

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

**VIRTUAL MEETING  
June 18, 2020**

This Regular Meeting of the Township of Franklin Zoning Board of Adjustment was held virtually 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:** Anthony Caldwell, Bruce McCracken, Alan Rich, Gary Rosenthal, Joel Reiss, Cheryl Bethea, Richard Procanik, Kunal Lakhia, and Chairman Thomas

**ABSENT:** Laura Graumann and Robert Shepherd,

**ALSO PRESENT:** Daniel Lagana, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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**DISCUSSION:**

***Extension of Time:***

- **Franklin II Associates, Ltd – Appeal of Zoning Decision – CARRIED TO – OCTOBER 1, 2020**
- **Tabatchnick Fine Foods– ZBA-15-00018**

Ms. Orenberg, Attorney, appeared before the Board on behalf of the Applicant, Tabatchnick Fine Foods. She explained that they were applying for the third of possible extensions of time for the Use Variance, Minor Site Plan, bulk variances, and other development approvals memorialized on July 21, 2016. Ms. Orenberg went on to explain that Ms. Tabatchnick indicated that the reason for the request that evening was that there was a change in the product line and that if granted, the extension would end on July 20, 2021. She stated that at that time they would either be able to complete the Resolution compliance or proceed with an application to amend the approvals.

Mr. Reiss made a motion to approve the last Extension of Time allowed, to July 20, 2021. Mr. Rosenthal seconded the motion, and the roll was called as follows:

**FOR:** Mr. Caldwell, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss, Ms. Bethea, Mr. Procanik, Mr. Lakhia, and Chairman Thomas

**AGAINST:** None

## HEARINGS:

- **NYSMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS / ZBA-16-00033**

Mr. Stanzone, Esq., Attorney, came before the Board on behalf of the Applicant, NYSMSA Limited Partnership d/b/a Verizon Wireless. He noted that the evening's proceedings would include Site Plan approval and parking variance in which the Applicant was looking to modify parking by removing 20,297 sq. ft. of parking area. The reduction will result in a redesign of the parking lot layout at 156 Cedar Grove Lane, Somerset; Block 424.12, Lot 15.01, in an R-40 Zone.

Mr. George Wade, Sr., Cedar Hill Club Board Representative, 22 Bering Way, Somerset, NJ, came forward and was sworn in. Mr. Wade gave the Board the benefit of the history of the parking area at the swim club. He informed the Board that he had served as a Cedar Hill Club Board Member from 2013-2015 and had remained on the Board as a representative of the cell tower project. He added that he had implemented a card swipe entry system in 2014 for the club members, with the data involved discussed in the parking study report. Mr. Wade explained that there was a multi-year waiting list to become a member of the Cedar Hill Club (CHC) because of the increase in the housing in Franklin Township and Hillsborough during the late 1990's. He went on to tell the Board that the expansion of membership led to the expansion of the parking lot in 2007 from the existing 185 parking spaces. Since 2010, Mr. Wade told the Board that CHC had seen a slow, but steady decline in membership and parking needs. He then referred to an exhibit entitled, June 20<sup>th</sup> membership report and discussed the number of bonded families (379) in 2015, with the waiting list phased out. Since 2015, Mr. Wade indicated that the club had seen a 2.8 to 5.5 drop in membership, year over year, and noted that as of the current week the club only had 258 bonds that had been issued, for a 17% drop in membership since the previous year. Since he stated that bonds were issued by March, he felt that the latest drop-off in membership could be attributed to COVID-19, but still felt that CHC would never see the bond numbers as high as they were in 2015 again. Mr. Wade then explained how the card swipe system worked and how it enabled them to see the usage of the club by club families, and therefore, the usage of the parking area. He explained the varied usage of the club during the swim season and noted the higher usage during the three (3) festivity days which are on or about Memorial Day, 4<sup>th</sup> of July, and Labor Day. He did indicate, however, that the decline in club membership could also be attributed to the decline in usage on festivities days as well. The parking study report done in 2019 showed that the highest usage since 2015 was the 4<sup>th</sup> of July festivities day in 2017, where 219 parking spaces were used across the employee and membership base. He noted that the 2018 4<sup>th</sup> of July festivity day utilized only 188 parking spots, with only 151 parking spaces utilized on the 4<sup>th</sup> of July festivity day in 2019. Another event that brings additional parking needs was the Swim/Dive Team Championships that CHC hosted each year on either the third or fourth Saturday in July, depending upon the swim schedule. In the past, Mr. Wade indicated that the event used to bring many competitors and spectators to the event, and the parking was at a premium. He noted that the Club assigned parking attendants to assure parking flow and to direct late arrivals to Cedar Hill Prep School's parking lot that was used as overflow parking. He then discussed the amicable agreement between CHC and Cedar Hill Prep School with the shared usage of parking for CHC in the summer months, and Cedar Hill Prep School during the school year. Mr. Wade testified that since 2015, there had not been a need for the use of overflow parking during the Swim/Dive Championship event

due to the reducing membership of all swim clubs in the region. He noted that CHC was satisfied with the depth of the parking lot proposed in the revised drawings and would be used solely by the members' passenger vehicles and those of Cedar Hill Prep when needed. Mr. Wade noted that there were no construction vehicles entering their lot and do not receive deliveries from large vehicles. He then added that if Verizon be required to provide a full depth reconstruction that would trigger ongoing wastewater management challenges, that CHC would not be able to sustain that. He summarized by saying that CHC believed that the proposed lot construction would provide ample parking facilities for its membership now as well as into the future.

