaurant. No proposed changes to the second floor.

A barrier between the outdoor dining area and the cannabis retail store is proposed to prevent loitering. There is no access to the restaurant from the cannabis retail store. There is not currently a loading area. **Referencing Sheet A2** of the Architectural drawing, Mr. Murphy pointed to the “back” area that could be converted to a loading area with gates. The South side “exit 4A” is a secure entrance to the cannabis, “exit 3B” next to the chimney entry into the kitchen.

Board member questioned a security plan for a cannabis retail showing certain types of walls that were not shown on the plans.

Mr. Murphy stated there are no guidelines available for architecturally designing specific to cannabis. Further stating, whatever is required for a building permit will be supplied.

A space between the bilco door and the walk-in is narrow, an existing condition. A-2 shows an accurate depiction of the bilco door location. This space is accessible with a smaller hand truck. The space is usable and passable.

Office space on the second floor is for the restaurant use, not rental.

Mr. Murphy stated, in his opinion, this site uniquely qualified for the dispensary use being located on the center island of the highway with little pedestrian traffic to the site. Pre-existing non-conforming conditions will not be exasperated. Parking and circulation will improve.

SP1 – North bound lane shows a planter with an existing pylon sign located just over the property line on the convenience store side. The front entrance has an awning with signage. There are signs on the roof, one on the North bound lane and one on the South bound lane. A proposed pylon sign is shown to replace a fallen sign (that was partially located on neighboring property) located 1 foot onto the applicants property.

Sheet A-2, Exit 4A is a rear entrance into a small vestibule to the dispensary to the secure product room or the office dispensary, no connection to the bar/restaurant.

Allison Lapatka, Engineer for the Applicant stepped forward and was sworn in by the Board Attorney. Ms. Lapatka stated she is a Professional Engineer, Professional Land Surveyor and owner of Allison Engineering and Land Surveying in West Milford. Owner Lapatka Associates in Paramus NJ, Professor at NJIT. Ms. Lapatka has testified before the Board and license(s) are current and in good standing. Ms. Lapatka was recognized as an expert in the field of Professional Engineering.

Ms. Lapatka referenced a letter from McDonough & Rae Associates, prepared by Jay Troutman Jr., dated June 12, 2023. Mr. Rae was not available to appear, Ms. Lapatka stated she was testifying on his behalf regarding the traffic analysis and calculations. Referencing page 2, Table 1 describes Weekday AM/PM peak hours and Saturday peak hours, existing use, proposed uses for the restaurant and retail store as well as site traffic increase. Based on the analysis the proposed change in use will not generate a “significant increase in traffic” as described in the new NJDOT NJ State Highway Access Management Code. A full traffic analysis is not required as it does not meet ITE threshold that would require it. The dispensary parking would have greater turnover due to the nature of retail and preorders.

Ms. Lapatka indicated the approximate preliminary septic calculations, based under the proposed conditions, estimate the employee count for the dispensary at 6 and the restaurant at 12. Considering the changes, uses, employee and patron count there would be a reduction to the septic filed of approximately 400-500 gallons per day. Based on Health Department records from 2019, the restaurant has 160 patrons per day (10 gallons per day), 15 employees (15 gallons per day), total existing flow of 1825 gallons per day.

Mr. Murphy interjected - Gross area of the restaurant is 2279 sq. feet, dispensary 2284 sq. feet.

The restaurant is estimated to have 68 patrons per day based on the number of seats in the restaurant, multiplied by a factor of 2, 12 employees, retail peak traffic rate (66 per day) and 6 employees per day (preliminary estimates), calculate the proposed flow to the septic to be 1280 gallons per day.

ADA comments made on an interoffice memorandum for parking and additional signage will be addressed with an ADA accessible plan to bring the conditions up to current code.

