

## HAINESPORT TOWNSHIP JOINT LAND USE BOARD MINUTES

**Time: 7:00 PM**

**Wednesday, July 12, 2017**

### **1. Call to Order**

The meeting was called to order at 7:00 PM by Mr. Krollfeifer.

### **2. Flag Salute**

All participated in the Flag Salute

### **3. Sunshine Law**

Notice of this meeting was published in accordance with the Open Public Meetings Act By posting on the municipal bulletin board, publication in The Burlington County Times and Courier-Post Newspapers, and by filing a copy with the Municipal Clerk

### **4. Announcement of “No new business after 11:00 PM”**

### **5. Township Committee Resolution 2017-94-5**

**Appointing William Wagner as Class II, Alternate #3 Member to the Joint Land Use Board**

#### **RESOLUTION TO APPOINT CLASS II ALTERNATE MEMBER TO THE JOINT LAND USE BOARD**

**BE IT RESOLVED** by the Township Committee of the Township of Hainesport, County of Burlington and State of New Jersey that the following Mayor’s appointment to the Hainesport Township Joint Land Use Board be approved to serve as a volunteer:

**Class II, Alternate # 3, two year term until December 31, 2018 - William Wagner**

**BE IT FURTHER RESOLVED** that a copy of this resolution be given to the CMFO, Administrator, and Joint land Use Board Secretary for their records.

I, Amy P. Cosnoski do certify this to be a true copy of a resolution adopted by the Hainesport Township Committee at the Reorganization meeting held on May 9, 2017.

Amy P. Cosnoski  
Township Clerk

### **A. Swearing in of New Appointee**

Mr. Kingsbury administered the Oath of Office to William Wagner.

The Board welcomed Mr. Wagner.

Mr. Krollfeifer welcomed Mr. Wagner and Ms. Kosko.

## **6. Roll Call**

Present: Mrs. Gilmore (left 10:15pm), Mayor Porto (left 10:15pm), Mrs. Kelley, Mr. Dodulik, Ms. Kosko, Mrs. Baggio, Mrs. Tyndale, Mr. Wagner, Mr. Krollfeifer

Absent: Mr. McKay, Mr. Clauss, Mr. Lynch

Also Present: Robert Kingsbury, Esq., Board Attorney  
Mara Wuebker, Board Planner  
Martin Miller, Board Engineer  
Paula Tiver, Board Secretary

## **7. Items for Business**

**A. Case 17-05: Verizon New Jersey, Inc.  
Block 96.02 Lot 1  
625 Lumberton Road  
Minor site plan  
Attorney: Nicholas Talvacchia, Esq.**

**Proper notice was given.**

Mr. Kingsbury swore in Jeffrey Reynolds, Landscape Architect and John Seliga Verizon External Affairs Field Director.

Mr. Talvacchia, Esq. stated that he represents Verizon New Jersey. They own an operations facility located at 625 Lumberton Road and are seeking a minor site plan approval for a 720 square foot garage/storage building. There are no variances being requested and they will be removing a couple of sheds and trailers. This will make the site look neater and more functional. No changes in parking or employees will occur.

Mr. Reynolds gave his credentials. He prepared the site plan.

The Board accepted.

Mr. Reynolds gave a description of the property that fronts Lumberton Road. Verizon is proposing to remove two sheds and a couple of trailers. They would like to replace them with a 24' x 30' garage that is 720 sq. ft. He referred to the site rendering marked as exhibit A1.

Mr. Talvacchia questioned if there were any variances needed for this plan and if it meets the requirements for a minor site plan approval.

Mr. Reynolds stated no variances are needed and it meets the requirements.

Mr. Krollfeifer commented that he visited the site and knows the location of the trailers and sheds that he is referring to.

Mr. Krollfeifer opened public comment.

George Weishoff, 630 Lumberton Road, was sworn in. He explained that he lives across the street from the site. In the past he had issues with the parking lot lighting in front of his house. They did rectify the problem and was questioning if there was any new lighting being proposed.

Mr. Talvacchia stated there is no new lighting.

Mr. Krollfeifer closed public comment.

Mrs. Baggio motioned to approve the application subject to the waivers recommended by the Boards professionals.

Second: Mrs. Kelley

**Roll call:** Mrs. Baggio, yes; Mrs. Kelley, yes; Mayor Porto, yes; Mrs. Gilmore, yes; Mr. Dodulik, yes; Mrs. Tyndale, yes; Mr. Wagner, yes; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries to approve.

Mr. Krollfeifer stated we will take a 5 minute recess at 7:15pm to set up equipment.

The Board resumed at 7:20pm.

**B. Case 16-12A: Robert T Winzinger**

**Block 73 Lot 11.01**

**2025 Marne Hwy.**

**Site Plan waiver and Use Variance**

**Attorney: Denis Germano**

**Proper notice was given.**

Mayor Porto and Mrs. Gilmore recused themselves from the use variance.

Mr. Germano explained this is not going to be a complicated application. The Winzinger will have to go to the NJDEP if they receive approval for the use variance tonight. They will have to get one DEP permit and a couple determinations because they have wetlands on the property and they are in a flood plain. They have been told that they will need a waterfront development permit. It gets harder for the Winzingers. They are asking for three things: 1) Crush their own concrete, block, brick, and asphalt that comes from their road and demolition jobs. 2) They are asking to continue to receive concrete, block, brick, and asphalt from the public which they have been doing for approximately 30 years. 3) They are also asking to continue to sell the crushed concrete, block, brick, and asphalt to the public. If they do those things, they would be expanding a nonconforming use. That is why they need a variance.

