

**MINUTES**

**JULY 13, 2005**

**BOARD OF ADJUSTMENT**

**TOWNSHIP OF CHATHAM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Mr. Dalziel, called the meeting to order at 7:32 P.M.

He then read the following statement:

Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Morris County Daily Record and Chatham Courier and by filing a copy with the Municipal Clerk, all in January 2005.

**ROLL CALL**

On a call of the roll the following were present:

Lawrence Dalziel, Chairman  
James Matthews, Vice Chairman  
Joseph Cooney, Member  
Parker Godwin, Member  
Therese Hough, Member  
Peter Pizzi, Member  
Jesse Benton, Member

Timothy Walters, 1<sup>st</sup> Alternate  
Deborah Nelson, 2<sup>nd</sup> Alternate

Francis Banisch, Township Planner  
Richard Schommer, Jr., Board Engineer  
Lewis Wilson, Board Attorney  
Cynthia Phillips, Recording Secretary

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**RESOLUTION OF MEMORIALIZATION**  
**RICHARD & DEBORAH HENNESSY**

33 Buxton Road  
Block 62, Lot 99

**#03-62-99**

**Extension of Board Approval**

The Board of Adjustment memorialized the annexed Resolution for Richard and Deborah Hennessy, Application No. 03-62-99, as written, on motion by Mr. Godwin and seconded by Mr. Benton.

A roll call vote was taken. Those in favor: Mr. Walters, Mr. Benton, Mr. Godwin, Mr. Pizzi, Mr. Cooney, Ms. Hough and Mr. Matthews. Those opposed: None.

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Mr. Godwin made a motion to approve an extension of time for decision to 9/15/05 for Christian and Joan Mogelvang, Application No. 04-88-9, which was seconded by Mr. Walters.

A roll call vote was taken. Those in favor: Mr. Benton, Mr. Godwin, Mr. Pizzi, Mr. Cooney, Ms. Hough, Mr. Matthews and Mr. Dalziel. Those opposed: None.

Mr. Matthews made a motion to approve an extension of time for decision to 9/15/05 for St. Hubert's Giralda, Application No. 04-142-4.01, which was seconded by Mr. Cooney.

A roll call vote was taken. Those in favor: Mr. Benton, Mr. Godwin, Mr. Pizzi, Mr. Cooney, Ms. Hough, Mr. Matthews and Mr. Dalziel. Those opposed: None.

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**RESOLUTION OF MEMORIALIZATION**

**ANTONIO DEMATOS**

1A Lake Road  
Block 130, Lot 16

**#04-130-15**  
**Bulk Variances**  
**Cond. Use Variance**

Present: Antonio Dematos, applicant

Mr. Dalziel stated that the applicant had submitted revised plans marking the description of the meets and bounds of the sewer easement between the owners and the Township which was marked into evidence as **EXHIBIT A-29**. He added that the approved 2½ story garage addition had been moved back an additional 2.3 feet in from the property line in order to allow that easement to exist. He then questioned the distance of the second floor overhang from the sewer easement, which was not indicated on the revised plans.

Mr. Antonio Dematos, applicant, was previously sworn. He stated that the foundation and the first floor of the addition would not encroach on the easement and that the encroachment of the overhang is small. He added that he had informed the Township Committee that the overhang would encroach slightly on the easement, but their main concern was the location of the foundation and the first floor of the addition.

Mr. Wilson stated that the Board would need to know the correct dimensions for the overhang to ensure that the approved Resolution is accurate.

A discussion followed about the exact distance of the approved second floor overhang from the sewer easement. It was determined that Mr. Dematos did not have that calculation and that the Resolution of memorialization would be carried to the 7/21/05 meeting to afford Mr. Dematos ample time to provide the correct calculations required by the Board.

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**CHRISTOPHER & LAURIE SAUL**

6 Aberdeen Road  
Block 117, Lot 17

**#04-117-17**  
**Bulk Variances**

Present: Christopher Saul, co-applicant  
Maria DeCosimo, licensed professional architect

This is a continued hearing.

Proof of service was previously submitted.

Mr. Christopher Saul, co-applicant, and Ms. Maria DeCosimo, licensed professional architect, were previously sworn.

Mr. Walters read the Board site visit report, dated 7/9/05, which was marked into evidence as **EXHIBIT A-23**.

Mr. Dalziel stated that the applicant had submitted revised plans to the Board on 7/1/05 with changes to pages, 1, 2, 10 and 11. He further stated that, at the site visit, there was some discussion about the height measurement for the structure, which must be taken 15 feet from the new foundation.

Ms. DeCosimo stated that there would be no two story encroachment into the rear yard setback and that the first story would encroach into the rear yard. She explained that the 15 foot delineation for height was taken from the last point of the structure, which was point of the deck. She added that the dwelling would be within the required height regulation and that the deck is the furthest and lowest point on the property. She further added that she took the measurement from the corner of the proposed addition.

