PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
T-MOBILE NORTHEAST, L.L.C
770 STATE HIGHWAY 23
Block 902, Lot 5

WHEREAS, the applicant is a prospective tenant of property located at 770 State Highway Route 23 on the northbound side, Pequannock Township, New Jersey, Block 902, Lot 5 located in the C-3 (regional commercial district) zone; and

WHEREAS, the applicant has applied to this board for the following relief:

1. A variance pursuant to NJSA:40:55D-70d.(2) to permit the reduction of the lot area on which the an existing non conforming use is located; and

2. A variance pursuant to NJSA:40:55D-70d.(3) to permit a conditional use which does not meet all of the conditional use standards of the ordinance; and

3. A variance pursuant to NJSA:40:55D-70d.(6) to permit the construction of a telecommunications monopole which exceeds the height limitation of the ordinance of 130' whereas the pole measured to the top of the antenna array would be 152' 3"; and

4. Major site plan approval; and

5. Issuance of a flood plain development permit; and

6. Variance pursuant to NJSA:40:55D-70c. to permit a rear yard setback of 33.1' instead of the required 50'; and

7. Variance pursuant to NJSA:40:55D-70c. to permit the construction of a telecommunications monopole equipment enclosure which does not have the required landscaping; and

WHEREAS, testimony was taken at a public hearing on February 17, 2011, at which the Board took sworn testimony and the applicant and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.

2. In addition to the usual ordinary documents supplied with the various application, the Board has received and reviewed the following documents:

    1. Site Plan, consisting of 5 sheets, prepared by Stephen A. Bray, PE of KMB Design Group, dated December 9, 2009 with revisions through August 3, 2010 and signed November 15, 2010; and
    2. 12 page Radio Frequency Report for Site# NJ06191F, dated November 24, 2009 prepared by Ben Shidfar; and
    3. 9 page Supplemental RF response memo dated February 7, 2011 prepared by Ben Shidfar; and
    4. Limited Environmental Impact Statement, prepared by Stephen A. Bray, PE of KMB Design Group, dated August 2010; and
    5. 10 page Planning Report and a 10 page Visual Impact Study, prepared by Ronald J. Reinersten, PP, AICP of Pennoni Associates, dated February 15, 2010; and
    6. 17 page Antenna Site FCC RF Compliance Assessment and Report, prepared by Pinnacle Telecom Group and Daniel J. Collins, dated December 14, 2009; and
    7. 5 page Technical Evaluation of a Proposed T-Mobile Facility, dated February 8, 2011 from Ross Sorci; and
    8. 3 page memorandum prepared by the applicant and submitted at the time of the public hearing; and
    9. 1 page report dated 2/4/2010 letterhead of the Morris County Planning Board exempting the application from County approval; and
    10. 3 page engineering report prepared by David C. Battlglia, PE, CME, dated 2/15/2011; and
    11. 1 page letter prepared by Robert O'Connor of T-Mobile USA dated 2/17/2011 confirming the applicant's willingness to permit co-location with other licensed wireless providers on the proposed monopole; and
    12. 4 page document dated 12/17/2009, request for waivers, on the letterhead of KMB; and
    13. Chart showing existing and proposed T-Mobile cell sites in northern part of Pequannock Township marked exhibit A-1 at the public hearing; and
    14. Chart showing coverage gaps within the northern part of Pequannock Township which was marked Exhibit A-2 at the public hearing; and
    15. Report showing computer modeling with proposed monopole at 120' height which was marked as Exhibit A-4 at the public hearing; and
    16. Chart showing drive by actual phone testing areas of weak signal which was marked Exhibit A-5 at the public hearing; and
    17. Chart showing drive by coverage with the tower at 150', without other sites which was marked Exhibit A-6 at the public hearing; and

18. Chart showing test of 150' plus existing other T-Mobile site towers which was marked Exhibit A-7 at the public hearing; and
19. Chart showing coverage with the pole at 120' which was marked Exhibit A-8 at the public hearing; and
20. Chart showing coverage with the existing pole at 120' together with existing T-Mobile cell sites which was marked Exhibit A-9 at the public hearing; and
21. Various photographs showing the visibility of the proposed pole from various locations in the immediate vicinity of the proposed monopole which were marked A-10 (a-h).

