

**CALL TO ORDER**

Mr. O'Leary called the meeting to order at 7:35 p.m. and stated it was open to the public in compliance with Public Law 1975, Chapter 231, Sections 4 & 13.

**FLAG SALUTE**

**ROLL CALL:           Members Present:** Hughes, Fette, Luthman, Randazzo, Corcoran, Leuthe, Didyk, Taylor, Van Sickle, Henderson, O'Leary.

**Members Excused:** None.

**Members Absent:** None.

**Also Present:** Ursula Leo, Esq.  
Nevitt Duveneck, PE  
David Banisch, PP

**MINUTES:** December 13, 2012, January 17, 2013.

A motion to approve the minutes of the December 13, 2012 meeting as presented was made by Mr. Corcoran. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Corcoran, Leuthe, Didyk, Van Sickle, Henderson, O'Leary.

A motion to approve the minutes of the January 17, 2013 meeting as presented was made by Mr. Hughes. It was seconded by Mr. Corcoran and passed with a roll call vote. Ayes: Hughes, Luthman, Randazzo, Corcoran, Didyk, Taylor, Van Sickle, Henderson, O'Leary.

**COMPLETNESS / HEARINGS / CONCEPT:**1.) Beaver Run Solar Farm

Ms. Megan Ward, Esq. was representing the applicant. She requested an extension of the use variance for their approval of a solar farm. She explained to the Board why they were requesting the extension.

A motion to approve a one year extension for the use variance through August 25, 2014 was made by Mr. Fette. It was seconded by Mr. Leuthe and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Taylor, Leuthe, Van Sickle, Henderson, O'Leary.

2.) Conforth, Emil     B:25 L:1.01, 1.02

Mr. O'Leary advised the public that the Board Engineer was running late. He spoke to the Board Engineer earlier in the day and the Engineer was agreeable to deeming the application complete as stated in his report.

A motion to deem the application complete subject to the waivers in Mr. Duveneck's report was made by Mr. Hughes. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Taylor, Leuthe, O'Leary.

3.) Cellco Partnership d/b/a Verizon Wireless     B:25 L:5.06

Mr. Hughes and Mr. Corcoran stepped down from the board for this application.

Mr. Richard Schneider, Esq. was representing the applicant. He advised the Board that the exhibit presented by Mr. Race depicting the coverage that Verizon as posted on their website has a disclaimer about the coverage area. Mr. Schneider read the disclaimer to the Board

Mr. Schneider presented pictures of views of the proposed cell tower from 255 Beaver Run Road which were marked and entered as exhibit A-22.

Mr. O'Leary opened the meeting to the public.

Mr. Harry Gomez expressed his concern about cell tower fires. He said that in all of the noted cases the fires could not be put out. He asked if Verizon would compensate anyone who lost

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property in a fire caused by the tower. Mr. Gomez noted several reasons why he opposed the tower. Mr. Schneider objected to the grounding information that Mr. Gomez referred to.

Mr. Art Hahn of 110 Pelletown Road was sworn in by Ms. Leo. He said he was opposed to the tower because the area was not zoned commercial.

Mr. Lenny Cruz of Beaver Run Road was sworn in by Ms. Leo. He said he does not have a problem with service in the area because he is able to call Costa Rica with no problems.

Ms. Ivanna Frey of 235 Beaver Run Road was sworn in by Ms. Leo. She said she was opposed to having the cell tower in the area. She questioned the studies that have been done by Verizon. Mr. O'Leary advised Ms. Frey that Verizon did have experts testify.

Mr. Bill Haggerty, Esq. of Dolan and Dolan was present on behalf of Mr. Steve Race. Mr. Race said he has never lost service in the area in question. Mr. Race presented information from the Verizon website showing gaps in Hardyston which was marked and entered as exhibit Race-3. Mr. Race presented a letter from Mr. Shotmeyer which he read to the Board. Ms. Leo said she had a problem admitting the letter as an exhibit because Mr. Shotmeyer was not present.

Mr. Race expressed concerns with safety. He advised the Board of batteries that have blown up in airplanes. He expressed a concern if a fire broke out. Mr. Race discussed health risks due to radio frequency. Mr. Schneider objected because Mr. Race is not a health expert or radio frequency expert. Mr. Schneider said they comply with FCC standards and Dr. Eisenstein took no issue with Verizon's testimony. Mr. Haggerty summarized Mr. Race's concerns.

Ms. Ivanna Frey said she was not aware of the issue of a fire and asked the Board if she would be able to sue the Board if a fire broke out.

Mr. Raymond Frey of 231 Beaver Run Road said the area is a residential farming area not a commercial area. He said it is a commercial use in a residential area. He felt the tower would destroy the beauty of the area.

Mr. Mike Toepfer of 16 Meadows Road said he has worked in these types of towers for many years and has no ill effects from the towers.

Mrs. Donna Race of 247 Beaver Run Road opposed the tower due to safety concerns.

