

**TOWNSHIP OF FALLS
PLANNING COMMISSION MINUTES
AUGUST 27, 2013**

Meeting commenced: 7:00 p.m.

Meeting adjourned: 7:55 p.m.

Members present: Binney, Boraski, Dell, Goulet, Perry, Rittler

Members absent: Shero

Also present: Joseph Jones, P.E. from T & M Associates; Christopher Schubert, Esquire, representing Cellco Partnership d/b/a Verizon Wireless; Stephen Benben, P.E. (Triton Environmental) representing International Salt; Bill Packer (President of Lubricycle), Phil Kashner (Showalter & Assoc), and Thomas Hecker, Esquire, representing Lubricycle; Ed Neubauer, Chief Code Enforcement Officer; and Diane Beri, Recording Secretary

Item #1: Cellco Partnership d/b/a Verizon Wireless, 8900 Bristol Pike, Morrisville, PA 19067; TMP #13-040-045-001; Zoned LI -- Conditional Use to extend existing monopole tower

Christopher Schubert, Esquire, presents the application. This is an existing 148 foot monopole tower which a number of other providers use. Verizon wants to extend the tower by 12 feet, bringing the overall height to 160 feet, and then add its antennas as well as an equipment shelter at the base of the existing compound. This site will provide additional coverage southwest of this location to serve the residential and business areas in Levittown. It will also offer 4G, state-of-the-art LTE coverage to those areas of the Township.

We did receive T&M's review letter. However, there are a couple legal issues to discuss with Mr. Clarke, the Township solicitor, in terms of whether or not this needs to be heard by the Zoning Hearing Board.

Mr. Binney requests Atty. Schubert to discuss that issue briefly.

Atty. Schubert states that within the last two years the Pennsylvania legislature adopted a new statute, referred to as Act 191. The statute provides for minor co-locations or changes that aren't substantial in nature. What that means is that if you are increasing the height of an existing facility by not more than 10% of the existing facility, the approval process is an administrative review building permit submission. In this instance, I had submitted the application citing Act 191 as a basis for requesting that Verizon does not need to seek zoning relief.

Atty. Schubert continues that this cell tower was approved by the Township before it adopted its telecommunications ordinance which restricts the heights of towers to 120 feet. The original height of the tower (148 feet) was approved by Zoning Hearing Board. With the new regulation, this tower became non-conforming for its height. I also cited another provision under the ordinance to say that as a non-conforming structure, we would be allowed to expand the height by upwards of 50%.

Atty. Schubert concludes that this is an issue to talk over with the Township solicitor to determine if Verizon needs to go before the Zoning Hearing Board.

Member Binney asks if Atty. Schubert would agree that Act 191 limits the expansion of the compound to move equipment only inside the existing compound.

Atty. Schubert states that is correct.

Member Binney states that since you are going to expand the compound, you do not qualify under Act 191.

Atty. Schubert states that is one of the provisions of Act 191. If there was going to be further zoning issues, discussion with the applicant occurred to see if they could eliminate the shelter and go for equipment cabinets. I don't think that is possible. Any expansion of the compound itself would take us out of Act 191.

Member Binney states that as far as the extension of the non-conforming use, the ordinance requires that it be done in conformity with the underlying zoning district. I think you need a variance.

Atty. Schubert states that if, after speaking with the Township solicitor and the zoning officer, that is the case, then that's what we will do.

Member Binney states that he doesn't think there is a problem with the application, but that this Board cannot grant you the relief that you need.

Atty. Schubert states that he understands.

T&M's Review Letter dated August 20, 2013

All are will comply items.

Atty. Schubert states that Verizon does have an underlying ground lease with the original property owner that allows additional use by other co-locators.

Member Dell asks who maintains the compound? We have multiple vendors using this tower, but no one wants to take responsibility for the property itself.

Member Binney states that in his opinion the people who are coming onto the tower after the fact are paying rent to the people that own the tower, and I believe it's their responsibility to maintain the property.

