

**BOROUGH OF DUMONT
COUNTY OF BERGEN
JOINT LAND USE BOARD**

**RESOLUTION GRANTING PRELIMINARY AND FINAL SITE PLAN
VARIANCE APPROVAL AND WAIVER RELIEF
WITH RESPECT TO THE PROPERTY KNOWN AS
2 SUNSET STREET a/k/a 2 NEW MILFORD AVENUE,
BLOCK 821, LOT 1.02, BOROUGH OF DUMONT,
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, NEW CINGULAR WIRELESS PCS, LLC ("AT&T") with offices located at One AT&T Way, Bedminster, New Jersey 07921 has applied to the Borough of Dumont, Joint Land Use Board for Preliminary and Final Site Plan approval together with a Conditional Use Variance ["d(3)"] a height variance, ["d(4)"], distance to a residential zone ("c" variance relief) for the construction of a ten (10) foot extension to an existing tower located at 2 Sunset Street a/k/a 2 New Milford Avenue consisting of nine (9) additional antennae, on an existing monopole antenna at Block 821, Lot 1.02 and more commonly known on the Municipal Tax Map as 2 Sunset Street a/k/a 2 New Milford Avenue, Dumont, New Jersey; said property being located in a L-1 Light Industrial District Zone where telecommunication facilities are a permitted use; and

WHEREAS, the Applicant has applied to this Board for variance relief pursuant to N.J.S.A. 40:55D-70(c) and N.J.S.A. 40:55D-70(d) from the restrictions of the following sections of the Zoning Ordinance of the Borough of Dumont:

Ordinance Section 455-40.B(3.c)	Maximum Height: 120 ft. permitted; 141 ft. proposed
Ordinance Section 455-41.A(2)	Established fall zone: 150% of the tower height where 45% is proposed and 78% is pre-existing.

Waivers Requested:

Form A:

- Item 10: Additional Forms
- Item 12 E: Existing property lines within 200 feet of the site
- Item 15: Photographs

Form D:

- Item 3: Contour Map
- Item 5: Floor Plans and Elevations
- Item 6: Proposed Spot Elevations
- Item 10: Storm Drainage Plan
- Item 12: Soil Erosion & Sedimentation Control Plan
- Item 14: Temporary Construction Site Plan
- Item 15: Construction Work & Phasing Plan
- Item 16: Traffic Study

Form F:

- Item 2: Street or Driveway Map
- Item 3: Surveyor's Certification

Form H:

- None

The subject Application seeks approval of two (2) "d-type" variances, including for conditional use and for height, and, as a consequence, must meet the statutory standard for such relief set forth in N.J.S.A. 40:55D-70(d)(3) and (d)(6); and

The Applicant also seeks approval of bulk, or "c" variances; and

WHEREAS, this application was heard by the Joint Land Use Board at its regular meetings on August 25, 2020 and September 29, 2020; and

WHEREAS, the Applicant gave proper notice in accordance with law; and

WHEREAS, at said public hearings the Joint Land Use Board received the following documents in evidence:

- 1) Application dated June 24, 2020;

- 2) Zoning Drawings prepared by Nicholas D. Barile, P.E., of Com-Ex Consultants with offices located at 115 Route 46, Suite E-39, Mountain Lakes, New Jersey 07046 dated June 29, 2020 consisting of nine (9) sheets;
- 3) Structural Analysis Report analyzed by Kathleen T. Coffey, P.E. and reviewed by Ekata Shah, P.E. of KMB Design Group, dated September 27, 2017;
- 4) Electromagnetic Exposure Analysis dated June 23, 2020 from DBM Engineering PC, Andrew M. Petersohn, PE;
- 5) Wireless Coverage Report submitted by AT&T dated June 18, 2020 prepared by Daniel Penesso, AT&T RF Engineer;
- 6) Photographic simulations of proposed 130 ft. AT&T Wireless Telecommunications Facility prepared by Ricci Planning, Paul N. Ricci, PP, AICP;
- 7) Engineering Review Response Letter prepared by Com-Ex Consultants dated September 11, 2020;
- 8) Photographic Simulations dated September 9, 2020 showing site from additional location;
- 9) Lidar Tower Visibility Mapping prepared by Ricci Planning dated September 15, 2020;

