

LAND USE BOARD MINUTES
September 17, 2014

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Old Turnpike School, 171 Old Turnpike Road, Califon, New Jersey. The meeting was called to order at 7:32 p.m.

Present: Dana Desiderio, Michael Moriarty, Shirley Czajkowski, Robert Becker, Ed D'Armiento, Alt. #2, Kurt Rahenkamp, Alt. #3 and David Larsen, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney and Shana L. Goodchild, Land Use Administrator.

Absent: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Bruce Mackie and Ed Kerwin.

There was approximately thirty (30) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Moriarty opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on August 6, 2014.

PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

CLAIMS

Mr. Moriarty asked the Board if there were any questions or comments regarding the following claim to which the response was negative. Ms. Desiderio made a motion to approve the claim listed below and Mr. Becker seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Escrow – Lance (B39, L2), invoice dated August 27, 2014 (\$450.00)

Roll Call Vote:

Those in Favor: Ms. Desiderio, Mrs. Czajkowski, Mr. Becker, Mr. D'Armiento, Mr. Rahenkamp, Mr. Larsen and Mr. Moriarty

Those Opposed: None

CORRESPONDENCE

A motion was made by Mr. Becker and seconded by Mrs. Czajkowski acknowledging receipt of the following items of correspondence. All were in favor.

CORRESPONDENCE

1. A copy of a letter dated September 10, 2014 from Shana Goodchild to Gregory Meese re: Cellco Partnership d/b/a Verizon – 19 King Street, Block 44, Lot 26.
2. A letter from Gregory Meese to Shana Goodchild re: Cellco Partnership d/b/a Verizon – 19 King Street, Block 44, Lot 26.
3. A copy of letter dated September 9, 2014 from James Madsen, Apgar Associates to NJDEP re: Permit by Rule Notification, Block 26, Lot 14, 40 Burrell Road.
4. Information from ANJEC re: 41st Annual Environmental Congress, Environmental Leadership: Rising to the Challenge on October 24, 2014.
5. A letter dated September 15, 2014 from Hank Menkes re: Cellco Partnership d/b/a Verizon Wireless and Global Tower Assets, LLC 19 King Street, Block 44, Lot 26.

MINUTES

- May 21, 2014 (tabled from September 3, 2014 mtg.)

Ms. Desiderio made a motion to approve the May 21, 2014 minutes. Mr. Becker seconded the motion. All were in favor. Mr. D'Armiento, Mr. Moriarty and Mr. Larsen abstained.

ORDINANCE REPORT

There was no ordinance report due to Mr. Mackie's absence.

PUBLIC PARTICIPATION

Mr. Moriarty asked the public if there were any questions or comments regarding anything not on the agenda. There being no comments or questions, Mr. Moriarty closed the public participation portion of the meeting.

Public Hearing

- Cellco Partnership d/b/a Verizon Wireless & Global Tower
Appl. No. 13-03
Block 44, Lot 26
Conditional Use, Site Plan and Variance (Use variance due to deviation from condition use standards)
Action Deadline – 9/30/14

Ms. Desiderio recused herself from the hearing at 7:38 p.m.

Mr. Moriarty asked the attorney for Cellco/Verizon to update the Board and public on the application and any new developments.

Mr. Greg Meese, Attorney for the applicant, noted that the Board has heard testimony from Mr. Colasurdo, the project architect, with respect to the design of the site, they conducted a site inspection and following that heard testimony from Mr. Stern, the Radio Frequency Engineer with respect to the need of the facility. The Board also heard testimony from Mr. Kronk, the applicant's Planner. During these discussions the Board and the public asked if there was another