Mr. Art Hahn asked if the tower would be above the ridgeline and violate the ordinance. Mr. Banisch addressed the question. He said the base elevation is below the area that structures are regulated but the height extends into the area of regulation.

Mr. Haggerty offered a photo of a tower in Mount Arlington, NJ taken by Mr. Race with a date of 6/20/13 which was marked and entered as Race-4. Mr. Race explained the photo to the Board. Mr. Haggerty presented a second photo taken by Mr. Race with a date of 6/20/13 of the tower by the Mount Arlington train station which was marked and entered as Race-5. Mr. Schneider asked Mr. Race how tall the tower is to which Mr. Race said 135'. Mr. Schneider questioned how Mr. Race knew the height of the tower. Mr. Race said by looking at the tower he could determine the height. Mr. Schneider questioned Mr. Race about the camouflaging of the tower in Mount Arlington.

Mr. Gomez asked why the town does not have an ordinance banning cell towers.

Mr. Banisch gave a planning overview of the application. He said the ridgeline ordinance does not specifically address cell towers. He felt the Shotmeyer property was worthy of exploration. He felt the Board should consider the applicant's offer to camouflage the tower.

Mr. Duveneck said the Board and Applicant have touched on all of the items in his report. He felt the applicant's planner should have addressed the ridgeline ordinance and the effects on it by the tower.

With nobody else coming forward from the public, Mr. O'Leary closed the meeting to the public.

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Mr. Schneider summarized the application for the Board and asked for a vote. He highlighted the testimony and the gap in coverage. He discussed the height of the tower in relation to the coverage and colocation. He said they examined alternate sites. He said the applicant will allow emergency services the use of the monopole. Mr. Schneider said the Supreme Court recognizes that cell towers serve the high public interest. He said Verizon has agreed to every reasonable condition. He pointed out that the use will serve the general welfare of the public. Mr. Schneider addressed the public comments regarding fire, tower collapse, and real estate value. He addressed the conditions on the Beaver Run Solar Farm resolution and explained the process to the Board. He said the Shotmeyers would have to come back to the Board to ask for relief from their conditions of approval.

Ms. Leo explained a recent site suitability case and discussed the 6 variances that the applicant was seeking. She went over the conditions if there were a favorable approval of the application.

Mr. O'Leary felt the height should be capped at 110 feet to which Mr. Randazzo agreed.

Mr. Luthman asked the applicant to look at other properties and felt they refused to do so. He felt there were other viable properties for the tower. Ms. Didyk felt the applicant did not put enough effort into looking at alternate sites. She was not happy with the tower on the proposed site.

Mr. Luthman asked why the antennas cannot be located at the High Point monument. Mr. Schneider said it would not have the range Verizon needs.

Mr. Fette felt a tower at 120' with the tree top design was acceptable. He pointed out the importance of the emergency service equipment being added to the pole. He did not feel it was right for the Board to request the applicant to seek an alternate piece of property.

There was a lengthy discussion on the proposed conditions.

A motion to approve the application with the height of the tower not to exceed 110' and with the monopole camouflaged and with the other conditions noted during the hearing was made by Mr. Fette. It was seconded by Mr. Randazzo and denied with a roll call vote. Ayes: Fette, Randazzo, O'Leary. Those voting in the negative were: Luthman, Didyk, Taylor, Leuthe.

A motion to approve the application with a tower height not to exceed 90' with the other noted conditions was made by Mr. Luthman. There was no second to this motion.

Mr. Corcoran returned to the Board.

**AUDIENCE:**

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**RESOLUTIONS:**

1.) Fusco, Edward

A motion to approve the resolution with the noted corrections was made by Mr. Hughes. It was seconded by Mr. Leuthe and passed with a roll call vote. Ayes: Hughes, Luthman, Corcoran, Randazzo, Leuthe, Fette, Taylor, O'Leary.

**ORDINANCES:** None.

**ZONING REPORT:**

Mr. Fette gave an update on the Handweg Drive Realty issue. He said he issued two summonses to Handweg Drive Realty.

**BILLS:** List # 6

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Mr. Leuthe went over the bills with the Board. A motion to approve the bills as presented was made by Mr. Leuthe. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Leuthe, Didyk, Taylor, Van Sickle, Henderson, O'Leary.

**CORRESPONDENCE:**

- 1.) From: Megan A. Ward, Esq.  
Re: Beaver Run Solar Farm Extension Request
- 2.) From: Mr. Thomas P. Schweitzer – Morris Asphalt Co., Inc  
Re: Request for Site Plan Waiver
- 3.) From: Ursula Leo, Esq.  
Re: Gernat and Rusak v. Lafayette Township Land Use Board
- 4.) From: Maureen Kaman, CTA  
Re: Gore between Block 14, Lot 4.01 and Lot 7

**ADJOURNMENT:**

With no further business to come before the Board, a motion to adjourn was made by Mr. Randazzo. It was seconded by Mr. Leuthe and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Secretary