

## MINUTES – ZONING BOARD – DECEMBER 14, 2020

**The Cranford Zoning Board of Adjustment meeting scheduled for Monday, December 14, 2020 at 7:30 p.m. was conducted virtually in order to avoid potential impacts from Covid-19.**

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided to the Westfield Leader and the Star Ledger with the agenda specifying the time, place and matters to be heard having been posted on a bulletin Board in the Town Hall reserved for such announcements and the filing of said agenda with the Township Clerk of Cranford. Formal action may be taken at this meeting.

The workshop portion of the meeting was called to order at 7:39 p.m. by Mr. Marotta, Chairman.

### **ROLL CALL:**

#### **Members Present:**

Mr. Marotta  
Ms. Daly  
Mr. Ashrafi  
Mr. Lucas  
Mr. Quinn  
Mr. Salomon

#### **Members Absent:**

Mr. Aschenbach

#### **Alternates Present:**

Mr. Savino  
Mr. Rees

#### **Alternates Absent:**

None

Also in attendance: Spencer Robbins, Esq. (for Mark Rothman, Esq.,) and Kathy Lenahan, Board Administrator

### **COMMUNICATIONS:**

None

### **MINUTES:**

Motion to adopt minutes from the November 9, 2020 meeting was made by Mr. Quinn, seconded by Mr. Salomon and passed on unanimous voice vote.

Motion to adopt minutes from the November 23, 2020 meeting was made by Mr. Savino, seconded by Ms. Daly and passed on unanimous voice vote.

### **RESOLUTIONS:**

Application #ZBA 20-001  
Applicant: SEAK Holdings, LLC  
189 North Avenue East  
Block: 312 Lot: 13 ORC Zone  
191 North Avenue East  
Block 312 Lot: 12 ORC Zone

Applicant is requesting a d(3) Conditional Use variance for the conversion of an existing 1 ½ story rear structure from a machine shop/clock manufacturing business to a single family rental unit, where a principal nonresidential use must be located on the ground floor of the building §255-39B(22)(h).

The Resolution of Memorialization was reviewed by the Board. After discussion, a motion to approve the resolution was made by Mr. Savino, seconded by Mr. Ashrafi and passed by unanimous voice vote.

### **OLD/NEW BUSINESS**

Discussion of the 2021 Reorganization Meeting was discussed. A motion to approve January 11, 2021 as the date for the reorganization meeting was made by Mr. Salomon, seconded by Mr. Ashrafi and passed on unanimous voice vote.

Discussion was held regarding the 2021 Zoning Board Meeting Schedule. A motion to approve the 2021 meeting scheduled was made by Ms. Daly, seconded by Mr. Savino and passed on unanimous voice vote.

The workshop portion of the meeting concluded at 7:52 p.m.

### **PUBLIC PORTION:**

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on December 14, 2020 at 7:52 p.m. via Google Meet. Mr. Marotta announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader and the Star Ledger have been notified and the agenda posted in the municipal building as required.

Mr. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

#### **1. Application #ZBA 19-010 – CONTINUED FROM NOVEMBER 30, 2020**

Applicant: New York SMSA Limited Partnership  
d/b/a Verizon Wireless, T-Mobil Northeast LLC  
New Cingular Wireless PCS, LLC  
Union County College  
1033 Springfield Avenue  
Block: 121 Lot: 2.01, E-1 Zone

Applicant is requesting preliminary and final site plan approval, a d(1), d(3) and a d(6) variance for a wireless telecommunications facility §255-37I(5) & (6), plus numerous c(2) variances. A variance for height where the maximum height permitted is 70 feet, and 140 feet to the top of the tower and 148 feet to the top of the concealment branches is proposed §255-37I(10)(a), a variance for setback where the minimum required setback to the closet property line is 185 feet and 112 feet 9 inches is proposed §255-7I(10)(b)(1), a variance for separation from the nearest residential unit where the minimum is 444 feet and 229 feet 7 inches is proposed §255-37I(10)(c) and if so required, variances to permit more than one principal use on a lot, for the continuation of the existing non-conforming lot area §255-37G(1)(c) and open space ratio §255-37G(1)(e).

Applicant has an alternative proposal of a facility consisting generally of an approximate 135-foot-tall monopole designed as a faux tree with branches extending to approximately 143 feet, located within a 40 foot by 60-foot fenced compound which will house the Applicants' radio and emergency power equipment. The Applicants shall each seek the

