

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT**

**MINUTES**

**September 21, 2006**

Chairperson Fort called the meeting to order at 7:34 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

**A.**

<b>Mrs. Fort</b>	<b>present</b>
<b>Mrs. Flynn</b>	<b>present</b>
<b>Mrs. Goodwin</b>	<b>absent</b>
<b>Ms. Hendry</b>	<b>absent</b>
<b>Mr. Stettner</b>	<b>present</b>
<b>Mr. Shepherd</b>	<b>present</b>
<b>Mr. Staats</b>	<b>present</b>
<b>Mr. Thompson</b>	<b>present</b>
<b>Mr. Denning</b>	<b>absent</b>

**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. August 17, 2006 - Mr. Staats made a motion to approve the minutes. Mr. Shepherd 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:**

- 1. Hunterdon County Housing Corp.  
Block 4, lot 94  
27 Oldwick Road  
Variance  
Action date: September 25, 2006**

**Mr. Staats made a motion to deem the application complete. Mrs. Flynn seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.***

- 2. Whitehouse Management LLC  
Block 36, lot 47  
669 US Highway 22**

**Variance**

**Action date: October 8, 2006**

**Mr. Staats made a motion to grant the waivers that were requested by the applicant. Mrs. Flynn seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.***

**Mr. Staats made a motion to deem the application complete. Mrs. Flynn seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.***

**E. RESOLUTIONS:**

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

**Mrs. Flynn made a motion to approve the resolution. Mrs. Fort seconded the motion.**

**Roll call:**

Mrs. Flynn	aye
Madam Chair	aye

- 2. Robert & Lisa Pupa  
Use Variance and Minor Site Plan  
100 Distillery Rd.  
Block 53, lot 7.05**

**Mrs. Flynn made a motion to approve the resolution. Mr. Shepherd seconded the motion.**

<b>Roll Call:</b>	Mrs. Flynn	aye
	Mr. Shepherd	aye
	Mr. Staats	aye
	Mr. Thompson	aye
	Madam Chair	aye

**F. VOUCHER APPROVAL**

**Mr. Staats made a motion to approve the vouchers as submitted. Mr. Shepherd seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.***

**G. PUBLIC HEARINGS**

**1. Joanzee  
Appeal Zoning Officer's Decision**

Nicholas Locketta, of Archer & Greiner stated that he is the attorney for Joanzee, the property owner. Mr. Locketta requested that the two applications, Joanzee and Waste Management of NJ, should be heard simultaneously.

**2. Waste Management of NJ  
Appeal Zoning Officer's Decision**

Thomas Sweet, Esq., stated that he is the attorney for Waste Management of NJ. He informed the board that in his opinion the applications should be consolidated.

The board agreed and the two matters proceeded together.

Mr. Locketta stated that his client feels strongly that the zoning officer's decision was incorrect. He stated that for over 25 years the property was used exclusively and continuously as a heavy duty trucking operation facility. The functions included storage, dispatch, and repair/maintenance for 24 hours a day - 7 days a week. He informed the board that the current tenant's use is less intensive than the historic use.

Joseph Sodano stated that he is an agent of the entity known as Joanzee, LLC. He stated that Joanzee took ownership of the property in May, 2005. Prior to that time, the property was owned by Joe Sodano.

**Exhibits:**

**A-1 Deed January, 1979**

Mr. Sodano stated the prior owners of the property sold Diamond Rio trucks. They repaired the trucks on site. Mr. Sodano stated that when he purchased the property, he also owned and operated the JLT Corporation, that is a primary transporter of frozen products. Immediately after taking ownership of the property, JLT Corporation engaged in a trucking operation at the site.

**A-2 JLT equipment list dated 1979**

Mr. Sodano testified that the list identified in exhibit A-2 represents an accurate inventory of the equipment owned by JLT Corporation in 1979. In addition, there were owner/operators who had their equipment on the property. Since this was a refrigerator transportation company, the operation was functioning 7 days a week, 24 hours a day, 365 days a year.

**A-3 Lease between JLT Corporation and International Transport Company.**

Mr. Sodano testified that they leased ½ of the property in January 1981. This was one of the largest flatbed carriers in the United States. At the time of the lease,

they owned 2,000 trailers. At any one time, there was a minimum of 50 trailers on the property. The tractors would vary in number.

**A-4 Rental history**

Mr. Sodano testified that this was an accurate chronological list.

**A-5 Easement**

Mr. Sodano stated the in 1981 Readington/Lebanon Sewage Authority approached him seeking rights pertaining to certain portions of the property.

