

MONTGOMERY TOWNSHIP ZONING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
JUNE 16, 2020

MINUTES

Chairman DeRochi called the meeting to order at 7:32 p.m. and read the opening statement: Although this meeting is the regularly scheduled meeting of the Montgomery Township Zoning Board of Adjustment, due to the State of Emergency that exists as a result of the COVID-19 Coronavirus crisis, and in accordance with Executive Order No. 104 issued by Governor Murphy on Monday March 16 limiting public gatherings, this meeting is being held virtually by webcast, simulcast on Comcast Cable Channel 29, and public participation is enabled by Zoom Meeting. Instructions for participating in this meeting are provided on the Township's website at www.twp.montgomery.nj.us

Mr. Palmer read the directions for the public to watch the meeting on the Township website and gave the phone number and code for the public to join the meeting.

BOARD MEMBERS PRESENT: Chairman DeRochi; Mr. Blodgett; Ms. Iyer; Mr. Kabis; Mr. Kristjanson; Mr. Stenull; Ms. Rosenthal, Alternate #1; Mr. Wallmark, Alternate #2; Ms. Yildiz-Odeh, Alternate #3; Mr. Sudol, Alternate #4

ALSO PRESENT: Mark Peck, Esquire, Board Attorney; Emily Goldman, Board Planner; Rakesh Darji, Board Engineer; Joseph Palmer, Zoning Officer;

I. SALUTE TO THE FLAG

After the salute to the flag the Board held a moment of silence in recognition of the first responders and those on the front line.

II. PUBLIC COMMENT

Candy Willis, Knickerbocker Drive, Landmarks Commission member and Librarian for Van Harlingen Historical Society, discussed the submission waiver request.

Frank Ferraro, SectorSite, LLC attorney, objected.

Ms. Willis stated that the applicant is asking for a waiver from providing locations of all existing structures including but not limited to any historic features such as building more than 50 years old. They should be required to provide this information. In 1975 the Township was chosen as the location of the first farm district in New Jersey added to the State and National Registers of Historic Places. The John Van Dike house and its typical farm setting was a key factor in earning Bridgepoint that designation. The house built circa 1741 is noted on the applicant's plans only as a 1½ story dwelling. It is located 273 feet from the proposed tower and there is no reference to its place in history. The builder of the house fought and died in the Revolutionary War. It is one of three pre-revolutionary houses built by the Van Dike family still standing in close proximity to each other. The historical aspects of this farm should not be glossed over. The house and barn should be identified. The Van Dike Voorhees barn is a Dutch English hybrid that was begun by Van Dike and modified around 1850 by Frederick Van Dike Vorhees. The Landmarks commissioned barn expert Elric Endersby in 2001 to measure the barn and produce pen-ink drawings. If this information is waived (Item #34) the applicant will not seriously consider the history of this property. It may be in the Township's interest to hire an historic preservation subject matter expert with experience defending against cell towers to advise the Zoning Board.

Mr. Ferraro objected.

Ms. Willis said she would not be averse to just identifying the buildings over 100 years old instead of 50 years old.

Mr. Peck explained the purpose of the application on the agenda is to determine whether the application is complete by providing enough information and documentation for the Board to reasonably proceed with the public hearing. The applicant has made several submission waiver requests. The submission waivers have been reviewed by the Development Review Committee (DRC). The DRC recommended that partial waivers be granted from Preliminary Checklist Items 23, 24, 25, 26, 40, 43 and 46 full submission waivers from 32, 34, 35, 36, 52, 53, 54, 55, 56, 63 and 68. The DRC also recommended a partial waiver from Final Checklist Item 5 and

a full waiver from 11 and a partial waiver from Item 13 on the Variance Checklist. The applicant has to justify the request for the waivers. If the Board would like to see this information they can grant the submission waiver and request that the applicant at some point during the hearing provide the information.