Ms. Colleen Connolly, Engineer/Partner, Scherer Design Group, 52 Frontage Road, Suite 260, Hampton, NJ, came forward and was sworn in. The Board accepted her qualifications. Ms. Connolly then drew the Board's attention to an exhibit that showed the impervious area on the site and stated that the site was located within the area that is regulated by the Delaware & Raritan Canal Commission (DRCC) for storm water management concerns since 1980. She noted that the impervious coverage on the site at that time was 174,605 sq. ft. and was grandfathered in by the DRCC, but did allow for minor site improvements (less than ¼ acre in new impervious coverage) and have less than 1 acre of total disturbance. Ms. Connolly did explain to the Board that the DRCC did consider any gravel surface to be impervious as well as any concrete or asphalt surface for the square footage. She then noted that CHC extended the existing parking area in 2007 to add an additional 30,067 sq. ft. of new impervious coverage and did not go before the DRCC to obtain an approval for the extension. Ms. Connolly indicated that if they had gone before the DRCC, they would have been able to add ¼ acre of expansion and also would have had to address that with some storm water management mitigation measures. Ms. Connolly explained that when Verizon went to the DRCC for their new impervious proposal on the site, it was brought to the Applicant's attention that the additional impervious graveled parking areas were added without any regulation. She explained that the increase that Verizon was proposing (50 x 50 equipment compound with some related parking and the modification of the existing turnaround) for an addition of 6,111 sq. ft. of additional impervious coverage would have been less than ¼ acre of impervious coverage with less than an acre of disturbance and would not require any storm water management mitigation measures. Ms. Connolly then told the Board that they either had to remove the unregulated impervious coverage that had been added as parking area or provide some storm water management mitigation measures. She then drew the Board's attention to some of the significant hurdles to cross to provide any kind of storm water management mitigations. Firstly, she mentioned the fact that the lot was a flag lot that included a stream that crossed the property, with wetlands associated with the stream. She indicated that there were problems with elevations and that they would have to remove existing vegetation that served as a buffer to residential properties just adjacent to the CHC property to provide storm water management facilities. Ms. Connolly also explained that some of the measures would also put a burden on the swim club for maintenance that would be cost prohibitive and why they were proposing the removal of some of the impervious parking area that was added in 2007 without approvals. She then discussed the current parking lot, noting that there were 272 parking spaces in the main parking area and a smaller auxiliary parking area of 24 spaces. Utilizing the exhibits in their submission, Ms. Connolly showed the Board the parking areas that would be removed that were closest to the road and the ones furthest from the swim club facility as well as the wetlands/wetlands transition areas. She also discussed the comment in the Technical Review Committee (TRC) report asking that they pave the remaining parking area as well as stripe the parking spots. She added that there would be a

total of 266 parking spaces, with 19 spaces in the smaller lot. Ms. Connolly mentioned that they were asked to do a full depth reconstruction of the parking area instead of just an overlay, and she stated that she felt that what existed would serve nicely as a base for the proposed overlay paving. She also mentioned that the swim club was only open during the summer months and not receive much wear and tear as such. She also added that doing a full depth reconstruction of the parking lot would be perceived by the DRCC as an area of disturbance and would have implications for storm water management and would have the same issues that she previously discussed. She then drew the Board's attention to a comment in the TRC report, indicating that the Applicant had not provided topographical information for the existing parking lot. Ms. Connolly stated that they did not provide the topographical information on the parking lot because their intent was not to do a full reconstruction of the lot, but could certainly add that to the plans if the Board felt that it were necessary. She then told the Board that there was a request to add "Do Not Enter" markings on the pavement to supplement the "Do Not Enter" signage and would agree to add the markings. Ms. Connolly then addressed a comment regarding an existing utility pole that was in the southern part of the parking lot, where the aisle of the main parking lot goes into the existing parking lot. She noted that it was an existing pole and that there was about 27 ft. between the last striped area to the utility pole and believed that there was adequate aisle width for vehicles to go around the pole. Additionally, Ms. Connolly testified that there had not been any issues with the utility pole related to access to the smaller parking lot area, however, she did admit that she could see that there might be some visibility issues there and that they could paint the bottom portion of the pole yellow so as not to have motorists mistaken it with the background of trees. Ms. Connolly indicated that another comment related to the need to show the proposed limit of disturbance line on Sheet 9 of the plan, and she agreed to add that to the plans.

Mr. Stanzione indicated that there was a request to add bollards around the existing utility pole, and Ms. Connolly stated that they could do that, but her preference was to paint the bottom of the pole yellow so as not to take up space that a vehicle would have to get around the pole.

Chairman Thomas had questions regarding the written agreement with the Cedar Hill Prep School for shared parking and wanted to know how the proposal would affect that. Mr. Wade stated that there was a written agreement in 2012 that addressed liability and the sharing of the CHC lot on an as needed basis. He then told the Board that it was to be reviewed and updated on an annual basis, but that the actual agreement had not changed since 2012. Mr. Wade then indicated that the requirement by the Board to put a gate in was included in the drawings. He explained that when the President of CHC would receive a call from Cedar Hill Prep School Principal notifying him that they anticipated some overflow due to a holiday event or Open House event, they would open up the gate for that period of time and then close it again. The Chairman then indicated that they were eliminating the parking spaces with the subject Application that were most convenient for the school use. Mr. Wade indicated that the edge of the school's parking lot would meet the end of CHC's lined spaces and pedestrians could cross the grass median in that area just as they did before.

Chairman Thomas then discussed a sidewalk connection along the frontage of CHC's property, which was the missing connection along Cedar Grove Lane in that area. He then asked if sidewalks were included in the plans and if the additional impervious coverage was included in the calculations. Ms. Connolly testified that the sidewalk's impervious coverage

was included in the calculations, but that they could construct the sidewalk out of a pervious paving material and then it would not have an impact on the impervious coverage on the site. There was a discussion regarding the use of that sidewalk to allow for the shared use of the parking lot with Cedar Hill Prep School so that people were not forced to cross an undeveloped strip of land over a grassy path and would have the option to utilize the sidewalk along the front of the property. Mr. Stanzione then stated that their intention was to meet the conditions of the prior approval but were delayed solely for the purpose of straightening out the situation with the parking lot.

