

Sweetspot River Edge LLC
75 Route 4 East
Block 1415, Lot 1.01

**BOROUGH OF RIVER EDGE
MUNICIPAL LAND USE BOARD**

RESOLUTION

**GRANTING AMENDED SITE PLAN APPROVAL FOR SIGNAGE
WITH VARIANCE RELIEF TO
SWEETSPOT RIVER EDGE LLC FOR
75 ROUTE 4 EAST, RIVER EDGE, NJ
BLOCK 1415, LOT 1.01**

WHEREAS, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

WHEREAS, Sweetspot River Edge LLC (the "Applicant") filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 1415, Lot 1.01 on the tax map of the Borough of River Edge, located at 75 Route 4 East (the "Property"), for amended site plan approval with variance relief for signage improvements associated with the existing Class V Retail Cannabis Dispensary on the Property; and

WHEREAS, Milpau LLC is the owner of the Property and has a land lease with Philisa Corporation, which is the owner of the building where the Applicant's tenant space is located, who authorized the Applicant to submit the subject application; and

WHEREAS, the Board deemed the application to be complete on May 27, 2026 and a public hearing was conducted on June 10, 2026 via hybrid meeting (in person and via Zoom video conference); and

WHEREAS, the Applicant was represented by Ivan Tukhtin, Esq. ("Mr. Tukhtin"), General Counsel for the Applicant; and

WHEREAS, the Applicant's Managing Member, Benjamin Herbst ("Mr. Herbst"), was present and was duly sworn to provide testimony in support of the application; and

WHEREAS, the public was given notice of the application and had an opportunity to participate in the hearing and no individuals appeared to be heard; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject property of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as

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amended and supplemented, and the Municipal Land Use Law (the "MLUL"), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented and the MLUL; and

WHEREAS, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

WHEREAS, the Applicant submitted an application and the following supporting documents:

1. Application Narrative, prepared by Benjamin Herbst dated April 22, 2026.
2. Signage Plans, consisting of three (3) sheets prepared by Signarama, dated April 16, 2026.
3. Lighting Specifications, consisting of three (3) sheets, from Alcon Lighting, undated.
4. Site Plan entitled, 75 Route 4 East, Borough of River Edge, Bergen County, New Jersey consisting of two (2) sheets signed and sealed by John J. Dunlea, P.E. of Neglia Engineering Associates, dated April 3, 2024, last revised October 1, 2024. *Red arrows overlaid by Benjamin Herbst, indicating location of proposed signage, undated and unsigned.*

WHEREAS, the Applicant also submitted a Letter of Noncompliance issued by Stephen A. Depken, the Borough's Zoning Officer, dated March 30, 2026; and

WHEREAS, the Borough Engineer, Robert L. Costa, P.E., P.P., & C.M.E. ("Mr. R. Costa"), issued a review letter on the application, dated June 9, 2026; and

WHEREAS, the Board Planner, Thomas Behrens, Jr., P.P., AICP ("Mr. Behrens") of Burgis Associates, Inc., issued a review letter on the application, June 9, 2026; and

WHEREAS, after carefully considering the evidence and testimony presented by the Applicant, as well as the Letter of Noncompliance issued by the Zoning Officer, the Board Engineer's Report and the Board Planner's Review Letter, the Board has made the following factual findings and conclusions:

The Property

1. The Property is an irregular shaped parcel bound by New Jersey State Highway 4 to the north, Main Street to the east, South Lake Drive (Hackensack Municipal Boundary) to the south and a gas station/Dunkin Donuts in the Borough of Paramus to the west. The property is currently improved with a 8,500 square foot one-story masonry & frame building (The Regency), a 18,990 square foot one-story masonry & frame building (Ethan Allen), a 4,420 square foot one-story masonry & frame building (Vacant & Office Space), macadam parking lot, concrete curbing, signage, lighting, utility infrastructure and landscaping. The property is located in both the Borough of River Edge and the City of Hackensack, with the lot in River Edge containing the existing buildings and other improvements and the lot in

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Hackensack being unimproved. The Property also has easements, which extend into the Borough of Paramus. Additionally, the Coles Brook runs along the southerly portion of the site.

