

Minutes of the Regular Meeting of the Morris Plains Board of Adjustment held on August 24, 2015 at 7:30 p.m. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Ms. Joan Scaccia
Mr. David Schulz, Vice Chairman
Mr. Shaji Eapen
Mr. Jack Cox (arrived at 8:41 p.m.)
Mr. Michael Bozza, Chairman

Mr. Leon Hall, Borough Engineer
Ms. Kate Keller, Borough Planner
Mr. Michael Sullivan, Board Attorney

Absent: Mr. Mark Karr
Mrs. Ruth Mills
Mr. Roy Stewart
Mr. Robert Webster

PLEDGE OF ALLEGIANCE TO THE FLAG

The meeting was called to order by Mr. Bozza. Mr. Bozza made the statement that adequate notice of this meeting has been published and posted in accordance with Chapter 231 of the Public Law of 1975, "Open Public Meetings Act."

APPROVAL OF MINUTES

Mr. Bozza stated the next matter for action at this meeting is the approval of the Board minutes for the July 27, 2015 Regular meeting.

Ms. Scaccia moved to approve the minutes of the July 27, 2015 Regular Meeting, seconded by Mr. Eapen.

Roll Call

Yeas: Ms. Scaccia, Mr. Schulz, Mr. Eapen, Mr. Bozza
Nays: None
Abstain: None
Absent: Mr. Karr, Mrs. Mills, Mr. Stewart, Mr. Webster, Mr. Cox

Motion carried.

COMMENTS FROM THE PUBLIC

Mr. Bozza opened the meeting to the public to speak on matters other than those on the agenda. Seeing no one, he closed the public portion of the meeting.

CORRESPONDENCE AND BILLS

There was no correspondence or bills.

**BA-1-15 NY SMSA Limited Partnership d/b/a Verizon Wireless
Appeal of Decision – Zoning Officer’s Memo dated 6/1/15
Preliminary/Final Site Plan w/ use variance—completeness
45 Tabor Road – Block: 141 Lot: 2.02**

Mr. Sullivan swore in Mr. Hall and Ms. Keller.

Mr. Bozza asked Mr. Beck to provide a summary of what transpired at the last meeting of the Board of Adjustment on July 27, 2015.

Mr. Beck provided a brief summary of what transpired at the last and also updated the new documentation that had been provided to the Board since the last meeting.

Mr. Beck recalled Site Engineer Mr. Frank Pazden. He stated he was previously sworn in and again stated his name and address as Frank Pazden with Maser Consultants, 400 Valley Road, Mount Arlington, New Jersey. He stated he prepared the revised drawings that were submitted to the Board. The last revised date is August 7, 2015.

Mr. Pazden proceeded to advise the Board of the changes that were made. He was first referred to Sheet Z3 which is the partial site plan and grading plan. This relates to the proposed height of the of the shelter and what options were there to address this impact. They are now proposing a three-sided wall that will address the concerns about height. A retaining wall will extend above grade and will act as the fence or block masonry wall to match what T-Mobile did around their equipment. This will shield the generator. That is the remaining half of the west side across the north and down about half way from the east side to tie into the corner of the equipment shelter. The equipment shelter essentially remains in the same location; however, they flipped the model so that the HVAC equipment would be positioned to face the generator so that the HVAC which was previously on the south side, now that will be contained to the north and also be shielded by the raised garden wall. The shelter will be prepared to have a panel system directly applied to the walls so that it will look just like the garden wall on the existing T-Mobile and VFW building – 8” x 8” masonry, brown brick masonry and made to match. Mr. Pazden provided updates in connection with grading and the plans for tree planting. The Applicant’s landscape architect reviewed the plans for trees to be planted and believes the spacing between trees as it is currently shown on the plans is a bit tight and it would be better to space these trees at 15’ intervals. To do this and maintain sufficient coverage, they plan to stagger two rows of trees. Eight trees are proposed. As to the existing trees at the site, after observing them again, it was decided that it would be better to plant new trees at a 10’ to 12’ height as discussed rather than trying to transplant trees. Five existing trees will be removed. The Applicant is proposing additional shrubbery along the south side. The current plan is to plant six Juniper type shrubs along the south side. This shrubbery is to provide additional buffering around the sidewalk and the flag pole and to prevent pedestrian

traffic. Mr. Pazden next provided updated information relating to additional drainage measures. The Applicant is proposing a trench infiltration drain that will lead to the west side of the shelter. There will be pipes and leaders along the back of the shelter that will go into the infiltration trench to address stormwater issues. He believes he has provided all the updated information needed by the Board since the July 27, 2015 meeting.

