

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
MAY 25, 2016**

Meeting called to Order by Chairman Novellino at 7:31 p.m.

Reading of Adequate Notice by Vice-Chairman Barthelmes.

Salute to the Flag and observance of a moment of silence for the troops.

Roll Call: Present - Barthelmes, Lambros, Morelli, Novellino, Bailey, Conoscenti, Ferro and Frost. Absent Mostyn.

APPROVAL OF MINUTES: April 27, 2016

The Board having reviewed the meeting minutes and changes were incorporated, Mr. Ferro made a Motion to approve and Mr. Frost offered a Second. Roll Call Vote: Ferro, Frost, Bailey, Morelli, Barthelmes, Lambros and Novellino vote yes to approve the minutes.

Z16-04 - ALMEIDA, JOHN AND LORI - Block 47, Lot 11 located at 12 Lebers Lane. Property consists of 2.44 acres in the R-130 Zoning District. Applicant seeks to construct a 900-s.f. shed on the property. Variance needed for lot coverage where 20% maximum is permitted, applicant has 23% coverage presently. Applicant seeks relief from constructed basketball court that encroaches into the side yard setback. Deemed Complete: 4-18-16. Date of Action: 8-25-16. Noticing Required.

Attorney Greg Vella having reviewed the jurisdictional packet finds same in order to accept jurisdiction over the application.

Attorney Vella enters the following exhibits into evidence:

- A-1 Jurisdictional packet
- A-2 Application dated 4-19-16
- A-3 Web Notice
- A-4 Aerial
- A-6 Survey Prepared by Edwin J. Hale dated 3-14-16

The Almeidas advised why they are before the Board this evening.

Engineer Shafai advised that the basketball courtside yard setback requirement is 20 feet. Engineer Shafai stated that although the survey does not reflect the actual set back, it seems to show that it is located 5 or 6 feet from the property line.

Engineer Shafai stated that the property lot coverage is at 23% before the proposed garage is built. That garage would make the lot coverage 24%. Engineer Shafai stated that the basketball court requires a building permit and he advised that the applicants did not apply for a permit.

The Almeidas testified that the basketball court is a full size court.

The Almeidas want to build a storage garage to store their outdoor equipment and outdoor furniture.

Mrs. Almeida advised the Board that they had contracted out professionals to apply for and secure the necessary permits on their projects. She advised that when they went to apply for permits to install the garage, they were advised that the contractor who built the basketball court did not apply for a permit. It was discovered that there was a lot coverage issue and side yard setback encroachment. Mrs. Almeida advised that the basketball court is made of concrete.

Planner Fred Heyer advised that the lot is consistent with the subdivision at 2.44 acres. The Township owned Open Space is located both behind the Almeida's property as well as on the side. Planner Heyer stated that this property has a unique physical character.

Mr. Almeida advised that no driveway would be going to the proposed garage.

The lights on the basketball court face the court and are 16-ft. in height.

The Board wants to make sure that the Almeidas comply with any lighting requirements. Engineer Shafai advised that at one time, the Township Ordinance allowed accessory court lighting not to exceed 40 feet in height. That Ordinance was subsequently removed. Planner Heyer stated that the lighting would then be a variance.

Mr. Lambros in looking at the aerial exhibit provided asked if the entire surface is concrete and part gravel. The applicant clarified there is a strip of gravel around the court.

Chairman Novellino advised the applicants that the Board tries to reduce the number of variances being requested.

At 7:50 p.m., Chairman Novellino opened the application to the public.

Attorney Vella swore in Natasha Wright of 13 Lebers Lane. Ms. Wright stated that they have no objection to the court lights. She advised that they moved to the property on March 28, 2016.

Seeing no other members of the public, Chairman Newman closed the public portion at 7:58 p.m.

The Board discussed the application. The sports court was constructed in 2010. There are two garages on each side of the house that are connected to the principal building via a breezeway. The Board discussed the use of the proposed storage shed and its use.

