

A regular meeting of the Shamong Township Joint Land Use Board was held on the above date at the Municipal Building. The meeting was called to order by Chairman Sweet, at approximately 7:00 P.M.

The Secretary stated that in accordance with the Open Public Meetings Law, notice of this meeting had been published in The Burlington County Times, and posted accordingly.

Pledge of Allegiance was recited.

Roll Call (absentees noted):

Noni Bookbinde-Bell	P	Amy Huber arrived	P	Larry Sharrot	P
Michael Cooney	P	Gene Lera	P	James Sweet	P
Dave Diamond, Alt	A	Susan Onorato	P	Barbara Valenzano	P
Michael DiCroce	A	Bonnie Schneider-Alt	P	Kathleen Wigley	A

Also present were Christopher Norman, Esq. and Dante Guzzi, P.E.

On a motion by Mr. Sharrot, seconded by Mrs. Schnieder the October 15, 2019 regular and executive session minutes were approved with all Board Members present voting yes except Ms. Huber, Mr. Cooney abstained.

Application:

Kilburn – 127 Tuckerton Road (Block 19.01, lot 15) for a bulk variance to construct a 30’ X 36’ (1,080 SF) pole barn where a 600-sf accessory structure are permitted per Shamong Township Code.

Mr. Norman swore in Mr. Kilburn to testify on his behalf.

Mr. Kilburn testified he would like to construct this building to store two (2) classic cars and described his property for those present and reviewed the photos he submitted with his application to the Board and described the access to the pole barn as a “s-curve” stone drive around the existing shed and stated there would be limited use of the vehicles stored. Mr. Kilburn stated the pole barn would be of similar colors of his home which is blue. Mr. Kilburn testified he would accept a deed restriction against any commercial use of the proposed pole barn and stated he would only be installing electric, a cement floor but no water to the pole barn.

Mr. Guzzi reviewed his report to the Board. Mr. Kilburn further described his property as it relates to neighboring properties for Mr. Guzzi.

Mr. Kilburn testified that 1 tree would be cleared for the driveway access and another 2-3 trees to clear the location of the proposed pole barn.

Mr. Sweet opened the meeting to the public,

Eileen Carlos, 109 Indian Mills Road asked if a Pinelands application was required for this application. Mr. Guzzi testified no Pinelands Application is required as it is an assessor structure.

As there was no comment from the public, the public portion was closed.

On a motion by Mr. Sharrott, seconded by Mrs. Valenzano the pole barn was approved subject to Mr. Guzzi's report, color scheme will be consistent with the colors of the existing home and proof of deed restriction being filed with the County restricting the use of the pole barn for a commercial purpose and only electric hooked up to the pole barn. All members present voted in favor of the approval of the application.

Hirschfeld – 102 Nanticoke Trail (Block 12.03, lot 9) for a bulk variance to construct a 28' X 36' (1,088 SF) pole barn where a 600-sf accessory structure are permitted per Shamong Township Code.

Mrs. Onorato stated the applicant has requested this application be continued to the December meeting as they have not adequately noticed the application.

On a motion by Mr. Sweet, seconded by Mrs. Onorato the continuance of the application to the December 17, 2019 meeting was approved with all members present voting yes.

Tower North (@ Opici Wine) 449 Oak Shade Road (Block 7, lot 21.06) seeking use D1 or D2 variance and site plan approval to construct a wireless communication tower.

Mr. Norman stated for the record the Class I and Class III members must step down from participating in this application. Mr. Cooney and Ms. Huber stepped down from the dais at this time (approximately 7:12 pm).

Mr. Stilwell summarized his original testimony, Judge Bookbinder's findings and the subsequent 2-month continuance. He would like an opportunity to rebut and or cross examine any comments from the public. Mr. Stillwell stated he was just made aware of testimony from Mr. Matt McCrink, Esq. and based upon his testimony the applicant might request a continuance to respond if necessary.

