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DEPARTMENT OF PUBLIC WORKS
10 COMMERCE COURT
VERONA, NEW JERSEY 07044

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August 30, 2019

Owner:
Marve Development Corporation
PO Box 216
251½ Grove Avenue
Verona, N.J. 07044

Property:
Lot 12 Block 1201
251 Grove Avenue
Verona, N.J.

Zone:
C-2 (Professional Office and Business)

Dear Property Owner,

The Township of Verona's zoning and engineering department has been receiving numerous complaints from the property owners which adjoin No. 251½ Grove Avenue, Lot 12 Block 1201 hereafter referred to as the "Site". The complaints have been in regard to noise, noxious fumes, and property maintenance issues. There is also a deep concern that there seems to be number of tenants which are renting/leasing areas of the property for uses which are not permitted under the current Township of Verona Zoning Ordinance known as Chapter 150 (adopted August 15, 2011).

This office has been conducting a series of site inspections over the past few weeks in hopes to better assess the situation as it exists. We have been provided with a list of all the current tenants (uses) of the "Site" and is attached hereon. This letter shall serve as a zoning review of each of the uses and determine if they are a permitted use within the C-2 Zone or if they were granted permission by resolution by the Township Planning Board or by the Board of Adjustment at some point in time, or even former zoning officers.

History of Property:

The “Site” has been the topic of many zoning & property maintenance related issues over the past few decades, ever since the long-standing principal user/owner of the property, Mr. Cestone ceased daily operation of their business. Since ceasing its operation of a construction company the owner and principle user of the property “Verona Construction Company” which is now doing business as “Marve Development” has chosen to internally subdivide and lease out sections of the existing principal structures. The owner has also offered for lease large outdoor areas of the open space(s) on the property itself for a multitude of mixed uses. This office cannot find any documentation in regards to zoning or construction permit applications having been submitted by the owner or the prospective tenant(s) seeking Township approval prior to occupying the building or utilizing the property. Some of the current tenant’s pre-date the current zoning regulations/ordinances and that is being considered as part of this review.

The “Site” is tucked away behind the surrounding residential districts and is not openly visible from the public roadway, it would appear that the “uses” at the site have been in a state of perpetual expansion by the owner over many years.

There has been considerable debate over the past several years questioning the validity of several of the uses as they exist and if they are a permitted use, non-conforming use and or existing non-conforming use. It would appear that the previously argued existing non-conforming use is being used as the basis for the current expansion of much of the “Site” and its combined uses. This is based upon previous letters addressed to the owner(s) from previous Township Officials and subsequent correspondence by the owner’s legal representatives addressed back to the Township Officials.

With that we would like to offer the following as factual evidence:

1952 Verona Construction Company

The “Site” was previously owned/occupied by the Verona Construction Company and at the time the property was split zoned. A majority of the lot was in an Industrial Zone while the balance was in a Residential Zone District. The owner/applicant went before the Board of Adjustment on March 6th 1952 seeking permission to use “premises 251 Grove Avenue, rear of lots facing Grove Avenue, and rehabilitate former garage located thereon. (See attached for minutes of that meeting.)

Sworn testimony was given by Mr. N. Fiore and Mr. Ralph Cestone who spoke on behalf of the applicant. During the meeting questions were asked by the various members of the Board about the use of the property as it related to the application as well as the future intent of both the building and the site as well. The applicants testified that the purpose of the application was to seek approval to rehabilitate a portion of an existing garage and to construct a new garage where there was an old foundation present on the property. The intention was to utilize the garages to store trucks, cars and other contractor’s equipment.

Board members asked about the remainder of the property. Mr. Cestone had offered testimony that at the present time there was no double purpose for the site. He further reiterated that they would use the other parts of the property someday if he could not build as they asked now and that they would have to build in the industrial portion of the property.

Testimony was further provided about the location of the overhead doors not facing the back of the residential dwellings along Grove Avenue. It was stated by Mr. Cestone that the "back" of the storage building would face the dwellings. A member of the Board then asked Mr. Cestone about noise. The applicant then offered that *"We plan to store equipment there and remember the bull dozers, trucks, etc. are of no value unless they are being used, therefore we would rarely store them there."*

"The only noise would be when they were started and after they get out of the yard they are like any other truck they will be quite a distance from the houses."

The applicant went on to further state that the trucks would only be stored there in between jobs and that would be seldom, and that most of the storage would be small stuff.

Mr. Anderson of the Board directed a question to Mr. Cestone regarding the storage, he asked *"You would plan to store all of the equipment in the building?"* To which Mr. Cestone's reply was *"Yes to prevent deteriorating."* It was further explained that in the past the company did not store materials anywhere and that all materials were used at the job site.

Mr. Baldwin of the Board had inquired about using the premises specifically for repairs. Mr. Cestone stated *"Do not plan that at present. We do not believe in maintenance and employing a crew we have the manufacturers of the machines maintain them."*

Mr. Donohue of the Board asked about what type materials would be stored? To which Mr. Cestone answered *"Only excess material."*

The meeting adjourned and a vote was taken in closed session to which the application was denied.

(1986) "Dews Diesel" Appeal to Board of Adjustment

Dews Diesel had apparently obtained a lease for a newly subdivided portion of the existing storage facility owned by Mr. Cestone. Dews Diesel was conducting business as a diesel engine repair facility which also had a retail component attached to it. The Township had issued a summons to the owner of the property citing violations of the current zoning ordinance. (Expansion of an existing non-permitted use) Proceedings were then conducted at the Verona Municipal Court on August 6, 1986. The decision of the court was that such matters were under the discretion of the Board of Adjustment. Subsequently the applicant "Dews Diesel" made application to the Verona Board of Adjustment seeking an interpretation of the zoning ordinance. The result was that the Board found that the "use" of repairing diesel engines was in fact an introduction of a new use and was also an expansion of a non-conforming use which required a use variance in accordance with NJSA 40:55d-70.

Testimony by the Professional Planner Mr. Peter Steck who was hired by the Township stated in his report to the Board that repairs conducted at the subject premises prior to the use of the premises by Dews Diesel were accessory to the principal use as a contractors storage yard and that the applicants current use of repair and rebuilding of diesel engines is not a permitted use in the M-1 Zone and is a new principal use constituting an expansion of the non-conforming use of the subject premises. The results of that meeting were a vote of 7-0 that a use variance would be required for Dews Diesel to continue its operation. This was adopted by the Board of Adjustment on November 12, 1987 and memorialized on December 10th, 1987.

1988 Dews Diesel Variance Application

Application was made before the Township of Verona Board of Adjustment by the applicant known as “Dews Diesel” for a proposed use of repairing diesel engines. The applicant was seeking a use variance based on the factual findings and rendered decision of the Verona Board of Adjustment at the December 10, 1987 meeting. At the time of the application the site was zoned M-1 (Light Industrial)

The findings during variance application meeting were that the “use” of repairing diesel engines in a building that had been historically used as a storage facility was an introduction of a new use as well as an expansion of an existing non-conforming use. The application was denied on February 11th 1988 and memorialized on March 10th 1988.

It is believed that Dews Diesel terminated its lease with the property owner and vacated the premises; however this office could find no factual evidence of this.

1988 Rogers Roofing Company Site Plan Application

Rogers Roofing Company submitted a site plan application to the Township Planning Board seeking approval of a site plan that included a change in use to a permitted use of warehouse space with accessory office space and incidental shop work in connection with the applicants roofing business. Rogers Roofing was proposing to lease space at the Northern most part of the existing building which was historically occupied by the existing non-conforming use. (Verona Construction Company – Marve Development Company) The site plan application was approved on June 23, 1988 and memorialized on July 28, 1988. The NJ Municipal Land Use Law cites that the goals of zoning as it is related to non-conforming uses is to bring them back to conformity as quickly as possible. Such was the case with the Rogers Roofing Application.

Current Site Use

The current owner of the property (Cestone) appears to have discontinued their prior use of the buildings and site which formerly operated as a construction company storage facility. The owner has subdivided most of the original structures and has leased them out to various tenants and uses. The same is true for large areas of open space throughout the site. The zoning office has no records of the owner or its tenants seeking approval of any of the uses which currently exist at the property. It has been argued by the owner that the non-conformity use of the property

is historic, dating back decades and thus being “grandfathered” in. This office can find no factual evidence which predates the 1952 denial by the Verona Board of Adjustment, where said applicant sought approval for a use variance. The primary concern of this zoning review is not as to whether or not the existing non-conforming use exists and is protected but rather has it been expanded beyond its original intent and purpose.

