

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF
ADJUSTMENT OF THE TOWNSHIP OF EAST GREENWICH, COUNTY OF
GLOUCESTER, STATE OF NEW JERSEY, GRANTING A USE VARIANCE
AND MINOR SITE PLAN WAIVER TO CLEARWIRE US, LLC, REGARDING
PROPERTY LOCATED AT 114 MANTUA ROAD, AND BEING FURTHER
SHOWN AS BLOCK 1402.01, LOT 120, ON THE TAX MAPS OF THE
TOWNSHIP OF EAST GREENWICH, APPLICATION NO.: Z2008-3**

WHEREAS, Application No. Z2008-3 (the "Application"), was submitted before the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey (the "Board") by Clearwire US, L.L.C., 4400 Carillon Point, Kirkland, WA 98033 (the "Applicant") regarding a use variance with minor site plan waiver, regarding property located at 114 Mantua Road (County Route 678), (the "Subject Property"), and being further shown as Block 1402.01, Lot 120, on the Tax Maps of the Township of East Greenwich (the "Township"); and

WHEREAS, the Applicant did appear at a meeting and public hearing held on the Application on May 20, 2008 at 7:00 P.M., time prevailing, and at said time were the following present on behalf of the Applicant: Nicholas T. Menas, Esquire, Cooper Levenson, 1125 Atlantic Avenue, Atlantic City, New Jersey 08401 (the Applicant's attorney); Jamin Johnson, Radio Frequency Expert for Clearwire US, L.L.C.; and Michael E. Radbill, P.E., F.A.S.C.E., C.P.C., Vice President, Urban Engineers, Incorporated, 530 Walnut Street, 14th Floor, Philadelphia, Pennsylvania 19106 (the Applicant's civil engineer); and

WHEREAS, Messrs. Radbill and Johnson, having never testified before the Board previously, provided their expertise, professional backgrounds, licensing (if applicable), and other information, after which it was stipulated on the record by the Board that both Mr. Radbill and Mr. Johnson were qualified to testify as experts in their respective fields on behalf of the Applicant with respect to the Application before the Board, after which were Messrs. Radbill and Johnson sworn and provided testimony on the Application;

NOW, THEREFORE, BE IT RESOLVED by the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, as follows:

FINDINGS OF FACT

1. The Application was deemed to be complete and properly before the Board. As such, the Board had jurisdiction to act on the Application. Because the Board is a Combined Planning/Zoning Board of Adjustment, and the Application involves a Use Variance under the provisions of N.J.S.A. 40:55D-70.d., the Board had to reconfigure itself into a Zoning Board of Adjustment. Accordingly, the Class I Member (Mayor Grant) recused himself and took his seat in the audience. The Class III member (Township Committeemen Garozzo), also could not participate. However, Mr. Garozzo was absent from the meeting.

2. The Applicant submitted and the Board entered into the record the following:

A. Application, Application Fee, Escrow Agreement, Escrow Deposit, Certified List of Property Owners within 200 ft. of the Subject Property, Certification of Taxes Paid on the Subject Property, Notice of Public Hearing, Affidavit of Publication, and Affidavit of Service.

B. A set of four (4) Zoning Drawings, "Clearwire Wireless Broadband, ATC Mt. Royal", consisting of:

- 1) Title Sheet, Drawing Number 1, dated 2/20/07, revised 1/18/08;
- 2) Overall Site Plan, Drawing Number 2, dated 2/20/07, revised 1/18/08;
- 3) Equipment Layout Plan and Tower Elevation, Drawing Number 3, dated 2/20/07, revised 1/18/07; and
- 4) Details, Drawing Number 4, dated 2/20/07, revised 1/18/08.

