

BRIDGEWATER TOWNSHIP PLANNING BOARD

Virtual Online Meeting

Tuesday, July 28, 2020

—MINUTES—

1. CALL MEETING TO ORDER:

Chairman Fross called the Virtual Online Planning Board Meeting to order at 7:00 pm

ANNOUNCEMENT: For the duration of the Corona virus Health Emergency, the Municipal Complex is closed to the public and meetings will be held digitally, connected by conferencing software provided by RingCentral.com. Members of the public are invited to view meetings live using RingCentral webinar, which also allows them to “raise a hand” and contribute when they are invited to do so during public portions of the meeting. Instructions for Virtual online meeting:

1. Download RingCentral meetings on preferred device: <https://www.ringcentral.com/apps/rc-meetings>

2. At the advertised start time of the meeting, enter: <https://webinar.ringcentral.com/j/1496474083> into your browser. **This method allows listening & participation.*

Please Note: You may also join via telephone: Dial: +1(470)869-2200, Webinar ID:

1496474083 **telephone access allows only listening and not participation.* If you would like to make a comment, text 1(908) 912-4247 name, contact information and comment for the Board and it will read into the record.

2. OPEN PUBLIC MEETINGS ACT ANNOUNCEMENT:

Adequate notice of this Special meeting has been given in accordance with the Open Public Meetings Act N.J.S.A. 10:4-6. On July 16, 2020, proper notice was sent to the Courier Newspaper and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building. Please be aware of the Planning Board policy for public hearings: no new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm. Hearing Assistance is available upon request. Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Department Secretary before the public meeting.” However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

3. SALUTE TO FLAG:

4. ROLL CALL:

Michael Pappas – present

Henry Wang – present

Mayor Moench – absent

Alan Fross – present

James Magura – present

Robert Giurlando - present

Councilman Kirsh - present

Patricia Casamento - absent

Beth Powers – absent

Maurizio Vescio - present

Urvin Pandya – absent: Resigned from Planning Board

Others present: Attorney Mark Peck, Esq., Planner Scarlett Doyle, PP, Engineer William Burr, IV, PE

5. APPROVAL OF BOARD MINUTES:

October 8, 2019, Regular Meeting (pending)

January 28, 2020 Regular Meeting (pending)

June 9, 2020 Virtual Online Meeting (pending)

June 30, 2020 Special Virtual Meeting (pending)

January 14, 2020, Reorg. & Regular Meeting (pending)

February 25, 2020 Regular Meeting (pending)

June 23, 2020 Virtual Online Meeting (pending)

July 14, 2020 Virtual Online Meeting (pending)

6. MEMORIALIZATION OF RESOLUTIONS:

None

7. LAND DEVELOPMENT APPLICATIONS:

PSE& G-Various Locations in Bridgewater (carried from 7/14/20)

Block MULTIPLE Lots MULTIPLE

#19-015-PB Preliminary & Final Site Plan Approval/Overhead transmission tower replacement project

The Applicant PSE&G was represented by Counsel, Jennifer Carrillo-Perez, Esq. Ms. Perez noted that the hearing was a continuation of the hearing held on July 14, 2020. She reiterated that that the application proposes the in-kind replacement of the existing 230kV transmission circuit, the removal of twenty-eight existing lattice transmission towers and the installation twenty-eight new Y-frame transmission monopoles along the existing PSE&G easement, particularly on easement lands of Block 903, Lot 3; Block 623, Lot 13; Block 622, Lot 35; Block 624, Lot 31; Block 624, Lot 17; Block 625, Lot 34; Block 625, Lot 32; Block 625, Lot 22; Block 483, Lot 20; Block 461, Lot 1; Block 461, Lot 41; Block 461, Lot 36; Block 426, Lot 35; Block 426, Lot 34; Block 426, Lot 13; Block 426.02, Lot 24; Block 418, Lot 7; Block 416, Lot 4; Block 416, Lot 5; Block 170, Lot 4.02; Block 173, Lot 2; Block 175, Lot 2; Block 175, Lot 1; Block 168, Lot 18; Block 168, Lot 23.16; and Block 166, Lot 1.

Block	Lot	Zone	Bulk Variance	Required	Proposed
903	3	R-50	Rear Yard	85 feet	63 feet
623	13	R-50	Front Yard	75 feet	34 feet
624	31	R-50	Front Yard	75 feet	59 feet
624	31	R-50	Side Yard	25 feet	0 feet
625	32	R-40	Side Yard	20 feet	19 feet
625	32	R-40	Rear Yard	75 feet	68 feet
461	1	R-40	Rear Yard	75 feet	61 feet
461	41	R-40	Rear Yard	75 feet	1.2 feet
426	34	R-40	Side Yard	20 feet	7 feet
426	34	R-40	Rear Yard	75 feet	68 feet
418	7	R-40	Front Yard	50 feet	45 feet
418	7	R-40	Side Yard	20 feet	8 feet
418	7	R-40	Rear Yard	75 feet	61 feet
416	4	R-40	Front Yard	50 feet	31 feet
416	4	R-40	Side Yard	20 feet	0 feet
416	5	R-40	Front Yard	50 feet	31 feet
416	5	R-40	Side Yard	20 feet	0 feet
170	4.02	C-3	Front Yard	100 feet	39 feet
175	2	R-40/ PURD	Rear Yard	24 feet	14 feet

