

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
April 4, 2022 Regular Meeting

The Saddle Brook Zoning Board of Adjustment held a regular meeting 7:00 p.m. on Monday April 4, 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 and Mr. Duffy – Present. Mr. Tokosh, Mr. Marz, Mr. Calvitti Mr. Champy and Mr. Burbano are absent. Also in attendance are Stephen Pellino the Board Attorney, Anthony Kurus the Board Engineer and Gary Paporozzi the Board Planner.

5. NEW BUSINESS

A.) Jungah Kim, 93 Graham Terrace, Block 1513, Lot 45

Applicant requests a six-foot privacy fence in the front yard (corner lot) 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.

Jungah Kim steps forward and is sworn in by Mr. Pellino.

Mr. Duffy asks what it is she would like to do.

Ms. Kim – Put a 6 foot privacy fence on a corner lot. We have a new home and want some privacy. She would like to bring the fence even with the front of the house.

Mr. Mazzer asks for some clarification about the fence on the right side of the house by the driveway as it does not look complete on the drawing provided.

Ms. Kim explains that the drawing was done before the addition was done. The fence is a white vinyl fence that belongs to the neighbor going down the right side of the house.

Mr. Kurus adds that the fence would need to go on the property line as the old fence is shown off of the line.

Ms. Murray says that she had driven past to see if there would be any vision obstruction and she said that she could see the street and did not think it was a problem.

Mr. Schilp comments on the large bush that they removed which was blocking the view around the corner.

Mr. Paporozzi says that the fence on Burgess Drive is a foot and a half into the Township property so it needs to be placed back a foot and a half and would also need to be in front of the concrete wall in the rear because the wall is along the line.

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 seconded by Mr. Manzo to approve the application.
Mr. Duffy adds the stipulations that the fence be moved to the property line and inside the concrete wall along the back.
Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo 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. This application was carried from the March 7th meeting.

Simone Calli of Calli Law, LLC is the attorney representing Mr. Schimenti. She begins by explaining that this application was heard at the March 7th meeting and that the Board had some issues with the application. The distance from the house to the garage was 2.5 feet the plans were modified and the distance is now 10 feet. Ms. Calli tells the Board that is it and ask that the Board approve the application. Mr. Duffy asks if they are moving the garage and Ms. Calli says yes.

Mr. Duffy has a question about the lot coverage as there are 3 different numbers one on the denial letter, one on the original application drawing and one on the new plan that was received. He would like to know what the actual number is. Through discussion they establish that the additional coverage is the amount of added coverage by moving the garage back.

Ed Chudzinski the architect is called up to testify. He was sworn in at the last meeting and is reminded that he is still under oath.

Mr. Duffy asks him what the actual number is.

Mr. Chudzinski says that it is 56% because by moving it back it also made it 2 foot shorter than it was originally on the left.

The Board is in agreement that the plan is much better and they are happy with it.

Mr. Schilp asks if they will still be putting a rail around the basement egress window well and Mr. Chudzinski says yes they will.

Mr. Paparozzi points out that based on the drawing the scale and the distance from the rear property line being proposed that the garage will actually be larger than it was by a foot. He is basing it on them moving the garage back 7.5 feet and showing a 5 foot rear yard setback when it was originally a 16 foot rear yard setback. If you bring it back 7.5 feet the rear yard should be more than what is shown it should be 8.5 feet. The question now is what the actual coverage is because it does not appear that the garage is going to be smaller it is just being pushed back which will increase the lot coverage to 59%.

After some more discussion it is established that they are going to go back to the 5 foot rear yard setback and the coverage should reflect that increase.

There are no more questions and Ms. Calli is done with her presentation.

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 seconded by Ms. Murray to approve the application with 59% lot coverage and that there is a stair enclosure around the window well.

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

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

Applicant requests to use the rear/east side of the property for truck parking with exterior improvements consisting of new timber curbing, gravel paving and landscaping. (Applicant was first heard at the October 4, 2021 meeting and was carried to the February 7, 2022 meeting and was carried again to the April 4, 2022 meeting due to a scheduling conflict).

Charles Sarlo steps forward to represent this application. He is informed that we have only 5 members present and he would have to have all members vote YES to be approved for the Use Variance that they

are requesting. Mr. Sarlo tells the Board that he had provided additional information regarding the paving system that they plan to use for the parking lot. Mr. Pellino tells Mr. Sarlo that the Board is entering into evidence exhibit B1 the original Zoning Application that Chefler Foods had submitted in 2017 when they initially started operating from this location.

Mr. Duffy explains to Mr. Sarlo the reasons for it being entered into evidence are that the application had the hours of operation were 8 am to 6 pm and the vehicles to be parked on site overnight was incidental trailers.

Mr. Sarlo requests to be carried due to the fact that there are only 5 members.

Mr. Duffy calls for a motion.

Ms. Murray makes a motion seconded by Mr. Schilp to carry the application to the May 2nd meeting without notice.

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

D.) 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. (Carried from the March 7, 2022 meeting)

Christopher Botta steps forward to represent this application. He explains that this is a continuation of the application that began its hearing at the previous March 7th meeting. He tells the Board who he will be calling to testify.

He calls up Mr. Guttuso the contract purchaser of the project. Mr. Pellino reminds him that he is still under oath as he was sworn in at the prior meeting.

Mr. Guttuso explains the drawings that he initially submitted were architectural floor plans which were typical of self-storage facilities that had typical designs. In terms of elevations they didn't do architectural elevations but provided architectural renderings which depict the buildings from every elevation.

He says that the architect is present to give more testimony as to what the architectural indicate.

Mr. Duffy – We received a letter today from Mr. Whitaker we are getting last minute things.

Mr. Botta – The letter was just to make sure we were still on the agenda because we knew you had other elements to go before us so it was just confirmation that we would be able to be heard tonight.

Mr. Duffy – It was more than a confirmation it was asking for an accommodation.

Mr. Botta – Advocacy I guess you would call it.

Mr. Botta continues by saying they want to clear up some of the issues that were raised in the engineer's letter of 3/31 and also comments made at the last hearing.

Mr. Duffy – Judging from that letter you are hoping to get a vote this evening.

Mr. Botta – Yes we are.

Mr. Guttuso says that there won't be any pressure here tonight and that he would like to explain some things the Board may not be aware of.

Mr. Duffy – There appears to be a lot of questions which I would like to see answered. I have concerns that our engineer is not satisfied with a lot of things and I would like him to be satisfied. His opinion is valuable so I want to make sure that is taken care of. Is if there is anything else that is going to be handed out tonight that we are not aware of? It would have been prudent to have a better package presented to us. We are asked to absorb all this information in a matter of a couple of hours.

Mr. Botta – That is why we have various professionals here to illuminate some of the high points and bring you to a level of satisfaction with this application.

