

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for January 6, 2015

The meeting was called to order at 7:30 PM by Chairwoman, Mrs. Louise Murphy, who then led the assembly in the flag salute.

Mrs. Murphy read the Statement of Compliance pursuant to the "Open Public Meetings Act, Chapter 231, PL 1975."

ROLL CALL OF MEMBERS PRESENT: Mr. Floy Estes
Mr. Richard Kell (Vice-Chairman)
Mr. John Kopcsco
Mr. Stephen Skellenger
Mr. Glen Soules
Mrs. Louise Murphy (Chairwoman)
Ms. Dawn Fantasia (Alt #1)
Mr. Wes Suckey (Alt #2)

ABSENT: Mrs. Bonis

ALSO PRESENT: Mr. Tom Knutelsky, Harold E. Pellow Associates
Mr. Dave Brady, Law Office of Brady & Correale
Mr. Ken Nelson, Nelson Consulting Group

APPROVAL OF MINUTES:

Mr. Estes made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for November 4, 2015**. Seconded by Mr. Kopsco.

Upon Roll Call Vote:

AYES: Estes, Kell, Kopcsco, Soules, Murphy, Fantasia,

NAYS: None ABSTENTIONS: None

Mr. Kell made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for December 2, 2015**. Seconded by Mr. Skellenger.

Upon Roll Call Vote:

AYES: Kell, Kopcsco, Skellenger, Soules, Murphy, Fantasia

NAYS: None ABSTENTIONS: Estes

APPROVAL OF RESOLUTIONS:

Mr. Soules made a motion to **Approve Resolution (ZB-06-15-1), Sterling Plaza, Conditional Use Variance and Amended Site Plan Approval, Block 2701 Lot 8**. Seconded by Mr. Skellenger.

Upon Roll Call Vote:

AYES: Estes, Kell, Kopcsco, Skellenger, Soules, Murphy, Fantasia

NAYS: None ABSTENTIONS: None

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Mr. Kell made a motion to **Approve Resolution (ZB-07-15-1), Meenan Oil/Region Energy, Preliminary Major/Final Site Plan, "D" Variances, Block 104 Lot 36.**
Seconded by Mr. Estes.

Upon Roll Call Vote:

AYES: Estes, Kell, Kopcsso, Soules, Murphy, Fantasia

NAYS: None ABSTENTIONS: None

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

There were no adjourned cases.

APPLICATIONS TO BE HEARD:

Cellco Partnership/Verizon Wireless, (ZB-11-15-1), Preliminary/Final Site Plan, D Variance, Block 1101 Lot 3.

Applicants Attorney, Mr. David H. Soloway from Vogel, Chait, Collins and Schneider stepped forward. He said this application is to construct a small network node at the Dunkin Donuts property located at 250 Route 23. The proposal is to remove an exiting 25 foot light pole and replace it with a 38 1/2 foot light pole with a 3 foot antenna on top. Supporting equipment cabinets will be located on a 64 foot square concrete pad inside a fenced enclosure. He said the purpose of the small network node is to provide additional coverage in high data usage areas and users will experience a higher data speed.

Mr. Soloway commented on the conflicting reports from the Boards Planner and Engineer regarding the variance request. Mr. Brady the Boards Attorney discussed his letter dated January 5, 2016 which addressed the confusion concerning the Zoning Status. Mr. Soloway said he is aware of Mr. Brady's conclusion and the application will be addressed as a D3 conditional use variance. He talked about the Borough's wireless telecommunication ordinance. He indicated the proposal is low intensity and will have no significant impact and is consistent with the Boroughs ordinance.

Mr. Brady indicated Proof of Publication for the hearing has been provided.

Mr. Thomas Molnar a Licensed New Jersey Professional Engineer for the applicant stepped forward and is sworn in. He summarized his background experience and qualifications. He described the property located at 250 Route 23 and referred to Sheet (Z-2), titled Site Plan and General Notes prepared by Maser Consulting dated 10-28-15. He said the proposed small network node will be constructed near the north east corner of the lot within an area that is not used for parking. The project will have no impact on existing traffic patterns and there will not be a need to remove

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any existing parking spaces. The drainage pattern will not be effected and the proposed electric and telephone services will be extended from the Dunkin Donuts underground to the equipment compound near the north east corner.