Chairman Novellino discussed the Township Open Space property abuts the property on two sides.

The time when the lights must be turned off was discussed. 12:00 midnight was discussed. The four poles have lights on them. Mr. Frost felt the light pole height should not be permitted to be extended and no additional lights can be added.

A condition of approval is that no driveway would be allowed to the proposed garage. The garage materials shall match the house.

The applicant shall apply for and pay for building permits for the garage and the basketball court.

Mr. Frost made a Motion to Approve and Vice-Chairman Barthelmes offered a Second. Roll Call Vote: Frost, Barthelmes, Morelli, Lambros, Bailey, Ferro and Novellino voted yes to approve as conditioned.

The Resolution will be memorilaized at the next meeting.

Z16-03 - GAELIC COMMUNICATIONS, LLC. - Block 43, Lot 4 known as 237 Woodville Road. Property is located in the RU-P Rural Preservation Zone consisting of 1.85 Acres. Applicant seeks to construct a 125 ft. Monopole extendable to 145 or 153 feet. Applicant seeks D1 Use Variance and D6 Height Variance, Bulk Variance needed for 8-foot fence. Applicant seeks Preliminary and Final Site Plan approval. Applicant

seeks waivers from submission of completeness checklist items. Not deemed complete. If Board grants waivers of submission checklist items, then application will be deemed complete and noticing will be required.

Attorney Vella advised that he had reviewed the jurisdictional packet finding same in order to accept jurisdiction over the application but first Attorney Vella advised the Board that the applicant, as part of their submittal, has asked for checklist completeness waivers, which the Board must address. The Board must grant or deny the waivers before they can proceed. Attorney Vella stated that the Township is the owner of this property. Attorney Vella feels that the Township does not have to come before the Board but the Township takes the position that they should not get special treatment and that is why they are before our Board.

Attorney Vella swore in Christopher Nevill who presented his credentials to the Board. He had received his BS in civil engineering at the Citadel. He is a professional engineer and professional planner and has appeared before the Board in the past.

Attorney Vella read the waiver requests. In his report, Board Engineer Shafai addressed the waivers that the applicant is requesting. The checklist waivers were discussed. They would comply with the Shade Tree Commission's report.

Regarding the lighting plan, the applicant advised the lights are manually operational.

Solid waste management is a moot item.

The applicant is seeking a waiver of provision of a stormwater management plan because the property has less than 1/4 acre of development. The applicant will be placing gravel on the site.

The site will be visited every 4 to 6 weeks, which makes for low generation of traffic and the applicant is seeking a waiver of providing a traffic impact study.

The applicant advised that they only require telephone and electric service and have reached out to those providers to obtain those services. There will be no water or septic on site.

Board Engineer Shafai asked that site lighting be placed on the plan. The applicant agreed to do that.

Except for the waivers of providing a tree preservation plan, which Engineer Shafai defers to the Shade Tree Commission, he offered that the checklist waivers requested as presented and explained by the applicant are acceptable. The Board granted the checklist waivers, except for the tree preservation plan which the applicant has agreed to provide.

Board Planner Fred Heyer had no objections.

Attorney Vella read the following exhibits into the record:

- A-1 Jurisdictional packet
- A-2 Application dated 10-20-15
- A-3 Web Notice
- A-4 Aerial
- A-5 Boundary Survey prepared by Gardell Land Surveying, LLC dated 7-1-15
- A-6 Zoning Drawings prepared by Avoca Engineers & Architects dated 6-3-15; last rev. 10-6-15
- A-7 RF Emission Study prepared by V-Comm, LLC dated 11-12-15
- A-8 RF Analysis and Report prepared by V-Comm, LLC dated 11-12-15
- BOA-1 Engineer's Report dated 3-21-16
- BOA-2 Planner's Report dated 5-5-16
- BOA-3 Shade Tree Commission's Report dated 4-25-16
- BOA-4 Historic Preservation Commission Report dated 5-25-16

Attorney Vella swore in Dominic Villecco. Mr. Villecco has 35 years experience in wireless and 10 years as Vice-President of Comcast cellular. He has testified before numerous boards and on behalf of the Federal Communications Commission (FCC). His area of expertise is system design and engineering.

Mr. Villecco explained radio frequency conditions and FCC requirements for cellphones and cell towers. He stated that Verizon has three (3) sites in Millstone Township in this area of the Township. He stated that there is roughly a 23-square mile gap in service. He stated that the installation of a this cell tower in this location will solve that gap.

Attorney Vella entered into evidence Exhibit A-9 – Aerial with existing site location overlay.

Mr. Villecco explained the map of existing sites in the area. The proposed location was in the center. He stated that there is a need establish a tower at the site because there is a need for good continuous coverage in the area.

Attorney Vella entered into evidence Exhibit A-10, the same base map as A-9 except the map reflects solid coverage throughout Millstone if the proposed cell tower is constructed.

Mr. Villecco explained that in 2010, Verizon looked at a nursery property located behind this parcel. He stated that they did perform a crane test since land was clear and the test did confirm the site as being viable. Mr. Villecco explained that they have been trying to get this site for a long time. An environmental study reflected that an endangered plant known as "swamp pink" was found on that site and they had to scrap the plan for that site.

In his report, Mr. Villecco explained how they perform calculations to assess their need. He explained that each transmitter is 20 watts and some are 40 watts. This is a lower power tower. He stated that tower height has nothing to do with coverage. These towers put out 1000 watts total.

Mr. Lambros stated that he would like to see a map of a larger area as opposed to the snap shot of this area. He wants to see what is going on geographically.

Attorney Vella asked Mr. Villecco to explain what the exhibit means.

Mr. Villecco stated that Verizon has four (4) different frequency bands in this area, ranging from 700 megahertz to 2100 megahertz. He explained what runs on each band. He stated that everything is moving toward a newer data connection. Phone calls today are made on older technology. Everything is changing to newer fourth generation technology. They are trying to address certain capacity concerns. Mr. Villecco stated that phone calls, data, pictures can be handled with the newer technology. He stated that the gaps must be filled so calls and data goes through.

Mr. Villecco explained capacity and the inability to place a call. He stated that there is a need for coverage and data capacity. He stated that surrounding sites are reaching their limit and are soon to be exhausted throughout this area.

Mr. Villecca stated that generally across the United States, 46% of homes are wireless only. People are getting rid of their landlines.

Mr. Frost asked what happens when capacity is exceeded. Mr. Villecco stated what is out there today is Long Term Evolution or LTE. On the horizon is LTEA, which is advanced and will increase capacity. As that technology comes out, they will update equipment at sites. If there is a way for a carrier to increase bands, they will do that first. He explained that it is expensive to build these sites.

Mr. Villecco discussed line of site frequencies when there is rolling terrain.

There are other carriers on the tower. Currently they are supporting Verizon. The proposed pole is planned to be expandable to support other carriers.

Existing towers were discussed. Aqua Soft Site has 3-4 carriers today. Joule Yacht site has an existing tower. Most carriers migrate to most sites so they all operate on the same frequency bands and they have the same problem.

Attorney Vella swore in Mr. Matthew Bartlett. Mr. Bartlett works for Atlantic Site Development in Burlington County. He has been doing wireless site development for 16 years, from Maine to Virginia. He has worked for Verizon since 2006. Mr. Bartlett stated that he has worked on over 500 site acquisitions. He is involved in the process of locating suitable sites for the wireless tower construction. The Board accepts Mr. Bartlett as a fact witness as to his experience.

Mr. Bartlett describes the process in eventually finding a suitable location.

He looks for a parcel suitable to build a new tower. Properties are ranked. He looks at zoning maps and reaches out to municipalities first. Mr. Bartlett explained how he researched this site. This search came out in 2008 or 2009. They ended up leasing the space. Verizon pulled out of the site behind this parcel due to the discovery of swamp pink, which is a protected flower. The Township property is next to the nursery where they were looking.

Attorney Vella entered into evidence, Exhibit A-11, two page exhibit- search areas maps.

Mr. Villecco's report talks about alternative locations and why they are not suitable. He went through suitable areas. There is no minimum acreage. They need two acres or larger for some room.

At 9:20 p.m., Chairman Novellino announced the Board would be taking a break, returning at 9:30 p.m.

Chairman Novellino opened the application to the public.

Attorney Vella swore in Arlene Yarborough of 231 Woodville Road. Ms. Yarborough lives next to the proposed site. She asked the applicant instead of constructing the tower at the site, can they instead install more antenna on the current sites.

Mr. Villecco stated that increasing the number of antenna on a tower does not double the power it just increases the frequency. He advised that the FCC govern these sites.

Mr. Villecco stated that calls are dropped due to the terrain. He explained how a tower at this proposed site would improve service. Mr. Villecco explained how making a phone call on old technology is going away. He stated that there is a coverage issue

referring to Exhibit A-9. There is a capacity problem and adding antenna to an existing tower will not increase the range covered by that tower.

Mr. Villecco explained that there has been a 200-300% growth and in order to keep up with the demand, they must add cell tower sites.

Ms. Yarborough explained that the St. James Church property and this site were originally owned by Thomas Baird. She explains that there is a lot of history in this area.

Ms. Yarborough explained that she has worked hard to create her home. She does not want to contend with the cell tower that may be erected next door. She explained that when she opens her door, she would be looking directly at the cell tower. She asked the Board to take into consideration what lives are going to be affected by the cell tower.

Attorney Vella swore in Reverend Castelli, pastor of the St. James Church located across the street from the proposed cell tower site. Referring to Exhibit A-10, Reverend Castelli asked about the distance covered by the proposed tower. The Reverend stated that his church across the street was built in 1886. He feels that the towers placement will decrease property values. He explained that his new church would be built across the street.

Mr. Villecci explained that coverage range varies. On an average one mile radius or a two mile diameter.

Mr. Villecci referred to Exhibit A-9 line of site and A-10 and explained that within a certain radius there is reliable coverage until you get further away.

Attorney Vella swore in Frank Vanderbeck of 17 Roberts Road. Mr. Vanderbeck explained how this is an old and unique area. He stated that he has mostly seen the cell towers on commercial property so why this area for the tower. He is concerned about the noise the tower will generate for the residents.

There was discussion about cell towers that are fitted to look like trees.

Attorney Vella swore in Sworn in Mr. Lipschitz of 23 Roberts Road. He was concerned about the effect of the radio frequencies on the brain and general health. Attorney Vella stated that the Federal Government has passed Telecommunications Act and health risks were assessed by them. The Federal Government passed a law so at the municipal level we cannot consider the potential health risks.

Mr. O'Neill offered the reason that the Federal Government took that position is because of the Radiation Protection Act. Mr. O'Neill explained that the Federal Government felt that the Boards are not able to handle these issues. The Department of Health looks at these issues. The Zoning Boards have limited jurisdiction. He stated

that these concerns are being looked at but not in this room. The Federal Government is conducting studies.

Seeing no further public comment, Chairman Novellino closed the public portion of the meeting at 10:07 p.m.

Attorney Vella advised the public that this application would be continued to the July 27, 2016 Meeting without the need for further public notice.

New Business: the Open Public Meeting Act as it pertains to Executive Sessions that a Board may enter into. To be discussed at the next meeting.

Seeing no old business, Chairman Novellino asked for a Motion and Second to adjourn the meeting. Mr. Morelli made a Motion to Adjourn and Chairman Novellino offered a Second and by unanimous vote, the meeting adjourned at 10:08 p.m.

Respectfully submitted,

Pamela D'Andrea