Chairman Dietz called the Board of Adjustment Meeting of September 6, 2006 to order at 7:30 P.M. announcing that this meeting had been duly advertised according to Chapter 231, Open Public Meetings Act. The meeting took place at the Municipal Building in the Court Room.

PLEDGE OF ALLEGIANCE

ROLL CALL
Chairman Dietz - Present   John Sheridan- Present
Vice-Chairman Wetter – Present  Peter Passalaqua - Present
Jack Kennedy - Present  Kevin Lovell Alt. #1 - Present
Frank Valcheck - Present  Joseph Jaghab Alt. #2- Absent
Barry Quick - Present

Also in attendance was Mark Anderson, Board Attorney, Jeffrey Perlman, Zoning Officer, William White, Board Engineer, and Phyllis Semanchik, CSR.

BOARD OF ADJUSTMENT BUSINESS
BUSINESS FROM THE FLOOR

APPLICATIONS

LAVECCHIA, VINCENT - BA-06-07 – Block 6, Lot 22 – 431 Woodfern Road. Bulk variance for construction of single family dwelling. – carried to November 1, 2006

BROMMER, SCOTT – BA-06-16 – Block 177H, Lot 23, 15 Pierson Drive. Bulk variance for sun room – withdrawn

HUGER, ARTHUR – BA-05-31 – Block 5, Lot 28 304 Three Bridges Road. Preliminary/Final with bulk variance. – withdrawn

LIPANI, VINCENT – BA-05-11 – Block 199, Lot 6 – Hamilton Road. Use variance for proposed office/pole barn. – carried to October 4, 2006

CINGULAR WIRELESS – BA-05-03 – Block 12, Lot 29B – 47 E. Mountain Road – Use variance and site plan approval with bulk variances for the construction of a wireless communications facility – carried to October 4, 2006

NEW CINGULAR WIRELESS PCS, LLC – BA-06-26 – Block 149.01, Lot 1.02 – 379 South Branch Road – Preliminary & Final Site Plan w/D variance

Exhibits Introduced:
- A-1 Propagation Map for Cingular Wireless
- A-2 Propagation Map for T-Mobile
- A-3 Sheet Z-4 of site plan
- A-4 Sheet Z-5 of site plan
- A-5 Aerial photo of the site and its surroundings
- A-6 photo-simulation of visible conditions for the proposed tower viewed from Snowburn Place
- A-7 photo-simulation of visible conditions for the proposed tower viewed from Van Bolton road and Beekman Lane
- A-8 photo-simulation of visible conditions for the proposed tower viewed from 54 Oak Terrace looking to the southeast.
- A-9 photo-simulation of visible conditions for the proposed tower viewed from South Branch Road and Beekman lane looking to the northwest
- O-1 photos of various antennas on other Cingular towers.
- O-2 T-Mobile coverage map of Short Hills Township
- O-3 T-Mobile coverage map of Hillsborough Township
Ms. Judith Bubinski, the attorney representing the applicant, appeared and was sworn. Testimony and discussion included:

- Proposal before the Board is to build a 150 foot monopole at the municipal building, replacing the pole that is there
- The municipality went out to bid and Cingular Wireless was the successful bidder
- Cingular Wireless will be responsible for construction of the pole
- Cingular Wireless is proposing to place their antennas at 150 feet
- T-Mobile, who is the co-applicant with Cingular Wireless, is proposing to place antennas at 130 feet.
- Sprint, while not a part of this particular application, will eventually file an application before the Board to place antennas at 140 feet

Mr. Ramon Zamora, RF engineer representing the Cingular Wireless, appeared and was sworn. Testimony and discussion included:

- The applicant indicated the existing and proposed wireless coverage in Hillsborough
- The applicant indicated other sites, existing and proposed, in Hillsborough and the surrounding municipalities
- The municipal building resides in an area of town without reliable coverage.
- If approved by the Board, the area surrounding the municipal building would have reliable coverage.
- The proposed tower would be a monopole with 12 panel antennas that are 4 feet high and one foot wide.
- The applicant is proposing to move the municipal police and fire antennas to the new monopole.

