

Chairman Hatcher called the regular Meeting of the Board of Adjustment of March 3, 2004 to order at 7:30 p.m.

MEMBERS PRESENT:

Present: Morris Bauer, Elliot Averett, Felix Graziano, Ralph Hatcher, Harvey Ort, Craig Schwemmer, John Turick
Alternate Members: Anthony Spina, Dorothy Walter
Members Absent:
Others Present: Attorney Frazer, Engineer Hall, Planner Newcomb
Clerk Kesper

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT - Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 17, 2004 and posted on the Bulletin Board on the same date.

MINUTES

1. February 4, 2004 Regular Minutes

Mrs. Walter made a motion to approve the minutes; seconded by Mr. Bauer. Minor corrections were made. A voice vote was taken on the amended minutes; Mr. Schwemmer and Mr. Spina abstained, all others were in favor and the motion carried.

RESOLUTIONS

- 04-10** Corwin – Block 46 Lot 28 – 6 Lawrence Trail – R-20 Zone – Approval of Request for variances for non-conforming structure, side yard setback, lot size, lot width, lot coverage and no frontage on a public street for addition to existing home

The resolution was reviewed. Minor changes were made.

Mr. Averett made a motion to approve the resolution, seconded by Mr.

Graziano. A roll call vote was taken.

Ayes: Averett, Bauer, Graziano, Hatcher, Turick,

Nays: None Abstentions: None Absent: Ort, Walter

Ineligible: Schwemmer, Spina

04-11 Omnipoint – Block 60, Lot 13 – 12 Parker Road (Fairmount Fire House) – OR/I Zone – Approval of Minor Site Plan to collocate on existing Monopole

Ms. Fraser referred to the letter received from the applicant's attorney and the fact that the equipment compound was shown incorrectly on the plans. She read new condition four that has been added to the resolution which stated that if the applicant locates their equipment box in a different location they must come back to the board for approval.

The board further reviewed the resolution and it was decided that the resolution would be amended to read that the antennas would be galvanized to match the monopole.

Mr. Averett made a motion to approve the resolution, seconded by Mr. Graziano. A roll call vote was taken.

Ayes: Averett, Bauer, Graziano, Hatcher, Turick

Nays: None Abstentions: None Absent: None

Ineligible: Ort, Walter, Schwemmer

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

APPLICATIONS

Mr. Charles Newcomb, Board Planner was sworn in for all the applications to be heard this evening.

1. Picciuto – Block 29, Lot 10.03 – 11 Coleman Road – R-5 Zone, .935 Acres – Request for non-conforming structure, insufficient lot size and front and side yard setback variances

Beverly Picciuto and Patrick Picciuto were sworn in by Attorney Fraser.

Photographs were marked exhibit A-1 thru A-3.

Mr. Picciuto stated that they were proposing to add a second story addition and a front porch and that the porch does not meet the R-5 setbacks.

Mr. and Mrs. Picciuto explained the photographs submitted to the Board.

Mr. Picciuto stated that the porch will be six feet closer to the road than the house is currently located. He noted that they met the R-3 setbacks but not the R-5 setbacks. He stated that the majority of the homes in the area are located on one acre lots, except for the flag lots which are larger. He explained that his house is located at the curve in Coleman Road.

Ms. Picciuto stated that they need 21' on the front and 10' on the side or a front yard setback of 71' and 30' on the side yard.

Ms. Fraser referred to sheet two of the plans where the variances are listed.

Mr. Picciuto referred to the survey and pointed out the area where variances are required and stated that he was asking for relief to have a 71' setback from the front property line. The narrowest point at the side yard is 30'. He answered Ms. Fraser that the lots on either side of his house are developed and that those homes also do not meet current zone requirements and therefore there was no property he could purchase to make his lot more conforming.

Ms. Picciuto stated that the houses in the neighborhood are both larger and smaller and the houses alongside them are one story homes. She noted that the houses behind them are two story as well as the houses on Beaver Brook Drive. She also stated that the houses proposed to be built on the golf course off Coleman Road, that will be visible from her home, will be two-story and much larger homes.

