

RESOLUTION: # 2023-16 (1)

RESOLUTION OF THE BELLMAWR JOINT LAND USE BOARD MEMORIALIZING APPROVALS GRANTED TO CURALEAF OF NJ II INC (CURALEAF) FOR PRELIMINARY AND FINAL MAJOR SITE PLAN AND MINOR SUBDIVISION AND BULK VARIANCES FOR NEW PARKING LOT AT 115 STANLEY AVENUE SUBJECT TO AND CONDITIONED UPON USE AND CONDITIONAL USE VARIANCES APPROVED SEPARATELY FROM THIS APPROVAL FOR PROPERTY LOCATED AT 640 CREEK ROAD, BLOCK 59, LOT 2, 111 COOLIDGE AVENUE, BLOCK 61, LOT 8; 111 COOLIDGE AVENUE, BLOCK 61, LOT 8; 136 HARDING AVENUE, BLOCK 61, LOT 8.01; 108 STANLEY AVENUE, BLOCK 58, LOT 4; 115 STANLEY AVENUE, BLOCK 59, LOT 4.01; AND 125 STANLEY AVENUE, BLOCK 59, LOT 5.01. HEREINAFTER IDENTIFIED AS THE CURALEAF CAMPUS

WHEREAS, on November 6, 2023, consideration was given to the above application by the Borough of Bellmawr Joint Land Use Board pursuant to application properly filed and duly noticed as hereinafter described for preliminary and final site plan approval minor subdivision approval and bulk variances for a new parking lot at 115 Stanley Avenue, together with a use variance and conditional use variance necessitated by the site plan and subdivision, but which use variances are memorialized in a separate resolution for the reasons hereinafter identified; and

WHEREAS, this resolution memorializes only the preliminary and final site plan approval, minor subdivision approval, and bulk variances and such approvals are specifically conditioned upon subsequent action taken at the conclusion of an integrated hearing for the with the aforesaid use and conditional use variances; and

WHEREAS, in this integrated hearing, the applicant was represented by Cherylynn Walters, Esquire, and the Board heard testimony from applicant's witnesses, Luke Flood, Senior VP with Curaleaf New Jersey II, Inc., Samuel Renauro, applicant's engineer, Bryan Proska, PE, applicant's traffic engineer, and James Miller, PP, applicant's planner, and the Board having heard testimony of the Board engineer/planner, Stephen Bach, and Board engineer, Nicholas Bishop, and no public appearing to testify; and

WHEREAS, the Board had before it the plans and exhibits identified in the attached Exhibit A including the following:

1. Cover letter addressed to Board Secretary, Joint Land Use Board, prepared by Nehmad, Davis & Goldstein, PC dated June 21, 2023.
2. Borough of Bellmawr Joint Land Use Board Land Development Application.
3. Project Narrative and Variance Justification Report (Revised 10/27/23)
4. Letter addressed to Board Secretary, Joint Land Use Board, prepared by Nehmad, Davis & Goldstein, PC dated August 4, 2023.

5. Cover letter and amended application addressed to Board Secretary, Joint Land Use Board, prepared by Nehmad, Davis & Goldstein, PC dated August 29, 2023.
6. Stormwater Management Report prepared by SR3 Engineers, dated March 17, 2023.
7. Plans entitled "Prepared for Curaleaf NJ Situated in: Bellmawr Borough, Camden County, New Jersey", prepared by SR3 Engineers
8. Traffic Engineer report of 10/26/2023
9. Report of Steven Bach dated 11/2/2023 including the following Exhibits:
 - a. Witness & Exhibit List
 - b. Aerial Rendering
 - c. Site Approvals Plan
 - d. Overall Site Plan
 - e. Traffic Circulation and Sign Plan

WHEREAS, upon the advice of the Board's solicitor, the improvement relief (preliminary site plan and subdivision with bulk variance) is inextricably intertwined with the use variance relief (for use variance and conditional use), such that the facts concerning all relief may be adduced at an integrated factual hearing, but the use variances must be voted on separately, because class 1 member (Mayor Sauter) and class 3 member (Councilman Wilhelm) are disqualified by statute from voting upon use variances and conditional use variances. Accordingly, the approval memorialized in this resolution for preliminary and final site plan approval and minor subdivision approval and bulk variances were voted upon by a full Board, including members Ken Murray, Josh Haas, Mark DeBerardinis, John Scarborough, Ray Staszak, Emil Andrae, Daniel DiRenzo, Craig Wilhelm and Mayor, Charles Sauter; and

