

BOARD OF ADJUSTMENT  
OF  
TOWNSHIP OF KINGWOOD



Address Reply To:

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P.O. Box 199  
Baptistown, New Jersey 08803-0199

December 14, 2011  
MINUTES

M.L. Haring, chairperson, called the meeting to order, at 7:36 pm.

**PRESENT:**

D. Banish, pl	L. Frank
Ken Soriero, atty	P. Stepanovsky
B. Wilson, sec	J. Laudenschach
T. Decker, eng	T. Ciacciarelli
M.L. Haring	C. McBride
D. Hewitt	

**ABSENT:**

None

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

The 48 hour requirements of the Sunshine Law have been met. Notice of this hearing has been advertised in the Democrat. Copies of this notice were posted in the Kingwood Township Municipal Building and filed with the Municipal Clerk. The Board of Adjustment proceedings close at 10:30 pm.

**RESOLUTIONS:**

Christopher Wildgen/Chris's Citgo -BL 9 L 2.01.

Ken Soriero, attorney, was present filling in for David Pierce.

Gaetano DeSapio, faxed a letter dated December 14, 2011 proposing changes to the Resolution as follows:

#10.- Agree, #13. - Agree, #16. - Agree (add after designated the word permanent), #18. - Agree, #19. - Not Agree (testimony stated no parking vehicles there at all), #21. - Agree, #25. - Agree, #27. - Agree, #28. - Agree, #38. - Not in favor (C.McBride stated that that wasn't the impression that he got.) Discussion followed. Gaetano DeSapio stated that Chris doesn't have the present intent to park cars someplace else, but is that a possibility. Elaine clarified a miss quote regarding the off site parking in which she asked if this site plan was approved would he require off site parking and the response was **NO**, #39. - Agree, #51. - Not Agree (DeSapio okay with that), #58 - Amenable to change.

#1. - Testimony given stated “no need at all”. Engineer, Tom Decker noted it should also mean along Lower Oak Grove Road., #2. – Not agree, #3. - Agree, #5 – Leave it, #7. - Amenable (Engineer noted 6 foot high)

After discussion it was determined that the Board needs to get a copy of the transcript and/or recording in order to clarify some questions regarding changes to the Resolution.

T. Ciacciarelli moved to carry this to next month, seconded by P. Stepanovsky. On roll call to vote.

**Aye: L. Frank, J. Laudenbach, D. Hewitt, P. Stepanovsky,  
T. Ciacciarelli, M.L. Haring**

**Abstain: None**

**Absent: None**

**Nay: C. McBride**

Gaetano DeSapio procedurally who should do what now?

### **MINUTES:**

J. Laudenbach made a motion to approve the October 12, 2011 minutes, seconded by D. Hewitt. On roll call to vote.

**Aye: L. Frank, C. McBride, J. Laudenbach, D. Hewitt, P. Stepanovsky,  
T. Ciacciarelli, M.L. Haring**

**Abstain: None**

**Absent: None**

M.L. Haring stated that before we start the hearing Mayor Lubitz would like to have a few minutes of our time.

Mayor Phil Lubitz thanked each and everyone for their service to the community. He went on to say that this Board has some of the toughest judgment calls of any deliberative body in this township, as demonstrated this evening, and that we almost never get thanks from the public. He closed by saying on behalf of the Township Committee he wished everyone a **Merry Christmas** and a **Happy New Year**.

### **NEW BUSINESS:**

**Nextel of New York, Inc. - BL 37 L 4** – a use variance so as to permit the co-location of a wireless communication facility on property located on 146 Byram Kingwood Road, Stockton, N.J., in the AR-2 Zone.

David Soloway is the attorney representing the above applicant. They are proposing to co-locate on the existing lattice guy tower located on **BL 37 L 4**. They are also proposing a 10 foot extension to the existing 150 foot tower. The tower presently has existing Omni and Dipole antennas which will be remounted on top and Nextel proposes twelve panel antennas bringing the height to 153.6 feet and the standard 12' x 20' equipment to be housed inside the existing shelter. Presently AT&T and the State Police exists on the tower and Verizon received approval to co-locate on the tower, although David Soloway doesn't believe that they have their equipment there yet.