Open Public: The following members of the public had questions: A resident from 55 Oak Road Terrace asked where the new tower is being proposed. Mr. Zamora replied that the proposed tower will be adjacent to the existing tower. Close Public

Mr. Arch Dickson, RF engineer representing T-Mobile appeared, and was sworn. Testimony and discussion included:

- The applicant indicated the existing and proposed wireless coverage for T-Mobile in Hillsborough
- The applicant indicated other sites, existing and proposed, in Hillsborough and the surrounding municipalities.
- The proposed site is in an area where T-mobile does not have reliable service
- If the Board approves the application, T-mobile coverage will fill a coverage gap
- The applicant also identified other proposed telecommunication applications before Hillsborough.

Open Public: No members of the public had questions. Close Public

Mr. Richard Coad, civil engineering representing the applicant appeared and was sworn. Testimony and discussion included:

- The proposed 150 monopole is setup to handle 4 telecommunication carriers, and the ground compound area will be able to handle the equipment from 4 carriers
- The ground compound will within the existing sidewalks and driveways around the municipal building
- The police antennas will be relocated at 83 feet and 100 feet. The fire antennas will be located at the top of the tower, 15 feet above the 150 height of the tower.
- There are 4 additional parking locations provided at the end of the existing parking isle, one technician for each carrier.
- Technicians tend to visit between once every two weeks to once every six weeks.
Mr. Dietz asked if moving the fire antennas from their position on the existing tower to their new higher position on the proposed tower improve their coverage. Mr. Ramon replied that it would improve coverage by about 25%.

Open Public: The following members of the public had questions: Keith Krammas asked if the new tower is twice as high as the existing one. Mr. Coad stated that it the new tower is not quite twice the height as the existing one. Mr. Krammas asked if the higher tower will attract more lighting strikes. Mr. Coad stated that the tower will be grounded and a lighting strike would not damage the equipment. Mr. Coad also stated that lighting hits the highest object, and the new tower will not increase the risk of the residential dwellings being hit by lightning. Close Public

Mr. Timothy Kronk, planner representing the applicant appeared and was sworn. Testimony and discussion included:

- The municipal complex is located in the “R” residential zone, and telecommunication uses are not a permitted use in this zone
- The applicant is seeking a “d1” use variance
- The applicant is also seeking a “d6” variance for a height deviation of greater than 10% of the allowable building height.
- The applicants are licensed by the Federal Government and promote the public welfare through enhance telecommunication services.
- The applicants have shown that coverage deficiencies exist for both carriers, and that the proposed tower will eliminate the coverage deficiency in this part of the township
- A lattice tower exists on the property, where the police and fire antennas will be relocated to higher position on the new tower and provide enhanced services to both agencies
- Once the new tower is built, the existing tower will be removed.
- There will no impact on traffic, sewer, or other negative impacts with the exception of visibility.
- The propose structure is taller than the existing structure and will be more visible to the public.
- The applicant believes that the Board can grant this approval without detriment to the public good.

Mr. Lovell asked if the applicant will be removing any trees. Mr. Kronk stated that few if any trees are planned to be removed, while the applicant is planning to add trees to the site.

Open Public: The following members of the public had questions: Michael from 42 Oak Terrace asked why the photo-simulations were not taken from the property directly behind the monopole and can the applicant provide a photo-simulation. Mr. Kronk stated that the photo-simulation locations were chosen based on those locations where the existing and proposed pole would be most visible. The property directly behind the monopole has vegetation which blocks the view. The closer perspective on Oak terrace shows less of the tower than from more distant locations. 40 Oak Terrace asked if the pole has the capacity for additional carriers. Mr. Dietz stated that another carrier will be filing for approval to go on to the proposed tower. Ms. Bubinski stated that there. Michael from 42 Oak Terrace asked if the tower require any lighting in the evening. Mr. Kronk stated that no lighting will be required. 41 Oak Terrace asked if the tower can structurally withstand a lighting strike. Mr. Coad stated that any lighting strike would follow a lead into the ground and not impact the strength of the tower.

