

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MINUTES
July 9, 2013**

The Township of West Orange Planning Board held a regular meeting on July 9, 2013 at 7:30 P.M. in Council Chambers, 66 Main Street, West Orange, New Jersey.

Chairman Bagoff called the meeting to order at approximately 7:30 P.M. It was announced that notification of this meeting was given to the Township Clerk, and posted on the Township Bulletin Board on December 6 2012, in accordance with the requirements of the "Open Public Meetings Act".

PRESENT: Chairman Bagoff, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Council President Susan McCartney, Ron Weston

ABSENT: Joanne Carlucci, Jerome Eben, Jason Lester, William Wilkes II

ALSO PRESENT: Paul Grygiel, AICP, PP, Acting Township Planner; Patrick J. Frank Russo, PE, PP, Omland Engineering Associates, Inc., Dwyer, Esq., Board Attorney; Robin Miller, Board Secretary; Debbie Dillon, Audio-Digital Transcription Service

PLEDGE OF ALLEGIANCE

Chairman Bagoff requested all persons stand for the Pledge of Allegiance.

ROLL CALL

Chairman Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Jason Lester, Councilwoman Susan McCartney, Ron Weston, Williams Wilkes II.

ANNOUNCEMENTS

The next regular Planning Board meeting will be held on **August 7, 2013** at 7:30 P.M. in Council Chambers.

Chairman Bagoff announced that the Mayor had re-appointed the following members to the Planning Board: Jason Lester (term to expire June 30, 2014); Lee Klein (term to expire June 30, 2015); Joanne Carlucci (term to expire June 30, 2014); and Ben Heller (term to expire June 30, 2017).

ADOPT MINUTES

The minutes of the June 5, 2013 Planning Board meeting were adopted unanimously.

SWEARING IN OF PROFESSIONALS

Paul Grygiel, AICP, PP, Phillips Preiss Grygiel LLC, Acting Township Planner.
Frank Russo, PE, PP, Omland Engineering Associates, Inc.

ADDRESS FROM CHAIRMAN

Chairman Robert Bagoff

DISCUSSION:

Chairman Bagoff thanked the members of the Board, the Board attorney, Township professionals, Board advisors, the Township administration and elected officials for their assistance during his tenure. He said that during the past two years, fifty-nine (59) applications had been heard by the Board, with an additional dozen informational presentations. He included in his discussion a brief history of planning through the centuries and cited several important legislative decisions that helped shape the status of Planning and Zoning in contemporary United States. He concluded his address by stating he was honored to have served as Chairman; and thanked Vice Chairman Heller for his input, thoughtful analysis and advice; he closed by saying he was proud to nominate Mr. Heller as Planning Board Chairman.

ANNUAL REORGANIZATION

Appoint Chairman
Appoint Vice-Chairman
Appoint Transcription Service
Appoint Board Attorney
Appoint Board Secretary

DISCUSSION:

Appoint Chairman: Ben Heller.

The Board voted on the appointment as follows:

Motion: Chairman Bagoff

Second: Council President McCartney

Carlucci:	Absent	Eben:	Absent	Ghebremicael:	Yes
Gurland:	Yes	Heller:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Bagoff:	Yes		

Appoint Vice-Chairman: Ron Weston

The Board voted on the appointment as follows:

Motion: Chairman Heller

Second: Dr. Bagoff

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

Appoint Board Transcription Service: Audio-Digital Transcription Service.

The Board voted on the appointment as follows:

Motion: Chairman Heller

Second: Mr. Ghebremicael

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

Appoint Board Attorney: Patrick Dwyer, Esq.

The Board voted on the appointment as follows:

Motion: Chairman Heller

Second: Dr. Bagoff

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

Appoint Planning Board Secretary: Robin Miller.

Motion: Chairman Heller

Second: Dr. Bagoff

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

Chairman Heller advised the Board that Vice Chairman Weston would be chairing the Technical Review Sub Committee on behalf of the Board.

RESOLUTION(S)**PB-13-09/Bow and Arrow Manor, Incorporated**

Block: 151; Lots: 17.01, 15.03; Zone: B-2

111 Prospect Avenue

Preliminary and Final Site Plan without variances to add a second story addition and enclosed connector to the a la carte dining room.