David Soloway stated that co-locating is permitted as a conditional use in every zone of the township. They don't comply with two of the conditional use requirements both related to the standard Nextel equipment shelter. Under the ordinance the shelter is supposed to be limited to a gross floor area of 200 sq. ft, this is 240 sq. ft. and the height limitation is 10 ft. and theirs is 11 ft. 3 in. in height. This property consists of 102 acres, 700 ft off the road, more than 100 ft from any lot line and the 40 foot increase in the shelter size in the

inside of the existing compound and the height which is a little more than a foot above what's permitted isn't going to make this no longer appropriate to this property. They also require a separate bulk variance because this property is in the AR-2 Zone and accessory structures requires there be a 20 foot separation, the existing already has a 6 foot separation and they are proposing a 5 foot separation. They are also seeking preliminary and final site plan approval. They also have with them this evening four (4) witnesses.

Tom Decker noted other than a few inconsistencies in dimensions that this a fairly straight forward application.

D. Hewitt asked if the property owners are aware and was informed that they are present this evening. (two (2) members)

George Chase, sworn, stated that he is a Board member of the Clover Rod and Gun club and is familiar with this application.

C. McBride asked if he is the primary property owner or the lease holder and was told that the property is held by the Clover Rod and Gun Club, a non profit organization and he is just a member.

M.L. Haring asked if there are any property owners that have any questions.

C. McBride had a question regarding the engineers letter dated December 13, 2011 - page 1 - ~~#4~~ Existing ground improvements within the compound include: page 2 - #4 (f) 1,000 gal propane tank and #7 (f) Removal of existing 1,000 gal propane tank serving the generator.

Tom Decker informed C. McBride that they (Verizon) was to remove that and they haven't.

Ken Soriero noted that the Affidavit of Proof of Notice and Notice served satisfy the notice requirements. The Board may proceed and open the hearing.

Glenn Pierson -Pier Con Solutions- was sworn in, is present this evening as the Radio Frequency expert.

M L. Haring accepts Mr. Pierson as an expert witness.

Mr. Pierson informed the Board that he is familiar with this application and property. Nextel is licensed by the FCC to provide wireless communications facilities in this area. He submitted a report as part of this application discussing Nextel's existing facilities. Nextel has a need for a wireless communications in this area because a significant gap was identified and reviewed in the report.

**EXHIBIT A-1 – Byram Kingwood Road -SPRINT- NEXTEL PROPOSED NJ 499V-C.** It consists of a base map to scale, with two overlays almost identical to the map presented for Featherbed Road location. The **green dots** are the existing, **blue dots** proposed and the **yellow dots** the future sites for Sprint/Nextel. The first (1st) overlay is entitled Sprint existing ESMR coverage (iDen Coverage) and the second (2<sup>nd</sup>) overlay is entitled Sprint proposed (iDen Coverage).

D. Hewitt asked if there are any other towers in that sector that he's showing from that map that's displayed there are there any other existing towers. Mr. Pierson stated there's one existing on Hewitt Road which is monopole. He didn't find any other ones but this particular project targeted this existing structure.

No other questions from the Board.

Dave Collins-Pinnacle Telecom Group, was sworn in, gave his credentials and informed the Board that he has been in the Radio Frequency Rules and Compliance business.

M.L. Haring accepted him as an expert.

Dave Collins informed the Board that he prepared the report dated 4/28/2011 titled Antenna Site FCC RF Compliance Assessment and Report. His firm took the analysis and the conclusion is in the report. They calculate the maximum operating power for existing, proposed and formerly proposed but not built yet transmitter at this site. The results for all combined which is a FCC rule (AT&T, Verizon, State of New Jersey and proposed Sprint/Nextel) is 0.5490% and the maximum permitted is 100%.

No questions from the Board.

