

TOWNSHIP OF FRANKLIN
ZONING BOARD OF ADJUSTMENT
COUNTY OF SOMERSET, NEW JERSEY

REGULAR MEETING
January 17, 2008

The regular meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Thomas at 7:40 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Raymond Betterbid, Grace Evans, Donald Johnson, Bruce McCracken, Robert Shepherd, Phillip Kramer, Carl R.A. Wright (arrived at 8:10 p.m.), Alan Rich, Anthony Caldwell and Robert Thomas

ABSENT: Laura Graumann

ALSO PRESENT: Patrick Bradshaw, Board Attorney, Mark Healey, Professional Planner, Vincent Dominach, Zoning Officer (left meeting at 7:50 p.m.) and Olga M. Burke, Administrative Officer/Secretary

HEARINGS

- **New Cingular Wireless PCS, LLC / Docket #ZBA 2005-0004**

Application for a Use Variance and Site Plan to replace an existing lattice tower and place 12 panel antennas at the top of the monopole with associated equipment cabinet located at 1037 Canal Road, Block 12, Lot 3, in the R-40 Residential Zone – **carried to March 13, 2008 – no further notification required.**

DL 3/31/2008

- **Gilberto & Yvette Mercado / Docket # ZBA-06-00025**

Application for a Use Variance to permit a home office in the existing detached garage located at 1075 Hamilton Street, Block 295, Lots 1-4, 35 & 36 in the (R-15) Residential Zone – **carried to March 13, 2008 – no further notification required.**

DL 3/31/2008

- **Jeffrey Shea / Docket #ZBA-07-00040**

Application for a Hardship Variance to construct an in-ground pool in the rear of the dwelling, located at 41 Valley Wood Drive, Block 508.02, Lot 3.29, in the (R-40) Residential Zone.

Seeing that the Applicant is not present for the hearing, Mr. Shepherd made a motion that the Board deny a Hardship Variance to construct an in-ground pool in the rear of the dwelling, unless the Applicant grants the Board an extension of time in which to hear the case by January 31, 2008. Vice Chair Evans seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Evans, Mr. Johnson, Mr. McCracken, Mr. Shepherd, Mr. Kramer and Chairman Thomas.

AGAINST: None

- **New York SMSA – Verizon Wireless / Docket #ZBA-07-00045**

Mr. Richard Stanzione, Esq., Attorney and Principal of the law offices of Hering, Dupignac, Stanzione & Dun appeared before the Board on behalf of the Applicant, New York SMSA – Verizon Wireless. Mr. Stanzione explained that this Application is for a Use Variance and Site Plan to construct a 125 ft. wireless communications facility consisting of a stealth silo with antennas and equipment located at 586 South Middlebush Road, Block 37.02, Lots 46.04 and 46.04Q in the (A) Agricultural Zone.

Mr. Dominach's Zoning report indicated that cell towers are a conditional permitted use in an A zone. A D-3 variance is needed since the property is not in a first, second, third or fourth priority location. The report also stated that the Planner's report would detail other conditions that have not been met by this Applicant.

Mr. Healey's Planning report indicates that the property is located in the (A) Agricultural Zone where the Franklin Township Land Development Ordinance allows wireless communication antennas as a conditional use. He also added that he didn't believe the Application met the following conditional use standards, thus requiring a D-3 variance:

- Minimum land area: ½ acre required – 579 sq. ft. lease area proposed.
- Setback from adjoining property: 300 ft. required – 285.3 ft. proposed.
- Setback from Historic District – 500 ft. required – 0 ft. proposed as site is located within the Six Mile Run Historic District.
- Visibility from Historic District: Tower shall be located so as to not be visible from a historic district – the site is located within Six Mile Run Historic District and will be visible from it.

- Visibility from Public Street: Tower shall be located so as to not be visible from any public street – tower will be visible from several public streets.

Mr. Stanzione stated the proposed property was within the preserved agricultural area, but on a 1.25-acre exception area of the land. He referred to the two letters that were submitted to the Board, one from the Somerset County Agriculture Development Board and one from the State Agriculture Development Committee, indicating that the proposed property on the site is not prohibited from being developed by this Applicant.

Mr. Shepherd questioned Mr. Stanzione regarding how the exception on the land came to exist. Mr. Shepherd clarified that he believed the intent of the letters from both the Somerset County Agriculture Development Board and the State Agriculture Development Committee was to indicate that they both had no jurisdiction over this “exception” parcel of property. Mr. Stanzione agreed with Mr. Shepherd and went on to explain that the Applicant, in order to comply with the requirements, needs to keep all access to the site and utility runs within this 125 acre parcel. Board Attorney, Pat Bradshaw, asked for clarification of the Applicant’s meaning of “access”. He wanted to know whether the letter from the County Board was speaking to physical access of the equipment or utility lines running to the facility or both. Mr. Stanzione clarified by stating that they are aware that they only have approval for physical as well as utility access through the existing driveway (Lot 46.04Q) on the property and testified that they would be able to comply with those restrictions.

