

TOWNSHIP OF SADDLE BROOK
ZONING BOARD OF ADJUSTMENT MINUTES
March 4, 2024 Regular Meeting

The Saddle Brook Zoning Board of Adjustment held a regular meeting 7:00 p.m. on Monday March 4, 2024 at **(Saddle Brook Municipal Complex, 55 Mayhill 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. Burbano, Mr. Francin, Mr. Manzo, Ms. Nobile and Mr. Duffy – Present Mr. Tokosh, and Mr. Marz are absent. Mr. Cialone the Board Attorney, Mr. Kurus the Board Engineer and Mr. Paparozzi the Board Planner are also in attendance.
Mr. Manzo and Ms. Nobile for Mr. Tokosh and Mr. Marz.

5. NEW BUSINESS

A.) Inhale Industries Inc., 249 Route 46, Block 120, Lot 5

Applicant requests a microbusiness cannabis cultivation and retail establishment that does not conform the Zoning Ordinance for the Township of Saddle Brook, as it exists today. **(Applicant was carried without further notice from the October 2nd meeting due to a request from the owner of a neighboring property objecting to the application and requesting an adjournment so they may be heard at the November 6, 2023 meeting. The applicant did not complete their testimony at the November meeting and have been carried to the December 4, 2023 meeting without further notice. The applicant did not complete their testimony at the December 4, 2023 meeting and was carried again without further notice to the January 8, 2024 meeting but were unable to appear and asked to be carried to the February 5, 2024 meeting. The applicant appeared at the February 5, 2024 meeting and requested an adjournment to the March 4, 2024 meeting as he has retained new counsel).**

Mr. Duffy – Just for the record nobody representing Inhale Industries appeared. There are two letters provided to the Board from Richard Kapner who is the attorney for the property owner of 249 Route 46 stating that the property owner has withdrawn any support for the application from Inhale Industries. One of the letters contains a notarized affidavit withdrawing any support for the applicant.

Mr. Duffy made a motion seconded by Mr. Schilp to dismiss the application without prejudice.
Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Burbano, Mr. Manzo, Ms. Nobile and Mr. Duffy – YES.

B.) Janelle & Josue Badia, 53 Jamros Terrace, Block 1302, Lot 7

Applicant requests a front open porch, left side and right side two story addition and in ground pool with pavers that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

Mr. Cialone confirms that the notice is in order for this application and they can proceed.

Mr. Cialone swears in Josue and Janelle Badia they give their address as 53 Jamros Terrace.

Mr. Duffy – Tell us what you want to do.

Mrs. Badia – We're doing an addition to the right and left side of the home and a second story addition and an in ground pool in the back and a front porch.

Mr. Kurus says there are a number of variances that are being requested and asks the applicants if they know what they are.

They are not sure.

Mr. Duffy reads the variances off. There's a minimum single side yard setback. The code is 9.5 feet the existing is 15 feet you are proposing 5 feet. There is the minimum combined side yard proposed is 15 feet the code is 19.5 and existing is 32.3. Maximum accessory coverage the code is 18% you are proposing 23.4%. Maximum lot coverage is 44% you are proposing 48%. The front porch the code is 20 feet and you are proposing 16.7 feet. That's five variances did you understand that?

Mrs. Badia – Yes.

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

Mr. Kurus – Our only comment was with respect to drainage. The roof drains for the porch and the additions need to be directed to the interior of the property to ensure there is no impact on adjacent properties. Also based on the overall increase in coverage there should be drainage incorporated into the final design so as not to impact the neighbors. I think the plan shows the location of the pool equipment I think.

Mrs. Badia – Yes.

Mr. Kurus – The A/C is also going next to the deck. In back of your property there's a 10 foot wide drainage and storm sewer easement.

Mrs. Badia – Yes.

Mr. Kurus – You have to keep that area clean. You have to keep it clear and protected during construction. I think there's a shed is it staying or going?

Mrs. Badia – It's staying.

Mr. Paparozzi – There is a 10 foot drainage and sanitary easement in the back. The pool is just plotted but it's plotted without dimensions. You have a 10 foot easement and you have the paver wall I think that area between the wall and the easement is only about 22 to 23 feet the best I can scale. It should be plotted by one of the professionals of the applicant to ensure that it's far enough away from the patio and the drainage easement. Additionally they do not show the pool equipment on the plan. There are setbacks for pool equipment and they should be shown on the plan as well. I don't know if Mr. Kurus had a chance to check lot coverage but the building alone lot coverage is 25%. Total lot coverage the sheet from the Zoning Officer only has 8% and the 8% includes the shed, the pool, the deck, the driveway, the porch and the pavers. Even at 75% it seems like it's more than 8% so that might be a variance I'm not sure I was not part of the application.

Mr. Kurus – There is a variance for accessory coverage and also a variance for overall lot coverage.

Mr. Paparozzi – It wasn't shown on my sheet I'm sorry.

Mr. Kurus – It wasn't shown on the zoning letter of denial but we put it in our completeness report and then also they submitted updated architectural plans I don't know if you got it or didn't. It did show the pool equipment within the side yard setback next to the deck. They resubmitted an updated version of it which didn't have a revision date on it.

Mr. Paparozzi – Then there are because it did look like the lot coverage exceeded the amount just based on what I just stated.

Mr. Kurus – Single side yard, combined side yard, accessory coverage, maximum lot coverage and the open front porch.

Mr. Paparozzi – Okay that's what I thought just looking at it.

Mr. Paparozzi – Is the pool equipment 6 feet and a distance from the house?

Mr. Kurus – Yes.

Ms. Murray – Most of mine were actually what Mr. Paparozzi was saying that the plan didn't have the dimensions off the back property line to the concrete walk around the pool. Upon inspection it showed you're A/C unit was next to the house not next to the deck so I'm going to assume you're going to move you're A/C unit further back than where it is.

Mr. Paparozzi – There's also a setback for the A/C I don't know where that is it's not on my plan.

Ms. Murray – Mine was without having a lot more dimensions I couldn't tell if it was going to meet that as far as the rest of the plan with the additions. Is the open porch part of the setback?

Mr. Paparozzi – That's part of the variance.

Ms. Murray – Without the dimensions I couldn't tell if the pool was placed properly and I just want you to be aware that if you do ever remove the shed if you replace the shed you have to conform to the 5 foot setback.

Mr. Paparozzi – It also has to be off the easement. If they should take it down not only do they have new setbacks but they have to remove it from the easement.

Mr. Duffy – The shed as it is can remain.

Mr. Paparozzi – Well it's preexisting obviously the applicants know if the Township or whoever is in charge of that easement have to get into it they can take the shed down at your expense because it's in violation where it was built.

Mr. Duffy – Do you understand?

Mr. Badia – Yes.

Mr. Schilp – On the proposed upper level floor plan there's a master bedroom, master bath and a room next to it. What's that room going to be?

Mrs. Badia – It's basically like a walk in closet.

Mr. Schilp – That's some huge walk in closet.

Mr. Badia – We're going to make it a walk in closet type of hanging out area to get away from the kids.

Mr. Schilp – I count four bedrooms. You got the master bedroom, on the proposed second floor on the right you've got a new bedroom, then you have a renovated bedroom and then you have a new office. If that office has a closet in it which it does it's considered a bedroom. So it would be four bedrooms which would make a difference in the parking.

Mr. Duffy – It would be five bedrooms.

Mr. Schilp – Five?

Mr. Duffy – Yeah you have the master and you have the four on the top floor.

Mr. Schilp – Oh I'm sorry yeah five that would make a difference in parking.

Mr. Paparozzi – Yes it would and it should be a variance as well. There is no garage proposed so the only parking is the parking in front which is roughly 20 x 25 which is only two cars. Even at two and a half which would probably be three now with five bedrooms you have a parking variance so that would be added to that list Chairman.

There are no more questions and Mr. Duffy asks for 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. Duffy – Let's clarify a few things. We've now added a sixth variance for parking.

Mr. Burbano – Do we want to discuss with them their options to see if they want to do that?

Mr. Duffy – Yeah we can do that I'm just making sure that there's nothing else we have to propose out there.

Mr. Badia – We would like to know our options.

Mr. Duffy – The option would be in the new office remove the closets now it's no longer a bedroom and it takes you back down to two and a half correct? Actually two because you round down because it's two and a half which you have.

Mrs. Badia – Okay.

Mr. Duffy – I don't have any further questions any other comments or questions from the Board?

Mr. Schilp – When you backflush the pool you can't dump it in your yard. It has to be flushed out into the street.

Mr. Duffy – When you backflush the filter it has to go out to the street it can't go in your yard or the neighbor's yard.

Mr. Papparozzi – Also revise the plan showing the air conditioning and the setback to the unit.

Mr. Kurus – And the drainage plan for the increase. It's like a 1700 square foot increase in impervious coverage. It's a good amount so you don't want to have any problems for your property or your neighbors.

Mr. Schilp makes a motion to approve the application.

Mr. Duffy – Before we have a second let's make sure we have this correct.

One is you're going to remove the closets in the office so it's no longer considered a bedroom. That takes care of the parking issue. You have to have the roof drains directed to the interior of the property so they have no adverse impact to the neighbors.

Mr. Papparozzi – I think the engineer was asking for a seepage pit because of the increase in impervious coverage then the drainage can go into the seepage pit.

Mr. Cialone – He's asking for a grading and drainage plan.

Mr. Duffy – Provided by the Township engineer. There is a sanitary sewer easement the applicant shall mark it out and ensure there is no impact during construction. That's also part of the approval. We need updated plans showing the A/C units so you conform to the code where the placement is. Backwashing to the street.

Mr. Papparozzi – Those are the conditions and there are five variances.

Mr. Duffy – Yes and the five variances. Do we have a second?

Ms. Murray seconds the motion.

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

C.) Matthew Kelley, 101 Graham Terrace, Block 1508, Lot 11

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

Mr. Cialone confirms that the notice is in order and that they may proceed.

Russell Kelley is sworn in and gives his address as 22 Chelsea Drive in Saddle Brook.

Matthew Kelley is sworn in and gives his address as 43 Chelsea Drive in Saddle Brook.

Mr. Duffy – The reason you're here is the minimum corner yard.

Russell Kelley – That's correct.

Mr. Duffy – The code is 20 feet you have proposed 10 foot.

Russell Kelley – That is correct.

Mr. Duffy – Can you describe what is going on?

Russell Kelley – We started the project by filling out a zoning application. We submitted it to the Town and we have approval to build this home here. Mr. Ambrogio came out to do the inspection for the footings and said wait a minute I think we missed something because it's a corner lot. I have the utmost respect for Mr. Ambrogio and Ms. Kapner they are excellent at what they do. He asked us to come in and start another application that brings us up to date. I have a building permit with me that was submitted from the Township of Saddle Brook. I have the inspection sticker to go ahead and pour my footings from Mr. Ambrogio. What we did was we stopped all construction. The mason called me up today and said Russ it's such a beautiful day is there anything I can do over there. I said if you want to work you can come over you can run up the front porch that's it nothing else. I said we're hopefully getting a variance tonight

at the meeting. I come back around four o'clock four thirty and he started running up the sidewalls while we're seeking a variance so I told him you have to take it all down. I told him rip it out get it out. I can't do this you were told only the front porch. So he did he did what I asked he removed all the block and we're back to square one just the footing that Mr. Ambrogio approved and we're here tonight seeking a variance.

Mr. Cialone explains that there is another variance for the deficient side yard that is being exacerbated by the second floor addition.

Mr. Duffy – Did you hear that Mr. Kelley?

Russell Kelley – Not that well.

Mr. Cialone – On the west side of the house your addition is wrapping around to the west side and it's meeting the existing side of the house there opposite Burgess Drive there and that is deficient right now. The existing house is 7.79 feet you're supposed to have 10 feet there so the addition is also going to be in violation of the zoning ordinance. You are exacerbating that existing condition and you need a variance for minimum single side yard as well.

Matthew Kelley – The way that Mr. Ambrogio told us is that is a preexisting condition and we don't need a variance for that. I know for the side yard you need 30% so one side counts as 10 which our side 16 would count as the 10 side and then the other is the remainder so we would need six and a half feet is all we need on that side we don't need the seven. If you take 30% of 55 sixteen and a half I think and then you subtract the ten for the right side and the remainder is the other side if my memory is right.

Mr. Cialone – Mr. Ambrogio is showing that as a preexisting variance but you're exacerbating it.

Mr. Papparozzi – The attorney is absolutely correct.

Mr. Duffy – Do you understand our position? The preexisting condition is the house you're adding on to it so you're changing it.

Matthew Kelley – The plans we submitted the review letter I got says it's a preexisting condition on it.

Mr. Cialone – When you have a preexisting condition and you add to that preexisting condition you're exacerbating it and you need a variance.

Mr. Kelley and the Board are not in agreement on this issue but the Board explains that it would just be an additional variance if the application is approved and it could be included in tonight's decision.

Russell Kelley – When Mr. Ambrogio came out and inspected the footings that's when this all came about. Like I said I've been working in this Town for almost 45 years and I don't want to get on the wrong side of Mr. Ambrogio or any Board members so whatever needs to be done to make it correct we are here to do that.

Mr. Duffy – Okay.

Russell Kelley – Excuse me that shows also tonight when I went back and those guys ran up the block I made them take it all down.

Mr. Duffy – That upset me.

Russell Kelley – Oh you seen it.

Mr. Duffy – I went there at 3:45.

Russell Kelley – I got there about 4:15, 4:10.

Mr. Duffy – I saw the block went up and I'm like wait a minute they can't wait until we get through this thing tonight.

Russell Kelley – I think it upset me more than it upset you. I went nuts.

Mr. Duffy – I'm just going to ask this question for my own peace of mind. If I drive by there tomorrow.

Russell Kelley – We can ride there right now me and you. We actually took photos if you want to see.

Mr. Duffy – No actually I'll trust that.

Russell Kelley – Thank you I appreciate that.

Mr. Duffy – There's a few different plans where the shed is in the corner the shed is in the middle the macadam is gone and then the macadam is back. Which one are we working with?

Matthew Kelley – The shed is coming down.

Russell Kelley – The shed is gone.

Matthew Kelley – We were going to try and keep it but we started looking at it and it's a mess so it's coming down. The driveway used to be in the backyard of the house and now we're moving it to the front. You have the original survey and then the larger one is the proposed survey.

Mr. Duffy – So now you moved the driveway.

Matthew Kelley – It's moving to the front of the house.

Mr. Duffy – You're going to present plans for that I don't see it on here anywhere.

Matthew Kelley – It's on the front left.

Mr. Duffy – The larger drawing minus the shed.

Mr. Paparozzi – The shed on the existing survey and the proposed survey are two different sizes.

Mr. Kelley says there will be no shed.

Mr. Duffy – Do we have dimensions on the driveway?

Mr. Paparozzi – There was a sidewalk there the sidewalk is coming out?

Matthew Kelley – Yes.

Mr. Paparozzi – It scales roughly 25 x 20 so they have enough for two spaces which the requirement is 2.5 which is 2 so it does conform to parking.

Ms. Murray – The front porch from your drawing looks like its 5 feet.

Russell Kelley – Four foot one.

Matthew Kelley – It was supposed to be 5 and we scaled it back a little bit.

Ms. Murray – I don't have a scale that seems to match this one so it looks really narrow on the survey. I'm not exactly sure so I hope Mr. Paparozzi has the right dimensions.

Matthew Kelley – What's that the driveway?

Ms. Murray – Yes.

Matthew Kelley – The driveway is actually 22 and a half feet wide.

Mr. Paparozzi – Roughly if you count the porch now it's 20 x 20 which is still 2 spaces.

Ms. Murray – Most of my questions were around you already had the permit in the widow and you started digging foundations that were on the zoning plan which didn't make any sense why you would go ahead. My first question was what was the original work to be done?

Matthew Kelley – We had this whole thing approved. We paid for the permits we got the approvals we dug it and then Mr. Ambrogio came out and said wait a second I think you need a variance for this and then we said okay. We stopped and I met with him and he said I don't want the foundation to cave in on you so if you have to pour the concrete just pour it because this was three weeks ago. So we poured the concrete and then we stopped and started this process to get the variance.