WHEREAS, the subject Application involves the following zoning data:

Category	Required	Existing	Proposed	Variance
Building Height	36 ft.	=/- 15 ft.	No Change	No
Maximum Lot Coverage	60%	6.9%	8.5%	

Buffer strip 5 ft I width (Evergreens 6 ft high)	Yes	Yes	Yes	
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SCHEDULE OF WIRELESS REQUIREMENTS

Item	required	Existing	Proposed	Variance
Maximum Structure Height Associated With Antenna	120 ft.	121 ft. (*)	141 ft. (**)	Yes
Minimum Lot Size	30,000 sq. ft.	12, 344 sq. ft.	N/A	
Fall Zone	150%	78% (*)	45% (**)	Yes
Distance from Residential Zone	150 ft.	+/- 94 ft. (*)	No Change	
Landscape Screening with Evergreen Hedge	Yes	No (*)	Yes	

(*) Existing Non-Conforming

(**) Use Variance Required

WHEREAS, the public had an opportunity to be heard on the Application at said hearings; and

WHEREAS, the Joint Land Use Board heard the sworn testimony of Applicant's RF Engineer, Design Engineer, Nicholas Barile, P.E., Applicant's radio frequency (RF) Engineer, Daniel Panesso, Applicant's site and RF Engineer, Andrew M. Petersohn, P.E.; EDM Engineering PC, Applicant's AT&T Wireless Coverage Expert, Brian Powers; and Applicant's Planner Paul Ricci, PP, AICP of Ricci Planning all of whom testified in support of the Application; and

WHEREAS, the Board received reports on the Project from Board Engineer, Maser Consulting PA, dated August 18, 2020 and September 24; and

WHEREAS, following the hearing held on August 25, 2020 and September 29, 2020 the Joint Land Use Board approved the Application, subject to certain conditions; and

WHEREAS, the Board now wishes to set forth its findings, conclusions and conditions with respect to the Application;

AUGUST 25, 2020 HEARING

1. Christopher Quinn, Esq. of the firm of Pinilis Halpern LLP appeared on behalf of the Applicant and described the proposed Application to the Board.

2. Exhibits presented during the course of the testimony for the Applicant included the following:

- A-1 Map 1—AT&T Neighboring Coverage
- A-2 Map 2—Showing Integrated Service to Northeast
- A-3 Map 4—Composite Coverage
- A-4 Photo Board

3. Mr. Quinn introduced the Application by describing for the Board that the Applicant has a monopole wireless communications antenna at Block 821, Lot 1.02 in the L-I (Light Industrial) Zone where monopole antennas are a conditional use.

4. Mr. Quinn advised the Board that the antenna had been in use for more than ten (10) years and had previously been approved by the Zoning Board of Adjustment of the Borough of Dumont (prior to consolidation of the Joint Land Use Board) by a Resolution of Denial dated September 10, 2007 and and Resolution of Approval which Resolution granted Preliminary and Final Site Plan Approval with Variances.

5. Mr. Quinn described that the monopole antenna at 2A Sunset Street was approved by the Zoning Board of Adjustment at height of 120 feet , with the overall height of the proposed structure at 128 feet which includes an 8 foot high lightening rod was approved at the site.

6. Mr. Quinn described that in the instant Application, the Applicant wished to extend the height of the existing monopole tower in order to improve wireless coverage in parts of the Borough that had been determined to be deficient in wireless coverage.

7. Mr. Quinn described the variances generated by the Application as a Conditional Use Variance where the proposed antenna does not meet all of the conditions of the Ordinance where the three (3) carrier pole can be up to 120 feet in height and the requested three (3) carrier pole is 133 feet. In addition, the Applicant is seeking a height variance for the additional height, which exceeds ten (10%) percent. Additionally, the Applicant requires a variance for distance from a residential zone, together with Preliminary and Final Site Plan Approval.

