

MINUTES OF THE  
REGULAR MEETING  
OF THE PLANNING BOARD  
JULY 5, 2016

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THE REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF MANVILLE, COUNTY OF SOMERSET, STATE OF NEW JERSEY, WAS HELD ON JULY 5, 2016, IN THE MANVILLE MUNICIPAL COURTROOM, 325 NORTH MAIN STREET, MANVILLE, NEW JERSEY AT 6:30 P.M.

CHAIRMAN GEORGE KELMAN PRESIDED

Chairman Kelman called the Regular Meeting to order at 6:30 p.m., and the secretary announced that proper notice had been given by the posting of the Regular Meeting and by transmitting the notice of the meeting to the Courier News and the Star Ledger.

SALUTE TO THE FLAG

Everyone present participated in the Salute to the Flag.

**ROLL CALL :**

CHAIRMAN GEORGE KELMAN, Present  
VICE-CHAIRMAN RUDY NOWAK, Present  
JOE BARILLA, Present  
COUNCILWOMAN DAYNA CAMACHO, Present  
TED CAMACHO, Present  
KURT KAGAN, Present  
MAYOR RICHARD M. ONDERKO, Present  
JIM POWERS, Present  
DONALD QUICK, Absent  
BRANDON AGANS, Alt. #1, Arrived at 6:38 p.m.  
STEVE RODZINAK, Alt. #2, Present  
CHRISTOPHER M. CORSINI, ESQ., BOARD ATTORNEY, Present  
STAN SCHREK, BOROUGH ENGINEER, Present

**APPROVAL OF MINUTES**

Chairman Kelman asked if any Board members had any changes or corrections to the minutes of June 7, 2016.

When no Board members had any changes, Chairman Kelman requested approval of the minutes of June 7, 2016.

All present were in favor.

Chairman Kelman stated that the Board was going to take the Agenda out of order in order to hear two applications requesting an extension of time.

Rudy Nowak stated that he has a conflict with these issues.

Chairman Kelman asked that he step down from the dais.

Bill Robertson, Esq., of the law firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, and stated he was appearing on behalf of Jeffrey Lehrer, Esq., who submitted both requests. He stated that they are both requests for extensions on the approvals based on the Permit Extension Act of 2008. He explained that the Permit Extension Act of 2008 was based upon recognition that the recession which occurred in 2008 was the worst since the great recession, and had a dramatic impact on the economy of New Jersey, and particularly banking, real estate, and construction. He stated that the Act was created to prevent the abandonment of projects that were approved during that time, namely January 1, 2007 through December 31, 2015, with an additional six-month period added to June 30, 2016.

A/ Request for extension of time A&B Holdings, LLC

Mr. Robertson gave the history of the application and indicated that in May of 2005 there was litigation involved, and in September of 2006, the Superior Court issued an order directing the subdivision of the parcels. He stated that the Applicant is now seeking a one-year extension under N.J.S.A. 40:55D-52. He stated that they are also seeking permission to file the minor subdivision. He stated that a member of A&B Holdings, Linda Dawson, is available for questioning.

Chairman Kelman opened the request to the Board for questions.

Stan Schrek, Borough Engineer, asked if there were any DEP permits required for the project.

Mr. Robertson stated there were stream encroachment permits, and they will be seeking an extension on them as well.

Mr. Schrek stated that there are certain DEP permits which are not applicable under the Permit Extension Act.

Mr. Robertson stated that his clients will address that, and approval will be subject to obtaining those permits.

Dayna Camacho asked if the properties are required to be elevated.

Linda Dawson stated that they are not, because they are not located in a flood zone.

Chairman Kelman opened the extension of the application to the public for comment.

When no one wished to comment, Chairman Kelman closed the public portion, and requested a motion from the Board to either approve or disapprove the request for extension of time.



Mr. Robertson stated that he will be happy to speak to Mr. Lehrer and find out the background, however, it has nothing to do with the applicant's request for an extension of a granted approval.

Mr. Ketusky stated that the Board should receive clarification before voting on the issue. He also stated that there was a lot involved in the original case, such as DEP, DOT, County, wetlands, and other regulations. He stated that he doesn't think the Board can give approval on building codes and ordinances which have changed. He stated that this is a massive project that involves underground retention and intricate engineering. He stated he does not think it is a good idea.

Chairman Kelman stated that he will rely on the advice of Council, however, it seems that the Permit Extension Act is a perfunctory extension to be approved in absence of negative impact.

Attorney Corsini stated that the project was approved by the Board, and this is just an extension for one year. He stated that he is not aware of plans to change the zoning, and the approvals have been issued. He stated he will leave the Board to their discretion, but he doesn't think there is a problem.

Mr. Ketusky also noted that at the time of approval, the Fire Chief was in charge of the Fire Department and he testified. He stated that is no longer the case, and now the Fire Official is in charge of all three Fire Departments, and he did not testify in the case. He stated that is a major change that would be applicable in this case.

Chairman Kelman stated that the application is not going to be reheard, it has already been approved and decided and approved on appeal.

Attorney Corsini asked if Mr. Ketusky was aware of a standard that the Board should apply that would lead to a denial, or is he just stating the matter of denial as a citizen. Mr. Ketusky stated that he is addressing this as an adjacent property owner that was involved in the case, and to ask for a request for extension without knowing all the facts, he does not believe it passes muster.

Chairman Kelman asked, other than the potential of a conflict with the law firm, are there any other facts that the Board should consider.

Mr. Schrek stated that any land use regulation permit granted by the DEP, if not covered under the Permit Extension Act, simply expired. He stated that the applicant would have to reapply if it was a condition of the original approval. He stated that the item that would most affect would be Stormwater Regulations which have changed, and the Borough revised their Ordinances.

