

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
October 3, 2022 Regular Meeting

The Saddle Brook Zoning Board of Adjustment will hold a regular meeting 7:00 p.m. on Monday October 3, 2022 at **(Saddle Brook Town Hall 93 Market Street)**

1. CALL THE MEETING TO ORDER (The meeting started at 7:12)

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. Tokosh, Mr. Marz, Mr. Burbano and Mr. Duffy – Present. Mr. Champy and Mr. Manzo are absent. Anthony Cialone is sitting in for Mr. Pellino the Board Attorney. Anthony Kurus the Board Engineer and Gary Paparozzi the Board Planner are also in attendance.

5. NEW BUSINESS

A.) Robert & Theresa West, 514 Saddle River Road, Block 1309, Lot 4

Applicant requests an interpretation of Zoning Ordinance 206-76 "Cessation of Operation" from the Zoning Board of Adjustment as it pertains to this mixed use property.

Mr. Duffy calls up Robert and Theresa West he explains that this is not an application but an interpretation of a zoning ordinance so there was no notice required.

Mr. Cialone swears in Mr. and Mrs. West and they give their address as 514 Saddle River Road in Saddle Brook.

Mr. Cialone explains that this is an interpretation of the zoning ordinance Section 206-76 "Cessation of Operations". It is a mixed use property that has a nonconforming residential component and a conforming component which was a restaurant which is currently not in use. The ordinance states that if a use has ceased for one year it is deemed abandoned. There is case law in New Jersey that specifically states that in order for there to be an abandonment there has to be an intention to abandon. There is a case where the court found where there was an 18 month provision and the court provided that it's the time period it's whether or not there is an intent to abandon and one of the things you're going to look at in terms of determining abandonment what the actual intent of the property owner was, what's the configuration of the property is it still the same have things been removed and I just want to indicate that regardless of our ordinance state law preempts local laws and ordinances so it's the case law that's going to control. Usually when we talk about abandonment we're usually talking about the abandonment of a nonconforming use. I know this is a mixed use but the conforming part is the restaurant.

Mr. Duffy – Mr. West after hearing that would you explain to the Board what is going on and be able to entertain any questions from it?

Mr. West – We never abandoned anything we still live there part time and the only reason why the business was closed was because of the pandemic. When the state closed indoor dining we couldn't do outdoor dining because we're right on Saddle River Road and the only thing we could do was delivery or

takeout. A lot of our clientele were our age and older and they weren't going to come out and pick stuff up on the sidewalk. The two major places we delivered to on a daily basis was Park 80 Plaza East and the Mack Cali Center on South Paramus Road. These were vital places to keep our business alive and the only reason that term abandonment came in was because those places were closed we had no choice so we decided to close the business and for the whole COVID period the entire year and a half we never left that house we live there. We just started to move things out recently but we still pay the taxes the gas and electric which is still billed to the Township Fountain and 514 Saddle River Road the mixed use part which is billed to Bob and Theresa West. We are still paying all our bills we're cleaning up and painting. Mrs. West – A facelift to make it sellable.

Mr. West – For over 75 years it has been used as a mixed use property we went over the abandonment and I explained our situation. What we're here to ask the Board for is an interpretation to have it designated and be kept mixed use before and after we sell it. There are two other mixed use properties within 75 feet of us. This is the way the Town was designed then. The whole block was setup to be mixed use. Our abandonment process never existed as far as we were concerned this was our address and still is.

Mr. Duffy – The Township Fountain Restaurant section is still as it was?

Mr. West – Yes.

Mr. Duffy – You lived in the residential part all of this time anyway?

Mr. West – Yes.

Mr. Duffy – Any Board Members have any questions?

Mr. Schilp – The property's for sale?

Mr. West – Currently it's not on the market.

Mrs. West – It was but the contract ran out we are trying to fix it up some more and see how this goes.

Mr. Burbano – Is the property deeded mixed use?

Mr. West – Yeah.

Mr. Burbano – Is the actual deed of the property mixed use?

Mrs. West – That's what we were told it goes back 75 years.

Mr. Duffy – It's in a B1 district and the restaurant is a conforming use.

Mr. West – There is no year that has expired because we lived there until a few months ago and we're still there three times a day.

Mr. Duffy – It's your primary residence technically your driver's license your mail that sort of stuff?

Mr. West – Yeah we never changed our mailing address.

Mr. Mazzer – How long has the restaurant been closed?

Mrs. West – When the state ordered everything closed was March of 2020.

Mr. Mazzer – Did you ever reopen?

Mr. West – No.

Mr. Mazzer – When the pandemic ended has that been a year?

Mr. West – No the length of the pandemic was a year and a half.

Mr. Mazzer – I'm trying to get at when you could have opened until now has that been a year?

Mr. West – No.

Mr. Mazzer – I'm trying to see how the Zoning Officer had you coming in here.

Mrs. West – If we were to reopen it would have been maybe six months ago.

Mr. Mazzer – I'm trying to get at why the Zoning Officer would do this technically if you opened for a day you have another year.

Mr. West – Exactly.

Mr. Burbano – I don't know what we're actually the restaurant they can open are we trying to stop the residential it seems like it's the sale that might be doing this to make sure the next person who gets it knows it's mixed use and that it's truly mixed use because if they want to open the restaurant today they can they just can't rent the apartment in the back according to the abandonment rule but they really never abandoned the apartment. For the apartment they're within their year but the restaurant they should be able to do what they want with.

Mr. Cialone – The Letter of Denial talks about the abandonment of the restaurant for more than one year based on section 206 -76 as to why he is not permitting them to reopen.

Mr. Mazzer – When does the year start and when does it end?

Mr. Burbano – But the restaurant is conforming.

Ms. Murray – It's confusing me why it's here because it says the cessation of operation of any nonconforming use. I would assume the apartments were the part that we gave them a variance for and that's the nonconforming piece of the business and they're still there and they never moved.

Mr. Tokosh – when was the last time you delivered food to Mack Cali or somebody else?

