

**BLAIRSTOWN TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
November 10 2009**

**MINUTES**

The Blairstown Township Board of Adjustment met in regular session on Tuesday, November 10, 2009 at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following Board members were present: Lois Brod, Barbara Green, Charles Anderson, Andrew Straut, Mark Ohannesian, Mike Repasky, Debra Waldron, and Joe DiGrazia. Philip Rivera was absent. Also present were Board Attorney, Roger Thomas, Board Engineer, Ted Rodman and Board Secretary, Marion Spriggs.

**SALUTE TO THE FLAG:** was recited.

**ROLL CALL:** was taken.

**THE SUNSHINE STATEMENT:** was read aloud.

**MINUTES:** (As distributed prior to the meeting date).

Minutes of September 8, 2009 Regular Meeting

**Action:** A motion was duly made by Mrs. Waldron, seconded by Mr. Straut, to approve the minutes of the September 8, 2009 meeting, as corrected. Roll call vote: Green, Anderson, Straut, Ohannesian, and Waldron – yes. DiGrazia, Brod, and Repasky – abstain.

**RESOLUTIONS:**

None

**COMPLETENESS:**

**ZB#06-09 Country Kids Station**, Block 1202, Lot 3.02, 13 Stillwater Rd., - Min. Site Plan, Use Variance

This application has been transferred to Planning Board.

**ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, Conditional Variance - **INCOMPLETE**

Roger Thomas agreed to amend the first “Whereas” paragraph on pg. 2 of the Incomplete Resolution to read “deemed incomplete”.

**Action:** A motion was duly made by Mrs. Waldron, seconded by Mr. Anderson, to approve the modified resolution for **ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, Conditional Variance –deeming it **INCOMPLETE**. Roll call vote: Green, Anderson Straut, Ohannesian and Waldron – yes. Brod, Repasky, and DiGrazia – abstain.

**ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, Conditional Variance

**Action:** A motion was duly made by Mr. Anderson, seconded by Mrs. Waldron, to deem **ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, Conditional Variance – complete for items #1, 2, 3, and 5 on Ted Rodman’s 9/4/09 report. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Waldron and DiGrazia – yes.

**PUBLIC HEARING:**

**ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, Conditional Variance

Joseph O’Neill, Esq. represented the applicant.

Daniel Penesso, RF Engineer, Metro PCS, was sworn in. He explained this carrier is new to NJ and NY and was launched in February, 2009. Originally their focus was on eastern NJ. They are now targeting the western portion of NJ. Exhibit A-1, was marked, which is a map of Blairstown with overlay of coverage. He explained the proposed service.

Mr. O’Neill pointed out that Pinnacle Telecom Group prepared an Antenna Site FCC RF Compliance Assessment and Report for Metro PCS, dated 6/15/09, which shows that the site is well in compliance with FCC regulations. A Pinnacle representative was available for questions at this meeting.

Terrence R. Lulay, PE, Lulay & Illescas Assocs., Inc., was sworn in. He described the map dated 9/28/09. He explained that the proposal is for adding antennae and equipment cabinets on an existing telecom tower. Other carriers on that site are AT&T, Cingular, Sprint, Nextel and T-mobile.

This is a gravel compound. The cabinet is equipped with an air-conditioner with minimal noise. There will be a double floodlight, if there is a problem with the equipment after dark. A rotary switch, set for 4 hours, will shut off the light before dusk, or can be turned off manually.

The proposed antennae will be located below T-mobile, about 120 ft. above grade level. This will be the 6<sup>th</sup> set of antennae on the existing tower. The backup is batteries.

Ted Rodman requested, as a condition, that the compound area be shown with the leased area, indicating metes and bounds.

Exhibit B-1 a series of 8 photos taken by Ted Rodman, showing existing pole and surrounding area, were marked.

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Ronald Reinertsen, PP, of Pennoni Associates Inc., was sworn in.