Mr. Picciuto stated that they have replaced their well and pointed out the new location, which was towards the side of the house and the septic, which is in the front of the house.

Mr. Picciuto noted that many of the homes along Coleman are closer to the road than their house.

The meeting was opened to the public for questions and comments, there were no questions and comments and the meeting was closed to the public.

Mr. Schwemmer to approve the application as presented, seconded by Mr. Ort.

A roll call vote was taken:

Ayes: Averett, Bauer, Graziano, Hatcher, Ort, Schwemmer, Turick,

Nays: None Abstentions: None

2. Tencza – Block 38, Lot 8 – 125 Parker Road – R-5 Zone, .75 Acres – Request for variance for - Request for non-conforming structure, insufficient lot size and front, rear and side yard setback variances

Mrs. Walter stepped down due to a conflict of interest.

Mr. Tencza presented six photos, which were marked exhibit A-1.

Edward Tencza and Camela Tencza were sworn in by Attorney Fraser.

Mr. Tencza explained that they wanted to add living space to their 600 sf home.

Mr. Hatcher referred to the Health Department letter approving the addition as presented on the plans before the board and the limitation to one bedroom.

Mr. Tencza agreed to comply with the letter from the Board of Health.

Mr. Tencza stated that he plans to take off the left side of the house and build the addition in this area. He stated he originally wanted to go off to the right, but was not able to do to issues with the Health Department. The house is going to remain a one bedroom home. The well will be capped off as soon as the municipal water line is extended, which is currently in the process. The MUA will be brining the water line up to his property line.

Mr. Tencza explained the photos submitted to the board and the tall part is what they are taking down. He stated that the new homes in the photograph are part of the new subdivision on Jordan Court located behind his property. He explained some of the improvements he has already made such as replacing the windows, etc. He is going to use cedar impressions vinyl siding for the home. He stated that he could only add a second bedroom if he puts in a new septic or hooks up to the municipal sewer. He stated that upon inspection of the system it appears that it is a 4000 gallon block septic system. He explained that the Health Department has no record of the septic system because of its

age and that the Health Department will not let them expand the number of bedrooms unless he puts in a new septic or connects to the public sewer.

The meeting was opened to the public for questions and comments, there were no questions or comments and the meeting was closed to the public.

Mr. Schwemmer made a motion to approve the application as submitted subject to compliance with the Health Department letter and that the house remains one bedroom unless there is a new septic system or hook up to the public sewer. Seconded by Mr. Averett.

A roll call vote was taken:

Ayes: Averett, Bauer, Graziano, Hatcher, Ort, Schwemmer, Turick,

Nays: None Abstentions: None

3. Basile – Block 4 Lot 7.04 – 74 Route 46 – C-2 Zone request for use variance for used car dealership – Expires April 17, 2004

Michael Selvaggi, Applicant's Attorney

David Zimmerman, Applicant's Planner

Charles Basile, Applicant

Mr. Bauer stepped down due to a conflict of interest.

Mr. Selvaggi explained the location of the property and the fact that they are here for a use variance only.

Mr. Basile was sworn in by Attorney Fraser

Mr. Basile stated that he has been in the used car business for thirty years, twenty years on Route 46 in Budd Lake. He referred to a frame of several photographs depicting the Route 46 site as it was when he bought it and how he upgraded to what it was before it was sold to Saturn. He would like to continue his business at this Washington Township site. He stated that at the Mount Olive site he had a service facility as well, but that is not what he proposes for the new site.

Mr. Hall arrived and joined the meeting.

Mr. Basile stated that he would use the building currently located on the property. He would not be doing any servicing of the vehicles or body work, all of that type of work would be sent out. He would comply with the ordinances as

to lighting. He intends to have three employees, hours of operation would be 6 days a week 9 am to 8 pm. He plans to have sixty cars on the lot.

Mr. Hall stated that he did not have any questions of Mr. Basile on the use variance and that his questions would relate to the site plan.

