

Holland Township Board of Adjustment

Minutes of the September 30, 2020

The meeting was called to order by the Chairman, William Martin:

“I call to order the September 30, 2020 Meeting of the Holland Township Board of Adjustment. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 13, 2019 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 13, 2019 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only.

HOLLAND TOWNSHIP BOARD OF ADJUSTMENT
PUBLIC NOTICE
TOWNSHIP OF HOLLAND

NOTICE OF CHANGE OF FORMAT OF REGULAR TOWNSHIP BOARD OF ADJUSTMENT MEETING AND PUBLIC PARTICIPATION FOR THE MEETING SCHEDULED FOR 7:30 PM WEDNESDAY SEPTEMBER 30, 2020

PLEASE TAKE NOTICE.

THE MEETING FORMAT HAS BEEN CHANGED FROM IN-PERSON ATTENDANCE AT THE MUNICIPAL BUILDING, 61 CHURCH ROAD, TO TELECONFERENCE DUE TO COVID-19 OUTBRESK AND THE STATE OF EMERGENCY DECLARED BY GOVERNOR MURPHY.

IN LIEU OF IN-PERSON ATTENDANCE, THE PUBLIC MAY ATTEND THIS MEETING VIA TELECONFERENCING AND COMMENT DURING THE DESIGNATED PUBLIC COMMENT PORTION IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT.

OFFICIAL ACTION TO BE TAKEN

TO JOIN THE MEETING FROM A:

<https://zoom.us/j/93969034536?pwd=RXIzY1RFOXp5bXUxc3JlK2liMUVYdz09>

Phone:

1 646 558 8656

Meeting ID: 939 6903 4536

Passcode: 236525

Flag Salute:

Chairman Martin invited everyone present to join in reciting the “Pledge of Allegiance”.

Identification of those at the podium for the benefit of the recording machine:

Present: Jerry Bowers, Ginger Crawford, Bill Ethem, Peter Kanakaris, William Martin, Kelley O’Such, Gail Rader, David Pierce, Esq., Robert Martucci, Engineer, Darlene Green, Planner, Court Reporter Lucille Grozinski, CSR, Kendra Lelie, Substitute Planner (cell application) and Maria Elena Jennette Kozak, Secretary.

Absent: N/A

Planning Board Members filling in for Board of Adjustment Recused Members:

David Grossmueller, Mike Keady, Nickolas Moustakas and Dan Rader

Guest present: N/A

Let the record show there is a quorum.

Minutes: A motion was made by Gail Rader and seconded by Ginger Crawford, to dispense with the reading of the August 26, 2020 regular meeting minutes and to approve as recorded. All Present were in favor of the motion with the exception of Jerry Bower, Bill Ethem, and Kelly O’Such who abstained. Motion carried.

New Business:

Appeal – Larry Seibel – Block 12 Lot 1.02 – 177 Mt Joy Rd – barn/garage conversion Home Occupation Office – denial letter of Zoning Officer issued September 9, 2020 – Board Action Needed

The applicant Larry Seibel and Attorney Castagna of Frenchtown is present.

Larry Seibel was sworn in by Lucille Grozinski. He resides at 1776 Mt. Joy Road and in December of 2019 a zoning permit was issued for a home office at the residence. In July of 2020 the zoning permit was rescinded. In August of 2020 a zoning permit was requested and it was denied on September 9, 2020.

Lawrence Seibel
177 Mt. Joy Road
Milford, NJ 08848

September 9, 2020

Re: Block 12 Lot 1.02
177 Mt Joy Road
Holland Township
Request for Zoning Permit – DENIED

Dear Mr. Seibel:

Thank you for contacting me about your desire to convert your barn/garage into a home office for your home occupation.

On August 26, 2020 I rescinded your Zoning Permit 2019-61 and I outlined all the reasons.

As a reminder, a home occupation has to be incidental to the use of the property for residential purposes and is “carried on solely by the residents of such dwelling . . . and involves the employment of no person in such occupation who does not reside in such dwelling.”

Your proposed renovations to the barn/garage are beautifully illustrated; however in proposing them you are changing the barn/garage into something that resembles a small cottage. You are also completely changing the use of the structure. In the Home Occupation definition of Section 100-6 item E states “The dwelling in which said occupation is carried on shall retain an exterior which is characteristic of a building used for residential purposes. No structural changes to accommodate the "home occupation" shall be permitted, unless such changes are customary and normal for a dwelling used for residential purposes.” There is no language in the ordinance which allows structural changes to other buildings for the purposes of converting them to a home occupation. You would be removing the garage door and changing the current look of the existing barn/garage, converting it into what, by exterior appearances, would be a small residential cottage. Only one single-family dwelling is permitted on the lot pursuant to Section 100-43 B.

