

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
September 12, 2022 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday September 12, 2022 at **(Saddle Brook Town Hall 93 Market Street)**

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

Mr. Duffy asks everyone to remain standing for a moment of silence for those who were lost on 9/11/01.

3. OPEN PUBLIC MEETING ACT: adequate notice of this meeting has been sent to all members of the Zoning Board and to all legal newspapers in Accordance with all the Provisions of the “Open Meetings Act”, Chapter 231, P.L. 1975.

4. ROLL CALL

Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Champy and Mr. Duffy – Present. Mr. Burbano arrived at 7:04. Anthony Cialone is sitting in for Mr. Pellino the Board Attorney. Mr. Pellino arrived at 8:23. Anthony Kurus the Board Engineer and Gary Paporozzi the Board Planner are also in attendance.

5. NEW BUSINESS

A.) Tracey Hart, 75 Wilson Street, Block 1801, Lot 13

Applicant requests a rear first floor and garage and second floor additions with driveway extension, patio and walks that does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Mr. Cialone confirms that the notice is in order for this application he swears in Tracey Hart and James Ridgeway both reside at 75 Wilson Street in Saddle Brook New Jersey.

Mr. Duffy asks Ms. Hart to walk the Board through what they are proposing to do.

Ms. Hart defers to Mr. Ridgeway.

Mr. Ridgeway – We are planning on outing an addition on the second level adding bedrooms and increase the garage size from a one car to a two car garage. The setback on the right side of the house doesn't conform to the paper street that is there where the church parking lot is. That's why we had to go for the variance.

Mr. Duffy – Existing is 22 feet and proposed is 12?

Mr. Ridgeway – Correct.

Mr. Duffy – The building coverage is 27% is what you're proposing, lot coverage is 44.6%. Your driveway is in that triangle issue in the back right?

Mr. Ridgeway – It's not really a triangle it's still a one car apron but it widens to a two car. We're not planning on changing the apron because there is a guard rail on Wilson that I guess previous homeowners might have had some drop ins.

Mr. Kurus – They are keeping the curb cut in the same location. We asked them to add dimensions just to clarify what the setbacks were. The only other comment we had was with respect to grading and

drainage if the variance was granted it's an increase of approximately 800 square feet of new impervious they would need to address grading and drainage.

Mr. Paparozzi – Just a note on the survey the vinyl fence around Hickory and Ryan is 3 feet over onto Hickory and 2 feet onto the lot to the north. It looks like it's their fence but it is encroaching.

Mr. Duffy – Are you aware of that?

Mr. Ridgeway – I didn't realize it was that far but we didn't put the fence up we purchased the home and it was there many years prior to us. I didn't realize it was 3 feet.

Mr. Duffy – It seems to pie out.

Mr. Ridgeway – It's a little crooked yeah we have the survey and I do see that it was off I didn't realize it was that far.

Mr. Duffy asks Mr. Mazzer if that would need to be corrected and he says not necessarily it's been that way for a long time and it's up to the owner.

Mr. Schilp – The side that goes down to 12 feet close to the paper street who owns the paper street?

Mr. Ridgeway – You guys own the portion of the paper street where it's going to be infringed Saddle Brook I should say.

Mr. Schilp – That's what I thought.

Mr. Ridgeway – There is a portion that is Fair Lawn but the majority of it is Saddle Brook.

Mr. Tokosh – Did you have to go before the Fair Lawn Board for this application?

Mr. Ridgeway – No we did not because we aren't constructing on any portion of the Fair Lawn property.

Ms. Murray – The only question I had was on the dimensions but if Mr. Kurus has received them and is happy with them then that's not an issue for me.

Mr. Duffy – You did receive them correct?

Mr. Kurus – Yes.

Mr. Duffy – The only issue you have Mr. Kurus is the refresh my memory.

Mr. Kurus – Drainage.

There are no more questions from the Board and Mr. Duffy asks for a motion to open.

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Duffy – Mr. Kurus how do you want approach the drainage.

Mr. Kurus – They would need to supply a grading and drainage plan.

Mr. Duffy – That would be a provision of the approval.

Mr. Ridgeway – Okay I don't have a problem three sides is street frontage so I should be able to accommodate without infringing on anybody's property.

Mr. Duffy – If there are no other questions.

Mr. Schilp makes a motion seconded by Mr. Marz to approve the application.

Mr. Cialone – Conditioned on providing a grading and drainage plan as required by the engineer.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

B.) Marjorie Miller, 110 Graham Terrace, Block 1509, Lot 8

Applicant requests a 15' x 30' in ground pool with associated pavers that does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Mr. Cialone confirms that the notice is in order for this application and they may proceed.

Attorney William Mulder is representing this application.

Mr. Mulder – We are here today to request to build an in ground swimming pool. He presents Exhibit A1 to the Board which are Paul Gdanski engineering plans. There's a denial letter there are 7 variances 4 of those variances are preexisting nonconforming so we are going to ask if those go forward if the rest of the application goes forward we are not making any changes to those issues. We have 2 variances for lot coverage one for maximum accessory coverage which the Town allows 18% we are asking for 30.2% and one for total lot coverage which the Town allows 44% and we are asking for 50.2%. The last variance

we are requesting is for the top corner the equipment pad for the filter system would be 1.7 feet off of the fence line the Town requires 6 feet. The new patio to be constructed is a paver patio it does have a drainage system surrounding the patio which would funnel any water from that system into a rear drainage Culvert. It is designed to cover 2 inches of rain per hour and that would be for however long the Township Engineer determines it would need to cover that type of rainfall. It's a pretty substantial rainfall. The filter system is a cartridge filter so there should not be any back flushing onto any neighbor's properties however my client has also decided that if there is any type of back flush they have a rear sump pump system which they would pipe the filtration system into to ensure that it goes out to the street and does not go onto any neighbor's properties. With that I will turn it over to the Board.

Mr. Duffy – Mr. Kurus do you have any questions?

Mr. Kurus – I do not they did supply a drainage plan if the application was approved we would have to do an engineering review of it.

Mr. Mazzer – I've seen a lot of systems like this and there is always an overflow pipe someplace. I looked here we didn't see it but I told Mr. Kurus maybe on the engineering usually you pipe it to the curb it's not a big deal I just don't see it on here. Any of these systems have an overflow like if it rains for three days where does the water go? I know you have a sump pump but if the power goes out or whatever they always pipe them they do a three inch pipe and they run it out to the curb. If Mr. Kurus would just check that everything else looks good.

Mr. Tokosh – When I was at the property I had a discussion with the applicants and the overflow if the pool gets too high they could put into the drain that drain goes to the street and won't disturb the neighboring properties.

Mr. Cialone swears in Filiberto Ramos he gives his address as 110 Graham Terrace Saddle Brook New Jersey.

Mr. Ramos – Just to clarify the drainage system that we discussed with Mr. Tokosh is a PVC pipe with the Cutter System that is existing on the property so in the event we did the overflow system we would pipe it into the drainage system there which goes out to the curb.

Mr. Mazzer – The problem with that is during a heavy rain a lot of times the pipe won't take it and it will back up into your pool. Keep it separate don't put it in there.

Mr. Ramos – Would I be able to T it off closer to the end.

Mr. Mazzer – At the end maybe but you're better off keeping them separate because what happens is you put it in there and you get a heavy rain and it backs up into there.

There are no more questions from the Board and Mr. Duffy asks for a motion.

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Duffy – Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Duffy – If nobody has any questions or concerns do we have a motion?

Mr. Schilp makes a motion to approve as long as he puts the drainage pipe in.

Mr. Duffy – This is subject to engineering review correct. The drainage plan was submitted already but will need to be reviewed.

Ms. Murray seconds the motion.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

C.) Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9

Applicant requests to use the rear/east side of the property for truck parking with exterior improvements consisting of new timber curbing, gravel paving and landscaping. (Applicant was first heard at the October 4, 2021 meeting and was carried to the February 7, 2022 meeting. It was carried again to the April 4, 2022 meeting due to a scheduling conflict and asked to be carried to the May 2, 2022 meeting. It was carried again to the June 6, 2022 meeting because the time ran out. It was carried again to the July 11, 2022 meeting because the applicant wanted a full Board present to vote on the application, the applicant again requested to be carried to the September 12, 2022 meeting because they were waiting for an OPRA request to be answered). The Board agreed to carry the application with notice.

Attorney Charles Sarlo is representing this application.

Mr. Sarlo – There have been a number of adjournment requests and adjournments granted long time coming obviously I think at least from this side of the table hoping we can wrap this up and get to a vote this evening. I'm sure you also want to get this off of your docket. The last adjournment request was significant the Chairman kind of indicated the reason why. Early on in this application I filed an OPRA request to find out the history of the property. My client tells me some things about the property but we also want to see what the Town has on file and one of the things here was we have an industrial use on a property that is now zoned townhouses and that's why we're here. How did we get to that point the question was way back when probably back in the seventies when this site was approved for development did the applicant at that time was it zoned industrial and he got that approval and at a point in time was the zone changed to a townhouse use which would make it a preexisting nonconformity or at that time was it a townhouse zone and back in the seventies did he get a use variance up front. I had filed an OPRA request in the beginning we had started the hearings there was a partial response for the OPRA request but the documents were provided some site plans and some passed resolutions and then as we were getting ready for the last hearing to try and wrap it up that distinction still lingered what was the zone back in the seventies? I asked for the adjournment I circled back to the Town and asked a second time can they produce any historical zoning maps and the Town did. At that point in time it was zoned industrial and at a point in time it was rezoned townhouse. So at least we know what nonconforming use we're dealing with because they're treated differently based on those two scenarios. Based on what the Town produced when this site was developed whether it was the late sixties or in the seventies it was an industrial zone which was probably an appropriate zone at that point in time. You have the railroad tracks which correlates to using the property for industrial use and then you at a point in time the Town zoned it townhouses and the Mayor and Council have the right to rezone property. Because of that rezoning now it made the industrial use of the property as a preexisting nonconforming use. That's where we are I know there has been a lot of testimony over the course of time and a lot of exhibits that were introduced. I know there was a lot of questions both engineering wise and planning wise which I hope that we answered over the course of time. Before the last two adjournments at least I have in my notes there was discussion amongst the Board Members of a number of conditions that the Board that if they were going to look favorably on the application that they may have wanted to consider and that was done at the very end of that one hearing I forget the date. Then in preparation for the next hearing I had written a letter to the Zoning Board Members and outlined what in consultation with my client what we could agree to and what we couldn't agree to in terms of the discussion that took place. Mr. Chairman I don't know if you or members of the Board have any follow up questions that I could answer but I'm here to answer any questions you may have and then provide a summation why what we are requesting should be granted. To refresh everybody's mind what we're looking for is an approval to use the rear lot which is a gravel parking lot for the parking of box trucks parked along the rear property line nothing against the residential property line and we would screen it with landscaping and the lot would be pulled back to ninety feet off of that rear residential property line. That's what we're asking for which I will go into more in the summary but I don't want to preempt the Chairman and Board Members if they have any questions.

Mr. Duffy – There's numerous discussions on some other issues that deal with this. Mr. Kurus do you have any questions?

Mr. Kurus – I do not.

Mr. Mazzer – I was wondering during your chronology you didn't mention the school. Was the school granted a variance because it's a change of use and when did it go from a school back to industrial did they get another variance how did that because it was the school for a lot of years. It must have gone from industrial because it was a factory at the beginning and then it was a school for so many years so that's and E use or a B use type of thing did they get a variance for that and then did they go back to industrial?

Mr. Sarlo – That's a great question and I did convey this probably at the first meeting so it's justifiable for none of us to recall. I will go through the history as I understand it remember my client is not the owner

of the property he's the tenant we have limited information in terms of the history because he only knows what happened from the time he entered the lease and a little bit of information we may have gotten from the landlord and that's why I filed the OPRA request in order to try and figure out the history of the property and we did get some information. The best we can tell is in 1974 the property was used for industrial and how we know that is that was noted on a 1991 site plan that we got early on from the Borough on there it referenced approval of 1974 for industrial so in 1974 it had to be zoned industrial. By the Google aerial historic photos in 1979 it was clear that the rear lot was used for organized parking. The Chairman had indicated he went to the night school there I can only assume and maybe the Chairman can weigh in but this organized parking would show many vehicles we believe was the school at that time.

Mr. Duffy – Late eighties I believe.

