

Borough of Hamburg
Land Use Board Meeting Minutes of March 14, 2016

The Borough of Hamburg Land Use Board meeting was call to order at 7:00 pm by **Chairman Adams** in accordance with the Open Public Meeting Act, with regard to notices.

Chairman Adams invited all those present to participate in the flag salute.

Chairman Adams read the Statement of Certification. This meeting is in compliance with the Open Public Meetings Act, Public Law 1975, Chapter 231, Sections 4 and 13, as advertised by Annual Notice.

Those present were Mayor Marino, John Haig, Daniel Hall, Guy Harby, Rich Krasnomowitz, Jeanette Tempe and Robert Adams. Also present was Glenn Kienz, Esq., John Ruschke, PE and Ken Nelson, PP. Absent was Thomas Watts.

MINUTES:

Approval of the February 8, 2016 Land Use Board Minutes:

Ms. Tempe made a motion to approve the minutes of February 8, 2016. Seconded by **Mr. Haig**. Aye: Mayor Marino, Harby, Haig, Tempe and Chairman Adams. Nay: None. Abstained: Hall, Haig, and Krasnomowitz.

BILLS/VOUCHERS:

Ms. Tempe motioned to approve payment of the following bills/vouchers. Seconded by **Mr. Harby**. Aye: Mayor Marino, Haig, Hall, Krasnomowitz and Chairman Adams.

- a. Weiner Lesniak, LLC – COAH \$2,394.43
- b. Hatch Mott MacDonald – Bluffs at Ballyowen \$396.00
- c. Hatch Mott MacDonald – KP Kit & Jay \$75.00
- d. Hatch Mott MacDonald – Brown/Ramage \$432.00
- e. Weiner Lesniak, LLC – COAH \$1,499.50 *
- f. Nelson Consulting – Housing Plan - \$2,092.50 *
- g. Nelson Consulting – Diamond Communications - \$287.50 *

CORRESPONDENCE:

Chairman Adams asked the members if they had questions or comments regarding the following correspondence. The members had none.

- a. Sussex County Planning Board Minutes for January 11, 2016.
- b. Denial of Zoning Permit Application dated March 2, 2016 for Block 7, Lot 4

UNFINISHED BUSINESS – COAH Litigation

In the Matter of the Borough of Hamburg Complaint for Declaratory Judgment Demonstrating Municipal Compliance with Constitutional Mount Laurel Obligation (Docket No. SSX-L-000440-15)

- Memo from Ken Nelson with The Housing Plan Addendum draft dated

March 8, 2016

- Status update from Board professionals and Board discussion
- Correspondence dated February 25, 2016 from Glenn Kienz, Esq. to Ken Nelson, PP.
- Correspondence dated February 25, 2016 from Glenn Kienz, Esq. to Hamburg forwarding Order entered on February 10, 2016 by the Hon. Stephan C. Hansbury, P.J.Ch.

Mr. Nelson summarizes the Board's discussion from the February 8, 2016 meeting including the Borough's current units, rehabilitation units, prior need and perspective need as determined by EConsult. Mr. Nelson discusses the Borough's undeveloped properties in the PD and PR zones which are not likely to be developed due to wetland constraints. The undeveloped Bank Street property which lies within the PD Zone is discussed including its constraints specifically involving steep slopes. Discussion continues on the PD Zone and the 20% affordable housing requirement.

Mr. Nelson discusses an overlap zone for the properties currently occupied by Ames Rubber and Accurate Forming off Route 94 for redevelopment. Mr. Nelson discusses the potential for an overlap zone for redevelopment of the Gingerbread Castle Road property which was the subject of a prior concept plan proposing to rezone from Industrial to a zone allowing for multi-family dwellings.

Discussion continues on the existing rental units which are at affordable rates but not deed restricted so the Borough receives no credit for those properties.

Discussion continues on the Borough's water and sewer capacity. It is determined that the Borough could accommodate sixty one (61) units based on the current flows which have been reduced. However, the flows could change based on new development.

Mr. Nelson will revise the Housing Plan.

Mr. Krasnomowitz questions whether there is any disadvantage to keeping the undeveloped properties on Route 517 and off Orchard Street on the Zoning Map. Mr. Nelson states that while those properties are zoned PD and PR respectively, environmental restraints would prohibit development and the Borough would receive no credit for those properties.

No public was present.

A motion was made by **Mayor Marino**, seconded by **Ms. Tempe** for a Resolution of the Board to the Governing Body authorizing submission of the Borough of Hamburg Housing Plan and Fair Share Element as discussed by the Board to the Court prior to the April 4, 2016 deadline. Aye: Haig, Hall, Harby, Krasnomowitz and Chairman Adams.

Brown/Ramage Subdivision Deeds, Block 21 Lots 39, 39.01 & 39.02 LU 03-14

Board secretary informs the Board that she received the subdivision deeds from applicant's attorney along with a phone message indicating that the deeds met the approval of the Board Engineer. Mr. Ruschke will need to review the submitted deeds prior to approving them.

