

FRELINGHUYSEN TOWNSHIP LAND USE BOARD

Minutes-February 20, 2023

7:00 PM

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by the Chairman Martin Connor.

ANNOUNCEMENT OF PROPER NOTICE:

Notice of this meeting was provided by advertising in the New Jersey Herald and the Express Times, the official newspapers of the Frelinghuysen Township Land Use Board. Notice has also been posted on the Township bulletin board and the website.

ROLL CALL:

Present were: Martin Connor, Lowell Forbes, Daniel Rogers, Edyta Martewicz, Alan DeCarolis, Nicholas Soranno, Robert Stock and Justin Stanley. Pamela Rogers arrived at 7:04 pm.

Absent were: Jessica Caruso, Donald Soisson, and Christopher Stracco

CORRESPONDENCE: none

MINUTES:

The minutes of the special meeting of January 30, 2023 were approved on motion made by Mr. Rogers, seconded by Mr. DeCarolis. All were in favor with Mr. Stock abstaining.

ESCROW REVIEW:

Mr. Connor asked the Board Secretary if escrow for Veda Farms and the Gottfried Applications were verified with the CFO. Board Secretary confirmed escrows were verified.

Mr. Stock and Ms. Rogers recused themselves from the meeting at 7:10 pm.

OLD BUSINESS:

Veda Farms Application No. 2022-03 – Revised Memorializing Resolution Adoption –
Motion was made to adopt the revised memorializing resolution by Mr. Soranno, seconded by Mr. Forbes. All were in favor.

Chairman Conner asked the board members to vote on whether they would be interested in taking the class Mr. Brady gives in regard to Power, Responsibilities & Procedures of the Land Use Board and taking this to the Township Committee for budget review for this class. All were in favor.

Mr. DeCarolis asked Chairman Connor and Mr. Brady if he needed to recuse himself due to the fact that 30 years ago he sold the property located at 1061 Dark Moon Road and because Mr. DeCarolis has a cell tower in his current property. Mr. Brady stated there is no conflict.

The meeting was adjourned at 7:15 pm and would be back in session at 7:30 pm due to the attorney for the Gottfried application advertising the meeting time as 7:30 pm.

The meeting of February 20th was called back to order at 7:30 pm. Ms. Pamela Rogers returned to the meeting.

OLD BUSINESS:

Gottfried Application No. 2022-01 - 1061 Dark Moon Road. (Rt. 519) – Completeness and Public Hearing

Mr. Brady was provided proof of publication of the meeting, verified said publication, and the attorney will provide the Affidavit of Publication from the newspaper once it is received.

Appearing before the board was attorney Fred Hopengarten. He called to testify Mr. Hanoch Paz, VP of Operations for 3DB Communication which is located in Israel. Mr. Paz was sworn in by Mr. Brady and began to explain that the owner of 1061 Dark Moon Road has agreed to having Mr. Paz's company erect 3 towers that would hold high frequency antennas on that property for the use of allowing international banks and the London Stock Market to transmit and receive information with the United States. Mr. Paz stated that the towers high frequencies reflect off of the Ionosphere.

Mr. Connor asked if Mr. Paz has any other towers in the United States and Mr. Paz stated that he did have towers in Illinois. Mr. Brady asked the reason he has chosen the property on Dark Moon Road and Mr. Paz stated it is because the towers cannot be located near a large city, financial HUBS or around airports. Plus where this property is located, no one will see the towers or be bothered by them. Mr. Forbes asked if the 3 towers already existing on the Dark Moon Road property needed to be removed prior to Mr. Paz's towers being erected and Mr. Paz stated no because his towers will be on different parts of the property. Mr. DeCarolis stated that the 3 existing towers on that property were approved 18 years ago.

Ms. Green asked if the towers are unmanned and Mr. Paz stated that the towers are operated remotely. She also asked if the antennas were moving or fixed and Mr. Paz stated that they are fixed. Ms. Green's final question was if weather affects his towers and the answer was no.

Mr. Brady asked if there was any type of maintenance that needed to be done on the towers and Mr. Paz stated that one time per month the landowner will perform maintenance on the towers.

Mr. DeCarolis asked if the new towers will require any lighting for airplanes etc. The answer was no. Mr. DeCarolis also wanted to know since the property is near the railroad is the railroad aware of these towers and the answer was it was not relevant.

Mr. Brady asked if anything can be sensed from the towers and Mr. Paz stated no.

