

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
NOVEMBER 10, 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. **TARANTINO** **BOA#10-5321**

Variance(s) requested: Bulk Variance
Project: Deck
Block(s): 1108.10 Lot(s): 29
Address: 57 Top Sail Court Zone: R-60
Denial Reads: The Applicant is increasing non-conforming deck 72 square feet leaving a 10 foot rear yard setback where 20 feet is required.

2. **JERMAN** **BOA#09-5304 (Partially Heard 8/11/10)**
CARRIED FROM 10/13/10

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot fronting on an Unimproved Road
Block(s): 529 Lot(s): 9
Address: Hoover Ave. Zone: R-125
Denial Reads: The Applicant wishes to construct a single-family dwelling on a 7,500 s.f. lot where 12,500 s.f. is required, a 50 foot lot frontage where 100 feet is required, fronting on an Unimproved Road.

3. T-MOBILE BOA#10-5303 (NEW)

Variance(s) requested: Use Variance

Project: Cellular Antennae

Block(s)/Lot(s): Block 1409, Lot 12; Block 1464, Lot 2

Address: 813 Route 9 & Serpentine Dr. Zone: R-100 (Lot 12); CR (Lot 2)

Denial Reads: Applicant wishes to install additional telecommunications antennas
and equipment cabinets which is not a permitted use in the R-100
Zone.

G. RESOLUTIONS TO BE ADOPTED.

H. APPROVAL OF MEETING MINUTES.

I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on November 24,
2010 at 7:00 PM



JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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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: September 27, 2010

RE: **Tarantino Variance – Review #1**
Application: Deck
Block: 1108.10, Lot 29
Fronting on: 57 Top Sail Court
Zoning District: R-60
Plans: Survey – Prepared by Morgan Engineering, LLC; dated July 28, 2010
BOA#: 10-5321
Our File No.: PBAZ1108.21/60001

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 the applicant "increasing non-conforming deck 72 SF leaving a 10' rear yard setback where 20' is required". The applicant is proposing to re-plank and install new railings on an existing rear yard deck and expand the deck by 2' in width.
2. R-60 Zoning Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	6,000 sf	6,000 sf	6,000 sf	<input type="checkbox"/>
Average Lot Frontage	60 ft	60 ft	60 ft	<input type="checkbox"/>
Front Yard Setback	25 ft	25.3 ft	25.3 ft	<input type="checkbox"/>
Rear Yard Setback (Deck)	20 ft*	12 ft	10 ft	<input checked="" type="checkbox"/>
Side Yard Setback	7 ft	7.62 ft	7.62 ft	<input type="checkbox"/>
Combined Side Yard	18 ft	23.62 ft	23.62 ft	<input type="checkbox"/>
Max. Lot Coverage by Building	30%	<30%	<30%	<input type="checkbox"/>
Max. Building Height	35 ft	< 35 ft	< 35 ft	<input type="checkbox"/>

B. GENERAL REVIEW COMMENTS

1. The applicant should provide a description of the proposed deck addition.
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





Memo to Berkeley Township Zoning Board
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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 following:
 - a. 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.
 - 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.
 - b. The Applicant providing the following to the Building Department, if required, at time of application for a building permit:
 - i. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - ii. The applicant submitting architectural plans of the proposed deck, to show compliance with building codes.

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.

