

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
February 7, 2022 Regular Meeting

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

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

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, Mr. Calvitti and Mr. Duffy – Present, Mr. Burbano arrived at 7:12. Also in attendance are Stephen Pellino the Board Attorney, Anthony Kurus the Board Engineer and Gary Paparozzi the Board Planner.

Mr. Pellino swears in Tyler Champy as Zoning Board of Adjustment 2nd Alternate.

5. NEW BUSINESS

A.) 279 President St. Saddle Brook Condo Association, 283 & 285 President Street, Block 105, Lot 11.01

Applicant requests to build two rear 13'x13' decks with stairs that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

Mr. Tokosh recuses himself for this application and Mr. Champy sits in for him.

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

Jack DiLisi is the attorney representing this application and he is also an owner of one of the two duplex units that are seeking relief from the Board.

Mr. DiLisi spells his name and gives his address as 331 Outwater Lane Saddle Brook New Jersey.

Mr. Pellino swears in Magat Shehata who is the owner of the other unit of the duplex he gives his address as 283 President Street Saddle Brook New Jersey.

Mr. Pellino swears in Mr. DiLisi also as he may need to testify.

Mr. DiLisi explains to the Board what it is he is asking for which consists of 2 rear decks for the 2 units that exist on the site. They will be 13' x 13' and the variances and square footage is indicated on Mr. Ambrogio's Zoning Denial Letter.

Mr. Duffy asks for clarification on the dimensions of the decks.

Mr. DiLisi – It is 13 feet out from the house. No more than 13 feet it may be 12 and a half when we are finished plus an additional 42 inches that is required for the stairwell. All together it's 16 and a half by 13 feet if you include the stairwell.

Mr. Duffy- There are no specs on the deck I saw the stairs that were there and the landing where the doors are. Is that going to be the height?

Mr. DiLisi – That is going to be the height. It is off of the two sliding doors. It will be an open outdoor deck.

Ms. Murray mentions that there is a business behind the house and no other homeowners would be impacted by the decks.

Mr. DiLisi explains that there are also arborvitaes along the fence that shields the view.

Mr. Schilp asks if they are putting railings up.

Mr. DiLisi says that he will and that it would be required by code and will be on the plans that will be submitted to the Building Department.

Mr. Paparozzi asks if the stairs will be coming down onto anything like a patio or walkway because it will change the lot coverage.

Mr. DiLisi explains that there is no landing now and that they will just go down to the ground.

There are no other questions 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 seen none.

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

Mr. Duffy – We just want to be sure that there will be nothing at the bottom of the stairs other than dirt or grass because if there is we would need to account for it now.

Mr. DiLisi says it will be onto the grass.

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

Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Marz, Mr. Champy, Mr. Duffy – YES.

Mr. Pellino swears in James Burbano as Zoning Board of Adjustment 1st Alternate.

B.) 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 carried from the October 4th meeting and has asked to be adjourned until the February 7, 2022 meeting due to a scheduling conflict).

Mr. Duffy tells Mr. Sarlo that we do have a full Board to hear and vote on the application.

Mr. Pellino verifies that the notice is in order and the application may be heard.

Charles Sarlo comes forward to represent the applicant.

Mr. Sarlo reminds the Board as to when he first appeared with this application in October of 2021 and states that they have returned with an amended site plan application after hearing the concerns from the Board and members of the community at the last hearing. He also goes over some of what took place and what the application is all about which is that the company Chefler foods is looking to revamp and utilize a rear gravel parking lot that has been used for storing vehicles to one that is actively used on a daily basis for box trucks and employee vehicles. He describes the history of the property and the different uses of the site over the years. He maintains that the lot has been used continually over the years but not for the purpose that is being requested. In addition the zone has changed from Industrial to Townhouse so it is a nonconforming use. He explains that the expansion of a nonconforming use is not only an expansion of the existing building but an expansion of the business itself such as employees, shifts, hours of operation, truck usage etcetera. He tells the Board that the initial application was for tractor trailers and that has been changed to box trucks. A limited number of 10 box trucks. There will be no refrigeration trucks being operated in this lot. They will only be running when they are at the loading dock. The delivery drivers would come to the site park their vehicle in the rear get in one of the box trucks et it loaded if it has not already been loaded and go out to make their deliveries. They would return in the evening and park their truck and leave in their personal vehicle. The drivers would leave between 5 and 7 in the morning and return generally between 4 and 6 in the evening. This will reduce some of the parking in the front of the building. If there are concerns about oil leakage onto the gravel lot there would be a greater chance of that happening with 50 or 60 personal vehicles that may not be maintained properly as opposed to 10 trucks that will be maintained and serviced regularly in order for them to be used by the company. Their new January 28th submission includes an amended site plan, a turning exhibit, a gravel truck parking memo dated 1/26/22 from Andy Raichle of Matrix Engineering. There is also an easement document that concerns the access to the lot from Midland Avenue and along the railroad tracks. After a

routine inspection by the Fire Chief they repainted and restriped the fire zone. The noise ordinance talks about decibels and the code is at the property line the decibels would be 50 decibels from 7 am to 10 pm. Then from 10 pm to 7 am 65 decibels so it goes up overnight. I can only infer the reason as to it going up that people at night would have their windows shut for either air conditioning in summer and heat during the colder weather. The noise ordinance exempts the emission of sound in the jurisdiction of OSHA. The trucks backing up with the beeping sound is not mandatory by OSHA. OSHA says that if the trucks come with the backup beeping feature they cannot be disabled by their regulation. The box trucks will be easier to maneuver than the tractor trailers so there will be less backup beeping sound. New Jersey has an idling law that prevents a vehicle from idling more than 3 minutes. It can go up to 15 minutes if the temperature is under 25 degrees Fahrenheit. The idling law can be enforced by the Health Officer or the Police Department. We will be proposing 2 rows of arborvitae as a buffer and the owner would be willing to put up a fence at their cost to help the situation for some of the neighbors affected.

