

**BOROUGH OF GIBBSBORO
PLANNING BOARD MINUTES**

May 22, 2024

7:00 P.M.

Meeting called to order at 7:00 p.m.

Secretary Troxel read the Opening Statement: “All the notice requirements of the Open Public Meeting Act have been complied with in full.”

ROLL CALL

Present:

Chairwoman LuAnn Watson
Vice Chairman Michael Kelly
Mayor Edward G. Campbell
Mr. John Ritz
Mr. Barry Rothberg
Mr. Dennis Deichert

Absent:

Councilman Michael MacFerren
Mrs. Susan Croll
Ms. Barbara Gellura

Professionals:

Solicitor, Kathleen McGill Gaskill
Planner, Brian Slaugh
Shawn Seroka, Key Engineers

Engineer, Gregory Fusco

RESOLUTIONS

PB2024-5-15 RESOLUTION GRANTING A CONDITIONAL USE VARIANCE UNDER N.J.S.A. 40:55D-70d(3) FROM THE CONDITIONAL USE STANDARDS SET FORTH IN BOROUGH CODE §400-71.F(3) AND (4) REQUIRING A CANNABIS MANUFACTURER SITUATED IN THE M-1 INDUSTRIAL DISTRICT TO BE LOCATED IN A SINGLE OCCUPANCY BUILDING WITH A SIX FOOT ENCLOSURE FENCE ALONG WITH GRANTING MINOR SITE PLAN APPROVAL TO BOUTIQUE GARDENS, LLC FOR A CANNABIS MANUFACTURING FACILITY TO BE LOCATED AT 10 DEMOCRAT WAY, ALSO KNOWN AS BLOCK 59.03, LOT 3 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF GIBBSBORO

Motion to approve resolution: Mr. Deichert, second Mr. Rothberg

Poll: Ayes – Ritz, Rothberg, Deichert, Watson

MINUTES

Motion to dispense reading and approve the minutes of 4/24/24: Mr. Deichert, second Mr. Ritz

Vote: Ayes unanimous (Kelly, abstain)

CORRESPONDENCE

To: Gibbsboro Planning Board
From: Key Engineers (for Borough of Gibbsboro)
Re: Application submitted for a Letter of Interpretation from the NJ DEP for Block 7.01, Lot 1.01 (91 North Lakeview Drive)
Action: Informational

To: Gibbsboro Planning Board
From: Key Engineers (for Borough of Gibbsboro)
Re: Application submitted for a Freshwater Wetlands General Permit No. 1 and a Flood Hazard Area General Permit by Certification No. 11 for Block 59.05, Lots 9 & 24 (Heritage Village)
Action: Informational

To: Chairwoman Watson, dated 5/17/24
From: Alexis Smith, Esquire, Parker McCay
Re: Resolution PB2024-4-13, Voorhees Township Board of Education
Action: The Board declined to amend Resolution PB2024-4-13
Note: Mayor Campbell recused himself from participating in the discussion

COMPLETENESS

1. BULK VARIANCE & CERTIFICATE OF APPROPRIATENESS (Docket #24-02)

Applicant: Shirin & Mohammed Ahamed
Project: Bulk Variance & Certificate of Appropriateness to construct a pavilion
Address: 2 North Tanglewood
Block 18.04, Lot 1

Mr. Mohammed Ahamed and his son, Parnel Ahamed, appeared on behalf of the application and were sworn in by Ms. Gaskill.

The Ahameds took ownership of the property located at 2 North Tanglewood Drive in February 2018. The house, pool, and driveway were already existing on the property. The pavers and shed were installed by the applicant.

Mr. Slauch's review letter identified several issues with the property. The shed is in excess of 300 square feet, which exceeds the permitted 100 square feet. The shed was installed without a zoning permit, construction permit, or variance. Further, the shed encroaches onto the adjacent property located at 40 Kresson Road. There is an additional encroachment by a fence and pavers onto Borough property. The impervious coverage on the property appears to exceed the permitted amount.

Solar panels were installed on the roof of the property in 2019, and trees were subsequently removed without a permit.

The notice to property owners within 200 feet appears to be deficient in that it does not identify all of the items requiring approval.

Mr. Ahamed testified that all of the violations identified were made inadvertently. He expressed a desire to purchase a portion of the property at 40 Kresson Road in order to alleviate the

encroachment. He also expressed a willingness to remove the encroachment onto Borough property and explore options to reduce the impervious coverage on the lot.

Public Comment:

Ray and Valerie Holwell, 40 Kresson Road. Also present, Beth Marlin, Esquire. Mr. and Mrs. Holwell are not interested in subdividing their lot in order to sell a portion to the Ahameds. The land in question is part of a protected wetlands buffer where not structures are permitted. Mr. Holwell testified that due to the tree removal and change to the canopy, he is concerned that the endangered swamp pink along the property line may have died.

Ms. Gaskill informed the applicant that the Board could not act on the pavilion in isolation from the other issues identified with the property. Mr. Ahamed was charged to address the existing violations on the property, resolve the encroachment onto the Holwell property, and apply for a tree removal permit for the trees that have been removed. At that time, Mr. Ahamed can return to the Board to request relief for the pavilion and any other remaining items.

Motion to deem application incomplete: Mayor Campbell, second Mr. Kelly

Poll: Ayes – Campbell, Kelly, Ritz, Deichert, Rothberg, Watson

OLD BUSINESS

NEW BUSINESS

1. BULK VARIANCE & CERTIFICATE OF APPROPRIATENESS (Docket #24-02)

Applicant: Shirin & Mohammed Ahamed
Project: Bulk Variance & Certificate of Appropriateness to construct a pavilion
Address: 2 North Tanglewood
Block 18.04, Lot 1

Planner's review letter, dated 5/15/24

No public hearing was held as the notices were deemed deficient and the application, in terms of required variances, was incomplete.

PENDING BUSINESS

INFORMATIONAL

1. The Planning Board meeting is scheduled for Wednesday, June 26, 2024 at 7:00 p.m. at the Gibbsboro Borough Hall at 49 Kirkwood Road.

PUBLIC COMMENTS

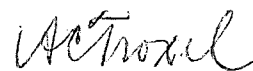
None

MAY 22, 2024

ADJOURNMENT

Motion to adjourn the meeting at 8:03 p.m. Mr. Rothberg, second Mr. Deichert

Vote: Ayes unanimous



AMY C. TROXEL, Secretary

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RESOLUTION OF THE GIBBSBORO PLANNING BOARD
GRANTING A CONDITIONAL USE VARIANCE UNDER N.J.S.A. 40:55D-70d(3) FROM
THE CONDITIONAL USE STANDARDS SET FORTH IN BOROUGH CODE §400-71.F(3)
AND (4) REQUIRING A CANNABIS MANUFACTURER SITUATED IN THE M-1
INDUSTRIAL DISTRICT TO BE LOCATED IN A SINGLE OCCUPANCY BUILDING WITH
A SIX FOOT ENCLOSURE FENCE ALONG WITH GRANTING MINOR SITE PLAN
APPROVAL TO BOUTIQUE GARDENS, LLC FOR A CANNABIS MANUFACTURING
FACILITY TO BE LOCATED AT 10 DEMOCRAT WAY, ALSO KNOWN AS BLOCK 59.03,
LOT 3 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF GIBBSBORO

On April 24, 2024 the Borough of Gibbsboro Planning Board (hereinafter the “Board”) held a public hearing at which time the following members were present:

LuAnn Watson, Chairperson
Barbara Gellura
Dennis Deichert
Barry Rothberg
John Ritz

Recusal: Mayor Edward Campbell, Mayor
Councilman Michael MacFerrer

Absent: Michael Kelly, Vice-Chairperson
Susan Croll

The following were also present at the meeting:

Kathleen McGill Gaskill Esquire, Solicitor
Amy C. Troxel, Planning Board Secretary
Representative from Key Engineers Inc., appearing on behalf of Gregory Fusco,
Planning Board Engineer
Brian Slaugh, Planning Board Planner

SUBJECT

Whereas the Board considered the Application of Boutique Gardens, LLC, having an address of 343 Bolton Road, East Windsor, NJ 08520 (hereinafter referred to as the “Applicant”), for the following relief: (1) a conditional use variance under N.J.S.A. 40:55D-70d(3) for the premises known as 10 Democrat Way, Gibbsboro, New Jersey, also known as Block 59.03, Lot 3 on the Official Tax Map of the Borough of Gibbsboro (hereinafter referred to as the “Subject Property”) to allow for a cannabis manufacturer to be located in a multi-tenant industrial building where pursuant to Borough Code §400-71. F(3), the cannabis facility must be the sole occupant of the building, and to allow the proposed cannabis manufacturing facility not be enclosed by a fence where pursuant to Borough Code §400-71.F(4) all structures utilized for the manufacturing of cannabis must be enclosed by a 6 foot fence, and (2) minor site plan approval.