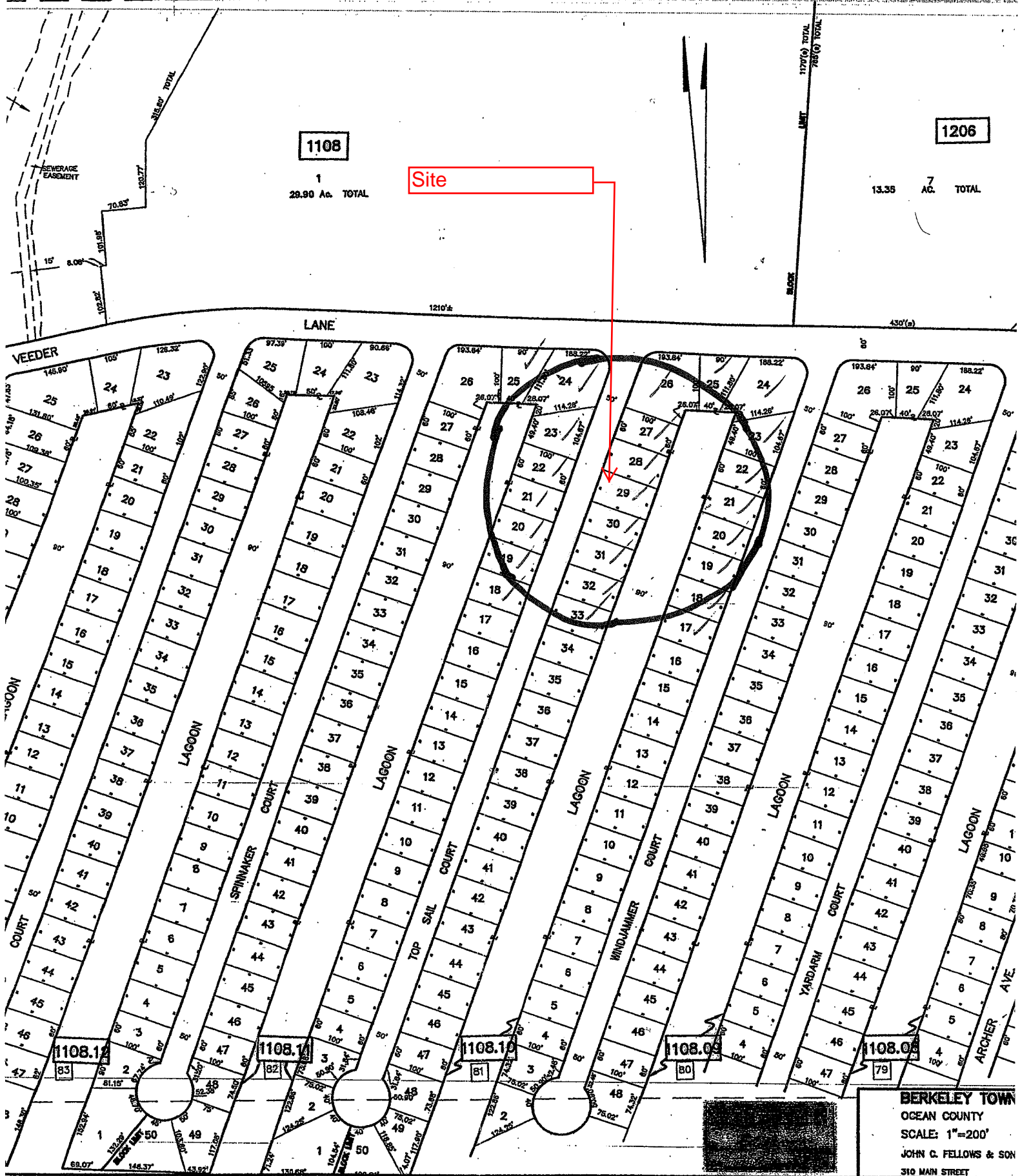
RJR/rr

cc: Edward Liston, Esq. - Board Attorney
Robert Tarantino, 13-09 20th Street, Fair Lawn, NJ – Applicant



BH# 1108 10 L#29

MATCH 87



1108

1
28.90 AC. TOTAL

Site

1206

13.35 7 AC. TOTAL

BERKELEY TOWN
OCEAN COUNTY
SCALE: 1"=200'
JOHN C. FELLOWS & SON
310 MAIN STREET



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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: November 1, 2010

Re: **Jerman – Hoover Avenue – Review #2**
Application: Single Family Dwelling on an Undersized
Lot Fronting on an Unimproved Road
Block, 529, Lot 9
Fronting on: Hoover Avenue
Zoning District: R-125
Plan: Variance Plan, prepared by PDS, LLC
Dated June 27, 2008, Latest Revision Date of September 9, 2010
BOA: 09-5304
Our File No.: PBAZ0529.01/600.01

In accordance with your request and the provisions of Section 35-20, 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 "the applicant to construct a single family dwelling on a 7,500 s.f. lot where 12,500 s.f. is required, a 50' lot frontage where 100' is required, on an unimproved road". The site is located on an unimproved portion of Hoover Avenue approximately 200 LF north of its intersection with Central Blvd in the R-125 zone.
2. **R-125 Zone Requirements and Variances Requested** (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	12,500 sf	7,500 sf	7,500 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	50 ft	50 ft	<input checked="" type="checkbox"/>
Front Yard Setback	35 ft	N/A	44 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	63 ft	<input type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	25 ft	<input type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	14.1 %	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	<35 ft	<input type="checkbox"/>

B. General Review Comments

1. Since the August 11, 2010 meeting, the applicant has revised the plans to include the construction of a paved cul-de-sac at the southern terminus of Hoover Avenue. The cul-de-sac has a 23' radius and