Mr. Germano continued that he is certain, which is stated in the planners report, that the Winzinger site and what most of what they are doing there is protected by a grandfather clause. They have been there in business since 1966, therefore they have that protection. They have always stored material and equipment. It is a contractor's yard and repair facility. Part of the material they have always stored there is the concrete debris from

their demolition jobs. They have been doing this before there was an ordinance prohibiting it, which is why it is grandfather. Ms. Winzinger will testify that in the mid-1980s began accepting broken concrete from the public and selling crushed concrete to the public. That was an expansion of a nonconforming use and should have gotten Board's approval and didn't get it. They are here tonight asking for that approval. She will also testify that less than 10 but more than 5 years they use to crush concrete on this site. There was a time when DEP rules permitted it. At some point DEP rules had changed. DEP told them and everyone else in the state to stop until they revised their rules. The new revised rules said that the Winzingers could resume crushing only concrete that is generated from their own jobs, not the public, as long as they received this Boards approval. That is why they are here.

Mr. Germano stated they are here seeking approval to crush concrete generated by their jobs, accept broken concrete (block, brick, and asphalt) from the general public, and ship it out. Material from the general public must be shipped out to be crushed and will be crushed by another Class B recycling facility. They are asking for permission to accept material from the public, store it for a little bit so when they have enough ship it to a facility that it would be crushed then bring some back to sell it to the public. They agree that they are expansions from what they did in the beginning when they were protected and it is something now that they need the Boards approval to do.

They are not here to talk about site plan. The land use law and the ordinance provides the choice for the applicant to do the use and the site plan separate or together. You will hear a good reason why they want to do it separately. This site is subject to three DEP approvals that they are aware of. They are unsure how much property they will have to work with until they receive the DEP approvals. Once DEP draws the lines that is when they can come back with a site plan. They would only be guessing at this time.

This is a use variance which involves one positive and two negative criteria. Purpose of the land use law is to promote recycling and is the business that they are in. Robert Shinn will provide testimony on this matter. The negative criteria is that it will not create a substantial detriment to the public good. He will call neighbors as witnesses to prove that. Audrey Winzinger will provide testimony that it will not impact traffic or increase truck traffic because they are doing it now. Except if crushing, it will reduce truck traffic. A sound study was provided which the staff did witness. It concludes that it did make less noise than what is allowed. They must also prove that you will not substantially impair the zoning ordinance or master plan.

Mr. Kingsbury swore in Audrey Winzinger, Winzinger Inc. Vice President.

Mr. Germano questioned what the company does.

Ms. Winzinger explained that they generally do site work and demolition since 1958. The main office is located on Marne Highway in Hainesport on this side of the Creek and the other side is the repair garage which is the subject of the application. They have been there since 1966 and have always had equipment there, trucks there, repaired them there, and always had construction materials. Everything from barricades to concrete is there.

Mr. Germano questioned if they have other sites.

Ms. Winzinger stated they have other recycling sites. One is located in Franklinville, Gloucester County. Expanded recycling is done on that site. She explained how they recycling the wood and tree stumps and crush concrete there. The crushed concrete, brick, block, and asphalt is sold and used for a lot of different things. A lot is used as a road base so that it is not being taken from a quarry. It is higher quality and tests either equal or better than quarry material.

Mr. Germano asked where the public material that is brought to Hainesport goes to be crushed.

Ms. Winzinger explained that it would go to Franklinville or to their other facility in Philadelphia. The Philadelphia facility only does concrete, block, brick, and asphalt because it is a much smaller area. The material that is not Winzinger material is piled and then later put in a larger truck and taken to one of their facilities. That is how the exemption works. If you take in material from other people, you have to put it back on a truck and take it to a class B facility, which could be theirs or someone else's. You are able to crush your own material.

Mr. Germano questioned if they are segregating the piles.

Ms. Winzinger answered yes.

Mr. Germano asked if they had crushed at this site before.

Ms. Winzinger explained that they started crushing around 1995. DEP had a regulation at that time that you could crush both your own and others materials. They did crush for approximately 11 years and believes it was in 2006. This was the time DEP changed the regulations and the exemptions came in.

Mr. Germano questioned if they have crushed since then.

Ms. Winzinger answered no.

Mr. Kingsbury questioned the years.

Ms. Winzinger explained that her records are not the best because they had a fire and flooding. She is pretty positive they began crushing in 1995 and stopped in 2006.

Mr. Germano asked when they started accepting from the public.

Ms. Winzinger explained that it was around 1980. They started taking it to Franklinville because they had a permanent recycling equipment there. It was a distance and there were not many recycling facilities around at that time. They recycle 100 percent of what they take in.

Mr. Germano questioned if the concrete that they bring in from the public will be crushed here.

Ms. Winzinger stated no, it can't be.

Mr. Germano asked if the use variance is granted, would it increase truck traffic.

Ms. Winzinger answered no, it would decrease because currently they are taking their material and the publics to another facility.

Mr. Germano questioned why it wouldn't increase if accepting from the public.

Ms. Winzinger explained that is what they are doing now. They are taking in the material and shipping it to a class b recycling center. She believes it would change it at all.

Mr. Germano commented that if the use variance is granted you will be able to crush your own concrete debris. Why wouldn't you bring more of it to this site?