I am glad we talked about a powder room and I understand the separate powder room as a convenience to a home office. The desire to add a shower, I think you called it a wet bar and a future porch are not customary for a home occupation nor are they, in a separate structure, incidental to the principal use (a residential dwelling). Your proposal appears to be completely independent of the principal use. The amenities you describe can be found in an office of an executive but are not what you see in Holland Township associated with a home occupation which is limited to the residents of the dwelling. Usually the resident would just go back to the house to use a powder room, a shower, a wet bar or the porch. The amenities would be included in the principal use and not as part of the home occupation since it must be conducted only in a resident of the dwelling unit.

Even under the concept of an accessory use being customary and incidental to the principal use, what you are proposing just does not seem incidental to the principal residential use. Accessory use is defined in the ordinance as “a use, building or structure on the same lot with, and of a nature incidental and subordinate to, the principal use or structure.”

A Home Occupation is defined in our ordinance and is permitted. Although there is not a lot of clarity in the ordinance, it is my responsibility as Zoning Officer to you to interpret it in light of the applications that come before me.

Based on the above, I am denying your request for a zoning permit. You may file an appeal with the Board of Adjustment or you can file a Variance Application with the Board of Adjustment. Our application can be found on our website: <http://www.hollandtownshipnj.gov/bds-committees/board-of-adjustment> or please call me for a hard copy.

Please contact me if you should have any additional questions.

Larry Seibel stated that the intended use is within the ordinance and consistent with a residential use. He will not have a kitchen or bedroom so it cannot be referenced as a dwelling unit. He does not think someone would rent the converted detached barn/garage and not want a shower in the bathroom. This is a consistent use and when he wants to escape 4 kids because he runs 4 tech businesses and 3 real-estate businesses the onsite office would be helpful. He does not want to bring clients into the house. He still does not understand the denial.

It is his opinion that the denial is based on something that he does not seek to do. It retains the character of the area and is not a structural request. He would be removing the garage door and improving the appearance of the barn/garage to be consistent with his home. It would not be visible for neighbors and there is no increase in traffic or visitors.

Attorney Pierce asked Larry Seibel to describe exactly what he is proposing and responded that he would like a porch view so he could work on the porch which makes the structure more pleasing to the eye. Attorney Pierce stated that he believes that a shower is not typical in a home occupation. Attorney Pierce reviewed the home occupation ordinance and presented the following:

The home occupation has to be incidental to the use of the property for residential purposes and is “carried on solely by the residents of such dwelling . . . and involves the employment of no person in such occupation who does not reside in such dwelling.” Section 100-6.

Home occupations are a permitted accessory use in the R-5 zone pursuant to Section 100-45E, which states:

Home occupations, as defined in this Part 1, in the R-5 District only and subject to the limitations expressed in the definition of home occupation in § 100-6 and the following limitations:

- (1) **Except for the retail sale of farm produce, which may occur from a seasonal stand, such occupation shall be conducted entirely within the confines of the dwelling on the lot.**
- (2) Seasonal stands for the retail sale of farm produce shall be set back at least 50 feet from the traveled way of the street. An off-street parking area accommodating at least three automobiles and not more than five automobiles shall be provided in the area of the stand, which parking area need not be paved.
- (3) No article or product shall be sold or offered for sale unless the same is produced on the lot.
- (4) Except as to seasonal farm stands, no clients or customers shall be received on a regular or scheduled basis if the same would involve more than two clients or customers on the premises at any one time.
- (5) Except for permitted signs and except for seasonal stands for the retail sale of farm produce, no physical evidence of the home occupation or home professional office shall be visible from off the site. (emphasis added).

Section 100-45E also incorporates the limitations/restrictions contained in Section 100-6 regarding home occupations.

Section 100-6 provides that a home occupation is defined as : A legal occupation conducted within a dwelling used as such, and/or in other existing buildings on a lot whose principal use is for residential purposes, provided that:

A. The occupation is carried on solely by the residents of such dwelling for financial or other remuneration as a use clearly incidental to and secondary to the residential use of the dwelling for domestic housekeeping and involves the employment of no person in such occupation who does not reside in such dwelling.