Mr. Sweet confirmed for Mr. Stilwell tonight's hearing is a continuation and we want to give the public the opportunity to testify but asked that the public not rehash all the prior testimony. Mr. Norman stated those speaking would be given one opportunity to speak and not be permitted to speak multiple times. The goal is to run an efficient meeting.

Ms. Tiffany Morrison, P.E. was sworn in by Mr. Norman and gave her credentials to the Board prior to submitting her report on the application. Ms. Morrison testified she reviewed the application as it relates to Township ordinances, Master Plan, Judge Bookbinders decision, transcripts of prior meetings, prior Joint Land Use Board Minutes, and case law as it relates to the application.

Ms. Morrison reviewed her letter to the JLUB for the Board and those present beginning by summarizing the application for the proposed tower and the conditional use variance required based upon location. Ms. Morrison testified the property is not on a priority location per the ordinance but is a conditional use.

Ms. Morrison testified that although the communication tower is considered a second use, there is a conflict in the Township ordinance which permits the tower on an already developed property and therefore the ordinance does permit a second use on this property if it is for a communication tower.

Ms. Morrison stated another variance is required due to the size of the compound area which she testified is placed on a 7+ acre parcel and per the site plan would not be visible to the neighboring properties nor Oak Shade Road.

Ms. Morrison testified the site plan submitted confirms all set-back requirements would be met and further testified on the visual impact of the tower as it relates to the negative criteria. Additionally, she noted if the tower was move within a few hundred feet onto the Shamong Township Board of Education property with the STBOE approval, there would be a visual impact to neighboring properties. This impact would have to be evaluated with the impact on the application, if it is not substantially greater and substantially different then it doesn't pass the test of having a negative impact. The Board has to consider the application would be permitted on the adjacent property. Ms. Morrison sympathizes with the Board as it is a difficult decision to make based upon the testimony on record.

Mr. Norman asked Ms. Morrison her opinion on the fact that the zone changes on the road in front of the property of the applicant. Ms. Morrison testified you can have zone changes within a property as well. She stated there will be an impact from the zone change which is to be anticipated and expected. Mr. Stilwell testified the properties are in the same zone as the PIQ.

As no one from the Board had any questions, the meeting was opened to the public.

Matt McCrink, Esq. thanked Ms. Morrison for her presentation. He asked if the plans submitted provided any buffer around base which Ms. Morrison stated there is existing vegetation and that the Board could request additional landscaping if it chooses to. Ms. Morrison stated additional landscaping may be necessary if it is visible from the street and she recommends an inspection once the tower is in place to determine if additional screening is necessary to ensure the base is adequately screened from neighboring properties.

Mr. McCrink inquired on item 8 of Ms. Morrison's report. Ms. Morrison testified that if the base of the tower is visible from the neighboring property and the tower would be permitted just a few hundred feet from the current location then the Board must consider the visibility of the tower on the current proposed site as well as the adjacent school site. Ms. Morrison stated the tower would be visible from either site by any of the neighboring properties.

Ms. Morrison testified the Board cannot take into consideration the property tax consideration when evaluating the positive and negative criteria since if the property was to be subdivided and a portion purchased by the Township the tower could absolutely be permitted and that is what zoning is about. Ms. Morrison testified property tax values are not something the Board can consider as the Board must consider where the tower could be permitted (i.e. neighboring property value).

Mr. McCrink asked if the Board could consider several property owners suffering hundreds of thousands of dollars decline in property value as an impact on the public good? Ms. Morrison stated that is addressed in the master plan and establishment of zoning and boundary lines for property uses.

Mr. McCrink stated he is concerned for his client property value as Mr. Travis Pratt who owns six (6) lots neighboring the applicant's property and one property directly connects to the applicant's property.

Ms. Morrison reviewed the variances requested for the applicant and stated that although three (3) are requested, the Board must balance the positive and negative criteria as a whole. Ms. Morrison testified the D1 variance is self-contained in that the ordinance permits a second use of a cell tower on an approved lot with an existing use.

Warren Stillwell testified the tower is permitted and no variance is needed for the 150-foot tall tower. The variance is needed since the location is not within the priority sites listed within the ordinance.

Ms. Morrison stated there are three (3) variances required in total; a D1, D3 and a C2 variance.

Eileen Carlos questioned if Chairman Sweet is running the show or is Mr. Norman? Mr. Sweet stated that he and Mr. Norman discussed prior to the meeting and we have emphasized the Board has already heard extensive testimony on this case and there was no need to rehash old testimony, they wanted the comments to be clear and concise.

Ms. Carlos questioned that it was stated the public would only be given one opportunity to speak. Ms. Morrison stated if you ask a question during your testimony they could be answered at that time.

Kathy McCrink - Millstone Drive was sworn in by Mr. Norman. Mrs. McCrink asked if the Certificate of Filing from the Pinelands had any conditions. Ms. Morrison stated she did not recall any conditions on the COF.

As there were no additional questions for the planner, Chairman Sweet opened the meeting to the public.

Mr. McCrink asked if he could bring forward Charles "John" Poliero was sworn in by Mr. Norman. Mr. Poliero provided his credentials to those present as a real estate appraiser. Mr. Poliero testified he has had experience appraising properties near cell towers which he finds single family homes are affected more than commercial properties. Mr. Stillwell objected that there was no basis for this testimony. Mr. Poliero stated it is the public's perception that cell towers will cause properties near cell towers to take longer to market and sell for less. Mr. Poliero stated that if people can see a cell tower it directly impacts the value

of an adjoining property. Mr. Poliero testified that the properties owned by Mr. Travis Pratt will be affected by the proposed cell tower by 10% – 20% depending upon the value of the property. The closer you are to the tower the more the loss of value would be. Mr. Poliero believes the tower would be visible for all of Mr. Pratt's (6) lots on Oak Shade Road and a similar affects as they are of similar values due to the cell tower.

Mr. Sweet asked Mr. Poliero how many appraisal cases he has been involved in with cell towers for residential properties. Mr. Poliero stated none for mortgages, but for a court case close to 30 in Burlington or Gloucester Counties. Mr. Poliero clarified this would be for cell towers and power lines.

Mr. Stillwell asked Mr. Poliero to verify he reviewed the application site plan but not the ordinance. Mr. Poliero stated he does not care if the tower is permitted on the adjacent school site, he is testifying on the of the adjacent properties to the applicant. Mr. Poliero testified that the sales of properties near tower lines don't sell as quickly as those away from power lines due to a fear the towers can be have a negative effect to them.

Mr. Stillwell testified that the federal law states the Board cannot consider health affects of a cellular tower. Mr. Poliero stated he is testifying on the diminished values only. Mr. Stillwell asked Mr. Poliero asked how many cases he has work on effects of cell towers on property for which he stated approximately 5. Mr. Poliero stated the value of the properties diminished 10% - 20%. If the tower is ½ mile from a property, the value would most likely not be affected. If the tower is within 1,000 feet from the tower the value of the property would likely be affected by approximately 15%. Mr. Poliero testified he did not include the affect of zoning on the adjacent properties. Mr. McKrink stated that was not included in the scope of the services they had requested of Mr. Poliero.

Mr. Andrew Pollock – 56 Meadowview Court was sworn in by Mr. Norman asked Mr. Poliero if the fear of living near a cell tower would diminish the value of a property. Mr. Poliero agreed. Mr. Poliero asked if there would be a negative affect on property values due to the same level of fear due to a tower being located on or near the school. Mr. Poliero stated he would need additional information to verify.

Mr. Travis Pratt testified as to the 6 buildable lots which he owns some of which are adjacent to the proposed cell tower property. Mr. Pratt also testified

the total value of the 6 lots is \$1.2 million, and he plans to build homes valuing \$750K on these lots. Mr. Pratt informed Mr. Stillwell that when his father purchased the lots in 1974 prior to the Pinelands Commission and this property has been rezoned over the years from 12 buildable lots to 6 buildable lots. Mr. Pratt testified he did not appear in front to the Board prior to this application as it relates to the proposed cell tower. Mr. Pratt also stated he believes the cell tower will have a negative impact on all the properties in the town.