Mr. Basile answered Mr. Averett that they would not be doing any repairs, body work, or painting, only detailing. He would not have rental cars. He stated that at his previous location a high sales day would be about 12 customers. He stated that customer parking would be in front of the building and separated from the cars on display. He stated that he did not expect to have more than three customers at one time.

Mr. Basile explained that to east there is a lot which is all wetlands. He did explore purchasing it but the price was high and due to the wetlands it would only allow him eight more parking spaces. To the west is the lot which has an approval for a big box store. He answered the board that his old site was three acres, and he had about 150 – 200 cars and that it could hold over 300 cars. Half of the lot was paved and half was millings. He stated that the property is on well and septic. He is planning to put in a new septic system. He would like to pave this lot. He answered the Board that new car dealerships normally have about 60 used cars. He stated that a new car dealership generally has more cars on a lot as all the cars do not have to be accessible.

P. David Zimmerman was sworn in by Attorney Fraser and presented his qualifications to the board.

The Board accepted Mr. Zimmerman as an expert witness.

Mr. Zimmerman stated that this property is in the C-2 district, which allows for a wide variety of uses, and allows for more regional uses than the C-1 district. He stated that as conditional uses new car dealerships are allowed on five acres. This application was for a use variance because it is a used car dealership only, not associated with a new car dealership. He stated that the setback variances requested are pre-existing for the current building, which the applicant seeks to use as the retail office. He submitted an aerial photograph which was marked A-1. He pointed out the property on the photograph and noted that 12% of the property is in wetlands and that the property to the east is 90% wetlands and the property to the west is approved for 135,000 sf commercial big box. He referred to a colorized site plan and pointed out what the applicant wanted to do which includes reusing the existing dwelling and garage. He pointed out the current parking spaces for customers (3) and display (11). The site plan was marked A-2. He showed the wetlands and buffer at the rear of the property.

Mr. Zimmerman stated that property is particularly suited because the zone is for regional commercial and is on a highway. The use has been scaled to the size of the property. He stated that if this were for new cars or other vehicle sales that are permitted the site would be more intensely used. He stated that this use will advance the municipal land use law by appropriately using an abandoned building, provides a variety of uses, it provides for a desirable visual element as the applicant proposes to design his used car dealership and the reuse of the buildings on site. The lighting will meet all ordinance requirements and that it would not be loud or flashing. Regarding the negative criteria, this property and use will make good use of the property, be a rateable for the township, be a low volume use and less intense than other commercial uses that could use the property. It was his opinion that it would not be a detriment to the township zone plan. He referred to the current master plan that supports commercial regional uses for this area of the township. He stated that this area supports destination uses such as this and noted the other car dealerships are in the area.

Mr. Zimmerman answered Mr. Newcomb that parking as shown on the site plan meets township ordinances. He stated that the applicant would accept some conditions of approval such as a maximum number of cars, paved parking area, no body work or repair work of any kind, no oil changes, existing building would remain in current state, comply with landscaping, lighting, signage requirements of the ordinance and comply with the ordinance for new car dealerships. He stated that the applicant would have to come back before the board for site plan review and compliance with stormwater management, etc.

Mr. Basile stated that it would not be used exotic cars but cars around six years old and in good condition. He answered Mr. Ort that he has his own roll back truck which he will bring cars to and from the site on. He would not like to have a restriction on the age of the cars he sold, as sometimes he has older vehicles. He stated that cars that he purchases for wholesale they would be brought to his wholesale operation in Hampton, New Jersey.

Mr. Zimmerman answered Mr. Turick that possibly used car dealerships were not permitted under township ordinances because it requires an applicant to meet a higher standard of review. The requirement for five acres for a new car was probably because that is what a new car dealership requires as a minimum. The C-2 minimum lot area is 80,000 sf for most uses. He stated that as this lot is 71,000 sf any use would need a variance for lot size. He stated that the wetland buffers restrict the parking spaces and also pointed out the need for a detention basin to meet the new stormwater requirements.