Chairman Thomas then opened the meeting to the public for comments. Hearing no one wanting to speak, the meeting was closed to the public.

Mr. Stanzione then gave his closing summation.

Mr. Reiss made a motion to approve the Application, subject to all conditions that were imposed by the Board under the original approval unless modified or waived by the night's approval. Additionally, the Board would like the Applicant to provide bollards around the utility pole currently located within the parking area. Mr. Caldwell seconded the motion, and the roll was called as follows:

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

AGAINST: None

- **NYSMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS / ZBA-19-00036**

Mr. Stanzione, Esq., Attorney, appeared before the Board on behalf of the Applicant, NYSMSA Limited Partnership d/b/a Verizon Wireless. (D)3 Conditional Use Variance and Site Plan for construction of a 128 ft. "tree pole" telecommunications tower and associated site modifications at 122 Laurel Avenue, Kingston; Block 1.01, Lot 4, in the Canal Preservation (CP) Zone.

Mr. James Murawski, Engineer, 87 Hibernia Avenue, Rockaway, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Murawski then gave testimony detailing what currently existed on the site. He indicated that the lot was owned by Trap Rock Industries, was 10.13 acres in area and of an irregular shape and then explained that the property to the north contained the quarry that was owned and operated by Trap Rock Industries. Mr. Murawski then noted that the property to the south was comprised of residential properties, the property to the west was primarily wooded with a relatively large cleared field containing a solar array and the property to the east on the other side of Laurel Avenue was farmland. He then told the Board that the subject property was generally wooded and contained wetlands to the southwest, which had been identified and mapped on the Site Plan, along with the associated 50 ft. buffer. Mr. Murawski then indicated that a Letter of Interpretation (LOI) was requested and issued by the NJDEP. He then spoke of the 100 ft. easement to the north for two (2) Transcontinental gas pipelines, with a small brook to the north of that easement that had a flood hazard way associated with it. He went on to state that the property also included two (2) residential dwellings on the northern end, both of which

were occupied. Mr. Murawski then discussed the proposed improvements, referring the Board to Sheet SP-1 of the plan. He noted that the proposed plan was for a telecommunications compound that would contain a telecommunications tree pole and telecommunications equipment, including an emergency generator. Mr. Murawski testified that the tree pole and associated equipment compound were located on the property such that the distance between the tree pole and the residential structures on the lot would be maximized while also avoiding the wetlands buffer to the south and west. He then told the Board that the placement resulted in a separation of 215 ft. from the proposed tree pole to the nearest residential structure. He then explained that access to the compound and tree pole would be from the existing driveway entrance that would veer off, as shown on SP-1, to reach the compound. Mr. Murawski then drew the Board's attention to SP-2, which illustrated the plan for the large compound comprised of a 75 sq. ft. area that was sized to accommodate future co-locators. He went on to state that the proposed tree pole, which he indicated would be in the center of the compound, was proposed to be a 120 ft. pole with 8 ft. of extended branching above for a total of 128 ft. Mr. Murawski then testified that the Verizon antenna's centerline was proposed at 120 ft., which was at the top of the pole, with 12 antennas proposed. He indicated that the branching was proposed to start at an elevation of approximately 80 ft. above grade, thereby allowing for branching coverage for three (3) additional carriers below Verizon's antennas. Mr. Murawski then drew the Board's attention to SP-3, which showed an enlargement to show the proposed antenna array.

Mr. Murawski then told the Board that he wanted to continue his testimony and at the same time address the comments in the CME Engineering report, dated March 3, 2020. Referring to comment #2 in the CME report in the General Comments section, related to a variance for the setback of the proposed tower. He noted that the setback required was 256 ft. (setback from all lot lines and a distance equal to at least twice the height of the tower). He then reminded the Board that they set the location of the pole at the maximum distance away from the residence on the property (191 ft. from southern property line and 210 ft. from the property line along Laurel Avenue).

Mr. Murawski then addressed comment #7 in the CME report, where it was requested that the Applicant provide testimony regarding the noise levels coming from the emergency generator. He then referred the Board to a published Noise Data report for the unit that was measured at 23 ft. from the generator and at various positions around the generator. He noted that the decibel levels at the various positions varied from a low of 62 decibels to a high of 66.9 decibels, with an average level of 63.3 decibels. He then explained how the decibel levels were then computed at the different positions around the generator. He then related how that would affect the closest residence at 191 ft. away from the pole, calculating the noise level of approximately 50 decibels at the residential property line. He also emphasized to the Board that that value was below the prescribed ordinance maximum value of 65 decibels during daytime hours and was in compliance. Mr. Murawski then led the Board to look at comment #8 in the CME report section regarding how often the generator will be exercised and the scheduling of the same. He testified that the generator would be exercised approximately once per week, typically on a Monday or a Tuesday, late in the morning and typically between 10 a.m. and 11 a.m. for about 30 minutes at 100% of its load and all Verizon generators are exercised only if the air quality in New Jersey was rated "Good" by the NJDEP.

Mr. Murawski then discussed the comments in the CME reports under the Site Plan comments, starting with item #1 related to the provision of a tree removal and replacement

schedule in compliance with Ordinance 222-Trees. He drew the Board's attention to sheet SP-4 which delineated the limit of the tree removal on the site and further indicated that Verizon had chosen to make a contribution to the Township's tree fund in lieu of tree replacement on the site since it was basically fully wooded. Moving on to Site Plan comment #2, Mr. Murawski indicated that the proposal was considered a "minor" development because there would be approximately 0.24 acres of disturbance and approximately 0.19 acres of impervious coverage which the Applicant was proposing a drywell system and drainage trench to manage the storm water requirements. He then brought up item #3 that the CME Engineer requested that the drywell detail be revised to indicate the stone utilized would be 2-1/2 inch clean stone and that the infiltration measure should be designed with an overflow to the surface. Mr. Murawski indicated that they would be agreeable to make those changes.

