

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
SEPTEMBER 3, 2013**

OPEN MEETING: Chairman O'Connell called the meeting to order at 7:30 p.m.

FLAG SALUTE: Chairman O'Connell led the flag salute.

ROLL CALL:

Diana Boyce – Present
Ellsworth Bensley, Jr. – Excused
Suzanne Howell – Present
Rick Melfi – Excused
CeCe Pattison – Excused
Christine Kretzmer – Present
Dolores Blackburn – Present
Ken Roberts – Present
John O'Connell – Present
Paul Messerschmidt – Present
Richard Skewes – Excused

PROFESSIONALS PRESENT: Richard Briigliodoro, Esq., and Joseph Golden, P.E., P.P., were present.

OPEN PUBLIC MEETINGS ACT NOTICE: Chairman O'Connell read the following statement: This is an open public meeting of the Andover Township Land Use Board. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda.

RULES: Chairman O'Connell read the following rules: No new cases after 9:30 p.m. or testimony after 10:00 p.m. Comments from each member of the public are limited to 5 minutes during the public portion of the meeting. Transcript requests are to be in writing with check for 100% of costs. Material for the meeting is to be filed fourteen days before the next meeting once it has been heard for completeness. Individuals or members of a partnership must be present at the meeting or be represented by an attorney. Testimony is under oath. False testimony constitutes perjury.

MINUTES: A motion to approve the *Minutes of the Andover Township Land Use Board Meeting Held August 20, 2013* was made by Paul Messerschmidt and seconded by Dolores Blackburn. Roll Call: Suzanne Howell – yes; Christine Kretzmer – yes; Dolores Blackburn – yes; Ken Roberts – yes; Paul Messerschmidt – yes; John O'Connell – yes. The motion carried.

RESOLUTIONS: There were no resolutions scheduled for review.

COMPLETENESS REVIEW: There were no matters scheduled.

HEARING: A-7-13-1 United Telephone Company of New Jersey, Inc., d/b/a Century Link, Use Variances, C Variances, Site Plan Waiver, Block 151 Lot 2:

Richard Briigliodoro, Esq., stated the Applicant's notice was proper. He affirmed the Board, constituted as a Zoning Board of Adjustment, had jurisdiction to hear the matter. Accordingly, Board members Dolores Blackburn (Class III) and Ken Roberts (Class I) stepped down.

Megan A. Ward, Esq., appeared on behalf of the Applicant. Craig S. Zimmermann, P.E., was sworn, qualified, and accepted as an expert witness for the Applicant. Robert A. O'Connor, Jr., was sworn. He stated he was a Senior Engineer employed by CenturyLink with near 40 years experience. Upon inquiry, he stated that he was not a licensed engineer.

Ms. Ward provided an overview of the project stating the application entailed the installation of a pole mount digital switching station for telecommunication services. She identified the project's location as 473 Route 206 [at the corner of Route 206 and Old Stickles Pond Road,] within a 384 sq.ft. easement. She stated the .46-acre subject property is vacant and located in the BA Zone. She stated the proposed inherently beneficial use would be a conditional use in the zone, and the use would provide an essential service. Ms. Ward confirmed that United Telephone is a public utility, and Andover Township is within the franchise area.

Ms. Ward presented the Applicant's request for relief stating front and side yard setback requirements could not be met. She requested a site plan waiver noting the proposal's minimal disturbance and minimal site and off-site impact. Additionally, Ms. Ward requested relief as the use would be a second use on the property, contrary to the ordinance that prohibits two principal uses on a property. She stated the application presents no off-site impacts. Referencing a series of photographs that were attached to the application, the Applicant identified existing site conditions including a masonry structure located approximately 75' off-site and away from the proposed easement. Mr. Zimmerman noted that the facility is proposed to be 73.1' to the centerline of Route 206. He stated the facility would be 8' from the right-of-way with the easement abutting the right-of-way.

Mr. Zimmerman provided an overview of the matter and submitted Exhibit A-1, titled *Variance & Easement Plan*, CenturyLink Telecommunication Improvements, Block 151, Lot 2, Township of Andover, New Jersey, dated 9/3/12. He identified a 150' Wetland Transition Area Buffer on the plan and identified the easement's location within said buffer. He stated the Applicant was working to obtain a NJDEP General Permit. He also noted the wetlands were flagged and delineated by a surveyor. He stated the wetlands are not located on the subject property but off-tract across Old Stickles Pond Road.

Mr. O'Connor, Jr., submitted Exhibit A-2, which he identified as a colored photograph of a similar facility in Hampton Township; and Exhibit A-3, a map outlining the Newton Exchange, Andover Township, and the proposed service area that would be covered by the switching station. Mr. O'Connor, Jr., explained the switching station, mounted between two poles approximately 12' apart, would enable fiber optic connections that improve quality of service and increased speed to customers within a 12,000' area of the station. He stated the switching station could currently service 240 existing customers and has a capacity to service 504 customers. He stated he did not see a need for a plan amendment in the near future. Mr. O'Connor, Jr., stated the system, which is contained within cabinet structures, would be cooled by fans that emit little noise. He stated the facility produces no EMF emissions. He confirmed the noise from the fan

would be less than 65 decibels. He noted the facility would be monitored remotely, and the unit's operation would be backed up utilizing an eight-hour battery. Mr. O'Connor, Jr., stated emergency management scenarios could include the use of portable lighting and a 5000-watt generator. He stated the proposed placement close to the road is desirable and may deter vandals.

Further, Mr. O'Connor, Jr., stated that there would be no stationed employee; and monthly routine maintenance would take place typically between 8:00 a.m. and 5:00 p.m., Monday through Friday. He noted an employee might access the site periodically for service connection matters utilizing a van or box truck. He noted that the installation of the facility would require the removal of brush. He confirmed that the easement area would not be clear-cut, and a large tree would not be disturbed. Mr. O'Connor confirmed that different locations were considered.

Board member Messerschmidt questioned the location of the facility in a flood plain and asked if the facility would operate in a flood. Mr. O'Connor confirmed the facility would not operate with significant flooding. Mr. Zimmerman stated he did not know the flood elevation.

Joseph Golden, P.E., P.P., discussed underground wiring requirements, and the Applicant agreed to revise the plans to show same. Mr. Golden suggested a review of the franchise agreement as well as a review of the easement's location relative to the right-of-way. The location of the easement was discussed, and the Applicant agreed to review the matter. Mr. O'Connor, Jr., confirmed that CenturyLink has an agreement with the power company to locate on their pole. The Applicant also agreed to provide information about their right to trench on the right-of-way and/or the adjoining property.

Mr. Zimmerman stated access to the parcel proper is to turn off onto Old Stickles Pond Road and hook in. With reference to Old Stickles Pond Road, Mr. Zimmerman stated he found no evidence that the road had been vacated. Mr. Golden stated the Township's tax map indicates that the road had been vacated. The Applicant stated that access to the facility would be through the property and the agreement with the owner includes a parking provision. He stated he did not know if the road was maintained by the Township.

Mr. Golden stated he was concerned that the lot is generally a nonconforming lot. He stated the Applicant might be hard pressed to get an access permit from the NJDOT; and if access is to be guaranteed through the right-of-way, there is a probability the Township may ask for the 25' wide. The Applicant agreed to review the matter.

Chairman O'Connell opened the meeting to the public. Ms. Carla Kostelnik was sworn. She stated the NJDEP changed the wetlands and reduced flooding on Old Stickles Pond Road. No other members of the public addressed the Board. Chairman O'Connell closed the meeting to the public.

Chairman O'Connell called a recess at 8:50 p.m. He called the meeting to order at 9:00 p.m.

Ms. Ward requested an adjournment to revise the plan and obtain the additional information requested. She asked to carry the matter to October 1, 2013 meeting without further notice. Richard Briigliodoro, Esq., advised that any redesign that triggers a need for additional variance relief would require notice. He suggested a review of the franchise agreement. Further,

Ms. Ward agreed to review the site plan waiver application as well as the variance and waiver requests. She also agreed to present planning testimony, noise data on the fans, information pertaining to the adjoining property and the right to trench, and clarification relative to survey data as suggested by Mr. Golden. A motion to carry the matter to the October 1, 2013 meeting was made by Suzanne Howell and seconded by Christine Kretzmer. Roll Call: Diana Boyce – yes; Suzanne Howell – yes; Christine Kretzmer – yes; Paul Messerschmidt – yes; John O’Connell – yes. The motion carried.

Board members Ken Roberts and Dolores Blackburn joined the meeting at 9:10 p.m.

PUBLIC PORTION: The meeting was opened to the public. No members of the public addressed the Board. The meeting was closed to the public.

OLD/NEW BUSINESS: Ken Roberts announced an upcoming subcommittee meeting to work on an alternative energy ordinance. Christine Kretzmer announced that she, working in conjunction with Mr. Golden, obtained funding to complete a recreation trail from Hillside Park to Kittatinny.

VOUCHERS: There were no vouchers distributed for review.

UPCOMING MEETINGS: Chairman O’Connell confirmed the September 17, 2013 and October 1, 2013 hearing dates.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Paul Messerschmidt and seconded by Suzanne Howell. All were in favor. The motion carried. The meeting concluded at 9:20 p.m.

Minutes respectfully submitted by:

/s/Anne-Marie Wilhelm
Anne-Marie Wilhelm
Land Use Administrator