A parking easement prepared by DMC Associates Inc., has been submitted to the Board. Parking on the South bound side of the site, adjacent to the convenience store, is currently over the property line. The Application proposes to install an easement on Block 16001 Lot 4 to allow the parking spaces to continue their existence to provide head in parking – not for access. Ingress and egress would be through lot 3 only.

The Board Attorney stated the Notice did not include Lot 4. Lot 3 and 4 are the same owners. Lot 3 is providing accessory parking needed for parking compliance. The parking is not a new arrangement and has been used in this manner. The owners are to grant a parking easement to themselves. The easement is to be recorded.

Sixteen off street parking spaces are proposed for the dispensary, twelve off street spaces are proposed for the restaurant. Electric Vehicle stations are not required for less than 25 for each use per state code.

The Board Engineer report expressed concern with the existing parking layout and increased turnover due to the nature of the retail business traffic. Ms. Lapotka stated she could analyze the parking layout for a possible different solution as well as add additional striping and or signage.

Raj Patel appeared and was sworn in as a fact witness and Applicant of 3055 Rt 23 aka Paradise Restaurant and Bar. Mr. Patel has a background in finance and real estate development. He attended Rutgers University for a bachelors in finance and graduated from NYU with a Master's degree in Real Estate finance and investment.

Mr. Patel stated there is a strip of grass with tall trees between 3055 and 3051 Rt 23. The trees have been in place for several years. There is curbing that prevents cars from going between the two properties.

The Applicant will provide a landscaping plan for the Board Planner and Engineer to review, provided by Allison Engineering.

The pylon sign (located on lot 4) to the east of the property is included in the proposed easement that will allow parking. Access to the restaurant and dispensary would be from lot 3 only. Five additional parking spaces (as required by code) are proposed to mitigate possible future NJDOT work along the highway on the drive isle along the North side of the property and add the parking spaces slightly over the property line along the South side of the property. The striping on the South side of the property are reversed and will be adjusted for circulation.

A comment from the Construction official recommended additional ADA details. Ms. Lapotka stated the spaces must abide by federal code.

Mr. Patel approached the microphone, he remains under oath. He is the owner of JSK Land Holdings. JSK owns 3055 Rt. 23. Paradise Pub and Bar LLC and J&J Flowers LLC, (approved name change) J&J Cannabis Dispensary LLC. J&J Flowers has obtained a state license to operate, class 5 retailer.

A complete security and safety plan is required by the state. The township will receive the standard operating procedures including the safety and security plan.

Cannabis will be stored in a secure product room. The room is located behind the counter, accessible only to authorized personnel with a key card. Patrons will be greeted by

dedicated security person. Customers of each business will be on opposite sides of the building structure.

The State will provide standard operating procedures to the Applicant. Waste and disposal procedures will be properly disposed of.

Proposed hours of operation will comply with local restrictions of 9 am – 10 pm. Mr. Patel indicated the hours would be within the timeframe.

No consumption of cannabis on site will be permitted.

The point of sale has que management built into the system. Over flow of customers will be asked to wait in their cars.

The adjacent vacant lot next to 3055 is not a viable option to purchase to decrease impervious coverage. The Applicant did reach out to the owner. The property is income generating with billboards, the sell price was “too much money”.

EXHIBIT A1- A4 Signage renderings prepared by Butler Signs, 4 sheets
Four sheets were distributed to the Board members and professionals.

8:33 RECESS
8:43 RESUME

EXHIBIT A1- Pictured, an awning

Mr. Patel stated the awning shown is existing. Plans do not increase the size of the awning. The exhibit is future lettering on the awning.

EXHIBIT A2 - Pictured sign cabinet located on the roof, 2 cabinets Visible from North and South direction lit with LED lights.

There are currently sign cabinets on the roof. No increase in size is proposed. Lettering under the North bound sign, (Picture on right under the roof sign) Red letters read Restaurant Bar. The sign is not fully functioning.

