

BRIDGEWATER TOWNSHIP  
**ZONING BOARD OF ADJUSTMENT**  
Regular Virtual Online Meeting  
Tuesday, February 16, 2021  
—MINUTES—

**1. CALL MEETING TO ORDER:**

Chairman Mr. Foose called the Virtual Online meeting to order at 7:30 pm.

ANNOUNCEMENT: For the duration of the Corona virus Health Emergency, the Municipal Complex is closed to the public, and meetings will be held digitally, connected by conferencing software provided by RingCentral.com. Members of the public are invited to view meetings live using RingCentral webinar, which also allows them to "raise a hand" and contribute when they are invited to do so during public portions of the meeting. Instructions for Virtual online meeting:

1. Download RingCentral meetings on preferred device: <https://www.ringcentral.com/apps/rc-meetings>
2. At the advertised start time of the meeting, enter: <https://webinar.ringcentral.com/j/1487007540> into your browser. *\*This method allows listening & participation*

Please Note: You may also join via telephone: Dial: +1(213)-250-5700, Webinar ID: 1487007540

*\*telephone access allows only listening and not participation.* If you would like to ask a question, you can do so via audio and video through RingCentral.com, just audio via RingCentral.com, or via text 1(908) 912-4247 with name, contact information and the questions for the applicant's witness or the Board and the questions will be read into the record. However, if you wish to make public comment/testimony, you **must** do so through both audio and video through RingCentral.com pursuant to N.J.A.C. 5:39-1.7(c).

**2. OPEN PUBLIC MEETING ANNOUNCEMENT:**

Both adequate and electronic notice of this meeting specifying the time, place and manner in which such notice was provided in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, and recently enacted Emergency Remote Meeting Protocols for Local Public Bodies, N.J.A.C. 5:39-1, et seq.

Specifically, on **January 13, 2021** 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 at the Municipal Building. Public meetings are held with participants at remote locations, connected by conferencing software provided by RingCentral.com. Members of the public are invited to attend and participate in live meetings either by using the RingCentral client, which allows audio and video participation, or by phoning into a meeting for audio only participation. The required access information is provided in the notice, as well as set forth on the agenda. The procedures and requirements for making public comment are as follows: Attendees are admitted to meetings via the waiting room and microphones are muted until enabled by the host. Members of the public may participate in meetings at certain designated times as announced by the Board Chair. Members of the public will be allowed to address applicants and their experts, ask questions and/or make comments as appropriate once recognized to do so. Attendees may request to be heard by 'raising a hand', either physically or virtually. Regulation of conduct by members of the public on the remote public meeting shall be consistent with law and practices followed if a member of the public disrupts an in-person meeting. Specifically, if a member of the public becomes disruptive during any period for public comment, the member of the public shall be muted and warned that continued disruption may result in him or her being prevented from speaking during the remote public meeting or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors, such as, but not necessarily limited to, shouting, interruption, and use of profanity. A member of the public who continues to act in a disruptive manner after receiving a warning may be muted while other members of the public are allowed to proceed

with their questions or comments. If time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make their comment. Should the person remain disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting. Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm.

**3. SALUTE TO FLAG:**

Chairman Foose announced to the Board the loss of Lieutenant Colonel Thomas Robert "Bob" Vaucher, who passed away at 102 years old, 1918-2021. Mr. Vaucher was a Bridgewater resident since 1953.

A Moment of Silence was held in respect to Mr. Vaucher and his years of service provided.

**4. ROLL CALL:**

Jeff Foose - present	Donald Sweeney -present
James Weideli - present	Bruce Bongiorno-present
John Fallone - present	Kevin Wrobel - present
Dawn Guttschall- absent	Andrew Fresco -present
Pushpavati Amin-present	Gary La Spisa - present

Others present: Board Attorney Mr. Steven Warner, Esq., Board Engineer Mr. William Burr, IV, PE., Board Planner Ms. Scarlett Doyle, PP., and Land Use Coordinator Ms. Zuzana Karas.

