

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, March 15, 2016
—MINUTES—

CALL MEETING TO ORDER:

Chairman Sweeney called the meeting to order at 7:30 pm in the Bridgewater Municipal Courtroom, 100 Commons Way, Bridgewater, New Jersey 08807

OPEN PUBLIC MEETING ANNOUNCEMENT:

The Chairman read the following notice: Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A.10:4-6. On January 25, 2016 proper notice was sent to the Courier News and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building.

Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing assistance is available upon request.

Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Board Secretary before the public meeting.

However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

ROLL CALL:

Don Sweeney – present	Alan Fross – present
Pushpavati Amin – present	James Weideli, Alt. #1 – present
Paul Riga – present	Dawn Guttschall, Alternate #2- absent
Michael Kirsh – present	John Fallone Alternate #3 – present
Evans Humenick – present	Jeff Foose Alternate #4 - present
Beth Powers – absent	

Others present: Steven Warner, Esq., Board Substitute Attorney for Larry Vastola, Esq., Board Planner Scarlett Doyle, Ann Marie Lehberger, Recording Secretary

MINUTES FOR APPROVAL:

November 17, 2015, Regular Meeting

February 16, 2016, Regular Meeting

The foregoing minutes will be presented for Board consideration when completed. No action was taken.

November 24, 2015, Special Meeting

Eligible to vote: Chairman Sweeney, Mr. Kirsh, Mr. Humenick, Mr. Weideli, Ms. Guttschall, Mr. Fallone

Motion by Mr. Weideli; Second by Mr. Humenick the foregoing minutes were adopted on the following roll call vote, as written.

AFFIRMATIVE: Mr. Sweeney, Mr. Kirsh, Mr. Humenick, Mr. Weideli, Mr. Fallone,

ABSENT: Ms. Guttschall, Mrs. Powers

NOT ELIGIBLE: Mrs. Amin, Mr. Fross, Mr. Riga, Mr. Foose

February 2, 2016, Regular Meeting

Eligible to vote: Chairman Sweeney, Mrs. Amin, Mr. Kirsh, Mr. Humenick, Mrs. Powers, Mr. Fross, Mr. Weideli, (Ms. Guttschall), (Mr. Fallone), (Mr. Foose).

Motion by Mr. Weideli, second by Mrs. Amin, the board adopted the transcript as provided by the applicant in lieu of minutes written by the Planning Secretary on the following roll call vote: (It was noted that there were some misspellings and omissions in the transcript provided)

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Kirsh, Mr. Humenick, Mr. Fross , Mr. Weideli, , Mr. Fallone
ABSENT: Ms. Guttschall, Mrs. Powers
NOT ELIGIBLE: Mr. Riga, Mr. Foose

MEMORIALIZING RESOLUTIONS:

No Resolutions were pending for Board action

EXECUTIVE SESSION:

At 7:35 pm, The Board went into Closed Session for personnel matters in order to conduct an interview for the position of board attorney on the following vote:

Motion by Weideli; Second by Mrs. Amin.

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Kirsh, Mr. Humenick, Mr. Fross , Mr. Weideli, , Mr. Fallone,
Mr. Foose, Mr. Riga.
ABSENT: Ms. Guttschall, Mrs. Powers

The Board returned to the Courtroom at 7:55 pm on the following roll call vote:

Don Sweeney – present	Alan Fross – present
Pushpavati Amin – present	James Weideli, Alt. #1 – present
Paul Riga – present	Dawn Guttschall, Alternate #2- absent
Michael Kirsh – present	John Fallone Alternate #3 – present
Evans Humenick – present	Jeff Foose Alternate #4 - present
Beth Powers – absent	

Others present: Steve Warner, Esq., Board Substitute Attorney for Larry Vastola, Esq., Board Planner Scarlett Doyle, Ann Marie Lehberger, Recording Secretary

The Board reconvened into public session at 7:55 pm on the following roll call vote:

