

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

REGULAR MEETING  
March 6, 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 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

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PRESENT: Raymond Betterbid, Grace Evans, Laura Graumann, Bruce McCracken, Robert Shepherd, Phillip Kramer, Carl R.A. Wright, Alan Rich, Anthony Caldwell and Robert Thomas

ABSENT: Donald Johnson

ALSO PRESENT: Patrick Bradshaw, Board Attorney, Mark Healey, Professional Planner, Vincent Dominach, Zoning Officer (left early at 9:35 p.m.) and Olga M. Burke, Administrative Officer/Secretary

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## MINUTES

- **Regular Meeting –February 7, 2008**

Mr. McCracken made a motion to approve the Minutes as submitted. Mr. Shepherd seconded the motion and the roll was called as follows:

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

AGAINST: None

- **Regular Meeting – February 21, 2008**

Mr. McCracken made a motion to approve the Minutes as submitted. Mr. Caldwell seconded the motion and the roll was called as follows:

FOR: Vice Chair Evans, Mr. McCracken, Mr. Kramer, Mr. Wright, Mr. Rich, Mr. Caldwell and Chairman Thomas.

AGAINST: None

## HEARINGS

- **Adriana & John Tolis / Docket # ZBA-07-00057**

Application for a Hardship Variance for an existing pool, deck and sheds located at 27 MacAfee Road, Block 361, Lot 13, in the (R-20) Residential Zone.

Mr. Dominach's Zoning report indicated that the Applicants purchased the subject property in 2007 and were made aware that the previous owner did some improvements (decks, pools, sheds) without receiving permits. When the permits were applied for, it was determined that variances were needed.

The following variances are needed:

1. Lot area: 20,000 sq. ft. minimum, 16,117 sq. ft. existing/proposed
2. Lot frontage: 100 ft. minimum, 82.50 ft. existing/proposed
3. Side yard setback: 15 ft. minimum, 13.8 ft. (east side of house), 13.6 ft. (west side of house) existing/proposed
4. Total side yard setback: 30 ft. minimum, 27.4 ft. existing/proposed
5. Rear yard setback: 50 ft. minimum, 35 ft. existing/proposed
6. Side yard setback accessory structure: 15 ft. minimum, 7 ft. (deck), 9 ft. (pool deck) and 1 ft. (trellis) existing/proposed
7. Rear yard setback accessory structure: 25 ft. minimum, 13.5 ft. (pool deck), 1.5 ft. (trellis)
8. Lot coverage: 15% maximum, 17% existing/proposed

Mr. Dominach clarified by stating that the first five variances needed were as a result of existing conditions on the non-conforming property. He added that the next three variances were new variances and were a result of items that were added to the property prior to the Tolis' purchasing it.

Ms. Adriana Tolis and Mr. John Tolis, Applicants, came forward and were sworn in. Ms. Tolis testified to the Board that they were unaware that the previous owner did not obtain the proper permits until it was too late to back out on the contract to purchase the home. She also stated that they agreed to apply for the permits as a result of the purchase and were there before the Board seeking the variances that are required because of the work that was done.

Mr. Shepherd discussed the purposes of the sheds and the trellis on the property. Ms. Tolis indicated that the sheds were being used for the lawn mower outdoor lawn care supplies and the other one was being utilized for pool supplies. She indicated she did not know what the trellis was utilized for.

Vice Chair Evans made a motion to approve the Application for a Hardship Variance for existing pool, deck and sheds. Ms. Graumann seconded the motion and the roll was called as follows:

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

AGAINST: None

- **Nancy L. Bering / Docket # ZBA-07-00058**

Application for a Use Variance to permit parking two school buses and one truck located at 51 Grouser Road, Block 59.01, Lot 5.02, in the (A) Agricultural Zone.

Ms. Nancy Bering, Applicant, came forward and was sworn in. Ms. Bering explained to the Board that she received a violations letter regarding the storage of these vehicles on her property and applied for the proper variances in November.

Ms. Graumann stated that she felt granting the variance would attach it to the property, just as an easement would be tied to the deed, and therefore she stated her concerns for doing so. Mr. Shepherd was in concurrence with that statement.

Mr. Kramer indicated that he has seen the property and stated that the bus cannot be seen from the roadway, as the property is very large.

The Board discussed the options the Applicant had in order to accommodate the buses and the truck. A suggestion was made to store the buses on the bus company property and drive to pick them up.

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

Ms. Judith Bering, 53 Grouser Road, Somerset, NJ, came forward and was sworn in. Ms. Bering brought forward 16 photographs of the property showing the busses and the truck on the property that were taken from the right of way in November of 2007. She indicated that she is trying to sell her deceased mother-in-law's property and that this situation is lowering the value of the home as well as her own. She then brought up the fact that the busses make multiple runs during the day and drive up and down Grouser Rd., which is not a two-lane roadway. When they bring the buses onto the property, there is the noise level from the engines as well as the backup alarms that sound. She also indicated that the second bus is driven by Ms. Nancy Bering's daughter, who lives in East Millstone, and is stored on the property for her convenience.

