

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
JULY 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. **LONG** **BOA#10-5318**

Variance(s) requested: Bulk Variances
Project: Demolish & Rebuild Single-Family Dwelling
Block(s): 896 Lot(s): 457, 457.01, and 458 through 461
Address: 109 Harbor Court Zone: R-100
Denial Reads: Applicant wishes to demolish existing non-conforming single-family dwelling and replace with a new single-family dwelling that will have a 30 foot front yard setback where 35 feet is required, a 10.2 foot rear yard setback where 30 feet is required, and 28.2% lot coverage where 25% maximum is permitted.

2. **OMNIPOINT (T-MOBILE)** **BOA#08-5237 (Carried from 5/26/10)**

Variance(s) requested: Use Variance/Height Variance/Major Site Plan
Project: Cellular Antennae Tower
Block(s): 837.03 Lot(s): 7.01
Address: Woodland Road Zone: R-MF/R-90
Denial Reads: The Applicant is proposing to install a telecommunications antennae at a height of 120 ft. +/- on a new 120 ft. +/- high mono-pole tower extendable to 140 ft. +/- on Lot 7.01 in Block 837.03 at the rear of the existing St. Barnabas Church property. Other proposed ground improvements include ground equipment, cable bridge, underground electrical cable, and 6 ft. high chain link fence.

- G. RESOLUTIONS TO BE ADOPTED.
- H. APPROVAL OF MEETING MINUTES.
- I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on July 28, 2010 at 7:00 PM

JOHN H. ALLGAIER, 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: 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: June 24, 2010

RE: **Russell Long Variances – Review #1**
Application: Demolish and Rebuild Single Family Dwelling
Block: 896, Lot 457, 457.01, 458-461
Fronting on: 109 Harbor Court
Zoning District: R-100
Plans: Plot Plan – Prepared by East Coast Engineering, Inc.; dated June 2, 2010
BOA#: 10-5318
Our File No.: PBAZ0896.01/600.01

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

A. PROJECT OVERVIEW

1. The denial states the “applicant to demo existing non-conforming SFD and replace with a new SFD that will have a 30’ front yard setback where 35’ is required, a 10.2’ rear yard setback where 30’ is required and 28.2% lot coverage where 25% is maximum allowed”. The lot in question is located on the north side of Harbor Court, within the R-100 zone. The applicant is proposing to demolish an existing dwelling and construct a single family dwelling and associated site improvements on the lot.

2. R-100 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	10,000 sf	10,031 sf	10,031 sf	<input type="checkbox"/>
Min. Lot Frontage	100 ft	100 ft	100 ft	<input type="checkbox"/>
Front Yard Setback	35 ft*	25.7 ft	30 ft	<input checked="" type="checkbox"/>
Rear Yard Setback	30 ft	29.3 ft	10.2 ft	<input checked="" type="checkbox"/>
Side Yard Setback	10 ft	23.9 ft	13 ft	<input type="checkbox"/>
Combined Side Yard	30 ft	66.3 ft	30.7 ft	<input type="checkbox"/>
Max. Lot Coverage by Building	35%	15.1%	28.2%	<input checked="" type="checkbox"/>
Max. Building Height	35 ft	< 35 ft	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1250 sf	1517 sf	2729 sf	<input type="checkbox"/>

B. GENERAL REVIEW COMMENTS

1. The applicant should provide a description of the proposed dwelling and improvements. The applicant should provide testimony to the Board regarding the need to construct the structures within the front and rear yard setbacks in addition to the need to exceed the maximum lot coverage requirement.
2. The applicant is proposing to serve the proposed dwelling by utilizing the existing utility services.





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3. The applicant is proposing to raise the proposed grade on the lot. We recommend that the grading plan be amended to better follow the existing drainage patterns and to prevent adverse impacts to the adjoining properties.
4. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
 - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
 - c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

C. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the following:
 - a. The Applicant resubmitting a plan which includes those items covered above and discussed at the Board meeting, if required.
 - b. The Applicant certifying to the following:
 - i. The proposed grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site
 - ii. Payment all outstanding professional review fees of the Board and the Township
 - c. The Applicant providing the following to the Building Department at time of application for a building permit:
 - i. A grading permit in accordance with Section 11-1.5.
 - ii. Architectural plans of the proposed dwelling, to show compliance with building codes.
 - iii. Proof of approval and/or waivers, if required, from all agencies having jurisdiction including the NJDEP, Ocean County Soil Conservation, Ocean County Planning Board, Berkeley Twp Sewerage Authority and Water Company.