Ms. Winzinger explained it depends on the location. It costs approximately \$80 or more to rent a dump truck. They will go to their closes facility. Places would come to this site would be for example from the joint base.

Mr. Germano questioned that if the variance is granted, would it be a permanent fixture at this site.

Ms. Winzinger stated no. It is needed in different locations. This crusher is portable. It is not unusual for them to take it to a location where there is a lot of material. They only take it to a location that will be there for at least 3 days to keep it cost efficient. It moves around a lot. She believes a week would be the maximum time it would stay in one location including their Marne Highway property.

Mr. Germano stated that in speaking with the Board's Professional staff, they agreed to limit the number of days that the crusher would be here in Hainesport. Did she give any thought to that number?

Ms. Winzinger stated they did talk about 60 days. She also stated that a portable crusher can only stay on a site no more than 90 days over a period of year. If it raises everyone comfort level, so be it.

Mr. Germano questioned why one year you may only need it there for 25 days and the next year need it for 60 days.

Ms. Winzinger explained she is unable to predict what work will be done in the future or the location. Project come in the door all the time and they also bid on projects. Sometimes they partner with another contractor that got the job because they want to do something with the concrete. It changes with the economy and the weather.

Mr. Germano commented that the longest it would be there is about a week and 60 days a year. Are you comfortable limiting that?

Ms. Winzinger answered yes.

Mr. Germano explained that they also spoke about agreeing to inform the Zoning Officer when you intend to crush and how long we plan on having it there.

Ms. Winzinger commented that they are required to inform DEP and would have no problem with informing the Township.

Mrs. Baggio questioned when they partner with a successful bidder on a job, is that material considered Winzinger material that would be crushed at the Hainesport site.

Ms. Winzinger answered if there is enough concrete, they take it right to the site and crush it. There is a site on the joint base that they were not the contractor but crush the concrete on site. It would probably be on a case by case bases. If she puts something in her dumpster, she is responsible for it and DEP says she is responsible for it. They would not partner with anyone unless it was a very large amount of material.

Mr. Miller questioned when they take the crusher to another site, does it have to be re-permitted for that location.

Ms. Winzinger explained that when the crush on a site and the material stays at that site, it is not needed and thinks it's a different exemption. She believes it is determined on what the use will be for the finished product.

Ms. Kosko questioned if their Philadelphia or Franklinville site closed, how it would impact the Hainesport site.

Ms. Winzinger explained that the Philadelphia site is over the bridge and would be too expensive to run the trucks over the bridge. There is two or three crusher within a couple blocks of the Philadelphia plant. They receive material within a 60 mile radius of Franklinville, maybe less. She believes the people would drive to somewhere closer, since it is a long distance to here. It costs too much to run the trucks.

Mr. Germano commented that Franklinville is a class B full recycling plant. There is nothing in the business plan closing it.

Ms. Winzinger stated that was correct and they own that property.

Mrs. Wuebker questioned if they were planning on closing the Philadelphia facility.

Ms. Winzinger explained they are planning on possibly relocating it from the property it is currently on. When they were all out at the Hainesport site, Ms. Winzinger stated that they were looking on closing the Philadelphia site because you were having problems with the unions. She was concerned that they close that site it would then be brought to the Hainesport site.

Mrs. Wuebker questioned where they would take the material that is brought in from the public.

Ms. Winzinger answered Franklinville.

Mrs. Wuebker asked to they ever take it to Philadelphia.

Ms. Winzinger stated rarely.

Mrs. Wuebker questioned if they have a current air permit for the crusher. When she check the site, it stated that it was pending.

Ms. Winzinger stated she would have to check her files. There is someone else that handles that.

Mrs. Wuebker questioned the number of piles that were shown on plan.

Mr. Germano stated that will be addressed at time of site plan. He explained that the most would be 6 piles.

Mrs. Wuebker questioned if the block, brick, concrete are separated in different piles.

Ms. Winzinger explained it is all in one pile as incoming.

Mrs. Wuebker questioned if they are planning on suppressing some of the dust that is generated.

Ms. Winzinger answered yes. If they receive approval, there would have to store water on site to feed the sprayers that are already on the equipment. As far as mitigating the noise, they learned during the sound study that having a large dense pile helped. The crusher would not be there unless there was a dense pile.

Ms. Wuebker questioned if they are able to use the spray all year round.

Ms. Winzinger explained in the extreme cold they would not be able to use the sprayer. However, it doesn't seem to get that bitter in New Jersey any more.

Ms. Wuebker explained that when they had visited the Philadelphia site to see the crusher, there was a spray on part of it. Is there any way to have more sprayers on it to help with the rest of it?

Ms. Winzinger stated more spray can be put on it. There is equipment made just to spray water on it.

Ms. Wuebker asked for clarification on when they started crushing. She thought that the email stated 2004.

Ms. Winzinger apologized if she hadn't made things clear. She pretty sure they started in 1995 and stopped in 2006. However, she doesn't have good records before 2004 due to a basement flood and fire which destroyed records.

Mr. Germano questioned if she ever had any complaint during that time.

Ms. Winzinger answered no.

Mr. Krollfeifer asked for clarification on who she is referring to when she states they receive product from the public.

Ms. Winzinger explained that things come in from a back of a Buick, dump truck, and bigger trucks. They have people haul away product on trailers and big trucks.

Mrs. Wuebker questioned how they know if they aren't receiving contaminated material.



Ms. Winzinger explained that she can see if there is rebar, wire mesh, or dirt in it.