Eileen Carlos – 109 Indian Mills Road testified that she is a Tax Assessor for Bordentown Township for six (6) years and a member of the County Tax Board for six - seven years. She testified the cell towers in Bordentown Township are in the agricultural zone and she has not had issue with the cell towers in Bordentown.

Ms. Carlos asked the planner (Ms. Morrison) how she was made aware of the job. Ms. Morrison testified she spoke with Mr. Norman directly and was given the scope of review in the application versus the appeal process and that she was not restricted in what records she needed access to for her review. Ms. Morrison also testified that she reviewed the application versus the CMP of the Pinelands Commission. The applicant is responsible to locate a property that is within the regional growth area agreement that's within the confines and appropriateness of the CMP. Ms. Morrison agreed the township ordinance prioritizes a cell tower location on publicly owned property. Ms. Morrison testified she reviewed the testimony on record and documentation that was part of the record as it was sworn testimony.

Ms. Carlos testified as a member of the IAAO, she researched 33 articles from the IAAO website on how a cell tower can affect property value. Mr. Stillwell objected to the article as it is third hand hearsay information. If the Board wants to admit this information into the record, he would like the opportunity to review its validity. Mr. Norman confirmed the information would be an exhibit to Ms. Carlos' testimony and part of the record. Mr. Norman marked this as exhibit O-1.

Ms. Carlos testified her concern is that any decision by the Board is final and cannot be reversed. Ms. Carlos then reviewed parts of the Township Ordinance relative to the application including the priority locations within the Township. She states the site with the least visual impact should be selected. Ms. Carlos then summarized much of the past testimonies and history of the application.

Mrs. Onorato summarized the request of township properties from the application which was filtered down to the target zone which had extensive testimony in January and February 2018. Mrs. Onorato testified the Township provided the applicant a list of all township owned properties, as requested. This list was then further filtered out to a localized area and all preserved land then was filtered out as well. There was a target area provided to Mrs. Onorato on the proposed location of a cell tower to service both Shamong and Medford Townships with locations in both communities reviewed by the applicant.

Mr. Bert Stern testified the target area was provided on a zoning map and within Shamong was from near Atsion, Tuckerton roads to near the school property.

Ms. Carlos stated in February/March the Atsion Road property was selected. 1 Tuckerton Road; Atsion Road a deed restricted wetlands property; Shadow Lake Road; Forked Neck Road; Bards Bridge Road. Mrs. Onorato testified Ms. Carlos is reviewing the first list of properties which eliminated many properties which were determined to be outside of the target area closer to 5 points. Ms. Carlos states the Township owned property on Atsion Road was selected and summarized the history of this site. Mr. Norman testified that Judge Bookbinder stated the Board cannot review other lots for the applicant.

Ms. Carlos testified that the only property the applicant submitted to the Pinelands Commission was the Atsion Road parcel. Mr. Norman stated the Pinelands Commission directed the applicant to the Regional Growth zone. Ms. Carlos believes the applicant did not do their due diligence in researching alternative sites. Ms. Carlos testified she contacted PSEG directly which Mr. Norman stated is hearsay and he would need to be present for the testimony to be taken into the record. The PSEG representative told Ms. Carlos that the evidence presented by Tower North is that PSEG would not permit a back up generator on their site but a temporary generator to be brought on site when needed would be permitted.

Ms. Carlos then testified that the Board has granted approvals for sheds over 1,000 sf when 600 sf is permitted. The more this occurs the need to change the ordinance comes into play and makes the rule null a void.

Ms. Carlos stated she spoke with the locator today and he could not come tonight as he was in Delaware and not able to make it here tonight on such short

notice. This locator gave a power point presentation on November 12th and a key point was for the longitude and latitude to be provided which she states the applicant did not provide this information. Mr. Sweet stated the 200' notice requirement was met. Ms. Carlos questioned why if the applicant had two lots, but the residents included on the 200' list were only for the lot the proposed tower is located on. Mr. Norman verified that was sufficient. Ms. Carlos disagreed since the access to the lot originates on the 2nd lot owned by Opici. Mr. Stillwell testified the entrance to the lot in question was always accessed as it is today, the difference is the lot was subdivided moving the access to the other lot. Ms. Carlos asked if they are using 2 lots does the notice need to be for both lots. Mr. Norman stated the notice is required to be on the lot being developed.

