

**STILLWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
August 27, 2012**

MEMBERS PRESENT: Mr. Hammond, Mr. Lippencott, Mr. Daingerfield, Mr. Sarni, Mrs. Feenstra, Mrs. Galante, Mr. Powell

MEMBERS ABSENT: Mr. Stachura, Mr. Saal

ALSO PRESENT: Board Attorney Morgenstern; Board Engineer Rodman

A REGULAR MEETING OF THE Stillwater Township Zoning Board of Adjustment was held on Monday, August 27, 2012, at 7:30 p.m. at the Municipal Building in Middleville, New Jersey. The meeting was called to order by Chairman Powell in accordance with the Open Public Meetings Act.

The flag was saluted and roll call taken.

Krista Galante was appointed by the Township Committee as an Alternate #2 member, term expiring 12/31/12. She was sworn in by the Municipal Clerk prior to the meeting.

Mrs. Galante and Mr. Powell submitted certification for the meeting of 6/25/12.

MINUTES

Mr. Daingerfield made a **motion** to approve the minutes of July 23, 2012, seconded by Mr. Lippencott.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Sarni, abstain, Mr. Lippencott, yes, Mrs. Feenstra, abstain, Mrs. Galante, abstain, Mr. Powell, abstain

HEARING

Barry Hollinger, Block 3304, Lot 3, Cal. No. 575 – Amended Application for Change of Use

Mr. Hollinger was represented by William Hinkes, Attorney, Newton, New Jersey. Notices appeared to be in order.

Mr. Hinkes provided a brief history of the application and the following exhibit was marked as **A-1: Technical Data – Glass Fiber Media (Viledon)**, dated 8/27/12, nine pages

Mr. Hollinger, still under oath, described the uses presently located on the property and provided the following information with the amended application:

Nock on Wood: This tenant occupies the part of the primary structure that faces Old Station Road. The owner and one or two employees fabricate cabinets and do other wood working. Operations are from Monday through Friday. There is no lease. The only parking at the site is the worker's vehicles during the day.

DeLade Bros. Electric Inc.: This tenant occupies the ground level of the main structure at the rear of the building. The tenant stores inside the structure an auger vehicle and bucket truck and a small loader. The remainder of the space is used only for the storage of supplies and equipment. Occasionally two panel trucks and a job trailer are parked outside of the rear of the building when not being used. No work is performed on site; the employees park their cars at the site, load equipment and leave in the panel trucks. There is no lease.

Highlands Chimney Sweep: This tenant occupies the free-standing block shed at the back side of the main structure. The tenant stores wood/pellet stoves, piping and other equipment for its business. No work is done on the premises. There is no lease.

Waterboy: This is Mr. Hollinger's business and he stores up to three water tank trailers either in the lot at the rear of the main structure or in the lot across the street which he also owns. He would like approval to maintain two of the water tank trailers on the property.

Mr. Hollinger also occupies three rooms in the main structure and the second outbuilding closest to Old Station Road. He stores tractors and maintenance equipment in the outbuilding as well as in parts of the main structure. He also keeps a trailer in the back parking lot marked "Toy Box" for his antique tractors, and there is a backhoe located in the rear lot. Using **Exhibit ZBA-2 (5/31/12)**, Mr. Hollinger described the location of Highlands Chimney Sweep. Sales are conducted through a home office using an ordering catalog and the owner meets with individuals off site; there is no showroom. Mr. Hollinger indicated he would remove the metal frame structure currently located on the property as a condition of any approval. Mr. Hinkes stated there have always been multiple uses at the site and the site lends itself to a tenancy situation and is particularly well suited for the uses. The uses are less intensive than those prior, there are a minimal amount of employees on site, no customers to the site and all four uses are of the same genre. Mr. Hollinger testified that he uses the equipment on the site to maintain the property, mow the lawn and snow removal. There is no office for Waterboy, only a storage area and the water tank trailers. Following a discussion on the number of employees, Mr. Rodman suggested limiting the employees to the number existing at the present time. The Board requested an accurate account of the current number of employees and vehicles on the site and the square footage each use occupies, including percentage calculations. Mr. Hinkes agreed to provide the information, noting the applicant does not want to negatively impact the zone and stating the applicant would return for Board approval if the uses should increase in the future. Mr. Hollinger provided the following testimony:

