

**WASHINGTON TOWNSHIP
PLANNING BOARD
MINUTES
MARCH 12, 2018 - 7:04 PM**

Chairman Trevena called the regular meeting of March 12, 2018 of the Washington Township Planning Board to order at 7:04 p.m.

ROLL CALL

Class IV: _X_ Bauerlein _X_ DiSalvo _X_ Leavens _A_ McGroarty
 X Mont _X_ Trevena
Alternates: _X_ Akin _X_ Popper
Class III: _X_ Committeeman Murello
Class II: _X_ Read
Class I: _X_ Mayor Roehrich
Others Present: _X_ Engineer Hall _A_ Planner Banisch _X_ Attorney Buzak _X_ Clerk Griffith

Adequate notice of this meeting was sent to the Morristown Daily Record and the Observer-Tribune on January 23, 2018 and posted on the Bulletin Board on the same date. Notices were mailed, as requested.

NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM*

PLEDGE OF ALLEGIANCE was recited by all

MINUTES – February 12, 2018

[All eligible to vote with the exception of Trevena, Mont, Leavens, Read]
Motion to accept Minutes: Mr. DiSalvo
Second: Mr. Popper
Voice Vote: All eligible members present voted in the Affirmative.

OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA
None
CLOSE TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

RESOLUTIONS:

Motion to approve Resolution 18-07 Professional Service Contract Authorization - Traffic
Engineer: Mr. Popper
Second: Mr. Bauerline
Ayes: DiSalvo, Mont, Rehrich, Bauerline, Leavens, Read, Murello, Akin, Popper, Trevena

APPLICATION RESOLUTIONS

Motion to approve Memorializing Resolution 18-01, Mr. Robert Sileo, Block 36.06 Lot 13, 5 Oak Terrace, granting Certificate of Compliance for development within Ridgeline,

Mountainside, Hillside and View Protection Areas consistent with recommendations of Mr. Hall's January 12, 2018 report: Mr. DiSalvo
Second: Mr. Akin
Ayes: DiSalvo, Roehrich, Bauerlein, Murello, Akin, Popper
Nays: None
Abstain: Mont, Leavens, Read, Trevena

Motion to approve Resolution, Designer Homes, c/o Paul Chodniewicz – Block 33, Lots 71.04 & 71.05 – 274 and 276 West Mill Rd. – Amended Minor Subdivision: Mr. DiSalvo
Second: Mr. Akin
Ayes: DiSalvo, Roehrich, Bauerlein, Murello, Akin, Popper
Nays: None
Abstain: Mont, Leavens, Read, Trevena

APPLICATIONS: Time is 7:12pm

PSE&G – Block 32 Lot 5, 180 W. Springtown Rd. – Minor Site Plan Approval with waivers – Public hearing continued from February 12 meeting.

[Mr. Murello recused himself]

Mr. Buzak, Esq. provided a summary of PSE&G's hearing on February 12 and the applicant contended that they were exempt from Site Plan approval on the basis of the State Statute that was enacted in 2012 which encouraged co-location of wireless communications facilities on existing towers if certain criteria were met. At that hearing no determination had been made as the Buzak office had not received the application materials possibly due to the transition of Board Secretary at the end of 2017.

Mr. Buzak, Esq. then provided his opinion, based on his review of the materials that had been provided, that the applicant appeared to satisfy the three criteria set forth in the statute exempting them from Site Plan approval. The three Statutory conditions believed to be met:

1) The wireless communication support structure (tower) had to have been approved by the approving authority; which was obtained after a judgement filed in Superior Court in 1974 by a Cellular Company against the Washington Township Zoning Officer and Board of Adjustment for a Zoning denial. The Court found that the cell tower was a necessary public utility within the zoning ordinance and required the Construction department to issue a building permit. Subsequent applications in 1995 and 1996 to affix an antenna and a 10 ft triangular panel at 95 ft high on the 150 ft tower, which the Board of Adjustment granted the Use Variance for. 2) The proposed co-location/attached antennas do not increase the overall height of the structure by more than 10% of the original height or the width is not expanded and that the existing square footage is not greater than 2500 sf. 3) The proposed co-location must comply with the final approval of the support structure, and the conditions attached to it, and did not create a condition for which variance relief would be required according to the law.

This criteria is not one that this under this Board's jurisdiction for whether the applicant meets all of the zoning requirements. It was recommended the applicant submit an application to the Zoning Officer for appropriate determination.

On March 8, 2018 an approved zoning permit was obtained therefore this application is exempt from Site Plan approval in which case the Board does not have jurisdiction so the application can either be withdrawn or the Board can dismiss it without prejudice.