Mr. Guttuso makes an opening statement. Mr. Guttuso explains how he is proud of the application and it did a lot to improve the site by getting rid of a large 2 story hulk of the blighted portion of the building, added more open air space, added green space, replaced it with a small modern building in the front which would be the face of the development. He shows the Board the renderings that are displayed on an easel. He explains how the site was a 100 year old overdeveloped site that is a contaminated, Brownfield site that has been remediated and was blighted. He apologizes for not being prepared at the last meeting in regard to the new storm water management rules that were implemented in March of

2021. The Township of Saddle Brook also implemented its own storm water ordinance back in March of 2021. They were aware of it but not familiar with it. He references Mr. Kurus's concern about this application being a major development under the new storm water regulations. He has 3 engineers with him to testify in that regard. They thought they were close to the 1 acre trigger but still believed that they were under the 1 acre. He concedes that Mr. Kurus was correct in his evaluation and that they went back and went through the state and Township regulations in order to better understand the situation. He says that you have to be under 1 acre of total disturbed area to be considered a minor development. If you are over 1 acre you are a major development. He spoke with someone at the DEP and they explained to him that if you are 1 square foot under and your engineer certifies it you are under and not compelled to conform but if you are 1 square foot over you are compelled to conform. We went back and redesigned the site plan so that we could bring it as a minor development and not a major development. He explains to the Board that this is not about saving money as he is already deeply invested in this project financially and personally with the time he has spent over the past 7 years. He wants the project to be one of the last best things he does in town. He wants to be part of fixing the biggest blight and eyesore in town. It is impossible for this site to conform to those state requirements for 2 main reasons but there are many more. Number one it is a Brownfield Site that means it was contaminated. It took 20 years for the current owner to get through remediation. The DEP and EPA finally approved it. What had to get removed was removed. What didn't have to be removed remain on that site. There is everything there hydrocarbons, heavy metals, PCB's still on that site. The site was built on historic fill and is 6 feet deep loaded with everything. We've dug hundreds of holes tested hundreds of areas hauled out thousands of yards of material but we still have low level acceptable contamination by DEP and EPA standards. Why is tonight's meeting so important? It's important because we wanted to tell you the reasons for wanting to be under the requirements for storm water. They are number one because the site is still a remediated site the EPA has mandated that there be permanent cap placed over that site. A permanent cap is 6 inches minimum of asphalt, 6 inches of concrete slab, 6 inches minimum of building slab. In the green areas you have to put 10 inches of soil before you can put your top soil and your vegetation layer. The design of it is so that a 70 pound or younger child can't get through that cap and ingest contaminated soil. With a cap in place it is safe for industrial use. The EPA gave the owner a certain period of time to install this permanent cap. That time frame has come and gone twice. They said we are going to give you this amount of time you either sell it to Mr. Guttuso if he buys it it's his responsibility to install the cap as part of this improvement. If he doesn't sell it to me by date certain he has to start installing that cap. What is there now is an interim cap they did not accept that as a permanent resolve. The reason we are asking for action tonight if at all possible is because the deadline that I paid an extension for on behalf of the owner expires April 19th two more weeks. I don't expect you to believe me so I am giving you something that you normally wouldn't have access to. This is a letter from the EPA telling you everything I just said. It says the owner has until the 19th to commence implementing the permanent cap. If he doesn't the EPA is going to impose a \$1500 a day fine. This guy is already tapped out.

The letter is marked as exhibit AA-1 dated 4/4/22.

Mr. Guttuso - The letter says that by April 19th he was either supposed to sell the property to me or the owner was compelled to begin the commencement of the work. He has no intention of doing the work he does not have the funds to do it. Last month my screw up put me in this position I am one month behind. My hope is at this point the Board is comfortable enough and if we answer Mr. Kurus's questions to his satisfaction that we might request an approval. With that approval I am sure I can ask Mr. Pellino for a letter bring it to the EPA and ask for 2 more months so they don't impose any problems on him and we will be able to move forward. If the gentleman gets the daily fine he will file bankruptcy. With that pressure on me I am not putting that on you I am just telling you the truth. I know everybody on the Board has good intentions to see this place get redeveloped. I know the Board has given me a lot of cooperation and courtesies. Having said all that I want to be sure it is going to be done the right way. The other issue is why can't we conform to these requirements if we were over an acre which I believe we can prove we are not. If we were over a quarter acre of new impervious surface and if we were over a quarter acre of new impervious motor vehicle surface we could still not conform. We are a contaminated site requires a

cap the impervious cap is going to issue a problem. There are 3 major premises of this storm water management requirement. Number one is quality. Take your storm water and run it through a swimming pool filter before it leaves your property, sand filter, cartridge filter. Run it through some underground chamber and purify it before it leaves your property. We can't be putting these facilities beneath contaminated ground. There is actually an exception that says if you have a deeded restriction for environmental capping you could get an exception. Number two we could never qualify for water quantity. They want us to be able to process the amount of storm water coming through our property and either delay it, infiltrate it into the ground or store it on site and let it dribble out at a slower speed. We can't conform to that and this is why. That inlet which is unofficial as it runs through our property is taking all of the storm water from Fifth Street and running it through our property. We would be compelled to manage those volumes of storm water as well as trying to manage our own on site storm water problems. We don't have the ability to do that. There is no plan we could have come up with to store to slow that down and to do that. The biggest problem on Fifth Street is when it rains it floods. The flood water is trying to leave our property and go downstream to the pump station. The pump station is blocking the end of the drainage ditch. There is nowhere for it to go. When that water runs through our property and fills up the drainage ditch the basin fills up in the back Baker Firestone fills up and then it stops taking water and the water comes up on Fifth Street. How could we be expected to adhere to that requirement to slow down storm water through the property even more? If we slowed that water down any more you're going to need a motor boat to get through Fifth Street. We cannot conform to the water quantity moving the water off of the property fast enough. The infiltration is the third part. That is to take your storm water relatively clean storm water and reintroduce it into the ground and let it percolate through the ground and hopefully eliminate the runoff off your site. There is an exception in the plan as well for sites that have a deed restriction like this that have contamination as long as it is authorized by your LSRP. That's going to take good storm water mix it with the contamination under the ground and spread it. It doesn't make any sense we can't do that either. Those are the reasons after we did our analysis we said you know what we're just going to make sure we design this site so we don't have to adhere to those plans. We thought we were there and we weren't, we are now. We redesigned the site and the things we did to make the difference, we were over in what's called disturbance because we had a portion of the existing building we were going to chop that off and make it straight but that constituted disturbance so we put it back in. That is the area that put us over the one acre.

Mr. Duffy – Mr. Guttuso I know this is considered your opening statement I think we are getting into testimony and a little further beyond where I would rather hear from engineers. I think we are beyond an opening statement. There are a number of things that need to be answered and I don't hear them being answered. There are a lot of points being brought up I think at this point we need to get to that.

Mr. Guttuso – Can I just wind down this sentence and I'm done?

Mr. Duffy – Okay.

Mr. Guttuso – The area of disturbance that we reintroduced to the plan was here and what we also did was there was a bunch of new pavement that we had here to provide parking spaces that we pulled back and reduced.

Mr. Guttuso hands out exhibit AA-2, 4/4/22 which is a satellite view of the site and there is a black magic marker outlining the perimeter of the property and if you look closely you can see the existing pavement over the entire property. Mr. Guttuso is finished speaking.

Mr. Botta calls up Robert Weissman the engineer for the project. He asks to enter exhibit AA-3 which is the Disturbance Area Plan dated March 23, 2022.

Mr. Weissman is reminded he is still under oath.

Mr. Weissman puts the plan on the easel for display purposes.

Mr. Botta asks Mr. Weissman to walk the Board through the Disturbance Area Plan that he had prepared. Mr. Weissman explains that there was a rain garden that is being removed and the area around the building will be milled and resurfaced which will exclude it from being considered disturbance. The building in the front will be removed and replaced. The parking drive area is 9,963 square feet where 10,890 square feet is permitted which is a quarter acre. The proposed disturbance area is 43,159 square

feet where one acre which is 43,560 square feet is one acre which would be the limit. The impervious area preexisting is 143,760 the proposed area is 124,614 so we are reducing the impervious area by 19,146 Square feet. He describes the turning radius and traffic flow on the property. He maintains that they will be within the tolerance of disturbance in order to remain as a minor development. The asphalt areas will be milled and resurfaced. The grading and drainage will remain the same.

Mr. Botta asks Mr. Weissman if he is familiar with the regulations for the storm water and he replies yes.

Mr. Botta – By milling and paving only does that comply with the regulations.

Mr. Weissman – Yes it does. In my opinion it does.

Mr. Botta – With regard to the other areas in terms of regulated motor vehicle surface areas can you describe how that meets the regulations.

Mr. Weissman – We have a larger parking area to the western side of the proposed one story building on Fifth Street and we whittled it down to what is necessary to maneuver in and out. We have a truck turning radius to have a more than adequate turning radius to get in and out. To allow for parking in the front of the building towards Fifth Street. There is a parking area that is 940 square feet that is existing today that will be removed that will increase the pervious area. All the area to the west of this new parking drive area as well as the southern portion of that and that is included in the disturbance area.

Mr. Botta – That's below the quarter acre disturbance requirement?

Mr. Weissman – That's correct.

Mr. Botta – That would not trigger the enhanced regulations.

Mr. Weissman – That's correct.

Mr. Botta – With regard to the proposed disturbance area can you repeat the calculations for the Board.

Mr. Weissman – The proposed disturbance area is 42,159 square feet where 43,560 is the threshold. The regulated impervious area is being decreased by 19,146 square feet.

Mr. Botta – Can you talk about some of the things you removed in order to present this plan?

Mr. Weissman – It primarily is the removal of the building on the north side of the proposed two story building.

Mr. Botta – Is it your professional opinion that this application as proposed is exempt from the storm water management regulations recently passed and the Township of Saddle Brook ordinance.

Mr. Weissman – That is my professional opinion yes.

Mr. Botta – Can you discuss some of the flooding issues that are on site and what is proposed to remediate them?

Mr. Weissman – It's a low lying area during a percentage of storms it does get some flooding. There is a ditch that parallels the easterly side of the railroad that leads to a pump station and there is a pipe that is compromised. We submitted a plan showing replacement of that pipe to be of some relief to the area.

Mr. Botta – You testified to that at the last meeting correct?

Mr. Weissman – I did.

Mr. Botta – That is the matter we referred to the Board for potential offsite improvements for flooding. With regard to that flood mitigation offsite would it improve drainage at the site?

Mr. Weissman – In my opinion yes.

Mr. Botta – Would those improvements that you proposed do more to enhance drainage and reduce flooding than almost anything else?

Mr. Weissman – In my opinion yes.

Mr. Botta – Do you have any comments in regard to Mr. Kurus's Engineering Report?

Mr. Weissman – He does disagree with my contention that we do comply with the storm water management regulations. We have done so to reduce the amount of disturbance because this site has been like this for a long time and the intent from the beginning is just milling and resurfacing the areas on three side of the proposed two story self-storage building on the north side of the property. We can still grade the site when we repave to allow the storm water to flow. If we don't propose anything more than milling and repaving it will also provide the capping that is necessary because of the contamination on site.

Mr. Botta – Do you have any opinion with regard to curbing on the site?

Mr. Weissman – We do have about 400 square feet left if there was and we need say a foot wide so we could do 400 foot of curbing I don't know how much that would do because a lot of areas just flow off site and it does continue to go from an easterly to a westerly direction which we are proposing for it to continue to do so we're not changing any drainage patterns. Introducing curbing I don't believe is going to serve much of a purpose. It would also introduce more disturbance where we don't feel it's necessary.

Mr. Botta – Are there other things you could do besides curbing in order to provide safety on site?

Mr. Weissman – We could do some rolled curbing if necessary on the pavement. To introduce curbing around the entire perimeter of the site I don't think is necessary and I think would be counterproductive. We will be keeping the drainage patterns as they exist today.

Mr. Botta – You would be willing to work with the engineer if this application were to be approved to alleviate any drainage on site.

Mr. Weissman – Absolutely and as Mr. Guttuso alluded to there's no methods or means by which we can provide any on site storage. We are reducing impervious surface after the improvements compared to today for those reasons we will be getting some semblance of green area instead of pavement which is an improvement.

Mr. Botta – Do you know the square footage of the increase in that amount?

Mr. Weissman – Increase of 19,146 square feet.

Mr. Botta – That will provide some relief and more pervious flow from the property right?

Mr. Weissman – Correct.

Mr. Botta says he is done and asks the Board if they have any questions.

Mr. Kurus – With respect to the net decrease and regulated impervious surface. The preexisting area that's preexisting prior to the building being demolished on site correct?

Mr. Weissman – Yes.

Mr. Kurus – I was just at two DEP seminars with respect to the new regulations and one of the items that came up was the 5 year look back. You can't look at the preexisting coverage you have to look at what's there today. I understand there was a building there but as it stands today that building was demolished you have gravel. What happens when it rains?

Mr. Weissman – There is hard surface below that I believe. I'm not familiar with the demolition.

Mr. Kurus – I believe it was demo and it was restored with gravel. There are also areas of broken asphalt. You have roof drains in a state of disrepair what happens to that runoff? What happens is the runoff comes down the roof drain and meanders through the pavement finds its way into the cracks into the ground. The amount of runoff from the proposed condition once you put on a new roof you hard pipe the roof leaders and connect it to the storm system. Now you've got a straight shot with your runoff. It's going to increase runoff to the Borough's storm system from what is currently happening today. I understand preexisting there was a building and the pavement was in good condition. Where you have that call out existing parking area to be milled and resurfaced on your aerial you can see it in the photo it's darker correct? This photo isn't the most recent the existing condition in that area today is gravel. You have a situation where when it rains that water is going into the ground not running off. Your net decrease is not correct based on the new version of the storm water management regulations which require you analyze the existing condition on the most conservative approach on a five year look back.

Mr. Weissman – Can I respond to that? Part of that area towards the back obviously there's an existing building that has to come down so that is part of the impervious surface today. It may not be 19,000 square feet if you're talking about considering the building that was lost by fire but it will be a substantial decrease in impervious area as a result of these improvements by virtue of the grass area to the west and south of the driveway area for that building.

Mr. Kurus – You agree what you have on that plan is incorrect? It's not an accurate representation of the preexisting impervious coverage per the NJDEP storm water management rules. They require you use the most hydraulically conductive soil condition over the last five years.

Mr. Weissman – I don't know what the surface is under the stone I can't testify to that but there obviously was a building there.

Mr. Kurus – So my next question is you mentioned minor grading to be able to construct some of the ADA spaces. Minor grading is different than milling and paving. That requires the moving of the subgrade below the pavement.

Mr. Weissman – Not necessarily we are going up we are not going down. We're just going to mill and then.

Mr. Kurus – You've got to push something around. Have you been to the site?

Mr. Weissman – Many times.

Mr. Kurus – You think you can mill and pave that?

Mr. Weissman – There's no definition in the regulations as to how thick the pavement can be. We need a minimum of six inches but we may be going higher than that in areas to get the drainage.

Mr. Kurus – There has to be pavement there now. It's been so long since that site has been paved. There's areas on that site where there's gravel. There's areas where the pavement isn't there anymore. Once you are beyond that point you're past the mill and pave now its disturbance.

Mr. Weissman – What we did was define the limit of the disturbance area that includes the old building and the building to come down. All of that is part of the disturbance area. As far as the areas around the building to the north there is relatively minor regrading necessary there and that we can achieve just by introducing a minor swell to the pavement to continue the drainage pattern that exists today. That's what we are proposing to do not exceed that.

Mr. Kurus – When I hear grading I hear disturbance. I understand if you focus everything to that front acre of the site you'll stay under but the second you start doing anything to the rest of the site you're going to hit that one square foot over that Mr. Guttuso was talking about and it's a major development.

Mr. Weissman – That's why I purposely showed any semblance of disturbance which is the columns for the canopies we still have some 400 square feet left for whatever but we will probably be tack coating on top of what is there to achieve the thickness. It was truck traffic for many years so it's got to be pretty heavy pavement that's there now and we will be building up from there. All it is, is adjusting pavement thicknesses in certain locations to achieve the drainage pattern that exists. We're not pulling anything up we're not digging and regrading pulling dirt out of the ground or getting down to the subgrade underneath the pavement. We've done shovel tests to demonstrate to the DEP whether it's a hard surface or not because it looks like it could be a little broke and you take a shovel and video it. In my opinion the whole area is impervious the whole northwest portion of the site and it's going to remain that way.

Mr. Kurus – My next question why can't you provide storm water management on the property?

Mr. Weissman – The main reason is because it was a previously contaminated site. We can't introduce any water for treatment it would work backwards it would introduce contamination to the waterways that would continue off site and that is not permitted.

Mr. Kurus – I understand the three components. There's storm water quantity, storm water quality and there's ground water recharge. The regulations provide for an exemption from the ground water recharge component if you have environmental issues as was described at this site. The regulations do not provide an exemption for water quantity or water quality. There are ways to meet the regulations that don't involve infiltrating runoff into the ground. I guess you haven't looked at all of the options. Just because you have a contaminated site the regulations aren't structured that you don't have to provide any storm water management on the property. At the last meeting we talked about drainage storm water management concerns and the plan I'm looking at now. The one small rain garden you got rid of and the testimony is we have environmental issues we don't have to do anything. That's not carve outs Mr. Weissman.

Mr. Weissman – First let's talk quantity. This site floods pretty regularly. The whole neighborhood does. I don't know roof top storage for this kind of construction is not an option. For me generally speaking and philosophically speaking introducing water as storage on the roof of a building is a bad idea. I understand the intent in the city where everything is structural but to introduce storage of water on a roof is unrealistic. In a high flooding area there is no conceivable way short of pumping we could do any kind of on-site storage in my opinion. That's why we suggested probably the best idea that would contribute to not just to us but the region and it's a relatively easy fix with this pipe replacement. It's not a specific line item in the regulations but to me that's a means by which we could help the runoff in the area and reduce the

volume. This basically is a large catch basin if you will now during heavy rains. You want to get the water away in a way that's controlled and that would be the ideal place to get it because then from there it flows down and that's the bottleneck down by the pump station. As far as quality there is some treatment to be had in the ditch that exists. It's a grass swell but that exists today and that will remain as a treatment and a regional treatment of water that comes through the site and finds its way. Its grass fill all the way from there to the tracks then down suddenly to the bottleneck area I was talking about. To me that's a natural water quality that is a good thing to have and will remain. You have to desnag it sometimes to get it cleaned out and let it function. I think I did a pretty good job to get it under a quarter acre of disturbance. I cut a quarter acre of impervious and an acre of disturbance and I think we do qualify in that regard that's my opinion.

Mr. Kurus – I disagree I think that northwest section of the site is well beyond mill and pave and I think this site was a commercial facility you're proposing a self-storage facility I just think there is some site work that needs to be done in that portion of the site that's going to kick you over. If you split the project up I don't think you're allowed to split it up.

Mr. Botta – You would agree milling and paving alone does not increase the area disturbance right.

Mr. Kurus – I would agree that milling and paving will not address the site work that's necessary for the northwest portion of the property.

Mr. Mazzer – You're saying existing milling and paving but what if there is no pavement under there and it's just dirt? I understand it is an exemption but this site hasn't been paved in a long time.

Mr. Weissman – I understand I think that's part of what the intention was. We have a site that is largely paved like this where milling and paving to achieve you see I'm sure in large parking lots they do slight regrading I'm not talking about adding 2 feet of fill I'm talking about adding a little more pavement in areas to let the water flow where you need it to go. It was a heavily trafficked truck site before so it's most likely got at least six inches of pavement under there now. It may not even be milling we'd just be paving over the top of what's there.

Mr. Kurus – The new roof drains what are you doing with them?

Mr. Weissman – For the front building we have them going out to the inlets we have in the drive area there. We have a roof drain shown in this area here that is included in the disturbance area. The internal roof drains leading out and tied into the drain and out to the ditch.

Mr. Kurus – That goes to my concern about the storm water management where the time of concentration in the proposed condition is going to be shortened because now you have brand new roof drains hard piped either to the existing storm water conveyance pipe or to the ditch where today water spills out onto the broken asphalt and gravel meanders around some gets into the ground. That's why we're trying to get some sort of storm water management some sort of way to reduce runoff. Right now you're increasing runoff the way I see it.

Mr. Weissman – There are roof drains around the perimeter of this building at various locations that spill out onto the existing driveway and to me that's going to be an improvement from what we're proposing.

Mr. Kurus – It will be an improvement in surface runoff but the problem is the decrease in the time of concentration. That's where the five year look back and that's where the rules try to shape the improvement for the storm water management from the existing condition to the proposed condition so it's not addressed yet.

Mr. Weissman – Right now the roof drains half roughly go to the back half go to the...

Mr. Kurus – Did you submit a time of concentration calculation?

Mr. Weissman – No but to me it's going to be an improvement because right now it's discharging onto the pavement just from a safety standpoint it will eliminate any icing.

Mr. Kurus – There are portions where the discharge is to almost like shrubs grass that have grown through that water is going to go a lot slower than the hard piped connections. You have to take the hydraulically most distant path so it's not going to work in your favor when you do it.

Mr. Weissman and Mr. Kurus continue to debate and disagree about the storm water management on the site and the degree of soil disturbance.

Mr. Mazzer – I looked at the landscaping and you have beautiful landscaping on the front building. If we want landscaping around by Urma Place or around here a little bit will that affect the disturbance?

Mr. Weissman - Yes.

Mr. Mazzer – I get it it's a good project we're trying to make it work but I don't want to leave a building if you put some trees in there is there any way that we could do something?