Mr. West – It was March of 2020.

Mr. Duffy – The restaurant is a conforming use so the abandonment does not apply. According to the definition of abandonment which applies to nonconforming use that's what I've read. That's why I asked if you had removed the restaurant operation and gutted it and then deemed it where it couldn't be done like that anymore then I think it goes back to square one but that's not what occurred.

Mr. Mazzer – Are you trying to sell the whole thing as it is so someone can live there and operate the restaurant?

Mr. Mazzer asks how this came about that the Zoning Officer denied them.

Mrs. West explained that it was when they tried to get a CCO for the property to sell it they could not get the CCO until they came to the Zoning Board.

Mr. Cialone – The only question is whether the restaurant use was abandoned. If the Board determines it wasn't abandoned that the interpretation the Zoning Official has of the ordinance is incorrect then they are entitled to a CCO.

Mr. Mazzer – We need a timeline to make a decision.

Mr. Cialone – It's not a timeline it's whether or not they intend to abandon that's the whole point what the cases say.

Mr. Mazzer – They just want to sell it.

Mr. Cialone – Correct but they need a CCO.

Ms. Murray – There was no intent to abandon.

Mr. West – No.

Ms. Murray – If there was intent you would have gutted it taken the equipment out and sold it.

Mr. Duffy – Out of the definition of abandonment I read this and this is what sticks out. When a building had only been used as a stable but had not actually been used to keep horses for 27 years and the owner had maintained the premises in the form of a stable and did not use the property for any other purpose it was held that the use was not abandoned.

Mr. Paparozzi – The residential use would be a preexisting nonconforming so there would be no abandonment with the residential. The house was sold as a restaurant and a residential. What I think the Building Inspector was alluding to was if the West's were to sell the building as a restaurant and a residential now he probably put it in front of us because of COVID but in all the uses in B1 the restaurant parking analysis is different. There is a different parking requirement for a restaurant as for a retail business which is one space for every 250 square feet where restaurant they put spaces on chairs and square footage and on employees so it might have been he's following the ordinance and if the Board deems that because of COVID and other issues that the restaurant can stay if they sell it as a restaurant and residential that is what I believe.

Mr. Schilp – The West's had no choice they were ordered by the state to close so they didn't abandon it. The state said you will close until COVID is over and during that time if they opened for one day they could be fined for opening the business. In my estimation of they said you could do indoor dining January 1st of 2022 it's nine months and a couple of days so it doesn't fit that criteria. I agree with Mr. Mazzer.

Mr. Duffy – The question before the Board is overturning the Zoning Official's determination.

Mrs. West – That's our request.

Mr. Duffy – Does anyone have any other questions?

Mr. Mazzer – What did the Zoning Official's letter say?

Mr. Duffy – It says be advised that your request to continue a mixed use after one of these uses (the restaurant) was abandoned for more than one year has been denied as it does not conform to the Zoning Ordinance. If you would like to apply for a variance with a current ordinance an application must be filed with the Zoning Board of Adjustment but the primary mixed use which he is identifying is the restaurant which is a permitted use.

Mr. Mazzer asks Mr. Cialone if the Board has to do anything.

Mr. Cialone – You have to make a determination in interpreting the ordinance that it is not applicable to their property and their use has not been abandoned.

Mr. Duffy – It was not noticed it is not an application so it does not have to be opened to the public.

Mr. Schilp makes a motion and Mr. Cialone states that the motion is to interpret the ordinance Section 207-76 that it is not applicable to the applicants' property in that there has been no abandonment because the use that had ceased is the restaurant which is a conforming use.

Ms. Murray seconds the motion.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano and Mr. Duffy – YES.

B.)Tomasz Makowski, 266 Third Street, Block 107, Lot 18

Applicant requests a driveway expansion that does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Mr. Duffy calls up Mr. Makowski. Mr. Cialone confirms that the notice is in order for the application and that they may proceed.

Mr. Cialone swears in Tomasz Makowski he gives his address as 266 Third Street Saddle Brook New Jersey.

Mr. Duffy asks the applicant to explain what he would like to do.

Mr. Makowski – I work second shift and when I come back home I have a hard time finding a parking space on my street. I would like to have my driveway extended and my daughter started driving and now we have another car.

Ms. Murray – There is no length on the parking space and the spaces need to be a certain length. You have ten foot wide but there is no length. The 20.67 feet goes to the porch of the house but in between there is grass and a planting area.

Mr. Makowski says he wants to keep the plantings.

Ms. Murray explains that the space he is adding needs to be 9 x 18 feet.

Mr. Paparozzi estimates the length at 16 feet and needs to be 18 feet by code.

The Board and Mr. Makowski go back and forth as to whether or not he wants to make the space 18 feet and remove some of the grass and plantings or if he wants an additional variance for an undersized parking space.

After much deliberation Mr. Makowski decides that he would like to make the parking space the 18 feet that is required by code. Mr. Makowski would also like to widen his apron and the Board explains that he would need a permit to do that and the Building Inspector will tell him how it needs to be done.

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

Mr. Duffy – Having heard none.

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

Ms. Murray makes a motion to approve the application with the stipulation that the parking space is changed on the plan to meet code.

Mr. Marz seconds the motion.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano and Mr. Duffy – YES.

C.) William Gorgone, 94 Kuhn Drive, Block 1204, Lot 11

Applicant requests a rear addition, deck & second story addition that does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today.

Mr. Duffy calls up William Gorgone.

Mr. Cialone confirms that the notice is in order and that he may proceed. He swears in William Gorgone and he gives his address as 56 Susquehanna Avenue, Rochelle Park, New Jersey.

Mr. Schilp asks about the variances that are required for this application and pointing out that the items on the chart that are called out as being variance required have the same numbers for existing as for proposed meaning that they are preexisting.

Mr. Cialone – They are going back so technically they need a variance because they are exacerbating the preexisting nonconformity.

