

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY**

MATTER OF: New York SMSA Limited Partnership d/b/a Verizon Wireless

PROPERTY LOCATION: Block 4401, Lot 9, 84 Lincoln Park Road

APPROVED: December 19, 2013

MEMORIALIZED: March 6, 2014

WHEREAS, New York SMSA Limited Partnership d/b/a Verizon Wireless (“Applicant”) has requested preliminary and final major site plan approval and variances to permit the construction of a wireless telecommunication facility and monopole tower on property located at 84 Lincoln Park Road, known and designated as Block 4401, Lot 9 on the Tax Maps of the Township of Pequannock (“Township”) in the “I-2” zone district (“Property”); and

WHEREAS, two (2) public hearings were held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on November 7, 2013 and December 19, 2013; and

WHEREAS, the Board heard the testimony by Applicant’s representatives and experts, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicant, represented by Price, Meese, Shulman & D’Arminio, P.C., Gregory D. Meese, Esq., filed an Affidavit of Proof that Notice of Hearing was given as required by law; and

WHEREAS, a complete application has been filed, the fees required by ordinance have been paid, and the jurisdiction and powers of the Board have been properly invoked and exercised;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with regard to the application.

1. Applicant provided adequate notice of the application and the hearing in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55-D-1 et seq.

("MLUL").

2. The Property, which has frontage on Lincoln Park Road, measures 108,918 square feet, has a street address of 84 Lincoln Park Road and is located at Block 4401, Lot 9 in the Township's I-2 zone district.

3. The Property is currently developed as a Knights of Columbus hall and lounge.

4. Applicant seeks to erect a new wireless communication facility and monopole tower ("Facility") on the Property.

5. The Facility will be installed on a portion of the Property which will be leased by Applicant from the Knights of Columbus.

6. Wireless communication facilities are a conditional use pursuant to the Township's Zoning Ordinance ("Zoning Ordinance").

7. The facility does not meet all requirements set forth in the Zoning Ordinance for conditional use approval, and Applicant requires relief from Zoning Ordinance requirements as follows:

§ Maximum Height: §189.07.060(3)[4] of the Zoning Ordinance permits a maximum of one hundred 100 feet (100') for a wireless antenna. Applicant proposes a height of one hundred thirty-eight feet (138');

§ Distance of a Tower from a Residential Zone: §189.07.060.(3)[5] of the Zoning Ordinance prohibits location of a wireless tower, antenna or facility within two hundred feet (200') from a residential zone or use. The Property is within two hundred feet (200') of a residential zone to the west and a residential use to the east;

§ Fencing: §189.07.060C(4)(a) of the Zoning Ordinance requires that all towers, antennas and related facilities be suitably secured and enclosed within chain link security fencing, said fence to be six feet (6') in height and enclosing the tower, antennae and facilities in a maximum enclosed area of one thousand, five hundred feet (1,500') for each carrier located on the tower. Because the Property is located in a flood hazard area, Applicant has requested a variance from this requirement;

§ Off-Street Parking: §189.07.060C(4)(p) of the Zoning Ordinance requires that adequate parking exist for both the existing use as well as the location of equipment or vehicles serving the tower so as not to obstruct traffic or interfere with ingress, egress or use on the Property. The Property does not meet this parking requirement.

Applicant requires variances from the foregoing non-conforming conditions pursuant to N.J.S.A. 40:55D-70(d)(3).

8. Applicants' proposal is depicted on a map prepared by Malick & Scherer, P.C., Anthony F. Suppa, Jr., P.E., entitled "New York SMSA Limited partnership d/b/a Verizon Wireless Pequannock 4, 84 Lincoln Park Road, Pequannock Township, Morris County, New Jersey" consisting of eleven (11) sheets, dated March 25, 2013 and revised through December 5, 2013.

9. Applicant also provided ten (10) photographic simulations of the proposed Facility, along with an inventory of locations depicted by said simulations.

