

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
October 19, 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.

Mrs. Fort	present
Mrs. Flynn	present
Mrs. Goodwin	present
Ms. Hendry	present – left the meeting @10:30 p.m.
Mr. Stettner	present
Mr. Shepherd	present – left the meeting @10:00 p.m.
Mr. Staats	present
Mr. Thompson	present – left the meeting @10:40 p.m.
Mr. Denning	present

Donald Moore, Esq., Kelleher & Moore
John Hansen, Ferriero Engineering
Michael Sullivan, Clarke, Caton & Hintz

B. APPROVAL OF MINUTES:

1. **September 21, 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. Ms. Hendry, Mrs. Goodwin and Mr. Denning abstained.***

C. CORRESPONDENCE:

The secretary read the correspondence into the record.

D. TECHNICAL REVIEW COMMITTEE:

1. **None**

E. RESOLUTIONS:

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

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

Roll Call:	Mrs. Flynn	aye
	Mr. Shepherd	aye
	Mr. Staats	aye
	Mr. Stettner	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. Joazee
Appeal Zoning Officer's Decision
- and -
Waste Management of NJ
Appeal Zoning Officer's Decision**

Nicholas Lochetta, of Archer & Greiner stated that he is the attorney for Joazee, the property owner.

Mr. Lochetta informed the board that everyone made immediate efforts to comply with the request to have a consultation with the professionals prior to this hearing, but since there was a difference of legal opinion as to whether or not a resolution could be brought. Therefore the meeting never took place.

He testified that for the past 25 years, his client has shown that they have had a consistent heavy trucking use on the property. When the tenant, Waste Management, took over the property the testimony revealed that the use had been less than what was historically present. He stated that this evening he has 2 witnesses.

The following witnesses were sworn:

Robert Albanese, 6480 Front Street, Martins Creek Pennsylvania. He stated that he was employed by JLT Corporation from 1981 to 1994. For the first 3 years of his employment he was a truck driver and thereafter he was a dispatcher. He testified that the company was an over the road trucking business. Mr. Albanese stated that this company owned and operated trucks and trailers. The operation was located at 409 Route 22 East, in Readington, New Jersey.

He stated that during the time that he worked at the facility, there were approximately 40 to 45 tractors, and 50 – 55 trailers. The facility operated 24 hours a day, 7 days a week. He testified that over the years there were flat bed trucks, dump trailers, dump trucks, and tractors without trailers parked alongside the garage. He stated that presently he drives by the property every day going to his

current employment and has observed the site. Mr. Shepherd asked that by driving past the property, could he tell how many tractors or trailers were on the property? Mr. Albanese answered that he can see where vehicles are parked. Mr. Shepherd wanted to know how fast he was driving past the site. Mr. Albanese answered the speed limit.

Mrs. Flynn wanted to know if at the time of Mr. Albanese's employment, did he know if vehicles were parked on the adjacent property. Mr. Albanese answered that he didn't know.

Ms. Hendry asked for the names of the other tenants that held a lease on the property during that time. Mr. Albanese answered that International Transport from Minnesota. Mr. Locketta referred to Exhibit A-3, which indicates the lease for International Transport.

Mr. Denning wanted to know if the JLT trucks were used for day runs or over night runs. Mr. Albanese answered that there was a mix of both.

Mrs. Goodwin asked if Mr. Albanese could describe all of the activities that took place at the site during his employment. Mr. Albanese answered that he dispatched the trucks for JLT, an International Transport Company which was a tenant at the site in a trailer office, an excavating company; there were Interstate Iron's trucks, and there were truck repairs performed on the site.

Thomas Romeo was sworn. He stated that his address is 122 Iron Wolf Road, Stewartsville. He stated that he had been employed at Interstate Iron Works from 1985 to 2004. His title was the Transportation Manager. The company owned 315 flatbed trucks. One hundred of the trucks operated out of this site. They used the facility as a staging yard. Steel was stored on the flatbeds.

Mr. Locketta stated that there is a difference between approval and failure to cite for an expansion. If the zoning officer believes that there is an expansion of a pre-existing non-conforming use it is his obligation to either cite or compel a variance. The fact that it did not occur for 25 years is dispositive on this question.

Joseph Sodano (previously sworn) stated that he prepared Exhibit marked A-4. Mr. Locketta went through the list of tenants, dates, and equipment with Mr. Sodano. Mr. Locketta wanted to know if the hours of operation were 7 days a week, 24 hours a day. Mr. Sodano answered yes. He stated that he never received a zoning violation except for the most recent violation issued by Mr. Barczyk.

Mrs. Goodwin asked what kind of business was operating at the site when Mr. Sodano purchased the property. He answered that the prior owner sold trailers, tractors, repair shop and a trucking company. Mr. Sodano inspected the property prior to his purchase. He stated that he observed that the property consisted of everything that he needed. It was a repair facility, and had tractors and trailers. Prior to the purchase, he visited the zoning officer. The zoning officer indicated to him that the type of business that he was proposing at the site complied with the ordinance.

Mr. Moore referred to the transcript from the last meeting and which states that **Mr. Barczyk** was on the property in 2002 and witnessed 6 trucks on the premises.

Thomas Sweet, Esq., stated that he is the attorney for Waste Management of NJ. He stated that the first issue was the matter of the noise from the site. He stated that the noise is not coming from Waste Management. A private investigator was hired to create a video during the evening of October 6.

Richard P. Loveland, Jr. stated that he is employed by **Magnum Investigations, LLC**. He testified that he arranged a surveillance of the site in the early morning hours of October 6, 2006. At 3:45 a.m. a truck was observed picking up garbage at the Readington Diner. The label on the dumpster was not Waste Management. The second pickup was at the florist shop. This occurred at 3:48 p.m. (A short portion of the video was played on a laptop computer for the board members)

Mr. Thompson stated that what has been presented demonstrates that there was noise emanating at that time, but how does the board know that there is not noise emanating from the site in question at another time.

Mr. Loveland testified that he captured video of their site representing how their trucks were positioned. The majority of the noise was the back-up sound and the dumping.

Mr. Sweet informed the board that the surveillance was to prove that the dumping noise was not Waste Management. **Mr. Sweet** played the short video to the board.

Mr. Loveland testified that on October 6, 2006 at 3:49 a.m. he witnessed a Raritan Valley Disposal truck emptying a dumpster at Helens Florist.

Mr. Denning wanted to know how long ago the complaints from the residents began. **Mr. Moore** answered that according to the transcript, it started when Waste Management started their operation. The testimony of the neighbors was that it was the banging and dropping sound of the dumpsters and the back up beeping of the vehicles that was causing the problem.

Mr. Denning stated that since this site has been used for decades, he found it hard to believe that the complaints would begin within the last year or two.

Mrs. Goodwin asked if a surveillance of the site had taken place at any other time. **Mr. Loveland** answered no; it was just performed on that evening.

Mrs. Goodwin informed **Mr. Sweet** that some time ago, she was at the neighboring site and had witnessed a loud noise from that property at approximately 3:00 p.m.

Mr. Loveland stated that his surveillance ended at 5:00 a.m.

Dennis McCabe indicated that he remained under oath. He stated that he is the district manager. He indicated that he requested that the surveillance take place on a Friday because the competitor picks up garbage on that date.

Mr. McCabe testified that no trucks are moved during the evening. He stated that they do not move the dumpsters either. He stated that in the morning the drivers start the trucks and allow them to idle until they reach the air pressure necessary to release the brakes and then they proceed forward out of the yard. They have approximately 26 collection vehicles. There are support vehicles too. They have routes that from time to time get rearranged. There is a plan scheduled to begin on November 1st. to allocate 9 to 10 routes out of the Whitehouse location. This will reduce the number of collection vehicles to 18. The trucks are washed by an outside contractor. This is performed during the day at approximately 2:00 p.m. The waste water from the truck wash is handled by a dike system. The water is recycled. No water is discarded on the site.

Ms. Hendry asked if there were any night time operations at the site.

Mr. McCabe answered that there were no night time operations performed at the site. All trucks leave the site by 5:00 a.m.

Mr. Moore wanted to know if the number of trucks is reduced on November 1, 2006, at a future date could the number increase.

Mr. McCabe answered that it is not foreseen to increase the amount of trucks in the future. It could be possible.

Ms. Hendry wanted to know if there were any similar facilities in Hunterdon County or in the surrounding counties. Mr. McCabe answered there are no facilities for the hauling. Waste Management has the contract to operate the Hunterdon Transfer.

Madam Chair asked before December, 2005, where were these trucks located. Mr. McCabe answered in Plainfield, New Jersey.

Ms. Hendry asked if there were any complaints at the Plainfield site concerning noise from the facility. Mr. McCabe answered there were no complaint.

Carl Lawrence stated that he is the Environmental Compliance Manager for Waste Management. He remained under oath.

Exhibit WM-7

Exhibit WM-8 – Letter from Superior Wash.

Exhibit WM-9 – Letter from NJDEP Enforcement Branch (Summary report)

Mr. Lawrence stated that the State appeared at the site on September 6, 2006 to perform an inspection. This was a spot, unannounced inspection. The NJDEP appeared at the site and inspected his files. The conclusion of the inspection was that it was being operated in an environmentally responsible manner. However, the truck fueling was listed on the report as occurring indoors. Mr. Lawrence testified that that was incorrect. Additionally, the truck washing was not witnessed by the NJDEP representative.

