

**OXFORD TOWNSHIP
LAND USE BOARD
MEETING MARCH 26, 2024
www.oxfordtwpnj-org**

FLAG SALUTE

CALL TO ORDER: Mr. Ischinger called the meeting to order at 7:00pm

ADEQUATE NOTICE was given as follows: Notice was sent to the Express Times and The Star Ledger. Notice was posted on website and the municipal bulletin board in the Township Administration building in Oxford Township, New Jersey and notice was filled with the Township Clerk.

ROLL CALL:

Members Present: Mayor Norton, Mr. Ort, Ms. Koufodontes, Mr. Ott, Ms. Taranto, Mr. Ischinger, Ms. Hoffman, Mr. Mcguire, Mr. Weiss, Mr. Deneault, Mr. Oneil

Members Absent: Mr. Niece

Professionals: Richard Schneider Attorney, Michael Finelli Engineer, Tim Obrien Planner

MINUTES: February 27, 2024 Land Use Board

Eligible to Vote: Mayor Norton, Mr. Ort, Ms. Koufodontes, Mr. Ott, Ms. Taranto, Mr. Ischinger, Ms. Hoffman, Mr. Mcguire, Mr. Weiss,

A motion to approve meeting minutes was made by Mator Norton, seconded by Mr. Mcguire

Ayes 8, Nays 0, Abstain 3, Absent 1
Motion carried.

Oath of Office:

Richard Schneider swore in the 1 Land Use Board Committee Member Mr. Oneill for 1-year term ending 12/31/24.

RESOLUTION:

Richard Schneider stated that this Resolution 2024-06 for Valley Wellness BI 26 L 83 is memorialization from action taken at last month's meeting for the Fence.

OXFORD TOWNSHIP LAND USE BOARD

RESOLUTION 2024-06

DECIDED: February 27, 2024
MEMORIALIZED: March 26, 2024

**MEMORIALIZING RESOLUTION GRANTING TO
THE APPLICANT, VW RE HOLDINGS, LLC,
AMENDED SITE PLAN AND VARIANCE
APPROVAL RELATING TO PROPERTY LOCATED
AT BLOCK 26, LOT 83 ON THE OFFICIAL TAX
MAPS OF THE TOWNSHIP OF OXFORD**

WHEREAS, VW RE Holdings, LLC, (“Applicant”) has applied to the Oxford Township Land Use Board (“Board”) for amended site plan and variance approval to construct an 8 foot high fence in conjunction with its previously approved Class I Cannabis Cultivation Facility on property commonly designated as 311 Route 31, and designated as Block 26, Lot 83 on the Tax Maps of the Township of Oxford; and

WHEREAS, the Board conducted a public hearing on February 27, 2024, in accordance with the jurisdictional requirements of the New Jersey Municipal Land Use Law and the Oxford Township Land Development Ordinance; and

WHEREAS, the Board hereby makes the following findings of fact and conclusions of law:

1. Critically important to the adjudication of the within application is a background relative to the recent development approvals obtained by the Applicant. At a public hearing held on January 24, 2024, the Board granted to the Applicant preliminary site plan and variance approval to operate a Class I Cannabis Cultivation Facility on the above-noted property. That approval was memorialized pursuant to a memorializing Resolution adopted on February 27, 2024. In conjunction with the

prior approval, the Board specifically granted to the Applicant variance relief pursuant to N.J.S.A. 40:55D-70c to, in pertinent part, permit a 6 foot high fence with barbed wire, whereas pursuant to Section 90-340-26A(4) of the Oxford Township Land Development Ordinance, only a 4 foot high fence is authorized. That section of the Ordinance also requires that such fence has a 50% minimum transparency. The Board granted relief both as to the transparency requirements and 4 foot maximum height requirements based on the need, as articulated at that hearing, to provide adequate security and to effectively preclude high visibility of the facility from the exterior of same.

2. Subsequent to that approval, the Applicant filed a separate new variance application to permit an 8 foot high fence with barbed wire, inclusive of a privacy mesh. The details of the proposed fencing are as set forth in certain plans prepared by French & Parrello Associates consisting of 2 sheets, and bearing as to that sheet designated as 19 of 21, a latest revision date of 2/21/24 (“Plans”). Sheet 1 of the aforesaid plans details the locations of the property where the proposed 8 foot high fence is proposed and Sheet 19 of 21 (constituting the second sheet of the aforesaid plans) sets forth an 8 foot high security fence detail.
3. The Applicant was represented by Brian Tipton, Esq., at the February 27, 2024. Mr. Tipton had served as the legal counsel to the Applicant in conjunction with the prior approval. Mr. Tipton provided an explanation to the Board as to the basis for the amended request for an 8 foot high fence in accordance with the details of the aforesaid plan. N.J.A.C. 17:30-10.3 sets forth additional outdoor cultivation requirements. Specifically, N.J.A.C. 17:30-10.3C provides, in pertinent part under

Section (c)(1), that the fencing, as required by the appropriate State regulations, shall measure at least 8 feet from the ground to the top. On that basis, the Applicant seeks variance approval to amend the previous grant of variance approval for a 6 foot high fence to now permit an 8 foot fence, as required by the applicable outdoor cannabis cultivation requirements.