10. Applicant provided a Planning Report by William F. Masters, Jr. P.P. dated April 23, 2013, a radio frequency report by Mr. Glenn Pierson of PierCon Solutions, L.L.C., dated May 16, 2013, an Environmental Impact Statement by Geo-Technology Associates, Inc., Gary S, Rakow, dated May 19, 2013 and a copy of a Letter of Interpretation from the New Jersey Department of Environmental Protection ("NJDEP") pertaining to the Property, dated May 2013.

11. The Board also received a report from the Township Planner, Eileen F. Banyra, P.P., A.I.C.P, dated November 4, 2013, and two (2) reports from the Township Engineer, Joseph R. Golden, P.E., P.P., C.M.E, dated October 2 and November 1, 2013, with regard to the application. Said reports are incorporated by reference as if set forth at length herein.

12. At the November 7, 2013 hearing, Mr. Meese summarized the application before the Board.

13. The Facility will be unmanned and visited approximately once per month for routine maintenance.

14. The Board heard the testimony of Anthony F. Suppa, P.E., Applicant's Project Engineer.

15. The Property, located on the south side of Lincoln Park Road, is the present location of a building housing a Knights of Columbus Hall ("Building"), at the front of the Property.

16. There is a paved access driveway into the Property and on both sides of the Building, and a paved parking lot at the rear of the Building.

17. There are a total of fifty-three (53) parking spots on the Property.

18. Mr. Suppa testified that the Facility will be located in a twenty foot (20') by fifty foot (50') area behind the paved parking lot, in an area comprised of grass and woods.

19. There is a lake located to the west of the Property, while an industrial zone is located to the east. In general, the Property and its surroundings are flat.

20. Mr. Suppa testified that the Property is in a flood-hazard area. The Facility and all related equipment will be installed nine feet, seven inches (9'7") above grade to be out of the flood area. This height was later revised to thirteen feet (13') above grade.

21. Applicant has prepared a Wetlands Delineation Application for filing with the NJDEP, and the NJDEP has inspected and verified the existence of wetlands on the Property. If the Board is inclined to approve the instant application, Applicant will commence the Wetlands Delineation Application.

22. Mr. Suppa testified that the Facility consists of a monopole designed as a tree.

23. The Facility will not take up any existing spaces in the Property's parking lot.

24. Mr. Suppa testified that the Facility will also include an eleven and one half foot (11.5') by thirty foot (30') prefabricated shelter, which will be located adjacent to the tower.

25. Two (2) HVAC units and a generator will be installed in the shelter.

26. The monopole will have twelve (12) six foot (6') and four foot (4') antennas attached thereto.

27. Said antennae will be located within the simulated tree "branches", with cables running from the shelter to the antennas inside the monopole. The "branches" will be of a painted green color, while the pole will be painted brown.

28. Mr. Suppa testified that the Facility will require electric, telephone and natural gas utilities to operate. Said utilities will be connected underground from the north end of the Property.

29. The Facility will be silent-alarmed on a twenty-four (24) hour, seven (7) day per week basis.

30. In addition to the twelve (12) antennas on the pole, there will be two (2) Global Positioning System ("GPS") antennas on the shelter. This will allow Applicant to link the Facility with other sites in Applicant's network.

31. Mr. Suppa testified that the pole is designed to accommodate co-location of other antennas from other wireless providers, as well as any municipal service antennas that might be required.

32. Mr. Suppa testified that he had spoken with the Township's Chief of Police, who was very interested in locating emergency service antennas on the pole for police, fire and other emergency services.

33. Mr. Suppa testified that the application had been reviewed by the NJDEP Historic

Preservation Office (“HPO”) and that Applicant had not received any notification that the proposed development would result in a negative impact.

34. In response to a question of the Board, Mr. Suppa and Mr. Meese advised the Board that it was possible to place a single gravel parking space adjacent to location of the Facility, provided such placement was acceptable to the Board’s Engineer. This will obviate Applicant’s need for a parking variance from the Township’s conditional use standards.

35. The Board heard the testimony of Mr. Glenn Pierson, Applicant’s Radio Frequency Engineer.

36. Mr. Pierson testified as to his report and provided his professional opinion that, at present, there is a significant coverage gap in wireless service at high frequencies in the area of Lincoln Park Road from the Boulevard to Newark-Pompton Turnpike, extending in an east-west direction for approximately three-quarters (3/4) of a mile. In addition to a gap in coverage for Applicant’s higher licensed frequency, a lack of capacity in the lower frequencies (700 MHz) is imminent for two of Applicant’s existing facilities (the Pequannock Anello Fence and Lincoln Park Airport facilities).

