

**MINUTES
OF THE
ZONING BOARD OF ADJUSTMENT
CRANBURY TOWNSHIP
CRANBURY, NEW JERSEY
MIDDLESEX COUNTY**

**MINUTES OF JULY 1, 2009
APPROVED ON AUGUST 5, 2009**

TIME AND PLACE OF MEETING

The regular meeting of the Cranbury Township Zoning Board of Adjustment was held at the Township Hall (Old School Building) Main Meeting Room, 23-A North Main Street, Cranbury, New Jersey, on July 1, 2009, at 7:30 p.m.

CALL TO ORDER

Dale Smith, Chairman of the Cranbury Township Zoning Board of Adjustment, called the meeting to order.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, adequate notice in accordance with the Open Public Meetings Act was provided of this meeting's date, time, place and agenda was mailed to the news media, posted on the Township's Bulletin Board, mailed to those requesting personal notice, and filed with the Municipal Clerk.

MEMBERS IN ATTENDANCE

Mr. Gerberich, Mr. Hebert, Mr. Johnson, Mr. Lehr, Mr. McCarville, Mr. Patterson, Mr. Shea, Mr. Smith

PROFESSIONALS IN ATTENDANCE

Stephen Goodell, Zoning Board Attorney; Josette C. Kratz, Zoning Board Secretary; Virginia Guinta, Court Reporter; Mr. Richard Preiss, Township Planner

MINUTES

Upon a motion made by Mr. Shea and seconded by Mr. McCarville, the Board unanimously approved the minutes of May 6, 2009.

RESOLUTIONS

**ZBA 166-09 Frobieter
Block 23, Lot 120
34 Cranbury Neck Road
Fence Variance**

Mr. Lehr motioned for the approval of the resolution. Mr. Shea seconded the motion.

VOTE ROLL CALL

AYES: Mr. Johnson, Mr. Lehr, Mr. McCarville, Mr. Shea, Mr. Smith
NAYS: None
ABSTAIN: None
ABSENT: Ms. Kemp
INELIGIBLE
TO VOTE: Mr. Gerberich, Mr. Hebert

MOTION CARRIED

**ZBA 162-09 Alexander J. Kishyk
Block 23, Lot 87
4 Symmes Court
Bulk Variances request for expansion of garage**

Mr. Shea motioned for the approval of the resolution. Mr. McCarville seconded the motion.

VOTE ROLL CALL

AYES: Mr. Johnson, Mr. Lehr, Mr. McCarville, Mr. Shea, Mr. Smith
NAYS: None
ABSTAIN: None
ABSENT: Ms. Kemp
INELIGIBLE
TO VOTE: Mr. Gerberich, Mr. Patterson

MOTION CARRIED

EXTENSION OF TIME

**ZBA 077-04 Perrine Pontiac - Hummer Showroom
Block 10, Lot 12.02
Route 130
Preliminary & Final Site Plan**

**REPRESENTATIVES: Michael P. Balint, Esquire
Fredrick Perrine, Owner**

Mr. Balint explained that they were here to ask for the first extension of their major site plan approval. He thought that anyone was familiar with what has gone on in the automobile industry, particularly with General Motors. They are intending to move forward at some point with the construction of the building. However, the plans have been held up. In the eighteen months Mr. Perrine has had a number of meetings with representatives of GM.

Mr. Perrine was sworn and stated he has received their continuation letters from GM and are in very good standing. Nothing can be officially done until the new GM is formed. They should be out of bankruptcy as early as next week and can go to contract.

Mr. Balint asked if in the last two years, there have been a number of meetings with GM in discussion of plans for that building and facility.

Mr. Perrine said that right now it is very fluid.

Mr. Balint said they were looking for the one-year extension to see how business stabilized. There may be a possibility that they need some slight modifications to the building depending on what happens, but would like to continue the approval for at least one more year.

Mr. Smith mentioned the joint responsibility for certain drainage issue there and questioned the status in relationship with the delay.

Mr. Balint said that they had a commitment to their neighbor in constructing the basin which would be the first thing done when they are prepared to move forward.

Mr. Smith thought that it wasn't just dependant on the Hummer building extension.

Mr. Balint said the basin was to be built when they, actually build the site, which was a joint basin. It also was taking drainage from Mr. Stasinis property. He added that Mr. Perrine does have all the County approvals necessary for the basin and are in the position that when appropriate they could construct the basin.

Mr. Smith opened the floor to the public. There were none.

Mr. Shea motioned for the approval of the extension of time for one year. Mr. Lehr seconded the motion.