Vice Chair Evans asked for clarification regarding what portion of the 1.25-acre parcel was being utilized for the tower. Mr. Stanzione stated that they would be using a 579 sq. ft. area for the silo and a small pad for the generator and associated equipment. He went on to state that the remainder of the parcel would allow for the barns and the other outbuildings associated with the farm.

Mr. Stanzione then told the Board he would be calling his first witness, Mr. David Stern, a radio frequency expert. He referred to two reports that were filed with the Township, one dated June 14, 2007 and the supplemental review report that addresses the Planning concerns, dated October 25, 2007.

Mr. David Stern, Telecommunications/Electrical Engineer and Principal of V-Comm Telecommunications Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Stern explained to the Board that his firm investigated and validated a need for a new wireless communications facility in the proposed portion of Franklin Township. He added that, after their investigation and testing, they prepared a report that included the data that was assembled from this analysis. Mr. Stern then gave a brief overview of the position of Verizon Wireless in the industry, the licenses it holds and how the system basically works.

Mr. Shepherd asked for clarification regarding what level of service would be provided utilizing the proposed tower. Mr. Stern indicated that the proposed silo would be providing both licensing frequencies, the 800 mhz service as well as PCS service.

Mr. Stern explained for the Board the necessity for an additional 7th tower in Franklin Township. His explanation included the understanding of how the systems are

presently being used as opposed to the way in which they ran twenty years ago. He highlighted the power availability in the portable devices utilized today as well as the increase in usage of these devices compared with past usage. He also included peak hours of usage during commuter drive times as well as later evening hours.

Mr. Shepherd referred to page 3 of the June 14th analysis report and asked for clarification regarding the table of existing and proposed wireless sites. Mr. Stern described the elements of the table for the Board's edification. He then turned the Board's attention to page 5, which gives a map of the proposed and present tower/silo locations within the area.

A question from the Board regarding other company's cell towers was raised. Mr. Stern indicated that their maps did not indicate where those towers/silos were located. Mr. Stanzione added, however, that there were no other cell towers from their Applicant's company or any other company located in the proposed area. He also stated that they would always piggyback their operations first on existing towers/silos before proposing to construct a new tower in any area.

A question from the Board about allowing other cellular companies the use of the tower was answered in the affirmative with other companies that share in the master licensing agreements with the FCC. Mr. Stern then addressed how they would accommodate co-locators on the proposed facility from a radio frequency standpoint. Mr. Stanzione explained that there are rental fees involved, both for the utilization of the silo as well as agreements with the property owners for land rental for their associated equipment.

Mr. Thomas questioned whether the approval of this application would then ensure for Verizon a pressing need for another tower somewhere else in the Township. Mr. Stanzione addressed the question from a legal standpoint, stating that each application stands on its own. A discussion ensued among the Board members.

Vice Chair Evans opened up a discussion regarding locating more than two cellular carriers on the proposed silo and how that would appear visually to the surrounding area. Mr. Shepherd asked if there would be a crane test and Mr. Stanzione indicated that there would be and a date would likely be scheduled this evening. A discussion ensued regarding the different types of towers, poles and silos that could be utilized. Mr. Thomas asked for computer simulations of how each type would appear on the proposed property.

Mr. Stern gave an overview of the maps on page 8 and 9 of his report, outlining the areas of present coverage and detailing the areas that still need additional coverage. He also reviewed page 4 and 5 of his October 25, 2007 supplemental report that discusses the future proposed sites they are looking to provide additional coverage.

Mr. Stern then discussed Verizon's search for already constructed facilities in the area to accommodate their needs. He detailed for the Board their findings regarding the use of power towers along Rte. 27, as documented on page 2 of the October 25, 2007 supplemental report. Mr. Stern also testified that Verizon uses the newest and best technologies available today. A discussion regarding technologies ensued among the Board members.

Mr. Stern discussed his RF Emission Study, dated June 12, 2007. He explained that the purpose of the report was to evaluate the predicted emissions from the site should Verizon locate their antennas on the facility. He went on to state that they utilize a methodology given to them by the FCC in their OET65 document from the Office of Engineering Technologies noted on page 3 of the report.

The Board took a break from 9:05 p.m. to 9:15 p.m.

Mr. Shepherd opened a discussion regarding reliable standards in cellular technology and what levels of reliability to Verizon standards exist in the areas the Applicant wishes to provide better coverage. Also discussed were the service variabilities depending upon the height of the stealth silo. Mr. Shepherd stated his interest in seeing the difference in coverage between the centerline height of 120 ft. silo and the centerline height of a 100 ft. silo.

Mr. Thomas asked for information detailing the ratio of dropped calls in the areas on their maps colored green, which was testified to as a full coverage area. Mr. Shepherd concurred that the Applicant needs to provide the Board with additional information detailing the ratio of dropped calls and levels of service within the areas on their maps colored white, which was testified to as an area that needs additional coverage.

Mr. Kramer asked for more information regarding wattages and radio frequency exposures. Mr. Stern gave an explanation regarding radio frequencies and radiation levels from cell phone use and proximity to a wireless communications facility such as is proposed in this Application.

