

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank A. Tomasello, presiding. Members present were Wayne Cain, Wayne Choyce, Bruce Strigh, Elaine Valentino and Amanda Zimmerman. John Sacchinelli and Kathi Lentz arrived late. Solicitor, Robert Cooper was also present along with Robert Watkins (Mott Associates), Christopher Carey (Engineering Design Associates), Kevin Dixon (Dixon Associates) and Steven Mazur (Dixon Associates).

The Statement of Compliance was read.

Announcements – There were no announcements.

Solicitor Robert Cooper stated that Kewy and Pedro Santana App. # 11-2011 will not be heard tonight due to failing to properly notice. Anyone in the general public interested in this application does not have to stay.

Richard and Michelle Cheek – App. #10-11; Block 940 Lot 9 located at 5905 Hickory Street were present and seeking a variance to permit a front yard setback of 52' from Hickory Street. The intention is to build a house further back from the road which is less of an encroachment from the original house.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Cheek explained that he purchased the property with his daughter, Michelle. The original house was torn down and a new home is being proposed to be built around the existing foundation. County laws state you can only go 15' from the existing cesspool to the house with a 2" rat ceiling. The intention is to stay 17' from the edge of the cesspool to the edge of the house. The front of the house then becomes 58' at the front of the porch. The old house had an existing oil tank in the back and it was removed. The footings have been reinforced due to this but Mr. Cheek is not sure how the existing footings were reinforced. A variance is being asked for 53' which gives 6' of leeway if the house has to be moved forward. The pool has been removed and will not be reinstalled. The frontage requirement cannot be complied with due to the septic system.

Mr. Tomasello stated that Ms. Lentz has arrived at 7:02 pm.

Exhibit A-1-Elevation and floor plan of house.

Mr. Choyce asked if the existing cesspool will be reused. Mr. Cheek stated it will be reused and is acceptable to the County Board of Health as long as the new house is a minimum of 15' away with a rat slab inside the crawl space.

Mr. Tomasello asked for Ms. Valentino's opinion of the property since she had visited it. She stated the property is in a rural area with a lot of trees and brush and no established building line. The relief of a 52' setback would not break any established building lines on the street.

Mr. Choyce stated that some of the properties on the street within a block or two have front setbacks are smaller than what the applicant is asking for even though some of the newer homes meet the requirement. There is a mix in the neighborhood.

Mr. Cain also visited the property and asked if any trees will be removed and Mr. Cheek stated no.

Ms. Valentino asked if this was going to be a single family house and Mr. Cheek replied yes.

Mr. Tomasello opened this part of the hearing for public comment and there was no response. Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Valentino moved, seconded by Mr. Choyce, on App. #10-11, Block 940, Lot 9 located at 5905 Hickory Street to grant the relief requested by the applicant of a setback of 52' to the front porch where there is a requirement of 75' by ordinance.

Mr. Cooper asked if the intent is 52' from the property line. Discussion ensued and it was determined the 52' setback would be from the property line not the right of way.

SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE," NO "NAY," and "ONE ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – ABSTAIN
MR. STRIGH – AYE	MS. VALENTINO – AYE	MS. ZIMMERMAN-AYE
MR. TOMASELLO – AYE		

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion:

MR. CAIN: There is no detriment to what is being proposed. I don't have a problem with saying yes.

MR. CHOYCE: I will vote yes & what the applicant is proposing to construct is not detrimental to the rest of the neighborhood and not in conflict with the zoning ordinances of the township.

MS. LENTZ: I am going to abstain since I missed the first few minutes of the presentation.

MR. STRIGH: Yes for the same reasons.

MS. VALENTINO: Yes.

MS. ZIMMERMAN: Yes for the same reasons and to reiterate that it doesn't effect any building lines with the other properties in the area and it is less of an encroachment than the prior building.

MR. TOMASELLO: I vote yes. I am familiar with the area and impressed that the new house will be less of an encroachment than the original house was. Along with the testimony of the site review members it is as wooded area with no existing building line. There is absolutely no detriment to the building in that area. The applicant is entitled to the relief.

