

**New Milford Zoning Board of Adjustment
Work Session/Reorganization meeting
January 9, 2018**

Chairman Schaffenberger called the Work/Reorganization Meeting Session of the New Milford Zoning Board of Adjustment to order at 7:32 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Present
Mr. Joseph	Present
Ms. Hittel	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Stokes	Present
Mr. Weisbrot	Present
Mr. Schaffenberger- Chairman	Present
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

REORGANIZATION – 2018

The Board Attorney swore in Ms. Hittel for a two term as alternative 2 with term expiring 12/31/19.

The Board Attorney swore in Mr. Seymour for a four year term as a full member with a term expiring 12/31/21.

The Chairman called for a motion to dissolve the firm of Boswell Engineering.

Motion made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

The Chairman called for a motion to dissolve the legal counsel of Scott Sproviero, Esq.

Motion made by Mr. Weisbrot, seconded by Mr. Loonam and carried by all.

The Chairman called for a motion to dissolve Vice Chairman from their obligation to the Zoning Board.

Motion made by Mr. Rebsch, seconded by Mr. Loonam and carried by all.

The Chairman called for a motion to dissolve Chairman from their obligation to the Zoning Board.

Motion made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

Meeting turned over to the senior member, Mr. Schaffenberger.

Mr. Schaffenberger called for a motion to nominate a Chairman for 2018.

Motion made by Mr. Loonam to nominate Karl Schaffenberger, seconded by Mr. Rebsch.

The motion passed on a roll call as follows:

For the motion: Members Loonam, Rebsch, Adelung, Seymour, Stokes and Weisbrot.

Abstain: Member Schaffenberger

The Chairman called for a motion to nominate a Vice Chairman for 2018.
Motion made by Mr. Loonam to nominate Ronald Stokes, seconded by Mr. Rebsch.
The motion passed on a roll call as follows:
For the motion: Members Loonam, Rebsch, Adelung, Seymour, Weisbrot and Schaffenberger.
Abstain: Mr. Stokes

The Chairman called for a motion to nominate a Board Attorney for 2018.
Motion made by Mr. Rebsch to nominate Scott Sproviero, seconded by Mr. Weisbrot.
For the motion: Members Rebsch, Weisbrot, Adelung, Loonam, Seymour, Stokes and Schaffenberger.

The Board Attorney explained it has been the Board's practice that the Zoning Board has recognized and accepted Boswell Engineering as the Board Engineer although the contract has been awarded by the borough. In the years that the Board Engineer is not under contract, the board can solicit their own statements of qualifications and make an independent determination. He explained that the contractual relationship that exists with Boswell Engineering thru 2019 covers the mayor and council, planning board and zoning board.

Mr. Loonam said it does not mean the board is obligated but the board has decided to maintain the engineer. He explained there are new members and wanted to make sure the board wants to continue with this practice or is this how it's done. Mr. Sproviero said this is not saying this is how it's done but we are faced with an existing contract that covers the scope of services that involve representation of the board for engineering purposes. The board is not obligated, but in the past, the board has recognized the contract. Mr. Loonam asked if the board is voting on recognizing Boswell Engineering. Mr. Sproviero explained the board is not appointing because Boswell is under contract but recognizing that the existing contract covers the services of the zoning board engineer. Mr. Loonam said as an autonomous board, the members had the right to hire an engineer other than Boswell. Mr. Sproviero agreed but said if the board went out for their own RFQ next year and the board choose a different entity for the engineer there would be conflict in contract terms between whom the board and the borough appointed. Mr. Loonam said for the record, the board members have been informed that the board has the right to hire our own engineer. He clarified that this vote was saying we were not doing that. Mr. Sproviero agreed and explained the board has not issued a RFG and by adopting this resolution the board was not issuing a RFG.

The Chairman called for a motion to recognize the appointment of Boswell Engineering as engineer for the Zoning Board of Adjustment for 2018.
Motion made by Mr. Rebsch, seconded by Mr. Weisbrot.
For the motion: Members Rebsch, Weisbrot, Adelung, Loonam, Seymour, Stokes, Schaffenberger.