Brad Fay, 1135 Canal Road, represented the Millstone Valley Preservation Coalition. Mr. Peck asked for a list of the names of the people who are in the Coalition since Mr. Fay will be the spokesman for the group.

Mr. Ferraro objected and said his understanding of general public comment is for something that is not on the Board's agenda. The public has not been noticed yet and the Board has not obtained jurisdiction over the subject matter. It is not right for the public to be participating on an administrative act of considering submission waivers. Even if the submission waivers are granted the Board can request the information during the hearing. There are people from the public who are testifying and are not subject to cross-examination. Anyone testifying needs to be subject to cross-examination.

Mr. Peck agreed it is very unusual for the public to comment on submission waivers. If there is an item of general concern the public can comment, however, they should avoid giving testimony and getting into the merits of an application. Mr. Peck opined this is not quite a purely administrative matter; there is a certain amount of discretion involved by the Board in determining the waivers.

Mr. Fay described the role of the Millstone Valley Preservation Coalition. The Johnson Farm falls within the corridor management area of the Millstone Valley National Scenic Byway (MVNSB). The MVNSB is one of only two nationally designated byways in New Jersey. Mr. Fay would like to make sure that the Corridor Management Plan is considered as part of the review process. He agreed with Ms. Willis in recommending that it is necessary to have a listing of all structures, particularly the historic structures. All natural features of the property should also be considered.

Matthew Galvin, Boulder Brook Court, asked if the application would also be subject to review by the Somerset County Agricultural Board. Ms. Goldman said as part of the application submission the applicant provided a copy of an application to the State Agricultural Development Committee so there is probably concurrent review. However, the Zoning Board has jurisdiction in terms of the Township review.

Jessie Havens, Ludlow Avenue, said there have been discussions about historic features and terrain and she also thinks these requirements should be required.

Shihaf Khan, Bridgepoint Road, congratulated the Board on moving forward and supports the cell tower. He wanted the Board to know that there are people who depend on connectivity and they support the tower.

There was no further public comment. A motion to close the public comment session was made by Mr. Kabis and seconded by Mr. Stenull. The motion carried unanimously.

III. SUBMISSION WAIVER REQUEST

Case BA-02-20

Applicant: SectorSite, LLC, SectorSite Tower Assets and New York SMSA Limited Partnership d/b/a Verizon Wireless

Block 17001 Lot 11.02 – 26 Dead Tree Run Road

Submission Waivers Associated with a Use Variance, Height Variance and Preliminary and Final Major Site Plan Application

Frank Ferraro, Esquire represented the applicant. The application is for a new proposed cell phone tower.

Mr. Ferraro discussed the submission waiver items on the Preliminary Checklist:

1. #23 – location of natural features on the site, including but not limited to treed areas, high points, marshes, depressions and any extensive rock formations, both within the tract and within two hundred feet (200') of its boundaries. The applicant is asking for a partial waiver so they do not have to show the natural features that are offsite. The area of disturbance is a total of 1,800 square feet behind an existing building in the center of the lot. Everything on the lot is shown. Anything offsite will not be impacted by the project.

The Board discussed how there are offsite natural features that the project could affect. The submission waiver was granted for completeness only. The information is to be submitted at the time of the public hearing.