Mr. Sarlo – Okay whether or not when it went from industrial as a permitted use to the school which I agree would be a change in use the Borough had no records. No records of how that use came about. In 1991 the owner of the property and this was produced by the Town this is when they filed for preliminary and final site plan approval and I'm quoting and all of these documents were submitted with the application in 1991 there was a site plan application to use the rear land area for parking trailers used for construction projects. The owner of the property is in the real estate construction and development business and in 1991 there was an approval given for him to put a second use on the property. Whatever was going on in the building that site plan approval was not to use the building for a construction warehouse it was to use the rear area to park his construction vehicles. I think that was the Planning Board so the Board granted site plan approval in 1991 to use this rear gravel parking lot for construction vehicle storage, parking etcetera. Then through 2007, 2010, 2014 from Google aerial photos this slot was continuously used for at least trailers, construction vehicles etcetera. The rear gravel area got overgrown with weeds and my client didn't come into the picture until 2017 which I know is some time back but in terms of the history of the property it's relatively recent. In 2017 when my client's lease commenced and in the applications I submitted there's a letter from the property owner dated July 11, 2017 and it says one outstanding item of note is the storage and job trailers currently located on the eastern side of the building which is the rear lot. These items are scheduled to be removed the week of July 10th so again even in 2017 when my client took the lease the property owner was still using the rear lot for the construction vehicles that he was granted approval for back in 1991. From 1991 through 2017 that rear lot was continuously used for parking of construction vehicles. Prior to 1991 it was used for the parking for the school and then when my client took over the property as tenant in 2017 based on the negotiations in the lease and him viewing the property it was that he could use that rear parking lot for the parking of vehicles because it was conveyed by the landlord that the landlord got approval to use the rear lot for the parking of vehicles. Everyone can make a distinction construction vehicles are different than box trucks that's true they're not the same but they're similar it's still a parking lot that's used for something other than parked vehicles. That's the history as best as I can convey it. One other thing and I think this is very relevant you asked about if there was any approval when it went from industrial to the school. My client obviously got a CO to occupy the building right at that point in time Chefler Foods was not required to come before the Board for any type of zoning, expansion of a nonconforming use, use variance, site plan approval.

Mr. Mazzer – The Zoning Officer just gave them a CO?

Mr. Sarlo – Gave them a CO.

Mr. Mazzer – I've got a question maybe it's not pertaining to this but could we make this if we approve this could we make this just for the tenant?

Mr. Duffy – I think that should go through our attorney.

Mr. Mazzer – Well that's the question though whether it goes to this way if he stays he can use whatever when he leaves the owner has to come in and make good. I know most zoning goes with the land so that's a question I don't know that's why I'm asking you.

Mr. Sarlo – I would let Board Council go first if he would like.

Mr. Cialone – Typically the zoning goes with the land it doesn't run with the tenant or the occupant.

Mr. Mazzer – But could we do that?

Mr. Cialone – We could do it I don't know that it would be enforceable though.

Mr. Mazzer – Okay just a question.

Mr. Sarlo – There you talk about the variance I believe the Town's site plan ordinance is very broad like many municipalities have very broad site plan ordinances a lot of them say change in use change in tenancy require site plan approval. Site plan approval doesn't necessarily run with the land the variance does so you would potentially I know that my client has a lease for at least another 10 years 12, 13 years. After that potentially under the site plan ordinance you could bring a new tenant in for a site plan approval.

Mr. Cialone – The variance would still be there.

Mr. Duffy – The last time we were together time ran out and I wasn't able to bring this into record but I have with me the application for Certificate of Occupancy from 2017 and we're bringing up the issue of the parking all the time. You may already have a copy of it.

Mr. Sarlo – It was actually included with the application.

Mr. Duffy – I did supply it to the Board prior but we were not permitted to speak about it. I have extra copies if anyone needs it. The thing that jumps out to me the hours of operation were Monday through Friday 8 am to 6 pm occasional light weekend. Days and hours open to the public, none. Traffic concerns pertaining to your application, none. Days and hours of deliveries, normal business hours. Vehicles to be parked on site overnight which includes trucks cars or vans, it states incidental trailers. Number of employees on site highest shift maybe 30 to 60. There seems to be in my understanding of this that when the application for a Certificate of Occupancy was put forth that there wasn't going to be any truck parking at night that it was incidental. Your application is really looking at how many trucks we will allow to be parked back there and there was also in the last meeting was brought up that there was a gravel lot type of system that will be used to instead of paving this area so we wouldn't have impervious coverage and have water runoff you were going to use this system. We haven't gotten back to that yet. You supplied the documentation about the system in the paperwork you submitted.

Mr. Sarlo – I thought the engineer was here to testify to that but can I address your first point?

Mr. Duffy – Sure.

Mr. Sarlo – You were quoting from the Certificate of Occupancy Application right?

Mr. Duffy – Yes four pages to it.

Mr. Sarlo – Four pages which is dated May 3, 2017?

Mr. Duffy – April 13th.

Mr. Sarlo – That's the Zoning Use Application dated April 13, 2017 and it was not completed by my client it was actually completed by you can see the signature completed by the landlord but that is the information on the Zoning Use Application. In my application to this Board in August 4, 2021 I included this document as an exhibit. In the addendum to the application I addressed this point that you're making And the reason why I addressed it is because when this whole we're here before the Board not to complicate matters more so than they are. My client was looking to put and air conditioning refrigerated unit inside the building and had applied for an electrical permit and that triggered discussions and the holdup of the issuance of this construction permit and that somehow got tied to the rear parking lot and then in trying to work with the Zoning Officer it was okay tell us how you're using the facility even though the Zoning Officer I think had been there a number of times but then the Zoning Officer issued a letter of denial and said looking at this document that you're speaking of and he determined incidental the term you just used to be 9 vehicles. We discussed this at one of the hearings and Board Member Schilp had indicated there's 9 loading docks and that's where presumably the 9 came from and that makes sense. Having that information when I filed this application to the Board it's all addressed in the addendum to my application dated August 4, 2021 starting on page 3 of 6 in the addendum the term incidental is actually so parking lots are considered an accessory use to the principal use of the lot. The house that you live in presumably single family residential you have a house on your property that is your principal use on the lot. Your driveway is what they consider by case law is an accessory use no different than a restaurant. The restaurant building is in use of that building is a principal use the parking lot is an accessory use no different than the parking lot for an industrial building. Parking lots are an accessory use the definition of accessory use in both the Township Code and the Municipal Land Use Law uses the

term customary and incidental. It basically means it's not the primary use of the lot it does not mean incidental limiting the number of trucks. It's a legal term to express that the lot is incidental to the primary use. The term incidental here is not intended to say limiting the number of trucks it's saying that we want to use this site for the incidental parking of trucks which is an accessory use. The parking of trucks on a manufacturing site is incidental to the manufacturing that's going on in the building.

Mr. Duffy – I do understand that I understand incidental. I also understand it means something is done inadvertently when performing an otherwise legal activity which is close to what you just said. You're going to expect to see some trucks.

Mr. Sarlo – That's part of the accessory use definition.

Mr. Duffy – However 45 trucks jammed into a back lot.

Mr. Sarlo – We're not talking about 45 trucks.

Mr. Duffy – Entertain me for a moment.

Mr. Sarlo – I'd rather stick on the facts.

Mr. Duffy – This is the facts we've all seen the trucks.

Mr. Sarlo – That's not part of the application.

Mr. Duffy – That back lot is what you're asking for.

Mr. Sarlo – What was the last one 9 trucks 10 trucks I forget. With all due respect Mr. Chairman why are we clouding the issue how many trucks we're asking for approval of.

Mr. Duffy – The one thing that we spoke about is that we wanted to make sure that the lot was situated in a way that we could control the number of trucks.

Mr. Sarlo – Yes.

Mr. Duffy – We've been at this for quite some time and we have a duty to make sure everybody still understands everything.

Mr. Sarlo – I am perfectly fine with that you have to be comfortable whether you vote yes or no you have to be comfortable.

Mr. Duffy – I get that and so incidental to me I get that there's going to be trucks.

Mr. Sarlo – I'm looking at the last site plan that when the engineer was here he presented as an exhibit and if I'm counting this correctly they're marked and it looks like 10 box trucks. When we did come in we talked about tractor trailers I think we talked about 15 or 16 I forget the number but this is the application as amended 10 box trucks lined up on the eastern property line which is up against the brook which is against the rear property line with landscaping by the residential properties and the parking lot would start 90 feet off of the property line and handily if I was to agree with your definition of incidental and the Zoning Officer saying incidental to be 9 we're asking for 10. I don't necessarily agree that incidental he arbitrarily came up with 9.

Mr. Duffy – We also figured out that we kind of know where that came from.

Mr. Sarlo – Right but if you bring it back to reality your Zoning Officer is saying 9.

Mr. Duffy – But those 9 are along the northern side not the back.

Mr. Sarlo – No he didn't really.

Mr. Duffy – I'm saying we know where the 9 are.

Mr. Sarlo – His letter of denial he didn't say 9 along the loading dock he said 9 in the back because we asked for this whole thing has been about the rear parking lot and he said he finds 9 to be incidental. Going back to the document we were talking about April 17th the Zoning Officer more recently took the term incidental from the April 2017 Zoning Permit and then in my opinion arbitrarily but we think it's tied to the number of loading docks said 9 and we're asking for 10. We talked about last time at least in my opinion this is an 87,000 square foot manufacturing warehouse facility. That's almost two acres you don't have we don't need in my opinion an expert to testify about this it's kind of I think from a practical sense you don't have such a large manufacturing warehouse facility and use your loading docks for truck storage. That means your whole operation for 87,000 square feet are you limited to 9 vehicles that if you're only allowed 9 trucks on the site once they go out you have no other trucks you can pull from on the site. There's no way this site was approved for this building being this large for parking of only 9 trucks at the loading dock. It would be totally inconceivable. I think historically we could not get from the Town

the original approval unfortunately because I think that would have answered a lot of questions. We could not get the approval for when this was approved for the industrial use. That gravel lot existed and we know it was continuously used probably since the approval but at least we could document it from at least 1974. We're asking really to do nothing more. We're asking to continue to use the lot we didn't count up how many construction trailers and construction vehicles I'm sure it was probably more than 9 I'm speculating but the Planning Board not this Board did approve that rear lot for construction vehicles. If it was 9 we're asking for nothing more in fact we're willing to make certain improvements with the timber with the markings to make sure we don't go over 9 with the landscaping. I think there was a request for some improved lighting which has already been done along the rear. It's an unfortunate situation I think my client's in and candidly that I think that the Board is in because we're here trying to put on the record and I'll call it validate or correct the past sins of the lack of documentation and not knowing what the history of the site was. We all know that through piecing documents together the rear parking lot was used and we're just looking to validate that use so that going forward my client knows what his rights are and the Town knows what their rights are that if my client over uses that lot he could be hit with a violation. If we count the vehicles stored in the Google aerial photograph or the cars for the school I guarantee it was more than 9. Chairman you're allowed to bring your own personal knowledge in about the site.

Mr. Duffy – I don't even know if we were allowed to park the way we parked back there.

Mr. Sarlo – Which means it was more than 9.

Mr. Duffy – There was a lot of cars and situations where you had to wait for people to pull out so you could get out. No markings so everybody just went where they went something we're trying to make sure we don't have.

Mr. Sarlo – Yes and we're trying to cooperate and validate and limit. If you remember we know this is a concern to the Board and to the residents and we know that the Board has to be dealt with in the confines of the law has to be sympathetic to the neighbors and we have to show there is no substantial detriment to the neighbors and we're showing that through iterations and again we've eliminated the tractor trailers limited to box trucks. We eliminated the tractor trailers that are parking up against the residential properties. We expanded the area where the gravel parking lot would start we're going to pull all that back we're going to put the landscaping in we're going to park a hell of a lot less vehicles than the Chairman witnessed going to the night school and also whatever construction vehicles were parked back there.

Mr. Duffy – There are no more construction vehicles.

Mr. Sarlo – There are no more construction vehicles because my client leased the lot and needed to use the back parking lot and that was part of the lease deal.

Mr. Duffy – The reason I bring this up because part of my responsibility and part of my concerns is that unfortunately it's been a history of kind of doing whatever suited the circumstances at the time. There are a number of communications included in this application that go back to the parking the trucks on the other side and the railroad egress in and out so the concern I have is that okay let's say we do go with the 10 trucks in the back that we don't have this parade of all this other stuff since they can't go in the back that they're all parked by the railroad area and I went back and read the letter that you supplied from the railroad company. I went back and I read the original letter that goes back to 1972 and I differ big time in the fact that that area was only given as egress it was never meant I don't know where the intent comes out years later to say that it was where it says to store stage install and maintain any trucks tractors trailers or any other materials in support of their business activities. His letter is now turning around saying you can make this a truck terminal and I want to stay away from that. I want to have this tenant stay away from that because that's what he's saying and that's not what the original said so I'd like to get a little clarification on this.

Mr. Sarlo – That again and I know it's become part of the application because the Board had a concern about that again that is an easement that's not part of the property that is leased from the railroad company. There's been discussion about yes the tractor trailers lining up staging there in order to get to the loading docks and to a certain extent that has to continue.

Mr. Duffy – I agree with the egress I agree that it needs to continue.

Mr. Sarlo – Even to a certain extent not only the ingress because obviously you can't use the loading dock without it.

Mr. Duffy – You can't get back there it's almost impossible.

Mr. Sarlo – You can't use the rear parking lot without it but even the staging of tractor trailers to a certain extent. It's going to be because you can't stage the tractor trailers in the rear parking lot anymore because we are giving up that ability and so we have 9 loading docks depending on the product depending on the destinations some of the box trucks from the rear parking lot may be getting loaded on that particular day. These trucks have to get loaded and get on the road they are going throughout the region. We still need to stage tractor trailers on an as needed basis along that ingress egress. That is certainly going to be mitigated since we started this application because my client leased a very large property in Elmwood Park so all the tractor trailers are now parked there. They still need to come and load that's not manufacturing it's strictly a big warehouse and the tractor trailer parking but to get the product there that's being manufactured here the tractor trailers have to come or sometimes it's just load and go to the final destination. From an efficiency standpoint you can't say well you have 9 at the loading dock one truck left you got a fork truck driver waiting around now and then dispatching a tractor trailer from Elmwood Park to come and use that one loading dock. It's not an efficient way to operate a manufacturing company.

Mr. Duffy – I understand that this has to occur it's logical the problem that concerns me is that we will get into lining them up parking them servicing them because this interpretation from the president of Susquehanna Railroad says his belief is that's what the intent is that you're allowed to do that. I'm saying no you're not.

Mr. Sarlo – We could stipulate there would be no servicing there shouldn't be any servicing.

Mr. Duffy – There was already a fire several weeks back there.

Mr. Sarlo – I'm aware of that and I've got the facts of that fire was.

Mr. Mazzer – My thing is we want to keep the trucks away from the residents so what's wrong with keeping them there. If there's a problem there let the railroad deal with it. What do we care you want to keep them away from the people that's what we're trying to do that seems to be a good idea. If there's a problem or there's a fire the railroad will deal with it. The railroad will say okay you're going overboard they're the ones holding the lease. We want to protect the people so we want to keep them away from there the railroad I don't care get them away from the houses.

Mr. Duffy – The other problem is that they've gone ahead and named this street and all this stuff was put in front of us so that's why I bring the questions.

Mr. Sarlo – We put it in front of you in reaction to the initial hearings where some of the Board Members and Board Professionals kind of addressed it. This is not in my application because I was focused on the rear lot and then there was concerns raised and we wanted to try and address those concerns so that's how the additional documentation came about. Two points obviously my client gets frequent visits by the Fire Chief for inspections and I can stipulate on the record that has never been according to my client that's never been raised as an issue with the lining of an easement fire trucks can still get through. The naming of the road we thought it was a good thing so it could go into the GPS because now when they put in Lyster Avenue they're coming down Lyster Avenue.

Ms. Murray – Numerous times I've been back to the property whenever you've been on the docket and most of the summer every time I went down there the trucks were open and they were holding product almost like Chefler was using it as additional warehouse space for products to manufacture. There's always canola oil and other ingredients that would go in they weren't waiting to be loaded they were filled with product to make mayonnaise and whatever else they make in there. I don't agree with the egress being used for anything other than egress because that's what it says it's supposed to be for because you aren't staging. Staging means you put them there and they'd be gone by the end of the day. These weren't staged all summer long there were now Sunday I went there's only three they were all locked up so you can't see what was in them but before that in the past months that I've gone through almost every other Sunday they were loaded with product. If you're going to be only staging things on egress that's one thing but if you have trailers you're using for extra storage of items that's completely different. Those things were there constantly and I was there many times just driving through.

Mr. Sarlo – The oil does come in by the railroad that's what makes this site you know.

Ms. Murray – These were pallets inside the trucks pallets of canola oil inside trucks I was not dreaming this I should have taken pictures of it. They were half empty and each one had different things and they had just enough room so you could get a pallet jack up there.

Mr. Sarlo – We can certainly stipulate.

Ms. Murray – If you're telling me that you're only staging something on an egress and ingress to put products in and out to the dock that's one thing that means they're not going to be there overnight in my thought process but those same trucks were there loaded with those types of ingredients every single day. It was almost like an additional warehouse space.

Mr. Sarlo – We would certainly stipulate that trucks that are lined up in that ingress egress would not be loaded in the ingress egress with fork trucks they have to be loaded from the loading dock.

Michael Kurland the CFO of Chefler Foods offers to testify to these questions and is sworn in by Mr. Cialone.

Mr. Sarlo – Are you knowledgeable about the operation of the building?

Mr. Kurland – Yes.

Mr. Sarlo – And knowledgeable about the subject matter we've been discussing?

Mr. Kurland – Yes I am.

Mr. Sarlo – Okay.

Mr. Kurland – In response to Ms. Murray's comment I think that those trucks parked along the railroad's property on a Sunday what would happen is we're not running the factory on Sunday's we're doing maintenance and clean up but we're not actually pumping oil off of the rail side. You're correct what you saw was product that was loaded on a Saturday that hadn't yet been assigned a driver and was pulled out waiting for a driver to show up for a Monday morning run and when a driver leaves because it's food the trailer door is sealed the seal is applied to it so when it arrives it's a food safety chain of custody. The door hadn't been closed because the paperwork hadn't been printed with the driver's name on it so that happens on Sundays frequently where that would be staged to go out. If you had come back Monday by 10 am those trailers were gone. The only reason they were there is because they were the first ones to leave. Now that we have the facility in Elmwood Park I expect the frequency of that activity to be reduced dramatically but there's always going to be a customer calling on a Friday saying please help me and do something we couldn't prepare for in the warehouse and that would be how we handle that. The railroad told us that yeah that's something they are comfortable with so we did it.

Mr. Schilp – I was there tonight before we came to the meeting about six fifteen six thirty and lined up were tractor trailers that had nobody's name on it or maybe a small little name on it and they were lined up from Midland Avenue because one of them was on Midland Ave and waiting to make a turn and I sat there for about five minutes and he made a turn and just got off Midland Avenue.

Mr. Kurland – They were white trailers?

Mr. Schilp – White trailers and a trailer cab and they were all hooked up and they were from Midland Avenue all the way down to the end. When I wound up going over that pump that's there I couldn't get down there because there was another truck parked at the end. I had to wait for him to come back out so I could go down because I wanted to look around before I come down here. I was there the day the truck burned and if we had to get down that road it would have been extremely difficult. The standpipe for the building is exactly in his parking lot that you're requesting for trucks which is fine. The problem is we need access to that area twenty four seven.

Mr. Kurland – I want you to have access I work there.

Mr. Schilp – Like I said I went down there and it took me five minutes before the guy finally moved and I could get down into the back and take a look. If there was a fire the fire truck's just sitting there. You can't get to the standpipe can't even get back to the loading dock to go inside and see what's going on. They park them there all the time which according to the paperwork they can do but the problem is they really positively cannot block the one lane and they do it on a regular basis. I pass by there a couple of times a day and there's trucks sitting there and there's somebody parked there right next to it.

Mr. Kurland – Waiting for someone to pull out so they can pull in?

Mr. Schilp – I didn't go down and look because I'm working I can't go in and stop and drive in because my boss wouldn't be happy but I drive by and there's trucks lining the side there should be one lane open and a lot of times I pass there and there's a truck parked in that lane. The other thing that really I'd like to call the EPA but I haven't around those tanker trucks there it is absolutely worse than disgusting. That stuff leaks there all the time and it is a disgrace. Go out there and look underneath those tankers every single day the oil is that deep out there.

Mr. Kurland – I don't go out there that much so I don't know but I will take your word for it.

Mr. Schilp – Tomorrow morning just go out there and look. I had brought up that the place needed to be cleaned up in the back you did a pretty good job cleaning the place up the problem is the sprinkler system is sitting there and the table right up against it the sprinkler connection so if we had to get out there we'd have to move the table out of the way to get to the sprinkler connection. Oh yeah we'll clean it up and last time I had said the same thing and the stuff doesn't get done. Most of the time we're speaking to Mr. Sarlo and he's not at the facility eight hours a day.

Mr. Kurland – I think that the fire is a good example so there was a fire that we had environmental cleanup people coming out working and they just finally left it wasn't like we abandoned it and that's not like just a so we're committed to do the right thing and I wouldn't work there if I didn't believe that that's true and I have the influence to make it happen so I'm here to tell you we'll do the right thing. These are all issues that I'm happy to work with you directly on when anyone from the Town has come out and said this has to be restriped or there has to be a sign we make the changes we send the pictures we do that but keep in mind we're also a growing business that has scaled very quickly and for that reason if things have fallen between the cracks or gotten dirtier than they should have I apologize. I admit that we probably could have been better at that. We're filling in the blanks with people that are going to allow us to manage that a lot more carefully but I can't get too big because the facility doesn't have the parking.

Mr. Schilp – The other thing that we discussed here Monday through Friday eight to six occasional light weekend. Eight to six is not even reasonable because you guys at the meetings here you said you guys come in at six o'clock in the morning and start moving trucks around so what happened to the CO which says that this is what your working hours will be.

Mr. Kurland – Our business was very successful.

Mr. Schilp – I agree but the problem is the law says eight to six normal business hours. If you do something other than eight to six you need to go back and to me you need to change this C of O or your Zoning Use Application because now you're not using it for what is written on here. I know Mr. Sarlo had said that this was written between the building owner I think that's what you said.

Mr. Sarlo – Yeah at the bottom you can see the name Branca.

Mr. Schilp – You didn't agree to this the problem is when you signed the lease you signed for what's going on here. I hate to put you in a spot I know you're a growing business because I pass there and I can see people going in and out and you guys are expanding like crazy but the problem is in my personal opinion and we've gone through this with a lot of other businesses in town. You want to grow fine come up and ask to grow not just to put the parking lot in the back but ask to get this changed.

Mr. Kurland – We're only here for the parking lot because we needed to get a walk in fridge so this has all mushroomed into where we are today.

Mr. Schilp – That's fine but the problem is do I go to the Town tomorrow morning and say that Chefler Foods is not going by the C of O and I want them to operate according to the C of O and what would that do to your business right now?

Mr. Kurland – It would be litigated it would be a mess a total disaster.

Mr. Schilp – Exactly so that's why I thought.

Mr. Kurland – It would be the nuclear option that's what I'm trying to avoid. When we first looked for the facility we looked for one that didn't have restrictive hours and rail side those were our major criteria and we were assured that this did not have a restriction on the hours and it had obviously rail side. No one was going to put a townhouse next to railroad tracks.

The entire Board says yes they have and they give a variety of locations where that has happened.

Mr. Kurland – This was a site that we identified because we needed a place to open up it was a new business we didn't know what the needs necessarily were going to be. We grew into where we are today and we've invested a lot in other facilities now to accommodate that growth and take away from the pressures of 400 Lyster. We named a private road Chefler Way and it's a private street specifically to help avoid the Lyster residents from having the issues of the trucks and spent money on billboards out front that say truck entrance because you know drivers are going to be truck drivers. I think that if you look at the history we've actually done very well compared to where we started and I'm not talking about financially I'm talking about just logistically from where we started. We're trying to scale back what we do need still in the back of the facility from what was originally a plan that showed trailers and trucks mixed and backed all the way up to the residents to now just ten box trucks. We're going to landscape it so that the people who are backed up against us on Steinway are not going to see the trucks hopefully when we get the right landscaping. Whenever a resident has ever emailed me I don't know if one of them are here we responded. We're trying our best to be members of the community because we love it here we have employees from town that work here. We don't want people to think poorly of us our products are in supermarkets. We care about our reputation we care about the community so I'd like us to get through this and not ignore the other issues not view that as a pass on these other issues. There are other issues but I'd rather have those issues isolated and work with you guys on them separately. If we could compartmentalize this to just the back lot which is by the way what we really agreed to just to get our refrigerator then that would be a really efficient path forward for both of us and I will gladly work with whoever the Town would like me to, to address all those other issues.