The current zoning of the property known as No. 251½ Grove Avenue, Lot 12 Block 1201 is situated in the C-2 Zone (Professional Office and Business) district as described in the Township of Verona’s Zoning Ordinance Chapter 150, dated August 15, 2011. The zoning prior to 2011 was M-1 (Light Industrial)

§150-17.11 C-2 (Professional Office and Business District)

- A. Principal Permitted Uses:
 - 1. Commercial and professional offices.
 - 2. Commercial schools offering instruction.
 - 3. Family day care centers.
- B. Permitted Accessory Uses:
 - 1. Accessory uses customarily incidental to the principal use.
- C. Conditional Uses:
 - 1. Mixed residential and professional offices (non-medical)
 - 2. Mixed residential and commercial offices (non-mmedical)
 - 3. Mixed professional and commercial offices (non-medical)

The former M-1 Zone (Light Industrial) (Amended 7-14-97 by Ord. 2-97)
(The former zoning is shown for informational purposes only and is not considered as part of the decision of this report, however it may prove to show that expansion has occurred prior to the current 2011 zoning ordinance)

- A. Principal Use:
 - 1. Manufacturing, processing, producing or fabricating operations which can meet performance standards.
 - 2. Warehouses.
 - 3. Wholesale trade.
 - 4. Research and development.
 - 5. Child care centers.
- B. Accessory Uses:
 - 1. Accessory uses customarily incidental to the principal or conditional use, except that there shall be no outside storage of products, materials or equipment.
- C. Conditional Uses:
 - 1. A satellite dish antenna installed in the side yard or a rooftop.

The following is a list of current tenants which are utilizing either the buildings, open spaces or both. This list was provided to this office by the owner of the property. We have listed the “use” of the business as well as to whether the “use” is a permitted “use” under the current zoning ordinances. Violation(s) of zoning, if any will be indicated after each use as described.

AAA Yardwork – Occupancy Date, May 2003.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

AK Welding – Occupancy Date, July 2013.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as a welding shop in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Welding, Fabricating and Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

American Asphalt – Occupancy Date, August 2015.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. This tenant is also utilizing areas within the property

for storage of materials some of which appear to be an unsecured and combustible. The Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

ANIPARK Enterprises LLC – Occupancy Date, September 2014.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Assured Air System Inc. – Occupancy Date, September 2006.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Bulk Be Gone – Occupancy Date, March 2016.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use. There is also a vast amount of loose debris which at the time of inspection was not clear as to whether this was refuse or intended to be saved for future use. The Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Capaldo Enterprises LLC – Occupancy Date, January 2015.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Carolan Contractors – Occupancy Date, January 2015.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Centurion Auto Works – Occupancy Date, January 2016.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as an automotive repair facility in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Automotive Service Stations and Autobody Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Covello, Sebastian – Occupancy Date, March 2015.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their private boat and trailer. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Drive Up Storage – Occupancy Date, October 2014.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to operate a business which consists of staging many temporary mobile storage trailers commonly referred to a “PODS”. Mobile storage units are not a permitted principal use in any current zone district within the Township. These types of units are permitted as a temporary use and regulated within §150-9.1. Temporary use is defined within the current zoning ordinance as “A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.” It has been argued that these mobile storage units are protected under the existing non-conforming nature of a “storage use” such hold true by name only. Based upon the 1952 testimony provided by the current owner the requested “storage” use was to be contained within the confines of the building itself and that “materials” only would be “stored” in the open areas of the “site”. The materials “stored” whether in the building or in the yard areas were accessory to the nature of the construction business itself. The current mobile storage unit use is an expansion of an existing non-conforming use. These storage units are in no way accessory to any of the permitted or non-permitted uses as they currently existed or presently exist. Periodic aerial photography clearly depicts an expansion of the mobile storage container use.

Zoning Violation: Variance §150-17.11 a.

Storage of Temporary or Permanent Units/Containers is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Zoning Violation: Variance §150-9.1 a.

Mobile temporary storage units shall not exceed eight feet in height, eight feet in width or sixteen feet in length.

Zoning Violation: Variance §150-9.1 b.

Mobile temporary storage units may remain on a property for up to 30 consecutive days. No lot shall contain a mobile temporary storage container for more than 90 days per 360-day period.

F.S. Transportation – Occupancy Date, August 2013.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as a bus repair facility in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Automotive Service Stations and Autobody Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Austin Fanning General Contractors LLC – Occupancy Date, March 2012.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Friel Brothers Paving Inc. – Occupancy Date, January 1999

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Gaeta Recycling Co. Inc. – Occupancy Date, July 2014.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to operate a business which consists storage of refuse containers or dumpsters of varying sizes. Dumpsters are regulated under §150-7.15 a. and §150-17.11 a. (Dumpster: A large container for the temporary storage of waste) again, It has been argued that storage is protected under the existing non-conforming nature of a “storage use” such hold true by name only. Based upon the 1952 testimony provided by the current owner the requested “storage” use was to be contained within the confines of the building itself and that “materials” only would be “stored” in the open areas of the “site”. The materials “stored” whether in the building or in the yard areas were accessory to the nature of the construction business itself. The current dumpster storage container use is an expansion of an existing non-conforming use. These dumpster containers are in no way accessory to any of the permitted or non-permitted uses as they currently existed or presently exist. Periodic aerial photography clearly depicts an expansion of the mobile storage container use.

Zoning Violation: Variance §150-17.11 a.

Storage of Temporary or Permanent Units/Containers is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Zoning Violation: Variance §150-9.1 a.

Mobile temporary storage units shall not exceed eight feet in height, eight feet in width or sixteen feet in length.

Gil Brothers – Occupancy Date, September 2017.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Heavy Iron Services – Occupancy Date, November 2015.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as a welding shop in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Welding, Fabricating and Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

JB Management Inc. – Occupancy Date, July 2012.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as an automotive repair shop in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Automotive Service Stations and Autobody Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Jervae Realty – Occupancy Date, January 2017.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their private trailer. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Kidxercise LLC – Occupancy Date, November 2017.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their “Kidxercise” converted school buses. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Lee Tree Service – Occupancy Date, April 2013.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping and tree removal trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Moriarty General Contractors – Occupancy Date, January 2018.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their commercial trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Navarro Lawn & Tree Service – Occupancy Date, December 2014.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping and tree removal trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Rojas Heavy Equipment Repair. – Occupancy Date, May 2017.

Based upon visual inspection of the site this tenant is utilizing a portion of the building as an autobody repair shop in a space which was previously argued was protected as a non-conforming “storage use”. The current use is not a permitted use in the current C-2 zone district (2011). The use is also considered an expansion of an existing non-conforming use and covered under NJ Municipal Land Use Law section 33-2. Township Fire Marshall and Code Enforcement Officer shall be required to inspect and verify all materials stored.

Zoning Violation: Variance §150-17.11 a.

Automotive Service Stations and Autobody Repair Shops are not a permitted use in the current zone. Use would require a variance be granted as per N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.3 a.

Prohibited uses in all zone districts in the Township of Verona. “Use Group H-High Hazard use as defined in the building code.” IBC Chapter 3, Section 307. Storage of Flammable gasses, liquids, solids and oxidizers.) The use of a building or structure, or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

John Sweeney – Occupancy Date, August 2003.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to operate a “used construction vehicles” business which includes parking of used vehicles within the open space yard. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use. Automobile sales is a non-permitted use in the zone. Sales of automobiles are regulated under §150-8.4 of the Township Zoning Ordinance and may be permitted upon authorization of the Planning Board.

Zoning Violation: Variance §150-8.4 a

Automotive sale business shall be operated from an enclosed building.

Zoning Violation: Variance §150-8.4 b

No parking or storage of vehicles shall be permitted in the required front yard.

Zoning Violation: Variance §150-8.4 c

Outdoor storage of vehicles for sale or otherwise shall not exceed more than twice the gross floor area of the principle building.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

TKJ Landscaping, LLC – Occupancy Date, September 2018.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Weber Lawn Company – Occupancy Date, April 1997.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their landscaping trucks and equipment. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

Wilborn, Heinz – Occupancy Date, June 2012.

Based upon visual inspection of the site this tenant is utilizing a portion of the open space yard to park their private trailer. “Parking” is not a permitted principal use it is an accessory use incidental to a principal use. Parking for the existing non-conforming use was accessory to that particular use.

Zoning Violation: Variance §150-17.11 a.

Parking is a non-permitted principal use and would require a use variance in accordance with N.J.S. 40:55-70 D.

Zoning Violation: Variance §150-4.2 e.

No minimum off-street parking area or loading or unloading area shall be considered as providing off-street parking, loading or unloading for a use or structure on any other lot or parcel than the principal use to which it is ancillary.

Zoning Violation: Variance §150-13.3 a.

No existing building or premise containing a non-conforming use as permitted shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a permitted use. No non-conforming use shall be changed to another or different non-conforming use.

That concludes the review of the uses that are currently operating a business or utilizing portion(s) of the existing “site” which are in violation of the Current Zoning Ordinances.

Zoning Decision:

The current owner(s) of the property commonly known as 251½ Grove Avenue had historically owned and operated a construction business at the “site” dating back beyond the 1950’s but at the present time are no longer operating as construction business and longer store any construction equipment associated with that business within the existing structures or store any materials related to their construction business within the open lot areas as their use of the “site” was originally argued for.

Based on the factual documentation which is on file in the offices of both the Township Zoning and Construction Departments, it is apparent that the construction companies whether “Verona Construction Company or Marve Development have continually opined that their primary and principal use of the property was and has been “storage” for their construction equipment and for the outdoor storage of extra materials related to the construction business only. Due to that fact that their continued and historic use of the property as “storage” predated the current zoning regulations of the Township this type of situation known as a pre-existing non-conforming use is protected under Statutes contained within the NJ Municipal Land Use Law, see e.g. N.J.S. 40:55D-68, which states the pre-existing non-conforming use may continue as long as the use is not abandoned by the owner of the property.

