

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

**REGULAR MEETING
November 1, 2018**

This 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, Robert Thomas, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Donald Johnson, Bruce McCracken, Alan Rich, Anthony Caldwell, Gary Rosenthal, Joel Reiss, and Chairman Thomas

ABSENT: Laura Graumann, Robert Shepherd and Cheryl Bergailo

ALSO PRESENT: Mr. James Kinneally, Zoning Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

HEARINGS:

- **KATHLEEN KELLY / ZBA-18-00015**

Hardship Variance in which the Applicant seeks to construct a covered porch in the front of the house at 65 Wilson Road, Somerset; Block 422, Lot 5; in an R-20 Zone - **CARRIED TO DECEMBER 6, 2018 – with notification required to newspaper only.**

DL - 12/31/2018

- **KINGS ROW HOMES, LLC / ZBA-16-00017**

Mr. Jason Hawrylak, Esq., Attorney employed with the law firm of Wisniewski & Associates., LLC, 17 Main Street, Sayreville, NJ 08872, appeared before the Board on behalf of the Applicant, Kings Row Homes, LLC. He explained that the Applicant was returning for Site Plan and Subdivision approval with Variances. The proposal indicated that the Applicant was requesting permission to construct 34 townhouse units consisting of 26 three-bedroom and 8 two-bedroom townhouses at 77 & 123 Cedar Grove Lane, Somerset; Block 468.07, Lots 46 & 47, in an R- 40 Zone - **CARRIED FROM OCTOBER 4, 2018 – with no notification required.**

Mr. Hawrylak told the Board that his client's project proposed to construct a 34-unit townhome community with 26 three-bedroom units and 8 two-bedroom townhomes, also known as "The Grove at Somerset". He then reminded the Board that the subject property and project had a bit of a history and gave some background information for newer Board members. He explained that back in 2010, his client made a bifurcated application for a Use and Density Variance to construct a townhome community on the property. He noted that that application ended up in litigation between the Township and the Applicant and eventually the litigation

settled. He told the Board that there was a settlement plan that was entered into by the Township and the Applicant on July 15, 2013 and, as a result of the settlement plan, the Zoning Board granted a Resolution in October of 2017 granting a Use Variance and Density variances on the property to construct a 34-unit townhome community as described earlier. Since that time, Mr. Hawrylak stated that the Applicant had been working with his professionals and the Township professionals to modify the site plan and incorporate many suggestions from the Township and County and various State agencies that required different types of testing on the property. At that time, Mr. Hawrylak indicated that they had brought the resulting Site Plan before the Board that evening. For the record, and assuming that the Board received the settlement plan in their packet for the evening, Mr. Hawrylak stated that Section 1.3 of the settlement plan stated, on page three (3), that the Zoning Board would retain jurisdiction of the matter to hear Kings Row Homes, LLC site plan application. He continued to read from the settlement document, stating that "in considering King Row Homes site plan application, the Zoning Board shall accommodate and provide the necessary and appropriate relief by way of variance or waiver on those bulk and/or site issues necessary to give full effect to the aforementioned grant of a Use and Density Variance on the site. Mr. Hawrylak then stated that the attached concept plan, which had not been previously reviewed by the Township professionals, demonstrated conceptually a plan that reflected the use and density elements of the settlement. Mr. Hawrylak then told the Board that they were there that evening seeking Preliminary and Final Major Site Plan approval, Preliminary and Final Major Subdivision approval and the necessary waivers and variances for the site.

Mr. Hawrylak then stated that they would be presenting testimony from three (3) main witnesses, including the Project Engineer, Architect and Planner. He added that for the purposes of jurisdiction, an affidavit of service was sent to the Zoning Board and Zoning Board Attorney on September 8, 2018 showing publication in the Courier News on September 24, 2018. Additionally, on September 20, 2018, he indicated that notices were sent via certified and regular mail to all property owners within 200 ft. of the property, to the Somerset County Planning Board, the NJ Dept. of Transportation (NJDOT), NJ Dept. of Environmental Protection (NJDEP) and all of the necessary utility companies. He added that the matter was originally to be heard on October 4, 2018 and was carried to that evening, without further notification required.

Mr. Scott Turner, Project Engineer employed with Menlo Engineering Associates, 261 Cleveland Avenue, Highland Park, NJ 08904, came forward and was sworn in. The Board accepted his qualifications. Mr. Turner then gave a brief overview of the present condition of the site, indicating that it contained 7.73 acres, located in the R-40 single-family residential zoning district, had approximately 400 ft. of frontage along Cedar Grove Lane and was approximately 850 ft. deep. He then noted that there was a landscape supply company, also known as the Janho property, to the west, an existing single-family residential development to the north, an existing house of worship to the east (the Jain Center) and across the street to the south of the site was an existing retail strip center. Mr. Turner then marked into evidence as Exhibit A-1, a colorized rendering of the site over the existing land uses in the area. Mr. Turner then told the Board that the site was a currently undeveloped wooded parcel with an area to the front that contained a small house and a few ancillary structures and a driveway that led out to Cedar Grove Lane. He then noted that the property was mildly sloped from the rear out towards the front of the site and that there was an existing Texas Eastern gas transmission line easement located at the rear of the property that clipped the northeast corner of the property. According to Mr. Turner, associated with the gas transmission line

easement, which was 60 ft. wide, was a 100 ft. gas transmission buffer requirement from Franklin Township. He went on to testify that those constraints limited how far back on the property they could place the townhome development. He did note that within the proposed 34-unit townhome development, with eight (8) two-bedroom units and 26 three-bedroom units, all of the end units would contain two-car garages and driveways. He added that all of the interior units would have a single car garage and associated driveway. Mr. Turner then explained that all units would have a private patio space in the rear of their units, and that there would be no basements because the soil conditions were not conducive to including them. Instead, he testified that all of the units would be constructed as slab on grade condition. He then told the Board that there would be eight (8) buildings as part of the Site Plan, with a mixture of three (3), four (4) and five (5) unit buildings to be situated along two (2) new roads labeled for now as Road A and Road B. Mr. Turner told the Board that Road A was the main road that came off of Cedar Grove Lane, and its intersection was positioned as far over east as possible on the property, with a small landscaped median and a small identification sign of 24 sq. ft. (6 ft. x 4 ft.) for the development. Mr. Turner then told the Board that Road B was located further toward the back, while Road A meandered its way to the rear of the property and T'd into Road B. He added that Road B was a smaller road ending in a cul-de-sac on the westerly side of the site. Mr. Turner then explained that both roadways would be 26 ft. in width and would be curbed with granite block curbing and would have sidewalks on both sides of the street. He then testified that they would be providing 38 nine (9) ft. x 18 ft. off-street parking spaces, with a total of 130 parking spaces provided on the property when you include the off-street parking, the garages and driveway spaces. He then made a comparison from what was being provided to the recommendations from the Residential Site Improvement Standards (RSIS) of 81 parking spaces, indicating that they far exceeded those standards. Mr. Turner then added that the minimum requirement of off-street parking spaces was 17 based on the number of units, according to RSIS standards, but also far exceeded that minimum as requested by Township staff in their reviews. Furthermore, he indicated that all of the roadway geometry, driveways, curbing and sidewalks and parking all comply with RSIS standards.

