

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

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday March 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. Marz, Mr. Calvitti and Mr. Duffy – Present, Mr. Tokosh, Mr. Champy and Mr. Burbano are absent. Also in attendance are Stephen Pellino the Board Attorney, Anthony Kurus the Board Engineer and Gary Paparozzi the Board Planner.

5. NEW BUSINESS

A.) Darwin Betancur, 10 Sterling Place, Block 906, Lot 6

Applicant requests to construct an open front portico that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

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

Mr. Pellino swears in Darwin Betancur he states his name spells his last and gives his address as 10 Sterling Place Saddle Brook New Jersey.

Mr. Betancur would like to build a two column with extended roof over his front steps.

Mr. Schilp asks whether the support beams will be on the bottom step or the top landing.

Mr. Betancur says that it will be on the top.

There are no other questions. 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 seen none.

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

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

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

B.) Shawn Schimenti, 584 Elm Avenue, Block 1708, Lot 18

Applicant requests a rear addition, add-a-level, and front porch that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

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

Larry Calli is representing Shawn Schimenti.

Mr. Calli explains that Mr. Schimenti bought the property about a year ago. It's a nice home but not big enough for the Schimenti family that hope to live here for many years to come. They want to improve the interior and hired Mr. Chudzinski to go up and go out a little bit but still be mindful of the code. It's an undersized lot so it's difficult to do that without pushing some of the parameters of the bulk standards.

The lot coverage and building coverage are slightly going up. There is a separation between the garage and the house that has a setback issue. Three slight deviations all of them pretty much exist today because of the size of the lot 5000 square feet in a 6500 square foot zone.

Mr. Calli brings architect Edward Chudzinski forward to testify.

Mr. Pellino swears in Mr. Chudzinski he gives his name and his business address as 350 Market Street Saddle Brook New Jersey.

Mr. Calli qualifies Mr. Chudzinski as an expert witness. The Board accepts his qualifications.

Mr. Chudzinski – We are renovating the first floor and the basement with some interior renovations. The second floor we are putting an add-a-level which consists of 3 bedrooms 2 baths and a laundry room.

Mr. Calli asks about the elevation details.

Mr. Chudzinski – The height conforms. On the front of the house we are putting brick veneer with a porch going across the front of the house. The second level will have vinyl siding. The siding will consist down both sides and the rear of the house.

Mr. Calli asks if the style and size of the house are consistent with the other homes in the area.

Mr. Chudzinski – Yes there are multiple 2 story homes in the area.

Mr. Calli asks if there are any questions for Mr. Chudzinski.

Mr. Kurus asks if the footprint is changing.

Mr. Chudzinski – The second level is larger than the first floor. It's a dashed line across the back of the house and the second floor is distinguished by a dotted X through the area it's being added to on the second floor.

Mr. Kurus – What is the distance between the ground floor and the garage and the second floor and the garage?

Mr. Chudzinski – The garage is grade level and the first floor is about 2 foot 8 inches above grade.

Mr. Kurus – The distance between the two structures.

Mr. Chudzinski – The second floor is the one in question because we only have 2 and a half feet from the addition to the garage although the addition is on the second floor.

Mr. Kurus – Is the first floor staying where it is?

Mr. Chudzinski – the first floor footprint is remaining as it is just some interior alterations.

Mr. Mazzer asks what they are doing in the basement.

Mr. Chudzinski – We are putting 1 bedroom in the basement with a bath.

Mr. Mazzer asks if there is egress from the basement.

Mr. Chudzinski – Yes.

Mr. Calli – Our first question was whether it was code compliant egress routes, height limitations it all conforms to UCC standards.

Mr. Chudzinski – There will be an egress window is put in with a well. The window you can open and when you get into the well it has a clear fiberglass lid on the well that you can release and a spring opens it for you to climb up some steps built into the well.

Mr. Calli – That meets all code standards?

Mr. Chudzinski – Yes it does.

Mr. Mazzer is also concerned about the distance to the garage.

Mr. Duffy – The garage I believe right now is 10 and a half feet from the house?

Mr. Chudzinski – Yes from the first floor.

Mr. Duffy – That stays the same.

Mr. Chudzinski – Correct.

Mr. Duffy – The second floor addition is 2 and a half feet?

Mr. Chudzinski – Yes.

Mr. Duffy – What's the elevation of the garage to the peak?

Mr. Chudzinski – I would say 12 feet.

Mr. Duffy – What is the elevation to the second floor?

Mr. Chudzinski – We have 11' 8" within an inch or two from grade to the second floor. To the underside of the construction you would take a foot off of that.

Mr. Schilp – You're talking about 10 feet.

Mr. Chudzinski – About 10 foot 8 inches.

Ms. Murray – You're A1 is revised is that revision to show the dimensions the 2.5 the 10.28 and the rear dimensions and the new roofed porch?

Mr. Chudzinski – That revision was done on the zoning schedule from the previous.