**5. MINUTE(S) FOR APPROVAL:**

October 20<sup>th</sup>, 2020 Meeting Minutes

Chairman Foose asked the Board if any comments would like to be made regarding the minutes from the October 20<sup>th</sup>, 2020 Zoning Board meeting. Board members addressed some spelling, and punctuation changes recommended to the final draft.

The chairman asked the Board for a motion and a second to approve the October 20<sup>th</sup>, 2020 meeting minutes with the amended changes.

Roll Call Vote:

Motion of approval was made by Mr. Weideli with a second by Mr. La Spisa.

AFFIRMATIVE: Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Ms. Guttschall

ABSTAIN: Mr. Foose and Mr. Fallone.

DENIAL: None

November 17<sup>th</sup>, 2020 Meeting Minutes

Chairman Foose asked the Board if any comments would like to be made regarding the minutes from the November 17<sup>th</sup>, 2020 Zoning Board meeting. Some typing issue occurred throughout the draft, and it was decided to table to minutes to the next scheduled meeting.

December 1<sup>st</sup>, 2020 Virtual Meeting (pending)

December 15<sup>th</sup>, 2020 Virtual Meeting (pending)

January 19<sup>th</sup>, 2021 Virtual Meeting (pending)

February 2<sup>nd</sup>, 2021 Virtual Meeting (pending)

**6. MEMORIALIZING RESOLUTIONS:**

**SKYMANOR PROPERTIES, L.L.C. - 5 SKY HIGH TERRACE - Denial**

**Block 904, Lot 5  
#20-007-ZB - Variance -Construct New Home on Vacant Lot**

Chairman Foose announced that since the resolution was provided relatively late to the Board, it'd be best to carry the resolution to the next meeting, providing all board members enough time to read through the lengthy document. All board members agreed with the decision.

**NY SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS & T-MOBILE NORTHEAST  
LLC, ROUTE 202/MOUNTAIN VIEW AVE  
Block 483, Lot 20  
#21-001-ZB - Appointing an independent radiofrequency expert**

Board attorney, Mr. Warner, addressed the Board that the resolution was to appoint Mr. Hank Menkes to take part in the application scheduled, Application No. 21-001-ZB. The board attorney advised the document would be filled with an additional note reading 'fees not to exceed \$5,000.00', as confirmed by Mr. Menkes himself.

The chairman asked the Board for a motion and second to approve the resolution with the added text.

Roll Call Vote:

Motion of approval was made by Mr. Fallone with a second by Mr. La Spisa.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Ms. Guttschall

ABSTAIN: None

DENIAL: None

**7. HEARING AND DELIBERATIONS:**

**NY SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS & T-MOBILE NORTHEASLLC  
ROUTE 202/MOUNTAIN VIEW AVE  
Block 483 Lot 20**

**21-001-ZB- PRELIMINARY & FINAL MAJOR SITE PLAN WITH VARIANCE RELIEF/ PUBLIC UTILITY  
WITHIN WIRELESS COMMUNICATIONS ATTACHMENT**

T-Mobile Northeast, L.L.C., and NY SMSA Limited Partnership d/b/a Verizon Wireless made an application to the Bridgewater Township Zoning Board of Adjustment for preliminary and final major site plan approval with variance relief. The project consists of constructing a permanent wireless communications facility attached to an approved Public Service Electric & Gas, "PSE&G" transmission tower. This being located on the property identified as Block 483, Lot 20, located near the intersection of Route 202/206 and Mountain View Avenue.

The applicant sought the following variance(s): A d(1) use variance for constructing a permanent wireless communications facility in the R-40 Zone, whereas wireless communications facilities are not permitted uses in the R-40 Zone. A d(6) height variance for a proposed permanent wireless communications facility having a height of 149 feet and 6 inches, whereas the maximum permitted structure height in the R-40 Zone is 35 feet. A bulk variance for a proposed setback of the permanent wireless communications facility support structure from the nearest property line of 40.4 feet, whereas a wireless communications facility support structure shall be set back from the nearest property line at least 120% of the tower height (179.4 feet).