Attorney Perez presented Mr. Karlebach for professional planning testimony in support of the requested variances. He was qualified and accepted by the Board as a Professional Planner. He described the project, including existing and proposed conditions, consistent with previous witness testimony. He testified that the application presented an essential service pursuant to the Township Code – it is the construction and maintenance of a public electrical utility, which includes poles, wires, and access. Further this essential service predates the Township land use ordinance and zoning districts. He stated that the use of Essential Services presents three “guidances”: the degree of intensity of nuisance conditions; traffic impacts; and impacts on existing and future development. The application also presents a conditional use, for which there are no standards cited in the ordinance. Accordingly, per Mr. Karlebach, these three guidances should be applied, and the application satisfies these.

Mr. Karlebach testified that the application also presented an ‘inherently beneficial’ use that fundamentally promotes the public good and general welfare. He stated that the applicant was seeking c2 variances, and that in this instance, pursuant to Puller v. South Plainfield, 676 A.2d 1065 (N.J.AppDiv. 1996), the benefits of the entire project are considered versus the individual variances. He testified that, on balance, the benefits of this variance, and this project outweigh the burdens presented during the course of the public hearing.

He asserted that the application satisfies the positive criteria. As to the assemblage of rights-of-ways and easements to create a utility corridor, Mr. Karlebach testified that the various affected parcels were specifically assembled for use as a utility corridor, and have been used that way for decades. He further testified that the application promoted the general health safety and welfare through the provision of reliable electricity. A further purpose of zoning advanced by this application is the efficient development and use of land. He noticed that this is a replacement project which does not require new land, and will use substantially similar access and maintenance.

Referring to the Township ordinance guidelines, Mr. Karlebach testified that this presented no nuisance impacts. He maintains that this is a benign, passive use. It is unmanned use and presents no additional burden on municipal services. It will comply with State guidelines regarding electrical yield limits. The traffic impacts will be almost non-existent, as it has been before. The application presents no detrimental impact to the Township's character, as the utility corridor predates most of the Township's development; the Township developed and evolved with this corridor in place.

The Planner testified regarding the requested conditional use/essential services, with the following c2 variances:

Block	Lot	Zone	Bulk Variance	Required	Proposed
903	3	R-50	Rear Yard	85 feet	63 feet
623	13	R-50	Front Yard	75 feet	34 feet
624	31	R-50	Front Yard	75 feet	59 feet
624	31	R-50	Side Yard	25 feet	0 feet
625	32	R-40	Side Yard	20 feet	19 feet
625	32	R-40	Rear Yard	75 feet	68 feet
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461	41	R-40	Rear Yard	75 feet	1.2 feet
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418	7	R-40	Front Yard	50 feet	45 feet
418	7	R-40	Side Yard	20 feet	8 feet
418	7	R-40	Rear Yard	75 feet	61 feet
416	4	R-40	Front Yard	50 feet	31 feet
416	4	R-40	Side Yard	20 feet	0 feet
416	5	R-40	Front Yard	50 feet	31 feet
416	5	R-40	Side Yard	20 feet	0 feet
170	4.02	C-3	Front Yard	100 feet	39 feet
175	2	R-40/ PURD	Rear Yard	24 feet	14 feet
168	18	P	Front Yard	50 feet	49 feet

Mr. Karlebach testified that the design plan is to keep the height and number of poles to a minimum. The interconnectivity of the towers limits the applicants options when it comes to locating the towers. Fourteen of the 28 towers create 20 variances. Six of the towers represent an improvement over existing conditions, from a zoning consistency point of view. Two of the towers present no change, and 2 of the towers present less than 2' in setback deviations. He presented comparisons of each existing tower and its proposed replacement. He concluded that the replacement monopoles are more slender in profile and do not block views, nor do they block light and air. He further noted that the existing towers are 90+ years old, are already nonconforming, and are bulky and not visually appealing. They will provide resilient and reliable electrical service. Other than the favorable change in tower appearance, there is no substantial change from what already exists. The only real detriment is presented during the construction phase, which is a temporary but necessary by-product of this application. Therefore, he concluded, the benefits of the variances outweigh the burdens presented.

