

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
July 11, 2022 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday July 11, 2022 at **(Saddle Brook Town Hall 93 Market Street)**

1. CALL THE MEETING TO ORDER

2. FLAG SALUTE

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

4. ROLL CALL

Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Burbano and Mr. Duffy – Present. Mr. Champy arrived at 7:12. Mr. Paparozzi is absent, Yasseen Saad is sitting in for Mr. Kurus and Anthony Cialone is sitting in for Mr. Pellino. Mr. Pellino arrived at 7:52.

5. NEW BUSINESS

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

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

Mr. Duffy – Our first order of business is a request from Chefler Foods to adjourn this meeting until the September 12th meeting. I spoke with Mr. Pellino about it and the basis of their request is that they have an OPRA request that was put in in June and they have not received an answer on it yet. It's a reasonable expectation except the only problem I have is that instead of going to the next meeting which would be August he wants to go out to September. We did talk about this previously that we would if we had another adjournment that we would have them re-notify. At this point right now do we need a motion for this?

Mr. Cialone says that the Board should take a vote on it.

Mr. Schilp makes a motion seconded by Ms. Murray to have the application adjourned until the September meeting and that they need to re-notice and re-publish for that meeting.

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

Mr. Duffy – If anybody from the public is here for Chefler Foods it will be carried to the September 12th meeting and there will be notification in the mail about it.

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

Applicant requests an interpretation by the Zoning Board of Adjustment of Zoning Ordinance 1707-21.

Daniel Lagana is here to represent the applicant regarding this matter.

Mr. Lagana – Mr. Chairman for the record Daniel Lagana from the law firm Cleary, Giacobbe, Alfieri and Jacobs on behalf of the applicant Garden State Recreational Growing, LLC and Budz Prime, LLC. I had submitted a correspondence June 27th to Counsel Mr. Pellino essentially outlining the issue presented to this Board regarding the interpretation. It's a rather straight forward issue I'll just give a brief background of how we got here. In 2021 the Mayor and Council passed a series of ordinances permitting various classes of bulk use cannabis. The first being ordinance 1707-21 where they actually opened up the Township of Saddle Brook to allow for the cannabis facilities and they set forth certain criteria in that ordinance and requiring both conditional use standards as well as some general provision standards. There were subsequent amendments to that ordinance of which I attached as Exhibit B and that's 1718-22 which is actually permitting the current location which is the subject of a Planning Board application permitting the operation of both a cannabis cultivation facility as well as a cannabis retail facility. Upon the completeness review by the Board Engineer raised this issue which essentially amounts to jurisdiction whether or not the Planning Board was the proper venue for the jurisdiction. It actually affects the burdens of proof with regard to the pending application. The application was filed for bulk variance relief for an existing side yard setback and so on and the Board Engineer had a question he himself could not come to the conclusion of what to do with what's noted as general provisions in subsection 3 of the ordinance. There are a series of general provisions A through J. The one that is most pertinent for our application is subsection B which states that cannabis businesses shall not be located in a building which contains a residence or with a mixed use development that includes residential uses understanding the intent behind that is to not have a commercial space with residential units above. The intent would be to not have that kind of situation. What then causes the ambiguity is when you scroll down in that ordinance to subsection 5 it list the conditional uses for each of the types of classes of license. The position here from the applicants is that those general provisions leaving which opens up the ordinance in subsection 3 are bulk standards which require a simple majority under a C analysis as opposed to a conditional use variance D3 which requires a majority before the Zoning Board and requires a special reasons showing although they'll be a lesser burden of proof then a traditional use variance but still requires that kind of level of burden of proof. When you look through the ordinance it's clear that subsection 5 states conditional use standards set forth for the conditional use requirements. It is expressly stated as opposed to in subsection 3 which simply says general provisions it's not expressly stated as a conditional use. Mr. Chairman in a nutshell that's really what we're asking for an interpretation of whether the general provisions section are bulk variances or conditional use requirements. I will be happy to field any questions.

Mr. Schilp – I read through the application I read through the ordinance several times already and there's a lot of information that's lacking and we received a letter from our Planner and he had a bunch of questions that should be answered prior to us even listening to this and several of them are what I thought should be answered before we do anything. Mr. Schilp details all of the items that are not addressed in the application.

Mr. Lagana – As part of the Planning Board application we did submit site plan building renderings and architectural renderings showing that. They were forwarded to Mr. Paparozzi's as well as Mr. Briglia's office again the unique situation which we don't contest is that there are residential above the Good Karma Vape. It's an uncontested fact. The question becomes is what does that do with our jurisdiction and burden of proof?

Mr. Duffy – It's not approval for the entire project.

Mr. Cialone – If I could just focus us in specifically they're asking the Board just to interpret the actual zoning ordinance having nothing to do with their application at this point. They're asking us to determine whether the general requirements are part of the conditional use requirements or if they are just separate general requirements. I read through Mr. Paparozzi's report and his view actually is that the general requirements are not part of the conditional use and that if you are putting the cannabis business in a building which also includes residential uses his view is a use variance would be necessary. That was his recommendation. For what it's worth that's how we see it. The Board determines again whether or not these general requirements are part of the conditional use and if not do they need a bulk variance do they need a use variance we make that decision and then they either come back here with their use

variance and site plan application or they go back to the Planning Board it depends on what this Board determines how the ordinance is interpreted. Our recommendation is to follow what your Planner recommends.

Mr. Schilp – He’s recommending it comes back here?

Mr. Cialone – He’s recommending that we interpret it to say that the general requirements are not conditional use requirements and if there’s cannabis in a building with a residential use a use variance is required.

Mr. Lagana – If I may offer a rebuttal to that. I think what’s important is that the section 5 expressly states conditional use variance standards where the general provision does not and if you look at A through J it does have more of a bulk variance feel to it in that it talks about things like security, loading spaces, authorized personnel, access to authorized personnel. It talks about signage those are traditional bulk requirements. There is this one that talks about being in a residential again I think the idea and the intent is whenever we have these new mixed use developments where you have commercial on the ground floor and residential above they don’t want it in those kinds of facilities. This is an old building it has been there for years in fact the residential are preexisting nonconforming uses they are not part of a mixed use development or a multi-family or inclusionary development. This is a situation I’m sure everybody knows where this building is there are two stand-alone apartments effectively but the way the building is configured they have common wall areas. That’s what’s kind of roping us in there’s no common entrance and so on and so forth so it’s a bit of a unique situation in this building then your traditional if you can look right across the street and you see the commercial floor space with the residential above. I think that was what the intent of that section was.

Ms. Murray – I don’t know I kind of read it a different way that the general was the overall for all the different types of manufacture, retail, wholesale or cultivator whatever and then the conditional use standards actually broke it out to manufacturing as to be specific on this cultivator specific on this retailer specific on this. That was the way I read it that the general oversees everything and these other conditionals fall under it. If you were both a retailer and a cultivator you would have to not only hit the general provisions but you also have to hit both conditional like C and D because that’s cultivator and a retailer. That’s my reading of it. Then I read the Planner’s and he had missing information and he was saying he believed that it belonged in front of the Zoning Board so that’s my take on it.

Mr. Mazzer – I kind of agree with Mr. Paparozzi he’s our professional.

Mr. Tokosh – I also agree with Mr. Paparozzi.

The rest of the members are also in agreement with Mr. Paparozzi.

Mr. Duffy – I concur with Ms. Murray and Mr. Schilp too because when I looked at this I went right back to the general provisions and then I looked at section 2 of 1718-22 and it says the current text of the ordinance 1702-21 subsection 4 classes permitted is hereby amended to include the following. Then when I read further it kept bringing me back to the provisions so I’m in agreement also but the question now is use variance or bulk variance.

Mr. Lagana – There is no argument from the applicant that a variance is needed. We are not here to say that we meet the condition. We acknowledge as a fact that currently there are two apartments up there the question is, is it a bulk variance or part of the conditional use standards which changes jurisdiction and burdens of proof and that’s really why we needed the interpretation because in my reading of it, it was a bit more ambiguous.

Mr. Duffy asks for Mr. Cialone’s opinion.

Mr. Cialone – Our opinion was to follow the recommendation of the Planner he’s the professional he looks at it and makes the determination as to whether or not they’re use or bulk so that would be our recommendation.

Ms. Murray refers to Mr. Paparozzi’s letter and that he said it would require a use variance.

Mr. Duffy reads from the letter “this application will require a use variance and lies in the jurisdiction of the Zoning Board attorney to review”. I would agree with that.

Mr. Cialone explains that Mr. Paparozzi’s other comments were based on the plans that were submitted but that the Board is not there yet.

Mr. Tokosh asks if there are any children in the apartments.

Mr. Lagana – I believe one is empty and one is being used as an office for Good Karma Vape shop. No there are no children there at the present time.

Mr. Duffy – No one else has any further questions and we do not have to open it up to the public because it is not an application. At this time I would entertain a motion from the Board.

Mr. Schilp makes a motion that the application comes before the Zoning Board in support of Mr. Paporozzi's report.

Mr. Duffy – We support Mr. Paporozzi's determination that it requires a use variance.

Mr. Schilp – That's correct.

Mr. Duffy – That's as far as we go this evening.

Mr. Cialone – Correct that the general requirements are not part of the conditional use requirements and that based on the Planner's opinion if there's residential use residences it requires a use variance not a bulk variance.

Ms. Murray seconds the motion.

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

Mr. Cialone states that this determination applies to all applications related to this ordinance going forward.

B.) Todd & Dana Minimi, 524 Steinway Road, Block 702, Lot 3

Applicant requests a 12' x 20' in ground pool that does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Mr. Duffy asks if this application has been properly noticed.

Mr. Cialone – Yes I just have a question for the applicant so I can understand the affidavit. If you can both raise your right hands. Mr. Cialone swears in Dana Minimi 524 Steinway Road the applicant and Dominick Galluzzo 145 Nedellec Drive Saddle Brook the contractor for the applicant.

Mr. Cialone – I received your proof of publication and proof of notification to the property owners and I think I understood here with the notifications but I just want to be clear. The list some have signatures some have check marks the signatures indicate that you hand delivered to them and checks are the ones you sent certified.

Ms. Minimi – Correct.

Mr. Cialone – I find the applicants have made proper notice and the Board can hear this application.

Mr. Duffy – Ms. Minimi can you walk the Board through or you have Mr. Galluzzo walk us through?

Ms. Minimi – Yes.

Mr. Galluzzo – I figured I'd come here because I'm going to build the pool and I'd probably be able to answer your questions better than Ms. Minimi. What she's looking to do as you can see is a 12 by 24 in ground with pavers.

Ms. Minimi – Twelve by twenty.

Mr. Galluzzo – Twelve by twenty I apologize. You can see on the drawing everything in yellow is going to be pavers. The pool will be raised slightly.

Mr. Cialone – Let's mark that A1 for the record.

Mr. Duffy – A1 is the reference that has the coloring on the pool.

Mr. Cialone – Right.

Mr. Galluzzo – One thing we didn't show here to let you know. Alongside the house there's a fence even with the back of the house. On the other side of the fence is where we will put the pool equipment by the A/C units.

Mr. Duffy – The little walkway that runs down. Where was the gate again at the front of the house on that side?

Mr. Galluzzo – Both sides.

Mr. Duffy – I know there's a gate on both sides the one on the left side.

Ms. Minimi – By the equipment in the back. It says A/C right there it will be next to the A/C.

Ms. Murray – Doesn't the filter have to be six feet off the property line?

Mr. Duffy – I believe so.

Mr. Cialone – That would be another variance. Can you give us an estimate how far back from the property line the equipment is going to be?

Mr. Galluzzo – It's going to be right against the house it's not going to stick out any further than the A/C unit. It's not going to be as noisy as the A/C unit.

Mr. Duffy – is it going to be in an enclosure?

Mr. Galluzzo – No.

Mr. Duffy – So it's just going to be the filtration system so that's roughly about thirty inches wide.

Mr. Galluzzo – Yes it will be on a thirty by thirty pad.

Mr. Duffy – Okay.

Mr. Galluzzo – A fiberglass pad like the A/C units.

Mr. Cialone – About two and a half feet off the line?

Mr. Duffy – It will probably be more three feet because it won't butt the house it will be off.

Mr. Cialone – Two feet off the property line then.

Mr. Duffy – Yes.

Mr. Cialone – Does that sound right?

Mr. Galluzzo – Yeah more or less.

Mr. Duffy – Is it more or less?

Mr. Galluzzo – I would say closer to three feet off the property line.

Mr. Duffy – Closer to three feet. I would say do the two just to give that buffer in case we're off by a few inches here and there as long as it's not enclosed. We're not putting a shed up because that changes everything.

Mr. Galluzzo – No shed.

Mr. Duffy – Okay. Where would the runoff go?

Mr. Galluzzo – The runoff would go into the grass if you're talking about for the filter.

Mr. Duffy – For the filter.

Mr. Galluzzo – They'll be a hose not all the time out but whenever she backwashes just run into the front grass.

Mr. Tokosh – Is it diatomaceous earth?

Mr. Galluzzo – Yes.

Mr. Tokosh – So you're going to have the earth on the grass?

Mr. Galluzzo – It will run on the grass but it dissipates into the ground it's not poisonous.

Mr. Schilp – It makes the front yard white.

Mr. Galluzzo – Not for long.

Ms. Minimi – What is that stuff?

Mr. Galluzzo – That's the earth in the filter the powder that collects all the dirt from the pool.

Mr. Duffy – Your pool is going to be a chlorinated water pool not a salt.

Mr. Galluzzo – It's a chlorine pool but it's going to generate its own chlorine from the salt water. That's what a salt pool is. It's not actually a salt water pool.

Mr. Duffy – I didn't realize they did diatomaceous earth with that I thought it was a different type of system.

Mr. Galluzzo – It's the same system the only thing it does is well we know salt is sodium chloride it takes the sodium out puts chloride back in the water.

Mr. Schilp – There's a small shed in between garbage cans that was on the other side of the gate is that going south?

Ms. Minimi – Against the fence?

Mr. Schilp – Yes.

Ms. Minimi – That was just with my sons toys in it that's going to be gone.

Mr. Schilp – It's not going to be moved someplace else?

Ms. Minimi – It's going to be gone it's broken anyway.

Mr. Duffy – The pavers so the pool is 12 by 20 and so you're going to have 8 foot from the edge of the pool to the house. What about the windows that are there?

Ms. Minimi – The wells?

Mr. Duffy – You're going to keep the wells and go around them?

Ms. Minimi – Yes.

Mr. Galluzzo – I believe we're putting Belgian block around them.

Ms. Murray – The outside number says on the house is 19 feet plus your 5 and ½ feet in your aisle that goes into the concrete a little further.

Mr. Galluzzo – The concrete will be coming out.

Ms. Murray – Okay no but see where your 6 so you've got a 6 foot plus 12 foot plus 6 foot that's 24 feet and the 19 plus 5 is exactly 24 feet so if that concrete is about a foot are you considering that the 6 foot runs over to the blue stone paver?

Mr. Galluzzo – Actually we're going to run the pavers right to the blue stone level with them.

Ms. Murray – What I'm saying is watch your measurements so that they're correct because on the side of the house you're okay if it's a little short because of that piece of concrete.

Mr. Galluzzo – We'll watch our measurements and I'm sure when we get our inspections Mr. Ambrogio I'm sure he'll be measuring too. I did see a letter from Neglia Engineering recommending a topographical survey I'm going to ask the Board if we can wave that because the ground is flat. The pool will be about 4 inches higher and the only impact here would be to the neighbor on the left side. Those pavers are going to be pitched toward the pool so there will be no runoff in his yard. The runoff will be into the pool and just the pool itself will improve the area back through there anyway. There really is no impact to any surrounding neighbors but the one that would be most concerning would be the one on the left which we're going to pitch the pavers into the pool.

Mr. Schilp – All the pavers should pitch into the pool.

Mr. Galluzzo – Actually it's supposed to pitch away.

Ms. Murray – Around the frame shed in the right hand corner it's built up its got gravel its ground cover it's not shown like that on the plans so I don't know if all the calculations are exactly right. I don't know what it's built on and I don't know what's under it whether it's open ground that's built up or what.

Mr. Galluzzo – What is your shed sitting on?

Ms. Murray – Around the shed is gravel is that just gravel on dirt?

Ms. Minimi – On dirt.

Mr. Tokosh – My only concern is the runoff as far as backwashing. There's not going to be any chance of the diatomaceous earth going onto the neighbor's driveway?

Mr. Galluzzo – I don't believe so the hose is a flexible hose should be able to put it in any direction she wants.

Mr. Mazzer – She could even put it to the curb. They allow you to backwash into a curb so if you make it long enough just go to the curb.

Mr. Galluzzo – We could do that.

Mr. Tokosh – The only issue you have when you go to the curb which I recommend you just have a cone there so if anybody's walking they don't trip over it.

Mr. Galluzzo – While she's backwashing it.

Mr. Tokosh – That's right.

Mr. Galluzzo – That gets to be like a catch 22 the town allows just to be clear to backwash into the street the county prefers not to so that's where you get caught. If the county comes by they'll stop you while the town is allowed.

Mr. Tokosh – Is that true?

Mr. Galluzzo – Yes.

Mr. Mazzer – How many times are you going to backwash?

Mr. Galluzzo – I backwash my pool once a year and my pool is 48 by 20.

Mr. Mazzer – Once a year you put it to the curb. Do it and then roll it in again and you're done.

Mr. Galluzzo – I want to make sure everybody's okay with it.

Mr. Duffy – The only thing I'm not sure on with all the pools we've followed the advice of our engineer and we've had the topographical surveys. It's a matter of record and I would rather keep with that practice than to deviate from them. Here's one of my reasons why you may have no problem with your neighbor now somebody else moves in the house I don't know.

Mr. Galluzzo – A topographical survey really doesn't have a bearing here. There's no grade change this is flat ground. I know a lot of towns started asking for topographical surveys and if I'm wrong the engineer can correct me. They were mainly brought about for properties that are very differently graded. We don't have that here. Mr. Minimi is a school teacher and Mrs. Minimi is a homemaker to put that extra cost on them because I'm sure we all know a topographical survey can be anywhere from thirteen hundred to eighteen hundred dollars. I think we proved our point that there is no impact on any surrounding property. Whether these neighbors stay there or not even the new neighbors it's just an improved property runoff. We're pitching everything away now.

Mr. Saad – We originally asked for a topographical survey because just based on this survey we weren't able to determine any of the existing drainage patterns. Right now you're telling us that the site is flat and we believe you but I think maybe in terms of the design waiver you could provide an as built after the pool is constructed with elevations showing that you're pitched away from the neighboring properties especially on the left hand side where most of the concern is then a waiver might be applicable.

Mr. Galluzzo – We all know there has to be an as built after the pool and patio are done. We'll make sure the engineer puts in the grades so you have it on the as built and that should satisfy both parties.

Mr. Marz – What happens if something is wrong what happens then?

Mr. Saad – It would have to be fixed as a conditional approval. You can say conditional approval based on as built presenting favorable topographical information post construction. If not then you have to fix it.

Mr. Galluzzo – We'll agree to that.

Mr. Duffy asks Ms. Minimi if she agrees to that.

Ms. Minimi agrees to the condition.

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

Mr. Duffy – Having heard none.

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

Mr. Burbano – They talk about the ground being level all the dirt is being dumped off site?

Mr. Galluzzo – Correct we are taking all the dirt and me as a pool builder I backfill with stone so it would be more of a seepage pit type thing around the outside.

Mr. Burbano – You have to make sure not to put any dirt in the back towards that easement because if you change any of the elevations on the easement it could cause problems.

Mr. Galluzzo – We won't be putting any dirt all the dirt will be removed off the property.

Mr. Schilp makes a motion seconded by Ms. Murray to approve the application providing they follow the engineer's recommendation.

Mr. Duffy – The pool equipment is going to be on the left side of the house and no closer than two feet to the property line.

Mr. Schilp – It will be between the street side of the gate and the A/C unit.

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

Mr. Galluzzo – Can I make one more request? I talked to Ms. Minimi if we can wave the thirty days so maybe she can get a little bit of summer out of the pool.

Mr. Cialone – I do not recommend that we need to have the written resolution and it needs to be memorialized.

Mr. Duffy calls for a five minute recess.

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

Applicant is appealing the Zoning Officer's Determination. Applicant was first heard at the May 2, 2022 meeting and was carried to the June 2, 2022 meeting and again carried to the July 11, 2022 meeting.

Mr. Champy comes forward to sit for Mr. Mazzer as Mr. Mazzer was not present for the prior meeting.

Mr. Duffy asks for quiet as the attorney for Mr. LoBue is on the phone and that it needs to be heard for the recording.

Mr. Duffy – When we concluded our last meeting we did not have the opportunity to open the meeting to the public on this application itself.

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

Mr. Pellino who arrived during the recess suggests that we frame the issue so that the public understands what the issue is.

Mr. Pellino – This comes about by virtue of the Zoning Officer's decision that the applicant proposal to expand or change its operation by introducing a pallet operation of some kind constituted an expansion of a nonconforming use that being a truck terminal. That was the Zoning Officer's decision the applicant is appealing that decision so that is the question before the Board is a question of whether or not the Zoning Officer was correct in his determination or not.

Mr. Duffy – Does anyone wish to come forward? Having seen none.

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

Mr. Duffy – We have to enter the summations into record.

Mr. Pellino – The attorneys of both parties have agreed that they would submit written summations that were to be done by July 1 and it was done by July 1 by both Mr. Gianetti's office and Brittany DeBord's office. They've been circulated to members of the Zoning Board and they do constitute part of the record. I am assuming all of the Board members have had the opportunity to review them.

Mr. Duffy – Mr. Gianetti you have five minutes for additional comments.

Mr. Gianetti – I want to thank the Board for their time over the last three meetings. I understand there was a lot of public input thoughts and concerns they had raised. As noted by Mr. Pellino the one thing we are dealing with tonight is whether or not the use is a prohibited truck terminal or permitted distribution center. The issues as to noise, unsightliness, landscaping all those type of operational activities will be addressed at a site plan at some point in the future whether we stay before the Zoning Board or go before the Planning Board depending on how what you rule this evening. The sole issue before this Board is whether or not we are a prohibited truck terminal. That's narrowed down even further based upon the Town's definition and we've outlined in the summation's I won't go into detail but whether or not we service the vehicles trucks and tractor trailers on this property. The testimony was clear as presented as to the operations that's really the focus is the operation and what occurs with the vehicles. There's no preventative maintenance that occurs at the facility. There's no oil changes there's no lubricant changes there's no tire rotations no replacement of brakes no replacement of brake pads all the kind of stuff people think about when they think of servicing the vehicle. Another key fact to that of how it doesn't occur on that site is they have a separate site not located too far from this property where that servicing does occur. If it's occurring at another site and they don't have the capability or the facilities to do it on this site they are not servicing the vehicles. The objector's counsel notes the key question is whether washing and fueling constitutes servicing. We acknowledge there is fueling service on the property and there is a wash tunnel on the property. They always have been on the property. I drew examples in my summation and Board Member Murray noted that there is a difference between preventative maintenance and servicing of vehicles and fueling and washing a vehicle. People say I am bringing my car in for service you don't say that when you go to the gas station. You don't say that when you're just getting gas. You don't say that when you're bringing your car in for a carwash. You don't refer to a carwash as an auto service station. It's what people typically think oil changes lubricant what we mentioned before is preventative maintenance and historically this property has been treated as a distribution center. The Planning Board 1992 only a few years after the Town adopted the truck terminal definition only a couple of years after that came before the Planning Board and it was found they were a distribution center. They refer to it as a distribution center. That application involved the wash tunnel so there's no secret there was a wash tunnel on this property. They say that no one ever brought this issue before them. The issue of the wash tunnel was before the Planning Board and no one said we have a new ordinance that says servicing makes you a truck terminal and therefore since you have a wash tunnel and a fuel dispensary that's been on the property since the 1970's that you are servicing vehicles on the site and therefore

you're a truck terminal. I appreciate as I mentioned in the beginning a lot of the issues and concerns raised by the public but it doesn't have any bearing on the issue of a truck terminal. Even if you find that we are not a truck terminal but a distribution facility as it's been found before by the Town it's not over we still have to go to the Planning Board we still have to seek site plan approval. It's not like some of these issues raised by the public won't be addressed at a later point. Looking through the objector's summation it's a six page written document excluding the exhibits. The first three pages have no bearing on the issue. They talk about noise complaints they talk about the intensification of the use on the property. That's not at issue here the sole issue is are we a truck terminal narrowing it down further are we servicing vehicles? We think what we presented to the Board is clear again UPS is the only one that's presented operational testimony as to what occurs on the property and servicing the vehicles do not occur on the property in fact they have a different site that deals with it therefore we ask that the Board find or I guess overturn the Zoning Officer's determination finding that we are not a truck terminal but a distribution center and send us on to the Planning Board for the next part of our application.

Mr. Duffy – Thank you.

Brittany DeBord attorney for Mr. LoBue has five minutes to give a closing statement. She is on the phone giving her summation.

Ms. DeBord – We appreciate the Township allowing us to dial in remotely. I have to admit I only heard about a third of what Mr. Gianetti said but that's fine. A very brief summation of the issue here is whether or not UPS's operation constitutes a truck terminal and specifically because truck terminal is defined under the Township ordinance literally the only question left is whether these trucks are being serviced on site such that UPS's operation qualifies as a truck terminal under this Town ordinance. I heard Mr. Gianetti mention that the property has always been treated as a distribution center that is of no moment the ordinance does not require there to be only one use the truck terminal definition does not limit truck terminals to the primary use on the property. The property can very well be a distribution center and a truck terminal there's no limitation to that and the fact that UPS has identified itself as a distribution center on its prior application documents prior C of O's is also of no moment because UPS itself has indicated that there were no zoning issues on its prior application materials so of course this issue was never flagged. I heard Mr. Gianetti mention I think our exhibits and closing statement and I'm not going to get into that but I do think that the exhibits are important to understand the background of why we're here today and why we are finally scrutinizing whether or not this property is nonconforming and whether it's a truck terminal which we submit that of course it is and now I get to the question of whether these trucks are being serviced on site. Of course we all know at this point that the term service is not defined in the ordinance and based on its lack of definition I would submit that the term service should be broadly construed. We heard that everyone has their own variation of what they believe constitutes service whether it be windshield wipers being replaced whether it be the trucks getting lubricated and their oil changed or repaired but the fact of the matter is that the ordinance itself does not specify what types of servicing should be done on the site. The ordinance doesn't say a truck terminal is a place where trucks are repaired it simply says service and at this point we now know that the trucks are fueled, washed and Mr. Gianetti submitted a supplemental testimony from his witness saying that oil is being topped off on these trucks. They are being set up and serviced so that they can go out and make their deliveries and in a broad construction of the term servicing that should constitute service such that UPS operations are a truck terminal. One more additional point I would add while I close because this is a simple issue at this point is that there is another ordinance in the Township code that touches on this issue not exactly but it's section 102-2 and it defines a gasoline service station and I'm going to paraphrase the beginning of the ordinance defines what a gasoline service station is it's a place a business where there is a retail sale of gasoline and lubricating oil but what's important about this ordinance and what I'll say specifically is it describes a retail sale and then it says which business may or may not include facilities for lubricating washing or otherwise servicing motor vehicles. That suggests to me that the Township Code itself envisioned at least washing as servicing if not fueling topping off oil which is going on at this site. That is my conclusion thank you very much to the Board.

Mr. Duffy – Mr. Gianetti has a three minute rebuttal.

Mr. Gianetti – A few points I want to respond to first the fact that this has been treated as a distribution center in the past which they claim is of no moment because you can be a truck terminal and also be prohibited even if that is the case the truck terminal definition existed when we were before the Planning Board only two years later and again it's been no secret there is a fueling facility and there is a wash tunnel on the property so it's not like this issue has never been before the Board. The wash tunnel was a subject at the Planning Board application. They were well aware there was a wash tunnel on the property. No one said this is a truck terminal because the wash tunnel is servicing. As to the definition when you read it the washing or otherwise servicing refers to the business where it says regardless of any other business on the premises. So it's not referring to being associated with a gas station they're basically saying if you're doing car washing if you're lubricating but if you're also doing gasoline sales that makes you a gasoline service station. When you read it it says delivery to motor vehicles of gasoline or lubricating oil regardless of any other business on the premises which business may or may not include facilities for lubricating, washing or otherwise servicing stations. Clearly the point of that ordinance is to say if you're doing a carwash regardless of what your business is a carwash if you're doing gasoline and selling gasoline and selling lubricants you're a gasoline auto service station. It's not saying washing a car constitutes servicing. Lastly I would just note if it's going to be read that broadly of just topping off a truck you'll recall to qualify you just have to have three or more trucks over one and a half tons stored outside. We showed aerials of a number of properties with more than three trucks stored outside. If you're saying just putting a little oil to top it off or calling a service company to come and service a vehicle on the property which A we do not do but there is questions about that. If you're saying that constitutes being a truck terminal then there is a lot more other truck terminals in this town that would also be prohibited. With that I thank the Board's time if there's any questions of me I'm happy to answer it.

Mr. Duffy – Do any of the Board Members have any questions?

Mr. Schilp – I have a comment. I listened to both attorneys now with their summations Ms. DeBord stated on several occasions in her statement it was retail which means that you're selling gasoline you're paying for a carwash UPS is not selling fuel to the trucks they buy it and then they distribute it themselves and they don't pay to get their trucks washed either so I feel that this is not a retail which it states in the ordinance. The attorney said a retail operation of selling gas or washing a car. As far as I'm concerned it's not servicing a vehicle.

Ms. Murray – I concur with Mr. Schilp it is my experience as a fleet manager that those items are all separate. You have a fuel program. You have a maintenance program and your maintenance handles all your servicing and repairs your preventative maintenance anything that comes up. We had a lot of talk about Telematics it does indicate back to a dashboard what trucks need what when and tells them to bring them in. If they are I don't know about oil levels but I do know at certain times I don't have Telematics on our cars but they know that every so many thousand miles and or months they have to go in for service. For us they are brought in for service under the service program and fuel under a separate program. They clean their cars for aesthetics only in our business so as a fleet manager I have to say as well fueling and washing is not what I would consider service.

Mr. Tokosh – I feel that it's not a truck terminal based on what the testimony is.

Mr. Marz – I feel it's a UPS needs to be a better neighbor issue and they are a distribution center in my opinion and we got to go around another way to become better neighbors to solve this problem that's what it's all about in my opinion.

Mr. Manzo – I think it's a distribution center. I don't see any, they do service them but not on that property they have a separate place to do it.

Mr. Duffy – I listened and read over a long time. I toured the facility. I did spend two nights not all night but sometime where I watched the operation and I've listened to all this and I respect my fellow Board Members but I wanted to know where I stand. I wrestled back and forth over all of this I lean to that it's both. It is a distribution center but I see it also as a truck terminal. The reason I see that is we've been led down very astutely to define what service is. I spent quite a bit of time reading ordinances probably about twelve to fifteen ordinances throughout New Jersey and throughout the country. I'm not going to quote them. The purpose of me doing that was I wanted to get an understanding because we're not the

only people that wrestle with this. This happens all over the place that nobody can seem to come up with a solid definition of what it is and it went back and forth depending on geographically where it was you would see service as being changing tires and so forth. In other things it was looked at as preventative maintenance to the point that I really understand that preventative maintenance is anything we do to a vehicle that will prevent it from having an issue so topping off oil to me is preventative maintenance. You're supposed to run it with a certain amount of oil if you don't have enough oil you wind up subjecting the vehicle to damage in that area. I understood that and I looked at all this and what really hit it home was that I had brought up the issue of asking Mr. Bendixen if he knew Mr. Calvo and after his explanation that he didn't know him and I reread the minutes It said that I just said okay and I dropped it right then and there and then in your summation you bring out that in fact Mr. Calvo did work there and he did check fluid levels and add the oil or antifreeze and that issue was he stopped doing this about a year ago. Once it says over a year ago and then it says well over a year ago. The ordinance that defined it is well over a year so why do we need that because it's a practice that was done. It's what sold me that this is a truck terminal not also the fact that there is well over 120 tractor trailers in and out of there besides all the brown trucks besides the capability that the packages come in and they can be dispersed into the brown vehicles but in another section there is where the tractor trailers are offloaded and put into other tractor trailers and they leave that property because they are not going to be distributed in your geographic area so that to me is further evidence that this is a truck terminal. It's not just distribution but we're trucking everything all over. Fifty years ago when this place was started this was nowhere near what it is today and it's morphed and changed and so have words that we use throughout our English language have changed over time to take on different meanings. This in my opinion has come to a point where maybe the other boards in the past have left it at whatever the application was where it was initially put in as a distribution center and they just never told them they just left it alone and nobody said anything and apparently it's okay but now somebody said something about it and that's why it's in front of us. I see no reason why UPS can't do what they need to do it's a business it's expanding I don't see problems there. There are some issues that have to be addressed but I would look forward to the opportunity for this Board to work with UPS on these things but the only way that's going to happen is the determination. My feeling is this is in fact a truck terminal its grown into that. The word service is so broad any reasonable person can fit it in there. I really put a lot into reading and gone back over minutes and looked at all these definitions because I said it in the very beginning my objective is to be fair and I think that's how I arrived at my decision.

