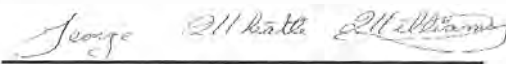



Appeal (A) of the Zoning Officer's Decision

251 ½ Grove Avenue, Verona NJ
Block: 1201 Lot: 12

Signature: 
George Wheatle Williams PP/AICP
PP# 33LI00544700


Anika Dodson
Associate

Nishuane Group, LLC | 105 Grove Street, Suite 3, Montclair, NJ 07042



Nishuane Group Background

Nishuane Group is an urban planning consultancy located in Montclair, New Jersey that specializes in planning work in the areas of Master Plans, Redevelopment Planning, *Placemaking*, Planning for sustainability, and cultural *placemaking*. Ms. Anika Dodson is an Associate at Nishuane Group. In 2016, Anika earned both a Bachelor of Science of Architecture and Bachelor of Science of Concrete Industry Management from New Jersey's Institute of Technology. She is experienced in zoning, project management, and exhibit development with private and municipal sector clients.

Independently, Mr. George Wheatle Williams is licensed by the *State Board of Professional Planners* to practice as a professional planner in the State of New Jersey and is nationally certified by the *American Institute of Certified Planners*. He completed his graduate studies in *City and Regional Planning* at the Rutgers Graduate School of Rutgers University, now the Bloustein School of Planning & Public Policy.

George has been practicing in the field of Planning for over 30 years with particular focus on Land Use and Community/Economic Development Planning. He has also served as both a Board Planner for various communities and is currently serving as the Board Planner in Bloomfield & Hoboken.

George has been accepted as an expert witness and presented expert planning testimony before numerous Zoning & Planning Boards.



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Property Description

Block 1201, Lot 12, located at 251 Grove Avenue is a 5.54 acre-property. The lot is irregularly shaped with the dimensions of the northerly lot line of 625.47 feet along the rear of single-family homes located on Grove Ave. In addition, the lot has a 50-foot frontage along Grove Ave where the access driveway is located. The easterly lot lines are 296.02 and 150.25 feet and the westerly lot line is 543.35 feet. The southerly lot lines are 415 feet and 153.97 feet and are adjacent to the Peckman River. To the east of the site is a multi-tenant office building and to the west are single-family homes on Ann St.

The site includes numerous tenants located in multiple industrial buildings. There are five structures on the site, all of which existed at least prior to 1966. Vehicle parking and equipment storage can be found throughout the site's exterior areas.

The location is zoned C-2, whose permitted uses are identified in this memorandum. It is bounded by the R-50B Medium/High Density single-family residential zone to the west, the R-60 Medium Density single-family residential zone to the south and a "Public" zone to the east. To the north is the continuation of the C-2 zone.



Issue(s)

1. The primary concern of this review is not whether or not the existing non-conforming use exists and/or is protected but rather has it been expanded

- beyond its original intent and purpose without proper authorization?
2. Was the determination of the Zoning Officer correct?

Short Answers:

1. The use(s) on the subject property have been substantially expanded beyond the original intent and purpose of the pre-existing non-conforming use without proper authorization. The violations issued by the municipality and review of historic aerial photographs indicate the consistent expansion/intensification/change of the non-conforming use.
2. The Zoning Officer was correct in their issuance of the zoning permit denial. The Municipal Land Use Law and court cases indicate that the expansion, change & intensification of non-conforming uses is to be avoided and that proper relief is provided via a D-2 Variance: i.e., not the issuance of a Zoning Permit.

Municipal Land Use Law {MLUL} Context

Appeals to the Zoning Board of Adjustment

According to the MLUL, [40:55D-70a](#) grants to boards of adjustment the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance. Specifically, [40:55D-72 \(a\)](#), appeals to the board of adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning ordinance or official map. Such appeal shall 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. The officer from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken.

The following additional context for Appeals to the Board of Adjustment is provided in the *2021 New Jersey Zoning & Land Use Administration* {Cox}:

*It should be emphasized that the zoning officer and building inspector should refuse to issue a permit in any case where there is doubt as to whether the applicant is entitled to it. There are numerous instances in addition to those discussed in the above cases which pose legal questions about the issuance of a permit. For example, an application for the change of a structure may, as in *Lehen v. Atlantic Highlands*, supra,*



*represent or allow a change in a nonconforming use: is the change substantial or is it so little different from the previous use that it can be considered a continuation? The determination requires analysis such as conducted by the Court in *Belleville v. Parrillo's, Inc.*, 83 N.J. 309 (1980), discussed in section 33-1. The enforcing officer must bear in mind that if a permit is issued and the recipient commences construction or takes other action which is of a substantial nature in reliance on it, the municipality may be estopped from revoking the permit once the error is discovered. For this reason, where there is any doubt whatever, the permit application should be denied so that the matter can come before and be decided by the zoning board of adjustment on the basis of testimony and evidence presented at a public hearing.*

Further, N.J.S. [40:55D-75](#) provides that where an appeal is taken from the decision of an administrative officer to the zoning board of adjustment this shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made. However, if the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life and property, then the proceedings are not stayed.

Relating to applications for zoning permits involving non-permitted uses, Cox offers the following:

It is common that the owner or prospective purchaser of a nonconforming use will apply for issuance of a zoning permit showing the existence of the nonconforming use. If the use allegedly became nonconforming during the preceding year, the zoning officer is authorized to determine whether or not the use was in fact in existence prior to the ordinance or amendment. N.J.S. 40:55D-68. Unless there is clear and convincing documentary evidence of the fact that the use in fact existed prior to enactment of an ordinance or amendment which prohibited the use, the zoning officer should deny the permit. On appeal to the zoning board of adjustment, the appellant may present testimony and documentary evidence to establish the existence of a prior nonconforming use.

The statute, 40:55D-68, it should be noted, serves only to protect the use which existed at the time of adoption of the ordinance; therefore, absent a variance, a lawfully created preexisting nonconforming use or structure may not be expanded over a larger area than it occupied at that time. Expansion is not favored.

Finally, the Board of Adjustment is empowered to hear a request for alternative relief. {Cox}

At the same time it hears an appeal from the officer's denial of a permit, the board may entertain an application, if it has jurisdiction and the application is properly presented and noticed, requesting a variance and, if the applicant shows his right to relief, the board may grant a variance under N.J.S. 40:55D-70c or d and direct the administrative official to issue the permit. {Underlining added for emphasis.}

If the board finds no error in the action of the administrative officer, the action of the officer is simply affirmed. If the appellant then seeks a variance he will have to file a new application. Thus, appeals and applications in the alternative, seeking a variance if the denial of the administrative officer is upheld, are recommended. In other words, once a matter is properly presented, the board may, and should, assuming that proper notice designed to notify all recipients of the nature of the relief sought has been given by the applicant, exercise all of its powers to review the entire case and decide all questions thus presented. To do otherwise would invite a multiplicity of appeals and applications with attendant hardship to the applicant. However, in order for the board to grant alternative relief, the application must seek relief in the alternative and the notices required by statute must so indicate.

Expansion of Non-Conforming Uses

In accordance with [40:55D-70d\(2\)](#), the expansion or intensification of a lawfully created preexisting nonconforming use, which also includes the expansion of a building in which a lawfully created preexisting nonconforming use is to be carried on, requires a d(2) variance. Although the owner of a lawfully created preexisting nonconforming use is allowed to continue it and to do necessary maintenance, he or she may not enlarge or modify the use without a variance, except where the change is negligible or insubstantial. Generally, the protections afforded to pre-existing non-conforming uses are intended only for the use which existed at the time of adoption of the ordinance. Without a variance, a lawfully created preexisting nonconforming use or structure may not be expanded over a larger area than it occupied at that time. Expansion is not favored. {Underlining added for emphasis.}

Background

1952 Verona Construction Company

Property was split-zoned; the majority of the lot was in an *Industrial Zone* & the balance was in a *Residential Zone* district. The owner/applicant appeared 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. The application was denied. (Refer to *Township of Verona* document, August 30, 2019 in the appendix)

1986 “Dews Diesel” Appeal to Board of Adjustment

Dews Diesel obtained a lease for a newly subdivided portion of the existing storage

facility and was conducting business as a diesel engine repair facility, which also had a retail component attached to it. The Township issued a summons to the owner of the property citing violations of the current zoning ordinance. The results of that Zoning Board Hearing were a vote of 7-0 that a use variance would be required for Dews Diesel to continue its operation. (Refer to *Township of Verona* document, August 30, 2019 in the appendix.)

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 repair operation relevant to diesel engines. The findings during the use 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. (Refer to *Township of Verona* document, August 30, 2019 in the appendix.)

1997 - 2018

During this period, various tenants of 251 ½ Grove Avenue accrued numerous violations. (Refer to *Nishuane Group exhibit*, July 29, 2021 in the appendix.)