Frank Colasurdo, sworn in, architect, was accepted as an expert by the Board. He presented colorized plans which were marked **EXHIBIT A-2 -SHEET Z-3**. He participated in and approved the plans that were submitted, is familiar with this site and application. Sheet Z-3 you're looking at 146 Byram Kingwood Road, Stockton, N.J.- **BL 37, L 4, 102** acre parcel that belongs to a Hunt Club. There are some accessory barns on the property but the main development is the 150 foot tall MCI guy tower, it sits over 700 feet from Byram Kingwood Road, closest to any adjacent property line is 192.5 feet. The base consists of a fenced in compound. There is some State Police and Ham operator equipment there, as well as some vacant equipment shelters. Access to this compound is the existing driveway. **SHEET Z-4** is the detail view looking down on the compound. They are proposing to replace the abandoned shelter with a new one. The existing shelter is 340 sq. ft-12 feet tall, 40 sq. feet over the townships regulations for equipments shelter sizes, and they are creating a smaller foot print than what already exists. On the right hand side of the plan it shows the tower elevation. They are proposing to take the existing 150 foot tall tower and extending it 10 feet and the reason for that is that they need to take the State Police and the Ham operator antennas and raise them to get some separation between those antennas and the Nextel antennas. Seven MCI antennas were being removed but actually it's six because the State Police are using one dish (102' elevation) and that will remain. The shelter is pre-fab, pre inspected by the State of New Jersey and houses the radio cabinet and keeps them weatherproof, 12 feet long, 12 feet wide, 10.4' high, it's 6' above grade bringing it to 11+ feet. They are proposing three sets of four antennas-top of the antennas would be 153.6 feet. **Z-5** - What the pre-fab mount looks like and **Z-6** - Shows miscellaneous details.

Frank Colasurdo gave his summary by stating that this facility is designed to be unmanned, doesn't generate any traffic, every four to six weeks maintenance will be performed, no permanent employees, no potable water required, doesn't produce any sewage or solid waste, it's fully monitored 24 hrs. a day - 7 days a week with a series of silent alarms. A 200 amp electrical service ( simple telephone line) is required and the equipment doesn't make any glare, odor, vibrations or noise that would exceed the NJDEP noise standards. It does have AC's built in to the equipment shelter which meet the required decibel levels. A structural report was submitted that currently supports what's on the tower and that includes the Verizon antennas and the proposed Sprint antennas.

David Soloway noted that there is a question on Mr. Decker's report, page 3-item #1c -notes a discrepancy in the plans relating the separation distance requirements. The required separation of 192.5 is correct and complies with the ordinance.

Tom Decker noted that in his report there was some inconsistencies between the tower heights submitted by Verizon and the plans submitted. (Report-page 3-item# 3 (a) (b))

M.L. Haring asked about the antennas and was told that (2) are the State Police and (1) is a ham radio operator.

Frank Colasurdo informed Tom Decker that there's a series of batteries inside the equipment shelter, a generator plug in case of power failure for more than eight hours and then they will bring a generator to the site on a trailer and remove it when the power is restored.

Tom Decker read the definition of Wireless Communications under height . It exceeds the maximum height requirement by 2 feet.

**EXHIBIT A-2 – American Tower Corporation Tower Elevation, dated 11/06/09-** shows the top of tower at 150' and on top of that there are three antennas- 22'-Omni, 20'-Omni, 20'-Dipole. The structural Report August 2011 shows the State Police at 15', Omni at 10' and the Ham Radio at 15'. Tom Colasurdo believes that in 2009 the survey took into account the mounts.

M. L. Haring questioned as to where was the ham operator to co-locate.

C. McBride stated that he's a ham operator and they normally are not on top.

Tom Decker stated that right now there's no violation- it's because of the additional 10 feet.

David Soloway asked the Board to allow the height to be up to the 182' particularly because they're not their antennas, they're already there.

C. McBride questioned that their moving the antennas-are they being coordinated with the people that own them?

Frank Colasurdo stated that the removal of the 12 foot dishes have already been removed and the 10 foot extension and relocation of the antenna are all being done by the landlord.

David Soloway clarified that the landlord is American Tower Co. and they have a lease with the Clover Rod and Gun Club.