Ms. Murray – On your first plan you only had 1 and a half feet from the garage. The letter said 2.5 feet.

Mr. Calli – That revision was in response to the Neglia report.

Ms. Murray – You're already deficient at 10 and a half feet because you're required 20 feet to the garage so going to 2 and a half feet is not a minor number. Ten and a half was already half way so that's a problem for me. You only have 10 foot and then there's 2 and a half feet that's clear to the garage. That is very concerning.

The rest of the Board had the same concerns about the distance from the house to the garage.

Mr. Schilp asks how far the plastic cover from the egress window comes out.

Mr. Chudzinski – About 3 feet.

Mr. Schilp – So now from the garage to the house is only 3 feet access. If there was a fire in the house and we had to get to the back of the house they'd be walking underneath the addition and there would only be 7 foot between the garage and the plastic cover.

Ms. Murray – Even less because there are two columns to hold up the second floor.

Mr. Schilp – The access to the back of the house and if it's at night and the person downstairs gets up and takes the cover off. The firemen go back there and they fall right in the hole. It's extremely dangerous. The other side of the house is only 3 foot 9 so if anybody in the back of the house got injured it would be minimal way to get anybody out of the back of this house. To get a ladder back there would be almost impossible. The garage is a big concern.

Mr. Calli – After hearing the concerns about the separation between the home and the garage. It's really hard to engineer on the fly so I think with your permission Mr. Chair I would like to continue with planner testimony since he is here because 2 of the variances are never going away lot coverage and building coverage. If anything the separation will only get better if we revise the plans it will only improve. What I would like to do is continue with the case but at the end before I think we get to a vote maybe we will ask the Board if we can amend and revise it and come back at the next meeting with a modification to that dimension or not but we read you loud and clear on the separation issue.

Mr. Paparozzi asks what was existing in the basement before.

Mr. Chudzinski – The bedroom and bathroom are new in the basement.

Mr. Duffy points out that the window well is over 6 feet deep and it comes out 3 feet so it does reduce the distance between the house and garage.

There are no other questions for Mr. Chudzinski.

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

Mr. Duffy asks if anyone would like to come forward.

Mr. Gregory Proto comes forward he is sworn in by Mr. Pellino. He states his name spells his last and gives his address as 583 Ash Avenue.

Mr. Proto asks about the rain water with the increase in lot coverage.

Mr. Calli – The footprint is staying the same and there are no plans for any storm water management chamber on the current plans but if it is required by the Borough we will gladly implement any kind of chamber to capture the excess runoff.

Mr. Kurus – If the increase is not significant under 500 square feet typically it is not required.

Ms. Murray asks if there are any problems now.

Mr. Proto – No but I remodeled the home behind and I was required to put a seepage pit in so I just want to make sure that it doesn't become an issue

Mr. Duffy asks if there is anyone else that would like to comment. Having seen none.

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

Mr. Calli brings forward Planner Alexander Dougherty.

Mr. Pellino swears him in he states his name spells his last and gives his business address as McDonough Associates, 101 Gibraltar Drive, Suite 1A Morris Plains New Jersey.

Mr. Calli questions Mr. Dougherty in order to establish his qualifications. The Board accepts him as an expert witness.

Mr. Calli – You've had an opportunity to visit the site and the surrounding area.

Mr. Dougherty – Yes.

Mr. Calli – You're familiar with the code and the Master Plan.

Mr. Dougherty – Yes.

Mr. Calli – You're familiar with the plans filed for this application including the revised plans.

Mr. Dougherty – Yes.

Mr. Calli – The relief sought on those plans.

Mr. Dougherty – Yes.

Mr. Calli – We have a Planning Exhibit that we will mark A-1. Take the board through your analysis for the 3 items relief we seek this evening.

Mr. Dougherty – Building coverage, lot coverage and the distance to the garage. This is an undersized lot approximately 4999 square feet which 6500 is required. Given the scope of what we are proposing it's important to note we are going back and we are still in compliance with the rear yard setback. We are not touching the side and we are compliant with the front. I do have a packet of aerial photos to reflect the continuity with the neighborhood and the lot in question.

Mr. Dougherty passes out the packet of photos marked as exhibit A-1.

Mr. Calli – It is a Planning Exhibit dated March 4th 2022 three sheets.

Mr. Dougherty describes what the photos are to the Board. He makes comparisons of what the neighborhood looks like and what the plan is for this property.

