

**ZONING BOARD OF ADJUSTMENT  
MINUTES**

**MARCH 30, 2009**

Meeting was called to order at 7:15 P.M.

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gonzalez, Mr. Lazzaro, Mr. Naftali,  
Mr. Zaks, Mr. Lieberman, Ms. Goralski

Absent: Mr. Gelley, Mr. Lankry, Mr. Halberstam

Also present: Russ Cherkos, Attorney

John Ernst, Engineer/Planner

Jackie Wahler, Court Stenographer

Fran Siegel, Secretary

Salute to the flag.

Letter from Ron Gaziorowski requesting that the notice is not correct for **Appeal # 3705 – Ahron & Yafa Walkin, Clearstream Road**, Block 2 Lot 134, R-40 and they must re-notice.

Motion to carry until May 4<sup>th</sup> with re-notice – Mr. Gonzalez

Second – Mr. Zaks

Roll call vote: affirmative: Mr. Gonzaelez, Mr. Lazzaro, Mr. Naftali, Mr. Zaks,  
Mr. Lieberman, Ms. Goralski

**Appeal # 3699 – MetroPCS – 800 Massachusetts Avenue, RM zone, Block 453 Lot 1.**  
To locate 6 antennas at centerline height of 205 feet on existing tower.

Ms. Goralski made an announced that there were only 6 members.

Mr. Beck – they are willing to proceed with the application.

**From: John Ernst, Engineer/Planner – February 11, 2009**

1. The property is located on the north side of Frances Street, between Columbus and Nostrand Avenues. It lies within the RM Multi-Family Residential Zone and comprises an area of 100,000 s.f. (2.29 acres). The site is partially cleared of woods and is occupied by a wireless telecommunications facility consisting of a 250 ft. high guyed tower with a ground equipment building all being within an 8 ft. high chain link fenced compound area. The tower and equipment building are occupied by five other co-locators (Verizon, Cingular, Nextel, Sprint and T-Mobile). The applicant's plan indicates that site access is from Massachusetts Avenue (500 ft. to the east) along an existing varying width gravel drive. Columbus and Nostrand Avenues as well as Blanche Street to the north are shown as unimproved roadways.
2. The applicant proposes to construct six panel antennas on the existing tower at a height of 205 ft. Also proposed is the installation of electronic equipment (within a 11 ft. x 12 ft. leased area) within the existing equipment building and a small GPS antenna to be attached to the tower's cable bridge.
3. The following Variances are required for this application:
  - a. A Use Variance for the construction of the six panel antennas, the GPS antenna and the electronic equipment. The proposed construction is an expansion of an existing non-permitted Use as telecommunications facilities are not permitted within the RM Zone.

- b. A Use Variance for the height of the proposed six panel antennas. A height of 205 ft. is proposed; whereas a height of 35 ft. is permitted. By State Statute if the proposed height exceeds the permitted height by 10 ft. or 10% a Use Variance is applicable.

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4. The Board should be aware that per the Township's Telecommunications Ordinance the height of the existing tower exceeds the permitted height for more than three co-locators. A height of 150 ft. is permitted; whereas a height of 250 ft. exists.
5. **Ten days prior to the Board's scheduled meeting** the applicant shall submit in conformance with Section 18-1012D.C. of the Ordinance an "inventory of existing sites". The applicant has submitted mapping which shows "planned MetroPCS facilities" only which is insufficient for purposes of the Ordinance. The Board should be aware of all existing tower sites that may be capable of supporting additional antennas. This applicant will be the sixth co-locator on this site.
6. The applicant should address the Board on the following issues:
  - a. The applicant should demonstrate to the Board that the Use Variances can be granted without substantial detriment to the public good and that the intent and purpose of the Lakewood Township Land Use Ordinance and Master Plan will not be substantially impaired.
  - b. The applicant should discuss any special reasons supporting the granting of the Use Variances.
  - c. How often will the site be visited?
  - d. Will the tower/antennas be lighted?
  - e. Has the applicant investigated other sites within the Township (either existing or approved and not yet built) that have fewer co-locations? As previously mentioned this applicant is the sixth co-locator on the tower.
7. The applicant has requested the following Site Plan Checklist Waivers:
  - a. A Waiver from submitting a current certified survey of the property. If this Waiver is granted by the Board the applicant should provide testimony that all existing improvements on the lot are shown on the applicant's Site Plans. If applicable, the applicant should address the Board on what and where are the improvements not shown.
  - b. A Waiver from showing topography on and within 200 ft. of the site. This pertains to not showing contours, flood plains, wetlands, wetland buffers, water courses, wooded areas, and trees having a diameter of 10" or more.
  - c. A Waiver from showing existing easements, right-of-ways and power lines.
  - d. A Waiver from showing existing wells and septic systems.
  - e. A Waiver from providing plans/profiles of proposed underground utilities.
  - f. A Waiver from showing property monuments.
8. The Board should be aware that the submitted structural analysis indicates (with assumptions) that the existing tower can support the existing and proposed appurtenances without structural modifications. The assumptions listed within the analysis are listed as follows:
  - a. Tower properly installed and maintained.

