

R E S O L U T I O N

JOINT LAND USE BOARD OF THE BOROUGH OF DUMONT

IN THE MATTER OF THE PLACEMENT OF AN
EXTENSION AND ADDITIONAL ANTENNA ARRAYS
ON AN EXISTING ANTENNA LOCATED ON BOROUGH
PROPERTY AT BLOCK 1105; LOT 18 (ALLADIN AVENUE)
BY NEW CINGULAR WIRELESS PCS, LLC (AT&T)

Introduced By:

Seconded By:

WHEREAS, NEW CINGULAR WIRELESS PCS, LLC (AT&T) (hereinafter, "Cingular" or the "Applicant") has filed the above application seeking the extension of the existing 120' monopole to a height of 150' and the placement of an additional antenna array at the 150' height level made up of platform with 12 antennas made up of 4 different sectors; and

WHEREAS, the antenna is located on Borough Property at Alladin Avenue at Block 1105; Lot 18 (hereinafter, "the Property"); and

WHEREAS, subsequent to public bidding, by Resolution 195, adopted by the Governing Body of the Borough of Dumont ("hereinafter, "the Governing Body") on July 20, 2010, the Governing Body awarded a Lease Agreement to Excell Tower, LLC, (hereinafter, "Excell") for the purpose of constructing a monopole cellular antenna; and

WHEREAS, all bid documents and leases were for a 120' monopole which was to be extendable to 150' thereafter; and

WHEREAS, Excell (along with co-applicants T-Mobile Northeast, LLC and Clearwire Technologies, Inc.) obtained Minor Site Plan Approval for the construction of the 120' monopole by Resolution of the Joint Land Use Board, dated October 26, 2010; and

WHEREAS, on, or about, January 28, 2015, Excell entered into a Tower Lease Agreement with the Applicant to permit the Applicant

to extend the monopole to a height of 150'; to place an antenna array upon the monopole; and to add necessary equipment cabinets for the proposed monopole improvements at the base of the monopole; and

WHEREAS, the above matter was presented to the Board at public hearing held on April 28, 2015 and August 25, 2015 at which time the Board heard testimony thereon, and

NOW, THEREFORE BE IT RESOLVED, by the Board that it does hereby make the following findings of fact and conclusions based thereon:

1. That all of the recitals hereinabove set forth are incorporated by reference. That all of the exhibits and documents relevant thereto are herein incorporated.
2. During the course of public hearings, the Applicant was represented by the Law Firm of Pinilis Halpern, LLP, through counsel, Christopher Quinn, Esq., and Judy Fairweather, Esq. During public hearings, the Board heard the testimony of the following experts on behalf of the Applicant: Neil Arceo, Principal Radio Frequency Engineer for Pramira on behalf of AT&T (hereinafter, "Arceo"); Christopher Cirrotti, PE, of Dewberry Engineers, Inc. (hereinafter, "Cirrotti"); David Karlebach, PP, of DK Professional Planners, PC (hereinafter, "Karlebach"); John Post, General Manager of Commercial Tower North (hereinafter, "Post"); John Yu, PE, Dewberry Engineers, Inc. (hereinafter, "Yu"). All experts were sworn and qualified as experts in their field.
3. The Applicant and Board marked into evidence the following exhibits:
 - a. **A-1** Existing 850MHz Coverage Analysis, prepared by Pramira on behalf of AT&T, dated January 8, 2015;
 - b. **A-2** Proposed 850MHz Coverage Analysis, prepared by

- Pramira on behalf of AT&T, dated January 8, 2015;
- c. **A-3** Proposed 850MHz Coverage Analysis, prepared by Pramira on behalf of AT&T, dated January 8, 2015 (140' Height);
 - d. **A-4** Proposed 850MHz Coverage Analysis, prepared by Pramira on behalf of AT&T, dated January 8, 2015 (130' Height);
 - e. **A-5** Radio Frequency Site Compliance Report, Pramira on behalf of AT&T, dated January 14, 2015;
 - f. **A-6** Sheet Z-3 of Site Plan Package, prepared by Dewberry Engineers, Inc.;
 - g. **A-7** 5 Page Site Plan, prepared by Dewberry Engineers, Inc.;
 - h. **A-8** Fall Zone Exhibit
 - i. **A-9** Minor Site Plan Approval of the Joint Land Use Board of the Borough of Dumont, dated October 26, 2010;
 - j. **A-10** Photo Simulation;
 - k. **A-11** Photo Simulation;
 - l. **A-12** Structural Analysis Report of July 31, 2015, prepared by Dewberry Engineers, Inc.
 - m. **A-13** Lease Agreement between Excell and Borough of Dumont;
 - n. **A-14** Lease Agreement between Excell and the Applicant;
 - o. **A-15** Borough Bid Documents for Monopole;
 - p. **A-16** Geotechnical Report
 - q. **B-1** Report of Boswell McClave Engineering, dated April 23, 2015;
 - r. **B-2** Report of Maser Consulting, PA, dated April 24, 2015;
 - s. **B-3** Report of Maser Consulting, PA, dated August 24, 2015.

4. The Applicant's attorney provided an introduction to the proposed development which can be summarized as follows: Excell leases the Property from the Borough and has constructed a 120' monopole. All bid documents and the Lease with the Borough indicate that the monopole is expandable to 150' as necessary. The Applicant leases a location on the monopole from Excell and seeks to extend the monopole to 150' and to place an AT&T antenna array at the top of the expanded monopole. This antenna array would consist of 12 separate antennas; the addition of a 12' x 20' equipment shelter; the addition of an ancillary back-up generator. The immediate impetus behind the Application is that AT&T has an antenna on the existing Cablevision tower in Bergenfield which location will no longer be available. Counsel also reminded the Board that "colocating" antennas on existing facilities is the preferred method to obtain antenna space (both practically speaking and as a matter of State and Federal Law) and that the Application is for a collocation onto an existing monopole with an expansion of the monopole in accordance with the initial Borough Bid Documents and the Lease with the Borough.
5. The report of the Board Planner, Darlene Green, sets forth the Approvals and Variances that the Board must consider in connection with the Application:
 - a. Site Plan Approval;
 - b. Variance pursuant to NJSA 40:55D-70(d) for deviating from the lot area condition of the permitted, conditional, antenna use as 30,000sf is required and 14,700sf is provided;
 - c. Variance pursuant to NJSA 40:55D-70(d) for deviating from the maximum permitted tower height condition of this

- permitted use as 130' is permitted and 150' is sought;
- d. Variance pursuant to NJSA 40:55D-70(c) as the Ancillary Equipment shed is 240sf and 200sf is permitted;
 - e. Variance pursuant to NJSA 40:55D-70(c) for a deviation from the requirements for a landscape buffer:
 - f. Variance pursuant to NJSA 40:55D-70(c) for a tower height of 150' in contravention to the permitted height of 120'.
6. Arceo testified as to all matters of Electrical and Radio Frequency Engineering. He testified as to the workings of cellular antennas and specifically testified as to A-1 which provided existing coverage for 850MHz antenna located at the height of 193'. A-1 provided the coverage for the current AT&T site on the existing Cablevision Tower in Bergenfield which provided approximately 1.57 square miles of coverage of non-overlapping, 850MHz reliable coverage. This Exhibit also included the impact of neighboring sites. Arceo testified that this Cablevision antenna would soon be unavailable to the Applicant which would leave a gap in coverage. The Application was to replace this loss of antenna coverage.
7. Arceo testified as to A-2, which demonstrated the proposed coverage which would be provided by the placement of an antenna on the extended monopole on the Property at a height of 150'. This coverage, at 850MHz, provided 1.22 square miles of coverage or about 78% of the antenna that the Applicant sought to replace. This Exhibit also included neighboring sites.
8. Similarly, Arceo testified as to A-3 and A-4 which demonstrated the existing coverage and coverage provided by a proposed antenna (without neighboring sites) at 850MHz. The current antenna located on the Cablevision Tower provided 3.28 square miles of reliable coverage and the proposed antenna on the

monopole would provide 2.39 square miles of reliable coverage. Accordingly, even with the new antenna at 150' on the monopole, there would be a 27% loss of reliable coverage area.