Caryn and Dominic Francesco – App. #12-11; Block 829 Lot 6 located at 1521 Pinehurst Avenue were present and seeking variances for a covered front porch on the existing house to permit encroachment into the required front and rear yard setbacks.

Mr. Tomasello excused himself due to a conflict of interest and Vice Chairman Elaine Valentino assumed the position of Chairman.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mrs. Francesco explained they own a 2 story single family home and would like to add a covered front porch which would not be enclosed along with steps in the front and to the side by the driveway. Their property is a corner lot which fronts Sweetgum Lane. The steps in the front will be located where the current ones but further out.

Ms. Valentino asked Board Members if they had the opportunity to visit the site.

Mr. Cain stated he had and is familiar with the property. The existing house is a hardship because of how it sits on the corner.

Ms. Valentino asked if 45' x 9' is the correct dimension of the proposed front porch. Mrs. Francesco stated that the measurement is the pad and does not include the steps. The front

yard setback should be 20' because of the steps. There is a 25' setback to the neighbors located on the left on Sweetgum Lane.

Ms. Zimmerman visited the property and asked if the proposed steps in the driveway area. Mrs. Francesco stated the steps will extend past the house and the porch will end at the edge of the house. The rear setback would change to 17'.

Ms. Valentino opened this part of the hearing for public comment and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," ONE "ABSTAIN."

Ms. Valentino moved, seconded by Mr. Strigh, on App. #12-11, Block 829, Lot 6 located at 1521 Pinehurst Drive seeking permission to construct a 9' x 45' covered porch with setback of 20' in front yard (Sweetgum Lane) and 17' in the rear yard opposite Pinehurst Drive. This would accommodate the porch and the steps leading to the front and the side yard.

SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE," NO "NAY," and "ONE ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. CHOYCE-AYE	MS. LENTZ – AYE
MR. STRIGH – AYE	MS. VALENTINO – AYE	MS. ZIMMERMAN-AYE
MR. TOMASELLO – ABSTAIN		

SAID MOTION CARRIED.

Pashley Builders – App. #13-11; Block 668 Lot 3 located at 6489 Harding Highway were present and seeking a use variance to permit amusements associated with Halloween. Attorney Charles Gemmel was present and he is representing Pashley Builders.

Mr. Tomasello reassumed his position of Board Chairman.

Mr. Tomasello stated the traffic engineer's report was not submitted in a timely fashion and this is the number one issue with this application. There are also concerns because of the conflict with the engineer and subsequent resignation as Planning Board Alternate Traffic Engineer. The Board doesn't feel the application is complete unless all evidence is submitted 10 days prior to the hearing. The Board Traffic Engineer declined to review the report due to the conflict.

Mr. Gemmel stated that Mr. Shropshire was appointed the Planning Board Alternate Traffic Engineer and he was under the impression that he could also represent applicants before the Zoning and Planning Board. Mr. Shropshire resigned this afternoon (July 25, 2011) as the Townships Alternate Traffic Engineer. Dixon and Associates recommended that a traffic report should be submitted on July 15th and one was put together.

Mr. Cooper stated he has no problem with the conflict because he is no longer affiliated with the township. The Boards policy has always been to review expert's reports 10 days prior to the hearing.

Mr. Tomasello has concerns because traffic is going to be critical for this application.

Mr. Dixon has received a copy of the report and feels that he could adequately inform the Board on traffic issues.

The majority of the Board would like to have received Mr. Shropshire's traffic report prior to tonight's meeting along with the Township Traffic Engineer's report so questions could be addressed.

It was announced that the Pashley Builders App. # 13-11 hearing would be continued at the next meeting on August 22, 2011 with no need for further public notice.

Mr. Cooper stated that the taxes have been paid by a third party lien holder.

Mr. Choyce clarified that the 2nd quarter taxes were paid on July 22, 2011 and Mr. Cooper suggested that this discussion be addressed after the meeting.

Capital Telecom - App # 9-11: Block 1093 Lot 12, Vienna Avenue is seeking a use variance for cell phone tower and site plan approval. Property is owned by the Township of Hamilton. Michael Learn, of Cooper Levenson was present and he represents Capital Telecom. They are seeking a Conditional Use Variance (D). This is a continuation of public hearing from June 25, 2011.