37. Mr. Pierson testified that 3,374 Township residents are negatively impacted by this coverage gap.

38. Mr. Pierson testified that the coverage gap cannot be addressed through the utilization of an existing wireless facility located within the Township.

39. Mr. Pierson further testified that his investigation of possible alternative locations revealed no other property in greater conformity with the Zoning Ordinance which could meet Applicant’s criteria for use as the location of a wireless facility.

40. Mr. Pierson testified that the Facility would comply with both Federal and State

RF requirements by comfortable margins.

41. The Board heard the testimony of William F. Masters, Jr., P.P., Applicant's Planner.

42. Mr. Masters testified as to the variances from conditional use standards requested by Applicant.

43. Mr. Masters testified that notwithstanding Applicant's need for variances, the Property was particularly well suited to the proposed use. The Property is situated within Applicant's search area for location of a facility which will enable Applicant to meet coverage deficiencies.

44. In addition, the proposed use, conditionally permitted in the I-2 zone district, is consistent with established Township zoning policy as to wireless facilities.

45. Mr. Masters testified that the Property provides sufficient space for co-location of antennas and equipment, which will help control the proliferation of wireless facilities within the Township.

46. Mr. Masters testified that the Property can be developed with minimal disturbance and no removal of trees. In addition, Hidden Cove Park, located to the west of the Property, provides more than twenty (20) acres of buffering for the Property.

47. Mr. Masters testified that the Facility is a "passive use" in that it is unmanned and visited approximately once every four (4) to six (6) weeks for routine maintenance, so the Facility will generate minimal traffic.

48. Mr. Masters presented Applicant's photosimulations of the Facility to the Board. He authenticated the photosimulations and testified that he had prepared them based upon photographs which he had personally taken from the ground and using a "balloon test", in which

a helium balloon is tethered and raised to the height of the proposed tower, permitting the taking of photographs of the maximum height of the proposed monopole.

49. Mr. Masters testified that a lightning rod will be installed on the monopole.

50. It was Mr. Masters' professional opinion that the particular suitability of the Property as a location for the use, coupled with the low impact of said use on adjacent properties, proved that the proposed development would not substantially impair the intent and purpose of the Township's Master Plan and Zoning Ordinance, thus satisfying the negative criteria requirement set forth in the MLUL at N.J.S.A. 40:55D-70(d).

51. In response to concerns expressed by the Board's Planner, Ms. Banyra, regarding the visibility of the Facility from elevated neighboring properties, Applicant agreed that it will install supplemental evergreen landscaping along the border on the east side of the Property to the satisfaction of the Township's Planner and Engineer. This will be a condition of approval.

52. Mr. Suppa, on recall, testified that the noise generated by the Facility, including the equipment shelter's two (2) HVAC systems and the emergency backup generator, will comply with all NJDEP noise standards.

53. Mr. Suppa further testified that Applicant would install additional noise abatement equipment on the Facility, if necessary.

54. Turning to the variance for the fence installation, Mr. Suppa testified that a security gate will be installed on the equipment platform to prevent unauthorized access and Mr. Masters testified that Applicant's proposed landscaping will provide a sufficient visual screen around the Applicant's installation. In Mr. Masters' professional opinion, the security gate and the landscaping will obviate the need for the required fencing.

55. The Board heard comments from two members of the interested public, Sam Deo,

92 Lincoln Park Road, and Herbert Neal, 90 Lincoln Park Road and then continued the hearing.

56. The hearing resumed at the Board's December 19, 2013 meeting.

57. Mr. Suppa, on recall, testified that, in response to the comments of the Board's Planner, Ms. Banyra, as well as Board Members and members of the interested public, Applicant had revised its plans to add landscaping to the east side of the Property to screen the Facility from the residence closest to the Property.