While said maybe true and in fact protected, the historic and continued use of the property as “storage” was specifically related to a specific business, which was the construction business and accessory uses and storage of materials as it directly related solely to that business itself. Many of the listed businesses addressed as part of this zoning review are either an expansion of an existing non-conforming use or a new non-permitted use by itself. Both of which would require either a D-1 (non-permitted use) variance or a D-2 (expansion of an existing non-conforming use) variance, See N.J.S. 40:55D-70.

As contained within the Municipal Land Use Law under Chapter 27-1.1 “There is also a judicial tendency to strictly limit the scope of the nonconforming use and to reduce it "to conformity as quickly as is compatible with justice."

“Moreover, land use regulation is widely viewed as an important factor in preserving health, safety, beauty, natural resources and overall quality of life in communities. Thus, a readily apparent conflict exists between the desire to treat property owners equitably and the laudable goals of land use control. The result is, as it should be, a compromise.”

The MLUL permits qualifying pre-existing nonconforming uses and structures to co-exist with the ordinance that, on its face, prohibits them. However, the existence of nonconforming uses and structures is expressly disfavored, precarious, and subject to review at various times. In dealing with nonconforming uses and structures, the legislature and municipal boards must continually balance the important goal of bringing such uses and structures into conformity, with the equally compelling interest in protecting property rights from being unfairly restricted.

The use of the property has over the course of time expanded and introduced new non-permitted uses which are well beyond the true nature, scope and intent as originally argued by the present

owners of the property for “storage” as a principle use. A pictorial history of the site is included at the end of this report which will show clear evidence of an expansion of a non-conforming use.

The Township feels that we are acting in the best interest of the general public in asking for variances for such uses as contained herein to continue based upon the intent of the Municipal Land Use Law.

We are therefore requiring that the owner of the property “Marve Development Company” review the list of variances as contained herein and submit a formal application to the Township of Verona Board of Adjustment seeking approval of the variances as listed within 60 days of the date of the certified mailing. If application is not made by that time we shall then require all businesses (uses) acting in violation(s) as specified contained in this notification to cease and desist all operation and vacate the premises 30 days after the expiration of the 60 day timeframe. (90 days total from the date of certified mailing).

A second matter of concern which has gone un-noticed is the expansion of the overall site in relationship to “Lot Coverage and Improved Lot Coverages”. Many of the uses which are presently occupying the site are by their nature themselves considered to be a structure and would be required to be part of the overall calculations for impervious coverages i.e. “Drive Up Storage” or the “Gaeta Refuse Containers”. By simply looking at the timeline of aerial photographs this becomes very apparent. We are requiring that the owner submit to the engineer’s office a boundary and topographic survey which accurately depicts the current site conditions and all of the “uses”, “storage” and structures on site. There must also be a map which shows the conditions and calculations which existed before the adoption of the current zoning ordinance (2011). Most if not all of the uses/storage/structures listed as part of this report have started their occupation at the site after 2011. Those would be considered newly created impervious coverage and are not protected under the MLUL of pre-existing non-conformity.

VIOLATIONS AND PENALTIES.

The property owner, Marve Development Company, its subsidiaries or the businesses (tenants) which are still in operation after the prescribed timeframe shall be subject to the following penalties as defined under Chapter 150 of the Township of Verona Zoning Ordinance.

§150-16.6

A. Any owner, general agent, contractor or tenant of any building or premises or part thereof, in which premises or part thereof is in violation of any provision of this ordinance has been committed or shall exist, or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist; or any person who constructs, alters, restores, repairs, reconstructs, converts or maintains, or permits the construction, alteration, restoration, conversion or maintenance of, any building or structure, or who uses, maintains or permits the use or maintenance of any land, building or structures, in violation of any provisions of this ordinance, shall, upon conviction, be subject to a fine not to exceed \$1,250.00 or imprisonment for a term not to exceed 90 days, or both, at the discretion of the court.

B. For every day that a use or structure in violation of any provision of this ordinance is permitted to exist or is continued in any building or location, a distinct violation of this ordinance shall be deemed to have been committed.

- Address additional variances and comments as per the Construction Official/Code Enforcement Officer.
- Address additional comments as per the Fire Marshall/Inspector.
- Address additional comments as per the Township Engineer.
- Address additional variances as may be deemed necessary by the Board of Adjustment

Respectfully Submitted,



Michael C. DeCarlo
Engineering Manger & Zoning Official

Note:

Appeals to the zoning board of adjustment from the decision of an administrative officer must be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. N.J.S. 40:55D-72a. Failure to adhere to the time for appeal will result in the zoning board not having jurisdiction to consider the appeal.

Prior Resolutions and Board of Adjustment Applications
and Decisions.

Minutes of a regular meeting of the Board of Adjustment of the Borough of Verona, N.J., held on Thursday evening, March 6th, 1952 at 8:15 P.M., in the Council Chambers of the Municipal Building, Verona, N.J.
Present: J.D. Baldwin, Jr., L.F. Anderson, E.W. Bonta and J.J. Donohue.
Absent: G. Weldon Samuel.

The secretary read the application of Verona Construction Company of 257 Pompton Avenue for permission to use premises 251 Grove Avenue, rear of lots facing on Grove Avenue, and rehabilitate former garage located thereon, a permit being necessary as the said fifty feet within which the foundation is located is zoned Residential while the balance of the property owned by the Verona Construction Company, to the east is zoned Industrial.

Mr. N. Fiore of 74 1/2 Broad Street appeared for the applicant. He stated that his client had purchased a parcel of land with an entrance of fifty feet from Grove Avenue, most of which was zoned for Industrial use, but the front of a part of the lot was zoned for Residential use. "There is a foundation of an old garage there and we would like to use part of the foundation and erect a garage there and store trucks, cars and other contractor's equipment there. There is also a stucco building fifteen feet from the line."

Mr. Ralph Gestone, 22 Cliff Street, an engineer in the employ of the Verona Construction Co., was sworn. He stated that he was the Treasurer and Engineer of the company, that there was a space varying from 6 to 15 feet between the side line of the property and the neighbor's rear line. They would like to grade the property, plant shrubs there and put up a chain link fence.

Mr. Baldwin: Will you fence the entire lot. Mr. Gestone: Yes, I believe we will fence all around it - this part at once and finally all the lot. The line along where we ask the change of zone use will be fenced. We plan to use 90 feet of the foundation if permitted to do so.

Mr. Baldwin: Who owns the stucco building? Mr. Gestone: We do and also the 50 foot strip.

Mr. Baldwin: How close to the road is the first house? Mr. Gestone: The same as any other house on what would be a corner. We intend to use that as a road for a right of entry - we must use the property.

Mr. Baldwin: What use would you put the rest of the property? Mr. Gestone: Actually nothing at present - but eventually for storage and equipment.

Mr. Baldwin: The reason you want to use it is to save storage costs?

Mr. Gestone: At present we have no double purpose - I can say little as to the future - to use it we would have to put in storm drains due to the condition of the ground - we would have to drain to the Peckman and eliminate the wet pockets. We want to use the rest of the property some day - if we cannot build as we ask now we would have to build in the industrial part - that would not be as aesthetic - It would just be a storage building. The way we planned would be to have the back of the garage toward the houses - shrubs, etc., would make a nice appearance. If not that way we would have to face it North.

Mr. Baldwin: The doors would face East. Mr. Gestone: The doors would have to be placed that way with all activities visible -

Mr. Baldwin: You plan to have the back of the garage face the houses on Grove?

Mr. Gestone: Yes - the garage to be of cement block and plaster. Mr. Baldwin: When you bought, did you know this property was partly Residential. Mr. C. Yes, that is we knew the houses on Grove Avenue were residential but we never gave it a thought so far as our piece was concerned. There was so much industrial right there we thought we were all right. I don't think my father knew it was partly residential.

Mr. Baldwin: Did you know you couldn't build within 30 feet of the residential district? Mr. Gestone: No, that part makes no difference - if the permit is not granted we would make a road further back.

Mr. Fiore: Of the objectors will sit down with Mr. Gestone and find out just what he would like to do I am sure they would find it to their advantage to have it his way. That would be better than a building visible from the houses. This plan would serve as a party wall and would be sheltered from these houses.

Mr. Baldwin: What about noise? Mr. Gestone: We plan to store equipment there - and remember the bull dozers, trucks, etc., are of no value unless they are being used, therefore we would rarely store them there. The only noise would be when they were started and after they get out of the yard they are like any other truck - they will be quite a distance from the houses.

Mr. Baldwin: What about the trucks -

Mr. Gestone: The trucks are valuable when on the job. The only time we would store them would be between jobs and that is seldom. Our jobs are 50 or 60 miles away and more - generally the storage would be of small stuff.

Mr. Anderson: You would plan to store all of the equipment in the building?

Mr. Gestone: Yes - to prevent their deteriorating.

Mr. Baldwin: What use do you plan for the rest of the property?

Mr. Cestone: No use planned at the minute.
 Mr. Baldwin: Not planned- what about pipes, machines, derricks, etc.
 Mr. Cestone: It is too low-we would use parts of the lot nearer-the N E Corner High ground.
 Mr. Baldwin: Where are these things stored now?
 Mr. Cestone: For the past few years, not stored anywhere-all being used on the jobs-we want to insure against the future-to keep out the weather.
 Mr. Baldwin: You would also use the premises for repairing?
 Mr. Cestone: Do not plan that at present. We do not believe in maintenance and employing a crew-we have the manufacturers of the machines maintain them, some small and minor repairs we might make-the rest by the manufacturers.
 Mr. Donohue: Will you fence? Mr. Cestone: Yes-a six foot chain fence.
 Mr. Donohue: If the variance limited to your present request how many houses would be affected. Mr. Cestone: Possibly four or five-the place is not centered squarely. Mr. Donohue: Are there any fuel tanks or gas tanks?
 Mr. Cestone: Possibly a fuel tank for heating but no gas tanks. The trucks would not be based here except for storage-not working here-just stored out of the weather. Mr. Donohue: What materials would you store? Mr. Cestone: Only excess materials.
 Mr. Donohue: Not carloads, gravel, etc.,
 Mr. Cestone: No, we buy once for use and do not store. Our contracts are in South Jersey-60 miles from here. Trucks can't be back every night-unly when we have no work would the trucks be stored. The trucks may not be back for a year. When a job is finished we might store 3,4,5 lengths of pipe.
 Mr. Donohue: No large quantity. Mr. Cestone: No. What we would store is brass and copper cocks, A box the size of a desk would hold them all.
 Mr. Bonta: Do you use structural steel? Mr. Cestone: No, we are not in that line of business, ours is pipe line and road construction. No bulky materials for storage.

The following citizens were sworn and stated that they did not favor the granting of the application- T. Tichenor, 233 Grove Avenue, Edward Overton, 249 Grove Avenue, R. Finnegan, 245 Grove Avenue, Nelson Venezia, 243 Grove Avenue, Mrs Beatrice Rodman 235 Grove Avenue, Mr. Nelson Behney of 241 Grove Avenue.

No further citizens wished to speak. The meeting adjourned at 9:45 P.M.

James D. Baldwin, Jr.,
Chairman.

Clemens C. Kreuder, Secy.

In Executive Session: Present: The Same.
 Following discussion Mr. Donohue moved that the application be denied, seconded by Mr. Anderson. On Roll Call the vote: Aye to deny: Mr. Donohue, Mr. Anderson, Mr. Bonta and Mr. Baldwin. Absent: Mr. Samuel.
 The meeting adjourned at ten fifteen P.M.

James D. Baldwin, Jr. Chairman

Clemens C. Kreuder, Secy.

62/12

Township

of

The Borough of Verona

VERONA, NEW JERSEY 07044

OFFICE OF THE CONSTRUCTION OFFICIAL

239-3220

April 1, 1986

Mr Ralph Cestone
Marve Development Corp.
251½ Grove Avenue
Verona, New Jersey 07044

Dear Mr Cestone,

In order to resolve the question regarding the use of a portion of the subject property for the repair of diesel engines, I have taken into account your argument that the use has been in effect for some 35 years. I have also taken into account the concerns of the residential property owners directly adjacent to the subject property and I have reached the following conclusion.

The repair of diesel engines in a building that had been used primarily for storage is an introduction of a new use and thus an extension of a non-conforming use. The use is non-conforming because it is not listed as one of the principle permitted uses in an M-1 zone. Therefore the question properly belongs in the form of an application before the Board of Adjustment.

As you are no doubt aware, you may appeal this interpretation to the Board of Adjustment. If the interpretation is upheld you may pursue an application for a variance to allow the use, as described, to continue. Application forms and information regarding an appeal may be obtained by contacting the Secretary to the Board of Adjustment at 21 Grove Avenue, 239-3220 (x213).

Sincerely,

Patrick Hynes
Construction Code Official

IN THE MATTER OF THE
APPLICATION OF DEWS DIESEL

BOARD OF ADJUSTMENT
TOWNSHIP OF VERONA
ESSEX COUNTY, NEW JERSEY

WHEREAS, the applicant, Dews Diesel, is the occupant/lessee of a portion of property located at 251 1/2 Grove Avenue, Verona, New Jersey, said property also being known as Block 62, Lot 12, which property is located in the M-1 Zone; and

WHEREAS, the applicant seeks a variance pursuant to NJSA 40:55D-70 (a) on appeal from an interpretation of the Zoning Ordinance by Patrick T. Hynes, the construction official, set forth in a letter dated June 26, 1987 or, in the alternative a use variance, if necessary, pursuant to NJSA 40:55D-70(d); and

WHEREAS, the owner of the premises, Marve Development Corporation, having consented to the application; and

WHEREAS, the construction official's letter set forth that the use of the premises by applicant was not in conformity with the Verona Zoning Ordinance and, particularly, that it is not a permitted use in the M-1 Zone and that it is an expansion of a nonconforming use requiring a use variance pursuant to NJSA 40:55D-70(d); and

WHEREAS, the construction official's interpretation of the Zoning Ordinance by letter dated June 26, 1987, further advised the applicant that the repair of diesel engines in a building that had been used primarily for storage is an introduction of a new use and thus an expansion of a nonconforming use; and

WHEREAS, proceedings were conducted before the Verona Municipal Court on August 6, 1986 following the issuance of summons to the applicant for violation of the Zoning Ordinance which proceedings were appealed to the Superior Court of New Jersey, Law Division, Essex County and a hearing was conducted before Honorable Felix A. Martino concerning the matter; and

WHEREAS, the applicant has presented the testimony of Ralph Castone of Marve Development Corporation concerning the historical use of the premises and Dew Diesel concerning the use of the premises by the applicant since its lease of the premises; and

WHEREAS, the Board of Adjustment retained the services of Peter Steck, a Community Planning Consultant, to review the evidence and testimony presented, inspect the premises and provide an interpretation of the Verona ordinance concerning the historical use of the premises and the current use of the premises in light of permitted uses in the M-1 Zone; and

WHEREAS, principal permitted uses in the M-1 Zone, (light industrial district) include manufacturing, processing, producing or fabricating operations which can meet the performance standards set forth in Article XI and warehousing; and

WHEREAS, the Board bifurcated the proceedings so that the applicant and objectors presented testimony and evidence with respect to the appeal from the interpretation of the Zoning official, pursuant to NJSA 40:55D-70(a), before proceeding with the application for a use variance pursuant to NJSA 40:55D-70(d), if necessary; and

WHEREAS, the Board after carefully considering the evidence presented and the testimony taken at both the October 8, 1987 and November 12, 1987 Public Hearings and having heard the testimony of the objectors and having received the report of Peter Steck, Community Planning Consultant, who testified at the November 12, 1987 hearing which

report was marked B-1 in evidence and having made the following factual findings:

- (1) The property is located in the M-1 Zone.
- (2) The construction official, by letter dated June 26, 1987, issued an interpretation of the use of the premises by the applicant in the M-1 Zone, that will require a use variance because the repair of diesel engines in a building that had been used primarily for storage is an introduction of a new use and thus an expansion of a nonconforming use in the M-1 Zone.
- (3) Based upon the testimony of Mr. Steck and the observations contained in his report which are consistent with the testimony taken, the repairs conducted at the subject premises prior to the use of the premises by to Dews Diesel were accessory to the principal use as a contractor's storage yard and the applicant's current use of repair and rebuilding of diesel engines is not a permitted use in the M-1 Zone and is a new principal use constituting an expansion of the nonconforming use of the subject premises.
- (4) A use variance pursuant to NJSA 40:55D-70 (d)(2) is required and the opinion and interpretation of the construction official was correct.

NOW, THEREFORE, be it resolved by the Board of Adjustment of the Township of Verona, that the application pursuant to NJSA 40:55D-70 (a) on appeal from the interpretation of the Verona construction official that the repair of diesel engines by the applicant is not a permitted use in the M-1 Zone and an expansion of a nonconforming use requiring a use variance is denied and the applicant must proceed with its application for a use variance pursuant to NJSA 40:55D-70(d) (2), for an expansion of a nonconforming use.

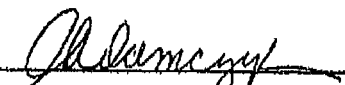
VOTE :

AYES


NAYS

ABSTENTIONS

GARY BALLERINI
JAMES FLYNN
ROBERT KIERNAN
MICHAEL ZICHELLI
LOUIS RUSSO
WILLIAM KARP
CATHERINE ADAMCZYK


CATHERINE ADAMCZYK, CHAIRPERSON

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at its meeting on the 12th day of November, 1987, and memorialized on the 10th day of December, 1987.


JOYCE STEWART, Secretary

IN THE MATTER OF THE APPLICATION
OF

BOARD OF ADJUSTMENT
TOWNSHIP OF VERONA
ESSEX COUNTY, NEW JERSEY

DEWS DIESEL

RESOLUTION

WHEREAS, the applicant Dews Diesel is the occupant/lessee of a portion of property located at 251 1/2 Grove Avenue, Verona, New Jersey, said property also being known as Block 62, Lot 12, which property is located in the M-1 Zone; and

WHEREAS, the applicant sought a variance pursuant to NJSA 40:55D-70(a) on appeal from an interpretation of the Zoning Ordinance by Patrick T. Hynes, the Construction Official, set forth in a letter dated June 26, 1987 or, in the alternative, a use variance, if necessary, pursuant to NJSA 40:55D-70(d); and

WHEREAS, the Board of Adjustment of the Township of Verona by resolution dated December 10, 1987 denied the application pursuant to NJSA 40:55-D-70(a), in a bifurcated proceeding, on appeal from the interpretation of the Verona construction official on the basis that the repair of diesel engines by the applicant is not a permitted use in the M-1 Zone and an expansion of a nonconforming use requiring a use variance requiring the applicant to proceed with pursuant to NJSA 40:55D-70(d)(2), for an expansion of the nonconforming use.

WHEREAS, the Board after carefully considering the evidence presented and the testimony taken at the public hearings conducted on October 8, 1987 and November 12, 1987 on the application on appeal from the interpretation of the Zoning Ordinance by the construction official pursuant to NJSA 40:55D-70(a) and, on February 11, 1988, and having made the following factual findings:

1. The property is located in an M-1 Zone.
2. The construction official, by letter dated June 26, 1987, issued an interpretation of the use of the premises by the applicant in the M-1 Zone, that will require a use variance because the repair of diesel engines in the building that has been used primarily for storage is an introduction of a new use and thus an expansion of a nonconforming use in the M-1 Zone.
3. As a use variance pursuant to NJSA 40:55D-70(d)(2) is required, the applicant is required to present testimony and meet its burden of proof on both the positive criteria and the negative criteria as set forth in the statute.
4. The testimony presented by the applicant and the applicant's expert, Dean Boorman, a community planning and development consultant, is inconsistent with other testimony and the Board finds, as a matter of fact, that the premises in question have not always been or have continued to be used for repair of trucks and equipment as a "major portion of the overall operation of the site".
5. Contrary to the testimony presented by Mr. Boorman, it is the finding of the Board that it would not be an unreasonable hardship for this portion of the property to conform to the requirements of the M-1 Zone should the variance not be granted and that there are no special reasons for a departure from regulations of the Zoning Ordinance pertaining to use.
6. The variance requested cannot be granted without substantial detriment to the public good and will substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance as it has been demonstrated that there has been negative adverse impact to the surrounding residential area

as a result of the introduction of this new more intense use of the subject premises and that permitted uses in the M-1 Zone would not adversely or substantially negatively impact the public good.

7. The Board finds, as the matter of fact, that the enlargement of the nonconforming use is not negligible or insubstantial and, therefore, based upon the quality, character and intensity of the use proposed, the overall effect on the neighborhood and the zoning plan is such that the applicant has not met the burden of proof with respect to the negative criteria.

NOW, THEREFORE, be it resolved by the Board of Adjustment of the Township of Verona, that the application pursuant to NJSA 40:55D-70(d), for a use variance for an expansion of a nonconforming use, is denied.

VOTE :

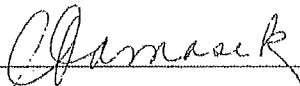
AYES

NAYS

ABSTENTIONS

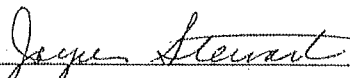
ROBERT KIERNAN
GARY BALLERINI
LOUIS RUSSO
JAMES FLYNN
WILLIAM KARP
CATHERINE TAMASIK

MICHAEL ZICHELLI

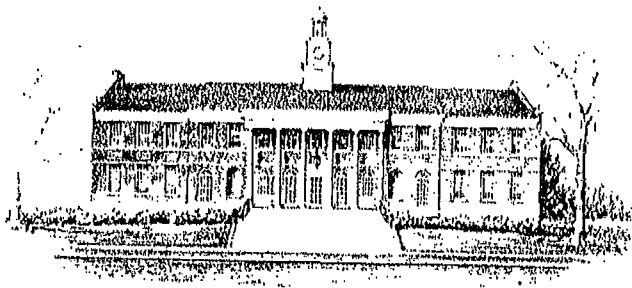


CATHERINE TAMASIK, CHAIRPERSON

The foregoing is a true copy of a resolution adopted by the Board of Adjustment on the 11th day of February, 1988 and memorialized on the 10th day of March, 1988.



JOYCE STEWART, Secretary



*Township
of
The Borough of Verona*

600 Bloomfield Avenue
Verona, New Jersey 07044

Office of the Planning Board

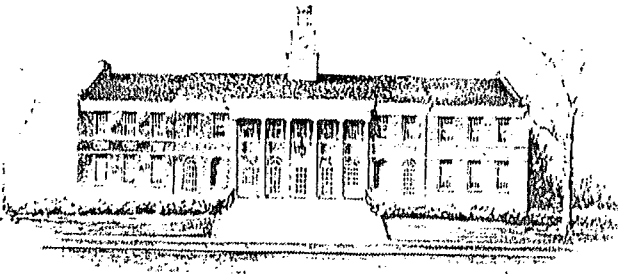
239-3220

M E M O

TO: Pat Hynes, Building Inspector
FROM: Michele Rogerson, Clerk of Planning Board
RE: Site Plan, 251½ Grove Avenue
DATE: August 1, 1988

Attached please find a copy of resolution 11-88 for the site plan approval of 251 ½ Grove Avenue, which was approved on June 23, 1988, memorialized, July 28, 1988.

Also, please find resolution #10-88 for the adoption of the Reexamination Report of Master Plan, which was adopted July 19, 1988 and memorialized, July 28, 1988. This reso. is for your information and for your file.



*Township
of
The Borough of Verona*

600 Bloomfield Avenue
Verona, New Jersey 07044

Office of the Planning Board

239-3220

August 1, 1988

Todd Smith
100 Valley Rd.
Montclair, NJ 07042

RE: Site Plan, 251½ Grove Avenue

Dear Mr. Smith,

Attached please find a copy of the resolution #11-88 for the site plan approval of 251½ Grove Avenue; which was approved June 23, 1988 and memorialized July 28, 1988.

A Notice has been sent to the paper on the decision and should appear in the August 4, 1988 edition of the Verona-Cedar Grove Times. The bill for this notice shall be sent to you.

If you have any further questions please contact me at, 85704805.

Sincerely,

Michele Rogerson
Michele Rogerson, Clerk
Planning Board

RESOLUTION # 11-88

RESOLUTION
PLANNING BOARD
OF THE
TOWNSHIP OF THE BOROUGH OF VERONA

WHEREAS, the Planning Board of the Township of the Borough of Verona having reviewed the application for final site plan approval for property known as Block 62 Lot 12 on the Municipal Tax Map commonly known as 251 1/2 Grove Avenue; and

WHEREAS, the Planning Board of the Township of the Borough of Verona having heard the testimony of the applicant and neighbors, and having reviewed the site plan showing existing conditions and proposed parking layout prepared by McCumsey Associates; and

WHEREAS, it appearing that the previous use of the northernmost building on the property was a non-conforming use and the applicant proposes a change in use to a permitted use of warehouse space with accessory office space and incidental shop work in connection with the applicant's roofing business,

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of the Borough of Verona that having considered the evidence presented including the testimony of the applicant and it being satisfied that the requirements of Municipal Site Plan Ordinance have been met, does hereby grant site plan approval subject to the dumpster and parking for the northernmost building being located on the easterly side of said building.

Approved: June 23, 1988.

Memorialized: July 28, 1988

I, Mitchell T. Martin, Secretary of the Planning Board of the Township of Verona in the County of Essex, do hereby certify that the foregoing is a true and correct copy of a resolution duly approved by said Planning Board on the 23rd day of June, 1988, memorialized, the 28th day of July, 1988.

Mitchell T. Martin
Mitchell T. Martin, Secretary

VOTES:

AYES

Albert D'Alessio
John Zingali
Larry Casparro

NAYS

Edward Conlon
Kurt Landsberger
Frederick Ferguson

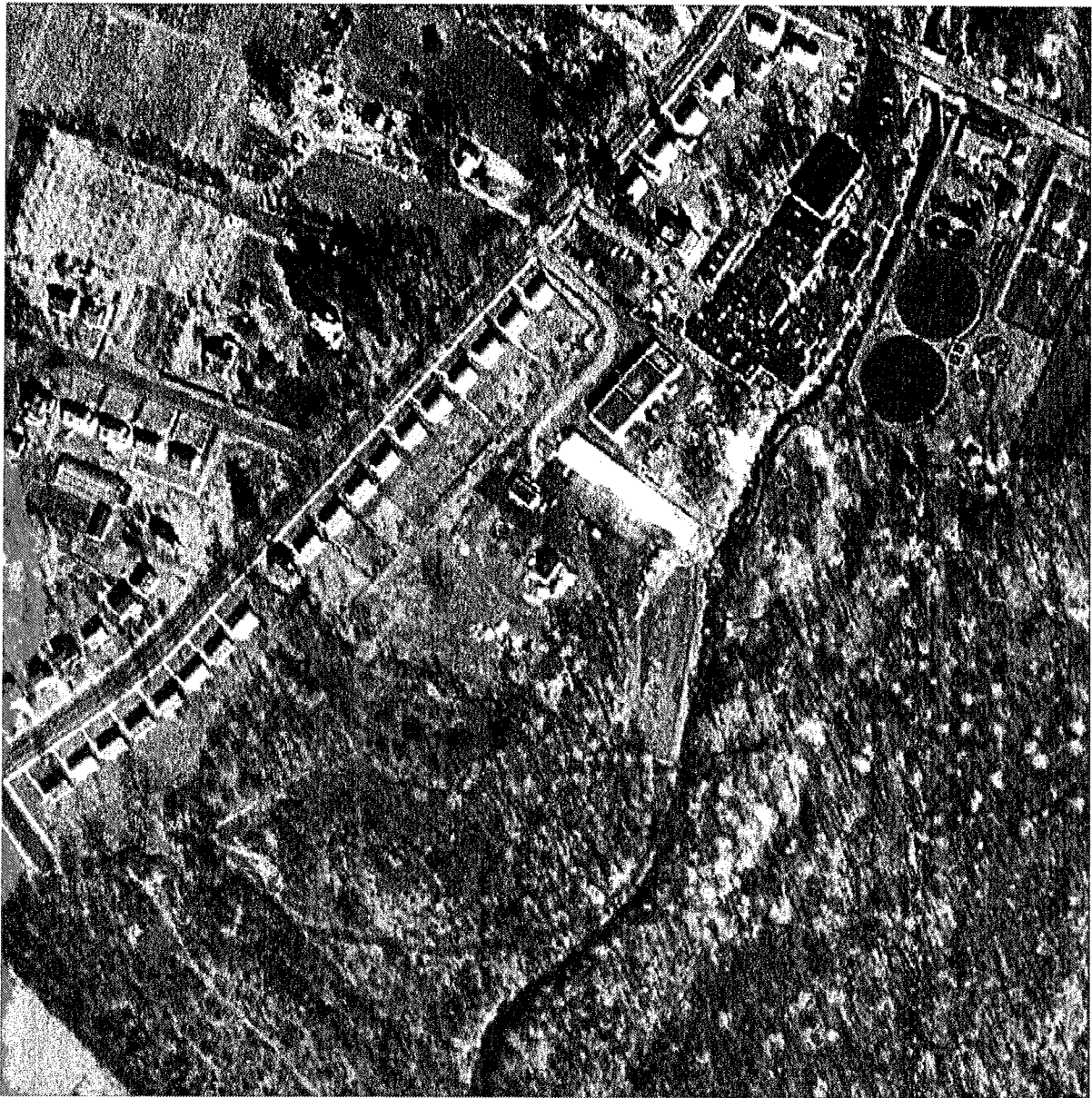
ABSTENTIONS

Edward Curley



1930 Aerial Photo of the site and surrounding area
Map Ref. NJDEP Geo-Web

The site appears to show a larger wooded area toward the rear along the Peckman River, The existing buildings which were present are not clearly visible.



1954 Aerial Photo of the site and surrounding area

Map Ref. <https://www.historicaerials.com/>

The photograph clearly shows the buildings which were present and also the extent of the storage within the open yard areas.



1966 Aerial Photo of the site and surrounding area

Map Ref. <https://www.historicaerials.com/>

This photograph clearly shows the same building as the 1954 photo, but now there is a new structure which would be an expansion of a non-conforming use in all of the previous zoning ordinances which were reviewed. There seems to be small increase in the amount of storage in the open yard area as well as some clearing of land.



1970 Aerial Photo of the site and surrounding area

Map Ref. <https://www.historicaerials.com/>

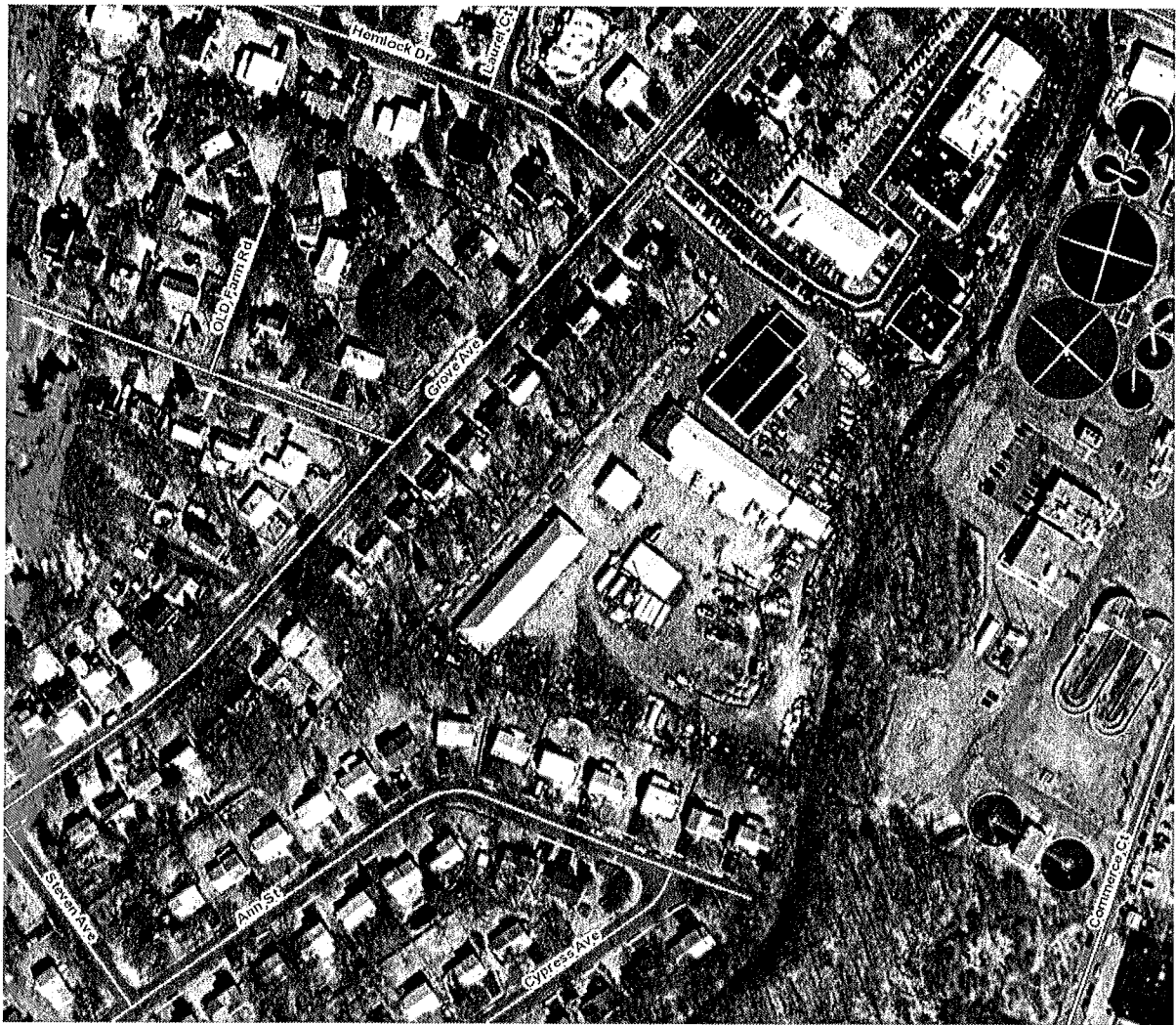
This photograph clearly shows the same conditions as the 1966 photo.



