

**MINUTES**  
**Township of West Milford**  
**PLANNING BOARD**  
**REGULAR MEETING**  
**September 7, 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.

7:02 PM

**THE PLEDGE OF ALLEGIANCE WAS RECITED**

**ROLL CALL**

**Regular Members:** Michael Gerst, Councilwoman Erik, James Rogers, Geoffrey Syme, Steven Castronova, Christopher Garcia

**Late:**

**Absent:** Mayor Michele Dale, Linda Connolly, Joanne Blom,

**Recused:**

**Board Attorney:** Thomas Molica, Esq., VCC&S

**Board Engineer:** Joseph Byrne, Ferriero Engineering

**Board Planner:** Jessica Caldwell, J Caldwell & Associates

Board Member Steven Castronova, voting member for this meeting.

**PUBLIC PORTION**

The meeting was opened to the public at 7:03 PM.

**Seeing no one**, Councilwoman Ada Erik moved to close

**Second**, Michael Gerst

**I. CARRIED 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.

Lot area	43,560 sq. ft. is required, 25,358 sq. ft. exists
Minimum lot depth	150 ft. required, 135.73 exists
(R & L) side yard	25 ft. required 23.62 (L) exists
Front yard 23 N	50 ft. required, 15.53 exists
Front yard 23 S	50 ft. required, 47.24 exists

Maximum impervious coverage 66% permitted, 94.8% proposed, 100% exists

Existing free standing sign (partially off site encroaching 3051 Route 23 & ROW, additional free standing sign, a dumpster, chain link fence, lack of designated parking and landscape screen (no existing) 2 way drive aisle of 24 ft., 25 ft. is required, 1 way drive aisle of 12 ft., 18 ft. is required, additional drive aisle less than 18 feet, multiple building access points of divided building for two stores.

The Board Attorney stated, he examined the form of Notice and found it was acceptable. Property owners within the 200 ft. radius of lots 3 and 4 have been Noticed. The Board Secretary confirmed all parties on the property owners list, *provided by the West Milford Tax Department*, have been notified. This matter will not be treated as a hearing continuation, due to the notice defect that was raised during proceedings. The Applicant will essentially be creating a new record. Previous testimony will not be stricken, but expanded upon moving forward.

Robert Moshman representing JSK Real Estate Holdings came forward and stated; The Application is new and improved.

Brian Murphy, Architect for the Applicant was sworn in. The Board is aware of Murphy, his credentials and licenses, he is accepted as an expert.

Mr. Murphy previously testified August 3, 2023.

Mr. Murphy stated; the subject property is located on lot 3. Lot 4 is part of the Application for a parking easement for parking located partially on lot 4 on the South side. The existing building is currently a restaurant and bar. The restaurant is large and has not been sustainable. The preceding restaurant(s) were all very good and staffed well yet unable to stay in business. The location is too big for a restaurant alone. Suggest creating a retail space and reducing the size of the restaurant within the building is more viable and sustainable.

**Referencing SP1** Site Plan, page 1, the shaded area shown is the proposed new restaurant area. The hash and solid lines is the proposed retail space. The property is located in the HC zone. The 200 ft. radius map and zoning schedule are shown.

Lot frontage	150 ft.	357 exists
Lot width	150 ft.	178 exists
Lot depth	150 ft.	135.73 existing non-confirming
Side yard	25 ft.	L- 23.62 existing non-conforming, (no changes) R- 35.97
Lot frontage	50 ft.	South 47.24 existing non-conforming (no changes)
Lot frontage	50 ft.	North 15.53 existing non-conforming (no changes)
Coverage	25 %	21.8% exists
Impervious	66%	100% exists * 94.8% proposed (adding green space)
Floor area ratio	.26 sq. ft.	.2038% existing non-conforming (no changes)

Changes to the site plan include;

- Green spaces scattered on the plans shown as lightly shaded areas with grass hatch.
- One way signs for warning not to go out on the highway in the wrong direction located at entrances and exits.
- Walk-in refrigerator (existing) to be "cut back" providing compliant access in the area.
- Small ADA ramp at exit 1B from the restaurant, adjusting the 4" difference from the floor level to the pavement.
- Parking on neighboring or state land have been brought onto the Applicants property. Spaces along adjacent lot 4 are now parallel and on the lot (South) with a 16 ft. isle providing more space to safely maneuver on that side. Parking along the (North) has been removed.
- Triangle of parking in the middle has been brought into compliancy.
- Planters added on the railings around the cloisters around the perimeter of the building.
- No loitering signs
- Proposed loading zone added for retail deliveries with smaller vehicles (where the large double gates located by the court yard). \*The restaurant will have deliveries off hours, no specified loading zone proposed.
- Bollards installed to protect the AC units.
- Trash, recycling bins and generator to be housed in fenced in area complying with regulations.