58. Mr. Suppa testified that he would meet with Ms. Banyra and Mr. Golden to further modify Applicant's enhanced landscaping to their satisfaction, including relocation and/or addition of proposed landscaping. This will be a condition of approval.

59. In response to an inquiry from Ms. Banyra, Mr. Meese further advised that Applicant would be willing to provide plantings to adjacent property owners, which those property owners could plant to further screen views of the Facility. Said provision of plantings will be effectuated by request to Ms. Banyra from the adjacent property owners.

60. Applicant further revised its plans to mill, re-pave and re-stripe the parking area on the Property.

61. Applicant also made minor modifications to the flood elevation of the Facility. The Facility will be located approximately thirteen feet (13') above grade.

62. Mr. Meese advised the Board that Applicant would remove the Facility, clean up and restore the Facility's location, at Applicant's cost and expense, if and when the Facility is not used for a period of six (6) months. Applicant will promptly advise the Township when this six (6) month cessation of the Facility's use occurs. This will be a condition of approval.

63. In response to an inquiry from the Township Engineer, Mr. Golden, Mr. Meese advised the Board that Applicant had applied to the Federal Aviation Administration ("FAA")

for a permit to locate the facility at its intended height.

64. The Board addressed the issue of Applicant's mounting of a "whip" antenna on the facility for use by police, fire, rescue squad and other emergency responders. A "whip" antenna could vary in size and be up to twenty feet (20') tall and could be placed on the tower.

65. It is possible that the equipment platform could be required to be slightly higher based upon flood elevation regulations or other factors.

66. Mr. Golden suggested, and Applicant agreed, that if the equipment platform had to be raised and the top of the shelter will extend higher than twenty-six feet (26') (it is currently proposed at twenty-four feet, nine inches (24', 9")), Applicant will return to the Board for amended site plan approval and variance relief. This will be a condition of approval.

67. Mr. Suppa testified that the shelter to be located adjacent to the monopole will be equipped with fire protection equipment, including a chemical fire prevention system inside the shelter. This equipment is described in Applicant's plans.

68. Mr. Suppa testified that said fire protection equipment will also be subject to the scrutiny of the Township's building and construction officials when Applicant seeks building permit(s).

69. The Board requested, and Applicant agreed, to provide a metes and bounds description of the area to be leased by Applicant for installation of the Facility and related equipment. Said metes and bounds description will include any and all easements which affect the area to be leased by Applicant. This will be a condition of approval.

70. The Board also requested, and Applicant agreed, that Applicant shall revise its plans to reflect the installation of filtration or seepage pits in the parking area to mitigate stormwater flows. Said installations shall be undertaken to the satisfaction of the Township

Engineer. This will be a condition of approval.

CONCLUSIONS OF LAW

Based upon the foregoing findings, the Board makes the following conclusions of law:

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.
2. Applicant's major site plan application conforms to the requirements of the Zoning Ordinance and will promote the purposes of the I-2 zone district as set forth in the Township's Master Plan.
3. Location of the Facility on the Property is expressly contemplated by the Township's Master Plan and Zoning Ordinance . The Facility meets nearly every requirement for conditional use approval set forth in the Zoning Ordinance.
4. Accordingly, the Board concludes that the application for preliminary and final major site plan approval, as proposed, is in the public interest and is hereby granted, subject to any conditions related thereto.
5. The conditional use variances requested by Applicant can be granted.
6. The variance for the height of the monopole tower is necessary to provide the substantial enhancement to wireless service contemplated by the Applicant. Said enhancement of service is a benefit to public safety and the general welfare and advances the purposes of the MLUL as set forth in N.J.S.A. 40:55D-2(a).
7. Similarly, the variance for the distance of the Facility from a residential zone and use can be granted. There is a dearth of other available alternative properties and the Facility is not out of proportion with existing improvements on the Property or the Property's overall size. The facility will be well screened from view from adjacent residential properties.

8. The configuration of the Property, the location of the Facility and the installation of the proposed landscaping will mitigate the effects of the non-conformity

9. The variance from the Zoning Ordinance's requirement for installation of a fence is justifiable in light of the landscaping which will be installed at the Property and, if desired, on adjacent lots. In addition, as testified to by Applicant's professionals, installation of a fence around the facility may create complications with stormwater run-off, which may be impeded by a fence.

10. The three (3) variances from conditional use requirements are not detrimental to the Township Master Plan or Zoning Ordinance.

11. Accordingly, the Board concludes that variances from conditional use requirements for monopole tower height, distance of a tower from a residential zone and use, and installation of a fence shall be and hereby are granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(d)(3).

NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent and purpose of the Zoning Ordinance and the laws of the Township of Pequannock and whether the proposal is conducive to the orderly development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the Applicant's request for preliminary and final major site plan approval and conditional use variances as outlined above. The Board voted on December 19, 2013 to approve the application for development as above described.

BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the

application for development subject to the following terms and conditions:

1. Applicant shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicant shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be numbered to indicate compliance with these conditions.
3. Applicant shall pay in a timely manner all outstanding and future fees, including, but not limited to, development fees, escrow charges, connection fees and usage fees, and shall post all performance and maintenance bonds and guarantees in connection with the review of this application prior and subsequent to the approval of this application.
4. Applicant shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearing(s) on the date(s) referred to above and shall comply with all reports and comments submitted by the Board's Planner and/or Engineer in connection with the application.
5. Applicant shall obtain the approval of any and all other necessary and appropriate City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.
6. Applicant shall comply with the comments and recommendations set forth in the November 4, 2013 report of the Board's Planner and the October 3 and November 1, 2013 reports of the Board's Engineer except as modified in this Resolution.
7. Applicant shall install supplemental evergreen landscaping along the border on the east side of the Property to the satisfaction of the Township's Planner and Engineer.
8. Applicant's Project Engineer, Mr. Suppa, shall meet with Ms. Banyra and Mr.

Golden to further modify Applicant's enhanced landscaping to their satisfaction, including relocation and/or addition of proposed landscaping at the Property.

9. Applicant shall also provide plantings to adjacent property owners at no cost, which said property owners may plant to further screen views of the Facility. Applicant shall not be required to plant the same. Said provision of plantings to adjacent property owners will be effectuated by request to Ms. Banyra.

10. Applicant shall remove the Facility, clean up and restore the Facility's location, at Applicant's cost and expense, if and when the Facility is not used for a period of six (6) months. Applicant shall promptly advise the Township when this six (6) month cessation of the Facility's use occurs.

11. If the equipment platform must be raised resulting in equipment shelter extending greater than twenty-six feet (26') in height, Applicant will return to the Board for amended site plan approval and variance relief.

12. Applicant shall provide a metes and bounds description of the area to be leased by Applicant for installation of the Facility and related equipment. Said metes and bounds description shall include any and all easements which affect the area to be leased by Applicant.

13. Applicant shall revise its plans to reflect the installation of filtration or seepage pits in the parking area to mitigate stormwater flows. Said installations shall be undertaken to the satisfaction of the Township Engineer.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicant, the Township Clerk, the Township Engineer and the Township Assessor and make same available to all other interested parties.



Stephen Cielusniak, Chairman
Township of Pequannock
Zoning Board of Adjustment

I hereby certify this to be a true and accurate copy of a resolution adopted by the Township of Pequannock Zoning Board of Adjustment, Morris County, New Jersey, at a public meeting held on ~~February 6~~, 2014.
March 6,



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

The Vote on the Resolution to approve this Memorialization was as follows:

Yes: *Dolengo, Hebert, Imfeld, SKUAREA, WAY, Melleno, Viteauich*

No:

Abstain: *Bruno, Cielusniak*

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY**

MATTER OF: Nenad Vucenovic

PROPERTY LOCATION: Block 4308, Lot 9, Lincoln Park Road and Slingerland Avenue

APPROVED: February 6, 2014

MEMORIALIZED: March 6, 2014

WHEREAS, Nenad Vucenovic (“Applicant”) has requested variances for secondary front yard setback and lot width for property located at Lincoln Park Road and Slingerland Avenue, known and designated as Block 4308, Lot 9 on the Tax Maps of the Township of Pequannock in the “R-15” zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on February 6, 2014; and

WHEREAS, the Board heard the testimony by Applicant and its witnesses, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicant, represented by Peter F. Lefkowitz, Esq., filed an Affidavit of Proof that Notice of Hearing was given as required by law; and

WHEREAS, a complete application has been filed, the fees required by ordinance have been paid, and the jurisdiction and powers of the Board have been properly invoked and exercised;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with regard to the application.

