

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

**REGULAR MEETING
January 21, 2016**

This special 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 Vincent Dominach, Sr. Zoning Officer, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Donald Johnson, Robert Shepherd(arrived at 7:57 p.m.), Anthony Caldwell, Gary Rosenthal, and Chairman Thomas

ABSENT: Raymond Betterbid, Laura Graumann, Bruce McCracken, Alan Rich, Joel Reiss and Cheryl Bergailo

ALSO PRESENT: Patrick Bradshaw, Board Attorney, Mark Healey, Planning Director, and Vincent Dominach, Senior Zoning Officer

OATH OF OFFICE:

- **Donald Johnson**
- **Anthony Caldwell**
- **Cheryl Bergailo**

REORGANIZATION:

- **Nomination/Selection of Chairperson:**

Mr. Dominach asked for nominations for the position of Zoning Board Chairperson. Mr. Rosenthal nominated Robert Thomas for Chairperson and the nomination was seconded. Hearing no other nominations, Mr. Dominach called for an affirmation vote and all were in favor.

- **Nomination/selection of Vice Chairperson**

Chairman Thomas asked for nominations for the position of Zoning Board Vice Chairperson. Mr. Rosenthal nominated Laura Graumann for Chairperson and the nomination was seconded. Hearing no other nominations, Mr. Dominach called for an affirmation vote and all were in favor.

- **Appointment of Board Attorney**

Mr. Dominach explained that according to the Zoning Board's by-laws, they put forward an RFQ for Zoning Board of Adjustment Attorneys. He indicated that they received quotes from two attorneys, but that the only one the current Zoning Board wished to interview was their current attorney, Mr. Patrick Bradshaw. Seeing there were no questions for Mr. Bradshaw and since they had already prepared a Resolution to approve the present Board Attorney, Mr. Dominach asked for a motion to approve the Resolution.

Mr. Rosenthal made a motion to approve the Resolution as submitted. The motion was seconded and all were in favor.

- **Witness Oath – Director of Planning, Mark Healey, Zoning Officer, Vincent Dominach**

The Board Attorney then administered the Witness Oath to both Mr. Healey and Mr. Dominach for the entire calendar year of 2016.

RESOLUTIONS:

- **2016 Zoning Board Calendar**

Mr. Caldwell made a motion to approve the 2016 Zoning Board Calendar. Mr. Rosenthal seconded the motion and all were in favor.

- **Matson / ZBA-15-00013**

Mr. Rosenthal made a motion to approve the Resolution as submitted. The motion was seconded and the roll was called as follows:

FOR: Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **AI Holdings / ZBA-15-00012**

Mr. Johnson made a motion to approve the Resolution as submitted. Chairman Thomas seconded the motion and the roll was called as follows:

FOR: Mr. Johnson and Chairman Thomas

AGAINST: None

- **Lajewski / ZBA-15-00020**

Chairman Thomas made a motion to approve the Resolution as submitted. Mr. Caldwell seconded the motion and the roll was called as follows:

OR: Mr. Johnson, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **150 Pierce St / ZBA-15-00011**

Chairman Thomas made a motion to approve the Resolution as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

OR: Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw –January Retainer - \$865.00**
Various Matters - \$360.00
Bailey - \$210.00
Simply Yoga - \$570.00

Mr. Rosenthal made a motion to approve the Vouchers as submitted. Chairman Thomas seconded the motion and all were in favor.

Chairman Thomas asked for an adjournment until the fifth member of the Board arrived in order to achieve a quorum.

HEARINGS:

- **POLIZE, INC. / ZBA-11-00030**

Ms. Katherine Kopp, Esq., Attorney employed with the law offices of Peter U. Lanfrit, appeared before the Board on behalf of the Applicant, Polize, Inc. Use Variance approval and Amended Subdivision approval at 935 & 1045 Easton Avenue, Somerset; Block 359, Lots 74-76, in a CP Zone.

Mr. Healey gave a summary of what was before the Board that evening, stating that what they were reviewing that evening was a minor modification to what had already been approved by the Board. Mr. Healey explained that the exhibit being shown was the subdivision plan that had been submitted to the Township with highlighting of the lot boundaries in yellow. The

Board Attorney marked the exhibit as Exhibit A-1 into the record. Mr. Healey indicated that the exhibit showed the undeveloped lawn area to the left of the Somerset Diner and noted that the Applicant was subdividing that piece off with the intention of selling it off for development in the GB Zone. He also stated that the Somerset Diner would then sit on its own lot. As part of the original approval, Mr. Healey indicated that the Applicant agreed to subdivide off an area that goes along the right side of the diner and extends around the diner to the right and to the rear. He stated that the property was being delineated in such an L-shaped lot because there was a plan on the part of the Township and the State to eventually to have a pedestrian bridge constructed across the canal to access the towpath. Mr. Healey indicated that the bridge was currently being engineered as part of a project of the State. He then drew the Board's attention to the site to the right of that lot, part of the Wendy's site, a large six acre lot. He explained that they were re-subdividing into four lots in order to accomplish the separate lot for the bridge for towpath access.

He then explained that the reason the matter was before the Board was that the Wendy's site was within the CP Zone, and in order to create the new lot that would eventually be dedicated to the Township, the Wendy's site was being made slightly smaller by a few hundred square feet and would create a D-2 variance and why it was before the Zoning Board.

Mr. Healey then explained that the plan before the Board that evening was substantially the same as what was approved previously since all of the lots described were proposed and approved a few years ago. He added that the L-shaped lot for access to the proposed canal bridge was being made slightly larger, giving more flexibility to where the bridge might be located.

He indicated, however, that there were a number of variances that were required, such as the D-2 Use Variance, expansion of a non-conforming use for the Wendy's and a lot area variance for the Wendy's lot. He stated that the rest of the variances were identified in the Technical Review Committee report of January 15, 2016 that also offered the opinion that all of the variances did not result from any physical construction, but from the creation of the new lot, all of which was to the benefit of the public with no detriment as a result of the requested variances.

Chairman Thomas opened a discussion regarding the continuation of any conditions of the previous approval. Mr. Healey spoke of the two reports that reiterate the comments made in the first approval (technical in nature) and involve deeds and a few easements.

Ms. Kopp addressed the staff reports, noting that they would comply with all of the comments in the Engineering report of January 12, 2016. She then drew the Board's attention to the comments of the Technical Review Committee (TRC) report of January 15, 2016. Ms. Kopp asked that any work that needed to be done on the Applicant's lot that they were retaining, including some parking lot restriping and relocation of some handicapped parking spots be able to be put off until the Township was ready to begin working on the towpath and the bridge. She indicated that they would immediately remove the dog run and the fence that was on the lot that was to be deeded to the Township once work commenced by the Township. Mr. Healey indicated that the Township staff had no issue with that request.

Chairman Thomas asked if there were anyone in the public wishing to ask a question. Seeing no one coming forward, the meeting was closed to the public.

Mr. Mettler inquired about the roadway that presently connected the diner property to the shopping center property near the McDonald's. Mr. Healey indicated that that connection was an easement to the plan that they needed to work out with the wording in the Resolution.

Mr. Caldwell asked about the timing of the bridge work, and Mr. Healey felt that it was going to come down to funding for the project that would affect the timing of construction. He indicated that the State Parks Dept. was working on it. A discussion ensued among the Board.

Mr. Mettler then opened a discussion regarding whether there were wetlands involved and if a study had been done to determine whether a bridge and path could be placed there. Mr. Healey stated that the plans show that there were some environmental issues on that side of the property, but that it would not impede what was proposed.

Mr. Rosenthal made a motion to approve the Application for an Amended Subdivision with Variances. Mr. Caldwell seconded the motion and the roll was called as follows:

FOR: Mr. Johnson, Mr. Caldwell, Mr. Rosenthal, Mr. Mettler and Chairman Thomas

AGAINST: None

- **NY SMSA, LP d/b/VERIZON WIRELESS / ZBA-15-00026**

Ms. Lynn Dunn, Esq., Attorney, appeared before the Board on behalf of the Applicant, NY SMSA, LP d/b/Verizon Wireless. Site Plan in which the Applicant was proposing to install 12 ballast-mounted antennas to roof at 1350 Easton Avenue, Somerset; Block 424.01, Lot 39.07, in the PRC Zone - **CARRIED FROM DECEMBER 17, 2015 – with no further notification required.**

Mr. Dominach's Zoning report indicated that the applicant was proposing to install antennas and associated equipment in the PRC Zone. Additionally, he indicated that a D-1 variance was needed as such antennas are not permitted in the PRC Zone.

Ms. Dunn indicated that the Application being heard that evening had to do with a co-location on an existing structure. She indicated that she would be presenting witnesses that included a Site Acquisition Consultant, a Radio Frequency Engineer, a Professional Engineer and a Professional Planner.

Mr. Bosque, Site Acquisition Consultant and Co-founder and Principal of Atlantic Site Development, LLC, stated that his company was contracted by Verizon Wireless to obtain the real estate rights and leasing for prospective sites as they see fit. He then detailed the search process, noting that they were given a search area by Verizon. He testified that there were no existing Verizon Wireless facilities in the search area that was provided to his company. Mr. Bosque explained that the search area extended into areas where there were single family residences, which were not suitable for co-location of a cell tower. He added that there were also no other existing towers that would be suitable to Verizon that would fall into the search area and found that the owners of the subject property were interested in leasing space for Verizon to co-locate their antennas.

Mr. Healey then opened a discussion regarding the area where Verizon felt there was a gap in service, noting that normally the co-locations are placed on supporting structures such as water towers, etc., within one mile. Mr. Bosque indicated that they did look for these types of structures within one mile of the search area and found none. He added that the closest approved structure that could be used, as per Franklin Township ordinance, was Location #8 and in your ordinance as 270 Davidson Avenue, but was 1.72 miles away and would not work, to his understanding, for the coverage gap.

Mr. Healey indicated that they should be tasked to look at all potential structures, not just Township approved structures, including water towers, other cell tower, and taller buildings within a mile. Again, Mr. Bosque reiterated that most of the structures surrounding the proposed structure were single family homes or were too small and inadequate to build a new tower. He added that, from a site acquisition perspective, they would prefer to move forward with an existing, tall building than proceed with a brand new tower that could possibly be a lot taller.

Chairman Thomas noted that there was no public at the hearing that evening, so that they were going to dispense with opening the meeting to the public for the duration of the hearing.

Ms. Lyons, Engineer, came forward and was sworn in. The Board accepted her qualifications. Ms. Lyons was asked to address the inquiry regarding the existing gap in coverage and also discussed the current coverage map shown to the Board. She also discussed Verizon's licenses in four bands of radio frequency.

Mr. Shepherd inquired about the existing monopole located at the intersection of JFK Boulevard and Easton Avenue. A discussion ensued among the Board.

Ms. Lyons then discussed in more detail the existing gap in coverage at the proposed area near the Avalon condo development. She then discussed the possibility of improving the coverage in the area by boosting the other existing facilities in the area, noting that there was also a capacity issue in the area.

Mr. Healey asked whether it was possible to co-locate on the monopole located at JFK Boulevard and Easton Avenue and, if so, go to a height of 100 ft. as opposed to 34 ft., and what would that do to the coverage. Ms. Lyons indicated that it might increase coverage, but would be at capacity in September of 2016. She explained the reasoning for lowering the heights, but filling in with more locations to both create the desired coverage as well as to be able to handle the ever increasing capacity. She also mentioned that the FCC licenses that Verizon holds required them to provide substantial service to the area they are licensed. A discussion ensued among the Board. She also spoke to public interest issues that would be affected by a lack of coverage.

Ms. Lyons then addressed whether the proposed facility met all FCC and State guidelines concerning emissions. She indicated that they did issue a report, dated 12/4/2015, which was the RF Emissions Study.

Mr. Ronald Igneri, Engineer and Planner employed with Stantek Consulting Services, came forward and was sworn in. The Board accepted his qualifications. Mr. Igneri then described the existing conditions by showing enlarged plans. He then discussed the three variances they

were before the Board to obtain, i.e., D-1 Use Variance, and two existing non-conformances that would include the height of the existing building and for impervious coverage. He noted that the site was a 42-acre parcel fronting on Easton Avenue and DeMott Lane, and that the planned co-location was on one of the easterly most buildings facing Easton Avenue and DeMott Lane and included four stories. He then explained to the Board the configuration of antennas that were being proposed, facing in a southerly direction, a northerly direction and an easterly direction.

Mr. Dominach pointed out to Mr. Igneri that the two existing non-conforming variances were already approved by the Planning Board in the Site Plan.

Mr. Igneri then drew the Board's attention to an enlarged portion of one of the sheets in the plan showing a detailed portion of the roof plan in the northeasterly corner that included the arrays of antennas, which were aimed in a westerly direction. He added that each array of antennas on the three corners of the building consisted of four individual antennas, each having a different use for a different frequency.

Mr. Igneri then discussed the diesel generator on the lawn area, which was surrounded by shrubbery, located within a crystal quiet enclosure with a hospital grade muffler to meet all noise restrictions. He noted that emergency power was required.

Mr. Igneri then drew the Board's attention to the next sheet of the plan that showed the underground parking garage. He noted that all of Verizon's equipment, i.e., radio equipment and electronics, would take up only the space of one parking stall in the basement parking garage and would be enclosed. He testified that utilizing one parking space would still allow the original parking requirement of the complex to be met. He then showed the elevation views to emphasize the antennas near the edge of the rooftop, noting the architectural features along the roofline that helped to hide them. He then spoke about painting the base of the antennas to match with the white pipe railing around the top of the building. Also discussed was the ordinance that required the antennas to be placed away from the edge of the building and he spoke of the need for them to be placed near the edge or they would then have to raise the antennas up because they needed to "see" over the edge of the building. Mr. Igneri indicated that they were placed about a foot above the edge of the building, but would have to be much higher if they were required to move them further away from the edge of the building to still be able to send out the signals within the general vicinity of the building in order to close the coverage gaps as they proposed. He then explained how the antennas work for the Board's edification. He also described how they were going to be ballast mounted, which he stated were the simplest way to mount antennas. Going with the design proposed, according to Mr. Igneri, would keep the visibility at a minimum, satisfy the radio frequency requirements and closely match the intents of the ordinance to make them as invisible as they can be. A discussion ensued among the Board regarding the issue of the height issue of the antennas.

Mr. Healey then opened a discussion regarding the possibility of camouflaging the antennas and equipment with some kind of architectural structure. Chairman Thomas asked Mr. Igneri to provide some other way of attaching the antennas at this site that would not be so visible. Mr. Igneri indicated that without tearing apart the upper apartment ceilings, there would be no other way to attach these to the roof because they would need more ballast to hold the taller antennas down in the wind if they were placed further away from the edge of the building.

Mr. Igneri then addressed the enlarged photos of existing conditions and photo simulations that were prepared by one of the Planners at Verizon Wireless, Rick Masters. He indicated that he had reviewed them and considered them accurate in terms of what they show as existing conditions and what was shown as a photo simulation done with a computer to show the proposed placement of the antennas. He also testified that all of the photos of existing conditions were all taken from the most visible perspectives. The Board discussed the feasibility of reinforcing the roof and Ms. Dunn asked Mr. Igneri what modifying the roof structure would do to the warranty on the roof provider by the builder. Mr. Igneri indicated that they would use the landlord's roofer so as not to risk voiding any warranties.

Mr. Healey then posed a possibility of moving the array back that points toward the corner of DeMott Lane and Easton Avenue and Mr. Igneri indicated that it would not be less visible because he would have to make the antennas taller. He added that it would have the same situation for the other two arrays facing the two other directions. A discussion ensued among the Board. Mr. Igneri also stated that the photos presented, along with an additional photo #6 taken from the Van Wickle House, were presented to the Historical Commission

Ms. Dunn asked for guidance from the Board in selecting the primary antenna array that was paramount for protecting the view shed that she could take back to the Applicant to address an alternate positioning by accessing the roof of the upper apartments involved. Additionally, she asked that if the type of antenna array they were proposing was not acceptable to the Board, would they consider the placement of a monopole. Mr. Caldwell suggested that the Board be presented with other options. A discussion ensued among the Board regarding the various types of ways to erect and screen cell tower antennas.

Ms. Dunn then asked for the Board's suggestions regarding an acceptable stealth self-supporting structure. Mr. Healey gave some suggestions, such as an elevator tower, clock tower, etc., and the Board and Applicant agreed to continue the hearing on another date with additional proposals – CONTINUED TO MARCH 17, 2016 – with no further notification required.

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Mr. Caldwell made a motion to adjourn the meeting at 9:10 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
February 29, 2015