Mr. Murphy described the layout as a problem for a bar/restaurant. Entering the front door into the vestibule area leading to a foyer with waiting space. Existing, "huge" kitchen in the middle, "huge" dining room on the left side, bar lounge of the right side, all bathrooms are toward the back behind the bar/lounge.

**Sheet A2** As described by Mr. Murphy  
Floor Plan- dashed line separating the space down the middle.  
Separate entrance in the front for retail.(L)  
Separate entrance to the bar/restaurant (R)  
New ADA bathrooms proposed.  
Walk in refrigerator in the rear with access.  
Flower baskets added.  
No loitering signs.

**Sheet A3** as described by Mr. Murphy  
2<sup>nd</sup> floor plan – No changes are proposed. Second floor is part of the bar/restaurant space, utilized for office work and staff use.  
Access to second floor is through a staircase located inside the bar/restaurant.

No changes are proposed for the outside of the building.

The sign (off the site) shown on the upper right corner of the plan to be eliminated. A new sign is proposed, reduced in size and moved onto the site near the entrance/exit on the South bound lane. The sign will be compliant in size and height.

The existing sign located partially on lot 3 and partially on lot 4 is below the permitted height, standing at 13.4 ft., (previously thought to be 15 ft. high). The sign will be located within the newly created parking easement.

Board member, Board Attorney and Board Engineer stated the Applicant had addressed comments from the previous meeting, August 3, 2023.

Architect for the Applicant continued;  
Parking requirements, 28 total spaces, 2 ADA accessible. Provided 27 regular plus 3 ADA spaces, total 30 spaces.

Parking along the North bound lane were previous in the states ROW. These spaces have been eliminated. The isle has been corrected “as much as possible” – the building location cannot change. Extra spaces are available to move or reorganize should there be work or improvements done by NJDOT.

Stated by a Board member, previous testimony stated some parking was given up for green space.

It was noted that impervious cover that is “given up” cannot not be given back by the Highlands.

Allison Lapatka, Engineer for the Applicant was sworn in by the Board Attorney. Ms. Lapatka stated her license is in good standing in Civil Engineering and Land Surveying. Ms. Lapatka was accepted as an expert her field.

Ms. Lapatka referenced a lighting plan. The Plan has been distributed to the Board in the meeting packets for this meeting. The Board Attorney marked this Plan as Exhibit A1, dated September 7, 2023.

**Exhibit A1, Existing Lighting Exhibit.** As described by Ms. Lapatka  
The property has building mounted lights and a light pole owned by the utility company.  
A Foot candle analysis was conducted and coded with color.  
Green indicates a very, very well lit area.  
Yellow is very adequately lit area.  
Orange the area starts to get a little darker  
Red indicates inadequate lighting, per the township code.

A number of existing lights were not functioning properly. The lights are in the process of repair by an electrician. A subsequent lighting plan will be looked at to adequately light the parking area.

Improving ADA access throughout the building and to parking ADA schematics for the site plan are currently in progress.

A “handful” of spaces were lost due to the increase circulation and increase of greenery.

The fallen pylon sign (previously) off the property, relocated within the property and conforming at 75 sq. ft. A location with 1 use, a sign is permitted at 60 ft., two uses of the property allows for the 75 sq. ft. Dumpsters to be fully enclosed and gated. Planters to be added on the railings. The walk in refrigerator size is reduced. A loading zone has been created. Projected air conditioning units to be protected by bollards. A row of arborvitaes are proposed between the two parking lots.

There was discussion with a Board member, Ms. Lapatka and the Board attorney regarding dividing the outdoor space of the two establishments with a fence to prevent minors from walking back and forth. A landscape plan was discussed to show species and location of plants to provide a separation. Ms. Lapatka indicated, contingent upon approval a landscape and lighting plan would be submitted for review and approval.

**Referring to the Site Plan**, as described by Ms. Lapatka  
Four parallel spaces are shown  
Two parking lots are separated by 2 curbs.

(Lot 4) The neighboring lot is not a Deli as the property has been mentioned. The establishment is a convenience store with no food prep.

Referring to the Traffic Study, as described by Ms. Lapatka  
Prepared by McDonough and Rae Associates. Their report considers the increase and decrease in traffic based on the alterations to the structure.