Mr. Molnar referred to Sheet (Z-3), Compound Plan and Elevation dated 10-28-15. He said the sheet demonstrates the proposed compound which will be within an 8X9 chain link fenced area with privacy slats. There will be two equipment cabinets installed on a concrete pad and the proposed antenna will be mounted on a new wooden utility pole. He said the existing light pole currently has a flip light and will be relocated to the new wooden utility pole. The antenna cable from the equipment will be underground and then run up the exterior of the wooden pole. The wooden pole will be 35 feet above grade and the proposed antenna is 29 inches in height and will sit on top of the pole. The height of the replacement pole to the top of the GPS antenna will be approximately 38 feet 5 inches. The current pole will be 3 feet away from the replacement pole. He discussed variance requirements. He referred to Sheet (Z-2) and said from the compound to the property line is about 11 feet 7 inches and from the pole to the side property line is about 11 feet. He discussed front set-backs requirements and said location will not affect traffic patterns or parking. He said the rear yard setback requirement is 100 foot and is proposing 15 feet 10 inches from the compound to the rear property line and about 8 feet 10 inches from the pole.

Board Engineer, Mr. Knutelsky addressed his report dated December 31, 2015. He is satisfied with the applicant's testimony on the Zoning and Uses listed in Section B. He reviewed and discussed specific conditions of the Telecommunications Facilities. He indicated all conditions of the conditional use have not been met and a Conditional Use Variance is required. Mr. Knutelsky said antenna equipment will not obstruct access into and around the site. He indicated the proposed lease area agreed by both parties should be indicated on the plans and include antenna and equipment. Applicants Attorney, Mr. Soloway agreed. Mr. Knutelsky questioned the visibility of the proposed antenna and Mr. Soloway said applicant's planner will address that. Mr. Knutelsky discussed access to the site and also questioned who will be responsible for the maintenance of the existing driveway. Mr. Soloway said the right to ingress and egress is 24/7 and is granted as part of the lease. He said Verizon Wireless is responsible for maintaining the equipment and the property owner is responsible for maintaining the driveways. Mr. Molnar said a Verizon technician will visit the site once a month for about one hour. Mr. Soloway pointed out that Verizon Wireless is not responsible for driveway maintenance. Mr. Knutelsky said the Borough is under no obligation to plow the site. Mr. Soloway indicated property owner provides electrical service and telephone service access and Verizon Wireless will install a separate meter. Mr. Knutelsky requested plans show two separate meters will be used.

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Mr. Molnar said a typical wooden utility pole will be used. The privacy slats can be any color the Board wishes and equipment cabinets will be earth tone color. A brief discussion took place regarding the chain link fencing. The Board suggested a board-on-board fencing be used and applicant agreed. Mr. Knutelsky confirmed with applicant only one antenna is proposed and all utilities will be placed underground. He asked applicant if an emergency generator will be used. Mr. Molnar said a generator plug is proposed within the compound and a portable generator will be used for emergency use only and no onsite fuel will be stored.

Mr. Knutelsky discussed whether a performance bond is needed. Mr. Soloway does not think a bond is necessary. He said under the lease agreement Verizon Wireless is required to remove all equipment except the pole will remain on site. Mr. Knutelsky indicated the ordinance does require a guarantee of removal. Mr. Soloway said the pole is part of the Dunkin Donut Site plan and supplies site lighting. A brief discussion took place on the removal of the pole structure if it is no longer needed. Mr. Soloway said lease provides that Verizon Wireless is obligated to remove the cabinets at the termination of the lease. Mr. Nelson asked if the lease was part of the application. Mr. Soloway said no but will be happy as a condition of any approval to submit the lease to the Board and Professionals to review before permits are issued. Mr. Brady commented on the Boroughs cell tower ordinance and said it refers to a traditional cell tower not a small antenna on top of a utility pole. Mr. Nelson said if the lease is made part of the application and the equipment is left behind then it will be a site plan violation. Mr. Brady said he will add that as a condition. Mr. Knutelsky recommended a performance bond is not needed but suggested adding it as a condition of any resolution approval.