Further discussing the Site Plan comments, Mr. Murawski spoke about item #4 regarding the Letter of Interpretation from NJDEP to verify the limits of the freshwater wetlands on the property and shown on the Site Plan. He indicated that they had already provided the LOI to the CME Engineer, along with the approved wetlands map. Moving on to item #6, Mr. Murawski indicated that the CME Engineer requested that Compound Gravel Surface detail be revised so that the 8" x 8" timber staked curb be flush between the gravel surface and existing grade so as not to impede the existing drainage path and that 3/4" clean stone be utilized in lieu of No. 2 or 3 crushed stone. Mr. Murawski testified that they would comply and revise the detail on the plans.

Mr. Murawski then stated that they could address both comments #7 and #8 simultaneously. Comment #7, he indicated, was related to a Conservation/Preservation Area that would comply with Ordinance #112-147 of the Franklin Township Land Development Regulations. He told the Board that Mr. Massey had agreed to waive that requirement, primarily due to the small impact of the proposed development. He continued to state that Mr. Massey had agreed to accept an As-Built Survey in lieu of a conservation easement to satisfy the requirements and approval by the Somerset-Union Soil Conservation District. Mr. Murawski then stated that they acknowledged comment #10 related to the Soil Erosion Plan.

Mr. Murawski then drew the Board's attention to a comment under the heading of Structural Comments and was related to the structural design of the proposed tree pole and antenna mounts. He indicated that structural design report would be prepared and submitted during the construction/permit process if the Application were approved.

Mr. Murawski then went over the Miscellaneous Comments in the CME Engineering report, noting that the Preservation Area Marker was not necessary due to the waiving of the need for a Conservation Easement.

Mr. Murawski then reviewed Mr. Healey's Planning report, dated February 28, 2020. He then spoke about comment # 5 related to Tower Design. He told the Board that Mr. Healey made a comment in his report in the Review Comments section that acknowledged that the tree pole was an appropriate pole design for the area. He then drew the Board's attention to Sheet S2-2, indicating that Mr. Healey had a question regarding the representation of the tree pole on the plans. Mr. Murawski did state that the branching was not tapered but will see the installations in the photo simulations a bit later in the presentation. He then made a comment that the representation in the drawings was never meant to construe the exact "look" of the tree pole to be constructed. He then added that at 80 ft., there were some branches that bent

upwards and some that bent downwards and that the tree pole would have the appearance of a pine tree. Mr. Murawski then discussed comment #7 in Mr. Healey's Planning report regarding co-location, noting that the tree pole design would be able to accommodate for three (3) additional wireless carriers. Mr. Murawski did testify that there would need to be some minor modifications and the movement of some branches at such time when an additional co-locator would add an antenna to the tree pole. He then spoke about co-locator's choice in location on a tree pole and what would happen if they wanted to go up higher than Verizon's antenna, indicating that the pole would have to be extended up 10 ft. and branching would have to be completely reconfigured to maintain its tapered, uniform branching geometry. Mr. Murawski then discussed comment #8 regarding landscaping and stating that they do not propose any landscaping because of the location of the proposed tree pole in a heavily forested area with heavy vegetation to obscure the equipment at the base.

Under the Other Comments section in the report, Mr. Murawski stated that item a referred to providing payment in lieu of providing replacement trees on-site, which he testified to earlier that they would comply with. He then drew the Board's attention to item c, related to lighting of the site. He noted that they only were proposing task lighting to include two (2) small flood lights which would be aimed at the equipment and used to perform maintenance functions. Mr. Murawski also told the Board that the lighting there was on a timer and there was no lighting required for the tree pole by the FAA.

Mr. Murawski then discussed how the generator would be fueled, indicating it would use diesel fuel with an integral tank that had dual wall construction and leak detection. He then stated that it was continuously monitored. He added that, historically, sites were visited by a technician once or twice a month, at most, for maintenance purposes.

Mr. Lagana, Board Attorney, asked Mr. Murawski whether the Board members were provided the manufacturer's manual for the generator related to decibel data. Since Mr. Murawski did not know, Mr. Lagana asked that he provide the Township Engineer with the manufacturer's manual. Mr. Murawski agreed to do so. Mr. Lagana asked whether the testing of the generator could be restricted to certain times as a condition of any approval. Mr. Stanzone indicated that they already had a restriction in place to only test the generator between the hours of 10 a.m. and 2 p.m. and would be agreeable to a restriction as a condition of approval as recommended by Board Attorney, Mr. Lagana.

Chairman Thomas then opened the meeting to the public. Hearing no one coming forward, the meeting was closed to the public.

Mr. David Stern, Radio Frequency Engineer and Principal of the firm V-Comm Telecommunications Engineering, 2540 U. S. Highway 130, Cranbury, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Stern then discussed the RF Analysis report, dated September 10, 2019, that were prepared and given to the Board members. Mr. Stern gave an explanation regarding the purpose of the report, stating that V-Comm was contracted by Verizon Wireless to evaluate the proposed location here at the Trap Rock Industries property in the Kingston section of Franklin Township and evaluate the site and its need in the greater Franklin Township area. He then spoke about Verizon Wireless' FCC licensing at 700 MHz (10 years ago), at 800 MHz (35 years ago) PCS license (25 years ago) and an AW license (8 years ago) to provide wireless service to Franklin Township and that portion of Somerset County/ Mr. Stern then drew the Board's attention to page 4 of the



RF Analysis report that detailed the existing Verizon Wireless sites within the area of southern Franklin Township. He then discussed the nearby Kendall Park site, which he indicated was an existing 256 ft. lattice tower and considered a priority site, South Brunswick 8 site that included a water tank by Fernwood Drive, the South Brunswick 3 site that was a 120 ft. monopole off of Rte. 1 on Independence Way, the Plainsboro 2 site that was on a building on Rte. 1 and Village Blvd., the Holly House site on a building in Princeton, and the Rocky Hill site on the Rocky Hill water tank. He indicated that those sites provide service within the southern end of Franklin Township.

