

# TOWNSHIP OF LOWER

2600 Bayshore Road  
Villas, New Jersey 08251



Incorporated 1798

(609) 886-2005

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE PUBLIC BODY AT ITS NEXT MEETING. THIS BOARD WILL NOT BE RESPONSIBLE FOR ANY MIS-STATEMENTS, ERRORS OR OMISSIONS OF THESE MINUTES, AND CAUTIONS ANYONE REVIEWING THESE MINUTES TO RELY UPON THEM ONLY AT THEIR OWN RISK.

## LOWER TOWNSHIP ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on January 8, 2009 at the Lower Township Municipal Building. The meeting was called to order at 7:00 P.M. by Chairman James Hanson. The Recording Secretary stated that adequate notice of said meeting was given in compliance with the Open Public Meetings Act of 1975.

### MEMBERS PRESENT:

Chairman James Hanson  
John Armbruster  
David F. Brand, Jr.  
Ernest Utsch III  
Bruce Waterman  
Robert Sweeten  
Michael DiStefano  
Christopher Kobik  
Dianne Kelly  
Kristine Trusiak

### STAFF PRESENT:

Anthony J. Harvatt, II, Board Solicitor  
Ray Roberts, Board Engineer  
William J. Galestok, Board Secretary  
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Memorandum:

TO: Zoning Board Chairman &  
Zoning Board Members

FROM: William J. Galestok, PP, AICP  
Director of Planning

DATE: December 2, 2008

RE: Engineering Letter of Interest from  
Joseph H. Maffei, PE, PP, CME for  
the 2009 Zoning Board Engineer

Letters:

TO: William Galestok, Secretary  
Lower Township Board of Adjustment

FROM: Anthony J. Harvatt II

DATE: November 5, 2008

RE: Anthony J. Harvatt Letter of Interest for 2009 Calendar Year  
To be considered the Lower Township Zoning Board Attorney

TO: Township of Lower Zoning Board  
ATTN: James Hanson, Chairman

FROM: Joseph H. Maffei, PE, PP, CME

DATE: December 2, 2008

RE: Letter of Interest - Zoning Board Engineer  
Township of Lower, Cape May County, NJ

CORRESPONDENCE: (Con't)

TO: Township of Lower Zoning Board  
ATTN: James Hanson, Chairman

FROM: Joseph H. Maffei, PE, PP, CME

DATE: December 4, 2008

RE: Letter of Interest - Zoning Board Engineer  
Township of Lower, Cape May County, NJ

TO: William Galestok, Planning Director

FROM: John P. Morrison

DATE: December 18, 2008

RE: Letter of resignation

TO: Lower Township Council Elect

FROM: Jay Dilworth, Planning Board Chairman &  
James Hanson, Zoning Board Chairman

DATE: December 26, 2008

RE: Recommendation of Engineering Design Associates;  
Joseph H. Maffei, PE, PP, CPWM

Handouts:

List of Board Solicitor vouchers dated December 3, 2008.

The New Jersey Planner: December 2008/January 2009, Vol. 69, No. 6.

List of Board Engineer vouchers dated January 6, 2009.

List of Board Engineer vouchers dated January 8, 2009.

Mr. Armbruster made a motion to approve Resolution #09-1-ZBA and nominate James Hanson as Chairman. The motion was seconded by Mr. Waterman. The vote was unanimous in favor of James Hanson as Chairman.

Mr. Brand made a motion to approve Resolution #09-2-ZBA and nominate John Armbruster as Vice-Chairman. The motion was seconded by Mr. Waterman. The vote was unanimous in favor of John Armbruster as Vice-Chairman.

Mr. Armbruster made a motion to approve resolution #09-3-ZBA and nominate William J. Galestok as Board Secretary. The motion was seconded by Mr. Waterman. The vote was unanimous in favor of William J. Galestok as Board Secretary.

Mr. Waterman made a motion to approve Resolution #09-4-ZBA and nominate Lisa A. Schubert as Recording Secretary. The motion was seconded by Mr. Brand. The vote was unanimous in favor of Lisa A. Schubert as Recording Secretary.

Mr. Brand made a motion to approve Resolution #09-5-ZBA and nominate Anthony Harvatt, II, Esq., as Board Solicitor. The motion was seconded by Mr. Armbruster. The vote was unanimous in favor of Anthony Harvatt, II, Esq., as Board Solicitor.

At this time, 7:03 P.M., the meeting was adjourned to enter into Closed Session. The regular meeting was called back to order at 7:17 P.M.

