

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
MAY 26, 2010
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **RAIOLA** **BOA#10-5315**

Variance(s) requested:	Bulk Variances
Project:	Inground Pool and 6 ft. Fence
Block(s): 939.05	Lot(s): 2
Address: 64 Timberline Road	Zone: R-200
Denial Reads:	The Applicant proposes to install an inground pool in a front yard 7 feet from the front property line where 20 feet is required and a 6 foot high fence within the building line and a public right of way.

2. **PRICE** **BOA#04-4834**

Variance(s) requested:	Amended Bulk Variances
Project:	Side Addition
Block(s): 1320	Lot(s): 15-18
Address: 17 Eugene Furey Blvd.	Zone: CR (Conservation Residential Zone)
Denial Reads:	On October 13, 2004, the Applicant received variances for front yard setback, side yard setback, combined side yard setback, and maximum lot coverage by building for a side addition. A recent survey of the property indicates that the addition further encroached into the sideyard setback, therefore, the Applicant is returning to the Board for relief.

3. OMNIPOINT (T-MOBILE) BOA#08-5237 (Carried from 3/24/10)

Variance(s) requested: Use Variance/Height Variance/Major Site Plan

Project: Cellular Antennae Tower

Block(s): 837.03 Lot(s): 7.01

Address: Woodland Road Zone: R-MF/R-90

Denial Reads: The Applicant is proposing to install a telecommunications antennae at a height of 120 ft. +/- on a new 120 ft. +/- high mono-pole tower extendable to 140 ft. +/- on Lot 7.01 in Block 837.03 at the rear of the existing St. Barnabas Church property. Other proposed ground improvements include ground equipment, cable bridge, underground electrical cable, and 6 ft. high chain link fence.

G. RESOLUTIONS TO BE ADOPTED.

H. APPROVAL OF MEETING MINUTES.

I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on June 9, 2010 at 7:00 PM



MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: May 3, 2010

RE: **Raiola Variance – Review #1**
Application: Inground Pool and Fence Bulk Variances
Block: 939.05, Lot 2
Fronting on: 64 Timberline Road
Zoning District: R-200
Plans: Property Survey – Prepared by KSA; dated April 2, 2001
BOA#: 10-5315
Our File No.: PBAZ0939.39/600.01

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

A. PROJECT OVERVIEW

1. The denial states that the applicant “applicant proposes to install an inground pool in a front yard 7’ from the front property line where 20’ is required and a 6’ high fence within the building line and a public right of way”. The applicant is proposing to install a 12’ +/- by 28’ +/- in-ground pool in the rear yard including a 6’ solid vinyl and 4 ½’ aluminum fences within the front yard of Johnson Avenue where 4’ maximum is allowed. The lot in question is located on the western side of Timberline Road, 100’ north of its intersection with Amsterdam Avenue. The property also has reverse frontage on Johnson Avenue which is an unimproved right of way. The lot is located in the R-200 zone.
2. R-200 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Accessory Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Side Yard Setback	5 ft	N/A	7 ft	<input type="checkbox"/>
Front Yard Setback (20 ft.) Johnson Avenue	Not Permitted	N/A	10 ft	<input checked="" type="checkbox"/>

* Pursuant to Section 35-89.7, no detached accessory use shall be located closer to the street line than the front building line of the principal structure and shall be governed by the schedule of requirements for the side and rear setback lines.

B. GENERAL REVIEW COMMENTS

1. The applicant should provide a description of the proposed pool. The applicant should also provide testimony to the board regarding the need to construct the pool with in the front yard setback of Johnson Avenue.
2. Pursuant to Section 11-5.2(1) no person shall erect any fence between a public street and a building line to a height exceeding 48 inches. The applicant is requesting variance relief from this requirement since, as noted above, they are proposing to construct a 6’ solid vinyl





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fence and 4 ½' aluminum fence within the front yard of Johnson Avenue, an unimproved right of way. The applicant should discuss the need for a six (6) foot high fence and a 4 ½' high fence as opposed to a 4' fence in the front yard, supporting the requested variance

3. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if :
- c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
 - c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

C. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the Applicant certifying to the following:
- i. The proposed structures should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township and shall not encroach upon private wells or individual septic systems or disposal fields.
 - ii. The proposed grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
 - iii. The fence should be located at least 6 inches from any property line to prevent potential property conflicts.
 - iv. Payment all outstanding professional review fees of the Board and the Township.
 - v. The applicant submitting for a grading permit in accordance with Section 11-1.5.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

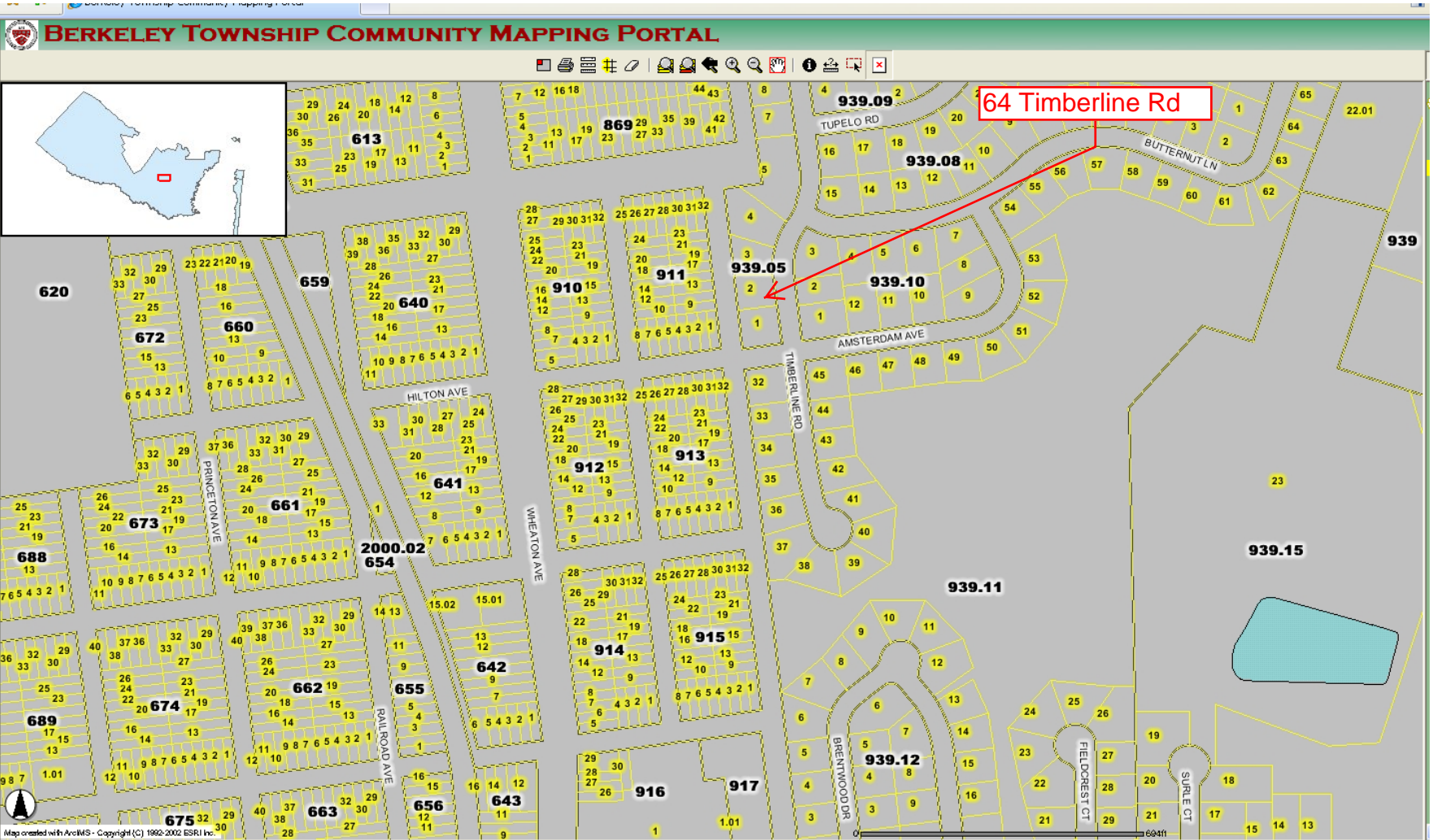
Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr

cc: Board Attorney
Mr. Raiola – Applicant









JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
JOHN J. STEFANI, P.E., L.S., P.P.
JAY B. CORNELL, P.E., P.P.
MICHAEL J. McCLELLAND, P.E., P.P.
GREGORY R. VALES, P.E., P.P.

TIMOTHY W. GILLEN, P.E., P.P.
BRUCE M. KOCH, P.E., P.P.
ERNEST J. PETERS, JR., P.E., P.P.
LOUIS J. PLOSKONKA, P.E.
TREVOR J. TAYLOR, P.E.
BEHRAMTURAN, P.E.

MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: May 19, 2010

RE: **Price Variance – Review #1**
Application: Amended Side Addition Variances
Block: 1320, Lot 15-18
Fronting on: 17 Eugene Furey Blvd
Zoning District: CR (Conservation Residential Zone)
Plans: Variance Plan – Prepared by Own, Little & Associates, Dated 05.14.2010
BOA#: 04-4834
Our File No.: PBAZ1320.02/600.02

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

A. PROJECT OVERVIEW

- On October 13, 2004, the applicant received variances for front yard setback, side yard setback, combined side yard setback and maximum lot coverage by building for a side addition. A recent survey of the property indicates that the addition further encroached into the sideyard setback, therefore, the applicant is returning to the Board.
- CR Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing (Prior to Addition)</u>	<u>Previously Approved</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	130,680 sf	12,500 sf	N/A	12,500 sf	Pre-existing / Non-conforming
Min. Lot Frontage	200 ft	100 ft	N/A	100 ft	Pre-existing / Non-conforming
Min. Lot Depth	200 ft	125 ft	N/A	125 ft	Pre-existing / Non-conforming
Front Yard Setback	75 ft	18.5 ft	18.5/24.9 ft	18.5/24.9 ft	Previously Granted
Rear Yard Setback	50 ft	60.1 ft	N/A	60.1 ft	<input type="checkbox"/>
Side Yard Setback	25 ft	34.3 ft	12.7 ft	11.0 ft	<input checked="" type="checkbox"/>
Combined Side Yard	50 ft	69.2 ft	47.6 ft	46.4 ft	<input checked="" type="checkbox"/>
Max. Lot Cover	10%	10%	15.4%	15.4%	Previously Granted
Max. Building Height	35 ft	< 35 ft	N/Aft	< 35 ft	<input type="checkbox"/>

B. GENERAL REVIEW COMMENTS

- The applicant should provide a description of the addition that was constructed and the need for the additional sideyard and combined sideyard setback variances





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2. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if :
- c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
 - c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

C. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the Applicant certifying to the following:
- i. The structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township and shall not encroach upon private wells or individual septic systems or disposal fields.
 - ii. The grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
 - iii. Payment all outstanding professional review fees of the Board and the Township.
 - iv. The applicant submitting for a grading permit in accordance with Section 11-1.5.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr

cc: Board Attorney
Mr. Price – Applicant





JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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BEHRAMTURAN, P.E.

MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: May 19, 2010

RE: **T-Mobile Northeast, LLC (OmniPoint Communications, Inc.) – Review #3**
Application: Cellular Antennae Tower
Block: 837.03, Lot 7.01
Fronting on: Woodland Road
Zoning District: R-MF/R-90
Plan: Use Variance/Site Plan – Block 837.03, prepared by French and Parrello
dated June 10, 2008, last revised May 3, 2010
BOA#: 08-5327
Our File No.: PBAZ0837.03/600.01

In accordance with your request, our office has reviewed the following variance/site plan application submitted for the above referenced property. The following comments are offered with regard to same:

PROJECT OVERVIEW

The applicant is proposing to install a telecommunications antennae at a height of 120'± on a new 120' ± foot high treepole tower extendable to 140' ± on Lot 7.01 in Block 837.03 at the rear of the existing St. Barnabas Church property. Other proposed ground improvements include ground equipment, cable bridge, underground electrical cable, gravel access driveway and 6' high chain link fence.

The 45.5 ± acre site is split by the R-90 Residential Zone and the R-MF Residential Multi Family Zone where cellular communication towers and facilities are not permitted. The proposed tower facility will be within the R-MF Zone toward the rear of the site.

