

Knowlton Township Land Use Board

Minutes

Tuesday, March 26, 2024

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, March 26, 2024. Clayton Taylor led the Board in the flag salute at 7:00 p.m. He announced that adequate notice of the meeting has been provided in accordance with the "Open Public Meetings Act" by publishing notice of all regularly scheduled meetings in the NJ Herald and Express Times-NJ Zoned Edition, as well as providing said schedule in the Municipal Clerk's Office and the Township Website. A moment of silence was held for our Military Personnel serving in harm's way.

Roll call:

Present: Cuntala, Drake, Baley, Mathez, Mazza, Mezzanotte, O'Neill, Smith, Starrs, and Taylor.

Absent: Werner

Also Present: Attorney Gavan and Engineer/Planner Nusser

Approval of Minutes:

The January 23, 2024 Land Use Board minutes were distributed prior to the meeting. A motion to approve the minutes was made by Mr. Smith and seconded by Mr. Baley. Chairman Taylor asked for a roll call vote to approve the minutes. In a roll call vote all were in favor.

Chairman Taylor then made an announcement to the public in the audience stating if anyone was here for the Quiet Valley Printing application they have requested to be carried to the April 23, 2024 meeting. Also, late in the afternoon today there was notification from JBar Pocono, LLC they have also requested to carry to the April 23, 2024 meeting. So, neither will be heard tonight. He also noted both of these applicants will need to re-notice.

Old Business:

#23-005 TowerCo 2013, LLC, Block 60, Lots 9 and 9.02

Attorney Gavan announced that this is a D variance application, so the mayor's representative and the council member must step down. The number of eligible board members was gone over and verified that all were at the last meeting. The attorney for the applicant TowerCo 2013, LLC, James Mitchell, introduced himself. He stated the applicant is seeking approval to construct a new wireless facility for use by Verizon at the existing Lions Club facility located at 3 Valley Street. He went over briefly what was discussed at the last meeting pertaining to the proposed facility. He stated based on the board input from the last meeting they are submitting updated photo simulations and they have identified an alternate location on the Lion's Club property. The civil engineer will review the alternate location they identified as he believes it addresses the comments made last time. Stephanie Mulhern, still under oath, introduced herself as the professional engineer from Colliers Engineering & Design. She showed a new rendering (Exhibit 1 sheet Z-2) of the proposed alternate location. This shows the compound moved to the south 185 feet to try and get it out of the view line of the existing residential home.

Exhibit 2 (sheet Z-3) is zoomed in a little more. The steel platform to get it up out of the flood zone is slightly larger. Since we revised the plans, it has been deemed diesel restricted. Now there is a propane generator and propane tank. So, the platform is slightly larger to accommodate the propane tank. She went over some additional proposed landscaping. There will also be a steel canopy to go over some of the cellular equipment. She then went over the sound volume summary for the generator operation. Mr. Mitchell then went over other comments from the board. If necessary, the turnaround could be extended to 50 feet long if the board requested. Ms. O'Neill asked what additional equipment would be brought in if other carriers went on the tower. Ms. Mulhern said there would be additional ground equipment within the existing compound. Mr. Smith asked if they would use their generator. Ms. Mulhern said typically they do not share generators. Chairman Taylor noted any other carriers would have to come before the board for a site plan and it would be a variance situation also. Mr. Mathez asked about the maintenance cycles. Ms. Mulhern said they are typically every 2 weeks for 30 to 60 minutes and during daylight hours. Ms. Mezzanotte asked why diesel was now restricted. Ms. Mulhern said it is an environmental restriction. In this scenario it's because of the flood zone. If there are any environmental sensitivities nearby diesel will not be able to be proposed. Mr. Mitchell added that Verizon's environmental underwriters would have looked at the flood plain and said corporate policy would not allow them to put in a 250-gallon tank of diesel into a flood plain. The photo simulations were then distributed to the board. Mr. Smith asked how the photographs were developed. Ms. Mulhern said her office chooses the locations and then they send a crew out to take the photos. There is another person holding the 6-foot-wide red balloon. They then scale the photos and use a computer and photoshop to add in the tower. Unedited photos are shown in the lower right corner of the simulation photos. There are 2 sets of the photo simulations one is the original location, and the other is the new alternate site 185 feet to the south. Ms. Starrs asked what the distance is from the new proposed site to the elementary school. Ms. Mulhern will check she is not sure. She noted one other aspect to the new plans show the barbed wire fence removed and instead show the proposed vinyl coated chain link fence with the small grid. Engineer Nusser went over the recommendations on the height of the trees, spacing, double rows and mixing of species. Mr. Mitchell said they had no objections. Chairman Taylor asked what the platform and ice shield heights were above ground level. Ms. Mulhern said the top of the canopy from the ground would be about 9.5 feet to the top of the equipment. Elevation views were shown on exhibit 3 (sheet Z-5) the canopy is 14.5 feet. The diameter of the pole was discussed. The design is for 57 inches. Mr. Nusser went over the engineering review including the flood hazard area elevations which would be 285 and asked does the steel platform comply. Ms. Mulhern said it was discussed and feels its up to interpretation as the bottom of the steel could potentially be called an obstruction to the FEMA flow. They would be willing to raise it up the additional 6 inches if that is what the engineer would require. Mr. Nusser said the engineering opinion would be whatever the state requires. He recommended they get documentation from the DEP. More discussion took place regarding the trees. Mr. Mitchell noted their planner is also a landscape architect. Other engineering comments included the agreement to build the pole to support 150 feet if needed for other carriers. The comments on the suitability of locating the tower across the river and other locations on the site need to be addressed by another witness. Mr. Nusser felt his planning comments were addressed.

Board questions included Ms. Starrs asking again for the proximity to the school to be addressed. Ms. Mulhern will look it up. The meeting was then open to the public. Nancy Smith stated her family lives on Valley St. and has concerns for young children, property values and potential property damage due to tower failure. Attorney Gavan stated the federal government ruled health issues cannot legally be discussed. Mr. Mitchell said a licensed appraiser would be needed regarding property values. Ms. Mulhern responded to tower failure saying they would not fall, but buckle. Mr. Nusser also discussed the tower height versus the distance away from this property. Mr. Mitchell also spoke regarding the document they previously submitted addressing compliance with the applicable rules. Their next witness, the RF engineer may be able to speak more to that. Mr. Nusser also noted after the structure is built there will be a post-test required to ensure the report was accurate. More board questions – Mr. Mathez regarding the alternate tower site visibility, Ms. Mezzanotte regarding who chose the locations the photos were taken from and anticipating more than one alternate site, Mr. Smith noted he feels this violates the Highway Beautification Act because of it's close proximately to the highway.

The next witness, Bryan Grebis, was sworn in and went over his credentials as an electro engineer with telecommunications specialty. Mr. Grebis showed a radio frequency coverage map for Verizon (exhibit 4). This shows existing sites and the proposed site they are talking about tonight. The map shows areas of white which indicate less than reliable coverage, areas of yellow are reliable in-vehicle coverage and the green areas represent reliable in-building coverage. He then showed a map of proposed coverage with the addition of the site. He said this shows continuous coverage from the northwest to the southeast and fills the coverage gap completely. He then went over FCC limits saying if the tower was putting out as much power as possible, they would only be at 3.2% of the applicable FCC limit. Even in the worst-case scenario they are still approximately 30 times below the FCC limit of what's mandated 100% safe for 100% of the population. Under normal circumstances a measurement would be 1000 times below because things are fluctuating constantly and as needed, using the lowest power possible. An actual measurement in the field could be as low as .03% of the safe limit set by the FCC. Regarding Pennsylvania sites they investigated; any sites that could potentially be used as a cell tower location were too far from the area that needs coverage. There were 3 studies and these sites were about 1.5 to 2 miles away and wouldn't provide coverage here to address the gap due to trees and terrain. Ms. Starrs asked if the township owned properties that she spoke of at the last meeting were investigated. Mr. Mitchell said he would have his site acquisitions person called to testify on that. Mr. Nusser asked what made the Pennsylvania sites viable from a radio point of view. Mr. Grebis said they would have to be able to have a tower constructed on it. That would be decided by the planner and then he would analyze if it would work from a radio perspective. In closing Mr. Mitchell asked Mr. Grebis if there was any way to avoid needing a new support structure to address this area and the coverage loss. Mr. Grebis answered no. And existing structures were looked at and do not provide adequate coverage. The board had no other questions. It was then opened to the public for questions. Ralph Smith asked about the location of the tower and what area it was supposed to cover. He wondered why it would be situated in a hole with mountains all around it. Attorney Gavan then asked the applicants to address how the height of the tower works.

Mr. Grebis explained the reason the gap is there is because it is in the valley, so in order to cover the gap they would need to place the tower in the valley. The surrounding sites are not getting into the valley due to surrounding trees and mountains. Signals cannot bend down; they travel in a straight line from the height that it is. Attorney Gavan asked how long a signal will go distance wise before it degrades. Mr. Grebis said the average is 1.5 miles. Shorter distances now are caused by increases in users and years earlier the RF environment was cleaner. Mr. Drake asked when they realized that a tower was needed here. Mr. Grebis said he feels there has always been a gap here. Procedurally, there is a yearly budget, and sites are proposed based on complaints. Mr. Drake then asked how many more towers they thought they would need. Mr. Grebis said right now there is one more tower proposed but could not predict what the future needs would be. The Ramsaysburg tower was then discussed again. Mr. Grebis stated it cannot support any additional carriers and the available height would be too low and too far south for their needs. Mr. Mitchell then circled back to the question on municipal sites. He said not all of the sites were investigated because even if they move a third of a mile or more north, that would be too far north. Chairman Taylor asked if they had the municipal sites on their map. Mr. Mitchell was not sure of the exact locations. There were 4 blocks and lots on Route 46 that were read by Secretary Apgar. Attorney Gavan stated because our ordinance does prefer municipal properties, he feels they need to show that they don't work. Number 17 Rt 46, by the Shell station was too far north. Number 41 being the furthest was still too far north. Mr. Mathez asked again if the Delaware Campground would have been an acceptable site. Mr. Mitchell said it would have been from an RF point of view, but there was a leasing issue whereas they couldn't come up with a place on the property. There were no further questions from the board. It was opened to the public for questions. Susan Lafalce asked about the need to register pacemakers hooked up to a person's phone with them. Mr. Grebis said you do not, your phone and pacemaker stay independent.

Being there had been much discussion on interpreting the colorations on the exhibits, Mr. Mitchell announced he felt that the board was having difficulty with the exhibits and the need they are trying to show. He felt that maybe they will not proceed with their planner tonight. They will work on producing clearer, easier to understand exhibits and they now understand the concern about other locations farther to the south. They will do more investigation. Attorney Gavan added and the proximity to the school, which Mr. Mitchell said they now have. Marco Paredes, the site acquisition person who was sworn in at the last meeting, stated the school is 1,794 feet away from the new proposed site. Ms. Mezzanotte requested they come back with photos of the site looking from the direction of the east and west view from Route 46 as a driver's perspective. They were also asked to supply photos from the proposed location looking at the houses. Ms. Starrs asked why they can't co-locate additional Verizon antennas onto existing towers in the town. Other carriers have done this and are able to cover this zone. Mr. Grebis said they have different coverage maps because they are on different facilities. Some sites cannot be co-located, and co-located sites offer everyone different heights. Everyone's coverage map is unique, and all carriers also have different assigned frequencies. Even at the same height and location they might have a different footprint. With no further questions, Attorney Gavan confirmed that they will be carrying until next month without further notice. There was one last public comment for this application from Mark Ringenary. He stated that when he first moved here, he had no Verizon coverage so he switched to another carrier. He then spoke regarding his background being a biologist and feels that trees planted smaller will acclimate faster.

Chairman Taylor then opened the meeting to the public for any general comments. Robert Hunt spoke regarding truck traffic and signage in the village of Columbia. He was advised by Attorney Gavan to bring these issues to the Township Committee at their next meeting.

Lighting Ordinance

Chairman Taylor acknowledged receipt of the zoning officer's comments and review of the lighting ordinance. Mr. Smith wasn't sure if the board wanted to make changes based on Mr. Werner's comments or the comments from the zoning officer on the existing ordinance. There is still the question if the existing ordinance is enforceable. Ms. Mezzanotte interpreted the zoning comments as recommending changes, but it was unclear if that was for the existing or new proposed version. It was decided the sub-committee would come in to see the zoning officer in person on his next day in the office to clarify his comments.

Post Approval Inspection Escrow Fees

Attorney Gavan had submitted a draft ordinance as discussed at the last meeting for review by the township committee. This is to include a percentage of the application escrows for post approval inspections. He believes the number should be 150% for now to get things started and it can be tweaked later. Private residents wouldn't need that much. Mr. Baley asked about including something noting residential versus commercial. Attorney Gavan acknowledged the reasoning, as businesses are here to make money and homeowners are just making home improvements. They are not here to make money. But he is concerned that if you separate them out you would be treating semi-like applicants differently and that could be a problem. Mr. Mazza thought it should be a percentage of the job. When you apply you must list the estimated cost. Attorney Gavan reminded the board of one application in particular that didn't construct anything. Mr. Smith said they didn't follow an approved site plan. Planner Nusser said one way to address Mr. Baley's concern would be that a residential homeowner is not coming in to apply for a site plan, but a business will be. That may be your differentiation. If you apply for a variance there is a number and have a different standard on a site plan. Attorney Gavan said he would re-draft the ordinance stating on applications regarding site plans it will be 175%. On applications not involving a site plan 50%. If it is used up, we can always ask them to add more. The board agreed and Ms. Starrs asked if it could be approved tonight conditionally with that language added. Attorney Gavan said they could vote on authorizing him to send it to the Township committee. Motion was made by Mr. Smith and seconded by Ms. Mezzanotte. In a voice vote all were in favor.

Zoning Officer Memos

Pre-Existing Non-Conforming Structures

Chairman Taylor went over the first memo regarding pre-existing non-conforming structures and conditions warranting residential variances. The zoning officer notes that in other towns if an addition (deck, porch, sunroom) does not further violate the non-conformity the zoning officer can issue a zoning permit and the homeowner then could forgo having to go before the board for approval. Planner Nusser feels this is reasonable in that it would not overburden the homeowners. It was the consensus of the board that the example of Hope Township's ordinance could be added right into our ordinance. Chairman Taylor asked for a motion to have this sent to the Township Committee.

Motion was made by Ms. O'Neill and seconded by Mr. Smith. In a voice vote all were in favor.

Air B&B's

Chairman Taylor explained this topic had come up due to a house for sale on Route 46 that someone had called about asking if it could be used as an Air B&B. He continued that our ordinance as is says nothing about them. Our ordinances regulate homestay bed and breakfast, that's where the owner or manager lives on the property. An Air B&B is a short-term rental. Right now, anyone who owns a home can rent it out. He said we cannot stop someone from renting a property, but can we put a minimum time limit on it. Planner Nusser brought up a town he is aware of where you are not permitted to rent for less than one month. Discussion took place regarding homes being rented to long-term tenants and case law saying if you buy a house and allow people to live in it you cannot stop them from doing so. Ms. Mezzanotte asked about renting rooms in your home or a living space attached to where the owners are living, an in-law suite. Attorney Gavan thought an exception would need to be included for owner occupied. Chairman Taylor said that would be covered under the existing bed & breakfast homestay. Although they require breakfast be served. Discussion took place regarding surrounding towns' regulations. Blirstown Township does not permit them. Ms. Starrs spoke regarding adding language to our current ordinance to cover Air B&B's. Chairman Taylor thought a time limit should be added. A minimum of a month for renting a property. This way if you are renting under whatever platform you are calling it for less than a month it would not be covered under our ordinance. Attorney Gavan recommended verbiage of owner-occupied short-term rentals should be permitted. Non-owner-occupied rentals must be for 30 days or greater. Mr. Mazza asked about having a yearly license fee. Attorney Gavan said that would be something to discuss with the town committee, you could exempt homeowner occupied. Chairman Taylor asked what the consensus of the board was on this. It was decided Attorney Gavan would draft something up for the next meeting.

Knowlton Township Residential Full Build Out Analysis

Ms. Mezzanotte passed out the memo written by the subcommittee and noted she will read it into the minutes. The subcommittee consists of Mr. Baley, Mr. Mathez, Ms. Mezzanotte and Ms. O'Neill. The map included came from the NJSADC. The red indicates where building could happen in the town. Yellow indicates our open space areas. Green is preserved farms. Preserved farms cannot be built on. Mr. Smith asked if the development rights could be bought back. Mr. Nusser said even permanently preserved can, but the cost is very severe. Mr. Nusser asked if the analysis on the farmland assessed lots considered steep slopes, hills or C1 streams as there are a lot of restrictions within those areas. Attorney Gavan said he would recommend the report noting this analysis does not take into account actual topography. IE: steep slopes, wetlands or other developmental restrictions. Mr. Mathez said this full build out number is estimated. Mr. Nusser noted his concern was if a document was put out showing we have availability to build this many units, fair share housing could come back requesting a number of affordable housing units. Chairman Taylor asked about the age of the map because he knows of two properties that were sold to DEP. Ms. Starrs noted the analysis is very impressive and asked what they thought their next steps would be. Mr. Mathez said the next step would be to come up with some ideas to protect us a little more.

But he wanted to know before they do that does the board want them to proceed. He also noted Ms. Mezzanotte is leaving this specific sub-committee. Mr. Drake will be replacing her. Mr. Nusser noted there are a number of ordinances they could be directed to from other municipalities to look at. Things like the steep slopes, septic suitability. Mr. Mathez would like to speak to a planner, but that will entail charges. Mr. Smith noted the NJ Map explorer has many filters that could help. Mr. Nusser asked if the town has the last round of affordable housing report, as a build out plan goes with that. The obligation is based on what can be built. Mr. Mathez then asked about the ability and funds to speak to a planner. Chairman Taylor reminded the board Mr. Nusser is filling in and Dan Bloch is the Land Use Board planner. Ms. Starrs recommended saying yes and putting a cap on the number of hours. She then made the motion to authorize Mr. Mathez to speak to Dan Bloch on behalf of the Knowlton Land Use Board zoning sub-committee to discuss the full build out analysis for a maximum of 4 hours. Motion was seconded by Mr. Smith. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-abstain, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, and Taylor-yes.

Brief discussion then took place with Mr. Mathez asking about the Stormwater Management ordinances the state is requiring municipalities to adopt. Specifically, the forestry ordinance, which the township has not passed yet. Couldn't the town create their own ordinance rather than using the model from the state. Ms. Mezzanotte noted she believes Hardwick Township did that. Mr. Nusser said there was an extension on passing this ordinance and it was not required to be passed as is. A lot of municipalities already had similar ordinances the state agreed would be fine to use if they were substantially similar. The reason for the extension was because of a lot of backlash on the model. Although this is not a zoning issue, Mr. Nusser's input was appreciated.

Bills:

Chairman Taylor asked if everyone looked over the bills. There was a motion to approve the bills by Mr. Smith. Motion was seconded by Ms. Starrs. In a roll call vote all were in favor.

Adjournment:

A motion to adjourn was made by Mr. Smith and seconded by Mr. Drake. All were in favor. The meeting was adjourned at 9:50 P.M.

Respectfully Submitted:

Doreen Apgar,
Board Secretary