Mr. Gorgone – My parents owned the house since the 50's I grew up in the house and they passed away in the last two years. I inherited the house because I'm an only child and I'm a contractor so my plan is to build the house up and move my family back into the house and come back to Saddle Brook with possibly my father in law living with us.

A few of the Board Members comment on the plans but do not have any questions of any substance.

Mr. Paparozzi – When you super impose a survey the architect can alter it from the CAD drawing. The only reason I say that is because I don't have a copy of the survey and neither does Neglia Engineering and he requested it. The license number on here is incorrect I know Vincent Manno and that's not his license number.

Mr. Duffy – We could make it a condition. We need a current survey submitted.

The Board Secretary pulls out the survey from his packet and it has the correct license number and is current. He is instructed to scan and email it to the Board Professionals for their records.

Mr. Paparozzi says that the plans should be revised to show the correct survey.

Mr. Duffy – Can I have a motion to open?

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

Mr. Duffy – Having heard none.

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

Mr. Schilp makes a motion to approve the application providing the plans are updated to reflect the surveyor's correct information and the current survey goes to the Professionals.

Ms. Murray seconds the motion.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, Mr. Burbano and Mr. Duffy – YES.

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

Applicant is proposing a class 1 adult use cannabis cultivation facility and a class 5 adult use cannabis retail facility, which would be separate from each other with no interior connection and 2 separate outdoor entrances and does not conform to the zoning ordinance for the Township of Saddle Brook as it exists today. **(This application was carried from the September 12, 2022 Zoning Board Meeting without further notice.)**

Daniel Lagana is the attorney representing this application.

Mr. Duffy – There are a number of issues that have come up one of them you know. I understand that the property next door is leasing spaces on this property which was not accounted for in the original plan. The original plan has been amended and then another amendment on Friday afternoon and the problem I have is that they were submitted on Friday afternoon and here we are Monday the Board Members have had limited opportunity to look at this and our Professionals have not had time to go over it. As far as we're concerned with that aspect of the application unless Mr. Wilder is here I want you to take that and have that completed the Board needs to see the actual plans.

Mr. Lagana – I apologize for the late submission and I can explain as to the circumstances that precipitated that late response. From the last meeting the Board raised some issues that we attempted

to correct with the first revised plans that were timely submitted. We then learned that there was a lease agreement subsequent to that meeting late last week and in an attempt to rectify that issue and have the site be appropriately parked there was that site plan amendment that shows the additional parking in the rear. Essentially the parking in the rear and the refuse relocation were the major changes from the first revised site plan to the second revised site plan. I understand the Board did not have the benefit of seeing the full size sheets we do have smaller renderings.

Mr. Duffy – The concern I have is that our Professionals have not had an opportunity to review it. The layout of the parking has changed. The refuse is changed, the sidewalk that was ended by the loading dock has now been extended but the loading dock is gone so taking that into consideration I don't want to go any further on this aspect until that is all cleared up. To be fair if you have other Professionals that can give testimony that is not relevant to that plan we can enter that into the record this evening.

Mr. Lagana asks for a recess to discuss it with his client.

Mr. Lagana says that he will proceed with other testimony and will make sure that he has the site plan ready for the next meeting in time for the Board and Professionals to review it.

Mr. Schilp points out discrepancies with the plans as far as turning radius and some other site plan related issues.

Mr. Duffy – Address the number of spaces and the turning radius and the loading dock.

Mr. Lagana – There is one.

Mr. Duffy – Where did it go?

Mr. Lagana – If you look at the top half of the site plan the shaded spot to the front left there is a new loading area.

Mr. Schilp points out that it does not say loading dock

Mr. Lagana – It is striped but does not say loading zone.

Mr. Schilp asks that it be marked on the plans.

Mr. Lagana – We will take care of that.

Ms. Murray – You should get with your landlord and make sure that your plans suit the obligations that the landlord has.

Mr. Lagana – The issue came up because that's an offsite facility. A bit of unique situation here what we did for our site was account for all of the parking requirements as required by ordinance for those particularly including retail by square footage and the residential which we now comply with. The other site was a unique situation because of the lot layout and the fact that it was offsite. My presentation last time was we really are focusing in on our site and we weren't but then we came to learn that site was directly affecting our site and that's why we had to make the changes. For our building all the various uses we did account for in the engineer's zoning chart and the traffic assessment chart all of the particular uses as required by code.

Ms. Murray – I understand that what I'm not saying about the uses and what you calculated based on their uses I'm saying find out from the landlord if you've got legal obligations to those tenants that you may or may not have assumed.

Mr. Schilp – We know what the Mobility has did anybody talk to Sammy's Rims or the smoke shop if they have anything special?

Mr. Duffy – I think we are getting ahead of ourselves because my objective was not to go down this road. You have some things to do as far as parking. We know about the FT Mobility situation you need to take care of the number of parking and for the plans if it takes care of what is there who gets what spot I don't believe is our problem. Our situation is, is there ample parking for the establishment and all the tenants.

Ms. Murray – I was asking in case there is specific obligations that the landlord might have said in front of your business we'll make sure you have ample exterior display something that doesn't affect your parking but may affect your parking you really should know.

Mr. Paparozzi – We did get floor plans for the residential but I didn't get the floor plans for the three businesses that are there so I could do the calculation for parking. I asked Neglia and they didn't get it either and it's something I need.

Mr. Duffy – Mr. Lagana can we take care of that?

Mr. Lagana – Yes.

Mr. Paparozzi – Just housekeeping if you see on the architects plan he has a parking space in front it crosses the sidewalk and it's different than the engineer's plan.

Mr. Lagana – I know what you're talking about that was corrected after realizing that it was not an ideal location. The engineering site plan is the final version.

Mr. Paparozzi – The 9/30 revision?

Mr. Lagana – Correct.

Mr. Lagana calls up his architect.

Mr. Cialone swears in Predrag Petric he gives his credentials to the Board and the Board accepts him as an expert witness.

Mr. Petric – I will present the architectural portion of this application which includes the building, the interior space plan and accessibility.

Mr. Lagana – I will ask the Board to ignore the older site plan and we are going to present the elevations which have been previously submitted.