Mr. Cooper stated that since Ms. Zimmerman was not here for last months meeting and has not heard the tape she will not be included in this hearing.

Mr. Tomasello stated that Mr. Sacchinelli has joined the hearing at 7:10 pm and Robert Watkins at 7:32 pm.

Mr. Learn summarized what was discussed during the June 27, 2011 hearing in regards to Capital Telecom in addition to the workshop that occurred on July 5, 2011. There are 2 witnesses tonight, Mr. Richard Peterman an Engineer with Advantage Engineers and Mr. Douglas Cowan a licensed Professional Planner who can address the use variance.

The following witnesses and professionals were sworn in by Mr. Cooper:

Richard Peterman, Engineer with Advantage Engineers
Douglas Cowan, A licensed Professional Planner
Christopher Carey, Engineering Design Associates, P.A., Landscape Engineer
Steven Mazur, Dixon Associates
Kevin Dixon, Dixon Associates
Robert Watkins, Mott Associates, LLC
Philip C. Sartorio, Township of Hamilton, Zoning Officer and Director of
Community Development

Mr. Peterman gave testimony in regards to the cell phone tower compound and how it was relocated. It was shifted 27.5' from the Expressway and 10' from Vienna. The size of the compound along with the tower height has not changed. The location of the tower has changed with the shifting of the compound.

Testimony in regards to the gravel access road was given. Spruce Street and Vienna Avenue access roads will now be 20' wide along with adequate turning radii for fire trucks. This is shown on sheet Z-1.

Sheet S-1 shows the compound being shifted from the public Right of Way 27.5' North East along with staggered rows of planting.

There was discussion between the Landscape Engineer, Board Members and the applicant about the proximity of trees which are to be planted.

Spruce Street paving ends between lots 4 and 5 in Block 1093.

Exhibit A-1 July 25, 2011-is an aerial photo showing the preserved farmland and marked in red is where the tower is to go.

Ms. Valentino wanted to indicate that at the July 5th workshop session the following were represented.

The Municipality (Township of Hamilton)
Pinelands
Applicant
Board Members (3)
Experts
Fire Officials
Cologne Fire Department Chief

A request for a waiver of street trees (Item #3) was recommended.

Mr. Cooper stated that the applicant will have a maintenance bond and will be responsible that there is no overgrowth with the trees and the fences they are near. The applicant has agreed to relocate the 2 rows of staggered trees with the recommendation of the Boards Landscape Architect.

Mott Associates report dated July 12th - Points 1 through 5 will be complied with. The County approval was granted approximately 3 weeks ago and Pinelands has to be refiled due to the gravel access road being widened.

Dixon Associates memo dated July 15th the waiver comment for 15A (request for site triangle shown on plans) the facility is non traffic generating facility. The traffic volume will not be impacted. There are no plans to extend Spruce or Vienna and the only traffic that will be generated is a maintenance vehicle approximately 5 visits per month (that includes each carrier).

Comment 15B- There was much discussion about storm water management calculations and reviews. A request of waiver of storm water calculations is being asked with the understanding that this is a condition of approval and these calculations will be submitted to the Township Engineer and have to approve they are accurate.

Comment 16-Seeking permission for gravel road in place of a paved road.

Mr. Tomasello asked if Board Members had any questions or comments about these comments from Mr. Peterman.

Mr. Strigh has concerns about the roadway and feels there will be more traffic than anticipated, how the farmland is accessed and if there is snow how it will be removed. The site triangle should be implemented at the intersections of Spruce Street and Vienna Avenue.

Discussion ensued in regards to road maintenance and access of Spruce Street and Vienna Avenue.

Mr. Learn stated that Capital Telecom will be responsible for maintenance of access to the site (including snowplowing) so their vehicles and emergency vehicles can get back there.

In regards to the Dixon Associates memo Mr. Peterman discussed the following comments: #20 the datum should read Nav D 1988; #'s 21 & 22 a copy of the structural integrity report will be provided conditioned upon approval; #24 visual impact study will be provided by Professional Planner after he does; #26 storm water management calculations to be provided condition upon approval; #32 stone access road details will be revised to the NJDOT standards.