Methodology

1. Review all available municipal documents
2. Review of the Court Case
3. Review of the Municipal Land Use Law
4. Case Law Review
5. Literature Review
6. Master Plan Review
7. Zoning Ordinance Review
8. Site Visits & *Photosurvey*
9. Exhibit Development

Analysis

Permit Applications, Violations & Denials

The following is a chronology of violations issued to the property owner by the municipality between 1997 and 2018:

1997 – one tenant; 1 violation
1999 – one tenant; 3 violations
2003 – two tenants; 9 violations
2006 – one tenant; 3 violations
2012 – three tenants; 9 violations
2013 – three tenants; 9 violations
2014 – four tenants; 13 violations
2015 – five tenants; 15 violations
2016 – two tenants; 6 violations
2017 – four tenants; 12 violations
2018 – two tenants; 6 violations

{Please refer to *Township of Verona* document, August 30, 2019 in the appendix for additional information regarding variance violations.}

COMMENTS:

1. Violations that were provided by the township of Verona were given to Nishuane Group for review. We thank the Township of Verona for the research provided, the document was very thorough and robust.
2. This document included 13 pages of violations and are found in the August 30, 2019 correspondence in the Appendix.}
3. The violations were not, however, in chronological order. Therefore, in order to present the narrative describing the various violations among numerous tenants, it was necessary to do the following:
 - a. Organize the data in chronological order; (refer to page 16 of the *Nishuane Group exhibit*); and
 - b. Create a system to understand the violations. It is not only the number of violations, but also the consistency of the violations. Many of these violations are repetitive, and demonstrate a neglect

to abide by necessary regulations protecting the public health, safety and general welfare of the Township.

- c. **COMMENT:** We note that this organization of the violations served to highlight the property owner's departure from the earlier practice of pursuing the proscribed land use processes: e.g., zoning permit applications and/or zoning variances. {see history above}

Zoning

The property is presently located in the Township's C-2 (Professional Office and Business zone. This zone permits the following principal uses:

- 1) Commercial and Professional Offices
- 2) Commercial schools offering instruction in dance, music, fine art and similar pursuits.
- 3) Family day-care centers

Permitted accessory uses are any accessory uses customarily incidental to the principal or conditional use. Conditionally permitted uses include the following:

- 1) Mixed residential and professional office uses (nonmedical) subject to the mixed-use standards set forth in § 150-8.3.
- 2) Mixed residential and commercial office uses (nonmedical) subject to the mixed-use standards set forth in § 150-8.3.
- 3) Mixed professional (nonmedical) and commercial office uses (nonmedical) subject to the mixed-use standards set forth in § 150-8.3.

Prior to 2011, the property was located in the Township's M-1 {Light Industrial Zone}, which permitted:

- 1) Manufacturing processing, producing, or fabricating operations which can meet performance standards.
- 2) Warehouses.
- 3) Wholesale trade.
- 4) Research and development.
- 5) Childcare centers.

Prior to being removed as a zone, the M-1 Zone was last amended in 1997, but had been in existence as least 10 years prior to that. Accessory uses permitted are those uses customarily incidental to the principal or conditional use, **except that there shall be no outside storage of products, materials, or equipment.** {Bold font added for emphasis.}

Master Plan

The 2009 *Verona Master Plan & Reexamination Report* provides the following context:

- **Limited Industrial**

This land use classification has been removed and replaced with other classifications in the Township. Limited industrial uses in the town have, and would always have, an impact on the surrounding land uses. The previous master plan proposed that the limited industrial classification was to remain but the classification should be changed if the user was discontinued. {p. Section 8, p.22}

This master plan follows the same concept as the prior master plan, but makes the legal step of making all existing limited industrial uses in the Township non-conforming uses. This will allow the existing limited industrial uses to remain, but will not allow these uses to expand in any way and once abandoned would lose its non-conforming status. {p. Section 8, p.22}

- **C-2 Professional Offices & Businesses**

The subject property is located in the C-2 District. According to the 2009 Master Plan, this limited commercial district allows for non-retail uses such as offices and certain financial institutions.

As indicated in the 2011 Zoning Map Section (right), the subject property is currently located in the C-2 District.



Considerations for Addressing Pre-Existing Non-Conforming Uses

Relevant Court Cases

In the consideration of whether the uses located on site constitute an expansion of a pre-existing nonconforming use, we reference *Town of Belleville v. Parrillo's, Inc.* (1980). This case involved the conversion of a restaurant into a nightclub. While the restaurant was not a permitted use within the "B" residence zone, the restaurant had existed prior to the effective date of the zoning ordinance in 1955, it was a pre-existing nonconforming use and permitted to operate. In 1978, the premises was converted to a night club, which

had its license to operate such a facility denied by the Town. The court determined the Superior Court had correctly framed in the issue, noting, "That court correctly framed the issue as whether "a change from a business primarily conducted as a restaurant with incidental dancing and serving of liquor [can] survive the proscription of the prohibiting ordinance when the character of the operation shifts to a form primarily conducted as a dance hall with the serving of liquor and incidental eating." That court determined that the evidence adduced could "lead to no other conclusion" than that there had been a prohibited extension of a nonconforming use, and likewise entered a judgment of conviction. The decision further notes that the analysis of whether an expansion of a nonconforming use has taken place should be qualitative, rather than simply quantitative.

It is insufficient to consider simply the change of tenants or total number of tenants over time, but must consider the nature of the businesses that have located there changing from one business that utilizes outdoor storage (i.e. buses) to another whose business is primarily rooted in the storage of items outdoors (PODS), or the repair of vehicles customary to the business versus one whose principle operation is the repair of vehicles.

Additionally, when considering *Hay v Board of Adjustment of Borough of Fort Lee* (1955), the case concerned the proposed expansion of an automobile service station that was established in 1930, and prior to the adoption of a zoning ordinance in 1941, in which his property was included in a single-family residential zone. In 1954, the owner, Hay, applied for a building permit for his facility, where it was rejected because it was determined it constituted an expansion of a nonconforming use. The plaintiff argued in the case that the lot was indiscriminately utilized for repair work and the building expansion will allow the repair work to then be done indoors. The case makes references to *De Vito v Pearsall*, quoting, "the argument made for the prosecutor is that if a nonconforming use is once established on a property, that use may be extended and

enlarged to the length and breadth of the entire plot without restraint as to height and depth. We do not understand that to be the law.”

In essence, having an approved site at the time of development, or a preexisting nonconforming use at the time of zoning change, does not give the owner license to indiscriminately expand one’s business on the property. In fact, this case, along with *Grundlehner vs Dangler* have been referenced in setting an expectation a nonconforming use should come more into compliance with the zoning ordinance, rather than less.

State of New Jersey vs. Marve Development Corporation

The *State of New Jersey v Marve Development Corporation*, dated June 28, 2017, established that the repair and parking of school buses by F.S. Transportation was a substantially similar use of parking and repair of construction vehicles that had existed on site prior to the M-1 district and therefore was a lawfully permitted preexisting nonconforming use. The relevant question is that beyond the operations of FS Transportation, which was the subject matter of the lawsuit, what is the effect of the 27 other businesses cited for violations for parking, storage or enlargement of a nonconforming use? Any single use may have protections related to the preexisting uses identified. However, there must be a qualitative consideration for how these uses are affected when the property expands from one use {parking, and storing, and operation} to 28 uses doing the same. The facts of the 2017 case rested on a single user and not the totality of the effect of all the users.

Conclusion

Based upon our thorough analysis of all the documents referenced above and our field observations, we offer the following conclusions:

1. The use(s) on the subject property have been substantially expanded beyond the original intent and purpose of the pre-existing non-conforming use without proper authorization: i.e.,
 - a. The number of tenants on the site that utilize the property for non-conforming uses has increased without zoning permits or use variances.
 - b. In addition to the violations issued, the aerial images in the exhibit capture the introduction of the PODS, outdoor construction storage and outdoor parking. {Please refer to § 150-4.2(e) and the Exhibit in the Appendix}

2. The Zoning Officer was correct in their issuance of the zoning permit denial.
 - a. It should be emphasized that the zoning officer and building inspector should refuse to issue a permit in any case where there is doubt as to whether the applicant is entitled to it. {See Cox referenced above}
 - b. Pursuant 40:55D-70d(2), without a variance, a lawfully created preexisting nonconforming use or structure may **not** be expanded over a larger area than it occupied at that time. Expansion is not favored.
3. Further, it is our professional opinion that taken together, the activity/use of the site constitutes an expansion of a nonconforming use, particularly as it relates to parking and storage and repair of commercial vehicles on the subject property. It is clear, as the aerials indicate, that there has been substantial expansion on the site upon which such operations are taking place.
4. Additionally, as it relates to storage of PODS containers and dumpsters, it is also clear, that the storage of this equipment is not substantially similar to the parking of construction equipment or vehicles. These are separate businesses that have no relation to commercial construction operations as a primary or even an accessory use. It is our professional determination that these are new nonconforming uses, both of which were introduced to the site after the zoning change. {Refer to aerial photos in the Exhibit} Additionally, as can be viewed in aerials, the number of containers and dumpsters have increased on site.
5. Moreover, the 2017 decision drew a clear distinction between commercial related businesses and those who cater to private services. As a result, it is our understanding that any businesses that include the storage, parking, repair, sales and more of private vehicles, trailers, or equipment is not and has never been a permitted use within the zone, nor is it substantially similar to that related to commercial business parking, storage, etc. as an accessory use.
6. Finally, as it relates to welding, we have seen no evidence that any welding operations took place prior to the establishment of the C-2 zone, thus making it a wholly new non-permitted. Therefore, authorization of the welding operation would actually require a D-1 Use Variance.