EXHIBIT A3 – Pictured, Pylon sign North Bound, existing with a planter at the bottom. Left/Right – current and proposed

Proposed has the name of both business on the sign

This sign is located on lot 4. The sign must be memorialized with an easement.

EXHIBIT A4 – Pictured, a fallen sign. Proposed to be moved onto the Applicants property, rebuild and put another pylon sign where the old one was.
Traveling South on Route 23, visibility of the building is limited. The sign is proposed to be seen at a height to gain visibility.

Discussion among the Board regarding the number of signs and future of the building tenants and their uses. The second floor is proposed office space for the use of the restaurant not another tenant. Any change would require the applicant or future owner to return to the Board.

The Applicant acquired the property “late last year” (2022) and is not certain when the sign fell down. The Applicant proposes a new sign, the location is between the highway. Advertising on both sides of the highway are desirable. The sign that fell would be considered a new sign.

The Planner stated the ordinance states the permitted height for a sign is 15 feet, proposed for this sign is 20 feet 6 inches, area 75 sq. feet is permitted, 110 sq. feet is proposed.

The Board Attorney suggested additional light details should be provided. Further stating, there are many potential conditions of approval he has noted.

The existing standing sign is 15 feet. One sign fell and was described as tall.
The Property had six signs, including both pylon roof signs, awning and red letter signs.

Allison Lapatka, Engineer for the Applicant stated based a *(graph scale inaudible)* the sign was roughly 18 feet – 20 feet.

Board discussion revealed additional variances needed for this Application. The site has been operating for a long time with existing nonconformities including those for signs.

Mr. Moshman indicated there is 286 square feet of total signage for this property. The highway location, fast moving vehicles, 2 businesses facing 2 different directions with frontage Northbound and Southbound create the need for numerous signs. Signs have been in place encourage business.

The applicant seeks to recreate the usage of the 5 signs in existence and 1 (fallen) so the same 6 signs can attract people to the business. The fallen sign requires several Bulk Variances. Additional Variances are needed for parking, a loading zone and other existing parking issues.

The Applicant may provide the security plan, address the odor plan, parking, ingress and egress flow and technical illumination.

After discussion pertaining to the lot housing part of the fallen sign (lot 4) it was determined the applicant would re-notice to include property owners in lot 3 and lot 4, return to the Board at a later date, summarize today's testimony and provide items discussed. The notice should include the new relief discovered during testimony.

The Applicant will continue the case and has agreed to provide a new notice in accordance with the discussion for September 7, 2023 at 7 PM.

The Application was **open to the public.**

Seeing no one moved to close the public portion, Councilwoman Ada Erik
Second: Michael Gerst
All were in favor

MEMORIALIZATION

RESOLUTION 2023-08

PB 06-22-03

VEOLIA WATER NEW JERSEY INC.

Site Location, 88 Rolling Ridge Road
Block 8902 Lot 3 R-2 Zone

APPROVED, MINOR SITE PLAN &

BULK VARIANCE – for minimum lot size, minimum lot frontage, minimum lot width, front yard setback, side yard setback for the construction of a new (approximately 12' 8" x 19' 3" addition to the existing water treatment building to house a new PFAS

Eligible to vote: Councilwoman Erik, Michael Gerst, James Rogers, Geoffrey Syme,
Linda Connolly, Joann Blom

Motion: Michael Gerst

Second: Linda Connolly

Yes: Councilwoman Ada Erik, Michael Gerst, Linda Connolly, Joann Blom
No

Complete: May 30, 2023

Decided: June 22, 2023

INVOICES

Motion to approve: Michael Gerst

Second: Steven Castronova

All were in favor

MINUTES

Motion to approve: Councilwoman Ada Erik


Second: Joann Blom

All eligible were in favor

ADJOURNMENT 9:23 PM

A **motion** was made by Councilwoman Erik, **second** by Michael Gerst.
All were in favor

Respectfully submitted;


Pamela Jordan,
Zoning Board Secretary

Approved February 1, 2024