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Memo to: Zoning Board of Adjustment
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connects to existing Hoover Avenue with a 22' wide pavement width. The following comments pertain to same:

- a. The applicant should submit the cul-de-sac design to Traffic Safety and the Fire Official for review and comment.
- b. The applicant should provide a seepage inlet at the southern terminus of the cul-de-sac similar in design to the seepage type drainage systems installed by the Township on Hoover Avenue. The applicant may be able to eliminate drywell #2 and #3 located in the proposed front yard of the lot if the run-off is directed to the seepage inlet in the street.
- c. The applicant should provide "No Parking" signage in the cul-de-sac.
- d. The proposed grades indicated on the roadway profile do not appear to match the profile indicated. This should be addressed.

2. The proposed lot is to be served by public water and by the public sanitary sewer system.
3. Pursuant to 17-5.1, every principal building shall be built upon a lot with frontage upon a public street improved to meet the Township requirement for improved public streets or for which such improvements have been guaranteed by the posting of a performance guarantee:

For the Boards clarification, pursuant to 17-5.6 in no event shall the applicant be required to provide less than the following minimum requirements:

- a. The roadway width must be at least thirty (30) feet.
- b. The entire roadway width shall consist of six (6) inches of DGA, bituminous base course, and bituminous surface course.
- c. The newly paved street shall provide direct access to an approved, improved public street to protect the health, safety and welfare of all future residents and to ensure proper vehicular access by police, fire, first aid and other emergency and essential services.

The Board should note items a, b and c represent the minimum requirements, and could request the applicant provide additional items such as curb, sidewalk and street lighting to at a minimum to protect the health safety and welfare of residents.

It is recognized that, in rare cases, exceptional and extraordinary conditions or the uniqueness of a particular lot may require the waiver of frontage upon a fully improved street. The Board may consider and waive strict compliance with this requirement, if requested by the applicant.

4. The applicant has indicated there are no wetland areas within 150 feet of the site. The applicant is requesting a waiver from providing an NJDEP Presence / Absence Letter of Interpretation (LOI).
5. The applicant is not proposing to extend the existing sanitary sewer main across the frontage of the property to the southern property line. The applicant is proposing to connect the sanitary sewer lateral for the dwelling into the existing sanitary sewer manhole on Hoover Avenue. The applicant has indicated that this will be the last lot serviced by the sewer main and that the existing dwellings





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on Central Boulevard are serviced by a sanitary sewer main in Central Boulevard. We defer further review of same to the Berkeley Township Sewage Authority.

6. 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.

7. The applicant should provide testimony to satisfy both the positive and negative criteria of the Municipal Land Use Law, such that:
- a. The proposed use is particularly suited to the particular property
 - b. There are special reasons that allow a departure from the zoning regulations in this particular case. The granting of a variance must be shown to implement one or more of the purposes of the MLUL 40:55D-2.
 - c. The variance can be granted without substantial detriment to the public good.
 - d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

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 following:
- a. The applicant resubmitting for review by the Zoning Board of Adjustment Engineer a plan which includes those items covered above and discussed at the Board meeting.
 - b. The applicant certifying to the following:
 - i. The proposed 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.





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Memo to: Zoning Board of Adjustment
Our File: PBAZ0529.01
November 1, 2010
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- ii. The proposed grading, if any, will not impact adjacent property; that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site, and payment all outstanding professional review fees of the Board and the Township.
- c. The applicant providing the following to the Building Department at time of application for a building permit:
 - i. The applicant making payment into the Roadway Trust Fund for improvements to Hoover Avenue, if required by the Board.
 - ii. The applicant making payment into the Drainage Trust Fund in accordance with Sections 17-5.6 (g) and 35-72.7, if required by the Board.
 - iii. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - iv. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
 - v. The applicant submitting a Tree Removal / Replacement Plan in accordance with Ordinance 03-25-0AB.
 - vi. Proof of approval and/or waivers from all agencies having jurisdiction including:
 - 1. Berkeley Township Sewage Authority
 - 2. Ocean County Soil Conservation, if required
 - 3. Ocean County Planning Board
 - 4. Berkeley Township Municipal Utilities Authority

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 contact Kristie Armour at (732) 462-7400 Extension 130.