Mr. Turner then drew the Board's attention to the emergency access easement in the rear of the property at the northwest corner that lead itself away from the cul-de-sac of Road B and headed in a northerly direction towards the northwest corner of the property and along the westerly property line with the Janho property (landscape supply company). He then told the Board that the emergency access easement allowed for the emergency access to the property as well as for underground utilities to service the development as well as any other development on the Janho site in the future. Mr. Turner then discussed the proposal, in the southwest corner of the property near Cedar Grove Lane, of a rather large easement of 20,844 sq. ft. in size for potential further development on the Janho property. He noted that the area was designed to accommodate a potential driveway connection out from Cedar Grove Lane to accommodate not only vehicular traffic, but also possibly loading traffic by tractor trailer delivery vehicles and that sort of activity if that ever became necessary. He then further testified that the driveway configuration and the easement was laid out as such so that the driveway could line up with the existing driveway that was located directly across the street at the retail strip center. Mr. Turner then discussed the utilities of water, sewer, gas, electric, cable and telephone would all be available to the site and would be brought into the site by underground services

Mr. Turner then discussed storm water management for the project and told the Board that they went through extensive calculations, designs, revisions, modifications, etc., to bring the site into compliance with all the necessary standards. Particularly, he spoke about an enhanced storm water management system requirement from the Delaware & Raritan Canal Commission (DRCC) because the drainage from the site went directly into the canal. These enhanced requirements include storm water quality measures that have to be met. He then spoke of a conventional underground storm water management system under the roadways to convey their flow into the proposed "wet pond" located in the southwesterly portion of the site. He told the Board that the "wet pond" was designed to comply with all of the applicable standards and included two water quality treatment devices installed on the pipes before they discharge into the pond. He then discussed the three (3) infiltration areas on the property meant to handle a volume issue required by the DRCC, stating that they could not have an increase in the volume of runoff from the site when compared to the pre-development condition. Mr. Turner then discussed the numerous soil test pits done on the site throughout a number of different times of the year which, he says, allowed them to come up with a design for three (3) infiltration basins in order to keep the volume of runoff on the site. Mr. Turner then told the Board that the DRCC approved the storm water management system that he was presenting that evening. He then spoke of the drainage going through an outlet control structure that was located on the "wet pond" itself which ultimately discharged all of the runoff from the site to the existing County drainage system, which the County had approved as well. Mr. Turner then told the Board that they had a pending application with the NJDEP, which would be a further storm water management review.

Mr. Turner then drew the Board's attention to the recreation component on the site, to include 400 sq. ft. per unit (13,600 sq. ft.). He then pointed out the three (3) areas of recreation that were required on the site, with two of the areas in the most northerly portion of the site to include a community garden with 16 community garden plots. Mr. Turner then entered into the record as Exhibit A-2, a rendering of what the community garden plots might look like. The second recreational area proposed for the northerly portion of the site was a 5,000 sq. ft. open play area that would be delineated by some corner fencing. The third proposed recreation area was about mid-way on the property to the westerly side of Road A that included a walking path to a gazebo located behind the rear of Buildings 2 & 3 for a total rough area of about 1,542 sq. ft. He noted that the total recreation area on the property was 13,921 sq. ft., not including the sidewalks throughout the development as well as the proposed sidewalk along their frontage on Cedar Grove Lane.

Mr. Turner then discussed the Lighting Plan, indicating that they would be utilizing LED lighting fixtures with 12 ft. mounting heights to provide safe and adequate lighting levels, with no spillage off the property. He then turned the Board's attention to what he deemed a significant, comprehensive Landscaping Plan that included 106 deciduous trees, 273 evergreen trees, 36 flowering trees, 231 shrub plantings and 76 ground cover plantings spread throughout the development with street trees along Cedar Grove Lane. He also stated that there would be landscaping around the "wet pond" bounded by a modular block retaining wall with a fence on top of it. He then noted that they had a lot of buffer plantings, especially along the westerly side of the property next to the landscape supply company, supplementing that with an 8 ft. high board on board fence that would run from Cedar Grove Lane all the way to the rear to provide further screening. Mr. Turner then told the Board that they were also providing another row of buffer plantings on the easterly side from the Jain Center. He then told the Board that there were already some existing mature trees that were on the residential

properties to the north, and that they would be supplementing that area with some additional buffer plantings while also being sensitive to the gas transmission pipeline buffer in that area.. Mr. Turner did note that they would be removing a significant number of trees, but leaving as many as possible in the easement area and easterly side of the property as well as supplementing the trees already in the front, southeast corner of the property that would not be receiving as much development as the rest of the site.

Mr. Turner then indicated that the Applicant retained a rendering company to do some photo realistic renderings to show the Board and professionals what the site would look like at time of planting and then again at the 10 yr. growth rate. Mr. Turner then entered into the record as Cedar Grove Lane initial growth exhibit, known as Exhibit A-3. He wanted the Board to know that none of the proposed buildings would be running parallel or perpendicular to Cedar Grove Lane in order to minimize the view shed of Cedar Grove Lane. Mr. Turner then directed the Board's attention to Exhibit A-4, which was the 10 year growth exhibit showing how the trees would be obscuring the buildings. He then told the Board that the closest building to Cedar Grove Lane was 165 ft. from the right of way.

Mr. Thomas asked if Mr. Turner had an exhibit showing the development from the other direction, and he answered in the negative. Mr. Thomas was concerned for the view should there be a new development proposed for the Janho property in the future and having a connector roadway put in. A discussion ensued, and the Chairman indicated that neither Board had ever dedicated a driveway to be built for another person's property for an Application that didn't exist. Chairman Thomas stated that should the adjacent property ever be developed, that there would be a new road constructed and about 1,000 ft. of frontage on New Brunswick Rd. He expressed his concerns that access to that adjacent property should need to have access onto Cedar Grove Lane and didn't think anything should be constructed within that easement until there was an approved application on that adjoining property.

Mr. Hawrylak stated that the driveway connection for possible future development was not their idea and was actually proposed by the County because of their concerns for the intersection of Cedar Grove Lane and New Brunswick Rd. He also added that there was an easement agreement with Mr. Janho in place, but that he would have to come back before the Board with an application in order to get any approval for a connector roadway between the two sites. Chairman Thomas stated that he wanted to put in a formal condition of any approval that the easement area never be touched.

Mr. Healey spoke up to give some clarification to the Board that the Township did not have any application for the Janho property. He said that it was a matter of the County simply looking ahead and anticipating that if the Janho site ever was to come in for an application for some type of redevelopment, they would like the entrance for that site to be as far away from the intersection as possible. He reiterated that the County had imposed the condition on the Applicant to provide the easement in the possibility that the Janho site would be developed in the future in order to protect the intersection and that he felt that a condition that any future applicant had to come back before either Board for any future development of the Janho site would be prudent.

Mr. Turner then showed the Board some views from the rear of the property with a view from the closest existing single-family residential property along the northerly property line. He then entered into the record as Exhibit A-5, an initial growth view at the rear of the property.

He noted the substantial distance from the closest single family home due to the space needed for the gas transmission pipeline and its 100 ft. buffer. For perspective, he told the Board that Building #6, which was on the northerly side of the property, was approximately 130 feet from the rear property line and Building #5 was approximately 170 ft. from the rear property line. Mr. Turner then showed the Board and entered into the record as Exhibit A-6 a rendering of the same view as in Exhibit A-5, but with a 10 yr. growth perspective.

Mr. Turner then testified that they were planning on satisfying the obligation of the tree replacement on the property by way of the plant materials that they were providing as well as the monetary contribution to the Township that was required.

Mr. Reiss then asked if the townhome units would be rentals, and Mr. Turner stated that they would be fee simple lots to homeowners of the townhouse units.

Mr. Turner then drew the Board's attention to the requirements of the R-40 zoning district, noting that they did comply with all of the bulk standards for that district with the exception of maximum building coverage (10% permitted where 14.1% was proposed) and maximum impervious coverage (20% allowed where 35% was proposed). He stated that if the proposal was within a zone that permitted townhomes, they would be well within the standards set for maximum coverage (20%) and impervious coverage. (40%), but was also why they were requesting the variances since the proposal was within the R-40 single family home district. He did add that some of the by-products of going through the process with the Township professionals did affect these percentages, i.e., 26 ft. wide roadways as requested by the Fire Official as opposed to the minimum of 24 ft. in accordance with RSIS standards. He also included such items as two-car garages for the end units and the inclusion of sidewalks on both sides of the street, additional parking on the site, the paved emergency access roadway on the site and slightly larger cul-de-sac requested by the Fire official as contributing factors to the additional coverages.

Mr. Healey then brought up the differences of building coverage between the concept plan and the Site Plan presented that evening (11% vs. 14.1%) as well as the differences of impervious coverage between the concept plan and Site Plan presented (30.5% vs. 35%).

Chairman Thomas then asked if the building coverages and impervious coverage percentages listed included the driveway in the easement area or not. Mr. Turner indicated that they did not include that number in their calculations. A discussion ensued regarding which property the easement access roadway would belong to and how that would all play out. Mr. Turner stated that when the next witness comes forward, he would take the time then to make some calculations to see what the actual building coverage and impervious coverage would be if they included the easement access roadway.

Mr. Turner then discussed the Township's requirement for 30 ft. wide private roads within the development, where they were proposing 26 ft. wide private roads, which exceeded the RSIS standards of 24 ft. wide roadways. He noted that the request for the wider roadways came from the Township Fire official.

Mr. Turner indicated that they would be providing for essentially a 36 lot subdivision to take care of the 34 individual townhouse units, one (1) for the private roads and another lot for all of the open space on the property (approximately 4.5 acres). He again stated that the units

would be fee simple so as to allow each homeowner to own the land under their unit and to encompass the porches and service walkways. Mr. Turner then spoke about each lot requiring the individual lots having front and rear setbacks of 20 ft. and a side setback of 20 ft. at the end of each building. He then noted that on page four (4), item #3, of Mr. Healey's Planning report dated September 6, 2018 reviewed in a very detailed way the required variances, building by building. Mr. Healey wanted it on the record that the setbacks listed for each unit were not to the perimeter of the property, but were the individual lots within which each of the townhomes would sit and would require variances.

Mr. Turner noted that the trash and recycling for the development would be by curbside pickup and there would not be any dumpsters proposed on the property. He noted that the garages were designed to be oversized to accommodate for the trash cans that would be stored on site.

Mr. Caldwell asked how the requirement to store trash cans inside the garage would be handled, and Mr. Turner indicated that he thought it would be a by-product of the homeowner's association guidelines.

Mr. McCracken asked if electric cars would be able to be plugged in and were the units planned for such an occurrence. Mr. Turner stated that electric cars were not planned for on the Site Plan and that he did not know what their electrical requirements would be. He suggested that the discussion could be pursued that evening with the Architect. A discussion ensued among the Board.

Mr. Turner then addressed the staff reports, stating that they would be able to comply with the CME report of September 25, 2018. He then stated that he had discussed all of the pertinent comments in Mr. Healey's report, dated September 6, 2018. He then indicated that there were no additional comments in Mr. Hauss' Fire Prevention memo, dated September 28, 2018 and the Traffic Bureau's September 18, 2018 memo indicated no additional comments. He noted that the Environmental Commission requested the use of pervious asphalt surfaces and that the tree removal seemed to be excessive, but felt that he provided enough testimony in terms of the trees and that pervious asphalt won't work in this area because the soil conditions were not conducive to those types of materials. Finally, Mr. Turner agreed to all of the requirements of the Franklin Township Sewerage Authority memo, dated September 25, 2018.