Mr. Hall, referring to his report of July 20, 2015, asked about trees and commented on the need for a landscaping and maintenance agreement. The Borough's ordinance requires maintenance of trees and landscaping for a two-year period. Since the buffering that will be provided by the trees and shrubbery is so critical to the site, he recommended the Board consider requiring a five-year maintenance period for these plantings.

Mr. Beck replied to this recommendation by advising that he doubts the Applicant can get a bond for landscape maintenance for five years. He suggested taking another approach by creating a more encompassing condition that would put more burden on the Applicant to maintain and replace the trees if necessary. This would apply to the eight Norway Spruce trees on the west side.

Mr. Hall, Mr. Sullivan, and Mr. Beck appeared to agree that this more encompassing condition would be acceptable.

Mr. Hall reminded about the paint that is peeling off the existing pole. It needs to be determined who is responsible for repairing the paint on the pole.

Mr. Beck stated that the owner, Crown Castle, has agreed to paint the pole.

Mr. Sullivan stated the if this application is approved, the Board will make it subject to complying with a number of conditions, many of which are conditions contained in Mr. Hall's August 20, 2015 report, specifically 3, 4, 5, and 6. Number 6 relates to a temporary stone construction entrance. He asked Mr. Pazden to discuss how the construction will be staged.

Mr. Pazden stated it is a pretty tight site. He referred the Board to Sheet Z2 which is the overall site plan. He pointed out the asphalt drive. Work will be done with a fairly machines – a small backhoe or a small excavator with a front blade. He stated he was unsure where the stone construction entrance should be installed. Most work will be coming in off the back driveway and precautions will need to be taken to maintain the existing sidewalks and curb areas in the area. A crane will also be staged in order to set the pole extension, most likely within the existing parking turnout area near the main entrance.

Mr. Hall commented that when it rains during construction, heavy equipment on the site is likely to track mud and debris out onto the paved area. If the Applicant agrees to sweep the existing paved areas as needed during construction, he can accept this solution. This would be a condition.

Mr. Sullivan read what he proposes to include as a condition relating to the planting of the Norway Spruce trees – two staggered rows, 15' apart.

Mr. Hall asked if the retaining wall is approximately 3' high.

Mr. Pazden replied with the information asked for by Mr. Hall. It ranges in total height from standing inside the compound area from 3' and there is also about 2' of fill against it.

Mr. Hall provided information regarding the fact that the Construction Code Official may ask for additional information regarding the wall, mentioning an amount of 30". He also asked about the grade in front of the wall that is lower than the top of the wall. Why is this?

Mr. Pazden stated it is to make it noticeable so that someone would see it. If it ends up being an issue of needing a guard, the Applicant could extend the top of that.

Mr. Sullivan asked Ms. Keller about Paragraph 5 in the report from her office that refers to the Zoning Schedule on Sheet Z3 be revised. Is this something she would like as a condition of approval? Is there anything else from the report that should be included as a condition?

Ms. Keller replied yes and she also referred to their report's Paragraph 4. She confirmed that there are no other conditions she believes are necessary from their report.

Mr. Hall asked about the timing of the testing of the generator.

Mr. Sullivan stated that this would be a condition limiting testing to Monday through Friday, 9:00 a.m. to 5:00 p.m. and that such testing would comply with all applicable noise standards.

Ms. Scaccia asked if there were any pollution standards from generator emissions?