Member Dell asks who owns the tower?

Atty. Schubert states that it's owned by American Tower Corporation.

Member Dell asks who owns the property?

Atty. Schubert states that Atlantic Precast owns the property.

Member Binney states that it's American Tower's responsibility for the maintenance of the property, in his opinion.

Member Boraski makes a motion to approve conditional use application of Verizon Wireless, 8900 Bristol Pike, Morrisville, PA, TMP #13-040-045-001 with T&M Associate's review letter dated August 20, 2013 as will comply items, with the condition that the applicant seeks a variance from the Zoning Hearing Board.

Member Dell seconds.

All in favor 6-0.

APPROVED FOR CONDITIONAL USE, WITH THE STIPULATION THAT THE APPLICANT SEEK A VARIANCE FROM THE ZONING HEARING BOARD FOR THE TOWER HEIGHT EXTENSION TO 160 FEET.

Item #2: International Salt Company, 12 Roebling Road, Morrisville, PA 19067; TMP #13-051-001; Zoned MPM -- Preliminary land development for expansion of salt packaging plant

Stephen Benben, P.E. of Triton Environmental presents the application. The project involves the expansion of the existing operations into the adjacent leasehold area and a portion of the building that is partially occupied by Toll Brothers. International Salt has been here since approximately 2004. This project includes a 150,000 square foot warehouse facility which houses their salt process packaging operations and the surrounding land which is used for storage of their products. Final negotiations are ongoing with USS Real Estate to acquire an additional 7 acres directly adjacent to their parcel. Eighty five thousand (85,000) square feet of the current building would be occupied by International Salt and the remainder of the building would continue to be occupied by Toll Brothers. The total lease area would be a total of 27 acres.

Mr. Benben states that they also lease and operate a storage facility that is located along the Delaware River. Salt is received by marine vessel, offloaded into hoppers and then trucks. The trucks deliver the salt to various stockpiles at the storage facility or truck it directly over to the packaging facility. Once at the packaging facility, it undergoes a process of drying and packaging into plastic bags. The finished product is placed on pallets and then stored inside or outside the existing building.

Mr. Benben states that the reason for the expansion is to keep up with the capacity of salt. The expansion will result in the addition of approximately 25 new employees. The proposed improvements include three disturbance areas. The first area includes a concrete truck ramp that will facilitate delivery and unloading of bulk salt to put into storage piles. The second area is the construction of an at-grade concrete crossover to facilitate forklift and machinery going back and forth. The third area is a small concrete pad to store salt packaging.

Member Binney references the applicant's presentation board and asks what is the area to the southwest corner that is not our plan.

Mr. Benben states that this was a recommendation of the Bucks County Conservation District. They wanted to see the staging area for equipment and construction traffic as well.

Mr. Benben states that they are also proposing improvements to the site outside of the building that do not require any land disturbance. This includes a pedestrian crossover, which is elevated off the ground. At one point, there was a pedestrian crossover. We would be rebuilding it using the existing infrastructure and piers that are there now. The other exterior improvement would be striping of additional 20 parking spaces to the north of the building. There are existing light features as well as wall packs on each of the two buildings and adding some additional wall packs. Internal modifications will be done as well and we understand that building permits will be required.

Member Binney asks Mr. Jones why this is not a waiver of land development.

Mr. Jones states the applicant could request a waiver from land development and we would support it.

Mr. Benben continues that there will be utility upgrades to the interior of the building. We will not be trenching or doing any work outside the building. We are not proposing any new stormwater discharges. Products that are stored outside will be finished product, in bags, on pallets.

Member Binney states his concern with the salt getting into the groundwater and potentially the river, possibly from bags breaking.

Mr. Benben states that it is something they can address with the Township engineers.