1979 Aerial Photo of the site and surrounding area

Map Ref. <https://www.historicaerials.com/>

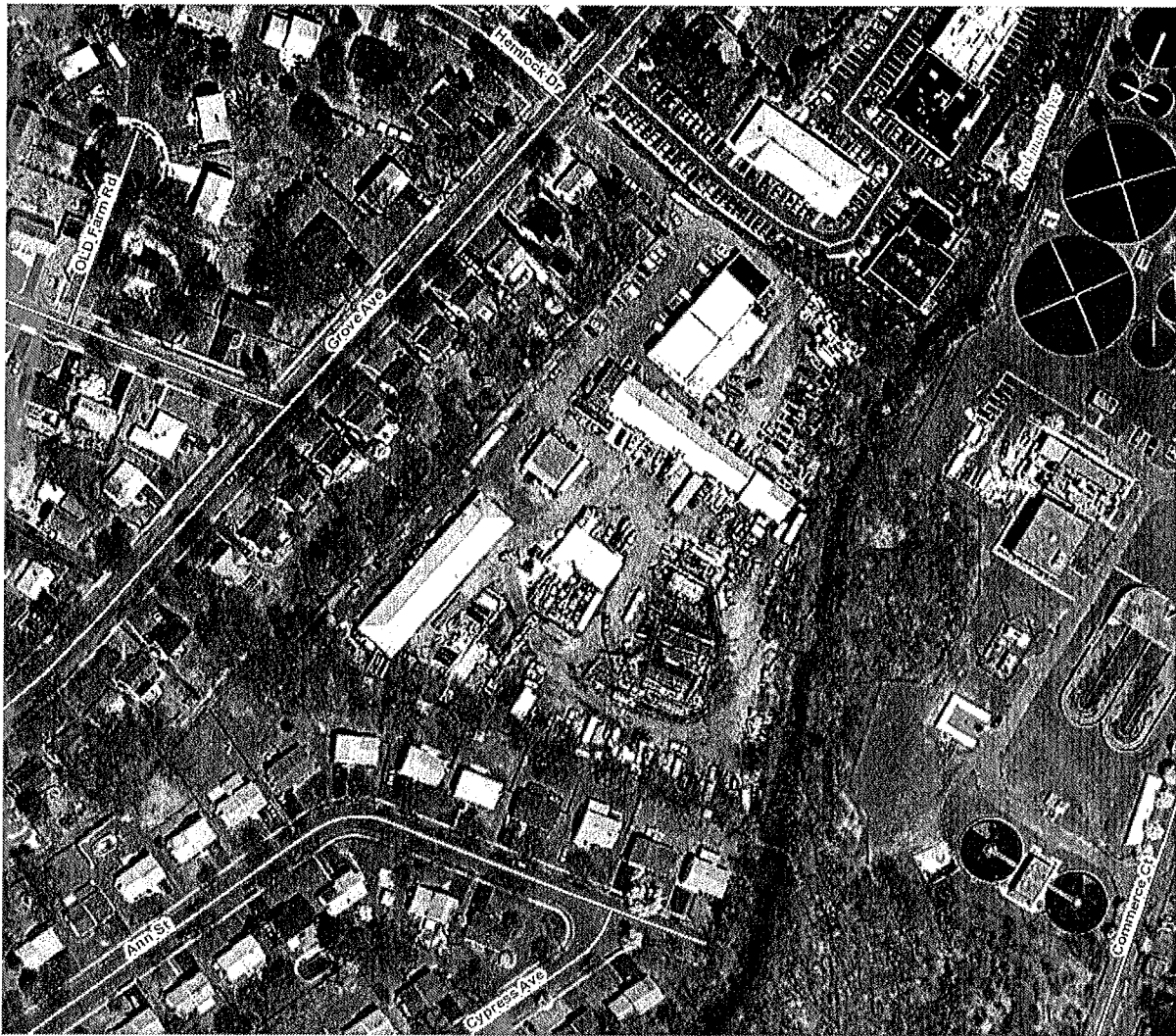
This photograph clearly shows the site now utilizing more of the open lot areas for storage. There is also an increase in the amount of vehicles being stored at the property as well as the expansion of the implied existing non-conforming use by the property owner.



2002 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

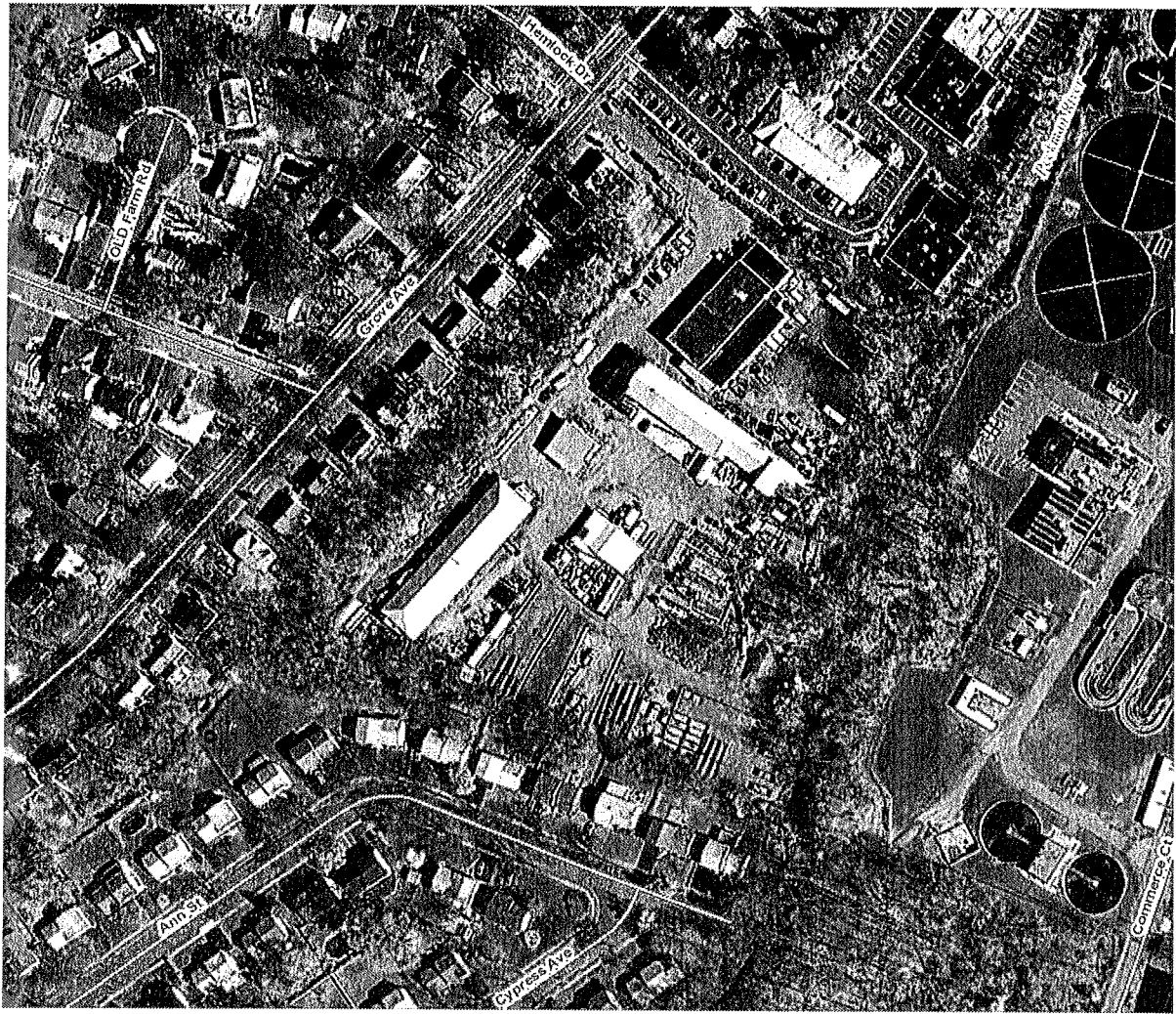
This photograph shows an expansion of existing buildings. The office located left center and the building at the top, again an expansion has taken place with no zoning approvals.



2007 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

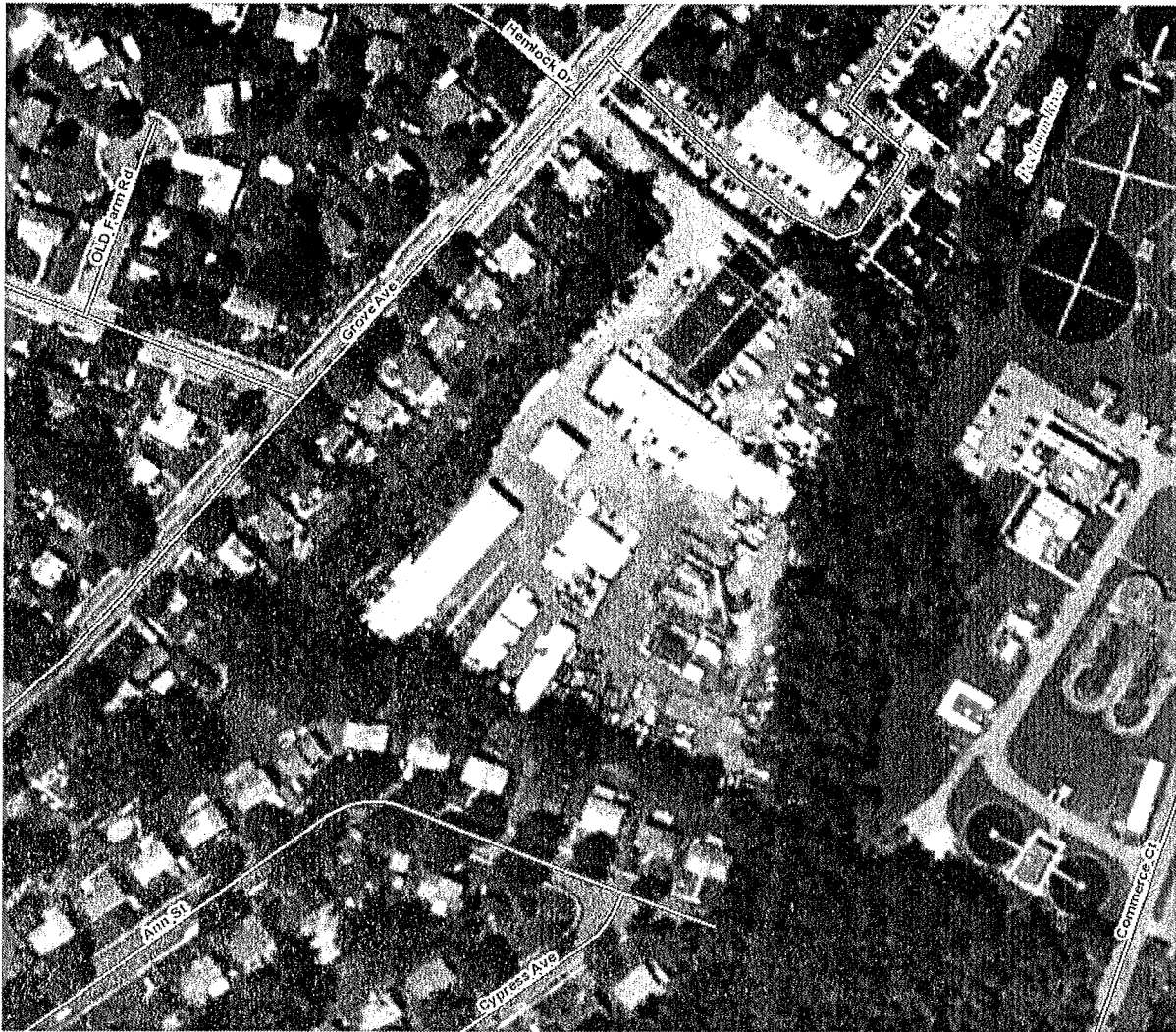
This photograph shows a total expansion of storage and possibly multiple uses now occupying the property as tenants.



2012 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

This photograph shows roughly the same conditions as the 2007 photo.



2013 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

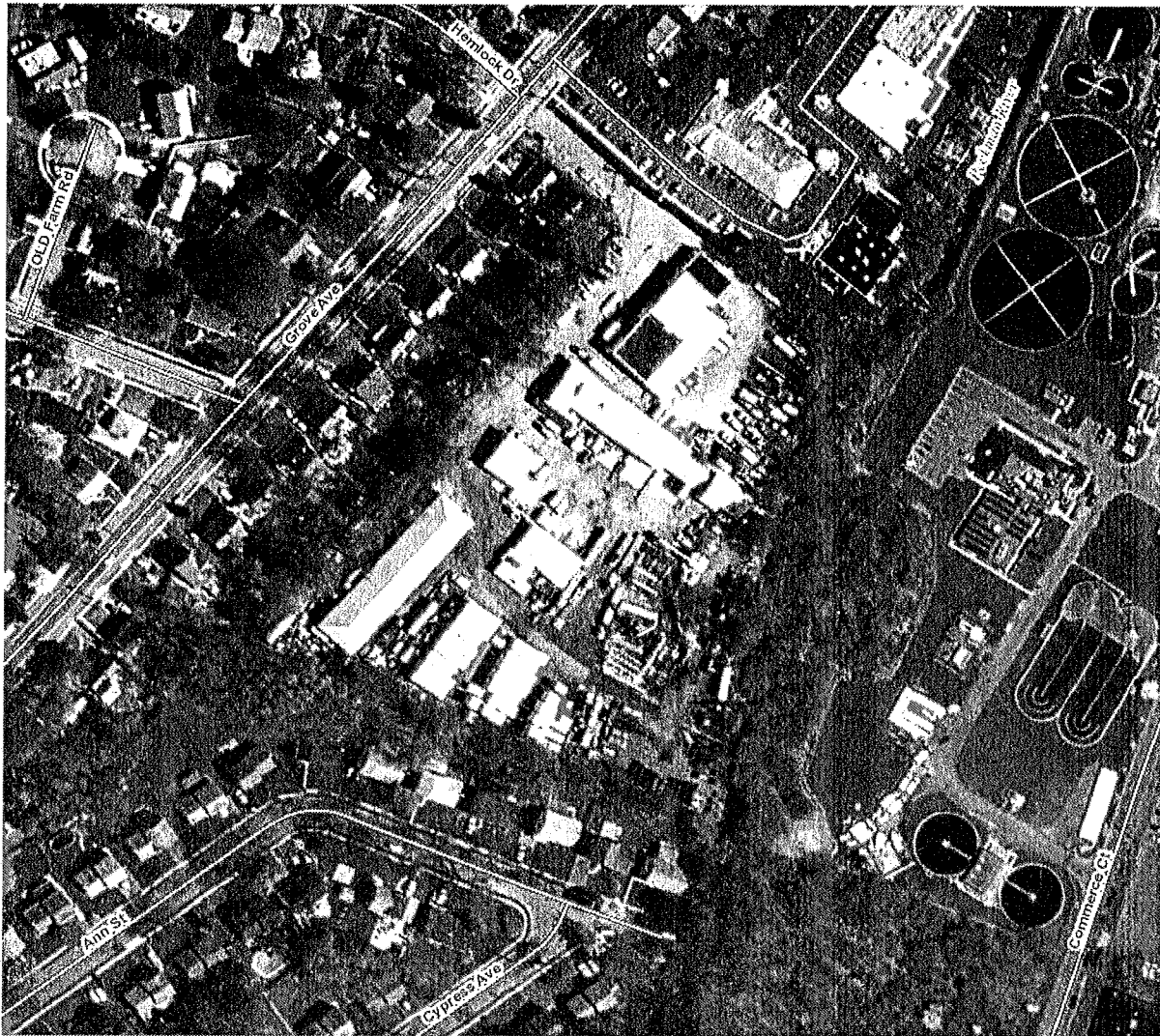
This photograph shows the beginning of the mobile storage units (PODS) now being stored at the property. A different use and tenant. This would constitute an expansion of a non-conforming use.



2014 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

This photograph shows an increase in the mobile storage units at the site as well as the refuse containers at the bottom right.



2015 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

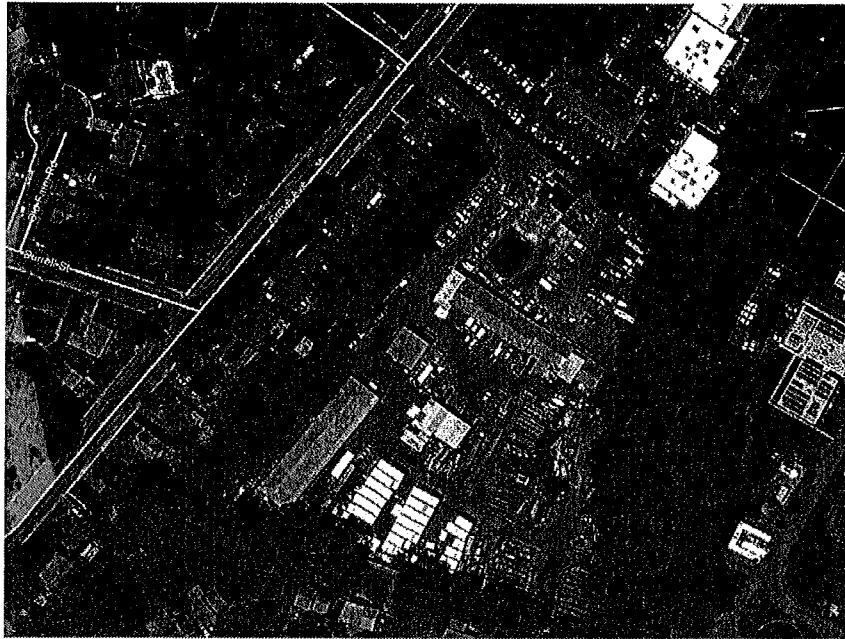
This photograph shows increases in vehicles all throughout the property.



2016 Aerial Photo of the site and surrounding area

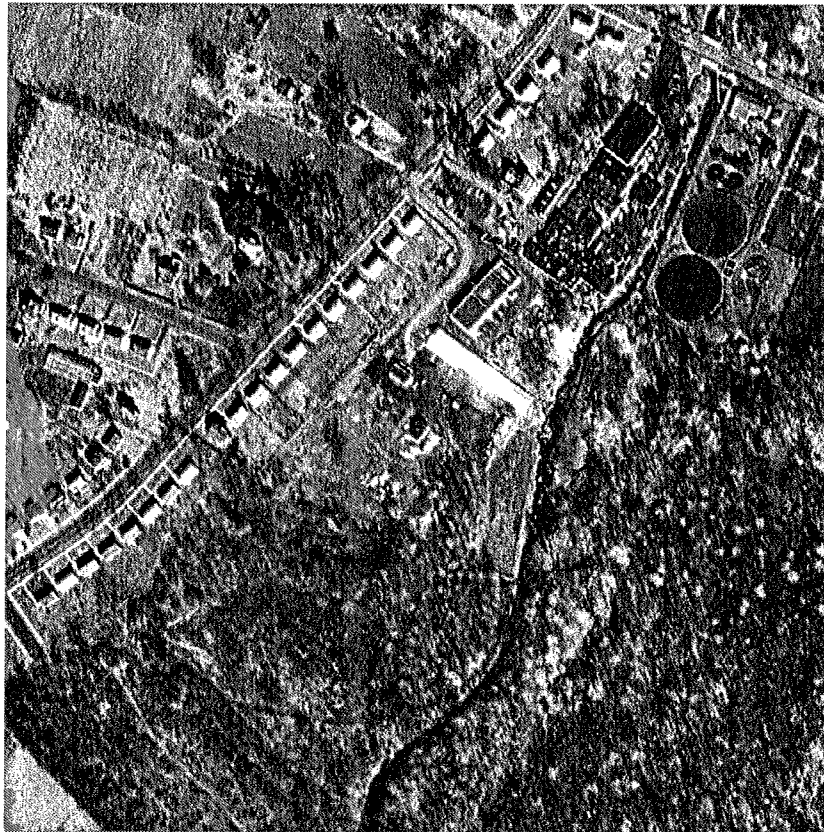
Map Ref. Google Historical Maps

This photograph shows increase in the amount of refuse containers at the bottom right.



2018 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps



1966 Aerial – Expansion??