Mr. Duffy asks if the 10 box trucks are total trucks on the property.

Mr. Sarlo says that they are only here for the rear parking lot and that they would still be using the loading dock as well as the triangle near the railroad tracks to park trucks.

Mr. Pellino reminds Mr. Sarlo of the letter from the Zoning Officer that says they are limited to 9 total trucks on site.

Mr. Sarlo says that the number 9 was an arbitrary number and was discussed in detail at the meeting in October.

Mr. Pellino swears in Andy Raichle he states his name spells his last and gives his business address as Matrix New World Engineering 26 Columbia Turnpike Florham Park New Jersey.

Mr. Raichle explains the changes to the site plan in response to the engineer's review which includes a zoning chart and dimensions to the building.

Mr. Pellino recommends adding a 2 to the beginning of the exhibit to identify them.

Mr. Sarlo calls the amended site plan 2A-1 prepared by Mr. Raichle that was in the packets to the Board. The vehicle turning exhibit 2A-2 the gravel truck parking memo 2A-3 axis easement 2A-4 and another amended site plan 2/6/22 with zoning chart and dimensions 2A-5.

Mr. Raichle describes the changes that were made. The parking lot is smaller and further from the neighboring properties. There are 10 defined parking spaces on a gravel paver parking lot that allows for the delineation of parking spaces. A ten foot wide concrete path under which the truck engines would sit. A second row of arborvitae plantings along the screen area. The principal element that changed is the gravel pavement which is a product that is a grid system and it can handle the weight of the trucks so it keeps the maintenance to a minimum. There is also a reduction in the size of the parking area and wheel stops to prevent the trucks from going past the gravel parking area. The only ingress and egress is through the easement along the railroad tracks. The maximum size of the box trucks will be 35 feet in length.

Mr. Duffy asks what the procedure would be for the drivers coming in with their personal vehicles and then leaving with their delivery truck.

Mr. Raichle explains that they would come in and park their personal vehicle where the truck they are taking was parked.

Mr. Pellino asks what if they needed to load the truck that morning and Mr. Sarlo says they would take the truck to the dock and have it loaded before leaving. He also emphasizes that there will be no truck loading in the parking lot by forklifts or other means.

Mr. Duffy asks if the gravel surface has the ability to handle a forklift being driven on it.

Mr. Raichle says the gravel lot has a 40,000 pound capacity.

Mr. Duffy tells Mr. Raichle that OSHA has authority only over the workers and their environment not the neighbors and the neighborhood speaking as a safety consultant himself. He explains that the backup alarm is not an inconvenience by OSHA standards because it is not based on an 8 hour time weighted average so the alarm is not an inconvenience it is a warning device and it is there for a reason.

Mr. Paparozzi asks about snow removal on the gravel lot.

Mr. Raichle says that there is a grid surface and is more agreeable to snow removal but it is not plow down all the way snow removal capable but it is plow able.

Mr. Paparozzi – There were 12 tractor trailers during my first inspection where do they go?

Mr. Sarlo – My client had to lease another location.

Mr. Paparozzi – The easement is for ingress, egress and maintenance. There are a lot of trailers parked along that easement some with cabs some without all the way down to Midland Avenue. I assume it's your client and if they are parking trucks there and leaving them overnight then he is violating the agreement. How do we rectify that?

Mr. Sarlo – It is an easement so it is on private property.

Mr. Schilp – Sometimes during the day there are trucks parked in the one lane that is left because they are waiting for the loading dock and we can't get through with a fire truck so we lose access to the back of the building. The standpipe is also in the back of the building in the northeast corner.

Mr. Sarlo proposes signage to keep from blocking the standpipe because they are unable to stripe the gravel lot.

Mr. Schilp emphasizes the fact that when there are trucks parked along the easement and then trucks stopped waiting for the dock to load or unload that it is not possible to get back there with a fire truck.

Mr. Sarlo says that they can put up signage and paint a fire lane but it is not his client's property but we could make a good faith effort to allow the police to enforce it on private property.

Mr. Burbano says that the client can police it because they are using his facility. If they see there is a problem they can address it.

Mr. Tokosh – Prior to the first meeting I counted 23 trucks back there. I was there yesterday and I counted 25 trucks there. You're showing 10 trucks that you're going to have where are all the trucks going to go?

Mr. Sarlo – My client has leased property off site to put the trucks. Zoning violations are no different than a speeding ticket you have to go to court and pay a fine. A resolution with conditions limits what you can do so if there is a complaint the Zoning Officer goes back there and counts even 1 tractor trailer if this gets approved that's going to be a violation of his resolution of approval and the Zoning Officer can issue a ticket and either pay it or go before the judge and defend himself.