Aerial images were presented and marked as Exhibit A-2. Mr. Reinertsen, presented the positive and negative criteria. He stated the application was justified: Antennae can't be seen, 5 other co-locators have been before the BOA previously regarding this location, there is heavy foliage surrounding the area, it is a priority location, it has a positive impact on the public good. He declared there is no negative effect on the population.

Ted Rodman indicated on the original applications, one side was buffered with white pine trees. He counted about 25 as dead. He suggested that those should be replaced, which was part of the original approval. These should be replaced at the same size, approximately 6 ft. He suggested that the brush be cleaned out. The access road ruts must be repaired.

Roger Thomas summarized the Hearing by stating that the approval is for the site plan as well as the variance with these conditions: The light would be on a rotary switch, there will be a metes and bounds description of the leased area, there will be a replacement of dead pines and Items # 2, 7, 10, 12 and 13 of Ted Rodman's report dated September 4, 2009, would be conditions.

**Action:** A motion was duly made by Mrs. Waldron, seconded by Mrs. Green to approve **ZB #04-09 Metro PCS of NY LLC**, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Min. Site Plan, Use Variance, and Conditional Variance, with the conditions as stated above. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Waldron and DiGrazia – yes.

**ZB #05-09 Todd Bertholf**, Block 102, Lot. 11.02, 58 Four Corners Rd. – Bulk Variance

Dominick Santini, Esq. attorney for the applicant, explained that the applicant is seeking variances for buildings already built.

A Notice and Order of Penalty, dated 6/4/09, was issued by Ralph Price, Construction Official, for the existing pole barn, built this spring 2009, for which a construction permit was not obtained.

Mr. Santini stated that David Diehl, Zoning Officer, who saw the building, wanted the applicant to appear before this Board to correct the situation, rather than informing the applicant to destroy the building. If approval is given, the applicant has agreed to obtain a Zoning Permit and have inspections of the buildings.

Mr. Santini explained that the applicant has 2 adjacent lots which they are proposing to merge to create a conforming lot which will be 5.6 acres. Accessory buildings are on one lot and the other lot is vacant. Variances are needed, as the coverage for the accessory buildings, exceeds the Ordinance.

Robert Berry, licensed surveyor and planner of Hope, was sworn in. He revealed that Mr. Bertholf's father purchased the property in 1971, when 1 acre zoning was in effect. The property was surveyed this past summer. He declared that the natural brown color and vertical siding on the buildings, are aesthetically pleasing and no detriment to the community. Accessory buildings are permitted in the R-5 zone. Merging the lots does help the applicant with total lot coverage. The Ordinance states only 1450 sq. ft. of accessory buildings are allowed.

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Todd Bertholf, 58 Four Corners Rd., Blirstown, was sworn in. He is in the construction business. He uses a backhoe, paver machine, skid steer in his business. He usually stores this type of equipment off site, unless it is brought home for service. He revealed that in Building A-7, circa 2002, he stores a mason truck, boat, 1932 Ford, motorcycle, skid steer, and 4 wheelers. In Building A-2, circa 2009, he stores a Corvette, attachments used for skid steer, pickup truck, miscellaneous saws, snow blowers and a mower. He indicated the buildings are not visible from the road. They are not visible to the neighbors' property.

Exhibit A-1, architectural specs for the building, built in 2009, was marked.

Ted Rodman submitted photos, he had taken today, of the building and surrounding area. These photos were marked as Exhibits A-2 through A-10.

Mr. Berry marked the location of photos on the map.

Chairman DiGrazia stated there are 3 things to consider. There is a 2336 sq. ft. building that has been built but was approved for 1280 sq. ft. Ted Rodman stated that the resolution of approval, dated 11/13/01 reveals approval for 1280 sq. ft. There is an 864 sq. ft. building that needs to be justified. The combination of these created a C variance. What needs to be explained is why the building doubled in size and there is a new building there.