T&M's Review letter dated August 20, 2013

All sections are a will comply with the exception of the following waiver requests:

- 191-37(G)(1) (curbed planting islands at the end of each row of parking stalls)
- 191-37(G)(2) (one shade tree per curbed raised planting beds)
- 191-37(G)(4) (number of trees per parking spots)
- 190-48 (streets trees along front portion of Roebling Road)
- 191-61(A) (sidewalks along the front)
- 191-62(B) (curbs along the front)
- 191-78(C)(5) Partial waiver

Member Binney clarifies that the proposed improvements are to connect one building to another and for a ramp to access the new building.

Mr. Benben states that is correct.

Mr. Jones suggests that it would be possible for the Board to make a recommendation for a waiver of land development approval instead of preliminary/final approval if they so wish. The reason we don't allow applicants to submit as a waiver of land development is that sometimes they will presume it meets the criteria for a waiver of land development, but it does not.. We require applicants to submit a preliminary land development application for all land development projects. It is ultimately the Board of Supervisors who grant the waiver from land development.

Member Boraski makes a motion to approve the request of a waiver from land development for International Salt Company, 12 Roebling Road, TMP #13-051-001, with T&M Associates review letter dated August 20, 2013, with waiver requests for 191-37(G)(1), 191-37(G)(2), 191-37(G)(4), 191-48, 191-61(A), 191-62(B), and a partial waiver for 191-78(C)(5); Remington, Vernick's letter dated August 6, 2013, as will comply items; Bucks County Planning Commission's letter dated August 21, 2013, as will comply items; and the Fire Marshal's review letter dated July 29, 2013 as will comply items.

Seconded by Member Perry.

All in favor 6-0.

APPROVED FOR A WAIVER FROM LAND DEVELOPMENT.

Item #3: Lubricycle (New Seaview, LLC), 150 Solar Drive, Fairless Hills, PA 19030; TMP #13-051-001-024 -- Preliminary land development for industrial processing and recycling of used motor oil

Thomas Hecker, Esquire, presents the application. This project involves re-using the former A.E. Polysilicon site and a modification to a portion of the property to accommodate the proposed used. This is a great and environmentally friendly use. To give the Board more information on what Lubricycle is all about, I'd like to introduce you to Bill Packer, the President of Lubricycle.

Mr. Packer states that he has formerly built and owned two refineries in Paulsboro, New Jersey, taking heavy Venezuelan crude oil and converting it into asphalt and lubricating oils through the refining process. I started my first facility in 1978 and built my second one in 1981. I did a joint venture with the Venezuelan government in 1989 and they bought me out in 1992. That's my background that gave me my expertise in refining oils and lubricants. I exited the oil business for a few years and in early 2000 bought a New Jersey corporation that distributed lubricating oils. We all know the problems in

distribution – you don't control the price that you buy at or sell at, so I wanted to get back into manufacturing.

Mr. Packer continues that for the past five years he's been looking for sites to build another refinery when he became aware of this site and that A.E. Polysilicon was shutting down their business. Refineries are not about the processing units, they are all about the infrastructure. The fire water loops, the truck racks, the water supply in and out, the ingress and egress of product.

This is an ideal location for Lubricycle. We estimate that we will save somewhere between \$8 million and \$10 million of our construction costs by using the existing infrastructure. The opportunity to retrofit and modify the existing facility for our purpose is ideal. The processing site is where they have their existing units, and that is a very sophisticated pad. It is built on pilings, fully curbed, has water containment that goes to a sump, goes out to an existing water basin. All this saves time and expense.

The water system and cooling towers are incredibly valuable. We intend to operate them exactly in the same state that they were permitted before. Any additional cooling that we need is done by air coolers, because they don't require this sophisticated water treatment that you have to have for the others.

We will add storage tanks for inbound feedstock and outbound products and modify the rail line down into the employee parking for A.E. Polysilicon.

The lubricants that we handle are not hazardous; they cannot permeate into the water because it's too viscous and it is not designated as a hazardous product. It is only because we collect used motor oil that the state has decided we have to go through this residual solid waste permitting process. It's tedious but ultimately beneficial for us.

Member Dell asks what the end product will be.