Mr. Dougherty – When we look at the building coverage the plans show 35.2% versus the allowable 26%. If this was a 6500 square foot lot we would be at 27% so it would be de mini mus. Lot coverage proposing 59.2% versus the 44% allowable. When you look at the 6500 square foot lot we would be at 49.3% again de minimus. When you look at the distance to the garage we are proposing 6 and a half feet versus what the zone requires for 20 feet. The existing conditions don't change. The lot size, the frontage, the side yard, accessory coverage. When we look at the justifications for relief the relief is justified under the C-1 hardship and C-2 balancing provisions of the law. It requires the C-1 or the C-2 there is not a requirement for both however we do have both covered here. Justification for the C-1 is text book Harry Lowe case the second floor extension of barn with nonconforming setbacks. The original MLUL of 1975 only permitted hardship base on a physical characteristic of land the amended MLUL in 1985 extended that hardship characteristic to structures. That's what we are basing the C-1 off of is this structure itself on this undersized lot. Since the structure already exists there is a legitimate practical difficulty to justify these hardships. There is also a basis for relief related to the land and that the lot is undersized which is the Lang case. Lang found that where the structure was typical of the area hardship could be based on the land. I think what we are doing here is typical structure of that area justifications on the C-2 is the benefits of the improved living environment substantially outweighing detriments. The new porch will bring the home in harmony with the neighbors. The photos show there are porches in the neighborhood. The new second floor relates to the back of the house where there is room to expand. We are in compliance with the rear yard setback. The building will not overpower the area it complies with height, front and rear yard setbacks. Home improvements add value and quality to the site which adds value to the neighborhood the statutory criteria for grant for relief is met and approval is warranted.

Mr. Paparozzi – If all the variances that are preexisting are not going to be affected the three variances that are being proposed are the maximum building coverage, maximum lot coverage and the distance to the garage. If the applicant as Mr. Calli suggested brings that back all of these numbers are going to reduce and it will make the application obviously better.

Mr. Manzo asks if there will be enough parking with 4 bedrooms.

Mr. Duffy – They are proposing 4 there is existing and there is a long driveway.

Mr. Paparozzi says that the RSIS requirement is 2.

Mr. Schilp is still concerned about the garage.

Ms. Murray is also concerned about the distance to the garage and does not consider it to be de minimus. She strongly rejects that description.

Mr. Dougherty apologizes and says that he was referring only to the lot coverage and building coverage and he agrees that the garage setback is not de minimus.

Ms. Murray – They could be storing snow blowers or lawn mowers and it being so close to the house is a fire hazard.

Mr. Mazzer is also concerned about the garage setback.

Mr. Duffy asks about the concrete patio in the back.

Mr. Chudzinski says that some of it is being removed and some will remain.

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

Mr. Duffy – Would anyone like to come forward? Seeing none.

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

Mr. Pellino – Not that it makes any difference but when you have an undersized lot and you put an addition especially one that is cantilevered it's another variance. I think you are exacerbating the existing.

Mr. Schilp – Will there be pull down stairs to access the attic?

Mr. Calli – Yes for storage.

Mr. Calli asks that the Board allow them to amend the plan and come back for the next meeting.

Mr. Duffy announces that they will be carried without notice to the next meeting which is April 4th.

C.) Abel & Maria Dacunha, 353 Capitol Street, Block 102, Lot 11

Applicant requests a rear second floor addition with new rear stairs that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

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

Abel and Maria Dacunha are sworn in. They state their names spell their last and give their address as 353 Capitol Street Saddle Brook New Jersey.

Mr. Duffy – Can you explain what it is you would like to do.

Mr. Dacunha – We want to extend the second floor to match the first floor existing measurements and structure to make the kitchen bigger and bathroom.

Mr. Kurus – No changes to the first floor?

Mr. Dacunha – No.

Ms. Murray – I just want to clarify it's a two family.

Mr. Dacunha – Yes.

Ms. Murray – You are enlarging the second floor apartment.

Mr. Dacunha – Yes.

Ms. Murray – The access to get to the apartment upstairs stays the same.

Mr. Dacunha – The same.

Ms. Murray – You are adding a secondary staircase on the outside.

Mr. Dacunha – Yes.

Mr. Schilp – Are you going to take the entire second floor off?

Mr. Dacunha – No.

Mr. Duffy – They are adding on top of the first floor.

Mr. Schilp – Will there be any overhang?

Mr. Dacunha – No.

Mr. Paparozzi – There is a concern that it is a two family although they can fit 5 cars they have to have room to put 2 rows of cars. The driveway right now is only 12 feet and by code it would have to be 18. The driveway would have to be widened because you can't mix the cars in a two family for obvious reasons. By widening the driveway which has to be shown it also increases the maximum lot coverage. There is a couple of issues there.

Mr. Pellino – How much parking do they need?

Mr. Paparozzi – It goes by number of bedrooms. All they show is the second floor so I don't know how many they need. Mr. Ambrogio said they need four so if you put two in the garage they need room to get out.

There is a discussion between the Board and the applicant in order to explain what it is that they would need to do. It is determined that they would need to extend the wide part of the driveway adjacent to the garage and maintain an 18 foot width for a distance of 18 feet.

There are no more questions.

Mr. Schilp makes a motion seconded by Ms. Murray 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. Schilp makes a motion to approve the application with the stipulation that they widen the driveway and submit a new drawing.

Mr. Mazzer seconds the motion.

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

D.) Russell Kelley, 275 President Street, Block 105, Lot 10.01

Applicant requests a two story addition and an outdoor deck that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

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

Mr. Pellino swears in Russell Kelley he states his name spells his last and gives his address as 275 President Street Saddle Brook New Jersey.

Mr. Pellino swears in the other Russell Kelley he states his name spells his last and gives his address as 22 Chelsea Drive Saddle Brook New Jersey.

Mr. Kelley (son/applicant) explains what he would like to do. We are looking to put an addition on our home. My wife is pregnant with our first child so we need the extra room. We are seeking minimum combined side yard setback, maximum building coverage and maximum lot coverage.

Mr. Kurus – If the Board did approve the coverage variances an increase of approximately 565 square feet so in that instance the town engineer would need grading plan, topo plan and drainage to address any increase in storm water runoff.

Mr. Kelley (father of applicant) - We are prepared to do that.

Ms. Murray has questions about the plan. The stairs going up from the foyer from the first floor up the down does not match and it's in the garage side. The stairs are in the garage.

Mr. Kelley (father of applicant) explains that the stairs do come to a landing and there is an entrance to the garage. The stairs are also stacked over each other from the basement to the second floor.

Ms. Murray – When you are in the existing foyer, how do you go up the stairs?

Mr. Kelley (father of applicant) – It's stacked over the same stairs that you see in the basement.

Ms. Murray – How do you go up the stairs the way the arrow is going? You've got the arrow going up how do you get on the stairs to go up because there is a foyer wall there and a wall on the side of the stairs.

Mr. Kelley (son/applicant) – There's double doors and to go up to the second floor as soon you walk straight in you go through the second door and the stairs are right there and they go to the right now.

Ms. Murray points to the drawing and asks if that is a wall.

Mr. Kelley (son/applicant) – No.

The wall is not supposed to be there according to the applicant.

Mr. Schilp – Are you still going to put a car inside the garage?

Mr. Kelley (father of applicant) – Yes its 16 feet because of the stairs being bumped out.

There were no other questions.

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 seen none.

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

Mr. Duffy – Does anyone care to make a motion?

Mr. Schilp makes a motion to approve the plans seconded by Mr. Mazzer with the following stipulations a grading and drainage plan needs to go to the Township Engineer to address the increase in impervious coverage and remove the wall from the drawing that was not supposed to be there.

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

E.) 5th Street Associates, LLC, 77 North Fifth Street, Block 405, Lot 3

Applicant requests to build a self-storage facility that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

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

Chris Botta is the attorney for this application he is from Botta Angeli 50 South Franklin Turnpike, Ramsey New Jersey he is appearing for Bruce Whitaker who is the name attorney on the applications.

Mr. Botta reminds the Board of their prior Use Variance approval for a self-storage facility.

Mr. Botta – Fifth Street Associates is here to present a preliminary and final site plan approval coupled with our resolution from January. There is one matter I know we went over a lot of site plan details as part of the Use Variance application. There was one error that I would like to point out to the Board and is the Board is inclined to grant our application tonight we are asking for an amendment to the resolution from January. There was a mathematical error in the resolution from January. We had presented with our plan that it was 97,000 square feet on the plan. The Board resolution was very detailed and so it identified the 97,000. What we are presenting tonight does not change the actual footprint or the actual plans that we presented back in December however there was a mathematical error on the square footage. The square footage in actuality is 103,836 square feet whereas on the plans it was written 97,000 square feet. No change to the plans that were presented in December and Mr. Weissman will explain how we got there and what we're doing. I just wanted to give the Board an overview that we'd be touching upon that. The Board knows it is in an industrial zone and we have a use permit for the self-storage use as presented and we are seeking 3 variances. One is with regard to lot coverage 90.6% exists now and we're presenting it to be 85.8%. In this zone 35% is the maximum permitted but in actuality we are reducing the lot coverage by our application and site plan. Maximum building height we are proposing 27.4 feet the height permitted is 25 feet. We have an existing height of 34 feet so we are again reducing the nonconformity. With regard to parking spaces we are proposing 33 spaces. Under the ordinance parking calculations with the industrial zone 119 would be required. That is with an industrial warehousing use which we are not doing. You will hear parking and traffic testimony as to why we believe that is warranted. There is one other variance which is loading and parking in a front yard. Even though it doesn't appear as a front yard because it is facing Urma Place it's presented as a front yard and we're proposing 2 spaces there in the minimal loading zone area. It is mitigated by the fact that it's 50 plus feet from the front yard and is setback and will be buffered from anybody on Urma. I would like to turn to Mr. Weissman. Mr. Weissman the applicants engineer steps forward to testify.

Mr. Pellino swears in Robert Weissman he gives his business address as 686 Godwin Avenue, Midland Park, New Jersey.

Mr. Botta questions Mr. Weissman about his credentials to qualify him as a witness. The Board accepts his qualifications.

Mr. Botta asks Mr. Weissman his opinion as to whether or not this is a major development which would trigger additional requirements.