RJR/rr

cc: Edward Liston, Esq. - Board Attorney
Jeffrey Jerman, Applicant
William A. Stevens, P.E., Applicant's Engineer/Surveyor

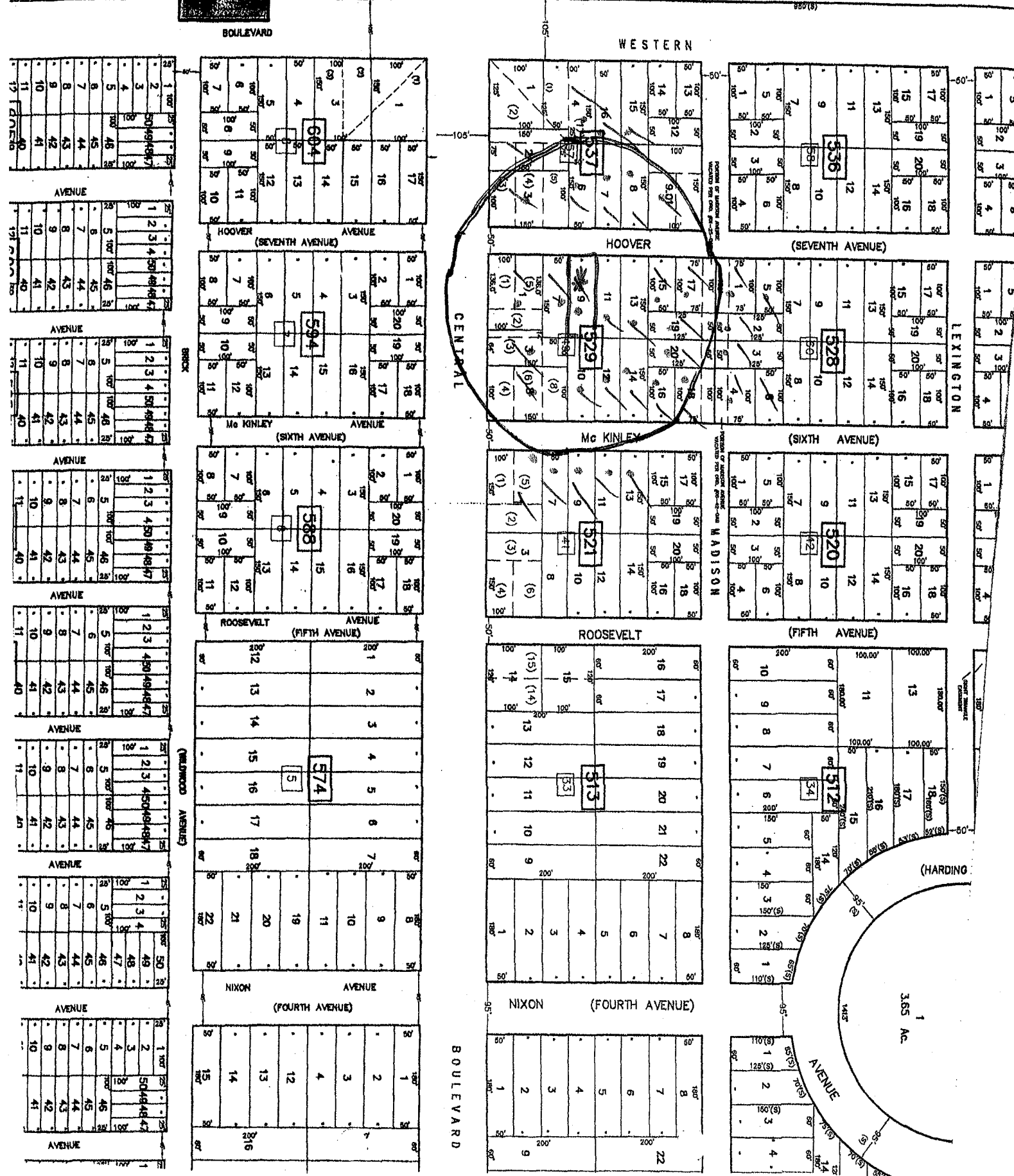


35.72 AC. TOTAL

393.04

34.22 AC. TOTAL

393.01







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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: October 11, 2010

RE: **T-Mobile Northeast, LLC. – Review #1**
Application: Cellular Antennae Tower – Use Variance
Block: 1409 Lot 12; Block 1464 Lot 2
Fronting on: 813 Route 9/ Serpentine Drive
Zoning District: R-100 (Lot 12); CR (Lot 2)
Plan: Site Plan – prepared by Com-Ex Consultants
Latest revision dated September 1, 2010
BOA#: 10-5303
Our File No.: PBAZ1409.02/600.01

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 construct a 120' monopole with nine (9) panel antennas, three (3) equipment cabinets on a concrete pad in a fenced compound. The site is located near the southwestern corner of the intersection of Tallwood Way and Serpentine Drive East in the R-100 zone. The applicant is also proposing an access driveway from the site to Serpentine Drive East which crosses existing Lot 2 in Block 1464. Lot 2 is located in the CR Zone

The 4.15 ± acre site is located in the R-100 Zone where cellular communication towers and facilities are not permitted. The existing site in the area of the proposed facility is bounded by a residential development to the north, single family dwellings surrounded by vacant wooded lands to the east and south, and the remainder of Lot 12 to the west.