Don Sweeney – present	Alan Fross – present
Pushpavati Amin – present	James Weideli, Alt. #1 – present
Paul Riga – present	Dawn Guttschall, Alternate #2- absent
Michael Kirsh – present	John Fallone Alternate #3 – present
Evans Humenick – present	Jeff Foose Alternate #4 - present
Beth Powers – absent	

Others present: Steve Warner, Esq., Board Substitute Attorney for Larry Vastola, Esq., Board Planner Scarlett Doyle, Ann Marie Lehberger, Recording Secretary

HEARING AND DELIBERATIONS-

NIKITA SUKHIN – 610 Emerald Trail

Block 807 Lot 33

#15-039-ZB- Variance Application- Pool, Patio & Shed

TIME: 120=6/10/16

Eligible to vote: All Members

Mr. Nikita Sukhin, applicant and Wayne Ingram PE, Engineer for the applicant were present and were sworn in for testimony. Board Planner Scarlett Doyle was also sworn.

Mr. Sukhin explained the application was for the construction of a pool, patio and shed. Mr. Sukhin noted the yard currently has no improvements.

Mr. Ingram was qualified as a Professional Engineer and Professional Planner and accepted by the Board. Mr. Ingram described the site, emphasizing the steep slope nature of the site. Mr. Ingram provided testimony as follows: Approximately 90% of the lot is encumbered by steep slopes of varying degree. Walkways and stairs connect the different levels of the property. Patios and pools are common in the neighborhood. He discussed the variance is needed due to the reduced building envelope of the lot and due to the Hillside Development Ordinance. The proposed improvements are minimal. The applicant was directed to the reports from the Board Engineer Thomas Forsythe dated 3/9/16. Mr. Ingram discussed the technical aspects and noted that 7,787 sf. is accurate. Runoff will be directed to two small lawn inlets. The applicant would agree to install a drywell despite the fact that the proposed impervious area is under the threshold for a formal drainage plan. The applicant will propose low-voltage lighting that will only be on during 8 pm to 11 pm. The walkway will be stone and the others will be pea gravel. The applicant agreed to locate the heater and shed on the plan as a condition of approval. In general, the applicant agreed to conform to the engineer's report. The Board Planner Scarlett Doyle's report dated February 16, 2016 was discussed. The engineer discussed why the applicant believed that this was a reasonable request and is in line with others in the neighborhood. The five trees that are being removed will be replaced with at least two trees.

The Chairman opened the questioning to the Board. On Board inquiry, the engineer stated that the backwash system would be discharged into the inlet or overland. He noted that it would not affect the pond which is 150 feet away. He also stated that there are no proposed changes to the dwelling and that the pool will be a mineral filtration system. The engineer emphasized that the disturbance has been minimized in the design, which resulted in some walls on the property. Mr. Sukhin was asked about further reducing impervious coverage. He responded that the original plan was significantly more ambitious and the original plans were significantly scaled back in order to keep down the improved lot coverage. On discussing changing a patio area to lawn, the applicant felt it would be beneficial to have his patio furniture on gravel.

The Chairman opened the meeting to the public for questions of the applicant and engineer. There were no questions or comments.

Mr. Ingram continued with Planning testimony to discuss the variance. He explained the mitigation measures which were incorporated into the plan, which resulted in a modest improvement, was keeping with what was in the neighborhood. The Board questioned activity on slopes greater than 30%. Mr. Ingram noted that stairs would be placed within the 30%, but all others would be on slopes less than 30%.

Mr. Sukhin noted that the design included safety for the children and that the deck will have dirt underneath.

The applicant is seeking a c-1 variance due to geometry of the site and steep slopes of the property. The steep slopes were existing and not a self-created hardship. There are no properties abutting to satisfy the ordinance. There would be no impairment to the zone plan or detriment to the neighborhood.

Chairman Sweeney opened the public portion of the meeting. There were no questions or comments.

The Board began deliberations.