Mr. Knutelsky confirmed the chain link fence will be changed to a board-on-board structure. He indicated bollards are shown around the outside of the enclosure and said he will add that detailed on the site for construction purposes. Mr. Molnar was asked to explain the location of the generator. Mr. Soloway said a generator will only be used during a power failure on the site. Ms. Fantasia asked if the lease will now be part of the application. Mr. Soloway said he will submit a copy of the lease. Mr. Brady asked for a copy of the lease before the resolution is prepared.

Mr. Suckey asked why a wood pole is being used rather than a metal pole. Mr. Molnar said a wood pole was proposed because it can be driven into the ground where a metal pole would need a concrete foundation. Mr. Suckey commented on the existing pole on the site. Mr. Molnar is not sure if the existing concrete foundation for the light pole can be reused with a taller pole. Mr. Suckey commented on the visibility of the pole and would like it to blend in and be less noticeable. He said he preferred a metal pole rather than a wood pole. Mr. Molnar said a metal pole is possible. Board Members had a brief discussion. Mr. Soloway said he was fine with whatever the Board preferred. It was decided a metal pole will be used and Mr. Soloway confirmed the pole will be similar in color and style of the existing pole. Mr.

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Suckey confirmed with applicant no parking spaces will be eliminated and Mr. Brady confirmed a board-on-board fence with earth tone colors will be used around the site.

Mr. Paul Dugan Applicants Engineer stepped forward and is sworn in. He gave his background experience and qualifications. He referred to his report dated December 11, 2015, Re: RF Safety FCC Compliance of Proposed Communications Facility. He performed an evaluation of the proposed facility to provide determination and certification that the proposed Verizon Wireless communications facility will comply with Federal Communications exposure limits and guideline to protect the health safety and welfare of the public. He said anywhere near the base of the proposed facility you will be below one percent of safe levels. Mr. Brady suggested Mr. Dugan address questions that relate to the criteria for the conditional use. Mr. Soloway indicated a further witness will address that issue and said Mr. Dugan is strictly on admissions. Mr. Knutelsky asked Mr. Dugan if any admissions from the antenna would have an effect on the school located approximately 1000 feet from the base. Mr. Dugan said there will be no effect and indicated three feet away from the base is in compliance. Mr. Soloway asked if there were any further questions for Mr. Dugan since he will be leaving the meeting. Mr. Brady suggested the meeting be Open to the Public for further comments or questions for Mr. Dugan.

Mr. Skellenger made a motion to **Open to the Public**. Seconded by Mr. Estes. All were in favor.

No one from the public stepped forward.

Mr. Kell made a motion to **Close to the Public**. Seconded by Mr. Estes. All were in favor.

Ms. Stephanie Koles, Radio Frequency Design Engineer for Verizon Wireless stepped forward and is sworn in. She briefed the Board on her background experience and qualifications. She is currently employed with Verizon Wireless as an Art Design Engineer. She referred to Exhibit marked A-1 which showed cell sites that serve Franklin Borough. She described the overall area of the Verizon Wireless coverage. She said the need for the proposed is based on capacity and explained the RF coverage throughout the Borough. She discussed Sectors and there capacity issues. She indicated Sector Hardyston 3 has a capacity issue and is currently in a state of exhaust and Verizon Wireless subscribers will experience poor performance on their devices. She also said the Hardyston site servicing part of Franklin Borough is also experience exhaust and better performance and coverage is needed in that area. Ms. Koles said today the network is all about Long Term Evolution (LTE) which is a packet data network that will be used by all carriers. Currently Verizon Wireless operates a legacy network and all voice calls will be carried over to the LTE network. She said sometime in the future everyone will transition their cell phones to one that

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is capable of carrying calls over the LTE network. It is imperative to make sure all cell sites have sufficient capacity to handle voice calls and data needs. She commented on applications subscribers currently use on their cell phone devices. She said the proposed small network node will help Verizon Wireless with exhaust issues. The small network node is proposed in an area with high traffic and Verizon Wireless subscribers' usage. The small network node will cover approximately fifteen hundred feet and she discussed impact on subscribers once the node becomes operational. She said subscribers will have better quality and data connections in the vicinity and also help with Sectors that are experiencing exhaust conditions.

Ms. Koles presented and discussed Exhibit marked (A-2). She said the exhibit shows a 13 month projection of data usage in the Hardyston 3 Sector. She indicated exhaust points for subscribers in Hardyston 3 Sector and indicated each sector is capable of providing three thousand to six thousand mega bits of data per hour. Ms. Koles presented and discussed Exhibit marked (A-3), Hardyston Sector. She said the exhibit illustrates a percentage of traffic levels and traffic clusters being seen by the network. She commented on the percentage of miles that are showing a large cluster of activity and stated the network node is critical in that area to help subscriber's conditions. Mr. Brady confirmed with Ms. Koles all exhibits discussed where included with the application.

Ms. Koles presented and discussed Exhibit marked (A-4), Hardyston Data Sector. She said the exhibit shows traffic levels that occurred in August and indicated the red line shows the exhaust line which is at its capacity. Ms. Koles presented and discussed Exhibit marked (A-5), Hardyston Data site on Hamburg Mountain. She said the exhibit is a distance measurement that shows traffic clusters from the sector serving Franklin Borough area. She said there is a huge percentage of traffic between two and three miles and commented on the need for the small network node in that area. She talked about devices people are using today and feels the location selected for the small network node is a good target area. Mr. Soloway said the site was also chosen to off load usage from the Hardyston and Hardyston 3 sites and Ms. Koles also agreed. He said the small network node will also provide additional coverage in the high usage area covered by the sectors. Ms. Koles discussed properties located around the proposed Dunkin Donut site and said the network node will provide coverage equally within a 360 degree radius around the site.

Mr. Soloway commented on the Borough's ordinance and stated for the record an ordinance that's in effect prefers municipal on sites over all others is invalid. Mr. Brady said for the record he disagrees. Mr. Soloway asked Ms. Koles to discuss other sites that were looked at. She referred back to Exhibit (A-1) and said the Water Tank was looked at but indicated there were issues with the ability to see equally in all directions. She said along Buckwheat Road the terrain and trees are

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issues and signal will be blocked. She feels the proposed location for the small network node will do a better job and saturate the area.

Board Members addressed questions to Ms. Koles. She indicated the small network node is commonly used and other installations were approved in Bergen County and a small node in Sparta Township. She discussed reasons the proposed location was chosen rather than installing on the water tower. She said the proposed locations visibility is clear and the 38 foot antenna will sit high above the area with no blockage from trees. She commented on how the network node will be maintained and upgraded in the future and feels the trend for small network nodes will grow. She said each new sector of coverage you provide will provide more capacity and small network nodes between the macro sites help add capacity. She confirmed the network node is just for Verizon Wireless customers.

Mr. Knutelsky questioned if another wireless carrier would be able to install additional nodes on the same pole. Ms. Koles said it is nearly impossible to put another omni directional on a pole and there are no collocation on the small network node sites. Mr. Knutelsky pointed out to Board Members if a collocation was to happen and no antennas are added and compound is not increased they would not have to come back to the Board and would only require a Building permit. Mr. Knutelsky commented on the trend line and capacity line that was indicated on the Exhibits provided. Ms. Koles said the data trend will drop when the small node is installed and will be based on subscribership growth.

Applicants Planner, Mr. William Masters stepped forward and is sworn in. He stated his credentials to the Board and confirmed he is familiar with the proposed property, application submission, and ordinances of the Franklin Borough that are relevant to the application. He described application from a planning perspective and commented on variance relief that is required. He said the primary focus from a negative criteria analysis focuses on visibility. He described and discussed a typical macro site and said the variance relief the applicant is requesting is a D3 Variance. Mr. Soloway added new towers can be permitted as a conditional use and the variance relief requested is not the light pole or the installation. Mr. Masters indicated the height of the pole is in compliance and Mr. Soloway said the focus on the variance inquiry is the conditional use standards that are not met. Mr. Masters commented on setbacks and separation distance requirements. He talked about the minimum acre requirement in the Highway Commercial Zone. He said the D3 variance relief focuses on the non-conformities with the conditional use standards. He said looking at the existing nature of the site he finds the site suitable for a wireless telecommunication facility and several characteristics of the site contribute to its suitability. It will meet the capacity requirements for the area and also stated the site is a nonresidential district. There will be a minimum site disturbance and no vegetation removal. He asked the Board to consider the public interest that is a state and said modern telecommunications is a use that provides a benefit to the general

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public. Also indicated Verizon Wireless maintains four FCC licenses and the application complies with the height requirement.

Mr. Masters displayed and discussed a photo board of pictures taken at the proposed site. The photo board illustrated 3 photos of existing conditions and 3 photos with antenna and equipment installation. He described the visibility of the pole from all directions of the Dunkin Donut site and commented on the fencing and bollards.

Mr. Masters concluded his testimony and indicated a lease document will be provided to the Board. He said the Board on Board fencing is a reasonable condition. The replacement pole will be a metal pole and match the color of the existing light pole. He also said the advantage of a metal pole is the wiring can be run up the inside of the pole since the pole is hollow. Conditional use requirements are treated as D3 variances but suggest the location including the rear yard and side yard is a better zoning alternative. He said the rear yard setback of 100 feet will not comply and indicated to replace the pole with the existing pole is a better zoning alternative. He also commented on Zoning Ordinance Section 161-33D and indicated Verizon Wireless is proposing to meet the specific purpose and objection of the wireless ordinance. In conclusion he stated the application satisfies the balance of the negative and positive criteria and satisfies the statutory criteria.

OPEN PUBLIC SESSION:

Cellco Partnership/Verizon Wireless, (ZB-11-15-1), Preliminary/Final Site Plan, D Variance, Block 1101 Lot 3.

Mr. Skellenger made a motion to **Open to the Public**. Seconded by Ms. Fantasia. All were in favor.

No one from the public came forward.

Mr. Skellenger made a motion to **Close to the Public**. Seconded by Mr. Soules. All were in favor.

Board Attorney Mr. Dave Brady reviewed items identified as conditions if application is approved. He commented on defining the lease area of the site and questioned the principal uses. Mr. Nelson indicated since it is a commercial zone you can have multiply uses on a commercial site and does not feel it's an issue. Mr. Soloway noted for the record and reads Wireless ordinance pertaining to principal uses. Mr. Brady indicated the applicant will revise plans to indicate a new electric meter. Also there will be a composite Board on Board earth tone color fence and only one antenna will be installed. The applicant will provide a copy of the lease. No bond is required but a condition will be added indicating Verizon Wireless is responsible to remove all equipment on site and the pole will be brought down to twenty five feet.

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Bollards will be shown on the plan and construction details will also be added to the plan. Mr. Suckey commented on the medal pole and does think the pole needs to be cut and indicated it will blend in. Mr. Brady agreed. Mr. Soloway stated the concrete pad and the enclosure will be removed. Mr. Brady said any reusable generator that will be used will be portable and fit in the enclosure. A medal pole will be used instead of a wooden pole and indicated color and design will be compatible with other poles and electric wires will be run on the inside of the pole.

Board Member Ms. Fantasia had a conversation with Mr. Brady regarding how close she lives to the site and commented on the 200 foot list rule. Mr. Brady asked her if she feels her ability to make a decision will conflict then she can excuse herself. Ms. Fantasia indicated for the record it will not impact on her decision making of this application.

Mr. Skellenger made a motion to **Approve with conditions (ZB-11-15-1), Cellco Partnership/Verizon Wireless, Preliminary/Final Site Plan, D Variance, Block 1101 Lot 3**. Seconded by Mr. Estes.

Upon Roll Call Vote:

AYES: Estes, Kell, Kopcso, Skellenger, Soules, Murphy, Fantasia

NAYS: None ABSTENTIONS: None

OTHER BUSINESS:

There were no other business to discuss.

PAYMENT OF BILLS:

Mr. Kell made a motion to approve the **Franklin Borough Zoning Board Escrow Report for January 6, 2016**. Seconded by Mr. Skellenger. All were in favor.

OPEN PUBLIC SESSION:

Mr. Skellenger made a motion to **Open to the Public**. Seconded by Mr. Soules. All were in favor.

No one from the public stepped forward.

Mr. Skellenger made a motion to **Close to the Public**. Seconded by Mr. Kell. All were in favor.

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ADJOURNMENT: There being no further business Mr. Skellenger made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mr. Estes. All were in favor. Meeting was adjourned at 9:53 PM.

Respectfully submitted,

Karen Osellame
Board Secretary