In response to Mr. Dalziel, Ms. DeCosimo stated that the grade is lower at that point on the property. She then presented and described a reduced version of drawing 11 of the submitted revised plans dated 6/30/05 which clarified the height in relationship to the first level of the dwelling and was marked into evidence as **EXHIBIT A-24**. She reiterated that the 15 foot grade elevation was taken from the corner of the deck.

In response to Mr. Schommer, Ms. DeCosimo stated that the measurement point she used is indicated on the plans.

In response to Mr. Dalziel, Ms. DeCosimo referred to page 2 of the revised plans and explained that the deck comes out at the lowest grade point on the property.

Ms. DeCosimo stated that the elevation on the property could easily be changed when the yard is excavated.

Mr. Matthews questioned if calculations would be provided at both pre- and post-construction.

Mr. Dalziel clarified that the applicant would need to provide the calculation for the lowest point on the property at pre-construction if fill is being added or at post-construction if fill is being removed.

Ms. DeCosimo stated that her client would use any extraneous fill at other locations on the property.

Mr. Dalziel stated that the Board is questioning whether or not there is a need for a height variance. He added that the calculations need to be accurate for the Building Department as well as the Board.

Mr. Schommer stated that the structure conforms to the definition required under the ordinance.

A discussion followed concerning the location of the lowest point 15 feet from the structure and whether it would be lower than the 332 elevation.

Mr. Walters stated that the issue was moot if the lowest point on the property is 15 feet from the structure.

In response to Mr. Matthews, Mr. Saul stated that there is gravel under the existing deck.

In response to Mr. Dalziel, Ms. DeCosimo stated that the location of the doors to the basement is shown on drawing 7 of the submitted plans.

Mr. Schommer stated that the height of the structure from the highest point to 15 feet from the foundation measures 34.2 feet, which is below the 332 elevation. He further stated that, with 10 inches to spare, the structure would comply even with the worst case scenario. He added that the point within 15 feet of the deck is lower than the 332 elevation and also complies even with the worst case scenario. He further added that the applicant must *not* reduce the grade in that area.

In response to Mr. Dalziel, Mr. Schommer stated that the applicant would be required to submit a lot grading plan.

Mr. Saul stated that the entrance door depicted on page 11 of the submitted plans should be moved over to the left. He explained that the drawing contained a graphic error and that there would be nothing on the deck wall.

Mr. Matthews clarified that the applicant is seeking approval only for a front yard setback variance.

Ms. Hough questioned the reason why the applicant can't work within setbacks so as to be in compliance.

Ms. DeCosimo stated that the front yard setback on Aberdeen Road is an existing condition.

Ms. Hough stated that she was referring to Sandy Hill Road.

Ms. DeCosimo stated that the layout of house and where it is situated presented a difficult design situation.

Ms. Hough stated that she believed the applicant could work around the design constraints and be in conformance.

Ms. DeCosimo disagreed with Ms. Hough. She stated that the proposed design provides sufficient flow and circulation through the house and that conforming to the ordinance requirements would result in a long, linear path through the house, similar to a railroad track. She added that the proposed design would also allow her client to retain the trees on his property.

Mr. Pizzi stated that there is already a 31.3 foot intrusion into the setback and an additional 7.8 feet further down Sandy Hill Road would not be more intrusive. He added that, in his opinion, the design allows for a more efficient use of space and is aesthetically pleasing.

Ms. DeCosimo stated that the materials for the proposed addition would match the existing house, and that she believed the proposed area of encroachment would not be obtrusive. She added that the proposed addition would not be in violation in any other location on the property and that the addition must be placed to one side of the existing dwelling because of the location of the driveway and the garage.

Mr. Dalziel stated that he believed that the site visit was beneficial because the Board could see the existing conditions on the property. He added that he believed the applicant and his architect had done a nice job of integrating the design into the site and making the addition less obtrusive.

The meeting was opened to the public for questions or comments. There being none, the meeting was closed to the public.

Mr. Pizzi made a motion to approve the application which was seconded by Mr. Benton.

A roll call vote was taken. Those in favor: Mr. Benton, Mr. Godwin, Mr. Pizzi, Mr. Cooney, Ms. Hough, Mr. Matthews and Mr. Dalziel. Those opposed: None.

Mr. Dalziel informed the applicant that the Resolution of Memorialization would take place at the 8/10/05 meeting.

The application concluded at 8:40 P.M.

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**NEW CINGULAR WIRELESS PCS**

Shunpike Road  
Block 84, Lot 3

**#05-84-3**  
**Use Variance**  
**Bulk Variance**  
**Prelim./Final Site Plan**

Present: Renu Shevade, attorney of the applicant  
Michel Kataria, radio frequency engineer  
Anthony Suppa, licensed professional engineer  
Timothy Kronk, licensed professional planner

Proof of service was submitted.

Ms. Renu Shevade, attorney of the applicant, stated that her client is seeking approval to place an array of 12 antennas on an existing PSE&G transmission tower and to install equipment cabinets on the subject property, which is located in the R-3 zone.