Attorney Corsini read from the statute that would provide the Board with the appropriate criteria to apply to their decision. N.J.S.A. 40:55-D-47 - Minor Subdivision. He stated that the standard is met by virtue of the Permit Extension Act.

Mr. Robertson also stated that N.J.S.A. 40:55-D-52 also speaks of protections under the Zoning Ordinance for a period of two years, and grants extensions of one year, but not more than three extensions.

Mr. Ketusky asked if the fact that the Extension Act ended on June 30<sup>th</sup> to have approval or apply for approval.

Attorney Corsini stated it was to apply.

When no one else in the public wished to comment, Chairman Kelman closed the public portion and asked if the Board had any questions or concerns.

Chairman Kelman relied upon Attorney Corsini's legal advice as to whether the matter should be carried to the next meeting, or if the testimony heard today is sufficient to approve or deny the extension.

Attorney Corsini stated that he believes it is sufficient, and the case he quoted is directly applicable.

Chairman Kelman requested a motion to either approve or deny the extension of this application.

Kurt Kagan, seconded by Ted Camacho, made a motion to approve the extension of time for Brooks Townhouses.

ROLL CALL: AYES: CAMACHO-T, KAGAN, KELMAN, POWERS, RODZINAK  
ABSTAIN: BARILLA, CAMACHO-D, NOWAK, ONDERKO, AGANS  
ABSENT: QUICK

## APPLICATION

A/ Application #PB-16-04 - Doreen Armiger  
Use Variance  
Block 70, Lot 15

Chairman Kelman requested that the applicant come forward, and asked Attorney Corsini to confirm that we have a quorum to hear the application.

Attorney Corsini stated that this is a Use Variance which would require the elected officials to step down from the dais, and we do have a quorum of the Zoning Board. He stated that the reason the elected officials step down is that they would hear an appeal if necessary.

Dave Armiger, 27 North 11<sup>th</sup> Avenue - stated that he has been a Ham Radio operator for many years, and he is requesting permission to install a communication tower at his residence that will extend from 23 feet to 72 feet. He stated that the reason is to get the antenna a half wave length above ground to communicate at longer distances. He stated that he would be able to communicate with the other side of the world louder and

better. He stated that he speaks to the Navy out at sea every day at 7:00 p.m., and they phone patch back to their families if they can't get back any other way. He stated that he has had this hobby since he was seven years old, and he would like the Board to consider allowing installation. He presented a poster of towers in the area that already exist in Princeton, Franklin, Somerville, Manville, Hillsborough, and Lawrenceville, which he passed to each Board member.

Chairman Kelman asked what Mr. Armiger is currently using.

Mr. Armiger stated he is using a straight pole in the backyard at about 35 feet.

Chairman Kelman asked if Mr. Armiger is charging for his services.

Mr. Armiger stated he is not. It is strictly volunteer.

Chairman Kelman asked how long he expects the antenna to be extended full length and if there were requirements for lighting.

Mr. Armiger stated usually once per week on Sundays, and that there are only requirements for lighting at 200 feet.

Chairman Kelman asked if Mr. Armiger has conferred with his neighbors.

Mr. Armiger stated that none of the neighbors have any problem with it.

Chairman Kelman asked if anyone from the Board had any questions.

Jim Powers asked how many square feet the antenna is and what the shape is.

Mr. Armiger stated that the shape is a long pole at about 15 feet, and the 5 radials on the sides are about 10 feet.

Chairman Kelman asked if any of the diagrams attached to his application depict what the antenna will look like.

Mr. Armiger indicated on page 2 of the application a diagram which showed "crank-up towers".

Steve Rodzinak asked if there are any guidewires.

Mr. Armiger stated there are not.

Kurt Kagan asked what meters he will be operating on.

Mr. Armiger stated 20 meters, 40 meters, 10 meters, 11 - 15.

Joe Barilla asked if he would be removing the old antenna.

Mr. Armiger stated that it will hang off the tower, since he can still reach Florida, but not Japan.

Chairman Kelman opened the application to the public for questions.

When no one in the public had questions of this applicant, he closed the public portion and requested a motion to either approve or deny the application.

Jim Powers, seconded by Joe Barilla, made a motion to approve the application.

ROLL CALL:           AYES:BARILLA, CAMACHO-T, KAGAN, KELMAN,  
                          NOWAK, POWERS, AGANS, RODZINAK  
                          ABSENT:    QUICK

B/     Application #PB-16-05 - Peter Hrebik  
       Bulk Variance  
       Lot 17, Block 231 - 509 West Frech Avenue

Mr. Hrebik's daughter came forward to present the application on behalf of her father. When asked for proof of publication and notices to the neighboring property owners, she did not have them with her.

Attorney Corsini stated that we could not proceed without the proofs.

Chairman Kelman stated that we could not proceed with proofs of notice to the neighboring property owners.

The application has been carried to the August 2, 2016 meeting.

## **PUBLIC PORTION**

Chairman Kelman invited anyone in the public to make comments on any Planning or Zoning issues.

When no one wished to comment, Chairman Kelman closed the public portion.

## **COMMENTS BY BOARD MEMBERS**

Mayor Onderko stated that the eight lots that were acquired by the Borough as part of the Superfund site adjacent to the Rustic Mall must be rezoned to get ready for sale. He asked assistance from the Chairman and the Attorney regarding that issue.

When no one else wished to comment, Chairman Kelman requested a motion to adjourn the meeting.

Councilwoman Camacho, seconded by Joe Barilla made a motion to adjourn the meeting.

All present were in favor.

The meeting was adjourned at approximately 7:04 p.m.

ATTEST: \_\_\_\_\_  
Nancy Kagan, Secretary