Mr. Pazden explained that because of the generator to be installed (a 30 KW generator) it does not have to have specific licensing or testing for emissions. It has a muffler and meets the New Jersey requirements for this size generator. It is a diesel generator.

A question was asked about the trees to be planted. The revised plan was submitted to the owner before submitting to the Board so they could sign off on what was shown on the drawings.

Another question was asked about the tree maintenance and replacement condition. Will any replacement trees need to be the same or comparable to what was planted initially and what exists at that point in time?

Mr. Hall stated he believes this should be the case.

Cross discussion about tree planting, tree replacement, the per-year growth of trees, what size/height should replacement trees be, is it possible to get 20+' trees at nurseries, root problems that would occur by planting larger tree with well-established, existing trees, and other issues relating to the trees.

Mr. Sullivan asked if the condition should reflect that the Applicant must replace any dead or diseased trees and what height should the replacement tree(s) be.

Mr. Beck recommended that the replacement height be included since this discussion has been on the record.

Mr. Hall stated that replacement trees should be a minimum height of 15' or to match the existing trees whichever is less.

Mr. David Karlebach was called as the next witness. He was sworn in at the Board's July 27, 2015 meeting. He provided information in connection with Exhibit A-7. He stated he prepared this exhibit; it consists of six photographs. He explained what each photograph presents. All the physical features of the site except for the flag pole will be very well concealed by the landscaping. He explained where he took these photographs.

Mr. Beck stated he had no further questions of this witness.

Mr. Hall stated he had no further questions of this witness.

Ms. Keller commented on her opinion about this visual co-located site that did not include any negative comments.

Mr. Bozza opened this portion of the meeting to questions or comments of the witnesses from the public. Seeing no one, he closed this portion of the meeting.

Mr. Hall referred to his August 20, 2015 report, Comment #2, referring to his question as to whether the original 80' tower structurally designed to accommodate this 10' extension? This can be deferred as a condition of approval – that the Applicant would

have to satisfy the Construction Code Official that the existing can structurally accommodate the 10' extension.

Mr. Pazden advised that a structural was performed and that a report will be provided to the Code Official for the Board's approval.

Mr. Hall stated that a report will be submitted to the Construction Code Official and he will verify that the pole is structurally able to handle the 10' extension. If it is not, a building permit will not be issued.

The Applicant had no objection to this.

Mr. Beck briefly reviewed the testimony provided by other witnesses (Messrs. Dugan, Pierson, Pazden and Karlebach).

Mr. Sullivan reviewed the D variances at play: A D-1 variance because the use is not permitted and a D-6 height variance. The Applicant will need all five Board members to vote in the affirmative if the vote is taken tonight. However, he believes the Board members are satisfied with the plan revisions. He will structure the wording and then a member can make a motion based on this text. He read his list of the conditions to be imposed on any application approval.

Mr. Sullivan read his list of proposed conditions, several were changed, deleted, or were added to, such as the additional variance for the 7' high wall in the front. Those suggesting changes were primarily Mr. Hall and Ms. Keller for the most part, although one or two Board members made suggestions also.

Mr. Schulz moved that this application be approved subject to the conditions as read by Mr. Sullivan, seconded by Ms. Scaccia.

Roll Call

Yeas: Ms. Scaccia, Mr. Schulz, Mr. Cox, Mr. Eapen, Mr. Bozza
Nays: None
Abstain: None
Absent: Mr. Karr, Mrs. Mills, Mr. Stewart, Mr. Webster

Motion carried.

Mr. Bozza stated the application is approved.

Mr. Beck thanked the Board and the Professionals.

The Board Secretary stated she will retain the Exhibits used during the public hearing. The next Board of Adjustment meeting will be held on September 28, 2015.

NEW BUSINESS

None.

OLD BUSINESS

None.

ADJOURNMENT

There being no further business, Ms. Scaccia moved the meeting be adjourned, seconded by Mr. Schulz. Voice vote. All in favor. **Motion carried.**

Karen M. Coffey
Commission Secretary

Maureen Sullivan
Recording Secretary