The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, July 7, 2010. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson James C. Rodimer presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL: Present: James Rodimer, Kevin Scollans, Roger Spiess, Mark Wilson, Arthur Korn, Sally Dankos, Frank Passucci, John Murphy
Absent: Sean Ryan
Prof. Present: Larry I. Wiener, Esq., Nicholas Rosania, P.E.

MINUTES:
June 16, 2010
Motion to adopt the minutes as submitted was made by Mbr. Scollans, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by Larry I. Wiener, dated June 21, 2010 subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Scollans and unanimously approved by all Members present.

Motion to pay vouchers submitted by The Buzak Law Group, (dated June 29, 2010) subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.

RESOLUTIONS:

BA 09-24 The Shoppes at Union Hill, LLC
Block 21203, Lot 1
Route 10 West
A motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Spiess and seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.

Roll Call: Ayes – Spiess, Scollans, Dankos, Murphy, Rodimer

BA 10-11: Paul & Barbara Gioioso
2 Roleson Way
Block 50003, Lots 2.01
BA 10-12: Michael & Karen Bilza
50 South Wynde Drive
Block 40816, Lots 1775

BA 10-13: Edwin Vanderhoof
100 West Shore Road
Block 40511, Lots 220
BA 10-14: Warren & Deborah Sholes
62 Summit Drive
Block 61505, Lots 118

Motion to adopt the memorializing resolutions as submitted for the above properties was made by Mbr. Scollans and seconded by Mbr. Spiess and unanimously approved by all Members present and able to vote.

Roll Call: Ayes – Scollans, Spiess, Korn, Dankos, Rodimer

Docket No. MRS-L-3150-09 Robert Morello and Bernadette DeCesare v. Denville Board of Adjustment and Eric J. Burnstein v. Ticor Title Insurance Company

Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Spiess, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.

Roll Call: Ayes – Spiess, Dankos, Wilson, Korn, Scollans, Murphy, Rodimer
PUBLIC HEARINGS:  

BA 10-15: William & Alisa Underwood  
45 Cedar Lake West  
Block 60904, Lot 4

Alisa Underwood and William J. Underwood, IV were present and sworn in. Bill Underwood explained that they reside at a property with two front yards on Pine Lane and Cedar Lake West. The proposed construction of an addition will require “C” variance relief for front yard setback. The existing garage is in disrepair and will be replaced with a new garage. The existing non-conforming setback of 19’ where 35’ is required will be maintained and not exceeded.

Chr. Rodimer opened to the public and seeing none, closed the public portion.

Chr. Rodimer opened the application to the professionals.

Nick Rosania, P.E. commented on the proposed addition and that it had no engineering aspects.

Chr. Rodimer opened to the board members.

Mbr. Murphy stated that only three other homes exist on the street. The one car garage will be replaced with an oversized garage with living space on the side and above. Mbr. Murphy saw no problems with the application.

Mbr. Passucci had no problem with the proposed and wished the applicant good luck.

Mbr. Scollans thought the proposed was beautiful and supported the application.

Mbr. Spiess thought the proposed was an improvement, functional and was in favor of the application.

Mbr. Wilson had no issues with the proposed.

Mbr. Korn commented on the 100 year old shed and had no problem with the application.

Chr. Rodimer had no problem with the proposed addition.

A motion to approve this application was made by Mbr. Wilson, seconded by Mbr. Scollans and unanimously approved by all members eligible to vote.

Roll Call:  
Ayes – Wilson, Scollans, Spiess, Korn, Dankos, Murphy, Rodimer

BA 10-18: Kristy & James Doherty  
19 Summit Drive  
Block 60507, Lot 31 & 32

The applicant, James Doherty (19 Summit Drive) was present along with Jeff Careaga of Careaga Engineering, Inc. (382 Route 46 West, Budd Lake). Both were sworn in. The Board Attorney noted for the record that the Doherty’s are now the owners of the home after last week’s closing which was the Estate of Sinius when the application was submitted. Existing non-conforming lot width of 75’ where 100’ is required. Applicant is proposing to construct a garage and pool requiring “C” variance relief for being located in the front yards. The subject property has frontage on both East Glen Road and Summit Drive. The home is being rebuilt and will be within the required setbacks. The proposed will be in compliance with all storm water requirements. Two dry wells will be installed to handle the roof leaders and the garage runoff. Attempted mitigation of runoff from pool and patio areas with pervious pavers (stone underneath). The driveway will be adequate for vehicle maneuvering and off-road parking.

Chr. Rodimer opened the application to the public.

Tom Greulich (21 Summit Drive) living on the adjacent property and came in support of the applicant. Property has not been maintained well to date. Looking forward to the new neighbors. Mbr. Korn wanted Mr. Greulich to verify that he had seen the plans, knew the location of the garage and was still in agreement with the proposed. Mr. Greulich confirmed that anything would be an improvement over what currently exists.

Chr. Rodimer asked if there were any other members from the public and seeing none, closed the public portion.

Chr. Rodimer opened the public hearing to the professionals.

