



~~June 14, 2022~~ [\(revised June 20, 2022\)](#)

Mr. John Maloney, Chair
Ewing Township Zoning Board
2 Jake Garzio Dr
Ewing, NJ 08628

RE: ZBA-22-002
Full Tilt Labs, LLC
Preliminary/Final Major Site Plan/Use Variance
352 Eggerts Crossing Rd; Block 214.19, Lot 4

Owner:
SP Holdings Company LLC
1 Eric Court
Lawrenceville, NJ 08648

Applicant
Full Tilt Labs, LLC
1 Eric Court
Lawrenceville, NJ 08648

Proposal Summary:

The applicant is proposing a 1-story, 9,000-SF structure to be used for indoor cannabis cultivation and site improvements associated with an existing landscaping and property maintenance business. Additional proposed improvements include four (4) material storage bins and forty- seven (47) parking spaces, including equipment storage. Existing structures include a single-family detached dwelling, 1-story detached office building, and a 1-story detached garage.

While the property is located within the R-2 Residential Zone [there is a provision within the Township's Cannabis Ordinance §215-35 that permits cannabis cultivation and manufacturing on properties in lawful industrial/commercial use at the time of the ordinance was adopted is permitted, however the IP-1 Industrial Park standards apply. The only reason this Application is before you as a used variance is because the applicant is asking to continue the temporary use of his property maintenance/landscaping business to remain on the property as well. Accordingly, this request requires cannabis to be treated as a use variance for the multiple uses, but also some bulk standards that are not being adhered to, but could be met if this was a standalone cannabis facility.](#)

[Because Cannabis is new to everyone, I have included the public records pertaining to the Township's endorsement of FullTilt's "Micro-cultivation" application. Micro meaning their operation must be limited to 2500-SF of flowering and harvestable plant excluding office space and other operations that that applicant will testify to. A micro-operator must also be from the Township of immediate adjacent Township.](#)



I. Submission:

- 1 Land Development Application Check-list
- 2 Architectural Plans prepared by Shirk Pole Buildings LLC, dated 12/8/21.
- 3 Site Plans prepared by Princeton Junction Engineering, dated 5/6/22. Rev 6/3/22.
- 4 Odor Mitigation Plan

II. Waivers and Variances

Variances:

- 1 Height, Accessory Building (§215-15(0)(2)(d))
 - a 15 feet maximum is required [in the R2 Zone](#), where 29.3 feet is proposed. A variance is required although this could be considered a principle structure [that normally](#) would not require such [a variance, especially if applying the IP-1 standard as an accessory use in the IP1 is 30'.](#)
 - b Side Yard, Accessory Building (§215-15(D)(2)(b)) 5 feet is required, where 4.6 feet is proposed. This is a preexisting condition.
- 2 Lot Coverage (§215-15(0)(3)(b))
 - a 26% maximum is required, where 61.82% exists and 61.39% is proposed. A variance is required. Total impervious for stand-alone cultivation would be 70% [in the IP1 Zone.](#)
- 3 Use Variance
 - a [Again,](#) the applicant is before the Board for a use variance to have multiple commercial/industrial uses on a property that was previously granted a use variance, first to be Crossley Fuels and then a Golf Cart repair facility. The property has a long history in industrial use.
 - b As it pertains to Cannabis cultivation facilities. §215-35(18)(f) Properties in industrial use that were granted a variance to be an industrial use prior to 2012 may be afforded the same conditional use rights as outlined in §215- 35(18)(c) so long as they can comply with the bulk standards of IP-1 zone as well as the conditions set forth therein.

III. Planning Review

Use:

- 1 The cannabis cultivation facility will require a use variance as the property is proposed to contain multiple uses on the property - a landscaping business (currently in operation), and a micro cannabis cultivation facility. Although If the property were in an IP1 zone, multiple uses would be permitted, however the R2 status does not
- 2 Per Township Ordinance (§215-44), no more than one principal building or use is permitted. This application proposed two (2) Principle uses on the property where one is legally permitted. The applicant owns both businesses. We will defer to the Board Attorney as to how this case applies to a use variance associated with preexisting nonconforming uses. It is our understanding that any additional commercial operations on the site that do not already exist will constitute expansion of a preexisting nonconforming use and require a D(2) variance regardless.

