

**MONTGOMERY TOWNSHIP ZONING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
NOVEMBER 15, 2016**

**MINUTES**

Chairman DeRochi called the meeting to order at 7:40 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman DeRochi; Vice Chairman O'Brien; Mr. Fedun; Mr. Voitach; Mr. Kristjanson, Alternate #1; Mr. Campeas, Alternate #2; Mr. Wu, Alternate #3

**ALSO PRESENT:** Mr. Drollas, Board Attorney; Ms. Goldman, Board Planner; Mr. Cline, Board Engineer; Dr. Eisenstein, RF Engineer; Mr. Palmer, Zoning Officer

**I. SALUTE TO THE FLAG**

**II. APPLICATIONS**

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| <b>Case BA-05-14</b><br>Block 8001 Lot 1<br>Use Variance and Site Plan<br>Expiration Date – 12/31/16<br>Affidavit of Notification and Publication Required and Previously Found to Be In Order | <b>Applicant: New York SMSA Limited Partnership d/b/a Verizon Wireless</b> |
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Richard Stanzione, Esquire represented the applicant.

William F. Masters, Jr. was sworn in. Mr. Masters gave the Board his qualifications and was accepted as a licensed professional planner. The applicant is seeking a D1 variance since the wireless facility is not a permitted use in the R-2 zoning district. A height variance is also being requested to allow 135' where 35' is the maximum permitted. A bulk variance is being requested for the side yard setback for an existing shed although it is not being impacted by this application. A variance for the proposed fencing is required although the applicant will comply with the ordinance if requested by the Board. The applicant's burden of proof relative to the D1 and D6 use variances is to satisfy both the positive and the negative criteria. The applicant has to show that the site is particularly suited for a wireless telecommunications facility. There has been extensive testimony from the applicant's radiofrequency engineer that the site is ideally situated to achieve the radiofrequency objectives for Verizon and as such satisfies the technical requirements for this particular area of the Township. The subject lot is 82.37 acres in a 2-acre zone which is a characteristic of the site that contributes to its particular suitability. The site is an existing farm use in which a silo structure is commonly found. The site is situated proximate to major traffic corridors. The landlord is willing to lease property to the applicant. Verizon Wireless maintains FCC licenses in four different frequency bands. The New Jersey Courts have found that the issuance of an FCC license should suffice for a carrier to establish that the use serves the general welfare. The first step in the Sica balancing test is that the Board should identify the public interest at stake. Modern state of the art wireless telecommunications is a use that provides a general benefit to the public at large. The facility is unmanned that is visited approximately once every four to six weeks and is continuously monitored from a remote monitoring facility. The primary focus when it comes to a potential detrimental impact is visual impact. A visual impact analysis was conducted on July 24<sup>th</sup> with Board Planner Goldman. The analysis was conducted within a one mile radius and photographs were taken at various vantage points of the crane that was at the site. Mr. Masters described each of the photos that were taken. Mr. Masters described eight photo simulations taken from vantage points 1, 4, 9 and 16 each with a simulation of a proposed tree and a proposed conventional monopole which were marked as Exhibit A-22. The height of the tree pole is 10 feet shorter than the silo and the monopole is 15 feet shorter. Photo 1B shows the tree pole. The branching habit of the tree pole is taken from an as-built tree pole at the Delbarton School in Morris Township. The photos represent Verizon antenna without any collocators. The tree would not look much different because the antennas are concealed within the branching. The equipment would be installed on the ground. The branches may be able to be brought down lower but must remain high enough that they can't be climbed. The visual impact study was prepared to assess the visual impact of the proposed installation. There is a visual impact associated with the silo, primarily to the west. The visibility from the River Road corridor is far less and in most cases nonexistent. There was no visibility from the Brokaw-Taggart house, the Garrett Wyckoff house and the William Baird house. There is a degree of detriment associated with the visual impact but the detriment does not rise to substantial detriment with the attempt to mitigate the impact with a concealment structure. There are no other potential negative impacts because it is an unmanned, unoccupied facility. It is a passive land use that does not generate traffic. Reasonable conditions to reduce the detrimental impact include the requirement for a concealment structure, additional landscaping and a different fencing treatment that might provide a more effective screening of the compound area.

The Clarke Caton Hintz memo dated May 19, 2016 last revised July 15, 2016 was discussed. The applicant will agree to any height and any material for the fence the Board might want. The applicant agrees to work with the township landscape architect to develop appropriate landscape screening. A waiver is needed to allow the required planting to be based on limit of disturbance rather than total acres of the site. A monetary contribution could be made into the tree planting fund. The applicant will meet with the property owner to try to get permission to plant outside the leasing area as long as it doesn't interfere with the farming operation. The lease area can be reduced to 2,500 square feet instead of the required 20,000 square feet because the equipment will be concealed within the silo which reduces the ground area

necessary to accommodate the ground equipment for future collocators. A tree pole could also be accommodated within the smaller lease area. The equipment structures can be constructed to look like residential accessory structures. None of the priority one sites are proximate to the search area or the proposed location. None of the priority two zones are proximate with the exception of the D & R Canal which is not an option. With the exception of the existing shed that extends into the side yard setback and the height of the tower, the proposed installation complies with all the bulk standards of the R-2 zone. The facility does not interfere with the farmland preserved area. It is located proximate to the Wyckoff-Cornell burial site but given the passive nature of this use and the fact that it is located behind the house it does not cause any detriment to the burial ground.

Ms. Goldman questioned Mr. Masters. The lightning rod on the tree pole would be concealed by the branches. The average height of stealth silos varies from 108 feet to 130 feet. Farm silos are generally in the area of 60 to 80 feet (someone from the audience said they are 30 to 40 feet). An individual FCC license is not issued for each site.

Mr. O'Brien asked what the structure to house the equipment would look like if a tree pole was constructed. Mr. Schwartz testified Verizon equipment starts roughly 10 feet from the centerline of the tree so there is room for the foundation. The equipment compound is generally 10 feet by 20 feet and can be 9 feet to 10 feet high. Verizon does not typically house the equipment in a building but if a building is required they are roughly 12 feet by 30 feet including the generator room. Air conditioners are required for the building which in turn increases the size of the generator. If a tree pole design is approved, the applicant would come back to the Board for the site plan approval. The existing lease area would accommodate both Verizon equipment and collocator equipment. The necessity for lightning protection of the silo can be incorporated into the dome.

The meeting was opened to the public for questions.

Candy Willis, Knickerbocker Drive, was previously sworn in. Ms. Willis wondered why a crane test is not done while the leaves are off the trees. Mr. Stanzione said the applicant has already done more than required by the Ordinance with regard to the crane test and the applicant is freely admitting it is visible. They will not do another crane test.

Don Matthews, 28 Rutland Road, was previously sworn in. Mr. Matthews asked about the tree branching. Mr. Masters said the branching, whatever the distance down the tree it will go, is done during the original build. When collocators come, branches are taken out to accommodate the antenna array and then replaced.

Liz Palius was previously sworn in. Ms. Palius asked what could be done that would modify the effect of the silo that is 135 feet. Mr. Masters replied there is no landscaping that would mitigate the top of a 135 foot silo. The mitigation would be to attempt to mitigate the visibility of what is on the ground around the silo and to help diminish the visibility from adjoining properties.

Mr. Masters will provide high resolution pictures of the Delbarton tree to the Board.

Ewa Zak was sworn in. Ms. Zak asked about the noise from the generators and air conditioners. Mr. Stanzione said testimony was provided at a prior meeting regarding noise. The generator only operates once a week for approximately 45 minutes during daylight hours. There is no air conditioner required for the silo.

Barbara Ten Broeke was previously sworn in. She came to honor the Millstone Valley National Scenic Byway. In the Valley the only likely candidates for cell towers are church steeples, inside real silo, cemeteries, telephone poles and possibly a flagpole that could be inserted into a public or semi-public space. She asked if there was ever an instance where there were two lower silos or trees that are less offensive than the one proposed. Mr. Masters said he has never seen multiple lower towers proposed.

Jessie Havens, Ludlow Avenue, was previously sworn in. Her concern is the historic district. She asked if the tower will be removed when it becomes obsolete. Mr. Stanzione said they would accept any condition that upon it being abandoned it would be removed and the ground restored to its reasonable preexisting condition.

The Board took a five minute recess.

Dr. Eisenstein, who was previously sworn, presented his report. Mr. Villecco's RF Emissions Report has followed correctly the requirements of OET-65. Mr. Villecco had concluded that they are 300-something times below the FCC limit. When they satisfy the FCC limit they automatically satisfy the NJ limit since the NJ limit is five times more emissions than the FCC. They will only use FCC approved equipment. Therefore, the site will be safe from a radiofrequency point of view. The radiofrequency analysis dated April 5, 2016 included a picture of the existing coverage from the sites that surround the proposed site. The correct analysis for the LTE coverage was used and based on the propagation plot there is a gap in the area of the site. The proposed site is located towards the center of the gap. The gap is such that it would have to be filled in order for them to remain in compliance with the requirement to provide substantially better than mediocre service. The propagation map that shows what would happen with the proposed site installed shows the gap would be ameliorated. They are required to provide substantially better than mediocre service but that is not defined so the Board and applicant has to figure it out. The Board should look at it as a best effort. Verizon is getting a substantial improvement with this location. Looking ahead, all of the wireless communications will be data, so the data becomes increasingly more important. It will be for all voice calls as well as internet and maps. As data increases they are eventually going to get to a point where they will have to slow everyone down. You can slow down

data but you can't slow a voice call down. As they move to Voice over LTE they are going to find that they have to have sufficient capacity to accommodate the voice signals over the line. This is a near term problem and it is something the Boards need to be aware of. The Alternate Candidate Analysis dated February 11, 2015 discussed alternate sites and alternate technologies. There will not be a technology that is going to obviate the current technology. If anything, the new technologies will require more sites because they have to get closer to the user to keep the signal-to-noise ratio at a good level. However, they will be able to be constructed at a lower height. The new sites could be used only after you have an umbrella of a macro site that can handle the area. If the height of the proposed tower is too much lower, the effect of the site and the ability for any collocation is lost. The 90 foot height for other carriers may not be acceptable. It may only be acceptable if this was a fill-in site for them.

Chairman DeRochi opened the meeting to question Dr. Eisenstein.

Liz Palius asked how the hardwired telephone fits in the conflict between voice and data. Dr. Eisenstein said if you have new services like cable or fiber optics in your house the calls are really digitized and sent over a packet-switched information. If your house still has copper wire then your phone is likely an analog signal. The reason for cell towers is to give you mobile communication, not communication in your house.

Mr. Stanzione asked if a wireless carrier under license from the FCC needs to provide service even if there is landline service in the area. Dr. Eisenstein confirmed they did since they are two different things.

The application was carried to the November 29, 2016 special meeting.

### **III. CLOSED SESSION**

Chairman DeRochi read the resolution to go into closed session to discuss pending litigation.

A motion to go into closed session was made by Mr. O'Brien and seconded by Mr. Fedun. The motion carried unanimously.

A motion to reopen the meeting was made by Mr. Kristjanson and seconded by Mr. Voitach. The motion carried unanimously.

There being no further business to come before the Board, the meeting was adjourned at 10:25 p.m.