Mr. Berry explained that from the original approved site plan, there is a 32 x 40 sq. ft. building and a 14 x 40 sq. ft. lean-to addition, totaling 1840 sq. ft. The applicant has built 2336 sq. ft., which is an overage of 496 sq. ft.

Chairman DiGrazia questioned mixed storage of equipment, personal vs. business equipment. He stated the Board's concern is that the condition, indicating no business equipment shall be authorized in the garage, is no longer being met.

This portion of the Hearing was open to the public.

Wayne Dixon, Four Corners Rd., Blirstown, was sworn in. He has been a neighbor for 17 years. He stated the property is neat and clean and he sees nothing, and there is no traffic. Mr. Bertholf is a great neighbor.

William Thomas, Four Corners Road, Blirstown, was sworn in. He knows Mr. Bertholf for 30+ years and he maintains his property.

Linda Zulus, Four Corners Rd., Blirstown, was sworn in. She knows Mr. Bertholf for 15 years and he is a great neighbor. Her concern is Blirstown will lose local businesses, if a person can't keep things for business on their property.

Peter Crowe, Four Corners Rd., Blirstown, is a neighbor who moved here 1 year ago. Two months ago, he rode the property which he commented was woodsy and nice. He sees nothing from his property.

Regarding the negative criteria, Roger Thomas reiterated that the applicant and his neighbors have explained there is no visual impact to the surrounding property and no adverse effect to the Zoning Ordinance.

Regarding the positive criteria, he stated the positive criteria for a C-2 variance is that the benefit outweighs the negative impact. There are 2 lots which are non-conforming. If they are merged, they will comply with R-5 zoning.

Roger Thomas recommended that if the Board chooses to approve this application, the action be taken with the following conditions, emphasizing the no outside storage provision:

Bulk Variance be granted for an 864 sq. ft. building and a 2,336 sq. ft. building, subject to the merger, by deed, of Lots 11.01 & 11.02. The deed to be recorded in Warren Cty. Clerk's Office - not later than 60 days from the memorialization.

There be a requirement that the applicant obtain building permits within 60 days of the memorialization for the 2 buildings, which must be specifically referenced as a building of 864 sq. ft. and 2,336 sq. ft.

The applicant will be required to store all equipment in either of those 2 buildings, or the equipment will be taken off-site.

**Action:** A motion was duly made by Mr. Anderson, seconded by Mr. Ohannesian, to approve **ZB #05-09 Todd Bertholf**, Block 102, Lot. 11.02, 58 Four Corners Rd. – Bulk Variance, with the conditions as listed above. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Waldron and DiGrazia – yes.

### **CORRESPONDENCE:**

Minutes from 9/21/09 Planning Board Meeting  
NJLM Fax Advisory 10/15/09 Re: Planning Bd./BOA – consolidation of Boards

### **OTHER BUSINESS:**

**Darst Status – ZB#02-05**

### **EXECUTIVE SESSION:**

At 10:02pm, a motion to enter into Executive Session to discuss litigation, was made by Mrs. Waldron, seconded by Mrs. Brod and unanimously carried.

At 10:28pm, a motion to resume the Regular Meeting was made by Mrs. Waldron, seconded by Mrs. Brod and unanimously carried.

**Last Frontier – ZB#02-06**

**Verizon/All Walnut Valley – ZB#05-08 aka /“Cellco”**

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**NEW BUSINESS:**

None

**PUBLIC PORTION:**

There were no comments from the public, the audience was empty.

**VOUCHERS:** Professional services rendered.

**Action:** On a motion duly made by Mrs. Waldron, seconded by Mrs. Brod, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Repasky, Waldron and DiGrazia, – yes.

**ADJOURNMENT:**

The Chairman asked the Board for a motion to adjourn.

**Action:** On motion duly made by Mrs. Waldron, seconded by Mrs. Brod, and unanimously carried, the meeting was adjourned at 10:30 PM.

Respectfully submitted,

Marion C. Spriggs  
Board Secretary