The Board asked about the details of proposed working hours. Karlebach again repeated prior testimony, stating that work hours will be 7:30 a.m. – 6 p.m. Monday through Friday, and 8 a.m.– 4 p.m. Saturdays; they will comply with the provisions of the Township Code to the extent it differs from their testimony. He added that, in order to address resident comments and complaints Applicant will maintain a

hotline. The Applicant reiterated that it was mindful of residents, and wanted to be a good neighbor. A meeting with the Township will be scheduled every two weeks to address resident complaints and municipal concerns. The Board specifically requested that Applicant provide a contact person, being someone knowledgeable about the project and able to address concerns, to the Township.

Mr. DiBartolomeo was brought forward to testify regarding resident complaints. He stated that the Applicant would meet with the Township (engineer, planner, constituent representative) on a regular basis, at least two times a month. Mr. DiBartolomeo noted that the Applicant could not guarantee any changes in the work as a consequence of complaints, but that they would listen and be mindful to the same. He testified that the Applicant would have a dedicated person to field complaints; if that person is not there, a transcribed message will be sent to a number of people so that the issue can be addressed promptly. The Board requested that logs of resident complaints be provided to the Township; the Applicant agreed. Mr. DiBartolomeo stated that they could put project information on the Township website as well.

The Board noted concerns with some adjacent residences, specifically those with structures in the Right-of-Way. Mr. DiBartolomeo testified that the Applicant has agreements with individual property owners. He noted that the Applicant could make no promises as to structures and other encroachments in the Right-of-Way, but that it could work around some encroachments and could assist in relocation of others, as the case may be.

Chairman Fross opened the meeting for questions from the public and to offer comment. Most questions related to options, and discussion of individual towers. The applicant's response was consistently that the current proposal presented the best available option. Some of the location changes were as a consequence of NJ DEP wetlands and flood hazard regulations. There were no questions or statements from the public that were offered against the project.

Ms. Perez closed her portion of the hearing and the Board deliberated.

The Board concluded that the installation of twenty-eight new transmission monopoles will provide resilient and reliable electric power service to Bridgewater and the surrounding area. The Board acknowledges that the transmission is considered to be an "Essential Service" which is a use that is permitted in all zones. No height variance is required by this application. Height limitations stipulated do not apply. All freestanding exceptions shall be considered as accessory structures. 20 "c" variances are requested for 14 monopole structures that do not conform to the setback requirements of the respective zone districts. The Board also concludes that the proposed use constitutes and inherently beneficial use in accordance with the principles of Sica v. Wall Township. The review guidelines of Sica were convincing in support of the variance request.

The properties involved were specifically assembled and platted for usage as a 150-foot-wide utility corridor and has been used as such for decades. Concerning the §126-350 guidelines, the Board accepted testimony that the tower sites do not generate any objectionable influences; the towers sites are unmanned therefore there is no increase in population or employment at the site; there is no increase in the demand for municipal services and will not generate new residents; there is virtually no traffic impact associated with the proposed use; area residents are already acclimated the presence of electric transmission towers throughout this right-of-way; any perceived detriment connected with this Project is not so substantial to change the character of the neighborhood. The Board finds that the benefits of the variances

The Board finds that the application advances various purposes of the MLUL and that the variances can be granted without substantial detriment to the public good. On consideration of Sica and on balance, the public benefits prevail. Accordingly, the requested relief is warranted. There are conditions that should be imposed, however, if the application is to be approved:

- Everything the applicant presented and represented is a condition of approval.
- Applicant shall comply with the Board's professional review reports.
- The approval shall run three (3) years from the date of memorialization of the Resolution.
- Applicant shall maintain a log of inquiries from residents and others regarding the project, and shall provide it to the Township.
- Applicant shall meet with the Township bi-weekly to review progress and resident inquiries.
- Applicant shall provide the Township with a link to the project information page on the PSE&G website and the Township will place the link on their website for public access/information.

- A Developer's Agreement shall be entered into with the Township.
- The applicant shall execute an Escrow Agreement to cover potential impacts to Township facilities during construction.
- The Applicant shall permit current cellular co-locators to remain on the existing towers until they must leave the existing tower.
- The Applicant shall ensure site access to the Township Fire Department.

After deliberations had concluded, the Chairman asked for a motion from the Board.

Motion for approval by Councilman Kirsh and second by Mr. Pappas

AFFIRMATIVE: Mr. Pappas, Mr. Wang, Chairman Fross, Councilman Kirsh, Mr. Vescio, Mr. Magura, Mr. Giurlando

ABSENT: Ms. Powers, Ms. Casamento, Pandya due to resignation

DENIAL: None

NOT ELIGIBLE: Mayor Moench recused himself from this application.

8. MEETING OPEN TO THE PUBLIC:

Members of the public wishing to address the Board on any matter not listed on the agenda may do so at this time. Please note that in accordance with the Municipal Land Use Law and Case Law, any questions or comments about a pending application must be made in the hearing on that specific application.

No members of the public wished to address the Board.

9. OTHER BOARD BUSINESS:

No other business was a matter for Board discussion.

10. EXECUTIVE SESSION:

None

11. ADJOURNMENT:

The meeting was adjourned at approximately 9:35 pm