8. The Applicant's first witness, Nicholas Berile, P.E., of Com Ex Consultants having an address at 926 Tabor Road, Morris Plains, New Jersey, was sworn in and qualified as an expert Design Engineer. Mr. Barile reviewed the site plan for the proposed antenna dated June 24, 2020. He described the site along Sunset Road. He described the existing conditions at the site as dirt and gravel roadways and that the site has trucks on site. Mr. Barile described that the existing tower is 121 feet and presently has two (2) cell service carriers mounted on the tower, being Verizon at the top of the tower and T-Mobile just below. He testified that AT&T wants to co-locate on the monopole in order to extend service in the Borough. The tower therefore would be raised approximately 10 feet and the concrete pad that houses equipment would be extended to 10 ft. by 20 ft. to accommodate the equipment and associated generator for the antenna.

9. Mr. Barile described the site improvements including that the Applicant would plant six (6) Arborvitae to screen the base of the antenna.

10. Mr. Barile described that the 10-foot extension would extend the tower to 131 feet with a lightning rod at the top of the tower extending the full monopole to 137 feet.

11. At the conclusion of Mr. Barile's testimony, no members of the public raised questions and the Board was satisfied that the design engineering issues were sufficiently addressed.

12. The Applicant's second witness, Daniel Penesso, P.E., RF Engineer of AT&T was sworn in and qualified as a Senior Radio Frequency Engineer as licensed by the Federal Communications Commission. Mr. Penesso provided testimony to justify the location of the antennas at the Applicant's site.

13. By permitting the additional co-location of AT&T, Mr. Penesso noted that the 'First Net System' would become a viable platform for First Responders notwithstanding that they may have only one (1) of the cellular carriers.

14. Mr. Penesso testified that any negative impact of the tower extension would be negligible. No heat, dirt or dust would be generated by the operation of the antenna and that the site complies with emission standards with respect to the generator at the base of the monopole.

15. At the conclusion of Mr. Penesso's testimony, the Board had questions about the availability of 5G service and whether the gap in service would be addressed, which Mr. Penesso affirmed.

16. Mr. Penesso also testified that the generators at the site would be tested at 'off' hours and would not pose a disturbance to neighbors.

17. At the conclusion of Mr. Penesso's testimony, no members of the public had questions for this witness.

18. Mr. Quinn next presented the testimony of Andrew M. Petersohn, P.E. of DBM Engineering, PC of Fairview Village, Pennsylvania. Mr. Petersohn was sworn in as the Applicant's Engineer and qualified by the Board as an expert Radio Frequency Engineer. Mr. Petersohn addressed the project's compliance with Federal Communications Commission ("FCC") criteria, including exposure to RF (radio frequency) waves and the impact of the location relative to RF wave exposure levels. Mr. Petersohn described that the RF waves generated by the site, even with the addition of the AT&T cellular location would be less than 12.4% of the applicable FCC standard at all locations of public access.

19. Mr. Petersohn testified that the maximum exposure to radio frequency emissions from the proposed AT&T an existing Verizon Wireless and T-Mobile equipment would be compliant with FCC exposure limits. He testified that the cumulative radio frequency exposure levels would be less than 12.4% of the applicable FCC standard at all locations of public access and he referred to his report, dated June 23, 2020 as to his calculations and the determination of exposure limits.

20. Mr. Petersohn's report dated June 23, 2020 was entered into evidence and contained his analysis and summary of findings reflecting that the addition of the AT&T equipment on RF emissions generated would be far less than the FCC limit considered by the scientific community to be safe. Moreover, Mr. Petersohn asserted in his letter that "to date there have been no credible studies conducted whose results show evidence of any adverse health effects at the above (12.4% of FCC standard) exposure limits".

21. In conclusion, Mr. Petersohn testified that in his opinion the RF exposure level will be compliant with safety standards by a significant margin.

22. At the conclusion of Mr. Petersohn's testimony there were no further questions posed by the Board or the public.

23. Mr. Quinn presented Brian Powers, an employee of AT&T to discuss the location of the antenna by AT&T. Mr. Powers was sworn in and qualified by the Board as an expert in site location for AT&T.

24. Mr. Powers described that he locates and reviews sites for cellular service on behalf of AT&T. He looked at a site at the new municipal building located near the Bergenfield border and looked at other sites in the Borough of Dumont before recommending that AT&T co-locate on the existing monopole located at Block 821, Lot 1.02, 2 Sunset Street. Mr. Powers emphasized that the location of the monopole tower was more centrally located and could serve a wider area. The site near the municipal building was too close to other AT&T sites and would not provide the coverage that was desirable for AT&T and its customers.