Mr. Lance Bering, 51 Grouser Rd., came forward and was sworn in. Mr. Bering testified that he would be willing to construct a building to house his truck, if necessary. He also indicated that the house that is being sold was not placed correctly on the property and the eventual owner cannot have a car parked in front of it's garage as it would then be on his property. He stated that this has created an issue in the sale of the property.

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

The Board opened a discussion regarding the various issues regarding the buses.

Mr. Shepherd made a motion to grant the Use Variance to permit parking two school buses and a truck on the property located at 51 Grouser Rd. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: None

AGAINST: Mr. Betterbid, Vice Chair Evans, Ms. Graumann, Mr. McCracken, Mr. Shepherd, Mr. Kramer and Chairman Thomas

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

Mr. Richard Stanzione, Attorney, appeared before the Board on behalf of the Applicant, New York SMSA – Verizon Wireless. Mr. Stanzione stated that the Application was for a Use Variance and Site Plan to construct a 125' 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.

Mr. Anthony Suppa, Engineer, employed with Dewberry-Goodkind, Inc., came forward and continued to be sworn in from the last meeting. Mr. Suppa stated that he had re-evaluated the plan and determined that two additional co-locators' antennas could be positioned inside the stealth structure, for a total of four carriers, with none located on the outside of the structure whatsoever. He stated that they would be positioned at 120 ft., 110 ft., 100 ft and 90 ft. levels within the silo structure. He added that two carrier's equipment could also be housed within the silo and a barn-type structure could be built at the base of the stealth silo to accommodate the equipment for the remaining two carriers.

Mr. Stanzione entered into the record Exhibit A-2, which is a letter from the attorney for Cingular Wireless, indicating their interest at being positioned within the silo structure at 100 ft. He reminded the Board that they had interest from T-Mobile to be placed at the 110 ft. level and Verizon Wireless, of course, would be positioned at 120 ft.

Mr. Shepherd opened a discussion regarding the possibility of constructing the silo nearer to one of the barn structures on the property. Mr. Stanzione indicated that they are only allowed to build a non-agricultural structure within the 1.25-acre easement parcel on the site.

Mr. William Masters, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. Masters gave an overview of the project and how it related to the zoning ordinances. Mr. Masters included in the discussion the suitability of the site. He then addressed the negative criteria and stated that they had done extensive work regarding the visual impact to show the Board and public what the structure would look like, including the performance of a crane test back on February 16, 2008. He stated that numerous photographs were taken around the site that day and had photo

simulations to show the Board that evening. Mr. Masters entered into the record Exhibit A-3, which was an aerial photograph of the site and surrounding area, dated April 24, 2003, and was described by Mr. Masters for the Board's information.

Next entered into the record was Exhibit A-4, which was a photo board that included 8 pictures. Mr. Master's indicated that the pictures in this and the next three exhibits showed the left side with actual pictures taken with the crane on the site and the right side consisting of photo simulations of what the silo would look like on the site at that view. Exhibit A-4's photos detailed the view with the proposed silo from South Middlebush Rd. at Cortelyous Lane, from South Middlebush Rd. at house #566, from the parking lot at the Six Mile Run Reservoir access point on South Middlebush Rd. and from Mattawang Dr. at house #26.

Mr. Masters next entered into the record Exhibit A-5, which was a second photo board that included 8 pictures. Exhibit A-5's photos detailed the view with the proposed silo from Claremont Rd. and Mattawang Dr., from the end of Julie Court, from Deborah Dr. between house #18 and #16 and from Brook St.

Next entered into the record was Exhibit A-6, which was a third photo board that included 6 pictures. Mr. Master's indicated that the photos detailed the view with the proposed silo from various locations on Cortelyous Lane, including from house #110.

Mr. Masters entered into the record Exhibit A-7, which was a fourth photo board that included 6 pictures. Exhibit A-7's photos detailed the view with the proposed silo from Cortelyous Lane at the 90 degree bend at the subject site and South Middlebush Rd. and from South Middlebush Rd. at house #599.

Exhibit A-8 was entered into the record and was a fifth photo board that included 3 pictures. Mr. Masters testified that these locations had no visibility to the subject site and included views from Lenape Dr. between house #13 and #17, from the end of Meadow Ave. and from Victoria Dr. at the detention basin.

Exhibit A-9 was entered into the record and was a sixth photo board that included 3 pictures. Mr. Masters stated that that exhibit and the next four are photo simulations of alternative structures taken from three of the seventeen photo locations, specifically from South Middlebush Rd. and from Cortelyous Lane at the driveway entrance to the subject property, which had the greatest visibility of the proposed structure. This exhibit shows a photo simulation of a conventional monopole, and Mr. Masters gave a description of what would occur on that type of structure.

Exhibit A-10 was entered into the record and was a seventh photo board that included 3 pictures. Mr. Masters stated that that exhibit was a photo simulation of a cluster mount monopole viewed from South Middlebush Rd. and from Cortelyous Lane at the driveway entrance to the subject property. He described the way in which a cluster mount monopole would operate, for the Board's edification.