B. Not more than 25% of the total floor area of such dwelling shall be devoted to such occupation and at least 1,000 square feet of such dwelling remains for domestic housekeeping after 25% has been deducted. (Multiple "home occupations" may be permitted, provided that the minimum of 1,000 square feet remains and the limitation of 25% is not exceeded by all such occupations.) **Provided that the foregoing provisions of this Subsection B are met, a "home occupation" may also be conducted in a garage (whether or not attached to the house) or in any already existing building which is not a dwelling on the lot.** No new building or addition to an existing building shall be constructed and utilized for a "home occupation." In calculating the floor area of the dwelling, for the purposes of this Subsection B, the area of any attached garage shall not be included.

C. There shall be no display of goods offered for sale in connection with such occupation which is visible from any street or adjoining lot, except as is permitted in § 100-45E.

D. No power equipment which is used to fabricate or manufacture a product for sale shall be used in such employment or occupation. (This shall not be construed to mean usual office equipment, such as typewriters, photocopiers and the like, which produce letters, reports, etc.) Also, no equipment or process shall be used in such employment or occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot; and in the case of electrical interference, no

equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the lot or causes fluctuations in line voltage off the lot. No trucks or mechanized construction or earth moving equipment used in such employment or occupation shall be parked or kept on the lot; provided, however, that no more than two motor vehicles, which may be automobiles or pickup, panel or van-type trucks which do not exceed 2,000 pounds capacity, may be parked or kept on the lot when used in connection with a home occupation conducted from the lot.

E. The dwelling in which said occupation is carried on shall retain an exterior which is characteristic of a building used for residential purposes. **No structural changes to accommodate the "home occupation" shall be permitted, unless such changes are customary and normal for a dwelling used for residential purposes** (emphasis added).

The two ordinances may appear to be in conflict, with Section 100-45E providing that other than retail sales of farm produce, all home occupation activities must take place within the dwelling on the lot and Section 100-6B allowing the use of buildings other than the dwelling to be used for a home occupation. This apparent conflict, however, can be resolved by applying the appropriate principles of statutory interpretation.

When interpreting a zoning ordinance, the New Jersey Supreme Court has ruled that the specific provisions in the ordinance take precedent over the general provisions of the ordinance. W. Kingwlsy v. Wes Outdoor Advertising Co., 55 N.J. 336 (1970). In addition, portions of the ordinance dealing with the same subject matter are to be read together and as forming a single legislative enactment. Clifton v. Passaic County Board of Taxation, 28 N.J. 411 (1958).

With these principles in mind, the provisions of Section 100-45E, being specific to the accessory uses permitted in the R-5 zoning district, would take precedence over the general provisions of Section 100-6, which simply define a home occupation for purposes of the entire zoning ordinance. Based upon this analysis, in the R-5 zoning district all home occupations except retail sale of farm produce must occur within the dwelling and not in any other building on the lot. It would appear that the Township Committee specifically intended to adopt such a restriction because it is embodied in the more specific ordinance provision applicable to home occupations within the R-5 zoning district. The language in Section 100-45E specifically acknowledges the definition of home occupation and the provisions of Section 100-6, but intentionally imposes additional limitations specific to the R-5 zoning District.

This interpretation can be supported by a review of other ordinance sections. In particular, Section 100-49B provides that home occupations are also a permitted accessory use within the VR Village Residential zoning district, stating:

Home occupations and home professional offices as defined in this Part 1, subject to the following limitations:

- (1) Such occupation shall be conducted entirely **within the confines of a building**.
- (2) No more than one person, other than a resident on the premises, shall be employed in said office or occupation.
- (3) No article or product shall be sold or offered for sale unless the same is produced on the premises, except that antiques may be sold as a home occupation in the VR District.
- (4) No machinery, equipment or operation shall cause interference with radio or television reception or cause any other form of electrical disturbance in the area, create any noise which is discernible beyond the limits of the property, produce any gas, fumes, dust, odor or other air pollution, heat or movement of air.
- (5) No clients or customers shall be received on a regular or scheduled basis if the same would involve more than one client or customer on the premises at any one time.
- (6) Except for permitted signs, no physical evidence of the home occupation or home professional office shall be visible from off the site. (emphasis added).

It is significant to note that under Section 100-49B, there is no restriction or limitation requiring the home occupation to be conducted within the dwelling; it may be carried on “within the confines of a building.” Thus, for the VR zoning district the Township Committee adopted an ordinance allowing home occupations to be carried on in any building on the residential lot while it decided to require home occupations other than the retail sale of farm produce be carried on only within the dwelling in the R-5 zone.”