Mr. Weissman – If it were a new development or a vacant site I would say yes but it is a predeveloped site a previously disturbed site. The site is about 90% either building or parking area and we are looking to improve what's there. We are proposing a new building on the southeast portion of the property. The northwest quadrant of the property is the existing building that will be renovated. We will be reducing the amount of impervious coverage so by definition it does not qualify as a major development.

Mr. Botta – From a practical point of view what does that mean to us in lay terms?

Mr. Weissman – If it were a major development it's touched on in the engineer's letter. If you had a 10 acre lot and it was 5 acres developed and there was another 5 acres or 2 acres that you're looking to develop if there is an acre of disturbance an additional acre of disturbance beyond what was previously disturbed or a quarter acre of impervious area those would qualify as a major development. In this case we are reducing the amount of impervious coverage by almost 4000 square feet and we are building on what is now a semi/paved stone area where there was a building that burned. The building that is on the southernmost portion of the property is going to be removed. It's either impervious now or building and we will be reducing those numbers as part of this project.

Mr. Botta asks if there are any questions.

Mr. Kurus – What is the limited disturbance for this site?

Mr. Weissman – The perimeter of the existing lot. There is a pervious area by the drainage system.

Mr. Kurus – You know the lot is greater than an acre right.

Mr. Weissman – Three point six acres yes.

Mr. Kurus – You are incorrect in your description that disturbances quantified by the storm water rules as to what was previously disturbed or not. The disturbance is just exposure of soil work has nothing to do with whether you worked there before or not. You have to quantify it and once you quantify it, it will be more than an acre and you're going to trigger that major development.

Mr. Weissman – The paved areas that we have now are going to be either building or pavement. We would be paving over the top of the existing pavement which in my opinion is not additional disturbance. Disturbance from my understanding is if you have a wooded area that is pervious and you're paving over the top of it that would qualify as a disturbance or increase in pervious area.

Mr. Kurus – Have you submitted to Bergen County Soil Conservation District and had your limited disturbance verified by them?

Mr. Weissman – Not yet.

Mr. Kurus – I'm pretty sure once you submit to them they're going to make you show the area where you're working where the building is getting demoed it's going to be more than an acre and it's going to trigger that major development. The storm water rules are very specific now especially the ones passed in March of 2021. It's quarter acre new or one acre of disturbance. Once you quantify it I think you're going to be over.

Mr. Weissman – If we're keeping the existing building in the back and that footprint is staying and the parking area is going to be paved over what is presently paved. I will submit it to Soil Conservation.

Mr. Kurus – If they let you exclude the big building it might be close but if that's included you are well over correct.

Mr. Weissman – I agree but again the building itself is remaining that is almost a 2 acre building.

Mr. Kurus – You have a 3 acre site there's 2 acres remaining it doesn't look like you're going to be under.

Mr. Duffy asks Mr. Kurus to explain it in layman's terms.

Mr. Kurus – The storm water management rules are more stringent when your project is considered a major project as opposed to a non-major project. If you're a major project there is a higher standard you have to meet with respect to storm water management so the first step is to accurately classify it. If it is you have to meet the standards if it isn't the bar is a little bit lower. It doesn't mean you don't have to manage your storm water it's just a different bar.

Mr. Botta asks how that is determined.

Mr. Weissman – By establishing a limited disturbance which I can provide to you.

Mr. Botta – That is something the county would also review.

Mr. Weissman – Yes the Bergen County Soil Conservation District.

Mr. Botta – Major development or not the county is going to review this right.

Mr. Weissman – Yes.

Mr. Kurus – Yes with respect to disturbance but I think the oneness for the storm water management review is by the Board Engineer so that's my job.

Mr. Botta – Could you talk about the error that was made on the plans with regard to the Use Variance.

Mr. Weissman – We started with the original application we had a number of 99,000 square foot to the total on 2 floors on that back building but the actual are is 103,836.

Mr. Botta – There is no change to the building as presented last time it's just a matter of a mathematical error on the chart.

Mr. Botta – Can you go over the existing condition and what you're proposing?

Mr. Weissman – It's a 3.6 acre site it consists of a one story building on the northwest quadrant of the lot and an existing two story warehouse on the southerly portion of the lot. There is a parking are in the front where the former building was destroyed by fire. There is asphalt all around three sides of the northerly building and around the front of the existing two story warehouse. The utilities are accessed on North Fifth Street. We do have frontage on Urma Place. There is a railroad on the western side of the property with a drainage ditch that travels along the easterly side that is drainage for the site.

Mr. Botta – What is the applicant proposing to remain and to be improved? Could we identify the last revised date on that site plan?