2. #24 – Delineation of flood plains including floodway and flood fringe areas, and Township stream corridors, both within the tract and within two hundred feet (200') of its boundary, and the source and date of the flood plain information. A partial waiver is requested as to offsite conditions. All the information is shown on the site to the point it is relevant. The submission waiver was granted for completeness only. The information is to be submitted at the time of the public hearing.
3. #25 – Delineation of ponds, marshes, wetlands, wetland transition areas, hydric soils and lands subject to flooding both within the tract and within two hundred feet (200') thereof, A copy of the applicant's request for a Letter of Interpretation (LOI) for the NJDEP and the accompanying plans shall be submitted for all delineated wetlands. Were an LOI has been received, a copy of the NJDEP LOI and stamped approved plan shall be submitted to the Township. A copy of the Letter of Interpretation (LOI) application has been submitted to the Board but the time it takes to get a LOI response can be extensive. Since this can be a condition of approval, the Board granted the submission waiver.
4. #26 – All existing and proposed water courses (including lakes and ponds) within the tract and within two hundred feet (200') of the tract shall be shown. A partial waiver is requested as to offsite conditions. All applicable features within the tract are shown. The submission waiver was granted for completeness only. The information is to be submitted at the time of public hearing.
5. #32 – The size, direction of flow and the type of proposed surface water management provisions to reasonably reduce and minimize exposure to flood damage. The applicant submitted stormwater calculations demonstrating there will be minimal impact. The submission waiver was granted.
6. #34 – Location of all existing structures and their uses (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), both within the tract and within two hundred feet (200') of its boundary including but not limited to buildings, paved area, railroads, bridges, culverts, drain pipes any historic features such as burial grounds and building more than fifty (50) years old, and the existing and proposed front, rear and side yard setback distances to all buildings. A recommendation was made to show buildings 100 or more years old. A partial waiver was granted to permit the information for buildings 100 or more years old be submitted.
7. #35- The location and size of existing structures such as water and sewer mains, valves, hydrants, utility structures, gas transmission lines and high tension power lines on the tract and within two hundred feet (200') of its boundaries. The services required for this facility are shown on the plan. The submission waiver was granted.
8. #36 – The location and identification of existing vegetation with an indication as to whether it is to remain or be removed. The location and species of all existing individual trees or groups of trees having a caliper of six (6) inches or more measured four and one-half (4 1/2) feet (DBH) above the ground level shall be shown within the portions(s) of the tract to be disturbed as a result of the proposed development, indicating which trees are to remain and which are to be removed, within the limits of disturbance clearly indicated on the plan. The limits of disturbance are shown on the plans. The waiver is from providing an inventory of every tree 6" in caliper. There are no trees in the area of disturbance noted to be removed. Photos will be provided during the public hearing. The submission waiver was granted.
9. #40 – The proposed location, height, size, direction of illumination with isolux curves, power and type of proposed outdoor lighting, including details of lighting poles, luminaries, hours and time of lighting, a point by point plan and the average footcandle level. This is a partial waiver request due to the de minimis nature of the proposed lighting. Generally, there is a single flood light that is on a timer and only used during emergency night time visits. The submission waiver was granted.
10. #43 – All means of vehicular access and egress to and from the site onto public streets, showing the size and location of driveways, sidewalks, fire lanes and curb cuts, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, sight triangle easements, additional width and other proposed devices necessary. The existing access drives will be utilized. There are no new roadways. The site will be visited every 4 to 6 weeks for maintenance using a van. There is no roadway or curbing improvements necessary. The submission waiver was granted.
11. #45 – Sight triangles, the radius of curblines and street sign locations shall be clearly indicated at the intersections. They are not providing sight triangles due to the minimal number of trips to the site. The submission waiver was granted.
12. #46 – The width of cartway and right-of-way, location and width of utility lines, type and width of pavement, final design grades and a profile of the top of curb within the bulb of any cul-de-sac shall be included. The relevant information has been provided. The waiver is from the items that don't apply. The submission waiver was granted.
13. #52 – Land Use plan per Subsection 16-5.2 m.3(d), including (1) New Jersey NonStructural Stormwater Measures Strategies point system, Low Impact Checklist, detailed narrative and illustrative maps; (2) Development description to meet erosion control, groundwater recharge stormwater runoff quantity and quality standards; and (3) LEED project checklist with narrative. The applicant has provided stormwater calculations. The other required items are not applicable given the de minimis amount of disturbance. The submission waiver was granted.

14. #53 – Stormwater Mapping per Subsection 16-5.2 m.3©, including: (1) Area to be developed at one (1) foot contours; (2) Soil boring locations (3) Detailed design (4) Utility Plan; and (5) Grading Plan. The waiver is being requested due to the de minimis amount of disturbance. The submission waiver was granted.
15. #54 – Stormwater Calculations and Soils Report per Subsection 16-5.2m.3.(f). The stormwater calculations have been provided which includes some information on soils. A waiver is requested for the other items due to the de minimis amount of disturbance. The submission waiver was granted.
16. #55 – Operations and Maintenance Plan per Subsection 16-5.2m.3.(g). A plan is not necessary for a facility with such a limited area of disturbance. Mr. Darji disagreed and said he asked for a maintenance plan for the proposed rain garden. The submission waiver was granted for completeness only. The information is to be provided.
17. #56 – Plans, profiles and details of proposed improvements and utility layouts including sewers, storm drains and water lines and feasible connections to gas, telephone and electrical utility systems, including plans, profiles and details of all existing and proposed sanitary sewage facilities and water mains with proposed connections as required in Subsection 16-8.4 b.29. The proposed utility run has been provided. There are no sewer or water service required for the facility. The submission waiver was granted.
18. #63 – Traffic Impact Statement, if required in accordance with Subsection 16-8.4 c. of this chapter. There is very limited traffic associated with the project. The submission waiver was granted.
19. #68 – Concerning major site plans only involving the storage of hazardous substances, a proposal for the means of storage of hazardous substances in accordance with Ordinance 81-85. There is a propane generator shown on the plan but no other hazardous substances are proposed. The submission waiver was granted.

Mr. Ferraro discussed the submission waivers items on the Final Checklist:

1. #5 – All details stipulated in Subsection 16-8.4b and 16-8.5c. of this chapter. A partial waiver is required based on the submission waivers granted from the preliminary checklist. The submission waiver was granted.
2. #11 – Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including centerline geometry and horizontal alignments with bearings radii and tangents. There are no new streets or driveways associated with the project. The submission waiver was granted.
3. #12 – Plans and profiles of all storm and sanitary sewers and water mains. The applicant is showing whatever features are in the area of disturbance. A waiver is requested for the items on the entire site. Ms. Goldman said the staff thought these items were not applicable or a waiver could be granted. The submission waiver was granted.
4. #14 – Final grading plans, as required by Ordinance. The applicant is showing the proposed area of disturbance. Since things may change during the hearing they are asking for a waiver at this time. Ms. Goldman said the applicant provided spot elevations and there is no grading on the plan. The final grading plan is not applicable.

Mr. Ferraro discussed the submission waivers items on the Variance Checklist:

1. #13- Location of existing property lines (with bearing and distances), street, structures (with their numerical dimensions and an indication of whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culvers, drain pipes, any natural features, and any historic features such as family burial grounds and buildings more than fifty (50) years old, both within the tract and within two hundred feet (200') of its boundary. Given the size of the property, to show the other information within two hundred feet is a hardship. A partial waiver was granted. The information not waived on the preliminary checklist will be provided. A note will be added to the plan that no buildings will be demolished.
2. #20 – Wetlands and wetland transition areas. An application for a Letter of Interpretation has been filed with NJDEP. Since this can be a condition of approval, the Board granted the submission waiver.

Mr. Sudol said information on burial grounds no matter how old they are should be provided. Mr. Ferraro agreed.

A motion to deem the application complete subject to the discussion of the waivers was made by Mr. Kabis and seconded by Ms. Iyer. The motion carried on the following roll call vote:

Ayes: Blodgett, Iyer, Kabis, Stenull, Rosenthal, Wallmark and DeRochi

Nays: None

IV. MINUTES

May 19, 2020 – Regular Meeting

A motion to approve the minutes was made by Mr. Blodgett and seconded by Mr. Sudol. The motion carried on the following roll call vote:

Ayes: DeRochi, Blodgett, Kabis, Stenull, Rosenthal, Wallmark and Sudol

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 8:45 p.m.