

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of May 5, 2010 to order at 7:10 p.m.

- MEMBERS PRESENT:** Morris Bauer, Elliott Averett, Felix Graziano, Craig Schwemmer, John Turick
- Alternate Members:** Dorothy Walter
- Members Absent:** Anthony Spina, Harvey Ort, Frank Baguiao
- Others Present:** Attorney Fraser, Clerk Kesper, Engineer Hall, Planner Banisch. RF Engineer Eisenstein

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT
- Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 12, 2010 and posted on the Bulletin Board on the same date. Notices were mailed as there were requests.

Pledge of Allegiance

MINUTES

- 1. April 7, 2010 Regular Meeting
- Tabled to the June 2, 2010 Meeting

RESOLUTIONS

10-09 Pineiro – Block 59, Lot 46.02 – 210 Beacon Hill Road – R-5 Zone – 1.210 Acres – Approval of Request for Front yard setback and non- conforming lot size variance for front entrance portico

Mr. Bauer made a motion to approve the application with a 94’ setback. Seconded by Mr. Averett.

Ayes: Averett, Schwemmer, Bauer, Turick, Graziano, Walter
Nays: None Abstentions: None Absent: Spina
Abstentions: Ort, Baguiao

10-10 Black Oak Golf Turf Care Center – Block 18, Lot 22 – 105 Bartley Road – Approval of Request for preliminary and final site plan approval for turf care center

Mark Blount, Applicant’s Attorney

Ms. Fraser reviewed changes to the resolution not in the resolution received by the Board. Condition 4 regarding the sewer/septic was changed to allow the use of waterless toilets and one sink which discharges into the plumbing system and approval of Health or Plumbing Sub-Code Official and a condition that all other plumbing fixtures be removed and the septic decommissioning be witnessed by the Health Department.

Mr. Blount stated that the entire system will be a waterless system.

Ms. Fraser explained that the applicant must come back to the board to amend the use variance because of the condition that a new septic system or sewer connection is made.

Ms. Fraser stated that the applicant would like to have the condition regarding the property owners consent to be prior to construction and use of the driveway then prior any construction (5C).

The requested changes were reviewed.

Mr. Bauer made a motion to approve the resolution as amended this evening. Seconded by Mr. Averett. A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Turick, Walter
 Nays: None Abstentions: None Absent: Spina
 Ineligible: Ort, Baguiao, Graziano

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

APPLICATIONS

1. Schalkoff – Block 15, Lot 32 -6 Lower Sunset – R-5 Zone – 2.2 Acres – Request for front yard setback and non-conforming structure variances

Jeff Schalkoff – Applicant

Jeff Schalkoff was sworn in by Attorney Fraser.

Mr. Schalkoff stated that the structure indicated on the survey as a garage is a barn with stalls and hayloft and has never been used by him as a garage. He answered Mr. Hall that the 24' x 24' garage will be set back 6' from the existing front of the house. The existing chimney will be inside the new garage and the existing window will be removed. The entrance into the house from the garage would be through the basement. He stated that the septic system is not interfered with and it would still be able to pump the system. He indicated that the well is in the front of the house. The garage will be on a slab. There will be no living space in the upper part of the garage. He answered Mr. Hall that the elevations were not to scale and the roof will not be higher than the existing roof.

Mr. Schalkoff stated that there is a stream within 300' of the house, but there is a drop off from the back yard before the stream and that there are no wetlands. He stated that he has sent DEP the required notice that he was putting up a garage within a currently disturbed area which is one of the exemptions in the Flood Hazard rules.

The meeting was opened to the public for questions and comments on this application. There were no questions or comments and the meeting was closed to the public on this application.

Mr. Bauer made a motion to approve a front yard setback of 72' with a roof height not to exceed the height of the existing structure. Seconded by Mr. Graziano.

Ayes: Averett, Bauer, Schwemmer, Turick, Walter, Baguiao, Graziano
Nays: None Abstentions: None Absent: Spina
Ineligible: Ort,

2. Wehrenberg – Block 50.03 , Lot 6 -11 Gentry Drive – R-5 Zone – 3.5 Acres – Request for flag lot setback variance for porch and gazebo

Mark Wehrenberg, Applicant
Robert Greenbaum, Applicant's Attorney

Mark Wehrenberg was sworn in by Attorney Fraser.

Mr. Greenbaum stated that the applicant is before the board for a side yard setback variance for the gazebo.

