

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MINUTES

NOVEMBER 4, 2015

The combined public/work session meeting of the Board of Adjustment held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ, beginning at 7:37 pm was called to order by Mr. Rabolli, Chairman, with the reading of the opening statement followed by the flag salute.

These minutes are a synopsis of the meeting. A verbatim audio tape recording is on file with the Board Secretary at the Board of Adjustment Office, 475 Corporate Drive, Mahwah, NJ. Copies of the tapes may be purchased for a fee.

PRESENT: Mr. Dator Mr. Rabolli
Mr. DeSilva Mr. Straffin
Mr. Ervin Mr. Whiteman
Mr. Montroy

Mr. J. Layton, PP

ABSENT: Mr. Kezmarsky Mr. Larson

ATTORNEY: Mr. Ben R. Cascio, Esq.

I. APPROVAL OF BILLS:

None to present.

II. APPROVAL OF MINUTES:

None to present.

III. MEMORIALIZING RESOLUTIONS:

None to present.

IV. OPEN TO THE PUBLIC:

Mr. Rabolli opened the meeting to the Public for general questions or statements. None were received.

V. PUBLIC HEARINGS:

**A. DKT.#1397-15 – ANOVA TECHNOLOGIES, LLC
1700 MACARTHUR BOULEVARD, BLOCK 139, LOT 4**

Application for conditional use, conditional use variance, bulk variances and preliminary and final site plan to construct a temporary Cell On Wheels (COW) and a permanent communications tower.

Mr. Greg Meese, Esq., of Price, Meese, Shulman & D'Arminio, approached on behalf of the Applicant. Mr. Cascio indicated all notices were in order. The application proposes the construction of a 160 foot cell tower as close to the front door of the data center as possible along with a small shelter at the base. The Applicant is requesting a temporary tower be constructed first until the permanent tower has been constructed and is operational. As documented in the Application Addendum, Mr. Meese noted the Applicant seeks conditional use and site plan approval with variances and described the relief required, including a No Collocation Variance. Mr. Meese explained the rationale for the No Collocation Variance. Bergen County Planning Board approval has been received as well as the Township professional and departmental application review reports.

Mr. Meese called Mr. Peter Longo, 369 South Riverside Drive, Neptune, NJ. Mr. Longo was sworn in. Mr. Longo presented his background and qualifications and was accepted as an expert civil engineer. Mr. Longo prepared the plans submitted with the application. He referred to Sheet Z3, Existing Conditions Plan, and described the existing data center property, including the access, fencing and guard station. The application has two aspects; one for a monopole and one for a COW (Cell On Wheels). Mr. Longo described the cell tower and cabinet, the transmission of signals and the proposed pole location setbacks. Mr. Longo referred to sheets Z5A and Z5B of the submitted plans, which depict the permanent and temporary poles. He continued describing the low level of noise and indicated no additional lighting is proposed; however, if the FAA requires lighting, they will comply. There were no further questions from the Board or the Public for Mr. Longo.

Mr. Meese called Mr. Mike Persico, CEO & Founder of Anovo Technologies, 205 North Michigan Ave., Suite 4230, Chicago, IL. Mr. Persico was sworn in by Mr. Rabolli. Mr. Persico stated the firm is a wireless engineering company and provides carrier based services. The tower will allow 100+ tenants to connect to the tower from inside the facility via fiber optics. Mr. Persico explained FSO, Free Space Optic, which is an infrared laser that makes a wireless network more available. Traditional RF transmission is susceptible to rain events and satellite transmission is susceptible to snow events. Upon questioning by Mr. Meese, Mr. Persico stated that line of site and flash tests were performed to determine and choose the site location. He continued explaining why the pole needs to be close to the center of the building. The fast data transmission solution will create a best of class service encouraging tenants within the data center to use this service. The Applicant is attempting to help reduce tower proliferation in the area. There was a short discussion on the temporary pole location and the uses and congestion of existing towers in the area.

Mr. Nathan Little of 63 Elbert Court, Ramsey approached. He questioned the temporary versus the permanent tower uses as well as the location of the permanent tower. The questions lead to a discussion on the location of manholes and the access point to the data center, which is the front entrance. There is a zero manhole located there, which allows for the least amount of fiber to be used to the site. The number of transmission hops and the migration of tenants onto the new tower were also discussed.

There were no further questions from the Board or the Public for Mr. Persico.

Mr. Meese called Mr. J. Gregory Crane, 1700 Macarthur Boulevard, Mahwah NJ. Mr. Crane was sworn in by Mr. Rabolli. Mr. Crane is employed by the New York Stock Exchange and is the Physical Security Director for the facility. The site is secure and access needs to be preapproved and authorized. The application is for one tower. Limited access creates a more secure environment. Mr. Crane affirmed Mr. Meese's statement that the goal is to have one facility servicing every tenant of the data center that is as reliable and as secure as possible. There was a short discussion on the number of tenants to be serviced on the proposed pole. There were no further questions from the Board or the Public for Mr. Crane.

Mr. Meese called Mr. Gary Hartman, 2540 US Highway 130, Cranberry, NJ. Mr. Hartman was sworn in by Mr. Rabolli and presented his background and qualifications. He was accepted as an expert in the field of RF and FSO compliance. Mr. Hartman referred to two reports that were submitted with the application dated October 2, 2015 and October 28, 2015 on RF Emission and FCC rules and regulations to FSO and commented on each. There were no further questions from the Board or the Public for Mr. Hartman.

Mr. Meese called Mr. Timothy M. Kronk, P.O. Box 465, Mendham, NJ. Mr. Kronk was sworn in by Mr. Rabolli and presented his background and qualifications. He was accepted as an expert professional planner. Mr. Meese questioned Mr. Kronk on land use code to which Mr. Kronk replied the Applicant is seeking a conditional use approval with variances. The following were marked throughout Mr. Kronk's testimony:

- Exhibit A-1 Aerial Photograph of site with image date of October 11, 2014 by TK Design Associates
- Exhibit A-2 Photos of existing conditions and proposed simulation of the temporary tower, Photos 1a – 4b (8 photos total) by TK Design Associates
- Exhibit A-3 Photos of existing conditions and proposed simulation of the permanent tower, Photos 5a – 8b (8 photos total) by TK Design Associates
- Exhibit A-4 Aerial Photograph entitled Residential Setbacks by TK Design Associates

The photographs were submitted with the application in a report entitled "Visual Analysis For Anova Technologies" and presented on poster boards. All exhibits were described in detail. After describing the setback distances of both the temporary and permanent poles to area residential properties as shown in Exhibit A-4, Mr. Kronk indicated he does not see any detriment to the area with the proposed application. He listed the variances being requested

and the reasons why they should be granted. He stated that although the Applicant does not meet all of the conditional use standards, he believes the site remains particularly suited for a wireless telecommunications use.

Mr. Layton questioned the landscape plan. Mr. Kronk stated the existing site is highly buffered. The permanent tower base is not visible from off site. He mentioned the possibility of placing planters around the temporary tower for buffering.

Mr. Nathan Little of 63 Elbert Court, Ramsey re-approached. He questioned a potential precedent being set for another tower to be erected in the future. Mr. Kronk replied there are no plans to place another tower on this property. There was a short discussion on additional towers being added in the area. Mr. Rabolli noted if an application was submitted for another tower, the Applicant would have to appear before the Board of Adjustment. Mr. Little addressed the Board stating the intent is to reduce the number of towers in the area and to not add another tower to this property in the future.

There were no further questions from the Board or the Public for Mr. Kronk.

Mr. Rabolli referred to the Boswell Engineer's report dated October 28, 2015. Mr. Meese testified to Item #10 and to the Site Plan section. Mr. Rabolli read through the rest of the report.

Mr. Meese gave a closing statement noting the data center is an important feature in the national and global economy and requested a favorable vote.

A motion was made by Mr. Montroy seconded by Mr. Whiteman to close the Public Hearing portion of the meeting and move into Work Session. All voted in favor.

VI. WORK SESSION:

A. DKT.#1397-15 – ANOVA TECHNOLOGIES, LLC 1700 MACARTHUR BOULEVARD, BLOCK 139, LOT 4

Application for conditional use, conditional use variance, bulk variances and preliminary and final site plan to construct a temporary Cell On Wheels (COW) and a permanent communications tower.

Mr. Rabolli summarized the application. A motion to approve, with conditions, was made by Mr. Dator, seconded by Mr. Whiteman. A roll call vote revealed 7 aye votes by Mr. Dator, Mr. DeSilva, Mr. Ervin, Mr. Montroy, Mr. Rabolli, Mr. Straffin and Mr. Whiteman.

VII. ADJOURNMENT:

The meeting adjourned at 9:25 pm on a motion by Mr. Whiteman, seconded by Mr. Montroy.

These minutes were prepared by Geri Entrup, Zoning Board Recording Secretary.