DISCUSSION:

Mr. Dwyer gave a recapitulation of the Resolution; he advised the Board of minor revisions to the certain wording based on comments from Robert C. Williams, Esq., attorney for Applicant. Mr. Dwyer read the revisions to the Board.

The Board voted on the Resolution as follows:

Motion: Chairman Heller

Second: Council President McCartney

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	-	Gurland:	Yes	Klein:	-
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

PB-13-11T/PTSD Yogurt LLC t/a Fro Yo Lish

Block: 152.22; Lot: 1420.02; Zone: B-1

450 Pleasant Valley Way

Technical Site Plan for interior renovations to leased retail space for a frozen yogurt shop.

DISCUSSION:

Dr. Bagoff gave a brief recapitulation of the Application approved by the Technical Review Sub Committee at the June 13, 2013 meeting; at his request, the Secretary read the conditions of approval.

Mr. Gurland inquired if the Applicant's architect had provided a valid Certificate of Authorization; the Secretary advised the Board that the document had been submitted.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Chairman Heller

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

PB-13-14T/Chipotle Mexican Grill of Colorado, LLC

Block: 152.24; Lot: 1455; Zone: P-C

235 Prospect Avenue

Technical Site Plan for interior renovations to leased retail space for restaurant.

DISCUSSION:

Dr. Bagoff gave a brief recapitulation of the Application approved with conditions by the Technical Review Sub Committee at the June 13, 2013 meeting. He read the conditions to the Board.

Mr. Gurland said he was missing Sheet A2.02 from his copy of the site plan. The Secretary noted the omission and said she would provide Mr. Gurland with a copy of the missing document.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Chairman Heller

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

APPLICATION(S)

PB-13-12/Communication Infrastructure Corporation

Block: 84.01; Lot: 22; Zone: B-2

10 Marcella Avenue

Conditional Use Application with waivers to install antennas on to existing tower.

EXHIBITS:

- A-1** - Site Plan prepared by Powder River Development Services, LLC date revised 3/20/13 (5 pages; Title Sheet-No. T-1; Site Plan-No. Z-1; Elevation-No. Z-2; Microwave Details-No. Z-3; Site Details-No. Z-4);
- A-2** - Photo Simulation #1, Site Content Aerial (two sheets) dated 1/14/2013 prepared by Seidel Planning & Design.
- A-3** - Structural Analysis Review Letter prepared by Peter Jernigan, P.E., Tower Engineering Professionals, dated July 9, 2013

DISCUSSION:

James K. Pryor, Esq., attorney for Applicant introduced the Application for the installation of two microwave antennas and ancillary equipment on to an existing tower. He advised the Board that Andrew Haldane, PE, Tower Engineering Services, an expert in structural engineering, (who had previously appeared before the Board) had been scheduled to testify; but was unable to attend due to a family emergency. Mr. Pryor presented a Structural Analysis Review Letter prepared by Peter G. Jernigan, Jr., (Exhibit A-3). Mr. Pryor told the Board that Mr. Jernigan was on his way to the meeting; he was flying in from North Carolina and had encountered flight delays. Mr. Pryor said that although his structural engineering expert was not present, his other experts (Radio Frequency; Planning and FCC Compliance), were present and could testify.

Chairman Heller determined Mr. Pryor could begin testimony.

Mr. Luck Jim Bruno, PM Engineer, Communication Infrastructure Corporation, was sworn in, stated his credentials and was accepted by the Board to be an expert in radio frequency. Mr. Pryor noted that radio frequency engineers were not required to be licensed in the State of New Jersey. Mr. Bruno told the Board he had designed over two-thousand network systems. He said the business of Communication Infrastructure Corporation ("CIC"), was to be develop links between transmission towers. The Company built links between data centers using microwave technology; the links were important due to the telecommunication industry experiencing service interruptions with their fiber optic lines; a result of (the) recent (East Coast) earthquake. Referring to his CIC Radio Frequency Report for West Orange (dated June 24, 2013), Mr. Bruno said the system map showed how West Orange fitted in to the design of the network system; the link for this project would be from Secaucus, New Jersey to West Orange and then to Randolph, New Jersey. The advantage of the West Orange location was that the equipment could be collocated on to an existing structure; building a new structure for the system would not be necessary.