following variances: use variance to permit the telecommunications use which is not permitted in the E-1 Zone §255-371 (5) & (6)), height variance to permit the tower to have a height of approximately 135 feet to the top of the tower and 143 feet to the top of the proposed concealment branches, with the top of the Verizon Wireless antennas proposed at approximately 138 feet, the top of the AT&T antennas to be approximately 128 feet and the top of the T-Mobile antennas to be approximately 119 feet above grade where a height of 70 feet is permitted in §255-371 (10)(a); variance for the setback of the tower to the closest property line to permit a setback of approximately 59 feet 3 inches, rather than 178 feet 9 inches required by §255-371(10)(b)(1); variance for the separation from the nearest residential unit to permit a separation of approximately 362 feet 10 inches to the dwelling on Block 119, Lot 17, rather than 429 feet required by §255-371(10)(c); and setback variances to the interior property line to permit the equipment compound to have a setback of 43 feet 6 inches, the AT&T generator to have a setback of 47 feet 8 inches, and the Verizon Wireless generator to have a setback of 48 feet 1 inch, where a setback of 50 feet is required by §255-37G(1)(b). The alternative proposal is also located on Block 121, Lot 2.01 with access thereto utilizing Campus Road which is on Block 121, Lot 3, and if so required, variances to permit more than one principal use on a lot, for the continuation of an existing non-conforming lot area §255-37G(1)(c) and open space ratio §255-37G(1)(e)), and any additional variances, waivers or other relief required by the Board after its review of this application.

John Ruschke, appeared and was sworn in. He provided his qualifications to the Board and was accepted as an expert in Planning and Engineering.

Mr. Ruschke reviewed the application including the location, and the variances the applicant is seeking. Stated the property is located in the E-1 zone and a cell tower is not permitted in that zone. Stated for a d(1) variance, the applicant must demonstrate special reasons for the granting of the use variance and demonstrate that there is no substantial negative impact in granting the variance. The Board's review of this application must include both State and Federal laws including the Telecommunications Act of 1996. Applicant must demonstrate that the site is particularly suited for the use. Discussed the positive criteria stated by the applicant which included the FCC licenses and that it will help the College's ability to comply with the Cleary Act and First Net service. Applicant must demonstrate the need for the facility at this location. The applicant's RF testimony stated that all three carriers have a gap in coverage. The College buildings are not high enough to install antennas that will improve the service areas to desired levels by the carriers. Adequate coverage could be achieved by putting a tower on the adjoining cemetery property, but owners of cemetery did not express any interest in installing a tower. Tower could be placed on an alternative site on the College, but the College stated the tower could interfere with future improvements. Discussed installing a tower at Nomahegan Park which is Green Acres and a permit would be needed NJ DEP. The DEP would not issue a permit if alternative locations are available. Reviewed the conditional use standards for the municipal code §255-371 for communication and towers. Stated the Board should apply the SICA Balancing Test and review the positive and negative criteria. Stated the detrimental visual and aesthetic impacts from the tower were raised during testimony; along with odor, noise and traffic. Board can impose reasonable conditions if granting the variance. Reviewed various items which could reduce the negative impacts of the compound including: board on board fencing, generators should have sound attenuation, meet EPA standards, traffic and parking will not be significant, removal of mature trees should be minimized, lighting should be minimized with no lighting proposed on the tower, and timers should be on all work lights. Applicant stated that there would be no impact to neighboring property values. Reviewed other conditions including that the tower shall comply with all State and Local building codes.

Stated the Board must weigh the positive and negative criteria, the public interest and the public detriment to determine if granting a variance would cause a substantial detriment to the public good.

One of his recommendations is to preserve the wooded area from Princeton Road to the compound. Reviewed the fencing requirement and better concealment of the compound. Stated landscaping needs to be looked at carefully. Sound attenuation is needed for the generators. Applicant must comply with all Federal regulations.

Questions from Mr. Robbins for Mr. Ruschke ascertained the following:  
The tower would not interfere with Police or emergency communications. The 911 service would enhance the cellar communications. There are alternative locations that would serve the need, but testimony stated the sites are not available. The location of the storage facility adjacent to the parking lot would be a desirable location.

Questions from Mr. Meese to Mr. Ruschke ascertained the following:  
Applicant provided all the information he requested from his June 24, 2019 report. The stock yard had additional conditions. A location that is further away from the residents is the preferred location, which would be the second location. A wetlands survey was supplied and that there would be a permit needed for the utilities.

Questions from the Board to Mr. Ruschke ascertained the following:  
The College stated the alternative site is not available to be utilized. It is a viable location for the tower. Tower would be higher at this location but the elevation to the top of the tower would not change.

Questions from Mr. Simon to Mr. Ruschke ascertained the following:  
His opinion about the tower not interfering with the Police or emergency communications is based on the RF testimony. Testimony was that the College did not want the tower to interfere with future improvements. Did not conduct an assessment of endanger species. If there were endanger species, the DEP would propose a 150-foot buffer. The driveway to the tower does not require any ordinance relief. The second compound does not have a driveway, just steps. Satisfied that the applicant has addressed storm water management for either location.

Mr. Marotta asked if the Public had any questions for this witness, the following appeared:

Lenore Argen – 27 Seneca Road – Asked about after the cell tower is built and any issues that may come up. Asked about selling the tower and any restrictions.

Mr. Ruschke stated local, state and federal standards need to be complied with. Applicant indicated they did not need lights. If Board acts favorably on application, they can put conditions on the application.

Mr. Meese stated there was a survey done and it was determined that lights are not needed.