Mrs. Wuebker referred to the photos on page 21 of her report which shows dirt in the pile.

Ms. Winzinger explained that is not dirt that it is broken down concrete and asphalt.

Mrs. Wuebker has concerns with the possible contaminants that maybe in the material received from the public.

Ms. Winzinger explained that they have a loader operator and a person that is on the ground that watches like a hawk. The last thing she wants is to crush concrete that is contaminated. Test America tests it on a regular basis. She has never had a hot test. She explained the testing process and can provide test results.

Mrs. Wuebker questioned what the denial was in May of 2007.

Ms. Winzinger believes it was probably the last request for their limited approval. She explained the limited approval process back then. DEP stopped giving them out because they were changing the rules and that's when they started exemptions. She would have to look it up but is pretty sure that is what it is for and would be happy to supply the information.

Mrs. Wuebker read from a county document. There was a limited approval in 2004, 2005, 2006, and then there was a DEP violation because they were accepting material after the date of expiration. Then in 2007 it was denied.

Mr. Germano objected and questioned what this has to do with the negative or positive criteria for a use variance.

Mrs. Wuebker stated that the positive criteria being that recycling is one of the purposes of zoning. It also has to be consistent with the planning practices of state recycling regulations which you have to go by the county. She read the county standards. She questioned how it operated in the past and if they have been compliant with DEP regulations. She just wants an understanding of the site. Exhibit marked as P1. It has discussed during a staff meeting about inspections. I had been stated that you pay a fee and receive quarterly inspection. In speaking with Mr. Everick, you fall under the exemption that you don't need inspections.

Ms. Winzinger explained that exempt facilities do not pay for inspections. They do receive inspections from the County Health Department. Mike Hansen from DEP has been out.

Mrs. Wuebker questioned if they are visiting because of the recycling activities or being a solid waste transporter?

Ms. Winzinger commented that they are not a solid waste transporter, they haul recyclables.

Mrs. Kelley would like to hear from Mr. Shinn, a former DEP Administrator. We are getting more into the site plan and we are only hearing the use variance tonight.

Ms. Kosko questioned if someone goes in and checks to make sure the site is clear of contaminants such as asbestos before demolition.

Ms. Winzinger explained that it would be something rare not to have reports that certain items were done, such as a report on asbestos done prior to bidding on the job. She explained the process. They barely ever bid on a job that doesn't have engineer over site.

Mr. Kingsbury swore in Robert Shinn, 1713 Marne Highway.

Robert Shinn gave his back ground.

Mr. Germano asked that granting this variance they will promote of the purposes of the land use act. That is to promote maximum practicable recovery and recycling of recyclable material from municipal solid waste. There is no question that concrete, block, brick, and asphalt are recyclable material. They are promoting recycling through the use of planning practices designed to incorporate the state recycling plan goals and compliment municipal recycling programs.

Mr. Shinn explained that we have an aggressive county program. There is an entire list of issues that the planner pointed out from the recycling act is very accurate.

Mr. Germano commented that the county has a solid management plan, in addition has a series of strategies to promote that plan.

Mr. Shinn stated absolutely, up to and including an agreement with the City of Philadelphia back in 1979. He gave some background on the recycling and the process it went through over the years.

Mr. Germano stated that one of strategies of the plan is to save space in landfills. How is what Winzinger is doing contribute to that strategy?

Mr. Shinn explained that his concept of the landfill is when it decomposes about 25 years which we are approaching. You go back in and mine the old landfill and you get items that don't decompose such as concrete, things that should not be there in the first place. We don't want things that don't decompose in the landfill.

Mrs. Kelley commented that those materials are being used productively to build things like roads. Winzinger is recycling products. Mrs. Wuebker brought up inspections. That will keep them on track. The recycling is protecting the quarries and the environment. The environment is not being stripped as much as it would be. We understand that recycling is important. Please tell us about the inspections that are being questioned and if he sees a problem with what Mrs. Wuebker brought up.

Ms. Winzinger explained that anytime that DEP has come out for a compliance review and 25 of these are recycling because it shows the program.

Mrs. Wuebker explained that is states from 2004 to 2007 which they operated as a limited recycling center. Now they operate under an exempt status and you do not get the inspection you got under the limited class B.

Ms. Winzinger explained that DEP can come on their site whenever they want as well as the County Health Department.

Mr. Germano asked if one of the basic principles of the county solid waste management plan is to conserve natural resources by using the product that is created with the crushed concrete. Are we limiting quarrying to produce the same product?

Mr. Shinn answered yes and you are doing it so that it benefits locally. This facility is going to accept this material from Hainesport Township and its residents at no charge. It makes an excellent product which he has used at a reasonable price. Crushed stone is becoming scarce and is 4x the price of crushed concrete material. You run into concrete in the most unexpected areas. This reduces waste and saves on landfill space. It also helps in transportation cost and emissions.

Mr. Shinn explained that they have done a lot of work on the ozone. New Jersey has made major progress in ozone. Recycling is one of the reasons. This is one piece of the puzzle that contributes to a clean environment.

Ms. Kosko questioned if Winzinger is now accepting recyclable and how does the crusher changing that.

Mr. Germano stated not at all. Winzinger started taking material from the public in the 1980s when they were not allowed. They should have come to the Board and asked permission. That was an expansion of the nonconforming use. They did it without permission and have been doing it for 30 years. They are asking for approval to continue to do that.