Mr. Schilp – I like that material you're going to put down in the back and drive the trucks on. That will take enough weight to bring a fire truck on?

Mr. Kurland – That's an engineer question I don't want to get into that.

Mr. Sarlo – The engineer is not here but I would say it would we would make sure it would. It would have to the standpipes are back there.

Mr. Schilp – That's why I say that.

Mr. Kurland – I don't want there to ever be a situation where a fire truck can't get back there I live in that building more or less. If there was a fire in that building we need to be safe. There have been issues with the sprinkler heads they failed and firemen were there and we were grateful for it even though there wasn't a fire a sprinkler failed. We're a factory things like that will happen we try to prevent them from happening by having good maintenance and a good team and we continue to hire good people to do that.

Mr. Duffy mentions that Mr. Pellino has arrived and that he will be coming up and Mr. Cialone will step down.

Mr. Duffy – Let me go through our Board Members for any questions and then I want to open the meeting to the public. Mr. Marz do you have any questions?

Mr. Marz – Just the snow removal for the gravel thing that's going in the back and how that would work.

Mr. Kurland – That's a question for the engineer I was told that specifically that it wouldn't be e problem and we have contracted people to do the grounds we have to do that.

Mr. Duffy – I did read this I thought I saw it in here.

Mr. Schilp – You can plow on it the only thing you have to be careful of is those delineators that they put on top.

Mr. Kurland – Not to break them?

Mr. Duffy – They're easily replaceable according to this.

Mr. Kurland – My expectation is to buy extra of them. That's the nice thing about this type of structure it is intended to have some wear and tear you don't have to reasphalt the whole thing you can just put a different section in.

Mr. Duffy – Yeah it can be taken out in sections and repaired.

Mr. Manzo – The box trucks there's not going to be any refrigerated trucks running?

Mr. Kurland – No one of the reasons we needed it here was to get the refrigerator. Anything that has to be cooled is cooled in the walk in fridge and anytime we've had so much because a carrier is supposed

to pick up and doesn't come that happens more often than we would like. Maybe we'll have a truck as far away from the residents as possible twice a year randomly and I don't want to say it never happens we'll run that reefer unit but we don't like to run a reefer unit because it costs money to run and we would never run any of those as storage trailers. I'm really sensitive to the noise even when we do ductwork on the building we arc it away from Steinway. Everything is trying our best to live together and I'm sure I will hear why we're failing but we're trying.

Mr. Tokosh – I'm looking at your Certificate of Occupancy and it says Monday through Friday 8 to 6 occasional light weekends. I was there on Saturday and it was like Fifth Avenue I had a difficult time getting in there was so many trucks going in and out so if anything you should amend this document. I saw various trucks going in people picking up product unidentified trucks there is a lot of traffic.

Mr. Kurland – I go on Saturdays and I agree there is a lot of it is just we're the beneficiary and sometimes we're the victim of the supply chain issues that happen. Sometimes you stage for things to happen and the boxes don't show up and you have to run on a Saturday because Friday the production run just couldn't work. We make mayonnaise and it seems like it should be simple but there's a lot of different things that go into that and when the egg yolk doesn't show up we send people home. I agree what was originally represented to the building owner that we'd be occasional weekend work has become the time we do all the work.

Mr. Duffy – What are you operating hours right now?

Mr. Kurland – We're running our first shift from 6 am to 3:30 pm we have a second shift which is smaller from 3 to 11:30 pm and then we have a small crew coming in doing cleanup work and prepping for first shift they come in at 11 and leave at 6:30 or 7 am. The numbers are getting smaller the overnight shift will run but it's a much smaller crew.

Mr. Duffy – So this is now 24 hours a day.

Mr. Kurland – Yes we have people in the building 24 hours a day.

Mr. Duffy – How many days a week?

Mr. Kurland – Six days a week.

Mr. Duffy – Sunday is your breakdown reset time.

Mr. Kurland – Yeah but we're reorganizing the floor scrubber will clean the floors if there's maintenance we have to do it when the lines aren't running so the maintenance crew will come in and fix a labeler or something like that.

Mr. Duffy – What time do they show up on Sundays?

Mr. Kurland – It's usually 7 am to 3 pm something like that. It's not something gets planned to the point where I can make a representation that this is always going to happen.

Mr. Tokosh – I walked around your building on Saturday I've been there many times and it was not unusual to be where the properties are on the side and there would be a very pungent odor but Saturday there was no odor whatsoever which surprised me.

Mr. Kurland – It depends on if they're receiving vinegar sometimes I think vinegar is the one people would notice the most and we've installed two rooftop filtration systems to try to improve and mitigate that. You'll notice smells when we're running barbecue sauce. One person once said we run curry there's nothing curry we don't have anything curry. There's mustard which you can smell we're a food company.

Mr. Tokosh – Do you keep those doors open when you work with that because on Saturday all the doors were open.

Mr. Kurland – We're not supposed to we're supposed to have the doors closed. If it's open it's because it's hot and we don't have the place air tempered and when we've tried to install more fans we've gotten pushback from the Town.

Mr. Tokosh – On Saturday when I walked in the lot and I parked my car back there the door was open in the back lot and when I walked around the door facing the neighbors in the back that door was open. To my amazement there was no smell.

Mr. Kurland – We weren't running that hard on a Saturday and that door to the back that you first see is the door where the person who was receiving oil goes in and out of regularly because you can't leave

those things unattended. It wouldn't surprise me if that door is open the one on Steinway should be closed.

Mr. Tokosh – Are you going to clean the stream that runs parallel with the lot back there? I peaked in there there's soda cans some beer cans that really needs to be cleaned up.

Mr. Kurland – It's not our property but I'm not going to say it wasn't somebody from my property that didn't do it. I know that in the past things have fallen and we've cleaned it up before. We'll clean it up again. You guys have been to the site a lot the past year I think you can see that even though there are things that we have to work on we're trending better which is not easy when it's hard to find employees to begin with so to get people to come in and do that work is even harder.

Mr. Schilp – There was a tractor parked in that back lot.

Mr. Kurland – There was a tractor back there?

Mr. Schilp – It was nosed into Steinway.

Mr. Kurland – We're going to have arborvitae there.

Ms. Murray – The largest shift is 6 am to 3:30 pm they're moving trucks right?

Mr. Kurland – Uh huh.

Ms. Murray – There are backup noises and stuff do you realize that not everybody is up at 6 am the noise is a little annoying for residents that are on the other side. I'm also hearing that there is a smaller shift but there's going to be trucks coming in and out from 3 to 11:30 which is another thing it's later at night when people go to sleep and they're going to hear the backup noises. I think this is a little more than they were prepared for with all the other uses that were on this site and as you first started in the site. It's a lot more than they bargained for it's like a 24 hour operation.

Mr. Kurland – That's why we're trying to limit it to only those 10 box trucks if it was trailers the way it was originally designed it would have been a continuous revolving door but with 10 trucks basically once they're loaded they go out on the run they come back they get loaded again and if the day is over they park and leave in the morning. It's not like you're going to have more than those 10 vehicles backed up. I agree I wouldn't want to have that beeping noise or the noises of tractors and trailers in my backyard either my hope is that some of the green border we create helps muffle some of that noise.

Ms. Murray – There are people who try to enjoy their backyard at some times in the day and they're hearing trucks going in and out they're hearing noises from people truck drivers pulling their cars in so they can pull their trucks out and I could see not being able to enjoy my own property if that was mine because you are a little more excessive with your hours than most other businesses that are around residential areas and we've heard testimony from the residents like that in the past on other days. Now knowing what your operation hours are I understand more of their complaints.

Mr. Kurland – I don't want you to think I'm not sympathetic towards them I get they have backyards and pools and they want to sit out there and the hope is that if this is approved this plan helps improve the quality of that experience. Right now we're sort of in limbo while this has been playing out if we get the green light then we build the green border back there. Anytime anybody's contacted us and said they had an issue the light was facing them we changed that. The next day we had someone going out and redirecting the light away from Steinway as much as possible.

Mr. Duffy – The reason I asked about the hours was just to get it clear and the hours and days you are operating are not part of the application in front of us tonight but it does have the appearance of a nonconforming use so you might be going back to the Zoning Official to get clarification on this because your CO stipulates 8 to 6 so you're operating outside of that my understanding is that I do not have.

Mr. Pellino – That question is not in front of us in my opinion Mr. Sarlo I think you'll agree this is a nonconforming use. I don't know we've been able to establish what that nonconforming use was when it first started but you expand at a certain point you've changed the nonconforming use not permitted again not in front of the Board tonight but that may be something you have to deal with at some future point in time it's really up to the Zoning Officer how he wants to treat that. You have hours there you have blown through you have a number of trucks you have blown through and whether you know it or knew it or didn't know it or agreed to it, it runs with the land unfortunately so maybe you're a victim and it's a discussion you have to have with your landlord. To put this in context this is in front of us for permission to park in

the rear of the building which constitutes an expansion of the nonconforming use which is why it's here they've also requested site plan approval I know you think it should be limited to the rear yard only I think we may be able to take a more expansive view. The site is the site you can't just give site plan approval on part of it. I think the applicant has agreed to put this green border it might be something we might want to look at.

Mr. Duffy – Your addendum to the application you have plant 9 evergreen trees along the rear portion of the truck parking at the southern property line that will create a landscape buffer. These were suggestions that came up in discussion it's a little premature at that point to say whether the applicant would consent or not consent to these conditions anyway. Some were just suggestions but to plant 14 arborvitae trees at least 6 feet high in a staggered fashion provided client can locally obtain 6 feet in height I don't know what you mean by locally.

Mr. Sarlo – The source on that we don't want to import them from Colorado or Pennsylvania. If a place in Saddle Brook has 5 feet we'd like to plant 5 foot.

Mr. Duffy – I'd like to open the meeting to the public for this witness.

Mr. Pellino – Mr. Chairman I'm going to suggest we swear in each resident.

Mr. Duffy – Yes. Do we have a motion?

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.

Mr. Pellino swears in Janet Taormina who lives at 447 Steinway Road.

Ms. Taormina – I'm a little further away than my other neighbors that are here. I have tractor trailers coming down my street at ten o'clock at night on Steinway asking for directions to Chefler Foods. They can't get down the street because of the way the curve is if you park on both sides they have to back up down the street. The sign they put up for their company is only 8 by 11 it just says Chefler Foods and has got a little L right in front of the railroad tracks. We have to tell the people when they come down the street and ask for directions we say right before the railroad tracks and after the welding company that's where the street is. There are also tractor trailers when they go down the street you have to go around them because they're waiting to get into the lot. I have never seen any cop other than a Saddle Brook cop going down that street to check anything out.

Mr. Duffy – What street Chefler Way?

Ms. Taormina – Yes and the stench whenever you're making oil and vinegar you cannot sit outside. Anything else is tolerable but when you do anything with vinegar it's potent. I like salad dressing and I like to put vinegar on stuff but this is ridiculous and the flies are terrible. I've been here since 2013 and it's progressively getting worse. When I first moved in I didn't smell anything but now these past three years I can't.

Mr. Duffy – The issue of trucks coming down Steinway there's nothing we can do with that. I don't know if Steinway is a no truck street.

Ms. Taormina – It doesn't say anything.

Mr. Duffy – I urge you to come to a Council meeting and bring that concern to them because they can take care of that.

Ms. Taormina – A lot of them say do you know where Lyster Avenue is they're not asking for Chefler Way.

Mr. Duffy – Chefler Way is not a street.

Ms. Taormina – So when they out it in they put in Chefler Foods and it comes up as Lyster.

Mr. Duffy – The only way to deal with that is the Council would have to address the issue of trucks going down that street.

Ms. Taormina – I know on Lyster they have the sign no tractor trailers.

Mr. Duffy – That's something that the Council and any of the neighbors that have that issue with Steinway go to the Council meeting. To address the other issues that is something that Mr. Kurland can probably answer.