The plans indicate vehicle access for the proposed facility will be from Serpentine Drive East across existing lot 2 which is currently vacant. Underground utility access is proposed from an existing utility pole located on adjacent Lot 3 which is also owned by the applicant.

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-100 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-100 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





Memo to Ms. Osborne, Board Secretary – Zoning Board of Adjustment
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conditions on the site including landscaping, which could better integrate the use with surrounding uses. Consequently, the applicant must demonstrate the following:

- a. Positive Criteria:
 - i. That the site is particularly suited to the use.
 - ii. 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).
- b. Negative Criteria
 - i. 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.
 - ii. 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 ½) times the height of the tower structure (180 feet). The tower is 62.1' ± from the northern property line, 99.5' ± from the southern property line and 123' ± 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 same on the plans.
 - c. Per Section 35-127.12c, the minimum lot size for the sitting of a freestanding cellular tower shall be 9 acres for a tower between 100 and 200 feet. The existing site is approximately 4.15 acres.
 - d. Per Section 35-127.12d, the applicant is required to provide screening and should discuss same, specifically discussing the existing wooded areas on-site and adjacent to the site relative to screening of the existing residential uses.
 - e. Per Section 35-127.12h, three adjacent off-street parking spaces shall be provided for service vehicles. The plans indicate a 12' by 18' parking area is proposed which can accommodate one (1) vehicle. The applicant should discuss the need for any additional parking, per the ordinance.





Memo to Ms. Osborne, Board Secretary – Zoning Board of Adjustment
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- f. 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 is proposing to install an 8' high board on board fence.
 - g. Per Section 35-127.12 k, all towers shall comply with applicable Airport Hazard Regulations and shall be subject to approvals from the Federal Aviation Administration for location, height and lighting. The applicant should discuss compliance with same.
 - h. 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.
 - i. Per Section 35-127.12 m, the applicant shall provide documentation that the proposed antenna have electromagnetic emissions within the safety standards established by the ANSI, latest amendment, or any other superseding state or national standard. The applicant has submitted a report indicating compliance with same.
2. In addition, the applicant should be prepared to discuss the following:
- a. Whether the proposed tower will in fact improve telecommunications services, and that the existing coverage and/or capacity is inadequate. This could be in the form of a Comprehensive Service Plan and/or existing tower inventory.
 - b. That no other existing towers or technologies exist to meet the applicant's needs.
 - c. Whether an evaluation of the structural integrity of the proposed tower has been performed with regard to the weight, wind loads, and ice buildup.
 - d. How frequently the tower will be visited, anticipated technicians, equipment, and duration of service.
 - e. Anticipated future carriers and whether there is enough room on the site to support these carriers.

SITE PLAN REVIEW:

- 1. The applicant should indicate on the plans any lighting proposed for the site.
- 2. We recommend that the applicant extend the existing curbing on Serpentine Drive, across the entrance driveway to the site and provide a paved driveway apron.
- 3. The applicant should provide an access and utility easement and/or agreement in favor of T-Mobile and/or the utility company over Lot's 2, 3 and 12 for the proposed facility and utilities.
- 4. The applicant should provide additional existing and proposed spot elevations through out the site. The proposed grading will be reviewed further when addressed.





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Memo to Ms. Osborne, Board Secretary – Zoning Board of Adjustment
Our File: PBAZ1409.02
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5. The following construction details should be added to the plans, if applicable:
 - a. Landscape Planting Plan Details
 - b. Concrete curb
 - c. Mono-pole tower foundation
 - d. Pavement/trench repair
 - e. Emergency and/or security lighting
 - f. Driveway Apron
6. 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.

OTHER AGENCY APPROVAL ISSUES

1. The applicant should discuss approvals by all other agencies having jurisdiction including the following, if required:
 - a. Federal Communications Commission
 - b. Ocean County Planning Board
 - c. Ocean County Soil Conservation District
 - d. Federal Aviation Agency
 - e. NJDEP

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.

