

**LAWRENCE TOWNSHIP PLANNING BOARD  
REGULAR MEETING  
MONDAY, JUNE 21, 2010, 6:45 P.M.**

**Present:** Philip B. Duran  
James S. Kownacki, Council (III)  
Richard S. Krawczun (Class II)  
David C. Maffei  
Michael S. Powers, Mayor (Class I) (Excused-Arrived 7:15 p.m.)  
Kim Y. Taylor, ALT. #1  
Paul A. Penna, Vice Chair  
Nathaniel Moorman, Chair

**Absent:** Keith Dewey (Absent/excused)  
Stacy McCormack (Absent/excused)  
Michael Horan (ALT. #2) (Absent)

**Also Present:** James F. Parvesse, P.E., Municipal Engineer  
Brenda Kraemer, P.E., Asst. Municipal Engineer  
Philip B. Caton, Planning Consultant, Clark•Caton• Hintz  
David M. Roskos, Attorney, Sterns & Weinroth  
Christine Malone, Radio Frequency Expert  
Sara A. Summiel, Recording Secretary

1. **Statement of Adequate Notice**

Adequate notice of this meeting of the Lawrence Township Planning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers.

2. **Public Participation** : (None)

3. **PROCLAMATION** (Nathaniel Moorman)

Mayor Powers made a presentation on behalf of the Township of Lawrence Planning Board to recognize Chairman Moorman for his years of service and dedication as a Board member, Chair and role to various Subcommittees. Chair Moorman will be relocating to North Carolina. Mayor Powers stated that an Appreciation Dinner will take place on Monday, June 28, 2010, at Leonardos II. Chair Moorman responded grateful.

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**4. MINUTES FOR APPROVAL:**

**Thursday, April 15, 2010 – Screening Committee**

**Vice Chair Penna moved and Chair Moorman seconded to approve the minutes. This carried on the following voice call vote: AYES (4) NAYES (0) ABSENT (4) INELIGIBLE TO VOTE (3)**

**Monday, April 19, 2010 – Regular**

**Councilman Kownacki moved and Mr. Duran seconded to approve the minutes. This carried on the following voice call vote: AYES (6) NAYES (0) ABSENT (4) INELIGIBLE TO VOTE (1)**

**Monday, May 3, 2010 – Regular**

**Vice Chair Penna moved and Mr. Krawczun seconded to approve the minutes. This carried on the following voice call vote: AYES (5) NAYES (0) ABSENT (4) INELIGIBLE TO VOTE (2)**

**5. RESOLUTION OF MEMORIALIZATION 12-10 approving Minor Subdivision with Variances and Waivers Application No. S-10/06 MARC BRAHANEY & JANET LASLEY, 634 Rosedale Road and Province Line Road, Tax Map Page 78, Block 7801, Lot 13.**

**Councilman Kownacki moved and Mr. Krawczun seconded to approve Resolution No. 12-10.**

**Vote:**

**AYES: Duran, Kownacki, Krawczun, Penna, Moorman  
ABSENT: Dewey, McCormack, Powers, Horan  
INELIGIBLE TO VOTE: Maffei, Taylor**

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**6. Application No. SP-5/10 (FCB ASSETS HOLDINGS, INC., - MORIELLO PLAZA)  
Amended Preliminary & Final Site Plan & Conditional Use, 150 Lawrenceville-  
Pennington Road, Tax Map Page 60.01, Block 6005, Lots 233 and 234 (Lot 233.01)**

The hearing was recorded. The Board took jurisdiction.

Due to a potential conflict, Vice Chair Penna stepped down from the proceedings.

**Eric S. Goldberg, Esq.**, represented the applicant. Mr. Goldberg gave a brief overview and history of the amended application. He stated that a change in ownership from the Moriello Plaza to FCB Assets Holdings, Inc. had taken place. He stated that the applicant is seeking approval for conditional uses, waivers and amended preliminary and final site plan. He stated that in 2006 the Board approved the conditional use, waivers and site plan. He proceeded to describe the several uses that were approved as part of the 2006 application. He explained that the upper level of apartments would remain. With regard to the lower level there are four suites and one is occupied by a bank. He stated that the applicant is proposing potential uses of retail, or offices, or professional office, or beauty salon/barber shop, or a convenient store use for the three remaining suites. The applicant is no longer looking to utilize the restaurant. With regard to the amended site plan, the applicant is requesting two waivers: (1) for the trash enclosure – applicant is proposing to build solid vinyl fence enclosure with a self-closing mechanism, instead of the brick masonry wall; and 2) for signage – the applicant is proposing a monument sign to be 20 sq. ft. in size to allow their name “First Constitution Plaza” with some letters five inches in size, instead of the eight-inch lettering. Also as part of the amended site plan, the applicant is proposing to eliminate the beam guide rail, retaining wall and 14 parking spaces. With regard to the stormwater management changes, the applicant agreed to work with the Township Professionals to work out all the technical details. The Board accepted. The applicant is proposing to construct new curbing and will re-grade the retaining wall area. The applicant stated that even with the elimination of the 14 parking spaces, there will be adequate parking spaces. Since the restaurant is no longer being proposed, the applicant is proposing to eliminate the outdoor patio area located on the southerly side and relocate the bike rack to the sidewalk area. Also, the applicant is proposing to provide adequate landscaping in that area. With regard to the lighting, the applicant is proposing to relocate the shoe box fixtures to prevent any glare to the neighboring properties. The applicant addressed Mr. Caton’s recommendation to create a sidewalk on the north side to be connected to the sidewalk of the Village neighborhood. The applicant agreed to comply. Mr. Caton’s referred to his report dated May 21, 2010 and stated that the proposed site plan will be a much better site to the street, along with the parking spaces. He addressed the landscaping and requested the applicant to work with the Township Professionals. The applicant agreed to comply with all the other recommendations noted in Mr. Caton’s report.

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**Application No. SP-5/10 - Continued**

Mr. Parvesse referred to his report dated May 18, 2010, and addressed the consideration of imposing a condition with regard to monitoring the parking lot for liter/debris. He explained that since there are currently no tenants, it will not be an issue at this time. With regard to all the other comments and recommendation within his report, the applicant has satisfied and/or agreed to work with the Township Professionals.

Mr. Krawczun addressed the vinyl fencing for the trash enclosure and questioned the purpose of the fencing. He suggested that the applicant consider constructing a masonry structure in the future, if the fencing ever needed to be replaced. He felt that the masonry structure would endure the wear and tear from the truck at the dumpster. The applicant agreed. (See Attachments No. 1 – Reports)

**Exhibits: A-1 (Enlarged Sheets 1, 2 & 3)**

**Witness placed under oath:**

- Mark Berkowsky, Professional Planner

**Public Comment:**

- Carol Montgomery, 37 Adele Court, questioned the location of the trash enclosure and location of the lights.
- Paul Whiter, K-10 Shirley Lane, was placed under oath. Mr. Whiter stated that although he agrees with some of the changes and he would not necessarily want to see a Beauty Salon. He questioned the size of the proposed monument sign. He requested the Board to look at the parking very carefully. He questioned whether the detention basin would be landscaped.

**Mr. Maffei moved and Ms. Taylor seconded to approve the amended application and conditional use, waivers, subject to all appropriate conditions and recommendations contained in the Township Professionals' reports.**

**Vote:**

**AYES: Duran, Kownacki, Krawczun, Maffei, Taylor, Moorman**  
**ABSENT: Dewey, McCormack, Horan**  
**INELIGIBLE TO VOTE: Powers, Penna**

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**7. CARTER ROAD CELL TOWER – Courtesy Review of Site Plan**

The hearing was recorded. The Board took jurisdiction.

Also, this hearing was transcribed by a Certified Shorthand Reporter, Bridget Lombardozi of Precision Reporting.

Due to a potential conflict with the Carter Road Cell Tower Courtesy Review of Site Plan, Mayor Powers, Councilman Kownacki and Mr. Krawczun stepped down from the proceedings and were excused at 7:46 p.m. The Board and Mr. Roskos accepted since the Township of Lawrence is a co-applicant.