- 3 Although a Conditionally permitted use, Cannabis Cultivation requires the site to be in conformance with the bulk standards of the IP-1 Zone. Although it could be designed to meet those standards, given the request for multiple uses, the application does not.
- 4 To qualify for a use variance, the applicant must demonstrate {1} that their property is particularly suitable for the proposed use; {2} that the variance can be granted without substantial detriment to the public good, and {3} that the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. We note the exceptional depth of the applicant's lot, which renders the property substantially different from other lots within the R-2 Zone. The ratio of street frontage to lot depth may be considered a contributing factor to the positive criteria for a use variance in the context of useable property and the limited ability to meet subdivision lot requirements in the R-2 Zone.
- 5 Particular attention to odor mitigation, traffic and noise should be addressed by the applicant as consideration of negative criteria.

Site Design

- 1 Inconsistencies between the site plan drawing and site plan zoning table should be addressed to reflect the total number of parking spaces provided and clearly differentiate between accessory and principal uses or structures.
- 2 Lot Coverage. The applicant has proposed a slight reduction in impervious coverage (<1%) compared to the existing condition. We ask that more impervious coverage be removed where practical. A variance is required.
- 3 The applicant has testified that the intent is to eventually have only one business on-site. Testimony should be provided accordingly and when this occurs, the applicant should signify their intent to remove additional impervious coverage and landscaping as appropriate.

Parking

- 1 The proposed parking schedule includes:
 - 28 parking spaces for vehicle/equipment storage
 - 6 spaces for cannabis employees
 - 5 spaces for the landscaping employees
 - 2 spaces for the existing single-family dwelling.
- 2 Per Ordinance #21-16, parking for cannabis cultivation facilities shall be provided for as industrial or manufacturing establishments as defined in the Township Off-street Parking, Loading and Unloading Requirements (§215-36): 1 for each employee on maximum shift, plus 1 visitor space for each 8 managerial personnel, plus 1 for each vehicle used directly in the conduct of the enterprise. The applicant should provide testimony to the proposed use and associated parking requirements.

Circulation

- 1 Sidewalks must be provided and indicated on the site plans along Eggerts Crossing. A concrete driveway apron is recommended.
- 2 Per §215-15(E)(5)(a), no driveway shall be located closer to a side or rear property line than six feet. The existing asphalt driveway is located on the property line shared by Lot 14.

- 3 Per §215-15(E)(5)(c), the driveway width at the street right-of-way line shall not exceed a width of 20 feet. The existing asphalt driveway at Eggerts Crossing Rd is approximately 30 feet wide. This condition should be dimensioned and/or addressed on the plans.
- 4 The driveway between residential and non-residential uses is approximately 12 feet wide, where 24 feet is required for two-way circulation. This condition should be addressed, and any net lot coverage increase - at a minimum - should be offset elsewhere on the site accordingly.

Signage

1. Any signs not included in the submitted plans must be submitted to the Zoning Officer by zoning permit application for review. All signage must meet Signage Requirements §215-37 in the R2 Zone. A variance should be requested if those standards are not desired.

IV. Landscaping

- ~~2~~1 All existing trees and any trees to be removed should be indicated and labelled on the site plan in accordance with the Tree Removal and Replacement Ordinance (§425).
- 2 Larger trees are recommended for landscaping buffering along the property line shared with Lot 4 to provide a more sufficient screening of the proposed 29.3-foot cannabis facility. We will work with the applicant to improve buffering.

V. Environmental

- 1 Odor - The applicant has submitted an odor mitigation plan. We take no issue with the report as the technology proposed is consistent with industry standards. The applicant must continue to adhere to both the Township and State odor mitigation standards in perpetuity should the Board act favorably.
- 2 Security - The applicant should testify as to its policies and procedures. The applicant must adhere to both the Township and State standards regarding security, and as such, must coordinate directly with the Ewing PD with direct camera access feeds .

VI. Conclusion

Additional detailed testimony is required of the applicant for consideration of use and bulk variances and to address existing and proposed nonconformities. As stated previously, the Township has supported the applicant in the recent past and is eager to ensure any and all concerns are addressed through the hearing process.

Should you have any questions or concerns, please feel free to contact me at 212-203-5137 or via email, cwl@latinigleitz.com

Sincerely,





Charles Latini Jr, PP, AICP
Township Planner