Mr. Dietz asked why flat antennas could not be used on this tower. Mr. Ramon stated that panel antennas are directional antennas and the flush mounted antennas would require four different levels on the tower and Cingular would take up the entire height of the tower, crowding out the other carriers. Mr. Passalacqua asked how coverage would be affected if the tower were only 135 feet. Mr. Ramon stated that the 150 foot height is required to maximize and fill the coverage gap in the area. Antennas at 135 feet would reduce Cingular’s coverage by 10%, and prevent the fourth carrier from going on the tower.

Close Public
BOARD OF ADJUSTMENT MEETING MINUTES
SEPTEMBER 6, 2006

Open Public: The following members of the public had comments: Mr. McClellan submitted an exhibit that shows the visual impact of the proposed tower on adjacent residential properties. Mr. McClellan stated that the proposed tower will radically change the look of the municipal building and make it look more industrial. Application does not belong here since the area is a heavily populated residential area, and will be imposing in this area. Mr. Krammes 364 South Branch Road agreed with Mr. McClellan’s comments and recommended that the tower be illuminated for safety reasons. Mr. McClellan submitted coverage maps off of T-Mobile’s website showing that cell coverage is adequate in the area where the monopole is proposed. Close Public

Mr. White stated that his one concern is related to parking, and that the proposal for four additional spaces has addressed his concern. Mr. Perlman stated that proposed location for the additional parking spaces is to provide parking spaces close to the building so that the technicians can easily access the telecommunications equipment.

Mr. Wetter made a motion to approve the bulk variance application, seconded by Mr. Valcheck

ROLL CALL:
Frank Valcheck - yes
Jack Kennedy - yes
Barry Quick – yes
John Sheridan- yes
Peter Passalaqua - yes
Vice-Chairman Wetter – yes

Mr. Dietz stated that this is good application and that since 90% of all calls use cell phones, new cell towers are an inherently beneficial use
Chairman Dietz votes yes

POWERS, ROBERT – BA-06-11 – Block 12, Lot 10 – Riverside Drive – Bulk variance for construction of single family dwelling. – carried from July 26, 2006

Exhibits Introduced:
- A-1 email letter from Consolidated Rail Corporation
- A-2 response letter from Mr. Sullivan
- A-3 illustration of type of home to be built
- A-4 photos of homes and other properties in the surrounding neighborhood

Mr. Patrick Cerillo, the attorney representing the applicant, appeared and was sworn. Testimony and discussion included:
- Proposal to build a single family dwelling on an existing undersized lot of approximately 5.5 acres, located in the AG zone
- Prior to the rezoning by the township committee, the subject lot was a conforming lot
- The applicant has written to the adjoining property owners asking them to sell as well as letters offering the adjoining property owners to purchase the subject property
- None of the adjoining property owners stated their willingness to either purchase or sell land
- The applicant received an email from Consolidated Rail Corporation indicating that they are not interested in selling or purchasing the subject property

Mr. Carl Alfaro, engineer representing the applicant, appeared and was sworn. Testimony and discussion included:
- The subject property is a vacant lot that is irregularly shaped
- The property is bordered by an existing railroad to the south and a single family dwelling to the east.
- There are four bulk variances associated with this application
- The proposed lot area is 5.5 acres where a 10 acres minimum is required
- There is insufficient lot width at setback, 297 feet is proposed where 400 feet is required
- There is insufficient lot depth, 82.5 feet is proposed where 400 feet is required
There is insufficient side yard setback, 50 feet is proposed where 75 feet is required. The proposed dwelling would be served by septic system which requires the dwelling to be set 25 feet away from the septic bed, thus creating the need for the side yard setback. The property immediately to the west is not contiguous to the subject property because of the Mill Lane Bridge.

Mr. Dietz asked if the township still owned the Mill Lane Bridge. Mr. White stated that according to the survey provided by the applicant, it appears that the township retains ownership over the remnant so the Mill Lane Bridge. Mr. Wetter asked where the Sullivan property is located. Mr. Cerillo commented that Mr. Powers purchased one strip of land from the railroad and Mr. Sullivan purchased a second strip of land from the railroad. Mr. Cerillo wrote to Mr. Sullivan asking Mr. Sullivan if he was willing to sell the land to the applicant, in order to increase the lot size closer to the required 10 acres. Mr. Cerillo believed that purchase of this property however, would not help the applicant meet the other bulk variances, nor is the property contiguous with the applicant's property. Mr. Dietz asked where the old railroad bed from the old railroad line. Mr. Alfaro did not know. Mr. Cerillo stated that Mr. Powers may be able to answer.

Mr. Robert Powers, owner of the subject property and the applicant, appeared and was sworn. Testimony and discussion included:

- The property purchased was part of abandoned railroad right-of-way.
- The property owned by Mr. Sullivan is also part of the abandoned railroad right-of-way.

Mr. Dietz asked the applicant if the Board approves the application, will the applicant be living there. Mr. Powers said that he was not sure, but is building it for either his children or grandchildren, who live in Hillsborough.

Open to public. The following members of the public have questions: Mr Delgigante from Flagtown stated that are plans for a natural gas crossing the applicants property. Mr. Cerillo confirmed that the applicant has been contacted by a gas company. Mr. Delgigante asked where the proposed pipeline will be crossing the applicant's property, given that there is an ordinance requiring a 75 foot setback from the easement. Mr. Wetter asked what ordinance requires a 75 foot setback. Mr. White stated that there is an ordinance in place that requires a 75 foot setback from any pipeline easement. Mr. Wetter asked if the pipeline is going through the handle of the spoon, at some distance from the dwelling. Mr. White agreed. Mr. Dietz asked Mr. Powers if there is an easement for a pipeline. Mr. White agreed. Mr. Dietz asked Mr. Powers if there is an easement for a pipeline. Mr. Wetter asked where the proposed easement is going to go. Mr. Powers stated that there is no easement, but it would far from the proposed dwelling.

Close to public.

Mr. Ken Worden, engineer representing the applicant, appeared and was sworn. Testimony and discussion included:

- Inspected the neighborhood surrounding the subject property
- Homes in surrounding neighborhood are some of the most expensive in Hillsborough
- Development of the property will aid in the price neighboring properties
- Size of the proposed home will be slightly smaller than adjacent homes across the street.
- The narrow portion of the property is unbuildable leaves approximately 3 acres remaining for a dwelling
- The proposed home is to be a 4 bedroom colonial, typical of the homes built in Hillsborough
- Does not believe that there will be a substantial negative impact on surrounding properties should the Board approve this application.

Mr. Dietz asked if placing a home close to an existing railroad be a detriment to selling the property. Mr. Worden said that it would, but his experience is that there are people who will live near the railroad. Mr. Perlman asked that if Mr. Worden were to be the realtor for this piece of property, would he disclose to potential buyers that the home abuts an active rail line. Mr. Dietz asked if there is an ordinance that determines how close a dwelling can be built to a railroad.
Perlman stated that there wasn’t. Mr. White stated that the township committee has procured the services of his firm to conduct a Quiet-Zone analysis along this rail line.

Mr. Lester Nebenzahl, licensed planner representing the applicant, appeared and was sworn. Testimony and discussion included:

- The lot is undersized lot with a lot frontage of over 2000 feet.
- The lot depth along the eastern 344 feet deep
- 100 for most of its’ length
- The existing lots across the street from the subject lot have dwellings on the lots with sizes between 3 to 4 acres
- The subject lot is larger than other nearby lots containing single family dwellings
- Master Plan had recommended and the township committee implemented an increase in the minimum lot size in the AG zone.
- Believes the Board could grant the variances as requested by the applicant under both the “c1” and the “c2” criteria.
- All variances sought are due to the size and shape of the property
- Adjacent lands are not available to purchase and adjacent land owners are not interested in purchasing the subject property
- The side yard setback is required due to lot shape and the successful perk test for the septic system
- The proposal for a single family dwelling would allow for the proper utilization of the property
- There would be no substantial detriment of the surrounding properties
- If the properties are denied, the property could not be used for any productive purpose and undue hardship is imposed upon the applicant
- The development of a single family home will enhance the visual environment in the area.
- Single family dwellings are a permitted use in the “AG” zoning district