Mr. Kingsbury swore in, Tom Richter, 2019 Marne Highway. The property is located next to the Winzinger property.

Mr. Germano asked if he was Winzinger's tenant, what he does as a living, and if normally sleeps during their work day.

Mr. Richter answered that he is a tenant and owns a cleaning company. He normally sleeps during the work day.

Mr. Germano questioned how long as he lived at this address and can he sleep during the day.

Mr. Richter stated that he has been living there for 10 years and has no problems sleeping.

Mr. Germano questioned if he was aware of the crushing operation.

Mr. Richter stated he didn't know that until they told him.

Mr. Germano questioned if he was testify because Winzinger was putting pressure on him because he was a tenant.

Mr. Richter stated not at all.

Mr. Germano questioned if the Board allowed the Winzingers to continue storing their own concrete, the publics, and crush it 12 weeks a year would have a negative impact on his neighborhood.

Mr. Richter stated not at all.

Mrs. Baggio commented that he has only been living there for ten years so wouldn't have any experience regarding the crusher but do with the other activities.

Mr. Krollfeifer asked how often the crusher has been there in the ten years.

Ms. Winzinger explained that it has been there very little since the exemptions. It has been about 6 months.

Mr. Kingsbury swore in Linda Powell, 2017 Marne Highway. She is located two doors down. She has lived there for 20 years.

Mr. Germano questioned if she was aware before Ms. Winzingers testimony that they were crushing concrete on the property. Does she understand what the Winzingers are asking to do?

Ms. Powell stated she was not aware and does understand what they are asking to do.

Mr. Germano gave a summary of what the Winzingers want to do and questioned if she believes it would be a negative impact on the neighborhood.

Ms. Powell stated no. She has been there 20 years and have never had a problem with the noise or dust.

Mr. Germano asked if the crushing in the past disturbed her.

Ms. Powell answered no. She use to work 9 to 5 and is now home with her daughter and has not heard a difference.

Mr. Kingsbury swore in Bill Butterfield, 2011 Marne Highway, is located three doors down. He has been there since 1989.

Mr. Germano questioned what he does for a living and if he is home during the day.

Mr. Butterfield stated he fly's helicopters and is home on a rotating basis. He is there every other week during the day.

Mr. Germano questioned if the crushing disturbed him during that 10 year period.

Mr. Butterfield stated maybe a couple of time. Most of the time it has been the trucks slamming their tailgates. He spoke to Phil and they have stopped that. He hasn't heard anything in years.

Mr. Germano asked when the crushing operation was going on, did any problem ever get significant enough for you to go and complain.

Mr. Butterfield commented that he never complained. He recently asked why it has been so quiet for years and he told him they stopped the trucks from slamming the tailgates on the trucks.

Mr. Germano asked if the Winzingers start crushing what impact would it have on the neighborhood.

Mr. Butterfield believes it would have no impact.

Mr. Krollfeifer stated there were two noise studies down, one in March and the other in June. He questioned if he heard anything.

Mr. Butterfield stated he hasn't heard anything for years.

Mr. Kingsbury swore in John Cameron, III, and lives in the home next to the old US supply lot. He has lived there for 10 years.

Mr. Germano asked if there would be any issues if Board grants the variance.

Mr. Cameron does not believe there would be any change in what is going on now. He would be fine with it.

Mr. Kingsbury swore in George Kayser, lives in Cherry Hill, NJ. He owns a small business across the street in the Industrial Park.

Mr. Germano questioned how long has he been there and the thoughts on the variance the Winzingers are seeking.

Mr. Kayser stated since 1999. He hopes the Board grants the variance. He is in the environmental business. From time to time they utilize their facility. It would be a hardship for him if he had to take his recyclable to someone else. He employs 30 people.

Mr. Germano questioned if he believes this would be a substantial negative impact on the neighborhood if granted.

Mr. Kayser does not believe it would.

Mrs. Wuebker questioned if it would be a hardship if he had to take his materials to the business on the bypass.

Mr. Kayser stated they do go there. It is not a hardship in the transportation distance. He brings it here to Hainesport because it is important to him that it goes to a class B facility. He has state contracts that have things they have to comply with. This facility does this for them.

Mrs. Wuebker asked if they have to pay there.

Mr. Kayser answered he pays everywhere.

Mr. Germano went on to the second part of the negative criteria. No variance can be granted unless it can be granted without substantially impairing the intent and purpose of the zone plan and the ordinance. He will address that in closing statements. He has one more witness that is being delayed by a church function and hopefully she will be here during the public comment. That concludes the presentation.

Mr. Krollfeifer opened public comment.

Mr. Kingsbury swore in Diane BeHarry, 7 Melodie Court.

Mrs. BeHarry explained that she recently had a pool installed and there was some concrete. She was happy when she discovered this business that her contractor was able to take it there. She hopes they grant it.

Mr. Kingsbury swore in Richard Arbocas, lives next to bridge on the same side as Winzinger property.

Mr. Arbocas stated he has pictures and documentation that he will give to the Board. He disagrees with what has been said. He has been here for 40 years. He has been watching this going on. DEP has come to him and has told him that he was doing something wrong in the 1980's when the Winzingers were filling in the land. The Boards Planner has had a negative response to this application. There were copies of the tax map that he believes shows the change in the wetlands and the land that was filled in since 1980s.

Mrs. Wuebker stated that she has a picture of the tax map which is used for tax purposes.

Mr. Arbocas explained that he is across from the water and gets to hear it. All the noises, the banging of the dump trucks, the grinding, and probably hear people talking. He supplied copies of his property and Winzingers taken from Google Maps. He told a story of how he saved a person there in the wetlands. It is not a place for a recycling center. He believes it would have a negative impact on the area and has concerns with the creek way. Winzingers property is right on the creek. The wind direction determines what you are going to get or hear. He provided a public notice regarding this property and contaminants on the property. They have to have someone come in and clean it up. They will be dumping it into the aquafer below the land. It is part of the remediation. He gave another notice regarding the Winzinger property in Hainesport.

Mr. Arbocas continued and stated the Ragan Design Group letter from October 10, 2016 says that it is not a good use for the property. He doesn't see any positives, everyone is recycling. He supplied the NJDEP regulations that he copied from their website.

Mrs. Tyndale questioned if he has written and gotten a response from the DEP in respects to the newspaper article.

Mr. Arbocas explained he sent a certified letter before the deadline and has not received anything back.

Mrs. Wuebker questioned if the article is referring to the ground water contamination from the underground tank.

Mr. Arbocas answered yes. It was storage tanks in the ground. He believes this shows how the operation goes. He has questions where the water is going.

Mr. Krollfeifer stated these are good questions but are for the time of site plan.

Ms. Kosko questioned if the Board is allowed to view this newspaper article.

Mr. Kingsbury explained you can review it and is up to you how you wish to determine it. A lot of these issue will be decided when they go in front of the DEP.

Mr. Arbocas believes an exempt status means you are on the honor system. He spoke to Mr. Hanson today, the last time him or Mr. Everett was at that site was two to three years ago. They are the people for the compliance and enforcement. In speaking with him, he was advised by him to come to this meeting to express his concerns because this is the most important step.

Mr. Krollfeifer explained that the Board is being asked to look at one aspect of this. They would still need to go to the DEP and then come back to the Board for site plan approval.

Mr. Arbocas believes that they have been running the crusher and it is a detriment to the neighborhood, the creek, the state, and the people wanting to use the creek. There will be more truck traffic coming in and out of the site. Where does the stormwater run, in the creek? If it was such a clean operation, he thinks they should be able to get a class B general permit. They were denied the limited use. The approval here is the first step.

Mr. Arbocas claims that all the witness are friends and are for it. If you asked everyone in the area, you may get a different answer. He is not in favor of granting the variance.

Mr. Germano showed Mr. Arbocas a copy of an ad that was places in the Burlington County Times and asked if he knew what it was.

Mr. Arbocas stated it looks like an ad notifying people to come out to this meeting.

Mr. Germano asked if he placed this ad (exhibit A1) in the Burlington County Times urging people to come out and object to it.

Mr. Arbocas stated it doesn't say object and yes he did place the ad.

Mr. Kingsbury swore in John Anderson, 720 Woodlane Road, Westampton.

Mr. Anderson explained he is the man doing the water trail. He stated that they are fully aware of the responsibility and accountability are not subordination to commercial opportunities along the south branch of the creek in relation to environment protection and the Winzinger site. He knows the creek well, it walks back and forth, and can't be defined. There is a lot of stormwater runoff into the creek from many places. It is not the only issue. He is offended that the focus is on a single business and perpetrate the water trail into something that the gentleman knows nothing about. They are looking to enhance, promote public access along the creek, and looking to help with water quality. With his extensive background, he does not see anything in this application that the water quality of the Rancocas Creek would be adversely impacted by this application.

Mrs. Kelley stated that the one of the accesses to the creek on Lumberton Road, Lumberton. It is one of the properties that was shown to us. The Lumberton access is small but is great to get kayaks and canoes in on the South Branch. She lives across the street from the creek. She talked about the last time the creek was dredged.

Mr. Anderson stated what can be done to help the creek is address the stormwater runoff from the big box stores, housing developments, etc. It is not just one business.

Mrs. Kelley explained that generations have been involved in industry in this creek. There are improvements but at the same time the floods, runoff from developments all impact more than we want to admit. Across the street from her was about 4 summer homes that are now gone due to the change in the wetlands.

Mrs. Kelley stated the site use to be a bus garage when she was little. The industry has just been there. A lot of industry has come and gone in that area.

Mr. Anderson stated his personal opinion based on scientific fact and his background in water resource management this site is not going to further adverse impact the creek.

Mr. Kayser, previously sworn in, commented that he is a little enraged by Mr. Arbocas's statements. His background is Biology and he understands some of the sheets that were submitted. The sheets that refer to the changes in the creek that are natural or not which depends on the study and quality of the maps. You cannot compare a tax map and a topo map, which could be misleading information. He has been with many controversial business, and stated the different things he was involved with. Those maps can be very misleading, they need to be studied and presented by professionals. He is also a licensed site remediation professional.

Mrs. Wuebker questioned what is business is.

Mr. Kayser stated CEMCO which is located across the street in the industrial park. NIMBY responses are often challenging. These need to be studied by professionals. This is step one here and most of the questioned here will be answered by the DEP. His company has cleaned up residential leaking oil tanks in several areas such as on Timberline Drive. He has personally been in the Rancocas Creek wetlands taking soil samples. When he started his business 30 some years ago, we did not recycle much, everything went to a land fill. Now they recycle about 80 to 90 percent of what they touch. He deals with the DEP every day and has to get permits all the time. DEP goes to the railroad all the time to inspect and they stop in to see him to. We need to trust the thing that are in front of us.