Council President McCartney asked if Mr. Bruno knew the current condition of the tower. Mr. Bruno said that per Mr. Haldane, recent repair work had been done on the structure.

Dr. Bagoff said that a condition of approval should include that all existing FCC rules and regulations would be followed.

Mr. Weston asked if the radio frequency emission from the antennas on the structure impacted the surrounding community. Mr. Bruno said the emission was minimal.

Mr. Gurland asked if the Omland memo dated July 5, 2013 pertained to the current Application because it was identified as "Application No. PB-12-11", not "PB-13-12". It was determined to be a typographical error and should have been identified as "PB-13-12", not the previous CIC "PB-12-11" Application. Mr. Gurland inquired if the structure was made of stainless steel; he wanted to know if the different types of antennas operated by several different companies would interfere with one another. Mr. Bruno said that at some point it could happen but not with the current or proposed installations; the antennas operated on separate frequencies.

Mr. Grygiel asked if the approved CIC antennas from the prior Application had been installed. Mr. Bruno said he believed the work had been completed.

Gary Clower, PE, Powder River Development Services, LLC, was sworn in, stated his credentials and accepted to be an expert witness in civil engineering. Mr. Clower described the property site conditions and the proposed microwave antennas; he discussed how the antennas would be mounted to the tower. The equipment was industry standard in design which was all regulated by Telecommunication Industry Association (TIA) Code. He said all required construction documents would be supplied to the Building Department. Referring to the Omland Engineering report dated July 5, 2013; he indicated that no additional space would be needed to house the ancillary equipment; it would be located with the equipment already in place from the prior application. Additionally, as discussed at the Technical Review Committee, a survey had been completed and would be submitted to the Planning Board.

Mr. Weston noted the site plans were titled TRF Services, LLC; he asked if the improvements were for this application. Mr. Pryor said the site plan indicated the applicant was Communication Infrastructure Corporation; CIC was doing the work on behalf of TRF Services, LLC. Mr. Bruno was recalled to explain that TRF had hired CIC to build the network; TRF Services would be leasing the network. Mr. Dwyer advised the Board that the explanation was acceptable.

Mr. Gurland inquired if the neighboring property owners had been noticed. Mr. Pryor answered in the affirmative; he said all documents had been delivered to the Planning Board Secretary.

Mr. Russo asked Mr. Clower to confirm the proposed antennas were within the footprint of the tower structure. Mr. Clower answered the antennas would fit within the footprint of the tower.

Council President McCartney asked for documentation showing an overlay of all antennas, as discussed at the Technical Review meeting. She said the most recent approvals had not been included in the current presentation; an overlay of the site and a visual presentation would be helpful to the Board.

Brian El Seidel, PP, RLA, AICP, Seidel Planning & Design, was sworn in, stated his credentials and accepted by the Board to be an expert in land use planning. Referring to Exhibit A-2, Mr. Seidel described the existing conditions of the site at the time the photos were taken. He testified that it was his opinion the proposed antennas would have minimal impact on the area because several tall structures were already in the vicinity of the site including a water tower and PSE&G equipment.

Dr. Bagoff asked Mr. Seidel if he thought the proposed antennas would result in a visual clustering of equipment. Mr. Seidel answered in the negative.

Mr. Weston stated the Exhibit -2 photos had been taken several months ago. He inquired if Mr. Seidel knew how many antennas were currently on the structure; he said the photos being shown were different from the current conditions. Mr. Seidel said that he had considered all prior approvals by the Board and it was still his opinion that the visual impact would be minimal.

Mr. Gurland asked if Sheet Number Z-2 of the Site Plan reflected the list of all current approvals; Mr. Pryor said the plan did not reflect the most recent approvals.