3. The subject site is 2.49 acres in area and located on the east side of State Highway 23, just south of the Turnpike jug-handle. The site, is a developed rectangular lot that appears to have been filled to create a flat area above the wetlands and other site constraints. The property has 350' of frontage along the highway and a depth that varies from 293' to 316'. The property is developed with a one-story structure with a parking lot at the front of the building and a gravel surfaced equipment storage area at the rear of the property. The proposed wireless compound is to be constructed at the northeast corner of the gravel area.

4. The property is located within the flood hazard area and an application has been submitted for a development permit construction in this area. The site is also surrounded by State designated wetlands and has a drainage ditch and easement along the western property sideline, and a stream along the eastern property sideline.

5. The property is bounded by vacant lots to the north and south owned by New EKC and Pequannock Township respectively. The distance from the site to the nearest residential zone is approximately 460 ft. south. The surrounding pattern of development is a mix of highway commercial uses and vacant land.

6. The applicant proposes to install a 150' tall telecommunications monopole and attach twelve (12) panel antennas at a maximum height of 152' 3". The equipment cabinets will be installed on an elevated steel platform at the base of the monopole within a 36' s 13' fenced enclosure. The monopole will be adjacent to the existing fenced in outdoor storage areas, but will have an independent fenced in walkway from the front of the lot to the monopole and equipment area. The pole is proposed to the rear, north corner of the property. While the application is for one carrier at this time, the plans reflect that the tower could service up to four (4) additional carriers below these antennas.

7. The applicant has received NJDEP approval by a letter of interpretation and transition area waiver as well as an NJDEP flood hazard area individual permit. Consequently, the environmental concern regarding the adjacent wetlands and steam encroachment area have been satisfied. The proposed location of the monopole is well to the rear of the property, thereby reducing to the extent possible the visual impact of the monopole from the offsite property. Directly across Route 23 from the subject property is commercially zoned land.

8. The applicant initially proposed no landscaping because of the location of the equipment enclosure at the rear of a developed commercial site. However, the Board believes that at least some reasonable amount of landscaping should be provided to the reasonable satisfaction of the Board Planner.

9. This is an unmanned facility which is checked every 4-6 weeks by a single individual driving a van type vehicle. The facility requires no sewer or water connection and no additional parking is proposed because the equipment enclosure is reasonably close to an existing commercial parking lot. The site is designed for a future co-location by other telecommunications carriers and there is ample room for other equipment enclosures at the base of the monopole. No lighting is required for this pole either at the base or the top. However, there will be reasonable lighting on the equipment platform for the servicing of the equipment at night, if that should be necessary.

10. The applicant adequately explained that with the use of Exhibits A-1 and A-2 there is an existing gap in satisfactory coverage and the manner in which this specific monopole location will significantly reduce that coverage gap. Testimony indicated that the coverage gap demonstrated by computer model has been verified and confirmed by in-vehicle testing which the applicant performed in order to obtain actual signal strengths in various locations throughout the gap area.

11. The applicant has selected the subject property as the proposed site for a new monopole in part because existing monopoles, both owned by the applicant and other telecommunications carriers, will not provide the necessary coverage in the area of the gap.

12. No members of the public appeared to testify at the public hearing of this application.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicants have sustained its burden under N.J.S.A. 40:55D-70d.(2) to permit the reduction of the lot area on which a non-conforming use is located. The non-conforming use is the outdoor storage in connection with the operation of the equipment rental business on the property. The minimal reduction in outdoor storage for the existing use which will be devoted to the equipment enclosure and monopole base will have no significant impact on the overall use of the property. Moreover, there is ample area for additional telecommunications equipment enclosures for co-locator users of the monopole.

2. The applicant has also sustained its burden under N.J.S.A. 40:55D-70d.(3) to permit the conditional use of a telecommunications monopole which does not meet the ordinance conditions because the monopole exceeds the height limitation of 100' for single user monopoles and 130' for multiple user monopoles. Because of the location of this monopole at the very rear of a developed commercial property, the base elevation is low because the property drops off toward the river. In addition, testimony clearly indicated that in order to correct the coverage gap in reliable service,

the additional 20' is required. This will also permit the co-location of other users on this same pole, in this commercial zone which has been designated by the Township as an appropriate place for telecommunication monopoles.

3. The applicant has also sustained its burden under N.J.S.A.40:55D-70d.1(6) to permit the construction of a telecommunication pole of 152' 3" whereas the ordinance limits such poles in this zone to 130'. This variance is sustained by the same facts as set forth above in conclusion #2.