solution to the radio frequency deficiency utilizing existing structures. Mr. Meese explained that Verizon did an analysis and determined that there are two (2) existing structures that may provide the required coverage that the proposed facility on the Melick farm would cover. One (1) property is the existing steeple at the Julian Gage Home antiques store located at 43 Old Turnpike Road and the property owner has expressed some interest in a lease. A design visit would need to be conducted to make sure that the steeple can be retrofitted with radio frequency panels. The goal would be to put an antenna facility inside the steeple and replace the existing panels with transparent panels to allow for radio frequency; the appearance of the steeple would not change. Mr. Meese explained that the experts need to assess the steeple from a structural and radio frequency perspective; what coverage can be expected from an antenna installed at that location. He noted that they would not be able to raise the height of the steeple given that it is an historic site. The steeple location would only cover a portion of the area that is targeted so Cellco/Verizon is also looking at an existing PSE&G tower (Tower 12/4) located just south of Hill and Dale Road and West of Wintermute Farm Lane. Mr. Meese explained that the tower has to be reviewed by PSE&G and found to be structurally sound to accommodate the antenna. He noted that Verizon cannot put the same antenna configuration on a tower as it would on a monopole ; PSE&G does not permit remote radio heads on their towers so that item could not be installed. Mr. Meese noted that assuming PSE&G consents to the installation the private property owner that owns the land beneath the tower will also have to grant permission. He noted that the design for the current application on the Melick farm is continuing; wetlands letter of interpretation application is being finalized to be submitted for the access road. Assuming the Board wants Verizon to investigate the alternative locations, Mr. Meese opined that the best course of action would be to place the existing application on hold until further notice to allow the other two (2) sites to be flushed out.

Mr. Bernstein noted that the Board is not being asked to approve anything and they couldn't without more information and proper notice for an application on the two (2) alternate sites. Mr. Bernstein clarified that Mr. Meese is asking the Board if it makes sense for the applicant to look into the other sites with the stipulation that the current application on the Melick farm be put on hold. Mr. Bernstein suggested allowing Rob Simon, attorney for the opposition, to make a brief comment and any members of the public to make a brief comment but extensive testimony would not be permitted.

Mr. Larsen noted that he has photographs of other high tension towers with a monopole running either inside or outside of the existing tower so structural integrity should not be an issue. Mr. Meese noted that it is up to PSE&G to determine if the tower is structurally capable of handling equipment.

Mr. Rahenkamp noted that the property owner for Tower 12/4 didn't respond to inquiries but pointed out that those inquiries were from over 5 years ago. When asked if he has reinvestigated the property owner that declined or didn't respond 5 years ago, Mr. Meese was unaware if they had been approached recently.

Mr. Meese indicated that when they find out any information on the alternatives they will reach out to Ms. Goodchild. If the alternative sites are not possible they will re-notice for the existing application and at that public hearing put on the record why the other sites fell through. If the

alternative sites are possible Cellco/Verizon will submit formal applications for both of those sites and new notice will be provided to property owners within 200 feet of those two (2) sites.

When asked by Mr. Moriarty if a monopole of a similar height could be installed in the Oldwick vicinity if the steeple does not work, Mr. Meese indicated that they would consider that scenario. When asked if he will extend the time for the Board to act on the existing application, Mr. Meese responded in the positive and agreed to extend the time indefinitely until further notice. If the other two (2) locations are approved Verizon would withdraw the application on the Melick site.

Robert Simon, Herald Law, present on behalf of Basil and Rilda Hone and Patrick and Susan Palmer. Mr. Simon opined that an alternative two (2) site solution on existing structures is, on its face, something that appears preferred but obviously subject to the applicant demonstrating the need. Mr. Simon raised some procedural issues and noted that in his experience when a wireless applicant proposes an alternative application/site the applicant typically withdraws the application without prejudice to allow the second application to proceed so that the Board is not faced with two (2) concurrent applications. He agreed that if Verizon's due diligence in the short term proves to negate the two (2) site solution that it would not be necessary to dismiss the current application without prejudice. Mr. Simon asked that the Board consider it inappropriate to allow the existing application to be put on hold until the second application is pursued. He recommended that a time period be set for the due diligence period so there is a date certain for the applicant to return to the Board with their determination. Mr. Simon was concerned that if too many months pass and the applicant attempts to pick up where they left off with the original application members of the public won't remember the testimony.

Mr. Meese found both of Mr. Simon's points unacceptable; he indicated that his client will not withdraw an application that is pending to pursue a two (2) site solution that may not come to fruition which would require the applicant to start the process all over again. Mr. Meese also rejected the idea of returning on a certain date because he doesn't know how long it will take to get answers on the alternate locations. He opined that there is no hardship to Mr. Simon or his clients since they don't want the proposed cell tower. When asked by Mr. Bernstein if his request to the Board is predicated on keeping the current application dormant but alive, Mr. Meese responded in the positive. When asked if he would agree to a time limitation, Mr. Meese responded in the negative. In response to Mr. Simon, Mr. Bernstein opined that there have been so many changes to the current application each of the experts that have testified will have to come back and start a new and will need to testify to the changes. Mr. Meese agreed and indicated all of his professionals will return and will provide a summary of the prior testimony and present any new information. When asked by Mr. Bernstein if he will dismiss the first application if the other two (2) applications are approved, Mr. Meese responded in the positive. When asked if they will cease all reports and activity on the first application while the second application is being heard, Mr. Meese responded in the positive. Mr. Bernstein didn't have a problem with the way Mr. Meese wanted to proceed so long as all of the professionals return to testify if the first application is pursued.

When asked by Mr. Moriarty if he wants a sense from the Board if the alternative sites are worth pursuing, Mr. Meese responded in the positive.

Mr. Simon clarified that he is not asking for the Board to dismiss the current application without prejudice immediately but that it would be improper to allow the applicant to keep the current application and also file two (2) other applications simultaneously to see “how it goes”; it’s improper to have three (3) alternatives moving along a similar path. If the applicant decides to pursue sites two (2) and three (3) the Board should dismiss the application for site one (1) without prejudice. Mr. Simon opined that it would be prejudicial to the Board and public to have to rely on testimony presented in November 2013. Mr. Bernstein asked Mr. Meese to return on January 7, 2015 to update the Board on the progress to which Mr. Meese agreed and opined that by then they should have a good understanding of whether the PSE&G tower and steeple alternative will work. Mr. Bernstein noted that if in January there is no new information the Board may want Cellco/Verizon to “fish or cut bait”.

Mr. Moriarty opened the meeting up to public participation and asked the residents to keep their questions brief (limited to 2 minutes).

Barbara Todd, King Street, asked if there is a utility/equipment building required with the alternative proposals. Mr. Meese responded in the positive and explained that the equipment would be inside the existing building at the Julian Gage property. The PSE&G facility would require a pre-fabricated equipment shelter. Mr. Meese noted that it has not been designed yet so he is speculating.

George Cassa, Guinea Hollow Road, opined that a two (2) site alternative could lead to a preferable solution so he encouraged the applicant to investigate. When asked if it takes both alternate locations for the solution to work, Mr. Meese responded in the positive but did note that if only the PSE&G tower works (and the steeple does not) there might be a possibility for a smaller structure in the village of Oldwick; neither of the sites would work alone. When asked by Mr. Cassa if Verizon will still be motivated to seek alternatives if only one (1) of the sites works, Mr. Meese responded in the positive and noted that they will continue to seek out alternatives.

Chris Teasdale, 11 Dinner Pot Road, opined that the alternate sites sounds like a great solution but expressed concern that one (1) landowner could veto the scenario. When asked if he has any sense if the PSE&G landowner is receptive to the idea, Mr. Meese indicated that Verizon will do their best to cooperate with the landowner.

Debbie Close, 5 Hollow Brook Road, commended Verizon for their willingness to work with the Township on alternative sites without degrading the historical integrity of Tewksbury’s neighborhood. She encouraged them to continue to aggressively pursue the alternatives and options.

There being no additional questions or comments, Mr. Moriarty closed the public portion of the meeting and turned it over to the Board for their feelings about Verizon pursuing the alternative sites discussed.

Mr. Larsen was in favor of Verizon looking into the two (2) site alternative on existing structures instead of a new 140 foot tower. He commended Verizon for working toward that solution.

Mr. Rahenkamp applauded the two (2) site proposal however he expressed confusion about Tower 12/4 and thought that it was originally identified as a lone alternative to the existing farm site. Mr. Meese noted that the revised Radio Frequency Report shows that the coverage from the PSE&G Tower 12/4 is substantially less than from the farm property.

Mr. D'Armiento applauded Verizon's efforts on the two (2) site solution.

Mrs. Czajkowski noted that she was in favor of looking at new sites and encouraged Verizon to explore other options.

When asked by Mr. Becker if Verizon would investigate a smaller monopole in the vicinity of the steeple if the steeple is found to be deficient, Mr. Meese responded in the positive. When asked if changing the decibel would render PSE&G tower usable as the sole solution, Mr. Meese explained that if they can accomplish it with one (1) site they won't propose two (2).

Mr. Moriarty noted that the sense of the Board and public has been put on the record. He noted that since the last Verizon hearing the Board approved another carrier antenna array on an existing high tension tower so the Board definitely prefers the use of existing structures.

Mr. Meese agreed to send a letter to the Board outlining what was discussed and extending the Board's time to act indefinitely.

The Board announced that Mr. Meese will return to update the Board on January 7, 2015 at 7:30 p.m. in Mountainville.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:15 p.m. by motion of Mr. Becker and seconded by Mrs. Czajkowski.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator