

Knowlton Township Land Use Board

Minutes

Tuesday, May 28, 2024

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, May 28, 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, Mezzanotte, O'Neill, Smith, Starrs, Werner and Taylor.

Absent: Mazza

Also Present: Attorney Gavan, Engineer/Planner Nusser

Approval of Minutes:

The April 23, 2024 Land Use Board minutes were distributed prior to the meeting. A motion to approve the minutes was made by Mr. Mathez and seconded by Mr. Smith. 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 attendance that the Quiet Valley Printing and JBar Pocono, LLC applications have both asked to be carried to the June 25, 2024, meeting. Quiet Valley will be required to re-notice. JBar Pocono will not.

Determination of Completeness:

#24-002 Kenneth Jahn, Block 63, Lot 1.05

The engineer's completeness review was gone over by Mr. Nusser. There were four waivers that were requested. He stated they take no exception to granting the waivers for completeness. However, they recommend that the applicant provide an aerial exhibit showing existing structures within 200 feet of the property (item 6c) before the hearing. Item 6d is a general waiver. Items 6e and 9 are waived for completeness only. Mr. Smith made the motion to deem the application complete with the items listed for completeness only. Motion was seconded by Ms. O'Neill. In a roll call vote, all were in favor.

Old Business:

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

The attorney for the applicant, James Mitchell, introduced himself. He gave a brief summary of the updated items submitted: recolored radio coverage plots and designation of the 3 alternate locations as A-B-C.

Engineer Stephanie Mulhern, who was previously sworn in, then went over the revised photos. The original location is designated as A, the revised location is designated B and shows additional landscaping. The new proposed location requested at the previous meeting is designated as C.

All would be built to the same size and specifications. The new exhibit for location C, puts the compound at the southern most portion of the property. The access would be from Valley Street. Flood elevations at this site are comparable to site B. A platform would still be proposed. Chairman Taylor asked for the distance of the site C monopole to Valley Street. Ms. Mulhern answered 45 feet. The distance from the monopole to Route 46 is the same as location A and B. She then went over the 360-degree photos. Photos were taken from where the monopole would be placed at each of the 3 sites. Photo simulations were then gone over for location B. Additional photos were added based on feedback from the board showing how the tower would look from Valley Street and northbound and southbound on Route 46. They included views from the homes on Valley Street and the school (7A & 7B). Mr. Werner asked about the height of the pole simulation. Ms. Mulhern answered 135 feet. Mr. Werner doesn't believe the pole height looks like an accurate depiction of how tall the pole would be. Picture location 4A for example. Considering the size of the trees. Ms. Mulhern explained it is a matter of perspective as the pole is 100 feet beyond the trees. The test balloon is flown at 135 feet at the location of the simulated tower. Ms. Mezzanotte asked about the width of the top of the monopole with the mount on it. Ms. Mulhern answered 12 feet wide. The balloon is 6 feet wide, so they double that. Next Ms. Mulhern went over the photo simulations for location C. These included photos heading south down Valley Street, Route 46 and the school. The photo simulations include the compound with canopy and ground equipment with landscaping around it. Mr. Nusser asked about the model height of the trees. Ms. Mulhern said 8 feet tall. The canopy is 8 feet off the platform. The top of the steel platform is 3 ½ feet high. So, the top of the canopy is 14 ½ feet above ground level. If additional carriers came on, the compound would remain the same size. The tower could be built to support up to 3 more carriers. Mr. Mathez asked what the distance is between site A and site C. Ms. Mulhern said 800 feet. She then went over the topic of noise, which was discussed at the last meeting. All sites would comply with the New Jersey noise restrictions. There are 2 levels of noise the generator would emit. A maintenance load and an emergency load. Maintenance being 56 decibels from 26 feet away. The maximum load in an emergency situation would be 66 decibels, which is below local vehicle traffic of approximately 70 decibels. Attorney Gavan asked how long the generator would run on a full tank of propane. A couple of days per Ms. Mulhern and Mr. Mitchell noted a re-supply could be arranged if needed. Ms. Mulhern then spoke regarding flood elevations. Location C is about the same flood elevation, but topographic surveys have not been done yet. Engineer Nusser asked about location C which was mentioned to be currently used as storage. Mr. Mitchell said they were told it is storage area for gravel, but they could check with the landlord. Engineer Nusser has concerns that this is the parking area for the pavilion with existing vehicular and pedestrian traffic. Ms. Mulhern noted this was conceptual and they haven't decided on an ingress and egress yet. Mr. Mitchell added the compound could be made rectangular to allow more unencumbered property. There was discussion regarding this site being looked into at the request of the board, but approval on this site would not be able to be given tonight without a site plan.

