

September 12, 2011
Regular Meeting
7:00p.m.

STATEMENT:

PUBLIC NOTICE of this meeting pursuant to the Open Public Meetings Act has been given by the Riverside Township Planning Board in the following manner:

1. Posting written notice on the official bulletin board at the Township Municipal Building on January 13, 2011.
2. Written notice was delivered to the Burlington County Times on January 13, 2011.
3. Filed written notice with the Clerk of the Township of Riverside on January 13, 2011.

The Regular Meeting of the Riverside Township Planning Board was held on the above date at the Riverside Municipal Building.

Roll Call: Mrs. Jack, Mr. Cicali, Ms. Hatcher (7:44), Mr. Epperly, Mr. Hart, Mr. Stottlemire, Mr. Kenney and Chairman Kane. Ms. Avery, Ms. Carruthers and Mr. Graf were excused.

APPROVAL OF MINUTES:

Motion made by Mr. Kenney and Mr. Epperly that the minutes of the August 8, 2011 Regular Meeting be approved as amended.

Ayes – Mr. Cicali, Ms. Hatcher, Mr. Epperly, Mr. Kenney Mr. Stottlemire and Chairman Kane.

Nays – None.

Abstentions – Mr. Hart.

Motion Carried.

RESOLUTIONS:

Motion made by Mr. Cicali and Mr. Kenney to approve Resolution 2011-9.

Ayes – Mr. Cicali, Ms. Hatcher, Mr. Epperly, Mr. Hart, Mr. Stottlemire, Mr. Kenney and Chairman Kane.

Nays – None.

Abstentions – None.

Motion Carried.

NEW BUSINESS:

- 1) New Cingular Wireless PCS, LLC (AT&T)
One Pavilion Avenue
Block 602, Lot 2
Bulk & Use Variance

Mr. Christopher Stracco of Day Pitney LLP came forward as the attorney for the applicant. Mr. Stracco indicated that New Cingular Wireless PCS has filed an application for three (3) additional cell tower antennas, which requires several use and bulk variances, in order to accommodate the next generation of mobile technology.

Mr. Stracco brought forward the following witnesses who were sworn in by Solicitor Cappelli:

- David Hunt – AT&T
- Alec Norris – Dewberry
- Ryan Conklin – Hargrove & Associates
- Angela Baglenzis-FMHC

David Hunt was qualified as an expert witness on the engineering of wireless services. Mr. Hunt stated that in order to provide the fourth generation (4G) technology, AT&T will require three (3) antenna on the current host site at 1 N. Pavilion Avenue, which would break down to one new antenna per sector. When installing the new antenna, AT&T will adhere to all FCC requirements.

Alec Norris was qualified as an expert witness in telecommunications engineering. Mr. Norris testified that there are currently nine (9) antennas at the host location and that three (3) would be added, bringing the total to twelve (12). In order to add the antenna, an additional cabinet, approximately 30 x 30 or the size of a refrigerator, would be needed to house associated equipment in the penthouse room. This room is essentially a computer room, housing telephone and electric equipment, which produces every little noise, and has no associated activities other than routine maintenance. Mr. Stottlemire and Mr. Kane questioned how much additional weight will be added and whether the building can hold additional weight, respectively. Mr. Norris stated that they are adding approximately seventy (70) pounds per antenna and that a structural evaluation has been conducted. Mr. Norris did acknowledge, however, that he was uncertain of the cabinet weight, but that an additional evaluation could be done. Chairman Kane expressed some concerns that the current report of May 24, 2011 makes certain assumptions about the building that calls into question whether or not the building can handle the additional weight of the antenna and cabinet. Engineer LaRossa suggested that the applicant provide a full structural evaluation, which Mr. Stracco indicated would be submitted with the permit. Mr. Stottlemire also cautioned that the evaluation should consider weather and the displacement of weight and asked if there is a height difference with the new antenna. Mr. Norris indicated that they are four (4) feet higher, as they must project over the penthouse walls. Mr. Stottlemire asked if the 3G antennas would be removed. Mr. Hunt indicated that they are independent of each other, so they cannot be removed today, but potentially in the future. Mr. Hart asked whether or not the additional antennas were permitted by the owner. Mr. Stracco indicated that the lease allows for fourteen (14). Mr. Hart questioned as to whether or not that was for AT&T

or all carriers. Mr. Stracco indicated that since the lease is between the owner and AT&T, they are assuming it permits the number for AT&T and not the other carriers.

Ryan Conklin was qualified as an expert planner. Mr. Conklin provided photographic simulation of both before and after the installation of the new antennas. The installation of the three (3) additional antennas will not create much of a visual impact and satisfies both the positive and negative criteria. The positive criteria require that the variance promotes the general welfare and that the site is suited to the use. AT&T is a federally license carrier that serves the public good in providing access to upgraded technology and the site currently houses several antennas. The negative criteria require that the granting of the variance would not create a detriment to the public good or local zoning and planning. AT&T has satisfied the criteria as the use is passive (no noise, traffic, light, etc.) and cell towers are a conditionally approved use. Mr. Conklin also noted that the variances sought are all pre-existing conditions, which the exception of the height variance, which can be granted without detrimental impact. Chairman Kane asked Mr. Conklin to render an opinion as to whether or not the installation of the additional antennas will have a detriment on the structure of the building given that it is a historic building valued in the community and that the weight poses structural concerns. Mr. Conklin answered that engineering can best address the concerns. Mr. Norris also noted that the report provided states that if something is deemed structurally unacceptable than it must be reconstructed. Mr. Stracco asked Mr. Conklin whether or not the planning opinion would change based upon the results of the structural evaluation. Mr. Conklin indicated it would not.