DeLade Bros.: 2-4 employees; 2 utility trucks; 2 trucks parked inside; 1 bucket truck

Highlands Chimney Sweep: 1 employee; 1 truck

Nock on Wood: 1-2 employees; 1 vehicle

Mr. Powell stated the site does not appear to be crowded as it currently exists, however expansion could be an issue. He requested a site plan of the existing uses and Mr. Hinkes agreed to do so.

At this point, this portion of the meeting was opened for public comment at 8:15 p.m. There being no public comment this portion of the meeting was closed at 8:15 p.m.

The Board noted no setback variances would be necessary as the buildings are pre-existing nonconforming structures.

Mr. Morgenstern reviewed the variance relief required as follows:

-D1 use variance

-More than 1 use on the lot 240-104(g)(1)

-Pre-existing conditions – frontyard, sideyard, rearyard setbacks – variance to be determined by the Board

-Site plan waiver or approval

Mr. Lippencott made a **motion** to grant the required variance relief, seconded by Mr. Hammond.

The following conditions were suggested:

- No public access to the site by customers
- Limit vehicles to those testified
- Compliance with #7 of Board Engineer Rodman's report
- Dispose of paint, thinners, and chemicals off-site in compliance with NJDEP regulations
- Approval of the Sussex County Planning Board or letter of no interest
- Sussex County Health Department documentation confirming the septic system is adequate for the uses
- No exterior storage other than what currently exists.
- Applicant must provide Stillwater Fire Department with list of all chemicals stored on site by all tenants.
- Metal frame structure must be removed from the site.
- No more than two water tank trailers may be stored on the site
- If any of the uses change, the applicant must reapply to the Board for approval.
- There shall be no more than eight employees (including Mr. Hollinger), each use to be referred to separately with respect to number of employees, number of vehicles and square footage.
- All other standard conditions, rules and regulations to apply

Following a brief discussion regarding the lot owned by Mr. Hollinger that is located across the street from the property, the Board determined it was not a part of this application.

Roll Call Vote: Mr. Hammond, yes, Mr. Lippencott, yes, Mr. Daingerfield, yes, Mr. Sarni, yes, Mrs. Feenstra, yes, Mr. Powell, yes

Mr. Daingerfield made a **motion** to approve the site plan by Gerald G. DeGroat, L.S., dated March 14, 2001, with demarcation of the percentage of the uses in the building to be added, seconded by Mr. Sarni.

Roll Call Vote: Mr. Hammond, yes, Mr. Lippencott, yes, Mr. Daingerfield, yes, Mr. Sarni, yes, Mrs. Feenstra, yes, Mr. Powell, yes

Mr. Daingerfield made a **motion** to carry the application to September 24, 2012 for the memorializing resolution, seconded by Mr. Hammond.

Roll Call Vote: Mr. Hammond, yes, Mr. Lippencott, yes, Mr. Daingerfield, yes, Mr. Sarni, yes, Mrs. Feenstra, yes, Mr. Powell, yes

HEARING

Cellco Partnership/d/b/a Verizon, Block 3101, Lot 13, Cal. No. 578 – Cell Tower

Certification was submitted by Mr. Powell and Mrs. Galante for the June 25, 2012 meeting.

Mr. Sarni cited a conflict and left the meeting at 8:35 p.m. Mr. Hammond cited a conflict and stepped down from the hearing. Mr. Morgenstern stated that five members of the six eligible to hear the application were present at the meeting. Notices appeared to be in order.

Richard Schneider, Esq., of Vogel, Chait, Collins and Schneider, Esqs. was present on behalf of the applicant, Cellco Partnership, d/b/a Verizon Wireless. Mr. Schneider provided a brief background of the application and described the property. The property is located in the R-5 Zone, the tower is not permitted in this zone and a use variance 40:55-70(d)(1) and preliminary/final site plan approval are required.