Mr. Dietz asked if the smaller house would fit better on the property than what is proposed. Mr. Nebenzahl stated the proposed house is similar in appearance and size with neighboring homes. Mr. Nebenzahl stated does not believe this size home detracts form the property or surrounding properties. Mr. Wetter asked if there is a way to reposition the house so the side yard setback is not required. Mr. Nebenzahl stated that the location of the proposed septic area, as determined by the perk test, determines the location of the house and thus the side yard and rear yard setback variances are needed. Mr. Wetter commented that it appears that the proposed dwelling could comply with the side yard setback by repositioning the swelling. Mr. Dietz asked if there is a way to reposition the swelling. Mr. Carl Alfaro stated that moving the home to comply with the setback would infringe on the 25 foot buffer around the septic disposal area. Mr. Dietz asked about the stone culvert on the property. Mr. Alfaro is a drainage feature on the property, and would drain from west to east on the property. A swale is located at the northeast property. Mr. Dietz asked if there is a drainage pipe on the property. Mr. Alfaro did not know. Mr. Dietz asked how water gets past the railroad since it is higher than the subject property. Mr. White stated that without topographical information, he could not say. Mr. Dietz asked if it made sense to build a dwelling so close to a railroad line. Mr. Nebenzahl stated that the Planning Board and Township Committee zoned this property for residential use, and homes exist along railroads across the entire country. Mr. Nebenzahl stated that if the application is denied, the township would have to then purchase the property. Mr. Dietz stated that would it be a safety factor to build a home so close to the railroad.

Mr. Wetter asked if all the concerns of the Board engineer have been addressed. Mr. White said that it has not. Mr. Wetter said that the Board cannot determine if the proposed development will have negative on the storm-water runoff on adjacent properties. Mr. Wetter asked if a topographical plan be submitted. Mr. White stated that it has not. Mr. Alfaro commented that the increase in stormwater runoff in amount will be deminimous. Mr. Dietz asked about the critical slopes are on the property and he did not believe the Board has enough information. Mr. White said he also needs more information. Mr. White also asked for a test pit for the proposed dwelling to be submitted for review. Mr. Dietz also asked the applicant to address the safety issue related to a residence next to a railroad. Mr. Dietz also recommended that the applicant attempt to alter the home so that the side yard setback is met.
Mr. Cerillo asked the Board to carry the application to November 1, 2006. The applicant granted an extension of time.

**NOVAK, LISA & JACK - BA-06-14** – Block 151, Lot 12.40 – Drake Close. Bulk variance for impervious coverage.

Mr. Sheridan recused himself from hearing this application as he is engaged in a business contract.

Ms. Lisa Novak, the applicant appeared and was sworn. Testimony and discussion included:

- In September 2005, the existing home was destroyed by fire
- The applicant designed a new home is slightly larger, only 35 square feet larger.
- The applicant has designed the new home to be wider and less deep, moving the garage entry to the side
- The new home with the side entry garage and thus requires a longer driveway, 1,981 square feet and 35 square feet of driveway
- The variance application is to exceed the impervious coverage by 4% for the longer driveway
- The side yard garage will allow for use of the applicant’s back yard
- The applicant cannot purchase land from their neighbors

Open Public. No members of the public had questions. Close public.

Mr. Kennedy made a motion to approve the bulk variance application, seconded by Mr. Wetter

**ROLL CALL:**
Kevin Lovell - yes
Frank Valcheck - yes
Jack Kennedy - yes
Barry Quick – yes
Peter Passalaqua - yes
Vice-Chairman Wetter – yes
Chairman Dietz - yes

The applicant requested that a resolution be prepared this evening

**ACCEPTANCE OF MINUTES**

**ACCEPTANCE OF RESOLUTIONS**

- Lisa Novak BA-06-14

Mr. Wetter made a motion to approve as written, seconded by Mr. Kennedy

**ROLL CALL:**
Kevin Lovell - yes
Frank Valcheck - yes
Jack Kennedy - yes
Barry Quick – yes
Peter Passalaqua - yes
Vice-Chairman Wetter – yes
Chairman Dietz - yes

**ADJOURNMENT** - 10:45 P.M.
Submitted by,
Jeffrey Perlman