RESOLUTION GRANTING A CONDITIONAL USE VARIANCE UNDER N.J.S.A. 40:55D-70d(3) FROM THE CONDITIONAL USE STANDARDS SET FORTH IN BOROUGH CODE §400-71.F(3) AND (4) REQUIRING A CANNABIS MANUFACTURER SITUATED IN THE M-1 INDUSTRIAL DISTRICT TO BE LOCATED IN A SINGLE OCCUPANCY BUILDING WITH A SIX FOOT ENCLOSURE FENCE ALONG WITH GRANTING MINOR SITE PLAN APPROVAL TO BOUTIQUE GARDENS, LLC FOR A CANNABIS MANUFACTURING FACILITY TO BE LOCATED AT 10 DEMOCRAT WAY, ALSO KNOWN AS BLOCK 59.03, LOT 3 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF GIBBSBORO

Whereas the Board considered the following documents submitted by the Applicant:

- (1) Gibbsboro Land Use Application signed by the Applicant's Managing Member, Anthony Passananti dated 03/25/2024;
- (2) "Minor Site Plan For: 10 Democrat Way," prepared and signed by Gregory J. Simonds, P.E. of Ewing Associates dated 02/29/2024 (2 Sheets);
- (3) Borough of Gibbsboro Submission Checklist;
- (4) Escrow Account Certification and Tax & Assessment Report dated 03/25/2024;
- (5) Corporate Disclosure Statement signed by the Applicant and dated 03/25/2024;
- (6) Interior Floor Plan with Equipment, unsigned and undated;
- (7) Interior Floor Plan with Equipment and Security Plan, unsigned and undated;
- (8) Statement and Picture Entitled "Gibbsboro Odor Mitigation", undated and unsigned;
- (9) Copy of "Resolution of the Borough of Gibbsboro Providing Local Support and Confirming the Appropriateness and Suitability of Cannabis Business-Boutique Gardens, LLC;"

Whereas the application for both a use variance and minor site plan approval was reviewed by the Board's planner, Brian Slauch, PP, AICP of Clarke Caton Hintz, by letter dated 04/17/2024, and the application for minor site plan approval was reviewed by the Board's engineer, Gregory B. Fusco, PE, PP, CPWM of Key Engineers, Inc. by letter dated 04/22/2024;

Whereas the application was further supplemented by two (2) letters dated 04/23/2024 prepared by the Applicant's counsel, Kirk Pavoni, Jr., Esquire, in response respectively to the aforementioned review letters of the Board's engineer and the Board's planner;

Whereas a completeness hearing on this application was conducted on April 24, 2024 with the Applicant being represented by Kirk Pavoni, Jr., Esquire with the Applicant seeking waivers of several submission items for this fully developed site in its completion request and after consideration of the requested waiver of certain submission items, the application upon motion duly made and seconded being otherwise found to be complete for hearing purposes and subject to the Applicant providing testimony on the ADA improvements and lighting on the Subject Property and with the Applicant revising its site plan to show the location of all existing structures and their uses within 500 feet of the Subject Property as required under Checklist Item #34;

Whereas a hearing on the merits of this application for a conditional use variance and minor site plan approval was conducted immediately thereafter on 04/24/2024 with notice of this hearing having been given in accordance with New Jersey statutes, the Open Public Meetings Act and the Municipal Land Use Law, with a quorum being present;

Whereas the Board heard and considered the testimony of Anthony Passananti, the managing member of the Applicant (hereinafter referred to as the "Applicant"), and having

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accepted and heard the expert testimony of the Applicant's engineer, Gregory J. Simonds, P.E., and the expert testimony of the Board's planner and a representative from Key Engineers appearing on behalf of Gregory Fusco, PE, the Board's engineer, and having open the hearing to the public with no member of the public wishing to comment, and having heard the arguments of the Applicant's counsel, Kirk Pavoni, Jr., Esquire, and having considered the application submitted in connection herewith;

NOW THEREFORE, the Board acting in its dual capacity as a Planning Board and a Zoning Board of Adjustment makes the following findings of fact:

FINDINGS OF FACT

1. The Applicant is a prospective tenant of the easternly end unit of a four (4) unit industrial building located in the M-1 Industrial District of the Borough of Gibbsboro known as Block 59.03, Lot 3 and commonly known as 10 thru 16 Democrat Way, Gibbsboro, NJ (the "Subject Property"). The building is a one-story concrete building on a 1.01 acre lot with the lot and building meeting all bulk and area requirements for the M-1 Industrial District. Each unit has a glass storefront and a commercial garage door in the front of the building with a loading dock, another commercial garage door and a man door with steps to the ground in the rear. This site has 20 angular bituminous parking spaces in the front of the building configured into four rows of five (5) angular parking spaces for each of the four (4) units. Access to and from this site to Democrat Way is through an ingress and egress point on the northwest end of the Subject Property with a part-stone and part-bituminous drive circulating around the building. The areas surrounding the Subject Property is industrial in nature with Winchester Roofing and the New Jersey American Water pump station in the immediate vicinity. The unit on the west end of the building, known as 16 Democrat Way, to be occupied by Topless PreRolls, LLC has received a conditional use variance and minor site plan approval as a cannabis manufacturing facility from this Board.