The Board asked a representative from Hatch Mott MacDonald to come forward. Mr. Mark Sray, PE, represented Hatch Mott MacDonald.

The Board asked Mr. Sray why there a difference in price for inspections? The range is \$50.00 to \$100.00. Mr. Sray explained that this is the hourly rate for the person who is assigned to the inspection. He explained that the inspectors have different levels of experience. An inspector is determined on availability. The Board explained that they really didn't like not knowing which charge would be applied to the escrow account. They explained that eventually, it could end up being the \$100.00 person all the time. They explained that the inspector should be based on the project being inspected. For a more complex project, it should be the inspector with the most experience. Mr. Sray explained that they could look into a flat rate, but have to talk to management about this.

The Board asked what the hourly rate for special circumstances or litigation were? Mr. Sray explained they could provide this information. He explained if there is a special circumstance or litigation where they would need an expert in a certain field, they would have to bring that person in.

The Board explained that they would like to receive the comment reports at least five days prior to the meeting. Mr. Sray explained that he didn't have a problem with that.

The Board explained that it would be more cost effective to have one Engineer for the Township and the Board.

Mr. Armbruster made a motion to approve Resolution #09-6-ZBA and nominate Hatch Mott MacDonald as Board Engineers for a six-month period. The motion was seconded by Mr. Brand. Motion carried.

Mr. Waterman made a motion to approve Resolution #09-7-ZBA, meeting dates for 2009. The motion was seconded by Mr. Sweeten. Motion carried.

Mr. Armbruster made a motion to approve the minutes from the November 6, 2008 meeting. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Waterman made a motion to approve Board Engineer, (R., V. & W.) vouchers. The motion was seconded by Mr. Armbruster. Motion carried.

Mr. Waterman made a motion to approve Board Solicitor vouchers. The motion was seconded by Mr. Sweeten. Motion carried.

Mr. Armbruster made a motion to approve the Resolutions from the November 6, 2008 meeting. The motion was seconded by Mr. Waterman. Motion carried.

1. Use & hardship variances & minor site plan applications to extend the existing cell tower by ten foot and expand the fenced area 10 x 20 for placement of equipment cabinets encroaching into the front yard setback, submitted by MetroPCS Pennsylvania, LLC, for the location known as Block 238, Lot 29, 1619 Bayshore Road.

Ms. Victoria Fannon, Esq., represented the applicant.

Mr. Roger Johnson, Civil Engineer, Mr. James Miller, PP, Ms. Shannon Morton, Electronic Engineer and Dr. Kenneth Foster, Electromagnetic Safety Consultant, were sworn in by Chairman Hanson.

Ms. Fannon explained to the Board that her client would like to co-locate on an existing 140 foot cell tower. She explained that her client has service in several States, but none in south Jersey. She explained that they are seeking a use variance to extend the existing pole ten feet.

She explained that a minor site plan is needed for an equipment compound that would match the existing. She explained that the compound would be 10 x 20 with a 18 x 14 concrete pad. She explained the area would be fenced with an eight-foot fence with barbed wire.

Ms. Morton explained that MetroPCS tries to co-locate on existing towers. She explained that this area would help fill in the coverage gap. Marked into evidence was a location map. She explained that there is no propagation on this map because there is no coverage in this area. Marked into evidence was a propagation map which indicated in green the areas that would have service.

Ms. Morton explained that the existing tower would have to be extended an additional 10 feet to get the coverage they need. She explained that if not extended, they would not get the coverage. She explained that what is proposed would comply with the FCC standards. Submitted into evidence was a copy of MetroPCS FCC license.

Mr. Johnson reviewed sheet Z-1 with the Board. He explained that access to the compound and tower are off Yuma Avenue or Bayshore Road. He explained that S-1 is an enlarged copy of the compound area. He explained that there isn't enough room within that compound to add their equipment and therefore have to add an area for their equipment. He explained the compound will be 10 x 20 with a 18 x 14 concrete pad. He explained that they are proposing a board-on-board fence with barbed wire. He explained that the tallest cabinet is 5 ½ feet tall with a three square foot footprint. He explained that there is a site visit once a month to once a quarter from a technician. The technician arrives in and SUV and is usually there for about one hour. He explained that the co-axle wire will be flush on the pole.