In 2005, Mr. Sodano stated that Waste Management became a new tenant. He stated that he met with John Barczyk, the current zoning officer. He informed Mr. Barczyk that the new tenant was a trucking company. One of the township's biggest concerns was that there would be no dumping garbage at the site and there would be no hauling garbage to the site. The tenant, Waste Management, and Mr. Barczyk met. There was no indication at the time that the new tenant would require a variance.

**A-6 Application for Continued Certificate of Occupancy**

On behalf of Waste Management, Mr. Sweet began his appearance

Mr. Galusha was sworn. He stated that he is a senior project manager with Ransom Environmental. He was retained by Waste Management to perform a phase one environmental study on the property. He obtained historic aerial photographs of the property dated 2002.

Exhibit: WM-1 Aerial Photograph of the site

Mr. Galusha stated that he counted 100-105 trailers in this photograph. He also counted tractors too.

Carl Lawrence stated that he is the Environmental Compliance Manager for Waste Management.

WM-2 Fire Safety Form dated October 27, 2005.

Mr. Lawrence stated that on this form, he was instructed to write that the "Facility operates as a collection vehicle parking and service facility. There is one building on site that operates and houses the offices and maintenance shop."

WM-4 Bureau of Safety Permit issued on December 8, 2005 by John Barczyk.

WM-3 Summary of Operations prepared by John Kelly, Director of Operations

Mr. Lawrence testified that WM-3 was submitted to the township to explain the operation at the site.

**Dennis McCabe was sworn. He testified that he is the District Manager. He stated that there are approximately 36 vehicles parked at the site in the evening. He stated that on their busiest day, they run 26 collection vehicles out of the site. They collect solid waste and recyclables from customers. They service the Borough of Alpha and the Borough of Flemington, including private and commercial customers. They do not transfer any solid waste at the site. The waste is transferred to the Annandale Transfer station. This site is owned by the county and operated by Waste Management. The trucks are clean when they leave the site and clean when they return. The trucks are backed in to their parking spaces in the evening so that there are no backup alarms engaged.**

#### **WM-6 Photographs of the site**

**Mr. McCabe stated that page one illustrates the front of the building during a normal business day. Page 2 shows the left hand front of the building. Page 3 demonstrates the conditions at the left hand side of the building just as you enter the gate. Page 4 demonstrates the commercial trucks. Page 5 demonstrates another angle of the front load commercial trucks, located on the left side of the building. Page 6 demonstrates the support vehicles.**

**John Barczyk, Readington Township Zoning Officer was sworn. He stated that the citation that he issued was for an expansion of pre-existing non-conforming use. The property is located in the "B" zone. This use is not permitted in that zone. When the applicant appeared before him showing the concept of having Waste Management take over the site, discussions took place regarding the type of use. He was informed that it would be a repair facility with a small dispatch office. They never got into the discussion regarding the amount of trucks that would be utilized or stored. The township's concern was there would not be any waste stored at the site. His agreement to grant the use was based upon the conversations that he had with Mr. Sodano. After Waste Management took over, he received numerous complaints from the neighbors. He investigated the matter and at that point determined that it was an expansion of a pre-existing non-conforming use. He advised that the applicant to apply to the Zoning Board of Adjustment for a conditional use and/or variance approval. As a fire official, he had previously inspected the property a few years ago. At that time he was interested in the building itself. At that juncture, he could recall only a dozen trailers. The use and activity was not that intense.**

**Mr. Shepherd asked what the nature of the complaints was. Mr. Barczyk answered that there was noise, the number of activities and the number of dumpsters that was stored on the site. An effort was made to get the residents and Waste Management to meet and reach an agreement.**

**Mr. Moore stated that when Mr. Barczyk went to the site, he saw a very limited use. Then he had direct contact with the applicant and was informed what the use was going to exist, and then there is an expansion of that use. In so far as what all of these documents point out, the zoning officer can not be held to have personal knowledge of these papers. He can only be held to what he witnessed when he was out at the site.**

**Madam Chair stated that the intensity of the use is not necessarily determined simply by the number of pieces of equipment on the property. Mr. Locketta stated that Mr. Barczyk has no historic empirical data to compare to make a determination that it is an intensification of use or not.**

**Mr. Sullivan asked Mr. McCabe if they do maintenance at the site. Mr. McCabe stated they do light repair. The trucks are sanitized for any odors.**

**PUBLIC COMMENTS:**

**Keith Hendricksen stated that he is the president of the homeowners association at Lake Cushetunk. He stated that in November, he did attend a meeting with the zoning officer, Ms. Fort, Mr. McCabe and his supervisor, Mr. Byatt and Mr. Moore. They discussed the fact that numerous dumpsters were stored at the site. They were told that this would be a temporary situation. They also discussed the number of trucks. They were told that it would be a limited dispatch facility with 17, possibly 20 trucks at the most. The cleanliness of the dumpster's was discussed. On numerous times during the summer, around 2:00 to 3:00 a.m. you can hear the backing up signal coming from that facility. They also hear banging noises during the early morning hours.**

**Steve Zimko stated that he is a resident of Lake Cushetunk. Since Waste Management has moved in, the noise level has intensified.**

**John Bell stated that he is a resident of Lake Cushetunk. The noise issue is noticeable. The prior operator stored trucks on the site. They were not moved in and out regularly. Since Waste Management has moved into the facility, they have more space to move around fewer vehicles. He stated dumpsters do not hold water. If they are storing dumpsters on the site, the runoff will be leaching into the waterway. He stated that the prior variance was granted on the fact that this was going to be a transportation facility for vehicles. The NJDOT doesn't determine dumpsters as vehicles.**

**Bob Glauber stated that he is a resident of Lake Cushetunk. He stated that he attended the meeting in November. He informed the board that during the meeting it was stated that there would be 17 trucks maximum. He felt that there would be a creeping effect. As far of the previous use, you could hear 2 or 3 trucks maximum. At the present time it has increased. During the tenure of the previous zoning officer, there was exhaust from a tree cutting operation that covered the lake. He testified that in his opinion he felt that they had 200 dumpsters stored at the site.**

**Mr. McCabe stated that currently there are 3 roll off containers on the site and no more than 65 of the front end commercial containers. It does change daily.**

**Mr. Sullivan requested clarification as to the location on the property that the tenant no longer uses. Mr. McCabe answered that if you were looking at the photograph, it is the left hand corner of the site. Mr. Sullivan indicated to the board that this area is the adjacent property.**

**Mr. Moore stated that there is increase noise, which is a factual issue. He said almost one year ago, a meeting took place and the township acted in good faith hoping that the situation could be worked out.**

**Mr. Sweet addressed the board requesting a temporary Certificate of Occupancy or rescind Mr. Barczyk's letter. Mr. Locketta stated that the township needs to complete the hearing. By requesting that the applicant apply for a variance, this action would destroy their pre-existing non-conforming use status.**

**The board agreed to continue the stay in this matter, and to continue this hearing to the next meeting.**

**Mr. Shepherd agreed that this was a factual issue and that the matter should be carried to the next meeting. He stated that some effort should be made between now and the next meeting.**

**Mr. Staats wanted to know if the applicants would verify as to the intensity of the non-conformity.**

**Madam Chair stated that these appeals will be carried to October 19, 2006.**

**The board took a break.**

- 3. Kenneth & Geraldine Kern  
25 John Reading Rd.,  
Variance  
Action date: September 21, 2006**

**William Gianos, Esq., stated that he represents the applicant. He stated that they are seeking a floor area ratio variance to allow the construction of an addition on their current single family home. The property is in the AR zone. The FAR allowed by the ordinance is point one six. The FAR that they are seeking is point one nine nine. The purpose of the addition is to provide an elder suit for Mrs. Kern's mother.**

**Geraldine Kern stated that she is one of the property owners. The house is a center hall colonial, 4 bedroom and 2 ½ baths. Currently she resides at the residence with her husband and 3 children. The proposed addition would have a master bedroom suit for her mother who is 78 years old. This would also include a bathroom. Additionally, they want to add a 3<sup>rd</sup> car garage. There would be a hallway in between so that when the mother pulls into the driveway, she would not have to go outside. The second floor addition would consist of a small office and a sitting room for Mrs. Kern and her husband. Mrs. Kern stated that her mother just recently sold her home and is now living with the Kerns'. She stated that her mother does have some health issues, and the family would like to have her live with them permanently. Mrs. Kern produced a letter from Dr. Gary Berman, dated May 25, 2006. The letter was read into the record regarding her mother's health.**

**Exhibit A-1 Letter from Dr. Berman dated May 25, 2006.**

**Mrs. Kern stated that they did look into ECHO housing. She stated that she would still need a variance if they decided to go with the ECHO unit because their lot is too small.**

**James Chmielak, Jr., P. E. stated that he is a principal in a consulting company titled, Engineering and Land Planning Associates, Inc. He has a Bachelor's Degree in Civil and Environmental Engineering from Rutgers University.**