Mr. Weissman – The first thing you see in the site is Fifth Street when you go by and that's going to be an attractive site. When you go in the back the building will be resided and very attractive. If we were asked to introduce more landscaping it would increase the limited disturbance thus triggering a major development and we are looking to avoid that for numerous reasons. I think what we have proposed is a fairly good solution to the problems we are confronted with here. Limiting the amount of disturbance if that's the case so be it. If we're asked to introduce some landscaping maybe it can be waived on this increase in disturbance area.

Mr. Mazzer – If it goes to a major development do we have the right as a Board to say we don't want all this we want some trees in there.

Mr. Weissman – I believe you do.

Mr. Mazzer – We could come to...

Mr. Weissman – A negotiated agreement I absolutely agree with you and that is something we could talk about but I would have to defer to the attorneys. I believe my reading of the regulations that you as the Board can grant some semblance of waiver from this.

Mr. Mazzer – That's what I'm saying like you don't have to do roof gardens.

Mr. Weissman – It's going to be a negotiation I think we are both saying the same thing and I think it would be a mutually beneficial agreement to do so however we just don't want to automatically now you're over 43,560 square feet of disturbance now you have to trigger the whole volume. Quantity storage is virtually impossible here.

Mr. Mazzer – So you come up with something that says.

Mr. Pellino speaks up and says that we might not be able to do this with EPA regulations.

Mr. Kurus – In order for the Board to be able to grant a waiver the Borough needs to have measures in place to grant the waiver and means of compensation for the storm water via off site or some mechanism. I don't believe Saddle Brook has a way to approve waivers at this point in time because the ordinance was adopted last March so as of now there is no way for a waiver to be granted.

Mr. Duffy – This waiver would actually put the onus on us if it didn't comply so Fifth Street would be in the same situation it is now. We wouldn't solve the problem.

Mr. Mazzer – If the developer puts the pipe in by the pump station and do whatever there would that be a give and take. I don't know I'm just asking.

Mr. Kurus – That question might be better for the Township Engineer who was involved in the ordinance. There is a discussion about the off-site improvement and that the Mayor and Council would have to sign off on it because it is Township property

Mr. Kurus – Before we get to offsite versus onsite we have to exhaust all options for onsite. I know you said rooftop storage but there's other means of storage that don't involve storage or heavy reinforcement but you are not necessarily storing the water you are just slowing it down with some growing medium. There is a whole list of things in the manual that could be help out. You also have that are behind the one story building maybe that rain garden you had on the first plan quadruples in size with the space that you have now. Major or minor I think there is still a need for storm water management on this property and as of now we are proposing zero.

Mr. Guttuso is attempting to get his attorney's attention to ask for a recess.

Mr. Duffy – I have something to say and this is my meeting so let's get clear on this. I am not comfortable because I have a letter here requesting that we make an accommodation because the applicant is under the gun. We have another letter here that's an email from the EPA that further exacerbates that issue so now what I'm looking at is and I agree this in the grand scheme the project is a good project. There are a number of things that need to be worked out. What I am not comfortable with is I'm being put under the gun and so are my Board Members. We are going to go back and forth over what's a disturbance are we

under an acre and we could wind up making a bad decision that makes Saddle Brook the culprit. We have a storm water situation that Fifth Street is still in the same problem. I want to get this off the table so we can sit here and come up with a game plan that apparently everybody wants to see work but there are discrepancies. If you need a few minutes to speak to your client Mr. Botta I am willing to grant a five minute recess for that purpose.

Mr. Botta – Thank you.

Mr. Duffy – Five minute recess.

Mr. Botta – Mr. Guttuso wanted us to apologize on his behalf but also to let you know there is no pressure and we are not putting pressure even though we had the letter sent this morning let's take that off the table. We are not here to force a vote or anything like that. We are here to present everything we can. We have engineers here to testify and we're here to hopefully have you understand our position and work collaboratively towards finding a solution to this problem. Just wanted to take that pressure off the Board and Chair.

Mr. Duffy – I appreciate that and I believe the members of the Board appreciate that also. We are taking this off the table.

Mr. Botta – It's off the table

Bruce Whitaker (attorney for the applicant) steps forward and explains that he was the one who authored the letter to the Board and explains that the reason for the letter was to be certain that the application was heard this evening in order for them to ask the DEP for some additional time. He also emphasizes that it was not to pressure the Board in any way.

Mr. Duffy – I have a question then because Mr. Botta did say that we were taking this off the table and they were not seeking to have a vote this evening am I correct?

Mr. Botta – Yes.

Mr. Duffy – Thank you.

Mr. Duffy – Since we are taking some pressure off what I want to understand is if we proceed and take this testimony into record can the Board issue a statement as to the status of where we are right now that might facilitate their issue.

Mr. Pellino – I don't know how we would frame that maybe a letter from the attorney stating what took place and where we're at. For whatever it's worth and obviously I'm not a member but one of the things that occurs to me when we talk about these drainage issues it's really engineer to engineer stuff rather than for this Board to be making determinations about the appropriate drainage plan you know what I'm saying?

Mr. Duffy – I do and that's why we need these gentlemen to be on the same page so they are guiding not only their client but us. I agree with that.

Mr. Duffy – At this point I think it would be okay to proceed with the testimony from your engineers so we can get some semblance here.

Ms. Murray – When the rain water is coming down now off the roof through the drains and infiltrating in the cracks in the pavement is that what we are trying to prevent with repaving and covering it up?

Mr. Weissman – This is considered a partial cap what's there now and I'm going to defer to the next engineer Tom Stearns is going to come up and talk about the existing situation on site. The ultimate requirement is to put a permanent cap over the entire site and again a minimum of 6 inches of pavement or concrete. I'd say it's probably 90% there already. A clay layer wherever we end up with grass to seal it and keep any water from getting down into the ground water so it doesn't further contaminate. I wasn't involved with the cleanup but from what I understand most of it has been cleaned up. There are still remnants that they still have to consider thus the capping requirement.

Ms. Murray – Thank you.

Mr. Pappozzi – I just relating to some of the variances that were not listed that I mentioned last month.

Mr. Weissman – I think I did change the zoning on the B3 analysis to try and comply and I think I changed the FAR and a couple of things. I hope I did it all if you see it on the site plan.

Mr. Pappozzi – You did and you called out a variance the FAR. The FAR in the B3 is maximum 1.0 and you're providing 0.75 you called it a variance. It's not a variance. On your zoning chart you have your lot

coverage required is 50% and you proposed 40% but on your coverage breakdown you have it as 78%, 58% so you are inconsistent there as well. Along the west side of the proposed two story originally we had storage for RV's and boats and now they're parking spaces. I said parking spaces had to be 10 by 18 you are proposing 9 by 18 so that's a variance unless you are going to make them 10 by 18. If you are making them 10 by 18 you have to revise your plan. You have an existing loading dock across from Urma Place I asked that last time if you are keeping. If you are keeping it it's a variance because you're not allowed to have parking or loading space in a front yard. If you're keeping it it's a variance if you're getting rid of it it's a variance because you are required to have four. Either way it's a variance but it's not listed. You changed the loading area in the southeast corner now it's 15 by 18 code is minimum 10 by 35 so that's a variance also not listed. The parking increased from 119 to 124 because you went back to the old footprint. You have total parking provided 26 spaces but you show 32 so that is another inconsistency that you have. I'm not sure how you're handling the parking the loading dock I don't know if it's a variance or not but anyway it all has to conform with each other.

Mr. Manzo – You're talking about the brook dead ending by the pump station. That pipe runs all the way through town under 46 and comes out on President Street and Midland Avenue which is flooding now and you had proposed putting a pump there. I was talking with the DPW Superintendent and he's ill-advised on that saying it's just going to flood more in that area.

Mr. Weissman – If you look at the elevations we're talking the invert of the pipe that would be going out and replacing a portion of I was talking about. Roughly elevation 44 as I recall and the elevation of the invert up by Fifth Street is around 45 and change I think. It would reach elevation of 44 and there would be some water in the pipe it would get up to elevation 44 and overflow and go down so. It would be a controlled outlet but it would still be below the elevation of the grate on Fifth Street. I could understand the pump station being a concern that is part of the reason we looked at the gravity overflow and we relieve most of the flooding on Fifth Street but at a controlled rate.

Mr. Duffy asks for a motion to open for the witness.

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

Mr. Duffy – Having heard none.

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

Mr. Botta calls Thomas Stearns from G.B. Engineering to testify

Mr. Pellino swears in Mr. Stearns he states his name spells his last and gives his business address as 144 Jewell Street Garfield New Jersey.

Mr. Botta asks Mr. Stearns to give his credentials in order to qualify him as an expert witness.

He gives his credentials and the Board accepts him as a witness in the field of engineering.

Mr. Botta – Have you had a chance to review the Disturbance Area Plan by Mr. Weissman?

Mr. Stearns – Yes.

Mr. Botta – You're familiar with the new storm water regulations?

Mr. Stearns – Yes.

Mr. Botta – Have you have a chance to review the Saddle Brook Municipal Storm Water Ordinance?

Mr. Stearns – Yes.

Mr. Botta – They are a mirror of each other is that correct?

Mr. Stearns – Yes.

Mr. Botta – Have you had a chance to visit the 77 North Fifth Street site?

Mr. Stearns – Yes with Mr. Guttuso. I walked the whole site. I refer to the northwest area which has the larger building and the existing pavement. One of my concerns when I was walking the property was that there were gravel areas on the pavement and I said to Mr. Guttuso it appears that this is just gravel and nothing under it. I had him get some workers and they excavated several spot in that area down to hard pavement. I observed that today. Every spot that he dug up had hard pavement on it. All the gravel that you see on the site is not gravel it is laid gravel over hard asphalt. There are some cracks in the asphalt but it's in fair condition considering its age. I would say the whole northwest area of pavement is homogeneous pavement with the exception of a few cracks. That brings up the question of milling. So milling of pavement I checked with New Jersey Bergen County Soil Conservation Angela Caruso and

milling of pavement is not considered disturbance as long as you don't get down to mill beyond the pavement and get to dirt. I also read the DEP NJC7:8 they actually mention disturbance also and it says milling and repaving is not considered disturbance for the purposes of definition. The proposal for the back of the site is to mill the pavement. If they can mill it six inches they'll mill it six inches. If they can mill it four inches then they'll mill it four inches. It was a truck site so there were heavy trucks loading zones so I'm assuming it's between four and eight inches of pavement there. The object is to mill that pavement and as you heard we have to provide a cap. The EPA is requiring a minimum of six inches of pavement on the site as a cap. We mill up to six inches if we have to or less and provide a cap of six inches of pavement. You can go further than six you can have it thicker and that will provide the grading that you need. We want to keep the site the way it is the runoff across the site we don't want to impede other areas we want to keep it the same. By milling and adding that six inches we want to keep the grading the same on the site and provide the same runoff or drainage flow that is currently there. That would eliminate any disturbance in the back. The other question that came up it is an EPA site and you can't contribute to ground water recharge. You can't disturb under that cap so we can't have landscaping there for that reason. We are going to have a six foot high fence with privacy slats around the rear portion of the property. There is going to be a gate on Urma Place only for emergency vehicles. You won't see what is going on in the back of the site as an onlooker. What you are going to see is the new one story building in the front of the site. What's happening in the front is where the disturbance is. We are removing the existing building and we have that gravel area where the other building used to be. We can't take credit for a building that was there and is not anymore. It is compacted gravel and as the EPA goes they consider that a cap and as the DEP goes gravel is considered impervious surface. If you are proposing gravel on a site you still have to provide runoff for it. That gravel is currently there so we are going to build the building some asphalt areas but we are providing a lot of green areas in that area. As Mr. Weissman testified we have 19,146 square feet of pervious area on the site compared to what's there now. That is a 12.1% reduction in impervious on the whole site. There are two facets to the major development question. The one is are we disturbing more than an acre. Just based on my testimony and my opinion we are not disturbing anything in that northwest area around that large building. Mr. Weissman highlighted the area we are disturbing which is taking down the building stripping pavement to add green area getting new pavement in the front and then ripping up pavement to put grass area that is considered disturbance. He figured out the area in the front and came up with 43,159 square feet of proposed disturbance. The requirement is an acre which is 43,560 square feet. We are under by 401 square feet. Based on what Mr. Guttuso said when he spoke with the DEP you're either 1 square foot over or one square foot under for a major development. We are 400 square feet under basically in this case based on these plans that I reviewed. In addition to that the other aspect of the major development is the increase in impervious area. You're allowed a quarter acre of impervious area. You have to be under a quarter acre of impervious area added to the site which that works out to be 10,890 square feet. As per Mr. Weismann's calculation our increase in impervious is 9,921 square feet which is 969 square feet less than the DEP requires for a major development. Part of that is the grass area we are adding. We are adding 19,000 square feet of new pervious area that eliminates us from being a major development in my opinion. As far as water runoff from the site we know there is an issue on Fifth Street the inlet connects to a 30 inch pipe and that runs out to that ditch. I just walked around the ditch to the pump house. It looks like the ditch ends at the pump house so what I think happens in this case I was told the pump house was built in the 1960's around there so this area was cut off by the pump house it appears and it fills up the ditch in the back and when it reaches capacity it floods back on Fifth. We are reducing the site by 12% impervious on the site as this proposal goes. Just by doing that we will have a reduction in runoff from the site. Mr. Kurus was talking about time of concentrations and we could probably provide some calculations regarding that comparing time of concentrations from the building going to the ditch but you should have a reduction in runoff volume by reducing the site by 12% of impervious. As far as quality goes the DEP sees buildings as water quality. Currently we have all that pavement there we are not changing that pavement in the back just milling and paving. In the front we are adding green so as far as quality goes a building to DEP is considered quality runoff as opposed to pavement because pavement

has oils and sediment and dirt. A roof runoff is shingled material and the DEP likes that so they don't mind runoff from a building. They are happy to take away pavement and add a building because it improves the water quality. The other one that was discussed was recharge and as far as the DEP goes we are an urban redevelopment area which is planning area one. They actually state that if you are in an urban redevelopment area recharge is not required and in addition to that the EPA prohibits us from having recharge on this site because it is a contaminated site. The ultimate goal here is to avoid contamination from spreading. The second goal would be a reduction in runoff from the site because the DEP doesn't want flooding so by having some green area added we're reducing runoff from the site. The fix that was talked about I don't know if it's possible the Mayor and Council can look into it. A way to reduce just have an overflow for the area so it would not impact Fifth Street as much. I guess you could analyze if it would affect the downstream areas or not.

