

REGULAR MEETING

**Lebanon Township Planning Board
Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

June 6, 2017

The 906th Regular Meeting of the Lebanon Township Planning Board was called to order at 7:03 p.m. by Chairman Gary MacQueen. Present were: Mr. McKee, Mr. Duckworth, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Ms. Bleck, Mr. Skidmore, Mr. Wunder, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Rich & Mr. Weiler.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on February 7, 2017, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the Lebanon Township Website and Bulletin Board in the Municipal Building on May 31, 2017.

PRESENTATION OF MINUTES: May 16, 2017 Regular Meeting

Motion by Mr. Piasecki and seconded by Mr. Wunder to approve the minutes with a minor correction. Unanimously approved.

UNFINISHED BUSINESS:

Crown Castle Block #41 Lot #11.02
c/o Judy Fairweather, Esq. Route 513 I5
160 Morris St.
Morristown, N.J. 07960

CONTINUATION OF A PUBLIC HEARING Remove Condition #1 in Resolution dated December 21, 1999
Amend Site Plan & Request Variance for Lighting on Cell Tower

Attorney Fairweather and Architect Frank Colasurdo were present to continue with the public hearing on Crown Castle. Attorney Fairweather reviewed for the board her letter and said the FAA has not adopted regulations for the FAA Extension Safety & Security Act of 2016. They do anticipate adopting them within the year. Attorney Fairweather said that Crown Castle is diligently working on the FAA to adopt these regulations. In regards to the lighting issues, the 2 white lights on the tower can be turned off since the light on the top of the tower is sufficient for aircraft. They would like to have the top light operational from March 1st to May 31st each year and turned off June 1st to February 28th each year. The letter from Attorney Fairweather was marked into evidence as **A7**-Letter from Attorney Fairweather dated June 1, 2017.

Architect Frank Colasurdo said that since the Tower is not over 200' in height, they don't need to have the lower lights. They can't be dimmed but they can be turned off permanently. They are not required to meet FAA regulations. Mr. Colasurdo noted the Melick Farm is an agricultural use. The night time lights have 30 flashes per minute and during the day they flash 40 times per minute. The following items were marked into evidence: **A8**-Obstruction Marking & Lighting from the FAA and prepared by Air Traffic/Airspace Management, **A9**-Comparison Chart – LED Lights vs. Incandescent Light Bulbs vs CFLs. Mr. Colasurdo told the board the reason why the LED lights are so efficient is because they use less wattage to produce the same amount of illumination as other light fixtures and a condenser uses heat. Mr. Colasurdo said these beams are made to shoot light straight out not to hit the ground so airplanes can see them from a distance. Attorney Gallina asked about the house and the address. Ms. Glashoff said it was 6 Fawn Ridge. Mr. Colasurdo said the owner said she could see the light and with the ground elevation and the distance is 2,586' from the Cell Tower and it sits 18' higher than the base of the Cell Tower.

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This light has zero ground splatter. Mr. Colasurdo said he was able to get the distance off of Google Earth which is an approximate distance.

Chairman MacQueen asked if the board had any questions of Mr. Colasurdo. Mr. Skidmore asked if 6 watts was equal to 60 watts and Mr. Colasurdo said yes. Mr. Skidmore stated that this is a dark sky area and at night we see stars and we don't want to see a red flashing light. Mr. Skidmore said if the red light is to be seen by airplanes from miles away, then the residents can also see the red light. It does have an impact on quality of life. If the lights can be turned off seasonally then why not have them on as needed and turned on when Mr. Melick knows when the crop dusters are coming. Attorney Fairweather said Mr. Melick also uses the aircraft to keep the air moving which is an agricultural use. Attorney Fairweather didn't have a problem with turning the lights on and off and until the rules have been adopted she did not think it would be a problem to have them on as needed. Chairman MacQueen said in the letter marked **A7** which indicates that the lights would only need to be on March 1st to May 31st each year and it would be just the red light that would be on. Attorney Fairweather said the other lights would be off permanently. Chairman MacQueen asked if this could be worked out with the landowner. Attorney Fairweather said if the property owner isn't agreeable to this, then she would come back to the board. Mr. Duckworth asked to clarify that what we are agreeing too will still be agreeable when and if the regulations are adopted.