Ms. Murray – My request would be to make sure the plans are updated with some more dimensions so the driveway is indicated and the porch depth is indicated and then of course if you do ever put up a shed which I don't know how you're not going to have someplace to put snow blowers and shovels and stuff like that but that's your own business.

Matthew Kelley – Stay within the setbacks. What is it five feet from both sides?

Ms. Murray – Or else it's a variance.

Mr. Mazzer – Is this going to be for resale?

Russell Kelley – Yes.

Mr. Schilp – The chain link fence that's in the front are you going to modify that?

Russell Kelley – That's gone.

Mr. Schilp – it still shows it on the drawing.

Russell Kelley – It was on the drawing and we just removed it two weeks ago.

Mr. Duffy – Can you repeat your answer to that question?

Russell Kelley – The chain link fence in the front is gone and they had a fence along the side of the property and that's gone too.

Mr. Duffy – is it going back up?

Russell Kelley – Along the back I guess it would be nice to put a fence up. We didn't give it much thought to be honest with you. We took down what had to come down for construction purposes.

Mr. Duffy – I don't know if that would require a variance.

Mr. Cialone – If the fence is in the front yard.

Russell Kelley – It would not come to the front yard it would be in the rear.

Ms. Nobile – As far as removing the driveway no sidewalk on either side now so there's no sidewalk on either side?

Matthew Kelley – You mean sidewalk going to the house?

Ms. Nobile – On Burgess. You have the driveway that you're removing.

Matthew Kelley – There's nothing going to the house no. There's a sidewalk going around the whole property but as far as going to the house there's going to be no sidewalk except for around the house.

Ms. Nobile – The driveway that you're removing.

Matthew Kelley – That's all going to be grass.

Ms. Nobile – Okay.

Mr. Kurus – Are you going to do a new curb there to close off the opening?

Matthew Kelley – Yeah.

Mr. Duffy – Any other questions from Mr. Paparozzi or Mr. Kurus?

Mr. Kurus – I think they just answered my question about the new curb to close off the driveway egress on Burgess so it doesn't look like a driveway anymore from the street. Then the other comment on our report had to do with drainage for the additional impervious coverage Cultec or a pit or something would be needed.

Matthew Kelley – We're not going over any of the lot coverage that's allowed. We're under the building coverage we're under the accessory coverage we're under the impervious coverage.

Mr. Kurus – It's about 900 square foot new so we have to deal with that runoff somehow so where are you putting it?

Russell Kelley – If we're just going down on to the ground as far as any seepage pits I mean the only thing I could say is it might hurt the neighbors because I see their sump pumps pumping out water all the time now. If I'm putting water back into the ground I think it's only going to hurt my neighbors. I think there's a possibility if you could to reconsider making us do that.

Mr. Kurus – Usually when it's over 500 square feet the recommendation is something on site with safe overflow to the ground. I don't think on site drainage will adversely impact your neighbors.

Russell Kelley – Their sump pumps are always running over there but if you tell me to put all that water.

Mr. Kurus – I'm saying deal with the increase I'm not saying store the entire property that's all.

Russell Kelley – What is the square footage you're basing it on?

Mr. Kurus – I think we estimated the new was 900 but once you have the final plan with all the dimensions we can determine it.

Matthew Kelley – Even if we're still under what's allowed by the Town? We're still under we're not getting a variance for any lot coverage.

Mr. Kurus – Yes.

Russell Kelley – Okay.

Mr. Duffy – You have increased the size of the building so that has an effect on the water.

Mr. Kurus – The idea is if everyone added 900 square feet to their property we would end up with an issue down the road so it's got to be dealt with on a site by site basis.

Russell Kelley – I have no problem doing it I'm just looking out for the neighbors because like I said I see their sump pumps running all the time and you're asking me to put more water back into that water table.

Mr. Kurus – You'll have to do oil tests to make sure that it perks and come up with a plan that works.

Russell Kelley – If that's your recommendation we'll abide by it.

Mr. Duffy – Mr. Kurus do you know if it's a flood zone?

Mr. Kurus – That area is not a flood zone. I know once you get closer to the Saddle River Road and the river you get into it. Is that your recollection as well?

Russell Kelley – It's not a flood zone if that's what you're asking.

Mr. Paparozzi – A seepage pit would work.

Mr. Kurus – Something shallow a shallow system you know.

Russell Kelley – I know exactly what you're referring to I just wanted to make sure because I don't mind doing it. I'll do it on your recommendation but I see our neighbors their sump pumps running with a little bit of rain that we get anyway if it's your recommendation we will do it.

Mr. Duffy – Anything else? Can we have a motion to open the 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 heard none.

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

Mr. Duffy – Nothing further from the Board.

No one says anything.

Mr. Schilp makes a motion to approve the application with some stipulations.

Mr. Duffy – Before we entertain a second let's run through the stipulations.

Mr. Duffy – The plans were not signed and sealed so final signed and sealed plans have to be provided to the Township Building Department. That will reflect the driveway the curb. The shed is to be removed. There's new curb to go in to replace the curb on Burgess well not replace put it back since the driveway is going to be moved to the front. How do you want to word the seepage pit Mr. Kurus can you give me a little direction on that?

Mr. Kurus – On site drainage to address the increase in impervious coverage and shown on the plans.

Mr. Duffy – This is two variances minimum corner yard and minimum single yard which will take care of the left side of the property with the extension. Anything else?

Mr. Cialone – Just to be clear the revised plans the Board wants the driveway and front porch dimensions.

Mr. Duffy – Yes.

Russell Kelley – Before you vote can I ask you something in regards to the fence. Can we put up a fence in that back yard?

Matthew Kelley – The way it was this property had a three foot fence around the whole front and then on the back it had a six foot fence. To get the trucks in and machines we took down the six foot fence. We'd like to put it in to close up the backyard.

Russell Kelley – The rear of the home not the front.

Mr. Duffy – If I remember correctly that fence came from the front of the house back and stopped at the driveway right.

Matthew Kelley – Yeah.

Mr. Duffy – It was six foot right?

Russell Kelley – Yeah six foot.

Mr. Duffy – So that section of the fence came from the front of the house.

Matthew Kelley – Actually from the back of the house.

Mr. Duffy – The back of the house. The chain link wrapped that one went from the back of the house and you want to replace it in the same spot. Before we have a second because this would require a variance we will include it in this.

Mr. Paparozzi – It would require a variance for a six foot fence because that's a front yard. You have two front yards there so if he wraps that around. You don't need one for the rear of the property but if it continues along Burgess to the house you would need a variance for a six foot fence unless you put a four foot fence.

Mr. Duffy – So what would you like to do?

Russell Kelley – A six foot fence to the rear of the home.

Mr. Duffy – To the rear of the home.

Russell Kelley – Correct.

Mr. Cialone – When you say the rear of the home you're talking along Burgess.

Russell Kelley – Burgess correct.

Mr. Cialone – So he is talking about in the front yard.

Mr. Duffy – It would start from the rear of the original home going back.

Matthew Kelley – The existing home yes.

Mr. Duffy – If it's a six foot fence this will cover you on the variance. If you want to do a six foot fence.

Matthew Kelley – That’s what we’d like to do yes. Actually the guy right across the way has the same thing so it wouldn’t look out of place or anything.

Mr. Cialone – It’s going to go from the rear of the existing home to the rear property line.

Mr. Paparozzi – Can I just make a suggestion Chairman the fence if it’s going from the rear of the existing home it’s going to be 12 feet into the building. If you want to tie it into the end of the building it should be to the rear of the new proposal right.

Matthew Kelley – We wanted to have a little area so they could put stuff there.

Mr. Paparozzi – Okay so then it’s the rear of the home okay.

Mr. Duffy – From where it originally sat going back. You’ll have to amend the plans to show that.

Russell Kelley – Sure.

Mr. Schilp – They’ll be a gate on that fence?

Matthew Kelley – Yes so the landscapers can get back there.

Mr. Schilp – Okay and in case the Fire Department needs to get back there.