The property is a narrow, 150 feet wide PSE&G right-of-way located adjacent to residential properties on the southeast side and the Center of Excellence property on the northwest side. The property is located in the R-40 Zone, containing 38.39 acres, including two PSE&G transmission towers that are, at present, 97'9.5" tall. The applicants maintain wireless antennas with an equipment compound on the property, near the tower

closest to Route 202. The top of Verizon Wireless' existing antennas are located at a height of 117'6", and the top of T-Mobile's existing antennas are located at the height of 107'. PSE&G has applied and received approval for two new transmission towers at the site that will be 130' feet tall and "Y" shaped.

The applicants plan to place their antennas on a tower extension located off one arm of the tower. The applicants will continue to use the existing equipment compound on the property. T-Mobile is proposing six-panel antennas at a top height of 140'6". Verizon is also proposing six-panel antennas with a height of 149'6", flush with the top of the tower extension.

The applicants submitted Site Plans prepared by Scherer Design Group, dated December 17, 2020, last revised February 2, 2021, an independent Radio Frequency Report Piercon Solutions, L.L.C. entitled "Independent Radio Frequency Report Regarding a Proposed Wireless Communications Facility for Verizon Wireless Site ID: Bridgewater 5" ("Verizon Wireless R.F. Report"), an independent Radio Frequency Report prepared by Piercon Solutions, L.L.C. entitled "Independent Radio Frequency Report Regarding a Proposed Wireless Communications Facility for T-Mobile Northeast, L.L.C.", a report prepared by Piercon Solutions L.L.C. entitled "Evaluation of the Radiofrequency Environmental in the Vicinity of the Proposed NJ07459A formerly NJ06234I" ("E.M.F. Report"), Antenna Site FCC RF Compliance Assessment and Report prepared by Piercon Solutions L.L.C., dated September 18, 2020, two Visual Analysis for T-Mobile Northeast L.L.C. and Verizon Wireless, prepared by T.K. Design Associates, and Structural Calculations prepared by Christian Sorenson, P.E. of Main Line Energy Consulting, dated January 5, 2021.

Mr. William Burr, IV, P.E., the Township's Engineer, and Ms. Scarlett Doyle, P.P., the Township's Planner, issued a joint review memorandum dated February 2<sup>nd</sup>, 2021.

Ms. Doyle, Mr. Burr, and Mr. Menkes, the Board retained independent Radio Frequency ("R.F.") Engineer, were all duly sworn according to law. At the same time, the applicants' experts Ms. Colleen Connolly, P.E., Mr. Timothy Kronk P.P., and Ms. Frances Boschulte, the applicants' R.F. Engineer, were duly sworn according to law.

Mr. Edward W. Purcell, Esq., on behalf of the applicants, appeared before the Board advising that the applicants are seeking preliminary and final major site plan approval with variance relief. This project would consume of placing antennas onto an approved but not yet constructed PSE&G transmission tower. Mr. Purcell noted that the applicants presently have two existing and approved facilities on the property and that the proposed facilities will essentially replace the two existing facilities. However, Mr. Purcell noted that this application is slightly different than the prior application because the location of the approved PSE&G tower has shifted somewhat from the existing tower. The applicants will continue to use their current equipment compound on the property. Mr. Purcell explained that the purpose of this wireless communications facility is to provide a permanent location that would permit the applicants to leave the temporary tower approved at Block 601, Lot 107. (Approved by the Board on December of 2020.) Mr. Purcell elucidated the time sensitivity involved in obtaining this approval now since there will be a window of opportunity in late May 2021 where PSE&G will be constructing this new tower, and yet it won't be electrified. This would allow the applicants the time to relocate their wireless communications antenna onto the tower during such a timeframe. After that window of opportunity closes, the tower will be electrified. The applicants would be forced to remain on the Chambersbrook Substation temporary towers for another one to two years.

Mr. Purcell advised that the applicants' proposal requires preliminary and final major site plan approval, d(1) use, d(6) height, and bulk variance relief. Ms. Connolly, P.E., provided her qualifications and was accepted by the Board as an expert in the field of civil engineering. Ms. Connolly introduced into evidence, as Exhibits A-1 through A-11, each of the eleven sheets from the Site Plan provided, with a revised date of February 2, 2021.