3. This is an Application submitted by Clearwire US, LLC (the "Applicant") for variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) & (6), and waiver of the site plan submission and approval requirements, or in the alternative, site plan approval pursuant to the requirements of the East Greenwich Township Land Development Code (the "Code"). The Applicant proposes the installation of up to three (3) wireless telecommunications antennae at a centerline height of one hundred twenty-nine ft. six in. (129 ft., 6 in.), and up to three (3) microwave dishes installed at a height of one hundred thirty ft. (130 ft.) on an existing one hundred ninety-seven ft. (197 ft.) lattice tower, with related telecommunications equipment located at the base of the existing tower. The location of the proposed use is at 114 Mantua Road, Mt. Royal, New Jersey, also known as Block 1402.01, Lot 120, on the Official Tax Map of the East Greenwich Township, Gloucester County, New Jersey (the "Subject Property").

4. The Applicant seeks relief from Section 16.68.020 of the Code. Section 16.68.020 requires use variance and site plan approvals. In addition to the foregoing, Section 16.68.050 limits the maximum height to thirty-five feet (35 ft.) where the existing lattice tower is one hundred ninety-seven feet (197 ft.) ft. Testimony must be provided, through Applicant's professionals, that the use promotes the general welfare because the proposed site is particularly suitable for the proposed telecommunications facility.

5. The Applicant also requests that the Application be deemed to request any additional variances and design waivers or exceptions determined to be necessary during the review and processing of the Application by the Board.

6. Mr. Menas provided an overview of the Application as just set forth above.

7. Mr. Radbill provided an overview of the proposed amendments to the existing tower on the Subject Property, and the additional antenna that are proposed to be added to the existing tower. Mr. Radbill confirmed the location of the additional equipment that will be added to the ground-based equipment area, and testified that there would be no impact on impervious coverage at the site. Mr. Radbill reviewed the conceptual site plan that had been submitted with the Application to indicate that there would be no change with respect to access and egress to the site, and he further detailed that the electrical power to the site was underground. Mr. Radbill entered into evidence "Exhibit A-1, Clearwire, 5/20/08", which was a report from the Applicant's structural engineer regarding the structural soundness of the cell tower on which the Applicant proposed to place additional cellular communications antennae. Mr. Radbill also reviewed details of the previously submitted "overall site plan" and testified that currently three cellular communication companies had antennas on the subject tower: T-Mobile, Singular Wireless, and Nextell. Mr. Radbill also testified that the tower had been installed in 1963.

8. Mr. Menas, by way of the rider to his Application, set forth on the record how and why the positive and negative criteria with respect to the use variance Application are being met by the Applicant, as well as the request for a waiver of former minor site plan approval. Mr. Menas set forth the following:

A. Pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-70(d), a (d) or use variance will be granted if (1) "special reasons" exist for the variance and (2) the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance. In order to satisfy the first statutory prong, referred to as the "positive criteria", the Applicant must determine that the "use promotes the general welfare because the proposed site is particularly suitable for the proposed use. *Smart SMR of New York, Inc. v. Fairlawn Board of Adjustment*, 152 N.J. 309, 323 (1989), citing *Medici v. BPR Co.*, 107 N.J. 1,4 (1987).

B. As to second prong, or the "negative criteria", the Applicant must demonstrate not only that a variance can be granted "without substantial detriment to the

public good”, but must also demonstrate, via an “enhanced quality of proof”, that the variance request is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. *Smart, supra*, 152 N.J. at 323, citing *Medici, supra*, 107 N.J. at 21-22.

C. However, because telecommunication systems are licensed and serve the general welfare, our Supreme Court has determined that a less-stringent balancing test, applicable to traditionally inherent beneficial uses, should be used. See, *New Brunswick Cellular Telephone Co. v. Zoning Board of Adjustment of West Windsor Township*, 172 N.J. 75, 82 (2002) (reaffirming the decision in *Smart*).

D. In *Sica v. Board of Adjustment of the Township of Wall*, 127 N.J. 152 (1992), the New Jersey Supreme Court set forth the less-stringent four-part analysis to be used by municipal boards when assessing whether the granting of a variance would cause a substantial detriment to the public good. When striking a balance between the positive and negative criteria, the court advised local land use boards that they should: (1) identify the public interest at stake; (2) ascertain the detrimental effect that will ensue from the grant of the variance; (3) reduce the detrimental effect, if possible, by imposing reasonable conditions on the use and then, in turn, reducing the wait according to the adverse effect by the anticipated effect of these restrictions; and (4) weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good. *Id.* At 165-66.