Attorney Fairweather said that Crown Castle manages over 40 thousand towers in the United States and they are trying to have the FAA adopt these farming regulations. Attorney Gallina said that the federal regulations would pre-empt anything that is agreed to this evening. Attorney Fairweather said they are still negotiating the regulations that they want to see adopted. Mr. Schmidt said he is in favor of turning on the lights as needed. Also, this is not crop dusting but frost prevention. Mr. Schmidt said he feels this would be done 3-4 times per year in the spring. Mr. Gerlich asked who would be turning the lights off and on. Would it be Mr. Melick or a service man? Attorney Fairweather said if the switch is at the bottom of the tower then then Mr. Melick would be able to turn it on and off. Mr. Colasurdo said we need to make sure that when the light is turned off that it doesn't send an emergency message that the light is out. Mr. Piasecki said the reason he wanted Mr. Melick here was to answer any of the questions that have been brought up. Mr. Melick would have been able to tell the board that the helicopter flies from 3:00 am to 5:00 am, because that is when the frost hits and the most damage is done to crops and would also be able to tell the board they are present during the spraying. Mr. Piasecki said he would like to have this statement as a condition. Attorney Fairweather had no problem with this being a condition in the Resolution.

Mr. Piasecki referred to discussion at the last meeting regarding the lights. The board was told that the lights can never been turned off and now we are being told they can. What has changed? Attorney Fairweather said for now it is voluntary once the regulations are put into effect, then we will have to follow the regulations. For now there are no regulations, but once that changes then for safety we will have to follow the regulations. Mr. Piasecki noted that our Zoning Officer was told even though the lights are not permitted per the ordinance, once the lights were turned on they could not be turned off. Planner Bolan noted that this is a variance and the board needs to be satisfied with the positive and the negative criteria in order to grant the variance. Planner Bolan said he has not heard anything about the variance criteria but also said the board can put conditions on this application.

Attorney Fairweather said the legal criteria is safety reasons that's why the light is necessary. We need to see if it meets the positive criteria which would be the public health, safety and welfare. The negative criteria is the hearing of the helicopter which we have gone over and is the only negative part. The flying part of this isn't the

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issue since that is part of the agricultural portion. Attorney Fairweather said it is up to the board to decide whether the applicant has met the negative and positive criteria. Attorney Fairweather summarized by stating that they have answered all the questions that the board had from the first hearing. They addressed having minimal usage of the lights. At this time, Chairman MacQueen asked if the board had any questions. Mr. Piasecki had a question of Planner Bolan regarding the negative & positive criteria. Planner Bolan said the negative criteria is whether the variance can be granted without substantial detriment to the public good and without substantial impairment to the zone plan & zoning ordinance. Mr. Piasecki said it just isn't the tower but electrical power lines, trees, houses that play into this. Attorney Fairweather said this is the end of their presentation and summarized. They have tried very hard to go with the minimal amount on the lights, have checked out all of the questions by the board last month. If the helicopters are going to fly, then some light is better than none.

Chairman MacQueen opened the hearing to the public for questions of the testimony given. The following person had questions of the testimony given: Nancy Wolfe of Vernoy Road an adjacent property owner to the Melick farm. At the conclusion of the questions, Chairman MacQueen opened the hearing to the public for comments and statements. Ms. Wolfe was sworn in to give testimony. At the conclusion of the testimony, Chairman MacQueen asked for a motion to close the public portion of the hearing. Motion by Ms. Bleck and seconded by Mr. Schmidt to close the public portion of the hearing. Unanimously approved. The board deliberated at this time. Chairman MacQueen noted that this Cell Tower was the first one approved under the new Cell Tower Ordinance adopted December 1998. Planner Bolan said that the applicant along with 1 co-locator filed with the Zoning Board but once the ordinance was adopted, they reapplied to the Planning Board. Mr. McKee said that the terrain of the township has not been taken into consideration. Since then there have been several collocators to that Cell Tower. During the discussions, the board members all agreed to the lights only being used when needed. Chairman MacQueen said the red light was seen up on Sliker Road. Attorney Gallina went over the conditions the applicant agreed too. At the conclusion of the board's deliberations, motion by Mr. Skidmore and seconded by Mr. Wunder to approve the application to amend the Site Plan and grant a variance for the lights with the following conditions:

- a. The applicant is granted permission to have the light on top of the cell tower
- b. Condition #1 from the Resolution of December 21, 1999 be eliminated.
- c. Approval from all outside agencies having jurisdiction.
- d. Payment of all fees and escrows to be current
- e. Side lights to be turned off permanently
- f. Light at top of tower to be used as needed from March 1st to May 31st.
- g. The height of the light not to exceed 162.7 feet.
- h. The light will be turned on and off by property owner.
- i. The turning off of lights will not send an emergency signal to the FAA.
- j. The lights on the tower will be on from March 1st to May 31st as needed for agricultural use only.

