TOWNSHIP OF MONROE
ZONING BOARD OF ADJUSTMENT
JULY 26, 2016

The meeting was called to order at 7:00 pm by Chairwoman Carol Damiani who led the Salute to the Flag.

Chair Damiani read the Sunshine Law as follows: In accordance with the Open Public Meetings Act, it is hereby announced and shall be entered into the minutes that adequate notice of the meeting has been provided by the following: Posted on January 8, 2016 on the bulletin board of the Office of the Township Clerk, Municipal Complex and remains on filed at that location; Communicated to the Home News and Tribune on January 8, 2016 and the Cranbury Press on January 8, 2016; filed on January 8, 2016 with the Deputy Municipal Clerk at the Monroe Township Offices and remains on file for public inspection. Posted on the Monroe Township web site and sent to those individuals who have requested personal notice.

MEMBERS PRESENT: Vincent LaFata, Marino Lupo, Joseph Gurney, Dhaval Patel, Mark Klein, Henry Sloan, Stanley Teller, Jennifer Hluchy, Louis Masters, and Chairwoman Carol Damiani. Also present for the board were Mark Rasimowicz Engineer, Karl Kemm Attorney and Mark Remsa Planner.

MEMBERS ABSENT: John Carroll

A motion to accept the minutes from May 2016 was made by Mr. LaFata, seconded by Mr. Teller and approved by all board members present.

A motion to accept the minutes from June 2016 was made by Mr. LaFata, seconded by Mr. Teller and approved by all board members present with the exception of Mr. Patel and Mr. Klein who abstained.

BA-5122-16 PAWANDEEP & RAMALJEH KHANNA

Ken Pape representing the applicant for a bulk variance to allow for an in ground pool in the rear yard, which is not a true rear yard because it is a corner lot. This property is in the Stratford section of Monroe Township. The bulk variance is due to the topography of the property.

Sharif Aly is sworn in and accepted as an expert witness in the field of engineering and planning. A-1 marked into evidence; I have a colored rendering describing the existing homes and the proposed location of the pool. The site is located in the middle of Stratford and is a single family equivalent to an R -10 zone. The front yard setback is 25 feet, the rear yard is 25 feet and the side yards are 10 feet. The subject of this application is the in ground pool that we are trying to construct on the corner lot. Location of the pool as you see on the colored rendering, we are asking for relief on the front yard setback to 15 feet where 25 is required and the rear 13 feet where 25 is required. That is basically the bulk relief that we are requesting. We also are

requesting relief for the height of the fence to 6 feet where 3 feet is the maximum in a front yard. All of the revisions requested for the fence are noted and will be implemented. We are meeting the requirement of 10 feet setback. The pool location has been chosen because it is the only available spot due to the topography. It fits well with the existing residences.

Damiani: is there a fence around the entire property?

Aly: the fence will be around the property.

Rasimowicz: I have no objection to the application; most of my comments are just required regulations. The applicant did agree to install to Street trees. I would also recommend and as built survey be supplied to ensure that the placement of the pole is in compliance with any variance granted here tonight.

Remsa: the location of the pool, is that the location that is farthest from any of the neighbors?

Aly: that is correct

Remsa: so that would minimize any impact at all on the neighbors.

Aly: that is correct there will be no impact whatsoever.

Remsa: I really have no issue with this.

PUBLIC: there being no one from the public wishing to be heard on this application a motion to close the public portion is made by Mr. LaFata, seconded by Mr. Lupo and approved by all board members present.

A motion to approve the application is made by Mr. LaFata, seconded by Mr. Klein and approved by all board members present.

BA-5116-16 POWER SAWS OF AMERICA, TRADING AS RKD TREE SERVICE
Mark Klein recused himself from this application due to a possible conflict.

Damiani: the absence of Mr. Klein, Stanley Teller will be a full voting member.