Mr. Botta – Is it your professional opinion that the building as designed even if not a major development will be a reduction in runoff from the site?

Mr. Stearns – The site in general so the impervious area. The 12% reduction in impervious area will be a reduction in water runoff on the site.

Mr. Botta – There was some discussion of having all the roof drains connected to the swale there is that going to increase or decrease the runoff from the site?

Mr. Stearns – In that case the water from the building would go to the brook first and then you would have the other water sheet flow off. Then you would have the water that hits the grass would go into that grass area. In the front we have the impervious surface goes into the catch basins which would also go to the ditch. We would have to do an analysis to analyze how the hydrograph runs but it should be lower overall but we would have to run an analysis to check the time of concentrations.

Mr. Botta – You have looked at the offsite proposal and would that generally have a positive impact on the overall drainage and flooding issues in the area.

Mr. Stearns – I believe so because there is no way out for this water. It's between this low point on Fifth Street and North Fifth and that ditch and also you have lot 5 which is to the south of us that area flood as well. I believe that providing some kind of overflow would improve the situation in the area.

Mr. Botta – It's your opinion based on the calculations prepared by Mr. Weissman that this is not a major development requiring additional water surface requirements?

Mr. Stearns – That's my opinion yes.

Mr. Botta – Have you had a chance to review the engineering report from March 31?

Mr. Stearns – Briefly yes Mr. Weissman went over most of the items here. One thing I was going to mention was curbing. As far as curbing currently the site really doesn't have any curbing. Let's talk about that northwest area there is no curbing in that area and the runoff runs to the west toward the ditch. The idea was to not have any curbing there just have it sheet flow across to the ditch as it does now. If there was a concern regarding vehicle safety going into the ditch we could put concrete curb stops in front of each parking space and that would keep the cars from going into the fence. That wouldn't create any disturbance and would just stop cars.

Mr. Botta – Any questions from the Board?

Mr. Duffy – The northwest corner along the railroad tracks it appears that there is gravel there and you did what?

Mr. Stearns – He dug about 10 holes there to hard pavement so there is hard pavement under that.

Mr. Duffy – From one corner to the other you did a good random sample?

Mr. Stearns – I did because it did appear by eye that it was broken pavement with gravel added but it's actually pavement the whole way.

Mr. Duffy – How deep?

Mr. Stearns – Some of the gravel was eight inches or some six inches.

Mr. Kurus – You said that you can't install landscaping because of the cap but I thought the cap wasn't completed to date so why couldn't you install landscaping?

Mr. Stearns – Because I think landscaping would contribute water through the surface to the contaminated area and then it would plume the contaminants further into the ground.

Mr. Kurus – The testimony from Mr. Weissman was the landscape areas would have to have a proper cap with the soil on top it.

Mr. Stearns – It would have to be shallow.

Mr. Kurus – Whatever the medium needed to be to support whatever plant you're putting in.

Mr. Stearns – Right.

Mr. Kurus – But the cap isn't finished in the back I thought you still have to complete it. It's not you'd be disturbing it you just have to construct it a different way.

Mr. Stearns – Understood yeah I didn't think about it that way.

Mr. Schilp – How thick is the pavement that is back there?

Mr. Stearns – I'm not sure there was no indication that it was thin. We're going to have to check the pavement before we mill it to know how much we can mill.

Mr. Schilp – I think if you milled it, it would fall apart totally.

Mr. Stearns – If that's the case we have to have a six inch cap on top of that.

Mr. Schilp – If you put six inches on top of that do you think it's going to cause more water to run off into the neighbor's property?

Mr. Stearns – Not the way it's pitched we will have a swale. We can't affect the neighbor's properties as far as runoff goes.

Mr. Duffy – You said some of the gravel was eight inches deep and you hit hard pavement and you don't know the depth of the hard pavement.

Mr. Stearns – Correct.

Mr. Duffy – It could be an inch or two and as Mr. Schilp said milling will does that throw us into a disturbance?

Mr. Kurus – Yes.

Mr. Stearns – If we over mill.

Mr. Duffy – I know in the ordinance you are permitted to mill and pave is there any type of limit?

Mr. Stearns – We could be inspected so we're not hiding anything so if we mill one inch.

Mr. Duffy – I'm not saying anybody is hiding anything this is for a lot of us I think this is new territory.

Mr. Stearns – I think the protocol to do is to take samples of how thick the pavement is and submit it to Neglia and then we know how much we need to mill in each location. We're only going to mill whatever the thickness is and then not to expose any dirt and then we cap it. The cap has to be six inches the milling can be whatever it is. It was truck traffic so I think there is a fair amount of pavement there but we have to determine that.

Mr. Duffy – It could have been paved numerous times we have no way to know that without testing for it. What it brings to mind is the definition of disturbance again. Are we going to find if we deem it to be not a major development and then all of a sudden it just became one?

Mr. Stearns – That's why you have to do some testing before you start milling. He should determine the depths almost like topographic.

Mr. Duffy – Like core drilling.

Mr. Stearns – Right so we can tell the contractor how much to mill they can set it.

Mr. Paporozzi – You said that gravel is impervious?

Mr. Stearns – It is it's considered .9 on the scale for runoff.

Mr. Paporozzi – That didn't come from Angelo Caruso at Bergen County Soils because he has told me completely opposite. Quite frankly you know I'm on a lot of boards I think you testified to the opposite of what you are saying now too.

Mr. Stearns – When we do drainage calculations gravel is considered impervious. There may be one town in the whole state of New Jersey that I think allows gravel to be pervious.

Mr. Mazzer – How did all that gravel get there?

Mr. Schilp – I thought they raised it to keep the place from flooding more. That's only a guess on my part.

Mr. Kurus – I also disagree that gravel is not impervious. The definition in the ordinance any surface material that is highly resistant to the infiltration of water. You pour a glass of water if it goes in its not

impervious if it resists it is impervious. The state determines gravel as pervious and pavement as impervious.

Mr. Stearns – It's compacted gravel in the front. I think Mr. Weissman's calculation still show that we are not over the disturbance numbers.

Mr. Kurus – That was one of the first things I questioned was regulated impervious surface he is showing a net decrease of 19,146 square feet but he counted the former building destroyed by the fire which is 24,026 square feet when if you do the five year look back the building's not there it's not impervious anymore then you end up with net increase of impervious of about 5,000.

Mr. Stearns – In your drainage calculations what was your curve number on gravel?

Mr. Kurus – It's not as much as pavement it's not a 98 it's less than pavement.

Mr. Stearns – The EPA considers it to be a temporary cap.

Mr. Duffy – So it has to be replaced. That gravel that we know is temporary cap is it being touched?

Mr. Stearns – Yes that's considered part of our disturbed area.

There are no other questions.

Mr. Duffy asks for a motion to open to the public.

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. Botta calls Mr. Guttuso up to answer some of the questions about the property that the engineer could not answer.

Mr. Guttuso – The gravel was put on top of the pavement by the owner because the property was pitched to the west and all the water from Urma Place comes across the property and goes into that ditch. The gravel was put there because there was a huge puddle and they put it in. I can attest to the fact that the entire area back there has substantial pavement. I know because I was one of the guys digging the holes. The holes are still there and I invite anybody to come take a look at it. Whatever we can mill and pave we will and if there are areas that can't be milled we pave over the top of it with a minimum of six inches of pavement. There can be a foot of pavement if that's what it takes to contour that water. If somebody wants vegetation and landscaping in the back there is a way to do it but we have to be sure we don't create more disturbance. We have 400 feet of excess disturbance that we can utilize. You have to dig a hole put a membrane down, top soil, soil and plant your tree. We are also compelled according to the ordinance to put in an irrigation system. This is something that has to get approved by EPA because the irrigation system is there to keep the trees alive but has to be a drip system not a sprinkler system. About the idea of the storm drain it has been passed around for about five years Remington Vernick has reviewed it they loved the idea when we talked about a pump. We've since downgraded the idea of a pump because Mr. Weissman has determined that we can meet this in gravity. The beauty of gravity back there is that it's a big basin right now if we give the water an outlet and the outlet is going to go into a fairly new infrastructure pipe that was recently opened by the County of Bergen about four years ago that runs all the way under highway cinderblock goes to a sink under 46 and comes back out on the other side. It's a 36 inch pipe that was full of concrete. They jacked it out and now we are able to run that pipe into that facility and it's not going to be this this surging rush of water. Hopefully as the water comes out of Fifth Street fills in that easement it'll just gently go into that line and try and keep an equilibrium so the water doesn't come up onto Fifth Street.

Mr. Mazzer – I feel that it's close to a major so if the major thing helps out more what's the difference. I know there's a lot more engineering to do but if we can adjust how much water what are we doing. It's very close if it was a major how much more would you have to do?

Mr. Guttuso says that he would have to go before the Council for waivers and it would take months for that to happen. What we've attempted to do here is to give the best storm water quality mitigation for what we are working with on the site. We can't put the water back in the ground. I can't put a soccer field on the roof. The other question from Mr. Kurus is the pavement that is in front of the building right now is considered impervious under the DEP requirement when they installed that 2 and a half feet of gravel up front they said that that compacted would be considered impervious as an interim cap but it was clear it

could only be temporary. Until the April 19th date that cap that cap has to be impervious permanent. My intention would be to build on top of that gravel because it's two and a half feet thick. Where we have footings we have to deal with footings but the gravel is going to stay. We are more than happy to install trees, shrubs or fencing where we can. I just can't put a sand filter under the ground and filter all of Saddle Brook's water. The only other alternative would be disconnect that storm drain from Saddle Brook and we'll manage our on-site storm water. We are taking 10 times the amount of storm water off of Fifth Street that's not ours through an unauthorized line. We would need to give the town an easement to keep that thing there. That has never been approved and I don't who hooked it up. We are offering to do that as part of this application. We are offering to give the town an easement we think that's mitigation we're offering to continue that water coming in so the town doesn't have to run 2000 feet to run a new storm drain down Fifth Street. We are offering to do that offsite storm water improvement that is mitigation. We have a site that's 100 years old we're not going to get it perfect. We could make it functional make it beautiful put it back on the tax rolls but you can't fix 100 years of bad engineering on a contaminated site. We are willing to do whatever we can as long as we stay away from the major issue and I'm all ears if Mr. Kurus has any other suggestions he would like us to impose that we may not otherwise have to oppose and we can do it I'm all ears. It's a give and take.

Mr. Pellino – That's just the point. He's a smart guy he's a reasonable guy why can't we have two engineers between now and the next meeting come up with something that everybody agrees with.

Mr. Kurus – I think one of the main issues is the proposed mitigation measures are all off-site which is I guess they've had discussions with the Township Engineer I only represent this Board. My review is focused for onsite improvements mitigations onsite and I've heard testimony that it's very onerous they are looking to focus their efforts offsite. If all the work's going to be done offsite then it's going to have to be reviewed by the Township Engineer to make sure that the mitigation is an even swap.

Mr. Guttuso – What's the value of 19,000 square feet of green space where there is none before.

Mr. Kurus – That calculation is not correct.

Mr. Guttuso – Whatever it is if it's one square foot according to you one square foot of green space is going to absorb surface water runoff that otherwise would have gone straight into the ditch. Will you give me credit to say that somewhere there's going to be green space here?

Mr. Kurus – There's a calculation it hasn't been supplied to me yet other than this and the prior submission but as it stands there is nothing being proposed onsite.

Mr. Guttuso – I disagree.

Mr. Pellino suggests to make it a condition that they reasonably satisfy the Township Engineer.

Mr. Paparozzi explains that the Board Engineer and the applicants engineer are far apart on their disturbance numbers and that they are each looking out for their own side. He suggest it may be a good idea to have the Township Engineer have a say in this.

There are no more questions for Mr. Guttuso.

Mr. Duffy asks for a motion to open to the public.

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

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

Mr. Duffy asks what additional information needs to be provided for when they return next month and to have within 10 days prior to the meeting. There were some architectural questions. The issue with the calculations time and concentration. The various discrepancies that Mr. Paparozzi had gone over with Mr. Weissman.

Mr. Schilp says that he thinks that before the next meeting that our engineer, Mr. Guttuso's engineer and the Township Engineer should meet to discuss this.

Mr. Duffy says he would like to see a summary of their findings.

Mr. Botta asks to be carried to the next meeting without notice and Mr. Pellino makes the announcement that they will be carried to the May 2, 2022 meeting without notice.

6. RESOLUTIONS

- A.) Approval for Darwin Betancur, 10 Sterling Place, Block 906, Lot 6
- B.) Approval for Abel & Maria Dacunha, 353 Capitol Street, Block 102, Lot 11
- C.) Approval for Russell Kelley, 275 President Street, Block 105, Lot 10.01

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

7. MINUTES

Meeting of March 7, 2022 Regular Meeting

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

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 3/09/22
Nathan R. Fenno to the Zoning Board 2/09/22
Including the letter from Mr. Whitaker.

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

9. VOUCHERS

Basile Birchwale & Pellino, 3/01/22, Hufscape II, 326 Rt. 46/331 Tenth St., Block 118, Lots 2 & 3 \$1250
Basile Birchwale & Pellino, 3/01/22, 279 President St. Condo, 283 & 285 President St., Block 105, Lot 11.01 \$250
Basile Birchwale & Pellino, 3/01/22, Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9 \$250
Neglia Engineering Assoc., 3/15/22, Darwin Betancur, 10 Sterling Place, Block 906, Lot 6 \$150
Neglia Engineering Assoc., 3/15/22, 5th Street Assoc., LLC, 77 N. Fifth St, Block 405, Lot 3 \$925
Neglia Engineering Assoc., 3/15/22, Chefler Foods, LLC, 400 Lyster Ave., Block 1009, Lot 9 \$647.50
Neglia Engineering Assoc., 3/15/22, Russell Kelley, 275 President Street, Block 105, Lot 10.01 \$150
Paparozzi Associates Inc., 3/03/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$337.50
Paparozzi Associates Inc., 3/03/22, Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9 \$255
Return of Unused Escrow, 3/23/22, McDonald's Corp., 189 Route 46, Blk 123, Lot 1 & 1.01 \$16,727.15

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

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Mr. Schilp makes a motion seconded by Ms. Murray to open to the public. All in favor – YES.
Mr. Duffy – Having heard none.
Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.

11. ADJOURN

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