ROLL CALL	Yes: Mr. McKee	Mr. MacQueen	Abstain: Mr. Gerlich	Absent: Mr. Rich
	Mr. Duckworth	Mr. Wunder	Ms. Bleck	Mr. Weiler
	Mr. Schmidt	Mr. Skidmore		
	Mr. Piasecki			

Attorney Gallina will prepare the Resolution to be on the next Agenda of July 18, 2017.

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Attorney Lemanowicz had RF Engineer Joseph Menio sworn in to give testimony. Attorney Lemanowicz referred to the report dated April 25, 2017, Antenna Site FCC RF Compliance Assessment Report prepared by Pinnacle Telecom Group. Attorney Lemanowicz asked Mr. Menio to give a brief report. Engineer Menio said the package with everything listed on the tower is ½ of 1% out of 100 what the FCC deems acceptable for exposure. When the antennas are operating they will be well below the guidelines established by the FCC for human exposure to those magnetic fields and also comply with the State guidelines. Engineer Menio said the State guidelines are 5 times less strict than the FCC guidelines. Engineer Menio said that this covers everything on the cell tower.

At the conclusion of Engineer Menio testimony, Chairman MacQueen asked the board if they had any questions of the testimony given. Mr. Duckworth asked if this took into account any of the towers nearby for radiation levels. Engineer Menio said that nothing is close enough to be counted into the equation. Mr. Skidmore asked where the measurements are taken. Engineer Menio using mathematical, they are assumed at ground level for a 6' ½ person. This is from zero to 500'. Chairman MacQueen opened the hearing to the public for questions. There were none.

Brian Seidel, Planner for the applicant was sworn in to give testimony. Planner Seidel stated that in reviewing the Conditional Use standards in the ordinance, they meet all the requirements. Planner Seidel said he did photographic simulations. View number 11 is a comparison view of the existing view of the photographic simulations. Attorney Gallina had it marked into evidence as **A8-View** from Sanatorium Road of the Cell Tower. Planner Seidel said there will be no increase in the height, width of the Tower or the compound. Planner Seidel said the applicant has met the purpose and intent of the ordinance. Planner Seidel said that under the middle class tax relief this would be considered an excluded structure. At the conclusion of Planner Seidel's testimony, Chairman MacQueen asked if the board had any questions. Mr. Schmidt asked about the middle class tax relief. Attorney Gallina said this was new legislation in 2012 that encourages collocations on existing towers.

Chairman MacQueen opened the hearing to the public for questions. There were none. Chairman MacQueen opened the hearing to the public for statements and comments. There were none. At this time Attorney Lemanowicz gave his summation. At the conclusion of the summation, motion by Ms. Bleck and seconded by Mr. Piasecki to close the public portion of the hearing. Unanimously approved.

The board deliberated at this time. At the conclusion of the deliberations, motion by Mr. Schmidt and seconded by Mr. Wunder to grant a Conditional Use with the following conditions:

- a. Approvals from outside agencies having jurisdiction.
- b. All fees and escrows to be current.

ROLL CALL	Yes: Mr. McKee	Mr. MacQueen	Absent: Mr. Rich
	Mr. Duckworth	Ms. Bleck	Mr. Weiler
	Mr. Schmidt	Mr. Wunder	
	Mr. Gerlich	Mr. Skidmore	
	Mr. Piasecki		

Attorney Gallina will prepare the Resolution to be on the next Agenda of July 18, 2017.

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ITEM FOR DISCUSSION:

- a. Scope of Open Space Recreation Plan Update – Planner Bolan

Planner Bolan stated that the board covered the scope of the OSRP at the May meeting and now the Environmental Open Space Committee, Park Committee & Recreation Committee will start with their tasks including drafting and distribution of recreation surveys to independent Township organizations to assess recreation needs. The deadline for these group reports to the Planning Board for their September meeting is August 29, 2017.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 337.50
b. Bayer/Risse Engrs	\$ 828.75
.	Total: \$1,166.25

Including additional bills from Planner Bolan of **\$917.50**, this brings the grand total to **\$2,083.75**. Mr. Gerlich said that all the bills are in order. Motion by Mr. Gerlich and seconded by Ms. Bleck to approve all the bills for payment. Unanimously approved.

CORRESPONDENCE: a. Report from Engr. Risse dated May 18, 2017 – Vigilant Deployment

Being no further business to come before the board, nor comments from the public, motion Ms. Bleck and seconded by Mr. Skidmore to adjourn the meeting at 9:00 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK