

BOROUGH OF OGDENSBURG LAND USE BOARD MINUTES

MEETING DATE: **June 10, 2008**

CALL TO ORDER: The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 8, 2008. The regularly scheduled meeting of the Ogdensburg Land Use Board was called to order at 7:00 PM.

ROLL-CALL: **Present:** Andrews, Armstrong, Dabrowski, Dolan, Fahrenfeld, Fierro, Telischak and Wood.
Absent: Altenburg *, Mayor Sekelsky *, McDonald * and Sund
Professionals: Garofalo, Buczynski and Suljic.
Absent: None.

Mayor Sekelsky arrives at 7:05 PM.

APPROVAL OF MINUTES – May 13, 2008

A motion is made by Telischak, second by Wood to approve the minutes of the May 13, 2008 with Armstrong, Andrews, Dolan, Fahrenfeld, Fierro, and Mayor Sekelsky in favor.

CORRESPONDENCE

1. Dated 5/16/08 from Laddey, Clark & Ryan re: COAH Update.
2. Dated 5/12/08 from County of Sussex re: Sussex County Planning Awarded – Changing to Bi-annual Schedule.

There are no comments on the correspondence.

1. OLD BUSINESS/NEW BUSINESS

A. JBL-RAL Associates, LLC Application #LU07-006 Block 35 Lot 15

Application for Major Subdivision Approval

- Draft resolution for approval.
- Dated 5/29/08 correspondence from Beardslee Engineering.
- Dated 5/21/08 correspondence from M. Rubin, Esq.
- Revised plans dated 4/28/08.
- Dated 5/15/08 Railroad Crossing Location.

Attorney Michael Rubin appears on behalf of the applicant. Discussion continues on Condition #7 of the draft resolution pertaining to the ownership and maintenance of the bridge. Attorney Rubin was not able to find any easements of record for the bridge. The applicant is not the owner of the bridge. He contacted the Historic preservation Office and has not been able to speak with anyone to date with regard to the mine shafts.

Discussion continues on correspondence dated June 2, 2008 from CMX with regard to the applicant's need to conform to the DEP buffer requirement and Flood Hazard Act. The owner of the mine property discusses the history of the property including the Borough's foreclosure and subdivision of the property. He purchased the property in 1989.

Attorney Garofalo suggests the applicant provide a written opinion of the title company to clarify ownership of the bridge.

Discussion continues on the prior approval of the mine property for the development of 300 townhouses.

Attorney Rubin discusses Condition #19 and requests that the time period be changed to one year and requests that time periods be extended for Conditions #7 and #18.

A motion is made by Andrews, second by Fierro to memorialize the resolution granting Preliminary Major Subdivision approval subject to the conditions as stated in the amended resolution with all eligible in favor including Armstrong, Dolan, Mayor Sekelsky, Telischak and Wood.

B. AA-1 Self Storage, LLC/Logan Homes
Application #LU07-005
Block 30 Lot 3.02

Application for Preliminary Major Subdivision Approval

Application to be carried to July hearing date. Revised plans will be submitted by 6/13/08.

C. Morse-Cork Hill Road
Application #LU08-001
Block 35, Lot 19.01

Application for Bulk Variance and Minor Site Plan approval

- *Revised plans dated 6/2/08.*
- *Dated 5/30/08 from U. Leo, Esq. to N. DeMattheis, Esq.*

Nicholas DeMattheis appears on behalf of the applicant. Mr. Morse is in attendance. A driveway maintenance agreement has been submitted to the neighbors and is expanding beyond the initial agreement delineating specific portions of the driveway to be maintained by individual property owners. All parties have not signed the agreement.

There are easements proposed for underground utilities including the 3" water pipe and 4" electric line and the driveway. The driveway will be paved if the Board requires paving.

Mr. DeMattheis discusses the history of the subdivision as located in minutes from 1976. No resolution or plans were located in the Borough files to date.

Dolan leaves at 7:45 PM.

Mr. Buczynski requests that additional details be provided by the applicant for the drywell.

Mr. DeMattheis states that Mr. Morse will take ownership of property upon approval of the Board and release of building permit. He expresses his concern over the condition of the resolution relating to the Driveway Maintenance Agreement.

At 7:51 PM, a motion is made to open to the public by Fierro, second by Wood with all others in favor.

Mr. Frank DeBernadino of 10 Corkhill Road discusses a conversation between Mr. Morse and Ms. DeBernadino, which Attorney Garofalo concludes is not related to issues of zoning. Mr. DeBernadino expresses his concern about additional runoff from the improvements to the property.

Mr. Buczynski states that no Certificate of Occupancy will be released until improvements and issues are satisfied.

McDonald arrives at 8:10 PM.

At 8:13 PM, a motion is made to close to the public by Wood, second by Fierro with all others in favor.

Armstrong suggests Mr. DeMattheis meet with the adjoining property owners to clarify issues including access during construction.

Attorney Garofalo will address issues in a Developers Agreement.

A motion is made by Wood, second by Fierro to approve the application for Minor Site Plan Approval with bulk variances subject to the following conditions including a Developers Agreement, a Driveway Maintenance Agreement, Board Engineer approving the location of the telephone pole, 24' wide turnaround, drywell details being shown on plans and the repair of the deteriorated front portions of the existing driveway with all eligible in favor.

At 8:13 PM, a motion is made for a brief recess with all others in favor.

At 8:23 PM, a motion is made to resume the regular session.

**D. New Cingular Wireless PCS, LLC
Application #LU08-002
Block 30, Lot 11.08
230 Passaic Avenue**

“C” and “D” Variance Approval and Site Plan Approval in order to place twelve (12) antennas on and existing tower

- *Board Resolution memorialized 4/11/06 in the Matter of Omnipoint Communications, Inc.*
- *Dated 4/15/08 from W. Brick to C. Bellina, Esq. re: completeness.*

Attorney Christopher Quinn appears on behalf of the applicant. He states that the applicant is seeking approval to construct antennas on the existing mine structure in the IC Zone requiring a conditional use variance; variance for height, which will be 92'10"; site plan approval; and a variance with regard to the type of fence proposed to be installed. Antennas will be 5' long, 8" wide and 2" deep.

Andrews questions the height of the antennas and begins discussion on the previous application for the site from Omnipoint.

Altenburg arrives at 8:26 PM and leaves at 8:28 PM.

Lou Molognino, architect for the applicant is sworn in and testifies to his credentials. Discussion begins on the existing antennas installed by T-Mobile. Mr. Molognino discusses sheets Z3, Z2 and Z1 of the plan submitted to the Board. Discussion begins on the height of the existing antennas and the compliance with setback requirements for the tower. The proposed antennas will be 12.5' below the existing antennas. The applicant is proposing a 10' X 26' fenced compound for the antennas. The applicant proposes to install a 6' chain link fence instead of the wooden fence required by ordinance to be installed. The existing antennas on the T-Mobile site are not fenced in. The distance from the nearest property line is 250'.

Discussion continues on the antennas installed by T-Mobile and whether or not they are in compliance with the conditions of the resolution approved by the Board. Andrews states that the antennas were supposed to be 95.4 feet and the existing antennas are 105' in height.

Attorney Quinn discusses the possibilities of installing the antennas at a height of 87'.

Discussion continues on the notice sent to adjacent property owners. Attorney Quinn has complied with the noticing requirements.

Mr. Molognino discusses the installation of a parking space on the site for monthly site visit. There is no lighting proposed at the location. Antennas will be painted a dull gray to match the existing tower. The antennas are being proposed for cellular phones only. An as-built drawing will be supplied by the engineer.

Steven Kane is sworn in and testifies to his credentials as a radio frequency engineer for General Dynamics. He is not licensed by the State of New Jersey. Attorney Quinn states that radio frequency engineers are generally not licensed. Wood questions whether his expertise pertains to structures since the antennas will be attached to a structure. Attorney Quinn states that Mr. Kane is involved in site selection. Attorney Quinn submitted a report from the Structural Engineer.

Mr. Kane discusses the selection of sites, which begins with looking into the feasibility of using existing structures. Mr. Kane references *Exhibit A1*, which is a map indicating the existing coverage prior to the installation at the proposed site. He indicates the gaps in the coverage. Mr. Kane references *Exhibit A2*, which is an overlay indicating the area which will receive coverage with the installation of antennas at the mine property. Discussion continues on the signal strength.

Mr. Kane discusses other sites, which were considered in Sparta and Ogdensburg including the water tank. The Borough's water tank isn't tall enough.

Board discussion continues on whether other existing Borough structures were investigated as required by ordinance before the mine site was selected. Attorney Garofalo states that the Board has the right to request a site location analysis, but advises the Board not to suggest or determine the best area of frequency for the antennas, which could be the basis for an appeal by the applicant.

At 9:10 PM, a motion is made to open to the public by Dabrowski, second by Wood with all others in favor.

Bob Capatulik of 8 Avenue A. He lives within the area of the mine and is within eyesight of the existing antennas. He expresses his concerns as to whether or not the applicant will be responsible for cutting the trees down as time goes on in order to get a better signal.

Attorney Quinn states that the applicant is not proposing to cut down trees.

Mr. Capataligi questions who receives payment for agreeing to the antennas on their structures.

Attorney Quinn states that the property owner receives payment for the agreement to lease the property for the antennas with an approximate lease agreement of \$30,000 per year.

Mr. Hoek states that the property will be taxed for the cell towers.

Attorney Quinn states that there will not be generators on the property. The site will have minimal electric power and battery backup.

A motion is made to carry the application to the next hearing date with no further notice required.

Armstrong requests that W. Brick send correspondence to the Zoning Officer with a copy of the Ompoint resolution attached to be investigated by the Zoning Officer for possible violations.

2. CHAIRMAN'S AGENDA

- Master Plan Subcommittee Workshop meeting update.

Discussion on the first hearing date for the Master Plan Re-examination Report, which will be scheduled in July.

3. PUBLIC PORTION

No members of the public are present.

4. APPROVAL OF BILLS/VOUCHERS

Additional Vouchers submitted at the Board meeting including:

- *Dated 5/13/08 from Fred Suljic for professional services rendered on behalf of JBL-RAL, LLC - \$250.00 – JBL-RAL Escrow Account.*
- *Dated 5/13/08 from Fred Suljic for professional services rendered on behalf of Morse-Corkhill Road - \$150.00 – Morse-Cork Hill Road Escrow Account.*
- *Dated 5/9/08 from Laddey, Clark & Ryan for professional services rendered on behalf of the Land Use Board - \$735.00 – Land Use Board General Account.*
- *Dated 5/9/08 from Laddey, Clark & Ryan for professional services rendered on behalf of Michael and Laura Meyer - \$31.20 – Meyer Escrow Account.*

- *Dated 4/30/08 from CMX for professional services rendered on behalf of Cingular Wireless \$93.75 – Cingular Wireless Escrow Account.*

- Dated 4/30/08 from CMX for professional services rendered on behalf of JBL-RAL LLC - \$1,312.50 – JBL-RAL Escrow Account.
- Dated 4/30/08 from CMX for professional services rendered on behalf of MNB Realty - \$31.25 – MNB Realty Escrow Account.
- Dated 4/30/08 from CMX for professional services rendered on behalf of Morse Corkhill Road - \$343.75 – Morse Corkhill Road Escrow Account.

**** Original Bills/Vouchers available for review. All Bill/Vouchers subject to approval by CFO prior to payment ****

A motion is made by Sund second by Andrews to approve the bills/vouchers for payment with all others in favor.

5. ADJOURN

A motion is made to adjourn at 9:59 PM with all in favor.

Respectfully Submitted by:

Wendy Brick
Land Use Board Administrative Assistant

Date of Approval