Mr. Petric – In terms of the building envelope what we are trying to do, this is an old building very poorly maintained so due to the requirements we will close up these openings and try to create a façade that is appealing but not invasive to the surroundings. The back of the building will have a single access door and roll up doors. Then on each end of the building we will have exit doors. This would all be related to the exterior.

Mr. Duffy – What we are looking at is the growing area no the retail.

Mr. Petric – Correct. I am trying to present here is all the façade.

Mr. Petric shows all of the elevation drawings to the Board.

Mr. Lagana – Are we proposing any signage on the rear elevation.

Mr. Petric – No. On the front of the building there is an existing pylon.

Mr. Lagana – Before we get into the signage I want to make the point of the cultivation elevation will not have any signage on it.

Mr. Petric – No.

Mr. Lagana – That's done purposely right?

Mr. Petric – Right we don't want to be invasive to the surroundings. The front of the building is an existing pylon we will add our sign to the existing pylon.

Mr. Lagana – What kind of building material will we be using?

Mr. Petric – It's a composite material it's durable and comes in many colors. We will use gray.

Mr. Schilp – Right now the wheel shop has some funky colors on the front is he going to want to change it? Is he agreeable to changing it? I just want to be sure he is aware that you're going to change the front of the store.

Mr. Petric – I will move to the interior and space organization. The interior of the micro grow is organized around this main corridor here which serves as an exit. There are three exits from this area where two are required by code with a travel distance less than what is the maximum allowable by code. We also provide a handicap ramp here as well as two ADA compliant bathrooms. We will sheetrock over the interior walls. That is the extent of what we will do with this space.

Mr. Lagana – Does the current space contain ADA bathrooms?

Mr. Petric – No.

Mr. Lagana – So we're providing that upgrade?

Mr. Petric – Yes two brand new bathrooms.

Mr. Lagana – ADA compliant?

Mr. Petric – Yes.

Mr. Lagana – You have some larger rooms can you walk the Board through what those are?

Mr. Petric – On this side here we have a cultivation area and on the other side of the corridor is packaging, dry and cure, storage, office and water room. We have an area for loading and unloading.

Mr. Duffy asks for clarification as to where the roll up door is and Mr. Petric points it out on the plan.

Mr. Mazzer – Is this building sprinkled?

Mr. Petric – No it's not.

Mr. Mazzer – You may have to sprinkle the whole place with the other tenants or have your one hour ratings.

Mr. Petric – We have between tenants demising walls which are fire rated.

Mr. Mazzer – Does the whole building stay within the 18,000 or 16,000 where you don't have to sprinkle?

Mr. Petric – Yes that's correct.

Mr. Schilp – What is in the water room?

Mr. Petric – Those are water tanks.

Mr. Schilp – How big are they self-standing tanks?

Mr. Petric – Yes they are.

Mr. Lagana – As part of the operations testimony we could provide information regarding the cultivation operation that will touch on the water usage.

Mr. Schilp – Okay because I had questions on that.

Mr. Lagana – We have a witness specific to the cultivation operations. It is so unique that we thought we should have someone who would give specialized testimony in that regard.

Mr. Duffy – Does anyone have any questions on the cultivation facility? No then we'll move to the retail. There is some difficulty in locating the correct drawing from the Board Members packets. It is one sheet that shows the retail area.

Mr. Petric describes the layout there is a staging area, a retail display area, offices, storage areas and ADA Bathrooms.

Mr. Lagana – How big is the staging area?

Mr. Petric – It is 1206 feet.

Mr. Lagana – Can you give the Board the benefit of how the space will be utilized from customers that walk in the front door?

Mr. Petric – This area here will be access for the customers and this will be restricted for the employees.

Mr. Petric shows on the displayed drawing that there is an entry door that leads to a waiting area then there is an area for viewing the merchandise and the checkout area. There are also ADA bathrooms, an office and storage area that is only accessible to employees.

Mr. Duffy – It's separate from cultivation?

Mr. Petric – That's correct.

Mr. Lagana – While we have the front elevation out can you point to any signage proposed for the retail?

Mr. Petric – For the retail we have a stick on sign on the storefront and a pylon sign.

Mr. Lagana – Other than a small sign on the window and a pylon sign we are not proposing any new signage?

Mr. Petric – No.

Mr. Lagana – Can you talk about the lighting along the front façade?

Mr. Petric – There is just going to be decorative lighting and all required inside for the exit.

Mr. Lagana – Security lighting at the exits.

Mr. Petric – Security lighting at the exits and discharge points.

Mr. Lagana – What do you mean by decorative lighting?

Mr. Petric – it will be like in the soffit and above the door.

Mr. Lagana – They will be facing downward.

Mr. Petric – Facing down yes.

Mr. Lagana – These are LED?

Mr. Petric – Yes.

Mr. Lagana –What kind of intensity?

Mr. Petric – These will be dimmable.

Mr. Lagana – Mr. Chairman I recommend a six month conditional lighting review should the Board or the Building Department have any issues with the lighting they are dimmable LED and we'll agree to a six month review period should they become over powerful or a nuisance.

Mr. Schilp – Are they staying on all night?

Mr. Lagana – They will be dimmed after hours.

Mr. Duffy – It's noted for now.

Mr. Petric says he is done with his presentation. There are no questions for the architect but there are concerns about the site and engineering plan. Mr. Mazzer has concerns about the fire separation and whether the building should be sprinkled.

Mr. Schilp – I was looking for the total square footage of the premises. The entire complex not just the area that the application is referencing.

Mr. Lagana – Block 120 or our building?

Mr. Schilp – I'm talking about the entire building because that's going to predicate the sprinkling. The entire building that is on the lot.

Mr. Lagana – I will get you that information.

Mr. Duffy – If there are no other questions can I have a motion?

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

Mr. Duffy – Having heard none.

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

Mr. Lagana calls up Frank Catania to testify on the operation of the facility.