2. The Property is located within the Commercial Office (C-2) Zoning District and the Cannabis Overlay Zone (COZ), which permits retail cannabis establishments as a conditional use.

3. The Board previously granted site plan approval for the existing cannabis dispensary on the Property on September 11, 2024 and the Resolution of approval was memorialized on October 9, 2024.

The Proposal

4. The Applicant's initially proposed to increase the number of the wall signs, the total square footage of signage, and a new freestanding wayfinding sign. Specifically, the Applicant's initial proposal was to install one (1) additional 50 square foot wall sign; two (2) additional 25 square foot wall signs; and one (1) 70 square foot freestanding sign. No other improvements are proposed. The Applicant is seeking variances for all of the proposed signage.

5. Based on the initial documents submitted by the Applicant, the application required a conditional use variance pursuant to N.J.S.A. 40:55-70(d)(3) for (i) the number of building signs, where 2 building mounted signs are permitted under the COZ standards and a total of 4 building mounted signs and 1 freestanding sign is proposed; and (ii) for the freestanding wayfinding sign, which are not permitted under the COZ conditional use standards. The application further required bulk variance relief for (iii) the freestanding sign projection into the front yard, where a setback of 30 feet is required and 1 foot is proposed; (iv) maximum sign area, where 20 feet is permitted, 16 square feet is existing, and an additional 170 square feet of signage was proposed on the Property.

6. The Board reviewed the application and deemed it complete on May 27, 2026 during its work session. The Board began conducting a public hearing on the application, via hybrid meeting (in person and via Zoom video conference), on June 10, 2026.

Public Hearing

1. Mr. Tukhtin provided a brief overview of the proposed amended site plan application. The Applicant is requesting to increase the number of signs and the square footage of signage on the Property for improved visibility from Route 4 and wayfinding on the site. The proposed signage is much smaller and more to scale than the prior signage for the old travel agency on the Property.

2. The Board heard from the Applicant's representative, Mr. Herbst, who testified that the purpose of the changes is to improve safety and access to the Property. The reason for the location was to avoid traffic from going through the Borough, but now when customers miss the entrance, they have to circle around in the Borough to approach the Property again. The additional signage is anticipated to get customers' attention sooner so they can slow down earlier and safely enter the site.

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3. Mr. Herbst clarified that the Applicant is not proposing a new pylon sign, but will be adding signage to the Regency's existing freestanding sign. The Regency and the Property Owner have consented to the Applicant's request. Mr. Herbst clarified that lighting for the signage proposed is shielded and pointed at the signs and will be put on timers in accordance with Borough Code requirements.

4. In response to questions from the Board Engineer, Mr. Herbst testified that the Applicant is seeking NJDOT approval to change the easternmost driveway to ingress only, not egress only. In response to questions from the Board Planner, Mr. Herbst testified that the Applicant has approximately 100 customers per day. Other existing signage on the Property blocks the view of the Applicant's building and makes it difficult for access.

5. In response to concerns about the number and size of signage proposed, the Applicant agreed to eliminate the existing 16 square foot wall sign on the Property.

6. In response to additional questions and concerns from the Board, Mr. Herbst testified that the Applicant's use is new for the Borough and the existing ordinance has conservative signage requirements. The location of the Property is on Route 4 where vehicles are travelling at high rates of speed and accidents in the area are not uncommon. The Applicant's goal is to increase safety.

7. In response to concerns about the effectiveness of the freestanding signage, the Applicant agreed that if NJDOT approves changes to the easternmost driveway on the Property, then the Applicant will remove the signage on the Regency's pylon.

8. The Board opened the meeting to the public and no individuals appeared to be heard.

9. The Board closed the meeting to the public and then entertained a motion to grant the application for amended site plan approval with variance relief for signage and conditions, pursuant to the Borough of River Edge's Zoning Ordinance.

10. The Applicant requested that the vote be bifurcated for the building signage and the freestanding signage. A motion to grant the application for site plan approval with variance relief for wall signage, on the conditions listed below, was made by Mr. Gibbons and seconded by Mr. Krey. A vote was taken and the motion passed by a vote of 5 to 0. A motion to grant the application for site plan approval with variance relief for the pylon signage, on the conditions listed below, was made by Mr. Krey and seconded by Mr. Gibbons. A vote was taken and the application was granted by the Board by a vote of 5 to 0.

