

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT  
MINUTES  
August 17, 2006**

Chairperson Fort called the meeting to order at 7:40 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

A.

Mrs. Fort	present
Mrs. Flynn	present
Mrs. Goodwin	absent
Ms. Hendry	present
Mr. Stettner	absent
Mr. Shepherd	present
Mr. Staats	present
Mr. Thompson	present
Mr. Denning	present

Donald Moore, Esq., Kelleher & Moore  
John Hansen, Ferriero Engineering  
Michael Sullivan, Clarke, Caton & Hintz – arrived at 8:00 p.m.

B. APPROVAL OF MINUTES:

1. July 20, 2006 -Mr. Staats made a motion to approve the minutes as amended. Mr. Denning seconded the motion. *Motion was carried with a vote of ayes, nays none recorded*

C. CORRESPONDENCE:

The secretary read the correspondence into the record.

D. TECHNICAL REVIEW COMMITTEE:

None

E. RESOLUTIONS:

1. Paul Morris  
Block 98, lot 2.34  
58 Holland Brook Road

Mr. Staats made a motion to approve the resolution. Mr. Denning seconded the motion. *Motion was carried with a vote of ayes, nays none recorded*

**F. PUBLIC HEARINGS**

- 1. Robert & Lisa Pupa  
Use Variance and Minor Site Plan  
100 Distillery Rd.  
Block 53, lot 7.05  
Action date: September 15, 2006**

**Robert Pupa stated that he is the applicant. The applicant was sworn. Mr. Pupa informed the board that he is seeking a setback variance that would permit him to install a pool. The position of the home on the lot does not give the necessary setback of 20 feet near the back of the house. In addition, the septic is located at the rear of the house. Behind his property there is a 40 acre vacant lot owned by RVD.**

- Exhibit A-1 Plan**
- Exhibit A-2 Picture taken toward where the pool will be located**
- Exhibit A-3 Picture taken from the side of the patio.**
- Exhibit A-4 Picture taken from the opposite side of the yard**

**Mr. Pupa stated that he is proposing to install a fence to surround the pool. He also indicated that he would provide landscaping inside of the fence. He stated that the height of the fence will comply with the ordinance.**

**PUBLIC COMMENTS:**

**There were no comments from the public.**

**Mr. Staats felt that the boundary on the north side of the property should have some buffering in case it is ever developed. A 4 foot high fence will not screen a pool.**

**Mr. Shepherd informed the board that he did not want to make the buffering requirement a condition of approval.**

**Ms. Hendry stated that if the property owner agrees to provide the buffering that is acceptable, however, she disagreed that this board has to look out for a future property owner.**

**Mrs. Flynn made a motion to approve the application with the condition that there is a landscape screen. Mr. Denning seconded the motion.**

**Roll call:**

<b>Mr. Denning</b>	<b>aye</b>
<b>Mrs. Flynn</b>	<b>aye</b>
<b>Ms. Hendry</b>	<b>aye</b>
<b>Mr. Shepherd</b>	<b>aye</b>
<b>Mr. Staats</b>	<b>aye</b>
<b>Mr. Thompson</b>	<b>aye</b>
<b>Madam Chair</b>	<b>aye</b>

- 2. Wilmark Building Contractors, Inc.  
Block 55, Lot 21.01  
Action dated: August 17, 2006**

**Mr. Thompson recused himself from this application.**

**Richard Clark, Esq., stated that he is the attorney for the applicant. He informed the board that he had submitted a summary of exhibits. Mr. Hartman testified at a prior meeting. There were 2 items that were not part of the prior record, that being the Barbara Bailey resolution and also Readington Township Zoning Official's letter dated May 16, 2006 as a result of an inspection that was performed at the request of the board. The history shows that there have been two apartments since 1965. He stated that when Mr. Hartman purchased the property there was a letter recognizing that there were two apartments. He believes that the variance was granted at that time.**

**Mr. Staats stated that Mr. Hartman had testified that he did not know the size of the proposed barn, nor how many animals he would have in the future. He wanted to know why Mr. Hartman needed 13 acres if he did not know how many animals he would have. Mr. Clark answered that his client did not have to justify the size of the acreage. Mr. Clark stated that the proposed subdivision did meet the farmland assessment "right to farm" criteria.**

**Ms. Hendry stated that the court has required the board to make a determination as to whether this is an agriculture subdivision or "ag division". Mr. Clark answered no, that it is an ag division. The only question is whether or not a D or C variance is required.**

**Mr. Moore informed the board that the decision states that the first determination the board is required to make is whether Wilmark is entitled to a D or use variance for the 2 apartments on the horse farm consisting of 24 acres either under the existing 1965 variance or under the new variance. Mr. Moore stated that Mr. Clark has addressed that issue. Mr. Moore stated that the next issue is if Wilmark is entitled to keep 2 apartments, and also does Wilmark intend to use both the 13 acre and the 24 acre proposed lots for agriculture purposes.**

**Mr. Sullivan informed the board that an ag division is not in the definition of a subdivision, it is an exclusion from the definition. For example, in an ag division you can't create a new street. The court is saying in the decision that if both parcels are used for agriculture, that fits that definition. But the Statute says that the division itself is for an agricultural purpose. Does it shift the fence of an adjacent parcel because of natural conditions? How does the division of the land facilitate the agricultural operation or agricultural purpose?**

**Ms. Hendry stated that Mr. Clark has asked the board to be guided by the Statute. She stated that the division should be for agricultural purposes; it is not that there is a subdivision and there is agricultural activity, there is a purpose that the board has to consider. They have to decide if that purpose is met by the division.**

Is Wilmark entitled to a D variance for 2 apartments on the horse farm under the existing 1965 variance or under the new variance? Mr. Denning stated that he felt that the 2 apartments were granted and are permitted. Does Wilmark intend to use both lots for agricultural purposes? Mr. Denning stated that Mr. Hartman had testified that he was going to keep it agricultural.

Mr. Clark stated that he felt that the board was going beyond what the court had ruled.

Mrs. Flynn stated that the building inspector/zoning officer in his prior record did not have the authority to grant the use of another apartment. In his letter he makes the word apartment plural. She stated that she found that one apartment was allowed.

Ms. Hendry informed the board that after reading through all of the material, it is not clear. It would seem to her that in the initial 1965 Recommendation and Resolution (exhibit B), the intent behind that speaks to overhead living quarters for the groom and his family. To her, it meant singular. She felt that the original intent was for one apartment. She stated that long before the applicant purchased the property two apartments were built. In all the other material no inquiry was ever made into the issue of the apartments. The focus of the other determinations had to do with traffic, and whether there was going to be horse shows, etc. No one was going back to the 1965 Recommendation and Resolution asking how many apartments would there be. Because the zoning officer assumed that this was legitimate does not make it so.

The question posed to the board was, "do you believe that the 1965 approval was for one or two apartments.

Mr. Denning	one apartment
Mrs. Flynn	one apartment
Ms. Hendry	one apartment
Mr. Shepherd	one apartment
Mr. Staats	one apartment
Madam Chair	one apartment

Mr. Denning made a motion to grant the variance required for the continuation of the two apartments that has been there for many years and used in conjunction with the operation of the horse farm and agriculture use. Mr. Staats seconded the motion.

Roll call:

Mr. Denning	aye
Mrs. Flynn	aye
Ms. Hendry	aye
Mr. Shepherd	aye
Mr. Staats	aye

**Madam Chair            aye**

**Mrs. Fort stated that the original of the application to the Board of Adjustment received October 24, 2003 was for a D variance and a minor subdivision. She wanted to know what changed.**

**Mr. Clark stated that the application was originally before the Planning Board. This application got transferred by the court. The application was heard approximately 2 years ago. Then it went up to the trial court. The court said that the applicant never gave up their argument that the application is an ag division. This was argued back in 2004. The applicant's planner testified that this application qualifies as an ag division. He stated that if the board did not feel that it qualifies for an ag division, then they are seeking a minor subdivision.**

**Mr. Denning stated that he felt that both lots would be used for agricultural purposes.**

**Ms. Hendry stated that Mr. Hartman has testified that he intends to consider using horses on both lots. So the use would qualify as agricultural. But does the division qualify for agricultural purposes.**

**Mr. Shepherd stated that this is how he interprets the Statute. Is the division for agricultural purposes, not is it being used for agriculture. The fact that it is existing agricultural land does not automatically qualify it as an ag division.**

**Mr. Hansen suggested that his conditions in his April 2004 letter be included in the approval. Mr. Clark answered that they would agree with Mr. Hansen's letter.**

**Mrs. Flynn asked the board, "Is Wilmark's true purpose for the division of the land agriculture?"**

**Roll call:**

<b>Mr. Denning</b>	<b>aye</b>
<b>Mrs. Flynn</b>	<b>nay</b>
<b>Ms. Hendry</b>	<b>nay</b>
<b>Mr. Shepherd</b>	<b>abstain</b>
<b>Mr. Staats</b>	<b>aye</b>
<b>Madam Chair</b>	<b>nay</b>

**Mr. Clark requests a minor subdivision.**

**The board took a five minute break.**

**Mr. Clark informed the board that the applicant withdrew the request for a minor subdivision.**

- 3. Omnipoint Communications, Inc.  
Block 61, lot 5.02  
Rt. 31 & Foothill Road  
Preliminary Major Site Plan & Variance  
Action date: August 17, 2006**

**Gregory Czura, Esq. stated that he is the attorney for the applicant. He stated that this evening he had an EMF witness. His testimony will deal with compliance with the FCC emissions level.**

**Dave Collins, Michael Sullivan and John Hansen were sworn in by the attorney.**

**Dave Collins stated that he is employed by Pinnacle Telecom Group which is an independent telecommunications consulting firm. He is the manager of Radio Frequency Services for that firm and has been so for 6 years. He has a Bachelor of Science Degree. He has performed assessments for over 4,500 antennae sites throughout the entire United States. His expertise is in compliance with FCC requirements.**

**Mr. Collins assessed the determination of compliance for this proposed site. The FCC allows compliance to be determined mathematically prior to the building of the site. He used the formula that was propagated by the FCC. The applicant has agreed to reduce the size of the structure from 150 feet to 125 feet. He stated that his calculations reflected that change.**

**Mr. Collins stated that the FCC sets a maximum permissible level and they also provide the necessary documentation in terms of a math formula to determine whether or not the applicant complies with the law. The applicant provided him with their operating parameters for this site. This is a conservative formula. It forces you to assume the worst case scenarios for every operating parameter. In doing that, he was able to determine that as conservative as they could possibly be, the resulting number was zero, point zero four six two (0.0462%) percent. This is less than five hundredths of one percent of what the FCC allows. He stated that the applicant is 2,100 times below that. Therefore, they are in full compliance with regard to the rules and regulations that the FCC requires.**

**Frank Pazden was recalled to testify. He testified at the hearing on July 20, 2006 as licensed professional engineer.**

**Mr. Pazden stated that he was required to perform another investigation for the PSE&G tower in Raritan Township. This is located 3,100 feet south from the proposed facility. The tower is 110 feet tall. His evaluation of the site was to house site telecommunication equipment at the base of the tower and antennas at the top of the tower. The initial access that would be required does not go through the PSE&G right-of-way; it utilizes the property next door which is the Irvington Public School Board. Currently PSE&G has recently gone through some clearing of their easement and they cut in an access off of the Irvington School Board in order to get into their easement. The applicant's proposed monopole is similar. It is proposed**

to be situated 180 feet from Route 31. He addressed the elevations of the site at Raritan Township. He stated that the utility routing would follow the access drive. The power and telephone companies would have to set new poles along the access drive. The other complication at the site is that there are currently cattails located within the footprint of the tower and extending outward at least 25 feet. Cattails are typically located in wetlands. He explained the differences between the existing PSE&G tower and the proposed tower.

Mr. Czura stated that this analysis was performed merely to determine whether or not in Mr. Pazden's professional opinion the site could be constructed if it was offered or thought as an alternative for the application proposed by the applicant. Mr. Collin's answered that that was correct.

Mr. Hansen wanted to know if the equipment shelter was built on site. Mr. Pazden answered that they are proposing just cabinets. They are not proposing a shelter. The cabinets will be located on a concrete pad.

Mr. Denning asked what was the difference in the elevation of the antennae on the tower versus the proposed site. Mr. Pazden did not have the ground elevation at the PSE&G tower.

**PUBLIC COMMENTS:**

There were no comments from the public.

Henry Parra was previously sworn at a prior meeting. He is the Radio Frequency Engineer for T-Mobile Omnipoint.

Mr. Parra stated that he reduce the size of the monopole to 125 feet.

Exhibit A-8 Promulgation of the height of the tower at the PSE&G station.

He stated that after contacting the PSE&G tower it is actually 110 feet, not 80 feet. He recalculated and re-propagated the site from a radio frequency perspective.

Exhibit A-9 Street map of the subject prepared by Scott Russell on 8/15.

Mr. Parra demonstrated to the board where the proposed site was located and the coverage area of the recently approved site. The first overlay for A-9 is the coverage of the approved site. The only difference in this map from the prior map shows the elevation of the subject area. This exhibit shows the "in vehicle" coverage in this area that this site will be providing. He showed another site that is now an on-air site.

Another overlay shows the subject site which is shown in green. The propagation of the subject site is calculated at 125 feet. It will line up the sites that are located to the north and to the south. It will provide coverage along Route 31 and Stanton Road, Deer Run, Old Clinton Road and Hamden Road, Cherryville Stanton Road; and Stanton Station Road.

**Ms. Hendry wanted to know the difference between the Exhibits A-1 and A-9. Mr. Parra stated that the difference is that he wanted to show the sites themselves, not the topography.**

**Mr. Parra demonstrated that last overlay which consisted of the propagation of the PSE&G tower, the same location, but now it is at 110 feet. They do have coverage on Route 31, but they lose coverage to the east and west.**

**Mr. Parra stated that their plan is to bring wireless service into the homes. More and more people are changing their regular land lines to the wireless numbers.**

**Timothy M. Kronk was sworn in by Attorney Moore. Mr. Kronk stated that his business address is P. O. Box 465, Mendham, NJ. He has a Bachelor's of Science Degree. He has 19 years of land use experience predominately in New Jersey. He is a New Jersey Licensed Professional Planner. For the last 8 years he worked in wireless communications.**

**Mr. Kronk stated that he performed several balloon tests for the preparation of the visual analysis. He reviewed the township's ordinance, and master plan. His task was to give testimony in support of the application based upon the applicant's belief that it would be required by the wireless telecommunication installation at the subject property at the GPU Stanton Sub-Station. The applicant requires a D-1 use variance for the construction of the tower. This is for a use that is not permitted. The property is located in the Rural Residential zone. The applicant is also seeking site plan approval.**

**Exhibit A-9 Street map**

**Exhibit A-10 Overlay of showing the on air site north and recently approved site.**

**Exhibit A-11 – Proposed site at 125 feet**

**Exhibit A-12 – PSE&G at 110 feet**

**Exhibit A-13 Aerial**

**The application was carried without further notice to September 21, 2006**

**4. Nicholas Villa**

**Use Variance & Preliminary Major Site Plan**

**135 Main St.**

**Block 23, lot 5**

**Action date: September 15, 2006 (signed extension and carried to September 21, 2006)**

**Madam Chair announced that this matter is carried to September 21, 2006.**

5. **CharDham Hindu Temple/Readington  
Use Variance & Preliminary Site Plan  
25A Coddington Road  
Action date: signed extension to September 21, 2006 (carried to  
September 21, 2006)**

**Madam Chair announced that this matter is carried to September 21,  
2006.**

**G. ADJOURNMENT:**

**Ms. Hendry made a motion to adjourn. Mr. Denning seconded the motion.  
*Motion was carried with a vote of ayes, nays none recorded***

**Respectfully submitted,**

**Linda A. Jacukowicz**