Mr. Pellino – If I can this is the applicant's appeal of the Zoning Officer's decision. I think we well understand now implicit in the Zoning Officer's decision was a determination this was a truck terminal. UPS is saying he was wrong that this is not a truck terminal. I will also tell you that it's the applicant's burden to prove that to you not vice a versa. The question is was the Zoning Officer correct and I think it's appropriate to deliberate more and discuss but it would be appropriate at some point to put forth the motion in favor of the applicant's application the Zoning Officer is incorrect or against and the Zoning Officer was correct and the applicant appeal is not sustained.

Mr. Tokosh – Last month I said it was a truck terminal today I said it's a distribution center. The reality is it's a hybrid of both and there should be a category to accommodate both of these areas. If you look at the documentation there's a statement here the Board should find that washing and fueling of tractor trailers on the UPS site should be considered servicing such as UPS is a nonconforming truck terminal. It depends on who you talk to we could argue this point all night. Why can't we establish another category for this?

Mr. Duffy – We don't have the capability right now.

Mr. Pellino – That's not our job.

Mr. Tokosh – I know that but the thing is in my mind it's both.

Mr. Duffy – Even if we were to think about entertaining that it would have no effect at this juncture. That would be something that would hold future and to Mr. Gianetti's comments about other places around here that have trucks their day will come. This is not to pick on anybody.

Ms. Murray – A truck terminal can be a distribution center but a distribution center is not necessarily a truck terminal so when you're talking hybrid you actually have to look at it one can be one but the other cannot be.

Mr. Champy – Why can't it be both?

Ms. Murray – If you look at what the truck terminal does both the breakdown of major pallets they bring in and they forklift across warehouses and put them in using forklifts and that's a truck terminal yeah it could also be a distribution center but it's also a truck terminal. If you're not using forklifts you're not breaking down pallets of cases of bleach and repackaging them and putting them into smaller packages to go out. That is what a truck terminal does it breaks down and a distribution center it brings it in like a Post Office it brings in packages divides it up sends it out. That's how I think about it because the Post Office receives bulk packages and big boxes and on pallets but they don't ship the pallets they take them off the pallets and they send them out on the mail trucks. At that point then is the Postal Service a truck terminal?

Mr. Champy – But they're not shipping with those big tractor trailers that UPS is shipping with.

Ms. Murray – Yes they are.

Mr. Champy – Right here in Saddle Brook they're using tractor trailers?

Mr. Schilp – Certainly they have three loading docks on the west side of the building.

Ms. Murray – The service piece is a big piece of it but there's the intensity with a truck terminal that's all it is, is trailer to trailer.

Mr. Duffy – There is a wing in the building for trailer to trailer they call them in and outs I believe was the term.

Ms. Murray – Are they using forklifts inside is it just taking the pallet off of one and taking it into the other one and shipping or are they braking it down?

Mr. Duffy – The forklift operation is outside it's the pallets being broken down and moved.

Ms. Murray – Do I believe UPS has to be a better neighbor oh yeah I'm not letting you off the hook with that. I think you failed in a lot of places with the neighbors and could you move the noisy stuff to another section of the property that would be away from residential yes I think you could figure that out. Do I think they're a bad neighbor yes but do I think they are a truck terminal by what I'm reading and understanding no.

Mr. Duffy – Because we all our weight on the word service.

Ms. Murray – I also thought that's what a truck terminal does because we also read some stuff what a truck terminal does.

Mr. Tokosh – When you go to Arrow and Sealed Air and Chem Aid you can define that as truck terminal they have a lot of trucks there especially Arrow and Sealed Air. I went to the back lot there must be fifty tractor trailers there some with cabs some without and a lot of loading docks. The difference is they manufacture a product and they ship their product out. With UPS they accept product a box to be shipped to a customer someplace but the definition you can go either way and I flipped from last month to this month and basically it's a hybrid of both and that's the quandary we're in.

Mr. Pellino – That's the job we have.

Mr. Tokosh – The thing is this is not the end of it my main concern is with the neighbors we're going to address that at a later date and make sure that.

Mr. Duffy – No we're not if the decision overturns the Zoning Official's decision then it's out of our hands.

Mr. Gianetti – To be clear it will go to the Planning Board it will be addressed just not by this Board.

Mr. Marz – Let's be clear then. If you say it's a trucking terminal and they have to go to the Planning Board to say we want this storage business it's up to them to say yes or no.

Mr. Duffy – If we say it's a truck terminal they have to come here for a use variance expansion of a nonconforming use.

Mr. Marz – If we just keep it as is and we work on the neighbors what happens?

Mr. Duffy – We put it back into the Planning Board's hands and they have to deal with it.

Mr. Marz – Okay I got it.

Mr. Schilp – I'd like to make a motion that it stay as a distribution center it was that way in the early seventies when it was done. It's before Boards in this town it's always been recognized as a distribution center and as I stated before and the attorney for Mr. Lieberman stated these service stations are retail and there's no retail over there. They're not paying for the fuel they're not paying to get the trucks washed and that's how I feel.

Mr. Duffy – I believe that section was a point of reference not necessarily making it the same. Your motion has to be worded in one of two ways we either uphold the Zoning Officials determination or we overturn.

Mr. Schilp – We overturn the Zoning Official's determination.

Mr. Pellino affirms that that is the correct motion.

Ms. Murray seconds the motion.

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

Mr. Champy, Mr. Duffy – NO.

Mr. Duffy – The motion carries.

Mr. Champy steps down and Mr. Mazzer comes back up for the next application.

E.) Ready Spaces Management, LLC, 575 North Midland Avenue, Block 1701, Lot 1.02

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

Lawrence Calli of Calli Law is representing this application.

Mr. Pellino confirms that the notice is in order for this application.

Mr. Calli – Ready Spaces is effectively going to be a tenant of this property which is in two zones. We're in a business zone and an industrial zone. We're effectively flex warehousing space multi-tenant warehousing. You are probably familiar with the concept where a lot of offices close down but a small business needs to use an office space for a day an hour a month whatever the case may be and they rent space on a short term basis. This is what Ready Spaces does around the county for smaller warehousing types of tenants. You can come in get a space for a short term lease. Ready Spaces manages the property and you run your distribution warehousing operation out of your unit within the Ready Spaces facility. A simple and novel concept there are many of them around the country. What brings us here tonight is we're technically a use variance for that type of use in here in our split zone between the B1 and the I zones. There is also deficient parking on the site the good thing is we don't need much for our use as you'll hear from the operational testimony of our traffic engineer shortly. I think this a perfect site for this type of use there are a few locations already in New Jersey Mike can tell you about that shortly what they do what type of square footage we have what we see day to day with the operations. We have our planner with us he will testify last. You'll hear from Mike in a moment and after that we have a civil engineer to walk through the site plan. There are little to no changes proposed to this structure. It's an existing warehouse structure today it's going to be that tomorrow. This is really limited to occupancy and use by Ready Spaces as the tenant of this property with some clean up but no new additions to the structure no heavy or intense use proposed than what's there today no changes to signage. You don't come here as a destination this is a place for the tenants to come and go with their own warehousing businesses and distribution needs. After you hear civil engineering you'll hear traffic engineering. We think that it's an even swap for this property with what's there now but we performed a traffic impact study. You'll hear from Cory Chase from Dynamic Engineering as to the analysis of that traffic impact study and as to the net changes that are proposed and the impacts that those changes bring along with us. Lastly Mr. Chairman time permitted you'll hear from our planner to walk us through the proofs and throughout it all we'll be here to answer any questions you might have along the way. The use is newer and nuanced and Mike has been going around the country trying to help explain and educate to various council persons staff members throughout the country including larger cities exactly what Ready Spaces does and what we plan on doing here so if there aren't any questions why don't we swear in Mike and we can learn about Ready Spaces and what we hope to do here.

Mr. Pellino swears in Michael Maher he gives his address as 38 Byway Hartsdale New York.

Mr. Calli – If you could identify your roll with Ready Spaces for the record please.

Mr. Maher – I'm the director of construction for Ready Spaces nationwide.

Mr. Calli – You've been involved with the roll out of how many facilities with Ready Spaces so far in the past year?

Mr. Maher – About ten to twelve.

Mr. Calli – A few in New Jersey?

Mr. Maher – Two in New Jersey right now.

Mr. Calli – Mike in your own words would you explain what it is that Ready Spaces does and what we intend to do here in Saddle Brook if they vote to approve us.

Mr. Maher – The intent is we rent out a large warehouse and subdivide it into rooms almost like a self-storage unit but we go from two hundred square feet up to five thousand square feet. We submitted a plan that is the general plan but we will adapt based on our client's needs. The intent is we have a month to month rent but most of our tenants are long term. The city of North Bergen it's been open four or five years and most of the tenants have been there the whole time. It's a need you wouldn't think about between all the shops and stores they have nowhere to hold their extra stuff their wares. They bring it there they use it as a distribution center they store it there they bring it to the stores it's more of like a mom and pop place where the people store the extra equipment they need. It could be lawn mowers it could be computers it could be some of the grocery stores will store their stuff there.

Mr. Calli – Ready Spaces has an on-site full time staffer to manage the property is that right?

Mr. Maher – Yes we have a full time GM and regional managers in each area.

Mr. Calli – What hours do we keep with our operation here? The tenants come and go freely explain what the tenants may or may not do any given day of the week hour of the week.

Mr. Maher – The general hours are eight to five but they do have twenty four hour access to the door not to the loading areas. They can enter the unit but can't take out any of their equipment or materials after five o'clock.

Mr. Calli – Are the tenants that are renting these spaces are they going to be fabricating things utilizing hazardous materials or is this more like a self-storage come and go primarily?

Mr. Maher – We have a very strict tolerance. You are not allowed to manufacture or store anything hazardous in there it's part of their lease agreement.

Mr. Calli – I'm guessing we don't see clients or customers on the property of these tenants is that right?

Mr. Maher – No just the people distributing out of the facility.

Mr. Calli – On an average day the demand is pretty low as far coming and going of vehicles and movements in and out as far as people and passenger vehicles go.

Mr. Maher – Yeah definitely less than even a self-storage. I don't even think they come there daily let's say a couple of times a week generally.

Mr. Calli – When there is loading and unloading typically what type of vehicle do you see?

Mr. Maher – Mostly box trucks and vans.

Mr. Calli – I imagine that we have rules and regulations that we educate our tenants with as to what they can and cannot do within a Ready Spaces facility above and beyond local code.

Mr. Maher – We are very strict with that we have fines and penalties for stacking anything over twelve foot any waste items if you leave anything in the corridors. We have cameras servicing all the public areas in the facility. If there's an incident we have rules and regulations and they do get fined. It's a penalty but it's the only way we can keep everybody on the same plane.

Mr. Calli – We're not a franchise we're single owner operator.