The Board's Attorney, David Roskos gave a detailed opening statement and background summary of information with regard to the history of a cell tower application that was denied at the Peterson Nursery site in 2007 and the return of the Cellco's application with additional carriers. Also, Mr. Roskos gave a detailed summary of the 2008 Courtesy Review hearings by the Township with regard of Township owned land on Carter Road for the placement of cell towers that would also enhance the Township's emergency communication service. Mr. Roskos explained that the Township of Lawrence is a co-applicant with this application and proceeded to state the purpose of this Courtesy Review. He stated that this review is not a Site Plan application, nor is the Board to weigh the negative or positive criteria. (See Attachment No. 1 – Reports/Exhibits)

He stated that this hearing will focus on whether the Township acted reasonable, focusing on the land use function involved, the extent of the public's interest to be served, any deviation of the Zoning Plan and any impact on surrounding properties. As part of this application, Mr. Roskos stated that the Opinions of Judge Sypek and Judge Feinberg have been made part of the record. (Mr. Roskos' background statement was made a part of the record.) Also, Mr. Roskos requested Mr. Parvesse to list all correspondence that had been reviewed by the public with regard to the previous meetings for the Carter Road Site. (See Exhibits A-27 and A-28)

Also present was Captain Mark Boyd, who was placed under oath. Captain Boyd stated testimony with regard to the Township's Emergency Communication Service and the public's benefits if a cell tower were to be erected at the Carter Road Site. Also, he gave a brief overview of the current problems experienced by the Township's Police Force with the weakness of the cellular strengths and suggested installation of a satellite antenna to solve their current problems. (See Exhibit A-20)

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Also present was Brenda Kraemer, Asst. Municipal Engineer/Secretary to the Zoning Board, who was placed under oath. Mrs. Kraemer referred to her report dated January 7, 2008, and gave testimony with regard of the alternate site analysis that took place during the Peterson Nursery Site hearings. She stated that 23 properties were identified, by Cellco's Site Acquisition Manager, Ms. DiNardo, as possibilities to close the gap within the search area of the intersection of Route 206 and Province Line Road. Also, she gave a review of the Township's consideration of the potential use of the Carter Road Site after the denial of the Peterson Nursery Site. The Kale Nursery was not considered as a permitted use because of its location being in an EP-1 Zone. The Shipetaukin Woods was not considered since it is preserved as open space and subject to the restrictions of the New Jersey Green Acres Program. (See Exhibit A-16)

Also present was Christine Malone, Radio Frequency Expert, who was placed under oath. Ms. Malone stated her findings with regard to the Cellco application for the proposed Peterson Nursery. She explained the process in addressing whether there was a need for a site, reliable or unreliable coverage and then performed an alternate site analysis. She stated that the gap in service was much larger than just to be served by the Peterson Nursery Site. She then proceeded to state her findings with regard to the Carter Road Site and the Public Safety Analysis for radio communication in the areas of the Stony Brook Bridge and Prettybrook Road where the Police Officers were experiencing problems. Also, she stated that from her study at the Ecological Site would not work because of the terrain situation.

Richard S. Schkolnick, Esq., represented the applicant. Mr. Schkolnick gave a brief history of the application. He stated that the applicant and the Township, as Co-applicants, are proposing to construct a 160-foot (stealth flagpole) telecommunication monopole with telecommunication antennas of private carriers at Block 6601, Lot 1.01, 110 Carter Road. The applicant's professional, Kenneth Foster, Ph.D., P.E., referred to his letter dated June 7, 2010 and explained his methodology with regard to the analysis of exposure to radiofrequency based on the FCC guidelines outlining the worse-case scenario of calculated levels of public exposure from a hypothetical maximum build out of the tower. (See Exhibit A-6).

The applicant's professional, Philip Burtner, Civil Engineer, gave a description of the overall two-acre parcel that is entirely wooded. Mr. Burtner stated that along the northern side of the site is a 30-foot wide electrical easement right of way. He stated that although it is not proposed, a firehouse substation was included on the site plan along the northwestern corner of the parcel if there should ever be a need in the future, as was proposed at one time by Bristol Meyers-Squibb. He stated that in the southeastern corner of the parcel the applicant is proposing a 90x90 sq. ft. fenced compound for carriers'

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related equipment and flagpole style monopole. He stated that the applicant is proposing some clearing for the compound and access driveway. He referred to Exhibit A-1 (Site Plan) and described the Compound Design and Elevations for the 160-foot monopole with antennas to be located at an acceptable height following per discussion with the Township Officials. He stated that the applicant will comply with all the structure/building codes, calculations, required permits, safety factors detailed construction drawings, and Geo-Technical Plan. He referred to Exhibit A-7 and addressed the design of the monopole with regard to the wind conditions and safety factors.

