

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REORGANIZATION AND REGULAR MEETING
MINUTES
JANUARY 22, 2007**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, January 22, 2007, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

The following notice was issued:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board of Adjustment by preparing a notice dated January 15, 2007, specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Board of Adjustment for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act."

Sonia Santiago, Secretary led the Pledge of Allegiance.

Roll Call of Board Members and Professionals

Members Present

Mr. Lawrence C. Vitale
Mr. Nelson Morales
Mr. Thomas Luby
Mr. James C. Allison
Mr. Rick A. Haan
Mrs. Norma Larkin
Mr. Timothy Kronk
Mr. Donnell Williams

Also Present

Mr. Rich Oller, Attorney
Mr. James Slate, Board Engineer
Mr. Adrian Humbert, Township Planner
Ms. Sonia Santiago, Board Secretary

RE-ORGANIZATION

Oath of Allegiance and Oath of Office administered by Mr. Rich Oller, Esquire to the following:

- Mr. James Allison
- Mr. Nelson Morales
- Mr. Donnell Williams

Sonia Santiago asked for nomination for Chairperson for the year 2007. Mr. Allison nominated Larry Vitale as chairperson seconded by Mr. Luby. Nominations were closed. On motion duly made, seconded and unanimously carried, Mr. Vitale was elected Chairperson.

Mr. Vitale was seated as Chairperson.

Mr. Vitale, Chairman asked for nominations for Vice-Chairperson for the year 2007. Mr. Allison nominated Mr. Kronk second by Mr. Haan. Nominations were closed. On motion duly made, seconded and unanimously carried, Mr. Kronk was elected Vice Chairperson for the year 2007.

Ms. Larkin moved, seconded by Mr. Kronk, and unanimously carried, that the following resolutions be adopted as presented naming Mr. Richard Oller, Esquire as Board Legal Counsel, Mr. Adrian Humbert, Professional Planner and Mr. Ronald Graiff, Radio Frequency Consultant for the year 2007:

DESIGNATION OF BOARD LEGAL COUNSEL

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of Legal Counsel; and

WHEREAS, the practice of law is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, the anticipated term of this contract is one year; and,

WHEREAS, Rich Oller, Esq. of the firm OLLER AND LUZZI has completed and submitted a business entity disclosure certification which certifies that OLLER AND LUZZI has not made any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit OLLER AND LUZZI from making any reportable contributions through the term of the contract; and,

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$900.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, that the Chairman and Board Secretary are authorized to enter into an agreement for the period January 1, 2007 to December 31, 2007 to engage Richard Oller, Esq., as legal counsel at the rate of \$125.00 per hour with a minimum of \$187.50 for attendance at regular and special meetings of the Board. The total to be paid shall not exceed \$900.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and,

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

DESIGNATION OF BOARD PLANNING CONSULTANT

WHEREAS, the Board of Adjustment of the Township of Morris has need for the professional services of a Planning Consultant; and,

WHEREAS, the practice of land use planning is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and,

WHEREAS, the anticipated term of this contract is one year, and,

WHEREAS, Adrian P. Humbert, AICP/P.P of the firm Adrian Humbert Associates has completed and submitted a business entity disclosure certification which certifies that Adrian Humbert Associates has not make any reportable contributions to a political or candidate committee in the Township of Morris in the previous one year, and that the contract will prohibit Adrian P. Humbert, from making any reportable contributions through the term of the contract, and,

WHEREAS, the Chief Financial Officer of the Township of Morris has filed a certificate of availability of funds in the amount of \$1,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey that the Chairman and Board Secretary are authorized to enter into an agreement, dated January 22, 2007, for the period January 1, 2007 to December 31, 2007, with Adrian P. Humbert, AICP/P.P. of Adrian Humbert Associates at the rate of \$125.00 per hour with a minimum of \$180.00 for attendance at regular and special meetings of the board. The total expenditure shall not exceed \$1,000.00 to be charged to the Board of Adjustment, Other Expense budget.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. and,

BE IT FURTHER RESOLVED that an official notice of this action shall be published in accordance with the law.

