

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

1979 TOWNSHIP DRIVE

MARLBORO, NJ 07746-2299

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Michael Steib, Esq.

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Gravatt Consulting Group

David Thesing, P.E., P.P.

Planner

Planning Design Collaborative, LLC

Thomas Scangarello, P.P.

Administrative Officer

Zoning Officer

Sarah Paris

MINUTES

ZONING BOARD OF ADJUSTMENT

FEBRUARY 17, 2009

SALUTE TO FLAG

SUNSHINE LAW READ

ROLL CALL

PRESENT:

Glenn Malysz, Matthew Weilheimer,
Robert Knight, Lewis Wildman, Michael
Mahon, Michael Shapiro, Jennifer Bajar,
Paul Schlaflin

ALSO PRESENT:

Michael Steib, Esq. Board Attorney
Sarah Paris, Administrative Officer
David Thesing, P.E., Board Engineer
Kendra A. Lellie, P.P., Board Planner

ABSENT:

None.

No Citizens Voice.

ZB 08-6347 – DelVecchio

Continuation of a Public Hearing for approval to construct a two story addition to a principal structure and a covered porch in front of house on an undersized lot at 395 Texas Road, Morganville, Block 147, Lot 14, located in the LC Land Conservation zone.

Ms. DelVecchio stated that her engineer needs additional time. She requested a new meeting date. She signed an extension of time for April 7, 2009.

ZB 09- 6350 – Omnipoint Communication, Inc.

Public Hearing for approval to construct a wireless telecommunication facility consisting of twelve antennas on an existing 150 foot tall monopole and place three equipment cabinets on a four foot by sixteen foot concrete pad at 521 Newman Springs Road, Marlboro, NJ, Block 214, Lots 42 and 43.01, located in an LC Land Conservation zone.

Mr. Frank Ferraro wants use and site variance. The 150 foot monopole in height would use a fourth antenna, and be the lowest in height.

The Board took jurisdiction. The following evidence was entered:

- A – 1 **Petition on Appeal**
- A – 2 **Denial by Zoning Officer**
- A – 3 **Indemnification and Hold Harmless Agreement**
- A – 4 **Disclosure Statement**
- A – 5 **W 9**
- A – 6 **Tax Collector's Certification**
- A – 7 **Notice To Adjoining Property Owners**
- A – 8 **Adjacent Property Listing**
- A – 9 **Certified White Receipts and Green Cards**
- A – 10 **Affidavit of Service**
- A – 11 **Affidavit of Publication**
- A – 12 **Affirmation of Local Pay To Play Ordinance dated 3/6/08**
- A – 13 **Owners Affidavit of Authorization and Consent**
- A - 14 **Application Affidavit of Completeness**
- A – 15 **Omnipoint Communications, Inc. Application Addendum, 521 Newman Springs Road, Marlboro, NJ.**
- A – 16 **Proposed Radio Frequency Site in the Township of Marlboro, NJ. Omnipoint Reference: NJ08493C**
- A – 17 **Township of Marlboro Zoning Board of Adjustment In the matter of Long Branch Cellular One Application No. ZB 91-5589 dated February 24, 1993.**
- A – 18 **Amended Resolution Long Branch Cellular Application No. ZB 91-5589 dated March 24, 1993.**
- A – 19 **Memorializing Resolution for Nextel of New York, Inc. Application # ZB 01-5963.**
- A – 20 **Title Sheet, Site Map, Antenna Orientation & Details, Construction Details prepared by CMX, 20 Waterview Blvd, Parsippany, NJ dated 6/20/08.**
- A – 21 **Antenna Site FCC RF Compliance Assessment and Report, Site NJ 08-493C prepared by Pinnacle Telecom Group, 14 Ridgedale Ave, Suite 209, Cedar Knolls, NJ dated 5/19/08.**
- A – 22 **Owner's Consent**
- A – 23 **Report prepared by John W. Borden, Fire Sub-Code Official/Fire Inspector, Township of Marlboro, dated 1/16/09.**
- A – 24 **Report prepared by Sgt. Joseph Lenge, Division of Police, Township of Marlboro, dated 1/20/09.**
- A – 25 **Report prepared by David Thesing, Gravatt Consulting Group, 414 Lacey Road, Forked River, dated 1/2/09.**
- A – 26 **Report prepared by Thomas J. Scangarello, PP, Planning Design Collaborative, LLC, 150 Himmelein Road, Medford, NJ dated February 6, 2009.**
- A – 27 **Colored map of proposed site N08493C, Marlboro, submitted by Manav Joshi, Radio Frequency Engineer, 521 Route 520, Marlboro, NJ.**
- A – 28 **View of Newman Springs Road, prepared by TK Design Associates, P. O. Box 465, Mendham, NJ.**
- A – 29 **View of Camp Arrowhead Aquatic Center; Looking South, prepared by TK Design Associates, P. O. Box 465, Mendham, NJ.**
- A – 30 **View from Newman Springs Road & Entrance Driveway; Looking Southeast, prepared by TK Design Associates, P. O. Box 465, Mendham, NJ.**

