

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
SEPTEMBER 28, 2016**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Reading of Adequate Notice by Mr. Morelli.

Chairman Novellino called for a salute to the Flag and observance of a moment of silence our troops.

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

APPROVAL OF MINUTES: August 24, 2016.

The Board members having reviewed the meeting minutes, Chairman Novellino asked for a Motion and a Second. Mr. Morelli made a Motion to approve the minutes and Mr. Frost offered a Second.

Roll Call Vote: Morelli and Frost voted yes to memorialize the meeting minutes.

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. Deemed Complete: 5-25-16. Heard in part on 5-25-16. Carried to 8-24-16, jurisdiction accepted but application not heard. Carried to 9-28-16 without further noticing required. Date of Action 9-30-16.

Board Attorney Vella read the following exhibits into the record:

- A-13 Additional Notice sent to Block 43, Lot 2.01
- A-14 Website Notice posted for 9-28-16 Meeting
- A-15 Revised Site Plans prepared by AVOCA Engineers & Architects dated 6-30-15; Last Revised 8-10-16
- A-16 Mounted Aerial with Zoning Districts prepared by David Karlebach, P.P.
- A-17 Mounted 8 Pictures - 4 of Red Balloon reflecting existing conditions and 4 with Photoshop of cell tower in proposed location

A-18 Mounted 9 pictures of views towards site

BOA-5 Additional Report of Board Planner dated 9-6-16

Attorney Joe O'Neill representing the applicant called Mr. Nevill to testify. Attorney Vella swore in Christopher Nevill, P.E., P.P. in. Mr. Nevill presented his credentials. He graduated from The Citadel with a B.S. in civil engineering. He has been an engineer for the past 29 years. He has testified as both a professional engineer and professional planner the State of New Jersey. The board accepted Mr. Nevill as a professional engineer.

Mr. Nevill walked the Board through what the proposal is. Referring to Exhibit A-15, he advised that the property is currently vacant with trees throughout the property. The trees would have to be removed. The exhibit reflects everything over 6 inches in diameter. They will construct an access road through the trees. Mr. Nevill stated that currently, they show a placement of the shelter within the compound area as per the municipality's bid. All utilities are to be underground. They will be constructing a common utility center at the rear of the property that would encompass a 75 foot x 75 foot area. Mr. Nevill states that there will be common telephone and electric service that will tie in this location.

Mr. Nevill continued to state that an 8-foot, board on board fence would be surrounding the compound. In the middle, they would construct a monopole. Initially, the pole would be 125 feet with the ability to expand. Verizon Wireless will be the service located at the top of the monopole and a lightning rod would be located at the very top. Cabling will be going up monopole itself.

Mr. Nevill stated that the equipment for Verizon would be in the shelter. There is an equipment room and a diesel generator in the southeast corner of the compound with soundproofing in and around the generator. Mr. Nevill stated that the driveway would be a crush stone material. Minor grading will take place as shown on the plan and there will be some landscaping as shown on the plan. He stated that the landscaping would be changed from arborvitae to white pine plantings. Mr. Nevill advised that they would wrap the landscaping around the southeast side of the area for screening from the residential property located there. The pole is designed to meet the New Jersey building code standard. Mr. Nevill stated that there would not be any water or sanitary sewer on the site. The site will be visited by Verizon once every four to six weeks. Mr. Nevill stated that this is a low traffic generator.

Mr. Nevill reported that in emergencies, the generator would run as necessary. When being tested, the generator would not run at night. The noise standards do not apply during emergencies.

Total coverage for the tower compound and driveway is 27.5 percent of the entire site. The rest of the site will remain undisturbed. They are seeking a final height of 145 feet to top of monopole and 8 feet for the lighting rod.

Mr. Nevill stated that they are looking to maximize co-location. Mr. Nevill discussed the total build out for carriers on the monopole. He stated that they have the ability to place five carriers on the monopole. Each set of antennas would have a ten-foot separation on center. The size of an antenna runs from 4 to 7 feet in height with a 10-foot separation between the center of antennas. Mr. Nevill stated that each carrier has different size requirements as they use different frequency bands.

Mr. Frost asked if in the case of an extended outage, how long could a generator provide electricity. The tank holds 210 gallons of fuel. If the tank is full, then there is three days of run time in the tank. Mr. Nevill explained how the fuel is contained. The schedule for running the generator testing is accomplished remotely and usually during the middle of the day. Someone is dispatched to the site if there is a problem.

Mr. Ferro asked if the emergency is yours and not the towns. Mr. Nevill stated that there is a regulatory requirement such that should service disruption occur they have to use generators to provide service.

Mr. O'Neill stated that a legitimate emergency does not have to be a storm related blackout. It could be a malfunction of electrical equipment. Mr. Nevill stated that the noise at 6 feet from the generator is 72 decibels. He stated that the State standard is 55 decibels. Mr. Nevill explained how the decibels work. Mr. Nevill stated that the generator is located 45 feet to the closet corner of the lot. He stated that the fencing, landscaping and trees provide sound attenuation. The generator is 35 KW 200 amp service, comparing it to one that a person would have at their house.

Chairman Novellino stated that there would be noise from the generator when the power goes out. Mr. Nevill stated that the nearest home is located 338 feet away to the right. Board Engineer Shafai asked if they could face the generator the other way. Engineer Shafai.

He stated that there is a house across the street approximately 200 some off feet away. Mr. Nevill was asked if they could make the generator a natural gas generator. He advised that the other side of the street is supplied by New Jersey Natural Gas but on this side of the street in Millstone, PSE&G is the natural gas provider and they do not have gas at this location.

Mr. Frost asked if additional sound reduction or muffling equipment could be added. Mr. Nevill stated that they place hoods over the intakes and exhausts which is one of the first sound attenuation devices. They have three steps of attenuation to mitigate any sound.

Engineer Shafai stated that the applicant is not seeking any variance from the noise ordinance. The ordinance calls for a shroud to be in place and that is what they are doing which meets the ordinance. They will also flip the generator to the other side of the equipment room so the exhaust faces away from the houses.

Mr. Conoscenti asked how many tenants would be on the pole. Mr. Nevill advised that Verizon Wireless would add their equipment. It stays that way until another carrier shows interest. The generator only handles Verizon Wireless. Mr. Nevill stated that he has seen AT&T use a generator. Carriers have their own generator. He has never seen a site with more than two generators. There could be a potential for five generators if they have the capacity for five arrays.

Mr. O'Neill stated that other carriers would have to comply with the conditions of this approval and this bid.

Mr. Lambros asked if the Township owns the property who owns and operates the tower. Mr. O'Neill advised that they lease the site from the Township. Mr. Lambros asked if co-locators would have to come to the Board

Attorney Vella advised that when co-locating, the carriers must apply for permitting through the Construction Department. They would not have to appear before the Board because the new laws are easier for co-location. The additional carriers do not have to come to the Board if they want to add a generator. Attorney Vella explained the process. Carriers apply for a building permit and comply with the ordinance for the shelter and the generator.

Mr. Nevill stated that AT&T is the only other carrier that builds a shelter. He clarified that no other carrier is going in the Verizon shelter. He has never done a seen a generator set up for either T-Mobile or Sprint. It was discussed that per ordinance, the generator must be shrouded and fenced for noise attenuation.

Board Planner Heyer confirmed that Gaelic Communications must maintain the fences.

Mr. Lambros asked about camouflaging the tower or other items that will minimize the height of the pole to make it less conspicuous.

Mr. Nevill stated that the height is the minimum height required in this area. He stated that this is the height that we are asking for. The bid did not require camouflaging.

Mr. Frost asked if the pole could be painted brown. Mr. Nevill has had painted some poles. He feels that painted poles stick out more.

Mr. Nevill explained there would not be any flashing light on top of the tower since this tower does not meet the FAA requirement to have one.

Mr. O'Neill addressed the crane test. He cited that due to the property being so heavily wooded, a crane could not be placed on the site. They could have parked a crane on the street but that would not be of any value. The next witness will address this area.

Mr. O'Neill's next witness was the applicant's planner, Mr. David Karlebach.

Attorney Vella swore in David Karlebach, professional planner who presented his credentials. Mr. Karlebach earned his Master's from Rutgers University. He has testified in both federal and superior courts and before many Boards in the State of New Jersey. He is accepted as a professional planner.

Mr. Karlebach advised that he has reviewed the Master Plan and the local ordinances.

Attorney Vella Marked into evidence, Exhibit A-16, Mounted Aerial and Zoning Districts prepared by Mr. Karlebach.

Mr. Karlebach describes the exhibit. He stated that the proposal is to use a 125 ft. monopole and expand it to greater heights. The equipment will be stored in a 75ft. x 75ft. area, surrounded by a board on board fence and white pines. Electric and telephone service similar to what would be used by a residence will service the site.

Mr. Karlebach explained that there are 13 specific first priority sites in the Township. Second priority locations in located in the BP and PCD locations. A use variance is required since this property is not in either of those locations.

The Township sent this out to bid being aware of the restrictions of the site.

The Applicant complies with the height of 125 feet.

Chairman Novellino asked if the tower was to be built would it become a priority location. Attorney Vella advised not unless the town adds this to its ordinance.

Board Planner Heyer stated that this is not a priority site but affectively has the same status. Carriers tend to migrate to a priority tower to collocate.

Off street parking was discussed. The applicant proposes a 20 ft. x 20ft. parking area to park an SUV when visiting the site. There is no lighting proposed or permitted on the tower. The only lighting is located within the equipment area and only if a technician is there.

A white aspen opaque fence surrounds the compound. He feels the shelter will be visible from the street. The bid did not required what you see in the site plan.

Board Engineer Shafai advised that he had no specifics of the bid.

To address the shelter, Mr. Nevill provided that information. Referring to new site plan, Mr. Nevill shows what the shelter looks like. The top 3-feet of the shelter is visible above the 8-foot fence. The roof is flat, 11-foot in height and sitting on foundation. The tree plantings will obscure the shelter.

Mr. Karlebach addressed the issue of the Use Variance. Public interest is at stake. The mere issuances of an FCC license should suffice for a carrier to establish that a general purpose is served. He stated that Verizon Wireless holds four such licenses. Mobile phones are of importance in the State of New Jersey and he explains the reasons.

Mr. Karlebach stated that the applicant must prove that the site is well suited for the use. The applicant must show the need for such facility in the location. Mr. Karlebach stated that the Verizon Wireless Engineer has provided that a servicegap exists in the area. The tower remedies that problem. He stated that the entire site is vacant and is wooded which allows for the tower to be located on the site which increases distances from roadways and homes and maximize buffering except for the small area which must be cleared for the tower, shelter and small parking area.

He discussed that in the Township Master Plan, they had listed Lot 7.01, next to this lot, as a parcel that they would like to purchase as a contiguous parcel.

The next step in the balancing test Mr. Karlebach stated would be the detrimental effects of granting the variances. The Courts indicate aesthetics are important.

Mr. Karlebach advised that in accordance with ordinance section 6-3.10, he has met the conditions of this ordinance except for the crane test. Mr. Karlebach advised that he performed a test utilizing a red latex balloon that he sent to 125feet.

Attorney Vella marked Exhibit A-17, a series of 8 photo photos representing the existing conditions and the photos on the right reflect what the tower what would look like. He prepared this exhibit utilizing Photoshop. Mr. Karlebach explained each photo.

Attorney Vella marked into evidence Exhibit A-18, 9 photos of the subject property.

Mr. Karlebach explained the photographs reflecting the visibility of the balloon at 125 feet on subject property.

Mr. Ferro asked about the height of the balloon test. If the balloon test was taken at 125 feet, yet the tower has the capability of going to 145 feet.

Attorney Vella stated that the tower height is 125 feet with a capability of extending the height to 145 feet if other wireless companies want to co-locate at this tower. This will be built at 125 feet initially.

Mr. Karlebach stated that there is limited visibility due to the mature vegetation on site and the rolling topography help to reduce or eliminate the visibility of the monopole. Low-density residential zones surround the site. The tower will be visible from the treetops.

The monopole can handle other carriers, which would eliminate the need for other monopoles. This is an unmanned facility. There is no traffic impact and infrequent visits by maintenance personnel. There are no excessive noises, gas odors or vibrations associated with this project.

Mr. Karlebach stated that a height variance is needed. The height is necessary to effectuate the use. Verizon Wireless cannot provide seamless coverage without the height needed. The white pines and existing vegetation provide buffering. Mr. Karlebach recommended to the Board not to paint the tower since he has never seen it done successfully.

Mr. Karlebach feels the public benefits are numerous. The project enhances public safety thru the provision of providing service to the public. They do not feel that there are any substantial detriments to zone plan.

Mr. Karlebach stated that concerning the location of the site to construct the tower, the applicant offered that there were many properties in the Township that were suggested but they did not pan out. JCP&L will not allow antenna to be located on their towers due to safety concerns. The abutting nursery property location was considered but the NJDEP advised a protected species of swamp pink exists on the site so that location was out. They did make an effort to evaluate alternate sites. They believe this is the least intrusive provision of service into the area.

Mr. Karlebach stated that some of the public utility uses that are conditionally permitted in this zone are dumps, high voltage lines and towers, telephone exchanges and are all similar in nature to this quasi-public utility use.

Mr. Frost did not want to see a horizontal appendages located on the monopole. Mr. Karlebach stated that no satellite dishes use on this location form the wireless carriers including no side projections. Attorney Vella stated that if the applicant wants to put something on the pole that is not on the approved plans, then they would have to come back to the Board.

The Board took a five minute break at 9:05 p.m. returning at 9:14 p.m.

Chairman Novellino opened the application to the public at 9:14 p.m.

Attorney Vella swore in Arlene Yarbrough of 231 Woodville Road.

Ms. Yarbrough inquired about the Lot 7.01 that Mr. Karlebach made reference to that the Township wished to purchase. She advised that this is her Lot number. Mr. Karlebach stated that in the Master Plan, the Township had this lot listed as one that they were interested in purchasing.

Ms. Yarbrough provided that she had approached the Township to purchase Lot 4 but the Town was not interesting in selling the lot.

Ms. Yarbrough feels that this project is a done deal because the Township put their requirements in the bid. She wants the town to consider the quality of life here. They are concerned with an endangered species but what of the quality of life for the residents. She wants the Board to consider what it will do to the residents' quality of life. It may not bein the Township best interest. Ms. Yarbrough stated that not allof the neighbors could be here this evening. She asked the Board to take that into consideration. She stated that you cannot put a cell tower here because of an endangered plant but you can place them near humans. She stated that the closest house is 250 feet away. Ms. Yarbrough asked how the 500 feet distance became the standard in our ordinance and the applicant is requesting the variance.

Chairman Novellino said if an applicant complies with the ordinance, they would not have to come to the Board. If they do not comply with the ordinance, they find themselves before the Board of Adjustment and they have to show good reason.

Ms. Yarbrough feels that the lot is too small. Chairman Novellino stated that there was a search of the ideal place. He stated that the Board did have testimony on the site by Verizon's land acquisition researcher. There are a lot of technical reasons why this land was feasible.

Mr. Nevill explained that the AC cooling units have noise attenuation.

Attorney Vella swore in Melissa Foster, 25 Roberts Road. Ms. Foster stated that she moved here 3 years ago because of the environmental rural area for peace and quiet. She takes issue that the applicant states that there is no detriment resulting from the building of the tower. She stated that when there are no leaves on the trees the tower could be seen. With a potential of five (5) antennas on the tower, she feels the rural feel of the area is lost.

Ms. Foster suggested a better location for the tower would be in the commercial areas. She stated that she can hear kids playing football at the park 1/2 mile away and feels that she would be able to hear the air conditioner and the generator as well as see the tower.

Seeing no further public comment, Chairman Novellino closed the public portion at 9:32 p.m.

Mr. O'Neill summarized the application and thanked the Board and public for their time. He stated that cell phones are in everyone's pocket. We are in constant communication with loved ones and friends. Mr. O'Neill stated from 1996 forward, cell towers are not an inherently beneficial uses such as a hospital or school, but the supreme court in New Jersey decided that when a carrier and an applicant shows they have a need for the tower is gets the same treatment as an inherently beneficial use and it has been deemed to be an important use.

Mr. O'Neill stated that the lot is a heavily wooded, setback in a rural area away from the street. He said it is ideal to be as unobtrusive as possible. The compound is designed to blend in. Mr. O'Neill feels it is a good site and works with Verizon's need. He believes this to be a successful location.

Mr. O'Neill stated that there is a significant gap in coverage and this tower will bridge the gap. They will mitigate the only negatives of being able to see the tower and hear it. He stated that there is still a lot of fear regarding radio waves. The same technology is used in baby monitors and walkie talkies. Mr. O'Neill stated that the radio waves are a very low power unit. Mr. O'Neill concluded that this is a good application and a good site. They will provide more camouflaging and more buffering.

Chairman Novellino offered that there are three things to consider, is this tower necessary in town. The expert testimony and report from Verizon provided that if they want to improve their service, they need a tower somewhere. Chairman Novellino stated that their report made sense to him.

The second thing to consider is this tower in the right place. Chairman Novellino stated that another report from the site acquisition person found this area to be the best place in town. This deduction was based on each place Verizon had considered and why those places were rejected.

Chairman Novellino stated that he understands the residents' concerns. He stated that if the Federal Government says that we have to put towers up, there is not much that we can do about that.

Chairman Novellino said the third item is to mitigate the impact the tower has. He stated that the Board has stepped up the screening and noise reduction for the applicant's proposal. He said this is most important from a visual standpoint. Chairman Novellino said that noise reduction is most important to him. You cannot turn your hearing away from noise. We have provisions in the ordinance to handle noise and the applicant has agreed to put additional noise reduction in place. We must try to muffle noise within reason.

Chairman Novellino addressed the public benefit. He stated that smart phones are part of everyone's life. An improved service is something people want and need. He stated that there is a public safety and need benefit to have better coverage and the Board should weigh this in their decision. He is thinking favorably on the application.

Mr. Ferro feels that the Chairman covered all of the bases.

Mr. Lambros offered that the applicant has done everything to the best of their ability to make the application the best it can be. Mr. Lambros feels that the Board has requested items of the applicant and has accomplished everything they could. Mr. Lambros offered that he loves the rural town and does not want to see it change either. He addressed the testimony from Verizon regarding landlines not existing the way they use to. When you do not have a landline and all you have is a cell phone, you must have reliable service for emergencies.

Mr. Frost in his initial review of the application had an inclination is to be against anything that impinges upon the rural nature of the town. He provided the importance of being able to have service in case of an emergency. To contact a hospital or a loved one when it is necessary is of utmost importance. No one wants these things but they are necessary to save lives then there is nothing more important.

Attorney Vella read the conditions of approval should the application be voted on in a positive manner, including but not limited to; applicant shall modify the landscape plan to provide white pine instead of arborvitae, additional landscaping shall be installed between the compound and the adjoining property as per the Engineer, the applicant shall flip the generator, they will add noise attenuation to the AC per the engineer, there will be sound attenuation on both sides, etc.

Mr. Conoscenti made a Motion to approve the application and Mr. Frost offered a Second. Roll call vote: Conoscenti, Frost, Morelli, Bailey, Lambros, Ferro and Novellino votes yes to approve the application as conditioned.

OLD BUSINESS: None.

NEW BUSINESS: Fall Gathering is being planned by the Board Secretary and Mr. Frost.

Seeing no further business, Chairman Novellino asked for a Motion to Adjourn. Mr. Ferro made the Motion, Mr. Lambros offered a Second, and by unanimous vote, the meeting adjourned at 10:00 p.m.

Respectfully submitted,

Pamela D'Andrea