1. Applicant provided adequate notice of the application and the hearing in accordance with the New Jersey Municipal Land Use Law (“MLUL”).
2. Applicant’s attorney, Mr. Lefkowitz, briefly summarized the application.
3. The Property is owned by the Estate of Elsie Van Riper of Lancaster,

Pennsylvania ("Estate"). Applicant is the contract purchaser of the Property.

4. The Estate's Executor, James Van Lenten, provided written consent for the Applicant to bring the application before the Board.

5. The Property measures 18,566 square feet and is located at Block 4308, Lot 9, at the corner of Lincoln Park Road and Slingerland Avenue in the Township of Pequannock ("Township") in the Township's R-15 zone district.

6. The Property is unimproved and has been vacant for over forty (40) years.

7. Applicant initially sought bulk variances for secondary front yard setback on Slingerland Avenue (50 feet required pursuant to the Township Zoning Ordinance ("Zoning Ordinance") 30 feet provided), side yard setback (15 feet required pursuant to the Zoning Ordinance, 14 feet, 1 inch provided) and lot width (100 feet required pursuant to the Zoning Ordinance, 91 feet provided as a pre-existing condition) to construct a single-family residential dwelling on the Property.

8. In the course of presenting the application, Applicant advised the Board that a chimney located outside the proposed dwelling, which necessitated the side yard setback variance, would be moved inside the home, eliminating said variance.

9. As a result of the aforesaid amendment to the application, only the secondary front yard set back and lot width variances are before the Board.

10. Applicant's proposal is depicted on a plot plan (proffered by Applicant and accepted by the Board as Exhibit A-1), floor map (proffered by Applicant and accepted by the Board as Exhibit A-2) and architectural elevations (proffered by Applicant and accepted by the Board as Exhibit A-3), prepared by Richard A. Trautwein, A.I.A., entitled "Vucenovic Residence, Lincoln Park Road, Pequannock, NJ, Lot 9, Block 4308" consisting of three (3)

sheets, dated November 26, 2013.

11. The Board also received a report from its Professional Planner, Eileen F. Banyra, P.P., A.I.C.P., dated January 9, 2014, and a report from the Township Engineer, Joseph R. Golden, P.E., P.P., C.M.E., dated January 28, 2014, the contents of which are incorporated by reference herein.

12. The Board heard the testimony of Richard A. Trautwein, A.I.A., Applicant's Architect.

13. Mr. Trautwein testified that the Property is located on a corner lot, which is a unique hardship affecting the Property and necessitating the requested variances.

14. The front yard of the proposed single-family dwelling will face Lincoln Park Road. The secondary front yard will face Slingerland Avenue, where the setback is deficient. Lot width is also deficient.

15. Mr. Trautwein testified that additional property is not available for purchase from neighboring lot owners to enable the Property to more fully comply with the Zoning Ordinance.

16. The proposed dwelling will comply with the impervious surface and building coverage requirements of the Zoning Ordinance.

17. The two (2) car garage of the proposed dwelling will be located on the Slingerland Avenue side of the Property and will be set back thirty-five feet (35') from the street.

18. Mr. Trautwein testified as to the elevations and floor plan of the proposed dwelling. He further testified that the proposed design of the home is appropriate for the Property.

19. Mr. Trautwein testified that the dwelling will have an attic located over the main portion of the dwelling, with the attic being used only for storage purposes.

20. Mr. Trautwein testified that the open space in the rear of the Property will mitigate the relative closeness of the home to Slingerland Avenue.

21. Applicant does not propose installation of a fence on the Property. In the event a fence is installed, Applicant shall obtain a permit for same.

22. In response to requests from the Board, Applicant agreed to install a sidewalk from the front door of the proposed dwelling to Lincoln Park Road and also agreed to install pull-down stairs providing access to the dwelling's attic from its laundry room. This will be a condition of approval.