WHEREAS, the variance vote taken separately with separate resolution was not voted upon by Mayor Sauter or Councilman Wilhelm; and

WHEREAS, the Board, having heard testimony from the identified witnesses and having reviewed the subject exhibits makes the following factual findings:

1. The applicant is identified as Curaleaf New Jersey II, Inc., owner and/or lessor of all of the properties constituting the Curaleaf campus.
2. The property addresses are as follows 115 Stanley Avenue, 640 Creek Road, Block 59, Lot 2, 111 Coolidge Avenue, Block 61, Lot 8; 111 Coolidge Avenue, Block 61, Lot 8; 136 Harding Avenue, Block 61, Lot 8.01; 108 Stanley Avenue, Block 58, Lot 4; 115 Stanley Avenue, Block 59, Lot 4.01; And 125 Stanley Avenue, Block 59, Lot 5.01.
3. Generally, the nature of the application is a preliminary and final major site plan and a minor subdivision with bulk variances that will provide for a new parking lot at 115 Stanley Avenue identified above as part of the Bellmawr Curaleaf Campus. The requested approvals implicate the need for a use variance and a conditional use variance as identified above and below. The aforementioned

approvals are sought so as to provide satellite parking directly adjacent to the Curaleaf dispensary, and the minor subdivision is required to adjust the lot line between the dispensary lot and the proposed satellite lot, so as to allow for proper circulation for this lot, which will be dedicated the existing retail cannabis dispensary at 640 Creek Road.

4. The use and conditional use variance relief that is sought but not memorialized in this resolution is required first because a parking lot is not a permitted principle use in this zoning district, and hence a use variance is required pursuant to N.J.S.A. 40:55D-70(d)(1) of the Land Use Law. Moreover, the applicant also sought relief to extend the hours of operation of the dispensary beyond the hours limitation in the cannabis ordinance, which relief requires a conditional use variance pursuant to N.J.S.A. 40:55D-70(d)(3). The dispensary currently operates between the hours of 8:00 a.m. and 7:00 p.m., which is permitted in the cannabis-enabling ordinance, and Curaleaf seeks to expand the closing hour to 10:00 p.m. for the reasons hereinafter stated.
5. The history of the development of the subject property since cannabis sales were legalized is memorialized in separate historical resolutions and these approvals are noted in the plaintiff's Exhibit A3 demonstrated at the hearing beginning on November 5, 2012 for approvals concerning 111 Coolidge Avenue, Building 1, with subsequent amendments on June 5, 2017, September 11, 2017, May 31, 2018, and October 7, 2019.

640 Creek Road was then added to the campus by conditional approval granted September 15, 2017 with amendment for recreational cannabis on August 1, 2022. Curaleaf Building 3 was approved on October 7, 2019.

Also on October 7, 2019, there was an approval for 32 parking spaces granted to applicant Alysco, owner of the subject property to be leased to Curaleaf, and on July 21, 2020, 106 Stanley was approved for Alysco Properties to add 30 parking spaces, also pursuant to a lease with the subject applicant.

6. The present site plan calls for a Building 2 expansion at 640 Creek Road to provide an additional 21-22 parking spaces directly adjacent to the dispensary. Revisions to the Plan may require the 22 stalls to be reduced to 21.
7. The applicant had originally submitted a prior version of the subject application to the Board on July 21, 2023. Then on August 29, 2023 the applicant made the request for conditional use variance to permit the expanded hours. The initial July 21, 2023 application provided a project narrative and variance justification report that identified the cultivation and manufacturing aspects of the operations on campus would be scaled back. In that narrative, it was indicated that the applicant was going to focus more warehousing and distributing cannabis products.

8. However, the Curaleaf operational plans for non-dispensary operations scale back changed, and on October 27, 2023, Curaleaf submitted a revised project narrative and variance justification report that no longer sought to change the operational characteristics of the non-dispensary operations and instead maintained the historical use of the campus, including cultivation, manufacturing, and the dispensary. Accordingly, the Board's focus for review, consideration, hearing, and decision is based upon the October 27, 2023 application materials, as revised, and the testimony provided in support of same.
9. The Board engineer had issued a number of review letters to the Board based on a thorough review of the applicant's engineering plans that were initially submitted, and which were not substantially changed by virtue of the reversal of course concerning the operational changes.
10. It should be noted that in the interim between the initial July application and the October 27 revisions, Curaleaf did amend the July application to request the conditional variance use relief to permit the expanded hours of operations. The request for the hours of operation only applied to the dispensary and not to the cultivation and manufacturing components of the campus operations.
11. Further, the original July application included two satellite parking lots, whereas the October 27 application and proofs made clear that there was no longer a request for a satellite parking field on the property located at 143 Harding Avenue, that all approval relief and the use variance required for same (due to satellite parking) was withdrawn and therefore the Board had no need to consider any nature of approvals or variances having to do with 143 Harding Avenue, nor did the Board have to consider and approve any implications of Curaleaf's original July application request to conduct warehousing and distribution operations from the Bellmawr campus, although the existing cultivation and manufacturing operations will still be conducted at the previous capacities.
12. The hearing commenced with an opening statement by Ms. Walters as applicant's counsel which the Board found to be helpful. She provided an overview of the subject application which included the preliminary and final major site plan approval and minor subdivision approval to create a new satellite parking lot. These approvals required bulk variances (which can be granted by the full Board) as well as a use variance and conditional use variance which can be granted by Board absent the votes of Class 1 (Mayor Sauter) and Class 3 (Councilman Wilhelm).
13. She described the use variance as being required since parking lots are not permitted as a principal use in the zoning district hence the satellite parking lot required a use variance under N.J.S.A. 40:55(d)(i).
14. Further, she indicated that because the hours of operation of the dispensary are limited by the ordinance enabling Cannabis uses as a conditional use the relief

extending the closing hours from 7:00 p.m. until 10:00 p.m. as requested by the applicant required a conditional use variance.

15. To recap, the bulk variances are for 1) front yard setback at Lot 2 (640 Creek Road - existing dispensary) (10 foot is the minimum required, whereas 4.5 feet is existing and 4.5 feet is proposed and 2) bulk variance on Lot 4.01 (115 Stanley Avenue - new satellite parking lot) for lot width where 75 feet is required, 60 feet is existing, and 66 feet is proposed were both approved by the full Board and memorialized in this resolution. A potential bulk variance for both Lot 2 and Lot 4.01 for percentage of lot occupied (80 percent maximum was discussed but determined not to be applicable.
16. Counsel detailed the history of the subject application which is referred to above, and before calling her first witness, she handed out a witness exhibit list which was marked as Exhibit A1. Four additional exhibit handouts were distributed.
17. At the conclusion of counsel's opening remarks, testimony was taken of Luke Flood, Senior VP of Curaleaf. He testified in detail as an individual who is fully familiar with Curaleaf and its multiple properties nationwide. He outlined the historical uses within the campus as well as the application that was before the Board tonight.
18. He testified concerning the abandoned July 21, 2023 application just to bring clarity to the fact that the application before the Board now was pursuant to an August request for conditional use and the revised project narrative and application submitted on October 27, 2023.
19. He discussed in detail the arguments for the dispensary, hours of operation being expanded from a closing time of 7:00 p.m. until a closing time of 10:00, which extension would apply only to the dispensary and not to all other components of the campus operations.
20. He advanced a number of arguments including evolving practices in the industry and the fact that some, but not all, of dispensaries were staying open until 10:00 p.m. and hence competitive bases were suggested.
21. Secondly, he suggested that sales data from Curaleaf's other two retail stores show that some customers have difficulty getting in by the 7:00 closing time but would remain customers were they able to have extended hours, which he characterizes as a redistribution of existing customers. However, he did suggest that the rate of "capture" of customers whether from competitors or of existing customers was at its highest immediately after the present 7:00 p.m. closing time and gradually dropped off over each of the 3 hours that were sought. Accordingly, he admitted that the last hour of the 3 additional hours sought was the least efficacious in achieving the goals of the extension request.

22. Mr. Flood also discussed the need for the proposed satellite parking at 115 Stanley Avenue. He indicated that the campus was spread out over the course of 3 blocks and several properties. He also accurately indicated that the Borough has encouraged Curaleaf to provide as much parking as possible for the campus, especially the dispensary, and indicated that the new location in question was available, but only by lease. It would be immediately adjacent to the existing dispensary to provide additional customer parking in the most convenient location.
23. Next up to testify was Sam Renauro, Curaleaf engineer who has testified many times before the Board and had actually prepared all the site plans and sought all the approvals hereinabove mentioned. He made reference to a handout exhibit which was an aerial rendering and this helped the Board refresh and orient itself to the site and the surrounding properties. He made reference to the site approvals plan exhibit and walked the Board through that and the history of approvals, and then he talked about the overall site plan exhibit rendering which itself was not particularly complicated since it was merely a parking lot.
24. He explained that the new parking lot would have associated lighting, landscaping and storm water management and walked the Board through each of those and explained a trash enclosure would be relocated.
25. He emphasized that there would be no changes to any other buildings and improvements for the subject properties in the Curaleaf Campus.
26. He indicated that the applicant would be able to comply with all terms and conditions of the Bach reports, the last being November 9, 2023.
27. As the hearing continued, he also agreed to other terms and conditions of the approval on behalf of the applicant.
28. Mr. Renauro then discussed the lot line adjustment being required between the dispensary and on this lot which required the minor subdivision approval so as to allow for a proper circulation plan. He went over the traffic circulation and parking plan after substantial discussion with the Board and the Board engineer, he agreed that the applicant and Board Engineer together would be able to generate a better circulation plan that would minimize to the maximum extent possible traffic onto Creek Road. This would be a condition of approval.
29. He further agreed to various other conditions of approval that are listed in the conditions section herein but they included submission of compliance plans showing improvements, and a separate compliance plan showing an as-built signage package with references to approval dates for all signs.
30. He also discussed and indicated agreement with: the generation of some nature of control of employee parking to keep the employees from utilizing the parking

most convenient to dispensary customers, curbing along Coolidge Avenue as described in conditions, and he agreed with the merits of publishing on a Curaleaf web site the parking plan and circulation plan to customers.

31. Next up, Bryan Prosca as applicant's traffic engineer was qualified and discussed his traffic impact study of October 26, 2023. He opined that the site circulation would be safe and efficient with the addition of a new satellite parking lot. Given the Borough's experience with the traffic on Creek Road he agreed with the condition of requiring conferral between the Board engineer and the applicant to improve circulation to keep dispensary customers from circling the property and out onto Creek Road.
32. He discussed proposed parking and indicated in his view that the new additional parking spaces will enhance the sufficiency of parking for the campus.
33. One comment should be noted with regard to the applicant's occasional observations that the applicant's parking already exceeded the ordinance requirements of one parking space per 1,000 square feet for production uses and one parking space per 250 square feet for the dispensary use. In Mr. Prosca's report he indicated that studies from the Institute of Traffic Engineers suggested a rate of 7.19 parking spaces per 1,000 square feet which was nearly twice the ordinance requirement. Hence, the additional parking was not only laudable but required.
34. Finally, James Miller testified as a professional planner with regard to the bulk and use variances. The use variance and conditional use variance testimony will be contained within the separate resolution memorializing those approvals. Because the bulk variances do not require the disqualification of the Class 1 and Class 3 members, the entire Board voted on the bulk variances along with the related improvement approvals for preliminary final site plan and minor subdivision.
35. Mr. Miller was qualified as a witness and thereupon described the site, the use and surrounding area and the nature of the current requests. He generally observed that the variance for lot width were warranted because they simply added an additional 6 feet onto an existing 60-foot lot, hence moving closer to conformity. This was the betterment of an existing condition and also served to advance the lot generally the positive goal of provision of additional parking at safe and convenient areas proximal to the dispensary.
36. With respect to the front yard setback that was an existing situation where 10 feet is required but 4.5 feet is existing and proposed but to which there would be no exacerbation or other negative consequences. He provided substantial credible evidence that these variances satisfied the positive criteria under either a C1 or C2 variance and that there were no negative consequences but rather only positive

ones in achieving the provision of parking and the betterment of an existing nonconformity.

NOW, THEREFORE BE IT RESOLVED, after considering the foregoing facts, the Board finds that the application for preliminary and final site plan approval, minor subdivision approval and bulk variance approval have substantial merit and shall be approved subject, however, to the grant of the use variance and conditional use variance, considered concurrently in this application but memorialized separately and subject, however, to the below conditions.

1. The applicant must contact the Combined Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
2. Approval of all appropriate reviewing agencies including without limitation, the MUA, County Planning Board, Traffic Commander, Fire Marshall, Soil Conservation District, Department of Transportation and Police Department, Water and Sewer Department. (If required).
3. Compliance with all Borough, County, State and Federal rules, regulations and ordinances.
4. Compliance with the Board Engineer's report and comments at the public hearing.
5. Compliance with all representations made by the applicant at all public hearings.
6. Provision of a compliance plan depicting all original improvements with subsequent amendments identified by date of approval.
7. Posting of any required additional performance and maintenance bonding.
8. Compliance with the conditions of approval set forth in this resolution.
9. Applicant shall submit an as-built plan showing all improvements on the campus.
10. Applicant shall submit a separate plan of as-built signage throughout the campus.
11. With respect to the condition of approval regarding provision of as-built plans for campus property improvements and a separate as-built plan for signage, all signs shall contain a reference to the date of approval of same and the plans upon which the signs were depicted. If there are any site improvements that were not depicted upon any plans reviewed and approved by the Board, such should be called out on the site improvement as-built plan so that they may be properly reviewed, inspected, and legitimized as appropriate.
12. Applicant shall confer with the Board engineer to achieve a better circulation plan than that proposed which would minimize to the maximum extent possible traffic of customers circulating the campus in search of parking from going out onto Creek Road, an adjacent roadway that is already overburdened by traffic.
13. Applicant shall advise the lessor of the subject property that the use variance granted to permit the development of the property as a satellite parking lot is limited to serving the contiguous dispensary at 640 Creek Road. Applicant shall also supply the Board with a copy of the lease for the subject property.
14. With respect to all existing leases for existing satellite parking areas, Applicant shall advise the lessors of those properties that the use variances previously granted to permit the development of those properties as a satellite parking lot is limited to serving the dispensary at 640 Creek Road. Applicant previously provided copies of those leases with a prior compliance submission and shall ensure a copy of each lease is on file with the Board.

15. If any existing lease shall not contain language ensuring the limitation in Paragraph 13 above, Curaleaf shall request a lease attachment seeking same.
16. The new satellite parking area will only be used as a parking lot.
17. The area along Coolidge Avenue adjacent to the dispensary that is presently lacking a curb shall be curbed by the applicant at start and stop points to be determined by the Board engineer so as to discourage the customer parking on that area that is currently occurring.
18. Employee parking would not be permitted at the existing dispensary lot or at the new lot created at 115 Stanley Avenue and applicant shall develop a sticker system or a suitable alternative, for identifying employees' vehicles and same shall be subject to the review and approval of the Board engineer.
19. The applicant will undertake good faith efforts to publish on their website a plan describing the available parking areas on the campus.
20. A Dead End sign on Stanley Avenue must be placed for the purpose of keeping customers from going past the parking lots. The location specifications for the sign shall be subject to the review and approval of the Board engineer and shall be noted on the compliance plan.
21. The Board engineer shall review and approve a proposed landscaping plan for the areas involved in or implicated by the subject application.
22. The new parking lot shall be curbed along the interior as described by the Board engineer.

Those Eligible to Vote

Ken Murray

Josh Haas

Mark DeBerardinis

John Scarborough **ABSENT**

Ray Staszak

Emil Andrae

Daniel DiRenzo

Craig Wilhelm

Mayor, Charles Sauter

Those in Favor

8

Those Opposed

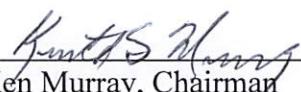
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ATTEST:



Mark DeBerardinis, Secretary

JOINT LAND USE BOARD:



Ken Murray, Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Borough of Bellmawr Joint Land Use Board at a meeting held on the 4th day, of December 2023.



Mark DeBerardinis, Secretary