Ms. Murray – I was there yesterday and I counted the 23 cabs and box trucks plus 2 pickups plus a trailer plus a tanker and I have an Explorer and I could just get down and around the curbing to get into that back corner. I don't know how you're getting trucks back there because I almost clipped the curb with my Explorer. If the owner of the property knew this was going to be an issue in October and he leased a space why is it still congested? What is going to give us the confidence that he is going to do what he is supposed to do or do the resident around there become the defacto police for zoning to call the Building Department consistently until he gets tired of getting fined. If it was me and I knew it was a major concern I would have already started cleaning it up. The egress and the ingress is on page 2 and says he can use it for ingress and egress. Those tractor trailers should be parked in the ingress line so that you can have 1 going in and 1 going out. There should be no tractor trailers parked there but every time I go past there I see at least 6 sometimes 8 parked there with and without cabs. You're not showing good faith he has not indicated to me that he in good faith is putting them someplace else because he would have moved them already in anticipation for tonight.

Mr. Sarlo says that his client has an offsite place to put the trucks.

Mr. Duffy – Technically it doesn't matter to us whether you have it or not what happens is if this is granted with these stipulations there better not be more than 10 trucks back there.

Mr. Schilp – You keep talking about 10 spots its 10 spots in the back.

Mr. Duffy – Not counting the 9 on the side.

Mr. Schilp – There's loading docks and there are other ones on the side that are legal. The ones that are not legal are the ones siting here on the easement. It's more than 10 spots.

Mr. Sarlo – We are here for the rear parking.

Ms. Murray – I had a question on the turning template. If all 10 box trucks are parked there according to the turning template cars really can't be in the way for those trucks so the will have to be very careful where they put their cars before they move the trucks to get back in their car and they put it in the spot.

The template kind of uses all of it so where are they putting their cars in the interim before they move the trucks?

Mr. Raichle – Not trying to be cute they would have to move them out of the way of their turning templates. It will have to be choreographed.

Ms. Murray – So there will be a lot of idling cars back there. If 10 drivers all come in at the same time we could have 10 cars idling 10 trucks on back and forth until they all get out.

Mr. Duffy – They would be subject to the 10 minute idling rule. The neighbors would be in their right to call if that takes place. I have a question about the screening in the southeast corner what is the overall width of the fire lane coming down the side of the building? Is it still considered a fire lane?

Mr. Raichle – It is not designated as a fire lane so we didn't want to put an encroachment upon it.

Mr. Duffy – You are actually crippling it so there is no emergency or fire truck that can come down that side of the building. They would only be able to come in through the easement.

Mr. Raichle – We left this open for the turn.

Mr. Duffy – How much space is that between the building and the first row of bushes.

Mr. Schilp – We would never come down that side unless it is a dire emergency. We were riding around the other day with the car to try to get in there from Lyster it would be extremely difficult to make the turn with the size of the trucks we have nowadays. There are bushes and shrubs hanging through the roadway coming through the fences. It is the collapse zone so we would never come down that way.

Mr. Raichle – We stopped here intentionally. It is up to the Board and the professionals if we extend it all the way to the building.

Mr. Burbano points out that the area back there is large enough to park tractor trailers and still be able to maneuver the box trucks around.

Mr. Raichle tells him that they are not proposing any tractor trailers in the back lot only the box trucks.

Mr. Kurus asks what the setback from the gravel lot to the neighboring property.

Mr. Raichle – It is 85 feet.

Mr. Kurus asks about the truck that was used in the turning template.

Mr. Raichle explains that it was a custom size 35 foot box truck that the applicant uses.

Mr. Kurus asks for some more information on those trucks as he is not familiar with that type of truck.

Mr. Raichle describes the grid system that will be used for the gravel lot. It contains reflective delineators that are set into the grid they are elevated above the gravel and are colored.

Mr. Manzo asks if they load trucks to be left over night for pickup in the morning will any of them have to be refrigerated.

Mr. Sarlo says no.

Mr. Schilp comments that he has not seen or heard any refrigerated trucks running when he was there.

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

Mr. Duffy asks if anyone has questions for Mr. Raichle.

Paul Gordon comes forward he gives his address as 455 Steinway Road. He asks about the offsite parking that was brought up by Mr. Sarlo. He says that there are at least 3 properties that are affected by this parking lot. He has a packet of photos that he hands out to the Board.

Mr. Pellino has them marked as G1 for Gordon.

The photos are taken from his yard showing what he sees from where he lives going on there. Some are before they started using the parking area and then what is currently taking place during the day and at night. He also has photos of their property showing garbage and debris littering the area and the runoff stream. The first were several years ago when he had the pool put in and the others are within the last month or two. He describes the photos and he voices his concern about the use of this parking lot and says it used to be that they stored some trucks back there and they would come once in a while to move one in or take one out but now it is a 24 hour truck terminal. He has spent a lot of money on his property putting in a pool and he loves to be outside using his yard. He wants to know how they can operate like this if it is a Townhouse Zone.

Mr. Duffy tells Mr. Gordon that the building was built in the 70's and at that time it was an Industrial Zone.

Mr. Pellino explains that by the age of the building it has been there before the change of zoning. It is considered a valid nonconforming use. The reason they are here is that they want to expand that use and for that they need a variance.

Mr. Duffy tells Mr. Gordon at this point his comments or questions need to be directed to Mr. Raichle and what he had testified to. He tells him he will have a chance later to voice his concerns.

Catherine Neunzig comes forward Mr. Pellino swears her in she lives at 512 Lyster Avenue.

Ms. Neunzig asks Mr. Raichle what the cubic foot capacity of the box trucks is.

Mr. Raichle – I don't know.

Ms. Neunzig – How about a tractor trailer?

Mr. Raichle – We are not proposing a tractor trailer.

Ms. Neunzig – I know it's part of the question. My question is you said that there is probably about 25 tractor trailers on this property right now are we to understand that 10 box trucks which are much smaller than a tractor trailer are going to take over for these 25 tractor trailers?

Mr. Sarlo again states that his client will have an offsite location for the tractor trailers.

Ms. Neunzig wants to know if this will be additional trucks on the property or if not how is his client going to scale back his business so that the box trucks are enough to accommodate the business.

Mr. Sarlo explains that he is talking only about the rear parking lot for the 10 box trucks.

There is a discussion about the type and quantity of trucks on the property. They establish that they will be able to have tractor trailers on the property just not in that rear parking area. They are asking for 10 spaces for 10 box trucks in that rear parking area.

Grace Kasturas is sworn in by Mr. Pellino she lives at 481 Steinway Road.

Ms. Kasturas asks about the side of the building where there is a dumpster and a lot of activity going on there. She has to keep her shades down because there are cars driving through people walking by. There is a dumpster sitting there attracting rodents. She has been living there for 17 years.

Mr. Duffy interrupts and explains that what this is about is the business owner asking for 10 spaces in the rear parking lot and any questions need to be relative to that. He tells her that when there is an open to the public for the entire application she will be able to speak about it then.

She asks if there is anything planned for the side of the building she is talking about.

Mr. Sarlo tells her that there are no plans for that area.

Mr. Raichle explains that there is nothing planned for that area and there will be no truck traffic on that side of the building.

Janet Taormina comes forward she lives at 447 Steinway Road. She asks what happens with the personal vehicles leaking oil and anti-freeze on that gravel lot. She says you can't answer it because you don't know the drivers and you don't know their vehicles you know the trucks. This is going to be a problem leaking into the soil.

Mr. Raichle – There is a 10 foot wide concrete path for them to park on.

Mr. Duffy asks if anyone else would like to speak. Having heard none.

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

Mr. Sarlo says that he has no other witnesses.

Mr. Paparozzi recommends that they restripe the front parking lot as part of the approval.

There is a discussion and debate as to whether or not the Board can require them to do that. Mr. Sarlo says he will consider reasonable conditions.

Mr. Kurus asks if they could put some more landscaping in the open space between the arborvitae buffer and the gravel parking lot.

Mr. Duffy asks about cleaning up the garbage and debris that is back there.

Mr. Sarlo says it will get done.

Mr. Kurus recommends some pine trees in that open area to reinforce the buffer and reduce the risk of truck overflow.

Mr. Mazzer echoes some of the other members concerns and would like to see some technical information on the material they plan on using for the lot.

Mr. Duffy asks if it is impervious.

Mr. Raichle says it is pervious and will match the existing grade and drain toward the drainage ditch.

Ms. Murray agrees with Mr. Kurus regarding the extra plantings because it would keep them from parking there and will also increase the buffer to shield the building from the neighbors.

Ms. Murray asks if there is a man door in that area.

Mr. Sarlo says that there is one he believes it to be an emergency exit.

Mr. Manzo says that with the plantings they should leave enough room for a sewer truck to get back there because there are 2 manholes in that corner.

Mr. Raichle says he understands.

Mr. Tokosh asks how tall the plantings will be initially.

Mr. Raichle – At the time of planting 6 to 8 feet.

Mr. Tokosh suggests having them plant taller bushes initially.

Mr. Raichle – It would be difficult with availability but he is willing to see what they can do.

Mr. Schilp would like the arborvitaes to go all the way to the building. He would like the south driveway to be marked emergency vehicles only.

Mr. Duffy wants to know what the total number of trucks that Mr. Ambrogio the Zoning Officer said he could have on site his understanding was 9 trucks.

Mr. Sarlo disagrees and said that the tenant was issued an unconditional CO when they moved in which was 2017. The 9 trucks came about because the Zoning Officer denied a construction permit for a refrigeration unit. Then he alleged the installation of a refrigeration unit for a food manufacturer was an expansion of a nonconforming use and we said how could that be. Then there was a dialogue and the Zoning Officer suggested if we would put in writing the type of use and operation that we have today even though he issued a CO back in 2017 he would then issue a zoning permit based on that. We did that and it's probably part of the initial application. Then in the zoning permit he issued he said he thought 9 trucks on site. In the initial application I put down that 9 trucks was just an arbitrary number not substantiated. The initial application for use of this rear parking lot by the property owner to use it for construction was back in 1991. It talked about they filed a preliminary and final site plan for use of rear land area for parking trailers used for construction projects. It talked about incidental parking of vehicles. I think the Zoning Officer took the word incidental to mean minimal. In land use law incidental and customary is a legal term for an accessory use. The truck parking would be an accessory use to the manufacturing or warehousing operation. It's inconceivable that in 1974 when this application for an industrial building was approved that the Planning Board this is a 4.27 acre piece of property parking in the front for visitors and employees. An 82,000 square foot building with loading docks if it's a manufacturing warehousing operation with loading docks and a parking area that is not connected to the loading docks. The only area to park trucks to support the industrial operation of the warehouse other than the loading docks would be back here. It is inconceivable that the Planning Board did not initially approve this for parking. Coming back to the word incidental I don't know where the number 9 came from. In my opinion it is a random number.