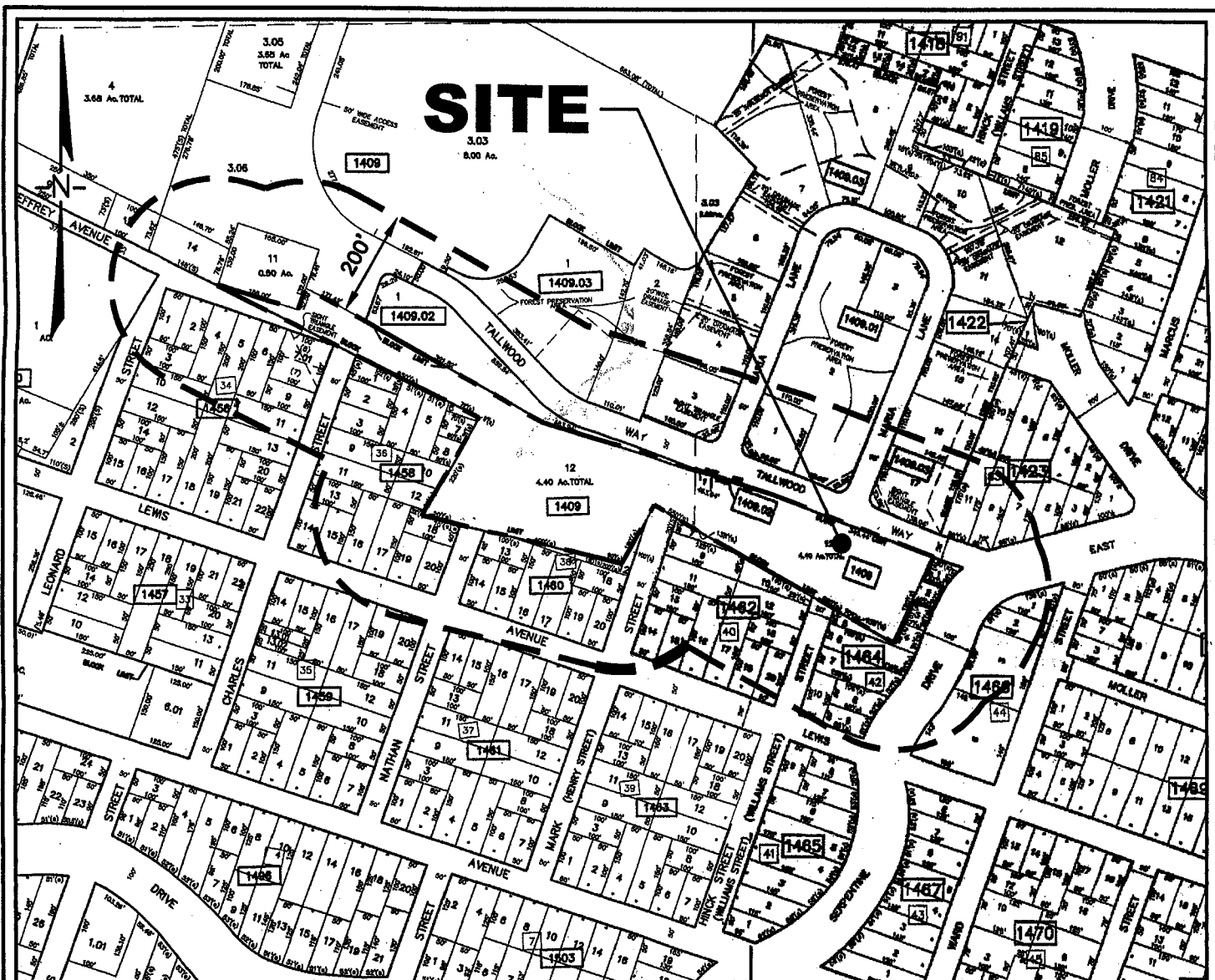
Any approval should be contingent upon the submission of revised engineer's reports and plans in accordance with the above comments; the applicant acquiring all necessary access and construction easements and/or agreements over adjacent properties; submission and approval by the Township of a sequence 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 applicable affordable housing fees, if any; 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/rr

cc: Edward Liston, Esq. - Board Attorney
Lynne A. Dunn, Esq.
Nick Barile, Com-Ex Consultants





TAX MAP

SCALE: 1" = ±200'
 BERKELEY TOWNSHIP
 TAX MAP # 121