Ms. Carlos asked if the Board wants to grant a variance if the applicant did not exhaust every possible site. Ms. Carlos believes the tower could be put on the current PSEG tower or on a vacant lot located at 418 Indian Mills Road a 1.7 acer vacant lot. Ms. Carlos spoke with Mr. Supra who would discuss this option if given an application on this lot. Ms. Carlos testified that if this pole is for 5G service, there is the need to place towers closer together for 5G service. She would like to see the applicant review placing a pole on lot 418 Indian Mills Road and 1 Tuckerton Road which she does not believe there is an impact to many homes as it is close to the PSEG right of way. Exhibit O-2 was submitted by Ms. Carlos. Ms. Carlos could not verify if these properties were on the Recreational Open Space Inventory ("ROSI") as she was not aware of this list. It was explained to Ms. Carlos that any Township owned property include in the ROSI may not be developed without state approval. Ms. Carlos stated if the Township owned property located at 1 Tuckerton is on the ROSI, the tower could still be placed on the 1.7-acre parcel at 418 Tuckerton Road owned by PSE&G. Ms. Carlos stated that North Tower (Tower North) did not file an application on the Red Onion Court with the Pinelands Commission. Mr. Stillwell stated they did discuss this property with the Pinelands Commission. Mr. Sweet asked Ms. Carlos to move forward with her comments as the Board is very familiar with the past testimony.

Ms. Carlos stated she would like to bring a property expert who worked for Cingular for two years to testify but she could not get him here tonight. Mr. Sweet verified the Board did inquire about locating the tower on the PSE&G right of way and was told that it could not be co-located under sworn testimony.

Mr. Stillwell testified the applicant did request to locate within the PSE&G right of way, however, PSE&G would not permit placement of permanent backup generators in this area which is a requirement of the carrier Verizon.

Ms. Carlos testified on a case of Verizon Wireless versus the Board of Adjustment in Tenaflly. Ms. Carlos stated the applicant must prove the proposed facility will fill the gap (of coverage) in the least intrusive manner, made a good in faith effort to find an alternative technologies. Mr. Norman asked if the town required co-location in their ordinance? Ms. Carlos did not know.

Martha Bruninghaus – 474 Oak Shade Road, was sworn in by Mr. Norman and asked Mr. Norman to verify if he testified previously that the board cannot consider health concerns in evaluation this cell tower application since a 1999 law. Ms. Bruninghaus stated there are no studies of the health affects of 4G or 5G on children. She stated the military did a study and found it does kill bees, please take that into consideration.

Janet Wilkens – 53 Millstone Drive was sworn in by Mr. Norman. Mrs. Wilkens, a 41-year resident moved here because she loves the country and she is an educator and neighbor. Her neighbors are all concerned due to the location of the cell tower near the school. Mrs. Wilkens stated we have trees that are protected but the children aren't. We have no guarantee this technology will not affect the children's health, but studies change. She thinks a cell tower in our community is deplorable.

Matt McCrink asked the applicant if PSE&G would allow temporary generator, but Verizon requires permanent generator. Mr. Stern testified that previous testimony will support that this area was look at, but Verizon requires 365 days a year, 24/7 back up generator. Verizon's requirement is based on a mandate that Verizon provide seamless mobile coverage at all times. If the cell service goes down due to a power outage, first responders would not be able to communicate.

Mr. Stern testified every cell site has a back up generator based upon a mandate Verizon is required to maintain.

Mr. Sweet asked if there was anyway to set the cell tower on the PSE&G site and place the generator outside of the right of way. Mr. Stern stated there is not as you would be required to purchase a second site; powerlines from the generator to the cell tower cannot be buried, the generator might be placed even closer to residents' homes.