Mr. Pellino – You have to agree nobody said unlimited parking you can't imagine the Board said park whatever you want.

Mr. Sarlo explains that he tried to get documentation from the Township but there were no records found possibly due to a flood. I see no basis for where he came up with 9.

Mr. Pellino – But he did come up with 9 it means something. I think the question is, what was the nature of the use at the time the zone changed to Townhouse and has your client expanded on that use.

Mr. Sarlo says he could not tell from the zoning map but I could tell you that in 1974 the property was used as an industrial warehouse. In 1979 per the Google aerial photo exhibit the lot was being used for cars and it was a school. There is a 1987 application for a renovation of the mezzanine and that application says the present use of the property was a technical school office and warehouses. I don't know how it became a technical school because that is neither industrial nor residential. The point is from 1974 to at least 1987 it seemed to be warehouse use. In 1991 that's when the property owner applied to use the rear land are for construction purposes. The 1991 application was not for the parking lot to support the current use on the property but was for his own construction vehicles. At that point in time in 1991 they thought the use of that rear parking lot did not have a significant detrimental impact to the neighbors.

They allow for vehicles to come offsite onto the site to be stored. The 1991 application says the present use of the property industrial warehouse since 1974 it supports that timeline. Through 1991 it was used as some form of industrial warehouse along with a school at a point in time.

Mr. Pellino – I don't think there is any question that your client can use it as a warehouse the question becomes the intensity of that use.

Mr. Sarlo – The intensity of the rear lot.

Mr. Pellino – You are trying to limit it to the rear parking lot. Tony Ambrogio says 9 trucks in total on the site and I know you disagree with that and maybe it's wrong but.

Mr. Sarlo – Why would he give a CO?

Mr. Pellino – The CO doesn't tell you how many trucks the CO says a warehouse food establishment he gives you a CO it doesn't say how many trucks but we know the law of nonconforming use has said you can't expand either physically or by intensity that use and I think that's the question.

Mr. Schilp – There are 9 loading docks maybe that's where he got his number from.

Mr. Sarlo – That could be. That would seem logical.

Mr. Raichle – From a site planning perspective you're designing a warehouse and parking you need somewhere to park. It couldn't be just 9 loading docks with no trucks it couldn't operate.

Ms. Murray – In the 2021 application Chefler was talking about what he has. He says he operates so many trailers. It say he has 17 and very rarely if ever would all 17 trailers be parked for any extended period of time. This is their explanation of their operation. We estimate that a maximum of approximately 15 trailers would be ever on site at the same time with all shipping bays occupied before. Every day I've gone there there's quite a bit more than the 10 plus the 9. The 10 in the back and the 9 bays so that's 19. Every time I've gone there it's been more than that. This is where the non-confidence comes in as opposed to is it going to be followed. If this is your clients statement that says that is how many we got now if he has expanded on even those 17 and he has now 25 well that's not our problem it's his to find spots for those other 8 trucks over the 17. This is where I think some of these numbers are coming about because of the age of the application and the grandfathering in of the operation it's a little muddled some of the stuff was done by Planning and not by Zoning but as you can see there has to be some kind of limit to make the residents in the surrounding area have more confidence that they are not going to be the Zoning Police for this parcel of land. There's confusion on the number so there is 9 loading docks which I just read in there and he says he only has 17 and there's never going to be very rarely 17. That leads me to believe 9 plus 10 in the back is already 19.

Mr. Sarlo – I think the 17 was to support the rear parking lot. Not including the 9.

Ms. Murray – He says he has a maximum of 17 very rarely 17 at the same time. I think there is some ambiguity.

Mr. Schilp – Right now he should have a total of 13 legal spots the 9 loading dock and 4 in the triangle area. He wants to put 10 in the back that makes 23. There's a lot of times there is nobody at the loading dock and they are parked along the right of way. They are all tractor trailers no straight jobs.

Mr. Sarlo says that it is an easement not a right of way.

Mr. Duffy – The railroad gave permission to the owner to be able to go back and forth and use it as an egress it never says he can park anything there. Who said that triangle is 4 legal parking spots it's just a space that can fit 4 trailers and a sea box which is there also. I think it would be prudent to open the meeting to the public.

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

Mr. Duffy – The meeting is open to the public on this application and you can express your concerns, comments, questions on any part of this application.

Mr. Gordon steps up to the podium. He is reminded he is still under oath. Mr. Gordon asks if he can read into the record comments from homeowners that are not present at the meeting. Mr. Duffy explains that he is not allowed to do that because Mr. Sarlo needs to have the opportunity to question them and if they are not here he can't do that.

Mr. Gordon says that when the construction equipment was being kept there is was not a problem because they would just sit there and it was not in and out all the time. This is now an active truck hub.

He is concerned about his property value being affected by the noise and the sight of the trucks and the operation in general. He describes the photos that he handed out and what each represents. They show what it was like before they cleared out the back and began using that lot. There are photos of the lighting at night shining toward his house and the trucks parked looking like a billboard. He also has pictures of the stream with garbage, oil and debris littering the area. He brought a sample of the oil for the Board to see. He also has concerns about when it snows and where they will put the snow from the lot probably the stream he says and will that cause flooding he asks.