The applicant's professional, Mario Calabretta, Professional Planner & Land Use expert gave an overview of Exhibit A-8 (Photo Simulations) and explained the methodology used for each photo. Mr. Calabretta proceeded to review three different concepts of proposed facilities: (1) a proposed lattice tower, (2) a proposed stealth tree pole, and (3) a proposed stealth flag pole. He then gave a representative view of each different concept of various locations within the immediate environment adjacent and beyond the actual Carter Road site. He felt that the overall visibility, based on the existing conditions of vegetation and sight line, was very good.

A discussion took place by the Board with regard to the construction of the first proposed tower and whether the applicant would have to return for another review process for a second tower on the same site. Mr. Roskos responded yes.

Also, present was Philip B. Caton, the Township's Planning Consultant and expert, who was placed under oath. Mr. Caton gave a brief overview of the Township's Zone/Master Plan and how the application could be improved to be more consistent with the Zone Plan. He referred to Section 430 under the Land Use Ordinance for Communication Towers and stated the series of conditions as a guide for the permitted use status. He stated that this application is not a conventional zoning matter. He proceeded to review the Board's analysis based on the Hills of Troy, Parsippany Case and addressed the characteristics of the criteria for Section 430, as outlined under A. thru H. He referred to Exhibit A-10 and discussed the Conditional Settlement Agreement with Bristol-Meyers Squibb that obligated the Township to consider a 300-foot buffer setback. He stated that the applicant is proposing an 8 ft. board-on-board fence and appropriate landscaping around the base.

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**The following Exhibits were presented:**

- A-1 Site Plan, 8 Sheets
- A-2 Land Use Application (3 pages)
- A-3 Property Owners Listing within 500 feet of property, dated 6/2/2010
- A-4 Contribution Disclosure Statement, dated 5/27/2010
- A-5 Letter dated 5/25/2010, Geoffrey D. Acolia, Municipal Tax Assessor
- A-6 Letter dated 6/7/2010, Kenneth R. Foster, Ph.D, P.E.
- A-7 Letter dated 6/4/2010, Jeffrey E. Grassman, P.E., (Valmont Structures)
- A-8 Photo Simulations
- A-9 Prior Adopted Resolution 14-08
- A-10 Agenda – Lawrence Planning Board Meeting 4/21/2008
- A-11 Lawrence Planning Board Vote Sheet 4/21/2008
- A-12 Lawrence Planning Board Minutes of 4/21/2008
- A-13 Letter dated 1/3/2008, from Richard Krawczun to Bristol Myers-Squibb
- A-14 Public Notice from James Parvesse, dated 01/16/2008
- A-15 Public Notice from James Parvesse, dated 03/04/2008
- A-16 Letter dated 01/07/2008 from Brenda Kraemer to Richard Krawczun,  
Re: Cellco
- A-17 Letter dated 01/23/2008 from Richard Krawczun to Maureen Troiano
- A-18 Letter dated 05/03/2007 from Richard Krawczun to Susana Gevasoni,  
Re: Site Testing
- A-19 Conditional Settlement Agreement from BMS, dated 08/04/1993
- A-20 Letter dated 01/25/2008 from Captain Mark Boyd to  
Chief Daniel Posluszny
- A-21 Transcript of Zoning Board Meeting of 03/21/2007
- A-22 Transcript of Zoning Board Meeting of 03/28/2007
- A-23 Transcript of Zoning Board Meeting of 08/15/2007
- A-24 Transcript of Zoning Board Meeting of 12/19/2007
- A-25 Exhibit Site Acquisition Search Map
- A-26 Document – “Hills of Troy vs. Parsippany, Cite as #392
- A-27 Motion Decision dated 03/30/2010 – Judge Maria M. Sypek, P.J.
- A-28 Civil Action Opinion dated 04/01/2009 – Judge Feinberg, A.J.S.C.
- A-29 Tower Results – Towair, dated 01/21/2008
- A-30 FAA – 2008 Results – AEA-285, dated 01/28/2008