Mr. Weissman – This is site plan sheet 1 of 4 dated 12/13/21 last revised 2/7/22. We are proposing to retain the existing two story building on the northerly side. Loading areas on three sides the southerly side, the western side and the northerly side. Access will be off of North Fifth Street. We are not proposing any access from Urma Place that will be gated and is only for emergency vehicle access to the site. We are proposing over the existing asphalt in the back to stripe the parking areas for storage of RV's and boats whatever outdoor storage can be. There are 14 spaces in the back. Based on the square footage we require 119 spaces we are providing 33 but again there is very low traffic demand for this type of use. We are proposing ingress and egress onto North Fifth Street with access on the north side of the property where it abuts Fifth Street to access the one story building that is proposed in the front and the two story that will be converted to self-storage in the northwest quadrant of the property. We do have 10 spaces proposed for parking on the westerly side of the southerly portion of the property. We have 3 handicapped spaces proposed. One for the northerly side of the two story building and two on the northerly side of the proposed one story building in the front. We do show a proposed rain garden on the northwest portion that's where most of the storm water on the site comes off through the overland flow of the pavement to this area that goes into a ditch alongside the railroad tracks. We are removing some of the paved area in the front to provide a landscape area for the front entrance area. There will be garage entrances on the side along the perimeter of the north, west and south portion of the proposed one story building. The access to the rear building northwest is through three loading areas. We are proposing a reduction in coverage from 90.6% to 85.8% and we are requesting three variances which we touched on even though we are reducing we are over the allowable 35%. Building height of 27.4 feet versus the 25 feet allowed. We will be using all existing utilities there are some details that were requested in the engineer's letter that we have to do some further investigation and clarification of the utilities as far as water and sewer connections. There was a request for a turning radius plan, a grading and drainage plan which we will do. We will comply with all of the aspects of the engineer's letter.

Mr. Botta – Can you tell us about the drainage issues and improvements on the site?

Mr. Weissman – We are proposing some drains around the perimeter of the southeasterly portion of the property to allow drainage form the parking are to go into there's a 30 inch pipe that traverses the property from east to west from Fifth Street back to the middle of the northerly building and then from there into a ditch. There is no easement presently for the drainage facility. We propose a drainage easement or access for the town to maintain. This whole area is a poor draining area by virtue of the lack of downstream drainage facilities. It gets backed up during a heavy rain so there's some concerns in the neighborhood.

Mr. Botta – Are you making recommendations of offsite drainage improvements?

Mr. Weissman – There is an existing 30 inch corrugated metal pipe that traverses from the end of this ditch to a drainage structure where there is a pump station and a drain pipe that traverse southerly from this point. This CMP is blocked and no longer functional to a great degree. The intent was to propose a drainage connection over to this chamber from the end of the existing ditch. We are not proposing it as

part of our improvement just a suggestion to the town because the Mayor and Council would have to approve it.

Mr. Botta – The Board has a February 16th letter from Mr. Whitaker to the members of the Board with regard to the offsite recommendation. This would be a recommendation that we would ask be forwarded to the Mayor and Council for their consideration that we think would improve storm water drainage in the area as part of our development but not as a component of the development. We can't do offsite project it's not part of our application but we're making a recommendation in terms of our looking at it and the applicant would be willing to assist in some way at a future time if the Mayor and Council were so inclined to go that route.

Mr. Pellino – Are you proposing to contribute to the cost?

Mr. Botta – Yes we would be proposing to contribute in any fair manner that would work for that.

Mr. Weissman explains about the differing elevation between the site the street and the drainage ditch and how the water would flow to alleviate the flooding.

Mr. Botta asks about the landscaping.

Mr. Weissman points to and describes the proposed landscaping.

There is a landscape plan that was emailed to the Board and is identified as Landscape Plan Fifth Street Associates, LLC, by Cipriano Landscape Design dated 11/22/21.

There was also a lighting plan that was emailed to the Board identified as Lighting Plan Fifth Street Associates, LLC dated 12/17/21 and last revised 1/13/22 by Weissman Engineering.

Mr. Weissman describes the lighting plan as he points to the display on the easel.

Mr. Botta – Will all the lighting be self-contained on the property?

Mr. Weissman – Yes.

Mr. Duffy – This won't affect Urma Place.

Mr. Weissman – That's correct zero light shed offsite to the north of this building.

Mr. Botta – One of the questions that was raised at the Use Variance hearing was whether a fire hydrant could be installed and have you provided for a fire hydrants on the site?

Mr. Weissman – Yes there is an existing fire hydrant in this area. We will also be providing sprinklers in the building. There is existing water service to the building that would be used. There will be testing the mains to confirm pressure and volume.

Mr. Botta – The hydrant was proposed north of the existing building.

Mr. Calvitti – There is a hydrant up further off of Urma Place which is on a six inch main. If you come off of Fifth Street you got a ten inch main.

Mr. Weissman – We'll coordinate that with the fire experts.

Mr. Botta – Do you have any other comments with regard to the engineer's report from February 25th and are all of the details and recommendations feasible and will be undertaken by the applicant?

Mr. Weissman – Yes we will provide all the necessary information regarding the major development aspect of it. The rest of the comments we agreed to provide as far as more detail sheets. We do have an existing condition survey that we provided and we will provide the grading and drainage plan. We will also provide the sewer calculations as requested. We will provide all necessary approvals that are required.