4. The Board recognizes that it has previously granted a variance for a 6 foot high fence with barbed wire. However, the Board is constrained to recognize a number of salient issues associated with the proposed fencing. The first is that the fencing requirements for which variance relief is sought is essentially from Section 90-34-26A(4) is an ordinance provision that is not specific to use of property associated with a proposed cannabis use. It is a fence provision intended to apply to all applications for fencing within the Township and clearly is not intended to specifically apply to the cultivation of cannabis, in this case, as a permitted use. The Board notes in this regard that respective ordinance provisions applicable to permitting a Class I Cannabis Cultivation Facility as a permitted use does not contain specific fencing requirements or ordinance provisions to address such fencing requirements or limitations on height. Summarily therefore, the Board is constrained to apply a general fence provision to a fence intended to address a cannabis cultivation facility. Second, the Board must recognize that the State has, in essence, preemptively set forth minimum fencing requirements for an cannabis cultivation facility. As the preemptory regulation authority for such matters, the Board recognizes the obvious intent of the State of New Jersey to promulgate regulations necessary to insure adequate security for the proposed cultivation

facility. The 8 foot high fence is undoubtedly intended to provide a further means of security to the facility, and the State has determined that the 8 foot height requirement is the minimum applicable requirement, and accordingly, the Applicant is merely seeking to comply with the State regulatory authority to provide such fencing. The Board is able to conclude that the 8 foot fence requirement, as well as the reduction of the transparency requirements, is clearly appropriate to provide adequate security for the facility in question.

5. With specific respect to the statutory criteria, the Board largely relies on the preemptory State regulations applicable to fence height, but is able to conclude that the proposed 8 foot high fence would advance the purposes of zoning pursuant to N.J.S.A. 40:55D-2. The 8 foot high fence in this case will promote the public health, safety, morals and general welfare pursuant to N.J.S.A. 40:55D-2a by providing greater security for the facility. The Board is further able to conclude that the 8 foot high fence in this generally remote location comprising in excess of 35 acres certainly does not create any substantial detriment to the public good in terms of any visual impact to surrounding properties. The Board is further able to conclude that there will be no substantial detriment to zone plan or zoning ordinance of the Township recognizing (a) that the fence requirements for which variance relief is a general fence ordinance not intended to specifically govern cannabis cultivation facilities, and (b) is constrained to recognize the preemptory State regulations mandating a fence of this height for clear security purposes.

6. Based on all of the foregoing, the Board is able to conclude that the statutory criteria has been satisfied for the grant of the requisite variance approval, as well as to the extent required an amendment to site plan approval.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Oxford that the application for variance approval and amended site plan approval of the Applicant, is hereby approved, subject to the following:

1. The fence shall be installed and maintained in accordance with the aforesaid plans.
2. All other terms and conditions of the application approved on February 27, 2024, shall otherwise remain in full force and effect.
3. To the extent applicable, all representations and stipulations made during the course of the prior hearing remain in effect, and expressly all other terms and conditions in conjunction with the approval memorialized on February 27, 2024, shall likewise remain applicable, except as to any provisions applicable to the previously approved fence.
4. This approval is subject to the Applicant obtaining approvals from any other governmental agency with jurisdiction over the application and relief sought by the Applicant, including and not limited to Warren County Planning Board approval and Upper Delaware Soil Conservation District.
5. All fees, taxes, assessments, escrows and other monies due to the Township of Oxford shall be paid in full.

IN FAVOR OF THE BOARD ACTION TAKEN ON JANUARY 23, 2024 APPROVING THIS APPLICATION.

OPPOSED:

ABSTAINED:

The undersigned hereby certifies that the within is a true copy of the Resolution memorializing the action taken by the Land Use Board at its meeting held on January 23, 2024, which was adopted by the Board at its meeting on March 26, 2024.

A motion to approve the resolution 2024-06 was made by Mr. Ort, seconded by Mr. Ischinger

Ayes 6, Nays 0, Abstain 5, Absent 1
Motion carried.

Letter from Mr. Schneider:

Richard Schneider stated to the Land Use Board about the appeal notice to the Township Committee and there is no need to discussion stated that this if for your information only. No questions from the Board Members.

Use Variance Application– Woodward

Mayor Norton and Ms. Koufodontes recused themselves from this Use Variance Application.

Mr. Greenbaum Attorney in Budd Lake for Mr. & Mrs. Woodward are here for a use variance their current home is non-conforming use. Looking to replace current home with a new home. I have Mrs. Woodward and Planner Ms. Kopsco here to discuss the application.

Mr. Finelli stated the use variance application no stie plan or subdivision is needed. The Completeness Review no check list is needed for this application.

Mr. Finelli deemed the application complete.

A motion was made to Deem the Woodward Application Complete by Mr. Ischinger, seconded by Mr. Mcguire

Ayes 9, Nays 0, Abstain 2, Absent 1
Motion carried.

Public Hearing for the Woodward Application:

Mr. Greenbaum call Mrs. Woodward up.

Richard Schneider sworn in Ms. Woodward as a witness to the application.

Mrs. Woodward:

Lives at 200F Jonestown Rd. Oxford, NJ have lives here for 34 years. It is set down a 2500 sq ft private lane right of way. On the lot is a garage has well and septic, out building for storage. Discussed the history of the home. Mrs. Woodward loves the Oxford area and the history so much that we want to replace our home which is very out date and not in good shape. Wants to get rid of the T-shaped home and put in the same spot a rectangle shaped home.

Mrs. Woodward supplied 3 different Exhibits A-1, A-2, A-3 of the property to the Board. In response to Mr. Finelli's report that are no structures above 15 ft. The garage is 12.6 ft. Did not use an engineer, they do not exceed 25% required yard area. There is no structural change to their driveway.

Utilities on the property:

Septic will stay the same was repaired 10 years ago and will have the septic pump and inspected. Contactor will set up a new line.

Electric – will have a license contractor to disconnect and reconnect the service. Will have an upgrade and a new pole in the same spot.

Heat - we have oil heat above ground tank and will be switching to propane heat with AmeriGas. With approvals for the town.

The new home will have a 3-bedrooms, living room, dining, 2 bath. Will have a 3-foot arch on the front of the home will make it look more like home.

The neighbors can only see the roof of the home from their fence line. The 1st house near there home will see the house.

The impact is the improvement of the property. The improve the 50 years trailer has out lived is fullness life and we need the sustainability of a new home. The turn around should be about 2 months from demo to inspections.

Mr. Finelli stated that the survey was very helpful and the applicant did a great job responding to my report.

Opened up to public comment after Mrs. Woodward's testimony.

No Public comment.

Mr. Greenbaum called up Ms. Kopsco the planner as an expert witness.

Richard Schneider sworn in Ms. Kopsco.

Ms. Kopsco gave some history of her schooling and Planner experience. Ms. Kopsco is a Licensed Planner with J. Caldwell.

Ms. Kopsco reviewed the plans of the property on the townships ecode book/ordinances/master plan and it is in a R120 residential area, on a 23, 235 square foot lot. D1 variance to replace existing mobile home that is over 40 years old.

Reviewed the township Planners report items G. I. M. Ms. Kopsco stated that it is a vast upgrade.

Mr. Finelli stated on his report #5 with 50 ft set back and this is the reason that the variance is required. Bring in the new home that is the same size in same spot it is possible to move the new home back to meet the bulk standards.

Ms. Kopsco stated the well septic in rear yard are close to the home they would have to disturb the land and then move the new home in a different location.

Opened up to public comment after Ms. Kopsco's testimony.

No Public comment

Mr. Greenbaum brought Mrs. Woodward back up for a few more questions on her application.

Mrs. Woodward had one more exhibit A-4 front of home it is 10ft to the septic. Moving it back 12 ft would be clearing the property did discuss with the contractor it would be to close the garage. We cannot move the garage to increase the set back.

Opened up to public comment after Mrs. Woodward's testimony.

No Public comment.

Mike Finelli had no comments as well and the Land Use board had no comments.

Mrs. Woodward asked if they can commence the construction before we get the resolutions at the next meeting. We need to get Demo, zoning and construction permits.

A motion to approve Woodward Use Variance with a front yard setback was made by Mr. Taranto, seconded by Mr. Ort

Ayes 9, Nays 0, Abstain 2, Absent 1
Motion carried.

PUBLIC COMMENT:

Ms. Fliegau:

- Asked about the air filtration system with the new cannabis facility. She stated she came to learn more about it. Will there be a smell? Mike Finelli state that the filtration system is far superior then years ago no smell issues with the building.
- How many employees 15 ppl.

VOUCHERS:

A motion was made by Mr. Ischinger and seconded by Ms. Koufodontes to pay the Vouchers for the Land Use Board.

Ayes 11, Nays 0, Abstain 0, Absent 1
Motion carried.

ADJOURNMENT: A motion was made by Mayor Norton and seconded by Mr. Ischinger with no further business before the board and no public comment offered the meeting was adjourned at 8:11pm.

Respectfully Submitted,

Lee L. Geller, Secretary