E. With regard to the positive statutory criteria, the New Jersey Supreme Court has opined that:

“[a] telecommunications facility is a paradigm for a use that serves a greater community than a particular municipality”, and that (added) “The issuance of an FCC license should suffice for a carrier to establish that the use serves the general welfare”.
Smart, supra, 152 N.J. at 332, 336.

F. The Applicant is a wireless communications service provider licensed by the FCC to construct, operate, and maintain a personal communications service (“PCS”) in the State of New Jersey, including the Township of East Greenwich. The proposed facility consists of the construction of up to three (3) wireless antennas at a centerline height of one hundred twenty-nine feet, six inches (129 ft.6 in.) on an existing one hundred ninety-seven foot (197 ft.) lattice tower, and the installation of up to three (3) microwave dishes at a height of one hundred thirty feet (130 ft.) with the installation of associated cabinetry within the existing fenced compound. Generally, if variance relief was required under N.J.S.A. 40:55D-70(d) the Applicant must prove that “the use promotes the general welfare because the proposed site is particularly suitable for the proposed use”. *Supra, Smart*, 152 N.J. at 323. In terms of telecommunications facilities, the “particular suitability” of a site refers to inadequacy of existing capacity and signal strength and whether the site proposed could relieve that inadequacy. See, *Ocean County Cellular Telephone Co. v. Township of Lakewood Board of Adjustment*, 352 N.J. *supra*, 514, 525-529 (App. Div. 2002), cert. denied, 175 N.J. 75 (2002). Further, the

Telecommunications Act of 1996 (the “TCA”) places federal requirements upon the siting of personal wireless service facilities. The TCA provides in pertinent part:

“(i) the regulation of the placement and construction, and modification of personal wireless services facilities, by any State or local government, or instrumentality thereof...”

“(I) shall not unreasonable discriminate among providers of functionally equivalent services, and shall not prohibit or have The effect of prohibiting the provision of personal wireless services, (II) any decision by a state or local government or instrumentality thereof to deny a requested place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence in a written record, and (III) no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent such facilities comply with the Commissioner’s regulation concentration and such emissions. U.S.C. § 332(C)(7)(B)”.

G. In *Cellular Telephone Co. v. the Zoning Board of Adjustment of Ho-Ho-Kus*, 1997 F.3d and *Cellular Telephone to the Kus*, 64, 70 (3rd Cir. 1959), the Third Circuit held that local zoning decisions had the effect of prohibiting wireless communication services if they result in “significant gaps” in the availability of wireless service. The wireless provider must demonstrate that the manner in which it proposed to fill the gap is the least intrusive means available (*Ibid.*). The TCA’s mandate is relevant to the issue of “particular suitability” because:

“It places the local board on notice that, although it may consider the equality of existing services in deciding that the variance application, there is an absolute bar prohibiting the denial of the application if the provider meets the ‘significant gap’ and ‘least intrusive means’ standards articulated by the federal courts”. *Ocean County Cellular Telephone*, supra, 352 N.J. super. At 532.

H. Clearwire’s planning and engineering experts will testify that the proposed facility will fill a significant gap in Clearwire’s wireless network, and it is the least intrusive location for doing so. Clearwire’s planning expert will testify that the proposed facility will benefit the community by providing an enhanced ability to communicate for emergency, personal and business purposes.

I. With regard to the negative criteria, Clearwire’s experts will testify at the hearing that the proposed facility will not be a detriment to the public good and is not inconsistent with the intended purpose of the Master Plan and Zoning Ordinance. Clearwire’s experts will testify that locating Clearwire’s facility on the Subject Property

will have no detrimental effect upon the surrounding properties, or substantially impair the intent and purpose of the ordinance and master plan as the proposed facility will not generate any noise, dust, odor, or traffic, and does not require municipal services of water and sewer.