23. In response to a request from the Board's Planner, Ms. Banyra, Applicant agreed to meet all attic standards set forth in the Zoning Ordinance and will also install the dwelling's air conditioning unit at a location in the Property's rear yard, against the dwelling, in compliance with the Zoning Ordinance. This will be a condition of approval.

24. The Board also requested, and Applicant agreed, that Applicant would amend its plans to reflect all revisions agreed upon at the hearing. These amended plans will be subject to the review and approval of the Township Engineer. This will be a condition of approval.

25. John Delguidice, 8 Slingerland Avenue, and Donna Shahpazian, 3 Slingerland Avenue, appeared to express concerns and ask questions with regard to the application.

CONCLUSIONS OF LAW

Based upon the foregoing findings, the Board makes the following conclusions of law:

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.

2. The variance requested by Applicant for secondary front yard setback can be granted.

3. The Property is of unique shape, size and location and is uniquely burdened by having two (2) front yards. Because of the width of the Property, it is not possible for Applicant to construct a dwelling and meet the secondary front yard setback requirements of the Zoning Ordinance. In addition, there is no adjacent property available for purchase which would bring the Property into compliance with these requirements.

4. In such circumstances, the strict enforcement of the secondary front yard setback requirement of the Zoning Ordinance would inflict an unreasonable hardship upon Applicant.

5. The variance requested will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

6. Accordingly, the Board concludes that a variance for secondary front yard setback shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(1).

7. The variance requested by Applicant for lot width can be granted.

8. The Property's lot width is a pre-existing non-conforming condition which will not be exacerbated by Applicant's proposed development. Again, there is no adjacent property available which would bring the Property into compliance with the lot width requirements of the Zoning Ordinance.

9. The strict enforcement of the lot width requirements of the Zoning Ordinance would inflict an unreasonable hardship upon Applicant.

10. The variance requested will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

11. Accordingly, the Board concludes that a variance for lot width shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(1).

NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent and purpose of the Zoning Ordinance and the laws of the Township of Pequannock and whether the proposal is conducive to the orderly development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the secondary front yard setback and lot width variances requested by the Applicant as outlined above. The Board voted on February 6, 2014 to approve the application for development as above described.

BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

1. Applicant shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicant shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be numbered to indicate compliance with these conditions.
3. Applicant shall pay in a timely manner all outstanding and future fees, including, but not limited to, development fees, escrow charges, connection fees and usage fees, and shall post all performance and maintenance bonds and guarantees in connection with the review of this application prior and subsequent to the approval of this application.
4. Applicant shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearings on the dates referred to above.

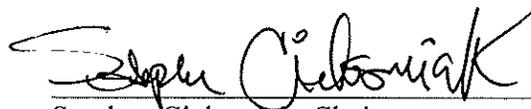
5. Applicant shall obtain the approval of any and all other necessary and appropriate City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.

6. Applicant shall install (a) a sidewalk from the front door of the proposed dwelling to Lincoln Park Road and (b) pull-down stairs providing access to the dwelling's attic from its laundry room.

7. Applicant shall meet all attic standards set forth in the Zoning Ordinance and shall also install the dwelling's air conditioning unit at a location in the Property's rear yard, against the dwelling, in compliance with the Zoning Ordinance.

8. Applicant shall amend its plans to reflect all revisions agreed upon by the Applicant and Board at the February 6, 2014 hearing, with said amended plans to be subject to the review and approval of the Township Engineer.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicant, the Township Clerk, the Township Engineer and the Township Assessor and make same available to all other interested parties.



Stephen Cielusniak, Chairman
Township of Pequannock
Zoning Board of Adjustment

I hereby certify this to be a true and accurate copy of a resolution adopted by the Township of Pequannock Zoning Board of Adjustment, Morris County, New Jersey, at a public meeting held on March 6, 2014.

Linda Zacharenko 3/6/14
Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

The Vote on the Resolution to approve this Memorialization was as follows:

Yes: Cielusniak, Dolengo, Hebert, Way, Melleno, Bruno

No:

Abstain: SKVARCA