Catherine McNelis, 407 Bischoff Ave, was sworn in. She agrees with Mr. Arbocas that if the Board approves it, the DEP will then say its ok because the Township says it's ok. She thinks that DEP should give their decision first. She was at a fundraiser and mentioned that she read this in the paper. The person said that they put so much stuff in the creek that it almost changed the channel. She is unsure if that is true or not.

Beth Higgins, Harbor Baptist Church 2131 Marne Highway, was sworn in. She is a teacher at their day school that runs from September to June. She is at the church all the time, her husband is also the pastor there. She has never had an issue with noise pollution coming from the Winzinger property. She even asked her husband and a few other people and no one has heard anything that was disturbing to them. She has been at the property for 6 years.

Mr. Arbocas stated they would go to the DEP if they were getting a general or limited use class B permit. This is an exempt permit. They are completely different. DEP stated he should come to this meeting. The Board is the starting point. The DEP probably will not do much more than what they are doing now. They say they come out and get



inspections. It is an exempt and on the honor system. If you read the document he provided from the DEP you will see what needs to be done.

Mr. Krollfeifer closed public comment.

Mrs. Wuebker thanked the neighbors for coming out because they are the ones that would be most impacted by it. It was interesting to her Mr. Anderson because he is a very vocal spokesperson for the creek. He did not seem to have concerns about this particular use. The Board needs to determine if the applicant has met the positive and negative criteria. Recycling is good and no one is disputing it. The question is whether this site is suitable to this type of operation. The applicant was grandfathered for particular uses, contractor yard and a machine repair shop. Over the years they have expanded that nonconforming use to add on additional things that are recycling activities. They went to DEP for the recycling aspect of it and they need to go to DEP for the additional aspects, wetlands, waterfront development permit, flood hazard. This sounds like will happen if the Board gives them approval. They did not do that in the past and did not come before this Board. Even though they have been doing these activities for a number of years. They did this without the Board overseeing on how this would impact. If you are ok with the way things are now and don't have concerns about additional processing. They were grandfathered for a particular use and now they have added additional truck traffic because people are trucking in their recycling materials to this site and then to Franklinville. There will then be additional processing on the site. A retail component is added where they are selling processed materials to the public.

Mrs. Wuebker continued with she had some concerns. She does agree that recycling is a beneficial use. Is this site that is in a residential/commercial zoning district appropriate for the type of heavy industrial uses that they have been doing on the site and proposing to continue to do? It is the Boards decision. She does find it challenging for the applicant to meet all the negative criteria. It is wonderful that the residents came out but they will not always be there. Once you grant this use, it will always be there. She doesn't know how they can say that they will not substantial impact the master plan and zoning plan. She says that because this is not zoned for industrial purposes. This is on the creek and is a sensitive area. They have existing piles and equipment in the 100 year flood zone. A lot of that will be hashed out at the site plan meeting. This is a complicated application. It involves grandfather rights and several different DEP type proposed uses. The Board needs to determine if this is in the best interest of the township and does it meet the negative and positive criteria.

There was a 5 minute recess at 10:06pm. Meeting resumed at 10:20pm.

Mr. Krollfeifer announce we will come back to the application and move on to the other items on the agenda.

Mr. Germano questioned what the notice is for regarding the environmental cleanup.

Ms. Winzinger explained that they purchased the property from NJ Transit. It was a trolley barn before they purchased it. The first thing they did was remove the 17 underground storage tanks. They have been gone for a long time although some had leaked. They have had monitoring wells and specialists help with that cleanup. They are down to one little area that is not clean. They purchased the property that way. The insurance company from the prior owners are cleaning it up.

Mr. Germano explained that the Board needs to decide if they have met the positive and two negative criteria. Mr. Shinn testified that they meet the positive criteria. There is nothing disputing that and the planner agrees. The negative criteria is what are they going to do to the neighborhood. Three ways to look at it. How do the neighbors feel about it and you heard from the people. There was an advertisement in the Burlington County Times urging people to come out and say what they think. It produced positive results and not negative. An expert testified about the effect they would have on the creek. They had their sound expert there if any questions came up regarding the sound. They can and will meet the sound standards. The last is if by granting this variance would it substantially under mind the master plan and ordinance. He is not asking to put an industrial site here, it has been here for a better part of a century. The crushing machine did not have an impact on the people that had been here and it does not make noise over the state sound level. How is this small increase in what this busy industrial activity going to do to the master plan? They are here already and are doing 90 percent of what they are asking to do. You have people coming out and saying they are good for the town. They have a long history for being good for the town. Keeping an industrial use that ordinarily people object to, strong, viable, and active in your community is a plus. Granting this variance is a plus for that reason.

Mr. Kingsbury explained that it takes 5 yes votes for a use variance to pass and it would be contingent on DEP approval, and a future site plan review by this Board.

Mrs. Wuebker stated that if you do approve this application there are a number of other conditions that she recommends.

Mr. Germano commented they agree to them.

Mr. Krollfeifer stated the conditions are listed in letter by Ragan Design Group page 16, Letter N, numbered 1 through 13 with the number of 60 days inserted in #10.

Mr. Germano answered yes.

Mrs. Tyndale questioned if a condition could be placed that they cannot use an approval from us to get DEP approval.

Mr. Kingsbury stated he could put a clause that this approval is not a recommendation to DEP to grant any particular approval.

Mrs. Kelley explained that Marne Hwy was one of the first roads way back in the 1700's. This area was commercial and industrial. Any residential along Marne was connected to the businesses or maybe a house that abutted up to a street. Historically it has been industrial and commercial. When she came on the Board back in 1998, she did disagree with that. She was not part of the Master Plan. The current concern being on the environmental commission is definitely the creek. Someone made the statement that the biggest problem we are facing with the creek is all the runoff of the big developments. It's not the individual putting in a garage and it's not the business that is doing a little more business. When they get their DEP permits, it will come to our Board. If there are piles in the wetlands, they will have to be addressed. Across from this site is a large industrial park. The trucks bring in the material, take it to Franklinville, and then bring it

back. You have to keep these things in mind when you address each situations and application.

Ms. Kosko suggested that they be allowed 55 days for the crusher. She also would like to propose that a number 14 be added that all taxes must be brought current related to that property as a condition.

Mrs. Baggio questioned who would be monitoring the number of days.

Mr. Germano stated that one of Mrs. Wuebker's conditions is that they notify the township whenever it is in use. Kathy Newcomb, Zoning Officer, will do it.

Mr. Krollfeifer stated that if we move forward with this, he will make sure that they adhere to things. We will not allow more crushing than designated or allow to run 10 days in a row to include a Saturday and Sunday. It must be adhered to set forth in the conditions of approval.

Mrs. Kelley asked the hours of operation when using the crusher.

Mr. Germano stated it would be 8am to 5pm, no weekends or holidays.

Mrs. Kelley commented that she went to Wolfe Farmer Market today, which is across the street from Trap Rock, and she stated the only conflict they have is the bright lights when they run at night. Roger Hessel, Environmental Commission Member, works with sound and he stated that the water, wind, trees, and buffers play a role in the sound. She watched Trap Rock moving piles today and there was not much dust.

Mr. Krollfeifer explained if there is a positive motion, it will be subject to the Ragan Design letter dated July 7, 2017 page 16 letter N all the conditions. Items 1 to 14. We are adding one that taxes have to be current and item 10 is being changed to 55 days.

Mrs. Baggio believes it to be three variances.

Mr. Germano disagreed and explained it is a variance to all them to expand the existing nonconforming use in three ways.

Mrs. Kelley motioned to approve the application subject to the conditions listed in Mrs. Wuebker's Ragan Design Group letter dated July 7, 2017 page 16 letter N all the conditions. Items 1 to 14. To include that taxes be paid current and item 10 be 55 days. That Mr. Kingsbury add the phase about not being used as a recommendation.

Second: Mrs. Tyndale

**Roll call:** Mrs. Kelley, yes; Mrs. Tyndale, yes; Mrs. Baggio, no; Mr. Dodulik, yes; Mr. Wagner, abstain; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries to approve use variance.

## 8. Minutes

### A. Regular Meeting Minutes of June 7, 2017

Motion to approve: Mrs. Tyndale

Second: Ms. Kosko

**Roll call:** Mrs. Tyndale, yes; Ms. Kosko, yes

Motion carries to approve.

## 9. Resolutions

### A. Resolution 2017-11: Amending conditions of prior approval for change of occupancy in an existing combination commercial/apartment building on Block 100.18 Lot 3.01

Motion to approve: Mrs. Tyndale

Second: Ms. Kosko

**Roll call:** Mrs. Tyndale, yes; Ms. Kosko, yes

Motion carries to approve.

### B. Resolution 2017-12: Amending prior preliminary/final site plan approval for installation of electric power generating equipment to service an existing ShopRite supermarket on Block 96 Lot 1.05

Motion to approve: Mrs. Tyndale

Second: Ms. Kosko

**Roll call:** Mrs. Tyndale, yes; Ms. Kosko, yes

Motion carries to approve.

## 10. Correspondence

A. Application submittal letter to NJDEP dated June 6, 2017 from PSE&G

B. Certification dated June 14, 2017 from Burlington Co. Soil Conservation to Mr. Blair

Re: Bock 24.01; 27 Lots 17; 1, 2, 5, & 7 - Dem. Of Structures – Co. Garage, Comm. Tower & two houses

Motion to accept and file: Mrs. Tyndale

Second: Ms. Kosko

**Roll call:** Mrs. Tyndale, yes; Ms. Kosko, yes; Mrs. Baggio, yes; Mr. Dodulik, yes; Mr. Wagner, yes; Mr. Krollfeifer, yes

Motion carries.

## 11. Professional Comments - None

## 12. Board Comments -None

## 13. Public Comments

Mr. Krollfeifer opened public comment.

Diane BeHarry, 7 Melodie Court, she explained she was here last year to talk about the retention basin on her and her neighbors property that services 16 homes. She stated that her resolution is dated February 4, 2004 and the stormwater management rules changed February 2, 2004 that a homeowner cannot be responsible for the basin. She continued with what has transpired between her and the Township Committee over the past year regarding the maintenance of the basin. She wanted to bring the issue to the Board's attention.

Mr. Krollfeifer thanked her and explained that she needs to speak to the Township Committee and Mr. Gillespie regarding the matter.

Mrs. BeHarry stated she has filed a complaint with the DEP and is trying to get on the local news. This is going to be in a bigger forum unless it is taken care of before she hires an attorney.

Mr. Krollfeifer closed public comment.

#### **14. Adjournment**

Mrs. Kelley motioned to adjourn at 10:50pm

Second: Mrs. Tyndale

**Roll call:** All in favor

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Paula L. Tiver, Secretary