Mr. Wehrenberg stated that he has lived in the home for twenty years. He is looking to expand his kitchen remove an existing deck and replace it with an addition of a gazebo on the deck. He only needs the variance for the gazebo, which intrudes into the setback by 20'. The gazebo will look over the property. The nearest structure is 500' to 1000'. There is no other feasible place to put the gazebo because of the location of the house and pool and the shape of lot. He stated that he could not put the gazebo on the other side because of the garage location. Also this deck, gazebo and covered porch will look over the woods and pool. The porch is 14' deep and runs the length of the house, 45'. The deck is existing and will be replaced and is off the back of the house. He answered the Board that the Gazebo is an 18' octagon. The walk out basement and the retaining wall are existing. He explained that the pool starts in line with where the gazebo is proposed to meet the house and goes across the house.

The meeting was opened to the public for questions and comments on this application. There were no questions and comments and the meeting was closed to the public.

Mr. Baguiao made a motion to approve the application for a side yard setback of 55'. Seconded by Mr. Turick. A roll call vote was taken.

Ayes: Averett, Bauer, Schwemmer, Turick, Walter, Baguiao, Graziano
Nays: None Abstentions: None Absent: Spina, Ort
Ineligible: None

3. Verizon Wireless – Block 28, Lot 14 – Bartley Road – R-5 Zone – 10 acres - Request for Use Variance for 120' Wireless Communications Tower – Deemed Complete October 7, 2009 - Previously Heard October 7, 2009. November 4, 2009 and April 7, 2010 – Public Hearing Continued – Expires May 5, 2010

David Soloway, Applicant's Attorney
Joseph Menio, Applicant's Radio Frequency Engineer
Anthony Suppa, Applicant's Engineer
Robert Riffel, Jr. Applicant's search area analysis consultant
Frank Paxton, Applicant's Engineer
William Masters, Planner
Joan Nix, Applicant's Historic Preservation Expert

Ms. Kesper stated that Mr. Baguiao had read the transcript of the previous meeting and was eligible to vote on the application.

Mr. Soloway reviewed the materials submitted to the board which included revised plans, photographs and a letter from the Washington

Township Historic Preservation Commission. He stated that Verizon is now proposing a tower height of 98' and that the silo depicted is 95' in height with the antennas at 87'. The applicant has looked at a supplemental tower site to lower the tower height. This was investigated and the results were sent to Dr. Eisenstein.

Frank Paxton and Joan Nix were sworn in by Attorney Fraser.

Mr. Paxton presented his qualifications to the board and was accepted by the board as an expert witness in the field of engineering.

Mr. Paxton referred to the revised site plan which had been submitted to the board and dated April 22, 2010 which showed the silo and flag pole options. He pointed out the location of the generator on a 3.9' x 9.2' concrete pad and six feet high which is surrounded by a 7' fence outside the silo. He stated that the antennas are at 87' and located within the dome of the silo and that all wires are inside the silo. He explained the existing gravel area on the property between the barn and greenhouse. The footprint of the silo and generator pad is enclosed by a 45 x 45 fenced compound area. He stated that the monopole would have a full equipment shelter where as with the silo option with the exception of a meter bank, and generator all equipment would be inside the silo.

Mr. Paxton stated that the silo would accommodate a second collocator for both the antennas and equipment.

Mr. Soloway explained that there is only one other carrier in the area that does not have an antenna site in this area. The collocator would locate lower on the pole. He stated that the flag pole would also accommodate two companies on the pole.

Mr. Paxton explained the lower portion of the silo would be concrete, the same as a normal silo and he stated that it was not possible to make it look more weathered except that it would not be bright white. The top is fiberglass and could be made any color the board wanted. The wind load is a 90 mile hour wind and will be designed by to the TIA standards and building codes.

Dr. Eisenstein stated that only Verizon uses a generator.

Mr. Paxton stated that the generator is diesel and the fuel is in a double wall container. Exercise intervals are thirty minutes, once a week during business hours. There are two five ton air condition units, which do not run at the same time. Collocators would not require additional air conditioning. He explained that there will be a foundation not just a pad for the silo with geo-tech approval. He stated that the generator

produces 81 decibel at the generator and would meet the DEP requirements at the property lines.

Mr. Minio stated that he investigated St. Luke's steeple which is 45' tall and under the tree coverage, the Blue Crest silo is 65' at tree level, the teen center would not work due to the terrain and no existing structure, the silos near St. Luke's were low at 45' which were within the tree coverage. He stated that even utilizing the Blue Crest Farm silos it would not reduce the height of the Ort farm tower. He submitted a report to Dr. Eisenstein as well as the other information requested by Dr. Eisenstein.

