

**REGULAR MEETING OF THE EATONTOWN ZONING BOARD OF ADJUSTMENT**  
**February 13, 2023 – Regular Meeting**

**Call to Order**

Vice-Chairperson Faust called this in-person meeting to order at 7:04 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act and had been noticed in the Asbury Park Press and the Star Ledger and a copy of the agenda for this meeting has been posted on the bulletin board in Borough Hall, and on the Borough website.

**Roll Call**

*Members Present: Vice-Chair Faust, Mr. Granata, Mr. Liszanckie, Mr. Mednick, Mr. Anderson, Ms. Faccone*  
*Absent: Chairman East, Mr. Gilmore*

Also present: Marc Leckstein, Board Attorney, Greg Gitto, Board Engineer, McKinley Mertz, Board Planner and Colleen Matthews, Board Secretary;

**Approval of Minutes**

Motion is made by Ms. Faccone and seconded by Mr. Mednick to accept the minutes of January 3, 2023.

Ayes: Ms. Faccone, Mr. Mednick, V.C. Faust, Mr Granata, Mr. Liszanckie, Mr. Anderson

Nays: None

Not eligible: Ch. East, Mr. Gilmore

**Resolutions to be Memorialized**

ZB 2022-29      Ramon Quezada  
72 South Street, Blk 902 lot 39

ZB 2022-19      Pumo Real Estate, LLC  
215 Broad Street, Blk 301 lo 51

Motion is made by Mr. Liszanckie and seconded by Mr. Granata to memorialize both resolutions.

Ayes: Mr. Liszanckie, Mr. Granata, V.C. Faust, Mr. Mednick, Mr. Anderson, Ms. Faccone

Nays: None

Absent: Ch. East, Mr. Gilmore

## New Business

ZB 2022-22      A&P Pork Store, LLC – (continued)  
15 Highway 35 Blk 304 lot 19  
Use variance, bulk variances

Atty. Leckstein confirms for the record that Mr. Granata has listened to the audio of the previous hearing involving this application and has executed an affidavit stating same.

Atty. Leckstein notes for the record that we are short one member from a full board, making it 6 members instead of 7 and that you need 5 members to vote in the affirmative to be approved. Atty. Anderson states that he wishes to proceed with the application.

Atty. Anderson quickly reviews the application thus far and states that there has been discussions with the Boro resulting in agreement to have the employees park at the furthest end of the lot, leaving the closer spots for the customers, install a bike rack, and agree to explore a shared refuse collection program. As a result, the Borough will withdraw their opposition.

The Borough Attorney has submitted a letter to Atty. Leckstein stating same and Atty. Leckstein marks this letter into evidence as E-1. Atty. Leckstein reads the letter into the record.

Atty. Leckstein marks the following additional exhibits into the record:

A-6 --revised architectural

A-7 --rear site plan

Atty. Anderson recalls his expert, Mr. Scalise. Mr. Scalise reviews the updated exhibits A-6 and A-7 showing the revised trash enclosure and the bike rack.

Vice-Chair Faust asks if there is any public in attendance that wishes to ask a question or make a comment regarding Mr. Scalise's testimony.

Atty. Anderson calls Nicholas Graviano, Planner. Mr. Graviano is accepted by the Board as an expert and is sworn in. Mr. Graviano reviews the planning criteria pertaining to the use variance and the parking variance.

Board Planner Mertz reviews the application for the Board. Trash hauler times are reiterated that pick-up cannot be before 7:00 a.m. or after 7:00 p.m., in according to ordinance.

Vice-Chair Faust asks if there is any public in attendance that wishes to ask a question or make a comment regarding this application. None heard.

Atty. Anderson provides a summary of the application.

Motion is made by Mr. Anderson and seconded by Mr. Liszanckie to approve the application as discussed during the December 12, 2022 hearing as well as today's hearing

Ayes: Mr. Anderson, Mr. Liszanckie, V.C. Faust, Mr. Granata, Mr. Mednick, Ms. Faccione

Nays: None

Absent: Chairman East, Mr. Gilmore

**ZB 2022-27     Legares, Cleuza  
144 Malibu, Blk 2401 lot 4  
The applicant has installed several improvements without proper approvals, creating 9  
variances**

Atty. Leckstein marks the following into evidence:

- A-1                Denial Letter
- A-2                Variance Plan last revised September 27, 2022
- A-3                Topographic survey dated August 31, 2022

Atty. Leckstein states that the notice does not match the denial.

Atty. Leckstein asks Mr. Edinger to walk through the variances requested. Mr. Edinger states that there are some discrepancies in the measurement of the accessory buildings constructed.

John Buletza, Engineer and Planner is sworn in by Atty. Leckstein and is accepted by the Board as an expert.

Atty. Leckstein reads the Zoning Denial. Mr. Edinger asks to mark an exhibit that was composed tonight of the lot showing improvements as A-4. Atty. Leckstein asks if the pavilion is 15 x 21. Atty. Edinger states that it is very close. Atty. Leckstein states that the pavilion, as well as other structures and a paver patio is not stated as needing variances in the notice. After discussion, it is decided that this matter will need be re-noticed for May 8, 2023.

**ZB 2022-26     **AYR Wellness Inc., a/k/a Garden State Dispensary NJ, LLC**  
**59 Highway 35 (Main Street) Block 301 Lot 5**  
**D-3 use variance and bulk variances****

Atty. Leckstein marks the following into evidence:

- A-1                Application
- A-2                Architectural plans last revised 1-26-2023
- A-3                Map of the Survey last revised October 10, 2022
  
- B-1                Engineering Review letter dated February 8, 2023
- B-2                Planning Review letter last revised January 24, 2023
- B-3                Shade Tree Commission review letter
- B-4                Environmental Commission review letter
- B-5                Fire Official Review letter

Rick Brodsky, Esq., states that he represents the applicant in this application. This is an existing dispensary that has been in operation and is seeking approval for expansion of that operation at the same site.

Atty. Leckstein states that there is a D-3 conditional use variance in connection with this application and this Board is one member short of a full board. Atty. Brodsky states he wishes to continue with this application.

Board Planner, McKinley Mertz reviews as to why the application is before the Zoning Board, as the business does not meet one of the operating conditions as to location that is not being met. The Board is to consider if this location is appropriate in expanding this use at this location.

Project Architect Gregory Ralph is sworn in by Atty. Leckstein and is accepted by the Board. Mr. Ralph reviews what is presently on the site and what improvements are proposed. Mr. Ralph states that there are no changes to the footprint of the existing building. There are some upgrades to the exterior of the building and interior work. There will be a waiting room for each recreational and medical side in order to eliminate the outside queuing. There will space for 27 registers in the retail area rather than the original 9, which will also help with the outside queuing and servicing customers faster. The exterior improvements will encompass the entire building and it will be a cohesive look. It is confirmed that there is no drive-thru proposed or a walk-up and same will be stated in any resolution. The fire alarm system will be expanded to meet code in the expanded space.

Atty. Leckstein notes for the record that there is no public in attendance.

Atty. Brodsky calls Julie Winter as his next witness. Ms. Winter is the Vice-President of Operations. Ms. Winter speaks as to staffing and hours of operation. Also, Ms. Winters speaks to the additional registers and the benefits of adding them. Deliveries and security are discussed. Parking is discussed.

Ms. Winter states that they have taken over the lease of the former Amco space but have no plans to occupy. Ms. Winter understands that should there ever be a desire to occupy that space or sublet it, site plan approval would be needed.

Atty. Leckstein notes for the record that there is no public in attendance.

Jason Fichter, Engineer/Planner is sworn in by Attorney Leckstein and is accepted as an expert by the Board. Mr. Fichter reviews the Board Engineer's and Planner's review letter and reviews the conditional use requested as well as the other bulk variances. Mr. Fichter states that the applicant is amenable to add the directional signs as requested from the Board Engineer. Left turns in and out of the site are discussed. Positive and negative criteria are discussed.

Board Engineer Gitto reviews the parking lot striping, ADA spaces and signage in parking lot and the applicant agrees to work with the Board Engineer regarding same. A pedestrian access walkway will be added from sidewalk into the site as discussed. Applicant agrees to make a contribution to the Borough's Tree Fund to be worked out with the Board Planner.

Vice-Chairman Faust notes that there are not public in attendance in order to ask a question or make a comment.

Mr. Liszanckie makes a motion to approve the application as discussed, seconded by Mr. Granata.

Ayes: Mr. Liszanckie, Mr. Granata, V.C. Faust, Mr. Mednick, Mr. Anderson, Ms. Faccione

Nays: None

Abstain: None

Absent: Chairman East, Mr. Gilmore

### **Miscellaneous**

None

## **Adjournment**

Motion is made by to close the meeting at 9:20 p.m.. by Mr. Liszanckie and seconded by Mr. Mednick. All in Favor.

Respectfully Submitted,

Colleen Matthews  
Board Secretary