Mr. Joseph Chiaravallo, Pinnacle Telecom Group, 14 Ridgedale Avenue, Cedar Knolls, NJ, is sworn in and accepted as a professional witness for over 20 years in radio frequency.

Mr. Chiaravallo stated there are two carriers, ATT Cingular & Sprint Nextel at the site. If the facility were built as planned using standard FCC formulas, the added additional exposure would be a maximum exposure level of .3% cumulatively. This is 300 times less of the FCC's limits.

Questions from the Board:

Mr. Knight asked about the general average. Mr. Chiaravallo said the suburban site is somewhat below the average.

Mr. Malysz asked if there is any interference with other antennas. Mr. Chiaravallo answered "No, they all operate at different frequencies."

Mr. Schlaflin asked how the numbers obtained. Mr. Chiaravallo stated there is a standard default height of 6½ feet above the ground and moving out to 500 feet. It is measured from the base of the pole at 20 degree increments. This would be the only area of concern regarding. He said there are no waves emitted from the cabinets.

Mr. Malysz asked if someone goes back to validate the model. Mr. Chiaravallo responded that the OCC goes out only one time. Measurements are typically one half of what the model has predicted.

Mr. Schlaflin inquired if the numbers change with volume of use. Mr. Chiaravallo said the operation is at 100% all the time. If at any time the numbers are below 100%, than the numbers will drop below.

There are no questions from the public.

Manav Joshi is sworn in as a Radio Frequency Engineer, 411 Sylvan Way, Parsippany, NJ. His experience is working for Sprint, Cingular and has previously testified as a witness for Bergen County. He has designed approx over 400 sites and is accepted as an expert.

Mr. Joshi answered the interference question saying there is no drifting from one band to the next and there is no interference. They are operating within the FCC.

Additional evidence is entered as:

A -27 Colored map of Marlboro depicting Route 520 and the proposed site N08493C. It demonstrates existing coverage, submitted by Manav Joshi, Radio Frequency Engineer.

Mr. Joshi stated the coverage is for 1.5 miles, with a height of 112 feet, 4 inches and is an unmanned facility with no interference, visited once every 4-6 weeks. Technology is for voice data, as well as emergency purposes (911).

Mr. Shapiro asked if people in the surrounding area would pick up static on their phones in their homes; Mr. Joshi said they should not have static.

Mr. Thesing asked if this is the best location for efficient coverage. Mr. Joshi said they do not require construction of a new monopole. Omnipoint tries to operate on municipal owned property.

Mr. Malysz asked what the probability of someone actually dropping a call. Without the site and travelling east on 520 toward Boundary Road, there would be a 70% chance of dropping service.

The maintenance required would be for equipment parts, with battery backup. Discussion followed on what type of alarm system there is. It would be remotely monitored from a center.

Kendra Lellie, Board's Planner, regarding the antennas, asked if you increased the antennas height, would you get a greater degree of coverage? Mr. Joshi said you would, but the antennas would not increase in height in this instance.

Public Questions:

Mr. Al Rudel, 43 Beacon Hill Road, Marlboro asked how loud the alarms were. He also had a question regarding the battery. Mr. Ferrara stated this is a question for the Civil Engineer.

The second witness, Joseph May, a professional engineer from CMX Engineering, 262 23rd Avenue, Brick, NJ, is a licensed engineer and is sworn in and accepted as an expert witness.

Exhibit A-20 shows conditions at the site dated 6/20/08.

The fence is not changing, it will be extended. They are also placing a 4'x16' equipment pad, and adding an overhead cable tray. Exhibit shows wireless shelter north of the pole and one inside the fence area. Omnipoint facility will use existing electric, telephone equipment. Everything is proposed within the existing fence and will be underground. Increase in impervious would be diminutive. There are no lights; only an interior light within cabinet. There is no glare and the facility will emit no noise. The cabinets are weatherproofed and locked and are approximately 6½ feet. The batteries are 24 volt and are multi celled, sealed and contained, and have no leakage. The elevation is 112 feet with four separate antennas.

Mr. Knight asked if they were concerned about security of fence. Mr. Joshi said he was sure his client would not mind repairing and that landscaping is possible.

AT& T owns the monopole. Ms. Paris said the owner should be taking care of fence as to being properly locked and maintained. Mr. Knight said the left side should be looked at. Ms. Paris said the fence should be kept up (violation will be sent).

Mr. Weilheimer asked the length of time for AT&T lease? Mr. Ferraro does not know.

Mr. Thesing asked what the total square footage of cabinets? Mr. May said no more than 70 square feet.

It is being redesigned for the antenna as it is an older pole. Mr. Ferrara said Omnipoint will provide structural reinforcement instead of a new pole. Anything that is approved is contingent upon this structural approval. Mr. Malysz said they need to know details of structural upgrade (raising of antennas). Mr. May said this information regarding the structural should come within the next few months.

Ms. Paris stated the owner has been attempting to obtain permits. Mr. Malysz stated we need to look at preliminary copy of the plans being proposed.

Mr. Thesing asked if Omnipoint can comply with all items in his letter. Section C(a) would amend the storm water calculations, but should be so diminutive as not to be much of an impact on drainage.

Also, regarding the evergreens; foliage is already there.

Mr. Thesing agreed the storm water is diminutive but, some staggered evergreens would be useful. The Board can discuss at a later date. They can comply with all the technical issues. (Storm water being eliminated as stated by Mr. Malysz.)

Mr. Schlaflin asked if the site is to remain gravel. Mr. May said "yes".

No questions from the public for this witness.

Mr. Christopher Neville, a Professional Planner and Engineer, 242 Old New Brunswick Road, Ste. 130, Piscataway, NJ is sworn in and accepted as an expert witness as a Planner.

In an LC Zone, wireless is not permitted. A use variance is required also permitted height needs a D6 Height variance (assumed in use variance). Court cases in NJ shows advancement of teleservice in New Jersey should be upheld. The site is centrally located in coverage requirements. It is an existing tower. Board found site to be previously suited.

The second is that there are no negative criteria: It is not a detriment to public good or zoning ordinance. No glare (no visual aspects to the contrary). The public interest is being served.

A - 28 View from Newmans Springs Road east of driveway into camp, showing monopole over top of hill,

A - 29 Looking south from the aquatic center showing vegetation, antennas shown in exhibit,

A - 30 View from Newman Springs Road entrance driveway showing monopole projecting above tree line in the distance.

Goal is to co-locate; it is an existing tower. It is not necessary to construct a new tower and the site is particularly suited for Omnipoint. They are seeking balance, it is centrally located.

(Jenifer Bajar rejoins the Board.)

Third, same color added. Visual conditions should be good.

Fourth, the positive must outweigh any negative aspects.

Ms. Kendra Lellie inquired about the color of antennas. As a Board, you must decide if there a need for this particular service; you must consider if Omnipoint will make for adequate coverage. This cell site should improve coverage. Ms. Lellie believes something should be added to cover cabinets. Everything else has been covered.

Mr. Christopher Neville discussed updating structurally. You go into particular areas and add additional steel. Ms. Paris they would need permits for brackets, etc.

Mr. Ferrara stated the structural plan, if approved, would be a condition.

Mr. Schlaflin states that we should know what changes would look like before we vote.

Mr. Neville said he has seen poles strengthened. Strips of steel were used as reinforcement for the monopoles. This is the type of reinforcement that is done.

Open to Public.

Ron Murray, 15 Dunn Drive, is adjacent to this location. What considerations are there for planning for the entire town, environmentally, etc. Is there an overall plan?

Ms. Paris stated there is an ordinance for telecommunication facilities; we do encourage them along with co-location. This was the first in Marlboro. No one knew about collocation at that time. So know each time they must return to the Board. They are mostly in commercial zones and on township properties.

Mr. Ferrara signed an extension of time to 4/7/09. Mr. Steib said ZB 09-6250 will be carried and continued to 4/7/09 without further notice.

ZB 09- 6352 – New Cingular Wireless PCS, LLS d/b/a AT&T Mobility

Public Hearing for approval to place six antennas on existing water tank and related equipment cabinets at base of tank at the Service Road off of Beacon Hill Road, Marlboro, NJ, Block 132, Lot 19, located in the LC Land Conservation zone.

The Board took jurisdiction. The following evidence was entered:

- A – 1 Petition on Appeal
- A – 2 Denial by Zoning Officer
- A – 3 Proposal for Site MO 323, Block 132, Lot 19, Service Road off of Beacon Hill Road for New Cingular Wireless PCS, LLC d/b/a AT&T Mobility.
- A – 4 Disclosure Statement
- A – 5 W 9
- A – 6 Tax Collector's Certification
- A – 7 Notice To Adjoining Property Owners
- A – 8 Adjacent Property Listing
- A – 9 Certified White Receipts and Green Cards
- A – 10 Affidavit of Service
- A – 11 Affidavit of Publication
- A – 12 Affirmation of Local Pay to Play Ordinance
- A - 13 Application Affidavit of Completeness
- A – 14 Correspondence from R. Michael Maus, AT&T, 340 Mt. Kemble Avenue, Morristown, NJ stating Cingular is now the new AT&T dated 8-13-08.
- A – 15 AT&T Comprehensive Plan, Site MO-323, Service Road off Beacon Hill Road, Morganville, NJ, Dated 6-13-07.
- A – 16 AT&T Calculated Radio Frequency Emissions, Site M0-323, NYNYNJ6323, Dated 6-13-07.
- A – 17 Letter regarding structural integrity regarding equipment cabinets and the antennas to be mounted to the tank prepared by Robert A. Delery, P.E., and Paul C. Beck, P.E., President, Paul Beck Associates, P.A., 12 Kulick Road, Fairfield, NJ 07004, dated June 5, 2007.
- A – 18 Indemnification and Hold Harmless Agreement
- A – 19 New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, Applicant's Letter of Commitment to lease excess space submitted by JA Babinski, Day Pitney, LLP, PO Box 1945, Morristown, NJ, dated November 17, 2008.
- A – 20 Title Sheet, Site Plan for Site Number MO-323, Beacon Hill Water Tank, prepared by General Dynamics, 630 Freedom Business Center, 3rd Floor, King Of Prussia, PA, dated. 11/19/08.
- A – 21 Report prepared by John W. Borden, Fire Sub-Code Official/Fire Inspector, Marlboro Township, 1979 Township Drive, Marlboro, NJ 07746, dated February 2, 2009.
- A – 22 Report prepared by David Thesing, Gravatt Consulting Group, 414 Lacey Road, Forked River, NJ, Dated February 4, 2009.
- A – 23 Report prepared by Thomas Scangarello, Planning Design Collaborative, LLC, 150 Himmelein Road, Medford, NJ dated 2-6-09.
- A – 24 Report prepared by Sgt Joseph Lenge, Division of Police, Marlboro Township, dated 2/9/09.

- A – 25 **Memo from Michael B. Steib, Esq. Regarding New Cingular Wireless PCS, LLC dba AT&T Mobility Use Variance and Site Plan, Block 132 Lot 19, dated February 10, 2009.**
- A – 26 **Owners Affidavit of Authorization and Consent.**
- A – 27 **Enlarged copy of A-15 showing AT&T coverage, Board mounted map of Marlboro submitted as evidence on 2/17/09.**
- A – 28 **Overlay map exhibiting AT&T coverage in and around Marlboro Township including proposed site.**
- A – 29 **Aerial second map showing AT&T coverage in and around Marlboro Township including proposed site prepared by Jarmel Kizel Witczak, Land Planning and Design, LLC, 81 East Water Street, Suite 1B, Toms River, NJ dated 2/17/09.**
- A – 30 **Enlarged site plan – N0323 gives more topographic information prepared for Cingular Wireless by General Dynamics (General Dynamics Network Systems), 630 Freedom Business Center, 3rd Floor, King Of Prussia, PA dated 10/24/06.**

Michael Levine, Esq., Day Pitney, Esq., 200 Campus Drive, Florham Park, NJ represents AT&T Mobility. AT&T would like to put six antennas with equipment cabinets on the MUA water tank in the Land Conservation zone. It is a conditionally permitted use as per the wireless communication, and as such, encourages certain co-locations for this type of use. The property does not comply with the five acre minimum; we need a D3 conditional use variance in order to proceed. This is a landlocked parcel; and do need site plan approval.

Shari Ashfaq, General Dynamics, 353 West Passaic Avenue, Rochelle Park, NJ. He is an Electrical Engineer designer sites for ATT in Bergen, Ocean, Warren Counties accepted as a Radio Frequency Expert. He prepared comprehensive plan marked as A-15.

Exhibit A – 27 is an enlarged copy (A-15) of a board mounted map of Marlboro, with Omnipoint and ATT already on this map.

Areas according to best coverage down to lack of coverage are marked according to color: purple area is the best signal coverage; green is good coverage and white is lack of coverage. Western, northern and eastern boundaries shown, with red dot showing property discussed this evening.

Mr. Ashfaq confirmed that calls will also likely be dropped in the white marked area. AT&T can also drop a call, but we have two different bands and it depends on the phone. There is up to 80-85% chance that this can happen.

Mr. Ashfaq said if you merge, you have one antenna servicing both bands. Now there are 3rd and 4th generations and the technology has changed. He said they are attempting to cover Route 79, then Tennent, Wooleytown, partially Harbor and Station Roads. We do want to cover as much of site as we can.

Exhibit A – 28 Second Map, is an overlay of what the existing and proposed sites would be.

Mr. Ashfaq said there are no other tenants on this tower. It is a remote monitoring system that is hardwired to site alarms. A text message will go through if someone opened the cabinet. There will be no interference, as the FCC only licenses for a certain band. Directional antennas point the signal where it is directed to.

Discussion followed regarding elevation that would affect power to the tower. There are also hills; topography blocks signals.

Maintenance would be required every 4–6 weeks.

Mr. Malysz asked if you can stack antenna. Mr. Ashfaq said you can not share an antenna with Nextel. They do not understand each other. You only transmit what you are licensed for.

Mr. Schlaflin noted you are looking to maximize use of these structures. Mr. Levine said that there are already requirements in ordinance that address this. Dual poles already exist.

Ms. Bajar asked what the maximum amount of antennas is. Mr. Levine said the next witness can address.

Ms. Paris said there is already a water tower in town with multiple users. We already have an ordinance encouraging a co-location.

Public Questions:

Mr. Al Rudel, 43 Beacon Hill Road, Marlboro

Mr. Rudel asked “What is a T1?” It is a hard wired phone to a switching station.

Mr. Rudel said there is no coverage; you can see there is no coverage from the road.

Charles J. Witzak, III 81 East Water St., Toms River, NJ is a Civil Engineer and Planner and is sworn in and accepted as professional witness.

A – 29 Aerial Map of subject property. It depicts the water tank with a gated driveway and a yellow rectangular area is the concrete area (10x25—6 inch).

A – 30 Enlarged site plan-N0323 exhibit gives more topographic information. (Pad would be level to roadway—proposal of retaining wall.)

Mr. Witzak stated there is a six foot chain link fence with barbed wire to protect the tank and that they are proposing a new fence to enclose the cabinets. There are no telephone poles and the conduit to run along perimeter of driveway. It will be all underground down to Beacon Hill Road. A proposed retention wall will provide natural screening and will minimize number of trees to be removed. Railing on top of tank is expected to be adequate to bolt the proposed antenna.

Mr. Witzak said the six antennas not extremely large, could be installed in two days, with gates locked for safety. Codes will follow BOCA.

Mr. Thesing asked if there are modifications to top of tank. Mr. Witzak answered not to expect any major modifications—they would be bolted to existing structure (rail). The pad is sized to this particular installation.

Ms. Bajar asked if there was any plan to buffer the foundation. Mr. Witzak said the plan is to cut into ground as a natural berm, so you cannot see the cabinets.

Ms. Bajar then asked if the vegetation is to be replaced. Mr. Witzak answered there is a full forest surrounding.

Public Questions:

Mr. Al Rudel, 43 Beacon Hill Road, Marlboro

Where would the trees be cut? Mr. Rudel's property runs beyond the water tower. He is also concerned about stability of retaining wall and the water runoff. The stones along the road will also have to be reestablished.

Ms. Kendra Lellie asked about the conduit following driveway. Mr. Witczak said this plan shows existing condition of MUA. The Engineer will update.

Michael Levine, Esq. signed an extension of time until 4/21/09. No further notice required.

MEMORIALIZATIONS

ZB 08-6349 – Jodi Linder

Memorialization of an approval to keep existing fence masonry fence which exceeds the permitted six feet in height, with arches removed, and allow accessory structure in rear yard setback and concrete foundation which encroaches rear yard setback, at 21 Homestead Circle, Marlboro, NJ, Block 374, Lot 21, located in the R-30/20 Residential zone.

Meeting Adjourned.

Respectfully,

Yvonne M. Cautillo