Referencing Sheet 4 (Exhibit A-4), Ms. Connolly described the existing conditions. She testified that the property is adjacent to Route 202/206 and Mountain View Avenue. Ms. Connolly testified that the property is used as a PSE&G right-of-way and is approximately 150' wide. She testified that the property is approximately 8.39 acres and abuts residential properties on one side and the Center of Excellence on the other. Ms. Connolly testified that access to the property is by way of the existing paved drive off of Route 202/206. Ms. Connolly testified that the property currently contains two towers each of which are 97'9.5" tall. She also testified that the applicants currently have antenna facilities located on the tower nearest to Route 202/206. The top of Verizon Wireless' antennas is located at the height of 117'6". The top of T-Mobile's antennas are located at the height of 107'. Ms. Connolly stated that these towers are being removed as part of PSE&G's upgrade project and that the Township has already approved such.

Ms. Connolly testified that the property is located in the R-40 zone. She explained that the adjoining lot, the Center of Excellence, (C.O.E.) is subject to split lot zoning and that the majority of the C.O.E. is within the R-SEED Zone- Township's Redevelopment Special Employment and Economic Development District and a smaller portion is part of the OR/D Zone- Township's Office Research and Development. Ms. Connolly noted that Exhibit A-4 incorrectly states that the C.O.E. is located in the S.E.D. zone instead of the R-SEED zone. Referencing Exhibit A-4, Ms. Connolly testified that the purpose of the proposed permanent facility is to provide T-Mobile and Verizon Wireless with a permanent facility on which their antennas due to the PSE&G replacement tower project. This application will provide a permanent location to replace the temporary facility located at the Chambersbrook Substation Temporary Tower Site.

Referencing Exhibit A-4, Ms. Connolly described the restrictions currently on the property. She stated that most of the property consists of wetlands and wetlands transition areas. Ms. Connolly testified that this application would cause a disturbance within a wetlands transition area. The application has been filed with the New Jersey Department of Environmental Protection ("N.J.D.E.P."), not disturbing the actual wetland areas. Ms. Connolly also testified that there is a 30' wide gas easement adjacent to the property and located within the C.O.E. property.

Ms. Connolly testified that the top of the approved tower will be 130' from grade and that an extension would be placed on the tower that will extend the tower's height to an additional 149'6". The applicants' antennas will be located below this tower extension. Ms. Connolly testified that the top of Verizon Wireless' antenna will be flush to the top of the tower extension at the height of 149'6", and that the top of T-Mobile's antennas will be located at a height of 140'6". Ms. Connolly also testified that the antennas would be shifted to the west approximately 64'6" from their existing location due to the PSE&G tower replacement project.

Ms. Connolly introduced into evidence, as Exhibit A-12, a structural analysis completed by Christian Sorenson, P.E., dated January 5, 2021. Ms. Connolly testified that she reviewed the report and agreed with the conclusions set forth therein. She further testified that the information provided confirmed that the applicants' proposal complies with all applicable codes and standards. Ms. Connolly stated that the tower had been designed to accommodate two wireless carriers. Further referencing Exhibit A-4, Ms. Connolly testified that the applicants would be using the existing compound on-site with a total footprint of 1,250 square feet. Ms. Connolly testified that the height of the fencing around Verizon's existing shelter is 6' high and that the fencing around T-Mobile's equipment area is 8' tall with privacy slats. Ms. Connolly testified that there is an exterior light by the access door to the shelter and that neither would be altered.

Ms. Connolly testified that technicians would visit the site approximately once every four weeks. Ms. Connolly testified that the decommission date for the existing tower is set for February 18, 2021, though this date may be pushed back. Ms. Connolly testified that this work would be coordinated with the PSE&G tower replacement project as it must be completed before transmission lines are energized on the new towers. Ms. Connolly stated that PSE&G contractors will work on the tower and that the existing gravel

parking area will be used for vehicle parking and equipment storage. Ms. Connolly testified that the work will include installing a silt fence and create minimal ground disturbance.

Ms. Connolly testified that timing is essential for this application. The newly built transmission tower will be energized on or around May 31, 2021. Ms. Connolly testified that if applicants miss the deadline, they will have to wait another one or two years to install the antennas and only locate the antennas on the tower during an electrical outage.