Mr. Tomasello asked if Board Members had questions or comments in regards to what was just heard.

Philip Sartorio testified about the RFP and that the road remain in a gravel form and the applicant is responsible for maintenance of the site.

Discussion ensued about the lease agreement and the maintenance of the road. It is a 25 year lease agreement.

Mr. Learn stated the applicant will be responsible for construction, maintenance and bonding of the road from Spruce Street to the site as a condition of approval and pending the approval of Township Committee.

Mr. Peterman stated the site improvements will be as follows: 760' on Spruce Street and 840' on Vienna Avenue for a total of 16,000 liner feet (approximately).

Mr. Cowan testified that the site is suitable for a cell phone tower and it should be approved. There are setback variances being sought should be granted so clearance and disturbance of land will be minimized. He also spoke about the conditional use variance and the positive and negative criteria associated with it.

Exhibit A-2 July 25, 2011-Visual Impact Study (7 Photographs)

Mr. Watkins stated the lot area and frontage variances should be granted because they are existing conditions of the lot and Mr. Learn concurs with this statement.

Mr. Choyce asked Mr. Watkins about the application, proposed tower location and the Township's master plan. The municipality views this area as a need for this facility. He also stated the zoning ordinance regarding cell phone towers should be revised

Mr. Choyce wants the record to reflect that Capital Telecom is asking for a waiver for the paving of the roads.

There was discussion about which carriers will be part of the tower. There are currently 4 carriers, including the Municipality. There is an empty space for a possible 5th carrier.

Mr. Tomassello opened this part of the hearing for public comment. Mr. Matt Liepe, 3000 Linden Avenue, was present and sworn in by Mr. Cooper.

Mr. Liepe discussed concerns he has about the property being used for the Capital Telecom project and the impact on his farm which surrounds this lot along Spruce Street. For irrigation of the fields a hard hose is pulled across Spruce Street to water those crops. He is aware that Spruce Street is a public Right of Way.

There was discussion about an ordinance which states heavy trucks are not allowed on Spruce Street and working with Mr. Liepe so the irrigation of the fields will not be disrupted. He also feels that because there will be more traffic in that area there will also be more trash accumulating.

Mr. Tomassello asked if anyone else wanted to speak for this portion of public comment and there was no response. Mr. Sacchinelli moved, seconded by Mr. Cain to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Cooper feels the motion should be framed in sections. The first being the D3 variance to permit the installation of a 91' cell tower and compound (the leased area of 90' x 90') with a maximum of 5 carriers (4 private and 1 municipality). The D3 Variance was moved by Mr. Strigh, seconded by Mr. Choyce.

Ms. Valentino wants the following to be prefaced and memorialized in the resolution "This proposal was not initiated by the applicant for D & C variances and requests for waivers on vacant, unimproved land with access from an unimproved roadway. It was a result of an RFP proposal initiated by the municipality specifically for this intended use and awarded to the highest bidder on unimproved municipal property with the full awareness of the existing violations which are the subject of this application. Additionally it is contingent upon the terms of a fully executed Lease Agreement entered into with the applicant as the successful bidder in this process wherein the applicant is now the lease and the municipality is the landlord.

Therefore my vote would recognize all of the above and suggest that the terms of both the RFP and resultant lease agreement be incorporated herein by reference and all recommendations of the Board and its professionals regarding roadway improvements and other waivers and conditions be likewise included in any vote for approval.

As such, any action by this Board should not constitute any precedent in its handling of future cases of this nature that should come before it, directly and indirectly, irrespective of the path in which we receive them".

NOTE: The following Board Members made the following comments regarding the above motion, for the D3 variance:

MR. CAIN: Yes

MR. CHOYCE: Yes

MS. LENTZ: Yes

MR. SACCHINELLI: yes

MR. STRIGH: Yes

MS. VALENTINO: Yes

MR. TOMASELLO: Yes

Mr. Cooper stated there are 6 C2 variances to be addressed and they are as follows:

Lot Area:	1.01 Acre Lot in a 5 Acre Zone
Width:	196.20' where 400' is required
Front Yard:	45.5' where 175' is required (cell tower)
Side Yard:	60.50' where 50' on 1 side is required and 1/15" aggregate is required (cell tower)
Rear Yard Accessory:	173.5' where 200' is required (cell tower)
Equipment:	Front yard setback of 41' where it is not permitted

Motion made by Mr. Strigh and seconded by Mr. Cain with no discussion on the motion.