PUBLIC COMMENTS:

John Bell stated that he is a resident of Lake Cushetunk and remained under oath. He stated that he felt that the point was being missed as to what this hearing is regarding. He stated that the failure of a prior zoning official should not preclude the property to adhere to the current zoning regulations and enforcement. The site, in his opinion, is in violation of numerous zoning codes and health violations.

Exhibit: D-1 adjoining property owner pictures.

He stated that the top two pictures show the proximity of where Waste Management is currently storing open containers which is against code. The other pictures indicate the conditions behind the property in question.

D-2 Map delineates the Class One stream

Mr. Bell stated that the noise issue is not the only violation. There are also environmental violations regarding the site.

Bob Glauber stated that he testified on September 21, 2006 and remained under oath. He wanted to clarify the noise complaints. He stated that it wasn't just about the dumping sound. Several months ago he was told by Waste Management that the noise was created by the drivers testing their trucks to make sure that they could dump. The drivers were supposed to be told to test their trucks further down Route 22 so that it would not disturb the neighbors. Additionally, he visited the site after the trucks were washed and noticed water on the ground. He was informed by a Superior Washing employee that they work at the site every Monday until about 9:00 p.m. There was no dike system in use to catch the water.

Steve Zimko, 19 Abraham Road, remained under oath. He stated that on October 2 after he returned from work he heard loud noises at the site. He described it as the noise that a wood chipper would emit. It continued for some time. He went to the site and witnessed that the vehicles were being power washed. This continued until 9:00 p.m. He stated that contrary to the evidence, the noise is much greater than it was before.

Keith Hendricksen stated that he testified last month and remained under oath. He stated that he has lived at Lake Cushetunk since 1995. He stated that there were at that time a lot of trailers that were stored on the site. The amount of noise that is coming from that site at the present time has dramatically increased since Waste Management has been the tenant. He stated that he was at the meeting that took place in November, and he was informed by Mr. McCabe at that time that there would be no more than 17 garbage trucks on that site, including a few support vehicles.

Madam Chair stated that since Ms. Hendry did not have an opportunity to read the transcript, the board should carry this matter to the next meeting. The board discussed a site visit. It was determined to visit the site at 11:00 o'clock a.m. on November 4, 2006.

This matter has been carried without further notice to November 16, 2006.

- 2. Omnipoint Communications, Inc.
Block 61, lot 5.02
Rt. 31 & Foothill Road
Preliminary Major Site Plan & Variance
Action date: October 19, 2006**

Gregory J. Czura, Esq., stated that he is the attorney for the applicant. He stated that at the last hearing the last witness; Timothy Kronk the applicant's professional planner was just finishing his testimony. The attorney marked the remainder of the exhibits into the record as follows:

Exhibits:

- A-14 Photo simulation board**
- A-15 Photo simulation board**
- A-16 Photo simulation board**
- A-17 Photo simulation board**
- A-18 Photos – dated July 18, 2006**
- A-19 Photos**

Mr. Kronk remained under oath. He stated that at the last hearing he testified as to the relief that the applicant was requesting. Mr. Kronk confirmed to the board that the subject property is located in the Rural Residential Zone. This is also known as the GPU Stanton Substation located on Route 31. The original application was for 150 foot monopole structure. The applicant has agreed to reduce the height of that tower to 125 feet. Located at the base of the tower a 50 x 50 foot equipment compound is proposed. It will be enclosed behind a 7 foot high chain link fence. The compound will be a 10 x 20 foot concrete slab to accommodate 3 equipment cabinets. The applicant is one of the carriers that do not use a building as part of their installations. The subject property is 5.69 acres. The only other improvement on the site is a substation for GPU.

Mr. Kronk referred to Exhibit A-13 which was an aerial photograph with a flight date of April 16, 2004, prepared by Atlantis Aerial Survey Company. The property has been outlined by a black dash line. He demonstrated where the property was located to the board. There are two residential properties within 1,000 feet of this location.

Regarding Exhibit A-14, it consists of 2 rows of 3 photographs. The photos on the left are the existing conditions from a balloon test that was performed on July 1, 2006. The photos in the middle are computer simulations with a monopole at the height of 150 feet. The third photo is a modified simulation showing the monopole at the height of 125 feet.

Exhibit A-15 consists of 3 rows of 3 photographs. The top row is from the July 1st. balloon test flight. The photo in the middle is computer simulation with a monopole at the height of 150 feet.

Exhibits A-16 & A-17 are computer simulations of the compound area. Mr. Kronk stated that these photos were taken on September 21, 2005. It is a view from the entrance to the substation off of Route 31.