Again, based upon our analysis, we submit that the Zoning Officer's issuance of zoning permit denials & violations was appropriate. However, it is worth underscoring the

contextual significance of this unique matter. From a planning perspective, we are cognizant of the municipality's adherence to proper land use processes: i.e., the Master Plan's articulation of a vision for this site and the subsequent amendment to the zoning ordinance and zoning map-changing the M-1 District to the C-2 District. Specifically, the Master Plan acknowledged that *Limited industrial uses in the town have, and would always have, an impact on the surrounding land uses.* This acknowledgement was followed by the intentional restriction that would *allow the existing limited industrial uses to remain, but will not allow these uses to expand in any way and once abandoned would lose its non-conforming status.* Clearly, the Master Plan envisioned the reduction and/or elimination of the Light Industrial uses in Verona and the replacement of the same with uses more appropriate in the context of adjacent residential and commercial districts.

The Master Plan's vision is informed, in part, by the numerous complaints by the property owners that abut the subject property regarding noise, noxious fumes and property maintenance issues. {See the August 30, 2019 Correspondence in the Appendix} In our opinion, this scenario comports with the case law and the MLUL, which discourages the change, intensification & expansion of non-conforming uses.

Notwithstanding the language in the Master Plan, the MLUL provides procedures for the lawful expansion of pre-existing non-conforming uses as described above. In fact, the chronology of events referenced above indicate that the property owner is aware of those procedures and, in fact, at one time did avail themselves of the same. On each of the occasions that the proper process was utilized, the property owner was denied. Therefore, it appears that the property owner intentionally & knowingly thwarted the proper procedures in violation of the MLUL and to the detriment of the surrounding residential property owners. It is therefore our opinion that the Zoning Officer acted appropriately in the context of the MLUL, case law and in protection of the health, safety, morals and general welfare of the Grove Avenue community.



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APPENDIX



APPENDIX CONTENTS (In Order of Appearance)

Proessional Planner Search, dated March 10, 2021
Township of Verona "Zoning Report", dated August 30, 2019
Nishuane Group Exhibit, dated July 29, 2021

PROFESSIONAL PLANNER SEARCH RE: Case 2019-12 -- 251½ Grove Avenue

Background

Case in question is an Owner's appeal of the Zoning Official's determinations concerning a site that has been the topic of many zoning and property maintenance related issues over several decades. The Zoning Official has cited 28 tenants with 88 Zoning Violations stating the primary concern of this review is not as to whether the existing non-conforming use exists and is protected, but rather has it been expanded beyond its original intent and purpose. The Owner's appeal cites continuous non-conforming use and previously adjudicated issues. Attorneys for the Owner and the Zoning Officer filed briefs with the Zoning Board of Adjustment in support of and in opposition to (respectively) dismissing the zoning decision and violations. At the most recent hearing, the Zoning Board of Adjustment voted not to dismiss the decision in its entirety and all the parties agreed to take individual action to confirm/dismiss each of the zoning violations cited.

Parties

	Property	Zoning Officer	Zoning Board of Adjustment
Owner/Rep	Marve Development Corp	Michael C. DeCarlo 973-239-8146	Ashley Neale, Secy 973-857-4777
Property	251½ Grove Avenue Verona, NJ 07044 Block 1201-Lot 12	Matthew Cavallo Town Manager 973-239-3220	Daniel J. McGinley, Chair 973-493-7384
Attorney(s)	O'Toole Scrivo, LLC Joshua A. Zielinski Lawrence Cutalo 14 Village Park Road Cedar Grove, NJ 07009 973-239-5700	Aloia Law Firm, LLC Brian J. Aloia Victoria A. Lucido 2 Broad Street, Suite 510 Bloomfield, NJ 07003 973-337-6626	Gaccione Pomaco, P.C. Robert Gaccione 524 Union Avenue Post Office Box 96 Belleville, NJ 07109 973 759-2807

Concerns

Definitions (e.g. existing non-conforming use, expansion of use); application of zoning changes; impact of previous Zoning Board, Planning Board and Court decisions; how to establish a detailed inventory of "grandfathered" actual conditions to allow easy identification of current/future expansion.

Deliverables

Written Report and Expert Witness at one, or more public hearings

Provide General Education-address the definitions for Permitted Use, Primary Use, Ancillary Use, Permitted Accessory Use, Protected Non-Conforming Use, etc.; explain how properties affected by Zoning changes are expected to continue/conform; explain and give examples of expanded non-conforming uses.

Provide Case Specific-address the zoning history and expectations for this specific property; identify the impact and expectations of Zoning Board, Planning Board and Court decisions for this specific property; identify any currently cited violations clearly protected by Municipal Land Use Law and/or Zoning Board, Planning Board and Court decisions for this specific property; provide a current "baseline" of protected and permitted uses for this property along with examples of changes that would result in violations.

MAYOR
JACK McEVOY
DEPUTY MAYOR
ALEX ROMAN
COUNCIL MEMBERS
KEVIN J. RYAN
EDWARD GIBLIN
CHRISTINE McGRATH

TOWNSHIP OF VERONA
COUNTY OF ESSEX, NEW JERSEY



TOWNSHIP MANAGER
MATTHEW CAVALLO
TOWNSHIP CLERK
JENNIFER KIERNAN
TOWNSHIP ATTORNEY
BRIAN J. ALOIA, ESQ.

VERONA COMMUNITY CENTER
880 BLOOMFIELD AVENUE
VERONA, NEW JERSEY 07044

MUNICIPAL BUILDING
600 BLOOMFIELD AVENUE
VERONA, NEW JERSEY 07044

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

(973) 239-3220
WWW.VERONANJ.ORG

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.

Carolyn 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.

JBJ 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 Costone, 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. Costone: 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. Costone: We do and also the 50 foot strip.

Mr. Baldwin: How close to the road is the first house? Mr. Costone: 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. Costone: 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. Costone: 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. Costone: 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. Costone: 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. Costone: 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. Costone 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. Costone: 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. Costone: 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. Costone: 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 equally. 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-only 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.

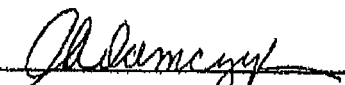
VOTE :

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

DEWS DIESEL

BOARD OF ADJUSTMENT
TOWNSHIP OF VERONA
ESSEX COUNTY, NEW JERSEY

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 :

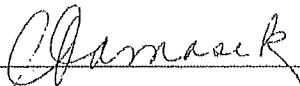
AYES

NAYS

ABSTENTIONS

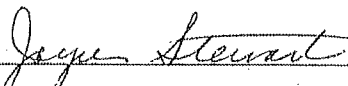
ROBERT KIERNAN
GARY BALLERINI
LOUIS RUSSO
JAMES FLYNN
WILLIAM KARP
CATHERINE TAMASIK

MICHAEL ZICHELLI

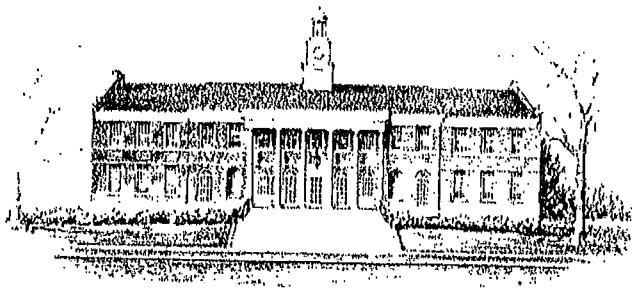


CATHERINE TAMASIK, CHAIRPERSON

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

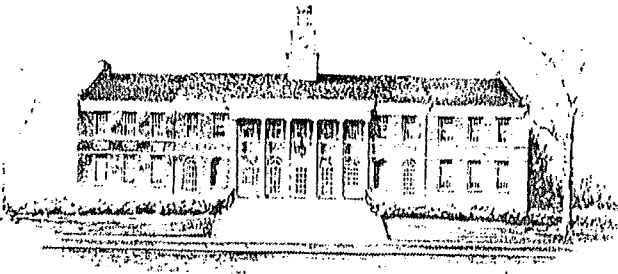
239-3220

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

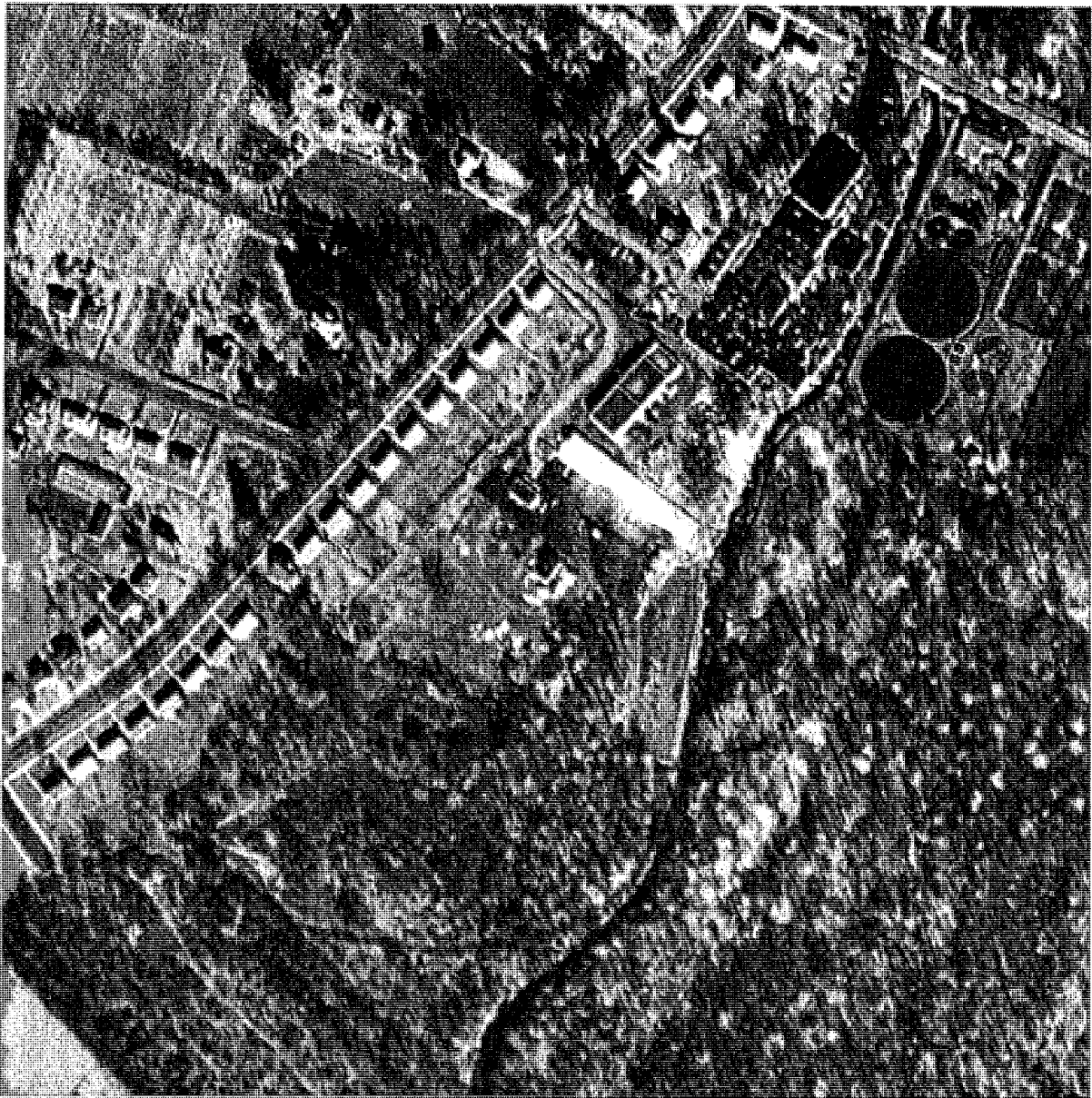
ABSTENTIONS

Edward Curley



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

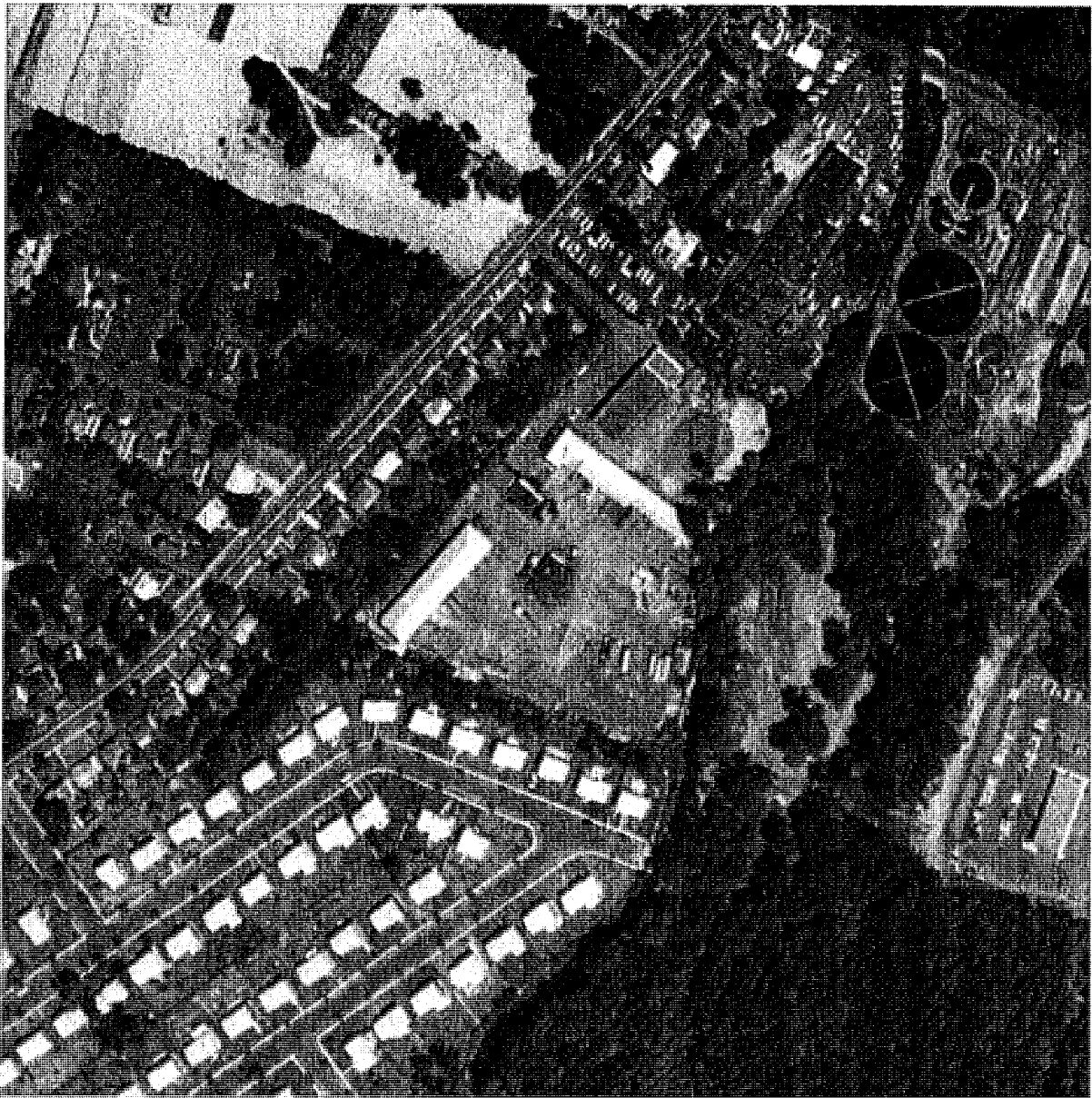
The site appears to show a larger wooded area toward the rear along the Peckman River, The existing buildings which were present are not clearly visible.