#### **RESTAURANT**

Existing use on a week day am peak	19 vehicles
Existing use on a week day pm peak	35 vehicles
Existing use Saturday peak	45 vehicles
Proposed use week day am peak	10 vehicles
Proposed use week day pm peak	19 vehicles
Proposed use Saturday peak	24 vehicles

#### **RETAIL**

Proposed use week day am peak	38 vehicles
Proposed use week day pm peak	56 vehicles
Proposed use Saturday peak	66 vehicles

Based on the analysis, the proposed change will not generate a "significant increase in traffic as defined by the NJDOT. The site does not require traffic impact analysis based on these findings.

The Board Attorney referenced the current form of easement  
**EXHIBIT B1-** Current Form of Easement, was distributed to the Board. Demonstrates the Applicant has the ability to effectuate the easement.  
The document details must be checked for accuracy.

Discussing the variance for two signs where one is permitted, the new free standing sign has been reduced to 15 ft. to conform. The proposed lighting plan will include illumination of the sign.

Professional Planner for the Applicant, Steve Lydon was sworn in and stated;  
He is a Professional Planner, licensed in the state of NJ since mid-1980's  
He has testified before this Board.  
He is certified from American Certified Planners.  
Was a Planning Director for Morris County Community  
He is familiar with this application.

The Board did not have any questions for the Planner.

Mr. Lydon was accepted as a Professional Land Use Planner.

Mr. Lydon stated;  
He has reviewed the ordinances, plans, professional reports, Township Master Plan, the Highlands Council materials and has visited the site.  
The site is unique with two front yards, no rear yard. The building size remains the same. A portion of the porch for the entry foyer to be enclosed. Parking is being improved. Impervious coverage will be reduced.

The property is in the HC zone.

Retail and the restaurants are a permitted use.

Minor Variances – To add a loading zone on site.

The Master Plan dated December 7, 2017 – Goal 4 states 5 objectives, 3 of which the Applicants Planner find to be particularly relevant to this application, (1) to focus growth around existing business districts encouraging infill. (2) Encourage commercial and industrial growth on suitable land in appropriate areas recognizing the existing roadway system. (3) Encourage economic vitality in community business districts.

Hardship Variances C1 described as a typical hardship variance. C2 – the entire benefit of the application should be considered.

The Application will reduce the impervious coverage, provide directional traffic control signs to increase safety, provide ADA ramps, add a loading zone, pull parking onto the site, except where the easement is and will fence in the dumpster area.

The Applicant seeks approval for 2 free standing signs, one is new, one to be refurbished. The location on the median creates a hardship, C1 or C2 Variance.

*EXHIBIT A2, A3, A4, A5 - 4 Sheets depicting signage*

*A3 as described by Mr. Lyons- page 2 of the submitted package, visible to motorist heading South on Rt. 23.*

*15 feet height*

*82 sq. feet (75 permitted)*

Mr. Lyons stated he stapled the exhibits in a different order and exhibits were renumbered.

Requesting the Board refer to A5 (sheet 4 of the package)

15 feet height

82 sq. feet (75 permitted)

EXHIBIT A4 – A5 Testimony shifted to the existing sign to be refurbished, located in the easement visible to traffic going north. The sign would be lower in height and conform to height requirements. No flashing LED lights will be present. The sign is to provide advertising for 2 permitted businesses.

Proposed at 32 sq. feet, 75 sq. feet permitted for 2 businesses.

A box sign to be installed on the roof, no LED lights.

Proposed awning sign over a small section of the front entrance. Mr. Lyons stated it is important to designate the only entry way to the retail use. The sign will allow for clear and efficient path to entry.

Shifting to free standing signs – described as closer to the ROW than required.

Existing circulation patterns limits the location of these signs.

The proposed loading zone is appropriately sized for the business type, smaller than typically required.

Discussion pertaining to signage designating entry determined nothing was shown on the plans. Describing the entry way as cloister arched openings to a covered space to a door into a vestibule shown on sheet A2 of the plans. Mr. Murphy stated it would “make sense” to have a small sign labeling the restaurant entrance. The newly proposed restaurant sign should be shown to determine if an additional variance would be required. An approval could be conditioned on a new lighting and signage plans, and landscape plan subject to review of the Board Planner and Engineer. Should it be determined additional relief required by the Board the Applicant would return to the Board.

Sign Variances summary as described by Mr. Lyons;

Second free standing sign, 1 is permitted. No digital component as shown on A4.

Variance for the encroachment on the ROW

Variance for size 75 sq. ft. permitted, 82 sq. ft.

Permitted signs as described by Mr. Lyons;

2 roof mounted signs

Awning sign permitted under the permitted less than 20%

Referring to exhibit A5 – pylon sign rendering.