Mr. Stracco asked if the Board would like to hear from the site acquisition specialist. Chairman Kane indicated that they would after a short recess.

After the Board reconvened, Mr. Hunt was recalled to testify regarding the suitability of the site. Mr. Hunt stated that the location is the only logical place to place the antennas. If they were placed on an alternate location, there would be coverage and performance issues. Chairman Kane asked why that would be. Mr. Hunt indicated that since the other generations of technology would remain in their current locations, it would cause a problem for continuity.

Angela Baglenzis of FMHC was qualified as an expert witness in commercial site acquisition. Mr. Stracco asked Ms. Baglenzis if it was her understanding that the site is already used for the same use proposed in the application. Ms. Baglenzis stated it was. Mr. Stracco asked if it was fair to say that AT&T would have to use this site or build another one. Ms. Baglenzis stated it was. Mr. Stracco asked Ms. Baglenzis to confirm that there was no other structure equal in the area. Ms. Baglenzis stated yes.

Chairman Kane asked Mr. LaRossa to comment on the review letter on the application. Mr. LaRossa stated that AT&T submitted a complete application for a use variance and associated waivers:

- 1) Use Variance: Building is located in the SD Zone where cell towers are not allowed without approval from the Planning Board for a conditional use.
- 2) Area and Bulk Requirements: The existing conditions do not meet the zone requirements and the antennas do not meet the height requirement.

In addition, questions were raised about the following:

- 3) Roof Access
- 4) Color of the Antennas.
- 5) Structural Evaluation.
- 6) Report.

Mr. LaRossa suggested that an annual report regarding the condition and use of the building be considered and that all required outside agency approval be obtained prior to construction. Solicitor Cappelli asked if the applicant was prepared to accept those conditions. Mr. Stracco indicated that they were.

Chairman Kane opened the application to the public.

Richard Horton of 412 Heulings Avenue came forward as the representative of the Fire Department and the Riverside Water Reclamation Authority. Mr. Horton suggested that a dialogue be established with Mr. Lippincott and the Fire Department so that all are aware of how to obtain access to the building and the type of hazards that potentially exist in the event that emergency services are required. Mr. Stracco stated that there is no objection to providing the information and the applicant is amenable to any meetings after a determination is made on the application.

Motion made by Mr. Cicali and Mrs. Hatcher to close public portion.

Ayes – Mrs. Jack, Mr. Cicali, Ms. Hatcher, Mr. Epperly, Mr. Hart, Mr. Stottlemire, Mr. Kenney and Chairman Kane.

Nays – None.

Abstentions – None.

Motion Carried.

Mr. Stracco provided closing remarks thanking the Board for the time and consideration and stating that the applicant has met the burden of proof in demonstrating that the use is de minimis and that the variance and waivers have satisfied the positive and negative criteria.

Solicitor Cappelli gave a summation of the items the Board must vote upon. Solicitor Cappelli indicated that the conditional use approval is a “C” variance and, as such, the applicant has the burden of proof in demonstrating that the variance can be granted due to features of the lot and without detriment to the public good and the intent of Master Plan and Zoning Ordinance. In addition, the Board can place conditions upon the approval.

Motion made by Mr. Kenney and Mr. Epperly to approve the use variance.

Ayes – Mr. Cicali, Mr. Epperly, Mr. Hart, Mr. Stottlemire, and Mr. Kenney.

Nays – None.

Abstentions – Mrs. Hatcher and Chairman Kane.

Motion Carried.

Motion made by Mr. Kenney and Mr. Epperly to approve the bulk variances.

Ayes – Mr. Cicali, Mrs. Hatcher, Mr. Epperly, Mr. Hart, Mr. Stottlemire, and Mr. Kenney.

Nays – None.

Abstentions – Chairman Kane.

Motion Carried.

ACTION:

No Action Items to address.

CORRESPONDENCE:

Mrs. Jack stated that the Master Plan Re-Examination Report was circulated to the members of the Board for review. The report must be approved by the Planning Board prior to making any changes to the Master Plan and/or Land Use Ordinance.

Chairman Kane discussed his correspondence to the Township Committee regarding S-2950/A4128. Mrs. Jack indicated that the Committee received the letter and enacted a resolution opposing the legislation.

PUBLIC PORTION:

No public comment.

Motion made by Mr. Cicali and Mr. Epperly to close public portion.

Ayes – Mrs. Jack, Mr. Cicali, Ms. Hatcher, Mr. Epperly, Mr. Hart, Mr. Stottlemire, Mr. Kenney and Chairman Kane.

Nays – None.

Abstentions – None.

Motion Carried.

There being no further business to attend to, **motion made by Mr. Epperly and Mr. Hart that the meeting be adjourned, and so declared by Chairman Kane.**

Meghan Jack
Secretary