25. At the conclusion of Mr. Powers testimony there were no further questions.

26. Mr. Quinn presented the testimony of the Applicant's Planner, Paul Ricci, P.P., AICP of Ricci Planning with offices located at 177 Monmouth Avenue, Atlantic Highlands, New Jersey. Mr. Ricci was sworn and qualified by the Board as an expert Planner.

27. Mr. Ricci described the primary 'd' variances required by the Application as a height variance and a conditional use variance.

28. Mr. Ricci described that the permitted height was 120 feet for the tower and that the Applicant proposed 137 feet which was more than a 10% increase. In addition, the Applicant requires a conditional use variance where the conditions of the Ordinance requires that the monopole have a height no greater than 120 feet and that a "fall zone" be provided of approximately 150% of the tower height in order to accommodate the possibility of the tower failing at a certain point, without damaging nearby residences.

29. Mr. Ricci testified that the height variance is a d(6) variance and the conditional use variance is a d(3), both are required to meet the positive and negative

criteria set forth in the Medici v. BPR Co., 107 N.J. 1,4 (1987). To satisfy the negative criteria the Applicant must demonstrate that the variance can be granted without substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Id, at 21-22.

30. Mr. Ricci also reviewed the positive criteria for the Board, relying on the seminal telecommunications case in New Jersey relating to the siting of telecommunications facilities, SMR of New York, Inc. d/b/a Nextell Communications v. Borough of Fair Lawn Board of Adjustment 152 NJ 309 (1988), where the New Jersey Supreme Court held that in the case of telecommunication facilities, an FCC license established that the use promotes the general welfare. SMR at 336.

31. In addition, in order to satisfy the remainder of the positive criteria, an applicant holding an FCC license must demonstrate that the use is particularly suited for the proposed site. In proving that a site is particularly suited for the facility, an Applicant must show need for the facility at that location.

32. Mr. Ricci reviewed the testimony showing the location and was effective in filling the gaps in service for AT&T customers. In addition, he testified that co-location is encouraged by the Borough's Ordinance and the Applicant was co-locating as the least intrusive means of addressing the service deficiencies in the Borough.

33. Mr. Ricci pointed to the 2008 Resolution of Approval for the original monopole and indicated that the language in the original Resolution supported the concept of co-location. He also asserted that the calculation of the fall zone would safely accommodate the increased height of the monopole if the Board were to grant the requested approval.

34. Mr. Ricci further addressed the negative criteria in that the Application was for a passive use, would not exacerbate traffic nor affect population, nor impact sewers and other utilities.

35. Mr. Ricci did address the visual impact of the additional height of the tower and the Board asked that he return to the Board with photo simulations reflecting the visual impact from the adjoining residential neighborhoods.

Accordingly, the Application was adjourned so that Mr. Ricci could return to the Board with photo simulations to address concerns of the Board with impact on adjoining residential neighborhoods.

SEPTEMBER 29, 2020 HEARING

At the adjourned date for the Application, the Applicant's Counsel Judith A. Fairweather from the firm Pinilis Halpern LLP presented Paul Ricci, P.E., AICP. The Applicant's Planner was re-sworn and continued his testimony.

36. Mr. Ricci presented the Board with Exhibits A-1 through A-4 (LIDAR Tower Visibility Mapping Report) and photos from four (4) area locations to show the visibility and lack of visibility of the proposed monopole addition. He compared the difference locations from different perspectives addressing the areas of visibility of the antennas as well as public safety considerations as far as "fall zones" recorded by the Ordinance.

37. Quoting the SMR case, where the Applicant could achieve a marginal increase in visibility versus a gain in service, Mr. Ricci concluded that the location at 2 Sunset Street (Block 281, Lot 1.02) was the optimal location. As well, it achieved the desired co-location preference in the Ordinance, and he emphasized again that there would be no impact on the environmental considerations such as water or sewer. Maintenance would be performed on off hours.

38. At the conclusion of Mr. Ricci's testimony there were no further questions from the Board or the public.

39. Ms. Fairweather then re-introduced the Applicant's Engineer, Nicholas Barile, P.E. of Com-Ex Consultants with an address of 276 Tabor Road, Morris Plains, New Jersey who testified as to the structural stability of the monopole.

