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**RESOLUTION OF THE
NORTH BRUNSWICK TOWNSHIP BOARD OF ADJUSTMENT
MIDDLESEX COUNTY, NEW JERSEY**

**GARDEN STATE BOTANICALS, LLC
Block 140.01, Lot 10.01
1415 Route 1 South**

WHEREAS, Garden State Botanicals, LLC. (the "Applicant") has applied to the North Brunswick Township Board of Adjustment for Site Plan Waiver and Use Variance approval to utilize an existing 2,400 square foot retail unit located within an existing shopping center building as an Alternative Treatment Center with no associated site improvements proposed (the "Application"); and

WHEREAS, a public hearing was held on said Application by the Board of Adjustment on September 20, 2022 and the public was given the opportunity to be heard; and

WHEREAS, the Applicant published a proper newspaper hearing notice of the hearing and notified the Property owners within 200 feet of the subject Property of the Board's scheduled hearing pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, on September 20, 2022, the Board granted the requested Site Plan Waiver and Use Variance, subject to certain conditions set forth below; and

WHEREAS, the Board, after carefully considering the evidence presented to it by the Applicant and the documents filed by the

Applicant, the comments of the appropriate township officials and agencies, and the comments from members of the public, has made the following findings of fact:

Findings and Conclusions

1. The Property consists of a 2,400 square foot unit second from the northerly end of the shopping center building which is located at 1415 Route 1 South. The Property is located in the PUD Planned Unit Development Zone and within the CAN-R1C Cannabis Route 1 Corridor Overlay Zone. The shopping center in which the Property is located was built in 1988 as part of a planned unit housing development located adjacent thereto.

2. The Applicant was represented by Rosalind Westlake, Esq. The following individuals testified and presented testimony in support of the Application; to wit:

- a) Representative of Applicant – Thomas Murzenski, Vice President of Operations for the Applicant;
 - b) Professional Planner – John Taikina, P. P.
3. The Applicant has submitted, and the Board has relied upon:
- a) North Brunswick Use Variance Application dated July 22, 2022;
 - b) Site Location Exhibit A;
 - c) Floorplan Options 1, 2 and 3;

- d) Bifurcated D Variance Checklist;
- e) Organizational Chart of Garden State Botanicals, LLC;
- f) Cannabis Regulatory Commission Final Agency Decision dated December 7, 2021;
- g) Resolution of North Brunswick Supporting Garden State Botanicals, LLC's Application for Alternative Treatment Center, dated March 21, 2022;
- h) Cannabis Regulatory Commission Resolution No. 2022-22, adopted May 24, 2022;
- i) Correspondence from S. Lemonick, LLC confirming Applicant's licensure;
- g) Memorandum prepared by Andrei Alexeev, North Brunswick Zoning Officer, dated August 2, 2022.

4. Use Variance approval is required as the proposed Alternative Treatment Center is not a permitted use in the PUD Zone or the CAN-R1C Cannabis Route 1 Corridor Overlay Zone.

5. Mr. Thomas Murzenski, Vice President of Operations of the Applicant testified on behalf of the Applicant. Mr. Murzenski stated the Applicant entered into a lease for the Property in June of 2022, contingent upon approval of the proposed use as an Alternative Treatment Center. Mr. Murzenski stated that the Applicant will be renovating the 2,400 square foot unit but that no changes of any kind are proposed for the site.

Mr. Murzenski stated that the Applicant intends to operate between the hours of 9am to 9pm daily, as permitted under Ordinance 205-92.11(E)(1). Mr. Murzenski stated that there would be between ten (10) and fifteen (15) employees per shift: more specifically one (1) or two (2) greeters who check ID and monitor the video surveillance; approximately five (5) wellness consultants to assist customers; one (1) to three (3) inventory managers who handle all product and inventory (which is strictly tracked by the State); and a store manager with possibly an assistant store manager. Mr. Murzenski also stated that nearly every aspect of an Alternative Treatment Center's operation is closely regulated by the Cannabis Regulatory Commission (CRC). He stated that Standard Operating Procedures must be reviewed and approved by the CRC and are very comprehensive; that there will be a security agent at the door and also that every area inside (except the bathrooms) and outside will be under video surveillance. He also stated that the Alternative Treatment Center will have a state-of-the-art alarm system connected to the CRC as well as to the North Brunswick Police Department; that product will be stored in a hardened room, also known as a vault, when not being dispensed to a client. The product is delivered during operating hours to the back door of the unit and placed immediately into the vault. The product is in sealed packages that have been tracked by the CRC from seedling to end product and are all coded in accordance with CRC