Glenn Pierson, Electrical Engineer and Principal at Piercon Solutions, Lincoln Park, New Jersey, was sworn in with the Board accepting his qualifications. Mr. Pierson referenced the following reports: 1) Independent Radio Frequency Report dated 5/9/12; 2) Analysis of Radio Frequency Environment in the Vicinity of a Proposed Verizon Wireless Communications Facility dated 5/3/12. Testimony was provided on Verizon licensing and the factors considered when locating the facility; extending existing coverage from Hampton and Fredon south and west and review of the terrain. The following exhibits were reviewed and marked:

A-1 Base Map of USGS Topography Map

A-2 Overlay – Verizon Wireless Existing Coverage

A-3 Overlay - Verizon Wireless Proposed Coverage @ 130'

A-1 indicated the existing Verizon sites in Fredon and Hampton with respect to the proposed site. A-2 indicated existing coverage in Stillwater and those areas that fall well below the threshold and are unreliable. Coverage is needed on main roads including Routes 610, 521, 617 and also secondary roads south of Hampton and west of Fredon. A-3 indicated coverage with the proposed Verizon tower, which will be greatly increased, will meet the overall general objective and provide a significant amount of coverage to the area. Testimony was provided on the elevation of the proposed location at 842', the highest point of the hill being 907-913' according to the topo map, noting the tower needs to be placed on the top portion of the hill or the hill itself will block it. The superior height provides the best chance for the best coverage down to the valley toward Hardwick and covers the gap areas toward Millbrook Road and Route 521, Main Street. Mr. Pierson discussed how the height of 130' was determined and described the surrounding area, to the east is the PSE&G site, a Nextel tower is on the west side of the hill, to the south is Millbrook Road, to the north is the proposed location at 842', noting a tower height of 130' is necessary to clear the trees. With reference to the ordinance requiring tower placement on municipal property and co-location, Mr. Pierson testified the Township property located across the road was investigated (Recycling Center) however the south portion of that property is 710' above sea level and it is located below the hill on the proposed property and would not cover the valley very well. Due to the loss in elevation it also would not cover to the north as well as the proposed location, and the hill blocks coverage from the municipal property to the south and Millbrook Road. The Nextel tower on Mt. Holly does not cover Millbrook Road and it is located on the other side of the hill eliminating coverage to the valley. The firehouse property was investigated and the low elevation would only provide coverage north, not south or in the valley. After driving the area, Mr. Pierson felt there were no structures available to locate on. PSE&G was contacted and as of 2009 those towers are no longer available. A letter from PSE&G confirming denial was marked as **A-4**. Using the Zoning Map, Mr. Pierson addressed the Neighborhood Commercial and Recreation/Commercial Zones where towers are conditionally permitted. He noted small lots, historic structures, low elevation, and lack of coverage. He referenced a lot on Fairview Lake Road that is further away from Nextel and does not reach over the hill. The Swartswood Lake areas cannot provide coverage to the areas needed or to the valley, and overall the N/C and R/C areas would not provide the coverage that is necessary. Testimony was provided on compliance with FCC standards noting the report was based on required FCC methodology using worst case scenarios and the site will be in strict compliance with the FCC standards.

A baseline test of similar existing sites was done using computer modeling, noting a crane to the site would not be feasible at this point. The applicant is requesting 130' as opposed to 150' at this point as 130' can easily be proven. An extension would be necessary in the future if there was an influx of traffic and people for some reason resulting in the need for an increase in megahertz; and co-locator frequencies may also require additional height. The 20' feet can be added as long as it is built into the original design. The tower will be 130', 133' to the top of the antenna and 136' to the top of the lightning rod and any extension would require future approval.

At this point, this portion of the meeting was opened to the public at 9:40 p.m. There being no members of the public wishing to speak, this portion of the meeting was closed at 9:40 p.m.