Applicants Attorney Castagna expressed his opinion that this is a little harsh. It is common knowledge that a garage is not just for vehicles and what is being presented is consistent with a home occupation. What has been expressed is a disservice. He hopes that the board preserves and honors the concerns but recognizes the prospective use does not violate the ordinance. It would be an improvement to the property. It is on 20 acres and the applicant will stipulate not to be used as a rental. Attorney Castagna shared his feelings that to preclude the homeowner from doing something as benign as running his businesses’ from his home is oppressive.

Attorney Pierce thanked Attorney Castagna and explained that this is a structural change with a porch and that he is not advising the board based on concerns but rather interpretation of the ordinance. The Township Committee could modify the ordinance. In his review of the ordinance this request is not permitted. A farm stand for farm produce is permitted in the R5 zone.

Attorney Pierce also stated that the comments expressed are appropriate for a variance. Attorney Castagna asked if the board denies the appeal then can the board move forward with an oral application this evening. Attorney Pierce responded with a NO and explained the process associated with a variance application. The interpretation points are sensible and consistent with what people want to do. Life is changing and Holland is peppered with buildings that can be used for a home occupation.

Chairman Martin explained that the board has no choice but to deny the appeal and to let the applicant seek a variance.

Gail Rader stated that she agrees and that a variance is what is in purview of the board.

Peter Kanakaris stated that he also agrees and that this is black and white of what the board can do. He also said a variance is cleaner and would make the space a true office.

Jerry Bowers thanked Attorney Pierce for walking everyone thru the law and agrees that there are contradictions with the ordinance. Agrees with the chairman and that the applicant can come back with a variance.

Bill Ethem also agrees with all the sentiments expressed. He shares the same opinion that there is no option but to seek a variance.

Ginger Crawford also agreed and said that seeking a variance is the best solution.

Gail Rader asked Attorney Pierce if it is appropriate for the board to make a recommendation to the Township Committee to review the ordinance.

The meeting was open to the public and Mrs. Kyde called back as you could not understand her phone number. She asked if this project is on the river.

Larry Seibel thanked the board and stated that he respects the decision but is also disappointed. He wants to address villages having more authority over an R1 and R5 zone. He disagrees with the intent of the law of Ordinance 100-6 . Something is wrong that someone in an R1 or R5 zone with more land has fewer rights than the villages.

A motion was made by Jerry Bowers and seconded by Ginger Crawford to deny the appeal as presented. At a roll call vote, all present voted in favor of the motion. Motion carried.

A motion was made by Peter Kanakaris and seconded by Gail Rader to have Secretary Kozak send a letter to the Township Committee with the guidance of Attorney Pierce. At a roll call vote, all present voted in favor of the motion. Motion carried.

Planner Green mentioned that she has been working with Administrator Kozak and the County to seek a grant via Economic Development that would explore revising ordinances mentioned in the 2020 Master Plan and Development Reexamination report which would also include revising the Home Occupation Ordinance.

Jerry Bowers had questions about the letter and how we need to ask the Township Committee to expand the home occupation use.

Old Business

There was no Old Business scheduled to be discussed on the agenda.

Completeness

There was no completeness reviews scheduled on the agenda at this time.

Public Hearing

- Keith Bodder – Block 10 Lot 44.03 – 2 Gardner Way – Variance (Garage) – Rec'd into our office August 5, 2020. The 45-day completeness review deadline is September 19, 2020. Deemed complete with conditions August 26, 2020. Public Hearing September 30, 2020 – Board Action Needed.

The Proofs of publication were scanned to Attorney Pierce and the board has jurisdiction. Hard copies were delivered to the Municipal Building for the file.

Keith Bodder was sworn in by Lucille Grozinski and then explained that he received a zoning permit for a new three car garage, enclosing the existing garage and using the space for a mother in law area. He approached the zoning officer in 2020 to say that the situation had changed and he wanted to use half of the existing garage for additional living space with the front part of the garage remaining with the garage doors which would be used as a shed.

Board comment...How would the mother in law access the livable space to which Keith Bodder answered internally from the kitchen.

Gail Rader stated that she saw the drawings with the three car garage being the new garage with no changes. The garage attached to the house is what is to be converted. She asked if the rear portion is to be a bedroom and bathroom and the front portion is to be a shed then are there safety concerns for putting in a lawn mower, lawn tools etc. so close to the livable space? Keith Bodder said that everything would be built to code and no different than a garage to the house.

Bill Martin asked if there were any other shed structures on the property. Keith Bodder responded NO. Bill Martin asked about the garage doors and whether the area would be for storage to which Keith Bodder said yes.

Attorney Pierce suggested that a condition of approval could state that the storage is not for use of motorized vehicles. Mowers would be allowed. A restriction can also be that any additional storage structures would require a variance.

Kelley O'Such asked Keith Bodder if the mother in law leaves then would the livable space be converted back to a garage space. The answer is no and Attorney Pierce mentioned that a condition of the resolution can be that the garage could never be converted back to garage space.

Jerry Bowers asked about a safety exit from the garage and Keith Bodder stated that there is a door off the laundry room that is about 15' from her livable space. Windows will be put in for egress.

Bill Ethem asked about the condition of the garage never being converted back to a garage and how it applies to future owners of which Attorney Pierce stated that it would not be able to be converted as the variance goes with the land not the person.

Kelley O'Such asked if the applicant had to talk with the County Board of Health about adding another Bedroom and Keith Bodder stated that his property ties to City sewer.

With no other comment from the board members or professionals being made, the meeting was opened to the public. There were no comments from the public. The public portion was closed. Kelley O'Such stated that a C2 variance is a deviation of the zoning ordinance. The benefits have to outweigh the detriment. He does not see this as a hardship.

A motion was made by Jerry Bowers and seconded by Kelley O'Such to grant the application as presented with conditions such as standard conditions, no additional shed without a variance, any change or configuration/use without a variance, no storage of motorized vehicles etc. At a roll call vote, all present were in favor of the motion. Motion carried.

At 8:28 pm we had some members leave: Jerry Bowers, Bill Ethem, Peter Kanakaris and Bill Martin leaving the meeting along with Planner Green. The members mentioned had to recuse themselves.

Alternate Planner Kendra Lelie joined the Zoom meeting

Board Member Ginger Crawford will step into the role of Acting Chairman.

Planning Board Members David Grossmueller, Mike Keady, Nickolas Moustakas and Dan Rader are filling in for Board of Adjustment members that need to recuse themselves for the following application.

- New Cingular Wireless PCS (AT&T) – Block 19 Lot 12.01 – 707 Riegelsville Road – Preliminary & Final Site Plan Approval – New Cell Tower – Rec'd into our office August 6, 2020. The 45-day completeness review deadline is September 20, 2020. Deemed Complete August 26, 2020- Public Hearing September 30, 2020 - Board Action Needed.

Attorney Judith Fairweather is present for the application.

The Proofs of publication were scanned to Attorney Pierce and the board has jurisdiction. Hard copies were delivered to the Municipal Building for the file.

Board Engineer Martucci explained that there were outstanding issues from the completeness review that have been satisfied. The application is in the Planning Area and the applicable exemption is exemption #4 - no more new impervious coverage. New impervious coverage is less than or equal to 125% and this application is less than ¼ ac of new disturbance.

Attorney Fairweather stated that the applicant is proposing a 150 foot monopole at the firehouse on Riegelsville Road. The application needs variances.

Witness #1 – Dan Penesso – 15 Midland Avenue, Paramus NJ – He was sworn in by Lucille Grozinski. He has a BA in Electronic Engineering and has been employed as a Radio Frequency Engineer for over 20 years. He has testified in hundreds of applications before various boards in New Jersey and New York. He is accepted as an expert witness.

Dan Penesso stated that the proposed monopole is an AT&T pole licensed by the FCC. They will be providing coverage.

Exhibit A1 – Site No W1487707 – 2 sheets prepared by Dan Penesso
These are propagation maps.

Sheet 1 shows the site with purplish dots showing the existing AT&T on air sites with green showing reliable in-vehicle coverage and white showing unreliable coverage within AT&T network. The proposed location is intended to provide connectivity between the sites to the south and to the north. AT&T is looking for seamless coverage.

Sheet 2 shows if the application was approved that the area that was white on sheet 1 are now fulfilled with coverage. The roads this would cover would be Riegelsville Road, Riegelsville Warren Glen Road, Mt. Joy Road, and River Road which is about 4 square miles of vehicle coverage added within the township.

Dan Penesso explained FirstNet as AT&T being awarded by the FCC spectrum within the 700 megahertz frequency band to provide and manage a first responder network. This is a broadband network dedicated to America's police, firefighters, emergency medical services and those going to handle any type of emergency. Spectrum would be directly allocated to First Responders. No public access would be granted in time of emergency so that direct responders would have full access for the emergency. This would be applicable for anyone that has FirstNet access. It would be a first responder network for the whole country.

Dan Penesso talked about the energy output of the site and compliance with both state and federal law. The report states the application will be less than 3% of the applicable FCC standards. He believes the site is needed to fill in a gap in the area.

Board questions.

Mike Keady asked about FirstNet working with older equipment. Dan Penesso stated that the first responder needs a special SIM card which makes it compatible.

Gail Rader asked about this being the best location. Dan Penesso state that that there were elevation issues in different directions. To connect the two locations this location had the least impact with elevations. There are no existing poles in the area to collocate to fill the gap in coverage. Adding this pole will help reduce dropped calls in Holland and some in Pohatcong too.

Kelley O'Such had questions about the coverage elevations. Does the height of the pole need to connect to the other poles and the response is that the height of the proposed pole is the minimum height needed to connect to the pole in the North due to the terrain.

Dave Grossmueller asked how close to Riegelsville is the pole? And Dan Penesso pulled up Google Earth and said approximately 3645 feet from the site to the river.

Exhibit A2 – Google Earth Image River to Site June 15, 2018

Ginger Crawford you mention the 150 foot height is the minimum height and you would have liked it higher. What would be the benefits? Dan Penesso stated that the minimum height will meet the handoff between the existing sites but as an RF Engineer you desire to get more coverage out of a site. It is to get the most coverage out of the site.

Attorney Pierce asked if the height of the tower affects the ability of co-locators to effectively communicate with their networks. Dan Penesso said he cannot state other networks designs but the pole is built to accommodate co-location and anyone who wants to co-locate would need to prove this before the board. A 10' center to center between antennas on poles is a usual standard which means that AT&T would be at 145' to 150' (maybe 160) and the next carrier would be at 140 and the next would be at 130. Centerline height was the next question and Dan Penesso stated approximately 145 feet PGL.

Gail Rader asked a question about co-locators and exceeding the AT&T height. Attorney Fairweather explained that poles are usually designed with centerline of 145' so the other networks would come in at 135' and 125' however someone could come before the board to go higher. It would be the consideration of the board. Discussion took place about increasing the height or restricting the height. A 150' is generally the height of the tallest pole in areas like this. Carriers then go 10' under.

Kelley O'Such asked for more discussion on the AZIMUTHS. Dan Penesso stated that each sector or array of antennas provides coverage for a specific geographical area. The design is to cover various directions out across the horizon. Are all four sides of the platform used? Dan Penesso explained that the AZIMUTHS they are trying to achieve cannot have too much skew on the antennas. If on all sides then it would cause an antenna pattern that would shoot back into another sector. Some designs are 16 antennas but this one is a 12. There are three sectors. Everything is relative to the site and how it integrates within the network as well as topography.

The board members did not have any comments so Acting Chairman Crawford opened this up to the public with Attorney Pierce reminding everyone that questions are only for Mr.

Penesso at this time. This is not for comment or testimony.

Public comment.....

Dave Turner asked if the cell tower was the same elevation as the tower ½ mile down the road in Riegelsville PA and why is that not being used. Dan Penesso responded by using Exhibit A2 to show the site is southwest and is at a lower elevation and the site is 125 feet which would not meet the coverage to the north.

Elizabeth Lentz expressed concerns with the health impact and Dan Penesso responded that this proposed tower is within the FCC guidelines and well below the threshold at 3%. Mrs. Lentz asked if it is common to build towers near homes and Dan Penesso responded yes it is and it is also common to put them all over including poles and rooftops.

Robert Lubar expressed concerns about the Environmental impact in a sensitive area and Attorney Fairweather responded that Dan Penesso is not the best person to answer this question and that the Planner will be better equipped to address this question.

Richard Giantisco questioned the structure to the north being an established and how the tower on Riegelsville Road is not sufficient and why can you not use the commercial site down south? Dan Penesso stated that to go further south the pole would need to be higher to go around the bend. Further south is about .55 miles away and will not work. Technically you would need two in the area. Richard Giantisco also expressed concerns about the number of variances needed.

Robert Lubar asked if AT&T explored other locations in Holland such as the Paper Mill of which Dan Penesso responded that the other property is private and not municipal lands. The Fire Department expressed interest.