Mr. Stern then drew the Board's attention to page 8 in the RF Analysis report, which showed the Verizon Wireless gaps in coverage in the area and the need for reliable service for 4G LTE in the AWS band (High Band). He went on to explain that in the 4G LTE world, they were utilizing both the 700 MHz spectrum (low band) as well as PCS and AWS to provide the 4G service. He then mentioned that 57% of all U.S. households only have wireless phones and no landline, according to the CDC in their last report of December of 2018. Mr. Stern then discussed design criteria and the need for reliable service for on street, in vehicle and in building coverage for the rural suburban single-family home area of Kingston in Franklin Township. He then discussed the specific numbers required for reliable signal strength. He noted that the service was degraded by many things, i.e., trees, cars, and the buildings in the area. Mr. Stern testified that they had a gap of about two (2) miles north to south and three (3) miles in the other direction with the center of the gap in the middle of the Trap Rock Quarry area. He indicated that the gap encompassed Rte. 27, County Rd. 603, Rocky Hill Rd., Laurel Avenue, Rte. 518, River Rd., and Blue Spring Rd. Mr. Stern then discussed page 9 in the RF Analysis report that showed what the coverage would look like with the proposed tree pole at 120 ft. (center of antennas), with the antennas oriented in the northeast direction. He then discussed how the terrain affected the signal and how the signal followed the terrain in the area it was placed in. He then noted that 120 ft. was the minimal height necessary to accomplish their goals in the 4G network.

Mr. Stern then showed the Board the Priority Map of Franklin Township with the priority locations identified within Franklin Township. He stated that Verizon Wireless had several sites in the priority locations, but that there was only one (1) priority site in the southern half of Franklin Township and there were no other priority sites available there. He went through the process of determining where there were other locations with a mile of the proposed location. He then referred to a Google Map Earth aerial of the area around the Kingston tree pole location on November 11, 2019 with three building (3) locations highlighted that were within a one (1) mile radius. He discussed the construction and height of each, noting that they were at 50 ft., 32 ft., and 65 ft. tall, respectively, and all too short to be able to cover the gap that existed in that area. Mr. Stern went into detail regarding the buildings and terrain in the area. He then spoke of other alternatives to placing a monopole, one which just came out of a legal battle with Montgomery Township and was their Griggstown location. He then showed the Board where the coverage would be enhanced by that location, which was a 2021 site location.

Mr. Stern then addressed the staff reports, starting first with CME's Engineering report, comment #1, which related to Ordinance 112-59B, subsections (a-f). He testified that they had already provided the mapping required in the subsections.

Mr. Healey then directed Mr. Stern's continued testimony by asking him for his input regarding a few items within his own Planning report. The first item he wanted to discuss with Mr. Stern was whether there were any alternative locations, either on the site (further away from Rockingham and less visible) or other alternative sites where the tower could be constructed. Mr. Stern indicated that anywhere on the property would work from a radio frequency standpoint. He did note, however, that when the topography changes past a 5 ft. difference from the topography of the subject site and lose ground elevation, they would need to add back in monopole height. Alternatively, he said that if they gained ground elevation, they could drop the height of the monopole, basically maintaining mean sea level for the antenna height.

Mr. Stern then discussed the RF Emissions Study, dated September 10, 2019, and evaluated the site utilizing page 5 of 11 in the study to describe how they calculate radio frequency energy. He added that the FCC, in 1996, issued Bulletin OET 65 where they provided an update of methodology whereby they calculated anticipated radio frequency emissions from wireless communications facilities for up to very high frequency bands. Mr. Stern then told the Board that in November, 2019, the FCC's Office of Engineering Technology (OET) reaffirmed the calculations and the methodology that it had released in 1996 that it was the proper methodology for determining these levels and that the calculations were still valid for current use. Mr. Stern indicated that V-Comm had completed the calculations and done the evaluations to measure sites that were "on the air" and have found that the radio frequency that they measure at almost 100% of the time had been lower than what had been calculated. He then described for the Board the way in which they do the calculations, measuring six (6) ft. below the antenna, with very little of the energy going straight down to the ground and most going out to the horizon. He then added that they do the calculations with the assumption that all the transmitters were at full power and then they calculate what the RF energy was at about six (6) ft. above ground level.

Mr. Stern then discussed the differences between a controlled environment and an uncontrolled environment (general public). He stated that the proposed monopole was at 0.56% of the FCC standards and significantly below the standards. He then told the Board that anything more than 145 ft. away from the pole would be less than that number. When discussing the single-family home on the proposed property which was 215 ft. away from the pole, well below the FCC standards and meets all the federal requirements and the NJ Radiation Protection Act.

Mr. Lakhia asked whether there was any plan for the tower to be utilized in the 5G network at any time in the future. Depending on the frequency band use at the proposed site, Mr. Stern indicated that the 5G network would not cover as far as the 4G network because the 5G frequencies tended to be higher frequency, but less distance of coverage. He also stated that the higher the frequency, the emissions levels go down.

Mr. Lagana, Board Attorney, asked Mr. Stern about the radio frequency measurements and wondered if the measurements given in his previous testimony include the allocation of the three (3) additional carriers that could be put on the monopole. Mr. Stern answered in the negative. Mr. Lagana then asked Mr. Stern's opinion of whether the entire monopole would meet the State and Federal emissions standards if three (3) additional carriers were placed on the monopole. Mr. Stern answered in the affirmative, and Mr. Lagana stated the reason why that answer was important was because the analysis the Board had to take regarding radio

emissions was if the emissions comply with State and Federal law, the Board could not consider that to be detrimental to the public good.