RADIO FREQUENCY CONSULTANT – RONALD E. GRAIFF, P.E.

WHEREAS, the Township of Morris Board of Adjustment has need for the professional services of a Radio Frequency Engineer; and

WHEREAS, this practice is a recognized profession, regulated by law requiring extensive and specialized training and as such is an exception to the bidding requirements set forth in N.J.S.A. 40A:11-5 et. seq.; and

WHEREAS, charges incurred at the rate of \$ 215.00 per hour will be billed solely to the developers escrow account;

NOW, THEREFORE, BE IT RESOLVED by the Township of Morris Board of Adjustment that Mr. Ronald E. Graiff, PE be hired as a consultant to the Board of Adjustment to particularly discuss the site plan application of NYSMA d/b/a Verizon Wireless with the applicant's professionals to clarify certain issues and concerns of the Board. His appearance before the Board may be required in connection with this consultation.

An official notice of this action shall be published in accordance with the law.

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On a motion made by Mr. Kronk and second by Ms. Larkin, all in favor, the following **Professional Appointments** were made for the year 2007:

Board Engineer – James R. Slate, PE
Alternate Board Engineer – Bernard G. Senger III, PE
Board Secretary – Sonia Santiago

On motion made by Mr. Allison, and seconded by Mr. Kronk, all in favor, resolutions were adopted setting meeting dates for the year 2007/January 2008 and designating official newspapers.

**NOTICE OF SCHEDULED MEETINGS
FOR THE YEAR 2007 AND JANUARY 2008**

BE IT RESOLVED, that the Board of Adjustment of the Township of Morris, County of Morris, State of New Jersey, will meet to consider and act upon public business at **7:30 P.M.**, prevailing time, on each of the dates set forth below, for the year 2007, in the Municipal Building, 50 Woodland Avenue, Township of Morris, New Jersey:

January 22nd, 2007
February 26th
March 26th
April 23rd
May 21st
June 25th
July 23rd
August 27th
September 24th
October 22nd
November 26th
December 10th
January 28th, 2008

BE IT FURTHER RESOLVED that additional meetings, if required, will be at the call of the Chairman with the proper notification, and

BE IT FURTHER RESOLVED that the Secretary is authorized and directed to:

- a.) Post said meeting schedule and maintain the same posted throughout the year 2007 on the bulletin board in the Municipal Building of the Township of Morris on Woodland Avenue;
- b.) Mail a copy of same to the Morris County Daily Record, the Morris News Bee and the Star Ledger.

DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975 (N.J.S.A. 10:4-6 to 10:4-21) known as the "Open Public Meetings Act", requires adequate notice of meetings of public bodies, as therein defined, and in the manner therein set forth, and prescribed certain other procedures to be followed by such bodies.

BE IT HEREBY RESOLVED by the Board of Adjustment of the Township of Morris, Morris County, New Jersey, this 22nd day of January 2007, as follows:

1. The Morris County Daily Record and the Morris News Bee (or as an alternate to the Morris News Bee, the Star Ledger) are hereby designated as the two newspapers to receive notice of meetings as required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings.

2. The location of posting of notice of meetings shall be the bulletin board in the Municipal Building of the Township of Morris, located at 50 Woodland Avenue, where notices of this kind are normally posted

REGULAR MEETING

Public Hearing

BA-13-06

James Street, LLC

Block 7101, Lot 1, 250 James Street, OL-15 zone, Section D.

Continuation of the August 28, 2006, September 25, 2006, October 23, 2006 and December 11, 2006 public hearing where the applicant seeks approval for a use variance to allow residential dwelling units (age restricted townhomes) in the OL-15 zone where they are not permitted.

Mr. Thomas Hall, Attorney for the applicant requested to be adjourned until the February meeting of the Board to allow the applicants professionals to modify the plans to address comments received from the Board. Due to the heavy schedule for the regular meetings the applicant has request a special meeting. This application is adjourned until February 12, 2007 special meeting of the Board of Adjustment without further notice. Applicant granted the Board an extension of time until February 26, 2007.

**Mr. Timothy Kronk recused himself from the meeting at this time.
Certified Shorthand Reporter (CSR) was present for the following application.**

BA-05-06

Sprint Spectrum LP

Block 8608, Lot 15, 11 Old Turnpike Road, OL-40 zone Section C & D.

Continuation of the November 27, 2006 public hearing where the applicant proposes to construct a wireless telecommunications facility consisting of a 120 foot monopole tower with 12 antennas and a 10 x 20 equipment shelter to be located at the base of the tower. A "d" conditional use variance is required for the application since the lot does not meet the 40 acre lot requirement in the OL-40 zone. A front, rear and side yard setback is also being requested due to the OL-40 setback requirements.

Ms. Diane Constantine, attorney for the applicant presented the application to the Board Members.

The following persons appeared to be heard.

Joseph Menio, Radio Frequency
David Karlevach, Licensed Planner

The following exhibits were submitted during testimony.

A-7 Proposed Monopole with Antennas
A-8 Photo Board of James Street Antennas
A-9 Photo Board of Visual Impact
A-10 Photo Board
A-11 Letter from FAA as a condition of beacon

Summary of Testimony – Mr. Joseph Menio, Radio Frequency

Mr. Menio submitted a schematic exhibit A-7 proposed monopole with antennas at different heights and it was reviewed with the Board members. Mr. Graiff stated that sprint can provide

coverage at 110 feet high. Mr. Menio stated that if the applicant flush mounts at 110 feet, the next flush mount at 104 feet and the next one at 97 feet and 89 feet which will only allow one co-locator at 79 feet. If the cluster mount is used at 100 feet additional space is provided for co-locators. A lengthy discussion was carried in regard to the varying heights of the antennas on the monopole.

Summary of Testimony – Mr. David Karlebach, Professional Planner

Mr. Karlebach submitted exhibit A-8 which is a photo board of the existing James Street tower with a cluster mount and flush mount antennas. Mr. Karlebach stated that there were 3 carrier on the tower and that Sprint was at the top of the tower. The cluster antennas shown on the photo are approximately what are proposed with this application. With respect to the site this is a public utility use for JCP & L. This site is ½ mile North West from Convent Station, ¾ mile South East of Morristown Memorial Hospital, 1 mile East of Interstate highway 287, and approximately 650 feet North East of Madison Avenue. The nearest residential uses are located approximately 450 to 500 feet away. In terms of zoning this site is located in the OL-40 zone. This is a permitted conditional use according to the Township Ordinance. Mr. Karlebach reviewed the required and proposed setbacks and the variances that are being requested with this application. Mr. Karlebach stated that most of the homes in the area have very little visibility specially during the summer months. Landscaping will be provided to buffer the area. I believe the site is particularly suitable for this antenna because the site is centrally located. Mr. Karlebach stated that there will be a generator installed for power outages. The generator noise is minimal and will not impact the neighbors; the noise is more towards the Honeywell property. The generator will be excised once a week between the hours of 10 am and 1 pm and it will be refueled about every 12 weeks. Landscaping will be provided to buffer the equipment. A dual light is also proposed at the top of the monopole with a white light during the day and a red light at night in accordance with FAA requirements.

Summary of Testimony – Frank Colasurdo, Architect

Mr. Colasurdo stated that the drywell will either be relocated or eliminated. There is a shield that can be placed around the AC unit to lower the noise level. Mr. Colasurdo stated that should there be any problem that they will fix it. He also stated that the gravel that will be placed should take care of the water runoff.

The meeting was opened to the public; the following person appeared to be heard.

Richard Shively 5 Old Glen Road

The applicant is to reach out to other property owners such as St. Elizabeth for co-location of their antennas. This application is carried to February 26, 2007 Board of Adjustment meeting without further notice. The applicant grants the Board an extension of time until March 26, 2007.

Other Matters

Letter of resignation from Mr. Joseph Calvanelli was read into the record. Board members asked Mr. Oller to prepare a resolution of service to be presented at the February meeting.

With no further business for consideration by the Township of Morris Board of Adjustment, on motion duly made, seconded and unanimously carried, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Sonia Santiago, Secretary
Township of Morris Board of Adjustment