Justification for Relief

11. The Board found good cause to grant the Applicant's request for amended site plan approval with (d)(3) conditional use and bulk variance relief for signage improvements associated with the existing Class V Retail Cannabis Dispensary on the Property.

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12. The Board considered the application materials, testimony, exhibits and revised plans submitted by the Applicant and the reports of the Board's professionals.

13. The Board further considered the Applicant's factual testimony that the improvements are intended to improve safety, the deviation from the conditional use standards regarding wayfinding signs would allow the Property to continue to function well and even better than under strict compliance with the Borough Code, would not cause substantial detriment to the community.

14. The Board found that the proposed variances could be accommodated on the Property because they would not be out of place in the neighborhood or degrade the appearance of the neighborhood. The Property is burdened by a steep grade and the location of the existing building on the Property, which limits the development of the Property. The Property is further constrained by fast moving traffic and limited driveway access.

7. The Board found that the proposed development and conditions agreed to by the Applicant would advance purpose (a) of the MLUL, to encourage appropriate development in a manner which will promote the public health, safety, morals and general welfare; purpose (b) of the MLUL, to secure from fire, flood, panic and other natural and man-made disasters; and purpose (i) of the MLUL, to promote a desirable visual environment.

8. The Board found that the proposed development and improvements would have a minimum impact, if any, on surrounding properties. No members of the public appeared in opposition to the amended site plan application. In addition, the Applicant agreed to a series of conditions to mitigate the impact of the proposed signage.

15. The Board found that the requested (d)(3) conditional use variance relief for the installation of additional freestanding signage and increased number of signs may be granted pursuant to Coventry Square, Inc. v. Westwood, 138 N.J. 285 (1994) and N.J.S.A. 40:55D-70(d)(3), for the reasons discussed herein. The Board found that the Applicant established that the Property would continue to function well despite the failure to comply with the specific conditional use standards in the Borough Code. Specifically, the proposed additional signs would help the Property function better than strict compliance with the conditional use standards. Further, the Board found that the requested bulk variance relief may be granted pursuant to N.J.S.A. 40:55D-70(c)(2), for the reasons discussed herein. The Applicant demonstrated a basis for the grant of the variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) and Kaufman v. Warren, 110 N.J. 551 (1998). In addition, the Applicant addressed the positive and negative criteria and special reasons for granting the variance. As aforesaid, the Board was satisfied the variance relief could be granted without any substantial detriment to the public good, as well as the zone plan and Zoning Ordinance of the Borough of River Edge. The Board determined the grant of the

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variance relief will not impact surrounding properties in the Zone Districts. The positive and negative criteria were established. The Applicant met the burden of proof.

NOW THEREFORE, BE IT RESOLVED by the Borough of River Edge Municipal Land Use Board, Bergen County, New Jersey, that the Applicant's request for amended site plan approval and (d)(3) variance relief and bulk variance relief, as described herein, be and is hereby approved for the reasons set forth herein and subject to the terms and conditions contained in the body of this Resolution, and as follows:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates shall be issued for the improvements, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by certification by the Board Clerk. The Applicant shall have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and to address and resolve those, if any, before a new permit may be issued. When applying for permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application. No certificate of occupancy for the improvements shall issue unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a certificate of occupancy for the improvements, the Applicant shall satisfy all amounts due and owing to the Board's professionals.

3. Completion of the improvements and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the plans and renderings submitted with the application, the findings and conclusions of the Board stated herein, and the conditions set forth in this Resolution.

4. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State. The Applicant shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. The Applicant shall comply with all laws and regulations related to affordable housing and/or the payment of the non-residential development fee, if applicable.

5. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit and/or Certificate of Occupancy, including but not limited to, obtaining written final approval from the Bergen County Planning Board, Bergen County Soil Conservation

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District, New Jersey Department of Environmental Protection, New Jersey Cannabis Regulatory Commission, the City of Hackensack, the Borough of Paramus, and the Borough of River Edge, if applicable. If other agency approvals substantially modify the approved plan, same will trigger a return to the Board.