Mr. Botta asks if there are any questions for the witness.

Mr. Kurus – Did you talk about the gate on Urma?

Mr. Weissman – There is a lift gate at this location suggested by the borough. We are not proposing any access on Urma for the use itself only for emergency access. The keys would be provided to the police and fire departments.

Mr. Kurus – With respect to the 30 inch you said in one of your responses you're going to put a camera on it.

Mr. Weissman – Yes we will.

Mr. Kurus – The biggest question I had we talked about is the major development minor development.

Mr. Weissman – We'll do what we have to do.

Mr. Kurus and Mr. Weissman discuss the standards and the additional requirements that come into play if it is determined to be a major development.

Mr. Kurus – It becomes a much more onerous complex drainage review if it's a major project as opposed to a minor project. If it's a major a green roof is probably the only thing you could do here.

Mr. Pellino - Could I just ask Anthony how do you suggest we deal with this as a Board assuming we are going to approve it?

Mr. Kurus – I think that has to be ironed out so you know what you're dealing with.

Mr. Weissman – If the numbers do trigger a major development the rooftop storage would probably be the green infrastructure would probably be the answer on this building. If that were the case we obviously have to meet the criteria that's imposed by DEP.

Mr. Mazzer – Here you got a chance to make it better maybe it's better if we do the stricter storm water rules. They can come back and make an application to the county and see what comes of it. If it's a major then they'll show us what they're are going to do.

Mr. Botta – It is a difference of professional opinion as to whether it's a major development and our testimony has been that's how we've been going on. This area is already disturbed and there is a building in that front area that took up the entire property. The existing building takes up that area and by our interpretation it's a disturbance of more than one acre and we don't believe we are disturbing more than one acre with the development we are doing. If the DEP or the county says that it is a major development then of course we will have to comply with that.

Mr. Pellino – Why shouldn't this Board make that determination.

Mr. Duffy – As I see this there is a definite difference of opinion and we are not the referees in that difference of opinion there are other entities.

Mr. Pellino – I think we could be.

Mr. Duffy – Are we going to determine.

Mr. Kurus – I asked for the number I got nothing. I didn't get an answer. I need something to comment on.

Mr. Weissman reiterates that the pavement and the building is going to remain.

Mr. Kurus points out that the area of the new building alone could put them over.

The Board and the applicant's professionals continue to debate the issue.

Mr. Paparozzi – The application to the Bergen County Soils should have been made prior to this. If there was no intent they would have given you a letter that there was no major disturbance. In most cases those things to the County and to Bergen County Soil are done and either we have a letter saying what is required or a letter of no interest.

There is more debate and disagreement about the extent of the disturbance. The Board members are in agreement that it needs to be addressed by the County prior to any decisions.

Mr. Paparozzi points out that because of the size of the building they would need four loading docks not three so that would be another variance. He also says that the spaces that are west of the one story building has undersized parking spaces so that would be another variance. They need to be 10 by 18 not 9 by 18. You should have the dimensions on the ADA spaces as well. Also on your plan revised to 2/7/22 you show the B-3 requirements because the self-storage is allowed in the B-3 zone and according to case law the bulk requirements are subsumed in the application but all your numbers are incorrect. The zoning chart has to be revised. Your side yard you say required in the B-3 is 12 and that's actually 15. The rear yard you have 5 and it's 25. You have maximum floor area ratio as 2.27 the floor area ratio requirement in B-3 is 1.0. You have a height of 40 feet two stories and 35 feet is the requirement in the B-3. You have lot coverage at 70%, 50% is the requirement in B-3. You also propose your lot coverage as 39% when it's almost 86%. You also propose your floor area ratio as 0.39 and it's at least .67. Your zoning chart for the B-3 are is inconsistent with the zoning chart in the Township.

Mr. Weissman – We are in the industrial zone correct?

Mr. Paparozzi – That is correct but the use and your planner can tell you the bulk requirements by case law the bulk requirements for where it's permitted have to be shown so you don't compare apples to oranges.

Mr. Pellino – We had it in the resolution that approved the Use Variance that you were required to use the B-3.

Mr. Paparozzi – Right but they are all incorrect. Also behind the two story building to the west those parking spaces that you have RV if they are going to be rented out spaces for boats then the parking requirement is reduced so now your parking requirement is going to be 19 spaces with 4 ADA spaces. If those spaces are rented out for storage for RV's and boats.

Mr. Pellino – That's even another use.

Mr. Paparozzi – Right I didn't get that far yet. Another use outdoor storage of the vehicles so that's another variance. Most of it is in my report but it's not addressed. If the outdoor use is going to be allowed the parking requirement now is only 19 spaces.

Mr. Pellino – I think it's another Use Variance.

Mr. Paparozzi – Yeah then it's another Use Variance that was not part of the original bifurcation.