Mr. Wayne Johnson, Architect employed with Blueline Architecture, 397 Franklin Avenue, Wyckoff, NJ 07481, came forward and was sworn in. The Board accepted his qualifications. Mr. Johnson referred the Board to an exhibit that related to Drawing A-1 that was part of the initial submission to the Township's Zoning Board of Adjustment. The drawing showed the front façade of the 5-unit building and represented different exterior building materials, specifically brick and vinyl siding, asphalt roofs. He did add that they had revised these plans and added dormers to the roofline to break up the monotony. Mr. Johnson then showed Drawing A-2 from the original plans and stated that it represented the floor plans of the 5-unit building. He then testified that the community was set up with three different types of units, delineated as Unit A, Unit B and Unit C on the plans and were intermixed in different configurations in different clusters. He then told the Board that Drawing A-2 showed the 5-unit building with two (2) Unit A's, two (2) Unit B's and a Unit C, noting that the "A" units were the end units that included two-car garages with the middle units having only one-car

garages. He then described the units by their square footages, stating that Unit A units had 2,072 sq. ft., Unit B units had 2,154 sq. ft., with three (3) bedrooms each and the Unit C units had 2,039 sq. ft. with two (2) bedrooms. Mr. Johnson then indicated that the Board had asked him to show all the different cluster sizes, moving on to Drawing A-3 and describe the 4-unit building cluster. He told the Board that the 4-unit building cluster include two (2) Unit A end units and a Unit B and a Unit C for the middle units of the building. He noted that the square footage of the different unit types were the same as described previously and indicated that the exterior building materials were similar to what was previously described and broken up in different ways to accommodate for the 4-unit building cluster. Mr. Johnson then moved on to Drawing A-4 that showed the 3-unit building cluster and was comprised of two (2) Unit A end units (3-bedroom units) with the center unit included with a Unit C townhome with a different break-up to how the façade looks. Mr. Johnson then went on to state that they were asked to show what the exterior of a 5-unit building looked like.

Mr. Johnson then indicated that they had taken a close look at what they originally submitted and took some marketing direction and influence to do some revamping of what the exterior would ultimately look like. Mr. Johnson then entered into the record as Exhibit A-7, showing a rendering of a front/side view of a typical 4-unit building cluster, stating that they took great care to add in trim features to add significant character to the buildings as well as a dormer feature. He then noted that each end unit had side entrance porches with a covered portico and a pathway leading to it from the front. Mr. Johnson then testified that the interior units had porches with overhangs at the entrances. He added that they had played with the color choices carefully and eliminated the use of brick, which he stated was an outdated material for today's standards and were using a stone product at the base as a water table at the front and sides of the clusters. Mr. Johnson then entered into the record as Exhibit A-8, showing a full front face of a 4-unit building cluster, which he indicated showed the dormers on the roofline of the interior units as well as the overhangs. He indicated that they went with a gray vinyl siding and white trim for contrast on the buildings, and the exhibit also showed the Belgian block curbing that would be used throughout the community along the streets. Mr. Johnson then entered into the record as Exhibit A-9, which was showing some color work to break up the different clusters in different ways to break up the community to add some color to the area yet would keep a uniform color to the building at the same time. He then introduced Exhibit A-10 that showed a 4-unit building cluster with the same color scheme as in Exhibit A-9.

Mr. Johnson then addressed Mr. McCracken's question regarding the ability to plug in electric cars, stating that that was something they looked into to offer as an option to someone coming in to purchase a unit and would be available to do so. A discussion ensued regarding the subject. Mr. Johnson testified that it was something that could just as easily be added at a later date after the home was constructed as it would be to include it as an option to a buyer upon completion of construction.

Mr. Paul Phillips, Planner and Principal of Phillips Preiss, 33-41 Newark Street, Hoboken, NJ, came forward and was sworn in. The Board accepted his qualifications. From a planning standpoint, he indicated that the Use Variance for the proposed project was already in place for the development of 34 townhomes. In connection with the Site Plan application, Mr. Phillips stated that the Applicant was seeking what he would characterize as several relatively minor variances and were already addressed to a larger extent by Mr. Turner and would put forward his proof requirements for the plan. He then discussed the lot and building coverage

variances that were required and was also the case at the time of the Use Variance Concept Plan. Mr. Phillips noted that the variances required were associated with the underlying R-40 zoning in the area and stated that he felt that the variances required were clearly subsumed within the D variances for use and density in accordance with the NJ Supreme Court decision in the Price vs. Himeji case. Mr. Phillips then referred to Mr. Healey's report and his testimony that evening that he correctly pointed out that the building and impervious coverages had increased somewhat vis-à-vis the Use Variance Concept Plan. He spoke about Mr. Turner's testimony indicating that the major reasons this was the case included the wider roadways and increase in the number of garages with the inclusion of 2-car garages for the end units, the additional sidewalks and the emergency access roadway. Mr. Phillips then stated that he concurred with Mr. Turner that they were now at 14% building coverage and 35% impervious coverage, but felt that they were well within what could be considered reasonable for a townhouse development of the prototype presented and density. He then discussed what Mr. Turner had previously mentioned regarding the Township's C-R district where he believed the ordinance allowed as much as 20% building coverage and 40% impervious coverage. Mr. Phillips then stated that he went back and read the settlement agreement, which he indicated recognized at least two (2) things that were important in relation to the variances they were seeking. He noted that the first one was that the Use Variance Plan was conceptual in nature and that the second one stated the following, "In considering King Rows' site plan application, the Zoning Board shall accommodate and provide the necessary and appropriate relief by way of variance or waiver on those bulk and/or site issues necessary to give full effect to the aforementioned grant of a use and density variance on this site." Again, Mr. Phillips stated that he felt that Mr. Turner outlined the reasons why the coverages had increased relative to the Conceptual Use Variance Plan and that he believed they legitimately fulfilled what was in the settlement agreement.

Mr. Hawrylak then asked if they could recall Mr. Turner, who had done the specific calculations for the increase, to put those calculations on the record before Mr. Phillips continued his testimony and could address those.

Mr. Scott Turner then testified that the added impervious coverage for that roadway approximates to 37.3% total impervious coverage for the property. He went on to state that his recommendation would be to permit a 38% impervious coverage variance to give them a little "wiggle" room. Mr. Turner added that that would allow them to add approximately 10,000 sq. ft. of additional impervious coverage should that easement area driveway in the southwest corner of the property ever get built.