Ms. Connolly testified that because the applicants will be using the existing compound on the property, there will only be 211.5 square feet of disturbance in total on the property. Furthermore, the disturbance expected would be related to trenching. Ms. Connolly confirmed that no trees are planning to be removed from the property during this work. Ms. Connolly further testified that there would be no generators on-site, as per PSE&G requirements, but rather each carrier will use battery backup packs.

Ms. Connolly testified that access to the site would be via an existing dirt/gravel driveway from Route 202/206. Visitors will park in the current parking area adjacent to the tower. Applicants stipulated that no access to the property would be provided from Mountainview Avenue or from the side streets that abut the property.

Ms. Connolly testified that the applicants' proposal requires three variance approvals. First, a d(1) use variance is required because the proposed wireless communications facility use is not permitted in the R-40 Zone. Second, a d(6) height variance is needed because the R-40 Zone imposes a maximum structure height of 35', and the applicants' antennas and tower extension would be located at a top height of 149'6". Third, a bulk variance is required because the Township's wireless ordinance requires that any antenna support structure, except for buildings, be set back at least 120% of the support structure's height. Here, the required setback would be 179.4', whereas the setback from the tower extension to the nearest property line, the C.O.E. property, is 40.4'. Ms. Connolly also noted that the second closest lot line is located 93.8' from the tower extension.

As part of her testimony, Ms. Connolly reviewed the Engineering/Planning memorandum, dated February 2<sup>nd</sup>, 2021, prepared by Ms. Doyle and Mr. Burr. Ms. Connolly stated that the applicants would stipulate the conditions outlined in the memoranda with the following exceptions. First, regarding comment #3, Ms. Connolly stated that the tower's height increase was due to PSE&G's needs and not the applicants' request. Ms. Connolly further noted that the applicants would be unable to locate the antennas below their current proposed locations and certainly not below the transmission line on the PSE&G tower, which PSE&G and their safety regulations would forbid. Ms. Connolly stated the lowest height that the wireless antennas physically could be located would be at the intersection of the "Y" configuration of the tower at a height of approximately 50' to 60'.

Second, regarding comment #5, Ms. Connolly noted that there is existing vegetation on the site. The applicants would be amenable to installing shrubbery, but board-on-board fencing is preferred. Also, Ms. Connolly made clear that PSE&G would have to agree to any plantings surrounding the PSE&G tower, and PSE&G would be able to remove the plantings should it determine removal is necessary for the operation of its facilities. Ms. Connolly also stated that PSE&G regulations limit the height of the shrubbery to 3' at maturity. Ms. Connolly also noted that the installation of shrubbery might require the applicants to obtain permits from N.J.D.E.P. Ms. Doyle discussed this requirement with Ms. Connolly and stated that she would like to see shrubbery along the side of the compound that faces the residential structures. Mr. Purcell said that there were high concerns, on behalf of the applicants, with the timing requirements necessitated by potential N.J.D.E.P approval. If agreed to, Ms. Doyle stated that complying with the same would not prevent the applicants from obtaining building permits but would be made as a condition of the applicants receiving a final certificate of occupancy or a certificate of approval. Following the discussion, the applicants stipulated to installing shrubbery and, if necessary, obtaining the approvals required to do so from the N.J.D.E.P. The applicants also agreed to replace the existing fencing with an

8' board-on-board fencing. Ms. Connolly stated that each carrier would need to maintain its access point into the compound areas.

Ms. Francis Boschulte provided her qualifications and was accepted by the Board as an expert in the field of radio frequency ("R.F.") engineering. Ms. Boschulte introduced into evidence, as Exhibit A-15, a report entitled the "Independent Radio Frequency Report Regarding a Proposed Wireless Communications Facility for T-Mobile Northeast, LLC Site ID: Bridgewater NJ07459A Formerly NJ062341", dated February 4<sup>th</sup>, 2021. She also introduced as Exhibit A-16 a report entitled "Independent Radio Frequency Report Regarding a Proposed Wireless Communications Facility for Verizon Wireless Site ID: Bridgewater 5", as well as Exhibit A-17, a report entitled "Evaluation of the Radiofrequency Environment in the Vicinity of the Proposed NJ07459A formerly NJ062341", dated February 2<sup>nd</sup>, 2021.

Ms. Boschulte explained, in general terms, how wireless communications systems work. She testified that wireless networks start with a general grid layout and are modified as necessary to accommodate the terrain, morphology, or predicted capacity requirements. She explained that wireless communications sites are filled with coverage or capacity deficiencies after the initial design. Ms. Boschulte testified that both applicants are licensed as wireless providers by the Federal Communications Commission (the "F.C.C.").

Referencing Exhibit A-15, Ms. Boschulte testified T-Mobile's coverage from the existing sites. Referencing Exhibit A thereof, Ms. Boschulte identified the existing site, NJ062341, which will be required to be taken offline due to PSE&G's decommissioning. Ms. Boschulte explained that the green areas show "in-building" coverage and the yellow areas show "in-vehicle" coverage and that areas with a lack of service are shown in white. Ms. Boschulte testified that the current facilities, including NJ062341, provide reliable coverage to T-Mobile users in the area. During questioning as to the coverage gap created by the elimination of the existing tower, Ms. Boschulte referenced Exhibit B, which showed a much larger area with no in-building coverage. She explained that the coverage gap would impact users at the Sanofi offices, the Sharonview Federal Credit Union, areas along Route 287, Country Club Road, Arthur Road, and West Foothill Road.

Utilizing Exhibit A-16, Ms. Boschulte testified Verizon Wireless's coverage from existing sites. Referencing Exhibit D thereof, Ms. Boschulte identified the existing site, Bridgewater 5, which will be required to be taken offline due to PSE&G's decommissioning. Ms. Boschulte explained that the green areas show "in-building" coverage and the yellow areas show "in-vehicle" coverage and that areas with a lack of service are shown in white. Ms. Boschulte testified that the current system, including Bridgewater 5, provides reliable coverage to Verizon Wireless users in the area. During questioning as to the coverage gap that eliminating the existing tower would create, Ms. Boschulte referenced Exhibit E, which showed a much larger area with no "in-building" coverage and the specific regions with no coverage whatsoever. She explained that the coverage gap would impact users at the C.O.E., Powelson Lane, Madison Avenue, and Heather Hill Way.

Ms. Boschulte testified that the decommissioning of the existing tower would cause gaps in both T-Mobile and Verizon Wireless' service and that the gaps would result in reduced wireless coverage or a lack of wireless service. Ms. Boschulte testified that both businesses and residents would be affected by the decommissioning and expressed the importance of service, particularly given the ongoing Covid-19 pandemic, requiring many individuals to work remotely. Ms. Boschulte testified that the proposed facilities would, like the existing facilities, adequately cover the gap in service described above.

During questioning as to whether alternative technologies could be used, Ms. Boschulte testified that alternative technologies, such as Distributed Antenna Systems ("D.A.S."), would not be an acceptable means of addressing a coverage gap created by the decommissioning. As explained D.A.S. are not as reliable, or as robust, as a macro cell tower and have a range of only 500-1,200 feet instead of 3,000-5,000 feet, do not provide e911 location services to emergency responders, have a limited coverage range, utilize a wired network which is capable of disruption and failure due to falling tree limbs, accidents, and/or power outages,

and also have no battery backup. Ms. Boschulte testified that no other towers or tall structures exist in the area that could be used to relocate the subsequent wireless antennas.

Ms. Boschulte further testified that she reviewed the Ordinance and Zoning Map and determined that the placement of a temporary facility in a zone where such a facility would be permitted, or conditionally allowed, would result in the facility being located too far away from the area where coverage is required. Ms. Boschulte testified that moving the antennas to the intersection of the "Y" on the tower would not be feasible, given that such a height would be roughly one-half of the applicants' antenna heights on the existing tower and, at such lower height, the antennas could not adequately address the coverage gap created by the decommissioning of the existing tower.

Referencing Exhibit A-17, Ms. Boschulte testified that the F.C.C. sets the maximum permissible limits of exposure to radiofrequency (R.F.) waves and establishes the calculations to determine projected levels of R.F. exposure. She explained that New Jersey also has R.F. exposure regulations but five times less stringent than the F.C.C.'s requirements. Ms. Boschulte testified that to calculate levels of R.F. exposure, the applicants provide transmission data which is inputted into the F.C.C.'s calculation guidelines. The result of the calculation is a percentage of the R.F. levels permitted. She explained that if the resulting percentage is 100%, the R.F. levels generated are at their maximum permissible level. If the percentage is under 100%, the R.F. levels generated are within the allowable limits of exposure. Ms. Boschulte concluded that the maximum calculated R.F. exposure levels generated by the proposed antenna operations at the site is 1.086% percent of the F.C.C. general population Maximum Permissible Exposure ("M.P.E.") limit and 0.217% of the M.P.E. limit under New Jersey law.

The Board's independent R.F. expert, Mr. Hank Menkes, questioned Ms. Boschulte's testimony and the R.F. level calculations provided in her reports. Ultimately, Mr. Menkes concurred with her findings that the R.F. exposure levels would be well below existing federal and state limits.

Mr. Timothy Kronk, P.P., provided his qualifications and was accepted by the Board as an expert in Professional Planning. Mr. Kronk introduced into evidence, as Exhibit A-18, a set of photo simulations depicting the proposed installation from various vantage points.

Mr. Kronk testified that the applicants are seeking d(1) use, d(6) height, and bulk (setback) variance relief. First, a d(1) use variance is required because the wireless communications facility use is not permitted in the R-40 Zone. Second, a d(6) height variance is necessary because the ordinance imposes a 35-foot height limitation in the R-40 Zone, and the proposed wireless antenna height on the tower will be 149'6" feet. Third, bulk variance relief is required for the proposed deficient tower setbacks from the property line. He explained that the Township's Wireless ordinance requires that the tower be set back from the nearest property line by at least 120% of the tower height (here, 179.4'), according to Section 126-341.5(G)(2). This proposed tower will be located 40.4' from the property line adjoining the C.O.E. property. Mr. Kronk testified that the opposite property line is a distance of 93.8' from the tower. However, Mr. Kronk stated that, given the ordinance requirements, this second nearest property line setback would be subsumed within the requested tower setback variance for the 40.4' setback. Mr. Kronk opined that the bulk and d(6) height variance relief would be subsumed within the d(1) use variance relief if the Board decided to grant the application.

Mr. Kronk opined that the applicants had satisfied the standards for granting d(1) use variance relief. He testified that the F.C.C. licenses the applicants to provide personal wireless service and that their activities "promote the general welfare," according to the New Jersey Supreme Court's holding in *Smart S.M.R. of New York, Inc. v. Borough of Fair Lawn Board of Adjustment*, 152 NJ. 309 (1998). Mr. Kronk opined that the proposed site is "particularly suited" for the proposed wireless facility, particularly since the applicants are seeking to locate their antennas onto an approved tower rather than require the construction of a new,



separate structure. Mr. Kronk contended that the property is particularly suited from a planning perspective. While it is located in a residential district, it has non-residential uses specifically for utility uses.

Regarding the negative criteria and balancing test outlined in *Sica v. Wall Twp Board of Adjustment*, 127 N.J. 152 (1992), Mr. Kronk first identified the public interest at stake as an important and weighty one. He stated that maintaining reliable wireless service for the residents of Bridgewater Township is essential. Second, Mr. Kronk stated that there would be a minimal detrimental impact on the proposal because the property itself, while located in the R-40 Zone, is not used for residential uses. Referencing Exhibit A-18, Mr. Kronk testified that, based on the photo simulations, there would be modest visual detriment associated with the proposal and will not result in noise, vibrations, smell, or other negative impacts.

Third, Mr. Kronk stated that the modest visual detriment associated with the proposal could be mitigated by imposing reasonable conditions on the applicants, such as requiring board-on-board fencing or shrubbery on the side of the equipment compound, facing the adjacent residences. Lastly, Mr. Kronk balanced the *Sica* factors to determine whether the relief could be granted without substantial detriment to the public good or significant impairment of the intent and purpose of the zone plan and zoning ordinance. Mr. Kronk contended that relief for the d(1) use and d(6) height variance could be granted without substantial impairment to the zone plan and zoning ordinance. As stated the ordinance intends to locate wireless communications facilities on non-residential properties since the ordinance permits wireless communications facilities on municipal property and conditionally permits them in a number of non-residential zones. He noted that the property is located in an R-40 residential zone but is used by PSE&G for non-residential purposes. Mr. Kronk opined that because there is no residential use on the property, the proposed location of the wireless communications facility on the property generally complies with the goals and intent of the ordinance.

As to the requested relief for the tower setback, Mr. Kronk testified that the application should be granted according to N.J.S.A. 40:55D-70(c)(1), because of the special difficulties and exceptional hardship arising from the current constraints of the property. This mainly due to the property being used as an electrical transmission right-of-way and the towers already being on site. Mr. Kronk also testified that, for the same reasons listed above, the dimensional variance does not substantially impair the zoning ordinance or zone plan of the Township.

Upon questioning by, Mr. Kronk stated that a dimensional variance might be required because the fence height is increased to 8' from 6' for certain portions of the existing compound. If needed, Mr. Kronk testified that such variance could be granted according to N.J.S.A. 40:55D-70(c)(2). He opined that the purposes of the Municipal Land Use Law ("M.L.U.L.") would be advanced by granting the requested relief because the provision of wireless services "promotes the general welfare." Mr. Kronk further opined that locating these antennas on an approved transmission tower is a better planning alternative than installing an entirely new structure. Mr. Kronk testified that the variance relief could be granted without substantial detriment to the public good. He explained that the proposed distance of the tower from the roadway and the fact that the new tower will be better screened from the adjoining property owners mitigate the modest detriment associated with the proposal. Mr. Kronk opined that the benefits of granting the requested relief substantially outweighed the modest detriment. In conclusion, Mr. Kronk opined that the applicants had demonstrated an entitlement to the requested fence height variance according to N.J.S.A. 40:55D-70(c)(2). To clarify some questions from the Board related to the site, Mr. Kronk introduced additional photo simulations identified as Exhibit A-19 ("Photosimulations #2").

The matter was carried to the Board's March 2<sup>nd</sup>, 2021 hearing which would provide the Board additional time to analyze the photo simulations provided by Mr. Kronk and view the site.

## **8. MEETING OPEN TO THE PUBLIC:**

Members of the public wishing to make a comment to the Board on any matter not listed on the agenda were able to do so at that time. As noted, under the Municipal Land Use Law and case Law, any questions or comments about a pending application would have to be held until the hearing on that specific application.

No member of the public wished to address the Board.

## **9. OTHER BOARD BUSINESS:**

### **BY-LAWS REVIEW AND ADOPTION**

Chairman Foose asked the Board for any comments, suggested changes, and general opinions to the prepared By-Laws prepared by Board Attorney Mr. Warner. Mr. Warner then summarized the report to the Board briefly, outlining why such a document is presented and asked for approval by the Board.

The Board discussed topics which included moving the open portion of the meeting to be held before any application(s) are heard, no new business being presented after 10 pm along with no new testimonies after 10:15 pm, abstentions were also clarified, as per the Municipal Land Use Law.

After the Board felt the draft was to their standard, Chairman Foose asked the Board for a motion and a second to approve the By-Laws with the amended changes and additional wording.

### **Roll Call Vote:**

Motion of approval was made by Mr. Weideli with a second by Ms. Amin.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Ms. Guttschall

ABSTAIN: None

DENIAL: None

### **SECRETARY REPLACEMENT/ELECTION**

Chairman Foose announced that board member Mr. Ahern recently took a position at the Township and will no longer be on the Board due to conflict of interest. In addition to being a regular board member, Mr. Ahern also filled the position as the board secretary. The board secretary position would now need to be taken over by an active member. Mr. Foose advised the Board that this would be carried to the next meeting where an election for the position would be taken.

The Board announced the next meeting and the scheduled applications for that evening.

## **10. EXECUTIVE SESSION:**

There was no need for an Executive Session

## **11. ADJOURNMENT**

The meeting was adjourned at approximately 10:30 pm with the Board's unanimous vote.