Richard Giantisco wanted to explain the history with the property and Attorney Pierce explained that is more in the nature of testimony and that the public can present testimony after the applicant has presented their application and testimony. Richard Giantisco then asked about the land being privately owned and if the applicant looked at the boat ramp and other grounds in that vicinity which would be less obtrusive? Dan Penesso stated that the property was not looked at.

Elizabeth Lentz asked questions about first responder coverage on other carriers. Dan Penesso stated that he did not know what other carriers have or do not have but FirstNet is provided by AT&T only. FirstNet is a nationwide network.

Acting Chairman Crawford asked if anyone else from the public wanted to speak and with no one responding the meeting continued with the next witness.

Witness #2 David Revette who was sworn in by Lucille Grozinski. He is of 600 Parsippany Road in Parsippany NJ. He is a licensed engineer in NJ and has practiced Civil Engineering and telecommunications engineering for the past 8 years. He testified before many boards and is accepted as an expert witness.

David Revette explained the location of the site and how it is 1.53 acres at the corner of Riegelsville Road and Firehouse Lane. The property is along Riegelsville Milford Road and Firehouse Lane with the existing firehouse in the center of the lot. There is an asphalt parking lot in front of the property. David Revette referred to Sheet Z1 of the plans and was shared with all present. The 40x40 proposed compounds will be in the rear of the property or the north end of the property with a 150' monopole centered within the compound. The setbacks were discussed showing the aerial. The river is to the west and the site is fairly well surrounded by wooded trees on three sides. The area is mostly residential. The 200' set back was shown with dashed lines. There might be a small shed that is closer to the tower but not a residential home. The compound will be in the north part of the land. There will be a gravel access road from the existing parking lot. The existing utility or proposed utilities would come to the site from the existing pole at the road. It would all be underground to the proposed utility transformer and fiber connect or fiber location pole box. Then all other utilities are housed within the compound. This is electrical and there is no need for water or sewer. There would be an 8' high chain link fence around the compound.

AT&T would locate at the bottom left portion of the compound with a small WIC cabinet or walk-in cabinet, small shelter and proposed diesel generator. Lighting would be on the small cabinet but would shut off automatically. They are only on when someone is there. The site is accessed approximately once per month so there is no real increase of traffic. The noise from the generator has to comply with NJDEP noise requirements. The site visit means a tech comes in, parks the vehicle in the designated turnaround and then goes to the cabinet to perform general maintenance or whatever is needed. The site is monitored 24/7 by AT&T. If a problem arises then a silent alarm is activated to AT&T and not in the area. The light on the cabinet is a standard light that can be shielded and angled down. David Revette addressed a few items from the Board Engineers report of September 23, 2020. The question about a dry well and if there is a problem to which David Revette stated that they would need to do geotech to make sure that the groundwater level would work well with the dry well. It would determine if the area was good or bad. The board engineer would be advised of results. The equipment shelter and tower are installed all per code. The plans can note the limit of disturbance to protect the septic distance and other improvements with the lawn. David Revette then discussed sheet Z8 regarding the foot candle area and the notes on the plans. He explained the tower will be 150' in height. The top centerline should be 145' and the co-locators will go every 10'. AT&T is proposing 12 antennas on a four sided platform with some general equipment, RH;s etc. All cables run inside the tower and are not visible on the outside.

Engineer Martucci asked questions about limestone and is in favor of the geotech being done before the dry well is proposed. Engineer Martucci expressed concerns about the proximity of the compound relative to the property lines when the site plan shows a depression. At a site visit Robert Martucci stated he noticed the water all going to the north which is the circular area on the plans. The area is grassy and the applicant proposes some impervious coverage so this could cause some off-site flooding. Will there be mitigation? David Revette agreed that stormwater will need to be addressed upon the conclusions of the geotech. The compound can be moved to the south if needed. Engineer Martucci questioned the Fire Department's use of the paved area for parking and AT&T's need to access the gravel road from the paved area in relationship to marking as no parking. David Revette agreed with the request so that it is clearly marked and accessible for all.

Board questions.

Kelley O'Such asked about the zone of the property and David Revette responded that this is a VR Zone which he showed on Sheet Z2 of the plans. The zoning chart was mentioned but the planner will review the variances. Kelley O'Such asked about the security fence and David Revette said it would be chain-linked fence. No landscape is proposed.

Alternate Planner Kendra Lelie had some questions. Would the applicant provide supplemental plantings for the spots from Riegelsville Milford Road from the south towards the monopole? Attorney Fairweather responded positively. Kendra Lelie had questions about the parking and if the person comes in and leaves in the same way. David Revette stated that they come in from Firehouse Lane and use the access drive to turn around to go back out. Kendra Lelie had questions about the existing shelter on the property and David Revette assumed it was for Firehouse Communications. Kendra Lelie asked about other creative applications for screening of the monopole. David Revette stated that what is presented was the only option explored as our ordinance required the new structure to be steel. AT&T can explore options if the board requests it.

Gail Rader had a question about noise levels and David Revette stated the noise would be from the generator which is next to the shelter. It runs during an emergency but will self-check once a week during working hours. The self-check is approximately 15 to 20 minutes. Noise level is to NJDEP Code at the property line. Gail Rader asked if there would be a hum and received the comment from David Revette that the self-check is during the day and if there was an emergency then that would be the only time you potentially could hear noise at night.

Mike Keady asked about the once a week visit and the generator running on diesel fuel and the need for a delivery truck. David Revette responded that the self-test happens once a week and refueling will be only on an as needed basis.

Kelley O'Such had a question about the light and asked for clarification in relationship to the property lines and David Revette stated that the light is located about 8 feet above the ground and he does not believe that it should spill outside the fenced area let alone to the property line. Attorney Fairweather said they can revise the plan to state it will not spill to the property line.

David Grossmueller asked about geotechnical borings being not done so the applicant does not know how deep the foundations will be. David Revette stated that they have a basic idea and that geotech will let them know how much deeper it needs to go down to support the tower.

Kelley O'Such requested details be noted on the plan that confirms the foundation would not exceed the property line and David Revette stated it would be done.

There were no other comments from the board members. Administrator asked the public if they had any comment.

Robert Lubar expressed his opinion that the plan as explained by David Revette turns the northern end of Old River Road and River Road into an industrial zone with a chain-linked fence.

Richard Giantisco had questions about the orientation of the scheme and David Revette explained this as the arrays going to the northeast, northwest and southwest. These are three sector antennas with three sides. Could more antennas be put on the platform? David Revette is not the person to answer this.

David Turner had a question about the height of the trees near the tower and David Revette responded he did not know the height.

Elizabeth Lentz asked about the pole being steel and if another alternative was explored. Attorney Fairweather responded that the steel structure is proposed to comply with the Holland Township Ordinance.

Douglas Hall asked if towers are sometimes made to look like trees and the response is yes. Douglass Hall asked if the applicant can explore the option of which Attorney Fairweather responded if the board would like that then AT&T can build a tree instead of a monopole. Douglass Hall also asked about proposed future carriers on the pole and Attorney Fairweather responded that Holland's ordinance supports co-locations but the AT&T application is just for AT&T and they do not propose putting antennas at lower levels. Douglass Hall asked if AT&T can lease to other carriers and Attorney Fairweather responded that it would be under the direction of the Fire Company as that is who owns the land.

Mike Keady had a question about removing trees during construction and David Revette responded that the proposed area is in the grassy area and trees do not need to be disturbed.

Attorney Pierce stated that the hour is 10 pm and he asked how many more witnesses the applicant had for this evening. Attorney Fairweather responded that she had their planner present for the meeting this evening. Board Member O'Such suggested moving forward with the application this evening while Board Member Rader asked if we could continue and just set a time limit of 10:30 pm. Attorney Fairweather stated that the Planner could testify in 15 to 20 minutes. Robert Lubar spoke up as a member of the public and expressed his opinion that to continue this evening is really not in the best interest of those that need to digest the information. Acting Chairman Crawford expressed her opinion that a break this evening might be good and to continue the public hearing at the next scheduled BOA meeting in October. Attorney Pierce stated that it is permissible and the board can decide to continue with the hearing tonight or to request that the public hearing be carried with no further need to notice. Some discussion took place about an alternative tree structure. Attorney Fairweather said they could do a photo simulation of a tree pole for the next meeting. Planner Ricci said he might have a conflict but would try to make it work for the October 28th meeting. David Revette will also plan on attending. A motion was made by Gail Rader and seconded by Mike Keady to adjourn the public hearing till October

28th at 7:30pm with no need to notice the public as the hearing will continue. All present voted in favor of the motion. Motion carried.

Resolution

There were no Resolutions scheduled to be discussed on the agenda.

Public Comment

Chairman Martin requested Secretary Kozak to unmute everyone for public comment. All were asked if they had any comments at this time and no one had comment.

Board Member Comment

There were no board member comments at this time.

Mike Keady made a motion to adjourn. Motion carried.

Meeting ended at 10:05 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Secretary