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**Exhibits - continued:**

- O-1 Letter dated 06/21/2010 from Bruce I. Afran, Esq., (Cater Road Home Association)
- O-2 (Picture) by Mr. Augeri, Corner of Cell Tower @ 248 Pennington Road, Hopewell, NJ
- O-3 (Picture) by Mr. Augeri, 2 – Base of Cell Tower @ 248 Pennington Road, Hopewell, NJ
- O-4 (Picture) Mr. Augeri, 248 Pennington Road, Hopewell, NJ – Wooden Fence Compound Identifying Owner of Cell Tower

**Witnesses placed under oath:**

- Kenneth R. Foster, P.E., Federal & State Radio Frequency Emissions Stand. Expert
- Philip Burtner, P.E., Civil Engineer & Expert
- Mario Calabretta, Prof. Engineer & Land use Review – Photo Simulation Expert

**Also placed under oath:**

**Township Professionals (Mr. Caton, Mrs. Kraemer, Ms. Malone)**

**Public Comment:**

- Eric Wimmers, 4 Tall Timbers Drive (Princeton), was placed under oath. Mr. Wimmers is a member of the Carter Road Homeowner's Association. He referred to Exhibit O-1 and addressed some of the stated concerns listed in the letter of Bruce I. Afran, Attorney- at- Law.
- Steven Rudnick, 111 Carter Road (Princeton), was placed under oath. Mr. Rudnick stated his concerns about the public's health and the inability to sell his residential property. Also, he felt that the construction of the cell tower would dominate the landscape during the winter months.
- David Augeri, 107 Carter Road (Princeton), was placed under oath. Mr. Augeri stated his concerns about the receipt of the Notice 11 days ago with regard to the new plan. With regard to the placement of the second tower, Mr. Augeri questioned whether there is a fall down variance.

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**Public Comment: - Continued**

- Noemi De La Puente, 122 Carter Road (Princeton), was placed under oath. Mrs. De La Puente stated concerns about the height of the proposed tower being twice as tall, as well as, anything near it. Also, she questioned whether there was a letter from the FAA regarding the lighting of the tower.
- Alexandria Suri, Employee of Bristol-Meyers Squibb (Princeton), was placed under oath. Mrs. Suri stated concerns as a parent for children in the Day Care Center at BMS. She stated that there were 200 children attending Day Care Center and was concern about the dangers of radiation affecting the health of their children.

The public hearing was closed:

Mr. Roskos referred to Mr. Afran's letter (See Exhibit A-1) and stated his objections to Mr. Afran's stated request for a postponement and the other points stated in his letter. Mr. Roskos stated that the Board should feel very comfortable about moving forward with this application. A brief discussion took place by the Board and the Board stated their agreement with Mr. Roskos' stated objections to Mr. Afran's letter.

A discussion took place by Mr. Duran with regard to the Township's approach for solving the public's concerns regarding the negative impact on individual's health and the negative impact for a decrease in value of homes. A discussion followed by Mrs. Kraemer stating that other options had been pursued for the past ten years. Also, Mr. Roskos added that this Board is somewhat handcuffed than Parsippany Troy Hills because of the consideration of another alternate site. He further stated that one of the problems is that Princeton does not want to put up a tower and even if South Princeton constructed a tower, it would not solve the gap in North Lawrence. Following a lengthy discussion by the Board regarding the testimony provided and stated benefits, it was determined that the Township did act reasonable since there is no alternate site to address the gap. The Board felt that the alternative site offered would be in keeping with the Township's Zoning Plan. **The Board stated their agreement with the proposed site. All present stated yes. (See Attachment No. 2 – Reports/Exhibits)**

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8. Old Business/New Business/Correspondence: None
9. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 12:05 a.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,

*Sara A. Summiel -emiled*  
Sara A. Summiel  
Recording Secretary

MINUTES APPROVED: Oct. 25 2010