Mr. Johnson review sheet S-2 with the Board. He explained that size of the proposed concrete slab and fenced area. He explained that the compound would have signs that are required by the FCC. He explained that there will not be any advertisement signs. He explained that there will be a spotlight for the workers. The Board asked why the concrete area is smaller than the compound area? Mr. Johnson explained the applicant has a lease area of 10 x 20. He explained that even though the equipment would be on a 18 x 14 concrete pad, it does offer for expansion in the future. He explained that they need some room to be able to open the cabinet doors.

There was a discussion about who regulates the height of the tower? Mr. Galestok explained that height variance was approved by this Board and at the time of that application the Board requested the other carriers could co-locate. Ms. Fannon explained that they would also get FAA approval.

The Board asked with multiple carriers, is there a duplication of services? Mr. Johnson explained that each carrier has its own network and there wouldn't be a duplication of service.

Mr. Roberts explained that there is a two-foot wide ice bridge and asked if it would extend past the fence area? Mr. Johnson explained that the ice bridge is similar to what is there currently.

Mr. Roberts asked what the height of the trees to be planted would be at the time of planting? Mr. Johnson explained at the time of planting, the trees would be six feet. He explained that he believes they would grow an average of six to eight inches a year.

Dr. Foster explained to the Board that what is proposed meets the FCC requirements. The Board asked if there is a point where there would be an adverse effect with all the equipment and carriers co-locating? Dr. Foster explained that there isn't any frequency from the equipment. He explained that with the height of the tower, the frequency is too high to affect ground level.

Mr. Miller had marked into evidence photographs of the tower as it exists today. And also superimposed of what the tower would look like with the applicants antennas. He explained that there wouldn't be any change to the existing tower except the additional antennas. He explained that this is an unmanned site except for site visits by a technician every four to six weeks. He explained that adding additional antennas is less intrusive than having to construct another tower. He explained that the visual impact is less because there is an existing pole.

There was a discussion about the location of the compound. Mr. Miller explained that the compound is fenced with similar fencing that currently exists. He explained that a six-foot fence is permitted in a residential area. The Board asked if the compound could be turned 90 degrees? Mr. Johnson explained that there isn't any reason it couldn't be.

The Board asked how many customer's MetroPCS has in Lower Township? Ms. Fannon explained that there currently isn't any in Lower Township. It was explained that if a customer comes to this area, they do not have coverage.

There was a discussion about if the existing tower could support the weight of additional antennas? Mr. Johnson explained that the wind load of the tower does have to be modified. He explained that flat plates would be drilled into the tower.

This portion of the hearing was opened to the public.

Mr. Robert Lentine was sworn in by Chairman Hanson.

Mr. Lentine explained that he lives adjacent to this. He explained that since the tower was installed, they have had nothing but problems. He explained that the compound area is very noisy and now they are asking for another compound that would be closer to his house. He explained that the fire company did install new trees and a fence, but it hasn't helped with the noise.

Mr. Lentine explained that he has concerns with health issues. He explained that there are diesel generators and the smoke and smell from them goes into his patio room.

Mr. Lentine explained that if the compound is turned, it would be closer to his property.

Mrs. Madeline Lentine was sworn in by Chairman Hanson.

Mrs. Lentine explained that they have a big tree that has been slowing dying since the tower and compound were installed. She explained that last year, she found a couple dead birds. She explained that she feels this is happening because of the tower and compound. She explained that she has concerns with her and her family's health.

Mrs. Lentine explained that the compound area is very noisy. She explained that they have a three-season room that they cannot enjoy for all the noise.

Mr. Gary Moss was sworn in by Chairman Hanson.

Mr. Moss explained to the Board that they ended up with bad neighbors'. He explained that this is dirty and noisy. He explained that there are cooling system fans on the equipment that is very noisy. He explained that the compound area is left open for a couple hours at a time and not always secure. He explained that with the added weight, there will be more stress put on the tower and he has concerns with what the fall zone could be.

Ms. Fannon explained that there would be no noise generated from the cabinets. She explained that they would comply with FCC emissions and that they are not looking to add a negative impact to the area.

This portion of the hearing was closed to the public.

Mr. Armbruster made a motion to conditionally approve the use variance application. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	YES
	Mr. Kobik	YES	Chairman Hanson	YES

Motion carried.

Mr. Armbruster made a motion to conditionally approve the hardship variance application. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	YES
	Mr. Kobik	YES	Chairman Hanson	YES

Motion carried.

Mr. Johnson explained to the Board that there is a cooling fan, but no cooling unit. He

explained that there would not be an increase in noise from what is proposed. Ms. Fannon explained that could add additional screening for the neighbor's. There was a discussion about possibly adding an acoustic barrier. Ms. Fannon explained that they are not adding additional noise to the site.

Mr. Frank DeGenova, site representative, was sworn in by Chairman Hanson.

Mr. DeGenova explained that the noise they would generate would be less than what is there now.

Mr. Armbruster made a motion to conditionally approve the site plan application. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	ABSTAIN
	Mr. Waterman	YES	Mr. Sweeten	YES
	Mr. Kobik	YES	Chairman Hanson	YES

Motion carried.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

Chairman Hanson called for a short recess at 9:06 P.M. The meeting was called by to order at 9:15 P.M. by Acting Chairman John Armbruster as Chairman Hanson had to leave.

- 2. Preliminary major subdivision application for the creation of 25 newly described lots, submitted by Carol Murray-Negron & B. Craig Bretz Living Trust for the location known as Block 410.01, Lots 82 & 84, 344 Fulling Mill Road & 342 Fulling Mill Road.

Mr. Frank Corrado, Esq., represented the applicants.

Mr. Carol Murray-Negron & Mr. Benjamin Craig Bretz, applicants and Mr. Joseph Maffei, PE, were sworn in by Chairman Armbruster.

Mr. Corrado explained to the Board that a use variance approval was granted for residential use. He explained that what is before the Board tonight is a preliminary subdivision for 25 residential lots and one lot for the basin.

Mr. Maffei explained to the Board that the proposed lots are one acre or greater. He explained that there are wetlands to the rear of the property and an application was submitted to the State. He explained that on the southerly side of the property a 100-foot buffer was provided because the adjacent property is industrial zoned. He explained that they have provided an

access at the end of the cul-de-sac. He explained that there is an easement that goes through the property that will be eliminated. He explained that all adjustments have been made as per the roadway size. He explained that this is considered a rural street and have provided 24 feet wide street. He explained that they have eliminated sidewalks as there is no benefit for them in this development. He explained that there would be no parking on the street and signs would be provided. Mr. Galestok explained that RSIS supercedes the local Ordinance and the Board could not make the applicant do more than what RSIS requires.

Mr. Maffei explained that there is a 20-foot utility easement, but he doesn't think there are any utilities within the easement. He explained that there is an existing dirt road and they have no intention of changing that. Mr. Bretz explained that the dirt road connects to Lot 87. Mr. Maffei explained they did several on site soil borings. He explained that they are requesting a waiver from doing additional.

Mr. Maffei explained the basin is a wet basin. He explained that the homeowner's association would be responsible for the upkeep of the basin. He explained that with a deep wet basin, aeration is generally not needed. He explained that if a problem occurs, a condition of approval could be an aeration system would have to be installed. He explained that they are proposing a four foot decorative fence around the basin. He explained that he feels it is safer to have a smaller fence with more visibility.

Mr. Roberts explained that he would like the maintenance plan all on one sheet and the final design of the sloping of the wet pond should be addressed.

There was a discussion regarding the drainage system. Mr. Maffei explained that nothing is retained on individual lots. He explained how the system would work.

Mr. Roberts explained that he doesn't have a problem with not having curbing on site, but there should be curbing at the entrance. Mr. Maffei explained there could add a 10-foot concrete radius.

There was a discussion regarding street lights. How many and when they should be installed. It was explained that six street lights are proposed. Mr. Galestok explained that the timing of installing the street lights is important. He explained that there was one subdivision that after constructed, homes built and occupied, they didn't want the street lights. Then there is another subdivision that the street lights haven't yet been installed.

Mr. Galestok explained that planting of the trees and the location is also important. He explained that most property owners do not like the trees that are planted so in the past the Planning Board has allowed the developer to plant the trees on the property anywhere they like. They could be planted by the basin, in the back of the lots, but it has to be the same number of trees.

This portion of the hearing was opened to the public. There were no public comments. This portion of the hearing was closed to the public.

Mr. Galestok explained that the one lot on the corner would have three front yards and a couple other lots would have two front yards. This makes it hard for that homeowner to have a pool, fence, etc. There was a discussion that the Ordinance was changed to allow a six-foot fence in the front yard along a County road. There was a discussion that a vegetated buffer could be installed along Fulling Mill Road.

Mr. Waterman made a motion to conditionally approve this application. The motion was seconded by Mr. Brand.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Kobik	YES
	Chairman Armbruster	YES		

Motion carried.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

Mr. Utsch made a motion to adjourn at 9:48 P.M. The motion was seconded by Mr. Waterman. Motion carried.

A verbatim recording of said meeting is on file in Township Hall.

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