REVIEW MINUTES OF THE WORK SESSION – December 12, 2017

The Board Members reviewed the minutes and there were no changes.

REVIEW MINUTES OF THE PUBLIC SESSION – December 12, 2017

The Board Members reviewed the minutes and there were no changes

Annual Report 2017 – Zoning Applications

The Chairman stated the Board Attorney would prepare a resolution for February. The Board Members reviewed the report.

The Board Attorney asked what the planning board has done with regard to the examination of potential revisions to the zoning ordinances. Ms. Batistic said in December the committee has submitted a report of recommendations. The planning board members would review it and recommend the changes to the governing body.

OLD BUSINESS

17-11 – 259 Voorhis Avenue – Block 1001 Lot 7 – Lomolino

Addition -Building coverage

Mr. Ryglicki would address the board in the public session. Mr. Stokes and Mr. Loonam signed certifications that they listened to the recording of the meeting that they did not attend.

NEW BUSINESS

18-01 PSEG – 182 Henley Avenue – Block 501 Lot 17

Height Variance – 4 lightning masts

The applicant was present and the board members had no questions.

Motion to close the work session was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

**New Milford Zoning Board of Adjustment
Public Session
January 9, 2018**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:59 pm and read the Open Public Meeting Act.

ROLL CALL

Mr. Adelung	Present
Ms. Hittel	Present
Mr. Joseph	Present
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes- Vice Chairman	Present
Mr. Weisbrot	Present
Mr. Schaffenberger-Chairman	Present
Ms. Batistic – Engineer	Present
Mr. Sproviero - Attorney	Present

PLEDGE OF ALLEGIANCE

OFFICIAL MINUTES OF THE WORK SESSION – December 12, 2017

Motion to accept the minutes was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

OFFICIAL MINUTES OF THE PUBLIC SESSION – December 12, 2017

Motion to accept the minutes was made by Mr. Rebsch, seconded by Mr. Loonam and carried by all.

OLD BUSINESS

**17-11 – 259 Voorhis Avenue – Block 1001 Lot 7 – Lomolino
Addition -Building coverage**

Mr. Jason Ryglicki, 9060 Palisade Ave, North Bergen, NJ, attorney on behalf of the Mr. and Mrs. Lomolino at 259 Voorhis, stated this is the third appearance before the board for this application. He stated they were before the board now for only a building coverage variance. He stated they proposed 24.9 building coverage.

The Board Attorney asked Mr. Miquel Armijos, Moore Associates, 42 W 65th St, NY if he understood he still remained under oath. Mr. Armijos understood.

Mr. Armijos stated that the board had questions regarding the proposed driveway. He explained the width on the revised plan for the driveway width was now 20'. He added the other question was the average setback. He explained a surveyor went out and the average setback was 20.4'. They were proposing an addition with a front yard setback at 24.8 so it would comply. Mr. Armijos stated the building coverage proposed was 24.9 percent and the existing was 23.8.

Mr. Armijos stated the reason why the applicant needs to demo the existing addition was because the foundation would not support the proposed two levels. He stated the addition that will be demolished was a garage and family room. The existing house had two bedrooms upstairs and were expecting a bigger family. They were demolishing the existing addition and there would be family room and garage on the first floor and upstairs would connect to the second floor and have two bedrooms and two bathrooms. Mr. Sproviero clarified that the proposed addition was extension of the first floor footprint plus a second level. Mr. Ryglicki said they were replacing the existing garage with a new garage and allowing for bedrooms and bathrooms. Mr. Sproviero stated that the new footprint was larger. Mr. Armijos agreed and said the difference between the old addition and the new addition was 168 sf.

The Chairman questioned that on the plan there was a small area increased in the back which would be additional building coverage. The Chairman noted that it was currently deck and would now be building. Mr. Armijos said a small portion of it. The Chairman said they were demolishing the old addition but not demolishing the whole house. The Board attorney asked if this was a knock down and build over. Mr. Ryglicki answered no. The Chairman asked if there would be a basement under the proposed addition. Mr. Armijos answered no it would have a crawl space.

Mr. Ryglicki believed this property was situated for this addition because the unique shape of the property would support this addition. This property was double the size of many neighboring properties. He did not believe it would negatively affect the neighboring properties. They were not changing the nature of the building. Mr. Ryglicki said it would meet the requirements for the C1 and C2 variance.

The Board Attorney asked the Borough Engineer if she was satisfied with the measurements for the front yard setbacks and it did not implicate any variances. Ms. Batistic said there was an existing non conformity but the proposed addition would comply.

Mr. Loonam stated on the zoning work sheet they have the proposed rear yard setback as 62.25' and clarified it should be 35.5'. Mr. Ryglicki agreed.

The Board Attorney questioned the front yard setbacks. Ms. Batistic said the existing front yard setback to the porch was 18.6 but the new addition would be 24.8'.

Motion to open to the public for questions to this witness was made by Mr. Loonam, seconded by Mr. Rebsch.

No one wished to speak in the audience.

Motion to close to the public was made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

Mr. Ryglicki said this was not an extensive request. They were proposing to do a small addition of an additional 168 sf.

The Board Attorney clarified that the only variance implicated by this application was building coverage. He stated 24.9 was proposed 20 percent was permitted 23.8 was existing. There was a preexisting non-conforming element with regard to front yard setback of 18.6 but would not be exacerbated by the addition.

The Chairman clarified that the driveway on the plans have been reduced to 20'. Mr. Ryglicki agreed and said the existing driveway was 23.3 and would be reduced to 20'.

Mr. Loonam thought this was an example of a good use of space. There was almost 24% building coverage and increasing a lot of functional living space but not doing it by encroaching any of the sideyard or back yard setbacks. Mr. Loonam felt this is why applications with 20 – 25 percent building coverage need to come before the board. He stated that not all applications or building coverage is the same. Mr. Loonam said there were no neighbors complaining about this application so he had no problem with this application.

Motion to open to the public for questions to this witness was made by Mr. Loonam, seconded by Mr. Rebsch.

No one wished to speak in the audience.

Motion to close to the public was made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

The Chairman concurred with Mr. Loonam that the proposed construction for the application was a reasonable use of space. He also agreed with Mr. Loonam that applications with 20 percent building coverage needed to come before the board.

Mr. Loonam noted that the zoning sheet regarding front yard setback indicated 24.8 not the 18.6. The Chairman stated the applicant had on the original plans a driveway for 24' width and were now complying with the ordinance. The Board Attorney stated both of those would be reflected in the resolution.

Motion made by Mr. Adelung, seconded by Mr. Stokes to approve the application.

The motion passed on a roll call vote as follows:

For the Motion: Members Adelung, Stokes, Loonam, Rebsch, Weisbrot, Joseph, Schaffenberger.

Recused: Member Seymour

NEW BUSINESS

18-01 PSEG – 182 Henley Avenue – Block 501 Lot 17

Height Variance – 4 lightning masts

Mr. Glen Kienz, Weiner Law Group, before the board on behalf of PSEG, stated there was an application on this site in 2015. Mr. Kienz believed this application was deemed complete and service and notices were in order. The Board Attorney agreed. Mr. Kienz said they received the Boswell Engineering report, which will be addressed. He noted that they would submit a letter from NJDEP stating the proposed activity falls under the Permit-by-Rule exception.

Mr. Kienz marked the **exhibit A-1** – site plan.

Mr. Kienz explained that on the site plan everything indicated in blue was approved by the board. The point of this application was a smaller section was being proposed that was not ready to be brought before the board in 2015. They were proposing a smaller infrastructure, which involves a lower GIS building, two transformers and four additional lightning masts at 75’.

Mr. Richard Hughes, 40 Cragwood Rd, South Plainfield, NJ was sworn in by the Board Attorney.

The Board accepted the qualifications of Mr. Hughes as a factual witness.

Mr. Hughes stated this project would add 69 kV switchgear to the site within a new building, two transformer foundations (install one transformer), add the control protection, alarm and monitoring hardware and software.