Nick Rosania, Township Engineer spoke to the hardship of the narrow lot and that the fixer upper would be an improvement of the neighborhood. Stated that there were no engineering issues. Mr. Rosania indicated that it was a good project and that a layout of the phases was needed.

Chr. Rodimer opened the public hearing to the board members.

Mbr. Spiess stated that although he does not support removal of large trees that the proposed would be big improvement. After verifying that there were no steep slopes issues, Mbr. Spiess stated he had no problem with the application.

Mbr. Wilson commented that he concurred with Mbr. Spiess, stating there was a good utilization of available space and that anything would be an improvement.

Mbr. Korn wanted to ensure the neighbors are aware regarding the garage. Improvement of what exists and inquired about the 300 ft. riparian buffer. Nick Rosania spoke to the disturbed area,
referred the April 27, 2010 letter from Careaga Engineering and stated that the proposed would be subject to NJDEP approval.

Mbr. Murphy referenced the steep slopes between the pool and East Glen Road. The applicant responded that the steepest slopes were not in the disturbed area. Mbr. Murphy voiced some concern regarding the garage and inquired if attaching it to the home had been considered. Mr. Doherty responded to the ridge rock that existed.

Mbr. Passucci concurred with Mbr. Murphy regarding the attachment of the garage to the home and had no further concerns.

Mbr. Dankos agreed with the other members regarding the garage and wished the applicant lots of luck.

Mbr. Scollans agreed that an attached garage would be ideal but agreed it wasn’t possible after seeing the rock and stated further that detached garages were not unusual in the neighborhood. In general Mbr. Scollans liked the plan and had a few questions. Referenced the two water line feeds, one in blue and another along the fence line and inquired about tree removal. The applicant believed that one of the lines was to the neighbor. Nick Rosania added that the water line and an easement would be housekeeping issues and a private matter. The applicant will be removing three to four large trees. Mbr. Scollans thought it was a nice plan and had no problem with the application.

Chr. Rodimer inquired about the square footage of the home. The applicant testified that the home would be approximately 3,400 sq. ft. Chr. Rodimer commented that the application was well thought out and nicely done.

A motion to approve this application was made by Mbr. Wilson, seconded by Mbr. Korn and unanimously approved by all members eligible to vote.

Roll Call: Ayes – Wilson, Scollans, Spiess, Korn, Dankos, Murphy, Rodimer

BA 10-17: MetroPCS New York, LLC
87 Route 46
Block 41208, Lot 1.1 & 8

Christopher Quinn, Esq. of Day Pitney, LLP (200 Campus Drive, Florham Park) representing the applicant was present and sworn under oath. Proposed construction of six additional antennas on an existing telecommunications monopole tower. Expansion will require preliminary and final site plan approval and “D” variance relief to increase the pole 14’. The proposed expansion of 14’ on the existing pole would require equipment cabinets at the base of the tower. Proposed fence to match the existing fence. Use in a B2 zone will comply with all the conditions of conditional use. Requires relief for the facilities existing non-conforming side yard setbacks.

Saseen Abujawdeh, Civil Engineer and Principal at The Cedars Group, Inc. (1000 Rt 9 North, Woodbridge). Mr. Abujawdeh was accepted as an expert witness. Existing monopole with an existing telecommunications compound with a wooden fence. Back of property along Route 80 and ROW line of Rt. 80. Proposing to collocate the existing pole above ground. Four carriers, proposing to extend by 14’ and install six antennas 16’ 6” above the existing pole height for a total pole height of 153’6” above the top of the antennas. Equipment on ground will include an expansion east of the existing compound (10’ x 20’) on concrete pad. Removal of four existing trees at the back of the property in the southeast corner of the property. Exhibit Z-3 Site Plan depicts the location of the compound and monopole. The equipment would be located between the fence and the substation. The ground equipment is unmanned and monitored electronically by switch center and site visits take place for maintenance purposes approximately every 4-6 weeks. One manually operated light will be provided for emergency use for illumination by technicians at night. Typical site visits by technicians take place during the business hours of 8 a.m. and 5 p.m. The equipment meets conditional use and setback requirements for 3,010’ of square footage where 4,000 sq. ft. is required. KMD provides an analysis and structural reinforcement of the existing base of the tower.

Chr. Rodimer opened the hearing to the public and seeing none, closed the public portion.

Larry I. Wiener, Esq. referenced the Tax Assessor’s comments regarding the lot designations. Applicant confirmed that the tower resides on Lot 8 and is accessed through an easement on Lot 1.1.

Chr. Rodimer opened the hearing to the professionals.

Nick Rosania, Township Engineer stated that the embellishments to the tower structurally will make it sufficient. Mr. Rosania referenced the type of winds the tower is designed to withstand. Mr. Abujawdeh responded that the seismic analysis is by code and determined by weight and wind load and is designed to exceed construction code. If the code is for winds of 75 mph, an extra 5 mph is added. In Mr. Abujawdeh’s experience significant damage from winds has not been a problem.

Chr. Rodimer opened the hearing to the board members.

Mbrs. Spiess indicated that his questions had been asked and answered. Mbr. Wilson had none.
Mbr. Korn inquired if Nick Rosania knew of winds being a problem and inquired about escrow. Nick Rosania stated winds have not been a problem. Mr. Quinn responded that the applicant would comply with any requirements of the ordinance including any escrow or removal.

