

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
June 6, 2022 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday June 6, 2022 at **(Saddle Brook Town Hall 93 Market Street)**

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

Mr. Duffy asks that everyone remain standing for a moment of silence in memory of those who were lost on D-day June 6, 1944.

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. Manzo, Mr. Tokosh, Mr. Marz, Mr. Champy and Mr. Duffy – Present. Mr. Mazzer, Mr. Schilp, and Mr. Burbano are absent.

5. NEW BUSINESS

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

Applicant requests to use the rear/east side of the property for truck parking with exterior improvements consisting of new timber curbing, gravel paving and landscaping. (Applicant was first heard at the October 4, 2021 meeting and was carried to the February 7, 2022 meeting. It was carried again to the April 4, 2022 meeting due to a scheduling conflict and asked to be carried to the May 2, 2022).

Mr. Sarlo who is the attorney representing Chefler Foods requested that the application be carried until the July 11th meeting due to the fact that there were only 6 members present to vote on the application and he would need 5 YES votes for an approval.

The Board grants his request and Mr. Duffy makes the announcement that they will be carried without notice until the July 11th meeting.

A.) Allan & Melissa LaRobardier, 122 Platt Avenue, Block 506, Lot 9

Applicant requests a 21-foot diameter above ground pool 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.

Allan LaRobardier is sworn in. He states his name spells his last and gives his address as 122 Platt Avenue Saddle Brook New Jersey.

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

Mr. LaRobardier – It's a long story but my mother spoils her grandkids so she decided after a family trip down the shore and the kids didn't want to go to the beach. They just wanted to spend the whole time at the pool so she wanted to spoil them with a pool as a gift for Christmas and the birthdays which are

coming up next month. She has purchased a pool for us and we would like to install it so she can get the joy of watching them swim.

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

Mr. Kurus – I don't it just looks like they needed for coverage which the existing coverage is slightly over that's it.

Mr. LaRobardier – Our lot's a little larger than an average lot and I didn't think it was going to be an issue but obviously we need the variance.

Mr. Duffy – You have a couple of other things the pavers.

Mr. LaRobardier – There was a lot of concrete.

Mr. Duffy – Right so that all adds up to that.

Mr. Tokosh – If you have too much water in the pool what are you going to do with the excess water?

Mr. LaRobardier – We have two 100 foot hoses so we can hook up hoses and run all the way down to the street.

Mr. Tokosh – And you're going to do the same thing when you backflush the filter also?

Mr. LaRobardier – The filter we have is a cartridge filter so it doesn't have to be backwashed like a filter normally does so there isn't a lot of release form the filter at all.

Mr. Kurus – You pretty much take the cartridge out bring it somewhere and just hose the cartridge off.

Mr. LaRobardier – Yeah I actually got a second one just so I didn't have to worry about it.

Mr. Tokosh – Where will the filter be?

Mr. LaRobardier – Along the back of the yard.

Mr. Duffy – Judging from this the filter is about 8 feet away.

Mr. Duffy asks for a motion to open.

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

Mr. Duffy – Having heard none.

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

There are no further questions from the Board.

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

Roll call - Ms. Murray, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Champy and Mr. Duffy – YES.

B.) Yosaire Santana & Mirelys Sanchez, 459 Dewey Avenue, Block 703, Lot 21

Applicant requests a 12' x 24' above ground pool 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 they may proceed.

Yosaire

Santana is sworn in. He states his name spells his last and gives his address as 459 Dewey Avenue Saddle Brook New Jersey.

Mr. Duffy – Would you walk the Board through what you wish to do?

Mr. Santana – I want to put a pool in my backyard. I bought the pool before the permit and found out the pool was too big and the kids weren't happy and now I have to go through this process to try and make it happen.

Mr. Duffy – We are here to help in that endeavor. The pool is 12 by 24?

Mr. Santana – yes.

Mr. Duffy – It's an oval pool?

Mr. Santana – Yes.

Mr. Duffy – Is there a deck on here?

Mr. Santana – Yes.

Mr. Duffy – The deck is it looks like on here is about the width of the pool and comes in?

Mr. Santana – The pool is not going in front of the deck. It will go to the side of the house pushed to from the backyard looking to the street.

Ms. Murray – Does the pool have a ladder?

Mr. Santana – Yes.

Ms. Murray – Just a ladder not a deck.

Mr. Santana – Yes.

Mr. Duffy – I saw a line on here that made me think there was going to be a deck on the pool.

Mr. Santana – No.

Mr. Duffy – Okay.

Ms. Murray – Where are you going to put the filter because it has to be 6 feet from the property line.

Mr. Santana – By the shed closest to the house.

Ms. Murray – So it's going to be in the shed or next to it.

Mr. Santana – Next to it.

Ms. Murray – In front of it?

Mr. Santana – In front of it yes.

Mr. Marz – How did you find out it was too big?

Mr. Santana – I went for the permit for the pool and they let me know.

Mr. Tokosh – I spoke to someone there a young man that I believe lives there.

Mr. Santana – Derek yes my oldest.

Mr. Tokosh – We had spoken about the pool overflow as well as backwashing the filter and he suggested that looking at your house you're going to put a line between the fence and the house going to the street.

Mr. Santana – I'm going to run one of those tape water hoses out to the street 100 foot.

Mr. Tokosh – As long as the water doesn't overflow to the neighbor's property that was my only concern.

Mr. Santana – No.

There are no further questions and Mr. Duffy asks for a motion to open.

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

Jasmina Mrkulic comes forward to speak. She lives at 468 Hobson Avenue and her complaint does not have anything to do with the application that is before the Board.

Mr. Duffy explains to her that the Board can't hear her complaint and that she should discuss it with the authorities.

Nobody else comes forward.

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

Ms. Murray makes a motion seconded by Mr. Marz to approve the application with the stipulation that the filter is shown on the drawing in the spot mentioned in his testimony.

Mr. Duffy – When you go to get your permits you have to amend this and show the exact location of the filter.

Roll call - Ms. Murray, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Champy and Mr. Duffy – YES.

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

Applicant is appealing the Zoning Officer's Determination.

Craig Gianetti comes forward to represent the applicant.

Mr. Gianetti reminds the Board that this is a continuation of the appeal that began at the May 2nd meeting and that this is an appeal of the Zoning Officer's determination that the UPS Facility is a truck terminal as defined by the Township ordinance. He continues to explain that they have a pending Planning Board application in connection with a mobile distribution facility where the package cars get loaded up as well as the Zoning Officer requiring them to come back to get site plan approval for a pallet dock that's on the property and that is what triggered the situation that they are in now where they were originally required to go to the Planning Board to get site plan approval. In response to an objector letter determining they are a truck terminal and needed to get a D-2 expansion of a nonconforming use.

Mr. Gianetti – Last meeting we presented Paul Bendixen Director of Building and Systems Engineering at UPS focusing on the town's definition of a truck terminal and providing some context to the UPS operations as well as some of the history. We will hear more of that tonight from our planner who will talk

about how from a planning perspective whether or not we meet that definition of a truck terminal or a distribution center which is a permitted use in the zone as well as history of the town identifying us as a distribution center as part of prior approvals as well as building permits and certificates of occupancy. At the last meeting there were a lot of questions as to the definition of truck terminal. The ordinance defines truck terminal as any lot on which more than 3 trucks of over one and a half tons capacity and or trailers are parked at any time outdoors where such trucks and or trailers are used in the transfer and shipping of goods and or materials where such trucks and or trailers are stored and serviced. I think what you will be hearing tonight will be focused on that service aspect and whether or not UPS is actually servicing the vehicles. You heard the testimony of Mr. Bendixen and I think even one of the neighbors during cross examination everyone confirmed there's no servicing or maintenance of the vehicles on this UPS site. It is occurring on another site that is not a part of this application and is not part of the distribution center operations. Chairman Duffy you had some questions as to the weight of the package cars we refer to them as package cars that's just what they're called.

Mr. Duffy – That's what UPS calls them.

Mr. Gianetti – Correct we are not disputing whether they fit that definition. I have him here to give you the answer as to the weight. They are more than one and a half tons. I think almost all of our cars in the parking lot weigh more than one and a half tons so it's not a very high threshold.

Mr. Bendixen comes forward and he is still under oath from the prior meeting.

Mr. Gianetti – At the last meeting Chairman Duffy asked about the weight of the brown package cars and you have an answer for him.

Mr. Bendixen – There are many sizes of UPS package cars and they range from a Ford Aerostar van all the way up to what we would call a twelve hundred cubic foot vehicle. The weight does range significantly on the low end I would say is 5,000 pounds the high end is 15,000 pounds gross vehicle weight. That's with no packages.

Mr. Duffy – Just to clarify in my mind they're trucks. Everything I've read they are trucks. A package car I read up on what a package car is and since this is not a railroad issue it's not relevant because that is what a package car is. It's a railroad car designed for the movement of merchandise or goods from one location to another. In my mind it's a truck.

Mr. Gianetti – To be clear by using the word package cars and it kind of dawned on me through the meeting we weren't trying to make the argument we're a car not a truck therefore not subject to that definition. I probably should have made that clear.

Mr. Gianetti calls Sean Moronski to testify as an expert in the field of planning.

Mr. Pellino swears in Mr. Moronski he states his name spells his last and gives his business address as Langan Engineering 300 Kimble Drive Parsippany New Jersey.

Mr. Gianetti – For housekeeping purposes we have 2 exhibits A1 which is an aerial photo and A2 is the September 21st 1978 letter from the Planning Board Attorney to the Planning Board on the issue of the UPS facility and the truck terminal issue. This predates the town's truck terminal ordinance and I think the purpose was you remember we used it last meeting for Mr. Bendixen's testimony that they found we were just like the Post Office parcel deliveries. Mr. Bendixen's testimony that the same operation that limits the parcels to 150 pounds a parcel at this site and anything more than that they don't take. That would be more freight as opposed to the parcel delivery. In addition Mr. Moronski submitted a planning report as part of the application. We will mark that as an exhibit also and he will refer to the exhibits in his report as he goes through his testimony.

Mr. Pellino – That would be A3.

Mr. Gianetti – Correct.

Mr. Pellino – What is the date of that report?

Mr. Gianetti – April 21st 2022.

Mr. Gianetti questions Mr. Moronski to qualify him as a witness. The Board accepts Mr. Moronski as a witness.

Mr. Gianetti – Mr. Moronski would you just outline for the Board in connection with tonight's application what you did to prepare for it.

Mr. Moronski – I reviewed the correspondence from the Zoning Official's, the history of site approvals, correspondence regarding the zoning ordinance. I also reviewed the relevant sections of the zoning ordinance. I reviewed resolutions that are referenced in A3 of the report related to other warehouse and distribution developments. I visited the site and surrounding areas in the preparation of my report and the preparation of my testimony this evening.

Mr. Gianetti – Maybe provide a little background as to the Zoning Officer decision and what we're here for this evening.

Mr. Moronski – We're here appealing the decision of the Zoning Officer as outlined in his February 10, 2022 letter which had reversed a prior determination of the Zoning Officer which was outlined in the January 18, 2022 letter. The original letter from January 18th said that the application required site plan approval from the Planning Board. In the February 10th 2022 letter the use was declared nonconforming agreeing with the objector's assertion that the UPS use is a truck terminal. We're requesting that the Zoning Board reverse the Zoning Officer's decision and recognize the UPS use as a distribution facility which is one of several permitted uses in the EP Zone where it's located. As previously noted the site has been operating since the early 1970's and has not substantially changed in terms of its operation since the 1970's and the Township has issued several approvals including Certificates of Occupancy, Certificates of Approval, Planning Board approvals that we can outline dating back to the mid 80's. The most recent C.O. was issued in March of 2019 and the thing they all have in common is they all identified the use as a distribution center.

Mr. Gianetti – We have exhibit A1 is the aerial photo just kind of get the Board familiar with the site and the surrounding area and kind of what's going on at the site.

Mr. Moronski – A1 which had been marked into evidence at the last meeting at the center of the exhibit which is outlined in red is the UPS property in question. Lots 27, 28 and 29 of block 1202. It is located east of North Midland Avenue which is to the left it is not on the aerial. It has frontage on Amy Way. The Garden State Parkway is located to the south. This is the same aerial that is figure four in the report it's a one story distribution center approximately 249,000 square feet. The accessory features car parking, tractor trailer parking, and loading docks. There's a truck wash terminal there's also a fuel pump for the vehicles that are parked in the facility as well. The site serves as a distribution center operating substantially the same way and in terms of appearance substantially the same since the 70's. Each of these exhibits is found in appendix D of the report which is A3. I'll go through each of them. Mr. Moronski marks exhibit A4 which is an aerial photograph from 1979. This was prepared by my office under my supervision as was the case with A1 and the upcoming other exhibits. This also outlines the property in red. The building is substantially the same in terms of the layout. There is a difference being that the area in the upper left which is now occupied by parking spaces. The dimensions of the lot and the dimensions of the building have remained the same. The truck wash is also still there. Exhibit A5 which is a 1985 aerial.

Mr. Pellino asks where the aerials came from.

Mr. Moronski – These aerials were from New Jersey GIS programming. The map referenced for 1979 was New Jersey DEP aerial imagery. That is also the case for exhibit A5 and I'll confirm that with A6 as well. In terms of the same building layout the upper left corner of that area is now paved. Now referring to A6 which is a 1987 aerial photograph and the source is also the NJDEP aerial imagery from 1987. It shows the same general dimensions and so forth. From a physical point of view the site has not substantially changed and as we go along we'll also talk about how functionally speaking that is the case as well that there's been no substantial change.

Mr. Gianetti – As part of the application you've had discussions with Mr. Bendixen and other UPS facility people at this particular location?

Mr. Moronski – I did.

Mr. Gianetti – You also visited this location?

Mr. Moronski – I did.

Mr. Gianetti – You were also present at the last meeting and heard the testimony of Mr. Bendixen concerning the UPS operations?

Mr. Moronski – I was present and I heard the testimony.

Mr. Gianetti – Can you provide a little color and recap of some of those operations?

Mr. Moronski – The operations in terms of I was shown the facility in terms of the trailers that go to the businesses, the customers fill the trailers with parcels, the parcels come into the facility as was previously noted they are not heavier than 150 pounds is the maximum they're usually smaller. I saw that the pallets are used for an efficiency issue in terms of being able to put as many of these smaller parcels as possible to have them be able to be sorted and to efficiently be put into the trucks out of the trucks into the trucks with delivery cars however they are for efficient operations on site to be able to distribute the packages. This site is part of a distribution network to efficiently move the parcels.

Mr. Gianetti – In Mr. Bendixen's testimony with respect to the pallet operation to the pallet dock was for the recycling of pallets that come to the UPS site from customers?

Mr. Moronski – Yes and as I toured the entire facility walked around it I did see the truck wash. I did see the gasoline pumps. I did not see and as I've been told there is no service facility on the site. There was nowhere where vehicles were being repaired on site.

Mr. Gianetti – Or being serviced like oil change?

Mr. Moronski – I did not see that there was no indication.

Mr. Gianetti – Was there any sort of a lift to do a tire rotation or anything like that?

Mr. Moronski – No.

Mr. Gianetti – Okay.

Mr. Moronski – The site is located in the EP Zoning District that's your planned Limited Light Industrial Zoning District. As outlined in your zoning ordinance the principal permitted uses are the same in the Industrial Zoning District and I'm just going to go through them to give a perspective as to the type of uses that are permitted here. Your ordinance allows scientific engineering or research laboratories devoted to research, design, processing, fabricating products to be manufactured on the premises for sale except as are incidental to laboratories. There are those type of uses. Office buildings are permitted here executive, professional, engineering office buildings. Printing and publishing warehousing wholesaling and distributing facilities are specifically permitted. Wholesale storage and display and any industry which manufactures processes or treats products which doesn't cause or result in toxic or objectionable fumes, vapors etcetera. The UPS site involves the distribution of parcels as described which is clearly consistent with the specifically permitted use of warehousing, wholesaling and distributing facilities. The site approval history indicates that the Township has recognized the UPS site as a distribution facility over the years and I'm going to go through why the use is a distribution facility and not a truck terminal as the ordinance defines it. UPS does not operate as a truck terminal nor does the history involving the Township's actions regarding the site indicate that the use has ever been classified as a truck terminal. There was a letter from the Township Planning Board Attorney that is Appendix C in the report that dated September 21st 1978 and this is before your ordinance regarding truck terminals but it clearly is indicative of at the time relatively early in the operation of the UPS site of what the UPS site use was. That letter clearly indicated at the time that the use is a parcel distribution center. It was clear in the letter that the UPS use was considered a distribution center that it did not have the characteristics of a trucking terminal as indicated in that letter. The UPS use didn't break down larger loads into smaller ones as has been previously talked about in testimony from Mr. Bendixen as I mentioned tonight we are talking about relatively small parcels. The use routes parcels similar to how the Post Office routes its mail through a distribution network. There's no freight yard on the site and as I mentioned the volume in terms of the weight of the packages does not exceed 150 pounds.

Mr. Gianetti – In the letter you are referencing is in Appendix C to your report has also been marked as exhibit A2 as well.

Mr. Moronski – Yes. In 1989 the Township adopted the zoning ordinance which provides the definition of a truck terminal. I know Mr. Gianetti read the definition but I am going to read it again for the record "any lot on which more than 3 trucks of over one and a half tons capacity and or trailers are parked at any time out of doors where such trucks and or trailers are used for the transfer and shipping of goods and or materials and where such trucks and or trailers are stored and serviced". The first two parts of the

definition they could be applicable to any permitted warehouse and distribution use or commercial use that happens to use trucks as part of its operation.

Mr. Gianetti – Including the Post Office.

Mr. Moronski – Correct. The third part of the definition which clearly does not apply to the UPS use specifically where such trucks and or trailers are stored and serviced. Trucks and trailers are not serviced on the UPS site in terms of when we talk about the servicing of vehicles as I mentioned there are no lifts there are no repairs of vehicles that go on at this site. We do have a wash vehicles can receive gas but this is not service in the sense you are going to have vehicles that are going to be repaired there put up on a lift as Mr. Bendixen had previously testified to any repairs are going to be done elsewhere not on this particular site.

Mr. Gianetti – That's indicative of almost maybe not more recently with the kind of quick checks that provide gas but historically auto service stations that would have gasoline but then also a repair shop for oil changes, tire rotations, brake fluid things of that nature.

Mr. Moronski – I mean they are clearly distinct that service from gas pumps and carwashes. Based on the previous interpretations of the site as a distribution facility regarding planning I don't believe the site falls under the zoning ordinance definition of a truck terminal. I'd like to go through the history of the site in terms of documentation which has been provided in the report as well and I'll go through where it's located. Start up in November 12th 1985 a temporary C.O. was issued for the site to allow for the use of a trailer for customer service for holiday additional volume. As you know a distribution facility's volume goes up so they asked for a trailer to help in terms of addressing volume. There was no site plan required and there was no reference to the principal UPS use being another use other than a parcel distribution center and you can find that documentation in Appendix E of the report. February 8th 1990 a C.O. was issued regarding block 1202 lot 28 which is one of the three lots on the site identifying the specific use with the code S1 distribution center. That document is in Appendix E of the report. In 1992 a Planning Board resolution for the site, a site plan waiver was granted for the request to connect an existing sewer line for effluent from the existing truck wash terminal which was already there for the site. The resolution specifically referred to the UPS use as a distribution facility and there was no mention of this truck wash being a service. The documentation over the last several decades for the UPS site it indicates a consensus that the UPS site is a distribution center which is a permitted principal use in the EP Zoning District.

Mr. Gianetti – Along those lines I mentioned to the Board earlier that we submitted a Planning Board application for site plan approval in connection with a mobile distribution center on the site.

Mr. Moronski – Yes.

Mr. Gianetti – You were part of that application?

Mr. Moronski – Yes.

Mr. Gianetti – You recall we received prior to us being determined to be a truck terminal and nonconforming use we received review letters from both the Board Planner and the Board Engineer?

Mr. Moronski – I do recall that.

Mr. Gianetti – I want to show you what is marked as exhibit A7. If you can describe what this document is?

Mr. Moronski – This is a letter from Carroll Engineering dated January 25th 2022 it was addressed to Jayne Kapner the Planning Board Secretary and it was regarding the application of BT-Newyo, LLC a major preliminary and final site plan was initial completeness and technical review of the project.

Mr. Gianetti – Under the project description section towards the bottom I believe it's the second to last line where it says the building serves as a just kind of describe the use there.

Mr. Moronski – The building serves as a UPS distribution hub. That's on the third to last sentence of the project description section.

Mr. Gianetti – Anywhere in that review letter did it refer to us as a truck terminal?

Mr. Moronski – No.

Mr. Gianetti – I'm going to mark it as exhibit A8 which is a letter dated January 31st 2022 from Paparozzi Associates to the Planning Board. Again what is the purpose of that letter?

Mr. Moronski – This letter dated January 31st 2022 from Paparozzi Associates to the Planning Board it was in reference to the UPS North Atlantic District application and talked about permitted uses warehousing, wholesaling and distribution facilities.

Mr. Gianetti – Anywhere in this review letter did it refer to the use as a truck terminal?

Mr. Moronski – No.

Mr. Gianetti – Did they identify any variances needed with respect to the use of the property?

Mr. Moronski – No.

Mr. Gianetti – In addition to the approval history what else did you look at with respect to this use and determining whether or not it's a truck terminal?

Mr. Moronski – We looked at this site but we also looked at similar uses that in recent years approved in the Township examples of distribution uses that have more than three trucks of over one and a half tons capacity or trailers parked out of doors as indicated in the Township zoning ordinance definition of truck terminal. We talk about each of these in the report A3. The first is and it's noted in Appendix F this was the Arrow Fastener Company Planning Board resolution decided July 7th 2001. This is located 271 Mayhill Street part of block 1008 lot 5 in the Industrial Zoning District which has the same uses as the EP District. The applicant proposed 36 space tractor trailer parking staging area as an accessory use to the applicant's principal building. The application was approved there were concerns about noise potential development impacts that were addressed but if you view the resolution as noted in Appendix X it was not determined to be a truck terminal in terms if you looked at the definition of truck terminal and compare it to this particular use. We also looked at another application which the resolution is Appendix H Hampshire Global Partners, LLC a Planning Board resolution decided April 23rd 2013 also located at 271 Mayhill block 1008 lot 5. The properties developed two warehouse buildings in the Industrial District. The application acknowledged multiple trucks accessing the site. The resolution does not reference truck terminals and refers to the uses as warehouses which are permitted principal use in the zoning district. Appendix I has a resolution for Sita & Sons, LLC which was decided by the Zoning Board August 2nd 2021, 214-216 North Midland block 101 lot 3. The applicant requested a D1 Use Variance for the parking of trucks and passenger vehicles not ancillary to the use on the property is not a permitted use. Neither the Zoning Officer nor the ZBA determined that the site was a truck terminal even though up to eight trucks were allowed to be parked in the truck parking spaces exceeding the three truck minimum to be classified as a truck terminal. Based on our review of these uses we believe these are the correct determinations. None of these should be classified as anything other than a warehouse or warehouse retail uses which are consistent with the zoning ordinance. I guess the point being and in addition there is also no servicing of trucks on this site either as is the case with the UPS site.

Mr. Gianetti – With all of these sites did you look at aerial photos and identify them?

Mr. Moronski – Yes.

Mr. Gianetti – As part of the aerial photos did you see trailers on site being stored or parked on the property?

Mr. Moronski – Trailers parked on site which confirms the findings of the resolutions talking about how many trucks would park on the site. No reference was made to truck terminals and that's the correct one just as we believe should be the case with UPS.

Mr. Gianetti – What about similar uses not being considered truck terminal if you want kind of go through your findings and analysis?

Mr. Moronski – In summary UPS has operated the site as a parcel distribution facility for over 50 years. They are located in an EP Zoning District they were a permitted use then and even after the truck terminal ordinance was adopted there were other approvals whether they were Certificates of Occupancy, Planning Board resolutions none of which reference the site as a truck terminal. You look at over the last several decades whether it's Planning Board correspondence so on that the site is a parcel distribution facility as has been acknowledged and therefore it fits into the permitted uses. The question of use arose when an objector to an application for UPS which was tied to the review letters that we talked about earlier to look for accessory improvements to the principal use when that objection was filed. The Zoning Officer had initially referred the application to the Planning Board but then there was a reversal of that

decision as I had noted. Basically the Zoning Officer's reversal said that the existing UPS distribution facility is nonconforming and not a permitted use. That determination was made before ever hearing from UPS. As the documentation shows in the report many Certificates of Occupancy, approval all identify the use the UPS site as a distribution center. We've provided examples at the site in terms of similar examples in recent years of warehouse retail uses that would meet the definition of truck terminal as offered by the Zoning Official. None of those applications were identified as truck terminals which is correct. If the Zoning Officer's decision is upheld it may have a substantial impact on how other distribution facilities are reviewed and if they meet that standard as a truck terminal. So for the reasons outlined we request that the Board reverse the Zoning Officer's decision and confirm that the UPS use is a parcel distribution facility which is included among the permitted uses in the EP Zoning District.

Mr. Gianetti – Should the Board find that the use is a distribution center and not a truck terminal under the Town's definition that doesn't end there UPS still has to come back to the appropriate Board our belief the Planning Board for site plan approval for certain improvements on the property which will get into more of operations and typical site plan issues related to the site.

Mr. Moronski – Yes and it would be at that site plan application where public concerns would be addressed. The functional operation of the site would have to be addressed it would go through the scrutiny of a site plan review application.

Mr. Pellino says that if it went the other way it would be the same thing.

Mr. Gianetti – Either way all these issues are going to be heard it's just depending which Board is going to hear it this Board or the Planning Board. With that I have nothing further does anyone have any questions of this witness?

Mr. Duffy asks if Mr. Moronski could read the definition of a truck terminal again.

Mr. Moronski – “Any lot on which more than 3 trucks of over one and a half tons capacity and or trailers are parked at any time out of doors where such trucks and or trailers are used for the transfer and shipping of goods and or materials and where such trucks and or trailers are stored and serviced”.

Mr. Duffy – I could stop and remove and service and just say stored and it's a truck terminal. What I'm hearing in what you're saying is in how you're reading it. In other words it has to be parked and serviced in combination in order to be qualified as a truck terminal that's your definition?

Mr. Moronski – Yes.

Mr. Pellino – There's no doubt Sean that you meet all the criteria except service. You've got the number of trucks you've got the weight of the trucks they are in fact stored there the question is are they serviced and UPS says there's no servicing.

Mr. Moronski – Correct.

Mr. Duffy – So there isn't anybody there that checks oil that adds a quart of oil that does anything like that?

Mr. Moronski – My understanding is that all service is done offsite.

Mr. Duffy – Well you didn't see any.

Mr. Moronski – I did not see any service.

Mr. Gianetti – You recall there was testimony from Mr. Bendixen that that didn't occur even the changing of batteries didn't occur except maybe for the cars that run on batteries. Those aren't stored outside. With respect to the package cars and the trailers no oil changes, brake fluid, tire rotation.

Mr. Duffy – I understand that because there's no lift there to pick these trucks up they would go to another location within the same Zuckerberg Park area maybe several hundred yards away. There is a determination made at some point at the terminal that we're talking about in that area.

Mr. Gianetti corrects the term terminal and says facility.

Mr. Duffy – At the location there is a diagnostic determination made which is part of servicing where it's determined whether a vehicle needs to be serviced and is removed. Would that be a fair statement?

Mr. Gianetti – I think I would ask Mr. Bendixen.

Mr. Duffy – I think after we are completed with your planner we need Mr. Bendixen to clarify a few points. One of the things I found interesting in the historical lesson of UPS there are numerous references to what and it wasn't always called a distribution center there's another couple of terms like that. The

interesting thing is that it's not a measure of whether that was a distribution center nobody challenged along the way. It was just what do they call it, they call it a distribution center so that name seems to just carry on and so now we are at a point where there's a challenge.

Mr. Moronski – I would say that your ordinance specifically talks about distributing facilities and

Mr. Duffy – Your truck ordinance.

Mr. Moronski – No the EP Zone ordinance and if your ordinance was silent on that in the EP Zone there could be a question with regard to that but I think based on the consistency of the use how it's been described in documents resolutions and so forth and that it matches up with the EP Zoning Ordinance principal permitted uses. I think it carries some substantial weight.

Mr. Duffy – But it has changed over time.

Mr. Moronski – Change what has changed?

Mr. Duffy – The intensity of the work that has gone on. When I look at this whole situation and I see the definition of the distribution center and living here all my life I know what's transpired and how the intensity of this location has just grown immensely. The distribution center that terminology could have probably evolved over time also as the intensity of this operation has. This is everything that I'm collecting that I'm thinking about. Sometimes when I sit up here and talk about this I'm thinking out loud because it helps me to formulate what's going on.

Mr. Gianetti – Chairman if you'd allow me I have a couple of follow up questions to address that point. Initially and you outlined it one of the things was the 1992 Planning Board resolution that referred to it as a distribution hub. Now I know you can't say for sure in 1992 what the Town's protocol is but typically with a site plan application it's reviewed by the Zoning Officer, it's reviewed by the Board Planner, it's reviewed by the Board Engineer correct?

Mr. Moronski – Yes.

Mr. Gianetti – So it wasn't just someone either checking a box or just referring to it they're presumed to know the truck terminal ordinance existed at that time and as did the distribution facility use in the EP Zone.

Mr. Moronski – I believe at the very least the Zoning Officer would have made the determination that the use is a distribution facility and that's why it was forwarded to the Planning Board for its consideration.

Mr. Gianetti – As to the intensity if you maybe go back to the historical aerial photos and maybe compare in the 1985 and the 1987 to the current aerial photo.

Mr. Moronski goes to the easel and shows the 2 photos referenced side by side. So referring to A5 which was the 1985 aerial photograph the area is entirely paved there are a lot of trailers around the site building. In this area when they took the photo at the time there was nobody parked there at that time. In 1987 which is A6 again substantially the same in terms of the paved area where the car parking is the truck parking the building in terms of its dimensions remain the same truck wash there.

Mr. Gianetti – Even with respect to the number of trailers on the site roughly the same from a quick view. One of the members of the audience asks to see one of the other photos.

Mr. Duffy asks that they all be displayed so that they can all be seen at the same time in order to compare them.

Mr. Duffy – What time of day were these taken?

Mr. Moronski – I don't know.

Mr. Marz – The only change is there are more neighbors than there were in the 70's.

Mr. Moronski – Correct to Mr. Marz's point the eastern side in 1985 the area to the east had no houses built on it. We go to 1987 to the east houses were built. So between 1985 and 1987 houses were constructed in that location.

Mr. Pellino – If this in fact is a permitted use why do we care about the intensity of the use?

Mr. Gianetti – I agree, it was just kind of more towards the Chairman's comment as to intensity yeah there may be more.

Mr. Pellino – If it's a permitted use I don't know that intensity really becomes a relevant concern. Maybe they need site plan approvals but it's not a use.

Mr. Duffy – It's clarifying my point when I say the intensity has changed over time this whole thing has changed in the intensity of the neighborhood in the amount of traffic, the amount of shipping and everything else. The thing that strikes me is that we are all looking back or your planner's looking back at different things that have been during the history of this and stating that this was a distribution center. My point is who said they were right? You're just carrying distribution center from one to the other and I wasn't there and some point I was a kid so that's why when I look at intensity I see an evolutionary process take place and an evolutionary process in this whole package it could have just been well we call it a distribution center well we just keep carrying it on and on and on. Nobody challenged it before that's why I bring this up.

Mr. Pellino – I don't think they are taking a position that because of these prior determinations we're precluded. I think the position is that's some evidence of how the Town saw it previously and that perhaps we should see it the same way.

Mr. Duffy – Okay.

Mr. Gianetti – I think with respect to the intensity for instance the 1992 Planning Board approval which is you know that's not just a C.O. checking a box that's resolution findings. You look at 1985 1987 aerials there's trailers all over the place and there's only so much you can fit.

Mr. Pellino – The definition didn't come in until later.

Mr. Gianetti – There was a truck terminal definition in 1986 that was the first time it was adopted but it was a little more funky not that this one's much better. Then in 1989 it changed it to make it more concise. The prior one was longer but the issue of a truck terminal and there being a truck terminal definition in the Town since you'll recall in that 1978 letter there was no definition they were just going off of people's common understanding of what a truck terminal is. The point being 1986 the truck terminal definition came in you can see from the 85 86 to now there's not much difference in the number of trailers on the site. They might be moving more so there might be more trucking movements from an intensity standpoint but the definition of truck terminal versus distribution facility doesn't factor in anything with respect to intensity. If you had X number of trailers coming onto the site well now you're no longer a distribution facility you're a truck terminal. There's nothing like that in the ordinance. It's specific as to what it is and servicing from our standpoint is a key distinction and why other similar uses that have more than three trucks of one and a half tons that are stored on site that are used in connection with goods and services and are stored there because they are being parked there overnight. The key difference being they don't have servicing which is exactly what we are saying as well. That's why they have never been determined. Who knows someone can come out of the blue and challenge one of them maybe one of them are next to some residences and they say hey we think that's a truck terminal. Historically as how the Town has treated it treated UPS and treated other similar sites they haven't found them to be a truck terminal. We're not saying therefore you can't find us to be a truck terminal we're just giving that as evidence of what we believe we are under the ordinance and why the Board should agree.

Mr. Pellino – The other observation I have I don't think Mr. Gianetti would disagree. The letter from 1978 to the Planning Board Attorney is some evidence but the Planning Board Attorney has no more authority making the rules than I do.

Mr. Gianetti – I would agree with that.

Mr. Duffy – Let me ask a question. If it's decided one way if the determination is an overturn of the Zoning Officials definition you're at the Planning Board and the same restrictions that you think that residents would want that was alluded to in your planner's testimony. If it went that way those concerns and considerations would be taken into account. If it came and we decided to uphold his decision the very same concerns and considerations would be taken into consideration also correct?

Mr. Gianetti – Yes I would say some of the standard of review maybe is different from the Zoning Board to the Planning Board.

Mr. Duffy – So is that the reason why you challenged?

Mr. Gianetti – Well no I think it's a combination of things. One when you are determined to be a preexisting nonconforming use that takes rights away with respect to the use of the property. It doesn't mean you never have to go to the Planning Board we do but it does take certain rights away. One of them being we

would normally be going to the Planning Board but we have to meet certain zoning standards. We need variance relief they make the same is there any substantial detriment to the public good. You go to the Zoning Board and there is a different threshold that you have to meet.

Mr. Duffy – So what right did we take away?

Mr. Gianetti – The right to operate as a permitted use versus you're now determining us to be a preexisting nonconforming use where common land use principal is you want to bring nonconforming uses into conformity as quick as possible. There's a whole series of issues. I don't want to sound like we want you to find we're a permitted use because we don't want to come before you.

Mr. Pellino – I think as a practical matter any change or enlargement in the future besides what we're talking about here would require a D2 Variance. It has the heightened standard the five affirmative votes different criteria. I would imagine I don't want to speak for Mr. Gianetti that's the big picture.

Mr. Gianetti – For instance there are only six members tonight well you know we were coming in for site plan approval and a D2 Variance I probably wouldn't want to go because I would need five out of the six. If we're before the Planning Board.

Mr. Duffy – We had such an issue this evening and we afforded him the opportunity to come back.

Mr. Gianetti – Understood but again it's a different standard than you're dealing with.

Mr. Pellino – A heightened standard.

Mr. Gianetti – I wouldn't fault UPS for saying no we're a distribution center the Town always treated us as a distribution facility how can you just change it on a whim without hearing from us and therefore presenting it to the Board.

Mr. Duffy – Okay. That's a fair answer.

Mr. Tokosh – You mentioned the Arrow Company they are a manufacturer of a product. That's the reason why they have a lot of trucks out there they are taking their product and putting it into the trucks. The trucks are there to load their product and to distribute it.

Mr. Gianetti – I agree with that except that you're definition of a truck terminal talks about any lot. It doesn't make a distinguishing about what you're doing on which more than three trucks of over one and a half tons capacity and or trailers are parked at any time out of doors where such trucks and trailers are used for the transfer and shipping of goods and or materials where such trucks and or trailers are stored and serviced.

Mr. Tokosh – I feel we could be here all night arguing both sides. The problem as I see it you have a hybrid of both things. What is the right thing if it's a hybrid why don't you call it a distribution slash trucking outfit.

Mr. Gianetti – I understand what you're saying but because we don't meet the entirety of your definition particularly with regards to the servicing and the history of the use our position is that a distribution center is what we are.

Mr. Tokosh – I could argue the other point.

Mr. Gianetti – That was the point of the Google definition as opposed to the Town's definition. The struggle isn't with the ordinance because as Mr. Moronski was testifying says any lot so it's not focused on the underlying use. You could fit that definition and be a manufacturing business but you have to be servicing the vehicles on the site. If you are not servicing the vehicles on the site you are not a truck terminal. All of those various industrial uses manufacturing distribution all of that has some sort of trucking component to it. Every warehouse distribution facility manufacturer all has a trucking component to it. Trucking in and of itself is not even an identified use. It's the truck terminal which has to involve the storing and servicing of vehicles on the site.

Mr. Tokosh – Back in 1985 was this a 24 hour operation at that point in time? Now you have activity 24 hours a day did you have that type of activity back in 1985?

Mr. Duffy – That would be the intensity issue we talked about and that was as far as the definition is concerned the intensity is not a relevant aspect of the definition.

Mr. Champy – We know the definition of a truck terminal but what about the definition of servicing?

Mr. Moronski – My understanding of servicing would be repairs maintenance that goes to fixing the mechanical aspects of the vehicles. Filling a gas tank is not servicing you go to fill your tank with gas.

Washing your car is washing your car that's not servicing per se taking it offline for any amount of time the servicing involves a mechanical repair of the vehicles.

Mr. Gianetti – To the point the ordinance doesn't define servicing.

Mr. Moronski – It does not.

Mr. Duffy – That opens up quite a bit for definition.

Ms. Murray – I am the fleet manager for a corporation we don't handle trucks however I do handle the programs. The programs are such that when you lease cars and you use them and you maintain them and you're the fleet manager you have a fuel program which is fueling the vehicle itself. You have a maintenance program which is the servicing of the car and it includes all mechanical services windshield, mechanical, wheels, tires whatever.

Mr. Champy – Tire pressures?

Ms. Murray – If it's part of the PM's yes. It's done through different programs and it's isolated in such a way that I have a fuel program I have a maintenance program. The cleaning of the cars is all about aesthetics it has nothing to do with any programs for maintaining the car. It's all about aesthetics and maintaining your asset in depreciation so that's what a fleet manager considers the programs that you handle for a vehicle when you take care of it. The fuel is considered to be separate from maintenance.

Mr. Duffy – So the PM is preventative maintenance.

Ms. Murray – Yes which is oil change, lubes, checking the tires, rotating the tires and adding fluids and they all go off site to service centers. The difference between a service center and a gas station is that you can have a gas station at a Wawa and service gas but it's not a service center. A service center is where there's mechanical items being done.

Mr. Gianetti – Mr. Moronski a follow up on that and again we are dealing with a definition that's not defined in the ordinance.

Mr. Lieberman wants to object and Mr. Duffy tells him that there will be time for that when the meeting is opened up.

Mr. Gianetti – Mr. Moronski you've probably used the term or phrase that every member of this Board has used the phrase I'm bringing my car in for service. How do you describe using that term?

Mr. Moronski – In terms of oil change, brake repairs, tire rotations, mechanical repairs that go beyond just pulling up to the pumps and filling up the tank.

Mr. Duffy – That's your opinion.

Mr. Moronski – That is my opinion in terms of what I've seen of these facilities as a planner but also anecdotally.

Mr. Gianetti – And how you come up with your I want to say definition of what servicing means under that ordinance?

Mr. Moronski – Correct.

Mr. Pellino – Can I ask a question? Just curious Mr. Moronski in your opinion could we be both a distribution facility and a truck terminal?

Mr. Moronski – That's an interesting question because on another application...

Mr. Pellino – Theoretically.

Mr. Moronski – Theoretically I actually worked on a truck terminal and a distinctive difference was there was a service garage. They had a separate service garage but they also had a warehouse on the site and they called themselves a truck terminal.

Mr. Pellino – Again I am not asking specifically about these facilities but theoretically do you think it's possible in a given situation we could be both. Suppose we found out your client was changing the oil. I know that's not there but they're still a distribution facility but it might also meet the definition of a truck terminal.

Mr. Gianetti – I think the issue becomes like I said I think for Mr. Tokosh's comment of truck terminal the way they define it doesn't base it on a use it just says any lot. You could have a number of underlying uses like I said you could be a manufacturing facility but if you have three trucks of one and a half tons and are involved in the moving of goods and you store your vehicles there and you do maintenance and service your vehicles there you would be a truck terminal under the definition and would be prohibited.

Mr. Pellino – So you're saying one or the other.

Mr. Gianetti – In the end you got to be one or the other. The other sites uses are distinguished they are not a truck terminal because they don't have service just like the UPS use doesn't have service.

Mr. Duffy calls for a 10 minute recess.

Mr. Duffy calls the meeting back to order.

Mr. Duffy – The examples you used can you name them again for me?

Mr. Moronski – Sure.

Mr. Duffy – I just want to clarify something.

Mr. Moronski – There was the Arrow Fastener Company, this was decided by the Planning Board July 7th 2001, 271 Mayhill Street block 1008 lot 5 in the industrial zone. The second one was Hampshire Global Partners, LLC Planning Board resolution decided April 23rd 2013 also located at 271 Mayhill Street block 1008 lot 5 in the industrial zone. Then the third one was Sita & Sons, LLC Zoning Board decided August 2nd 2021, 214-216 North Midland block 101 lot 3 a D1 Use Variance.

Mr. Duffy – The reason I asked is I thought two of them were the Zoning Board that's what I wanted to clarify.

Mr. Gianetti – Chairman before you open it up to the public you had a question of Mr. Bendixen you had a question as to servicing.

Mr. Duffy – We're going to come back to that I'd rather complete this witness and bring that back again.

Mr. Duffy asks for a motion.

Mr. Tokosh makes a motion seconded by Mr. Marz to open to the public. All in favor – Yes.

Mr. Duffy asks if there is anyone who would like to speak or ask a question pertaining to Mr. Moronski's testimony.

Glen Leone steps forward he lives at 202 Colonial Avenue. Mr. Pellino swears him in.

Mr. Leone – Last time we were here I spoke up here and I live right here (pointing to the aerial photo). You basically said there hasn't been much change on the site since 1978. I think this is 1979 (pointing to the 1979 photo) you'll notice this is the wash here are the workers cars right up to the wash about 30 feet away. This is now (pointing to a 2020 photo) all these vehicles are now 100 yards closer to my home agreed?

Mr. Moronski – In the 2020 photograph yes.

Mr. Leone – So all this activity is way closer to our homes. They're always there somebody said they are not stored these are always here. You can take a picture every day those trailers are all there. The tractors are almost always there except when they're out during the day. There apparently has been quite a change.

Mr. Moronski – Well I did note in my testimony in the 1979 aerial photograph that you referred to and in the upper left that area was paved as is shown in the photographs in the 80's as well. Referring to A4 which is the 1979 aerial photograph the parking that you referenced while your house and I'm pointing to the upper left hand corner of this lot so the parking lot did actually extend to near the property line where it is now. Referring to this was 1985 there was a paved area here and this may have been taken at night but I'm not sure of the time because that wasn't offered on the data but yes the trailers were there as well.

Mr. Leone – None of them are here.

Mr. Moronski – This was 1979 to 1985.

Mr. Leone – No trailers no tractors in this entire area.

Mr. Moronski – In this photo correct.

Mr. Leone – That's a huge change.

Mr. Moronski – Well again there are trailers on the site and these were taken at various times and differences but the point of my testimony was that the site operations as a distribution facility still did not substantially change.

Mr. Leone – The operations have changed gigantically for those of us who live along here. These trailers are being loaded constantly 24 maybe 23 hours a day that's a gigantic change in operation. Also there is not one vehicle along here.

Mr. Moronski – In 1979 photo correct.

Mr. Leone – Now it's dozens if not hundreds along the same space.

Mr. Moronski – Yes and as noted in the 1985 photos.

Mr. Leone – To me that's a tremendous change. I'm just pounding on the fact that you make it like there's no change in operation I think that's a big change.

Mr. Moronski – Well I said there is no substantial change in terms of how the site has been operating and how based on the history of the site that it has been a parcel distribution center and so that's my position.

Mr. Leone – Again it's a photo and in this one there are 20 trucks in this one down here we can't even count.

Mr. Moronski – In 2020?

Mr. Leone – Yes. I'm making the point that there has been a substantial change.

Mr. Moronski – There is a difference between the 1979 photo and the 1985 photo and when you look at the 85, 87 and 2020 photos it is substantially similar especially in terms of layouts of the parking lot and so forth save for that 79 photo where the upper left hand corner was clearly paved between then and 1985.

Mr. Leone – Those of us who happen to live here to all of us who live on Colonial Avenue all of these additional trailers on this side is a gigantic change in your operations and affects our lives all day long every day and worse at Christmas time. That's the only point I want to make.

Carmelo Lana of 105 Jamros Terrace steps forward and Mr. Pellino swears him in.

Mr. Lana – There's one statement that came to me based on what we were talking about earlier. This area based on the building the parking lot maybe it hasn't changed physically but we're only talking about this area. Now if the Town allows for the other areas of which UPS occupy within Zuckerbergs it's changed a lot. There is a maintenance section. There is a parking area for trailers across the street. This is the problem the residents are having. It has nothing to do really with this area outside of the noise that's coming in from the trucks and the trailers and the forklift and the pallets and everything that's changed since 1979. I was born in 1978 I've been there my whole life that's what's changed that's what the residents are having problem with.

Mr. Duffy – What do you have as a question or comment?

Mr. Lana – That was my comment that was it. Based on what your testimony was as an expert about the site not changing. It's not changing because we're not bringing in the other segments because you're only allowing us to talk about this.

Mr. Duffy – Because that is the one that's in question.

Mr. Lana – Because that's what they are bringing into the Town.

Mr. Duffy – That was what's in question is this site.

Mr. Lana – That's fine but if we allow this building to come into play. This is one of UPS's buildings that they rent where the service is being done. I understand that this is there question of what belongs to them now if this building where theirs and this was part of it then we have a whole different discussion right. That's all I want to bring up thank you.

Denise Dougherty comes forward from 218 Colonial Avenue. Mr. Pellino swears her in.

Ms. Dougherty – If at nine o'clock in the morning when these trailers are all one after the other going out fully loaded on a definite time restraint. We all know UPS drivers are counted that they're on time and one of the trucks has a flat tire or they don't start what do you do?

Mr. Duffy – That's not a question for the planner.

Ms. Dougherty – Do you service it there or do you tow it out? How do you fix the starter how do you fix a flat tire? Do you actually tow that whole truck out of that facility with a flat tire?

Mr. Pellino suggests they bring Mr. Bendixen back to answer these questions.

Mr. Duffy – That's not a planner's question and I'm trying to figure out a way to make it relative to his planning.

Mr. Duffy explains to Ms. Dougherty that the questions she has are not for this witness and she will have an opportunity to ask them of Mr. Bendixen at the proper time.

Gary Garbarino of 193 Colonial Avenue comes forward and Mr. Pellino swears him in.

Mr. Garbarino – My thing is I just have a question for UPS whoever but from 1974 when it was supposedly like a mail hub and today what is the business grown? Our town is flooded with trucks so you're again with the trucks now that all the people are parking right on their fence line. We have people that don't want to let their kids in the backyard. What I'd like to know is have we gone from one percent to eight million percent we're making today?

Mr. Gianetti – That's not a question for this witness and frankly it's not relevant to the application.

Mr. Garbarino – You can't even get down Midland at nine o'clock in the morning. The other day I left this meeting and the next morning it was all the way back to UPS. That's all I have to say.

Mr. Lieberman attorney for homeowner Mr. LoBue comes forward to speak. He mentions he has an expert witness ready to testify.

Mr. Lieberman – I did have that objection I would like to put on the record.

Mr. Duffy – An objection to?

Mr. Lieberman – A Board Member giving testimony that goes to the ultimate issue I have a problem with that.

Mr. Duffy – We as Board Members have the luxury of being able to express our opinions in discussion and occasionally a word might be used that would construe it to be an expert testimony and I don't believe it was meant to be that way. I understand what your objection was and it's noted.

Mr. Lieberman - Thank you.

Mr. Lieberman – You did mention the Arrow Company before. How many gas pumps does Arrow have?

Mr. Moronski – To my knowledge there were no gas pumps at that site.

Mr. Lieberman – Did you review the files to determine if that's true?

Mr. Moronski – Based on the information I have there is no reference to gas pumps.

Mr. Lieberman – There was no reference to gas pumps but did you review the files did you read the transcripts in order to determine if that's true?

Mr. Moronski – I did not read the transcripts no.

Mr. Lieberman – What kind of carwash do they have at Arrow?

Mr. Moronski – They don't have carwash.

Mr. Lieberman – With regard to Hampshire how many gas pumps are there?

Mr. Moronski – There are no gas pumps at the site.

Mr. Lieberman – How many carwash facilities are at Hampshire?

Mr. Moronski – There are no carwashes at the site.

Mr. Lieberman – In regard to Sita that was a Zoning Board approved application is that correct?

Mr. Moronski – Yes.

Mr. Lieberman – The resolution from the Zoning Board indicated that it was an expansion of a nonconforming use do you recall that.

Mr. Moronski – It said they requested a D1 Use Variance approval.

Mr. Lieberman – Look at the caption of the resolution do you see where it says that it's an expansion of a nonconforming use?

Mr. Moronski – Are you referring to the resolution that was adopted August 2nd 2021?

Mr. Lieberman – I only saw one resolution regarding Sita did you have more than one?

Mr. Moronski – No I'm looking at the one that was in my report and it said resolution for preliminary and final site plan approval with a D1 use variance and bulk variances to allow the paving of a portion of the property to be used as a parking lot for a limited number of trucks and passenger vehicles.

Mr. Lieberman – Do you have an understanding of why it was a D1 application before the Zoning Board?

Mr. Moronski – The D1 application was because they were using part of the site as a parking area to park trucks and passenger vehicles.

Mr. Lieberman – There was no prior approval authorizing that correct?

Mr. Moronski – Yes.

Mr. Lieberman – And so that's why it was a D1 application?

Mr. Moronski – It was a D1 use variance.

Mr. Lieberman – In this particular case you reviewed the letter from the Zoning Officer is that correct?

Mr. Moronski – I did not I reviewed the resolution.

Mr. Lieberman – On this case right here.

Mr. Moronski – In this case meaning our application right here?

Mr. Lieberman – That's it.

Mr. Moronski – Both the Zoning Officer's letters the original one in January and then the one that followed as well?

Mr. Lieberman – Yes especially the second one the one that said in his opinion it was an expansion of a nonconforming use.

Mr. Moronski – I reviewed both letters yes.

Mr. Lieberman – One of the things that the Zoning Officer said was that there were pallet operations that were ongoing that were not permitted isn't that correct?

Mr. Moronski – He did make reference to pallet operations yes.

Mr. Lieberman – Just like in the application that we just described there was activity in the parking lot that wasn't permitted correct?

Mr. Moronski – Which application?

Mr. Lieberman – The Sita application.

Mr. Moronski – Yes.

Mr. Lieberman – The D1 was required because in the Sita application what was at issue was activity in the parking lot for which there had been no prior approval correct.

Mr. Moronski – It was about parking as I mentioned a limited number of trucks and passenger vehicles. That's what it specifically says in the resolution here I'm reading it on page two of the resolution.

Mr. Lieberman – I just want to focus on a point I'm making. It's a D1 because that parking that was the subject of this had received no prior approval from the Planning Board or Zoning Board.

Mr. Moronski – It wasn't permitted so therefore they needed a use variance.

Mr. Lieberman – In this particular case the pallet operations aren't permitted are they?

Mr. Moronski – The second Zoning Officer letter made reference to the pallet operations in the letter yes.

Mr. Lieberman – UPS also received an approval from the Zoning Board in September 8th 2014 permitting the staging and parking of trailers have you seen that resolution?

Mr. Moronski – For this particular site?

Mr. Lieberman – Yes can I give it to you.

Mr. Lieberman asks the Chair if he may give a copy to Mr. Moronski. He allows it.

Mr. Lieberman – Tell me if you've seen that before?

Mr. Duffy – What are we looking at?

Mr. Moronski – This is a resolution from the Zoning Board of Adjustment that was dated November 3rd 2014 the name of the applicant is JAT Company and it refers to block 1201 lot 1, 323 North Midland Avenue. This resolution does not refer to this particular property.

Mr. Lieberman – No it doesn't refer to the property but it refers to the UPS operation on the adjoining lot on Midland Avenue.

Mr. Duffy – How does this have to do with this?

Mr. Lieberman – Because in that case the Board did give approval based on an expansion of nonconforming use and I want to get into why that was. They specifically say that in the application. I want to see what that nonconforming use was.

Mr. Gianetti objects.

Mr. Duffy – We're not talking about a nonconforming use across the street. I don't know where you're going with this.

Mr. Pellino – I think the Chair's question is to the relevance of this.

Mr. Lieberman – The relevance is that I'll withdraw the question. Thank you Chair I see what you're saying. In terms of the distribution facility issue and your position that repeatedly this has been referred to as a distribution facility. Isn't that a function of UPS calling itself a distribution facility in the various land use applications that it submitted to either the Planning Board or the Zoning Board?

Mr. Moronski – UPS does refer to itself as a distribution facility because that is the case but there has been ample opportunity for Building Departments Zoning Officers and Boards to review that and based on the documentation that I've seen there has been concurrence with that as a distribution facility.

Mr. Lieberman – When you say concurrence you mean nobody has challenged it right? You're not aware of any deliberations or hearings like we're doing tonight?

Mr. Moronski – I say that the applications whether before the Board or whether administratively refer to the use as a distribution center.

Mr. Moronski – Right.

Mr. Lieberman – Presumably in each instance where that occurred it was initiated by UPS itself in declaring itself a distribution facility in the Saddle Brook land use application the generic initial form that's filed right?

Mr. Moronski – As any applicant would describe their use yes.

Mr. Lieberman – Do you know whether or not UPS based on your review of the files do you know whether or not UPS challenged the municipal definition of truck terminal when it was adopted by this municipality?

Mr. Moronski – I am not aware that they did challenge it.

Mr. Lieberman – You have an understanding that UPS could have challenged it if it felt aggrieved by it right?

Mr. Moronski – Any ordinance could be challenged as a standard procedure.

Mr. Lieberman – Finally to get to the bottom line with this thing the concept of service servicing of vehicles right because at the end of the day you'd agree with me that the big question is whether there is servicing going on right?

Mr. Moronski – As I stated in my testimony yes.

Mr. Lieberman – Your position is that gasoline supplying gasoline and washing trucks isn't servicing correct?

Mr. Moronski – That's my position yes.

Mr. Lieberman – Are you aware of any authoritative sources that say that washing of vehicles and filling vehicles with petroleum isn't service?

Mr. Moronski – Well I think from my experience is that gasoline service can be provided outside of areas that provide mechanical service. Carwashes can be stand-alone use and don't have mechanical service. When you put gas in your car if you only put gas in your car and only washed it eventually it would fall apart and you would have to bring it in for service that's just the nature of it.

Mr. Lieberman – That's predicated on your view that when Saddle Brook used the term service they meant something that would be a mechanical repair correct?

Mr. Moronski – Without the benefit of a definition in the ordinance I interpreted it as it said storage and service together and that's an important distinction in that service does have a meaning regarding mechanical operations. That's my professional opinion.

Mr. Lieberman – I just want to be clear when you offer that opinion that's not reliant on any statute ordinance or authoritative document that you're aware of is it?

Mr. Moronski – Well without a definition in the Township ordinance I rely on my professional experience and my view of how land uses work yes.

Mr. Lieberman – At the end of the day it's up to the Board to make that determination isn't it?

Mr. Moronski – And that's why we're here.

Mr. Lieberman – I think we're all on the same page that's why we're here and the Board's going to have to decide it and I think there's not a lot more I can do with this Chair. I did what I wanted to do and I raised my objection I wanted to raise and I think I'll just sit down.

Mr. Duffy – Okay.

Mr. Lieberman – Thank you.

Mr. Gianetti – I do have a couple of redirect for this witness.

Mr. Duffy – Proceed.

Mr. Gianetti – Mr. Moronski if you could go to that Sita approval and go to page three. That use was in a T Townhouse District Zone correct?

Mr. Moronski – Yes correct.

Mr. Gianetti – That's why they needed a use variance?

Mr. Moronski – Yes.

Mr. Gianetti – There was a question whether UPS challenged the truck terminal definition when it was adopted. Was there any reason for UPS to challenge the definition back in 1986 when it was first created and then in 1989 given how they were historically treated by the Town?

Mr. Moronski – In terms of the last several decades they had been considered a distribution facility administratively and otherwise so that continued and there was no at least based on what I heard about how the use is defined there was no reason to challenge it because it didn't apply to them.

Mr. Gianetti – You can affirm in that 1992 Planning Board resolution it was determined to be a distribution center and classified as a distribution center even after the truck terminal ordinance so there would be no reason to challenge it.

Mr. Moronski – Yes.

Mr. Gianetti – That's all I have on redirect.

Mr. Duffy – Does anybody have any further questions in regard to the statements just made by Mr. Moronski before I close it? Having heard none.

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

Mr. Duffy – The meeting is closed to this witness however I do have my own question. You stated just go back and there was on the redirect on your second point.

Mr. Moronski – As to the challenging of the definition of a truck terminal?

Mr. Duffy – Not challenging, the resolution that determined because that resolution that we talked about previously did not determine that it was a, it was just stated in the resolution that it was a distribution center that's not an official determination by the Board. That just happens to be the way it was characterized.

Mr. Gianetti – It was a finding of fact.

Mr. Duffy – It was a finding of fact is that what you're stating? I would like to see something that shows me that.

Mr. Gianetti – The Appendix D a 1992 Planning Board resolution. It's Appendix D to the planner's report. The first page titled Planning Board Township of Saddle Brook Resolution in the matter of the application of United Parcel Service, Inc. for site plan approval located at 280 Midland Avenue. It gives kind of a procedural history second page findings of fact. Property in question is located at 280 Market Street and is currently the site of the applicant United Parcel Service, Inc.'s, distribution center. There is currently onsite a truck wash tunnel. This application seeks permission to connect to an existing sewer line for effluent from the truck wash. All we can do is rely on what's in the documentation. I don't dispute there wasn't someone objecting at the time saying oh wait a second they're a truck terminal but at the same time every town professional and board professional is aware of what they're zoning says and presumably was aware that there was an ordinance that said truck terminals are prohibited.

Mr. Pellino – I think Mr. Chairman it may also be fair to say if it was considered a truck terminal they wouldn't have been in front of the Planning Board they would have had to be in front of the Zoning Board. Again if somebody looked at it and made that determination apparently it was assumed that it was a conforming use and had to present the site plan application before the Planning Board.

Mr. Duffy – Okay.

Mr. Pellino – I don't think that's the final word on the question.

Mr. Duffy – No.

Mr. Gianetti – I guess I would just add the definition was created for a reason. Towns don't just create a definition of a truck terminal for the sake of creating a definition of a truck terminal. Yet only a couple of years later we are before the Planning Board and no one was saying we just adopted an ordinance so you're a truck terminal. You're not allowed to be there. There's no smoking gun we are all relying on just what's in the ordinance and the history of how it was treated and the timing of it. In the end the Board is going to make their finding but just from my standpoint you've got to factor a lot of these points in when you're making a determination of are you a truck terminal by how they've been treated in the past and

the fact that an ordinance was specifically created to prohibit truck terminals yet we were still considered a distribution facility shortly thereafter.

Mr. Duffy – We are being diligent in getting as much information as we can.

Mr. Gianetti – I appreciate that.

Mr. Duffy – We don't take this lightly I understand that. I don't have anything further for Mr. Moronski. Does anybody on the Board have any questions for him?

There are no questions.

Mr. Gianetti – Mr. Chairman I think it might be appropriate to bring Mr. Bendixen back to answer your follow up questions.

Mr. Bendixen comes forward and is reminded he is still under oath.

Mr. Duffy – There's a lot of discussion and debate as to what service is. I have my understanding it is not necessarily that it's to pump gas. You can go back to the days when we were young and the service station could have been just that, they just pumped gas and called a service station. They did other things such as topping off your oil other fluids brake fluid whatever and that was considered to be service and not necessarily whether it was a repair shop. I have a question for you do you know an Alberto Clavo? There is a situation that exists in your facility that you have a carwash and the trucks are lined up and they are setup to where they can get ready to go out as some people in town call the brown parade. Whatever time it is 8:45 or something it's tough. When the trucks are in that line and all prepped to leave for their morning rounds it's my understanding that there is someone who actually checks the fluids to make sure they are topped to where they belong and then the trucks are permitted to go out because they have enough oil and windshield washer fluid or whatever and the tire pressure is fine. I look at that and it tells me we're servicing a vehicle before he gets out on his appointed rounds. Are you aware of this?

Mr. Bendixen – Every UPS driver is a UPS driver he's not a mechanic it's a DOT requirement for them to look at their vehicle before they leave the facility.

Mr. Duffy – Pre use inspection.

Mr. Bendixen – Yes. So he's required to make sure his headlights work, brake lights, we look at the tires to make sure there's no flats but he's not a mechanic he's a driver it's a DOT requirement. He must inspect his vehicle before he goes out on the road. They don't look to see if there's oil in there. They'll lift the hood up and do a three minute inspection around the vehicle and they're off.

Mr. Duffy – They're just doing a visual then.

Mr. Bendixen – That's it.

Mr. Duffy – That's a standard in a lot of operations, forklift operations, area lifts, scissor lifts, things of that nature. I teach that stuff so we all teach that everybody does a pre use inspection but if there's a problem somebody else fixes it. So what happens when you have a row of trucks or package cars in line and the one in the middle has a problem? What do we do? We got to add air to the tires to get them out of there. There's something wrong with the engine and we can jump start them do we do any of that kind of stuff when that trucks in there because you got your time frame.

Mr. Bendixen – That's a great question how often does that happen probably very rare. UPS has an extensive preventative maintenance program it's all on Telematics actually there is a lot of electronics so that the automotive department knows exactly when they need to service these vehicles. If a vehicle stops for whatever reason I can't tell you that the automotive group comes over or a tow truck comes over I can't give you a hundred percent answer. It is not in our plan to because it's such a rare occasion nothing happens.

Mr. Duffy – No rare and doesn't happen.

Mr. Bendixen – Okay it rarely happens let me put it that way.

Mr. Duffy – Okay.

Mr. Bendixen – I've had all the locations in my areas and you see all the vehicles are moving out and if one stopped for whatever reason. They all stop as they pull out to do their little inspection and then they drive around the other one to go out. I can't say do they tow them yeah if a vehicle breaks down a mile from the facility a tow truck gets called.

Mr. Duffy – I'm not worried about a mile from the facility that's out of my ballpark now. I'm talking about inside the facility they're getting everything ready at night or whatever time they do it and they get them all set to go and you got this long line and it's a long line.

Mr. Bendixen – Yeah it is its 200 cars.

Mr. Duffy – It seems to me it's a reasonable assumption that there is some type of service that goes on. It baffles me that there's no way 200 trucks can be loaded in the facility and somebody is not checking them because your little garage that's a few buildings away you're not pulling them out and stopping in there and getting them checked so it's got to be done there so there is an element of service preventative maintenance but I still see it occurring.

Mr. Bendixen – They pull the vehicle out of the facility and take them to the shop which is not on the property and that's where they do the preventative maintenance. That's what they do.

Mr. Pellino – You're familiar with the operation right?

Mr. Bendixen – Yes.

Mr. Pellino – So are you saying when these cars are lined up for the carwash nobody's checking the fluids is that your testimony hundred percent?

Mr. Bendixen – Yeah.

Mr. Pellino – Nobody checks the fluids while they are lined up for this carwash?

Mr. Bendixen – That's my testimony that I'm aware of nobody checks the fluids when they go through the carwash.

Mr. Pellino – When do they check fluids?

Mr. Bendixen – They have a preventative maintenance program like I said we call Telematics and cars are scheduled to go in for maintenance.

Mr. Pellino – So unless and until it's scheduled nobody checks the fluid level?

Mr. Bendixen – To my knowledge yes.

Mr. Duffy – The vehicles put a lot of miles on them.

Mr. Bendixen – Some of those vehicles are 400,000 miles.

Mr. Duffy – So somebody has to be doing it. I'm sorry I'm just thinking reasonable.

Ms. Murray – Do you know what the Telematics devices monitor?

Mr. Bendixen – They monitor a lot of items including when the doors are open when they're closed. I believe they also have oil monitoring gauges on there so they know when they are low on fluids and various other things. They work all day long when they are out on the road driving.

Ms. Murray – And you have somebody in an automotive group in your fleet that would have a dashboard that could tell if a package car or truck is exhibiting something odd.

Mr. Bendixen – Correct it tells them when they drive in reverse. It has all of that information.

Mr. Duffy – Wiper blades?

Mr. Bendixen – I don't know about wiper blades.

Mr. Gianetti – I guess to that point the way I think of it is I'm by no means a mechanic I never check the fluid or anything in my car. It tells me when to get the oil changed, it tells me when to get my brakes done and I don't have somebody at home monitoring it by computer it just does it by mileage. I don't think it's out of the ordinary to think UPS who's whole business is making sure these trucks are going has a system to make sure cars are not breaking down when they're trying to get out.

Mr. Duffy – To your point I don't believe and this is from a reasonable standpoint they rely solely on a computer program or anything of that nature to tell them there's something wrong with their truck. Four hundred thousand miles okay somebody it's just logical it would be really good maintenance to hey listen let's check it out. Truck twenty one has been out a long time today let's check it and to Mr. Bendixen's benefit you're not there a hundred percent of the time.

Mr. Bendixen – No.

Mr. Duffy – Your people in operations there to keep their trucks running may very well be doing exactly that to do their job efficiently and that's where I think we may have this issue where we're looking at that there's some type of servicing going on.

Ms. Murray – Where is your fleet department located that monitor the maintenance? That monitors the Telematics are they on site or are they in a headquarters office?

Mr. Bendixen – The Automotive Department has been shown on the map is a few buildings over.

Mr. Duffy – That's where they are that monitor it?

Ms. Murray – There's nobody in the warehouse distribution building the site we're discussing that monitors the Telematics or anything on the vehicles?

Mr. Bendixen – No there is nobody there.

Mr. Gianetti – Mr. Bendixen you mentioned that people are monitoring it electronically what's happening with the trucks and when they should be serviced when there's potentially a problem? Was it your testimony per DOT requirements the drivers who are not mechanics have to walk around and do a pre use inspection as part of UPS protocol?

Mr. Bendixen – It's part of a DOT requirement.

Mr. Gianetti – Does UPS have a similar protocol that tells the driver you have to do a pre use inspection before you go?

Mr. Bendixen – We do it because the DOT requires it it's a law.

Mr. Gianetti – Are you aware of any UPS protocol that requires drivers to pop the hood when they're in line to get out to make sure that there's oil in the tank that there's no issue with the brake fluid?

Mr. Bendixen – They're not supposed to because we're under a time constraint because of efficiency. They are to get into their vehicles and that vehicle is supposed to be able to go when they get into it.

Mr. Bendixen – Yes.

Mr. Duffy – So back to my original question Alberto Clavo.

Mr. Bendixen – I do not know him.

Mr. Duffy – You do not know him. It's my understanding that he checks and fills the fluids and so I don't know Mr. Clavo but I know of this so that's why I'm asking you since he would be an employee. Supposedly that's this man's job. Top off the fluids make sure that they're ready to go and it's done during the carwash and when you set them up to go out in the morning.

Mr. Gianetti – Mr. Duffy if you could elaborate when you say it's your understanding did you have a discussion with him?

Mr. Duffy – I said that I don't know him.

Mr. Gianetti – How is it your understanding?

Mr. Duffy – Because I live in town and people tell me things.

Mr. Gianetti – So somebody that knows Alberto Clavo?

Mr. Duffy – Apparently so I'm trying to validate it.

Mr. Gianetti – So basically it's double hearsay.

Mr. Duffy – No I know what double hearsay is okay and I know and I want to confirm is what I heard true. I'm not saying it's true and I'm not saying it's testimony I'm asking is it true.

Mr. Bendixen – To my knowledge that doesn't take place.

Mr. Duffy – He doesn't this guy doesn't exist.

Mr. Bendixen – I'm sure he probably exists I don't know him I don't know that that is a job at UPS.

Mr. Duffy – I want to make sure this wasn't made up. People can throw things at you and say well you know that's why this to me is a source a very valid source and I would ask that.

Mr. Pellino – Maybe so we're clear Mr. Bendixen you're saying as far as you know nobody performs that function in the carwash line?

Mr. Bendixen – No.

Mr. Pellino – There's nobody checking fluids making sure everything's okay?

Mr. Bendixen – Correct.

Mr. Duffy – Okay.

Mr. Duffy asks for a motion.

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

Mr. Duffy – The meeting is open to address the comments by Mr. Bendixen.

Carmelo Lana comes forward and is reminded he is still under oath.

Mr. Lana – He made a statement about they monitor trucks again off site a few buildings away outside of the area you are looking to get permission to expand.

Mr. Gianetti – We're not looking for any permission to expand.

Mr. Lana – Permission in question.

Mr. Duffy – Actually it's not permission in question it is here to interpret and decide on how we're going to rule on the Zoning Officials definition.

Mr. Lana – Can we figure out the year that these other buildings started expanding because is UPS keeping this as a distribution center and going into these other buildings specifically to not become a truck terminal?

Mr. Duffy – I don't know if there is relevance to that question.

Mr. Lana – Because now the year which this ordinance came into fruition is maybe why they're not expanding their blueprint.

Mr. Pellino – Is the question was there a time when they serviced vehicles onsite.

Mr. Lana – Is there a time they started going out to the other buildings to not expand their blueprint as a distribution center making them a truck terminal?

Mr. Duffy – Are you asking if they serviced vehicles there prior?

Mr. Lana – Yes service and now the Telematics because again that's outside of the project.

Mr. Gianetti – I think for relevancy did Telematics exist in 1970?

Mr. Duffy – Telematics is not at issue. It's a way to monitor a preventative maintenance program to let them know this car needs whatever.

Mr. Lana – The service itself.

Mr. Pellino – I think the question is was there ever a time when they serviced vehicles on the site in question.

Mr. Lana – Yes and what year did they move it offsite? Was it done due to the ordinance?

Mr. Duffy – I think we can ask the question of was it done before and when did he move it offsite.

Mr. Lana – I don't expect you to have the answer but it's something to research.

Mr. Gianetti – You can answer the question do you know in 1985 if they serviced vehicles on the property.

Mr. Bendixen – I do not know the answer to that.

Mr. Gianetti – I think both points are irrelevant. The issue is the operations today and the fact I can't assure you but I highly doubt there was some Machiavellian scheme to say ha let's do this stuff offsite. Even if there was they're doing it offsite it's not a part of this facility.

Mr. Duffy – Actually if they were servicing trucks at a different point in time and then decided to move out and if it was after the ordinance was passed even though after the ordinance was passed there is reference to it being a distribution center then in fact it would be a truck center. It would be a terminal because you operated like that you follow. Let's say the ordinance went into effect in what year?

Mr. Gianetti – 86 and then amended the current definition is from 1989. The first time they defined it was 1986 and prohibited truck terminals.

Mr. Duffy – It didn't define it with parking and service.

Mr. Gianetti – I don't go back to the 1986 I can't say for sure if it did or did not refer to servicing.

Mr. Bendixen – It's highly unlikely we did servicing. I would guess we were part of that other building from the beginning. I know the makeup of the building and I built a lot of UPS buildings and it doesn't resemble anything like we ever had a maintenance shop in there.

Mr. Pellino – Mr. Bendixen the lot on which the building that services the vehicles located is that contiguous to the lot we're talking about?

Mr. Bendixen – No.

Gary Garbarino comes forward and is reminded he is still under oath.

Mr. Garbarino – Servicing a battery goes dead overnight you replace it is that servicing?

Mr. Duffy – In my opinion yes.

Mr. Garbarino – I was a ford mechanic for 26 years and it comes a time the battery dies there's no jump starting it so at that point we're going to hook that up to a rig and take it to a service station instead of replacing that onsite?

Mr. Bendixen – Yes.

Mr. Duffy calls on Mr. Lieberman.

Mr. Lieberman – Who's the head of maintenance at this facility what's his name?

Mr. Bendixen – My counterpart for automotive is Nicolette Angelelli.

Mr. Lieberman – Why is he or she your counterpart?

Mr. Bendixen – He is the director of North Atlantic District.

Mr. Lieberman – And you're the director of what?

Mr. Bendixen – I'm the director of what?

Mr. Lieberman – That person is in charge of maintenance at this facility is that correct?

Mr. Bendixen – He's over automotive repairs.

Mr. Lieberman – Does that mean the maintenance of these trucks?

Mr. Bendixen – Yes.

Mr. Lieberman – Are you that person's superior or where do you stand in relation to that person?

Mr. Gianetti – Objection relevance?

Mr. Lieberman – I want to know do you talk to him where he got his information from. Did he interview him?

Mr. Duffy – He's the facilities manager correct.

Mr. Bendixen – Yes.

Mr. Duffy – I would tend to agree with Mr. Gianetti on this. I don't see the relevance either.

Mr. Lieberman – I understand that my only question is did you interview him to determine what the maintenance protocol is at this facility?

Mr. Pellino – It's a fair question.

Mr. Gianetti – It assumes he needs to be interviewed.

Mr. Pellino – I understand he may not.

Mr. Gianetti – I guess a more important question is does Mr. Bendixen know as a facilities manager the automotive maintenance and how that operates. If not then they need to.

Mr. Pellino – Maybe that's your question on redirect. The question is did you interview him?

Mr. Bendixen – I did not interview him.

Mr. Lieberman – With regard to windshield wiper blades do they keep them on the site?

Mr. Bendixen – No they replace them at the shop. The drivers do not replace they do not put oil in, they do not replace windshield wipers, they don't replace batteries.

Mr. Lieberman – Do you know that firsthand that they don't put windshield wiper blades on at the site?

Mr. Bendixen – Yes.

Mr. Lieberman – This Telematics are you positive it monitors oil because I listened to your testimony before and I heard some suggestion you weren't positive are you positive it monitors oil?

Mr. Bendixen – I'll say I'm not directly over automotive so I'll say no.

Mr. Lieberman – You're saying no you're not positive that's what you're telling me.

Mr. Bendixen – It's not my direct oversight so I don't look at that on a daily basis or annual basis or ever so it's not my expertise to say Telematics checks oil.

Mr. Lieberman – When a truck comes in and it's low on air and it's in that line what do you do with it do you take it to the shop?

Mr. Bendixen – There isn't an air compressor in the building that's made for filling up tires. There's air compressors that are made for conveyor equipment that are in the middle of the building but not out by where the vehicles are.

Mr. Lieberman – Do they have the device to check the air pressure?

Mr. Bendixen – We don't do that.

Mr. Lieberman – Do they have a gauge to check air pressure on the premises?

Mr. Bendixen – I'm going to say I'm not aware of any. We have vehicles inside golf carts which also have air tires in them. Maintenance mechanics who work in the building do check the air pressure on golf carts.

Mr. Lieberman – That's it thank you Chair.

Mr. Duffy – Does anyone else want to ask a question or make a comment in regards to the additional testimony? Having seen none.

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

Mr. Gianetti – That's all I have for my case and obviously would like to reserve if needed the opportunity for presenting additional evidence based upon what's presented by the objectors.

Mr. Duffy – Mr. Lieberman the Chair recognizes you and I understand you have some testimony.

Mr. Lieberman – I have two witnesses. I want to call Mr. Rodrigues who is a planner and I want to call my client.

Mr. Duffy – For the record state who you are.

Mr. Lieberman – Stuart Lieberman and I represent Mr. LoBue. My first witness is Carlos Rodrigues.

Mr. Pellino swears in Mr. Rodrigues. His business address is 201 Moore Street Princeton New Jersey.

Mr. Lieberman questions Mr. Rodrigues to establish his credentials and the Board accepts him as a witness in the field of Planning.

Mr. Lieberman – Your job was to review the documents presented as part of this appeal is that correct?

Mr. Rodrigues – That's correct.

Mr. Lieberman – Would you tell the Board what did you review and then I'm going to ask you whether you have any opinions within a reasonable degree of planning certainties.

Mr. Rodrigues – I reviewed the planner's report. I reviewed all of the Master Plans for the town. I reviewed various historic materials that were provided to us as a result of OPRA requests going back to not the original site plan for the building but when they submitted an application for expansion of the building, as well as when they submitted an application to build the employee parking separate lot, as well as they submitted an application for a carwash and a connection to the sewer main and all of that stuff.

Mr. Lieberman – You're aware that the Zoning Official of this municipality has determined that certain uses occurring a right now at the UPS facility constitute an expansion of a nonconforming use right you're aware that that's his contention?

Mr. Rodrigues – Yes. Pallet operation.

Mr. Lieberman – Do you have an opinion within a reasonable degree of planning certainty as to whether or not the site does constitute a nonconforming use in its current application?

Mr. Rodrigues – And qualify it as a trucking terminal. Yes I do. I believe that it does and we've already read this definition many times I'm not going to read it again but I am going to hone in on what seems to what I think everybody recognizes now is the defining issue. It's the last word in the definition whether the trucks or trailers are serviced. We I think already everybody probably agrees that the facility meets all the other prongs of the definition. The question is whether it meets the prongs of service. Notice that the definition doesn't require that every aspect of servicing those vehicles be performed on the facility. It leaves that open. We already know that they're refueled there they're washed there. I find it hard to believe if a truck has a flat or a dead battery or some other minor mechanical problem that they're not dealt with on the site first either by the UPS mechanics that are next door or some other outside mechanic. That they would call a tow truck to move a truck from this site next door to fix a windshield wiper or some trivial thing I find that hard to believe. In any event the point that I'm making here is we know for a fact that they meet the definition of servicing. It's not complete servicing yes okay they're not changing the oil there.

Mr. Lieberman – Do you have an opinion as to whether or not this could be from a land use perspective both a distribution facility and a truck terminal.

Mr. Rodrigues – Absolutely.

Mr. Lieberman – What is the basis of that opinion?

Mr. Rodrigues – We know how the Town defines the truck terminal. It turns out truck terminals is a term in zoning language that is not exclusive to Saddle Brook but is used elsewhere. There is an authoritative publication that's widely used by planners with respect to definitions. It's called The Latest Book of Development Definitions by Harvey Moskowitz and Carl Lindbloom I have a copy if you need to see it. The latest edition is from 2017 and it reads truck terminal an area and building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller or

larger loads for transfer to other vehicles or modes of transportation. Then in the comments section to the definition Moskowitz and Lindbloom go on to state that truck terminals are basically trans-shipment facilities and often include the storage or parking of trucks awaiting cargo as well as facilities for servicing of trucks. Storage facilities such as warehouses incidental to the principal use may also be part of a truck terminal. Truck terminals are similar to distribution centers and warehouses except they usually serve many manufacturing firms and are owned and operating by trucking companies which is what UPS is a trucking company. There are two types of terminals. End of line terminals serve a small geographic area often a city or metropolitan area. Branch bulk terminals serve large regional areas freight may be stored on the site until a full truckload for a specific area has been aggregated. This is a definition that goes beyond the definition that's in the Saddle Brook code but I think helps to shed some light on this question of truck terminal versus distribution center.

Mr. Lieberman – You concluded that it's a nonconforming use because it's a truck terminal yes?

Mr. Rodrigues – Yes.

Mr. Lieberman – The Zoning Officer said that this is an expansion of a nonconforming use do you have an opinion of whether you agree or disagree that this is an expansion of a nonconforming use.

Mr. Rodrigues – The pallet operations are taking place in the parking lot. The site plan that was originally approved and all subsequent site plans for the UPS facility do not contemplate any type of pallet operation in the parking lot. It's possible that UPS carried out pallet operations previously inside the building but they've overgrown the building and now they're in the parking lot. The Zoning Officer is objecting to having these pallets being broken down in the middle of the parking lot which according to the site plan is supposed to be used for parking.

Mr. Lieberman – Do you agree or disagree with the Zoning Officer's determination?

Mr. Rodrigues – I agree. I think UPS has outgrown its facilities. They don't have room inside the building to move all the freight that they need to move and now it's taking place in the parking lot.

Mr. Lieberman – I don't have any more questions for this witness does the Board have any questions?

Ms. Murray – Your interpretation of serviced could be different from us correct?

Mr. Rodrigues – Certainly.

Ms. Murray – What one person considered servicing of a vehicle is not going to be the same for someone else.

Mr. Rodrigues – Not necessarily. Unfortunately your code doesn't have a definition for servicing.

Ms. Murray – There's no definition of what the Town considers service at any point in time so at this point we're relying on our own judgement of what servicing a vehicle is.

Mr. Rodrigues – My point again is that the definition doesn't say that one hundred percent of the servicing needs of those vehicles has to be addressed on site. It just says servicing so it's up to this Board to decide whether some servicing perhaps not all servicing is sufficient to meet the definition.

Ms. Murray – I would wonder at the same point in time if we go to any warehouse or any other warehouse operation that stores trailers and my car I work there and my car breaks down and I call AAA and they fix my car on the lot does that make them a truck terminal because they've done servicing on a vehicle and they're still storing trucks.

Mr. Rodrigues – I don't think if an employee has their car break down in the parking lot and has to call for service I don't think that would be relevant to the definition of a truck terminal. It has to be the fleet that is associated with the business the activity that takes place on the site.

Ms. Murray – Thank you.

Mr. Manzo – I could argue this either way but I don't think they've presented to me the full definition of a distribution center. I think it could be a truck terminal it could be a distribution center but I'm not totally convinced it is a distribution center.

Mr. Rodrigues – Since your zoning code doesn't have a definition for a distribution center that leaves us in a bit of a lurch. I can read you the definition that's in the Harvey Moskowitz book but that's not your zoning code so it's just an outside reference.

Mr. Lieberman – And it's not relevant to this.

Mr. Rodrigues – No.

Mr. Tokosh – Just what I said before I think this is a hybrid of a distribution center as well as a trucking terminal. I don't know maybe you could have a different name for it but we could argue this all night on both sides and still not come to any sort of recommendation.

Mr. Rodrigues – I think that the relevant question is, is it possible for a use to be both permitted and not permitted at the same time at the same location.

Mr. Champy – Our Construction Official gave them for the pallet operation what you were just saying. You're saying they're growing out of their space does that have anything to do with being a truck terminal?

Mr. Rodrigues – No it's a separate issue.

Mr. Pellino – I think it's admitted they fuel the trucks and they wash the trucks. In your opinion do those two things in of themselves constitute servicing?

Mr. Rodrigues – They can.

Mr. Pellino – I'm asking your opinion.

Mr. Rodrigues – I think you can interpret it that way. The definition in your ordinance doesn't say the full spectrum of servicing needs it just refers to servicing. My sense is that the drafters of that language didn't want it to apply to every possible aspect of servicing. They didn't want it to be exhaustive so they chose to leave it more limited.

Mr. Pellino – Okay.

Mr. Marz – we're talking about a distribution center or a trucking terminal after we decide that what's going on with this pallet business how does that get impacted by this decision?

Mr. Pellino – It's the quote unquote pallet operation which I think was determined and I think we should be careful. Tony Ambrogio wears a couple of hats. The decisions he's made here are as Zoning Officer not as Construction Official. It's easy to get them confused but just so that we're clear. Tony believed and I don't know how it came to his attention that this constituted a different or expansion of what was the present use and therefore required at a minimum a site plan approval. If it was part of a permitted use then the site plan approval would go to the Planning Board. If it was part of expanding a non-permitted use then it would have to go in front of the Zoning Board. That's kind of in the background. The appeal today before us is whether or not he was correct in determining that this was a truck terminal. Based on our decision the plans for that pallet facility will go to either Board.

Mr. Marz – Thank you.

Mr. Duffy – At this time do I have a motion to open to the public?

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

Mr. Duffy recognizes Mr. Gianetti.

Mr. Gianetti – Mr. Rodrigues in your testimony you referred to the Moskowitz planning terminology book and you read truck terminal and you mentioned something about freight. Can you read that line again?

Mr. Rodrigues – Sure. "An area and building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation".

Mr. Gianetti – In your testimony you testified with respect to this issue of service and it was your testimony that you can't believe that if there was a battery that died on site or a car had a flat tire they wouldn't do something in that emergency instance to fix it there.

Mr. Rodrigues – I don't recall mentioning a flat tire I did mention a windshield wiper.

Mr. Gianetti – No you said I'm pretty sure you referred to the battery and the car dying and remember you saying they wouldn't jump it or bring some sort of equipment?

Mr. Rodrigues – Correct.

Mr. Gianetti – In your mind that type of situation creates a service that falls within the definition of the Towns truck terminal where they refer to the word service?

Mr. Rodrigues – Yes.

Mr. Gianetti – You indicated you read the Langan planning report that was submitted for the application?

Mr. Rodrigues – I did.

Mr. Gianetti – You reviewed the other sites that Mr. Moronski testified to that recently received approvals from the Planning or Zoning Board that had similar warehousing uses?

Mr. Rodrigues – Yes.

Mr. Gianetti – Mr. Moronski testified that they hit all of the criteria. They had trucks of more than one and a half tons that were store on the site that were used in the operation of goods and services the only thing being they are not serviced there. Do you remember that was his testimony?

Mr. Rodrigues – Correct.

Mr. Gianetti – Do you agree with that testimony?

Mr. Rodrigues – I do.

Mr. Gianetti – Did you look at some of the aerial photos of those properties?

Mr. Rodrigues – Of those properties?

Mr. Gianetti – Yeah.

Mr. Rodrigues – I can't say that I did.

Mr. Gianetti – You recall Mr. Moronski's testimony that some of them had trailers or trucks or vans on site?

Mr. Rodrigues – Yes.

Mr. Gianetti – In an emergency instance with one of those sites if a van that was parked there didn't start and someone replaced the battery on that site in our mind now that classifies that Arrow Fastener or Sita & Sons as a truck terminal? Could they just happen to service a vehicle that day in an emergency?

Mr. Rodrigues – I don't think so but that occasional aspect of servicing in other words fixing something that goes wrong in this case is on top of the continuous servicing which is the refueling and the washing. That's continuous that doesn't depend on the vehicle developing some kind of malfunction. That's a routine operation at this facility and so the other aspects are on top of that but those two aspects by themselves in my mind are enough for this facility to satisfy that definition.

Mr. Gianetti – Are you familiar with the Saddle Brook Post Office?

Mr. Rodrigues – I am not.

Mr. Gianetti – Do you know where it's located?

Mr. Rodrigues – I don't.

Mr. Gianetti – Do you know if they have trucks stored the Post Office vans I guess we'll call them.

Mr. Lieberman objects to the relevance of this line of questioning.

Mr. Duffy – Mr. Lieberman I gave you latitude I'll give him latitude.

Mr. Gianetti – I guess an example of that we just talked about Arrow and Hampshire and Sita if one of those vans didn't start when it was parked at the Post Office and either had a battery that didn't work and they replaced it there or they jumped it there in your mind is the Post Office now a truck terminal?

Mr. Rodrigues – Does it meet the full definition of the truck terminal?

Mr. Gianetti – Let's just say assume it has assume the vans are more than one and a half tons.

Mr. Rodrigues – It's not just the servicing part it has to meet the rest of the definition.

Mr. Gianetti – Let's assume they have vans that are more than one and a half tons and that they're parked outside because I'm sure when we drive whatever direction that is up the road you'll see Post Office trucks you know the vans.

Mr. Rodrigues – The little vehicles the Post Office drives are not more than one and a half tons.

Mr. Gianetti – Do you know that for a fact?

Mr. Rodrigues – I haven't weighed them.

Mr. Gianetti – What if I told you they were almost over 5,000 pounds would you believe that?

Mr. Rodrigues – The little tiny thingies?

Mr. Gianetti – They haven't used a jeep since probably 1985 but we're talking about the normal van that we see nowadays. I wouldn't classify as little.

Mr. Rodrigues – That's not what they use to deliver the mail on my street. I don't know what vehicles they have at the site.

Mr. Gianetti – Do you know how many pounds one and a half tons is?

Mr. Rodrigues – I do its six hundred pounds. Six thousand pounds.

Mr. Gianetti – Do you know how many pounds are in a ton?

Mr. Duffy – One and a half tons is 3,000 pounds.

Mr. Gianetti – I was asking to see if he knew but thank you Chairman.

Mr. Rodrigues – So tonnage is not my forte.

Mr. Gianetti – So maybe the weight of cars may not be your forte as well.

Mr. Rodrigues – Well I'm not going to go up to every vehicle...

Mr. Gianetti – Okay I made a point. That's all I have on cross examination.

Mr. Duffy – Does anyone else wish to be heard regarding this witness? Having heard none.

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

Ms. Murray – Say a company any one of them Arrow, Sita & Sons that are considered distribution centers using mobile maintenance so when a trucks breaks down and that's their maintenance program is that someone else comes on site to do the work and it's on their vehicles that they own would that then turn them in or does a component of servicing have to exist physically with a service shop on the site or is mobile service what constitutes because that's the way they maintain it?

Mr. Rodrigues – So if their vehicles break down elsewhere they're going to be serviced where they break down. They're only serviced at the site for a breakdown when they break down at the site.

Ms. Murray – Exactly but what I'm saying is if a company employs a mobile service center to do their maintenance or their checks or tires or whatever on their site like a preventative before they go out and that's their vehicles it's their location does that now make them because they're using a mobile service in your opinion a truck terminal or does the idea of a truck terminal require that there's a maintenance shop on site?

Mr. Rodrigues – It requires that the servicing according to the definition this is what we need to stay close to according to the definition the servicing needs to occur on site.

Ms. Murray – Okay so if I work for Arrow and I need my truck serviced and they're on site and I call in a mobile service operation and they're servicing them on my site does that change my classification or does mobile, you're doing something that's what I'm trying to get at because you could change somebodies classification by consistently by using something else. Years ago I think there wasn't anything like mobile you towed cars away maybe somebody did a little bit of something on site but you know how mobile services do oil on site and everything so if you hire and you maintain a service that comes to your site that does that on your site what I'm trying to get at does that in your opinion change the classification from a distribution center to a truck terminal?

Mr. Rodrigues – It would as long as they also satisfy the rest of the definition. If they satisfy the rest of the definition in addition to the servicing component then they satisfy the definition and they are a truck terminal according to your ordinance.

Ms. Murray – It just proves in my mind to be a little ambiguous because in my view instead of have a service center on site that does my maintenance but I call it a maintenance service that's mobile and they bring everything in and they do that stuff right there on site that could very well get me in trouble if I'm a distribution center could get me in trouble with zoning somewhere along the line. If someone wanted to report me. Based on our very vague definition of servicing in our ordinance.

Mr. Rodrigues – I can't really comment. We have to deal with what's been adopted by the governing body is part of what we're doing here tonight.

Ms. Murray – Okay thank you.

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

Mr. Tokosh makes a motion to open.

Mr. Gianetti asks to bring Mr. Bendixen back for a minute.

Mr. Duffy – I don't have a second yet so I will allow it.

Mr. Gianetti – Mr. Bendixen you remain under oath. You listened to Mr. Rodrigues's testimony and him reading the Moskowitz definition of a truck terminal. Let me take a step back. You've been involved in the UPS business for how long?

Mr. Bendixen – Thirty five years.

Mr. Gianetti – You drove some of these package cars so you're familiar with not just this particular operation but other UPS facilities and how they operate?

Mr. Bendixen – Yes.

Mr. Gianetti – In that definition he referred to for a truck terminal the use of unloading cargo freight.

Mr. Bendixen – Yes.

Mr. Gianetti – Your testimony for this application was this is a partial distribution center and UPS does not handle parcels 150 pounds or more.

Mr. Bendixen – It's less than 150 pounds.

Mr. Gianetti – Does UPS have a separate operation for handling freight?

Mr. Bendixen – Yes we do.

Mr. Gianetti – Can you describe that for the Board?

Mr. Bendixen – UPS has a company called UPS Freight and it just recently changed its name to Tforce. There are other freight companies like Yellow several other freight companies. Those are what is typical to a freight terminal or truck terminal. They have cross dock operation where it's a forklift unloading from one driving a forklift into the other one. In the shipping business which is what we are that is a common terminology for a freight facility. Cross dock again it's a very small it's not wide buildings like what these warehouses and distribution centers are. They are what has been known as truck terminals for decades not just since 1989 even long before that. It's because they use a forklift primarily for loading and unloading the pallets and moving them into other areas so they can be distributed and sent out.

Mr. Gianetti – The cargo or the freight probably because of the weight is being used by forklifts to move them around from point A to point B.

Mr. Bendixen – Correct.

Mr. Gianetti – To confirm your testimony again with respect to this UPS facility. First of all this is not a UPS Freight or Tforce facility correct?

Mr. Bendixen – Correct. We only process packages that are less than 150 pounds.

Mr. Gianetti – Though there is a forklift to move pallets for recycling purposes into a truck are forklifts for maneuvering any of those parcels around the facility with respect to your distribution?

Mr. Bendixen – No not at all.

Mr. Pellino – Since Saddle Brook has its own definition of a truck terminal I don't think we even get into the Moskowitz definition. I don't think we're here to interpret the Saddle Brook definition. If Saddle Brook didn't define a truck terminal then I think we might well look to Moskowitz and other sources but I think since we have a definition even though we have to determine what service means we have a definition that I don't think the Moskowitz definition even plays into this.

Mr. Gianetti – I tend to agree but you heard testimony from them and there was a comment by the Board member so I just wanted to make sure there is a distinction that the Board was aware there is a UPS freight that is a traditional town definition just a traditional truck terminal that is dealing with much larger cargo and freight as opposed to parcel deliveries hub. That is all.

Mr. Duffy mentions the time and the fact that they still need to open to the public for Mr. Bendixen and for the application as a whole. He says that the Board takes this decision very seriously and believes that we should adjourn to the following meeting. He says that this decision will serve as a definition going forward and will have an impact on future applications.

There is a discussion about the Board Members that are present and who will potentially be voting on this decision.

Mr. Duffy calls to adjourn the meeting until the July 11th meeting.

There is a schedule conflict with Mr. Lieberman being able to attend the July 11th Meeting.

Mr. Gianetti suggests written summations and have the Board review them. Mr. Lieberman is willing to forgo cross examination of Mr. Bendixen.

There is agreement that they can carry the application without notice.

After a discussion with the Chair and the respective attorneys there is an agreement that we need to know whether Mr. Gianetti will be appearing for the July 11th Meeting by June 17th.

The application is carried without further notice until the July 11th meeting unless we do not hear from Mr. Gianetti by June 17th at 4 pm.

6. RESOLUTIONS

A.) Approval for Perry Festa & Karen Nobile, 186 Colonial Avenue, Block 1202, Lot 19

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

Roll call - Roll call - Ms. Murray, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

B.) Approval for 5th Street Associates, LLC, 77 North Fifth Street, Block 405, Lot 3

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

Roll call - Ms. Murray, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Duffy – YES.

7. MINUTES

Meeting of May 2, 2022 Regular Meeting

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

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 4/04/22

Anthony Kurus to the Zoning Board, 4/05/22

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

9. VOUCHERS

Basile Birchwale & Pellino, 5/02/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$740

Basile Birchwale & Pellino, 5/02/22, Jungah Kim, 93 Graham Terrace, Block 1513, Lot 45 \$250

Basile Birchwale & Pellino, 5/02/22, Shawn Schimenti, 584 Elm Avenue, Block 1708, Lot 18 \$250

Neglia Engineering Assoc., 4/27/22, Humbert, 61 Ackerman Avenue, Block 606, Lot 22 \$95

Neglia Engineering Assoc., 4/27/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$462.50

Paparozzi Associates Inc., 5/06/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$418.20

Paparozzi Associates Inc., 5/06/22, BT-Newyo, LLC, 280 N. Midland Ave, Blk 1202, Lot 27-29 \$148.75

Return of Unused Escrow, 4/22/22, LAK, Inc., 106 Kenny Place, Block 1008, Lot 4 \$2725

Ms. Murray makes a motion seconded by Mr. Tokosh to pay them if the funds are available.

All in favor – YES.

10. OPEN AND CLOSE MEETING TO THE PUBLIC

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

Mr. Duffy – Seeing none.

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

11. ADJOURN

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