Mr. Maher – Yep.

Mr. Calli – I know you're a local guy but you're around the country developing how many of these right now?

Mr. Maher – We have ten under construction right now.

Mr. Calli – And a total of how many nationwide?

Mr. Maher – Thirty two across the country.

Mr. Calli – At this point I will turn Mike over to any questions you might have of him.

Mr. Duffy – There's one in North Bergen where is the other?

Mr. Maher – Kearny 35 Obrien Avenue I think.

Mr. Duffy – By River Terminal isn't it?

Mr. Maher – Yeah.

Mr. Duffy – Where is the one in North Bergen?

Mr. Maher – It's right off of 1 and 9.

Mr. Duffy – It's on the west side.

Mr. Maher – The lower west side 7001 Anpesil Drive.

Mr. Duffy – What are some of the types of clientele that take space?

Mr. Maher – There are some mom and pop grocery stores. There's people selling computers lawn mowers. I have a guy that does pergolas he stores his equipment there and brings it out. There's clothing people store clothing and bring it to the stores. It's a mixed use of everything you can think of it's there.

Mr. Duffy – You mentioned that parking is limited I believe you said earlier.

Mr. Calli – The existing number of striped spaces has historically been low on this site. Thankfully we don't need much we've got a big field we can park in the back and stripe if we need to but passenger vehicle parking is pretty limited on the site as you've seen on the plans.

Mr. Duffy – What about the bays? I looked at the plans and I'm sure the other Board Members will ask a similar question but you have on the south side of the building loading bay doors now what happens. They'll be used they'll actually be part of someone's unit. They're actually the most desirable units because they'll load right over there. There's also three interior bays. You see those doors the bays are probably thirty feet in and that's where most of the day to day operations will happen by the people in the facilities.

Ms. Murray – How does the interior tenant get in?

Mr. Maher – Those three forward bays in the front they're actually doors and the loading dock is about thirty feet inside it. That's mostly where the trucks will back up into.

Ms. Murray – One is inside a room it looks like. The first one off the corner looks like it's inside a room.

Mr. Duffy asks what they are referring to.

Ms. Murray says it is drawing G1.3.

Mr. Maher puts the drawing on the easel for everyone to see and he points to the loading docks and explains about the docks.

Ms. Murray – You said you have one full time GM.

Mr. Maher – Yes.

Ms. Murray – You're also going to offer up the office area for rental as well?

Mr. Maher – Not at first we don't do that right now.

Mr. Duffy – Not at first?

Mr. Maher – It's something we don't do it's there we don't what we'll do with it we have no intention right now of doing anything with it.

Mr. Schilp – If you take over the site this area here where all the tractor trailers are you going to take that as well or are all these tractor trailers that go in and out of here?

Mr. Maher – They're gone they'll be nothing else on the property but us.

Mr. Schilp – So you're going to take all of this inside the black lines?

Mr. Maher – Yes we're leasing the whole space even that house I don't know what it is.

Mr. Schilp – You're not taking the water tank?

Mr. Maher – Not that I know of no.

Mr. Schilp – As a member of the fire department for fifty years that water tank was installed back when they built the building it would feed the sprinkler system.

Mr. Maher – Okay then let me rephrase it that is part of ours.

Mr. Schilp – With all the changes that go on I would suggest you find out if it's still operable.

Mr. Maher – The landlord redid all the sprinklers.

Mr. Schilp – Where those trucks are and the bushes that are by there is that going to be yours? On the north side you see where the water tank is? There's tractor trailers in there is that going to be your area as well?

Mr. Maher – That's not my property. The water tank is not on my property.

Mr. Schilp – That's always been a bone of contention.

Mr. Maher – This area where these trucks will all be gone.

Mr. Schilp – The ones on the south side?

Mr. Maher – Yes.

Mr. Calli – The tractor trailers do you see that a lot at Ready Spaces operations now?

Mr. Maher – Very rarely.

Ms. Murray – You testified that the operation hours will be eight to five.

Mr. Maher – Yeah onsite hours.

Ms. Murray – The road there is quite busy is there anything restricting these people who have direct access to the dock will that all be locked.

Mr. Maher – The docks will be locked but people will have access to get inside the units.

Ms. Murray – They will have to use regular doors.

Mr. Maher – Yes regular man doors.

Ms. Murray – If they want they can haul stuff in and out through man doors?

Mr. Maher – If you want to carry boxes.

Ms. Murray – I'm just asking because you said it's only eight to five that people can access their stuff but if they're going to go in and out they will still have twenty four hour access.

Mr. Maher – Yes twenty four hour access to their units.

Mr. Calli – But not to the loading areas.

Mr. Maher – They won't be able to unload and bring stuff in after hours.

Mr. Duffy – There's nothing to stop them from carrying stuff in and out with hand trucks dollies anything of that nature. This is not a gated operation like most storage units?

Mr. Maher – No every unit will have a lock on it.

Mr. Duffy – But the facility itself is not gated.

Mr. Maher – Almost like a self-storage unit they'll have a code to get into the interior.

Mr. Duffy – You will have a gate.

Mr. Maher – There's a code no it will be a door with a lock we don't have a gate.

Mr. Duffy – Okay.

Mr. Maher – It's not secure like that we're not trying to just access.

Mr. Calli – You can get on the property but you can't get in the structure without your code.

Mr. Maher – Yeah.

Mr. Calli – Normally a self-storage will have a gate up front to even access the drive not here. To get into the building you'll need a keypad.

Mr. Duffy – They can come in at eleven o'clock at night it's their unit they can go in and do whatever they want and they can cart out if they need to.

Mr. Maher – Technically yes and we know who enters every tenant has their own code to enter.

Mr. Schilp – Are there any forklifts or hand trucks?

Mr. Maher – Everybody gets certified if they want to.

Mr. Schilp – They'll be forklifts that belong to you.

Mr. Maher – Yes we'll have one on site.

Mr. Duffy – They could take it outside?

Mr. Maher – No it's inside.

Mr. Duffy – It's inside only?

Mr. Maher – Yes all the hallways are ten foot wide so they can bring their material from the loading dock. Some are pretty far distances they have to go to their units. We have pallet jacks and a forklift. You can only ride the forklift if you're licensed you've got to take a course and get trained. That's provided by Ready Spaces.

Mr. Duffy – The loading dock is inside the first two bays and I had an opportunity on the weekend it was opened. It's flat inside so the forklifts aren't designed to go inside the trucks. Forklifts can go inside box trucks or a tractor trailer if it's rated for it.

Mr. Maher – Technically yeah but everything I've seen they have their pallet jacks and offload onto the loading ramp and use the forklifts.

Mr. Duffy – There's reference to the traffic surveyor we have a traffic expert?

Mr. Calli – We have a traffic engineer who will testify shortly.

Mr. Duffy – I don't see anything in her as far as turning ratio or maneuvering.

Mr. Calli – Our civil engineer will talk about that.

Mr. Duffy – He's going to address all those things because I didn't see anything on any of these plans that referenced any of this. One of the concerns that I have is that the hours of operation is really twenty four seven.

Mr. Maher – For access.

Mr. Duffy – You give people access to anything and tell them it's yours you can come in anytime you want one o'clock in the morning somebody's going to be going in and going hey I need ten boxes of this and I've got to get it out and the next thing you know we're going to be seeing this happen. Once you open up that door I know what technically you're saying.

Mr. Maher – We do control it the whole area has cameras we know who comes in and out it's all logged in and accessed.

Mr. Duffy – You'll know who came in and out we don't want them at one o'clock in the morning.

Mr. Maher – I don't see that very often I've been to a lot of sites I very rarely see anybody after closing because they're all business hours the people work there.

Mr. Calli – This is their business.

Mr. Duffy – Right but you don't restrict like is there types of business you do not allow.

Mr. Maher – Of course there is.

Mr. Duffy – Such as.

Mr. Maher – Anything with mechanicals anything storing anything hazardous we just don't allow anything other than regular business we have a really strict guideline with our leasing requirements.

Mr. Calli – Flammables fluids things like that are not allowed.

Mr. Maher – We don't allow any of that any manufacturing we have a lot of nuances we don't allow.

Mr. Duffy – Food.

Mr. Maher – Yes food of course.

Mr. Duffy – No fresh items no produce.

Mr. Maher – No cold storage.

Mr. Duffy – Mr. Burbano you're anxious to ask a question.

Mr. Burbano - I have a lot of questions. I do storage you know that.

Mr. Duffy – Yes.

Mr. Burbano – How much of your business model is contractors? I know a little bit about your concept and I know that they provide space for contractors and they allow contractors to cut the materials on site get them ready for job sites and that can provide twenty four hour people working in the space.

Mr. Maher – e don't allow manufacturing in our spaces.

Mr. Burbano – I read on your website that you allow contractors to cut pipe cut materials and get them ready for job sites.

Mr. Maher – I've never seen that done. They don't allow people to manufacture.

Mr. Burbano – That's not manufacturing it's getting materials ready so like siding for instance it all needs to be cut to size. You're not manufacturing and I believe you also allow for contractors to rent space.

Mr. Maher – We do let contractors yes.

Mr. Burbano – My concern for this area is one of the concerns that we had is we just did a storage facility is that contractors are going to use these spaces as their home base and they're going to rent spaces as low as two hundred to five thousand square feet where they can bring in their materials they can store their trucks and you're going to be running full contractor businesses out of there which definitely would

impact the neighborhood. Another question I have is are you a little more expensive than traditional storage?

Mr. Maher – No why we're unique is we cater to smaller clientele.

Mr. Burbano – Because the twenty four hour access with the outlets and everything in the units you run the risk of people, I know that you allow people to do art and things like that. They're allowed to do stuff in the space twenty four hours a day for their business so like artists are allowed to go in there set up an art studio run their art studio out of that space because you're providing a business space for them. So now if you have people that want to live in there for instance or stay in that space twenty four hours a day now we run the risk of the fires and things that we were trying get away from.

Mr. Maher – We don't allow people to live in the space.

Mr. Burbano – You have twenty four hour access and they can be in the space all night twenty four hours a day.

Mr. Maher – Can't you do that in a regular storage unit too?

Mr. Burbano – No.

Mr. Maher – Why?

Mr. Burbano – Because we remove all the outlets. There is no outlets in any of the storage spaces anymore. We pulled them all out of there because people were coming they were moving into a unit one hundred two hundred square foot and they were burning he places down.

Mr. Maher – I've never seen it I'm not saying you're wrong.

Mr. Burbano – I'm not saying anything bad about it, it may be a great business model but I'm just curious what Ready Spaces is doing to absorb that so like if there was a twenty four hour manager you wouldn't have that you would be seeing what they were doing knowing what they were doing. I'm just trying to protect the neighborhood by asking these questions because again one of our biggest things was we found a way to make sure the contractors aren't using the space for twenty four hour business inside the space because that space is basically warehousing and office it's not manufacturing it's not working inside the space. I mean obviously if you're making pallets to palletize something to get it out of there that's different but you're not running a business contractor or alike out of that space.

Mr. Calli – I think that the concerns and Ready Spaces interests are very much aligned.

Mr. Maher – Really we don't want that happening. I can put something if it would please the Board we can work something.

Mr. Calli – We are amenable to any solution to make sure that enforcement and illegal activity is not allowed perpetuated or happening on the site without us knowing about it and correcting it immediately.

Mr. Maher – We only provide a fifteen amp circuit for a small business. There's nothing extra there. A small service outlet if they want to run a computer something like that.

Mr. Burbano – Part of me feels that the Board knows this is just not you're not just storing stuff and distributing stuff and things like that in these spaces. I'm pretty sure right on the website I think I read it last week when I saw this it says you can cut your pipes you can cut your wood you can do all this as a contractor and we even have parking for contractor trucks. That's what you're going to bring into these spaces eventually. It's not to say that that's going to happen but potentially you can have a lot of contractors and if you give twenty four hour access to contractor I'm a contractor I just bought a storage facility I'll be bringing stuff in and out of there all night long.

Mr. Maher – you don't have access to the loading dock all you have is access to a door.

Mr. Burbano – I only need a door for certain things.

Mr. Maher – I'm a contractor too.

Mr. Burbano – Okay so I have a painting company with eighty two painters they're carrying paint in and out of there all night long. I have thirty trucks going in and out of my warehouse at all hours of the night because we can only work in retail establishments at night. So they are going in and grabbing paint this is a great place for you know what if I want to store all my stuff and I need twenty four hour access where I can't generally get in to a locked gated storage facility at eight o'clock but my painters need extra stuff I got guys running in and out. I'll have your whole place filled at night guaranteed.

Mr. Maher – I'm not going to say your wrong but I've been at all my sites and I've never seen that happen.

Mr. Burbano – I just want to know more about the business I've only known what I've heard in the industry and what I've read on your website because this is not to shoot down this model or say we don't want it here it's just to educate us on what we're bringing into this neighborhood because potentially it could bring a lot of you know. On your website it even says in specific areas so that's why I want to bring it to the Board. Is it ten percent is it five percent five percent is less impactful than allowing a hundred percent to be rented out to contractors.

Mr. Maher – I can say by what I've seen the contractors are less than five percent from all the sites I've been to. I've been there because I want to see what I'm dealing with myself so I've been there. They will come in the morning load up and leave that's all that I've seen. We don't allow access to our loading docks after hours.

Mr. Calli – A few things on that. One is that the advertising website we discussed this before we started what happens with marketing and what happens in the field are two very different things. You have to remember Ready Spaces is appealing to a national audience and they're populating these facilities throughout the country and many different types of communities many different geographic environments so generally speaking that may be part of the shotgun blast of what we've been doing with Ready Spaces. That said Mike has been involved with there's about thirty two of them now have you heard of these concerns in any community with excessive overnight use by contractors site prep work anything?

Mr. Maher – No and I actually had the Zoning Attorney for Renton in Seattle he was concerned the same concerns everyone has here and we sat down had a conversation and then I walked him through the facility and Mr. Calli can tell you he wrote what is the use he said for that?

Mr. Calli – He said you're a warehouse and storage facility.

Mr. Maher – It's hard to grasp what we bring to the community because it's a need that's there. Everywhere we go we're filled up within three months.

Mr. Calli – To that point we hear your concerns. It's a newer use and this is definitely newer to New Jersey. The applicant's amenable to reasonable conditions I think to ensure that none of this untoward activity takes place on the property. Again our interests are aligned it's bad for business if it's bad for the community too.

Mr. Duffy – You have one in Queens.

Mr. Maher – We're building it right now.

Mr. Duffy – The website seems to have it already finished. One of the things I'm seeing here I just pulled up the website there's conference rooms there's office space.

Mr. Maher – We have an amenity area.

Mr. Duffy – And there's a business there that looks like they're doing signage and it's a couple and they're working. This is what you're advertising.

Mr. Maher – I've seen it.

Mr. Duffy – Now we're seeing working businesses that can have clients come inside so this is the scenario. I have a small business that requires a fifteen by eighteen area and I could work it myself and my wife and we make signs or something and we can entertain clients because you have a conference room and an office area where I can bring them in and it says twenty four seven.

Mr. Maher – Yes.

Mr. Duffy – Now you're allowing a business to operate inside this facility that has probably not gone through the permission they require to be a business in town.

Mr. Maher – I'll be honest we have had that problem so we make every business get a CO.

Mr. Duffy – So now we've got to get CO's for each of these businesses.

Mr. Maher – This is one of the concerns that was brought up.

Mr. Burbano – Then we have to know how much parking each business is required to have.

Mr. Duffy – Now we get into that.

Mr. Maher – You can go to any of our sites and you'll see the parking twenty thirty spots tops and they're not full.

Mr. Duffy – In Queens they'll be lucky if they can find parking.

Mr. Maher – Queens has no parking at the facility.
Mr. Duffy – North Bergen would be kind of tough on that avenue.
Mr. Maher – We have about twenty spots in North Bergen.
Mr. Duffy – You have an entire side of that site that you could get those trucks out of there on the south side and now we've enhanced the operation there is a big parking lot so now we have for lack of a better term a mini mall happening.
Mr. Calli – We think the added service area is a good thing it's an opportunity to put a car but if there's going to be restrictions proposed in those areas we can certainly say and limit those areas so it can't be free available parking for anybody.
Mr. Duffy – Not anybody for your tenants.
Mr. Calli – We're talking about clients our clients don't come to the property.
Mr. Maher – I've never seen that.
Mr. Duffy – But your website has it.
Mr. Maher – I totally understand that.
Mr. Calli – It's the marketing department.
Mr. Maher – It is marketing but I'll tell you we have a community we have a conference room we have a lunch room an amenity room if you want to come in and sit down and eat there but that's what it is.
Mr. Calli – When you say small give an idea compared to this room.
Mr. Maher – I don't know it's a pretty good size.
Ms. Murray – Where is it on the plans?
Mr. Maher – Where?
Ms. Murray – The conference room the lunch room.
Mr. Maher – We didn't put one here yet we're not doing it right now.
Ms. Murray – What's your typical occupancy is it ninety percent is it fifty percent because you've given us proposed plans with I don't know how many I didn't count.
Mr. Maher – There's about a hundred units.
Ms. Murray – It looks a little bit more with all the small ones.
Mr. Maher – The small ones do get again it fits a size.
Ms. Murray – They still have to be counted.
Mr. Maher – I think we have a hundred and six.
Mr. Calli – I think Mike's saying the smalls may never get built the smalls may be combined with two three or four.
Ms. Murray – That's the issue do you usually hit a hundred percent?
Mr. Maher – there's never a hundred percent because it's always flexed we're month to month so it's a flex facility. I would say ninety five percent.
Ms. Murray – What happens if that's not the drawing.
Mr. Maher – We'll amend the drawings for how we build.
Mr. Duffy – One of the things that's troublesome with these individual units if I set up a little business in there how much electrical supply do I have?
Mr. Maher – You don't have any electrical.
Mr. Burbano – He said fifteen amp.
Mr. Duffy – Fifteen amp you could run a coffee machine here.
Mr. Maher – That's all it's for run a computer. I understand it's marketing.
Mr. Duffy – Wait I don't care about marketing because this is the service they are proposing. In all due respect technically and marketing let's get that out of the conversation because it's broad it's here. This could turn into they have a plot printer in the picture here and I know that a plot printer is more than fifteen amps. There is a lot here that's not laid out.
Mr. Burbano – We need a lot more information. We build We Works as well and when we build them we have to make sure we have enough parking because now you're taking large office buildings and turning them into smaller office buildings which generate more people which generate more parking. If you have

office spaces there you are renting out with conference rooms those people are coming to the site every day because they're using it as an office.

Mr. Calli – The office calculation is still going to be based on the volume of the entire structure no matter how you break it up. The parking demand under the code wouldn't change.

Mr. Burbano – Okay.

Mr. Duffy – Repeat that.

Mr. Calli – Parking demand under a code you take a box this box and it's one office building BASF's office in Mount Olive we have a parking demand. BASF leaves and we want to repurpose this building now and you build a bunch of boxes the town code is still going to say the parking demand for that type of use office use is based on gross floor area. It's still based on the same box so parking demand hasn't actually changed.

Mr. Duffy – I think you have to look at it a bit differently because this is a new concept. It's not something that we could take the parking aspect and just standardize it like that because now each one of these spaces becomes an individual business of itself.

Mr. Calli – Under the rubric of warehousing use.

Mr. Duffy – Right but again I'm looking at the marketing and the marketing is selling it like you can do this and you can do that. The concept is very interesting but there is a lot of stuff here that needs to be hashed out.

Mr. Maher – I'm good at that.

Mr. Duffy – The location you have is very high traffic at certain points of the day it's extremely.

Mr. Maher – I don't believe we would impact the traffic whatsoever.

Ms. Murray – I'm going to tell you at eight o'clock in the morning between eight and nine you will be competing with UPS with the river of brown that comes down Midland Avenue.

Mr. Duffy – It's called the brown parade and they were just here.

Ms. Murray – That comes down Midland Ave towards Route 4 the street at the top where your driveway is straight across from Schepis it is a busy access for that side of town everybody comes to the end to go out to Midland Ave and usually making a left. I do it every morning.

Mr. Maher – I understand and I could go to North Bergen and make a video and you would see no impact with the cars coming in and out of our place. I wouldn't say it if I didn't believe it. I could sit there tomorrow morning from seven to ten and you'll see ten cars come in and out.

Ms. Murray – Because you said you've seen it have you gone to places that are not in busier areas like North Bergen have you gone into residential areas because now you're talking about residential across the street.

Mr. Maher – We've got one in Seattle right there it's residential and it's just not that kind of traffic just a couple of trucks here and there. It's not a constant stream of traffic.

Mr. Schilp – I'm not sure you can answer or whoever but you talk about we gave you a plan and this is what they have suppose you submit the plans and you have twenty of the twenty by twenty and somebody says they need a little bigger space. Will you knock the walls down and make the spaces bigger.

Mr. Maher – The walls are steel racking with sheet metal they're not permanent walls.

Mr. Schilp – That's what I was looking at.

Mr. Maher – They're steel racking and they're drilled in. They're twelve foot high yes they are very easily moved.

Mr. Schilp – Are there any ceilings on them?

Mr. Maher – No. All the lighting there is no permanent lighting it's all just movement lighting. They're about three minute lighting. You don't have permanent lighting in the space.

Mr. Calli – You're not actually going into an enclosure in your unit.

Mr. Maher – The only lighting is the movement lighting.

Mr. Schilp – You're saying there's no doors on this?

Mr. Calli – It's not an enclosure in the sense that it's not roofed.

Mr. Schilp – There's four walls?

Mr. Maher – There's four walls and a door unless there's an extra door needed for egress.

Mr. Schilp – So it can change month to month.

Mr. Duffy – So the number of units can change the size can change.

Mr. Maher – It will never go up it will always come down.

Mr. Duffy – You'll restrict it to a certain number.

Mr. Maher – Yes.

Mr. Duffy – You have to have a conversation with your marketing.

Mr. Maher – I know.

Mr. Schilp – You talked about you might be acceptable to some changes or whatever. Would you if it was suggested that the place was locked down tight from twelve to five so it restricts overnight things?

Mr. Maher – Of course we're very amenable to the town we're here to work in partnership we're not here to create any conflict.

Mr. Schilp – I'm sure everybody here is concerned about the twenty four seven.

Mr. Maher – Without a doubt and again that's something we can take into account. I will send a copy of my lease so you can read. We're very strict as to what we allow and what we don't allow.

Mr. Tokosh – Are you going to have lighting in the parking area and the doorways going in after hours?

Mr. Maher – No just emergency lighting as you walk in.

Mr. Calli – Our engineer can point it out on the site plan but the idea is just for required emergency lighting.

Mr. Maher – Like I have in every other place we just put a door light for access it's motion activated. Inside the facility everything is motion activated there's no permanent lighting anywhere. We don't provide A/C we provide heat just enough to keep the sprinkler system running. This winter it will be fifty degrees summer will be a hundred degrees so that also dictates. It's not a conditioned space is what I'm saying.

Mr. Burbano – That just scrapped everything that I worried about if you're not providing any heat or air conditioning no one is going to want to be in there ever.

Mr. Maher – I did win that fight that we don't condition the space but again it could lead to some.

Mr. Calli – It's very cost effective towards operations.

Mr. Duffy – In the summertime people will store stuff in there for their business and cardboard will wilt.

Mr. Maher – We have spaces in LA and it's very hot. I go in Orlando in the morning it's very hot it's not conditioned either it's just part of the model.

Mr. Schilp – The area we talked about before with the tractor trailers that are no longer there would that be a parking lot for you if necessary? What would you store in that open area?

Mr. Calli – No outdoor storage proposed at all.

Mr. Maher – We're not proposing outdoor storage we don't allow outdoor storage.

Mr. Schilp – If a contractor wanted to come in and he took a thirty by thirty spot and he wanted to leave a truck or two out there overnight it's not permitted?

Mr. Maher – No not right now we don't allow it.

Ms. Murray – Is there an upstairs on the office?

Mr. Maher – No.

Ms. Murray – I see stairs going up.

Mr. Maher – I've never been up there I've never seen it.

Ms. Murray – It's above office number 02.4 and on drawing A1.1 and it says up.

Mr. Maher – Okay I've never been up there. I will answer that question for you.

Mr. Schilp – its access to a small area that's upstairs which is nothing.

Mr. Mazzer – You're not going to have anybody living in there if there's no heat and no air conditioning their just storing whatever.

There is discussion from everyone about the heat and air conditioning and that the units do not have ceilings they are open to the roof of the building. The office and commissary area will be conditioned.

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

Ken Sullivan of 620 North Midland Avenue comes forward. The gentleman before answered a lot of my questions I'm afraid they're going to turn it into office. It's just storage once you turn it into office you're going to have more traffic and I live right across the street from there. Like you said with the trailer what

happens if they drop the trailer and they leave the trailer there can I call the police and tell them to ticket it? What about parking spaces how many are you going to have?

Mr. Calli – Our engineer will walk you through that shortly when he goes over the site plan. What's existing is what's proposed because of the low demand of this use. We can stripe more but we don't think it's needed.

Mr. Sullivan – Originally I think 204 spaces or something.

Mr. Calli – No that's what the code technically requires for this size property and structure.

Mr. Maher – What do we have now?

Mr. Calli – Seventeen. That's what's out there now and will be out there tomorrow.

Mr. Sullivan – I'm saying for additional.

Mr. Calli – No more parking is proposed.

Mr. Sullivan – So you're going to use the same spaces and have more people they turn them into offices and stuff.

Mr. Maher – They're not offices.

Mr. Sullivan – Storage.

Mr. Calli – That's what it is storage.

Mr. Sullivan – But it's not clothing and everything like the gentleman said it could be paint it could be anything else in there. All right that's it for now.

Mr. Duffy – Does anybody else wish to be heard?

Mr. Schilp makes a motion seconded by Ms. Murray to close for this witness. All in favor – YES

Mr. Calli calls up their engineer Dan Sehnal of Dynamic Engineering 245 Main Street Chester New Jersey.

Mr. Pellino swears in Mr. Sehnal.

Mr. Calli ask asks for his credentials to qualify him as an expert witness.

The Board accepts his credentials.

Mr. Sehnal – I'll be referring to sheet 2 of the site plan that was submitted. The site is identified by a black bold line that delineates the property line. The site is bordered to the north and the south by commercial industrial type uses. To the east of the site we have North Midland Avenue with residential uses beyond and to the west of the site we have the New Jersey Transit rail line with the Borough of Elmwood Park and additional residential uses further to the west. The site is identified as block 1701 lot 1.01 in the Township and the site consists of about 7.2 acres. The site is a split zone. The front quarter of the site that fronts on Midland Avenue is located in the B1 zone whereas the balance of the site is in the I zone. The site currently contains a single industrial building as well as one small existing residential dwelling in the southeastern corner of the site. My understanding is it is not occupied. The building itself is about 330 feet wide by about 500 feet in depth and consist of about 262,000 square feet. There are two existing driveways that provide access to the site. One driveway is along the northern end of the property and that driveway really only provides access to three existing parking spaces one is an accessible parking stall and the other two are standard parking spaces. There is also an existing driveway to the southern end of the frontage which provides access to the loading areas additional parking area and the existing truck storage area you see in the southwestern corner of the site. I'll flip to sheet three of three that is associated with this site plan which again shows the existing condition and very important to note that we currently propose no site improvements to the site. I did mention there is additional parking spaces along the southern end of the property so in total with the three parking spaces at the northern end as well as the field of parking at the southeastern part of the site there is seventeen parking spaces in total. Those seventeen spaces will remain we are not proposing to reduce or add additional to what's there. You heard in operations testimony there will only be one full time employee then you have the tenants coming and going as needed but it is not a high parking generator. As we venture further west into the site along the southern end of the building we get to the loading area. There are nine existing roll up doors these aren't the loading style doors where you see a four foot foundation and then you have a roll up door above it. These roll up doors go all the way to the ground and as you heard in operations testimony the front two doors the eastern most provide roll up access but then inside there about another

thirty feet deep is the actual loading dock. The remaining roll up doors to the west will be the units that are loaded higher in demand that provide direct access to those units without the loading bays inside. Since these two loading bays you can see are inside a little bit further from the building then the actual loading bay itself it's about thirty feet deeper. Although we don't anticipate any type of large tractor trailers they do have the ability to back into those spaces if needed and that's how the current building operates. As you heard in operations testimony most of these are smaller retailers and they don't need a large tractor trailer they only need small delivery vans like an Amazon size van or a box truck or a single unit truck as you can see can easily maneuver into these buildings just in that concrete area they're in today. At the southwestern corner of the site there's the existing parking area that is currently used for trailer storage trucks or through the existing operations. We currently have no proposed use for that it's not intended to use that area for anything. If there is a need for additional parking and the Board wants us to stripe it for additional parking we can probably get about a hundred or so parking spaces back there but again that is not currently proposed. We don't intend to use that much parking or need that much parking we intend to keep the spaces we have. I wanted to mention the parking area for the trailers is divided for the remainder of the site by an existing stream or culvert that is cutting through the site which will remain unchanged and separates the building from that parking area. That's the site and if there are questions I will be happy to answer them.

Mr. Duffy – The lot to the southwest it's big it's the size of a piece of property and it just sits there and do nothing with it. There's no plans for anything in the future if it's at our whim which I can't speak of that right now. It's a big piece of property not to do anything with.

Mr. Sehnal – Currently no proposed use for that portion of the property. If there was something that would be proposed there we would likely have to return to the Board to seek your approval.

Mr. Calli – Anything would trigger a site plan at this point with a commercial property like this.

Mr. Duffy – Does anybody know who's using it now what's the name of the company?

Mr. Maher – Some trucking I will find out for you.

Mr. Duffy – I saw about eight or nine tractor trailers the other day parked back there.

Ms. Murray – The still come in I see them.

Mr. Duffy – do you have any idea of the current tenant of that building right now?

Mr. Sehnal – I was there before the hearing and there was some action going on there and there were guys in the trucks moving them around.

Mr. Schilp – Not in the building?

Mr. Sehnal – Not in the building.

Mr. Duffy – They were on Saturday.

Mr. Schilp – In the building?

Mr. Duffy – In the building.

Mr. Duffy – The first bay door was open and they had equipment in there and they were working on the trucks.

Mr. Maher – I will call them and give you an answer on that.

Ms. Murray – The door was open on Sunday as well.

Mr. Schilp – Do you have any plans on cleaning out the culvert that's between the building and the big parking lot and the one that's to the south side of the parking lot because they are a mess.

Mr. Sehnal – Not currently but we can discuss that with the applicant. I looked at it it's a little overgrown.

Mr. Schilp – The one between the buildings is not bad go to the one where the tractor trailers are. The south side.

Mr. Sehnal – I think it might be on the other property.

Mr. Schilp – Okay no problem.

Mr. Saad – I was there today before this meeting and I could just say that maintenance was heavily neglected for most of those culverts and drainage swales it's just not in good shape.

Mr. Maher – I will work on it I'll get a company set up.

Mr. Duffy – What's going to happen with that house? I think somebody is in there because there was a car there the other day.

Mr. Maher – I don't have an answer but I will get you an answer.

Ms. Murray – There was a van there yesterday and there is a satellite dish on the roof and a wall straight down in the picture window.

Mr. Schilp – There was a company that was in there they did refrigeration or something A/C repairs and something. They used to have vans parked there all the time.

Mr. Maher – I'll find out.

Mr. Duffy – The building itself is very difficult to get around you can't actually go all the way around the building right?

Mr. Sehnal – Yes that's correct you can't circulate around the building. The access to the southern end and then the northern access just provides access to those three parking spaces.

Mr. Duffy – The southern end was blocked with tractor trailers so you couldn't get back down that way.

Mr. Saad – Are you planning on applying with Bergen County?

Mr. Maher – We absolutely will.

Mr. Saad – You did state that although not frequent the larger size tractor trailers will be onsite so you will need a vehicle maneuvering plan to go along with that.

Mr. Sehnal – We can provide that, it will function the same way it does today.

Ms. Murray – Your intent is to use the parking that's on the north side.

Mr. Sehnal – Yes the existing parking spaces.

Ms. Murray – How do you get in the warehouse piece from there?

Mr. Sehnal – Right now it's just those three parking spaces that provide access to the doorways into the office space.

Ms. Murray – It goes into the office only. Then everything is locked I would assume if they're not allowed to use the office area and you're stuck and you can't get into the warehouse unless you went completely through the entire office halfway through and then there's an entry door further down. There's no door that goes from that door into the warehouse.

Mr. Sehnal – Yeah we can discuss it with the architect.

Ms. Murray – That makes that almost unusable unless someone's got office space.

Mr. Schilp – There's hardly anybody up there even when Enterprise was up there they were always empty.

Ms. Murray – I'm just saying no one could use it because you can't go through that door to get to where they want to go.

Mr. Maher – We could make access.

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

Mr. Duffy – Having heard none.

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

Mr. Duffy points out the time to Mr. Calli and tells him that the Board does not start new testimony after 10:00 pm.

Mr. Calli says he has his traffic engineer next and he will not take very long.

Mr. Calli calls up Corey Chase of Dynamic Traffic 245 Main Street Chester New Jersey.

Mr. Pellino swears him in.

Mr. Calli asks Mr. Chase to give his credentials to establish if he is qualified as an expert witness.

The Board accepts him as a witness in the field of traffic engineering.

Mr. Chase – Our role in the application was to prepare the traffic impact study. I reviewed the site access and circulation provided pre and post development analysis of the adjacent roadway. We did prepare a traffic impact study it was dated March 17th 2022 previously submitted to the Board. As traffic engineers we focused on peak hour traffic conditions since they represent the worst case scenario given the nature of Midland Avenue we focused on the weekday morning and weekday evening peak commuter traffic hours. We go out there and do physical traffic counts we did them at the intersection of Midland Avenue and Schepis Avenue. What we do then is utilize data published by the Institute of Transportation Engineers the eleventh edition of the Trip Generation Manual which is the current edition for that manual. It's a national and state recognized standard for developing traffic volume projections for a variety of

uses. They have pretty much every land use under the sun. This being a new use as you heard the applicant's testimony it's unique. I would liken it more toward self-storage. We took the conservative route and analyzed it as a warehouse facility being we knew the traffic volumes would be higher than if we analyzed it as a self-storage use. We analyzed this building as a traditional warehouse building. Those trip generation numbers are summarized on table three which is located on page five of our report. You can see based on assuming this entire building is a warehouse it's going to generate a maximum of forty six trips in and out of that facility during peak hour. To give the Board an idea of what that level of traffic generation constitutes both the Institute of Traffic Engineers and the NJDOT have set a threshold of one hundred or more trips during a peak hour as being a significant amount of traffic generation. This is about fifty percent of that threshold for a significant increase in traffic. It equates to about one trip every minute during peak period. We still did that pre and post development analysis at the Midland Avenue intersection with Schepis Avenue. We also took a look at the two access points on Midland Avenue. Those results are summarized on table four on page six of our report. What the analysis shows is there are no degradations in level of service and no changes in levels of service at that adjacent intersection with and without the development. The fact that the development is not going to create a significant increase in traffic on the adjacent roadway network and that there are no degradations in level of service at the adjacent intersection it's my professional opinion that there will be no detrimental impacts as a result of the redevelopment of the subject property. Those conclusions are conservative in that we analyzed this as a traditional warehouse building when really it's going to operate more like a self-storage facility in that there are more users accessing the facility but they're smaller type uses no dedicated employees just people coming in and out to get their goods. That's all I have Mr. Calli.

Ms. Murray – What's your peak hour?

Mr. Chase – The weekday morning peak hour was 7:45 to 8:45 am.

Ms. Murray – You need to change that. You needed to stay fifteen more minutes at that site and you would have seen a hundred and fifty UPS trucks come down that road. They don't leave the building until almost nine o'clock.

Mr. Schilp – They leave between 8:45 and about 9:20.

Mr. Duffy – Your peak is going to be 8:45 to 9:45.

Ms. Murray – If I leave my house by twenty minutes to nine and I get up to the corner to make that turn I don't make that turn.

Mr. Chase – It has to be later than nine because we captured until nine and that last fifteen minute interval was actually lower so it's going to be occurring after 9 am. What that does is if the peak hour changes slightly all it does is it reduces the percentage impact that we have on the adjacent roadway network so if it did occur later we are less of a percent increase during that time than the hour we analyze. We are still looking at the pre and post analysis for that hour if there is a little more traffic fifteen minutes later we are going to be less of a percent increase than we were during this time. Again acknowledging the calm in the location of the UPS facility I think the results are still valid.

Mr. Marz – So he's just saying his people will go in and out before the UPS traffic comes there.

Mr. Chase – What's going to happen is they're going to learn the operations of that corridor much like you did and they're going to time their trips in and out when UPS isn't most active.

Ms. Murray – It only opens at eight.

Mr. Calli – That's when the loading docks are available.

Mr. Chase – They have from eight to nine and they'll likely schedule their trips to occur. I know how UPS facilities work it's usually a short window when all those vans are dispersed so they're going to time their trips to this facility to occur outside that.

Mr. Pellino – Who's going to talk about the parking?

Mr. Chase – I can touch on parking. We have seventeen spaces proposed which is what exists today as you heard the applicant's testimony there is only one on site employee so to me to draw a comparison to a self-storage facility you provide very low parking for a self-storage facility like you do this use because very few people park and go into the building. They're using the loading docks much like a self-storage facility you're accessing your unit. You're not going to park in a parking space and then go to your unit.

As you heard the applicant mention they target twenty parking spaces and we have seventeen spaces on site so that is in the realm of what they're targeting. You heard the site engineer mention we do have the ability to stripe more spaces on site we don't feel it's necessary given the intensity.

Mr. Duffy – How many loading bays are there?

Mr. Chase – There's nine.

Ms. Murray – Two of them are street level and the other ones are on the dock.

Mr. Chase – There's two docks recessed within the building and then seven additional roll up doors.

Mr. Duffy – That are accessed from outside the building.

Mr. Chase – Correct.

Ms. Murray – Are they dock height or ground?

Mr. Chase – The other seven are ground. The ones that you saw that were open have traditional loading docks within the building the others are roll up doors where you can put the vehicle inside the building but it's ground floor.

Mr. Schilp – You need a tail lift to do anything.

Ms. Murray – If you have a hundred tenants and twenty come in at the same time do you need some space for people to wait to get in to load or unload aren't you. You're going to need some spaces for waiting and some of these may be box trucks.

Mr. Chase – That gravel area could be used as a staging area if needed but I hate to keep drawing a comparison to a self-storage but it's a similar comparison that a self-storage facility may have nine hundred units in it and you never see a hundred people there at the same time trying to get their stuff in or out.

Ms. Murray – I'm only saying twenty because you've got seven nine areas for cars to pull in at the same time. Some of them may be cars that come in and use the man doors and bring in their own stuff and go in and out with small stuff. You're still going to need enough parking to cover overlap.

Mr. Chase – We do and that gravel area can function as a staging area.

Ms. Murray – Do you think it should be striped or something?

Mr. Chase – When we looked at it and talked with the applicant about what they needed for their operations we didn't feel they needed to stripe that area. We'd be more than happy to add some additional staging spaces out there so there is a dedicated location where they could stage if they pulled in and those doors weren't open. Typical to most storage facilities they're not here every day. It's something that's stored they're coming when they need it.

Mr. Duffy – It's not a storage facility.

Mr. Burbano – Yeah eight offices conference rooms so you're using it as a We Work model so you're going to have rented office space so the percentage of the office space should have been calculated for traffic as office space and the percentage of warehouse. Also they said people are going to be actively in there like your mom and pop possibly working so there's going to be more people there. It's going to need more than seventeen spaces.

Mr. Calli – The office space is ancillary to the storage use. That's an ancillary amenity for them. We can certainly add more spaces.

Mr. Burbano – Will it be rented just for office space and they don't need to have the flex space?

Mr. Maher – No we don't do that the office is for the people that are renting the units.

Mr. Chase – The projections I use in my report utilizing the warehouse building that assumes that there's an office within that facility. The volumes that I presented assume a certain percentage of the building is office in nature so that is factored in.

Mr. Schilp – I think the consensus of everybody up here is stripe up some more spots.

Mr. Calli – We are fine with that I think a testament to the intensity of the operation is we know we don't need it.

Mr. Schilp – There's plenty of area to stripe it.

Mr. Chase – We'd be happy to work with the Board's Engineer to come up with a plan that they deem sufficient to find some additional spaces on site to ensure that there is no issue with tenants looking for parking or staging vehicles on site.

Mr. Duffy – It's still new territory so I understand your traffic study I think it's going to change a little bit. Forget about UPS just we have a different type of operation that will change from time to time since we've already been told the size of the units can change so the number of tenants there has to be a max number at some point.

Mr. Maher – You have the max number now.

Mr. Duffy – I don't want to keep saying it's a self-storage because it's not and the concern I have is it's going to be very business orientated where it'll be like a hub for some people so I can see parking become more of an issue.

Mr. Calli – We have the space we can certainly amend between now and the next meeting.

Mr. Chase – We looked at it conservatively and it works then there's no issue. If I come to you with a lower intensity use and then you can say why didn't you choose a higher intensity use so to cover our bases we go conservative whenever we can and say we looked at this and it still works so in all likelihood it'll be less than what we're showing but we can show you that this works.

Mr. Tokosh – I think what your clients are going to learn if they go south on Midland Avenue they're not going to have any problem but if they go north they will be hung up for a long time.

Ms. Murray – You also may be missing some school buses.

Mr. Chase – We did our counts back in March.

Ms. Murray – So then you saw the school buses.

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

Mr. Duffy – Not hearing any.

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

Mr. Duffy announces that the applicant will be carried to the August first meeting without notice for the remainder of their presentation.

6. RESOLUTIONS

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

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

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

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

7. MINUTES

Meeting of June 6, 2022 Regular Meeting

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

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board, 5/05/22

Anthony Kurus to the Zoning Board, 5/12/22

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

9. VOUCHERS

Basile Birchwale & Pellino, 6/01/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$562.50
Basile Birchwale & Pellino, 6/01/22, Festa & Nobile, 186 Colonial Avenue, Block 1202, Lot 19 \$250
Basile Birchwale & Pellino, 6/01/22, Chefler Foods, 400 Lyster Avenue, Block 1009, Lot 9 \$250
Basile Birchwale & Pellino, 6/01/22, Hufscape II, 326 Rt. 46 & 331 10th St., Blk 118, Lots 2&3 \$125
Neglia Engineering Assoc., 3/15/22, Festa & Nobile, 186 Colonial Avenue, Block 1202, Lot 19 \$75
Neglia Engineering Assoc., 5/17/22, Chefler Foods, 400 Lyster Avenue, Block 1009, Lot 9 \$185
Neglia Engineering Assoc., 5/17/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$1572.50
Neglia Engineering Assoc., 5/17/22, Jean Makowka, 458 N. Midland Ave., Block 1402, Lot 53 \$232.50
Neglia Engineering Assoc., 5/17/22, Yosaire Santana, 459 Dewey Avenue, Block 703, Lot 21 \$150
Neglia Engineering Assoc., 5/17/22, Ready Spaces, 575 N. Midland Ave., Block 1701, Lot 1.02 \$545
Neglia Engineering Assoc., 6/14/22, Ready Spaces, 575 N. Midland Ave., Block 1701, Lot 1.02 \$190
Neglia Engineering Assoc., 6/14/22, 5th Street Associates, 77 N. Fifth Street, Block 405, Lot 3 \$555
Neglia Engineering Assoc., 6/14/22, Todd & Dana Minimi, 524 Steinway Rd., Block 702, Lot 3 \$300
Return of Unused Escrow, 6/27/22, Midland Commons, Van Bussum Ave., Block 401, Lot 4 \$820.34

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

10. OPEN AND CLOSE MEETING TO THE PUBLIC

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

Mr. Duffy – Having seen none.

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

11. ADJOURN

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