Marietta Horne – 42 Princeton Road – Asked about the noise, odors and the state standards. Asked about generators and about the higher education use to justify the variance. Asked about the College and the Cleary Act. Asked what is the benefit to the Township in tax revenue. Asked about the SICA rules and the design of the tower. Asked about other projects similar to this.

Mr. Ruschke stated the state standards apply to commercial and residential. Enclosure around the generator should be padded and insulated. Would need to comply with the emission standards. There are some fumes but there are EPA standards that the applicant needs to comply with. RF testimony indicated there is an improvement of the cell service with the college campus. Did have testimony regarding campus safety. Township would need to decide if the cell tower would be tax exempt. The tower will not address the entire gap. There will still be a gap east and west. He has seen projects in Chatham.

Mr. Meese stated the testimony from Mr. Hynes is that the College provides communication via cell phone and text. Currently they can send them, but not everyone is receiving them.

Mr. Meeses asked Mr. Ruschke about the generator and the number of vehicles and the emissions.

Mr. Ruschke stated they could be comparable in emissions.

Tom Ganley – 29 Cornell Road – Asked about how many carriers are on the pole and about height of pole. Asked about site with storage containers and about other areas in Town for additional towers.

Mr. Ruschke stated three carriers have been identified and a fourth carrier is on the drawing. The height being proposed can accommodate four carriers. Adding a fifth carrier, the pole would need to be modified. Applicant can come back by right and add a fifth carrier. Site with storage contains would be closer to Colby Lane but the setbacks would be met, but would still need some variances. It is unique because of the limited locations to fill the gap. It will require multiple locations to fill the gaps and will require multiple sites.

Kevin Buckman – 24 Colby Lane – Asked about other properties with cell towers and are they comparable. Asked about using smaller towers like in Marion. Asked how close were the other cells towers on campus to a residential area.

Mr. Ruschke stated to apply the conditional use standards to smaller lots the deviations would be greater. Applicant emphasized you cannot get backup power to the DAS systems and cannot get the same reliability from the DAS systems. One site was on a Board of Education property and was closer to residential homes than this application.

Mr. Simon asked a follow up question about the college campus.

Mr. Ruschke stated it was on Morris County college land located on south side of the campus. It was about 1000 feet from a residence, but he is only speculating.

Tom Kaercher – 36 Harvard Road – Asked about height and E-1 zone.

Mr. Ruschke stated applicant is asking for use variance for a use not permitted in the zone.

Rita LaBrutto – 104 Arlington Road – Asked about minimal impact on property values. Asked about being further from the residential properties and about hard data.

Asked about the storage area and a (d)1 variance. Asked about hiding 60 feet of cell tower above the tree line and about the noise and the odors. Asked about Chatham locations.

Mr. Ruschke stated the applicant testified that the installation of tower would not have a financial impact. Stated that the further from residential properties the better. He is relying on the RF testimony of the experts. Stated that location was not offered by the College. The tower is a faux tree configuration and there has been some improvement on the artificial tree. There are small fans with the electrical equipment. Residential generators would be louder than what would be at this site. In Chatham, they are located by high tension wires.

Mr. Meese stated that Exhibit A-3 specified that the noise would comply with daytime and nighttime residential limits for Cranford and the DEP.

Christine Licata – 10 Dartmouth Road – Asked about Green Acres and about looking to put tower in the woods.

Mr. Ruschke stated he has experience working with Green Acres. From an RF perspective, it would require additional coverage and would not address the entire gap.

Marietta Horne – 42 Princeton Road – Asked about noise and the quality of life at her home.

Mr. Ruschke stated the applicant will comply with state standards. Impact would be controlled and minimized.

Board members follow-up questions ascertain the following:  
Township established standards which sets the maximum height. A setback is set by code. It is in a Boards' jurisdiction to weigh if appropriate. Natural gas generators tend to have less noise.

Tom Ganley – 29 Cornell Road – Asked if Board has enough information to make a decision.

Mr. Ruschke stated if the Board feels they need more information that would come out during deliberations.

Christine Licata – 10 Dartmouth Road – Asked about Green Acres and gap in coverage. Asked about definition of gap in coverage.

Mr. Ruschke stated they would have to go through the whole application again. Green Acres is the County. RF testimony went into gap in coverage in great detail.

Tom Kaercher – 36 Harvard Road – Asked about residential in a commercial zone vs residential in residential zones.

Mr. Ruschke stated the E-1 zone is not zoned to provide cell towers as conditional use. Conditional use does not apply.

Lenore Argen – 27 Seneca Road - Asked about taxpayers and remedies. Asked about the generator and who owns the land.

Mr. Robbins stated this witness could not answer that question.

Mr. Meese stated that the noise from the generators will comply with daytime and nighttime state and local standards.

Mr. Robbins stated questions need to be regarding Mr. Ruschke's testimony.

Mr. Marotta stated the next hearing would be where the Public can make comments and present evidence to Board.

The next hearing will be January 25, 2021.

PUBLIC PORTION:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passes. The meeting concluded at 10:35 p.m.

---

Daniel Aschenbach, Secretary