J. Traditionally, because telecommunications facilities “usually generate little pollution or demand on municipal services, the primary objection is to their construction concerning the aesthetic impact on the character of the locality...”, *Omnipoint Communications, Inc. v. Board of Adjustment of Township of Bedminster*, 337 N.J. Super., 398, 416-17 (App. Div. 2001) in *Smart*, supra, the court found that the removal of a ninety foot (90 ft.) telecommunications monopole and its replacement with a one hundred forty foot (140 ft.) monopole suitable for “co-location” would result in merely a fifty foot (50 ft.) increase in height. That increase would not substantially alter the Fairlawn skyline. *Id.*, 152 N.J. at 333. The Appellate Court determined that an addition of eight feet (8 ft.) to ten feet (10 ft.) for placement of telecommunications antennae on the top of an existing water tower was “aesthetically inconsequential and a minimal intensification of the non-conformity”. *NYEXT Mobile Communications v. Hazlet Twp. Zoning Bd. of Adjustment*, 267 N.J. super. 598, 162, (App. Div. 1994). Here, because of the location and the type of structure posed, at-at-stake impact from the proposed wireless facility would be negligible.

K. The Appellate Division reversed a Board of Adjustment’s denial of a use variance to place a wireless facility on top of a rooftop of a building, used as a student residence and school. *County Cellular Telephone Co.*, supra, 352 N.J. super. at 519-537. The proposed rooftop telecommunications facility, included installation of twelve (12) antenna on the top of the forty-five foot (45 ft.) high building’s elevator penthouse that would extend approximately seven feet (7 ft.) above the penthouse roof. *Id.* at 533. The antennae were to be color coordinated with the building in order to minimize their “visual impact” from street level. *Ibid.* The court found that the aesthetic impact of the facility would be minimal. *Id.* at 533-34.

L. Most recently, the Appellate Division affirmed the Court’s reversal of a Board of Adjustment’s denial of a use variance to place a wireless facility in a residential zone in Leonia. *Sprint Spectrum, L.P. v. Zoning Board of Adjustment of Borough of Leonia*, 360 N.J., super. at 337 (app. Div. 2003). The court held that:

“Because the proposed telecommunications facilities will serve the general welfare, its benefits to the public will outweigh the potential detriments, and locating the equipment in a residential zone would not substantially impair the intended purpose of the zone plan or ordinance”.

M. The court rejected the board’s conclusions that the site’s location in a residential zone, and Sprint’s failure to seek alternative proposed locations, rendered the use not particularly suited.

N. As it relates to the waiver of site plan submission and approval, the New Jersey Municipal Land Use Law contemplates the Applicant's request for waiver for site plan approval and waiver of site plan submission requirements. More specifically, N.J.S.A. 40:55D-10.3 gives recognition to the fact that, particularly in connection with site plan applications, requests to waive submission and approval requirements are appropriate. The situation in which such waivers should be granted typically involves applications for site plan approval, whereas in this case, buildings, parking lots, etc. already exist on the site. Given the fact that this is a limited application, which does not include expansion to the building footprint and does not propose any impact of storm water management, the requested waiver of site plan approval and the site plan submission requirements is appropriate.

9. The Board reviewed the letter submitted by its professional engineer, Martin S. Sander, PE, CME, Federici & Akin, P.A. Consulting Engineers, 307 Greentree Road, Sewell, New Jersey 08080 dated April 11, 2008 with respect to the Application. Mr. Sander pointed out the following:

A. All additional equipment is proposed to be installed either inside an existing building at the site, or on the existing telecommunications tower. Consequently, there are no site plan modifications proposed for the site and Mr. Sander had no objection to the granting of a site plan waiver for this project.

B. Should the Board grant the requested use variance and site plan waiver, the approvals should be conditioned upon:

1) Submission of a structural analysis of the tower performed by a Professional Engineer licensed in the State of New Jersey prior to installation of the proposed additional antennae and microwave dishes. This was accomplished by the Applicant submitting "Exhibit A-1, Clearwire, 5/20/08".

2) Note 1 on Drawing Number 3 of the Plan Set should be revised to indicate that the required structural analysis will be conducted by a professional engineer licensed in the State of New Jersey. The Applicant agreed to comply.

