

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
APRIL 14, 2010
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **JERMAN** **BOA#09-5291 (Carried from 3/10/10)**
(Rec'd Request to Carry to May 12, 2010)

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot
Block(s): 527 Lot(s): 15 & 17
Address: Maryland Ave. Zone: R-125
Denial Reads: The Applicant proposes to construct a single-family dwelling on a 10,000 s.f. lot where 12,500 s.f. is required.

2. **JERMAN (IF REVISED PLANS RECEIVED)** **BOA#09-5272 (Carried from 3/10/10)**
(Rec'd Request to Carry to May 12, 2010)

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot
Block(s): 509 Lot(s): 11
Address: Roosevelt Ave. Zone: R-125
Denial Reads: Applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with a 50 foot lot frontage where 100 feet is required, 20 foot combined side yard setback where 25 feet is required, and a 24 foot rear yard setback where 30 feet is required.

3. **METRO PCS NEW YORK** **BOA#10-5305**

Variance(s) requested: Use Variance

Project: Co-Locate Wireless Antennas and Equipment

Block(s): 264 Lot(s): 1 thru 15

Address: 565 Northern Blvd. Zone: R-150

Denial Reads: The Applicant is proposing to install wireless telecommunications antennae and GPS antennae at elevation 117 +/- feet and elevation 111 +/- feet on an existing 111 ft. high water tank situated on Lots 1-15 in Block 264, a 1.7 +/- acre site located in the R-150 Residential Zone. Other proposed ground improvements include outdoor equipment cabinets on a new concrete pad, cable bridge, and chain link fencing.

G. RESOLUTIONS TO BE ADOPTED.

H. APPROVAL OF MEETING MINUTES.

I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on April 28, 2010 at 7:00 PM



MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: March 4, 2010

RE: **MetroPCS New York – Review #1**
Application: Co-locate Wireless Antennas and Equipment – Use Variance
Block: 264 Lots 1-15
Fronting on: 565 Northern Blvd
Zoning District: R-150
BOA#: 10-5305
Our File No.: PBAZ0264.03/60001

In accordance with your request, our office has reviewed the plans prepared by KMB Design Group dated January 27, 2010, submitted for the above referenced application. The following comments are offered with regard to the same.

1. Application

The denial states that the “applicant to install additional telecommunications antennas and equipment cabinets which is not permitted in the R-150 zone”.

The applicant is proposing to install wireless telecommunications antennae and GPS antennae at elevation 117+/- and elevation 111+/- feet on an existing 111 ft high water tank situated on Lots 1-15 in Block 264, a 1.7+/- acre site located in the R-150 Residential zone. Other proposed ground improvements include outdoor equipment cabinets on a new concrete pad, cable bridge and chain link fencing.

2. Location

The site is bounded by Columbus Circle (Paper) on the west, Spruce Street (Paper) on the north, Greenway Road (Paper) on the east, and Northern Blvd (gravel) on the south. Access to the site is from Northern Blvd. The site currently contains Berkeley Township Municipal Utility Authority facilities. Pursuant to Section 35-96.2, Cellular Telecommunications Facilities are not specifically listed as a permitted principal or conditional use in the R-150 zone, thereby requiring a Use Variance. The existing water tower is currently co-located by other wireless communication providers.

3. Zoning Issues

- a. The plans indicated that the height of the existing and proposed antennas is 117.3' where the maximum allowable height of a structure in the R-150 zone is 35 feet. The applicant has requested a variance for same.
- b. Pursuant to Section 35-96.2, Cellular Telecommunications Facilities are not specifically listed as a permitted principal or conditional use in the R-150 zone, thereby requiring a Use Variance.





Memo to Board Secretary – Zoning Board of Adjustment
Our File: PBAZ0264.03
March 4, 2010
Page 2 of 4

- c. As with any Use Variance, testimony is required to demonstrate that the applicant satisfies the positive and negative criteria of the Municipal Land Use Law for granting of the Use Variance as follows:
- i. Positive Criteria
 - 1. That the site is particularly suited to the use.
 - 2. There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reasons, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (NJSA 40:55D-2).
 - ii. Negative Criteria
 - 1. That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
 - 2. That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance. Consistent with requirements of the Medici case, the applicant needs to provide an enhanced quality of proof that the use variance sought is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance.
- d. Although this is not a conditional use variance application, the conditions outlined in Section 35-127.12 – Cellular Communications Towers and Facilities, may be used as a guide:
- i. **Section 35-127.12.e** – The co-location of a cellular antenna on an existing water tower, silo or equivalent vertical structure, including an existing cellular, radio or television tower, is permitted without the need to meet conditions b, c and d of this section, provided that the height of the existing structure is not increased as a result of the attachment of the cellular structure. *The applicant is not proposing to increase the height of the water tower.*
 - ii. **Section 35-127.12h.1** - As independent freestanding facilities on separate sites will not be accessible to the public, the lighting permitted shall be the minimum required to protect the public welfare. Facilities sited on existing developed sites shall be incorporated into the lighting and landscaping plans of those sites. *The applicant should discuss provisions for lighting.*





Memo to Board Secretary – Zoning Board of Adjustment
Our File: PBAZ0264.03
March 4, 2010
Page 3 of 4

- iii. **Section 35-127.12.j** – As part of the requirements for landscape screening in residential areas, the board may require a 6 foot solid or semi-open decorative wood fence at the perimeter of the site and a 6 foot high chain link fence around the base of the tower. A 6 foot high chain link fence around the water tank currently exists at the site.
 - iv. **Section 35-127.12.l** – Upon cessation of use of the tower site for the approved or preexisting conditional use, the tower structure and antenna shall be removed within one (1) year, subject to FCC concurrence. In the case of co-located antenna on preexisting vertical structures, this provision shall apply to the antenna only.
 - v. **Section 35-127.12.m** – The applicant will provide documentation that the proposed communications facility will have electromagnetic emissions within the safety standards established by the American National Standards Institute (ANSI: c.95.1-1992) as amended or any superseding State or national standard in effect on the date the conditional use permit application is submitted to the Board. (Ord. No. 92-27 § 118-18.11). *Applicant should discuss compliance with same.*
- e. The applicant has requested a waiver from the requirement of submitting an Environmental Impact Statement (EIS). We have no objection to the waiver of the EIS in light of the proposed minimum disturbance to the existing site.

4. Site Plan:

- a. The applicant should clarify if access to the proposed compound will be primarily from the existing water tower compound or from outside of same. A note on the site plans seems to indicate that the existing brush line will be cleared, as required, for the proposed compound and compound access.
- b. On site gravel areas should be replenished and re-groomed, if necessary as part of the site work. A note should be provided on the construction plan regarding the contractor's responsibility for same.
- c. Sufficient clearance, width, and height between the MetroPCS Wireless ground facilities, including the proposed cable bridge, and the tank in order to provide access for the Authority vehicles should be coordinated with the property owner. In addition, there should also be sufficient clearance between the ground facilities and the tank to provide for sand blasting and recoating of the tank.

5. Other Agency Approvals

- a. The applicant should discuss approvals by all other agencies having jurisdiction, if require, including the following:
 - i. Ocean County Planning Board
 - ii. Federal Aviation Administration, if required



JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
JOHN J. STEFANI, P.E., L.S., P.P.
JAY B. CORNELL, P.E., P.P.
MICHAEL J. McCLELLAND, P.E., P.P.
GREGORY R. VALES, P.E., P.P.



TIMOTHY W. GILLEN, P.E., P.P.
BRUCE M. KOCH, P.E., P.P.
ERNEST J. PETERS, JR., P.E., P.P.
LOUIS J. PLOSKONKA, P.E.
TREVOR J. TAYLOR, P.E.
BEHRAM TURAN, P.E.

Memo to Board Secretary – Zoning Board of Adjustment
Our File: PBAZ0264.03
March 4, 2010
Page 4 of 4

iii. Berkeley Township Municipal Utilities Authority.

- b. Copies of permits, applications, approvals or certifications waivers, or letters of no interest for all other agencies having jurisdiction, as may be required, should be provided as a condition of final approval and prior to the site disturbance.

6. Discussion Items

- a. Whether the proposed antennae will in fact improve telecommunications services, and that the existing capacity is inadequate. This could be in the form of a Comprehensive Service Plan and/or existing tower inventory.
- b. That no other existing towers or technologies exist to meet the applicant's needs.
- c. Whether an evaluation of the structural integrity of the tank has been performed with regard to the weight, wind loads, and ice buildup.
- d. How frequently the tower will be visited, anticipated technicians, equipment, and duration of service.

Summary

Any approval should be contingent upon the submission of revised engineer's reports and plans in accordance with the above comments; proof of approval or waivers from all agencies having jurisdiction; Berkeley Township Municipal Utility Authority approval; the applicant complying with all of the recommendations of the Board; and the applicant's payment of any outstanding professional fees of the Board and the Township.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr

cc: Edward Liston, Esq. - Board Attorney
MetroPCS - Applicant
Lynne A. Dunn, Esq. - Applicants Attorney
KMB Design Group