Mr. Brady asked about a slide that was on the screen that Mr. Hopengarten has set up and Mr. Brady was given the entire slideshow on a zip drive.

Exhibit A101 - is a slide that shows how high frequency radio waves travel. Ms. Rogers asked Mr. Paz if he was leasing the property from the owner of Dark Moon Road, Mr. Gottfried, and he answered that there is a 5 year lease with 3 additional options of 5 years each for a total of 20 years with a requirement that if and when the company vacates the property, the land will be restored to what it was prior to the towers. No further questions from the Board or public.

Mr. Hopengarten then called John Cote of Langan Professional Engineers to testify. He is licensed by New Jersey as a Civil Engineer and his license is in good standing. He was sworn in and accepted as an expert.

Exhibit A102 – titled “Coversheet – Minor Site Plan”, revised 1/17/23 showing that the property located at 1061 Dark Moon Road consists of 23.8 acres and is zoned AR-6.

Exhibit A103 - showed the location of the towers and was revised 10/17/22. Tower #1 is 231.9 feet from the Right-of-Way, Tower #2 is 202.7 feet away from the Right-of Way and Tower #3 is 240.1 feet away from the Right of Way. There will also be a communication shed that will be 176.4 feet away from the Right-of –Way.

Exhibit A104 - titled “Enlarged Site Plan”, revised 10/17/22 shows where the towers will be in regard to the existing home on the property. Mr. Cote stated that there will be 70 trees, 8 inches or greater, removed prior to the towers being erected. 10 of which will be near the driveway. The staging area was also shown.

Exhibit A105 – titled “Site Plan with Aerial Overlay”, revised 10/17/22 shows the towers will be more than 500 feet from existing dwelling, 550 feet from the westerly dwelling and 600 feet from the easterly dwelling.

Exhibit A106 – titled, “Truck Circulation & Driveway Improvement Plan” dated, 10/17/22, showing modifications to the existing driveway to widen it for trucks needed to construct the towers by using 3 inch quarry processed material to stabilize the area for the construction vehicles. Landowner also uses this driveway to maintain the existing towers.

Mr. Cote then spoke about the variances that are being asked for.

Exhibit A107 – titled, “Tower Details”, revised 1/17/23 shows the type of towers that are being erected. The towers will be lattice towers, not Ordinance required monopole towers because monopoles are more expensive. The lattice towers are recommended for the use that is being proposed.

They will be asking for a variance for the communication shed which will be located between Tower #1 and Tower #2, which will be 176.4 feet setback from the front yard. Ms. Green discussed the front yard with Mr. Cote and the concerns have been met.

Exhibit A108 – “Steep Slope Disturbance Analysis”, dated 10/17/22. This showed how much of the areas will be disturbed. It ranged from 0% to more than 24% of the area would be

disturbed. They will disturbing 6,837 square feet in the slopes between 0-14.9%, 1,626 square feet in the slopes between 15-24.9%, and 408 square feet in the slopes above 24%. Mr. Cote also discussed the anchors for guide wires and how deep they would be going into the ground. They do not create erosion on the site.

Mr. Forbes asked about the second curve of the existing driveway and because it is a hill, Mr. Cote stated it will be dug out and leveled, then quarry processed stone added. Mr. Rogers inquired about the slopes on the second curve of the driveway. Mr. Sterbenz recommended that grading for the second curve be on the Site Plan as a condition of the Resolution. Ms. Rogers wanted to know the elevation of the 3 towers relative to the road. Mr. Cote stated that Tower #1 is 667 feet in elevation on the hill and is setback 232 feet from the road, Tower #2 is 666.5 feet and is setback 202.7 feet from right of way of Dark Moon Road and Tower #3 is 660 feet lower in elevation on the hill and is 240 feet from the right of way.

Mr. Connor asked how tall the trees were in the area of the towers, which were observed to be 30-50 feet in height. The towers are setback from the ridge of the hillside and the tree line along the hillside provides cover of the towers. Mr. Brady asked what color the antennas are and also what color the towers are. Mr. Cote stated that the antennas are green and the towers are galvanized steel.

Exhibit A109 – this was a picture of the communication shed. This shed is an existing structure which is 10 feet in height which Ms. Green confirmed there is no issue with the height of this structure.

Mr. Sterbenz asked Mr. Cote if there would be a cross-sectional exhibit in regard to the tower on the plateau and view from Dark Moon Road. Mr. Cote does not have a diagram with him.

Exhibit A110 - Mr. Hoppengarten produced a photo he had taken of the existing tower owned by Mr. Gottfried, which is higher on the hill than any of the new towers will be, and Mr. Paz confirmed it is an accurate photo. Ms. Rogers asked if the towers will be lit. Mr. Hopengarten stated they do not need to be based on FAA regulations because they are under 200 feet in height and also conform to the FCC TOWAIR calculations. Mr. Soranno asked what the difference in height is between the largest existing tower and the tallest proposed new towers. Mr. Hopengarten stated that the towers are the same height (666 feet), however, the new towers are at a lower elevation than the existing towers. Based on heights of new towers, Tower #1 and Tower #2 will not be seen from Route 519 and are not an issue. Tower #3 is what is being discussed. Mr. Soranno also discussed the distance between existing tower in Exhibit A110 and the tallest of the new towers. Mr. Cote stated the distance is 430 feet. Mr. Forbes questioned the lighting not being necessary and Mr. Brady stated there will be a condition of the Resolution that the towers will not be lit.

Mr. DeCarolis wanted to confirm the anchors for the towers are 6x6 feet concrete block and depth is 6-8 feet. Mr. Cote stated they will be hammering, not blasting, the limestone in order to install the anchors.

Mr. Rogers asked if there is a picture with a view from the tallest existing tower looking out to Route 519. The answer is no.

Ms. Green stated there is a discrepancy in the square feet of steep slopes if approved, that discrepancy needs to be clarified. She also asked if the generator meets the noise ordinance of 50 decibels and Mr. Cote confirmed it does meet the ordinance. Mr. Cote is willing to provide the calculations to show it meets the town ordinance. A condition will be added that the generator will comply with the noise ordinance. Mr. Paz stated the generator will be tested 10 min/week and then will only run during emergencies.

Exhibit A111 - Ms. Green asked for clarification on what the signage will say and Mr. Hopengarten confirmed the only thing the signage will have is the registration number of the tower.

Ms. Rogers asked if they have any information on side effects of emissions of the towers. Mr. Hopengarten stated they previously submitted the calculations of emissions and it came out to be less than 2% of FCC guidelines. There will be a condition of calculations to be submitted by Mr. Gottfried.

Exhibit A112 - Mr. Brady asked about the anti-climb devices that have been mentioned and Mr. Cote explained that they install a flat panel all the way around the bottom of the tower, mounted 2 feet above ground and is a total of 10 feet high. These panels block the lattice structure it cannot be climbed. Mr. Soranno asked if there are FCC or state guidelines for the height of the anti-climb device and Mr. Cote stated no. These panels are purchased from a company.

Mr. Sterbenz stated town's biggest concern is what the public will be able to visually see of the tower. He believes there should have been topography or photo simulations provided at this meeting. Mr. Brady asked what areas of town would be concerned with being able to see the towers. Mr. Connor stated there were photos submitted originally with application from 5 different vantage points. 1/14/22 submission of photos from tower. The Planner will have photos taken from Dark Moon Road. Mr. Sterbenz recommends photo stimulation. Mr. DeCarolis stated that if the new tower is shorter than existing tower, it becomes irrelevant.

No further questions for Mr. Cote.

Mr. Hopengarten then called Sean Moronski of Langan Professional Engineers. He is licensed by New Jersey as a Planner and his license is in good standing. He was sworn in and accepted as an expert. He has reviewed all documents in regard to this application. Mr. Moronski stated this property is AR – Agriculture/Residential zone. This is a permitted use according to Town Ordinance. He stated they will be asking for C Variances for steep slope disturbances and D-3 Condition Variances for the communication tower locations, driveway access and Tower type. Mr. Moronski then discussed the negative criteria such as the towers are not a detriment to the public, because of the galvanized steel color, they will not be seen from a distance and the location of the towers are the required distance from nearby dwellings.

Mr. Moronski discussed the C1B Variance that is being requested for the steep slope disturbances and the disturbance is very minimal. Variance 501E is for an accessory structure not allowed in the front yard but because this property is farmland qualified and because the front yard is not a "typical" front yard, the communication shed meets the conditions of the variance.

Exhibit A113 – "Photograph Location Map" that were taken by Mr. Moronski from different locations around this property. When he took the pictures, the photos showed the coordinates of where he was located and the direction that he took the photo in.

Exhibit A114 – 8 photos were submitted to the Board that were taken on 10/19/22. Mr. Moronski talked about each photo and believes that a photo simulation would give you the same perspective that these photos do. Mr. Moronski believes that that variances can be granted under the criteria he has discussed.

No further questions from the Board. Township resident Anne Stock stated the photos shown tonight are anecdotal and believes that photo simulation would be helpful. She also wanted to know how the new towers benefit the residents. Mr. Moronski stated because the applicant has an FCC license which is indicative of serving public purpose. Ms. Stock also wanted to know if the accessory building/communication building can be seen from the road, Mr. Moronski state no. No further questions from the public.

Mr. Soranno confirmed that when the lease is up, will everything come down including the communication building and the generator and Mr. Paz stated everything we put will be taken down.

PUBLIC PARTICIPATION:

The meeting was opened to the public for questions. Spoke was Richard Murphy, a township resident. Mr. Murphy was sworn in and wanted to see a picture of what the antenna looks like on top of the tower. He asked why the applicant was not putting up monopole towers and Mr. Paz stated that the lattice towers are easier to work with in this situation and he was looking for the smallest towers possible. Mr. Murphy also asked what the size of the antennas were and Mr. Paz explained the antennas size and described the components of the antennas. Mr. Murphy did not have any further questions.

Anne Stock was sworn in and wanted to express that she hopes the Board will do their due diligence and make sure all conditions are met by the applicant prior to approval. She stated, in her opinion, the only benefit is to the landowner and not the residents. She also had concerns regarding microwave data and she was reminded that these are high frequency towers.

Mr. Brady stated that the Board hired a radio frequency expert to confirm that these towers were not emitting microwave frequencies and the expert confirmed they do not.

Mr. DeCarolis asked if ice was an issue and Mr. Paz stated that ice does not gather on the antenna.

Mr. Brady then went over the list of conditions:

- It should be stated that when lease ends and the use ends, all equipment will be removed
- Need details of the cuts of the driveway to satisfy Mr. Sterbenz
- Tower will not be lit
- There will be no blasting
- The steep slope discrepancies will be cleared up
- Details on the generator noise meeting the ordinance and that it will have a test run 1 time per week during the day.
- Calculations on the emissions
- Anti-climb device be installed and maintained
- No microwave frequencies
- Generator will be propane fuel
- If higher antennas are installed, applicant must come back to the Board
- Photos submitted by Mr. Gottfried be authenticated by Mr. Gottfried at the town's next meeting
- Any signage will be 2 square feet at maximum

There was more discussion between board members about possible balloon tests or photo simulation done. Mr. Rogers stated that they should have an expert do a test to show what the high frequencies put out into the surrounding areas. Mr. Hopengarten will submit these results to Mr. Brady who will send them to the radio frequency expert to review.

Mr. Connor asked what submissions the board is still waiting for. Mr. Brady stated the submissions needed are the radio frequency emissions and the photo simulation or balloon test. Mr. Cote indicated that his company could do a photo simulation that would include the locations the board wants. Suggested photos taken from the intersection of Lanning Road and Kerrs Corner Road, the Town Hall Recreation Fields, Dark Moon Road, Greendell Road, Saddle Ridge Road.

A motion was made by Mr. Soranno, seconded by Ms. Martewicz to authorize Mr. Brady to draft a Resolution of Approval to be voted on at the March 6, 2023 meeting. Roll call: Mr. Rogers – yes, Mr. DeCarolis – yes, Mr. Soranno – yes, Mr. Forbes – yes, Ms. Martewicz – yes, Ms. Rogers – no, Mr. Connor – yes.

At the March 6, 2023 meeting, the board will vote to approve the application and vote to approve the resolution.

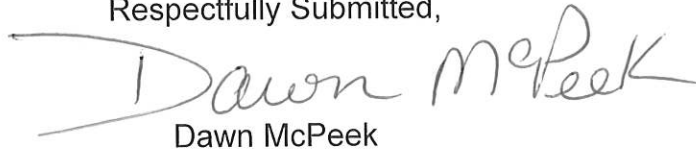
SUBCOMMITTEE REPORTS

1. Open Space - None
2. Farmland Preservation - None
3. Environmental Commission - None

ADJOURNMENT:

There being no further business, the meeting was adjourned on motion made by Mr. DeCarolis, seconded by Mr. Soranno. All were in favor. Meeting adjourned at 10:35 pm.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Dawn McPeck". The signature is written in black ink and is positioned below the typed name.

Dawn McPeck