**Exhibit A-2 Mr. Chmielak referred to his report dated May 26, 2006.**

**Exhibit A-3 – Site Plan colored rendering dated May 26, 2006.**

**Mr. Chmielak stated that the applicant is proposing a residential addition to their existing 4 bedroom single family dwelling. The addition would include a single bedroom suit for Mrs. Kern's mother. Additionally, this subdivision was approved on or about 1994. At that time, this was a cluster development resulting in a lot size of 0.56 acres. The minimum lot acreage for a cluster lot at the time was 1/2 of an acre. At this time, the AR zone has changed and the minimum cluster lot area is 1.5 acres. Therefore, the applicant now needs a variance regarding the FAR. The property currently contains a 2 story, 4 bedroom single family residence. The existing first floor consists of 2,064.9 square feet. The existing second floor consists of 1,178.6 square feet for a total of 3,243.5 square feet. The property contains an existing shed and deck, above ground pool as well as ancillary walks around the structures. In his review, he reports that there is an absence of wetlands on the property or of State open waters. There are no residences located at the rear of the property line. This will remain open space. There are residences on each side of the structure.**

**The proposed condition on the first floor would be 3,167.2 square feet. The proposed condition on the second floor would be 1,534.2 square feet for a total gross square footage of 4,701.4 square feet. The shed will be moved to the rear of the property.**

**Mr. Chmielak testified that the applicant is seeking relief from the maximum floor area ratio, FAR, of 0.16. The applicant is proposing a FAR of 0.199. He stated that in reviewing the tax records, several properties in the area contain similar improvements. The applicant has testified that there is an intrinsic need to incorporate the suite into the residential dwelling in order to provide the care and attention to the applicant's mother. The ECHO unit option would result in an increased exposure to hazards while traversing from a separate cottage to the main house in inclement weather.**

**Mr. Chmielak stated that in terms of the positive criteria, the FAR is used to control the scale and the impact of the structures on a particular property. The size, scale and appearance of the proposed project with the addition will be consistent with the immediate surrounding neighborhood. The only negative impact from the proposed addition would be increased building mass. However, do to the lateral expanse of the first floor addition; it will be constructed closer to the ground which minimizes the esthetic impact from any significant increase in building mass on the**

second story. The open space also serves to open the visual backdrop and mitigates the esthetic issues of any overall increase building mass on the property. The proposed building condition conforms to all other AR zone bulk requirements, with the exception of the front yard. This is a pre-existing non-conforming condition. The addition is not proposed in the front yard and would therefore not worsen that condition. He stated that the variance requested would not cause a substantial detriment to the public good. There will be no appreciable negative impacts.

Mr. Gianos stated that the property is serviced by public sewer. A letter from the township engineer indicated that no additional sewer capacity is needed for the addition.

Regarding Mr. Hansen's report dated September 21, 2006 the applicant will comply with this report. The applicant will show additional topography around the existing structure to prove there will be no negative drainage issues. A note will be added to the plan indicating that all of the proposed utilities would be constructed underground. Mr. Hansen agreed that the installation of a drywell will not be necessary. Mr. Gianos stated that if the Board of Health does not grant a waiver regarding the location of the well, the applicant will re-locate the well.

**PUBLIC COMMENTS:**

There were no comments from the public.

Mrs. Flynn stated that this addition will never have a kitchen or cooking facility installed.

Mr. Shepherd made a motion to approve the application subject to the conditions set forth in Mr. Hansen's letter, no kitchen facility will be added, and the drywell will be eliminated. Mr. Thompson seconded the motion.

**Roll call:**

Mrs. Flynn	aye
Mr. Shepherd	aye
Mr. Staats	aye
Mr. Stettner	aye
Mr. Thompson	aye
Madam Chair	aye

4. Omnipoint Communications, Inc.  
Block 61, lot 5.02  
Rt. 31 & Foothill Road  
Preliminary Major Site Plan & Variance  
Action date: September 21, 2006

Madam Chair announced that this matter is carried to October 19, 2006.

5. Nicholas Villa

**Use Variance & Preliminary Major Site Plan  
135 Main St.  
Block 23, lot 5  
Action date: September 21, 2006**

**Madam Chair announced that this matter is carried to October 19, 2006.**

- 6. Verizon Wireless – Readington 4  
1100 Barley Sheaf Road  
Block 64, lot 31.03  
Preliminary/Final Major Site Plan & Variance  
Signed extension and carried to October 19, 2006**

**Madam Chair announced that this matter is carried to October 19, 2006.**

- 7. CharDham Hindu Temple/Readington  
Use Variance & Preliminary Site Plan  
25A Coddington Road  
Signed extension and carried to October 19, 2006**

**Madam Chair announced that this matter is carried to October 19, 2006.**

**H. ADJOURNMENT:**

**Mr. Shepherd made a motion to adjourn. Mrs. Flynn seconded the motion.  
*Motion was carried with a vote of ayes, nays none recorded***

**Respectfully submitted,**

**Linda A. Jacukowicz**