Mr. Kronk testified that the standard that boards in New Jersey judge wireless telecommunications was set forth by the New Jersey Supreme Court in the case of Smart, SMR vs. The Borough of Fair Lawn. In that decision, it stated that land use boards should evaluate the use using the 4 step Sica Balancing Test. Additionally in that decision was the fact that carriers do possess the FCC license proving that the carrier does promote the general welfare by improved telecommunication services. Each carrier had to prove the suitability of the proposed location. The suitability of this site is the radio frequency factor. This is an engineering driven technology. The site is suited since the coverage is geared towards Route 31. Mr. Kronk stated that he has never seen incidents where utility companies have come in and removed utility infrastructures to allow changes in use. The public utility use will continue on this property. The zone does permit wireless communication, however they do not permit newly constructed towers. They are permitted on existing structures only. There was testimony from the Radio Frequency engineer as to the lack of existing structures in the area. There was one existing structure that could be used to solve a portion of the coverage deficiencies and that was a utility tower. However there were leasing problems, access problems, wetland problems and severe grading problems connected to that site. This is why the applicant is proposing a new support structure for the antennas. This site is designed as a co-location site.

Mr. Kronk addressed the negative criteria. He stated that wireless communications are a benign commercial use. This use has none of the traditional negative impacts associated with land development. This is an unmanned facility. The site will be visited every 4 to 6 weeks by a maintenance technician. The site does not require any municipal utilities. There is no water or sewer required, only electric and telephone. The site will be in complete compliance with FCC and DEP's standards for the emissions of radio energy. The site was submitted to the FAA for a determination. That analysis was run when the tower was at the 150 feet. No lighting was required at that height. The site was submitted to the State Historic Preservation Office as part of the carriers FCC license. That determination stated that there were no historic properties affected by the project.

Exhibit A-20 FAA determination

A-21 State Historic Preservation Office dated 11/7/02

Mr. Kronk testified that the only negative impact associated with this site is visibility. They have terrain in their favor and vegetation located along Route 31. The negative visibility is minimal. There was prior testimony concerning camouflage techniques. Referring to Exhibit A-18 the photo simulation has been modified to show the proposed structure as a stealth tree type monopole and the one photo on the right is the windmill monopole.

Mrs. Fort asked if the flange expansion would preclude expansion. Mr. Kronk answered that it would depend on the next carrier's needs.

Exhibit A-19 has the same stealthing option, the tree and windmill structures.

Mr. Kronk stated that the next step is the balancing test. The board will have to balance the promotion of the general welfare to enhance telecommunications services against the potential negative impacts. He stated that the variance can be granted without substantial impairment to the zone plan or zoning ordinance.

PUBLIC COMMENTS:

There were no comments from the public.

Mr. Czura informed the board that the applicant will agree to do what Mr. Sullivan suggests.

Mrs. Flynn stated that she liked the monopole that was camouflaged as a tree. Mrs. Fort agreed.

Mr. Hansen referred to his letter dated June 14, 2006. Mr. Czura stated that the applicant would comply with that letter.

Mr. Denning made a motion to approve the application with the following conditions: based on approval from the planner and the engineer's letter. Mrs. Flynn seconded the motion.

Roll call:

Mr. Denning	aye
Mrs. Flynn	aye
Mrs. Goodwin	aye
Mr. Staats	aye
Mr. Stettner	aye
Madam Chair	aye

- 3. CharDham Hindu Temple/Readington
Use Variance & Preliminary Site Plan
25A Coddington Road
Action date: October 19, 2006**

Attorney Lloyd Tubman requested that this matter be scheduled for a special meeting. The board agreed to schedule this hearing to November 21, 2006 beginning at 7:30 p.m. There will be no further notice given.

Ms. Tubman stated that the applicant will supply a court reporter for that evening.

Mr. Moore polled the board to make sure there would be a quorum for that evening. Additionally, the board and applicant agreed that the board secretary did not have to attend the meeting since a court reporter will be present.

Mr. Thompson requested that the applicant provide by the next meeting the demographic data that would indicate the number of persons of Hindu faith living in Hunterdon, Middlesex and Somerset Counties. Ms. Tubman answered that she would attempt to provide that information.

- 4. Verizon Wireless – Readington 4
1100 Barley Sheaf Road
Block 64, lot 31.03
Preliminary/Final Major Site Plan & Variance
Signed extension and carried to November 16, 2006**

Madam Chair announced that this matter has been carried to November 16, 2006. No further notice will be given.

- 5. Nicholas Villa
Use Variance & Preliminary Major Site Plan
135 Main St.
Block 23, lot 5
Carried and signed extension to November 16, 2006**

Madam Chair announced that this matter has been carried to November 16, 2006. No further notice will be given.

H. ADJOURNMENT:

**Mr. Denning 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