Mr. Sarlo asks Mr. Gordon when he bought the house and he replies 1999 and his wife corrects him and says September of 1998.

Mr. Mazzer asks Mr. Gordon if two rows of arborvitaes and some pine trees would help the situation.

Mr. Gordon shows Mr. Mazzer and the Board the pictures of when he first moved in and that there was a lot of trees and natural growth, so much that you could not see the building. Now the trees have all been cut down and you can see everything.

Janet Taormina steps forward and Mr. Pellino sears her in she lives at 447 Steinway Road. Her concern is the smell that comes from the business. It smells like salad dressing all the time and she can't even sit in her yard and enjoy her pool with her daughter and grandchildren. They don't even want to visit her or go swimming by her anymore because of the smell. She can't even walk her dog at night because the smell is so bad.

Mr. Duffy asks if anyone else would like 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. Sarlo makes some closing comments. He knows it is a sensitive subject and that he has heard the concerns of the Board and the members of the community. He says that anytime you have two incompatible zones it's going to be a conflict of tensions. This is no different than the businesses along Market Street. You have businesses and food stores on Market Street and residential behind them. The law recognizes in these two zones that are incompatible somewhere you have to draw a zoning district line there is going to be tension between the two uses. It's a Townhouse Zone now but at the time of the approval it was an Industrial Zone. I spoke to the owner Mr. Branca today and he clarified that it was an Industrial Zone when he got the approval but he does not recall when it became a Townhouse Zone. When this industrial building was built it was an Industrial Zone. Those residential houses were there and it was a Residential Zone so it was incompatible from the get go. The Town has the right to change the zone at any point in time. There was a large investment made to develop this property and one can speculate it will remain industrial. The owner has no intention of taking down this building and build townhouses so there's going to be these tensions. As I indicated earlier it would seem inconceivable in my opinion that the proposed development and the Planning Board would allow such a use and such a development without any availability to park trucks. One can speculate that the 9 at the loading docks would be enough but a 2 acre facility and have only 9 trucks is a stretch. We are here for an expansion of a nonconforming use one of the things is there a benefit to the general welfare. Hearing the public's concerns you would say absolutely not but it comes back to the development of the site. Was this site kind of have a particular use in mind? You are next to a railroad tracks to place an industrial building next to a railroad track not only is it a buffer for residential but also take advantage of the railroad track to move supplies. This site is particularly suited and to use this site to its full potential and I think as it was initially approved is what we are asking this Board to validate and reapprove. One may argue it's an intensification but we don't know that. When it got approved we don't know how many trucks may or may not have been parked back there. Unfortunately the record is void. Part of the proof is without substantial detriment to the public good. We heard smells of vinegars its manufacturing. The impact of the trucks parking in the rear is that a substantial impact to the neighborhood. Forty fifty sixty vehicles were allowed to park there for a school. I think one of the comments was made a school no big deal daytime not nighttime. I presume it was a technical school and there were night classes. I went to night school for some education I got out at ten thirty eleven o'clock at night. Forty or fifty car doors slamming at eleven o'clock that had to be an impact on the neighborhood. Those cars were not regulated by all the ordinances I talked about today. The idling law was not in place at that time. I don't think the uses at this site that

were given CO's what we're asking for is any more of an impact and I don't think rises to a substantial impact over other prior uses. The other problem is not substantial detriment to the intent and purpose of the zone plan. The interpretation of that is there an abrogation of the authority of the Mayor and Council that have established the Zone Plan, the Master Plan and the Zoning Ordinances. Here this site was initially zoned for industrial. It has been changed to residential and is this expansion or is this allowing of parking in a controlled manner an abrogation of what the Town would like to see there now is townhouses. I don't think it's an abrogation of what the Town would like to see there in terms of the townhouses I think again it's an incremental step in the prior uses that were here. Instead of vehicles now it's trucks a lot less vehicles cars versus trucks and so on. The applicant has a long term lease here. They made an investment and entered into this long term lease because this building was suitable for their operation. They were given a CO to come in and operate here and they continue to operate here until the issue has come to a head. I think there's major concessions that have been made by the applicant from what was initially proposed in October to limiting it to 10 box trucks, the arborvitaes, and the gravel system Mr. Raichle spoke about. I know the Board Members are kind of give and take when you hear the concerns of the public and the professional testimony from Mr. Raichle. We do believe the use we're calling it an expansion of a nonconforming use because of the use of the rear parking lot we believe that it's justifiable and it does not have much of an impact. You talk about townhouses and impact to the neighborhood. Townhouses can be 3 stories 35 to 37 feet. You can have a 3 story townhouse with decks off the back of the townhouse. You can have renters in those townhouses. You can have loud music into early morning hours. You can have even though it's townhouse and it's residential typically you can have 8 to 12 units per acre in a townhouse zone. Just say it's 10 units per acre at 4 plus that's 40 residential units up against 8 to 10 residential properties. To just dismiss and say we want a residential zone and that will have no impact on the neighbors I don't think that is the case. Multi-family housing does have an impact on a single family zone. They are considered transitional. The railroad track is industrial and it is you don't want to bring your residential zone all the way to the railroad tracks. You want to have your residential and then you want to scale up with your multi-family and then you have your industrial. I can see where the zoning came into play but to say that townhouses would have no impact on the residential property owners that's far-fetched. Mr. Sarlo thanks the Board and is done.