10. The Board's professional planner, Leah Furey, PP, AICP, BACH Associates, PC, 304 White Horse Pike, Haddon Heights, New Jersey 08035 reviewed with the Board and the Applicant her letter of April 9, 2008 as follows:

A. In regards to Use and Zoning: The site is located within the R-10 zoning district, which in accordance with section 16.68.020, does not permit telecommunication towers. The maximum height permitted in the R-10 zone is 35 ft. and the existing tower is 197 ft. Therefore, a "D(2)" variance is required to permit the expansion of a nonconforming use and possibly a "D(6)" variance to permit the installation of the antennae at a height of 126 feet to 131 feet, though this may also be covered by the D(2) variance since the structure exists.

B. Co-location of telecommunication facilities on existing towers is generally favored, in that co-location minimizes the total number of towers throughout the community and facilitates the provision of wireless communication services to the residents and businesses in the Township (and those traveling on the Turnpike). This site is surrounded in all directions by other properties in the R-10 zoning district. To the north are new residential town homes and to the south is a property owned by the N.J. Turnpike Authority.

C. With regard to Bulk and Yard Variances: It appears that the existing structures on the site meet the bulk and area requirements for the zone, with the exception of height as explained above.

Section	Required	Proposed	Compliance
16.68.050D Height	35 ft.	197 ft. – tower 131 ft. – proposed antennae	Variance previously granted for existing condition. Variance may be needed for antennae height.

D. Ms. Furey offered the following comments for the Board’s consideration:

1) Use. The Applicant’s attorney has provided an Application Rider that explains the proposal and the need for the antennae. Generally in order to provide the necessary proofs to support “D” variance an Applicant must prove to the satisfaction of the Board that there are “special reasons” for the Board to exercise its jurisdiction to grant the requested relief, demonstrating that the site is particularly suited to the proposed development and that the proposal will advance the purposes of Municipal Land Use Law and the Township’s Master Plan and Zoning ordinances (the “Positive” criteria). Also, the Applicant must show 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 (the “negative” criteria). The Application rider provides an extensive overview of the justification for the variance.

2) Since the proposal is upon an existing structure, no new access is required and the proposed additions will not substantially change the existing operations at the site. The Applicant should confirm at the hearing that the site will continue to operate as it does now and that the addition of the antennae will not alter the operations of the existing site in a manner that would be detrimental to nearby residents. The Applicant confirmed the same.

3) Site Plan Waiver. The Applicant requests a site plan waiver because the buildings, parking lot and lattice tower already exist on the site. The proposed equipment cabinet will be located inside the existing building. Ms. Furey deferred to the

Board's engineer for additional comment, but from a planning perspective a Site Plan waiver seems appropriate given the circumstances.

4) The Applicant indicates that they have a license from the FCC. The Applicant has not provided a report on the levels of radio frequency (RF) electromagnetic energy. The Applicant should provide testimony confirming that the RF exposure limits will not be exceeded with the addition of the proposed antennae. Mr. Johnson had provided same.

5) Note 1 on Sheet 3 on the plan set indicates that the structural analysis will be completed by a licensed engineer in the state of Pennsylvania. This should be changed to New Jersey. The Applicant agreed to same.

6) The Applicant should provide testimony confirming that if the equipment proposed is decommissioned in the future, it will be removed promptly. The Applicant agreed to such a condition being imposed.

7) Considering that this is an existing tower, it does not appear that the proposed addition will raise any significant planning issues. However, since there are new residents nearby that were not there when the tower was initially constructed, if needed the Applicant should agree to supplement the landscape buffer in the vicinity of the compound. The Board determined no additional landscaping was necessary.

11. Mr. Johnson, on behalf of the Applicant, confirmed that there would be no interference with other cellular communications carriers with respect to the proposed antenna on the existing tower on the Subject Property. Mr. Johnson testified that the Applicant utilized wireless broad band technology, which meant that the frequency is higher, with a lower signal strength. Mr. Johnson testified that there would be no impact on first responders within the community insofar as the radio frequencies were concerned, and he further confirmed that the Applicant did not provide any coverage within East Greenwich Township at this time.