Mr. Paxton answered the board that another carrier would probably use a venting system not a separate air conditioning system. He stated that the steel is grounded.

Mr. Hall referred to the highlands questionnaire and noted that this application meets the definition of a major highlands development.

Mr. Soloway stated that Highlands approval could be a condition of approval.

Mr. Paxton referred to the site plan and stated that the silo would be 240' from Bartley Road (21' diameter silo with 6" walls) and approximately 1200' from East Mill Road.

Ms. Nixs answered Mr. Hall that there was no discussion of the number of feet by the Historic Preservation Commission but that they had a copy of the original site plan and she sent them sheet Z-3, prior to the report of May 5.

Mr. Paxton described the cement footings.

Mr. Hall stated if the soil from the foundation is being trucked off site and was 100 cy or greater a soil disturbance permit would have to be applied for.

Dr. Eisenstein stated that he has been in contact with Mr. Mineo and he is convinced that 87' height is required and that a colocator could be accommodated. He agreed that there is only one colocator at this time that would want to be on this site, but he noted that should there be another they could be flush mounted on the outside of the silo at a height lower than the silo.

Dr. Eisenstein explained the colocation – inside Verizon at 87' and the second colocator would be at 77' inside and the third would be on the outside and could be at the same heights because you would have the

required separation. He explained that a flag pole would not allow for this because of the small diameter and therefore it could probably only accommodate two carriers unless it was made taller. All the new providers are concentrating in urban areas, not rural areas.

Mr. Paxton stated that structurally there would be no problem with a third locator on the silo and there would be enough room within in the compound. He concurred that this could not be accomplished on a pole.

Mr. Soloway stated that Verizon could use a smaller fenced in area that could be expanded if the second locator needed it.

Mr. Eisenstein stated that the second locator would be putting their cabinet in the silo.

Mr. Paxton stated that the compound could be reduced to about 30 x 35.

The board discussed the size of the compound.

Landscaping was discussed and made a condition that it be approved by Planner Banisch.

Mr. Banisch addressed the Historic Preservation commission letter about possible drawing/writing on the new silo.

Mr. Soloway stated that Verizon did not want to see the silo used for any design, but would not object if the board wanted to allow it.

The board discussed this option and concluded that this is not something they wanted to see happen.

Mr. Masters referred to photographs that were marked A-16. He addressed the variance approvals required by the applicant for this application. He addressed Mr. Bansich's and Mr. Hall's reports. It was his opinion that this application meet the statutory criteria for the granting of these variances.

The meeting was open to the public for questions and comments. There were no questions or comments and the meeting was closed to the public on this application.

The board deliberated on the application.

Mr. Averett made a motion to draw a resolution of approval for a 95' silo with a 45 x 45 fenced compounded and landscape subject to professionals input, highlands approval, phase 2 geo technical approval,

silo to look as weathered gray and dome to match, no lettering or advertising, pictures or artwork on the silos possible, soil disturbance permit if more than 100 cy soil trucked off the site, and that the silo would be taken down by the applicant if it were no longer needed. Seconded by Turick.

Ms. Kesper stated that Mr. Graziano, Mr. Turick and Mr. Baguiao had read transcripts for the meetings they missed and were eligible to vote on the application. She also noted that there were only six members present to vote on the application.

Mr. Soloway answered Ms. Kesper that he wanted the vote taken with the six members present.

A roll call vote was taken:

Ayes: Averett, Schwemmer, Baguiao, Walter, Turick, Graziano
Nays: None Abstentions: None
Absent: Spina Ineligible – Bauer, Ort

4. Liebenzell - Block 30, Lot 34.02 – Pleasant Grove Road – R-5 Zone
– 15.696 Acres – Request for relief from prior conditions of approval regarding limitations on use

Mr. Schwemmer announced that the application was adjourned by the applicant to June 2, 2010 at 7:00 p.m.

DISCUSSION - CORRESPONDENCE

1. Vouchers

The vouchers were reviewed. Mr. Turick made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. The motion was seconded by Mr. Baguiao. A voice vote was taken; all were in favor and the motion carried.

Mr. Averett made a motion to adjourn, seconded by Mr. Graziano. A voice vote was taken; all were in favor and the meeting was adjourned at 11:00 p.m.

Virginia R. Kesper, Clerk

MAY 5, 2010