6. The Applicant shall apply for and obtain a soil movement permit from the Borough, to the extent same may be required, and shall comply with the reasonable recommendations of the Borough Engineer with respect to same.

7. Revised plans, to the extent necessary, shall be submitted to the Board and the Board professionals for review and approval, to the extent applicable.

8. The Applicant is permitted to amended site plan approval with variance relief as follows: (i) a total of 4 signs (3 building mounted signs and 1 freestanding sign); (ii) for 1 freestanding sign, which is not permitted under the COZ conditional use standards; (iii) minimum front yard setback for signage of 1 foot (freestanding signage); (iv) maximum sign area of 170 square feet on the Property, as described in the plans and renderings submitted in the application, revised on the record, and as set forth in this Resolution.

9. The amended site plan approval and variance relief described above is expressly conditioned upon the Applicant's compliance with the following:

- a. Applicant shall eliminate the existing 16 square foot wall sign on the Property.
- b. Applicant shall remove the freestanding signage on the Regency's pylon if NJDOT approves changes to the easternmost driveway on the Property. Applicant shall notify the Borough of any NJDOT approvals within 10 calendar days.
- c. If any additional or changed signage is proposed, the Applicant shall return to the Board for additional approvals.
- d. The Applicant shall provide revised signed and sealed drawings to the Board, indicating compliance with these conditions.
- e. The Applicant shall comply with the Board and Borough professionals' reports and recommendations, including but not limited to the Board Planner and Board Engineer's letters and reports.
- f. The Applicant shall return to the Board for additional approvals if additional changes in the use of the Property are proposed, including changes to the driveway access. If other uses on the Property change, then additional approvals from the Borough and Board will be needed for the Property.

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- g. The Applicant's use of the Property shall conform to the requirements and conditions of any prior approvals issued by the Board and the Borough, which are not inconsistent with this Resolution.
- h. The Applicant shall comply with the reasonable advice and recommendations of the Borough Engineer with respect to any drainage and stormwater management required on the Property, if necessary.
- i. To the extent required, the Applicant shall comply with all recommendations and requirements of the Board Planner and the Board Engineer, subject to the reasonable satisfaction and approval of same and the Board.

10. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated on the record and as may be stated in this Resolution.

11. If the Applicant commence work on the project, same shall constitute acceptance of the above conditions.

Vote on the Wall Signage (Motion #1)

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mayor Thomas Papaleo					X		
Councilman Glass					X		
Chris Caslin			X				
Michael Krey		X	X				
Ryan Gibbons	X		X				
Eileen Boland			X				
Dario Chinigo							X
Joseph Gautier							X
Jorge Salva							X
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

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Vote on the Pylon Signage (Motion #2)

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mayor Thomas Papaleo					X		
Councilman Glass					X		
Chris Caslin			X				
Michael Krey	X		X				
Ryan Gibbons		X	X				
Eileen Boland			X				
Dario Chinigo							X
Joseph Gautier							X
Jorge Salva							X
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

Vote on the Memorialization

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo							X
Councilman Glass							X
Chris Caslin			X				
Michael Krey	X		X				
Ryan Gibbons		X	X				
Eileen Boland						X	
Dario Chinigo							X
Joseph Gautier							X
Jorge Salva							X
Tracy Levine [Alternate #1]			X				
Vacant [Alternate #2]							

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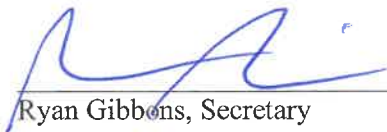
BE IT FURTHER RESOLVED that the Resolution adopted on this 8th day of July, 2026 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10(g), as set forth above, at its June 10, 2026 meeting, and that a copy of this Resolution be provided to the Applicant, the Borough Engineer, the Construction Code Official of the Borough of River Edge, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.



Christopher Cashin, Chairman

CERTIFICATION

I, Ryan Gibbons, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on July 8, 2026. This Resolution memorializes the Board's approval of this matter at its meeting held on June 10, 2026.



Ryan Gibbons, Secretary
Borough of River Edge
Municipal Land Use Board