Tom Decker mentioned a remaining gap. Glenn Pierson stated that in that gap is actually the anchors so there isn't enough space between the Verizon antennas at 136 feet and the guy anchors are at 128 feet.

The Board has no questions of Mr. Colasurdo.

William F. Masters, Jr., professional planner, was sworn in and gave his background. M.L. Haring accepted him as an expert.

Mr. Masters stated that he is familiar with the application, property and the relevant ordinances. They are before this Board for site plan approval and variance relief of the D3 variety which is a use variance it's a variance for a deviation or departure from the conditional use standard and the applicants burden of proof relative to the D3 variance is to show that notwithstanding the deviation or departure from the conditional use standard and the site is to be a suited site for the intended use. The Wireless Telecommunications Ordinance shows a clear preference for co-location on existing towers. The Master Plan 2004 (Re-examination Report)-states that under Personal Cellular Telecommunication Facilities Regulations-in 2000 the township adopted an ordinance amending the development regulations for telecommunications towers and antennae requiring for co-location on towers and monopoles. This application clearly promotes the objective of the Master Plan. The relief they seek for the deviations or departures they seek are for the dimensional aspects of the equipment shelter on the ground. The square foot size, max permitted is 200 sq feet, the proposed is 240 sq feet, the height is 10 feet and the proposed is 11 feet 3 inches. The variance relief being sought relative to those two standards are of such a deminimis nature relative to the size of this property The tower is set back 730 sq feet

and it would virtually impossible to notice those deviations unless you were trespassing on the property. The other variance is relative to the separation distance between accessory structures which is 20 feet required, 6 feet existing, 5 feet proposed. The need for that variation and separation is to keep that equipment inside the compound. He would suggest that the variance being sought can be granted and the subject site continues to be a particularly suited site. The photo simulations will demonstrate the impact of the 2 foot variation. **EXHIBIT A-4- 8 COLORED PHOTOS AND SIMULATIONS.** On the left it shows the existing guy lattice tower and on the right the computer enhanced simulations showing the existing and proposed. The variances deal with the compound. He went on to say that this application satisfies the positive criteria and that this site continues to be particularly suited for a telecommunications facility and it satisfies the negative criteria namely that this can be granted without any detriment to the public good and impairment to the zone plan of the Township of Kingwood.

No questions from the Board or property owners within 200 feet.

David Soloway made a brief summation saying this is what the ordinance wants-co-location. They don't comply with every regulation and the deviation is minimal, no detriment on any adjoining property owner. He also asked the Board that if they do exceed the height by 2 feet- to allow the highest whip to be at 182 feet.

M.L. Haring moved that the hearing be closed

The Board members have no problem with this application.

P. Stepanovsky made a motion that we pass this application based on the variances that he has asked-the 2 feet if he needs it above 180 feet, the distance between the sheds-5 feet and also the size of the shed and all the standard conditions, seconded by C. McBride. On roll call to vote.

**Aye: L. Frank, C. McBride, J. Laudenschach, D. Hewitt,  
P. Stepanovsky, T. Ciacciarelli, M.L. Haring**

**COMMUNICATIONS/REPORTS:**

Kingwood Township Minutes for: 9/1/2011, 10/6/2011, 10/13/2011  
Borough of French town-Ordinance # 703

P. Stepanovsky made a motion that the Board appoint David Pierce, from the law firm of Lindabury, McCormick, Estabrook & Cooper, for the upcoming year 2012, seconded by T. Ciacciarelli. On roll call to vote.

**Aye: L. Frank, C. McBride, J. Laudenschach, D. Hewitt, P. Stepanovsky,  
T. Ciacciarelli, M.L. Haring**

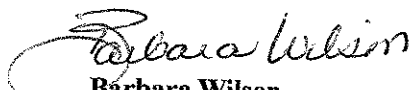
**Abstain: None**

**Absent: None**

**OPEN TO PUBLIC:**

**ADJOURNMENT:**

L. Frank moved to adjourn, seconded by D. Hewitt all in favor. Meeting adjourned at 9:25pm..

  
**Barbara Wilson**  
Secretary/BOA