Mr. Zimmerman read the ordinance requirements for a new car dealership. For compliance as follows:

A – lot size – do not comply

B – used cars as accessory – principal - do not comply

C – the office area is 2000 sf not 10,000 sf. – do not comply

D – 63 parking spaces is 22% of the property - they would comply

E. Outside areas will be paved - complies.

F. Vehicle setbacks – comply with all setbacks

E. Display Lighting – applicant will comply

F. Will comply with other conditions of the board such as no string lighting

Mr. Zimmerman answered Mr. Spina that the applicant proposes no more than 60 cars for sale. They would have parking spaces for three customers and three for employees – two of which would be in the garage. The applicant would agree to a maximum of 58 saleable cars parked outside as a condition.

The board discussed the limit of saleable cars and total cars allowed on the lot at any one time.

Mr. Hall stated that the site would require two handicapped spaces.

Mr. Selvaggi stated that the applicant would agree to a maximum of 55 cars for sale.

The board discussed restrictions on the type of cars allowed to be sold.

The applicant agreed to a condition that 90% or more of the cars on the lot must be ten years old or newer or 80% or more must be eight years or newer.

The applicant answered Mrs. Walter that there is no water drainage onto the road.

The meeting was opened to the public for questions and comments, there were no questions or comments from the public and the meeting was closed to the public for questions or comments on this application.

The Board deliberated on the application and concluded that this application was a good use of the site with the conditions discussed.

Mr. Schwemmer made a motion to approve the use variance application with the conditions discussed tonight including that there be no more than 55 cars for sale and that 90% or more of the cars on the lot must be ten years old or newer or 80% or more must be eight years or newer, paved parking lot, meet ordinances as to lighting, no string lighting, vehicle setbacks of 30', outdoor

display not to be more than 25% of the entire area, site plan approval must be received. Seconded by Mr. Graziano.

A roll call vote was taken:

Ayes: Averett, Graziano, Hatcher, Ort, Schwemmer, Spina, Turick,
Nays: None Abstentions: None Ineligible: Bauer

Mr. Bauer rejoined the meeting.

5. Verizon – Block 60, Lot 13 – Parker Road (Fairmount Fire House) – OR/I Zone – Preliminary and Final Site Plan and height variance for communication antennas and to extend existing monopole height

David Soloway, Applicant's Attorney
Danny Dichter, Applicant's RF Engineer
, Site Engineer
William F. Masters, Jr., Applicant's Planner

Mr. Ort and Mrs. Walter left the meeting due to a conflict of interest.

Mr. Soloway reviewed the application and reviewed the waivers from the checklist and engineering items required for this application.

Mr. Schwemmer made a motion to deem the application complete, seconded by Mr. Bauer. A voice vote was taken; all were in favor and the application deemed complete.

Mr. Soloway stated that there was a previous application for the monopole that exists on the site. The board approved the application at 120' with a condition of the resolution that the pole be designed to be expanded up to 160'. He stated that this is an application that he believed the board anticipated when they approved the original application. This application is for an expansion of the equipment compound and an expansion of the pole to 130' to accommodate Verizon's communication antennas. He stated variances are needed for height, from a double row of landscaping and setback variance for the compound. They are also seeking preliminary and final site plan approval.

Danny Dichter was sworn in by Ms. Fraser and presented his qualifications to the Board.

Mr. Dichter was accepted by the Board as an RF engineer.

Mr. Dichter referred to an exhibit of a USGA base topographic map with two overlays. He referred to the dots on the topographic map and explained that they showed Verizon's existing and proposed antennas and service area. He explained all of the existing and proposed sites. The first overlay showed the current service area of Verizon and he pointed out the lack of coverage within Washington Township. Overlay two showed the additional service area that would be provided at the site that is the subject of this application. He stated that it was his opinion that the minimum height for Verizon to obtain the service area shown would be 130', which is essentially all of Route 517, Parker Road and portions of Black River, Hackelbarney and Pickle Roads. His firm prepared the RF report. This site with all antennas to be mounted on this monopole are at 3% of the FCC regulations or 300 times less than the maximum permitted. The RF report dated February 20, 2004 was marked A-2. He answered Mr. Hall that the drive test was done in March 2003. He explained the factors the FCC requires in determining exposure levels. He also stated that the 110' position was available on the tower but this location did not meet Verizon's needs.