New Business – Completeness Review for Application #LU 06-001

Diamond Communications, LLC and Cellco Partnership d/b/a Verizon Wireless – Application for Use Variance approval and Preliminary and Final Site Plan approval (received February 10, 2016)

At this time, **Attorney Kienz** stepped down to allow for conflict counsel, **Richard Valenti, Esq.** to hear testimony of the applicant, Diamond Communications, LLC and Cellco Partnership d/b/a Verizon Wireless.

Since this application involves a “D” Variance, Attorney Valenti advised Mayor Marino and Mr. Krasnomowitz that they would need to step down.

Attorney Valenti clears the Board members of any other potential conflicts with hearing this application and reads the list of those property owners within 200’ of this property. No Board members appears on the list. As such, Haig, Hall, Harby, Temps and Chairman Adams will hear this application.

At 7:34 p.m., Christopher Quinn, Esq. appeared on behalf of the applicant.

Attorney Valenti discusses the items requiring clarification prior to this application for a monopole being deemed “complete”:

- The Borough’s Zoning Map requires clarification. A recommendation is made for the Board professionals to meet to discuss the zoning of the properties within the next week.
- The Borough currently has no zoning regulation for the Conservation Zone.
- The zoning of the property indicated on the site plans submitted incorrectly indicates the property in the “Business/Conservation” Zone. The Borough has no such zone.
- The Historic Preservation Commission needs to provide a determination as to whether or not the properties lie within a zone designated historic. Discussion continues as to whether a separate hearing will be held before the Historic Preservation Commission. Clarification will be required since this is checklist item on the Land Use Board application.

Attorney Quinn requests a copy of the Board Engineer’s technical review letter. Attorney Valenti recommends meeting with the Board professionals to discuss.

Attorney Quinn requests that the Board seek alternates to allow for the application to proceed in an efficient manner. Chairman Adams mentions the Board has an additional member who would be able to hear this application but that he is presently under medical care.

Mr. Ruschke requests an Environmental Impact Statement. The applicant will need to justify need for the project. Since the applicant seeks to place the monopole in the center of the Borough, Mr. Ruschke requests a report determining whether another location within the Borough could be better suited for this project. Mr. Ruschke recommends Dr. Bruce Eisenstein, PE, a Radio Frequency Specialist to review the technical report. Attorney Valenti states that the applicant would pay for the fees of the consultant.

Attorney Quinn adds that the Land Use Board's checklist did not specifically require the report. Mr. Ruschke recommends the submission of an environmental report although he is not concerned about emissions.

Attorney Valenti discusses the potential need for a balloon study which the Historic Preservation Commission and Land Use Board members would be welcomed to attend. Attorney Quinn confirms that a balloon test has already been completed. He will provide simulations for the Board at the application hearing.

Mr. Haig questions the appearance of the pole. Attorney Quinn states that the project proposes a 120' monopole with equipment at the base.

Mr. Harby questions the financial gain to the applicant. Attorney Quinn responds that the location was determined based on service deficiency which he will discuss at length at the hearing on the application.

Attorney Valenti states that no extension of time will be requested at this point for the determination of completeness. Discussion as to completeness will continue on next Land Use Board hearing date and the public hearing could be carried. Mr. Ruschke and Mr. Nelson will schedule a meeting with Attorney Quinn.

Attorney Valenti continues discuss on the Zoning Map as it relates to the Conservation Zone and the date of the official zoning map. Mr. Ruschke and Mr. Krasnomowitz state that the Conservation Zone has been on the Zoning Map for decades. Attorney Valenti states that Borough ordinances should be updated to reflect the zone and its regulations.

No public was present.

A motion was made by **Chairman Adams**, seconded by **Mr. Harby** to deem the application incomplete. Aye: Haig, Hall and Tempe.

A motion was made by **Chairman Adams**, seconded by **Ms. Tempe** to permit the Board professionals to meet with the applicant's professionals. Ayes: Haig, Hall and Harby.

A motion was made by **Chairman Adams**, seconded by **Mr. Harby** to accept Richard Valenti, Esq. as conflict counsel and to authorize Board Secretary to sign the professional contract pertaining to Mr. Valenti's representation for the Diamond Communications application. Ayes: Haig, Hall and Tempe.

Mayor Marino and Mr. Krasnomowitz return to the dais. Mayor Marino expresses his concerns as to whether there are any hazards associated with the monopole considering the height and its location to the equipment on the JCP&L property. Discussion will continue at the next regularly scheduled Board meeting.

RESOLUTIONS: None.

PROFESSIONAL REPORTS: None.

CHAIRMAN'S AGENDA: None.

A motion was made to adjourn by **Mr. Haig** at 8:04 PM. Seconded by **Ms. Tempe**. All were in favor.

Respectfully submitted by:

A handwritten signature in cursive script that reads "Wendy Brick".

Wendy Brick
Secretary to the Land Use Board