Mr. Duffy – Anything else before I close shop?

Russell Kelley – That’s it.

Ms. Murray seconds the motion to approve.

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

The Board takes a five minute recess.

D.) IV3 74 Kenny Place, LLC, 74 Kenny Place (a/k/a 16 Kenny Pl.), Block 1008, Lot 3

Applicant requests to operate a warehouse and administrative offices with the addition of a manufacturing business that does not conform to the zoning ordinance for the Township of Saddle Brook, as it exists today.

Danielle Federico is the attorney representing the applicant and she comes forward.

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

Ms. Federico – This is with respect to a use variance application for the property located at 16 Kenny Place which is designated as Block 1008, Lot 3 on the Township tax maps. This property is commonly known as 74 Kenny Place I think all the signage says 74 Kenny Place but technically when I got the tax certification and the property record search it’s 16 Kenny Place so we put both in our notice. The property is located in a CH2 limited commercial zone and is presently developed with a one story warehouse building with ancillary administrative office space all to remain. The existing warehouse is a preexisting nonconforming use and will not be exacerbated by the proposed application before you tonight. We are seeking a use variance approval to utilize a portion of the existing warehouse for manufacturing use ancillary to the existing warehouse use. No site changes are proposed as part of this application. We are requesting a D1 use variance from the CH2 zone with respect to that proposed manufacturing use. We have as your attorney stated I did submit the affidavit and mailing and proof of publication and I have several witnesses for you tonight consisting of a tenant representative, our civil engineer and a professional planner. I also have a traffic engineer if necessary and unless there’s any questions for me I’d like to call my first witness.

The Board has no questions for Ms. Federico.

Ms. Federico – I would like to call my first witness which is a representative of the tenant which is a fact witness Mr. Michael Kurland.

Mr. Cialone swears in Michael Kurland and he gives his address as 400 Lyster Avenue in Saddle Brook.

Ms. Federico – Mr. Kurland you are the CFO and General Counsel of Chefler Foods is that correct?

Mr. Kurland – That’s correct.

Ms. Federico – You’re going to be the tenant at this property is that correct?

Mr. Kurland – That’s correct.

Ms. Federico – Can you describe for the Board what type of manufacturing use is proposed here?

Mr. Kurland – As the Board is familiar we're a condiments company mayonnaise, mustard, salad dressing, vegetable oils, vinegars and our intent is to use this property to reallocate some of the manufacturing we're currently doing at 400 Lyster and out it into this new building primarily that will consist of some blow molding.

Mr. Duffy asks what blow molding is.

Mr. Kurland – Right now we make bottles and they go up the conveyor and down and then they get filled. We would take one of those units and put it into the new building and we would also after the bottles are made we would fill them with the same vinegar that we're filling them currently at 400 Lyster Ave we would fill at this current space and we would also fill some mayonnaise and condiments as well. We would manufacture the products in the kitchen that we have at Lyster. We would just fill them and after they've been filled and packaged we would move them to the warehouse that we have in Elmwood Park.

Ms. Federico – Then from there all of these the vinegar and the mayonnaise and mustard that all gets distributed to food service retails and stores?

Mr. Kurland – Yeah so I would say still 90% of our business is being sold at the food service base so companies like Sysco, US Foods, Restaurant Depot. Then we have a growing 10% or hopefully more of the business goes into supermarket space. So in this building a lot of what we intend to make is going to Shoprite, Stew Leonard's, Stop and Shop a lot of the supermarkets you may be familiar with.

Ms. Federico – The anticipated hours of operation is generally 7:00 am to 8:00 pm is that correct?

Mr. Kurland – That's correct.

Ms. Federico – The maximum number of anticipated employees on any shift is 20 to 25 employees is that correct?

Mr. Kurland – That's correct.

Ms. Federico – I have no further questions for this witness.

Mr. Cialone – I'm sorry what were the hours of operation?

Mr. Kurland – It would be 7:00 am to 8:00 pm.

Mr. Cialone – How many days a week?

Mr. Kurland – I would say 5 days a week and then on a Saturday depending on demand we would run a half day probably 7:00 am to 3:00 pm roughly. That's obviously we're a factory so it depends on demand. This is all just what we expect.

Mr. Duffy – You're not moving all your operation.

Mr. Kurland – So right now it would be the blow moldings and some of the bottling and then vinegars and mayonnaise and maybe salad dressing but things that are not probably a smaller package size like you know those packets that you would get at Yankee Stadium or if you go to like a Ranger's or Devil's game and you see those packets. We have those machines and we don't run them every day but they take up space they draw electricity require staffing so we would just take some of these lines that aren't run every day but still need a shift allocated to them when they do run and we would have a lot of that free up the floor space in our current building and move to this other facility.

Mr. Duffy – Okay.

Mr. Schilp – You're going to make the plastic bottles where do you get the plastic materials to do that?

Mr. Kurland – Currently the plastic is coming in via rail car. It's coming in through like the same rail cars that are used for the other plastic companies up on that same spur. We could potentially do that but we also have the ability to get the plastic pellets to come in through like a wagon and it gets pumped into the facility or we could get what they call Gaylord Totes of them and you could run that way. Really it depends on what's available and what the site allows us to do. Once we live in it we'll learn more and figure out what we can and can't do.

Mr. Schilp – That's all.

Mr. Paparozzi – Just one quick question on the site inspection. There were about fourteen 55 gallon drums in the rear of the building that were marked hazardous can you explain?

Ms. Federico – I can address that I did speak to the client when I noticed that in the report. I was informed they were not hazardous. Either way I was told that they were from their adjacent site at 106 Kenny. They do have a cleanup ongoing on that site with an LSRP and I was told they were storing a non-hazardous

material on this site. Regardless I informed them that it can't continue. I was told that it was I believe on Thursday when we had our call everything they told that property to remove everything from our site and it won't continue.

Mr. Paparozzi – It was marked hazardous that's why I said that. I don't know what it was I didn't open it.

Ms. Federico – I had one of the client's representatives when they went there were barrels that said non-hazardous either way they're gone.

Mr. Paparozzi – Thank you that's all I had Chairman.

Mr. Duffy – What were they in barrels?

Mr. Paparozzi – Yeah 55 gallon drums. There was I counted 14 on my site inspection. I don't know where they were from or if it was going to continue that's why I brought it up to make sure they're off they're not coming back.

Mr. Duffy – What were they marked?

Mr. Paparozzi – It just said hazardous I didn't read all the writing I didn't want to get that close.

Ms. Nobile – You are a tenant correct?

Mr. Kurland – Correct.

Ms. Nobile – How long is your lease?

Mr. Kurland – For this new property?

Ms. Nobile – Yes.

Mr. Kurland – I think we were contemplating a ten year lease I don't have the terms memorized it's been a while so it would be a long term lease with some options to renew so our intention is to not make this a short term arrangement. This would be a long term commitment.

Ms. Nobile – So you're in a ten year right now.

Mr. Kurland – Well current at 400 Lyster that lease expires in 2029 with two five year renewals that we have every intention of exercising. We're committed to that site for an extended period of time. This site with Kenny I think is also contemplating a long term ten year lease as well.

Ms. Federico – I can also speak on that I don't do transactions so I don't know what's in the lease but I know that some of what was holding up the lease negotiations was them wanting to get through this process so all of that is going to be taken care of subsequent.

Ms. Nobile – So there's not a final lease just yet.

Mr. Kurland – No there's not we would not have entered into a lease that wasn't zoned correctly.

Mr. Duffy – On the plans it says 6,000 square feet for manufacturing.

Ms. Federico – Correct and I have civil engineer and architect here who will go through that.

Mr. Duffy – I was actually more towards Mr. Kurland at the moment. Do you have any anticipation of expanding on that?

Mr. Kurland – Yeah I haven't seen that before so I don't want to be limited to 6,000 square feet. We want to use as much of the space as we can for the manufacturing because we have a warehouse so we don't need additional warehousing. What we need to do is produce this get it out of the building put it into our warehouse. I don't want to have an agreement that limits us to 6,000 square feet and only 6,000 square feet.

Mr. Duffy – So are you only here for the 6,000 or for the whole property?