2. It is the Applicant's intention to occupy the end unit of this industrial building, which unit has an address of 10 Democrat Way, as a cannabis manufacturing facility. The unit is approximately 3020 square feet in size. The Applicant has previously received conditional approval for a Class 2 - Manufacturer License from the State of New Jersey Cannabis Regulatory Commission (NJCRC) under the name B2C Cannabis LLC, however, insofar as the Applicant is also seeking a cultivation license under the name of Boutique Gardens, LLC, the New Jersey Cannabis Regulatory Commission requested that all licensing for the Applicant be under the name of Boutique Gardens, LLC requiring the Applicant to revise its application to NJCRC and is awaiting receipt of its revised conditional Class 2 Manufacturer License.

3. The Applicant is seeking a d(3) conditional use variance to allow for the proposed cannabis manufacturing operation at this site. Under Borough Code § 400-71.F, a cannabis manufacturer is permitted in the M-1 Industrial District as a conditional use provided certain qualifying conditions are met. In seeking conditional use approval for this cannabis manufacturing operation, the

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Applicant is seeking variance relief from two (2) such conditions. Under Borough Code §400-71.F(3), the cannabis facility must be the sole occupant of the building while the Applicant is seeking to locate its facility in a multi-tenant building. Additionally, under Borough Code §400-71.F(4), all structures utilized for the manufacturing of cannabis must be enclosed by a fence.

4. The Applicant testified that its manufacturing operation will entail the purchase of cannabis from licensed cultivators and then the cannabis will be processed into finished products to be sold to licensed retail cannabis dispensaries. The products which the Applicant intends to sell will be packaged cannabis in either jars or bags, ingestible forms of cannabis-infused products known as “editables”, cannabis concentrates or resin, and cannabis in vaporized formulation as vape cartridges.

5. The Applicant testified that the facility will usually have no more than 100 pounds of cannabis on site at any given time which will be delivered through the rear entrance with deliveries occurring once a month. All cannabis will be kept in a storage area with access limited to the Applicant’s owner and its facility manager. The Applicant intends to package cannabis for resale to dispensaries in vacuum sealed bags and jars. The Applicant also intends to create resin from the cannabis from a washing, freezing and heating process which allows the THC component of cannabis to be extracted to create resin. There will be three (3) ovens in the kitchen for this process. The Applicant is intending to use the resin to create edibles in the facility kitchen and the resin will also be sold in liquid concentrate or in vape cartridges for smoking. Every patch of cannabis-derived products generated from this facility will be sent to an independent lab for testing as required by the NJCRC regulations to calculate among other things the products’ potency. Questions were raised by the Board as to the required exhaust for these ovens and any associated odor mitigation and it was determined that an approved exhaust system would be made a condition of approval. Any waste generated from these processes will be kept in secured containers visible to a security camera until it is disposed of in accordance with the NJCRC regulations to a solid waste facility. All non-cannabis waste and recycling will be disposed of off-site. There will be no trash enclosure installed on the site as required by Borough Code §324-33H. There will be no direct retail sales to consumers on this site. The Applicant anticipates that it will have between four (4) to fifteen (15) employees with a maximum of 5 employees at the facility at any given time and the facility will operate from 10:00 AM to 8:00 PM.

6. The Applicant in the testimony of its owner and in the presentation of counsel for the Applicant maintained that this business satisfies the other criteria for conditional use approval as a cannabis manufacturer in the M-1 Industrial District. The Applicant submitted in its application a letter of support from the Borough of Gibbsboro Council for the issuance of a Class-2 Manufacturing License to the Applicant and will constitute one of the three (3) manufacturing licenses available in the Borough. The Applicant testified that its conditional approval of its Class2-Manufacturing licenses is being revised to incorporate a license as a cultivator and to have both licenses under the Boutique Garden name. In addressing the other qualifying conditions for a

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manufacturing cannabis use, the Applicant maintains that it is unlikely any vibration glare or noise will be evident outside of the Applicant's place of business. The Subject Property is located in a very isolated area with wooded lots on either side and the adjacent unit is a woodworking/millwork shop generating a higher sound level than this proposed cannabis operation. The Applicant is intending on sound-proofing this unit replacing the drywall separating this unit from the adjacent unit with concrete block for noise and security purposes and to seal the interstitial spaces between the unit to prevent any inadvertent seepage of dust, odor and noise. A carbon charcoal can air filtration system, called Charcoal Air Scrubbers, will be installed for odor mitigation which system will generate sound when operating which sound will be in compliance with State, county and local noise laws and ordinances. These air scrubbers will be installed in every room on the ceiling and next to the doors, and designed to create "negative pressure" with the odors that may be generated from the manufacturing process being pulled through the carbon filter where the charcoal pellets will absorb any smell, then releasing the air which has been scrubbed of any cannabis particulates. Extra measures will be taken by vacuum sealing the cannabis product keeping it sealed and preserved. The Subject Property meets the location requirements as there are no schools or specified public parks within the 1000 feet required buffer. As this will be a manufacturing facility, there will be no cannabis consumption on site.

7. On the issue of security and to address the security risks of not having an exterior 6 foot fence, the Applicant proposes to restrict unauthorized access into the facility through a number of safeguarding procedures. Access from outside the unit will be kept to a minimum and access will only be permitted for employees and authorized visitors who are 21 years of age and have qualified identification. Facility agents and off-site security personnel will monitor the site for unauthorized trespassers using real-time video surveillance. The unit will be equipped with exterior and interior steel doors with all doors requiring key card entry. The partition walls with the adjacent unit will be enforced by concrete walls. There will be cameras in the interior providing 360-degree surveillance with alarms and motion detectors and exterior video cameras will be installed in the front and rear of the building with the Applicant agreeing to add cameras on the side of the building. Any windows on site will be replaced by roll up steel doors. There will be no exterior signage which would identify the site as a cannabis facility. State and local law enforcement agencies will be given access to all video surveillance of the site.

8. The Board's planner in addressing the conditional use variance being sought in both his review letter and, in his testimony, referenced the New Jersey Supreme Court decision in Coventry Square v. Westwood Zoning Board of Adjustments, which is the leading case in variances from conditional use standards. The court directed that the focus of the positive criteria for conditional use variance relief should be limited to the impact of the deviation, not the impact of the use, and should look to whether the site continues to be an appropriate site for the conditional use notwithstanding the deviation and that the site can accommodate the problems associated with the deviation from the standards, all of which shall be considered in determining whether the positive criteria for a conditional use variance have been met.

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9. The Board's planner opined that the purposes behind the single use building requirement are twofold: nuisance control and security. The impact of the cannabis manufacturer being located in a multitenant building should consider those purposes and whether the site remains an appropriate site for the conditional use notwithstanding the deviation from this requirement. As the Subject Property is an isolated lot between two wooded areas, the potential nuisance posed by this proposed cannabis manufacturing is with the other tenants in this multi-tenant building. As the other occupant in this building is a woodworking and millwork concern with more noise and dust than the proposed cannabis manufacturing, and another prospective occupant being an approved cannabis manufacturing facility, the only nuisance potential would be from the cannabis odor which the Applicant's proposed use would pose. The Applicant testified to the odor mitigation system to be installed and the sealing of the interior walls to prevent the seepage of dust odor and noise to the other units. As for the security concerns underlying this condition, the Applicant proposes to replace the drywall separation between the manufacturing unit and the adjacent unit with a concrete block wall and to install an extensive monitoring and alarm system, which will mitigate any security concerns being attributed to being located in a multi-tenant building. As for the deviation from the required 6-foot exterior fence, the comprehensive set of interior alarms and motion detector and video cameras, the exterior surveillance system, and the installation of interior steel doors, roll-down security doors and windows will compensate for the lack of a six-foot security fence. Moreover, the practicalities of installing a 6-foot perimeter fence around this unit given the existing site configuration, parking and circulation pattern of the Subject Property would entail significant site renovations.

10. In addressing the negative criteria for allowing these deviations from the single use building and the required 6-foot fence, the Board must determine whether allowing this application to proceed with these deviations would result in a substantial detriment to the public good and would be a substantial impairment of the zoning plan. Any detriment would be to the surrounding tenants and whether that has been mitigated by the safeguards proposed by the Applicant. The Board's planner opined that the Subject Property may be the only site in the Borough appropriate for this cannabis manufacturing operation.

11. In considering the application for minor site plan approval, the Board heard the testimony of the Applicant's engineer as well as the testimony of the Applicant. The Applicant intends on undertaking interior renovations to this unit which renovations shall include interior wall modifications and additions to separate the area into a series of rooms to include an office, washroom, packaging room, kitchen, a receiving area, office storage and a secure room for product. As noted previously, the wall with the adjacent unit will be re-blocked and the top of the walls will be sealed to prevent odor escaping. A generator is proposed to be installed on an exterior concrete pad site in the rear of the building as a backup power supply as required for security measures by NJCRC, and the Applicant has agreed as a condition of approval to install a residential

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enclosure around same to minimize noise. The HVAC system for the site will not be visible to the public and no screening will be provided.

12. The Applicant's proposed site plan will require several design waivers which were not objected to by the Board's professionals. Those design waivers are as follows. Pursuant to the design standards set forth in Borough Code §324-34A, the required loading space for an industrial building is 12 feet in width and 35 feet in length. The Applicant is proposing a 12 foot by 20-foot loading space and a design waiver is required. The reduced loading area is being proposed as a full-sized loading area would encroach on the access drive that circulates around the industrial building which is not permitted pursuant to Borough Code 400-7E(2)(a)(2). The Applicant testified that it would receive deliveries once a month in a sprinter type vehicle so the larger loading area will not be required for an operational perspective. The Applicant is also seeking design waivers for that loading area as it will remain a loading area constructed of stone and unmarked and Borough Code §324-34B(3) requires that loading areas be paved with either bituminous or portland-cement paving surfaces with markings for safe loading. The Applicant has agreed as a condition of approval to replenish the stone in the loading area and to maintain same at a consistent level. The Subject Property shares an on-site drive aisle with the other units in this multi-unit building, which drive aisle allows for two-way travel from the access drive from Democrat Way around the building perimeter to the parking area servicing the Subject Property on the eastern end of the building, and a design waiver for this drive aisle from the provisions of Borough Code §324-33A2 is required allowing the drive aisle of 18 feet when 20 feet is required for an aisle carrying two-way traffic. The Applicant agrees to replenish this stone drive aisle and to maintain same as a level surface as a condition of approval. The Applicant was encouraged to coordinate with the prospective occupant of 16 Democrat Way whose approval also required this stone replenishment.

13. The Applicant is proposing to reconfigure the existing five (5) angular bituminous parking spaces in the front of the unit to perpendicular parking spaces with wheel stops which will eliminate the parking spaces from encroaching into the municipal right of way. Given the Applicant's testimony on the maximum number of employees at the site at any given time, the five (5) proposed parking spaces were deemed to be acceptable by the Board's engineer. These perpendicular parking spaces will be 9 foot by 18 foot in size, where parking spaces are required to be 10 foot by 20 foot pursuant to Borough Code § 324-33A, and a design waiver is required for these smaller parking spaces. A design waiver is required for the absence of directional arrows and stop lines as required by Borough Code § 324-33A(5). On the question of a reserved handicapped van accessible parking spot for this operation, it was noted by the Board's planner that the proposed handicapped van accessible parking space which was made a part of the approval for the cannabis manufacturing facility on the western end of the parking lot in front of 16 Democrat Way to be operated by Topless PreRolls, LLC would be sufficient for purposes of the parking area serving this building. It was further noted by the Board's planner that there are no assurances that the operation and site plan improvements approved for 16 Democrat will come to fruition and it was agreed by the Applicant if the handicapped van accessible spot is not installed in front of 16

RESOLUTION GRANTING A CONDITIONAL USE VARIANCE UNDER N.J.S.A. 40:55D-70d(3) FROM THE CONDITIONAL USE STANDARDS SET FORTH IN BOROUGH CODE §400-71.F(3) AND (4) REQUIRING A CANNABIS MANUFACTURER SITUATED IN THE M-1 INDUSTRIAL DISTRICT TO BE LOCATED IN A SINGLE OCCUPANCY BUILDING WITH A SIX FOOT ENCLOSURE FENCE ALONG WITH GRANTING MINOR SITE PLAN APPROVAL TO BOUTIQUE GARDENS, LLC FOR A CANNABIS MANUFACTURING FACILITY TO BE LOCATED AT 10 DEMOCRAT WAY, ALSO KNOWN AS BLOCK 59.03, LOT 3 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF GIBBSBORO

Democrat Way as required by the site plan approval for same that such a handicapped spot along with the required striping and signage will be installed by the Applicant in the parking area appurtenant to its units and this provision will be made a condition of approval. The Applicant testified that the owner of the Subject Property has consented to the site improvements to be made as part of this approval process.

14. Several other design waivers were required in this proposed site plan which were not objected to by the Board's engineer. They include a waiver of a safety island or raised median to allow parking between the front building line as required by Borough Code §324-33B(2); a design waiver of the minimum turning radius of 30 feet at the intersection of the drive aisle and Democrat Way as required by Borough Code §324-33A(7); a design waiver to omit a curbed entrance/exit drive as required by Borough Code §324-33C(5); a design waiver for the construction of a 4 foot concrete sidewalk along the site frontage and any associated required contribution as required by Borough Code §324-33M (1) and (4); and a design waiver for the construction of streetscape improvements as required by Borough Code §324-33(N). It was further agreed to by the Applicant that the lighting plan for the site is to be revised as a condition of approval to show that the minimum lighting standards around the unit, and that the minimum and maximum light levels are met which should be coordinated with the lighting to be installed by the occupants at 16 Democrat Way.

15. The Applicant is proposing to install a Knox box in the front of its unit. The Applicant has agreed to submit the site plan as well as the Applicant's fire safety measures for this unit to the Fire Official for his review and approval. The Applicant agreed to have its security plan reviewed by the Borough Police Department.

CONCLUSIONS OF LAW

1. Whereas the Board has jurisdiction over this application for conditional use variance relief pursuant to authority granted by the Municipal Land Use Law, N.J.S.A. 40:55D-70(d)(3), which grants the Board the power to grant a variance to allow for a conditional use which does not satisfy the conditions and/or standards imposed for such conditional use.

2. Whereas the Supreme Court in Coventry Square v. Woodland Zoning Board of Adjustment held that in determining whether the positive and negative criteria have been met in granting a variance for a conditional use, the focus of the examination as to whether the positive criteria for conditional use variance relief have been met should be limited to the impact of the deviation, not the impact of the use, and should look to whether the site continues to be an appropriate site for the conditional use notwithstanding the deviation from the condition and/or standard and that the site can accommodate the problems associated with that deviation. Similarly, in determining whether the negative criteria have been met in granting a conditional use variance, the focus is to be on the effect on the surrounding area in allowing this deviation and whether the grant of such a variance will not substantially impair the intent and purposes of the zone plan and zoning ordinance.

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3. The Board finds that there are “special reasons” to support the requested conditional use variance under the standard enunciation by the New Jersey Supreme Court in Coventry Square v. Woodland Board of Adjustments. The requested relief from the conditional use standards will have no significant impact on the surrounding areas and that the safeguards to the cannabis manufacturing operation proposed to be installed will mitigate against any detriment that the deviations from the standards may pose. The Subject Property, an isolated industrial lot, remains a suitable site for the cannabis manufacturing facility notwithstanding these two (2) deviations and remains perhaps the only suitable site for the cannabis manufacturing facility in the Borough. This deviation has no significant impact on the surrounding areas and as an isolated industrial site satisfies the intent of the conditional use standards and accordingly will not impair the intents and purposes of this zoning ordinance.

4. Whereas the Applicant has demonstrated by the preponderance of the credible evidence that the submission and design waivers requested herein are reasonable, have been recommended by the Board’s professionals and are within the purposes and intent of the provisions for site plan review ordinance and that the literal enforcement of said provisions would be impracticable or exact an undue hardship.

5. Whereas the Board has jurisdiction over this application for minor site plan approval under authority of N.J.S.A. 40:55D-25 and pursuant to the provisions for site plan review as set forth in Chapter 324 of the Borough of Gibbsboro Code.

6. Whereas the Applicant has demonstrated that its plans for minor site plan approval meets the requirements of the zoning and the site plan review ordinances subject to the revisions required by the Board and with the exception of the design waivers granted herein and the site plan is consistent with proper planning, and is entitled to the granting of minor site plan approval.

NOW THEREFORE, BE IT RESOLVED, that the motion duly made by Dennis Deichert and duly seconded by John Ritz on April 24, 2024, that the within application for a conditional use variance and minor site plan approval, along with the design waivers as set forth herein, be and is hereby **GRANTED** subject to the following terms and conditions:

1. That the application, all exhibits, testimony, maps and other documents submitted, and all representations made, and all testimony given before the Board at its hearing of April 24, 2024 are true and accurate of the facts relating to the Applicants’ request for relief. In the event that it appears to the Board, on reasonable grounds, that the application, exhibits, testimony, maps and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same have been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought, the Board may rescind its approval and rehear the application, or any part of said application, either upon the application of an interested party or on

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its own motion, when unusual circumstances so require, where a rehearing is necessary and appropriate in the interest of justice;

2. That minor site plan approval granted herein is subject to the following terms and conditions:

- (a) Site plan to be revised to show the location of all existing structures and their uses within 500 feet of the Subject Property as required under Checklist Item #34;
- (b) Site plan to be revised to show compliance with the required handicapped van accessible parking space in the parking area appurtenant to the Applicant's site with dimensions and signage details. Included in same is the submission of a grading plan with proposed spot elevations and slope for the review and approval of the Board Engineer. This condition of approval will be waived in the event that a handicapped van accessible parking space with all required striping and signage is installed appurtenant to 16 Democrat Way;
- (c) Site plan to be revised to show that an approved residential enclosure with details will be installed around the backup generator situated in the rear of the Applicant's unit.
- (d) Site plan to be revised to provide that the stone in the loading area will be replenished with stone constructed in a defined bed as approved by the Board's engineer and kept replenished so that the surface of the loading area remains level, and a note added to the plan to reflect same.
- (e) Site plan to be revised to provide that the stone in the access drive will be replenished with stone constructed in a defined bed as approved by the Board's engineer and kept replenished so that the surface of the stone access drive will be made level and will remain level, and a note added to the plan to reflect same. The Applicant may coordinate with the prospective occupant of 16 Democrat Way on this shared responsibility. Notwithstanding this shared responsibility, this obligation remains a condition of the Applicant's site plan approval.
- (f) The site plan to be revised to show a lighting plan with details for the Applicant's unit which satisfies the minimum lighting standards around the unit set by local ordinance and the minimum and maximum light levels as approved by the Board's planner. The Applicant should coordinate with the prospective occupant of 16 Democrat Way on the exterior lighting on the Subject Property.

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3. This approval is conditioned on the Applicant supplying the Board and the Board's professional with a copy of its Class-2 Manufacturing License when issued.

4. The site plan is to be reviewed by the Borough Fire Official for approval with respect to the traffic circulation plan and any other additional fire safety measures that may be required. If required by the Fire Official, the Applicant shall provide specifications on the carbon can air filtration system.

5. The security plan for the site shall be submitted to the Borough Police Department for their review and approval with the Applicant providing the Borough Police Department with access to the surveillance video upon request.

6. The Applicant to install a video surveillance camera on the exterior side of the Applicant's unit.

7. The Applicant is to install roll down doors with bars on exterior windows.

8. The Applicant's kitchen shall be reviewed and approved by the Camden County Health Department. If an exhaust system is required for the on-site ovens, then the Applicant shall provide to the Board's professionals a plan for odor mitigation with respect to any exhaust and screening with respect to the exhaust equipment if located on the exterior of the site.

9. The Applicant shall revise its plans to the extent required by the approval herein and as required to achieve conformance with the review letters of the Board professionals and with the testimony herein provided. The Applicant shall submit the revised plans to the Board's engineer and planner for approval along with a letter detailing all changes made, and upon conformance and satisfaction of same, the perfected site plan shall be submitted in the number required for signature. The review letters referenced herein are incorporated into this Resolution as if set forth at length.

10. The Applicant is responsible for obtaining all other approvals or permits from other governmental agencies as may be required by law, including the Camden County Planning Board and Camden County Soil Conservation District, and the Applicant shall comply with any requirements or conditions of such approvals or permits which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction contemplated in this application. The Applicant is solely responsible for determining which governmental and/or public agencies permits and/or approvals, if any, are required. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from any such outside agencies, with a copy thereof to the Board's solicitor, engineer and planner.

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11. The Applicant must maintain an escrow account with the Borough of Gibbsboro and pay the costs of all professional review and other fees required to act on the application, pursuant to the applicable provisions of the Borough’s land development ordinances, zoning code and any other applicable municipal codes, and the New Jersey Municipal Land Use Law. The Applicant’s escrow account must be current prior to any permit being issued, or construction or other activity commencing on the approved application or the issuance of any certificate of occupancy.

12. An engineer’s estimate of site improvements, if any, must be submitted for determining inspection escrow deposit amounts. No site work is to commence until such inspection escrow have been posted with the Borough of Gibbsboro.

13. At any time after adoption of this Resolution should a party of interest appeal to the Board for an order vacating or modifying any term or condition set forth herein, upon a proper showing of materially misleading submission, material misstatement, materially inaccurate information or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault or deficiency in the application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval or such other action as appropriate.

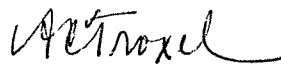
14. The Applicant shall indemnify and hold the Borough of Gibbsboro harmless from any claims whatsoever which may be made as a result of any deficiency in the application, or as to any representation made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance on certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Borough pursuant to N.J.S.A. 340:55D-12.C, and publication of the notice of public hearing in this matter in accordance with the law.

ROLL CALL VOTE

LuAnn Watson, Chairperson	YES
Barbara Gellura	YES
Dennis Deichert	YES
Barry Rothberg	YES
John Ritz	YES

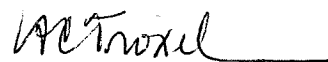
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BE IT FURTHER RESOLVED that a certified copy of this Resolution of Memorialization be sent via regular mail to Borough Council within ten (10) days of the date of adoption, and a copy of this Resolution shall be filed with the Administrative Officer or Clerk of the Borough, Borough Construction Official, Borough Zoning Officer and make available to all other interested parties.



Amy C. Troxel, Secretary
Planning Board
Borough of Gibbsboro

The foregoing Resolution is a true copy of the Resolution adopted by the Planning Board of the Borough of Gibbsboro at a duly noticed meeting on May 23, 2024, memorializing the action of the Board taken on April 24, 2024.



Amy C. Troxel, Secretary