Mr. Buzak, Esq. mentioned that one other question raised at the hearing was if the applicant had the authority to submit the application without the land owner's approval. No final determination was made but based on a preliminary review of the lease documents it appeared to indicate they had adequate authorization.

Mr. Popper asked if the applicant waived their rights to hear our discussion in their absence. Based on Buzak's discussion with them they were leaving the decision up to the Board.

Mr. Disalvo noted that based on the approval of the zoning permit the applicant is able to go forward with the antenna co-location with the oversight by our Zoning Officer and Construction Official.

Mr. Mont suggested his preference is to have them withdraw their application since we have no jurisdiction. Mr. Buzak, Esq. and the Board members agreed.

Chairman Trevena opened the floor to the public and stated the Planning Board has no jurisdiction over this matter.

Angel Garcia, 7 Markham Dr., spoke regarding the microwave dish and the direction.

Mr. DiSalvo emphasized the Board cannot give an approval or objection over what they are doing.

Mr. Garcia pointed out that when this tower was constructed it originally had three guide wires but now has six and asked that the Board look at the work being done.

Mr. Hall pointed out that when the applicant makes application for building permits the Construction Official will require the structural integrity report. It was suggested that the Construction Department would be the department that would have the details.

Mr. Garcia asked who to speak with regarding the visual impact.

Chairman Trevena explained this was an existing condition so there's not a lot than can be done to change that.

Mr. Popper re-emphasized we have no jurisdiction and there is no longer an application before the Board as the State Statute dictates what these utilities can do.

Mr. Garcia asked about how this will be inspected.

Mr. Hall stated that the Construction Code Official is responsible for this.

Harry Corpus asked about the Board's jurisdiction over the height.

Chairman Trevena indicated that based on Mr. Buzak's earlier explanation they can add up to 10% to the tower without coming to the Board for approval.

Heather Corpus expressed concern over the proposed microwave dish.

Chairman Trevena indicated microwave emissions would most likely need to be raised with the Construction Official.

Mr. Corpus asked if the statute mentions the types of attachments.

Mr. Buzak, Esq. spoke regarding the definition of the term Wireless communications equipment which is defined as means used in the provision of wireless communications services included but not limited to antennas, transmitters, receivers, base stations, equipment shelters, cabinets, generators, power supplies, cabling, coaxial and fiber optic cable but excluding wireless communications support structures.

Peter Owl asked about the microwave dish needing signs for radiation and believed the footprint is being expanded based on top down view.

Chairman Trevena explained ground footprint is what is regulated and although everyone's comments are appreciated this Board has no jurisdiction.

Rob Connelly asked about the three components that had to be met to be exempt from requiring a Planning Board application, specifically the increase in square footage and the clarification of that definition.

Mr. Buzak, Esq. explained the square footage provision relates only to the equipment compound not the tower. The width just relates to the support structure distinguished as the appended telecommunications equipment.

Mr. DiSalvo recalled from the applicant's testimony that the additional antennas each have their own support structure which attaches to the tower and questioned whether that adds width.

Mr. Hall confirmed that the structural support is the tower and the antennas and their mounting equipment are the attachments called an antenna array.

Chairman Trevena explained that the Board respects all feedback but it is unfortunate that this Board does not have any jurisdiction but any recourse would be through the Building Code

Official.

Members of the audience requested the statute number cited and three criteria repeated.

Mr. Buzak, Esq. cited the Statute NJSA 40:55D-46.2 and pamphlet law PL 2011 Ch. 199 then repeated the three exemption criteria. A definition of support structure was also read.

Ms. Chardoussin, Markham Dr, expressed concern regarding the health risks and asked about the process to approach the Construction Office.

Chairman Trevena suggested that a representative of the group approach the Construction Official or write a letter.

Jill Chardoussin asked if they have any choice in this matter?

Mr. Buzak, Esq. explained there are legal and appeal procedures to try to remedy or challenge actions of the Zoning Office, Construction Officer or others but there are short time window to act.

Ms. Chardoussin asked if she could have access to the March 8 Zoning Permit approval that was mentioned.

Chairman Trevena Closed Public Comment at 8:01 p.m.

DISCUSSION / CORRESPONDENCE: None

BILLS LIST

Motion to pay the Bills: Mr. DiSalvo

Second: Mr. Popper

Voice Vote: All Members present voted in the affirmative.

EXECUTIVE SESSION: None

ADJOURNMENT - 8:02pm

Motion to adjourn: Mr. Popper

Respectfully submitted,

JoAnn Griffith, Secretary