Mr. Kurland – We just secured the billboards on both sides of the truck entrance to help. In both directions the billboard at the entrance now says truck entrance. Every piece of paper that goes to anyone making a delivery or pickup says 114 North Midland Avenue because that takes you to the turning point and then

we give out directions to everybody. Every day I know a truck down Steinway if it was coming down my street would be a real nuisance I apologize for that but relative to the amount of activity going on having one or two trucks that get lost because they are coming from another place I apologize I don't know that there is much that we can do.

Mr. Duffy – There's not much that we can do either that's why I would suggest they take that to the Council. The issue with the aroma is something you can address.

Mr. Kurland – I think it's something inherent in the food that we are making we're using vinegar as an ingredient and what I can tell you is that the phrase is continuous improvement and that's what we strive for. We are far from perfect but I think what we can say to all the neighbors is that when there is an issue and it's a complaint we do take it seriously and we don't try to look at the amount of money we invested a lot of money in air filtration systems and directing every vent possible as far away as possible and we'll continue to do that. If you have ever emailed me and I don't know if you have you would have gotten responses. Anybody who's called the company gets someone immediately at the company that I'd like to think is going to be helpful. We know that particularly the vinegar is probably something that we have to work to improve on. I don't have an easy solution I can tell you we're a food company and that's not something that we can just stop doing.

Ms. Taormina – I know when you pass Burger King you smell the hamburgers and stuff like that. I know it's your company and that's what you do and Burger King broils their burger meat it's the same thing but it's a little more powerful than a hamburger.

Mr. Kurland – All I can tell you is that I'll talk to the food scientists that we have and see if there's anything they've done in their careers to help mitigate this more because in other companies maybe they weren't right up against residents. We've tried to do what we were advised would work. We have engineers telling us put this in it's an air filtration system and it'll work and here we are. We're going to continue to improve I don't have anything beyond that I can tell you I'm sorry.

Mr. Pellino swears in Tammy Gordon who lives at 455 Steinway Road.

Ms. Gordon – Basically it's everything she said I just wanted to touch on one more thing that I had to call the police department twice. On a Saturday when I'm trying to swim in the backyard because I have your employees that when the dog barks by the fence they decide to throw rocks they do not speak English I have everything documented from my friends and family posted on Facebook. The police went there to speak to somebody called me a whore and filthy names that I don't want to get violent but that's the point that I'm going to get to soon if it's not fixed. I'm in my private home backyard being called all filthy names I had the police come there they said they went around by you. I videoed them what he was doing so I just don't know.

Mr. Kurland – Do you have a video of the employee?

Ms. Gordon – I put it on Facebook.

Mr. Kurland – He won't be working for me tomorrow I just need to see it. I am aware of the issue the police came in and met with me in my office. We walked the perimeter and I talked to the supervisor and if I can just get a picture.

Mr. Duffy – I think this is an issue that you now know who Mr. Kurland is and he is willing to talk to the neighbors and he put himself out there so I would ask that you give him a call tomorrow and take it from there.

Mr. Kurland – I asked the police if he had a picture and he said no. I just need to see who it is.

Mr. Duffy – I'd like to move beyond because that's not part of the application.

Ms. Gordon – It's just everything she said and the Saturdays I don't enjoy my backyard.

Mr. Duffy – I will say this is the first time throughout this journey we've been on that somebody from Chefler Foods has come up and spoken with us so I think we are moving in the direction of better neighbors is going to come.

Mr. Kurland – I want that.

Mr. Duffy – I do urge you to call him tomorrow because it sounds like he will take care of this.

Mr. Kurland – Let's talk tonight.

Ms. Gordon – Thank you.

Mr. Pellino swears in Grace Kasturas who lives at 481 Steinway Road.

Ms. Kasturas – My issues are the amount of traffic that's going on behind my house. There's drivers there are cars going through sometimes there are cars parked there with tinted windows on a Saturday and I didn't know if they were scoping out my property because they were right across from a bedroom patio door. I wasn't feeling comfortable with this tinted windows my heart is racing like what's going on here. There's hangouts of workers with the door opened laughing all times even at night so it's kind of creepy what's going on back there. It's just a lot of traffic and I've lived there for seventeen years and I've never encountered this. I'm having breakfast at seven o'clock in the morning and there's drivers going by people with shower caps on their head in my bathroom the same thing. I'm not feeling privacy anymore.

Mr. Duffy – Your backyard butts up to the south side of the building?

Ms. Kasturas – It's a path they use to go to the trucks in the back. It's just a lot of traffic that's occurring.

Mr. Duffy – Some of this issue with planting trees along this way is going to be able to block some of that privacy issue.

Mr. Sarlo asks if she can point out her property.

Mr. Kurland – We need to plant more arborvitaes and stuff over there too. That's a solid fence.

Mr. Schilp – I think it's a chain link fence.

Ms. Kasturas – It's just an iron short fence I'm wondering if they could put a high vinyl fence that would help.

Mr. Kurland – We would do what you think yeah if you would like more of a privacy screen put up there. We don't need to have this a part of this.

Mr. Duffy – You're volunteering it right now.

Mr. Kurland – No but the answer is it doesn't have to be like if you have a problem you felt like I don't know why there's a person that you felt that was you emailed me about this too right?

Ms. Kasturas – Yeah.

Mr. Kurland – Let's not make this an issue I mean we can build a fence and never have to look at us again.

Ms. Kasturas – I don't know how because from my window I can probably see over the fence.

Mr. Duffy – They're talking about planting trees down this way. There's also I'm sure they can curb the behavior of the employees out there.

Ms. Kasturas – There are service trucks, air conditioning trucks there are cars going through there.

Mr. Duffy – It is a legitimate means of egress to go around the building.

Ms. Kasturas – So this will continue?

Mr. Schilp – Once if we approve this you're not going to be able to go down that road and into that back parking lot anymore because they're going to block that off.

Ms. Kasturas – So how will they get to the trucks they're going to go around by the railroad?

Mr. Kurland explains that if they do the plantings they will not be able to go past her house and access the rear parking lot.

Mr. Kurland – If somebody has to do work they would need to park here to access the building who may be a third party contractor that may be there for a day.

Ms. Kasturas – It was a silver Honda with tinted windows and it was there for quite a while.

Mr. Kurland – You have my email address if I got an email with a picture of a car and you said I don't feel comfortable we can address it.

Ms. Kasturas – I called the police and I watched from my window and it turned out it was a cleaning person with mops and brooms.

Mr. Duffy – There are issues that you are having that I believe if you send him an email contact him that he can take care of and some of it if it's approved the truck traffic will be taken care of. There may be an occasional service person that comes but there should be a reduction in this.

Ms. Kasturas – I get the feeling everything is going to be resolved and I don't see how because the business has overgrown the property.

Mr. Duffy – We can't fix everything but there are certain things in front of us that we can fix and then some of the other stuff will have to be handled another time. Your complaints and concerns I think you can

contact Mr. Kurland and he can help you. I understand your concerns but there is only so much we can do.

Ms. Kasturas – The trucks.

Mr. Duffy – We can fix that.

Ms. Kasturas – Further away but six o'clock in the morning I hear those backup.

Mr. Duffy – You hear the backup?

Ms. Kasturas – I walk my dog past there and I couldn't believe what I was seeing back there that these residents have these bright lights this is just.

Mr. Duffy – The lights are being turned right.

Mr. Kurland – They were turned.

Ms. Kasturas – Even the lighting on the trucks its chaos.

Mr. Duffy – Again we cannot fix everything this evening we can fix certain things that are in front of us and we have already made comments that there are things they have to do so this will be a work in progress. There are plantings that will go on to eliminate the trucks going around the back and eliminate some of the lighting.

Ms. Kasturas – I don't know if trees are going to resolve it.

Mr. Pellino – There is a legal structure in which we operate and this is not and can't be legally a far reaching inquiry as to how Chefler Foods is doing as a neighbor expanding etcetera. It's really before us for the sole issue of the parking in the back and some related site plan issues which work in with the trucking. They've agreed to do some of the plantings etcetera. This Board can't say hey Chefler we think you're doing this wrong and from here on you're going to do it a different way. If it's not before us we can't legally do it. The Board is doing the best it can within its limited jurisdiction if that makes sense to you.

Ms. Kasturas – It does but if the trees don't work and this is approved and everything then what?

Mr. Pellino – You may have other recourse you may have to go to the Zoning Officer and make complaints there are some other issues that are kind of permeating I don't want to prejudge them but really not for this Board in this context. Our jurisdiction is limited to the application in front of us and not a far reaching inquiry into how Chefler is operating.

Mr. Duffy – Just understand we are not being dismissive. We hear you and I believe Mr. Kurland hears you also. It may not be over but it's moving in a better direction. Does anyone else wish to be heard? Having heard none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

Mr. Duffy – Does anyone else have any questions?

Mr. Paparozzi – Just a few things the variances that are being asked for are the expansion of a nonconforming use which is D2 if the Board was to approve would need five affirmative votes. There is also a C variance for parking not on a solid surface and there was one thing I brought up many meetings ago it was during an inspection six or seven months ago the front parking lot needed to be restriped. It hasn't been restriped in the last six months and the condition is probably worse and that would be one of the conditions since it is part of the building and part of Chefler Foods and part of the same lot.

Mr. Pellino – Not repaved restriped?

Mr. Paparozzi – Yes just restripe there was no striping on some of the parking.

Mr. Marz – What if you have to go back and get the times changed to and it doesn't happen what would you do at that point? Would you find a new location or just run from 8 to 7?

Mr. Kurland – I don't have an answer. We would have an issue with our landlord when we first took over this building it was represented to us that it was a twenty four seven available building. How that Certificate of Occupancy got completed it's not my name on it I assume it was and frankly at the time it was me and one other person in this business and then COVID happened and everybody needed food and thing continued to progress and we work really hard and we hired all these people and gave all these people jobs and we did well. We grew beyond what I think we originally even contemplated at this stage. We spent a lot of money and if we were told we can't operate beyond 6 pm it would be a big problem for us.

Mr. Duffy – I don't have anything else Mr. Sarlo if you would like to give a closing statement.

Mr. Sarlo – We appreciate the Boards time and consideration over a year now we have been through various iterations of this application constantly listening and learning trying to improve the amended application. I think with site plan approval the law actually allows you to kind of negotiate your site plan approval through the process. The quote unquote expansion of the nonconforming use to use the rear parking lot you heard in my opening this evening. We're trying to get on the record and get an official document to kind of I don't want to say correct a wrong but to have an official document that the Borough can live by and we can live by. It memorializes everybody's rights and responsibilities given the fact that no site plan approval no variances were required at the time of the occupancy of this building that CO was just issued. We know going back to 1974 the lot was used for parking for vehicles as well as for contractors. As an expansion of a nonconforming use as a planner you can use all your and I'm just going to state some of the provisions of the law and the facts as I see them and you can make your own conclusions if you can tie the two together. For the expansion of a nonconforming use this Board is aware the applicant has to prove special reasons and those are some of the purposes of a Municipal Land use Law. Whether you agree or disagree one of them is to encourage municipal action to guide the appropriate use or development of the lands in a manner which will promote the public health, safety, morals and general welfare. With some of the public comments you've heard how is what we're asking for promote that use and I think it does in terms of we are putting in the proposed landscaping that will stop the circulation around the building which would mean less kind of vehicles and pedestrians on that alleyway between the industrial building and the residential. We're encouraging the use of the easement for the truck trailers for loading but for the box trucks and again keeping everything as far away as possible from the residential property. Another purpose of the Land Use Law is to provide sufficient space and appropriate locations for different types of uses including industrial uses and to respect environmental requirements in order to meet the needs of all New Jersey citizens. Even though this has been rezoned the property initially was zoned industrial and it's still ideally suited for industrial use. You have the railroad you have kind of a buffer with the stream and then you have ballfields. What you have on the other two sides is not an industrial complex but it is two side are a kind of industrial recreation and unfortunately on the other two sides you have residential. At a prior hearing I talked about this is no different than Market Street or Main Street USA in any municipality. When you line a business district with commercial businesses typically right behind them are residential houses so you have that transition that you need to make from the back of commercial buildings to residential. What you do in those cases is you try and mitigate the circumstances as much as possible to make that transition and I think that's what we are trying to do here. Another purpose of the Municipal Land Use Law is to encourage traffic routes which promote the free flow of traffic and try to focus everything onto that Chefler Way with the documentation and the signage and we're trying to move everything over to Chefler Way. In terms of the negative criteria again a lot of this is repetitive because I think what we're asking for in terms of the use of the property is limited so a lot of the reasons are repetitive but the negative criteria is one of the proofs has to be the use that we're looking for the expansion of a nonconforming use could be granted without a substantial detriment to the public good. Substantial is the key word in that phrase and it's really a substantial impact to the neighboring property owners. I know there's concerns with the odors and some of the employees but just focusing on why we're her before the Board for the use of the rear parking lot. There's already an impact and we're trying to lessen that impact with not having tractor trailers there, limiting the number of box trucks, maintaining the gravel and the trees. The second prong of the negative criteria is a variance can be granted without substantial detriment to the impairment of the Zone Plan. That's really been interpreted to mean are you abrogating the authority of the Mayor and Council that put this zoning in place in the first time. One of the interesting things is I looked at the Master Plan reexamination from 2014 and the reexamination of the Master Plan recognizes that there are nonconforming uses throughout the municipality and it goes on to say one Saddle Brook should look at refinements to the zoning as well as use variance petitions. This is not a use variance but it's an expansion of a nonconforming use. Use variance petitions to assure the preservation of neighborhood character and the opportunity for the full enjoyment of the residential property and that Saddle Brook should judiciously consider. The number of hearings that we've had here this Board is certainly looking at all angles of this application, all concerns

of the residents, the needs of the business taking into account all the facts in the law and have really scrutinized this application to try and make an improvement to the rear so I don't think it abrogates the authority or undermines the Zone Plan in any way. That's some of the legal stuff I had to get onto the record but in summation you heard the testimony from Mr. Kurland in terms of how it operates his willingness and commitment to continually communicate with the neighbors and strive to improve the operation for the benefit of the Town and the residents. It's a situation I think where Chefler Foods is looking to continually improve. They made a large investment here and they're staying and we know the residents made a large investment in their property and they're staying so hopefully this goes a long way and continue to strive to make the site better.

Mr. Pellino – Just so we're clear in terms of the parking in the rear yard we're talking how many trucks?

Mr. Sarlo – Ten.

Mr. Pellino – You're looking to park ten trucks in the rear yard. I understand as part of the site plan you're willing to agree to use this gravel bridge system. You'll install it maintain it correct?

Mr. Sarlo – That's correct.

Mr. Pellino – is the applicant agreeable to the vegetative buffer along wherever the property borders the residences?

Mr. Sarlo – what's shown on the site plan from the rear right corner of the building back to the brook by the rear parking lot.

Mr. Kurland – I just want to say on the record we can only do what the food regulations permit. There are certain things about food safety that don't allow greenery right up to the actual building. I don't know I know enough to get in trouble I know that so whatever the absolute maximum we can go up to the building we'll do. There's a distance we will not be able to do because I'm going to have people with lab coats very angry at me when it's time for their audit.

Mr. Duffy – That's understandable.

Mr. Sarlo – Double lined arborvitae to make it dense back there and again as close to the building as possible. That's basically along the parking lot area.

Mr. Mazzer – If there's other spots that needed I'm sure like by her house she can call you and put the trees there right?

Mr. Pellino – Is the applicant agreeable to restriping the front parking lot?

Mr. Kurland – That's just painting the lines over?

Mr. Pellino – Yes.

Mr. Kurland – That's fine.

Mr. Duffy – As per the plan the spots are 15 by 33 for the box trucks? I don't know how big the box trucks are.

Mr. Kurland – They're usually like twenty six to twenty eight feet. It would be more than enough.

Mr. Duffy asks if they are going to pull out the trucks and park their cars there and Mr. Kurland says they will not but probably are right now and that it is not okay.

Mr. Manzo – You say you're going to put ten trucks back there and in six months we go there and there's fifteen trucks.

Mr. Duffy – That's for the Zoning Official to go back there.

Mr. Schilp – If they do the plantings unless they park in the aisles they're not going to get more than ten trucks back there.

Mr. Mazzer suggest that the Fire Official when he does his inspections should check and make sure the standpipe is clear.

Mr. Schilp – I would like to add the standpipe signage and the lot stripes so nobody parks there.

Mr. Pellino – Signage and striping in front of the standpipe to keep them from parking there.

Mr. Kurland asks what it is and the Board explains to him where it is and why it needs to be done and he agrees.

Mr. Schilp asks if they can paint the ramp that goes from the railroad easement to the rear parking lot so nobody parks there because it is a fire lane.

Mr. Kurland agrees to that.

Mr. Schilp – Did he agree to clean the drain back there.

Mr. Kurland – The storm drain? The storm drain is like a county somebody told me it goes back to Route 46 so I don't know if I want to play around with that.

Mr. Schilp – Okay.

Mr. Mazzer – Do the best you can.

Mr. Kurland – I know we recently did because of the fire we cleaned up everything.

Mr. Schilp – The trucks get backed in.

Mr. Duffy – That's the way the plan is set up.

Mr. Kurland agrees.

Mr. Duffy makes a motion to approve the application with the following stipulations.

Mr. Pellino – We are granting a D2 variance to permit the expansion of a nonconforming use by allowing the parking of ten box trucks in the rear of the property. Number two we are granting a variance for parking on a non-paved surface and number three we are approving the site plan as submitted by the applicant the variances and the site plan subject to the following conditions.

1. Applicant to install and maintain the gravel grid surface at the rear of the property where the box trucks will park.
2. The trucks will only back in.
3. The applicant will plant a vegetative buffer of arborvitae as per the plan all of this subject to the reasonable approval of our Board Engineer.
4. The applicant will stripe around the standpipe and post signage indicating that it is to be clear and a no parking area.
5. The driveway in is to be posted or striped that there is no parking along that.
6. Box trucks limited to ten.
7. Restripe the front parking area.
8. The distance from the property line on the southern property line to where the first truck begins will be approximately 85 feet.

Mr. Schilp seconds the motion.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

D.) Budz Prime, LLC, 249 Route 46, Block 120, Lot 5

Applicant is proposing a class 1 adult use cannabis cultivation facility and a class 5 adult use cannabis retail facility, which would be separate from each other with no interior connection and 2 separate outdoor entrances and does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Attorney Daniel Lagana is representing this applicant.

Mr. Lagana says that he knows it's late and would like to get the site plan engineer on the record for this evening.

Mr. Pellino confirms that the notice is in order for this application and they may proceed.

Mr. Lagana – I have five witnesses a site engineer, an architect, an operations individual, a traffic expert and a planner to sum up. We're looking to operate a class 5 retail cannabis license at the front of this building and a class 1 micro cultivator on the rear of the building. We originally filed before the Township's Planning Board and during their completeness review it was determined there may be a conditional use variance violation that would require this Board to hear it. We thought the ordinance was ambiguous and we requested this Board conduct an interpretation application specifically to the two residential apartments that are located within the building. The Board found that it was violative of the conditional use standards requiring the Board to have jurisdiction. We are a permitted conditional use in that regard ordinance 1707-21 was passed by the governing body permitting various classes of cannabis use including class 1 and class 5. The application has been deemed complete we have proper notice and the

Board has taken jurisdiction. With that Mr. Chairman if there are no questions for me I would like to call my first witness.

Mr. Pellino – If I could elaborate a little bit a conditional use is a hybrid of the zoning law it's not an out and out permitted use but it is in a sense a permitted use but subject to specific conditions. In this case it was before us to make an interpretation and the Board found that the condition that it not be near residences was a condition of the ordinance which the application didn't meet. The law is very clear if you need a conditional use variance then only the Zoning Board has jurisdiction. The standard a little less onerous than that for a use variance but I wanted you to understand why he is here.

Mr. Pellino swears in Mathew Wilder he gives his business address as 130 Central Avenue, Island Heights, New Jersey.

Mr. Wilder gives his credentials and the Board accepts him as an expert witness.

Mr. Lagana – Please orient the Board as to the site and its surroundings.

Mr. Wilder hands to the Board Exhibit A1 which is a regional aerial photo of the site dated 9/12/22.

Mr. Wilder – This is an aerial of August of this year that shows the proposed site so you can get a feel of the surrounding area. The photo is from a source called Near Map. To give a little history of the property it is lot 5 within block 120 it's on the westbound side of Route 46 and it's about 600 feet east of the Saddle Brook Shopping Center which is anchored by the Walmart building. There are a variety of uses in the immediate vicinity as the aerial exhibit shows generally speaking along the Route 46 corridors it's pretty much all commercial. As you get west of the site away from the 46 corridor you hit a lot of residential and what you'll notice is east of the subject site you have Saint Mary's Cemetery. What we're looking to do this evening is incorporate a cannabis micro cultivation and cannabis retail sales into the existing building. From the site plan related elements they're fairly limited the majority of the work occurring is taking place within the building but there are some upgrades to the site that we are proposing. We are proposing to stripe the entire property. If you've been to the property there is some limited striping in the front of the property but we are going to stripe 51 parking spaces to serve all of the uses within the development. On the south side of the building you'll notice we're providing a formal loading zone. That loading zone is 12 feet by 30 feet which can accommodate the maximum delivery truck that we expect which is a box truck.

Mr. Lagana – You had referenced some limited striping in the front of the building correct?

Mr. Wilder – Yes.

Mr. Lagana – Is there any striping currently in the rear of the building?

Mr. Wilder – No.

Mr. Lagana – The applicant is proposing to organize the rear where there isn't any organization.

Mr. Wilder – Correct.

Mr. Lagana – You're also creating a loading zone is there currently a loading zone for this building?

Mr. Wilder – There is not.

Mr. Lagana – We are updating the site with striped parking and a loading zone. How many parking spaces are required for this site?

Mr. Wilder – 51 spaces.

Mr. Lagana – There is no variance required for the parking.

Mr. Wilder – Correct.

Mr. Schilp – This is for the entire site the rim shop, your building, the other buildings.

Mr. Wilder – The other buildings are on separate lots so this is handling the rim shop, our proposed uses and the residential uses within the building.

Mr. Paparozzi – Mr. Chairman the rim shop is leaving actually they were approved in Lodi and Mr. Kurus and myself were there and they said they're leaving the site in Saddle Brook although the plans say it's to remain. They were approved two months ago on Route 46 east in Lodi to relocate there. That part of the building and it looks by the architect plans is going to be part of the application. There are no floor plans for the Allstate Engine and Part Supply so I could calculate how many parking spaces are required nor is there any floor plans for the Good Karma Vapor for me to calculate the parking requirement. Additionally there are no floor plans for the residence which requires parking based on bedrooms so I can't calculate that and there is a building to the right when you're facing the property I think it's 255

Route 46 and they seem to be sharing the parking lot in the rear. That I can't calculate either. The size of that building just based in that they would need 50 parking spaces roughly probably more. I disagree with Mr. Wilder's interpretation that there is no parking variance. I believe there is but we still need plans to verify that and additionally if there's shared parking now 255 the company is FT Mobility they have 5 or 6 parking spaces in front that's it. The building is twice the size of the applicants building so they're going to need 50 parking spaces at a minimum and during my site inspection I saw them sharing parking. I saw someone pull in and enter where if you look on sheet 2 they have a canopy that extends into our property and they enter the building that way so there is a parking variance. I'll keep going on parking the spaces are undersized they're supposed to be 10 by 18 and they're 9 by 18 being proposed.

Mr. Schilp – Mr. Chairman I was there tonight and there were 18 large SUV's parked double row apart all the way down. That building they are using eighteen spots over there. I don't know if they have an agreement with the building and you're going to find that out when you get in there. If you look at that picture and I was back there, there are landscapers you name it, it was back there. I saw at least six or seven different businesses storing trucks and whatever you have back there.

Mr. Wilder – On the parking on sheet 2 we give a summary of both the parking requirements and the floor area ratio requirements this does not consider any adjacent building utilizing a portion of this property this is what we based our demand on. The cannabis cultivation and the cannabis retail sale are what our use are. We have other retail use the rim shop this is news to me that they're leaving but there was a portion of the building that wasn't being occupied by the tenant and that was going to remain as retail sales. Then we have 2 residential units which required 4 spaces so based on the uses we were understanding were in the building there were a total of 50.37. I could elaborate on my tables to provide better square footage breakdowns of each but this does not take into account any crossed parking that may or may not be occurring. I am not aware of any documentation my firm did a survey there were no easements that were pulled in blanket or specificity but that doesn't mean there hasn't been an agreement between them.

Mr. Duffy – Did you calculate the two apartments the vape shop is that part of your calculation on these numbers.

Mr. Wilder – It is and for the residential we assumed it was a two bedroom unit I don't have floor plans of the existing units so for a two bedroom apartment we assumed a requirement of two spaces per unit a total of four. We could provide additional information to how we arrived at those numbers.

Mr. Paparozzi – The only numbers that were given on the survey the site plan and the architects plan were some interior numbers which is not the code for determining parking. Whatever Mr. Wilder says I can't attest to because I have no numbers and we have no floor plans and the number of bedrooms dictates the number of parking spaces required I don't know what is on the second floor besides the two apartments.

Mr. Duffy – All that needs to be clarified and presented to the Board.

Mr. Wilder – Okay. Moving on to some of the site relate elements the next big one is we are proposing a trash enclosure in the southeast corner of the property. There's no formal trash enclosure currently. This can fit two side by side five cubic yard dumpsters one for trash one for recycling. The trash will be picked up by a private hauler. Our anticipation is that it will be one time per week but being that it will be a private hauler we have some flexibility to do more or less as needed.

Mr. Paparozzi – Along those lines Mr. Chairman the trash and recycling have to be separated and labeled as such they are not on the plans so they would have to be on the plans so that they can be labeled on the site.

Mr. Lagana – Do you have any problem separating the recycling and the trash?

Mr. Wilder – You want two separate dumpsters?

Mr. Pellino – He just wants you to label them.

Mr. Wilder – Oh sure yeah.

Mr. Paparozzi – It needs two separate containers.

Mr. Wilder – Correct, right now we have a masonry block enclosure that's going to have one gate across the front and two dumpsters inside one for trash and one for recycling.

Mr. Schilp – How do you get them out?
Mr. Paparozzi – You need them separated by a fence.
Mr. Wilder – That’s not a problem.
Mr. Schilp – One of them is in front of a parking spaces.
Mr. Wilder – Do you have the set of plans last revised July 1, 2022?
Mr. Schilp – Yes. This is where the dumpsters are right?
Mr. Wilder – Right.
Mr. Schilp – How does he get the dumpster out?
Mr. Wilder – No the dumpsters are these.
Mr. Schilp – Oh alright.
Mr. Wilder – We can separate them and label them that’s not an issue. We had striped the area in front of the dumpsters so no cars park there.
Mr. Paparozzi – If Mr. Wilder is going to keep the 9 by 18 he has to list that variance as well.
Mr. Lagana – We requested a waiver of that.
Mr. Paparozzi – It’s a variance I didn’t see it on zoning chart.
Mr. Lagana – It was in my cover letter.
Mr. Paparozzi – It has to have the zoning chart and the variance requirements.
Mr. Wilder – We can add it.
Mr. Lagana – It was called out in the Neglia review letter as well.
Mr. Pellino – The good news is you’re coming back you have plenty of time to revise whatever you need to.
Mr. Lagana – Any information the Board may need. You conducted a review of the turning radius in that area?
Mr. Wilder – Correct.
Mr. Lagana – Can you elaborate on it for the Board?
Mr. Wilder – Sure it is most easily viewed on page six of my plan set which is a circulation plan. We’re showing two things there we’re showing a fire truck on the left side of the plan and on the right side of the plan we are showing a standard box truck. A garbage truck is similar in size to a box truck so you can see how both vehicles are able to circulate the site and what they end up using is that hatched area in front of the trash enclosures as a turnaround area. Whether it would be a front loading or rear loading garbage truck they would still have adequate room to maneuver even if vehicles were parked in the adjacent spaces they would not conflict with the loading or unloading of the dumpsters. The last site element we’re proposing is just some site lighting that is detailed on sheet four of my plan set. We’re proposing several wall packs around the building just to improve the conditions around the property now. The rear of the property is pretty much unlit currently so for this use and for any commercial use lighting is paramount to security so we’re proposing some lighting around the perimeter of the building to provide safety for employees and customers who may be doing business after dark. That provides a summary of the site improvements that are proposed.
Mr. Lagana – Are there currently any handicap parking spaces or is this site ADA accessible?
Mr. Wilder – It’s tough to tell and if it’s tough to tell it’s probably not ADA compliant.
Mr. Lagana – Will we be adding ADA compliant spaces?
Mr. Wilder – Yes we’ll have a total of three ADA accessible spaces one in the front and two in the rear of the property.
Mr. Lagana – Some of the site improvements you mentioned would be milling and repaving the entire parking lot.
Mr. Wilder – Correct.
Mr. Lagana – And restriping and organizing it where none currently exist today.
Mr. Wilder – Correct and we’re also going to be reducing impervious coverage. The site right now has asphalt everywhere there are certain areas when you start to lay out parking and drive aisles that are just not needed. In those areas where we can eliminate asphalt we are and we’re putting trees and trying to add some vegetation.

Mr. Lagana – On impervious coverage can you give the Board some background of what's existing and what we're proposing for storm water management.

Mr. Wilder – The existing site is 67.2% impervious coverage and we are proposing to reduce it to 64.9% a reduction of about two and a half percent. We're not proposing any measures to manage storm water runoff we are not considered a major development and just by the fact that we're reducing impervious surfaces you happen to check all of the boxes as far as the state is concerned so even if we were a major development we would check all of the boxes of water quantity of ground water recharge just through the reduction of impervious surfaces.

Mr. Pellino – What is the present storm water condition just sheet runoff.

Mr. Wilder – It is. Sheet 3 of my plan set is the grading plan so right now the site generally slopes from the south to the north and it just sheet flows off. We're not proposing any curbing that would concentrate flows we're proposing to maintain the existing conditions. What we're looking to do is a mill and overlay you take an inch and a half of asphalt off you put two inches back something along those lines. We're not proposing to change the drainage patterns of the property.

Mr. Lagana – We have submitted a letter of no interest to the NJDOT is that correct?

Mr. Wilder – It is.

Mr. Lagana – We're waiting for their reply?

Mr. Wilder – We are.

Mr. Lagana – If this Board will act favorably on this application we will comply with any of the requirements from DOT in that regard?

Mr. Wilder – Yes.

Mr. Lagana – I believe that was one of the comments made by the engineer.

Mr. Wilder – We also did submit for a letter of no interest from the Bergen County Soil Conservation District they don't consider mill and overlay as disturbance so we submitted that to them and we're awaiting that response.

Mr. Lagana – Which we will provide to the Board and its Engineer as soon as we receive it?

Mr. Wilder – Yes.

Mr. Lagana – To reiterate a couple of points we're not proposing any modifications to the building footprint.

Mr. Wilder – Correct.

Mr. Lagana – There are a couple of existing nonconformities is that correct?

Mr. Wilder – Yes.

Mr. Lagana – With regard to the structure itself correct?

Mr. Wilder – Yes.

Mr. Lagana – Can you touch on those?

Mr. Wilder – First is the minimum side yard setback 15 feet is required and on the north side of the property you'll see an 8.7 and a 10.5 foot dimension so it is nonconforming in that regard. The impervious coverage which I reference again doesn't specifically relate to the building but the building plays a part 50% is permitted 67.2% exists and we are reducing it.

Mr. Lagana – It's an existing nonconformity that we are improving?

Mr. Wilder – That's correct and the last is floor area ratio a maximum of .25 is permitted and based on my calculation we have a floor area ratio of 0.256 so very slightly over the maximum FAR.

Mr. Lagana – That is not anything related to the proposed development correct?

Mr. Wilder – That's correct.

Mr. Lagana – That's related to the existing condition of the building.

Mr. Wilder – That's correct.

Mr. Lagana – With regard to the side yard you have an aerial of the lot and you can see its shape is that little jetty kind of left hand turn is that the side yard we're talking about that's violative of the borough code?

Mr. Wilder – Yes so the 8.7 foot setback is in this location which is adjacent to a building that for all intent and purpose has a zero or one foot side yard setback which is this black building here. This location here which abuts a grassed area is the 10.5 foot side yard setback.

Mr. Lagana – We're also asking for two design waivers and Mr. Pappozzi if it's a variance we'll call it out as a variance but my interpretation of the ordinance was a site plan design waiver but I'll leave that to you. The parking spaces and the drive aisle width would you touch on those we are proposing 9 by 18 parking spaces can you give some background in terms of standards as to why you believe those are appropriate for the site.

Mr. Wilder – We did propose larger drive aisles and parking spaces where we had the room to. If you look in the rear of the property the two way drive aisle in the immediate rear we have a 26 foot wide drive aisle and in those areas we have 9 by 19 foot parking spaces. We were able to push our proposed pavement a little bit east to accommodate those larger dimensions. When you look onto the south side of the property in order to get the parking basically a drive aisle that's double loaded where you have parking on each side and also accommodate the loading zone we had to go down to the 24 foot wide drive aisle and then a 9 by 18 foot parking spaces so we are slightly deficient there. Understanding that the Township has their own standard for parking 9 by 18 is a generally accepted engineering standard for off street parking. With a 24 foot drive aisle it does provide adequate provisions to back out and navigate without conflict of other vehicles. In ideal situations where you're not dealing with a building that is not entirely square to the property on a property that's not entirely square you might be able to make things a little bit larger but in trying to maximize the parking with respect to the existing property line and the building there are some areas where we had to fall short of the Township standard to provide the deficient parking stall size.

Mr. Lagana – You referenced general engineering standards can you be more specific as to what standards the drive aisle 24 feet and the parking spaces 9 by 18 are recommended as proper for uses.

Mr. Wilder – There's a multitude of standards there's an ITE standard which the traffic engineer will elaborate on that talks about standard parking space size they're recommendation is 9 by 18 feet and while this is not a residential development there are the residential site improvement standards which talk about parking space size and their recommendation is 9 by 18 feet. These are general standards each Township has the right to enforce their own but what we've tried to do is provide the Township standard where possible but in areas where we're squished between the building and the property line we did have to reduce to some lesser standard to maximize parking in those areas.

Mr. Lagana – Do you believe that because of the lot dimensions and the location of the lawful structure there is a practical hardship to complying with the parking size and the drive aisle in that location?

Mr. Wilder – Yes I do.

Mr. Pappozzi – There is another deviation from Township Code the loading dock is undersized at 14 by 30 it's undersized the minimum size for the loading dock is 10 by 35 feet that would be another variance additionally I'm not sure if it's an architectural or Mr. Wilder's but I'm not sure if the ID signs or any other wall signs were addressed on the architects plan or the site plan so if there is an issue with signs there may be a variance with that as well. I'm not sure if that was detailed.

Mr. Lagana – We did provide detailed signage plans from the architectural plans who will provide that testimony.

Mr. Pappozzi – I'm not sure I got that Mr. Lagana.

Mr. Lagana – I'll make sure you get that.

Mr. Wilder – Just as it relates to the loading zone we sized it for what we anticipated the maximum design vehicle which is a standard box truck. We're showing 12 by 30 feet I can give the dimension of what the loading zone would be if it was 10 feet wide as you'll notice the loading zone tapers as you get closer to Route 46 so it will get a little longer as it gets narrower so we can provide that additional distance but this has been sized to accommodate that maximum delivery vehicle of a box truck.

Mr. Schilp – How does he pull in and out?

Mr. Wilder – It's easiest to see on sheet six of my plan set. He's going to pull nose in then he's going to back up to the back of the loading zone turn into the drive aisle at that point he would turn left then back

into the striped area in front of the trash enclosure and then go towards Route 46. This is the maximum delivery vehicle not every delivery vehicle is going to be a box truck you're going to have delivery vans.
Mr. Lagana – We are going to have an operations witness who will provide testimony to what's anticipated for the site. I don't want Mr. Wilder to testify as to the types of trucks to be used not his area of expertise I have an operations person to give more detail as to what's anticipated as to truck size hours of delivery and so on.

Mr. Schilp – Will he testify about fire truck parking?

Mr. Lagana – He did already but he can touch on it again.

Mr. Schilp – Our ladder truck is 46 feet long you show 43. Three feet makes a big difference.

Mr. Wilder – We can update this. The program we use is AutoTURN and you're bigger than their biggest fire truck so what we'll do is update this plan to show.