Mr. Kurland – We're taking the whole property.

Mr. Duffy – Okay just that your manufacturing that we talked about is relegated to that 6,000 right now.

Mr. Kurland – I guess that's where they put us I haven't seen this before so I apologize.

Mr. Paparozzi – If the applicant is going to go over 6,000 it affects the parking.

Mr. Duffy – Yes.

Ms. Federico – Their use really operates they have the office warehouse and manufacturing it kind of all operates together. We do have a civil engineer and planner and traffic engineer as well who kind of testified about the existing parking but if the Board would be so inclined if we could have it over the entire property we would prefer that but this is what we had proposed as is.

Mr. Duffy – Okay.

Mr. Kurland – The actual manufacturing of the product when I think of manufacturing I think it's actually the creation of the product which is different than the packing out of the product. That's a distinction that I make it may not be one that the code makes. We're making the product at the other building.

Mr. Duffy – Right I'm looking at when I see manufacturing to me is not just your product but the components of the product so that you're packaging the assembly.

Mr. Kurland – Right so the assembly line y I don't know that it's going to only be in 6,000 square feet and quite frankly we have to separate lines for certain reasons just for cross contamination cleanliness of their space reasons why we may need to separate things out more than just that 6,000 square feet but we haven't been in the building in a while so if that's the plan that my engineer said is the one we should go with and that's what's reflected here then I have to concede it if that's what we're going with. If we have to change it we'll have to come back and revisit it. I don't want that to hold up the approval process because we do need to figure out if we're going to be moving into this space or not.

Mr. Duffy – Right and it's predicated on how you grow and how the demand is. I'm just looking at it saying big space in there and you're only taking a corner. Manufacturing is in the corner I'm just curious about everything else.

Mr. Kurland – I mean that would be where if we were going to be finishing a blend of vinegar which comes in at a hundred and fifty grain and we dilute it with water and have a mix tank to accomplish that would it would be easily done in 6,000 square feet but down the line from that where it's going to get piped in through a filler and put into bottles that would be an assembly line and would require the filler to drop in and that may extend over by some degree I don't know.

Mr. Schilp – There's give or take 140,000 square feet right.

Mr. Kurland – It should be a lot less than that.

Ms. Federico – For the whole space?

Mr. Schilp – Yeah.

Ms. Federico – I have 55,117.

Mr. Schilp – I'm sorry that's the lot size. Would you say you would use 50% of it for manufacturing rather than going down to well we're going to take 6,000 square feet and that's what you get.

Mr. Kurland – If you could approve to give us half of it for manufacturing that would be ideal for us yeah. Anytime the Board is willing to allow us to have the most options.

Mr. Schilp – We don't want to see you turn around and come back here in two months and say I need another 20,000.

Mr. Kurland – I don't want to come back here either.

Ms. Federico – If the Board is so inclined we'd like to amend our application to now have the use be 50% manufacturing use. Our planner as well as our civil and traffic engineer if needed and our architect can testify to that.

Mr. Schilp – It makes sense because the way he's talking is its small let's just do it right the first time and not have to come back.

Mr. Duffy – The Board will accept the amendment.

Ms. Federico – Thank you.

Mr. Duffy – Fifty percent of the.

Mr. Kurland – Yeah if we took up 50% of the available space that's not office space sure.

Mr. Duffy – Very good stipulation because I would have said not counting 50% of the office space. I'm sorry the office space is part of the 50%.

Mr. Kurland – Sure that's a fair that gives us room to grow I appreciate that.

Mr. Duffy – Fifty percent of the warehouse not including the square footage of the office space.

Mr. Papparozzi – I have a small parking variance anyway so I think we just incorporate that with the new application. There are certain reasons I think I'm not sure if I talked to the engineer or the architect about the parking so there was going to be a small parking variance anyway. I don't know the number but it's going to be a parking variance.

There are no further questions for Mr. Kurland.

Mr. Duffy – Can we have a motion to open for this witness?

Ms. Murray makes a motion seconded by Mr. Schilp to open to the public. All in favor – YES.
Mr. Duffy – Having heard none.
Ms. Murray makes a motion seconded by Mr. Schilp to close to the public. All in favor – YES.
Ms. Federico – I would like to call the architect Mr. Robert Nocella.
Mr. Cialone swears in Robert Nocella and he gives his address as 1 Paradigm Drive, Suite 250, Montvale, New Jersey 07645.
Mr. Nocella gives his credentials and the Board accepts him as a witness.
Mr. Nocella – Are you familiar with the site and the proposed use application?
Mr. Nocella – Yes.
Ms. Federico – You prepared the architectural plan for this application?
Mr. Nocella – That’s correct.
Ms. Federico – You heard the modification that was proposed by the tenant and the Board.
Mr. Nocella – Yes.
Ms. Federico – Can you walk through the Board what is being proposed by this application?
Mr. Nocella – Sure in the lower right hand corner of the plan the light grey shaded area that’s a 3,300 square foot office space that’ll have offices, break room and toilet facilities for both the office and warehouse employees. The light area that’s all white that was the proposed warehouse space that’s currently a warehouse. The dark grey in the upper right hand corner was the 6,000 square foot of manufacturing that was proposed. Now just roughly calculating that’s probably going to be about 25,800 for warehouse 25,800 for assembly ballpark I’m sorry manufacturing.
Ms. Federico – You reviewed the reports that were part of this application.
Mr. Nocella – Yes.
Ms. Federico – Did you take any issue with any of the items architecturally related?
Mr. Nocella – No.
Ms. Federico – I have no further questions for this witness.
Mr. Duffy – Do any of the Board members have any questions?
Mr. Mazzer – What was in this building before?
Mr. Nocella – I’m not aware of its prior occupant and the prior tenant I know was just a warehouse and office facility.
Mr. Mazzer – Are the utilities going to be sufficient? The sewers going to be big enough, the water main big enough whatever air conditioning?
Mr. Nocella – I believe the tenant had walked through it with the ownership and they’re satisfied with the current setup for utilities and demands.
Mr. Mazzer – Does anybody know what was there?
Ms. Federico – I do I believe it was a subtenant of Staples called Arrow Pac and I think they did office supplies and I think they have a larger operation.
Mr. Duffy – Was it more like a fulfillment center?
Ms. Federico – That I’m not sure.
Mr. Schilp – It was a warehouse. Is this your drawing?
Mr. Nocella – That’s the engineer’s.
Mr. Schilp – I have a question for him because some of the numbers don’t add up.
Ms. Nobile – Is there going to be any exterior improvements or just going to be painting?
Mr. Nocella – For the exterior?
Ms. Nobile – Yes.
Mr. Nocella – The exterior is going to be repainted. There’s some truck dock repairs that are going on there were drawings submitted to the Building Department for general building upgrades and renovations which is included. Repairing any damaged truck docks and upgrading toilet rooms and things like that.
Ms. Federico – That is a separate permit application this was just for the use variance they do have a separate permit application for some site improvements which our civil engineer can also touch on.
Ms. Nobile – Okay.
Ms. Murray – Is this a completely new office layout?

Mr. Nocella – Yeah it was a two story again as I mentioned before the project in front of the Building Department in terms of renovating the building the upstairs was basically vacated as an office space because the market didn't need such a large office space so that was renovated again the toilet rooms and break rooms are being redone and upgraded to modern efficiency.

Ms. Murray – Okay thank you.

Mr. Schilp – You use the same numbers as on the other sheet. You take 6,000 square feet for manufacturing, 45,586 for the warehouse, 3,304 for the offices it comes out to be 54,890 and you're saying the place has 55,117 so we're off by 700 square feet.

Mr. Nocella – The civil engineer measures so his 55,117 is the complete footprint of the building.

Mr. Schilp – With the walls.

Mr. Nocella – Right with the walls. Architects tend to measure useable square footage for the project so that's the interior. That 54,890 would be the inside square footage. I'm assuming we'll be submitting plans to show the fifty fifty split so we'll make sure we give our numbers together.

Mr. Duffy – Mr. Mazzer could we revisit your question was it answered?