Exhibit A-11 was entered into the record and was an eighth photo board that included 3 pictures. Mr. Masters told the Board that the exhibit was a photo simulation of a concealment pole, sometimes referred to as a unipole or a flagless flagpole, and viewed

from South Middlebush Rd. and from Cortelyous Lane. He then described the way in which this type of structure works.

Exhibit A-12 was entered into the record and was a ninth photo board that included 3 pictures. It was explained that the exhibit was a photo simulation of a windmill structure viewed from South Middlebush Rd. and from Cortelyous Lane at the subject site. Mr. Masters added that the windmill structure is taller than the silo structure to compensate for the diameter of the windmill, usually 13 ft.

Exhibit A-13 was entered into the record and was a tenth photo board that included 3 pictures. Mr. Masters stated that the exhibit showed a photo simulation of a tree monopole viewed from South Middlebush Rd. and from Cortelyous Lane at the subject site. He then described how that structure would operate.

Exhibit A-14 was then entered into the record, which is a photo board that includes two 8 x 10 photos of the existing Verizon Wireless silo installation at 186 Old York Rd. in East Amwell Township in Hunterdon County.

Mr. Masters' opinion was that the silo structure works the best, from a visual perspective, in terms of the agricultural nature of the existing property and discussed the balance between the positive and negative criteria of providing the additional wireless telecommunication services. He also discussed the site distances of the closest residents and the fact that their views are further buffered by State owned land included in Six Mile Run as well as by Franklin Township Open Space land.

Mr. Masters stated that the project meets the criteria of the Wireless Telecommunications Ordinance of the Township and discussed the details to substantiate his opinion.

Vice Chair Evans asked for clarification regarding the tree monopole type structure. Mr. Masters explained and described further that type of structure. The Board discussed the color and material that the proposed silo structure would be.

Chairman Thomas opened the meeting to the public for questions of Mr. Masters.

Mr. Richard Nix, 13 Lenape Drive, Somerset, NJ, came forward. Mr. Nix was interested in knowing how many people were notified who reside in the 200 ft. radius of the proposed project. He stated his concern when the older taller trees were no longer present, that there would be a significant visual impact. Mr. Masters discussed with Mr. Nix the possibility of using a cluster monopole and the disadvantages.

Seeing no one further come forward, the meeting was closed to the public.

Mr. George Manioudakis, Trustee and Owner of the subject property, 586 South Middlebush Rd., Somerset, came forward and was sworn in. Mr. Manioudakis gave a description of the various buildings on the property, his preference for a silo structure and described why the subject site for the silo structure was chosen. Mr. Shepherd discussed with Mr. Manioudakis why the silo structure couldn't be relocated.

The Board took a break from 10:00 p.m. to 10:05 p.m.

During the break, Mr. Stanzione stated he had the opportunity to speak to Mr. Bradshaw, the Board Attorney, Mr. Healey, the Township Planner and the landowner, Mr. Manioudakis. Mr. Stanzione stated that he had gotten agreement from Mr. Manioudakis to have a site survey done in the presence of Mr. Healey and a representative of the Historical Commission, some members of the Board and the Applicant's Engineer, Mr. Suppa, and the owner to come up with a suitable placement of the silo structure to everyone's satisfaction.

Mr. Kramer indicated that he felt that the cluster mount monopole creates a much nicer view than a stealth silo and is still able to accommodate multiple carriers.

Mr. Dominic Villecco, Radio Frequency Engineer, with V-COMM, LLC, came forward and was sworn in. The Board accepted his qualifications. Mr. Villecco described for the Board, at Mr. Shepherd's request, the green shaded areas and white areas on their coverage map and what those mean for the cell phone user. Mr. Villecco indicated that the government has qualitative standards and Verizon as well as the other carriers uphold quantitative standards, utilizing db's (decibels) and other units of measure in providing service to their customers. The standard that Verizon stands by takes into account all of the telecommunications devices that are in service and the usage of subscribers and their demands for indoor and outdoor usage as well as in-car usage.

Mr. Villecco entered into the record, Exhibit A-15, which is Franklin 7 On-Air Testing – Average Rx Power and Franklin 7 On-Air Testing – Dropped/Blocked Calls. Mr. Villecco explained to the Board that since there are two frequencies, one at 800 MHz and the other a PCS band, they had to do simultaneous testing. He then went into the results that were garnered from this testing and included the number of dropped calls as well as blocked or ineffective calls. Mr. Shepherd entered into a discussion regarding the testing results.

Mr. Stanzione indicated that they would continue their presentation on May 1<sup>st</sup> at 7:30 p.m., without further notice, and would coordinate an on-site visit with Mr. Healey, Mr. Manioudakis and the applicable Board members in the meantime. Mr. Stanzione gave the Board an extension of time to May 31, 2008 in order to hear the remainder of the testimony.

Mr. Kramer opened a discussion about the date of the on-site visit to the property located at 586 South Middlebush Rd. Chairman Thomas asked Mr. Healey to set something up for after the March 13, 2008 Board of Adjustment Meeting the following week and give the date/time at that meeting to choose Board members to attend.

## **WORK SESSION / NEW BUSINESS**

There was no new business

## **MEETING ADJOURNED**

Ms. Graumann made a motion to adjourn the meeting at 10:25 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
April 3, 2008