Mr. Murphy stated the sign post would not impose a site impediment. As described, the location to be approximately 14 ft. to the curb on Rt. 23. A car would be beyond the line of site. Signage would be subject to obtaining any other governmental approvals.

Mr. Raj Patel stepped forward was sworn in by the Board Attorney and stated;

- He is the owner of JSK Real Estate Holdings LLC.
- JSK Real Estate Holdings is the owner of 3055 Rt. 23.
- He attempted to secure the adjacent property to the North unsuccessfully. The property houses an income generating billboard business.
- He is an employee of J & J.
- He is the owner of the property.

Staffing for the dispensary as described by Mr. Patel  
Dispensary

- 4-5 employees
- A security officer
- Butender
- General Manager
- Fulfillment Officer

Restaurant

- Chief
- Dishwasher
- 2 wait staff

Mr. Patel is familiar with the operational needs for a cannabis dispensary. A security plan has been distributed to the Board.

Exhibit A6 – Cannabis Dispensary Security Plan, an overlay of an overlay to the plans prepared by a dispensary security plan.

Described by Mr. Patel – The security plan was reviewed and accepted by the CRC. The plan includes a security officer, cameras and panic buttons. A security company will monitor surveillance 24 hours. Security footage storage to follow state regulations for review.

For the record as stated by the Board Attorney, Testimony was provided stating a “draft” security plan entitled J & J Cannabis Dispensary LLC Safety and Security Plan was provided. The exhibit as described above was intended to be a part of the exhibit to the “Plan”. The Draft “Plan” is to be included in the description for Exhibit A6.

The Board Secretary understood the draft to be a draft and not for circulation as labeled by the Applicants Attorney.

8:40 PM A 10 minute recess was taken to distribute the draft plan.  
9:05 PM Return

The Board Chairman stated the Board needs to “get this right” suggesting the Application be carried to the next meeting date to clarify and submit documents previously discussed.

The Board Attorney stated no need to re-notice. The matter to be carried to Thursday, September 28, 2023 at 7PM. The Board and Applicant would benefit by submitting the landscaping, lighting and signage plan sheets previously mentioned, including the restaurant sign. NJDOT parking should be addressed with a possible alternate parking plan along the north side of the site where the access isle exists. The Board Attorney requested documents to be submitted on or before September 18, 2023 for review by the Board Professionals.

The Board discussed the greenery, staff parking, reduced parking for patrons, and maximum occupancy for both facilities and the owners ability for off-site parking for staff on the adjacent site.

Mr. Murphy stated a plan for possible DOT construction on the curb can be looked at.

Referring to SPI- Parking is based on occupancy.

Restaurant occupancy = 49 people to include the kitchen, dining, bar and office space

Retail occupancy = 38 people

Mr. Patel to provide repeat testimony as to patrons waiting in their car to be alerted when it was their turn.

The DOT and State were noticed as part of the process for this application.

The Board Attorney stated the person that prepared the written Security Plan and exhibit (submitted as exhibit A6) should call the Board Engineer prior to the next meeting to make a decision.

The Board Attorney stated the Applicant should confirm the submitted Security Plan draft is ok for the Board to be in possession of. Questioning if the Plan would be amended – notes on the draft plan indicated it would be updated.

The Board Attorney stated he had the Deed of Easement and would provide comments with suggested revisions to the Applicants Attorney prior to the next meeting.

The Security Plan references Jefferson Police, Jefferson Township Fire Department siting the draft of the security plan should be revised inserting the correct township.

Mr. Murphy to provide the professional that created the Security Plan with a pdf of the floor plan.

The Zoning Officer stated the Application does not have anything to do with a cannabis operation. The Application was to split two store fronts. The cannabis use is permitted in the zone.

The Board Attorney stated a Site Plan and C1 Variance is required. The Applicant should provide the Plan sheets for the next meeting and provide proof as to why they are entitled to Site Plan and Variance approval. The connection with this Application to the state approvals required is the attachment to the security plan that shows ingress and egress and potential need for site cameras, as mentioned by the Board Engineer.

Mr. Moshman acknowledge receiving the memorandum form the West Milford Health Department siting objections stating the septic certification is being addressed.

The carry date was adjust to October 5, 2023 at 7 PM in the Municipal Building to accommodate the Applicant with time to obtain and adjust plans as well as a schedule conflict for the Board Attorney.

The Applicant MS Equipment Inc. listed on the Agenda as new is required to re-notice to proceed.

The Board Planner stated the Master Plan is still in process.

### **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