- b. All members are in good condition.
- c. All structural elements are in place.
- d. All bolts are properly tightened and the tower is plumb.
- e. All antennas are assumed to have full exposure to wind.
- f. Foundation constructed per original design documents.
- g. Steel Yield Strength  $F_y$ :                      Legs: 50 ksi

Diagonals and Horizontals: 36 ksi

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This office has not inspected or evaluated the existing tower and therefore cannot verify the above assumptions.

9. Ocean County Planning Board approval or a “letter of no interest” should be obtained.

10. Sheet 1 of 4 should be amended to conform with Section 18-604 of the Ordinance. In addition, an owner’s certification should be shown on the plan.

Mr. Beck, attorney for applicant. Metro PCS is a new wireless carrier. They have been granted a license by FCC to be in this area. Seeking preliminary and final site plan approval. The only exterior improvements are 6 antennas. The property was owned by the Township and has been granted a use variance to allow the construction of the tower.

Gordon Gema, attorney representing adjacent property owners Howard and Janet Payne. 120 Massachusetts Avenue.

Mr. Beck – The use variance was Appeal # 2683 granted in 1993.

Dave Collins – specialize in assessing RF compliance issues.

Board accepted credentials.

Mr. Collins – prepared RF Compliance and Assessment report. (A-1) Report is summary of sum total of existing and proposed antennas at this site. With every antenna at the site operating at its maximum licensed capacity and the proposed antennas, they will be 170 times below the FCC limits for safe exposure. The FCC assigns licenses so as not to cause interference issues. The calculations are based on every antenna transmitting at maximum output.

Mr. Beck - This board is precluded from considering any health affects whatsoever in rendering a decision.

Daniel Penesso, 130 Clinton Road, Fairfield, NJ. Radio Frequency Engineer.

Mr. Penesso – Radio Frequency Engineers are not required to have licenses.

Mr. Beck - A-2 seven page letter confirming that licenses are not required.

Mr. Cherkos – in his opinion his credentials should be accepted.

Board accepted credentials.

Mr. Penesso - Metro PCS is a new carrier to the marketplace. They are currently building out the network to provide service throughout the state of New Jersey. They have canvassed the area for existing structures to provide the coverage that they need.

A-3 - base map – coverage from the proposed neighboring PCS sites.

A-4 - clear plastic overlay

Mr. Penesso – described coverage and gaps in coverage on A-3 and A-4. Described grid of proposed coverage in the Lakewood, Toms River area. This site was particularly suited for the antennas because this is the tallest structure in the area. First choice is to co-locate on an existing structure than to create a new structure. This will cover the southwest portion of Lakewood. The height of 205 feet provides coverage to the minimum amount of overlap to the neighboring sites.

Mr. Doyle representing **Appeal # 3704**, 323-325 Realty, would like to carry until May 4<sup>th</sup> without further notice and will agree to waive any time.

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Motion to carry – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gonzalez, Mr. Lazzaro, Mr. Naftali, Mr. Zaks,  
Mr. Lieberman, Ms. Goralski

Mr. Penesso – there will be 6 standard antennas. These antennas will not interfere with any other carrier.

John R. LeCompte, Licensed professional engineer, sworn.  
Board accepted credentials.

Mr. LeCompte - not a structural engineer. Prepared site plan. The site is located in the RM zone which is the residential multi-family zone. Access to the site is along Massachusetts Avenue on a gravel drive. The existing tower is 250 feet high. Applicant proposing to install 6 antennas at an elevation of 205 feet. No proposed site work other than the antennas. No additional site or signage proposed. A technician comes to the site to service once in 30 days.

Ronald Reinnertsen, Cedar Knolls, NJ. Licensed professional planner.  
Board accepted credentials.

Mr. Reinnertsen – Office prepared photo simulations.

A-5 aerial map of vicinity

Mr. Reinnertsen – this property is in the southwest area of the Township. This lot is relatively isolated.

A-6 photographs with photo simulations

A-7 photo board showing 2 photos, existing conditions on left and photo simulation on the right.

A-8 photo board

A-9 photo board simulation

Mr. Reinnertsen – described photos from different locations. The antennas are barely visible. Could not see the equipment building. A use variance is required because it is not

permitted in the zone. Also need a height variance. This use serves the community. The positive criteria outweighs the negative impact of 6 more antennas on an existing pole. The variances can be granted without any detriment to the Master Plan or Zone plan of the Township of Lakewood. This is an unmanned facility and does not create any nuisances to the public. There is no expansion of this tower other than the 6 antennas.

Recess.

Open to Public.

Nasanel Friemark, 5 Capital Lane, affirmed. Would his property value go down because of the additional antennas?

Mr. Gonzalez – yes.

Mr. Friemark - Is there any other area that would provide the same service?

Mr. Reinnertsen, Planner – would have to be in the M-1 zone or any municipal owned land.

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Mr. Zaks – The Township would prefer the addition of antennas on an existing site instead of adding new towers in the town.

Yeruchim Shachar, Capital Lane, affirmed. Recently purchased the property and any addition to the tower would make their property value go down and would rather not have any more antennas on the site.

Zev Stern, 3 Capital Lane, affirmed. It will bring down the property value and their quality of living. Requesting from the board to deny this application.

Gerri Ballwanz, Governors Road, sworn. This area is zoned Multi-family. This expansion of the tower would negatively affect the Township being able to sell the land in the vicinity.

Mr. Beck – MetroPCS is a lessee. The property is owned by CMK Communications of New Jersey.

Closed to Public.

Mr. Gema – re called Dave Collins.

Mr. Collins – not a health scientist. Determines if they meet FCC requirements. Interference has nothing to do with exposure.

Mr. Gema recalled Mr. Penneso.

Mr. Penneso – the holder of an FCC license means that you are mandated to provide coverage in the area. Referring to Exhibits A-3 and A-4 there is no existing coverage in the area whatsoever. There is a monopole in Toms River. Five new sites are proposed currently.

O-1 copy of zone map

Mr. Penneso – this is the only tall structure in the area that would provide the coverage needed. There are no other existing structures in the area that would meet the same coverage footprint.

Mr. Gonzalez - We would prefer not building another tower, would prefer using an existing structure.

Mr. Zaks – our UDO clearly states that you should minimize the number of towers throughout the township.

Mr. Penneso stated that he did look at other technologies. They will not interfere with any frequency.

**Appeal # 3699** will continue on May 4<sup>th</sup>.

Mr. Gama requested that the applicant bring a structural engineer.

The Board stated that a structural engineer would not be needed since the plans will be reviewed by the Board engineer as well as the Township Construction official.

Mr. Gama - Need to cross examine the engineer and the planner.

Applicant agreed to an extension of time.

Motion to carry until the May 4<sup>th</sup> meeting with no further notice – Mr. Zaks  
Second – Mr. Gonzalez

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Roll call vote: affirmative: Mr. Gonzalez, Mr. Lazzaro, Mr. Naftali, Mr. Zaks,  
Mr. Lieberman, Ms. Goralski

### **Resolutions**

**Appeal # 3692 – 105 Carasaljo, LLC**, 105 Carasaljo Drive, Block 12 Lot 217, R-12 zone. Resolution to approve the construction of a single family house on an undersized lot. Bulk variances approved for lot area, lot width, side setbacks.

Motion to approve – Mr. Gonzalez  
Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gonzalez, Mr. Lazzaro, Mr. Naftali, Mr. Zaks,  
Mr. Lieberman

Motion to pay bills.  
All in favor.

Motion to adjourn.  
All in favor.

Meeting adjourned at 11:00 P.M.

Respectfully submitted,

Fran Siegel, Secretary