Mr. Cialone swears Mr. Catania in he gives his address as 909 Belmont Avenue North Haledon New Jersey.

Mr. Lagana – Mr. Catania you are intimately involved with the design and operation of this proposed facility?

Mr. Catania – Yes I am I'm the lead consultant of both of the applicants.

Mr. Lagana – You are familiar with the site and the plans submitted to the Board?

Mr. Catania – Yes I am.

Mr. Lagana – We offer Mr. Catania as a fact witness regarding operations.

Mr. Duffy – Accepted.

Mr. Lagana – Mr. Catania take the Board through the retail aspect of how the site is going to operate.

Mr. Catania – The application is proposing two different and distinct issues with respect to operations of cannabis. One is retail which we call a dispensary. That will be the public coming in and out to buy goods and then they leave. Then there is cultivation the cultivation is where we grow it we dry it we package it. That is not open to the public and nor do we want the public to even know we are there. No signage that's why we have no signage. The entire facility is secure because that is purely wholesale. What we have here this is the front of our retail facility. What happens is when somebody comes in normally what we try to do is we try in this particular space is bigger than what a normal dispensary is in the area. Dispensaries are anywhere from 2000 to 3000 square feet. This one is in excess of 4000 square feet. We don't particularly pick it that way but that's the size of the space which works to our advantage. The reason I say that is as soon as you come in the storefront this is a staging area. No product is in here the people come in we get them off the street we don't want to have the lines. When you first open up it's a novelty and you saw what happened on Route 17. It does pass it's not like that anymore but we have the square footage here in order to address that so what we do is we have here 1,300 square feet on nothing but a staging area. People come in they're provided with iPads and they go shopping and after they're done there they come into the facility where they see the product. With respect to the product no one is allowed to touch any product the closest they can do other than looking at shelves is there will be a glass jar with a sealed perforated top a lot of times people like to smell and that's with the quality of the cannabis is the smell that's what they do. By the time they leave this area and come into this area and this is the main area which the public will be in. You see back here these are administrative offices non cannabis storage and then we have to have a secured cannabis storage area required by the CRC the cannabis regulatory commission in New Jersey. We have to put everything into a sealed area and there's regulations which require us with respect to sealed doors and to make it a secured area. I can't just sheetrock it with half inch sheet rock and studs I have to have wire lathe in there I have to have $\frac{3}{4}$ plywood in there is what we do to make it a secure site.

Mr. Lagana – Just to touch on that you can see the only entrance is through the general manager's door correct.

Mr. Catania – That is correct.

Mr. Lagana – An individual would have to get into the rear of the location then enter the general manager's location and then enter the storage area.

Mr. Catania – Exactly.

Mr. Lagana – There's three levels of access.

Mr. Catania – Putting the Board aside and God willing we're approved we can't open up until the CRC comes and they go through the entire place at that point we get a Certificate of Completion and a Certificate to Work. They come through and believe me it is the most highly regulated industry in New Jersey it's even more regulated than liquor because it's new. What they do is they come from the staging area here they'll come in this will be an opening and they look at products. Just so everyone is aware the perception with respect to cannabis is oh my God it's going to be a drug den. Our facilities look nothing like that. If you walk into our facility you think you're walking into an Apple Store everything is white granite with blue underlying lights neon on it everything is marble floors. We are worried about mold and mildew it's the worst thing we have in the cannabis industry so we have to it's like a medical facility to keep it clean if not we lose that product and that's a waste of money. What they do is they come in here the iPad here they pick out people who don't pick it out on the iPad come in here not know what they want they'll look at the product they'll then take the product. What they'll do once they have the product they will not get the product handed to them they will tell us what they want then they come to the checkout area at the checkout area is where they are presented with the product that they picked out. Then they pay for it and leave. Just so you know not only when you walk into the facility do we check your ID we check to make sure that you're of age. In New Jersey you're allowed to sell to out of state so if anybody from out of state is here we can't stop them and the limits unlike other states are the same for in state as out of state residents. Some other states allow more to in state New Jersey is not like that. It doesn't make a difference as long as you're twenty one. There is no usage permitted on site whatsoever that is a major violation. With respect to the retail part anytime that we're open we have armed security that's live armed security other than that we are also required to have face recognition as well as fingerprint recognition security systems throughout the entire place. What we do normally is we go to the Town we are in and we talk to the police department we usually if they are on board we hire the off duty police officers. The off duty police officers are our security. As you see on Route 17 Rochelle Park they did the same thing with their off duty officers. We try to form a relationship with the Township. You are ID'd when you walk in the front door you have to give your ID again when you purchase. When you purchase you're given your product you then leave through the storefront. That's how it happens with respect to retail. Our biggest concern is we want you in and out as quickly as possible usually it's twelve minutes per customer once you get up and rolling three months four months we get it down to seven minutes. When they first come after three months they know what they want they're no longer shopping they come in to buy. In addition to what you see here you can also go online and order it and then come and pick it up. Even though delivery is a separate license in the state and it's statewide legally even if the state opted in or opted out of cannabis you're still going to have cannabis delivered to your Town unfortunately you're not going to reap the benefit of the tax which is assessed by the Township on it.

Mr. Duffy – I can get it to my house?

Mr. Catania – Yes you can.

Mr. Duffy – Like an Amazon with pot?

Mr. Catania – Yeah pretty much so.

Mr. Lagana – And no town can prohibit it.

Mr. Catania – There's a lot of town's that have opted out of cannabis but they can't stop delivery to the town because it's legal statewide. I don't understand the logic behind it because they don't get the two percent tax that you get for retail. Wherever it originated before it was delivered to let's say Saddle Brook, Saddle Brook gets the two percent. If it goes to a town that doesn't have cannabis regulations and won't permit it they get nothing but they still have cannabis in their town.

Mr. Duffy – And Saddle Brook lost the two percent.

Mr. Catania – No Saddle Brook keeps the two percent because it originates here. Wherever it originated is who keeps the two percent. The tax revenue for the Township by way of a retail establishment is significant. In addition to this what we do retail wise is you're not required to do it but we do it with every town we have what's called a one percent a one percent gross fund of anything we make it goes into a municipal fund. At the end of the year we work it with each town that we're located to decide whether it's up to you to decide where it goes. If you want it for the PAL, do you want it for uniforms, do you want it for the senior citizens, do you want it for the churches it's up to you. That's another issue the Town would try to work together with the community because I know cannabis people think about cannabis and they have a different view so we're trying to overcome that. With respect to the retail this area here is a staging area this is a shopping area this area here is the checkout. They have access to no other area except the bathrooms. If you notice all the offices have a hallway with a door outside the hallway so there is no direct access to any offices. We understand the nature of what we're selling so you want to make sure security is your absolute first priority. That's it with respect to retail. This facility has to be retail is one license cultivation is another license. You're not allowed to have common ownership amongst licenses for a retail and a cultivation. They are totally separate and distinct there can't be any doors between the two of them. You're not even allowed to have a secure door between the two of them. There can be no way to get between cultivation and retail so even if from our cultivation we are selling product to our retail place it has to go outside and be brought in. Are there are any questions about retail before I go to cultivation?

Mr. Duffy – Your staging area what's the occupancy for that spot? You have two areas so I guess you would allow only so many people in the waiting area and there's only so many people in the display area.

Mr. Catania – We can pack them in here whatever the occupancy is determined by the fire department we have to adhere to but we'll take as many as we can to put them in here without crowding them. You always want to make sure they have comfort and that they're not crowded. The occupancy will be set by the fire department.

Mr. Schilp – Are there going to be tables and chairs in that room?

Mr. Catania – Yes not so much tables there'll be chairs though. They'll be chairs and what we have is like coffee tables with iPads on them.

Mr. Schilp – What happens when the fire alarm goes off? During the day it shouldn't be a problem because I'm sure somebody there is going to have a key to let us get in to all the places. What happens after hours because I'm sure this is only going to be 9 to 5 or 9 to 10 at night what happens when nobody is there what kind of access is going to be provided to the police and fire department?

Mr. Catania – Just because it's cannabis makes it no different than any other business. As with any other business in the Town if there was a fire there I assume Saddle Brook has the same requirements we have in other towns where we have a responsible party God forbid the alarm goes off. We are going to have a monitoring station for both fire and police so either the police or fire will be dispatched there. What we can do sometimes we do it with fire and it could work as well with police is you have a secure exterior box.

Mr. Burbano – The only thing you'll have to break down is their security door. It's the same thing we set up when we build cellular stores with the wire and stuff you're not getting in there.

Mr. Catania – Inside there we have to its so secure not only secure but secure with respect to we don't want the exterior atmosphere in that storage area. Any fire would die out in there and there's really nothing to burn. What we do in that area we don't use sheetrock what we use is interlocking panels. Its metal and it's almost like an insulating factor.

Mr. Schilp – There are a lot of places I mean because there's cannabis inside and such I don't want to put a Knox box outside because somebody go out there with a sledge hammer and beat the crap out of it and get the lock if they really wanted to.

Mr. Catania – Our alarm system believe me it is.

Mr. Schilp – I figured it would be.

Mr. Duffy – There's only one way in and out of this building.

Mr. Catania – Yep that's it.

Mr. Duffy – That's a concern. If there's a fire in that space and it's in the front part of that building that space there's a problem.

Mr. Catania – By code we meet code and again that's a question for the architect. What we do have is an area along the side of the building here if there is an additional ingress or egress as required we have it outside we have plenty of room to put that.

Ms. Murray – You said any delivery would come through the front door?

Mr. Catania – On this yes.

Ms. Murray – What's the time period are you going to have people sitting in the front area when you have deliveries coming in of boxes or how it's packaged but there's deliveries coming in. I'm talking about product not office supplies. I'm talking about product coming in when there is a lack of security.

Mr. Catania – There's never a lack of security there are always an armed individual at any time. What happens is anybody who is delivering it to you normally they also have an armed delivery person. If we are delivering it to ourselves obviously we would use the armed security here. Anybody else who delivers that is what they do, they have to be licensed to deliver any kind of cannabis. An employee of a facility who grows it let's say you buy it from a different facility they just can't have an employee come do this. That employee has to be registered with the state. Anybody who is an employee here has to be registered by the state it's almost like getting your liquor card. You apply to the state and it's a cannabis card fingerprints you name it so we can't just have any employee we have to have it's got to go through the state they're carded and registered with the state before we can hire them.

Mr. Paparozzi – What are your hours is it 9 to five seven days?

Mr. Catania – We'll probably open a little later around ten and the later the better. One of the reasons we like later is because FT Mobility next door they close four or four thirty they're out of there. Normally that's our busiest time except for the weekends and obviously we have to adhere to the blue laws if we are subject to the blue laws and I don't have an answer for you there.

Mr. Duffy – On Sunday.

Mr. Catania – Yes.

Mr. Duffy – I don't think this was in the cards when they came up with that.

Mr. Schilp – I believe Rochelle Park is open on Sunday limited hours.

Mr. Catania – On Saturday or Sunday you're looking at somewhere between 10 to 5. During the week we are looking at anywhere from 10 to 9 or 10 to 10 hours of operation.

Mr. Paparozzi – Would that be the same for cultivation?

Mr. Catania – No cultivation is nine in the morning to five in the afternoon. At any one particular time the maximum we'll have here is six employees. We always have a manager on we have what's called bud tenders at any one particular time at the busy time would be six employees.

Mr. Duffy – If nobody has any questions about the retail you can go right into the cultivation.

Mr. Catania – What we're doing here is exactly what it sounds like this is where it's grown. We go a little more in the process than just growing. The biggest concern in any town we've been in is the smell. Your growing cannabis will it smell? If you smell something outside our building we have an issue because that means it's getting released if it can be released from your building that means that the atmosphere can get in and our worst enemy is mold and mildew. Everything we grow here before it able to be sold to a dispensary is tested by the state and we have to meet certain mold and mildew requirements if we don't we have one chance to remediate it. If we don't we lose that harvest and that's a lot of money. What we do with respect to construction of this first of all the ceiling we do foam insulation across the entire ceiling. On the exterior walls we use interlocking metal frame panels four by eight panels. It's an insulating material that is flame retardant as well and what that does is we build a room inside the room. What we're doing without going to the insides the entire exterior we're building a room to make sure that there's nothing that can be released because if something can be released it can get in. What we do is we have an HVAC system and the plants different strains of plants need different amounts of water as well as different amounts of lighting. There are no windows anywhere in here we don't want the only way you'll know we're here is if you know we're here. We don't want you to know we're here when it comes to

cultivation. We only have one access door and one overhead door. I want to go back to smell while we're still on that subject and what we do is we use micro carbon filters to filtrate the system but in addition to that what we use is we're concerned with what they call VOC's that's the smell of the cannabis volatile organic compounds that's what makes the smell and what we do to address that is aside from the carbon micro filters is we use ionizers. Where you have negative positive hydrogen peroxide ions and that's to control the VOC's that's the system we use to remove the smell. Without the VOC's there is no smell. The biggest concern any town has is the smell and we learn from the other states where they first started in Colorado California where smells were being emanated and the biggest concern beyond security was the smell. Since that time in excess of ten years that it's evolved they have new systems to prevent it. That's what we do with respect to smell. We have three different flower rooms that's where it's growing. They aren't growing at the same time they alternate because we don't want to have all three harvests coming to fruition at one time you try to alternate them. This month we're doing this one this month this one and by the time we come back we're back to here. After we do that we cut it and you have cutters come in and they cut the buds. We're mainly concerned about the buds it then goes into a drying room. Once you cut the plant we bring it into the drying room it dries and we debud it. The bud is what is sold to the dispensaries but that's not it we also have the stems the stalks and the leaves we sell that to the manufacturing labs and that is what they extract the THC from. They prepare topicals whether it be the cream the gummies the vapes there are so many other things. What is the junk out of here is what we give to the manufacturing. We can't just pick up this and drive again it has to be by a licensed individual from the state who is able to transport that from our facility. What about garbage there is no garbage the only thing left and we cannot use it, it has to be picked up by a state licensed transporter. Right now there is only one incinerator in the entire state and I think it's in Vineland down south and they destroy any excess of the plant that isn't being used somewhere else. It's not going to go into the garbage. The only garbage you will see from here is your normal business waste whether it be paper or anything to that affect. It dries the buds taken apart there's a packaging room other than that you'll see trim, packaging, drying, cure it goes into our storage room. The water room there are 300 gallon independent free standing tanks. It looks like a regular tank then it comes down to a cone and from the cone what they do is water the plants. The way the plants are watered is you don't want to have excess water you don't ever want water going beyond the plant into the dirt because if you do that you lose nutrients if we lose nutrients we're losing our product. We expect if you're doing it right one hundred percent utilization of the water that we water our plants with. We do it by drip there's PVC pipe comes off and then off the PVC pipe comes drip lines and all it does is drip on each particular plant. We want the plant to have enough water not too much water. If it does we're losing nutrients and then you lose potency you lose taste. That's what makes your business a successful business or not. I know I hit it quickly that's pretty much cultivation. When we have a harvest is when we have a maximum number of employees. At any one time we're probably going to have four employees in the place that's it during a harvest we'll have six. We're not harvesting all three at one time we are trying to alternate them so one comes to harvest this one is two or three weeks out this one is two or three weeks behind that. The deliveries that leave are maybe seventy five pounds a month maybe. They are regular sized vans and the deliveries we try to get it to where three weeks out of the month we have a delivery three weeks out of the four weeks once every week.

Mr. Lagana – This is a micro cultivation correct?

Mr. Catania – Yes it is.

Mr. Lagana – Just to remind the Board the micro cultivations by law have a smaller footprint smaller operations over all. This is not the big cultivation facility it's a micro cultivation.

Mr. Catania – This is a micro cultivation and just to let you know with respect to a micro cultivation in order to have a micro cultivation in a particular town the majority owner of that business has to live in the town so the majority owner of this business is a resident for 9 years of Saddle Brook. Despite the place being 5,000 square feet we are allowed to have a maximum of 2,500 square feet of what they call canopy space. The spots that you grow the marijuana can't be greater than 2,500 square feet so when I tell you those numbers are seventy five believe me I wish it was three hundred or four hundred that's what you

get from a full blown grow this is a micro grow. You can ask to transfer down later on to a full blown grow but this facility would never utilize it's just not worth it we would have to go to a bigger place.

Mr. Duffy – In the same structure it could be two buildings right?

Mr. Catania – There's other areas in Town that are zoned with respect to full blown cultivation. Micro is allowed pursuant to the ordinance in this particular zone but this zone doesn't allow full blown cultivation it limits it to micro cultivation because of the size of the micro. That's everything we do here please shoot questions any questions.

Mr. Paparozzi – The hours of operation.

Mr. Catania – Sorry yes Monday through Friday we would like to go Monday through Friday 10 to 10. Saturday and Sunday would be more like 9 or 10 to 5 in the afternoon if we are allowed on Sundays.

Mr. Lagana – That was the retail right?

Mr. Catania – That's the retail. Cultivation is 9 to 5 and it would go six days a week even if we were allowed to open on Sunday it doesn't make a difference we don't have to be there on Sunday. It would be 9 to 5 or 10 to 6 for the cultivation.

Mr. Paparozzi – 10 to 10 on retail.

Mr. Catania – 10 to 10 on retail yes. Not that anyone would see the lights from outside but the plants need so much darkness as well depending on the strain as they need light.

Mr. Schilp – Where the water storage tanks are is there overhead plumbing for the grow areas?

Mr. Catania – Yes.

Mr. Tokosh – Are you using city water?

Mr. Catania – Yes.

Mr. Tokosh – does it have to be distilled or?