Mr. Duffy – After listening to the number of comments and questions that come up I am not certain we can go any further at this point because we are missing some concerns that Mr. Kurus has and there is a determination that has to be rectified between the opinions of both engineers. The parking issue and some of the other calculations in here that need to be addressed. There are a number of things here that I think in order for us to make an informed decision they're not here and we need to have them clarified. The Board takes a 5 minute recess.

Mr. Botta – We are going to have our engineer go back and make those calculations you are requesting and coordinate with Soil Conservation if necessary. I would like to call Mr. Guttuso for brief testimony as to the operations and just one of the other things that is listed in the engineering report if that is acceptable to the Board.

Mr. Pellino – I think you are better off to do the whole thing next meeting.

Mr. Duffy – You're going to come back I think it would be better at that point.

Mr. Guttuso asks again for a minute of the Board's time and says he will be quick.

The Board allows it.

Mr. Pellino swears in Mr. Guttuso he states his name spells his last and gives his business address as 250 Saddle River Road Saddle Brook.

Mr. Botta – If you could just give a brief overview to the Board and make any comments that you want to give.

Mr. Guttuso apologizes to the Board for the confusion and in regard to the major or minor development. We came in thinking we had it resolved and I know Mr. Kurus was concerned and he told us about it. We didn't come in here prepared to convince the Board. Personally I am convinced it is not a major development but we're going to come back and talk to you about it. The issue with regard to the drainage we are all worried about the drainage. I want to be clear about this one issue with the drainage. What we determined when I came with the Use Variance I said we want to fix this drainage problem for everybody but also for ourselves. We believe we have an answer that is 75 80% resolution. What I didn't realize was I didn't have the authority to ask for that because I don't own that property. It has to go to the Mayor and Council for their review and approval. The Mayor and Council and the Township Engineer has already looked at this plan and I think he is in concurrence that it should be done. When they say that it's done we want to be a big part in doing it. I don't know that we can say we'll pay for it all because I think there was a problem in the past on this property when somebody offered to say that they were going to pay for it all and approvals get overturned and we're not going to do that. We'll pay our fair share but all I want you to understand that is one of my primary concerns on this property. People have been suffering there a long time I know my property is right next door. We want to get it resolved that drainage in the street is a problem. We are asking that you forward it to the Mayor and Council so that they can start looking at that and we will tackle that problem before the construction is over. We still have toxic soil on this property and that is the reason it has to be capped. We have to find a way to get around this water quality problem because we really can't infuse that soil with storm water and create a bigger problem than it is. I don't think that we have to but it's a concern. If the RV parking is a Use Variance I will withdraw that because that is the last thing I need. He continues saying that he will make all of the corrections that are needed.

He would like his architect to testify and saying that there shouldn't be any issues with the architectural. Mr. Paparozzi disagrees and proceeds to explain the problems with the plan to Mr. Guttuso and the Board.

Mr. Duffy does not see any need to go any further at this point. We believe this is a good project but there are things that need to be ironed out.

They will be carried without notice until the April 4th meeting.

6. RESOLUTIONS

A.) Approval for 279 President St. S.B. Condo Assoc., 283 & 285 President St., Block 105, Lot 11.01

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

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

7. MINUTES

Meeting of February 7, 2022 Regular Meeting

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

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 1/24/22

Anthony Kurus to the Zoning Board, 1/24/22

Anthony Kurus to the Zoning Board, 2/16/22

Anthony Kurus to the Zoning Board, 2/16/22

Anthony Kurus to the Zoning Board, 2/25/22

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

9. VOUCHERS

Basile Birchwale & Pellino, 2/01/22, Ahmad & Khan, 298 Nedellec Drive, Block 102, Lot 23 \$250

Basile Birchwale & Pellino, 2/01/22, Cinquegrana, 73 Jamros Terrace, Block 1302, Lot 2 \$250

Basile Birchwale & Pellino, 2/01/22, Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9 \$187.50

Neglia Engineering Assoc., 2/10/22, Curcio Realty, LLC, 156 Midland Avenue, Block 403, Lot 9 \$90

Neglia Engineering Assoc., 2/10/22, 5th Street Assoc., LLC, 77 N. Fifth St, Block 405, Lot 3 \$185

Neglia Engineering Assoc., 2/10/22, RPM Hospitality, LLC, 129 Pehle Avenue, Block 1311, Lot 36 \$270

Neglia Engineering Assoc., 2/10/22, Dacunha, 353 Capitol Street, Block 102, Lot 11 \$150

Neglia Engineering Assoc., 2/10/22, Schimenti, 584 Elm Avenue, Block 1708, Lot 18 \$150

Neglia Engineering Assoc., 2/10/22, 279 President St. S.B. Condo Assoc., 283 & 285 President St., Block 105, Lot 11.01 \$150

Neglia Engineering Assoc., 2/10/22, Hufscape II, LLC, 326 Route 46 & 331 Tenth Street, Block 118, Lots 2 & 3 \$365

Ms. Murray makes a motion seconded by Mr. Mazzer 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

Mr. Duffy makes a motion to close seconded by Mr. Schilp. All in favor – YES.