regulations. All sale proceeds will be regularly deposited in a safe on-site and picked up by an armored car service. Mr. Murzenski stated that product that cannot be sold is quarantined and returned to the manufacturer for disposal. Mr. Murzenski stated that in terms of signage the CRC only permits black lettering on white background and that the sign cannot be illuminated. He stated that the proposed sign will be in accordance with sign ordinance requirements and the landlord's consent. Mr. Murzenski also stated that packaging is very plain and strictly regulated by the CRC.

6. Mr. John Taikina, P.P., provided professional planning testimony on behalf of the Applicant. Mr. Taikina described the site as located in a zone that is specifically delineated as an overlay zone for the manufacture and retail sale of adult use cannabis. He stated that the use is particularly suited because the subject property is in the Cannabis Route 1 Corridor Overlay Zone where a Cannabis Retailer would be permitted and that the subject Property is within a diverse retail shopping center with a variety of uses, and adequate, well-lit parking. In terms of the positive criteria, the proposed Alternative Treatment Center in the shopping center will promote the following special reasons derived from the purposes of the MLUL in particular: Section 2(a) to encourage municipal action to guide the appropriate use or development of all lands of the state in a manner which will promote the public health,

safety, morals and general welfare; and Section 2(g) to provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all NJ citizens. Mr Taikina opined that the Alternative Treatment Center is first and foremost a dispensary for Medical Cannabis, which is a prescribed treatment for a wide variety of medical conditions. Providing a location in a modern shopping center zoned for retail cannabis will provide the most recognizable and accessible location for the dispensing of the necessary medical cannabis, in a high quality, welcoming environment. Mr. Taikina further opined that the proposal is for a 2,400 sq. ft. Alternative Treatment Center that has no impact beyond those recommended for use throughout any of the zones in town that provide for retail use or pharmacies as a retail store. The use is of a significantly less intensive nature than either of the immediately adjoining shopping center or restaurant uses. He stated that the addition of an Alternative Treatment Center to the shopping center will not have a substantial negative impact on the PUD district as envisioned in the Zone Plan and Master Plan as it is in the front facing US Route 1 and has similar or lesser impacts than the adjacent retail and restaurant uses and will be attractive to users in any of the adjacent uses. Mr. Taikina opined that the Master Plan objectives being implemented here include: a balance of

land uses in appropriate locations to address the needs of Township residents and businesses. Mr. Taikina stated that the zoning ordinance provides a lengthy Purpose and Objectives listing for the PUD Zone, many of which center upon maintaining a modern land use pattern that reflects a modern way of life, along with the desire for well-located, safe, clean and pleasant commercial development. Mr. Taikina opined that while an Alternative Treatment Center is not provided in the district, or in any district, it is not incompatible with shopping center or commercial uses and the presence of this proposed use will not substantially impair the zoning ordinance or Zone Plan. Upon the opening of the ATC, it will immediately become eligible to be a retail location, a permitted use in the CAN-R1C Overlay.

7. The Applicant agreed to the following conditions of approval:
 - a. Applicant shall provide a copy of the Standard Operating Procedures that have been approved by the CRC to the Board Secretary, Board Attorney and Police Director;
 - b. upon receipt of confirmation of eligibility for conversion to a Class 5 Retail License, Applicant will obtain such zoning permits and approvals as are required under the Township Ordinance and applicable state laws;

- c. Applicant shall provide access to the interior and exterior video surveillance to the North Brunswick Police Department and shall defer to the Police Director's determination as to whether an armed guard shall be required to be posted at the front door of the unit;
 - d. Applicant shall work with the Landlord to ensure that all existing lighting is in proper working order at all times.
8. Three members of the public testified either in opposition or support of the application during the public portion of the hearing.
9. The Applicant agreed as a condition of approval to comply with the following conditions, to wit;
- a. Applicant shall provide a copy of the Standard Operating Procedures that have been approved by the CRC to the Board Secretary, Board Attorney and Police Director;
 - b. upon receipt of confirmation of eligibility for conversion to a Class 5 Retail License, Applicant will obtain such zoning permits and approvals as are required under the Township Ordinance and applicable state laws;
 - c. Applicant shall provide access to the interior and exterior video surveillance to the North Brunswick Police Department and shall defer to the Police Director's

determination as to whether an armed guard shall be required to be posted at the front door of the unit;

- d. Applicant shall work with the Landlord to ensure that all existing lighting is in proper working order at all times.

WHEREAS, the Board has made the following ultimate findings and conclusions based upon the foregoing findings and fact:

- A. The Board finds that the proposed Project is appropriate and suitable at the proposed site for the reasons provided on the record. The Board finds from the testimony presented, subject to the conditions agreed upon by the Applicant and those imposed by the Board, that the Applicant has satisfied the positive and negative criteria requirements for the Use Variance pursuant to N.J.S.A. 40:55D-70(d)(1) and that it can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Township's Master Plan and Zoning Ordinances and the Board adopts the Applicant's testimony, specifically that of their Planner in this regard. The Board concludes that the proposed Use Variance can be granted without substantial detriment to the Master Plan and Zoning Ordinance and without substantial detriment to the surrounding area. The Board was provided with no evidence, and the Board

concludes that the proposed Use Variance will not have a detrimental effect on the surrounding area.

- B. The Board finds from the testimony presented, subject to the conditions agreed upon by the Applicant and those imposed by the Board, that the request for a Site Plan Waiver is appropriate and should be granted because no changes to the existing approved site plan footprint, no site plan or bulk variances requested and no design waivers requested.

WHEREAS, at the conclusion of the hearing on September 20, 2022 the Board has taken action by voting on said Application in accordance with N.J.S.A. 40:55D-10(g) of the Municipal Land Use Law and has directed that a resolution memorializing such action be prepared.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment on October 18, 2022, on the basis of the evidence presented to it, the foregoing findings of fact and ultimate findings and conclusions, that the Board does hereby grant approval of the request for Site Plan Waiver and Use Variance applied for by the Applicant subject to the following conditions:

1. The granting of the Site Plan Waiver and Use Variance approval shall not be construed to eliminate satisfaction of any other requirements of the zoning ordinance and/or other

requirements of the agencies, boards and authorities of the Township of North Brunswick, County of Middlesex or State of New Jersey.

2. Any and all fees properly due and owing the Municipal Board of Adjustment for hearing the Application must be paid in advance of building permits being issued.
3. Applicant shall comply with representations and agreements as well as all Township Staff reports except as otherwise indicated in this Resolution.
4. All conditions contained in this Resolution and in the record of the proceedings in this matter, including any agreements made by the Applicant, were essential to the Board's decision to grant the approvals set forth herein. A breach of any such condition or a failure by the Applicant to adhere to the terms of any agreement within the time required may result in the automatic revocation of the within.
5. The Applicant agreed to the following additional conditions of approval, as follows:
 - a. Applicant shall provide a copy of the Standard Operating Procedures that have been approved by the CRC to the Board Secretary, Board Attorney and Police Director;

- b. upon receipt of confirmation of eligibility for conversion to a Class 5 Retail License, Applicant will obtain such zoning permits and approvals as are required under the Township Ordinance and applicable state laws;
- c. Applicant shall provide access to the interior and exterior video surveillance to the North Brunswick Police Department and shall defer to the Police Director's determination as to whether an armed guard shall be required to be posted at the front door of the unit;
- d. Applicant shall work with the Landlord to ensure that all existing lighting is in proper working order at all times.

The foregoing Resolution was

Offered by: Goldenfarb

Seconded by: Guadagnino

and adopted by the Zoning Board of Adjustment of the Township of North Brunswick by the following vote:

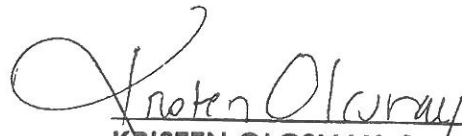
AFFIRMATIVE: Goldenfarb, Guadagnino, Wright, Almeida, Heyman and McGrath.

NAYES: Policastro

ABSTAINED:

CERTIFICATION

The foregoing is a true copy of the Resolution adopted by the Board of Adjustment of the Township of North Brunswick at this meeting of October 18, 2022.



KRISTEN OLCSVAY, Secretary
North Brunswick Township Zoning Board