Mr. Duffy – We are not debating townhouses versus industrial. There's a couple of things you said that your client has invested in a long term lease. The residents have invested in a long term occupation. My brother in law said to me if you want good neighbors you have to be a good neighbor. That seems to be part of the impasse here we don't have good neighbors. I'm looking at this whole thing saying we as a Board and this is my feeling I know there is applications and land use laws and protocol we have to follow but we have a responsibility as a Board to make sure that we take and make decisions that are not just for the property owner which he has rights that we have to understand also but we have to look out for the residents. It's not sixty percent them and forty percent him I look at it as we have to weigh all of this here to decide what is best for the area and for Saddle Brook. A townhouse development back there you're right it wouldn't be the right thing so that's not even on the table. I'm looking at this saying there is a tremendous issue and Ms. Murray said it right of non-confidence. It's a lack of confidence because of the conditions we see. We want to bring this into a control situation so these people who live in the corner can live peacefully so they can enjoy the things that brought them to Saddle Brook. They want to enjoy their property. This gentleman has brought in a business because it works for him and he deserves to have a livelihood so somewhere in the middle of this we need to come up with something that works. I'm a little reluctant that we have got there just yet. I think in my opinion we're getting pretty close but we're not really there. There is in my count yesterday 42 trucks and I wouldn't want to be confident that whatever we approve we won't see that anymore. I don't know how to tell you to handle the salad smell I like salad so but anything pungent over time I'm sure the people that live by Nabisco couldn't stand Oreo cookies for the longest time. I don't know how to work that out. I think if we buffer this a little better clean it up. I'll tell you right now that whole side right there between where the dumpster is, is an eyesore. I think that people would be a little more open to what's going on if it was cleaned up and if we did put more arborvitaes or whatever. We need to do something to make it a little bit more appealing to both parties.

That's what I'm looking at it is a business the man has invested his time his money and he is employing people and this is great for the economy but 42 Mike's trucks in the back and having to sit out and look at that is a bit too much. I think we need to get a little further in that's my feeling.

Ms. Murray – I wish the owner would have come also. I would like to hear from him. That confidence you get is from the person that is going to do that work not from anyone else saying yes he will. You get confidence from the person who is promising you they will honor their agreement. I wish he was here to hear it from him. You would have thought that from October he would have worked on the back to make it a little easier for us to make a decision tonight. If he had worked on it we could say oh yeah he's really trying. He cleaned up the back he's got all this stuff going on he's done a bunch of stuff. He deserves the benefit of the doubt. He has left it a mess and when I drove through there I was going this is a lot more than the last time I was here and he just keeps shoving stuff in. He didn't make an effort and that's where I lose my faith and belief that he would live up to and honor the neighbors and be a good neighbor. I lived next door to a wallpaper factory. There is nothing you can do but call the Board of Health and they come down and if it's excessive they fine them. That's what happens you have to do that and after a while the Town gets tired of hearing from you. That's all I can advise the residents to do because that's all they can do about the odor. About the trucks it seems like he's intensified the use of the trucks from when he submitted that 17 total and we just need some reassurance he is going to follow through with it. That is my opinion.

Mr. Duffy – This whole area since around 95 has intensified dramatically. Prior to 95 the activity in railroad back there was virtually nonexistent and the railroad beefed it back up again. Since then it has become a main thoroughfare for them to the point we can sit for 12 or 15 minutes at a crossing because the trains come through. There is nothing we can do about that it is protected under federal law. I am encouraged by what your expert has done with the parking spaces and I would also like to know more about this type of structure is it laid out does it have to be dug up to be laid out. We don't know enough about it. We are getting closer and I don't want to get into a trap where we are negotiating for the residents or on behalf of your client. We are the referees in this and we want to come to a place where we can live with it. Over time if people see change and it's positive the confidence will be there as long as it's maintained.

Mr. Duffy tells the residents that it is their right to be heard and that they should continue with it as long as they want.

Mr. Burbano - It seems like they are getting offsite parking but it has not been obtained yet because they would have moved them already. It seems like they are going to get that to move these trucks out so they only have the 10 so there should be a stipulation that there is an offsite lease agreement in place if you are able to do that to move these trucks because if not you are just going to end up with an additional 10 trucks to what they already have. If they already had that space the trucks wouldn't be there.

Mr. Duffy ask Mr. Pellino if the Board can require that. Mr. Pellino does not think they can insist they find a location we can determine the total number of trucks on the site and then it is up to the owner to deal with that. I think we have a right to inquire where is it what is it but I don't think we have a right to say you have to have an offsite location. I think we can and should determine a total number of trucks on the site besides the 10 in the back. I don't think we can leave it open ended with 10 in the back and then as many as you want on the rest of the site in my opinion. If we grant the D-2 variance we should establish a baseline where we have a total number of trucks besides the 10 in the back.

Mr. Manzo also thinks there should be a set number of trucks allowed and they should show some good faith.

Mr. Tokosh – We have had many meetings with large projects like this and when the owner is here it's not unusual for the Board to make a request and the lawyer would get together with the owner and they'll come back after 5 minutes and say yes we'll do that. I think you could move this a lot faster if he was here so he could be questioned and hear what the neighbors have to say. If the neighbors get comfortable with the owner then he has a good chance of getting what he wants so you may want to consider that.