Lane Miller on behalf of the applicant. This application was carried from two months ago where we presented some testimony. Since that time we met with Mr. Kovacs and his attorney Walter Toto and have reached an agreement with them as to noise mitigation methods that are acceptable to Mr. Kovacs and his counsel Mr. Toto. We have agreed that if the use variance is granted that the resolution of approval will include that the noise levels at Mr. Kovacs property line will not exceed 50 dB as measured with appropriate equipment that meet state standards. The other matter I wanted to bring to your attention, there was concern raised about the other uses on the property. While we

do not control those uses is my understanding that the other uses have submitted the proper paperwork through the Township for their zoning use approval. The owner of the property has indicated that there are no other uses there and I'm sure that will be investigated. If so they would be issued notices of noncompliance and those uses would have to be removed.

Kemm: as you are aware the board received a faxed letter from Mr. Toto relaying the agreement that you just described and requesting that the board not vote on the matter because Mr. Kovacs is away. We had explained to them at the last meeting that this meeting would be going forward in their absence. It is my position that the board doesn't have the jurisdiction to adjourn the application. It is scheduled and has been noticed and so it is my opinion that the board does not have the ability to do that for member of the public but only for the applicant.

Miller: if there was a feeling on the board that it was important to let Mr. Kovacs come back in I would reluctantly agree to carry the meeting. I don't want to be unfair to anyone but by the same token I want to point out that the crux of the issue was the noise at the property line and we to have an agreement in place. Also on behalf of the applicant, we went through a lot of expense to get everybody here and everything in place to go before the board.

LaFata: I would like to move forward with it because it will be stipulated in the resolution that it will not exceed 50 dB at the property line.

Miller: I would like to call Mr. Ram Tirumala who is sworn in and accepted as an expert witness in the field of sound engineering. Entering B-1 into evidence which is the report that you and Nancy did.

Patel: is anyone licensed by DEP to do noise in New Jersey?

Tirumala: there is no formal DEP certification but I did take a course to be a qualified operator.

Miller: at the request of the applicant, Nancy Oliver took noise measurements at this site. One page of the report shows the operation of the equipment on the site and the location of the noise measurement.

Tirumala: that is correct it is an aerial view. It should be appendix a in it is about five pages from the back. On the board is a blown up version. It shows the road, where the noise was measured and where the equipment is off site. It also shows how far the equipment will be in relation to the properties boundaries.

Miller: under state law during normal operating hours, 65 dB is the level that is permissible at the property boundary?

Tirumala: that is correct

Miller: so if you are operating at 50 dB you are below according to state requirements?

Tirumala: that is correct

Miller: and the level that we are stipulating at the Moses Kovacs property line is 50 dB?

Tirumala: that is correct.

Miller: measurements were taken at that location (pointing to the exhibit) from both grinding position 1 and grinding position 2?

Tirumala: and also one of the requirements whatever we do the noise of monitoring is to run it in what we call a full load. So we ask them to operate at a full load so we get the maximum reading and Nancy ensured that it was a full load.

Miller: so that is as loud as it is going to get?

Tirumala: correct

Miller: with regard to grinding location 2 (G-2 using the exhibit) you received readings of 44-47.1 decibels, correct?

Tirumala: correct

Miller: that was using the sound curtains and we will have more testimony on those later. You also did testing at the grinder 2 location without moving the curtains you got readings of 44 - 47.1?

Tirumala: correct

Miller: and each of us is easily in state standards?

Tirumala: that is correct?

Miller: using the exhibit shows Mr. Tirumala where Mr. Kovacs' residence is. Would you say that at this location the readings would be significantly less?

Tirumala: yes I can confidently say that.

Rasimowicz: sound curtains were up while you were grinding?

Tirumala: not at both locations - at G2.

Rasimowicz: and the sound levels that you measured where they had your property line or Mr. Kovacs property line?

Miller: at the Olbrys property line - Mr. Kovacs was not home. And that is why at Mr. Kovacs property line it will be even lower.

Kemm: using the exhibit is it the boundary line of the least area or the boundary line of the property line.

Miller: in this instance the two coincide.

Rasimowicz: all of the levels that you measured are below the state standard?

Tirumala: that is correct

Rasimowicz: the agreement that you reached with Mr. Kovacs is that it will not exceed 50 dB at his property line?

Miller: that is correct we met with them and talk to him and we will stipulate that at his property it will not stipulate 50 db.

Rasimowicz: is Mr. Kovacs is property adjacent to your property? What is the distance between where you took the test and where his property is?

Miller: there is one property in between.

Rasimowicz: I just wanted to clarify that they do not have a common boundary; there is a buffer of another neighbor.

Miller: exactly which is why we can confidently say not more than 50 at Mr. Kovacs property line because we are not more than the mid-40s at our property line.

Gurney: just trying to get the feeling of what 150 dB would sound like; can you compare it to a motorcycle?

Tirumala: depending upon the motorcycle it could be as high as 110 db.

Miller: page 3 of the report, and airplane went overhead and it went to 65.8 db. So it will be less than the sound of an airplane going overhead.

Remsa: the plan shows some kind of specialized curtain hung on multiple trailers. My question is - this setup is what was shown in the fields when the measurement was taken?

Miller: yes.

Remsa: my recommendation is that if the board is inclined to approve this then this arrangement of sound curtain and movable trailers be required while the time on this

property, just as it is shown on the plan.

Miller: I would like to set adoption should this be approved where we are not going to violate the noise ordinance and the noise statute any time or anywhere and never exceed 50 dB at the Kovacs property. Methodology to reaching that may change if something better comes along.

Remsa: I would like to have them notify the town engineer and planning board if that methodology should have a change.

Miller: the applicant would have no problem with that. We are willing to agree that the grinding is only going to take place in locations 1 and 2. Locations are in the plans and I will have the applicant testify how they are allocated. We were talking about the noise suppression apparatus, and we have an image of that for the board marking it as B-2. It is a photograph of the two trailers with the sound curtains above them?

Tirumala: What you see is two trailers with noise reducing material above them. He uses to dissipate the noise in the surroundings and in this particular case they have two trailers connected in addition they have the noise reducing material. Slept considered not only the trailers but the noise reducing material also.

Miller: and the added height with the material asked to help suppress a noise?

Tirumala: that's correct

Miller: there was a question as to why it was trailers and not a built structure. This is a landfill and using the trailers is also so that they do not pierce the caps of the landfill.

LaFata: so it is your intention to use that operation at all times?

Miller: yes, if there is a change in methodology to give us the same result of not more than 50 dB at Mr. Kovacs property line that we will notify the planning office and the engineer's office.

LaFata: is there any benefit if you curtain the bottom?

Miller: no because the noise level rises does not go down and we are not trying to achieve zero.

Patel: this test was just done last week?

Tirumala: last week

Patel: so are there any natural buffers that will not be there in the wintertime?

Tirumala: good question. I do not anticipate the increase to be much because if you look

at the G1 location there is no natural buffer present. If there is a natural offer that made it less than we would have to make adjustments to ensure that the agreed decibels stays in effect.

LaFata: I would assume the trailers are staggered so that they overlap?

Miller: correct

Peter LoPresti (applicant) is still under oath from the last time.

Miller: I am going to show you photos of grinding locations one and two. Are these areas where your grind?

LoPresti: yes it is

Miller: there any other locations that grinding takes place?

LoPresti: know that is it. With regard to grinding location 2 - It is flat ground near my office trailer where I store the mulch. They are cinderblock bins that we put the mulch into.

Miller: with respect to grinding location 1?

LoPresti: I attempted to move it further away to try to cut down on the noise level. It is an alternate location and we didn't have the fully established curtains up at the time. These are the only two spots that geographically work for me. I would stipulate that these are the only two areas that we would grind. This is a closed land fill some of the topography does affect where I can and cannot to the grinding.

Miller: looking at the exhibit showing the noise reducing trailers - explain them.

LoPresti: they are refrigerated trailers and we mounted the sound curtain. The trailers are 14 foot high and we went an additional 8 feet above that for a total of 22 feet. The sound curtains are mounted on steel cables.

Miller: how long is each trailer?

LoPresti: 45 feet each so 90 feet in total. At the time of the original has, the informal test I had one trailer but no sound curtain. I put that between the grinder and Mr. Kovacs is property. I ordered the curtains quite some time ago but I just received them I was able to install them. With regard to the test with Mr. Kovacs, Mr. Toto was present and I turn the machine over to Mr. Toto. At that time Mr. Kovacs reported that he was receiving readings of 44 dB in his backyard. That was with one trailer and no curtains.

Remsa: I read through this specification sheet that was submitted in the latest round of documents. I notice that the one grinding machine also has a water spray dust control

suppression system. One issue is noise but I also heard an issue of dust. Can you tell us what suppression system is on the machine?

LoPresti: on the machine there are 2 dust options available which we purchased. There is it does good at the end of the final conveyor and there is a test suppression system which injects water into the grinding chamber. We only grind clean wood so if there is any dust, the water actually is in there before its ground so there is nothing that comes out of the machine.

Miller: does the operation under any circumstance create black dust?

LoPresti: black dust, no. Very minimal and no wood dust, it is all injectors into the grinding chamber.

Miller: we submitted all of those specifications with the packets.

LaFata: do you have the optional magnetic nail pulley system?

LoPresti: Yes I actually have two of them.

LaFata: does that crease the noise by pulling the nails out?

LoPresti: know really what it does, everything is done in the grinding chamber so there is no noise - so if there was a nail in the piece of wood as it goes up the rubber conveyor and turns magnetic pulley holds that right against the pulleys and drops it into a trough which we put a barrel underneath for any nails or metal and it actually goes to the scrap yard for coffee money.

Lupo: how far is your grinder going to be or when you took the test you had one trailer, how far away was it?

LoPresti: I try to keep the trailers 10 feet from the machine.

Lupo: once you start grinding make a pile of mulch so you start to move the machine?

LoPresti: no, the machine stays standing because we have to water suppression system and we move it with.

Lupo: So it won't be moved closer to the property line?

LoPresti: no

Patel: the curtains were your idea to install?

LoPresti: I found the curtains quite a while back when we first pack communications with Mr. Kovacs about two years ago. The trailers were actually Stanley's idea. We were

trying to figure out a way that we can do it in a friend of mine had some refrigerated trailers that they were getting rid of. We purchased them and we purchased dollies to put onto the front so we could easily them either grinding location one or two.

Patel: so the sound engineer that you hired was just to do the noise levels not to give you an assessment of how to.

LoPresti: the assessment I got from the company in Florida, you have all the information on it. They gave me the readings on the rules on how high I should go in the distance, etc.

Miller: and I think that the sound engineer testified that these particular curtains as being a good solution.

Mr. Wilder Engineer is still under oath - so we had submitted a revised site plan and the site plan was revised to indicate the grinding locations 1 and 2 which matches the exhibit that was submitted by the sound engineer. We also located the operation of Blackrock. We also created a planning profile showing the trailers with the grinder and the standard height, setbacks of that nature to give the board a better idea the situation when they are doing the grinding. Using the exhibit he shows the locations for grinding location one and two.

Miller: and that layout corresponds to what was shown on the sound engineers,

Wilder: correct

Miller: how far from the North East point of the measurement it was to Kovacs property. I think you had a chance to calculate that?

Wilder: I did and it is approximately 200 feet from the northern property line to Mr. Kovacs is property.

Rasimowicz: it looks like the sound curtain goes all the way down to the grounds.

Wilder: that was an error.

John Chadwick is still under oath as a planner for the application. In terms of the special reasons; this property is particularly suited for this use due to the history of the use. In my opinion this property could not be used as a residential property. This property has been well that it under these two hearings and we have learned certain things that go with this type of operation. Recycling is not a landfill operation but it is kind of like that. The whole site as you have learned is a number of commercial operations, some of which may enjoy a pre-existing status and some may not. As a part of this application a whole new set of events is taking place in this property. You will have a handle on the site once and for all. This particular location of the site is isolated and we know it used to be a landfill. There are no provisions for this kind of facility in the land-use ordinance.

We also know that the trees of the Township have to go someplace and we have heard that Township of Monroe brings their trees to the site to be recycled. That fulfills a necessary community service which goes to the special reasons of the municipal land-use law. The second step of this kind of application regards negative impacts. We've had two hearings on what the negative impacts are in the applicant has gone beyond with the requirements are for these uses to mitigate the negative impacts. The reconciliation part of this application is - does your master plan address this type of facility at all. The master plan does not address this specific type of use, it is neutral. My judgment, we meet the test for the use variance. The facility is absolutely needed by the municipality and really the surrounding communities and I think this is a superb reuse of what is a former landfill.

Kemm: in light of the conditions the applicant agreed upon, to find those to be reasonable to ameliorate the potential negative impacts of this use?

Chadwick: yes

LaFata: at this time we are going to open up to the public.

PUBLIC:
Peter Kulbacki - 555 Spotswood-Englishtown Rd. (still sworn in from the last meeting). I'm not going to take much time I can make my points pretty quickly. I looked at the application packet a week ago so some of the information testified to this evening was not available. Going off of some comments from your board professionals and some documents I could see, the applicant is restricted to processing mulch two-week Windows 4 times a year. He is also grinding pallets but I don't know if that comes under the descriptions of mulch. Access by a dirt road, your requirements requires a 24 foot paved road which is not present. Most if not all of the subject property needs to be paved according to the professional reports and that is lacking. Specifically regarding the dust abatement system. I personally do not believe that that is being used. There are noticeable particulates that settle on my vehicles on days that I hear grinding back there. It has a metallic sheen to it and I was hoping to have those particles analyzed but I have not been able to do it. More importantly there is no utilities serving thing the property so where is the water coming from? If he is using the water system what is he doing with their runoff? My opinion of the noise abatement system is that it is not permanent or consistent. If you grant this variance, should not any noise abatement system be permanent. Candidly I don't believe that the board can spot zone the hole in the doughnut. You're the much bigger problem there and the property needs to be looked at as a total. Everything surrounding the property is zoned residential. If you approve this you are opening up the entire property as being an industrial Park. Have a beautiful home right across the street and you will definitely be devaluing my property and all of the residential properties around this property. I did take notice in your comments that a traffic study was to be conducted on the property and I see no evidence of that being conducted. I live right across the street, I get up early and I can tell you that the activity starts very early in the morning. In fact an RKD truck going out at 5:30 in the morning. (Marking into evidence K1, which is a personal traffic

observation performs a week prior to the last meeting.) Prior to 6 AM there were 15 vehicles that went in and out of that property. Total vehicle movements prior to 7 AM is 70 vehicles. So prior to 8 AM you have 110 vehicle movements in and out of the property. That is not a little operation and I cannot differentiate between RKG or black rock or whatever. I testified the last time that I purchased my property in 2002 and none of this activity seemed to exist. What we had was a small paving business. Marking into evidence K-2; you can go back on Google Earth and we went back as far as 2001. Starting in 2007 (Mr. Kemm verifying that it was a screen shot and that the pictures have not been modified at all). You can see that there is very little activity and it is mostly farmland and it looks like the mulching operation has started. In 2008 shows that the mulching operation seems to have gone a little bigger, some more trucks, 2009 the same situation and look at 2010. All of a sudden black rock is there, the mulching operation has gotten much bigger there's many more trucks parked. Marking into evidence K3; we took pictures on Saturday by my son in a helicopter. These pictures were not altered in any fashion. You can see the intensity of the use how big the mulching operation has become, take a look at all of the vehicles and some sort of material processing. Marking into evidence K4; taken by my son on Saturday by a helicopter and not altered. It is a much closer shot of the BlackRock operation; appears to be two buildings back there that I am going to presume are not there with permits. K5-a little bit different shot but also shows you some of the things behind the trees. K-6 you can see the black rock operation in a closer shot of some sort of material processing. Again I reiterate, how can the board consider granting a variance for the hole in the doughnut when you have all of this going on? If you choose to grant this variance you are opening up the door to all of these other applications that are hoping to come before the board and how can you possibly not agree that turning this into a full-blown industrial Park, which is what it almost is now, is not going to devalue the surrounding residential properties.

Rasimowicz: Mr. Kulbacki was reading almost verbatim from my review letter. A lot of the items that were discussed will be covered by a site plan should the use variance the approved. Going to my review letter; should this be approved the applicant will become required to come back for preliminary and site plan approval and conditions of that site plan approval lists the items, or some of the items that Mr. Kovac he is referring to such as the 24 foot paved road and traffic studies. It will all be reviewed at the time of the site plan application and they are not required as part of a use variance. With regard to the traffic counts, again it will be part of the site plan approval to determine the ingress and egress and whether it can handle the traffic.

Remsa: Mr. Rasimowicz picked up on the fact that if the use variance is granted the applicant will have to come back for site plan in which all of these items will be addressed.

Rasimowicz: with regard to the other uses going on at the property, I know that Sal Profaci, the Zoning Officer has been in touch with them and it is being handled by him.

Kemm: just want to address a couple of the comments that Mr. Kulbacki made. We are

here tonight only for is for this particular applicant and their use. I understand your argument regarding the other uses on the property. If this were to be granted is not presidential so you can't come in and say, "the got it so you need to give it to me". I understand your concern that there is more than one thing going on at the property. We are addressing that to the extent that we can as a result this application. The zoning officer is sending letters or whatever it is he needs to follow the law to get information regarding the other uses on the property.

Patel: if the applicant can clarify the statements regarding the pallets and the second processing operation.

Miller: we will go through all of the photos

Lupo: where are you going to get the water?

Miller: we are going to adjust that as well.

LaFata: is there anyone else from the public wishing to adjust this application?

There being no one from the public wishing to adjust this application a motion to close the public portion is made by Mr. Lupo, seconded by Mr. Teller and approved by all board members present.

LoPresti: I am familiar with all the operations on site. I heard testimony from Mr. Kulbacki about the traffic in and out. I have nothing to do with Blackrock, MGM or any of the other uses. I have three employees. They come in in the morning, maybe one goes out for lunch and then we'll go out at the end of the day. My company, on an average 15 trucks goes in and 15 trucks go out a day. During a storm like Sandy maybe 20 trucks in and 20 trucks out. The movements are spread out during the day. My hours of operation are from 7 AM to 5 PM. With regard to the water; there are two existing wells on the property and they have been there since prior to my operation. I pull the water from that to use in the suppression system. There is electric service, full-service right up to the site. You don't drink that water buffer my use it's perfect. With regard to pallets; we grind to 1%. With regard to dust with a metallic sheen; we do not grind metal at all. When I say 1% are pallets-probably over the course of two or three months I might have 100 pallets; over the whole mulch season. The pallets are acquired from some of my suppliers. Pallet would is actually very good to make the red colored mulch when you mix it with clean wood. With regard to the photographs that were referred to by Mr. Kulbacki; he shows where his operation takes place. The same area and each photo. The other trucks that are shown on the photos are not mine. With regard to K3; shows the whole site and in that picture he shows where the mulching operation is. You can see the firewood pile and the mulch pile. He shows were grinding location 2 would be. The stuff off to the right is not me. With regard to K4; this shows Blackrock's buildings and trucks. With regard to the buildings, they were both done with the proper permits and that have passed all of their fire inspections also. But they have nothing to do with my operation. With regard to K5; the same photo just a little further

back. With regard to K-6; it is the more easterly part of the property, I am not even shown on this photo.

Lupo: the trucks that you say that come in during the day. They're coming in to pick up your product and maybe drop off trees or limbs. Do you actually do the dying there too? Is it toxic?

LoPresti: yes we do but it is done in concrete bins and it is inspected by the fire, hazardous materials, and County and State. There are several different processes; you can do dry powder, you can do liquid and mix it in after you process. We do it in the chamber itself when we are done grinding it. We re-tool the machine and it spins around and releases the color on top of it. If you have chips you apply the color to if you are applying color. It is done in the chamber of the machine.

Lupo: what is the proximity of the wells from where you are doing the dying?

LoPresti: one is about 100 feet away and the other is about 200 feet away. There is no danger of the die because it is stored in concrete bins. There were test wells around the site that are tested on a regular basis. The testing is not due to my operation but due to the closed landfill. The color is a natural color, it is not toxic. You can actually drink it if you wanted to.

Lupo: you're only going to chip four times at 2- year two week intervals. Do you have any idea when you were going to chip, winter summer?

LoPresti: most of the time it is through the winter or prior to the spring.

Lupo: when you get the sound decibel test with the leaves on the trees?

LoPresti: we have actually tested about 5 times; we done it both ways. Two years ago we did two or three times where the county came down and did a certified test with the no sound curtains and no trailers and that result was at the 50 to 52 db. That was no sound curtain, no leaves and no trailer.

Miller: we will submit reports to the municipality in connection with the report to give to the county.

Masters: where is there water runoff going?

LoPresti: I don't create any runoff. The water is sprayed into the grinding chamber and into the mulch which comes out wet. There is no water that comes out onto the ground.

LaFata: just to remind the board that we are voting tonight on his application strictly on the use variance. We did hear from the public but this is not for the site plan. Keep in mind that the vehicles that were discussed by the public seem to be from another entity and they are being dealt with by the Township.

Patel: are there any operations there that are in compliance?

Kemm: that is being reviewed by the zoning officer and will be determined by him. We will deal with them when we get to them. The zoning officer will issue violations of noncompliance ordering them to come here or they will have to cease their operation.

Patel: I'm still concerned with the intensity of the site itself. If we don't know if they are all in need of a variance how can we decide on this operation?

Kemm: there is an answer kind of like a kindergarten answer-he came here first.

Patel: is this something we can carry?

Kemm: the answer is yes, if the board feels that they need that information as to the status of the other users on the property before they vote on this then it can be carried.

Rasimowicz: Blackrock seems to be the biggest intensity on the site. They are not permitted there and I know that Sal Profaci is following up. The house is a permitted use.

Lupo: before I make a motion I just wanted to say that I did hear the individual from the public anyhow a lot of merit. It all goes back to what we were saying that I think a lot of what you brought up is Blackrock. The applicant stated that he has three employees, he has on average 20 trucks, he chips four times a year in two week intervals any follows all of the state regulations. Before I make a motion, this board has to vote on that and then it is all contingent upon him meeting the stipulations of our engineer. So I make a motion to approve the application based on all the stipulations that have been agreed upon.

Miller: I just want to clarify, Mr. Rasimowicz specifies that this is just a use variance and we will come back for site plan.

Kemm: I guess the motion should be contingent upon addressing Mr. Rasimowicz's report at the time of site plan.

The motion to approve is seconded by Mr. Gurney and approved by all board members present. Due to Chairwoman Damiani leaving the meeting, Jennifer Hluchy is a full voting member on this application.

BA-5115-16 S & G PAVING, INC

Ken Pape is here on behalf of the applicant S and G Paving, Inc.

LaFata: Mr. Klein is back and Mrs. Hluchy will not be a voting member on this application.

Pape: this is a request for site plan approval for a project that the board saw in March and April 2015 and at that time granted use variance relief. Many conditions of approval where included in the use variance approval. This board requires of the applicant return for preliminary and final site plan which is why we are here this evening.

Kemm: everything is in order we have jurisdiction to proceed.

Pape: the application is filed as preliminary and final site plan approval we have met with your professional staff on many occasions. This evening we are comfortable asking for preliminary site plan approval. We anticipate being back almost immediately with the final.

Sharif Aly is sworn in and accepted as an expert witness in the field of engineering.

Pape: when this application came before the board request was for a commercial storage of equipment and materials and to convert an existing single-family residence into an office for that business. When the application was approved it was with conditions for hours of operation, the type of fencing and landscaping, and requirements for size and amount of parking stalls, etc. All of the conditions are now before you with the site plan.

Aly: marking A-1 as an exhibit is the aerial map, A-2 is the site plan, sheet two colored. Using exhibit A-1 he shows the property and the types of properties that the subject property is surrounded by which is many large warehouses and some residences. Using exhibit A-2 he summarizes the site plan which is basically the same plan that was presented back in 2015. It shows where the equipment and materials will be stored. The existing house will stay in the same place. The location for the detention basins remains unchanged from the use variance. We are going to build all of the parking spaces now.

Pape: wetland delineations are shown on the map?

Aly: it is on the plan and within the area of the channel area. Storm water requirements have been designed and show on the map. We only have six items from Mark Rasimowicz's letter that we would like to discuss everything else can be complied with.

Pape: there was a request that we have a recycling area with a concrete slab; will that be shown on the plan?

Aly: yes also there is a request for the pole barn to have a concrete floor which we will agree to and is shown on the plan.

Pape: there is a request for a storm water collection system for the driveway so that there can be verification that no storm water will go on to the adjacent property, are you able to represent to the board that those storm water elements have been included in the plan?

Aly: yes

Pape: board members may be aware that across the street there is a major development, a Lenore development that is coming soon. When that development comes there will be a major installation of the utility line in the roadway in front of us. That utility line will probably go in at a depth of 20 feet. There has been a request that we resurface the roadway and we are asking that we do that after the disturbance has taken place with regard to that development coming across the street.

Aly: yes that is what we are requesting.

Pape: there is also request that we make improvements across not only our property but adjacent properties. We stipulate that we will make the full improvements across our client's property and will defer to the professionals with regard to how far we go.

Rasimowicz: the improvements along the frontage, you are also including in that the parcel that is his father's?

Pape: yes but instead of just saying yes we want to go out there with Mr. Rasimowicz so that we don't make a flooding problem on the adjacent property. There was a building on the property that is currently a single family residence which will become the office for this business. There is a request that we dismantle bathrooms but I request that we meet in the field to discuss what comes out and what should stay. The applicant can comply with the rest of the recommendations.

Aly: summarizes all of the design waivers requested.

Pape: I have no further direct presentation. We've asked the board to consider the preliminary site plan.

Rasimowicz: they've agreed to the letter except for the variances and waivers requested that they summarized. I have no problem with the requests. One item 4EE - you said you are requesting design waiver is you not seeking the various at this point?

Aly: we are paving the entire parking lot and we are providing the curbing on the downstream part of the parking lot as well.

Rasimowicz: that makes sense.

PUBLIC:
Let the record show there is no one from the public wishing to be heard on this application. A motion to close the public portion is made by Mr. Klein, seconded by Mr. Sloan and approved by all board members present.

A motion to approve the preliminary site plan application is made by Mr. Klein, seconded by Mr. Patel and approved by all board members present.

DISCUSSION:
BA-5088-15 (New York SMSA Limited Partnership c/b/a Verizon Wireless) is requesting an extension.

Kemm: this application was on federal road and they were putting up a cell tower. They need to subdivide the piece off for the cell tower and it is being held up. The law says you have to file the subdivision deeds we can a certain amount of time after the approval.

A motion to approve the extension is made by Mr. Patel, seconded by Mr. Sloan and approved by all board members present.

MEMORIALIZATION:
BA-5119-16 (George Tarantino) A motion to approve the resolution is made by Mr. Klein, seconded by Mr. Sloan and approved by the following vote: Mr. Lupo - skipped, Mr. Gurney - abstain, Mr. Patel - abstain due to absence, Mr. Klein - yes, Mr. Sloan - yes, Mr. Teller - yes, Mrs. Hluchy - didn't vote, Mr. Masters - didn't vote and Mr. LaFata - voted no on the application so did not vote on the resolution.

Kemm: The resolution is approved

BA-5088-16 (New York SMSA Limited Partnership d/b/a Verizon Wireless is approved by all board members present.

Klein: I have one thing to discuss; we had a problem years ago when I visited the Greeks property with Mr. Rasimowicz. We never spoke to the man; we basically just look to see what we were voting on. In this case, what is wrong with the board member going to the person’s house to see firsthand the noise level? Without discussing anything else.

Kemm: you had mentioned that he approached you recently and tried to engage you in conversation, show you pictures and things. That creates a bit of an issue; we were being ultra conservative to protect the board in the event of a lawsuit. It removes the issue to be litigated that you had the potential conflict of interest. As a general proposition, you are elected officials because you know the town. You can drive by and take a look but once you go on the property it becomes questionable. If a board member wants to go onto the property let us know and we can set up an appointment with the applicant, for when he won't be there for that he will understand that he cannot talk to the board members. Part of our job is to make sure we have a good clean record.

Klein: so we are allowed to go past the property is on his be to not go on the property?

Kemm: that's correct

There being no further business to come before the board the meeting is adjourned at 9:53 PM.

Respectfully submitted,

Patti Williams,
Secretary for the Board