Mr. Mazzer – There's a warehouse in the building and now you're going to manufacturing. There's going to be a lot more bathrooms probably a lot more people sewers have to be bigger. The water probably there's a water line coming in here for a warehouse and a couple of bathrooms and that's it.

Mr. Nocella – I can't speak to the amount of water utilities for the manufacturing aspect of it in terms of equipment that may be used but in terms of toilets and capacities and plumbing for sanitary there's actually less office space. I believe the proposed occupants is like 28 people per shift.

Mr. Duffy – The plan said 25.

Ms. Federico – Twenty to twenty five max per shift.

Mr. Nocella – Yeah so the number of toilets is more than adequate for that number of people and I believe that's actually fewer than what had been there previously.

Ms. Federico – I just want to make sure it's clear on the record. That shift count was for the entire warehouse. It was manufacturing, warehouse use and ancillary office all in one.

Mr. Kurus – The 6,000 square feet wasn't a significant amount. With the 50% I think we will want to see some sort of calculations from the engineer on sewer generation once it's determined what the manufacturing's going to consist of just to see what those projected flows are and some sort of verification that the utilities are adequate. That would need to get done.

Ms. Federico – If the Board were so inclined to approve this application we would agree as a condition of approval to work with the Board Engineer and provide those documents.

Mr. Duffy – Okay.

Mr. Paparozzi – There is no odor filtration shown on here. I'm assuming the other site has that. I think he said there was an odor from vinegar and some of the other stuff that was made. Is there a proposal here and how is it being vented? You don't show it I don't see anything and I think maybe that should be addressed.

Mr. Nocella – We have not prepared any detailed construction drawings for this particular tenant but I would imagine I don't want to speak for but would they agree to.

Mr. Kurland is asked to come back up to answer the question.

Ms. Federico – Mr. Kurland you heard the question from the Board Planner regarding venting in your existing space do you propose any venting here.

Mr. Kurland – No we don't have any plans currently because again we haven't even signed a lease yet. In our current space we have rooftop units that filter and vent things like that.

Ms. Federico – If it's something that's needed here would you agree as a condition of approval to work with the Board Engineer and provide those on the floor plans?

Mr. Kurland – Yeah.

Mr. Paparozzi – Good enough.

Mr. Duffy – Thank you.

Mr. Duffy – Any other questions for the architect? In that case can I have a motion to open to the public?

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

Mr. Duffy – Having heard none.

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

Ms. Federico – I'd like to call my next witness our civil engineer Mr. Ben

Mr. Cialone swears in Benjamin Mitsmenn and he gives his address as 301 Carnegie Center Boulevard, Suite 202, Princeton, New Jersey.

Mr. Mitsmenn gives his credentials and is accepted as a witness.

Ms. Federico – You're familiar with the site and the proposed use application.

Mr. Mitsmenn – Yes.

Ms. Federico – You prepared the site plan that was submitted with this application.

Mr. Mitsmenn – Yes.

Ms. Federico – Can you describe for the Board the existing nonconformities and also detail if we're changing or exacerbating any of these.

Mr. Mitsmenn – As previously mentioned the existing warehouse use is a preexisting nonconforming use. There's some existing nonconformities with respect to the front yard setback as required is 30 feet where there is 17.8 feet. The maximum lot coverage is 25% permitted and 83% is existing and proposed. Then the parking ratio which was discussed earlier which would need to be recalculated based on the manufacturing use and would be provided on subsequent plan. There's no site improvements as part of this application so there's no intent to change any of those existing nonconformities.

Ms. Federico – Prior to this hearing you had a conversation with the Board professionals is that correct?

Mr. Mitsmenn – Correct.

Ms. Federico – You went through the reports.

Mr. Mitsmenn – Yes.

Ms. Federico – Can you walk through some of those items that need to be addressed and do you take issue with any of the items mentioned in the reports?

Mr. Mitsmenn – Overall we don't take issue with the items in the reports. There were some comments in regard to the parking which again we will provide on the plan and we're asking for relief from that. In regard to the 55 gallon drums I think that was one of the other bigger items and that's been discussed already.

Ms. Federico – One of the comments I see in the reports also mentioned about restriping. Is that already being handled as part of the permit application?

Mr. Mitsmenn – Yes.

Ms. Federico – I have no further questions for this witness.

Mr. Mazzer – What's with that square up in the corner that angle? The piece of property is a square piece is there a reason why they did that?

Mr. Mitsmenn – I'm not sure it's an existing condition.

Ms. Federico – We're not changing that is that correct?

Mr. Mitsmenn – There's no proposed change to that as part of the application.

Mr. Mazzer – Parking is in there and some of your planters and utilities in there and it just I thought maybe you would know. Can they just square that off?

Ms. Federico – I think it's the public right of way. Our traffic engineer could comment on that. I think there was a suggestion that maybe something moved with the road. I don't know so I can't provide any detail on that but it is.

Mr. Paparozzi – That's the deed Mr. Mazzer. The deed of the property goes like that so that's how it was transferred I don't know how long but whenever it was created it was created for a reason maybe there was going to be some sort of like cul-de-sac or something there before they extended the road but that's the description of the property.

Mr. Mazzer – Does that affect the spaces there?

Mr. Paparozzi – I think I talked to the engineer that those spaces should not be shown because they're on the Township property. That's one of my issues on my report and obviously the parking is going to be recalculated and there is a variance. I had one anyway I think but now it's going to be a little bit greater but I don't think it creates a negative impact.

Ms. Federico – We weren't proposing any parking those are all existing parking spaces they're just existing and we weren't proposing to make any changes to those.

Mr. Paparozzi – Yeah but you can't grandfather in a violation so they have to be either removed or not included in your count.

Mr. Mitsmenn – Okay.

Mr. Paparozzi – Also Chairman while I'm still going I needed a dumpster for garbage and recycling shown on the plan someplace. That would eliminate some more parking but it also needs to be shown. Manufacturing is going to create some office is going to create some the warehouse is going to create some recycling so at least one dumpster for refuse and one for recycling needs to be shown someplace on the plan when the revision is done. Additionally on the southwest corner of the building there are four parking spaces. They look like trailer parking spaces. They are parked parallel with the rear of the building. There's a bay over there they're blocking a bay door. I don't know if that bay door is going to be maybe I should have asked the architect if it was going to be discontinued or if it's in use those parking spaces need to be eliminated as well. There are some interior things that need to be cleaned up. Basically my report and just that I'm not sure if the engineer knows if he remembers it I just want to show it to you there's a bay here.

Ms. Federico – You can address that.

Mr. Mitsmenn – As we had mentioned as part of the permit application going in for some restriping and that takes care of that area. We've kind of moved some of the parking around so that area is now accessible not blocked by those parking stalls.

Mr. Paparozzi – So those spaces will be gone.

Mr. Mitsmenn – Correct.

Mr. Paparozzi – Then obviously there was going to be a parking variance anyway somewhere along the line between the dumpsters, those spaces, the spaces in the Township. I thought I had that listed only because of that.

Mr. Cialone – Mr. Paparozzi you would need a revised site plan showing the proposed parking to calculate the requirement.

Mr. Paparozzi – Yes. The engineer will show them the revised numbers and just show the dumpster and get rid of the parking that's not supposed to be there and so forth. That is all I have for the engineer.

Ms. Murray – I wasn't sure if they were going to use one of the bay doors for a compactor because a lot of times warehouse companies they take that one bay door in the back and use it for compactors and things like that. It's going to be my guess marked on the plans if they want to use any one of those doors for any kind of compactor or garbage.

Mr. Duffy – With regards to the parking will there be truck parking?

Mr. Mitsmenn – Yes there are some trailer space parking.

Mr. Duffy – Overnight?

Mr. Mitsmenn – Operationally I'm not sure but that's something that we can confirm as part of the subsequent submission of the plans.

Mr. Kurland comes back up to answer the question.

Mr. Kurland – The intention is to have overnight truck parking. We had overnight truck parking previously permitted in the back of our building for ten spots. We want to shift as many of those as we can out of the back of our current building and put them here. There will be overnight parking. There won't be overnight refrigerated parking so you're not going to have a reefer unit on all night. We will have trailers parked there and maybe some tractors. The vast majority of our parking still happens in this new warehouse we have in Elmwood Park but for purposes of this facility we want to have all of the straight jobs that we had originally planned to put behind the 400 Lyster property parked here if the spots are available for that.