Mr. Chairman then opened the meeting to the public.

Mr. Robert von Zumbusch, 1113 Princeton Pike & Kingston Rd., Princeton, NJ, came forward. He then asked why the monopole could not be constructed next to Building 2 on the Trap Rock property. Mr. Stern indicated that he was not part of the discussions with Trap Rock Industries regarding the location on the monopole. Mr. Stanzone indicated that another witness would be able to address that question.

Hearing no one who has a question of Mr. Stern's testimony, the meeting was closed to the public.

Mr. Steven D. Bosque, Site Acquisitions, Xcite Development, LLC, 738 Burlington Avenue, Delanco, NJ. Mr. Bosque then gave the Board a brief overview of his relationship with the project and addressed the process with which he approached Trap Rock Industries. Mr. Bosque indicated that he was involved with the site acquisition for Verizon Wireless and engaged with Trap Rock Industries to inquire about a potential site in 2016. He stated that after a few years, they came to an agreement on the subject site, noting that Trap Rock's existing operations were considered when agreeing upon a mutually beneficial site on the property. He added that Verizon Wireless initially asked for an area within the quarry itself, but Trap Rock did not want a wireless location within their quarry development area because they utilize explosives and were capable of 24/7 operations pending the need and didn't want anyone on-site for maintenance of cell tower equipment during their operating hours. He stated that Trap Rock advised that they had additional properties to the south of the quarry which ended up being amenable to both parties. Mr. Bosque then stated that Building #2 was a residential property owned by Trap Rock Industries and was rented and used by their employees, as was Building #1. He did state that Building #2 was a more cleared property and Building #1 had more vegetative coverage on the property and provided more distance from the historic site down the road.

Mr. Healey wanted to know whether Mr. Bosque was involved in locating the monopole where they were proposing on the site. Mr. Bosque indicated that he was involved in the discussions, but the decision came more from Trap Rock Industries. Mr. Healey indicated that if the monopole were moved to a more northeasterly location, it would be further away from Canal State Park and from Rockingham. Mr. Bosque again indicated that after almost a year of negotiations, the location they were proposing for the monopole was one that was agreed upon by both parties.

Chairman Thomas then opened the meeting to the public.

Mr. Robert von Zumbusch, 1113 Princeton Pike & Kingston Rd., Princeton, NJ, came forward again and indicated that the Building #2 he was referring to was at Trap Rock headquarters, which was listed as one of the alternate sites that was looked at. Mr. Bosque stated that it was brought to Trap Rock's attention that it would be a site that we would be interested in next to their corporate headquarters on River Rd., and Trap Rock wholeheartedly denied that initial request and were sent over to the secondary property that was the subject of the Application that evening. Mr. Stern brought up the map of the property and stated that they

were asked to evaluate, as part of the Application, other structures in the area and Building #1 and Building #2 were just buildings that were in that one (1)-mile circle. He indicated that the 32 ft. height of the building was not something that would be tall enough for their needs and was also not made available to Verizon Wireless. Mr. Bosque then stated that the building Mr. Stern referenced was not made available to them and they had also inquired about the silo building on the site there, which also was not a viable option.

Hearing no one further wishing to speak, the meeting was closed to the public.

Mr. William F. Masters, Jr., Planner, 19 Ironwood Drive, Morris Plains, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Master then gave the Board a review of the Application and a review of the Ordinance.

Mr. Masters began his testimony by addressing Mr. Healey's Planning report of February 28, 2020, stating that the Applicant was seeking a D(3) Conditional Use Variance relief as well as Site Plan approval for the construction of a 128 ft. tall tree pole telecommunications tower. Mr. Masters testified that there were actually three (3) D(3) Conditional Use Variances required where the proposal was already determined to be a conditional use as long as all the conditions were complied with in the Canal Preservation Zone (CP). He stated that the proof set forth that night was to prove that the site continued to be an appropriate for the conditional use, notwithstanding the deviations from the conditions imposed by the ordinance. The first deviation indicated by Mr. Masters was that no tower shall be located to be visible to any historic district or site as duly designated by Franklin Township, the State of New Jersey, and/or the Federal Government. Mr. Masters did concede that the proposed tower would have some visibility from Rockingham, an historic site. He referred the Board to a SHPO (State Historic Preservation Office) report, dated February 27, 2019, stating that their conclusion was that the tower would create no adverse effect upon historic properties within the APE (area of potential effects) in the area of direct effects because there were no historic properties located within that area in the subject Application. Under the visual effects, he then added that they also indicated that there would be no adverse effect upon historic properties in the APE. Mr. Masters indicated that the declarations would include the Delaware & Raritan Canal Historic District, the Amelia Gulick House as well as the Rockingham Historic site.

Mr. Masters then addressed the second Conditional Use requirement in the CP Zone for wireless communications towers was that all telecommunications towers should be set back from all lot lines at least twice the height of the tower. Since the top of the branching of the tower was proposed at 128 ft., Mr. Masters testified that that translated into a setback requirement of 256 ft. He then told the Board that the proposed setback to the adjoining property to the south was 191 ft., for a 65 ft. encroachment in that area. Referring to SP-1 of the Site Plan drawings, he pointed out the location within the property the 75 ft. x 75 ft. compound area and proposed 128 ft. monopole as centrally located. Mr. Masters then directed the Board's attention to the property to the immediate south of the site (Block 1.01, Lot 5), which was a 150 ft. wide x 300 ft. deep lot with a single family house on it (1.03 acres) and owned by Trap Rock Industries for use by employees of the company. He then directed the Board's attention to SP-2 of the Site Plan drawings, showing an enlarged depiction of the compound area and monopole, to discuss the 50 ft. wetlands buffer line (running north to south) that appeared twice to the left of the enlarged compound area. Mr. Masters than told the Board that they also did not meet the setback requirement of 210 ft. to the front property line at Laurel Avenue because the distance was actually 210.1 ft. from that property line. He

added, however, that the location of the wetlands buffer precludes them from shifting the compound and further from the west. Additionally, he indicated that they could shift the compound to the north but did not believe that they could achieve the 256 ft. setback requirement to Laurel Avenue.