Mr. Healey asked for clarification regarding the distance of separation between the different antennas of co-locators at a site. Mr. Stern indicated that they typically like to have a 10 ft. distance from centerline to centerline between co-locators at a site.

Mr. Stern also wanted the Board to know that the FCC is pushing to make a much stricter requirement that they be able to provide adequate coverage to ensure 911 calls have a strong enough signal for the call to go through and not be dropped during the call. A discussion ensued among the Board.

A motion was made to open the meeting to the public. The motion was seconded and all were in favor.

Seeing no one come forward, a motion was made to close the meeting to the public. The motion was seconded and all were in favor.

Mr. Anthony Suppa, Engineer, employed with Dewberry-Goodkind, Inc., came forward and was sworn in. The Board accepted his qualifications. Mr. Suppa reviewed with the Board the Site Plan that was submitted and detailed where the proposed property is situated from South Middlebush Rd., the side setbacks and the rear line. Mr. Suppa indicated that the stealth structure would be positioned more than 1,000 ft. from any street in the vicinity and detailed for the Board that the utility lines would run under the existing driveway. He then went into the construction materials that would be used to build the structure as well as where the individual components of the structure would be

placed. Mr. Suppa indicated that the silo would be 21 ft. in diameter. He added that a technician would normally visit the site approximately every 4-6 weeks to do diagnostic testing. He also stated that there was a 70-watt light on the door that would only be utilized when needed and operated by a switch by the technician. In addition to the described components of the structure, an 8 ft. board on board fence would be utilized to screen the generator as well as a 24-hr./7 day a week alarm system.

Mr. Suppa indicated that he had reviewed the Township professional reports and testified that they could comply with all of the recommendations and requests, with the issue of the structural design still undecided until receipt of Board approval.

Mr. Suppa detailed for the Board the various options when co-locating other cellular services within the same structure.

Vice Chair Evans stated that she would be more inclined to approve an Application with the knowledge of the other carriers who might want to co-locate their equipment at the site. Mr. Stanzone indicated to the Board at this time that they had sent out letters of interest to the various other carriers and have only received one response at this point from Omnipoint Communications (a subsidiary of T-Mobile) and entered into the record as Exhibit A-1. He also offered that if the Board conditioned their approval on their reaching out further for additional interested parties, they would do so in order to try to construct the silo to accommodate these co-locators within the structure with knockouts. Mr. Thomas also asked that they also make it a condition for co-locators to make their associated outside equipment to look like a farm outbuilding. Mr. Stanzone indicated that they could do all of the above if it were a condition mandated by the Board in its approval. A discussion ensued regarding what height requirements other co-locators might be looking for and if that would work with the proposed structure.

The Board questioned whether the Applicant has contacted the FAA regarding flight paths and whether or not the location needs to be lighted. Mr. Stern indicated that they have gone through the process and it is not necessary for the site to be lighted.

The meeting was opened to the public for comments and questions.

Mr. Manny Maniodakis, a nearby resident, came forward and was sworn in. Mr. Maniodakis was concerned that the silo would not require a red obstruction light on it as it is much closer to an airport than the WCTC tower on Veronica Avenue is. Mr. Stern indicated that the tower on Veronica Avenue is required to be painted and lit because it is taller than 200 ft. He was also concerned about the noise level from the diesel engine and Mr. Stern indicated that it is automatically equipped with a silencer.

The meeting was then closed to the public.

Even though there is one more witness, Mr. Masters, the project's Planner, Mr. Stanzone suggested that the meeting be suspended in order to conduct a crane test and have time to give notice for the same as well as give additional time to do photo simulations. Mr. Healey indicated that he had spoke with Mr. Masters and had already mapped out the 15 locations from which they should do their photo simulations. He added that 13 out of the 15 locations chosen were from public roadways and 2 were

within apartment complexes. Mr. Stanzione suggested February 16th as the date to conduct the crane test and February 23rd as an alternate date, if needed, if there are weather constraints from 10:00 a.m. to 3:00 p.m. Mr. Thomas suggested advertising on the public television station and Mr. Stanzione indicated he would take care of noticing via the Courier News.

Vice Chair Evans requested a photo simulation of a tree style structure to look at as well as the other types of structures they would be providing. Mr. Stanzione agreed that they would be able to provide that as well as a windmill, a monopole and a stealth silo, with platforms. Mr. Thomas requested that the simulation of the silo style also include additional antennas on the outside in the event co-locators come to the site in the future.

Mr. Masters indicated that the address for the existing site in Raeville was 186 Old York Rd. in Ringoes, NJ (Hunterdon County). Mr. Masters indicated that he would also take actual photos of that site from some potential distances.

Mr. Healey requested that the photo simulations be done so that the Board can look at the various styles from the same position for comparison from the location that would be the most visible to the public.

The Board agreed to carry the hearing to March 6, 2008, with no further notice required, and to grant an extension to March 31, 2008.

WORK SESSION / NEW BUSINESS

There was no new business.

MEETING ADJOURNED

Mr. Shepherd made a motion to adjourn the meeting at 10:30 p.m. and was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
February 14, 2008