Mr. Duffy – That is something I would definitely want to see on the site plan. It's been our ongoing saga and so to and I believe this might help to solve that issue.

Mr. Kurland – While I'm on the record I do want to say even though we don't have this site if you were to go to the back lot now there is not truck parking happening now because we have been trying our best

to avoid that as much as possible. That's been the case for the past two or three months but this would be a big help.

Mr. Duffy – That's fairly obvious but we need to see this presented.

Mr. Paparozzi – On the site plan the overnight parking should be shown. It should be shown to the rear of the building if at all possible.

Ms. Federico – We'll have our civil engineer revise the plans to reflect that.

Mr. Duffy – Okay. I don't have anything further anybody else?

There were no other questions from the Board.

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. Federico asks if the Board would like to hear from the traffic engineer.

The Board would like to hear from him.

Ms. Federico calls up Matthew Seckler and he is sworn in by Mr. Cialone. He gives his address as 92 Park Avenue, Rutherford, New Jersey.

Mr. Seckler gives his credentials to the Board and they accept him as a witness.

Ms. Federico – You are familiar with the site and the proposed application.

Mr. Seckler – Yes.

Ms. Federico – You heard the testimony and the amendment to the application as far as the manufacturing use.

Mr. Seckler – Yes.

Ms. Federico – Can you give the Board your professional opinion as far as the traffic being proposed and what impact it may have if any?

Mr. Seckler – Typically when you deal with these type of uses manufacturing type uses there's a wide range of the type of traffic that can be generated. A lot of times it comes down to user specific operations. You can have a very heavy labor intensive truck intensive type of use or you can have one that can be more warehouse type use or more automated type use. I think when you hear the testimony provided in the number of employees on the busiest shift being in the 25 range counting for the entire building you can see that it will not be something that will significantly change the level of service or impact nearby intersections. Obviously, this is not a site that was a vacant farm and has been that way for years. This has generated traffic over time and the site has been designed in terms of the drive aisles the circulation on site can accommodate passenger cars and larger tractor trailer type of vehicles so I don't see any issue from an onsite circulation standpoint and again in terms of parking not only have you heard the testimony provided but typically when we look at sites like this manufacturing sites typically end up between one parking space for every 1,000 or one parking space for every 2,000 square feet somewhere in that range. As sites become more and more automated we've kind of seen that parking ratio slide to be less intensive versus some older ordinances or older standards that may have been very labor intensive.

Ms. Federico – So in your professional opinion is there sufficient parking for the proposed use?

Mr. Seckler – Yes there is.

Ms. Federico – I have no further questions for this witness.

Mr. Mazzer – Are you going to put any electric vehicle parking?

Ms. Federico – I don't think any were proposed by this application at this time.

Mr. Seckler – We are exempt from it but obviously if they end up with workers that have electric vehicles I imagine it would be an incentive for them to install it.

Mr. Schilp – These two rectangles what are they?

Mr. Seckler – They are two concrete pads I assume was covering up something back in the day but it's underground and you can drive right over it nothing above elevation.

Mr. Duffy – Motion to open to the public.

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

Mr. Duffy – Having heard none.

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

Ms. Federico – I'd like to call my professional planner Ms. Kate Keller.

Kate Keller comes forward and is sworn in by Mr. Cialone. She gives her address as 70 Hudson Street, Suite 5B, Hoboken, New Jersey.

Ms. Keller gives her credentials and the Board accepts her as a witness.

Ms. Federico – You're familiar with the site and the proposed use?

Ms. Keller – Yes I am.

Ms. Federico – You heard the testimony the tenant representative, the architect, the engineer, the traffic engineer and you heard the comments from the Board as well as the amendment being proposed with respect to the manufacturing use.

Ms. Keller – Yes I have.

Ms. Federico – Can you give the Board your testimony and opinions with respect to the site and the proposed use and the variance being requested?

Ms. Keller – Sure. We're here tonight for a D1 use variance and what we have here is a site that's been existing for a number of years as it was mentioned previously this is a preexisting nonconforming use. At the time this was initially constructed warehouses were among the permitted uses in this zone. As of right now neither warehouse nor manufacturing is permitted and so tonight you've heard I think that the Board and professionals have raised excellent points about some of the operations of this site and I think that the testimony that's been provided tonight shows that this really is a local tenant that's coming in here to take a site that is existing and that is kind of might typically be less than desirable. It doesn't have a lot of frontage it's not located on a major highway you would normally want for a warehouse. This is a tenant that has a presence in the Township that has been successful and in this way they are proposing to move some of their operations onto this site really be a better neighbor to everybody that surrounds them and take advantage of the fact that this site is in a location that's ideal for what is being proposed here. It's surrounded by commercial properties it's bounded by the railroad tracks and I think in general all of those things speak to the first point of what we look at when we look to evaluate the D1 use variance which is the particular suitability of this site for the proposed use. Of course variances aren't mandated to one specific tenant but because tonight you do have the tenant here and we have been provided with a good overview of the operations I think that sets forward what is going to be proposed here. In terms of the special reasons for the advancement of these variances I think that this is really something that promotes the economic development of the Township and promotes the general welfare. This is a site that has been existing to which minimal changes are proposed. To address briefly and I think that all of this kind of goes into the operations is the potential parking variance I know we don't have numbers in front of us but because we are changing the use and because of the excellent points that were raised due to the quirk in the property line as well as the necessity for potentially a dumpster enclosure we do require a parking variance and I think that that also the rationale for that is because of the scope of what's being proposed here I think that the parking on the site is more than sufficient for what is being proposed. You've heard testimony as to the number of employees per shift how the operations will function and the operator will have full control over who and where and how the site is parked. I think even taking into account those site plan changes that the applicant will be making in order to make the site function better the requested parking variance really represents a better planning alternative than if more spaces were provided on a site that was tighter or did not function with better circulation. In terms of the negative criteria we have to show that the granting of the use variance would not result in a substantial detriment to the public good and it would not substantially impair the intent and purpose of the Master Plan Zoning Ordinance. So I think in terms of the first prong the tenant has demonstrated they intend to use this site to accommodate their operations in a place that really makes sense because of how it's located and that there would be upgrades to the site in terms of the architecture as well as some of the changes that we're proposing for loading and trash collection etcetera. I think that overall this represents a good use of this site in what was historically an industrial area. Now the zoning is no longer technically industrial but it has remained similar in its use as a warehouse and distribution center. I think that that also speaks to the impairment of the Master Plan and Zoning Ordinance and that which I do not see there would be a

substantial impairment. Again this is a site that has been in operation for various uses and is proposing to continue using it in a manner that would promote economic development of the Township and keep a site functional that otherwise may not be able to meet the underlying zoning which is office because this is a site that doesn't necessarily have frontage doesn't have visibility so the industrial use remains appropriate in my opinion. Bottom line I don't see any significant negative impact on the neighboring properties. I don't see any negative impact on the Township or the Zone Plan or Zoning Ordinance and I think that the D1 variance and the associated C variances can all be granted with the modifications that have been suggested tonight.

Ms. Federico – I have no further questions for this witness.

Mr. Pappozzi – I agree with the planner I think the site is well suited for it. It's a dead end it's bounded by commercial and the railroad and I think right now the building is empty.

Ms. Federico – Yes.

Mr. Pappozzi – Right so now you have a tenant where you had a vacant piece of property and if you want to approve a manufacturing warehouse I believe this would be the area that you would do it. There would be no residents there to oppose any truck traffic or any odor that may come out or any other issues that are at the previous site that Chefler Foods is operating at.

There were no questions from the Board for the planner.

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

Mr. Duffy – Having heard none.

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

Ms. Federico – That concludes our testimony. I have no further witnesses and I would just like to thank the Board for their time and consideration. I believe the testimony presented here tonight supports the application as amended and that the criteria for the variances has been satisfied therefore I would respectfully request you approve the application.

Mr. Schilp – The building has no signs on it whatsoever are there plans on putting signs on the building in the street on the sides etcetera? We have a sign ordinance in Town I don't want to see them have to come back for signs.

Ms. Federico – None are proposed as part of this application but in the event they don't comply we would just come back for a variance for those but I would assume the intent is to comply with the ordinance as far as the signage goes.

Mr. Pappozzi – There is an existing ID sign in front of the building so if they hold the same it's preexisting no matter how it's done.

Mr. Duffy – Can we have a motion to open the meeting to the public?

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

Mr. Duffy – Having heard none.

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

Mr. Cialone – There's a D1 use variance here so in terms of the positive criteria the planner testified the applicant has to show special reasons for the use variance as well as the site being suitable. One thing I wanted to bring up for the Board to consider. They're asking for a D variance for manufacturing but does the Board want to be specific as to the type of manufacturing in other words specifically manufacturing condiments and ancillary uses with that as opposed to just a blanket manufacturing use variance.

Mr. Duffy – I understand that it's like essential use it is very broad. In your thought process keep that in consideration that we would specify the manufacturing.

Ms. Federico – If I may if it helps the Board I think anything that the Board may be concerned with that is a more intense use would already trigger other variances as well as parking. I don't think we need to limit it in that way because I think if they go to apply to the Building Department for a permit and they're a more intense use the Building Department is going to kick it here. We'd like to obviously as the applicant is the owner we'd like to keep it broader with the understanding that if there's a more intense manufacturing use and it goes to the Building Department they're going to kick it here. This similar type of manufacturing use in the event that this tenant falls through or another tenant comes in the future we'd

like to keep it as broad as possible so that these type of innocuous manufacturing uses could get in there without having to come back if the Board is so inclined.

Mr. Duffy – Mr. Paparozzi I'd be interested in your opinion.

Mr. Paparozzi – I don't think the manufacturing even if it's nuts and bolts is not going to create any other different type of negative impact. I think it would almost run the same as what is proposed. I was just trying to figure out some manufacturing that might have an adverse effect but I'm drawing a blank so I don't know if the attorney had something in mind but anything that's being manufactured I think would fall under the same realm and I think the Board would be safe with the explanation of the attorney unless it was very egregious then Mr. Ambrogio would kick it back to the Zoning Board or if the manufacturing was to turn over 100% of the building obviously then there'd be a parking variance as well and an expansion of a nonconforming use so it would also be kicked back. I think the Board is pretty much protected to a point where they could be satisfied with the 50%.

Mr. Duffy – Then we're in agreement then.

Ms. Federico – Thank you.

Mr. Duffy – There's no other questions or concerns.

Mr. Paparozzi – I think their condition that the site plan be revised to show the new parking layout, the dumpster area, remove the parking on Township property and those issues that were brought up during the hearing I think that it effects only the site plan.

Ms. Federico – I believe it's coordination between the architect's plans and the engineering plans as far as the square footage.

Mr. Duffy – The question I have before I entertain any motions have your questions been answered is there anything that we would require further?

There are no questions from the Board.

Mr. Schilp makes a motion to approve the application with the stipulations about parking, dumpsters, square footage and I think you had something else in there.

Mr. Duffy – Before we entertain a second let's walk through exactly what we need because this is an approval on a use variance and there's an additional parking variance so we can put them both together.

Mr. Cialone – We can't specify the number of spaces so I would recommend making it subject to the planner's reasonable approval as to the number of spaces they're going to be providing and then the variance.

Mr. Duffy – So the use variance is no longer based we amended that it's not based on 6,000 square feet it's based on 50% of the interior square footage minus the office which was roughly 25,000 square feet but that will be specifically determined. The parking variance the numbers would have to be recalculated and showing obviously where the trucks are going to be parked so we would know specifically where the trucks are parked and how many.

Mr. Paparozzi – The overnight parking.

Mr. Duffy – What were some of the other details?

Mr. Cialone – There was a question about the utilities specifically the needs of the electrical service as well as the outflow from the sewer that the engineer asked for. Mr. Kurland testified that they will provide a ventilation system as needed for their manufacturing. Dumpsters for refuse and recycling to be shown on the plans.

Mr. Duffy – One for each one refuse and one recycle.

Mr. Paparozzi – Yeah you can't comingle anyway. Two would be sufficient obviously the owner would have to address that if it's not either you have to add a dumpster or you have to have more frequent pickup. That would just be property maintenance then.

Mr. Cialone – Showing the overnight parking spaces on the plans, removing the parking spaces on the Township's property and then we have amending the plans to show the revised square footage for manufacturing and warehouse. That's all I have.

Mr. Paparozzi – They have to remove the four spaces in the back by the loading bay.

Mr. Cialone – Right because they are impeding that loading bay in the southwest corner.

Mr. Duffy – Are we good?

Mr. Cialone – That’s all I have.
Mr. Duffy – Do we have a second?
Ms. Murray seconds the motion to approve the application.
Roll call - Ms. Murray, Mr. Mazzer, Mr. Schilp, Mr. Burbano, Mr. Manzo, Ms. Nobile and Mr. Duffy – YES.

6. RESOLUTIONS

- A.) Approval for Villanueva, 106 Jamros Terrace, Block 1203, Lot 17
- B.) Approval for Chefler Foods, LLC, 400 Lyster Avenue, Block 1009, Lot 9

Mr. Schilp makes a motion seconded by Ms. Murray to approve the resolutions.
Roll call - Ms. Murray, Mr. Schilp, Mr. Burbano, Mr. Manzo, Ms. Nobile and Mr. Duffy – YES.

7. MINUTES

Meeting of February 5, 2024 Regular Meeting

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

8. COMMUNICATIONS

Anthony Kurus to the Zoning Board of Adjustment, 10/30/23 (53 Jamros Terrace)
Anthony Kurus to the Zoning Board of Adjustment, 1/09/24 (53 Jamros Terrace)
Anthony Kurus to the Zoning Board of Adjustment, 1/25/24 (53 Jamros Terrace)
Anthony Kurus to the Zoning Board of Adjustment, 2/22/24 (74 Kenny Place)
Anthony Kurus to the Zoning Board of Adjustment, 2/23/24 (101 Graham Terrace)
John L. Schettino to Lawrence Calli, Esq. 2/06/24 (re: Ready Spaces)
Richard J. Kapner, Esq. to the Zoning Board of Adjustment 2/07/24 (re: 249 Route 46)
Richard J. Kapner, Esq. to the Zoning Board of Adjustment 2/22/24 (re: 249 Route 46)

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

9. VOUCHERS

Basile Birchwale & Pellino, 2/07/24, Inhale Industries, 249 Route 46, Block 120, Lot 5 \$187.50
Basile Birchwale & Pellino, 2/14/24, Villanueva, 106 Jamros Terrace, Block 1203, Lot 17 \$312.50
Neglia Engineering Assoc., 2/13/24, Deugen Development, 210 Rt. 46, Block 105, Lots 2&3 \$2092.50
Neglia Engineering Assoc., 2/13/24, Janelle Badia, 53 Jamros Terrace, Block 1302, Lot 7 \$350
Neglia Engineering Assoc., 2/13/24, EPIC-IC, 224 Midland Avenue, Block 101, Lot 5 \$307.50

*** The following vouchers were added on 2/27/24.**

- * Basile Birchwale & Pellino, 2/26/24, Inhale Industries, 249 Route 46, Block 120, Lot 5 \$56.25
- * Basile Birchwale & Pellino, 2/26/24, Chefler Foods, 400 Lyster Avenue, Block 1009, Lot 9 \$406.25
- * Basile Birchwale & Pellino, 2/26/24, Ready Spaces, 575 N. Midland Ave., Blk 1701, Lot 1.02 \$312.50

**** The following voucher was added on 3/04/24.**

- ** Paparozzi Associates Inc., 2/29/23, IV3 74 Kenny Place, 74 Kenny Pl., Block 1008, Lot 3 \$712.50

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

10. OPEN AND CLOSE MEETING TO THE PUBLIC

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

Mr. Duffy – Having heard none.

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

11. ADJOURN

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

Meeting adjourned at 9:30 pm.

Respectfully submitted,

Frank Barrale
Zoning Board Secretary