40. Mr. Barile addressed the Board's questions about the adequacy of the undersized collapse zone and the structural integrity of the monopole as far as handling the additional equipment for the AT&T service module. Mr. Barile affirmed that in his opinion the monopole could well support the additional equipment for providing the AT&T service. He also added that the base and support of the monopole would comply with Borough building codes.

41. At the conclusion of Mr. Barile's testimony there were no further questions from the Board or the public.

42. Ms. Fairweather re-called Mr. Penesso, RF Engineer for AT&T who was still under Oath, to affirm that the Borough will have adequate and appropriate coverage with the addition of the AT&T antenna extension. Mr. Penesso also indicated that the Applicant would comply with the Borough Engineer's letter and all conditions therein.

43. At the conclusion of Mr. Penesso's testimony, there were no further questions from the Board or the public and Mr. Penesso was dismissed as a witness.

44. At the conclusion of the hearing Ms. Fairweather presented a brief summation to the Board stating that her experts provided testimony that cumulatively indicated that there were gaps in the cellular service and that the Applicant's proposal posed the least impact to addressing the service gap. Further, Ms. Fairweather added that the 10 foot addition to the existing 120 foot monopole would have a minimal detrimental impact on the neighborhood such that the Board could grant the relief sought without significant detriment to the zoning plan or the zoning ordinance. Addressing the negative criteria set forth in the Coventry Square case, where the land use board must evaluate the impact of the proposed conditional use variance upon the adjacent property

and determine whether or not it would pose such damage to the character of the neighborhood as to constitute a substantial detriment to the public good, Counsel Fairweather concluded that it would have a minimal impact.

45. The matter was opened to the general public at which time there was no public comment either for or against this Application.

WHEREAS, the Board, after hearing the testimony and reviewing the application and evidence submitted, made the following findings of facts and conclusions of law:

CONCLUSIONS OF FACTS AND LAW:

1. The Applicant seeks a conditional use variance under N.J.S.A. 40:55D-70(d-3), a height variance under N.J.S.A. 40:55D-70(d)(6), and dimensional variances under N.J.S.A. 40:55D-70(c)(1) and (c)(2), and Preliminary And Final Site Plan Approval for a monopole telecommunications facility to be located at the site of an existing monopole facility at Block 821 at Lot 1.02 (2 Sunset Street) adjacent to in Light-Industrial (L-I) Zone, where the use is conditionally permitted and where the Applicant does not meet all of the conditions. Applicant is seeking a Conditional Use Variance, a Height Variance and Variance for Distance from a Residential Zone, and Preliminary and Final Site Plan approval.

2. The subject property is .28 acre (12,344 sq. ft.) parcel located at 2 Sunset Street also known as 2 New Milford Avenue.

3. The site currently houses a telecommunications facility and associated unmanned monopole cellular tower rising 120 feet for a total of 127 feet with a lightning rod on top.

4. The Applicant is proposing installation of nine (9) additional antenna on the existing monopole which will increase the tower height and impact other zoning requirements set forth in the Borough Ordinances.

5. The Borough Ordinances for which the Applicant seeks variances includes Section 455-40.B3(c): Maximum Height of 120 ft. for telecommunication monopole towers: 141 ft. is proposed and 121 ft. is existing (pre-existing, non-conforming condition) and Section 455-41.A(2): established fall zone: 150 % of the height of the tower where 45% is proposed and 78% is existing (pre-existing, non-conforming condition).

6. The Board finds that the Applicant has satisfied the good faith effort to co-locate with other carriers as per Borough Ordinance Section 455-42 by proposing to install their antenna on the same existing monopole as Verizon and T-Mobile.

7. The Board is satisfied that the Applicant's proposed site will not produce any noise, vibration, smoke, dust, odors, heat, or glare.

8. The Board is also satisfied that the Applicant has shown that the present site and the design of the tower minimizes the visual impact on the residential neighborhood nearby.

9. The Joint Land Use Board has the power pursuant to N.J.S.A. 40:55D-70(d), to grant a variance to allow departure from regulations to permit:

(i) a use of principal structure in a district restricted against such use or principal structure;

(ii) an expansion of a non-confirming use;

(iii) deviation from a specification or standard pertaining solely to a conditional use;

(iv) an increase in the floor area ratio;

(v) an increase in the permitted density;

(vi) a height of a principal structure which exceeds by ten (10') feet or by ten (10%) percent, the maximum height permitted in the district for a principal structure.

10. Such use variance must be approved by the affirmative vote of at least five (5) members of the municipal board;

11. A variance may be granted only upon showing that such variance or other relief can be granted "without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

12. To approve a deviation from one (1) or more conditions, the Board recognizes that pursuant to Coventry Square, Inc. vs. Westwood Zoning Board of Adjustment 138 NJ 285 (1994), the Supreme Court determined that the burden of proof required for a use variance was too onerous for a conditional use variance and fixed a less stringent standard for conditional use variance relief cases. We recognize that the use is a permitted one, albeit that not all conditions are complied with.

13. Although the use is permitted, the statute requires the Applicant to prove both positive and negative criteria to obtain the conditional use variance. In general, the positive criteria requires that an applicant establish "special reasons" for granting the variance. Sica vs. Board of Adjustment 127 NJ 152, 156 (1992).

14. In satisfying the negative criteria, the Applicant must show that the deviation from one (1) or more conditions of the ordinance will not cause a detriment to the zone plan or the zone ordinance and that the site can accommodate any problems associated with the use even though it does not comply with the conditions established to address those problems.

15. Thus, the Applicant must show that the use will not pose a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. This Board is satisfied that the Applicant's Planner,

Mr. Ricci testified that several purposes of the Municipal Land Use Law would be accomplished, namely he cited to N.J.S.A. 40:55D-2a and i. The Board finds that Mr. Ricci is credible and uncontroverted. The Board accepts his testimony and is mindful of the SMR Case where it was determined that improvement in wireless service fulfills the positive criteria of the Sica and Medici tests. In addition, the Board is mindful of the balancing test as set forth in SMR and repeated in Sica where the prongs of the balancing tests are as follows:

- a. The Board must identify the public interest as stake. Some uses are more compelling than others.
- b. The Board must identify the detrimental effect that will ensue from the granting of the variance.
- c. In some situations, the Board may reduce the detrimental effect by imposing reasonable conditions on the use. Mitigating conditions can be imposed, the weight recorded the adverse effect should be reduced by the anticipated effect of the conditions.
- d. The Board should then weigh the positive criteria and negative criteria and determine whether on balance the grant of the variances would cause a substantial detriment to the public good.

49. The Board is satisfied and accepts Mr. Ricci's testimony that there is little detriment particularly with the height of the antenna is already which at 121 ft. and visibility is minimal from residential structures. Moreover, the use is permitted upon the satisfaction of certain conditions. The Board finds that the variances can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan and zoning ordinance, therefore the Applicant has satisfied the negative criteria requirement.

50. The Board finds on balance that the grant of the variances will not cause a substantial detriment to the public good and that the relief can be granted because the Application will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board accepts the uncontroverted testimony of the Applicant's experts and finds that the use promotes the general welfare and safety. The Board finds that there are no adverse impacts from the grant of the conditional use, height, and bulk variances.

51. The Board therefore finds that the proposed development will (i) NOT cause substantial detriment to the public good by adversely affecting the surrounding properties and the character of the surrounding neighborhood and (ii) that it will NOT substantially impair the intent and purpose of the Master Plan and zoning ordinance.

52. The Board finds that the proposed use DOES satisfy the positive criteria and the negative criteria for a conditional use variance. The Board has weighed the positive and negative criteria and determined that the grant of the variances would not cause a substantial detriment to the public good overall for the reasons stated in this Resolution.

53. The Joint Land Use Board has the power, pursuant to N.J.S.A. 40:55D-70(c)(1) to grant a variance when (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property; or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation or ordinance would result in peculiar and exceptional practical difficulties to exceptional and undue hardship upon the property owner.

54. Further, under N.J.S.A. 40:55D-70(c)(2), wherein an application or appeal relating to a specific piece of property, a deviation from the zoning ordinance would advance the purposes of the zoning ordinances of the Borough of Dumont and the

benefits of that deviation would substantially outweigh any detriment, the Joint Land Use Board may grant the requested variance relief.

55. Such "c" variances may only be granted upon a showing that one of the foregoing tests have been met.

56. The Board further finds that the Applicant has met the statutory requirements for "bulk" and "dimensional" variances as well as Preliminary and Final Site Plan approval, for the reasons more particularly set forth in the record.

57. The proceedings in this matter were recorded. The recital of facts in this Resolution is not intended to be all inclusive but merely a detailed summary and a highlight of the complete record made before this Board.

NOW, THEREFORE, BE IT RESOLVED, that the Joint Land Use Board of the Borough of Dumont hereby approves the Applicant's request for a d(3) or "conditional use variance", dimensional variance and bulk variances and final site plan approval.

CONDITIONS SPECIFIC TO THE APPLICATION

1. The antenna should be designed in a manner to reduce or eliminate visual obtrusiveness.
2. Generator(s) will be tested at 'off' hours so as not to disturb neighbors.
3. The Applicant shall comply with all state and local building codes.

GENERAL CONDITIONS

1. The Applicant shall comply with all of the stipulations made during the hearing on this Application.

2. The Application must comply with the necessary requirements of the zoning ordinances of the Borough of Dumont and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.

3. The Applicant shall develop, prepare and improve the subject premises so as to conform with all of the details shown on the aforementioned plans and submissions, as presented to the Board and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.

4. No building structure or land shall be occupied until such time as the Zoning Officer of the Borough of Dumont shall issue a final Certificate of Zoning Compliance to insure compliance with the Board's decision.

5. Unless otherwise addressed herein or at the hearing held on August 25, 2020 and September 29, 2020 the Applicant shall comply with the recommendations of the Board's professional and any other post-approval reports. The Applicant's professionals shall amend the architectural plans to reflect these recommendations in the form of drawing detail and/or written construction note detail format as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and the Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. A Planting Plan shall be submitted to the Board Planner for her approval. Failure to provide same within this time period may result in this Resolution being declared null and void.

6. Within thirty (30) days of the approval of this Resolution by the Board, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the Borough's professionals for the review of this Application. Failure to

provide such escrow fees may result in this Resolution being declared null and void.

7. The completed revised plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the JLUB Officer of the Borough of Dumont Certificate of Zoning Compliance, and prior to the issuance of any building permits.

8. The Applicant is responsible for publishing notice of this decision as required by the M.L.U.L.

9. The approval is expressly conditioned upon compliance with representations made by Applicant within its application and representations and evidence submitted by Applicant at the hearing.

10. All delinquent property taxes shall be paid prior to the issuance of any building permits.

The Applicant must obtain and comply with any and all necessary state, county, federal, municipal and other governmental approvals and regulations. This Application was approved by the Joint Land Use Board at its regular meeting on September 29, 2020 upon motion of Board Member Ken Armellino and seconded by Board Member Al Moriarty upon the roll call as follows:

Ayes: 6

Nays: 2

Absent:

Abstain:

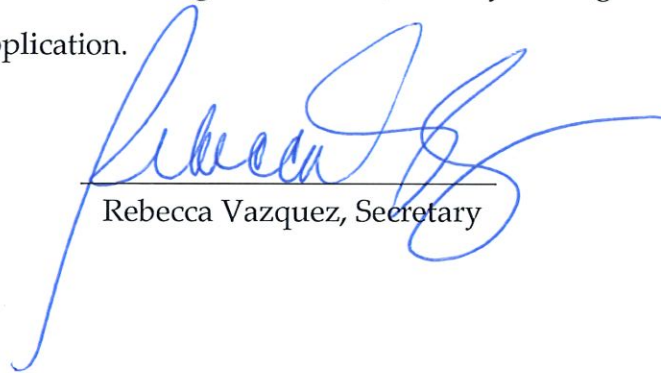
This Resolution was adopted on the 24th day of November, 2020 upon the motion of KENNETH ARMELLINO and seconded by BARBARA CROW by a vote of 5 ayes and 2 nays.



Graeme Dutkowsky, Chairman

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Dumont.

I do certify that this is a true and correct copy of the Resolution as adopted by the Zoning Joint Land Use Board of the Borough of Dumont, County of Bergen and State of New Jersey in the within Application.



Rebecca Vazquez, Secretary