Mr. Catania – No it is filtrated because every different strain is a different watering system with different nutrients for different strains. We do filter it and add nutrients before it gets to the plant.

Ms. Murray – What's the electric load?

Mr. Catania – The electrical is believe it or not it's we have a decent electrical and the building needs it with the present requirements that are there. You want to keep it somewhere around a thousand to eleven hundred amps but LED lights so the usage is nowhere near what you would think it would be. The lights are not on all the time they are off almost as much as they are on because the plants need darkness as much as they need light.

Mr. Tokosh – What if you had a power outage do you have generators?

Mr. Catania – We're going to have to do something.

Mr. Paparozzi – You have to also show that on the plans. You don't have any on the site plan.

Mr. Catania – We'll definitely shoe that.

Mr. Marz – Do you control the THC that you have in each strain?

Mr. Catania – Yes we can.

Mr. Marz – What's the highest you guys sell?

Mr. Catania – The highest we've taken out is probably about thirty four percent but you don't want thirty four percent because quite honestly what happens especially in the Saddle Brook area something like this you have your white collar you have your blue collar workers you have your soccer moms if I give a strong strain and a soccer mom comes in and she takes one hit she's out I'm not going to see her again for another three months. So you have anywhere between 14 to 16 percent is what we're at.

Ms. Murray – Would you have protections for people that leave your facility and it's in the parking lot and they use it?

Mr. Catania – That is strictly prohibited.

Ms. Murray – Is there any preventative measure that you take.

Mr. Catania – Other than security on site no that would be the only thing. That is an absolute no no we're looking to prevent that because that goes strictly to our license not only with the Township but more importantly with the CRC.

Mr. Lagana – Would we have some signs on the premise indicating that there is no consumption?

Mr. Catania – One hundred percent.

Mr. Paparozzi – Are there any outdoor cameras?

Mr. Catania – All over on this building here because this does not have live security it's not needed the security system on this facility will run us about \$225,000 just for the security system. Every square foot of the outside along the building will have security we will be able to see everything from our phones while we're at home.

Mr. Schilp – The water tanks are automatically refed?

Mr. Catania – Yes.

Mr. Tokosh – I'm not sure you answered my question but if you're in a power outage do you have generators that will supply the power?

Mr. Lagana – We're going to amend the site plan for the next meeting to include a location for the generator to be compliant with the code that was a great point.

Mr. Catania – I apologize that's an oversight on my part I should have noticed that we didn't have a generator on this to show.

Mr. Duffy asks if there are any more questions and nobody has any so he asks for a motion to open the meeting to the public.

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

Mr. Duffy – Having seen none.

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

Mr. Duffy – There were some questions and comments previously in regards to some of the parking issues which I don't want to get into a full blown parking discussion but Mr. Catania has commented he could put on the record and help with that this is the time.

Mr. Catania – I spoke to the landlord myself and other than laying into him for not telling us about the 18 spaces it wasn't even in the original lease that they had with FT Mobility it was a subsequent addendum by the prior owner. It was hand drawn and I was told I didn't think it's going to affect your application I said you're giving away 16 of my spaces so that's why we revised it to show an additional 18 spaces. Those 16 spaces are going to be designated as to what those spaces are for them and it's going to be up against their building as well as the area we are talking over there. With respect to Sammy's Rims Sammy would love to have his things in the front and everything else the parking for the tenants is what you said it's common there's no designated spots. Sammy right now has it easy because he has no tenant next door to him he's not permitted to put the displays out in front of his place and we specified that with the landlord so when the time comes as much as he may like that he's not entitled to it under the site plan approval by you but nor is he entitled to it and I specifically asked with respect to his lease. We reviewed it and the landlord got back to us and no not at all there's nothing there he's just been doing it he inherited it. The owner just bought it last year I believe there were two brothers that were there forever and the two brothers never enforced anything so as much as he would like it he's not entitled to it. I asked him if there is anything else out there written unwritten with anybody else and I was told no.

Mr. Duffy asks about the trucks and other things that are being parked in the back and he says they will be gone because they need the parking and it doesn't meet their standards for appearance.

Mr. Duffy goes through the items that the Board is looking for at the next meeting so they can finalize the application. He announces that they will be carried to the next meeting November 7th without notice.

Mr. Lagana consents to the tolling of the time for approval under the time for approval requirement to the November 7th meeting.

6. RESOLUTIONS

A.) Approval for Tracey Hart, 75 Wilson Street, Block 1801, Lot 13

B.) Approval for Marjorie Miller, 110 Graham Terrace, Block 1509, Lot 8

Mr. Schilp makes a motion seconded by Mr. Tokosh to approve the resolutions.

Roll Call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Tokosh, Mr. Marz, and Mr. Duffy – YES.

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

The resolution for Chefler Foods was not ready in time for the meeting and will be voted on at the November 7th meeting.

7. MINUTES

Meeting of September 12, 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, 9/02/22 (266 Third Street)

Anthony Kurus to the Zoning Board, 9/02/22 (94 Kuhn Drive)

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

9. VOUCHERS

Neglia Engineering Assoc., 9/12/22, Ready Spaces, 575 N. Midland Ave., Block 1701, Lot 1.02 \$285

Neglia Engineering Assoc., 9/12/22, Makowka, 458 N. Midland Avenue, Block 1402, Lot 53 \$92.50

Neglia Engineering Assoc., 9/12/22, Budz Prime, 243-253 Route 46, Block 120, Lot 5 \$388

Neglia Engineering Assoc., 9/12/22, Hufscape II, LLC, 326 Rt. 46/331 10th St, Blk 118, Lots 2&3 \$1030

Neglia Engineering Assoc., 9/12/22, Carrols Restaurant, 439 Market St, Blk 705, Lots 24-26 \$1797.50

Neglia Engineering Assoc., 9/12/22, Gorgone, 94 Kuhn Drive, Block 1204, Lot 11 \$99

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

10. OPEN AND CLOSE MEETING TO THE PUBLIC

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

Mr. Duffy – Having seen none.

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

11. ADJOURN

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