Mr. Colasardo was sworn in and presented his qualifications to the board and was accepted by the Board as an expert witness in civil engineering.

Mr. Col explained that the applicant wanted to expand the current 120' monopole to 130' and mount antennas. They also propose to expand the compound from 40 x 40 to 40 x 60 and add an equipment shed that would not be manned. All units together will meet noise requirements. No generators are proposed for the site. The expansion of the pole to 130' does not limit the possibility to expand the monopole another 30'. They propose to use the same mount that Sprint is using, 18" from monopole to antenna. He explained that there is not enough room to the east for two rows of landscaping before the property line and to the west it would conflict with parking. He stated that a board on board fence is proposed to be used with the landscaping. He pointed out the additional landscaping they are proposing to use with this application. He agreed to have the antennas match the galvanized pole. Two GPS units will be mounted on the equipment shed. The noise test does not include the use of emergency generators as this noise would be exempt when used only for emergency situations. The enlarged compound would be large enough to fit five carriers and each of their standard type of equipment needs.

Mr. Soloway stated that they have the permission of the pole owner and the fire company for this application.

William F. Masters, Jr. was sworn in by Ms. Fraser and presented his qualifications to the Board and was accepted by the board as an expert witness in the field of planning.

Mr. Masters described the property. He referred to the township and noted that the use is a permitted conditional use in the OR/I zone. There are three variances from township ordinances (D-3) which are height 130 where 120 is allowed, although they do comply with the requirement that a height increase be less than a 10% increase; landscaping; equipment compound setback. It was his conclusion that the site continues to be a particularly suitable site for this type of use. Regarding the negative criteria this provides a public benefit. Regarding the visual impact he referred to an aerial photograph, which was marked A-3 and a photo board, which was marked A-4. He pointed out the subject property and the areas the photographs were taken on the aerial map. The photo board showed photos taken February 7, 2004. The four photos on the left were of the existing monopole and on the right were computer enhanced photos showing a 130' monopole with antennas and expanded compound. He explained each of the photos. A second photo board was marked A-5 and had eight additional photos four of the actual location and the other four and computer enhanced to show the 130' monopole and expanded compound. It was his opinion that the 10' additional height has an insignificant visual impact over the 120' monopole. He also stated that this application promotes the collocation policy of the township ordinance.

The Board discussed the landscape variance and it was concluded that the double row of landscaping was not required.

The meeting was opened to the public for questions and comments. There were no public questions and comments and the meeting was closed to the public.

Ms. Fraser reviewed the previous Omnipoint approval and the conditions that should be included on this application.

The painting of the antennas was discussed.

Mr. Col stated that the antennas are white plastic and if they are to match the galvanized pole they are painted to match.

The board discussed the painting and how it would be maintained and the problems with that requirement. It was decided not to require painting conditions, but in the event the antennas are replaced the color would match what is existing on the tower and subject to the approval of the Township Engineer.

Mr. Averett made a motion to approve the application for the variances for 130', landscaping and setback variances and preliminary and final site plan with the condition that the antennas be white to match sprint. Seconded by Schwemmer.

A roll call vote was taken:

Ayes: Averett, Bauer, Graziano, Hatcher, Schwemmer, Spina, Turick,
Nays: None Abstentions: None Ineligible: Walter, Ort

*DISCUSSION -
CORRESPONDENCE*

1. Vouchers

Mr. Averett made a motion to approve the vouchers as reviewed by the chairman and found in order and send same on for payment. Seconded by Mr. Schwemmer. A voice vote was taken; all were in favor and the motion carried.

Mr. Bauer made a motion to adjourn, seconded by Mr. Averett. A voice vote was taken; all were in favor and the meeting was adjourned at 11:00 p.m.

Virginia R. Kesper, Clerk