Mr. Masters then detailed the third Conditional Use variance that they were seeking was for the landscaping requirement because they were proposing the installation within a heavily wooded area and would have to remove existing vegetation to provide landscaping around the compound area. Because of this, Mr. Masters stated it would be a better alternative to donate to the Township's tree replacement fund.

Mr. Masters then drew the Board's attention back to page three (3) of Mr. Healey's Planning report related to the visibility of the monopole from an historic district or site. He then began the discussion regarding the photo simulations and showed the aerial photograph that delineated a one (1)-mile radius around the proposed site, which was a requirement under the wireless development ordinance for the visual impact. He went on to further state that they had identified the locations from where the photographs were taken (10 photographs) of which five (5) of those photograph locations had visibility from an historic district or site and noted that all the photographs were taken on November 8, 2019 when the deciduous trees had already lost all of their leaves. Mr. Masters then showed photograph #1, which was taken from 121 Laurel Avenue (horse farm across Laurel Avenue from the subject property) on November 8, 2019, showing a view of the crane. He then went to the next photograph (Image 1A) that showed the proposed tree monopole from the same vantage point as in photograph #1, but in a slightly different location than the crane in the previous photograph due to the inability to get the crane to the same point due to the existing vegetation. He also testified that they were also unable to do a balloon test, even with all the leaves gone from the trees, due to the density of the tree cover. Mr. Masters proceeded to show photograph #2, taken from 102 Laurel Avenue and looking in a northbound direction towards the subject site, showing the crane at a height of 128 ft. to mimic the branching of the proposed monopole. He then showed Image 2A showing how the tree pole would look. He then showed photograph #3, the view from Rockingham at its entrance off Kingston/Rocky Hill Rd., and then Image 3A showing the how the tree monopole would look from that vantage point. Mr. Masters moved on to photograph #4, taken from the towpath of the Delaware & Raritan Canal and approximately due west of where the installation was located. He testified that the towpath was walked one (1) mile to the north and one (1) mile to the south, and at no point in time did Mr. Masters indicate that he had any view of the crane through the heavily wooded deciduous trees there. He did note as well that there was also a change in elevation there, with the towpath there being considerably lower than street level and level of where the site was located. He then showed Image 4A that reiterated that there was no visibility to the proposed tree monopole. He then introduced photograph #5, which he stated was a view from Montgomery Township at 345 River Road, taken from the parking lot of the Central Jersey Masonic Center and showing the crane just peeking through the wooded area there. He showed Image 5A that showed the same experience with the tree monopole. Mr. Masters then moved on to photograph #6 that showed a view from River Rd. at Blue Spring Rd.(Montgomery Township) taken from the Montgomery Woods residential neighborhood off River Rd. and then Image 6A that showed no visibility. He then told the Board that photograph #7 was taken from Kingston/Rocky Hill Rd. at the solar farm showing the crane in the center portion of the image and then Image 7A showing the tree monopole. Mr. Masters moved on to photograph #8, which he stated was a view from County Rte. 518 up at the north

end of the quarry looking back down to the south. He indicated that because of topographic issues, vegetation and distance, there was no visibility from that vantage point. When showing Image 8A, the same was noticed. He then told the Board that photograph #9 was taken from the Rocky Hill Historic District at the intersection of Crescent St. and Washington St. showing no visibility there as well as in photograph #10 taken from the Kingston Historic Village from 4414 Main Street. He noted that both Image 9A and Image 10A showed the same.

Mr. Masters then reverted back to photograph #3 and Image 3A, pointing out that the location of the tree monopole if they were able to relocate it, would still be visible in the photograph and included in the same tree stand and would not have a significant difference in the view from Rockingham even if there was a difference in the distance away from Rockingham.

Mr. Masters then discussed the D(3) standards of proof for a wireless telecommunications facility, notwithstanding the setback variance requests, the waiver for the landscaping requirement and the variance pertaining to the visibility from Rockingham. He reiterated that he felt the SHPO ruling spoke directly to the variance from 112-C4 relative to the visibility from Rockingham, that Block 1.01, Lot 5 was owned by the same entity as the owners of the subject property was a significant factor relative to the issue of detriment to the public good and the issue relative to the landscaping was the existing dense and mature vegetation on the subject property. Mr. Masters testified that he felt it was a particularly suitable site based upon the aforementioned, that it was suitable for the use based on a technical perspective to meet Verizon Wireless' radio frequency needs and objectives for the particular area of Franklin Township, that it is a permitted Conditional Use and a large property of over 10 acres. He noted that the minimum required lot area for the CP Zone was 6 acres. He added that the property was a heavily wooded site and provided the opportunity for future co-location on the tree monopole, both in terms of the compound area and the branching on the tree pole, and the fact that they had a willing landlord in Trap Rock Industries were all characteristics that contribute to the particular suitability of the site. He then reiterated some of Mr. Stern's testimony related to Verizon Wireless' licenses in several band widths from the FCC which contributed to the positive or special reasons criteria regarding D variance relief. He then stated that he believed the Application satisfied the statutory criteria required for the grant of a D(3) Conditional Use variance.