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/>

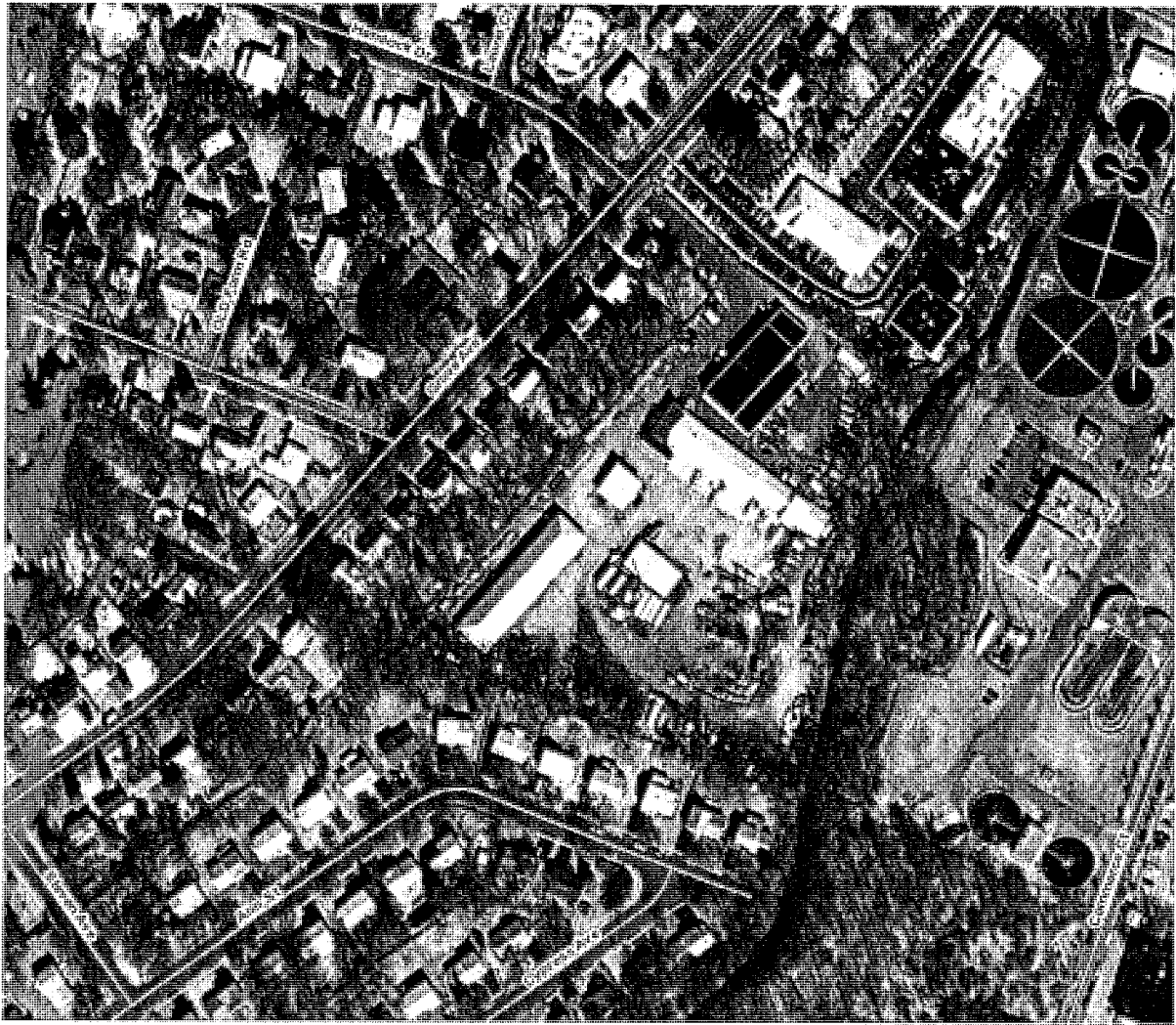
This photograph clearly shows the same conditions as the 1966 photo.



1979 Aerial Photo of the site and surrounding area

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

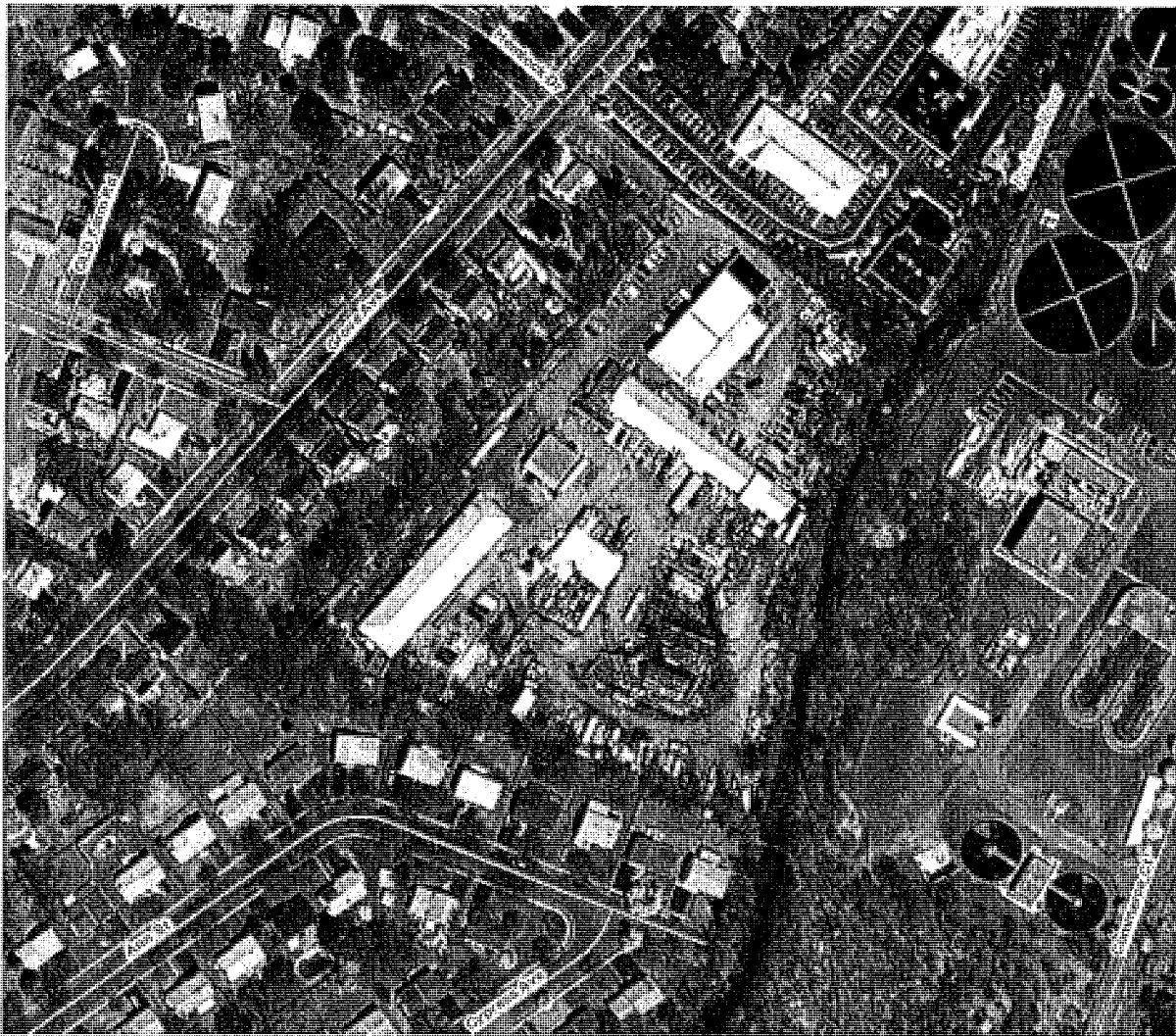
This photograph clearly shows the site now utilizing more of the open lot areas for storage. There is also an increase in the amount of vehicles being stored at the property as well as the expansion of the implied existing non-conforming use by the property owner.



2002 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

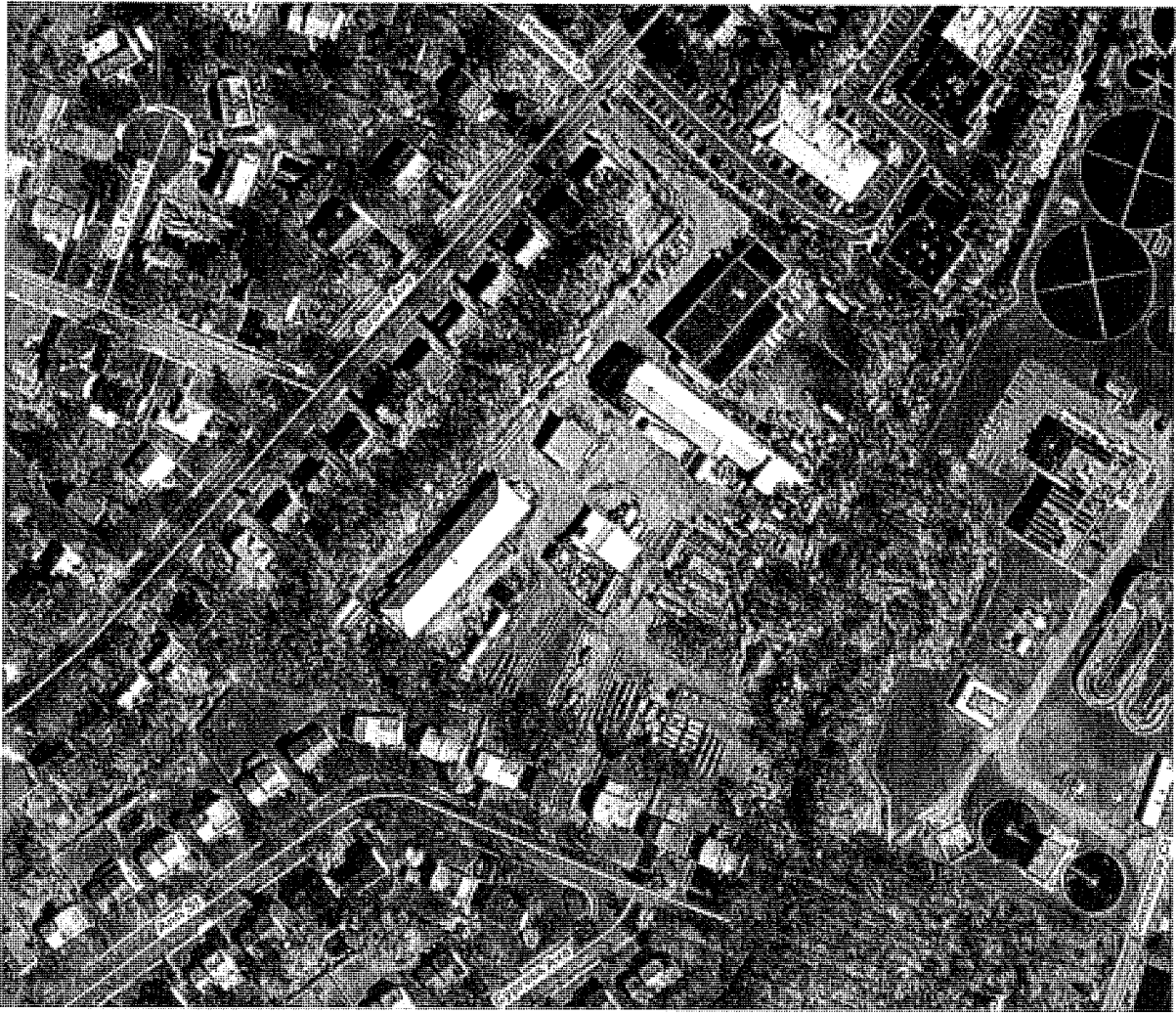
This photograph shows an expansion of existing buildings. The office located left center and the building at the top, again an expansion has taken place with no zoning approvals.