Mr. Phillips then continue his testimony by saying that he felt the second variance was technical in nature and has to do with the fact that the ordinance required that the individual townhouse lots meet specific front, side and rear yard setback requirements and that a number of lots don't meet the side and rear setbacks. Mr. Phillips then told the Board that he thought the ordinance contemplated a different ownership prototype that assumed rather larger, fee simple townhouse lots than what was proposed by the Applicant. He indicated that the Applicant was proposing fee simple, smaller lots with smaller area devoted to the individual homeowner with more of the land dedicated to the common area of the homeowner's association. Mr. Phillips testified that the proposed townhome community was not atypical of many of the townhome developments in today's society, and he stated that he did not see any impacts whatsoever should the variances be granted. He then told the Board that he felt it would be a C-2 type variance in that the smaller lot would be devoted to the

homeowner and the greater common open space was a positive and consistent with current development trends. Mr. Phillips then brought up the last variance requested for the width of the road, where 30 ft. was required and the Applicant requested 26 ft. He indicated that not only did the 26 ft. exceed the requirements of the Residential Site Improvement Standards (RSIS), but had been vetted by the Fire Prevention Dept. as being acceptable. He testified that he felt that the benefit would be reduced roadway width in order to provide more open space on the site, furthering the Master Plan goals as well as the expressed purposes of the Municipal Land Use Law (MLUL). Lastly, since the MLUL required that an applicant satisfy the negative criteria at the site plan stage of an approved bifurcated use variance application, he indicated that it was his opinion that the particular site plan certainly can be approved without causing substantial detriment to the public good or substantial impairment of the zone plan or zoning ordinance.

Since Mr. Turner testified to a slight increase in impervious coverage if the easement driveway in the southwest corner of the property was ever built, Mr. Phillips indicated that it did not change his prior testimony

Mr. Healey then asked a question regarding the setbacks with the lots, stating that the ordinance or maybe RSIS required certain front yard setbacks from the building to the curb, which was intended so that there was sufficient width of the driveway so the car wasn't hanging out into the private roadway. Mr. Turner stated that the Application did comply with that requirement. Mr. Healey then discussed the 20 ft. side yard and rear yard setback requirements, indicating that he didn't see the need for that much space on the side yard, but could understand the zoning rationale to have some setback in the rear of the building to provide some private space. Mr. Healey further stated that the variances in the rear of some of the buildings varied from 9 ft. to 11 ft. and asked Mr. Phillips whether they felt it was sufficient space to allow for people to have some area in the back for their own enjoyment. Mr. Phillips testified that that amount of space was sufficient enough to have a patio, which framed the amount of how far back the lot line for the fee simple ownership was to go. Mr. Turner then testified that the dimensions of each of the patio spaces for the individual units were determined by the Applicant and that he set the rear lot line up so that each unit was given a few feet beyond the patio space in order to keep them all consistent. Mr. Turner indicated that the patios would be included on the fee simple lots.

Mr. Rich asked whether each unit would be given a patio, and Mr. Turner stated that each unit would have a patio built for them. Mr. Rich asked if the calculations for impervious coverage included the patios, and Mr. Turner answered in the affirmative.

Chairman Thomas then opened the meeting to the public for questions and comments.

Mr. John Janho, 67 McGuffey Road, Somerset, NJ, came forward and was sworn in. Mr. Janho indicated that he owned the adjoining property to the subject property at 127 Cedar Grove Lane. He came with a prepared statement and read it to the Board and public, as follows:

"I wanted to be clear about what I saying and also I've heard some things tonight that I need to adjust to in real time. So in an effort to be a good neighbor, I've had many discussions about this project with Steve Rubin, the owner of Kings Row Homes. I've cooperated by accommodating his need for a water and sewer line easement through my property which

allows for a public sewer line via gravity, thereby providing significant savings to the developer and future residents.

I've also agreed to an emergency access easement on my property to aid in the security and well-being for the future residents of the proposed development.

As evidenced by my accommodation, I do not oppose the proposed development. However, in my conversations and in the subsequent legal agreements made with the developer, I've been very clear that central to this application and to my cooperation with this project is my family's ability to continue to operate our business at 127 Cedar Grove Lane as we have for nearly a century.

In exchange for the easements granted, the developer in a legal agreement, assumed full responsibility for the construction of a buffer system to attenuate any noise, dust, visual screening objections from its future residents. Should the residents feel that this buffering is insufficient in the future, any additional buffering would be done on the neighbors' property at their expense.

We've also agreed that the nature of our business and the agreement regarding the buffering system must be disclosed to all public residents in advance of their purchasing the property. My family has owned this property and four generations have operated a business from this property since 1923. We welcome new neighbors, but we have no intention of changing the way we operate our business.

Furthermore, the Board's granting of approval for this development cannot change the town's expectation based on our functioning in the future. I've enjoyed a good relationship with the town. It's been a long time since we've had to have the town visit or have any disagreements.

Having said that, Mr. Thomas, I very much appreciate your forthrightness related to the easement and what they're (proposing) - it's not really the southwest corner, but on the drawing that's the way it was described. Not having any trees removed from it, I understand your concerns related to the residents. But I want to be very clear, from my perspective, that the intention of that easement is that should New Brunswick Road need to be realigned, my plan was to use that easement to realign -- to replace my driveway in like and kind so I still have access to Cedar Grove Lane. So I agree with you that further discussion about this area and how it's going to be used is necessary prior to approval, and based on those discussions, I may have a very different position than I opened with. Thank you."

Ms. Susan Vanderbeek, 24 Emerald Place, Somerset, NJ, came forward and was sworn in. Ms. Vanderbeek first stated that there were many other neighbors that couldn't be at the hearing that night, but that they signed documents to let the Board know that they were all not necessarily in favor of the development. Ms. Vanderbeek then asked about the specifics of the notification process. Mr. Kinneally then explained what State law says regarding proper notification to property owners within 200 ft. and at least 10 days in advance of the hearing. He went on to further explain that the hearing was originally scheduled for October, so the notification went out in September by the Applicant. Additionally, he told Ms. Vanderbeek that at the October meeting, they knew that the matter would be adjourned, so the new date of the hearing was announced at that October meeting, meaning that new notices did not need to be sent out.

Ms. Vanderbeek then asked where the parking for guest of the townhomes would be accommodated on the site, wondering if those parking spaces would back up to the existing homes in her current development. Mr. Turner then came forward, and utilizing Exhibit A-1, explained that the guest parking would be accommodated by way of the 38 off-street parking spaces that were being provided inside the new development. He went on to explain that each of the townhomes would have garage space and driveways for their own cars, but that the Applicant was obligated to provide a half space per unit based on NJ Residential Site Improvement Standards (RSIS) standards for off-street parking for visitors and/or guest spaces. Mr. Turner then indicated that those standards would require them to have 17 off-street parking spaces, but that they would be providing 38 spaces for that purpose. Mr. Turner then showed Ms. Vanderbeek the locations on the site where the off-street visitor/guest parking was placed, utilizing Exhibit A-1. He also explained that those residents whose homes back up to the rear of the development (Domino Rd. residents) would see the back of Building #6 which would screen any parking areas and which would be completely obscured with the continued growth of the proposed buffering plantings that have been shown on the plan.

Ms. Vanderbeek then opened a discussion regarding the traffic being brought to the area, particularly on New Brunswick Rd. Mr. Turner stated that they had gone through a review with Somerset County regarding planning and engineering, noting that the obligation they required of the Applicant was to locate the new development's driveway intersection with Cedar Grove Lane as far away from the New Brunswick Rd. intersection as possible, which they had done. Mr. Turner further explained that the location of the driveway as far away from the New Brunswick Rd. intersection as possible allowed them to restripe a dedicated left-turn lane off of Cedar Grove Lane into the site to avoid the backing up of traffic on Cedar Grove Lane. Ms. Vanderbeek then asked if they were accommodating for the bend in New Brunswick Rd. as part of the project, and Mr. Turner explained that they were not since it was about 400 ft. off the subject property.

Ms. Vanderbeek then asked what the anticipated cost was to purchase one of the townhomes in the proposed development. Chairman Thomas explained that it wasn't something the Board had anything to do with and told her that the hearing that evening was about how the facility would function and what it would look like because it was already approved. He added that most of the traffic issues had already been dealt with at the Use Variance hearing. Mr. Healey added that the Township did require the Applicant to have a high quality development in terms of the site layout, the landscaping, and the character of the buildings in terms of the overall look and design and the use of the varied building materials.

Sandra Baine, 19 Domino Rd., Somerset, NJ, came forward and was sworn in. Ms. Baine expressed her concern regarding the buffer because she had also lived through the Jain Center construction and they were still waiting for the buffer to that property to be included. She stated that the trees that were promised that would block the back of the Jain Center had still not been planted and it had been at least a decade. She asked for what assurances they would have that the buffer for the subject property would actually be planted. Mr. Kinneally, Board Attorney, then stated that if the Board approved the Application that evening that included those plantings, then the Applicant was required to provide the buffer plantings and bond for them in case they fail. Ms. Baine asked why there was no fencing being provided on the World's Fair side of the subject property to assist with buffering and screening. Mr. Turner then spoke about buffering of residential to residential properties and in discussions with a

landscape architect in his firm, they felt it would close the properties off a bit when fencing was included and would rather provide the buffer with natural screening, enhanced landscape materials and natural berming that could be provided. Mr. Turner stated that the berm was proposed at 3-4 ft. tall with plantings on top of that that would grow to 30-40 ft. tall in time.

Ms. Baine then expressed her concern for the traffic patterns in the area and asked whether the people who live in the development be able to make a left hand turn out of the development onto Cedar Grove Lane towards Easton Avenue. Mr. Turner indicated that the County had not restricted any movements out of that development and that there would be allowances to make left turns out of the development onto Cedar Grove Lane.

Chairman Thomas then discussed the morning and evening rush hours as times of day when making left turns out of the development would be difficult. As far as the buffering issue, the Chairman then indicated that most developments comply with those requirements, but that he knows that the Jain Center is not a good example of one of those developments and indicated that he had not given up yet on getting their compliance.

Mr. Rich then noticed that the recreation area on the site was close to the residential homes there and wanted to get the Board's feedback about putting a fence in that area. Mr. Turner then indicated that if a fence was constructed in that area, that there would be less room for trees unless it was a meandering fence to allow them to keep some of the trees.

Mr. Healey then asked for the height of the trees at planting and the kind of trees proposed there. Mr. Turner stated that he would look into the plans and let them know. In the meantime, the Chairman called for anyone else from the public wishing to speak.

Mr. David Kovacs, 22 Domino Rd., Somerset, NJ, came forward and was sworn in. Mr. Kovacs stated that he lived directly behind the proposed development. He told the Board about his concern for the recreation area at the rear of the property and the possibility of kids going through the access roadway and out into his development. Mr. Kovacs then expressed his concern for the residents trying to make a left turn out of the development, and not being able to do so during rush hour and having to loop around, creating more traffic issues in the area. Mr. Kovacs then spoke about the lighting that would be provided on the site, wondering how much time it would take for full build-out of the site and how the light spillage would affect his property during the process. He wanted to know how many buildings would be constructed at one time and the timeline of the building process. Mr. Kovacs then showed a photograph of the wooded subject property from his backyard and wondered why the view couldn't remain the same even after full build-out. He also suggested that a fence should be put at the rear of the subject property so that no one has the temptation to walk back in the woods onto their properties. He brought up the past situation with the Jain Center not providing buffering and screening as was agreed to.

Chairman Thomas then asked Mr. Hawrylak if the access road would be available for use to the general public, and he stated that it would not and that it was for emergency access only.

Mr. Rich then asked how the emergency access roadway would be secured, and Mr. Turner indicated that it would be chained off on either end and secured with a lock box or whatever the fire official would like the Applicant to do.

Mr. George Baine, 19 Domino Road, Somerset, NJ, came forward and was sworn in. Mr. Baine made a formal request that a fence be placed along the back property line. He then asked Mr. Hawrylak what he meant by having fewer trees in the area with the inclusion of a fence since there were no existing trees there presently. Mr. Hawrylak stated that they would not be able to plant as many trees as was promised should they include a fence along the rear property line. Mr. Turner indicated that they could put in a fence if that was what the residents wanted and pull the landscaping away from it while still maintaining the buffer plantings that would be on the Applicant's side of the fence. He also indicated that the berm would also be on the Applicant's side of the fence.

Chairman Thomas asked Mr. Turner to work out the landscaping plan with Township staff, and Mr. Turner agreed to do so. Mr. Baine said that he would appreciate a fence since he felt it would be a deterrent for anyone coming through the subject property into his neighborhood because he said that that was what happened when the Jain Center was being constructed.

Mr. Turner testified that they would do an 8 ft. high fence along the Janho property and a 6 ft. high fence along the rear property line. He added that the berm would remain, but would be on the Applicant's property and that any existing vegetation that was on the residents' properties would not be touched.

Mr. Reiss asked Mr. Healey why the buffer that was approved in the Jain Center application was not being enforced by the Township. Mr. Healey stated that he already started making a "to do" list to see if the screening that was discussed during that night's hearing was on their original site plan 15 years ago. Mr. Healey added that the Jain Center also came before the Board about 5 years ago to do solar panels, but didn't believe that they had gone through with that project as yet. He then indicated that he was not there 15 years ago, but could get the plans out of the files to check to see what was on the plans and inspect the site to see if everything was completed. Mr. Healey said that if they had the ability to enforce that, they would.

Chairman Thomas then added that there was also a notable absence of street trees along the frontage of the Jain Center property. Mr. Healey then stated that those were already checked and, unfortunately, were not included on the originally approved site plans.

Mr. Turner then discussed the types of plant materials that would be included on the site, as asked by Mr. Healey earlier in the hearing. Mr. Turner stated that flowering trees and evergreen trees (red cedar, junipers, Norway spruce, Eastern redbuds) were being planted anywhere between 7 ft. – 8 ft. tall to 9 ft. – 10 ft. tall. Mr. Turner then told Mr. Healey that he would work with him to make sure the buffer was sufficient in the rear of the property.

Chairman Thomas then closed the meeting to the public.

Mr. Hawrylak then asked to address Mr. Janho's comments in relation to the fact that his business was going to continue to operate the way it has been and that they agreed to put their residents on notice that that was what they were buying into when they purchased their property in the subject development.

Chairman Thomas then opened a discussion with the other Board members to get consensus of whether they wanted to require the Applicant to provide fencing along the rear property line. A discussion ensued among the Board.

Mr. Rich made a motion to approve the Site Plan and Subdivision with Variances, with the conditions that the reserve driveway never have construction approved without an application, impervious coverage at no more than 35% or no more than 38% should they need to construct the driveway, all variances contained in Mr. Healey's Planning report, and a 6 ft. tall solid fence on the rear property line. The motion was seconded and the roll was called as follows:

FOR: Mr. McCracken, Mr. Rich, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss and Chairman Thomas.

AGAINST: None

- **NEW CINGULAR WIRELESS PCS, LLC / ZBA-18-00011**

Mr. Christopher Quinn, Esq., Attorney appeared before the Board on behalf of the Applicant, New Cingular Wireless PCS, LLC. Mr. D(3) Conditional Use Variance and Site Plan in which the Applicant was seeking approval for the placement of a 150 ft. tall telecommunications tower in the rear of the property at 134 Coppermine Road, Princeton; Block 11.01, Lot 60.01, in the RR-5 Zone - **CARRIED TO NOVEMBER 1, 2018 – with no notification required.**

Mr. Quinn told the Board that the subject property was comprised of a 14 acre flag lot located in the RR5 Zone, in a heavily wooded area. AT&T was there that evening seeking approval to install a telecommunications monopole that would be disguised as a tree (a.k.a. a tree pole or monopine) and would be located in the southwest corner of the property. With related equipment and a generator, Mr. Quinn indicated that it would be located in a fenced compound. He then told the Board that the pole and the antennas would be approximately 145 ft. tall, and with the tree branches that would conceal the pole, it would be approximately 150 ft. tall. Mr. Quinn then testified that the inclusion of the monopole would improve service in the southern portion of the Township and the ordinance indicated that the use was conditionally permitted in the zone. He told the Board that they did not meet two (2) of the requirements and potentially three (3), one (1) of which was the setback. He then explained that the ordinance required two (2) times the tower height setback from the property line and the pole was approximately 65 ft. from the closest property line on one side and 50 ft. from the rear property line. Mr. Quinn then stated that the property to the rear of the subject property was open green acre space, which was undeveloped and heavily wooded and the property to the south was also heavily wooded with the pole 700 ft. away. He noted that there was little opportunity that there would be issues with visibility or safety. Mr. Quinn testified that even their Planner who conducted simulations and couldn't see the balloon from anywhere else, including from anywhere on the subject property. Mr. Quinn then stated that the other requirement that they don't meet was the landscaping requirement because they were not proposing to put bushes and trees around the fenced in compound because there were already trees around the existing compound and we would not be able to see it anyway and would not provide any benefit.

Mr. Quinn then spoke about the requirement to not have any existing overhead lines and overhead wires being proposed and there currently were some poles along our existing access driveway that went back across the property. He added that they proposed to use those wires and poles to carry our cable and telecomm and go underground the rest of the way once they deviated from those lines. To the extent that doing so requires a variance, Mr. Quinn indicated that they would seek a variance for that as well. He testified that they were not making anything worse in that area, just using existing overhead poles and lines and going underground with those when it was possible. Mr. Quinn stated that they had three (3), possibly four (4) witnesses, but did want the Board to know that they had already submitted as part of the Application a Radio Frequency report.

Mr. Joshua Hanrahan, Civil Engineer employed with Hammer Land Engineering, 1707 Atlantic Avenue, Suite B2, Manasquan, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Hanrahan then described for the Board the existing property and what was being proposed. He showed the Board Plan Z01 of the Site Plan set that showed the overall subject property that showed that it was, in fact, a flag lot with an existing driveway coming off of Coppermine Rd. Though the site was mostly wooded with a small cleared area in the center of the property, Mr. Hanrahan indicated that there were some wetland pockets to the north and northeast of the property. Also, within the clearing in the center of the property there was an existing septic field, shed and some piles and a gravel drive that extended to that area. He then explained that they proposed to install a "monopine" tower in the southeast of the subject property and would contain 12 antennas that would be mounted to the "monopine" structure, six (5) remote radio head devices, two (2) GPS units as well as a generator and other ancillary equipment cabinets located within the fenced enclosure that would be fenced in with a 7 ft. chain link fence. He then described the size of the compound as a 21 ft. x 21 ft. square enclosure which was offset 50 ft. from the side property line and rear property line to the fence and 51ft. from the rear property line to any equipment and 50 ft. from the side property line to any equipment. He further stated that the setbacks to the "monopine" pole was 65 ft. from the rear property line and 64 ft. from the side property line. Mr. Hanrahan then told the Board that they selected the proposed property instead of one that complied with the 300 ft. setback requirement because it was the highest area site to give the best coverage for the coverage gap that need to be filled and they also wanted to go into the subject area because the "monopine" structures wanted to be nestled into these wooded areas, which was why it was tucked away into the southeast portion of the property.

Mr. Hanrahan reiterated Mr. Quinn's earlier testimony that the overall height of the structure was 150 ft., but that it was 145 ft. to the antenna and to the top of the pole itself, with the extra 5 ft. comprised of the fiberglass branches of the "monopine" structure. He then told the Board that the "monopine" structure would be a dark brown and the fiberglass branches would be a dark forest green, with the antennas made to match that as well. In doing so, Mr. Hanrahan stated that it would be screened by the existing wooded area and blend in. He then noted that there were Township properties to the north and east that were open space wooded areas and the residential property to the south was also heavily wooded. Mr. Hanrahan testified that they felt that they could be so close to the property line was because there were no existing structures within 300 ft. of the proposed "monopine" and the closest residential structure was the home of the owner of the property, which was several hundred feet away.

Mr. Hanrahan then showed the Board Z02 of the Site Plan set, showing a clear section view of the south elevation of the "monopine" structure, pointing out all of the elements. He noted

that there could be future carriers located below with the possibility of three (3) or four (4) carriers and needed to be about 10 ft. away from the next closest carrier to avoid interference issues.

Mr. Hanrahan then showed SP02 of the Site Plan set showed the proposed grass paver driveway that could handle heavy truck loading and delineated with markers every 50 ft. and would blend in with the surrounding grass area and a turnaround at the end of the driveway and also a parking area for a technician when they visit the site. He then noted that all of the access driveways were on the subject property. To meet storm water management requirements for the particular property, they were removing a pocket of gravel within the subject property and offset the improvements for the enclosure, so there was a slight decrease in impervious coverage, a decrease for the 2- and 10-year storms, and the same for the 100-year storm. Mr. Hanrahan then stated that they had submitted an application to the Delaware & Raritan Canal Commission (DRCC), which was under review at the present time. He then drew the Board's attention to the 30kw, 300 gallon diesel generator for the site to be serviced as needed with a fuel truck delivery. He then told the Board that the generator, at a distance of 22-23 ft., had a decibel level of 69 decibels, but at the property line with the acoustic enclosure and the attenuation that was received by the existing vegetation in the area, they would meet the requirements of 50 decibels at the property line. He noted that testing would be done during business hours, once a month for only 30 minutes.

Mr. Hanrahan stated that there was no lighting proposed on the pole itself or along the driveway, but there were only flood lights proposed on the equipment itself which would be on a timer. He added that it was just like a flood light and would have no impact on the neighbors.

Mr. Hanrahan reiterated Mr. Quinn's testimony that there was no need for landscaping around the pole or equipment compound because it was tucked into a corner that had an existing wooded area. He then told the Board that there were 16 trees that were proposed to be removed and that they would provide more detailed plans to show that. He added that they would provide a contribution to the Township tree fund in lieu for the replacement of those 16 trees. Mr. Hanrahan stated that if they moved the location site more to the north, there would have to be more tree removal done as well as a lower elevation which could affect the coverage provided.

In reviewing the CME Associates report, dated October 19, 2018, Mr. Hanrahan stated that there was an access easement between Lots 61.01 and the subject lot (Lot 60.01) to answer the question in #4 of the General Comments section. In the Site Plan comments section, item #1, he didn't feel it necessary to include bollards to protect the generator since there was a fenced in enclosure and felt it was sufficiently protected. Mr. Hanrahan indicated that they could comply with item #4 in the Site Plan comments, but would still need relief for utilizing the overhead poles for cable and telecomm. Mr. Hanrahan indicated that they would be able to comply with all other items and comments in the CME Associates report.

In reviewing the Township Planner's report, Mr. Hanrahan indicated that there was an error on the plan and that the trenching would be included on the subject property and would be corrected. He explained that they would be able to comply with the comments in the report.

Mr. Daniel Penesso, Radio Frequency Engineer, 299 Madison Avenue, Morristown, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Penesso was prepared to show the Board why there was a need for a tower in the proposed area since there was inadequate service there. He indicated that he was going to refer to Map #1, which was provided with the Site Plan set, and showed the AT&T neighboring coverage and noted what the different colors on the map represented. Mr. Penesso then discussed in-building coverage as well as in-vehicle coverage that was represented on the map. He then drew the Board's attention to Map #2, which showed what the coverage would look like should the Board approve the proposed plan for the successful handoff of service to the neighboring site. He also discussed how important the elevation of the land was that helped to increase the transmission. He noted that there were no other sites in the area that they could use to co-locate on to achieve the levels shown with the subject site. He also noted that a flag pole structure would have to have the antennas stacked and would have to be much taller than the proposed "monopine". The "monopine" structure would help with future co-location as well, as described by Mr. Penesso, who also stated that the "monopine" structure blended seamlessly within the heavily wooded property. He also explained that the structure was unmanned and monitored remotely back to the central center and there would be no noise, odor or glare. Mr. Penesso added that a technician would go out monthly to check on the site itself in a standard SUV vehicle. He also testified that they would be under 3% emissions of what the federal standard was at the very maximum.

Mr. Rich asked about how tall a pole must be to have a light on top to comply with FAA standards. Mr. Penesso indicated that an FAA analysis would be run, but it also depended upon the flight paths in the area. He testified that there was no lighting proposed for the site.

Mr. Paul Ricci, Planner, 10 Georgian Drive, Clark, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Ricci gave his opinion regarding the request of the variances based upon the visual impact and the photo simulations that were performed at the site. Mr. Ricci stated that the photo simulations were already provided with the packet that had been provided to the Board for the night's hearing. He then reminded the Board that the use was a conditional use allowed in the zone and that he would be giving the Board the D(3) variance proofs. He did state that he personally performed the photo simulations and walked the perimeter and the property for over two (2) hours and was not able to detect the balloon on the site. Mr. Ricci discussed the map that delineated the test sites on the property and because of the surrounding uses of mostly open space, he felt that the site lent itself quite well to the use proposed. Because of the lack of any development nearby the proposed site, they felt that there would also not be a safety concern should the tower come down for any reason. He then referred to the positive criteria being that the use promoted the public good and that the site was particularly suited based upon the Radio Frequency Engineer's testimony regarding the topographical features of the site and its remote location from a land use planning perspective. Mr. Ricci then addressed the negative criteria, stating that the only negative impact created by wireless telecommunications was the visual effect it may have. According to the Visual Impact Study, dated May 16, 2018, regarding the photo simulations performed at the AT&T wireless communications facility for the proposed location, Mr. Ricci found there to be no visibility for any of the test areas on the site and an excellent location for a wireless communications facility. After discussing these findings, Mr. Ricci testified that there would be no negative visual impact associated with the facility and that the public need for the facility (benefits) clearly outweigh any detriments.

Chairman Thomas then opened the meeting to the public. Seeing no one coming forward, the meeting was closed to the public. A discussion ensued among the Board regarding the photo simulations.

Mr. Caldwell then asked what was done with the tower when they were done with it. Mr. Quinn then indicated that they were required to remove the tower, with a Township performance obligation to do so.

A motion was made to approve the Application with variances and seconded. The roll was called as follows:

FOR: Mr. McCracken, Mr. Rich, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss and Chairman Thomas.

AGAINST: None

WORK SESSION/NEW BUSINESS

There was no work session or new business discussed.

MEETING ADJOURNED

A motion was made to adjourn the meeting at 10:26 p.m. and seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
November 30, 2018