The following items were marked as exhibits:

A-5 Independent Radio Frequency Report dated 5/9/12; **A-6** Analysis of Radio Frequency Environment in the Vicinity of a Proposed Verizon Wireless Communications Facility dated 5/3/12

At this point, a five minute recess was taken at 9:45 p.m. and the meeting reconvened at 9:50 p.m.

Mr. Schneider briefly discussed #2 on page 3 of Board Engineer Rodman's report dated 6/21/2012, requiring a recorded easement for the access. Mr. Rodman and Mr. Morgenstern felt the issue could be addressed further and should be recorded, possibly as a center line easement.

John Ferrante, P.E., was sworn in with the Board accepting his qualification as an expert in the field of professional engineering. Mr. Ferrante testified he prepared the site plan and is familiar with the township ordinances; and he has communicated with Mr. Rodman and visited the site with Township Engineer Mike Vreeland and Mr. Rodman to address the stormwater.

Mr. Ferrante referenced Revision "C", submitted May 1, 2012, and reviewed the following:

LP-1 (Landscape Plan): Access road – open plateau, ½ mile (2,800 ft.), substantial improvements will be made for vehicle access. The area is heavily wooded with hayfields in front and there is a barn located on the property. There will be a 50' x 50' compound and the elevation at the tower site is 842'.

SP-2 (Overview of the Compound): The tower will be a lattice tower with an equipment shelter 11'6" x 30'. There will be a 2500 sq. ft. compound surrounded by an 8' chain link fence for security purposes. The compound has been sized for handling multiple carriers and utilities, up to 4 or 5 co-locators and their equipment.

SP-3 (Tower): The lattice tower was chosen as opposed to monopole due to the stick built construction without the need for cranes. The tower will be 130', with 12 antennas at a height of 133' and lightning rod to 136' with a 1" diameter. There will be GPS antennas at 80', minimal in size. A letter will be submitted to Stillwater Township indicating the tower can structurally accommodate 4 co-locators. The tower will be pre-designed to be extended to 150' including a suitable base foundation for such. The equipment shelter will house radio equipment and diesel generator.

C-1 (Floor Plan of Shelter): The generator specifications were reviewed, with all safety measures built into the design. The generator will be used only during power outages, will be exercised once per week and will only serve Verizon. There is room for additional generators if necessary. There is no sewer/water service. Power will be run from the pole line at the street above ground, then underground at the PSE&G site and again underground leaving that site.

SP-2 (Overview of Compound): The retaining wall at the back of the compound was described, 2-3 feet in height, 6" gravel compound surface and concrete landing to access the compound. A technician will visit the property every 4-6 weeks in a sports utility vehicle accessing the location using the existing logging road. There will be one light at the entrance for the shelter to the preference of the Board. There will be no signs other than a 2' x 2' sign naming Verizon.

T-1 (Title Sheet): The wetlands permit approvals were reviewed.

SP-1 (Overall Site Plan): The overall site plan depicting wetland areas was reviewed, noting the access road encroaches on the transition area and a general permit was obtained to do so. The tower will meet all setback requirements, although it would not do so in a conditionally permitted zone.

T-1 (Title Sheet): Setback requirements according to the ordinance provisions were reviewed, noting they do not technically apply as the location is not in a conditionally permitted zone.

SP-1 (Overall Site Plan): Existing access road is a gravel dirt logging road, 8-10' wide. The following improvements will be made: Widen road to 12' plus 2' with shoulders on both sides; install proper guardrails; addressing erosion in steep areas with geomembranes, geogrids and QP.

SP-4 : Two steep areas will remain, up to 21% slopes were existing. Calculations were provided indicating the road can handle concrete and emergency vehicles.

EX-1: A side by side comparison of pre-and post-construction slopes on the access road. Vehicle access calculations and stormwater management information are contained in the Verizon Wireless Proposed Access Road Report dated 1/11/12. Soil erosion control measurements will be implemented and there will be no increase in post construction stormwater. Mr. Ferrante agreed to comply with all comments in Mr. Rodman's report dated 6/21/12. The disturbance will be doubled but is minimal based on the size of the lot. Tree cutting will be minimal. The road will be maintained by the property owner as he will still be using it. The drawings will be updated where necessary to comply with Mr. Rodman's report.

At this point, this portion of the meeting was opened at 10:28 p.m. There being no members of the public wishing to speak, this portion of the meeting was closed at 10:28 p.m.

The following exhibits were marked:

A-7: EX-1 Pre-Construction Roadway Slopes

A-8: SP-4 Steep Slopes and Soil Types Map

A-9: Verizon Wireless Proposed Access Road Report dated 1/11/12

Mr. Schneider agreed to consent to an extension of time and Mr. Daingerfield made a **motion** to carry the application to September 24, 2012, no further notice being required, seconded by Mr. Lippencott.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Lippencott, yes, Mrs. Feenstra, yes, Mrs. Galante, yes, Mr. Powell, yes

RESOLUTION

William and Beverly Gordon, Block 2201, Lot 16, Cal. No. 568 – Request to amend Condition #2 of the Resolution memorialized on 2/28/11.

Mr. Hammond made a **motion** to adopt the Resolution, seconded by Mr. Daingerfield.

Condition #2 was amended to read as follows:

2. *No Certificate of Occupancy shall be issued until an inspection is conducted by the Board Engineer and written approval submitted to the Construction Official that drainage has been satisfactorily addressed.*

Roll Call Vote: Mr. Daingerfield, yes, Mr. Lippencott, yes, Mr. Hammond, yes

RESOLUTION

Robert Goldberg, Block 4005, Lot 7, Cal. No. 579 – Sunroom//Decks

Following a brief discussion on minor wording amendments, Mr. Hammond made a **motion** to adopt the Resolution as amended, seconded by Mr. Daingerfield with the following terms and conditions applying:

1. The existing deck shall remain no closer than 12 feet to the lake.
2. The sunroom addition shall be no closer than 25.3 feet to the lake.
3. The Applicant shall provide a certification to the Stillwater Township Construction Official at the completion of the construction that he has complied with these requirements before a Certificate of Occupancy or a Certificate of Compliance is issued for the improvements.
4. All taxes and fees shall be paid to Stillwater Township.
5. Applicant shall obtain all required governmental permits for the construction.
6. Applicant shall comply with all laws, rules and regulations in construction of the improvements and in the implementation of these variances.
7. The variances expire within nine (9) months from the date of this Resolution unless implemented pursuant to the ordinances of Stillwater Township.

Roll Call Vote: Mr. Daingerfield, yes, Mr. Lippencott, yes, Mr. Hammond, yes

BILLS

Mr. Daingerfield made a **motion** to approve the following bills, seconded by Mr. Lippencott:

<u>Dolan & Dolan:</u>	General – July 2012	\$233.33
	Escrow – Cellco Partnership	\$112.50
	Escrow - Goldberg	\$138.00
	Escrow – Lee	\$ 37.50
	Escrow – Manser	\$ 37.50
	Escrow – Rae	\$ 75.00
	Nextel Litigation	\$385.50
<u>New Jersey Herald:</u>	Rae/Lee Resolutions	\$ 21.60
	Morris/Howe Resolutions	\$ 23.10
<u>Rodman Associates:</u>	General – August	\$ 56.50
	Escrow – Goldberg	\$339.00

Roll Call Vote: Mr. Daingerfield, yes, Mr. Hammond, yes, Mr. Lippencott, yes, Mrs. Feenstra, yes, Mrs. Galante, yes, Mr. Powell, yes

At this point this portion of the meeting was opened to the public at 10:40 p.m. There being no further members of the public wishing to speak, this portion of the meeting was closed at 10:40 p.m.

Committee Liaison Report: Mr. Gross was not present due to a work commitment.

There being no further business, Mr. Daingerfield made a **motion** to adjourn the meeting at 10:40 p.m., seconded by Mr. Lippencott. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder, Board Secretary

Eric Powell, Chairman