Mr. Pellino suggests that Mr. Sarlo come back again with a little more information and a set number of trucks and some more about the buffering to try and get this to a point where the Board is comfortable.

Mr. Schilp has some stipulations for them to leave with so everyone knows what they are. Only 10 trucks in the back lot. They can only be backed in this way they can't load and unload back there. They are only 35 foot straight jobs. There would be 10 trucks in the back 9 on the loading dock and that triangle piece had 4 so that would be a total of 23 trucks on site. There are times the loading dock is full and there might be one or two trucks waiting for them to get out and then if they put maybe 2 trucks on that egress road the driver has to stay in the box has to stay hooked up to it so that if they need to be moved they can. The standpipe are in the back needs to be marked out. I would like to see some signs on the ingress egress road that says no parking. The south driveway that has the easement a sign that says emergency use only. I would like to see the front lot what is there now restriped not up to code or anything else. Wherever the stripe is now put them back so they can be seen. We talked about the grass that is now mud put some grass back there. A double row of arborvitaes right to the building more than 6 feet tall. The lights in the back need shades to prevent from shining on the neighbor's property. The 10 foot concrete pad is a great idea because trucks do leak.

Ms. Murray – I would like more than grass back there I think strategically placed trees would keep them from parking on the grass area.

Mr. Pellino says that they can ask the applicant to use its best efforts to get the owner to agree to the signage and things like that and we can certainly have as a condition that the owner not permit his trucks to park there that's about as far as we could go.

Mr. Sarlo asks that they can adjourn until the April 4th meeting because he is already committed to another meeting on the March 7th date.

Ms. Murray makes a motion seconded by Mr. Schilp to carry without notice until the April 4th meeting.

Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Champy, Mr. Duffy – YES.

They will be carried and will be the first application to be heard.

Mr. Duffy suggests to Mr. Sarlo that his client clean it up back there and make an attempt to improve the conditions.

6. RESOLUTIONS

A.) Approval for Usman Ahmed, 298 Nedellec Drive, Block 1408, Lot 3

B.) Approval for Lucy Cinquegrana, 73 Jamros Terrace, Block 1302, Lot 2

C.) Approval for Hufscape II, LLC, 326 Route 46 & 331 Tenth Street, Block 118, Lots 2 & 3

D.) Appointing Chairperson

E.) Appointing Vice Chairman

F.) Appointing Secretary

Mr. Schilp makes a motion seconded by Mr. Tokosh to approve resolutions A through F.

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

G.) Regarding Compensation of Professionals

Mr. Schilp makes a motion seconded by Mr. Manzo to approve resolution G.

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

H.) Authorizing Contract with Board Attorney

I.) Authorizing Contract with Board Engineer

J.) Authorizing Contract with Board Planner

L.) Designating Official Newspaper

M.) Authorizing Meeting Schedule for 2022

Mr. Schilp makes a motion seconded by Mr. Tokosh to approve resolutions H, I, J, L and M.

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

K.) Regarding Completeness Determinations

Mr. Schilp makes a motion seconded by Mr. Manzo to approve resolution K.
Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

7. MINUTES

Meeting of January 10, 2022 Reorganization Meeting
Meeting of January 10, 2022 Regular Meeting

Mr. Schilp makes a motion seconded by Mr. Manzo to read and approve. All in favor – YES.

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 1/24/22
Stephen Pellino to Charles Sarlo, 1/12/22

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

9. VOUCHERS

Basile Birchwale & Pellino, 1/03/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$812.50
Basile Birchwale & Pellino, 1/03/22, Curcio Realty, LLC, 156 Midland Avenue, Block 403, Lot 9 \$625
Basile Birchwale & Pellino, 1/03/22, 40 Bella Vista Ave, LLC, 7 Welcome Rd, Block 502, Lot 2 \$562.50
Neglia Engineering Assoc., 1/14/22, Cinquegrana, 73 Jamros Terrace, Block 1302, Lot 2 \$180
Neglia Engineering Assoc., 1/14/22, 5th Street Assoc., LLC, 77 N. Fifth St, Block 405, Lot 3 \$1457.50
Neglia Engineering Assoc., 1/14/22, Ahmed, 298 Nedellec Drive, Block 1480, Lot 3 \$180
Return of Unused Escrow, 1/13/22, Staine, 47 William Street, Block 522, Lot 3, \$78.90
Return of Unused Escrow, 1/13/22, Pena, 82 Kuhn Drive, Block 1204, Lot 8, \$78.90
Return of Unused Escrow, 1/13/22, McDonald, 270 Nedellec Drive, Block 1408, Lot 10, \$78.90
Return of Unused Escrow, 1/13/22, Rocco, 393 Victor Street, Block 709, Lot 17, \$97.97
Return of Unused Escrow, 1/13/22, Rosario, 300 Grace Avenue, Block 411, Lot 3, \$31
Return of Unused Escrow, 1/13/22, Bennett, 129 Cambridge Avenue, Block 1506, Lot 28, \$18.70

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

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.
Mr. Duffy – Having heard no one.
Mr. Schilp makes a motion seconded by Mr. Marz to close to the public. All in favor – YES.

11. ADJOURN

Mr. Duffy – Meeting adjourned!