Motion by Mr. Weideli; Second by Mr. Fross the foregoing application was approved with conditions on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Kirsh, Mr. Humenick, Mr. Fross, Mr. Weideli, Mr. Riga
NOT ELIGIBLE: Mr. Foose, Mr. Fallone
ABSENT: Ms. Guttschall, Mrs. Powers

NEW YORK SMSA LIMITED PARTNERSHIP/ dba Verizon Wireless - 65 Old York Road

Block 134 Lots 4
#16-001-ZB- Amendment of Prior Approval
TIME: 120=4/5/16
Eligible to vote: All Members

Attorney Richard Schkolnick represented the applicant and explained the following: The application was for an amended site plan approval to T-Mobile which was granted a 120 ft. tower with internal arrays. Although T-Mobile did not go through with the plan, Verizon wishes to do so with antennae which are exterior to the pole and not interior to the pole as was the case in T-Mobile. He noted that there would be a slight shift in the parking and equipment area. There will also be a platform which has been elevated above the flood hazard area. A permit will need to be secured from the state. The permit extension act is applicable to this application. A street tree will be provided. There is no use variance associated with this plan.

The Chairman asked the Board Attorney Warner to educate the Board on the relevant issues of the case. Mr. Warner discussed the validity of the permit extension act for this application. He also discussed the similarities of the application to the T-Mobile application. He also addressed the recent 2012 Conditional Use Ordinance and concluded that this application did not trigger a use variance in this case. He discussed the uniqueness of the common application regarding cell tower applications. While the variance generally runs with the land, there are certain proofs that must be provided, including coverage gap and other technical aspects.

Mr. Schkolnick added a different perspective to attorney Warner's summary of a telecommunication case, but the conclusion to both attorneys was that this would be considered to be an amended site plan approval. Both attorneys noted that proofs would be provided to satisfy both opinions. FCC license and coverage gap would be offered to the Board. Also, it was noted that the approval of the SNN on another site two lots over was recently approved for Verizon and the applicant agreed that the approval for the other site (lot 6) would be abandoned if the current application is approved. It was argued by Mr. Schkolnick that the court determined that there is no material difference between an interior array versus an exterior array.

The following expert for the applicant was sworn: Robert Marsac, AIA. Board Planner Scarlett Doyle was also sworn.

Robert Marsac, with Ramaker & Associates was qualified as a licensed architect working extensively in the telecommunication industry and was accepted by the Board. Mr. Marsac discussed this site plan and

compared the plan to that which was previously approved. He noted that the changes to the plan consist of an existing trailer and building where a chain link fence compound is provided. The equipment cabinets are in the exact same location and pole height is the same as T-Mobile. There is a slight shift in the compound chain link fence and a slight shift in the parking stall. Mr. Marsac addressed the joint report from the Board Planner and Board Engineer dated March 3, 2016 and gave the following testimony based on this joint report. The technician would be on site approximately once per month. There will be 3 equipment cabinets and one generator within the equipment compound. The applicant is willing to work with Ms. Doyle to find locations for street trees. The NJDEP flood hazard approval must be re-issued since a new user requires it. The platform is above the flood hazard elevation and will conform with NJDEP regulations. Collocation would be possible; the pole will be designed to accept a total of four carriers. The platform will not exceed a height of 12 feet, per conformance with the 2012 ordinance, although the applicant is relying on the prior approval. On question of the Board, a flagless monopole is different in construction; the proposed monopole will not accommodate interior antennae. Therefore, all future antennae would be exterior. Planting plans will be developed in cooperation with Ms. Doyle. There is no requirement for lighting on this height of pole. The height of the pole will be set at 120 feet. The diameter of the base is four feet and tapers, versus the T-Mobile diameter which does not taper. Carriers typically use external arrays. The generator is self-contained and properly oriented so that the exhaust will not affect the trailer. The applicant will conform to the noise restrictions imposed in the applicable 2012 telecommunication ordinance.

The Chairman opened the meeting to the public

There were no members of the public wishing to question the architect.