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

Mr. Brad Fay, President of the Millstone Valley Preservation Coalition, 1135 Canal Rd., Princeton, NJ, (Franklin Township) came forward. He asked Mr. Masters if he was familiar with the Millstone Valley National Scenic Byway that went through the immediate area and if he looked through the Corridor's Management Plan for the Byway that addressed communications towers. Mr. Masters stated that he was familiar with the Byway but did not look at the management plan. Mr. Fay then asked Mr. Masters if he took any photos of the crane test from the Rte. 518/Laurel Avenue intersection approach toward the site and if not, why not. Mr. Masters answered that he drove all the roads within a one (1) mile radius there and noted that there was simply no visibility anywhere along Rte. 518 from Rocky Hill all the way across and heading east through the one (1) mile radius. A discussion ensued regarding photographs #7 and #3 that were taken in the Kingston/Rocky Hill Rd. area, with Mr. Masters indicating that there was no visibility north of that area as well.

Hearing no one wanting to ask any further questions of Mr. Masters, Chairman Thomas then closed the meeting to the public.

Seeing that the testimony phase was complete, Chairman Thomas then reopened to the public for any comments on the Application.

Mr. Brad Fay, President of the Millstone Valley Preservation Coalition, 1135 Canal Rd., Princeton, NJ, (Franklin Township) came forward and was sworn in. Mr. Fay gave some background on the Millstone Valley Preservation Coalition and what they were commissioned to accomplish in the way of preservation of historic, natural, and scenic resources in the immediate area. He then gave the parameters of the Millstone Valley Scenic Byway and discussed the Millstone Valley Scenic Byway's Management Plan. Mr. Fay also encouraged the Board and Township to review the management plan as it pertains to the subject Application and particularly with the issues involved with telecommunications towers. He asked the Board to consider that the tree pole tower be more in scale with the surrounding tree line.

Mr. Masters then asked Mr. Fay if he were aware of the State Historical Preservation office's consideration of the Application. Mr. Fay indicated the he was not aware of the SHPO determination prior to the evening's hearing but would like to see the document. A discussion ensued regarding the possible notification by SHPO to the Millstone Valley Preservation Coalition, and Mr. Masters indicated that the determination by SHPO that there would be no adverse effects from the installation of a tree pole telecommunications facility at the subject location was part of a public document.

Mr. Robert von Zumbusch, Vice President of the Millstone Valley Preservation Coalition and President of the Kingston Historical Society, 1113 Princeton Pike-Kingston Rd., Princeton, NJ, came forward and was sworn in. He noted that the Kingston Historical Society normally received reports from the State Historical Preservation office when there were reports available but did not receive a report for the subject Application. A discussion ensued, and Mr. von Zumbusch indicated that he was speaking that evening as Vice Chairman on behalf of the Kingston Village Advisory Committee, a joint Franklin Township and South Brunswick committee appointed to advise Franklin Township and South Brunswick Townships and the NJ State office of Planning Advocacy on matters concerning multi-jurisdictional Kingston Village Center and its designated environs and to advance the Planning Implementation Agenda that was also approved by the State Planning Commission and the Planning Boards and Councils of both townships. He stated that there were concerns for a 128 ft. high tree monopole and its visual impact to the Village of Kingston and related impacts to the character of the surrounding area. A discussion ensued regarding Franklin Township's regulations regarding cell phone towers and discussed mitigations and alternate site evaluations such as the location shown in photograph #8. Mr. von Zumbusch reiterated Mr. Fay's recommendation that if there was not an alternate site that provided a better viewshed and if the look of the tree monopole could not be made more natural looking and more in scale with the natural tree line, that a simple monopole in a grey/blue color that blends in with the sky be constructed instead. Mr. von Zumbusch also indicated that should the monopole not be utilized within two (2) years, it should be removed.

Mr. Lagana, Board Attorney, noted that the CME Engineering letter spoke to the non-operational use of a telecommunications tower for a period of six (6) months would trigger the

need for it to be removed at the cost to the Applicant. He also recommended that that should be included in a Resolution as a condition for any approval. Mr. Masters agreed to that as a condition of any approval.

Mr. Stanzione also referred to CME's report of December, 2019 that reviewed an Environmental Impact Study, stating that the document included SHPO's determination and was on file with the Zoning Board of Adjustment.

Hearing no one further coming forward, Chairman Thomas then closed the meeting to the public.

Mr. Stanzione then gave his closing summation based upon the previous testimony.

A discussion ensued among the Board regarding the camouflaging of the monopoles, and Chairman Thomas indicated that the tree poles have started to look much better and more realistic in the past few years and stated that he didn't think there was a more appropriate place for a tree pole.

Mr. Healey stated that the Environmental Assessment that the Township had in their files was dated December, 2019. Mr. Stern indicated that the SHPO recommendation and approval information was on page 40 of 50 in the environmental report taken from the Township's website, which was shared on screen with all attendees and the public. A discussion ensued, and Mr. McCracken opposed that SHPO's recommendation for a monopine be considered by the two organizations who were represented that evening from the public comment. He stated that the Board should consider the use of a plain monopole. A discussion ensued among the Board.

Mr. Reiss made a motion to approve the Application, with Variances, with hours of generator maintenance between the hours of 10 a.m. and 2 p.m. and with the provision of the generator manual being provided to the Township. Additionally, six (6) months after the operational use or lifetime of the monopole has ceased, the Applicant must remove the structure at its own expense (with the provision of a performance bond or assurances satisfactory to the Board) in accordance with the CME letter general comments, dated March 3, 2020, sub-paragraph #4. Also, the Site Plan, specifically the details of the tower, be revised to be consistent with the description of the tower and photo simulations in terms of it being a more naturalistic appearance. Mr. Rich seconded the motion, and the roll was called as follows:

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

AGAINST: Mr. McCracken and Ms. Bethea,

#### **WORK SESSION/NEW BUSINESS:**

There was no work session or new business discussed.



**MEETING ADJOURNED:**

Chairman Thomas adjourned the meeting at 11:00 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
August 22, 2020