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE," NO "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. CHOYCE-AYE

MS. LENTZ – AYE

MR. SACCHINELLI-AYE

MR. STRIGH – AYE

MS. VALENTINO – AYE

MR. TOMASELLO – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion, for the 6 C2 variances:

MR. CAIN: Yes

MR. CHOYCE: Yes-based on the location and the size of the property. The setbacks have to be agreed to allow construction of this parcel.

MS. LENTZ: Yes for the reasons previously stated.

MR. SACCHINELLI: Yes for the same reasons previously stated.

MR. STRIGH: Yes for the same reasons previously stated.

MS. VALENTINO: Yes for the same reasons previously stated.

MR. TOMASELLO: Yes for the same previously stated and in addition due to the remote location there will be no negative impact on the neighboring community or the township at large.

Mr. Cooper stated the final motion will be to approve of preliminary and final site plans approval with waivers and conditions set forth by applicant with additional inclusion of the waiver from the requirement of paving the street which was a late entry to the list. Together with those set forth in our engineering and landscaping reports and all waivers will be incorporated in the resolution and with the conditions set forth in all 3 of the expert reports and additional conditions addressed by the board. The conditions are as follows:

Storm water management calculations must be submitted and complied with municipal regulations; applicant will be responsible for the construction and maintenance of the roadway including snowplowing from the end of the paving on Spruce Street to the intersection of Vienna Avenue to the site; coordinate with the adjoining property owner when maintenance will be performed at the site and in the event of an emergency the applicant will make certain that no damage is done to the hose if the road has to be crossed to get to the site; and a hold harmless agreement between the applicant and the municipality.

Ms. Lentz moved, seconded by Ms. Valentino on App. #9-2011, Block 1093, Lot 12 located on Vienna Avenue

SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE," NO "NAY," and "NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. CHOYCE-AYE

MS. LENTZ – AYE

MR. SACCHINELLI-AYE

MR. STRIGH – AYE

MS. VALENTINO –AYE

MR. TOMASELLO –AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion and conditions:

MR. CAIN: Yes based on what was discussed.

MR. CHOYCE: Yes with mixed emotions and I hope I do not regret voting yes for unforeseen conditions.

MS. LENTZ: Yes

MR. SACCHINELLI: Yes, but I feel the road should be paved.

MR. STRIGH: Yes for the same reasons previously stated.

MS. VALENTINO: Yes for the same reasons previously stated.

MR. TOMASELLO: Yes this is the highest and best use for this property and it is good for the community.

Approval of Minutes – Mr. Strigh moved, seconded by Mr. Cain to approve the minutes with corrections made by Ms. Lentz and Ms. Valentino from the June 27, 2011 meeting. SAID MOTION CARRIED WITH MEMBERS VOTING "AYE," NO "NAY", “.

Memorialization of Resolutions - Resolutions prepared by the Solicitor for the following applications from the June 27, 2011 meeting were adopted as follows:

Mr. Choyce moved, seconded by Ms. Valentino to adopt the resolution for Joseph Fraone, App. #7-11, located on Block 1132.24 Lot 3. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Cain moved, seconded by Mr. Choyce to adopt the resolution for Nancy Turnbull, App. #8-11, located on Block 806 Lot 14. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Public Comment – Chairperson, Frank Tomasello opened this portion of the meeting for public comment. There being none Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Strigh stated on the Capital Telecom project that a workshop should have happened prior to them coming before the board initially. Mr. Cooper stated that in the future if a more sophisticated applicant applies for a variance a workshop should be suggested. Mr. Strigh suggested the possibility of the township ordinance being changed if the use of a property is being changed to notify more people.

Adjournment – Mr. Sacchinnelli moved, seconded by Mr. Choyce to adjourn the Zoning Board of Adjustment meeting at 10:19 pm. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment