

TOWNSHIP OF MARLBORO

ZONING BOARD OF ADJUSTMENT

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Birdsall Engineering

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Planner

T & M Associates

Richard Cramer, P.P.

Traffic Engineer

French & Parrello

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Zoning Officer

Sarah Paris

MINUTES

ZONING BOARD OF ADJUSTMENT

MARCH 20, 2012

8:00 p.m.

SALUTE TO FLAG

SUNSHINE LAW READ

PRESENT:

**Michael Shapiro, Alan Zwerin, Ira Levin,
Adrienne Spota, Stacey DiGrande,
Frank Yozzo, Ibrahim El Naboulsi**

ALSO PRESENT:

**Ronald D. Cucchiaro, Esq, Board Attorney
Sarah Paris, Administrative Officer
Elissa Commins, PE, Birdsall Services Group
Richard Cramer, P&P, T&M Associates
Mark Kataryniak, PE, French & Parrello**

ABSENT:

Jennifer Bajar, Matthew Weilheimer

The minutes of the March 6, 2012 meeting were approved:

Offered:	Michael Shapiro	Ayes:	7
Seconded:	Frank Yozzo	Nays:	0
		Absent:	2

No one signed to speak from the Public.

ZB10-6394 – T-Mobile Northeast LLC

Continuation of a Public Hearing for approval to construct a wireless communications facility, requiring use and bulk variances for an undersized lot and having insufficient fall zone on property located at 112 Amboy Road, Morganville, NJ, Block 172, Lot 34, in an IOR Zone.

- A – 67 Letter from Chris Petruzzelli confirming his review of and agreement with the property Survey submitted to the Board.
- A – 68 Copy of Opinion in the New York SMSA Limited Partnership dba Verizon Wireless v planning Board of Marlboro, Docket No. Mon-L3939-08, Dated February 11, 2009.
- A – 69 Signed Extension of Time to 3/20/12 and Extended to 4/30/12 executed by Reginald Jenkins, Price, Meese, Shulman & D'Arminio, 50 Tice Boulevard, Woodcliff Lake, NJ and forwarded 3/7/12.

Reginald Jenkins, Esq., Price, Meese, Schulman & D'Arminio, PC, Mack-Cali Corporate Center, 50 Tice Boulevard, Woodcliff Lake, NJ, representing T-Mobile, said testimony will be finalized this evening. He relayed that Mr. Petruzzelli is in agreement with the submitted survey.

Mr. Cucchiaro inquired if he was able to determine if he is within the property lines. Mr. Jenkins stated that he did not communicate that. The question was if the lot line was correct and Mr. Petruzzelli relayed that it was.

Mr. Jenkins said since there is a lingering question regarding the cell tower structure, he would like to present Mr. Michael L. Bohlinger, KL Consulting Engineers, 32 West Upper Ferry, Ewing, NJ. He is a Telecommunication's Engineer for the last eighteen years and has previously been an expert witness in Marlboro.

Mr. Bohlinger stated he has reviewed plans and records of the last two hearings. He did visit the site on March 20, 2012 and is here to speak on fall zones. Towers themselves are reviewed continuously and the proposed type of cellular tower has been reviewed over the last ten years.

There are three classes: 1. towers out in a nowhere location, 2. towers located near a residence, and 3. towers used only for emergency services.

The cell towers are subject to high standards and are inspected often. There are not many structures that are engineered to such a high standard. The record of tower failure is virtually nil.

Mr. Bohlinger said wind speeds increase as you go up a monopole. They are designed to cope with high wind speeds of up to 140-160 miles per hour. He explained how they are engineered; with over 240,000 towers, the track record is phenomenal.

Mr. Cucchiaro referred to the North Carolina towers that fell over. Mr. Cramer also found additional information on tower collapse in Massachusetts. It was attributed to a welder's torch. Fires are not attributed to the tower—when flame hits, structurally it fails.

Mr. Cramer submitted two newspaper articles as evidence.

A – 70 Article submitted from www.firehouse.com/node/62632, “Oswego, New York Cellular Tower Crushes Chief’s Vehicle, by Steve Yablonski/Oswego Bureau Chief, courtesy of Oswego Daily News, Posted 11/14/03 and updated 6/24/07.

A – 71 Article submitted from <http://www.thebostonchannel.com/r/s8549832/Detail.html>, “Cell Phone Tower Collapses After Fire” Copyright 2009 by The Boston Channel.com, reprinted 3/20/12.

Mr. Yozzo inquired if the manufacturers are equipped. Mr. Bollinger stated that in the northeast there is a Pocono manufacturer and in Illinois. Due to transportation costs you would probably use the more local as money and delivery time are considered. All structural standards are met.

Mr. Jenkins asked if he foresaw issues as far as this sight. Mr. Bollinger stated that everything must be manufactured and installed to the new standards, with foundation and inspection of installation. An Engineer oversees installation.

Mr. Bollinger stated that specific to the property, the road close by is not in excellent condition and the site did not present as good or bad. It looks okay for operation.

Mr. Bollinger said that when the towers are manufactured, the ideal tower would be round, tapering as it increases; but, steel does not come like this. Steel is flat with the same thickness. The bottom section is thick, the arm may be a little less thick, and the top section thinner. In a tower, the first place to fail is the bottom of the first section.

No questions from the public followed.

Mr. Jenkins stated that he previously gave summary.

Mr. Cucchiaro cited cases. In the first case, NY SMS vs. Marlboro Planning; the application was satisfied. The application proposed 150 feet back and this was the exact height of the pole. Judge Lawson stated the court contends that when the pole falls, they fall exact. He did support a fall zone of at least the height of the tower.

The second case, the Zoning Board approved, then denied. Because of a jug handle, it would have needed 190 feet. Initially, they said it was an aesthetic issue. The Board did identify on this site, where it would fit better. The Court said there was no hardship and no safety issue. It is not a reported decision.

In the third case, Bedminster said the setback should be equal to the height of the tower. The Court did not invalidate setback requirements.

Mr. Cucchiaro said it is important for the record that the applicant did go back to revise. In plans of January 6, 2010; the property owner did not give consent to move the tower. Unfortunately, it did not work out with the property owner. Mr. Jenkins said the owner stated it would interfere with what was going on.

There were no questions from the public and there was a decision to have no Workshop.

Mr. El Naboulsi said it was confirmed on his overseas trip what Mr. Bollinger said. He would feel safe if the fall zone was over 100 feet.

Mr. Yozzo, Shapiro, Zwerin agreed the ordinance should be abided by. Ms. Spota believes this is a discussion for the governing body, saying the Zoning Board should not make a decision about the fall zone. Mr. Levin and Ms. Di Grande agreed they would not be comfortable with.

Motion to Deny

Offered By: Michael Shapiro

Seconded By: Adrienne Spota

Ayes: 6

Nays: 1

Absent: 2

The motion was Approved to Deny

The meeting was adjourned at 9:10 pm.

Respectfully submitted.