VOTE ROLL CALL

AYES: Mr. Hebert, Mr. Johnson, Mr. Lehr, Mr. McCarville, Mr. Patterson, Mr. Shea, Mr. Smith
NAYS: None
ABSTAIN: None
ABSENT: Ms. Kemp
INELIGIBLE
TO VOTE: Mr. Gerberich

MOTION CARRIED

APPLICATIONS

ZBA 168-09 Metro PCS NY, LLC
Block 7, Lot 23.02, Zone HC
2682-2686 Route 130
Preliminary & Final Site plan for Co-location on
Existing Cell Tower

REPRESENTATIVES: Richard L. Schneider, Esq. – Vogel, Chait, Collins & Schneider
Daniel Collins, EMS Expert – Pinnacle Telecom Group
Dan Penesso, RF Engineer - MetroPCS
Gregory Nowak - KMB Design Group
Ron Reinertsen, P.P. AICP, - Pennoni Associates

Mr. Schneider gave a brief opening explain that Metro PCS was planning a co-location of its wireless facility on an existing approved communications tower on Block 7, Lot 23.02. It has been the determined that since the original tower required the approval of a use variance and that this Board would retain jurisdiction on that basis, that future co-locators would represent an intensification of that use.

Representatives were sworn and qualified.

EXHIBIT A-1 Coverage from the Proposed Neighboring MetroOCS Sites Overlay,
Created June 29, 2009

The proposed location represented by the blue star on the center of the map. The blue dots surrounding the site are the immediate hand-off sites. They use existing structures to try and provide seamless coverage and do not want to introduce new sites. This will provide coverage for 2.7 miles along Route 130, 1.7 miles along Plainsboro Road, 1.3 miles along Main Street, and 1.4 along Cranbury-South River Road. The array would be at the 130 ft level which they felt covered the area.

Mr. Preiss asked if there were areas of Cranbury that would not be covered by the service provided with this antenna.

The exhibit showed the areas lacking.

Mr. Preiss asked if they anticipated installing cell towers. The answer was no, currently. Mr. Preiss asked about the wide band service and whether their competitors have utilized it. Mr. Penesso said Sprint had, which was about the same coverage.

Mr. Preiss explained that Cranbury's objective, in terms of allowing cell towers to occur, is to have as few monopoles or additional structures as possible. The applicant was questioned if they were maximizing the ability to cover a service gap with this antenna or could different antennas be placed on the monopole to cover a larger area.

Mr. Penesso showed the coverage area along with the other sites supplementation. Mr. Preiss asked about the major considerations in extending the service since the area of less coverage was not a heavily populated area. Mr. Penesso said that they want seamless coverage, but at this time he did not have any concrete information to give the Board.

Mr. Preiss asked if sometime in the future another antenna would have to be located in the area to provide service. Mr. Penesso said yes.

Mr. Preiss noticed that the array of antenna was a slightly different design closer to the pole and smaller than what was currently provided. Mr. Penesso said that the T-arms were just the mounting. The power level was basically the same.

Mr. Smith asked about the length of the arms. Mr. Penesso said that he believed they are four feet. Mr. Smith asked the radius of coverage of from the tower. Mr. Penesso said he could not give a uniform circular measurement due to the topography and structures within the area.

Mr. Collins gave his credentials and was accepted as a professional in his field of expertise. He explained that they are more conservative than what the FCC suggests. They do calculations as if each of the carriers has arrived at the site at maximum channel capacity with maximum power of a channel. They assume a series of worst case scenario assumptions. The analysis was cumulative emissions.

Mr. Collins explained the safe continuous exposure levels with regard to the FCC and New Jersey standards. They were comfortable with the radio frequency levels, which they were below a half of a percent.

Mr. Nowack was accepted as a professional in his field of expertise. The tower was at a height of 150 ft. Currently installed on the tower were the Omnipoint communication antennas at 140 ft +/- . If the board looks at the site plans, it shows the dimension of the proposed mounting. The mounts project away four feet with three foot separations. That would be slightly smaller than the existing Omnipoint. This would be mounted at the 129 ft +/- level with three sectors and each with two antennas. The compound is and will continue to be surrounded by the fence.

The equipment cabinets are considering an expansion of a conditional use. A technician will visit the site every four to six weeks. The only utilities at the site would be electric and telephone. They had the opportunity to review the previous condition of the approval; they can comply with all of the conditions.

Mr. Preiss mentioned that on the antenna plan, Page 3.05, the mounting is four feet. In relation to the southeast elevation, it is substantially less than what is shown for the existing antennas for Omnipoint. He asked if the testimony was that it would be substantially less extensive than Omnipoint. He said that in the initial application made by Sprint, the Board was trying to reduce the profile of the antennas. The Board was told that the mounting arms had to be that length in order to provide service. He asked how PCMetro was able to do it with the arms only at four feet while the other carriers have theirs extending much further.

Mr. Preiss asked if Metro PCS has six and the others have twelve. The answer was yes.

Mr. Smith said that this was not as he recalled. He added that the Board was very concerned about the array, and they came initially with the typical triangular installation. His recollection as that they had it down to a 2 ft arm and were surprised to see they are looking at a four foot arm and being described as shorter. The resolution only refers to a manufacture type and doesn't give that piece of information.

The Board had Ms. Kratz located the exhibits from the Sprint application.

Mr. Goodell read the Sprint resolution reference, "All antennas, including those of potential co-locators shall use the modified cluster mount as referred to on the documents marked as Exhibit A-1..."

Mr. Smith said that the Omnipoint resolution reflected the same.

Mr. Goodell said they were looking for the September 21, 2006 revision date.

Mr. Preiss asked why Sprint had not yet installed their antenna.

No one could answer that question at this time.

Mr. Smith said he was puzzled because looking at the tower, the two foot arm was not installed.

Mr. Smith and Mr. Goodell reviewed the exhibits from the previous applications. Mr. Smith said that the Sprint drawings show a 24" offset.

Mr. Goodell asked if the testimony was that the antenna mount that was part of the Sprint application was one that you could do from an engineering standpoint? Mr. Penesso said it was.

Mr. Hebert asked why they could not come in with a whole comprehensive plan. Mr. Preiss explained that the Township actually had a study by an independent radio frequency engineer providing an opinion as to whether the Township themselves could provide some plan to have compressive coverage and minimize the number of towers. In the end, that the need for additional monopoles would have to be provided in the fashion that was proposed here. The intent was to minimize the number of monopoles. There is a change based on the new technology anticipated when the study was done, that monopoles at the same height would not be needed and there would be alternative means to provide coverage.

Mr. Reinertsen gave his credentials and was accepted. He gave his argument that the conditional use and the cabinets being considered as a form of outdoor storage was technically an expansion or intensification of the outdoor storage.

Mr. Smith felt that this may be elaborated in greater depth than necessary. Certainly this site was anticipated and prior approvals were given within the confines of the existing structure below. Mr. Preiss said that the Board would like to get right to the visual impact discussion.

Mr. Reinertsen, using the sheets previously submitted as part of the application, explained the visual impact.

Mr. Preiss said he appreciated the photo simulation. He was concerned about the discrepancies of his drawings and Mr. Nowacks. The MetroPCS with the closer arm would be substantially closer to the monopole than the Omnipoint. However, in the simulation that Mr. Reinertsen shown if shown at four feet and Omnipoint is actually greater than four feet, it is not reflected in the photo simulation. He was not sure how to go from here on which drawing would be correct.

Mr. Preiss said, despite of what the array was on T-Mobile, his preference would be to have the PCSMetro as close to the pole as possible. The lower profile is less visible. The Township Engineer should go back to the plans and review the Omnipoint resolution to determine if the antenna had been constructed consistent with what the Board approved, and the Zoning Officer

may need to take a course of action to make sure that they are in compliance. Irrespective of what was approved and what has been built out there, he felt the smaller profile was better.

Mr. Smith stated that one of the experts said that maybe T-Mobile may have been a three panel antenna rather than a two panel, which would spread it out further. He concurred that if there wasn't an issue with a smaller project on two other occasions then that was what the Board should ask for.

Mr. Schneider said the two foot arm was acceptable.

Mr. Smith mentioned there were conditions asked in both the Sprint and the Omnipoint applications. He questioned whether those site conditions were met.

Mr. Art Hasselbach, site property owner was sworn.

Mr. Hasselbach said they have enclosed the trash containers and are working on the stone. Other than that everything was fine.

Mr. Smith asked if the following things were done: consolidate outdoor storage (yes); provide 24 trees (answer was amended by Ms. Marcelli reduced to 18 trees); provide screening of existing dumpster (answer was yes); tractor, backhoe, and horse trailer being stored on property (answer was when not in use it is stored outside).

Mr. Goodell asked about the status of the landscaping plan. Mr. Hasselbach said it was complete.

EXHIBIT A 2, 3 & 4 Photos of the existing conditions.

Mr. Smith opened the floor to the public. There were none.

Mr. Goodell asked if there were any site plan waivers that the applicant was looking for. Mr. Schneider said that there were listed as part of the application rather than go through each one.

Mr. Goodell said that the motion should include the request for waivers, detailed in application as a two page submission.

Mr. Shea asked if the plans would be modified to reflect the two foot off-set as testified.

Mr. Shea motioned for the approval of the resolution. Mr. McCarville seconded the motion.

VOTE ROLL CALL

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| AYES: | Mr. Hebert, Mr. Johnson, Mr. Lehr, Mr. McCarville, Mr. Patterson, Mr. Shea, Mr. Smith |
| NAYS: | None |
| ABSTAIN: | None |
| ABSENT: | Ms. Kemp |
| INELIGIBLE | |
| TO VOTE: | Mr. Gerberich |

MOTION CARRIED

ADJOURNMENT OF MEETING

There being no further business, on a motion duly made, seconded, and carried, the meeting was thereupon adjourned.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that I am duly elected and acting Secretary of the Zoning Board of Adjustment, and that the foregoing Minutes of the Zoning Board of Adjustment meeting, held on July 1, 2009, comprised of 4 pages, constitute a true and correct copy of the Minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said this August 5, 2009.

Josette C. Kratz, CPS

/jck