Mr. Stern responded to a resident and stated that the cell towers visible on existing power lines maybe from other carriers or just very old placements. Mr. Stern stated Verizon mandates for the backup generator is to insure coverage during a power outage, hurricane, etc.

Ms. Carlos asked if the 9-1-1 is a problem, why isn't emergency service here. Ms. Carlos stated the generator could be put on the half acre Township owned site adjacent to the PSE&G right of way.

Diane Wagner – 448 oak Shade Road asked Mr. Stern if the tower can be put on other electrical lines, why aren't they taking it down. Mr. Stern stated they are taking them down and placement on water towers is of concern to local municipalities.

Sean Rowe – 454 oak Shade Road thanked the Board and for the extension provided. He questioned how the board hired Tiffany Morrissey. Mr. Norman summarized the process and the Board made a decision on who to hire. Mr. Rowe asked how much the planner is being paid for tonight. Mr. Norman stated that information could be OPRAed. Mr. Sweet verified several residents went to the Committee to verify the funds would be approved. Mr. Norman verified the limits before an RFP is required is \$17,500.

Mr. Rowe asked Mr. Stern how he learned of the Opici property. Mr. Stern previously testified on this and stated he spoke with the landlord on this property who he negotiated an agreement with.

Mr. Charles Pratt – 4 S. Lakeside Drive, Medford, NJ was sworn in by Mr. Norman. Mr. Pratt testified on the houses he constructed over the area. He also testified that he was met by a gentleman to place a tower on Saddlebrook Ridge Equestrian Center which his wife owns that he turned it down as he did not want it on his property. Mr. Pratt owns Columbus Mart and he knows about the cell tower on this location and is concerned with the health effects.

Mr. Pratt believes the values of the properties will be negatively impacted by the placement of this cell tower similar to the affect of Power Lines. He believes nobody knows at this time the affects of 5G will have on people. Mr. Pratt told the Board that he would not own a house next to a cell tower or power lines.

As there were no additional comments from the public, Chairman Sweet closed the meeting to the public on this matter.

Mr. Norman told the Board he is aware of appraisal testimony involved in a case where the use was not permitted at all. This application meets all the requirements except it is not on publicly owned land. Mr. Norman stated the applicant did work with the town in trying to locate a property that met all the requirements but was not successful in finding township owned land that the Pinelands would approve. The Board can put additional requirements on the application such as additional screening of the base compound to limit the visibility from neighboring properties. Mr. Norman stated the legal fact that the tower can be located about 400 feet away from the proposed site on the adjacent school site

Mr. Lera stated this is not an easy position for the volunteer Board and we sympathize with the residents. Mr. Lera believes the planner made it clear to the Board on the necessary variances and legally the Board cannot consider health concerns. The Board can only consider what is in front of them and not the potential of other properties. Mr. Lera does believe the tower is less than 400 feet from the proposed location if it was located on the school property. **Mr. Lera made a motioned to approve the application, seconded by Mr. Sharrot. All other members present voting no with exception to Mr. Cooney and Ms. Huber who did not participate in this application.**

Resolutions:

2019-19 Aquaflo Pump and Supply Company – 9 Park Drive (block 27.01, lot 9.12). Preliminary and final major site plan approval with bulk variance approval for a 6, 200 square foot warehouse addition.

On a motion by Mr. Sweet, seconded by Mr. Lera resolution 2019-19 was approved with all Board Members present voting yes.

Correspondence:

Secretary Onorato circulated the NJ Planner for September/October was circulated. The Board training material from Burlington County JIF will be on the agenda for next month.

Mr. Sweet opened the meeting to the public. As there was no public present the meeting was closed to the public.

There being no further business, **on motion by Mr. Sweet, seconded by Mrs. Onorato the meeting was adjourned at approximately 9:40 P.M. with all Board Members present yes.**

Attested by:

Susan D. Onorato, Secretary
Shamong Township Joint Land Use Board