Timothy M. Kronk was sworn and qualified as a Professional Planner and was accepted by the Board. Mr. Kronk submitted exhibits that were marked into evidence as Follows:

Exhibit A-1 3/15/16 Photo simulation

Exhibit A-2 3/15/16 Photo simulation

The photo simulations were the same photographic locations as used for the 2009 T-Mobile application. Mr. Kronk described the photos, showing the tower aspect from Ardmaer Drive and another from Robert Street (Exhibit A-1). Another set of photos showed the tower aspect from 45 Old York Road and 84 Old York Road (Exhibit A-2). The Board asked to see the former flagpole since the applicant was describing the similarities of the current site plan to the prior site plan. Attorney Schkolnick said he would attempt to provide it, although the court did determine that there was no legal difference and that he did not believe that he needed to provide a comparison of the design of the two different poles. The Board expressed concern regarding the need not to disfigure the neighborhood and that the comparison would have been helpful. The applicant addressed the joint report from the Board Planner and Board Engineer dated March 3, 2016. Regarding the buffer for the setback (#4 of the Planner's report) the request for an additionally insured was requested. The applicant agreed to have the township and abutting properties as 'additionally insured'. The Verizon has a contract lease of this site.

The Chairman opened the meeting to the public

There were no members of the public wishing to question the planner.

Stephanie Koles was sworn and qualified as a Radio Frequency Design Engineer and was accepted by the Board. Ms. Koles. discussed the radio frequency spectrum for Verizon and described the capacity need for

the area. Ms Koles provided testimony as follows: The Branchburg 3-Alpha site is located on a water tower across from Wegmans. Ms. Koles presented an exhibit that was marked into evidence.

Exhibit A-3 3/15/16 Forward Data Volume Chart

This exhibit shows data usage and peaks on the chart show degradation in service. This results in inability to make phone calls. Data trends are going up toward ‘exhaustion’ which is the point where the service is compromised. The Chairman questioned the yellow ‘trend line’ on the exhibit. The applicant conceded that the trend line was not based on data points, but was based on a number of other analyses, including growth of downloads and applications and behavior that people exhibit. Ms. Koles is not aware of any complaints in service. The Board asked about the data, particularly a spike which was not able to be explained. Ms. Koles explained that the exhaust line takes in part, actual usage and also where subscribers, how many subscribers, and other data. Exhibit 3 is specific for Branchburg 3-Alpha. Verizon has a guarantee to its customer base, and when the traffic reaches exhaustion, the level of service is depressed. Regardless of LTE or not, all users will be able to use 911. Emergency service calls are assured when everyone migrates to LTE, the system will have more capacity and users will be given options for upgrades. Migration of users includes the customer to purchase new phones, not an action of Verizon. Ms. Koles presented an exhibit that was marked into evidence.

Exhibit A-4 3/15/16 Distance History Traffic of Subscribers.

Ms. Koles noted that the timeframe of this exhibit was from 3/2/16 to 3/9/16 and it showed that there are 90,000 connections during this week period. The longer the distance from the cell site, the greater the loss of service. For many design reasons, Ms. Koles has concluded that Verizon cannot use a flagless flagpole for its application. Ms. Koles presented an exhibit that was marked into evidence.

Exhibit A-5 3/15/16 Graph of Bradley Gardens and Capacity Gap Area

Ms. Koles showed the capacity gap area for the Branchburg 3-Alpha. The violet area on the bottom left of the exhibit on western data sector of the Bridgewater 10 site satisfies the capacity gap area. The monopole with wider antennae also aids in building a bigger capacity reserve because it covers a smaller area. The lavender, orange and green areas on Exhibit A-5 will be covered by the new monopole, although this is only the capacity gap area and that the monopole will actually cover more area than this. There are six antennae that are proposed for this application.

The Board carried the meeting to April 5, 2016 at the Bridgewater Courtroom at 7:30 pm without further notice required. The applicant is to discuss why the exterior arrays are needed versus the interior arrays and the 120 ft. pole versus the 30’ SNN that was approved in another prior application on lot 6.

MEETING OPEN TO THE PUBLIC:

The Chairman noted that members of the public wishing to address the Board on any matter not listed on the agenda were welcome to do so. There were no members of the public wishing to address the Board.

OTHER BOARD BUSINESS:

There were no other matters of Board business.

ADJOURNMENT:

The Board adjourned the meeting at approximately 10:45 pm.

Respectfully submitted,
Ann Marie Lehberger
Planning Secretary