Daniel J. Collins, Chief Technical Officer, Pinnacle Telecom Group, LLC, an electrical engineer specializing in radio frequency was sworn in and accepted to be an expert witness in FCC compliance. Mr. Collins advised the Board that the proposed antennas would comply with all State and Federal regulations for radio frequency; the antennas would not generate significant radio frequency levels. Mr. Collins referenced his report date August 28, 2012; which indicated that if all the antennas on the tower were at full power, they would only reach approximately .076% of the FCC limit. Mr. Collins said that State requirements were less stringent than Federal requirements. Mr. Collins explained how microwave frequencies travel and the importance of having antennas in each other's line of sight for proper transmission.

Mr. Pryor said he had a report from Mr. Jernigan, PE, Tower Engineering Professionals which indicated that all necessary tower maintenance had been completed based on his review of the previous analysis prepared by Mr. Haldane dated March 14, 2013. He requested Mr. Jernigan's report be submitted.

Chairman Heller asked Mr. Dwyer for a determination; Mr. Dwyer said it was an engineering issue. Mr. Russo said he had no problem with it.

Mr. Weston said the previous report did not include the most recent approvals; he inquired if a second independent engineering report should be required. He opined the Board really needed to validate the integrity of the structure.

Council President McCartney said that the documents indicated a new inspection was due.

Mr. Russo said the last Applicant for the site testified that one-hundred percent capacity for the structure was not the breaking point; it would be more like one-hundred-five percent; the type of structure on the site could continue to be reinforced.

Mr. Grygiel said there was no discussion as to how many antennas were too many. There was not a standard for numbers or percentages. Dr. Bagoff said that at the end of the day, if there is undue concentration it would be a visual issue.

Mr. Gurland said that perhaps the State Building Code addressed the issue. Mr. Pryor said the Telecommunications Industry Association (TIA) had the industry standards.

Mr. Grygiel advised the Board that a condition of approval should include having all the most recent approvals incorporated in to the final plans.

Mr. Dwyer said the evidence must prove there was no undue cluttering; and that structural integrity had been met.

Mr. Gurland said that there were unanswered questions regarding the structural integrity of the structure; he mentioned the issue of wind loading. Mr. Ghebremicael said he agreed with Mr. Gurland.

Mr. Russo said that he did not know if it was a zoning issue; it was the clustering that was an issue.

Dr. Bagoff suggested that as a condition of approval, Omland Engineering would determine if the structural integrity was acceptable; which would include updated photo simulations and elevations as indicated by the most recent approvals.

Chairman Heller said that the issue was the elevations and the photo simulations vary greatly from the exhibits and what has been recently approved. Mr. Dwyer advised the project must be structurally sound, meet the height requirements, and the issue of clustering.

Mr. Gurland said the issue of clustering is a structural issue. Chairman Heller said that the Board could condition the submission of an updated structural report to include the existing and proposed schematic plan.

Mr. Klein said you can mitigate the structural integrity, but you cannot mitigate the clustering affect.

Dr. Bagoff said the Board had talked about clustering, but had never defined what was clustering. Dr. Bagoff asked Mr. Grygiel to define "what is clustering".

Mr. Grygiel said he worked for multiple towns, but not on First Mountain. He opined it was a unique site due to its location.

Mr. Weston said the Board had not been presented clear information by the Applicant; it was hazy as to which antennas had been installed and which ones had been approved but not yet in place.

Mr. Gurland said he was trying to figure out if the Board should make conditions and vote on the Application; or put off a vote until the Board had more information.

Dr. Bagoff proposed the Application be carried to the next meeting; he suggested Mr. Dwyer craft a draft of the Resolution based on the current testimony to be voted on at

the next meeting after the Board had the opportunity to view a more accurate depiction of the site, and then vote on the Application.

Chairman Heller said the Applicant should be provided with a complete list of submittals the Board would need to view for the next meeting.

Mr. Dwyer advised the Board that Cox (MLUL) did not approve of the proposed action. Council President McCartney opined the draft should be very specific.

Mr. Pryor said he would argue that both Application and Resolution be voted at the next meeting if the Application was to be carried.

Chairman Heller called for a vote on carrying the Application to the August 7, 2013 regular meeting.