2007 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps

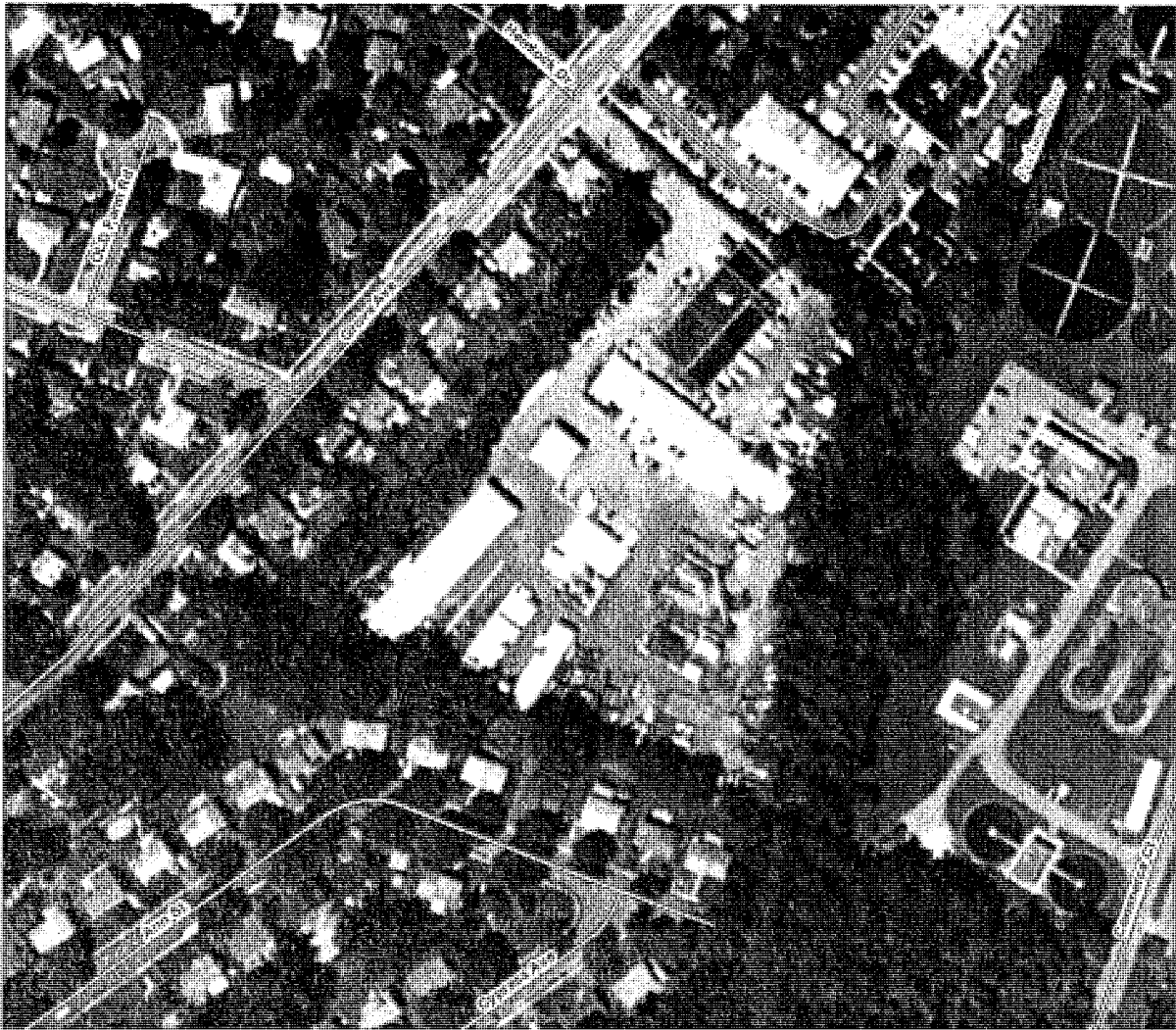
This photograph shows a total expansion of storage and possibly multiple uses now occupying the property as tenants.



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

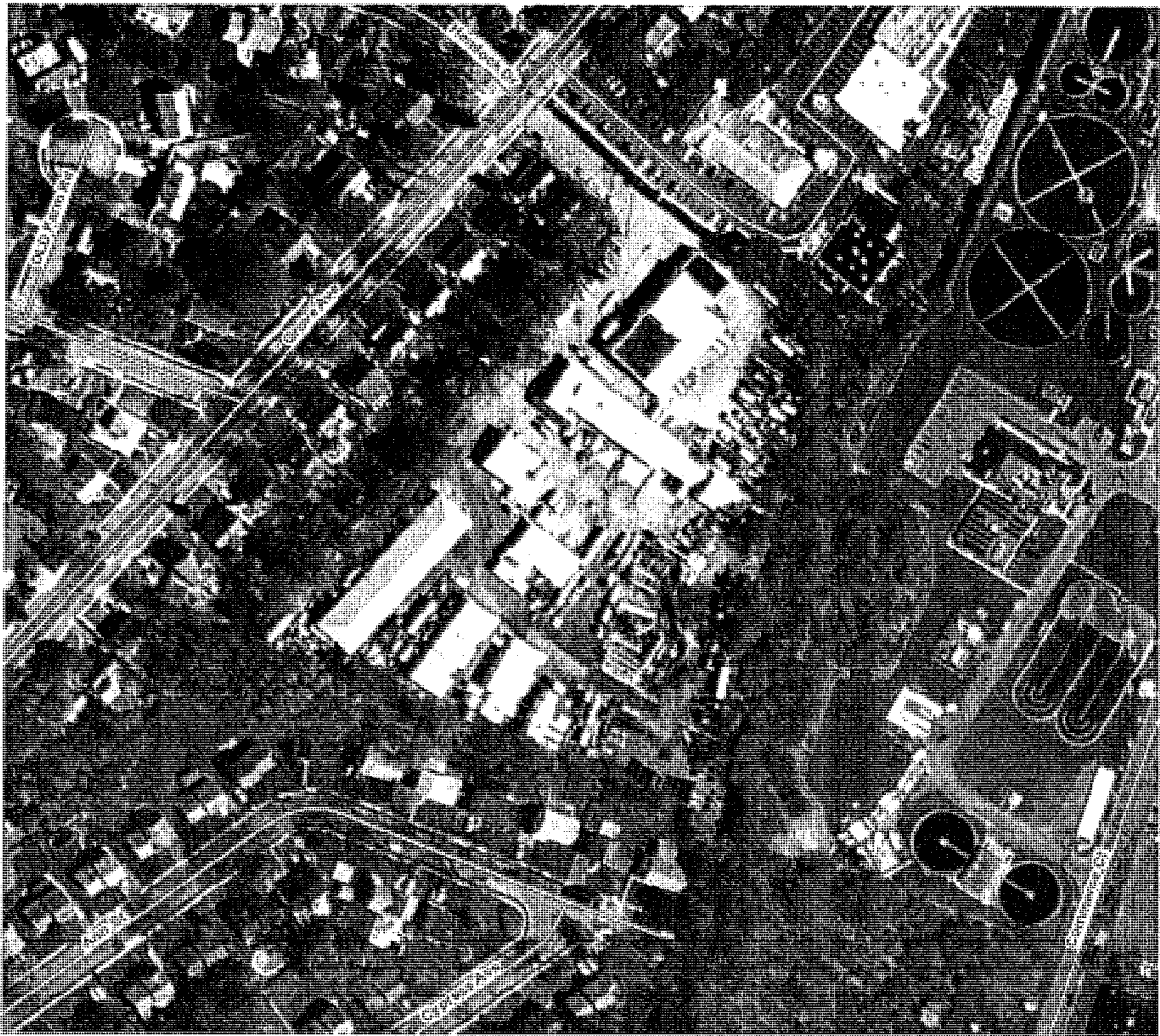
This photograph shows the beginning of the mobile storage units (PODS) now being stored at the property. A different use and tenant. This would constitute an expansion of a non-conforming use.



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

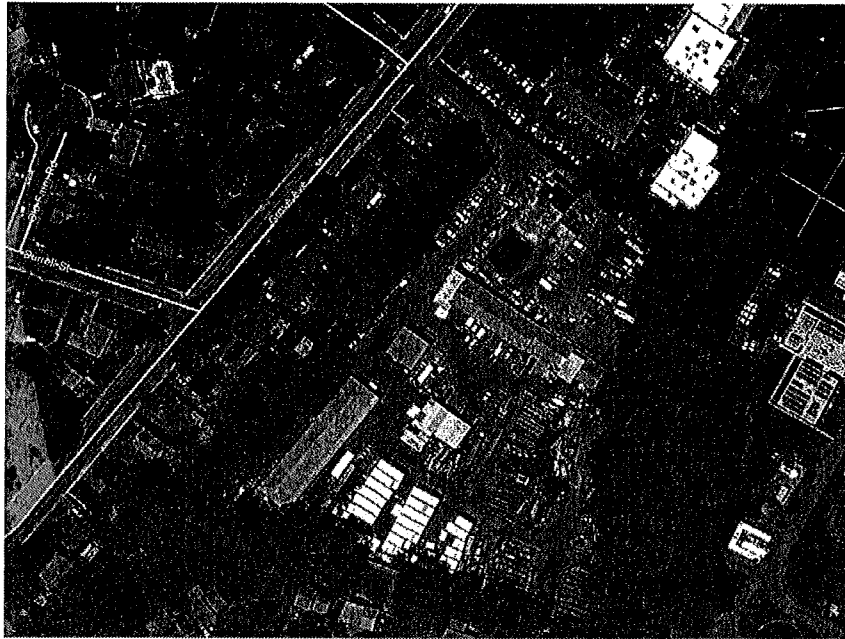
This photograph shows increases in vehicles all throughout the property.



2016 Aerial Photo of the site and surrounding area

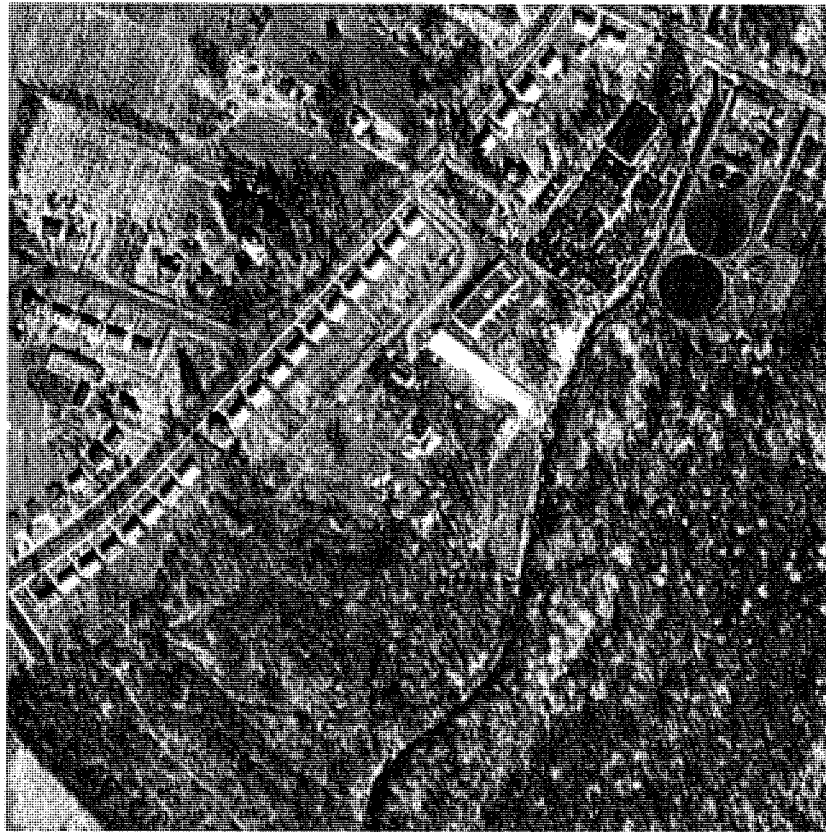
Map Ref. Google Historical Maps

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

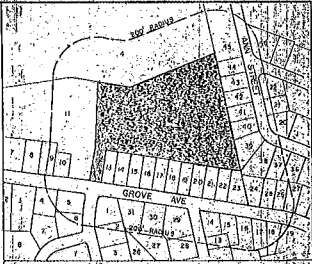


2018 Aerial Photo of the site and surrounding area

Map Ref. Google Historical Maps



1966 Aerial - Expansion??



KEY MAP SCALE 1" = 200'

LOT 12, BLOCK 62
 2.1 AC. ± TOTAL DEVELOPABLE
 TOTAL TRACT 240,000 ± SF

OWNER: MARVE DEVELOPMENT CORP.
 221 GROVE AVENUE
 EIGHTH FLOOR
 NEW BRUNSWICK, NJ 08901

APPLICANT: JAMES R. MC CUMBEY
 100 VALLEY ROAD, SUITE 100
 NEW BRUNSWICK, NJ 08901

LOT AND YARD REQUIREMENTS (SCHEDULE II)

DESCRIPTION	CODE	PROPOSED	REQUIREMENTS
MIN. LOT AREA (SQ. FT.)	125	125	10' (FEET)
MIN. YARD FRONT	30'	30'	10' (FEET)
MIN. YARD SIDE	15'	15'	10' (FEET)
MIN. YARD REAR	15'	15'	10' (FEET)

HEIGHT, COVERAGE, AND LIVING AREA (SCHEDULE III)

DESCRIPTION	CODE	PROPOSED	REQUIREMENTS
PRINCIPAL STRUCTURE	3 SF/125'	3 SF/125'	3 SF/125'
ACCESSORY STRUCTURE	1 SF/125'	1 SF/125'	1 SF/125'
MAX. LOT COVERAGE (PERCENT)	30%	30%	30%

MINIMUM REQUIRED OFF-STREET PARKING (SCHEDULE IV)

DESCRIPTION	CODE	PROPOSED	REQUIREMENTS
PARKING SPACES (TOTAL)	10	10	10

REV.	DESCRIPTION	DATE
1	MARVE DEVELOPMENT CORP. 221 GROVE AVENUE EIGHTH FLOOR NEW BRUNSWICK, NJ 08901	

Mc CUMBEY ASSOCIATES
 ENGINEERING ARCHITECTURE INTERIOR DESIGN
 100 VALLEY ROAD, SUITE 100
 NEW BRUNSWICK, NJ 08901
 DATE: 8/13/93 DWG. BY: JRM SHEET: 21 OF 22

APPROVALS:

WORSHIP ENGINEER _____ DATE _____

CHAIRPERSON PLANNING BOARD _____ DATE _____

SECRETARY PLANNING BOARD _____ DATE _____

James R. McCumbe
 JAMES R. McCUMBE, P.E., L.S.
 DATE: 8/13/93 DWG. BY: JRM SHEET: 21 OF 22

251 1/2 Grove Avenue, Verona, NJ

Applicant: Township of Verona

Zoning Appeal A

July 29, 2021



Prepared by:

Nishuane Group, LLC.
105 Grove Street, Suites #3 & 4
Montclair, NJ 07042



Exhibit 1: Aerial View of 251 1/2 Grove Ave

The project site is located at 251 1/2 Grove Avenue, indicated by the yellow shading, in the Township of Verona, specifically along the eastern side of Grove Avenue. The project site consists of one irregularly shaped tax lot: Block 1201, Lot 12.



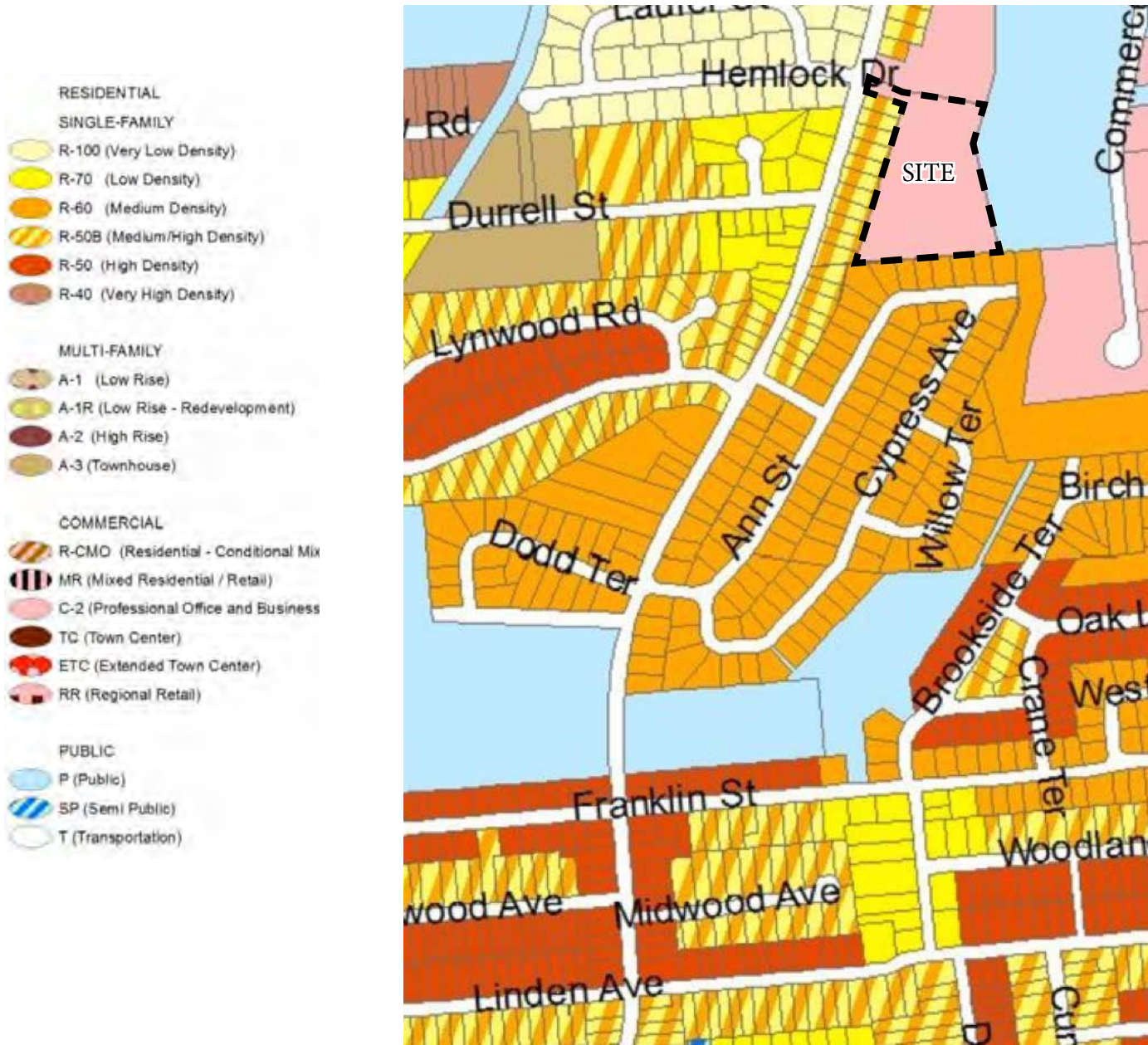


Exhibit 2: Zoning Map of Verona

The 2011 Zoning Map states the project site, 251 1/2 Grove Avenue, is located within a C-2 Professional Office and Business area, previously a M-1 zone. Surrounding the site are other C-2 districts and residential districts that vary from very low density to medium/high density. The Zoning Map reflects the Master Plan's intent to phase out industrial uses.

- Legend**
- RESIDENTIAL PROPERTY (1 - 4 FAMILY)
 - APARTMENT
 - COMMERCIAL/OFFICE
 - INDUSTRIAL
 - PUBLIC SCHOOL PROPERTY
 - OTHER SCHOOL PROPERTY
 - PUBLIC PROPERTY
 - CHURCH & CHARITABLE PROPERTY
 - OTHER EXEMPT
 - VACANT LAND
 - GOLF COURSE



Exhibit 3: Land Use Map of Verona

Although the 2011 Zoning Map states the project site, 251 1/2 Grove Avenue, outlined in black, is located within a commercial area, the 2008 Existing Land Use Map shows the site is being used for industrial purposes. According to the Master Plan, the existing industrial uses are non-conforming and unable to expand. Please note: the property above the proposed site is a commercial/office use and conforms with the Master Plan.





Photo 1: Surrounding Residential Uses

251 1/2 Grove Avenue is located right behind this residential neighborhood. Along Grove Avenue are various one and two story residential properties.



Photo 2: Surrounding Business Uses

North of the project site is 271 Grove Avenue, a plaza with various businesses and professional offices, such as a radiology office and a cardiologist office. This site is also within the same C-2 district and symbolizes what is envisioned for the professional office and business zone.



Photo 3: Photo of 251 1/2 Grove Avenue
251 1/2 Grove Avenue sits nestled between public space (blue), business/commercial space (pink) and a residential neighborhood (orange). Per the Master Plan, the concern with industrial uses is their impact on surrounding land uses. As shown in the photo, this site is visible through the tree lines along the rear of the residential properties, which directly impacts residents.



Timeline 1: Historical Aerial Views of 251 1/2 Grove Ave

The owner and tenants received various violations starting in 1997 until approximately 2018 (further detail of aforementioned violations to be discussed on slide 9). The photos above were selected with the intent to display the condition of the site near the date of the violations. The Master Plan was last reviewed in 2009, which is over 10 years ago. As noted on the sequence of aerials, during the past 10 years, the conditions of the site have declined drastically due to several factors, including onsite storage, parking, and other non-conforming uses. The following pages display how conditions have changed throughout the years.

12/2002



251 1/2 Grove Ave, Verona, NJ
Applicant: Township of Verona
Zoning Board of Adjustment: A Appeal
July 29, 2021



Image © 2021 State of New Jersey

8/2006



251 1/2 Grove Ave, Verona, NJ
Applicant: Township of Verona
Zoning Board of Adjustment: A Appeal
July 29, 2021

10











Variance 150-17.11 a A

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

Variance 150-4.2 e B

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.

Variance 150-13.3 a C

No existng 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-confirming use.

Variance 150-4.3 a D

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.

Variance 150-9.1 a E

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

Variance 150-9.1 b F

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.

Variance 150-8.4 a G

Automotive sale business shall be operated from an enclosed building.

Variance 150-8.4 b H

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

Variance 150-8.4 c I

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

Existing Violations at 251 1/2 Grove Avenue

Between 1997 to 2018, there were numerous Township violations repeatedly issued to the tenants occupying the site. Each of these violations are described above, along with symbols to apply to the violations timeline on the following slide

1995		
1997	Weber Lawn Company, April 1997	A
1999	Friel Brothers Paving Inc., January 1999	A B C
2003	John Sweeney, August 2003	A B C G H I
	AAA Yardwork, May 2003	A B C
2006	Assured Air System Inc., September 2006	A B C
2012	Austin Fanning General Contractors LLC, March 2012	A B C
	Wilborn, Heinz, June 2012	A B C
	JB Management Inc, July 2012	A D C
2013	Lee Tree Service, April 2013	A B C
	AK Welding, July 2013	A D C
	F.S. Transportation, August 2013	A D C

2014	ANIPARK Enterprises LLC, September 2014	A B C
	Drive Up Storage, October 2014	A C E F
	Gaeta Recycling Co. Inc., July 2014	A C F
	Navarro Lawn & Tree Service, December 2014	A B C
2015	Capaldo Enterprises LLC, January 2015	A B C
	Carolan Contractors, January 2015	A B C
	Covello, Sebastian, March 2015	A B C
	American Asphalt, August 2015	A B C
	Heavy Iron Services, November 2015	A B C
2016	Centurion Auto Works, January 2016	A D C
	Bulk Be Gone, March 2016	A B C
2017	Jervae Realty, January 2017	A B C
	Rojas Heavy Equipment Repair, May 2017	A D C
	Gil Brothers, September 2017	A B C
	Kidxercise LLC, November 2017	A B C
2018	Moriarty General Contractors, January 2018	A B C
	TKJ Landscaping LLC, September 2018	A B C
2020		

Timeline 2: Violations at 251 1/2 Grove Ave (1995 - 2018)
 Tenants and their violations were placed in chronological order to provide an overall picture of the amount of violations garnered in the (26) year period. Please note: it is not only the amount of violations, but also the consistency of the violations. Many of these violations are repetitive, indicating little to no preventative measures being put in place and demonstrates neglect to abide by necessary regulations protecting the public health, safety and general welfare of the Township.