4. This applicant has also sustained its burden for approval of a major site plan, issuance of a flood plain permit and variances to permit a rear yard of 33.1' instead of the required 50'. By moving the pole to the farthest distance from the highway, the applicant is minimizing the visibility of the pole from offsite. To the east of the subject property is a large area of wetland and riparian land which is vacant and unoccupied and should remain so indefinitely. Consequently, the rear yard variance will have no impact on any adjacent property.

5. The Board finds that although the site is a developed commercial property, there should be some reasonable amount of landscaping around the proposed equipment enclosure as well as any future equipment enclosures for co-locators using this pole. Such landscaping should take into account the height above the ground of the proposed equipment platform and any future such platforms. In order to expedite the permitting process for the proposed monopole enclosure and with the applicants agreement, the Board concludes that the landscaping should be designed to the reasonable satisfaction of the board engineer and planner.

6. The requested variances and waivers can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 7th day of April, 2011 that it now memorializes, ratifies and adopts the action taken at its meeting on March 3, 2011 granting the application of T.Mobile Northeast L.L.C, for the following relief:

1. A variance pursuant to NJSA:40:55D-70d.(2) to permit the reduction of the lot area on which the an existing non conforming use is located; and

2. A variance pursuant to NJSA:40:55D-70d.(3) to permit a conditional use which does not meet all of the conditional use standards of the ordinance; and

3. A variance pursuant to NJSA:40:55D-70d.(6) to permit the construction of a telecommunications monopole which exceeds the height limitation of the ordinance of 130' whereas the pole measured to the top of the antenna array would be 152' 3"; and

4. Major site plan approval; and

5. Issuance of a flood plain development permit; and

6. Variance pursuant to NJSA:40:55D-70c. to permit a rear yard setback of 33.1' instead of the required 50'; and

7. All site plan waiver requests by the applicant except the requirement for landscaping around the equipment enclosures; and

The above approvals are granted subject to the following conditions:

1. All construction shall be in substantial conformity with the site plan filed by Stephen A. Bray identified in paragraph 2.1 as those plans were modified by testimony given at the public hearing on March 3, 2011; and

2. The applicant shall prepare and submit to the board engineer and planner a landscaping plan for the equipment enclosures which shall be subject to the reasonable review and approval of the board planner and engineer.

3. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on April 7, 2011.

Linda Zacharenko

Linda Zacharenko, Secretary

4/7/11

AGW2005/Pequannock/Resolutions 2011/T-Mobile Northeast - Rt 23.wpd

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
ROBERT NIESSEN
17 SECOND STREET
Block 4003, Lot 3

WHEREAS, the applicant is the owner of property located at 17 Second Street, Pequannock Twp, New Jersey, Block 4003, Lot 3, located in the R-9 zone district; and

WHEREAS, the applicant proposes to construct a new free standing garage to replace an existing dilapidated garage and metal shed, which would be in the front yard, contrary to Section 189.07.020Q.(4) of the zoning ordinance; and

WHEREAS, testimony was taken at a public hearing on March 3, 2011, at which time the Board took sworn testimony and the applicant and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.

2. The subject property is a flat, rectangular lot located at the corner of West Franklin Avenue and Second Street and is presently improved with a two story frame dwelling and existing garage which the applicant proposes to remove and replace with a new structure.

3. The house is located entirely on the west one half of the lot and the garage is located in the approximate middle of the south property line. Testimony indicated that the subject property was once two lots, but the house closer to Second Street was removed at some time in the past. This leaves the lot with a house centered on the west one half of the lot, fronting on Second Street, which makes the entire east half of the lot a front yard.

4. The applicant proposes to replace the existing garage and metal shed with a new 36.5' x 24' garage which will have ample storage space for outdoor equipment and a small shop. There will be no second floor and the attic space will be used solely for storage.

5. Because of the location of the existing structure there is no way that any new garage could be built in a conforming location.

6. No members of the public appeared to testify in connection with this application.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicant has sustained his burden under N.J.S.A. 40:55D - 70c (1) that by reason of the location of the existing house on the property, there is no other place on this lot where a free standing garage could be built. Because of the architectural style of the existing house there is no way a garage could be attached to the house.

2. It is also a benefit to the public that the garage will provide storage space for all of the equipment and motor vehicles. There will be no need to create a new driveway because a driveway already exists with access to Franklin Avenue.

3. The requested variance can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 7th day of April, 2011 that it now ratifies, memorializes and adopts the action taken at its meeting on March 3, 2011 granting the application of Robert Niessen for permission to construct a free standing garage in the front yard of the subject property, subject to the following conditions:

1. All construction shall be in substantial conformity with the plans filed with the application, prepared by Albert Martorano, Architect, dated 12/6/10, and the testimony given at the public hearing on March 3, 2011.

2. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of the Township of Pequannock at its regular meeting on April 7, 2011.

Linda Zacharenko

Linda Zacharenko, Secretary

AGW2005/Pequannock/Resolutions-2011/Niessen/4-15-11.wpd

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
ANDREW & JEANNINE MISSBRENNER
11 WALNUT AVENUE
Block 202, Lot 22

WHEREAS, the applicants are the owners of property located at 11 Walnut Avenue, Pequannock Twp, New Jersey, Block 202, Lot 22, located in the R-15 zone district; and

WHEREAS, the applicants propose to construct an addition to an existing single family house which will result in a deficient side yard of 12' 7" instead of the required 15', a front yard deficiency of 30.7' instead of the required 50' and a building coverage of 16.7% exceeding the 15% permitted; and

WHEREAS, testimony was taken at a public hearing on February 3, 2011 and March 3, 2011 at which time the Board took sworn testimony and the applicant and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.

2. The subject property is generally rectangular in shape except that it is at the end of a cul-de-sac and therefore the circle of the cull-de-sac intrudes into the front yard. The property is generally 145' deep by 99' wide and is presently improved with an existing split level frame dwelling, and a free standing shed along the west property line. The shed is currently 2½' from the property line, but the applicants have agreed to move it to a conforming location and therefore no variance is proposed for the shed.

3. The applicants propose to add a 7' wide front porch to the front of the house, a 13' wide garage addition to the east side of the house and a one story family room addition to the rear of the house. The total additional square footage of all those additions would be 926 sq. ft., plus an additional 25 sq. ft. for the proposed roof over the front steps.

4. The proposed garage addition is relatively narrow, 13', but somewhat deep, 25'4". It is attached to the east side of the house and would reduce the existing, conforming side yard to a non conforming 12' 7". However, the nearest house to the east of the subject property is approximately 200' from the east property line. Therefore, the approximate 2 ½' side yard deficiency will have no negative impact on the adjourning property.

5. At the February 3, 2011 public hearing, the Board expressed concern to the applicants that the total proposed building coverage is too great and recommended that the applicants attempt to reduce that excess coverage.

6. The applicants returned at the March 3, 2011 meeting with revised plans. Those plans disclosed a one foot reduction in the width of the proposed front porch, the removal of the breakfast nook and a significant reduction in the size of the free standing shed along the west property line. The plans also show the movement of that shed to a conforming location, 5' from the property line. With the total area of those reductions, the proposed building coverage has been reduced from the originally proposed 16.7% to 15.8%, thereby exceeding the allowable 15% building coverage by only .8%.

7. No members of the public appeared to testify in connection with this application at either of the public hearings.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicants have sustained their burden under N.J.S.A. 40:55D-70c(1)(a) that by reason of the intrusion of the cul-de-sac of Walnut Avenue, this lot is undersized , having a lot area of 13,743 square feet instead of the minimum required 15,000 square feet. Because this lot is undersized, the slight excess building coverage of the proposed addition will not cause the house to be any greater than the size reasonably anticipated in this neighborhood.

2. The requested variance can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 7th day of April, 2011 that it now ratifies, memorializes and adopts the action taken at its meeting on March 3 , 2011 granting the application of Andrew & Jeannine Missbrenner to construct an addition single family residence which will increase building coverage to 15.8% instead of the 15% permitted, subject to the following conditions:

1. All construction will be in substantial conformity with the plans filed with the application, prepared by Richard J. Trautwein, AIA Architect, dated 10/27/10 and most recently revised 2/17/11, and the testimony given at the public hearing on March 3, 2011.

2. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock an its regular meeting on April 7, 2011.

Linda Zacharenko

Linda Zacharenko, Secretary

4/7/11

AGW2005/Pequannock/Resolutions-2011/Missbrenner/3-9-11.wpd