Mr. Packer states that what we do is take in used motor oils, heat them, drop out the additives which is basically polymerized rubber and a lot of dirt and grit that's been recycled in the engine oils. We put that in asphalt where you can lock it up so none of the metals or leachates come out. About 15% of what we produce goes out as asphalt. About 70% of the output goes out as lubricating oils and about 10% that comes out as a motor fuel that you can send out to hydrotreat or can be burned in farm products.

Member Binney questions how the recycled material is being brought onto the site.

Mr. Packer states that they would have all modes of transportation (ship, truck, rail). In terms of ingress and egress, the total plant is relatively small. It's designed to run at 40 million gallons a year so 40 million gallons in, 40 million gallons out is about 20-25 trucks a day.

Member Binney asks if the trucks would be parked overnight.

Mr. Packer indicates there is a staging facility for parking trucks, but principally inbound supplies would come in during the day. It's a 24/7 operation. My most preferred ingress for feedstock is by barge – it's cheaper and gives me a wider, geographic range to draw my feedstock.

Member Binney asks if they are going to have their own trucks transport from the barge to your facility, or would you rent?

Mr. Packer states that in the discussions we had with Kinder Morgan, we'd have a storage tank there, and we'd have trucks running continuously back up to the plant. We'd have an automated card lock system that would bring that in, so we could do that all the time. The idea would be that you would bring in barges somewhere between 10,000 and 25,000 barrels at a time.

Mr. Packer continues that they expect to add about 50 jobs to operate the plant. It could be substantially more than that. The collection of the used oil adds at least another dozen jobs. When you process the oils into these base oils, you can take them and mix them back into finished products, and that is something we will aggressively pursue using the warehouse facility. The existing warehouse space is over 50,000 square feet where we can take those base oils and manufacture them into finished products to sell, and one of the markets we are going after aggressively are the municipalities and the recycled contracts which I currently hold through my lubricant company.

Atty. Hecker states that A.E. Polysilicon received approval for the existing building plus a Phase II in the area where Lubricycle is showing the tanks. At that time, waivers were granted on the entire plan, fees were paid in lieu of, and it is my belief that those waivers and those fees are applicable for this development, even if the second phase changes. It is something I will discuss with Mr. Clarke, the Township solicitor. This opinion forms the basis for some of these discussions items noted below.

T&M's Review Letter dated August 20, 2013

All sections are a will comply with the exception of the following waiver requests:

- 209-42(B)(1) (landscape & lighting plan) a fee in lieu was paid by A.E. Polysilicon
- 191-37(B) (curbing for parking areas) – previously granted to A.E. Polysilicon
- 191-37(G)(4) (shade trees for proposed parking area) – a fee in lieu was paid by A.E. Polysilicon
- 191-48 (street trees) – a fee in lieu was paid by A.E. Polysilicon
- 191-62(B) (curbs along front of property) – previously granted to A.E. Polysilicon
- 191-78(C)(2) partial waiver

General Comments

#1 This issue will be resolved with the Township solicitor.

Member Boraski makes a motion to approve preliminary land development application of Lubricycle Motor Oil Recycling Plant, 150 Solar Drive, TMP #13-051-001-024 with T&M Associate's review letter dated August 20, 2013 with waiver requests for 209-42(B)(1), 191-37(B), 191-37(G)(4), 191-48, 191-62(B), and a partial waiver from 191-78(C)(2); Bucks County Planning Commission letter dated August 20, 2013, as will comply items; Remington Vernick's letter dated August 14, 2013 as will comply items; and the Fire Marshal's letter dated July 27, 2013, as will comply items.

Seconded by Member Dell.

All in favor 6-0.

APPROVED FOR PRELIMINARY LAND DEVELOPMENT

Item #4: Approval of minutes

June 25, 2013 – Approved 4-0, with Goulet and Boraski abstaining

July 23, 2013 – Approved 4-0, with Perry and Rittler abstaining

Meeting adjourned 7:55 p.m.