The Board voted as follows:

Motion: Dr. Bagoff

Second: Chairman Heller

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	No	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

DISCUSSION

Recommendation to Township Council regarding Proposed Amendments to the Harvard Press Redevelopment Plan (William C. Sullivan, Jr., Esq., Scarinci Hollenbeck Attorneys at Law)

DISCUSSION:

Williams C. Sullivan, Jr., Esq., Scarinci Hollenbeck, gave a brief recapitulation of the Harvard Press Redevelopment Plan approved in 2008. He said the areas of Central Avenue and Mitchell Street along the City of Orange border had been determined to be in need of redevelopment. The property owner was Harvard Properties, LLC. The buildings were in poor condition; the site was undergoing remediation. The West Orange lots were divided by the East Branch of the Rahway River. The adopted 2008 plan had included the area train station in Orange and the culvert be revitalized and create new green space. The City of Orange had granted redevelopment approval and their Planning Board had approved the project. The property located on the West Orange side was approved for one hundred units "for sale" only. Mr. Sullivan was requesting the West Orange plan be amended to change the units to residential "rental" units; he asked that the Board make the recommendation to the Township Council; when approved by the Council; the Applicant would then come back before the Planning Board for site plan approval.

Chairman Heller confirmed the recommendation would be to change the units from "for sale" only, to rental units.

Chairman Heller called for a vote on the Recommendation.

The Board voted on the Recommendation as follows:

Motion: Dr. Bagoff

Second: Mr. Ghebremicael

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

Recommendation to Township Council regarding potential zoning changes to streamline standby generator installation. (Paul Grygiel, Patrick J. Dwyer, Esq.)

Continued from the June 5, 2013 meeting.

DISCUSSION:

Mr. Grygiel said there had been much discussion on the issue; he indicated no additional items for discussion; he said the Board had had the opportunity to review the draft recommendation.

Mr. Gurland asked what would be the affect of the recommendation on condominiums; he said the Board had agreed the major issue was if individual owners wanted generators, the recommendation would not satisfy the issue. Mr. Grygiel answered the concern was not to micromanage; the issue was clearly identified by the Ordinance. Mr. Gurland said that his issue was he foresaw POA having a hard time determining what to do. Dr. Bagoff said then the POA would hire an attorney.

Mr. Weston asked Mr. Grygiel about noise; should the recommendation address the issue of noise; was the issue adequately covered. Mr. Dwyer said the noise issue was a legitimate concern; but the State standards superseded local ordinance. Mr. Weston opined, "only in the case of a power outage' be included in the language.

Mr. Gurland asked about Item E; would testing be permitted on weekends. Mr. Grygiel said yes.

Council President McCartney said she still had concerns, speaking about clustering. Dr. Bagoff said that it would be up to the Condo and Townhouse complexes to determine; however, it would ultimately be up to PSE&G to decide what would be permitted. Council President McCartney said she did not know how to present the Recommendation to the Council.

Mr. Klein said he did not understand how a gas generator could be excluded from the recommendation.

Chairman Heller called for a vote on the Recommendation.

The Board voted on the Recommendation as follows:

Motion: Chairman Heller

Second: Dr. Bagoff

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	No
Lester:	Absent	McCartney:	No	Weston:	No
Wilkes:	Absent	Heller:	Yes		

Recommendation to Township Council regarding "Complete Streets" Policy.
(Chairman Ben Heller)

DISCUSSION:

Chairman Heller said he had put together a Complete Street recommendation; making the streets more pedestrian friendly in high-density areas. The recommendation was a non-binding issue; but did present guidelines that would be good for the Township.

Dr. Bagoff and Mr. Weston both opined to include the policy in the next Master Plan re-examination.

Chairman Heller called for a vote on the Recommendation.

The Board voted on the Recommendation as follows:

Motion: Dr. Bagoff

Second: Chairman Heller

Bagoff:	Yes	Carlucci:	Absent	Eben:	Absent
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

MEETING ADJOURNED at approximately 10:04 P.M.

Minutes adopted August 7, 2013



Robin Miller, Planning Board Secretary
Township of West Orange

****THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE
TUESDAY SEPTEMBER 10, 2013 AT 7:30 P.M. IN COUNCIL CHAMBERS****