Mr. Kienz asked Mr. Hughes to explain why PSEG was coming in now and why it was not done in 2015. Mr. Hughes said this project was presented to PJM (Pennsylvania, Jersey, Maryland Independent System Operator). The system is responsible for the monitoring of the transmission grid. All the utilities that operate in NJ must meet the reliability criteria established by PJM. PSEG identified the need to meet the reliability improvements in this area and presented the solution to PJM in 2015. It was approved March 2017.

Mr. Hughes said one of the reasons for the improvements was because of the flooding on the site and all the equipment installed at the site would be hardened (elevated at a certain height).It would provide redundancy for the equipment that was just installed and going into service so it operates in parallel.

Mr. Kienz noted that they don’t even look at the 100 year flood elevation but pick the historic elevations on the site and then go above it. Mr. Hughes said they utilize the FEMA flood maps as a basis but also to where there has been a historic level that is above that they will take that elevation and be above that level. Chairman Schaffenberger asked if they recognize that the FEMA maps were worthless. Mr. Hughes could not offer a professional opinion on that topic.

Motion to open to the public for this witness was made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

No one in the audience had any questions.

Motion to close to the public was made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

The Chairman asked Mr. Kienz to explain "Permit-by-rule". Ms. Batistic explained there were certain activities that are regulated but are allowed to be conducted without going through the permit. The Board Attorney asked if there was a condition of approval that relates to the permit-by-rule and would it be fair to say subject to verification of NJDEP exception from additional rule. Ms. Batistic and Mr. Kienz agreed.

Andrew Franklin Martin, 9000 Regency Parkway, Cary, NC, was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Martin as licensed professional engineer.

Mr. Martin explained that they were using gas insulated switchgear similar to the previous project. The equipment that used to be on site was AIS which takes up more space. This building is comprised of precast concrete panels with a crane inside which helps the new equipment get installed.

Mr. Kienz clarified that this building would not need any height variance. Mr. Martin said this building had the 69 kV equipment which is more compact than the 230 kV so it would need less space and the height of this building would be 30'. He explained it was on an elevated 4' slab. The Board Attorney clarified that the total height from ground level was 34' and questioned if it would need a height variance. Ms. Batistic noted that 35' was permitted in an industrial zone.

Mr. Martin said the GIS building was an enclosure for the equipment. Outside of the building there would be tubes that carry the conductor to the potheads. There would be potheads on this projects both at 69 kV and 230 kV.

Mr. Kienz marked as **exhibit A-2** –Key Plan

Mr. Martin said the key plan shows the electrical equipment layout. He explained as part of this project they would be installing 4 sets of potheads for 69 kV lines. He noted that only two of the lines would be installed at this time. There would be two transformer positions which would be north of the building and they will be installing the western transformer at this site. Mr. Kienz asked if there would be isolation walls between the transformers that would be 32'. Mr. Martin agreed. He noted the eastern transformer would be installed in the future. He explained to protect this whole new area of the yard, four 75' tall lightning masts would be required. The Board Attorney clarified that the proposed lightning masks were the same height as the masts already at the site. Mr. Martin agreed. The Chairman asked where the masts were located. Mr. Martin showed the Board Members the location of masts on the plan and explained the intent of the masts were if lightning were to strike in the area, the probability would be they would hit the masts and go into the ground.

Mr. Weisbrot asked if the building was being constructed at the same level as the previous one. Mr. Martin said the foundation was at the same elevation but the overall height was shorter. The

overall height of this building was 30' and the overall height for the larger building was 50' plus the 4' foundation. Mr. Weisbrot asked why this building was shorter. Mr. Martin said because the equipment within was more compact and they needed less overhead clearance to maintain.

Mr. Martin said as the site exists today, there was a pole line that comes into the site along the eastern fence line. He showed there was eight 45' poles that would be replaced with 60' poles. There will also be three additional 60' poles on the site bringing in the new transmission line from Teaneck. Mr. Martin said the poles were all within the right of way. Mr. Kienz said it was outside the scope of this hearing.

Mr. Martin addressed the Boswell Engineering letter dated 1/8/18. He stated regarding the question on vehicle access, there will not be any paved area on the site. He believed regarding the previous project they planned to pave the access from the road to the station gate. The Board Attorney questioned if PSEG paved that area would it implicate any impervious coverage. Mr. Kienz answered they already took into account all the stone. Mr. Martin said they will not deviate from what was previously approved.

Mr. Kienz asked if they had established construction truck routes, parking, staging and hours/days of construction activities. Mr. Martin did not anticipate any more vehicles than already seen. He stated they have provided areas for parking for everyone on the site. He stated they were planning to do the landscaping sooner than anticipated.

The Chairman asked if the access for the trucks was only from the north. Mr. Martin agreed but added there were man gates along the south fence line but not for vehicles. Mr. Kienz said they were continuing with the same construction routes.

Mr. Loonam asked if the vendors were parking at the site and it has been well maintained by PSEG. Mr. Martin said they have established parking with one of the neighboring businesses. Mr. Loonam said there is a street with municipal parking which is being used by PSEG employees leaving residents with no parking. He added they are being forced in no parking zones and being ticketed. Mr. Loonam said the town has contacted PSEG regarding this matter. He felt it was not being handled well so if PSEG was asking the board to continue to expand the site, he would want a plan to show the parking.

Mr. Hughes said they have reviewed this with the previous project manager but it sounds like they need to look at their parking plan and make sure it is fully covered for their workers. Mr. Loonam mentioned he witnessed a large truck parked for over an hour and there needs to be a plan that a truck doesn't stop in the middle of the street and block everyone. Mr. Hughes said they have a plan and would use his feedback to revisit it. Mr. Kienz said the project manager was present and heard the complaint.

Mr. Kienz said there was a question in the Boswell letter about sound emission levels at the site. He said there is a sound study that they believe they are in compliance but after it is operational for 3-6 months they will do additional testing. Mr. Martin said any curbs and/or sidewalks damaged during construction would be repaired.

The Chairman asked if the proposed work would make a sound. Mr. Kienz answered yes. The Chairman said this project was closer to residents and would they be able to hear this. Mr. Martin said no. Mr. Kienz said the noise from this project was in compliance with state standards. He added they will go out and do testing and if the engineer was not satisfied they would have to remedy it so it does not impact residential properties. The Chairman asked if there were any plans to plant trees by the housing area. Mr. Martin said it was currently a moderate wooded area and felt it would not be as good if they removed and replaced it. Mr. Kienz said if additional landscaping was needed, they would address it.

Ms. Hittel said this project was near a rehabilitation facility and asked what ensures that it could not hurt or bother anyone. Mr. Martin said regarding sound they were diligent in laying out the site to respect the neighbors. They placed all noise making equipment interior to the site. The lightning masts are tapered tubular steel structures with a base of 30" and top 12". These are mounted on foundations and designed to all national codes and standards required.

Mr. Weisbrot asked why this project was necessary. Mr. Hughes said the project was required for resolving reliability redundancy and operational issues that are seen for the future. He stated the reliability improvements of the 69kV were not envisioned at 2015. Mr. Weisbrot said all the equipment that does that is there. Mr. Hughes said the 230 Kv was there but not the 69kV. Mr. Weisbrot asked about the other stations in the area. Mr. Hughes said the other stations that this interfaces with is in Teaneck and Dumont. Mr. Weisbrot asked if this project was unique to this station. Mr. Martin said this was not unique equipment and he discussed other stations in other towns. Mr. Weisbrot asked if the difference between the model in Teaneck and New Milford is aesthetics. Mr. Martin said aesthetics is a big part of this. Mr. Weisbrot did not know what the legal standard is in terms of granting relief with aesthetics. The Board Attorney said it was not high but it part of the overall scope of the application.

Mr. Kienz marked as exhibit A-3 – NM switching station 69 kV GIS building elevation
marked as exhibit A-4 – View one
Marked as exhibit A-5 – view from Columbia Street

Mr. Martin stated they architecturally designed a building to match the larger 230 kV building.

Ms. Hittel asked to see the lightning masts in comparison to the building. Mr. Martin showed the lightning masts on exhibit A-4. Ms. Hittel asked if there was a view from the rehabilitation building. Mr. Martin showed the views on exhibit A-5 and said all the proposed landscaping was on the north of the property.

Mr. Adelung asked what the long term impact of this project. He had concerns on transmission lines, larger poles all over town and what is happening outside of the footprint. Mr. Hughes said their current reliability plan build out was to complete the 69kV, two transformers and install one transformer now. It has a future for having another transformer going next to it which would be adjacent to the building. The future was to complete the 69kV project interconnected with the other two stations. The pad for the transformer will be installed greater than 5 years. Mr. Adelung said people will be concerned about more poles or higher poles. Mr. Hughes said they use their existing right of way to replace the poles with higher poles. Mr. Kienz said that was

something that the BPU regulates. Mr. Kienz said the questions being asked were about what is outside the plan not inside the plan.

The Board Attorney said this board has expressed jurisdiction over the improvements on site in the plan. He noted once it goes outside the plan, it falls within the jurisdiction of the BPU. Mr. Adelung wished the first application had the future site on the plan and thought it was not aesthetically great for the town down the road.

Mr. Loonam asked if New Milford is now the hub in the area because we have added significant infrastructure and brought upon ourselves the future need for this to be the center of Bergen County. Mr. Hughes said no. Mr. Loonam asked if the infrastructure was greater in New Milford than Dumont and Teaneck. Mr. Hughes said yes but there are other stations in the area like Bergenfield, Fair Lawn and Waldwick that are very large.

Mr. Weisbrot asked if there is a strategic plan to the built up capacity at this station to service other communities. Mr. Hughes said this is the build out that they have identified through their modeling to present to PJM for the build out at this station. He noted that it interconnects with other stations. Mr. Weisbrot asked if that could be accomplished at the Teaneck station. Mr. Hughes said they were not large enough and they do not have the 230 kV.

Ms. Hittel asked if there would be no interruption because it would switch over and continue coverage. Mr. Hughes said the redundancy brings in more circuits of different voltages so if a line is down, it could be brought in from a different source. If there was an interruption in the 230kV, the 69kV could back it up. Ms. Hittel asked if this prevents interruption in the areas. Mr. Martin said it reduces the likelihood. Ms. Hittel asked if they planned to be at the board in another two years. Mr. Hughes said the modeling is looking out 10 years. Ms. Hittel was assuming that the footprint will remain the same once this addition is completed. Mr. Martin said that is based on their 10 year forecast at this time.

Motion to open to the public was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

No one in the audience had any questions

Motion to close was made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

Mr. Kyle King, 64 Sherwood Drive, Lenox, MA, was sworn in by the Board Attorney.

The Board Members accepted the qualification of Mr. King as an electrical engineer expert.

Ms. Hittel asked if there would be any potential danger to the residents if there was a disaster at the site.

Mr. King said this station feeds about 32,000 homes and businesses in New Milford and the surrounding communities. There was over 100 stations that were similar to this where there was 69,000 and 13,000 volt feeds. Mr. King said this was not unusual equipment. The pieces added were for supply to additional redundancy supply to Teaneck and Dumont stations.

Mr. King said if there was a fault, like a truck hitting a pole, the fault was sensed by the relay and then the circuit breaker opens and disconnects the circuit. Mr. King stated, in case of another flood, all the equipment has been lifted up because they saw with the previous storm that the flood levels were higher than even the FEMA maps predicted. They raised all the equipment to observed height plus a little bit so they should be able to withstand an additional storm similar to what has been seen in the past. Ms. Hittel asked if there was protection from fires. Mr. King said all the equipment is continually monitored for temperature, pressure, voltage and currents.

Motion to open to the public to question the witness was made by Mr. Loonam, seconded by Mr. Weisbrot and carried by all.

No one wished to speak in the audience.

Motion to close to the public was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

Mr. Paul Ricci, 10 Georgian Drive, Clark, NJ, was sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Ricci as a planner.

Mr. Kienz asked Mr. Ricci if he was familiar with the previous application when the board deemed this an inherently beneficial use and if he was familiar with the plans before the board now. Mr. Ricci answered yes. Mr. Kienz stated that the only variance relief that they were seeking were for the four 75' high lightning masts. Mr. Ricci agreed and said 8 of the masts were approved in 2015. Mr. Kienz asked for the affirmative criteria for this application. Mr. Ricci said as an inherently beneficial use, they were a use to promote the public good. He added that uses that promote the public good, meet the positive criteria. The court says when reviewing an application like this, they should review the negative criteria using the SICA four part balancing test. He added because they were seeking the D6 height variance, the Grasso case came to play. He noted that as part of the whole process of this application from 2015 to today it is improving the aesthetics of the site from a planning standpoint. Mr. Ricci explained that during this process, the outdoor equipment were being internalized within buildings that are more desirable to the eye. The removal of the equipment and replacing it with lightning masts that were 30" at the bottom and 12" at the top greatly improves the aesthetics of the site.

Mr. Ricci said the first part of the SICA test asks to identify the public interest at stake. They were providing prompt energy and redundancy to over 30,000 customers. The second part of the test asks to identify any negative impacts. Mr. Ricci they were not speaking of a facility that was increasing traffic, heat, smoke, glare and no increase in health issues associated with the facility. It was clear from a planning standpoint that they were improving aesthetics and the only impact is the local visual impact that was improving this process. The planner noted that the masts had a minimum of 145' to the nearest property line and zone plan said a minimum side yard setback of 25'. He felt this oversized site had the ability to accommodate the increased height through the increased setbacks and it would not result in a substantial detriment to the surrounding properties. Mr. Ricci said the 2014 Master Plan had the concept of allowing increased height on larger properties with increased setbacks when a public benefit was provided. He said the whole purpose of the variances were to harden and protect the facility from the lightning strikes. If these masts were not approved or positioned in these locations, the result could encourage fire

and destruction to a facility which would have more of a harmful impact to the surrounding properties. The intent is to protect the community through the lightning masts so it was not a substantial detriment to the zone plan and promotes the public good. There would be landscaping installed. Mr. Ricci said this application meets the burden of proof.

Motion to open to the public for this witness was made by Mr. Rebsch, seconded by Mr. Adelung and carried by all.

No one in the audience had any questions

Motion to close was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

If it was not for the proposed lightning masts shown in the red area on the plan, the Chairman thought PSEG would not need to be before the board. Mr. Kienz said they would need site plan approval before the planning board. The Chairman said that most of the testimony tonight was not pertaining to the variance. The Board Attorney stated he was satisfied with the scope of the variance relief that was sought by the applicant is constrained to the height variance on the masts. Mr. Sproviero said because they were dealing with a D variance, they subsumed jurisdiction over the site plan component.

The Board Attorney said they need a condition that relates to DEP exemption. Mr. Loonam felt there should be a plan from the project manager that contemplates parking problems. He clarified that employees should not be parking at that commuter lot and trucks should not be parked in the middle of the road. Mr. Kienz said they would provide it to the board and it would be subject to the board professional review. Mr. Sproviero said the parking issue was addressed in the conditions in the original resolution. Mr. Kienz said they wanted problems to go away and felt what the Board Attorney stated would solve the problem. They have all conditions from the previous resolution which remain in full force and the new conditions discussed along with the parking. The Board Attorney agreed that they have the DEP issue, parking management issue, compliance with recommendations set forth in the Boswell Engineering review letter and the carry-over of all prior conditions.

Motion made by Mr. Rebsch, seconded by Mr. Adelung to approve the applications with conditions identified by counsel;

The motion passed on a roll call vote as follows:

For the Motion: Members Rebsch, Adelung, Loonam, Seymour, Stokes, Schaffenberger.

Against the Motion: Member Weisbrot

As there was no further business to discuss, a motion was made to close by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

Respectfully submitted,
Maureen Oppelaar