There were no questions from the board members. Chairman Taylor opened the meeting to the public for questions for the engineer. Fred Jordan asked about the tower shape (single monopole). Ann Harajda spoke regarding an A1 flood zone running through this area and DEP approval. Theresa Thoene asked about the size of the propane tank (500 gallons) and its location (above ground). Also, the running of the generator and setbacks on the locations.

The next witness was the radio frequency engineer, Andrew Petersohn, who was still under oath. He gave a summary of the existing conditions of the proposed site. A 2 ½ mile gap in reliable service exists along Route 46. He showed revised colored maps of the existing reliable coverage. In building coverage is shown in green, in vehicle coverage is shown in yellow. He noted the gap in coverage indicates the inability for a Verizon Wireless subscriber to reliably use their device for communication. He then showed maps of the proposed reliable coverage from location B (although using any of the locations wouldn't change things). These show strong in-building coverage and in vehicle coverage that would cure the coverage gap. He spoke regarding visiting many alternate sites, and because of the terrain and ground elevations here they have to site the tower in the valley. They have a limited area where they could go north or south, they need to be central to the gap. Mr. Petersohn then spoke regarding checking usage of existing towers in the area to cover this gap. He said Verizon's preference is always to co-locate on existing structures. They did first check the existing monopole ¾ mile southeast along Route 46. He believes AT&T and T-Mobile are on it now. However, it cannot structurally accommodate their antennas at an adequate height. They would only have 100 feet on the antenna and that would require significant structural upgrades. This would be very costly and at only 100 feet it wouldn't do what they need. It wouldn't cover as far North as they need. They also checked a utility structure about 1.5 miles to the northeast. This wasn't realistic because it was up a hill, and they would lose coverage. Utility structures in Pennsylvania were also checked. Two were within 1.5 to 2 miles but they were too far to the west and not high enough. He said they also examined 30 municipal properties that were not suitable due to terrain being too small or too close to the school. Raw land sites were also checked on the Pennsylvania side. Sites that were in allowable zones were too far West to serve Route 46 adequately.

Questions from the board members included Ms. Starrs regarding the number of municipal properties visited and where they obtained the list. Mr. Drake regarding the number of future additional towers needed. There was discussion on the need to serve the traveling public. Ms. O'Neill regarding roaming services. Mr. Werner regarding the monopole .7 miles away. (It was noted this tower is not structurally unsound). Verizon did reach out to the owner of the tower and that is where they got the information on the structural analysis of the tower. Chairman Taylor asked at the 106 feet location on the existing tower how high is that above ground level at these 3 sites that you are proposing. Mr. Petersohn said he wasn't sure on the ground elevation, but they use a propagation modeling tool that takes all that into account. Mr. Mitchell noted that this tool, that all the carriers use, incorporates ground elevation. Mr. Baley spoke regarding the elevation maps indicating the existing tower is 200 feet taller than what they are proposing. Mr. Petersohn indicated that terrain would still be an issue with a "lighthouse" effect. Attorney Gavan added height is not a determinize factor, it's propagation of the RF signal. There was clear testimony on this. There were no further board questions. Chairman Taylor opened the meeting to public questions for the RF Engineer. Debbie Hendershot asked if this proposed tower would cover the dead zone on Knowlton Rd. Mr. Petersohn referred to the coverage map showing improved coverage in that area. Theresa Thoene spoke regarding RF and EMF differences and asked if they would be measured by a gauss meter. Mr. Petersohn said he believes that testimony stated there would be a pre-construction on site survey and a post-construction on site survey. Upper limit assumptions used are 24/7- 365 exposure at the maximum power that the radios can transmit at.

They assume significant ground reflection as if an individual was walking past the site. A host of upper limit assumptions are used and even with all those considered in this case this facility would be less than 3.2 % of the applicable standards. About 30 times below what the FCC says is an acceptable limit for electromagnetic exposure. An exhibit C1 was gone over showing comparisons of common radio frequency exposures. Attorney Gavan asked if testing was done periodically as they age. They are not normally, but Mr. Petersohn said some tower companies will if it is requested or sometimes a town may request re-testing if there are any alterations made. Mr. Mitchell added some carriers agree as a goodwill gesture. Mr. Petersohn said there is an FCC categorical exclusion for ongoing testing of these types of sites when the antennas are 10 meters or about 30 feet above the ground. Engineer Nusser asked if when they test the equipment do they put it under load. Mr. Petersohn said they can simulate maximum load. It can be done that way. Mr. Mitchell added they would be willing to agree to try and do it under load if that is something the board is interested in. Engineer Nusser noted testing of aggregate emissions is a required item under the ordinance (although it doesn't note under load or not) if they are comfortable doing it, then it shouldn't be an issue either way. Mr. Petersohn said it can be done.

Chairman Taylor then opened the meeting for public questions of this witness. Pamela Albert spoke regarding having no Verizon service at the campground. She feels it's critical for them to have the tower. Theresa Thoene asked if they would be agreeable to testing the tower annually. Attorney Gavan stated to the board for the record that the federal government has said a board may not deny an application because of any radio frequency or electronic transmissions. Hal Bromm asked if the expense of co-locating on the existing tower would be higher than building a whole new tower at this proposed site. Chairman Taylor recalled a prior witness gave testimony that it was substantially more expensive. Mr. Bromm then asked about the township properties that were too small and what kind of acreage they need. Mr. Smith spoke regarding the property by the fire house. This would be further west and away from the hillside. Mr. Petersohn said that property was run through the propagation modeling tool, and it left portions of the southern end of the gap uncovered. Debbie Hendershot asked about the height of the mountain versus the 135-foot tower near the proposed site C. Looking at a terrain map, Mr. Petersohn said about 200 feet higher. There were no further questions for the RF Engineer. Mr. Mitchell asked for a five-minute break to speak to his site acquisition engineer.

After the break the next witness, Brian Seidel, was sworn in. He gave his credentials as a certified professional land use planner. He then went over exhibit C2 "Context Aerial". This shows the subject property outlined in yellow along with local roads and zoning designations. The village residential zone is outlined in black which is where the subject property is located. To the east is the FPD zone and to the west is the C-1 zone. He explained that communication towers are permitted pretty much everywhere in Knowlton Township except village and residential districts. The subject property is located between two acceptable zones. Location C is only 44 to 45 feet on either side to an acceptable zoning district. An acceptable use in the VR zone is essential services which brings up a utility aspect. Public utilities include telephone, transmission lines, poles, cables and other similar equipment. The criteria for essential services include furnishing adequate service for public health and safety. Positive criteria for this use variance needs to show the site is particularly suited for the use. He believes there was testimony to support this.

To reduce the impact on the community Mr. Seidel's opinion is that location C would probably be the most preferred in terms of reducing visibility from residential areas due to the vegetation and topography. It would also be 650 feet away from the one residential property and 346 feet from the next property. Another aspect of the positive criteria is that the variance needs to show it will advance the purpose of zoning and enhance the general welfare. Verizon wireless needs to cover gaps in coverage as per their FCC license. This would promote health, safety and welfare and provides efficient use of land. Regarding negative criteria there would be no detriment to the zoning ordinance, they comply with the stated criteria for wireless communications, and it addresses concerns listed in the master plan regarding safety. He believes there is no detriment to the public good. This is passive use and has no traffic impacts. The structure would be available for co-location by additional carriers to prevent the possibility of additional structures in the immediate area. The only possible negative impact he sees is the visual impact, but he believes the applicant has done an adequate job of addressing that by exploring the 3 different locations on the site. He then went over the distances from each of the 3 locations to the elementary school, location C being the furthest. He then read a press release from Warren County regarding their survey and their statement on reliable cellular communications being a priority in the county. In closing Mr. Seidel noted the actions of the planning/zoning boards that have the effect of prohibiting any kind of adequate communication service is specifically prohibited under the federal communications act. He also pointed out although other site locations were explored within the property and beyond the property – not every alternative has to be explored. The applicant gave a good faith effort to explore everything reasonable or even potential. He believes the statutory criteria for the granting of the variance are warranted and appropriate. Mr. Mitchell asked since no equivalent alternate site is available would they then require multiple installations to obtain coverage for the gap. Mr. Seidel answered that is correct.

Engineer Nusser then had comments on the testimony. Regarding the purposes of zoning, he agrees that holding an FCC license would satisfy purpose A and support the general welfare. He questioned the preference for location C. He feels this is more visible to the traveling public. He also questioned the impact of placing it in a parking lot. Mr. Seidel replied regarding the appropriateness of the location. He would characterize the existing property as recreational use. Location C is essentially a gravel parking area and already disturbed. It could be heavily used during community events but on a daily basis there is no significant parking there. Regarding the visibility issue he feels traveling south on Route 46 it may be more visible however the other locations would be more visible traveling north on Route 46. Engineer Nusser has concerns when it would be heavily used. The landscaping trees could impede sight distance during parking and persons walking. He prefers location B. Discussion then took place on using a fence only with no landscaping. Mr. Mitchell said they based C on the feedback from the board and trying to have minimal impact on the residences. From their standpoint A, B or C would work with no coverage differences. There were no questions from the board members.

Chairman Taylor opened the meeting to public questions for this witness. Nancy Smith had questions on lightning strikes to the tower and their effects on surrounding buildings. Ms. Mulhern explained how their lightning rods work, there would be no effect on adjacent areas. Ann Harajda spoke regarding during Lions Club events they use her backyard as the parking area. So, she doesn't believe site C would interfere with parking.

Debbie Hendershot asked if there were ever studies done on tower's effect on the resale value of homes. Mr. Mitchell said yes. He has been involved with applications where they have brought professional appraisers in who have done comparable value studies with and without a tower before and after and they do not find an impact. Theresa Thoene asked about what type and the number of batteries used. Ms. Mulhern wasn't sure on the number proposed at the moment, but they would be lithium batteries. Ms. Thoene then asked for the number of antennas and if there is a limit. Structurally the tower will be designed to handle 12. That is their proposal, if someone else chooses to come in with a separate application that is their application. She then asked if they would voluntarily agree to yearly gauss meter readings. Mr. Mitchell said he cannot commit to that. Chairman Taylor added the attorney is not a witness. Bill Clifford commented he has a cell tower on his property and there are no batteries in the enclosure. Ann Harajda asked about the fencing around the structure. Mr. Smith asked for the number of antenna arrays on this tower. Three additional up to four total. Ms. Mezzanotte asked why they chose location A in the beginning. This was deferred to the site acquisition person, Marco Paredes, who was previously sworn in. He stated it was decided by people at TowerCo and Verizon this was the best location on the parcel in ease of construction.

Chairman Taylor then opened the meeting to the public for general comments. Debbie Hendershot asked about a prior meeting when someone asked about the distance to the school, what was the concern. Attorney Gavan said one of the members had a concern but did not explain why. Ann Harajda said the site A access road is a dirt road that runs the entire length of her property. So, she would see and hear any vehicles or construction all day. She favors site C. Theresa Thoene asked Mr. Mathez if this cell tower falls in line with Knowlton's master plan. Mr. Mathez said he would have to look at the master plan carefully to answer the question accurately. She then asked if Knowlton is a historic district. Chairman Taylor said Knowlton is not, but the hamlet of Delaware is. Mr. Mitchell added because they are an FCC licensee they have to submit to review by SHPO (the state historic preservation organization) and they found no substantial impact. She then asked if anyone on the board is or was a Lions Club member. Chairman Taylor said if they were they would have to recuse themselves. There were no affirmative replies. Nancy Smith mentioned she had an on-line petition. (Attorney Gavan noted under supreme court ruling we are not allowed to take petitions as they are hearsay). She then read a prepared statement. Theresa Thoene then read a report from the Mayo Clinic. With no other public comment, Chairman Taylor closed the public comment portion.

Mr. Mitchell noted he thinks he misquoted information on SHPO, it is not quite done yet. He then made his closing statements. Attorney Gavan then asked do they want to vote on a use variance at proposed site C subject to site plan and site plan provisions. Mr. Mitchell confirmed that would be their proposal and they are willing to accept reasonable conditions. Ms. Starrs wanted to indicate for the record that she was the person that had asked about proximity to the school, and it had nothing to do with RF or EMF. She simply felt it could be a dangerous facility with the possibility of children trying to climb on it. Attorney Gavan then stated to the board it is a five-vote requirement to get the use variance. The question in the affirmative; would it be appropriate to make a motion to approve the use variance to allow the construction of the tower on the lot as indicated as site C. Subject to them coming back with a satisfactory site plan that the board can review and place reasonable conditions on. Including further conditions that may develop with regard to the cell tower.

Only the board members should vote, not the council members and if needed the alternates at the end. A motion was made by Chairman Taylor to grant the variance for the property with site C location and with a condition of an adequate site plan with all conditions that may be deemed necessary. Motion was seconded by Mr. Mathez. Roll call vote: Baley – yes, Mathez – yes, O’Neill – no, Smith – no, Starrs – no, Werner – no, Taylor – yes.

Chairman Taylor opened the meeting to general public comments. Hearing none the meeting was closed to the public.

Other Business

Chairman Taylor asked if we had received a draft ordinance for the short-term rentals. Attorney Gavan did not have the monetary penalties draft.

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 Mr. Werner. In a roll call vote all were in favor.

Adjournment:

A motion to adjourn was made by Ms. Starrs and seconded by Ms. O’Neill. In a voice vote all were in favor. The meeting was adjourned at 10:20 P.M.

Respectfully Submitted:



Doreen Apgar,
Board Secretary