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
Mr. Long - Applicant - 109 Harbor Court, Pine Beach, NJ
Jason M. Marciano, P.E. - Applicant's Engineer





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: May 19, 2010

RE: **T-Mobile Northeast, LLC (OmniPoint Communications, Inc.) – Review #3**
Application: Cellular Antennae Tower
Block: 837.03, Lot 7.01
Fronting on: Woodland Road
Zoning District: R-MF/R-90
Plan: Use Variance/Site Plan – Block 837.03, prepared by French and Parrello
dated June 10, 2008, last revised May 3, 2010
BOA#: 08-5327
Our File No.: PBAZ0837.03/600.01

In accordance with your request, our office has reviewed the following variance/site plan application submitted for the above referenced property. The following comments are offered with regard to same:

PROJECT OVERVIEW

The applicant is proposing to install a telecommunications antennae at a height of 120'± on a new 120' ± foot high treepole tower extendable to 140' ± on Lot 7.01 in Block 837.03 at the rear of the existing St. Barnabas Church property. Other proposed ground improvements include ground equipment, cable bridge, underground electrical cable, gravel access driveway and 6' high chain link fence.

The 45.5 ± acre site is split by the R-90 Residential Zone and the R-MF Residential Multi Family Zone where cellular communication towers and facilities are not permitted. The proposed tower facility will be within the R-MF Zone toward the rear of the site.

The existing site in the area of the proposed facility is bounded by commercial to the north, dwellings on the east and west and the remainder of Lot 7.01 on the south. The plans indicate vehicle access will be from the existing entrance driveway to the site from Route 9 and underground utility access for the proposed facility will be from the east along Korman Road.

ZONING ISSUES

1. The plans indicated that the height of the proposed tower is 120' where the maximum allowable height of a structure in the R-MF zone is 35 feet. The applicant has requested a variance for same.
2. Since the proposed location of the cell tower is in the R-MF zone where cell towers are not a permitted, accessory or a conditional use, the applicant will require a use variance. 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 the granting of the Use Variance. The Board could impose additional conditions on the site including landscaping, which could better integrate the use with surrounding uses. Consequently, the applicant must demonstrate the following:

I. Positive Criteria

- a. That the site is particularly suited to the use.





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- b. There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reason, 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

- a. 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.
- b. 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.

DISCUSSION ITEMS

1. 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. The applicant should be prepared to discuss the following:
 - a. Per Section 35-127.12a, a freestanding cellular telecommunication tower shall be located at a distance to any property line of at least one and one-half (1 ½) times the height of the tower structure (210 feet). The proposed amended tower location is 520' + from the northern property line, 220' ± to the western property line and 237' ± from the eastern property line.
 - b. Per Section 35-127.12b, earth tone colors are required to a height of 50 feet and sky blue above 50 feet. The applicant is proposing a Treepole type mono-pole.
 - c. Per Section 35-127-12b, the applicant is required to provide screening and should discuss waiver requests for same, specifically discussing the existing wooded areas on-site and adjacent to the site relative to screening of the existing residential uses to the west and east of the property.
 - d. Per Section 35-127.12 h, three adjacent off-street parking spaces shall be provided for service vehicles. The plans show a 12' wide gravel access drive and a 15' by 20' turn-around area and gravel parking area. The applicant should provide testimony regarding whether this is adequate parking for the site.
 - e. Per Section 35-127.12 j, the area around the base of the tower shall be secured with a six (6) foot chain link fence. The applicant has provided same, however, at the previous meeting; the applicant indicated that a board on board fence would be installed to provide additional screening.
 - f. Per Section 35-127.12 l, upon cessation of use, the antenna and equipment shall be removed and all underground utilities deactivated within a one (1) year period.





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2. In addition, the applicant should be prepared to discuss the following:
 - a. That no other existing towers or technologies exist to meet the applicant's needs.
 - b. Anticipated future carriers and whether there is enough room on the site to support these carriers.
 - c. Submission of a Traffic Impact Statement. The applicant has indicated only one (1) vehicle is required to maintain the facility and is requesting a waiver for submission of a traffic impact report. We have no objection to same.

SITE PLAN REVIEW:

1. The applicant should indicate if any trees will require removal in order to construct the 12' wide gravel access driveway and communication facilities.
2. The applicant should provide results of soil boring and geotechnical soil foundation analysis for the tower foundation at the time of application for a building permit. A mono-pole tower foundation detail should be provided.

OTHER AGENCY APPROVAL ISSUES

The applicant should discuss approvals by all other agencies having jurisdiction including the following, if required; Federal Communications Commission, Ocean County Planning Board, Ocean County Soil Conservation District and the Federal Aviation Agency. Copies of applications and approvals or certifications, waivers or letters of no interest as may be required should be provided as a condition of final approval and prior to the site disturbance.

Any approval should be contingent upon the submission of revised engineer's reports and plans in accordance with the above comments; submission and approval by the Township of a sequence of construction and contractor's staging plan prior to site disturbance, proof of approval or waivers from all agencies having jurisdiction; the applicant paying all outstanding review fees of the Board and Township and the applicant's engineer submitting an estimate of improvement cost of the project in order that necessary bonds and inspection fees can be calculated.

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

RJR/blr
cc: Edward Liston, Esq. - Board Attorney
Frank Ferraro, Esq.
French and Parrello

