

**MINUTES OF THE HARDYSTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING HELD OCTOBER 2, 2003**

CALL TO ORDER: The meeting was called to order by Chairman Miller at 7:30 p.m.

STATEMENT OF COMPLIANCE: Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975, adequate notice as defined in Section 3D of Chapter 231 P.L. 1975 has been made to the New Jersey Herald and is also posted on the Bulletin Board at the Hardyston Township Municipal Building.

ROLL CALL:

William Walsh	Present
Santo Verrilli	Present
Gerald Laughlin	Present
David Toyne	Present
Gary Bargiel	Present
Candace Leatham	Excused
Carl Miller	Present
Mary Ann Murphy (Alt.1)	Excused
Roger Kabbash (Alt. 2)	Excused

OTHERS PRESENT: Michael G. Vreeland, P.E., Michael S. Garofalo, Esq., Anne-Marie Wilhelm, Secretary.

APPROVAL OF MINUTES:

A motion to approve the Minutes of the Hardyston Township Zoning Board of Adjustment Meeting Held September 4, 2003, was made by Santo Verrilli and seconded by Gary Bargiel. Roll Call: William Walsh – yes, Santo Verrilli – yes, Gary Bargiel – yes, Carl Miller – yes. The motion carried.

RESOLUTION: ZB-4-03-1, Omnipoint Communicatins, Inc.,“D” Variance, Preliminary and Final Site Plan, Block 62, Lot 35: A motion to adopt the attached resolution with an amendment to condition number five, which shall read: *Applicant shall install additional stealth branches to the 75' level to shield the new antennae*, was made by William Walsh and seconded by Gary Bargiel. Roll Call: William Walsh – yes, Santo Verrilli – yes, Gary Bargiel – yes, Carl Miller. The motion carried.

APPLICATION: ZB-9-03-1, Cellco Partnership d/b/a Verizon Wireless, Preliminary and Final Site Plan, Block 62, Lot 35: It was noted that as Richard Briigliodoro, Esq., had a conflict, Michael S. Garofalo, Esq., would represent the Board. Mr. Garolfalo confirmed that the Applicant’s notice was in order. Warren O. Stilwell, Esq., appeared on behalf of the Applicant. He stated that a use variance is required because the monopole is a non-permitted use in the RC-Zone. Dominick VILLECCO, P.E., Chris NEVILL, P.E., and William F. Masters Jr., were sworn.

The Board reviewed Mr. VILLECCO’s qualifications and accepted him as an expert witness. Mr. VILLECCO submitted Exhibits A-1 and A-2 that displayed U.S. Geological Survey Base Maps, which outlined Verizon’s existing service coverage area and the proposed service coverage area should the site be approved. The coverage area was identified as the western portion of Hardyston Township and a portion of Franklin Borough. Mr. VILLECCO stated that the addition of proposed antennae at 105' would eliminate significant coverage gaps along Rt. 94 in Hardyston Township and along Rt. 631 one mile into Franklin Borough. He stated that the proposed facility would not interfere with other area electronic equipment as the band that Verizon is licensed in is not any band that would cause interference to any other public use band. Mr. VILLECCO noted that should there be interference caused by the site, the FCC requires carriers to address the problem.

The Board reviewed the *RF Emission Study for CELLCO Partnership d/b/a Verizon Wireless, North Church Site, 3312 Route 94 North Hardyston, New Jersey, Commissioned by CELLCO Partnership d/b/a Verizon Wireless Analysis Performed by V-COMM, L.L.C.*, prepared by David K. Stern, Vice President, dated September 15, 2003. Mr. Vilecco, referencing page one, stated that the Applicant would be in compliance with FCC regulations.

The Board reviewed the qualifications of Chris Nevill, P.E., and accepted him as an expert witness. Mr. Nevill submitted Exhibit A-3, a colored rendering of the site plan dated July 15, 2003. He stated the application proposes to install an equipment compound between the existing access road and the 125' monopole and compound area located at the North Hardyston Cemetery. He identified several site constraints that were determinants of site selection. He stated that the proximity of the building to the front set back and the slope on Route 94 limited the ability to rotate Verizon's compound between existing buildings belonging to AT & T and Horizon. He stated that for Verizon to locate equipment cabinets further away from the monopole, more signal cable would need to be utilized and this would degrade the signal and negatively effect the amount of attainable coverage. Mr. Nevill stated that to maximize the amount of attainable coverage, the Applicant attempted to get as close to the monopole as possible. He noted that an alternative site, adjacent to the building on the southwest of the compound, contains an underground oil tank, which eliminated this area as a potential site. Further, he stated that on the other side of the access road, cemetery plots begin. Mr. Nevill concluded that the selected site is the only viable location for the equipment cabinets.

The Board reviewed the attached report of Michael G. Vreeland, P.E. dated September 29, 2003. Mr. Nevill requested waivers of Items 11, 12, 22, 31, 32, and 41 as the Applicant proposes development in a small 9' x 22' area adjacent to the existing compound and monopole. He noted that there would be no increases in setbacks. The Board agreed to waive the items. The Applicant agreed to provide all of the information requested by Mr. Vreeland including a letter certifying the structural stability of the monopole. Further, the Applicant agreed to pay all escrow costs and fees. Board members discussed measures to screen the proposed equipment compound from public view and the Applicant agreed to provide slats on the fencing.

The Board reviewed the qualifications of William F. Masters, Jr., P.P., and accepted Mr. Masters, Jr., as an expert witness. Mr. Masters submitted Exhibit A-5, a series of five photographs depicting the existing site taken on September 16, 2003, and five computer-simulated photos of the proposed site as-built. He stated that the application adheres to the statutory criteria for the granting of use variance relief both in regard to the positive criteria and the negative criteria.

With reference to the positive criteria, Mr. Masters stated that the site is particularly suited for a wireless telecommunications facility as the site is ideally situated to fill the existing coverage gap being proximate to Route 94 and also due to the fact that the Applicant proposes to co-locate on the existing tree monopole. He stated that Verizon Wireless is licensed by the FCC and the New Jersey Supreme Court has indicated that the issuance of an FCC license should suffice for a carrier to establish that the use serves the general welfare.

With reference to the negative criteria, Mr. Masters stated that the Sica balancing test was applied. He stated that the public interest at stake with regard to wireless telecommunication facilities is significant and the provision of state of the art communications serves the general welfare. With regard to the detrimental effect that would ensue from the granting of the variance relief, Mr. Masters stated that the site would be unmanned and a passive use. He stated the visual impact is insignificant. He stated that based upon this analysis, the Sica balancing test has been satisfied. Board members discussed the possibility of adding more branches toward the bottom of the pole. It was noted that too many branches would create structural problems with windload.

Having no further issues for discussion, Chairman Miller opened the meeting to the public for questions and commentary on the matter. There were no participants. The meeting was closed to the public.

Chairman Miller noted that the Board expects the monopole to be maintained as directed.

A motion to approve the application subject to the Applicant's compliance with the recommendations of Mr. Vreeland, the Applicant's submission of a letter certifying the stability of the monopole, and the

Applicant's installation of slats on the fencing, was made by William Walsh and seconded by Gary Bargiel. Roll Call: Carl Miller – yes, William Walsh – yes, Santo Verrilli – yes, Gerald Laughlin – yes, David Toye – yes, Gary Bargiel – yes. The motion carried.

BILLS: A motion to recommend payment of the bills cited below to the Township Council was made by William Walsh and seconded by Gerald Laughlin. Roll Call: Carl Miller – yes, William Walsh – yes, Santo Verrilli – yes, Gerald Laughlin – yes, David Toye – yes, Gary Bargiel – yes, The motion carried.

Weiner Lesniak LLP	ZB-7-03-1, AT & T	\$ 182.00
Weiner Lesniak LLP	ZB-4-03-1, Omnipoint	56.00
Weiner Lesniak LLP	ZB-8-03-1, Lake Gerard	1398.20
Guerin & Vreeland Engineering, Inc.	ZB-7-03-1, AT & T	427.50

PUBLIC PARTICIPATION: Chairman Miller opened the meeting to the public for questions and commentary on general issues. There were no participants. The meeting was closed to the public.

CORRESPONDENCE/DISCUSSION: Chairman Miller provided an update on the Master Plan. It was noted a public meeting would take place on October 30, 2003, for review of the matter.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Santo Verrilli and seconded by William Walsh. All were in favor. The motion carried. The meeting was adjourned at 8:25 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm

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