Mr. Schilp – We have a 43 footer and a 46.

Mr. Lagana – We submitted this plan to the Township we have not had any comments from Fire or Police we welcome any comments and will accommodate and try to correct the plans to make sure for emergency vehicles there is proper flow on the site. We touched on lighting that was a comment that there was no lighting in the rear of the property. There is a heavy vegetative buffer back there and lighting for security purposes will be provided.

Mr. Lagana – I don't have any other questions Mr. Chairman with that we'll be happy to entertain any questions.

Mr. Kurus – You have two ADA parking spaces in the back and one in the front where are the ADA access points?

Mr. Wilder – You see where it says roof overhang in the back right corner that is one of the access points and then in the front it is in the center of the building. We could add the doors to the plan if that would make it easier to discern where the access points are.

Mr. Kurus – The access point for the retail sales that's in the front?

Mr. Wilder – Right so we have access in the front for that and in the back for micro cultivation. They're separate entities.

Mr. Kurus – The retail sales generates the most parking demand. I guess what I'm seeing most of the parking is in the back so we have to bring everybody to the front.

Mr. Schilp – How many people are going to go into the grow area?

Mr. Wilder – We could put all the ADA spaces in the front if we think that makes more sense.

Mr. Schilp – How many people are going to go into the grow area?

Mr. Lagana – That's for employees only.

Mr. Schilp – That's what I'm saying nobody can go in there except employees but the ADA spots are in the back.

Mr. Lagana – There's two in the back and one in the front.

Mr. Wilder – I would agree.

Mr. Schilp – I agree with our esteemed engineer three should be in the front and none in the back.

Mr. Lagana – I think we have to provide at least one in the back.

Mr. Kurus – So maybe flip flop it and put two in the front and one in the back.

Mr. Lagana – Yeah we can do that.

Mr. Kurus – So back to pedestrian circulation you've got the sidewalk in the rear you're going to build that without a curb or put a curb in.

Mr. Wilder – The sidewalk is going to be flush with the asphalt because we don't want to mess up the drainage patterns.

Mr. Kurus – What stops someone from driving onto the sidewalk I see a couple of bumper blocks in the ADA spaces there's got to be a way to accommodate a curb and a sidewalk on the site.

Mr. Wilder – The only issue with putting in formal curbing is we're going to trap water and then once I trap it I'm going to have a discharge and the discharge becomes a channelized flow.

Mr. Kurus – You would have to design some sort of drainage to accommodate it.

Mr. Mazzer – A storm water tank or something.

Mr. Wilder – We have no issue with doing concrete bumper blocks to protect pedestrians.

Mr. Kurus – You also have these tree pits wouldn't you need some sort of curbed island around them to hold in mulch or soil or whatever you're planting the tree in so it doesn't wash all over the parking lot?

Mr. Wilder – The proposal for those are your typical plastic landscape edging. We weren't proposing any formal curb or anything like that.

Mr. Kurus – Plastic landscape edging at a parking lot edge what if a car hits it it's going to get mushed down it really doesn't work as well as a curb on a commercial site. I understand you want to continue with the drainage pattern but I think you are going to need some strategically placed curb in this parking lot to make it function better. If you can take a second look.

Mr. Wilder – Sure.

Mr. Duffy – The parking in the rear is also going to be for the retail store in the front and we're going to walk him to a loading dock and then that's where they're stopped and then they're walking into the active driveway portion of the property. That's the way you're going to lead them.

Mr. Wilder – They are walking from the rear to the front.

Mr. Duffy – The sidewalk which covers probably about a quarter of the distance along the side of the building and then they're going to have to come across into the active.

Mr. Wilder – I think what would make the most sense is we could run a sidewalk along the north side of the building and that would be your route so you're not walking along a drive aisle and that would be your access from the rear of the site to the front.

Mr. Schilp – The north side is where all the parking is. That's more or less the west side.

Mr. Mazzer – Yeah that's the west side.

Mr. Schilp – The problem is it doesn't face north and south it faces northeast southeast.

Mr. Wilder – I think it would make sense to provide a sidewalk on that side of the building away from all the vehicles and that would be a safe area to get from the rear to the front.

Mr. Lagana – There's a sidewalk north of the loading zone correct/

Mr. Wilder – There is but there is a bit of a choke point.

Mr. Duffy – You're going to bring them to the doorway for the residents for upstairs.

Mr. Wilder – We could accommodate them on the other side of the building with some crosswalks and signage. We would have no issue doing that we could add additional signage if the concern was that folks could be walking by the residential access points.

Mr. Duffy – Because on the residential side we're walking them into an active driveway and I read the traffic report and we're looking at 55 cars at peak hours coming through that parking lot.

Mr. Manzo – In Rochelle Park they have guys directing traffic they have police blocking off the roads it's like a zoo over there.

Mr. Schilp – Go over there now there's nobody the cop sits over in the corner and does nothing and Lodi there isn't even a cop over there.

Mr. Lagana – The initial rush.

Mr. Schilp – Yeah and now it's gone. You put a diagonal walkway but he's right into the loading dock and if a guy pulls all the way up they'd have to walk into the parking space and then walk down an active driveway to get to the front of the building and I think that's extremely dangerous.

Mr. Kurus – A site pedestrian circulation is what we need.

Mr. Duffy – This doesn't take into account the other businesses that are in there right.

Mr. Schilp – That's right.

Mr. Duffy – We also have another issue which we don't know how that plays out is the building next door and the shared property and who's driving in and out of there. Did you guys look at that by any chance?

Mr. Lagana – The understanding that I have is that red line is this property.

Mr. Duffy – I don't know is there some kind of agreement because you guys are only tenants.

Mr. Lagana – That's why we're leasing.

Mr. Schilp – You lease the parking lot?

Mr. Lagana – That entire lot is going to be ours.

Mr. Schilp – Then you can tell the guy that's got his overhang into your property to take it down.

Mr. Lagana – I would prefer that.

Mr. Paparozzi – I think there must be some sort of parking arrangement at the very least there has to be a prescriptive easement because they are parking there I did two site inspections and they are parking there. I don't know if that's been an arrangement for many years but they are parking there because the building is maybe two hundred fifty three hundred feet long they only have six spaces in front. The parking analysis only calls for six employees and I'm assuming there is several in the sales I'm assuming security somebody by the loading dock and if you've got 6000 or 8000 square feet of cultivation I'm sure there's going to be several there. The number of employees which also comes into play with parking seems to be a little low. I'm sure somebody's going to testify but that doesn't seem correct.

Mr. Lagana – We have an operations person that parking requirement is specific in the code to the cannabis cultivation aspect of it which generates the required parking spaces not the retail the retail is done by square footage. The cultivation was done by number of employees and we're going to provide testimony and we've provided indications that it's going to be six employees at peak hour and that will generate the parking spaces needed.

Ms. Murray – What about the other businesses?

Mr. Lagana – Mr. Wilder's parking count calculated the other businesses what we did not have as a definitive number was the floor plans of the residents we calculated it based on bedroom count but we need to confirm that aspect of it. Sammy's Rims I don't know if that's done that's probably more hypothetical at this point we have no proof I would be happy to look at anything if they are moving but at this point Sammy's Rims is there and we deal with what's existing.

Mr. Duffy – You have Mr. Paparozzi's report?

Mr. Lagana – Yes.

Mr. Duffy – He has some concerns and I'm asking you whatever those are please address them so we can get definitive numbers.

Mr. Lagana – Sure.

Mr. Paparozzi – Sammy's Rims was in front of the Planning Board in Lodi a month again and they secured a site on Route 46 east in Lodi saying they're moving from Saddle Brook.

Mr. Lagana – Is there a resolution you can find me?

Mr. Pellino – As long as they exist there now they have no choice they have to calculate based on what's there.

All agree.

Mr. Lagana – Are there any other questions for this witness?

Mr. Kurus – I think those are my questions for now once we see an updated pedestrian circulation sidewalk plan we would be able to have some more comments.

Mr. Paparozzi – I think they know what I'm looking for we need some floor plans for Good Karma the auto parts place even the area of Sammy's Rims.

Mr. Duffy – The auto parts place is actually part of the cultivation section of this.

Mr. Lagana – That's being removed and replaced.

Mr. Paparozzi – There's only one business remaining out of the three?

Mr. Duffy – Good Karma we thought Sammy's and the two residences.

Mr. Mazzer – There's a buffer between the property and the cemetery how big is that because if you had to maybe you could go to the landlord and say we need more parking in the back.

Mr. Wilder – About 70 feet give or take. We certainly could.

Mr. Mazzer – If you needed more space.

Mr. Wilder – The thought was that we didn't want to increase the impervious coverage.

Mr. Duffy – That would change those numbers. Since there are no other questions for this witness can I have a motion.

Mr. Schilp makes a motion seconded by Mr. Manzo to open to the public. All in favor – YES.

Mr. Duffy – Hearing no one.

Mr. Schilp makes a motion seconded by Mr. Manzo to close to the public. All in favor – YES.

Mr. Duffy announces that the application will be carried to the October 3rd meeting without further notice.

6. RESOLUTIONS

A.) Approval for Jean Makowka, 458 North Midland Avenue, Block 1402, Lot 53

C.) Approval for Ready Spaces Management, LLC, 575 North Midland Avenue, Block 1701, Lot 1.02

Mr. Schilp makes a motion seconded by Ms. Murray to approve the resolutions.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Duffy – YES.

B.) Approval for BT-Newyo, LLC, 280 North Midland Avenue, Block 1202, Lots 27-29

Mr. Schilp makes a motion seconded by Ms. Murray to approve the resolution.

Roll Call - Ms. Murray, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz - YES.

7. MINUTES

Meeting of August 1, 2022 Regular Meeting

Mr. Schilp makes a motion seconded by Ms. Murray to read and file. All in favor – YES.

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 6/17/22 (75 Wilson Street)

Anthony Kurus to the Zoning Board, 7/19/22 Revised (75 Wilson Street)

Anthony Kurus to the Zoning Board, 6/17/22 (110 Graham Terrace)

Anthony Kurus to the Zoning Board, 7/27/22 (243-253 Route 46)

Anthony Kurus to the Zoning Board, 8/18/22 Revised (243-253 Route 46)

Anthony Kurus to the Zoning Board, 9/02/22 Revised (243-253 Route 46)

Mr. Schilp makes a motion seconded by Ms. Murray to read and file. All in favor – YES.

9. VOUCHERS

Basile Birchwale & Pellino, 8/01/22, Budz Prime, 249 Route 46, Block 102, Lot 5 \$875

Basile Birchwale & Pellino, 8/01/22, BT-Newyo, LLC, 280 N. Midland Ave, Blk 1202, Lots 27-29 \$1000

Basile Birchwale & Pellino, 8/01/22, BT-Newyo, LLC, 280 N. Midland Ave, Blk 1202, Lots 27-29 \$625

Basile Birchwale & Pellino, 9/01/22, Todd & Dana Minimi, 524 Steinway Road, Block 702, Lot 3 \$250

Basile Birchwale & Pellino, 9/01/22, Jean Makowka, 458 N. Midland Avenue, Block 1402, Lot 53 \$250

Neglia Engineering Assoc., 8/18/22, Ready Spaces, 575 N. Midland Ave., Block 1701, Lot 1.02 \$285.56

Neglia Engineering Assoc., 8/18/22, Curcio Realty, 156 Midland Avenue, Block 403, Lot 9 \$175

Neglia Engineering Assoc., 8/18/22, Budz Prime, 243-253 Route 46, Block 120, Lot 5 \$1025

Paparozzi Associates Inc., 8/02/22, Jean Makowka, 458 N. Midland Ave., Block 1402, Lot 53 \$438.75

Paparozzi Associates Inc., 8/02/22, Budz Prime, LLC, 249 Route 46, Block 120, Lot 5 \$675

Paparozzi Associates Inc., 8/02/22, Ready Spaces, 575 N. Midland Ave., Blk 1701, Lot 1.02 \$807.50

Return of Unused Escrow, 7/26/22, Roszkowski, 9 Youngs Place, Block 1810, Lot 17 \$1932.67

Mr. Schilp makes a motion seconded by Ms. Murray to pay if the funds are available. All in favor – YES.

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.

Mr. Duffy – Having seen none.

Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

11. ADJOURN

Ms. Murray makes a motion seconded by Mr. Schilp to adjourn. All in favor – YES.