12. The hearing on the Application was opened to the public at which time the following members of the public were sworn and provided testimony on the Application as follows:

A. Dennis Carroll, 91 Oak Ridge Drive, testified that he was very concerned with the proposal to add antennas to the existing tower and that he had understood based on previous e-mail with a member of the Township Committee, that this tower was to have been removed. It was also Mr. Carroll's understanding that the existing antennae on said tower were not in operation. The Board and the Applicant responded that, to the best of their knowledge, the antennae that were already on the existing tower did in fact operate, and that there were no plans to remove the tower.

B. Paul Sawyer, 89 Oak Ridge Drive, testified that he was concerned with expanding the band width in the future, and he also voiced concern with the negative

aesthetic impact that the proposed antennae would have with regard to the surrounding homes.

C. Anne Sawyer, 89 Oak Ridge Drive, also testified that she was concerned with the continued expansion of more antennas on the existing tower in that it would not have a good visual impact on their residence, and other residences that were in the immediate area.

12. There being no further members of the public wishing to give testimony, the public portion on the hearing of the Application was closed.

CONCLUSIONS

The Board concluded that the Applicant had met its burden in terms of both the positive and negative criteria, in that the Applicant had received a license from the FCC to provide cellular communications services to local residences and that this met the purposes of zoning in that the public good was being advanced. Furthermore, the Board concluded that the Applicant met its burden to show that the added antennae to an already existing tower would not create a substantial negative impact nor detriment on the zone code, the master plan, or the surrounding area, for the reasons set forth in the Applicant's rider to its Application, and in the testimony given at the hearing. The Board further found that the site information submitted was sufficient in detail for the Board to act on the Application and, to the extent that said information did not constitute a formal site plan, that the same shall be waived as a condition of approval.

CONDITIONS

1. The Board presumes that the Applicant's Application, all exhibits, maps and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that the Application, exhibits, maps and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

2. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

3. The Applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Borough pursuant to N.J.S.A. 40:55D-12.c., and publication of the notice of public hearing in this matter in accordance with the law.

4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

6. The Applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The Applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

7. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein.

8. The Applicant agrees to comply with all of the understandings, conditions, agreements, stipulation, and acknowledgments as set forth above under "Findings of Fact".

WHEREUPON a motion was made by Board member Carfagno, which was seconded by Board member Schweigart, at a meeting of the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, held on May 20, 2008, with respect to the above referenced Application, to grant a Use Variance and Waiver of formal Minor Site Plan Approval, to the Applicant, with the following Board members voting in favor of the motion: Schweigart, Outten, Carfagno, Mc Henry, Schmidt, Faramelli (Alternate Member # 1) and Giordiano, Jr. (Alternate Member # 4). Mayor Grant had recused himself from participating insofar as this Application involves a Use Variance and the Board had to reconfigure itself into a Zoning Board of Adjustment, thereby eliminating the participation of the Class I and Class III members. There were no votes in the negative. The following Board members were absent: Garozzo, Alexson, Watson, Mitchell (Alternate Member # 2), and Pool (Alternate Member # 3). There were no abstentions

THIS RESOLUTION WAS ADOPTED at a meeting of the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, held on June 17, 2008, as a memorialization of the action taken by the Board on the above referenced Application at the Board's meeting and public hearing held on May 20, 2008.

**EAST GREENWICH TOWNSHIP COMBINED
PLANNING/ZONING BOARD OF ADJUSTMENT**

By: 

JAMES WATSON, Chairperson

ATTEST:


ANGELA L. HAGUE, Secretary

CERTIFICATION

I hereby certify that the foregoing resolution is a true copy of a resolution adopted at a regular meeting of the East Greenwich Township Planning Board, County of Gloucester, State of New Jersey, held on the 17th day of June, 2008 at the Township Municipal Building, 159 Democrat Road, Mickleton, New Jersey 08056 at 7:00 PM, time prevailing, as a memorialization of the action taken by the Board at the Board's May 20, 2008 meeting on the above cited Application.


ANGELA L. HAGUE, Secretary