Mbr. Murphy inquired about the height requirements. Mr. Quinn responded 10% over the existing tower is permitted. The higher the tower, the better the signal determines the priority to go on top of the existing pole.

Mbrs. Passucci and Dankos had no questions.

Mbr. Scollans inquired about tornados in the area. Mr. Abujawdeh could not recall any specific tornados in this area.

Chr. Rodimer inquired about the additional 12’ and about blinking lights. Mr. Abujawdeh indicated that the other professional testimony would address the 12’. In response to the lighting, he replied that FAA requires every structure submit a study for lights. This application does not require a light.

Syad Mujtaba, Radio Frequency Engineer for Metro PCS (130 Clinton Road) was present and sworn under oath. Using Exhibit A-1, one overlay and one map, spoke to a significant gap in coverage near Rt. 80. Next available is 98’ vs. 150’. An antenna at the height of 98’ would not connect to the existing pole along Rt. 80 and would not provide sufficient coverage.

Chr. Rodimer opened this portion of the hearing to the professionals.

Nick Rosania, Township Engineer had no questions.

Chr. Rodimer opened the application to the public for questions. Seeing none, closed the public portion of the hearing.

Chr. Rodimer opened the application to the board members for questions.

Mbr. Spiess had no questions.

Mbr. Korn inquired about the in the March 2nd report regarding vehicular traffic and cell phone use and was told it was for hands free cell phone use.

Mbr. Quinn spoke to the report from Pinnacle Telecom Group, dated February 23, 2010 and asked Mr. Daniel Collins to testify. Dan Collins, Chief Technical Officer of Pinnacle Telecom Group was present and sworn under oath. Mr. Collins was asked to reaffirm the data in his February 23, 2010 report. Dan Collins stated that the facility and all the antennas are comfortably in compliance at maximum capacity and maximum power by several hundred times the state standards.

Chr. Rodimer opened the hearing to the public and seeing none, closed the public portion of the meeting.

Chr. Rodimer opened the hearing to the professionals.

Nick Rosania, Township Engineer indicated that Larry Wiener, Esq. had asked the proper questions and had none of his own.

Ronald Reinersten, Professional Planner at Pennoni Associates (210 Malapardis Road, Cedar Knolls) was present, sworn under oath and accepted as a professional witness. Mr. Reinersten testified that collocation is recommended by Denville’s ordinance. Referencing the visual impact study dated March 5, 2010. In response to Mbr. Murphy, Mr. Reinersten indicated that #5743 is the tower above Rockaway Township and at a much higher elevation. Stating that granting a continued use of the existing non-conforming setbacks would serve the general welfare by providing an FCC licensed service that provides for the positive criteria. Further stating that the negative criterion is minimal in nature and that by ordinance, no negative impact exists.

Chr. Rodimer opened the public hearing to the board members for questions and there were none.

Ronald Reinersten, Professional Planner at Pennoni Associates (210 Malapardis Road, Cedar Knolls) was present, sworn under oath and accepted as a professional witness. Mr. Reinersten testified that collocation is recommended by Denville’s ordinance. Referencing the visual impact study dated March 5, 2010. In response to Mbr. Murphy, Mr. Reinersten indicated that #5743 is the tower above Rockaway Township and at a much higher elevation. Stating that granting a continued use of the existing non-conforming setbacks would serve the general welfare by providing an FCC licensed service that provides for the positive criteria. Further stating that the negative criterion is minimal in nature and that by ordinance, no negative impact exists.

Chr. Rodimer opened to the public and seeing none, closed the public portion.

Chr. Rodimer opened to the professionals.

Nick Rosania, PE relayed Mr. Denzler’s verbal comments that the proposed collocation is better than another tower. Mr. Rosania referenced the visual impact study dated March 5, 2010, stating the proposed extension on the tower would be nearly imperceptible.

Chr. Rodimer opened the public hearing to the board members.
Mbrs. Spiess, Wilson and Korn had none.
Mbr. Murphy inquired about fake shrubbery on the pole and when it becomes reasonable to request same. Mr. Reinertsen indicated that this is more feasibility than a planning question. Stating that retrofitting an existing pole for shrubbery would compromise the integrity and is not practical. A monopole is not designed to withstand the same weight of a specially designed tree pole.
Mbrs. Passucci and Dankos had none.
Mbr. Scollans stated that there were more positives than negatives.

Larry Wiener, Esq. commented that it advances the purpose of the telecommunications act by encouraging more competition and carriers with the ultimate goal of bringing down the prices.

A motion to approve this application was made by Mbr. Wilson, seconded by Mbr. Dankos and unanimously approved by all members eligible to vote.

**Roll Call:** Ayes – Wilson, Dankos, Spiess, Korn, Scollans Murphy, Rodimer

**NEW BUSINESS:**
Mbr. Murphy referenced the fast food restaurant use along the Route 10 corridor. Stating that is incumbent upon the board to bring the need for updating the ordinance to the attention of the governing body.

**Motion to Adjourn.**

Denean Probasco, Board Secretary Date Approved