The existing site in the area of the proposed facility is bounded by commercial to the north, dwellings on the east and west and the remainder of Lot 7.01 on the south. The plans indicate vehicle access will be from the existing entrance driveway to the site from Route 9 and underground utility access for the proposed facility will be from the east along Korman Road.

ZONING ISSUES

1. The plans indicated that the height of the proposed tower is 120' where the maximum allowable height of a structure in the R-MF zone is 35 feet. The applicant has requested a variance for same.
2. Since the proposed location of the cell tower is in the R-MF zone where cell towers are not a permitted, accessory or a conditional use, the applicant will require a use variance. As with any Use Variance, testimony is required to demonstrate that the applicant satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the Use Variance. The Board could impose additional conditions on the site including landscaping, which could better integrate the use with surrounding uses. Consequently, the applicant must demonstrate the following:

I. Positive Criteria

- a. That the site is particularly suited to the use.





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- b. There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reason, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (NJSA 40:55D-2).

II. Negative Criteria

- a. That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
- b. That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance. Consistent with requirements of the Medici case, the applicant needs to provide an enhanced quality of proof that the use variance sought is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance.

DISCUSSION ITEMS

1. Although this is not a conditional use variance application, the conditions outlined in Section 35-127.12 – Cellular Communications Towers and Facilities, may be used as a guide. The applicant should be prepared to discuss the following:
 - a. Per Section 35-127.12a, a freestanding cellular telecommunication tower shall be located at a distance to any property line of at least one and one-half ($1 \frac{1}{2}$) times the height of the tower structure (210 feet). The proposed amended tower location is 520' + from the northern property line, 220' \pm to the western property line and 237' \pm from the eastern property line.
 - b. Per Section 35-127.12b, earth tone colors are required to a height of 50 feet and sky blue above 50 feet. The applicant is proposing a Treepole type mono-pole.
 - c. Per Section 35-127.12b, the applicant is required to provide screening and should discuss waiver requests for same, specifically discussing the existing wooded areas on-site and adjacent to the site relative to screening of the existing residential uses to the west and east of the property.
 - d. Per Section 35-127.12 h, three adjacent off-street parking spaces shall be provided for service vehicles. The plans show a 12' wide gravel access drive and a 15' by 20' turn-around area and gravel parking area. The applicant should provide testimony regarding whether this is adequate parking for the site.
 - e. Per Section 35-127.12 j, the area around the base of the tower shall be secured with a six (6) foot chain link fence. The applicant has provided same, however, at the previous meeting; the applicant indicated that a board on board fence would be installed to provide additional screening.
 - f. Per Section 35-127.12 l, upon cessation of use, the antenna and equipment shall be removed and all underground utilities deactivated within a one (1) year period.





Memo to: Zoning Board of Adjustment
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2. In addition, the applicant should be prepared to discuss the following:
 - a. That no other existing towers or technologies exist to meet the applicant's needs.
 - b. Anticipated future carriers and whether there is enough room on the site to support these carriers.
 - c. Submission of a Traffic Impact Statement. The applicant has indicated only one (1) vehicle is required to maintain the facility and is requesting a waiver for submission of a traffic impact report. We have no objection to same.

SITE PLAN REVIEW:

1. The applicant should indicate if any trees will require removal in order to construct the 12' wide gravel access driveway and communication facilities.
2. The applicant should provide results of soil boring and geotechnical soil foundation analysis for the tower foundation at the time of application for a building permit. A mono-pole tower foundation detail should be provided.

OTHER AGENCY APPROVAL ISSUES

The applicant should discuss approvals by all other agencies having jurisdiction including the following, if required; Federal Communications Commission, Ocean County Planning Board, Ocean County Soil Conservation District and the Federal Aviation Agency. Copies of applications and approvals or certifications, waivers or letters of no interest as may be required should be provided as a condition of final approval and prior to the site disturbance.

Any approval should be contingent upon the submission of revised engineer's reports and plans in accordance with the above comments; submission and approval by the Township of a sequence of construction and contractor's staging plan prior to site disturbance, proof of approval or waivers from all agencies having jurisdiction; the applicant paying all outstanding review fees of the Board and Township and the applicant's engineer submitting an estimate of improvement cost of the project in order that necessary bonds and inspection fees can be calculated.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/blr

cc: Edward Liston, Esq. - Board Attorney
Frank Ferraro, Esq.
French and Parrello