9. Arceo also testified as to the Site RF Compliance report (A-5) which indicated there was no impact on other uses. During this testimony reminded the Board that a monopole height was always contemplated by the Borough's Bid Documents. (See A-13, A-14 and A-15)
10. During the course of Arceo's testimony, he pointed out the necessity of proposed Antenna site on the subject monopole and the need for same in order to assure reliable coverage was maintained when the ability to utilize the Cablevision Tower ceased. He also testified, by reference to A-5 and otherwise, that there was no negative impact of extending the monopole (as contemplated by the Borough) and the placement of AT&T's antenna array at the 150' height level.
11. Cirrotti was qualified as a Civil Engineer in the employ of Dewberry Engineers, Inc. Cirrotti testified as to the proposed development as follows: The Applicant proposed the extension of the existing monopole to a height of 150'. Once extended, the Applicant would place their antenna array at the 150' height level. The Applicant's antenna consisted of 12 panel antennas (11.5" x 55" each), divided into 3 sectors of 4 antennas each.
12. In addition to changes in the monopole, the Cirrotti testified that the Application also included the construction of a 12' x 20' equipment building within the fenced enclosure at the base of the monopole and the placement of an emergency gas generator in the enclosure.
13. Cirrotti testified that the placement of the generator and the

equipment building - because the area is currently impervious - would not increase building coverage, impervious coverage or runoff. He testified that, due to the design of the fenced area in which the equipment buildings were located, and the use of the areas by the municipal Department of Public Works, there was no room of the required buffer. He testified that the building would have no lighting but for a light over the door.

14. Cirrotti testified as to the "fall zone" of the monopole and testified that all residential uses were outside the fall zone and that it was 288' to the nearest residentially zoned property.
15. The Applicant adduced the testimony of Karlebach as to planning issues. Karlebach testified that he had reviewed all submission documents as well as the municipal Master Plan and Zoning Ordinances. He testified that the Property was located in the southwest portion of the Borough in the Light Industrial Zone. The Property is primarily utilized by the Borough's Department of Public Works and the area is dominated by conforming Light Industrial uses, municipal uses and various clubs or fraternal organizations. Karlebach testified that the Light Industrial zone was the least restrictive zone in the Borough and that the subject monopole with antennas was a permitted conditional use in the Borough.
16. Karlebach testified that a permitted conditional use is "more like a permitted use than a non-permitted use". Even though the Applicant deviated from the height condition of the permitted conditional use, there is no question that the Governing Body always contemplated a height of 150' because that is what the municipal bid documents specified. His

planning testimony indicated that the Property was the best means to provide service using an existing structure and that this was a benefit and contemplated by existing law and good planning. Essentially, the Applicant had the opportunity to replace the loss of its antenna site on the Cablevision Tower with a site on another, existing antenna.

17. Based on the foregoing, Karlebach testified that the Property was particularly well suited for the proposed use and that the area, and antenna, was already developed and that there was a strong policy in favor of collocation on this, already developed, Property. Accordingly, he testified that the variances pursuant to NJSA 40:55D-70(d) for a deviation from the conditions of a conditional use were warranted. He also testified that the Site Plan and bulk variance relief pursuant to NJSA 40:55D-70(c) were also warranted and that the height was an essential component of the use and necessary for the system to operate. The(c) variance for the lack of buffer is warranted and required due to the limited space for equipment in the area leased from the Department of Public Works.
18. With regard to all variances, it was testified that there was no negative impact to the zone plan, the purposes of zoning or the neighborhood. There would be no traffic generated by the unmanned Property and that the use contained thereon was a "passive" use. The visual impact of extending the tower and permitting co-location was far better than utilizing additional antennas and that the extension of antenna heights has already been considered by our courts to represent "no impairment" and a "minimal intrusion". He further testified that residents and passer-byes are already acclimated to the existence of a tower on the Property and that the height is already "digested"

and understood. There is no impact on light air and open space and that the expansion of the monopole would not disrupt views. Finally, he testified that the (d) variances could be reconciled with the Master Plan and, in fact, were consistent with the zoning and the municipal contract documents for a 150' tower.

19. Post testified that his company installs and inspects towers, antennas and monopoles. He supervises operations and those of the tower installers and climbers. He testified that tower climbers and inspectors inspect the tower, hardware, mounts and tower openings, paint and metal condition take measurements as to structural components. He testified that he has over 25 years of experience and undertakes all inspection activities. All climbers are "tower technicians". He testified that the tower was within specification and functioning well. He testified that with engineering modifications it would be suitable for extension to 150' and the installation of the AT&T antenna array.
20. Yu testified that he is a structural engineer with Dewberry Engineering, Inc. and that he has over 20 years of experience in the industry and has a Master's Degree in structural engineering. Yu testified, that upon inspection and design review, the tower is currently loaded to 96% of capacity or "loading". In order to assure that a similar capacity is maintained subsequent to the proposed construction, the foundation of the tower would have to be modified by the installation of "tie-rods" through the existing 23' x 23' foundation and 34' into the bedrock below. The system would consist of 4 of these "rock anchors". These rock anchors would extend into the bedrock for 13' of embedment.

21. Yu testified that the monopole does, and would, comply with the New Jersey Building Code and TIA/EIA-222G requirements. The tower would remain compliant with current design criteria (ASCE 7-05) for 98mph winds and the not yet implemented requirement to withstand 105mph winds (ASCE7-10).
22. There was public comment and testimony with regard to the application.

NOW THEREFORE, BE IT FUTHER RESOLVED that the Board does hereby approve the Application for Site Plan Approval, Conditional Use variances, and bulk variances necessary to extend the existing monopole to 150' in height, add an AT&T antenna array at the 150' height level and install necessary equipment buildings and a generator as depicted on the various Exhibits presented to the Board. The Board finds that the Applicant has adduced proofs sufficient to warrant the granting of Site Plan Approval, Conditional Use Approval and Bulk Variance Approval as set forth elsewhere herein and in the record of proceedings.

BE IT FURTHER RESOLVED, that this approval is conditioned upon the following:

1. Applicant obtaining all approvals as might be necessary from all other agencies of applicable jurisdiction.
2. A redesign of the monopole, or methods proposed to enhance the existing monopole, to assure that the design complies with any revised or updated engineering report.
3. The submission of an "as built" analysis (including an inspection report) that subsequent to construction the monopole is structurally sound; all work was properly done and that the work accomplished the proposed design standard of the tower being loaded to 96%.
4. Subsequent to construction, the owner of the monopole, or its

designee, shall adhere to the latest standards "Tower Maintenance and Inspection Procedures" set forth in TIA/EIA-222G (or its successor), including the requirement that the tower be inspected at least every 3 years and after all significant wind events.

5. The applicant shall provide a copy of this Resolution to Excell to advise that all inspection reports shall be submitted to the Borough and the Borough Engineer for review.

6. Applicant must comply with all suggestions contained in the Report of the Board Engineer, including those to be produced with regard to the structural report/geotechnical report to be prepared by the Board Engineer based on submissions made by the Applicant.

ROLL CALL:

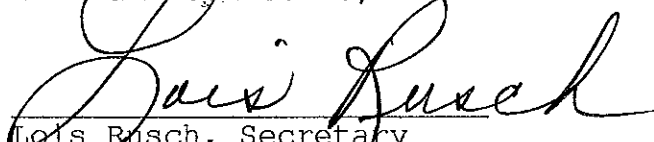
AYES

NAYS

ABSTAIN

Thomas Trank		Michael Affrunti		Councilman Matthew Hayes	A
Michael Worner		Timothy Hickey	Y	Elmer Pacia	Y
Joseph Hakim	Y	Barbara Chen	Y	Michael Cremin Alt #1	
Alfred Moriarty Alt #2	Y	Janet Masio Alt #3		Ken Armellino Alt #4	Y
Chairman William Bochicchio	Y				


William Bochicchio, Chairman


Lois Busch, Secretary

RESOLUTION ADOPTED AT THE September 29, 2015 MEETING OF THE DUMONT
JOINT LAND USE BOARD