Mr. Michel Kataria, radio frequency engineer, Mr. Anthony Suppa, licensed professional engineer, and Mr. Timothy Kronk, licensed professional planner, were sworn. Mr. Kataria reviewed his educational and professional credentials and was accepted by the Board as an expert witness. He explained that New Cingular Wireless is licensed by the FCC to provide coverage in Morris County and that he designed the site to meet those requirements. He then presented and described a Coverage Map of the area depicting the existing radio frequency level of coverage in the Township which was marked into evidence as **EXHIBIT A-21**. He explained that the proposed site is located near Rose Terrace and across from Gloria Drive on the south side of Shunpike Road. He further explained that there are other existing sites in the Township which contain AT&T and Cingular antennas. He stated that he is familiar with the sites at the Fire Department in Green Village and the legal building near the Getty station. He further stated that his client is seeking to fill in a gap of about one mile on Shunpike Road and south, where subscribers often send and receive “bad” calls.

Mrs. Nelson questioned if the subject property contained the only tower in the area that was suitable for the proposed antennas.

Mr. Kataria stated that there are other towers in the area which would be suitable; however, it was necessary to be as close to Shunpike Road as possible to ensure the widest range of coverage. He added that the tower located to the north of the subject property is in the wetlands and would not be suitable.

In response to Mr. Pizzi, Mr. Kataria stated that -85 DPM (decibel per milliwatt) is the benchmark for reliable signal power and that anything below that level is considered unreliable or bad quality coverage. He added that the coverage level on Shunpike Road is well below that threshold. He then presented and described a display board depicting the existing and proposed radio frequency coverage with the antennas which was marked into evidence as **EXHIBIT A-22**. He noted that the radio frequency signal would be dependent on the amount of vegetation in the area and the elevation of the tower.

In response to Mr. Matthews, Mr. Kataria stated that the coverage level numbers are generated through a computer program. He explained that his team drives through the area and collects signal data which is then entered into the computer. He further explained that the computer program then generates a model or benchmark for the required coverage. He added that he is "98% sure" that the proposed antennas would provide the required coverage for the area, although he could not testify that the antennas would cover Southern Boulevard. He stated that the antennas would be placed at a height of 127.5 feet in order to achieve the required coverage.

In response to Mr. Matthews, Mr. Kataria stated that the height of the antennas is a compromise because of the structural load of the tower.

In response to Ms. Hough, Mr. Schommer stated that the height of the antennas is a compromise because of factors such as engineering and the proximity of the neighboring residential properties. He explained that the antennas must be kept as low as possible yet still meet the coverage needs of the applicant.

Mr. Kataria noted that there must also be an adequate separation between the antennas and the transmission lines.

Ms. Hough noted that the antennas must also be located above the high tension lines.

In response to Mr. Matthews, Mr. Kataria stated that there are no other Cingular or AT&T antennas existing at the site.

In response to Mr. Schommer, Mr. Kataria stated that the proposed antennas would provide a better quality of signal strength than what currently exists in the area.

In response to Mr. Pizzi, Mr. Kataria stated that most wireless carriers use –85 DPM as the signal standard.

Mr. Schommer agreed that –85 DPM is typically used in establishing good service for Cingular.

In response to Mr. Godwin, Mr. Kataria stated that the signal strength varies somewhat according to the type of wireless service.

Mr. Banisch questioned if locating the antennas on a tower to the south would diminish the coverage.

Mr. Kataria stated that the residential properties are located closer to the south tower and that the subject tower is more shielded.

Mr. Wilson questioned if there would be any degradation of signal if the antennas were installed at the height of the tower or lower.

Mr. Kataria stated that the presence of the power lines would seriously impact the signal strength if the antennas were located lower than the height proposed. He then presented and described a display board depicting composite radio frequency coverage if the antennas were located at a height of 60 feet on the tower which was marked into evidence as **EXHIBIT A-23**. He explained that there would be no viable calls at that level.

Mr. Matthews questioned if a similar analysis had been performed for the tower to the south.

Mr. Kataria stated that such an analysis had not been performed for the south tower. He added that the south tower would provide the necessary coverage and was not considered for other reasons.

Mr. Wilson clarified that the two height options for the location of the proposed antennas were 60 feet or 127.5 feet.

In response to Mr. Benton, Mr. Schommer stated that, according to the EMF study submitted to the Board, the proposed antennas would comply with the FCC standards for maximum exposure. He added that the exposure level would be less than 1% of the limit, which would be within the safety parameters.

Mr. Kataria stated that the power exposure level is 1 milliwatt per centimeter squared, which is less than 1% of the FCC limit.

In response to Mr. Dalziel and Mr. Benton, Mr. Kataria stated that the exposure level is directional and falls proportionately. He added that the exposure level of 1 milliwatt per centimeter squared is for a touch down point of any given distance 220 feet from the proposed antennas and 6 feet above ground level. He further added that the signal impact to the residential properties to the east would lessen as the distance from the touch down point increases.

Mr. Schommer clarified that the exposure level would be less than the maximum allowable level at the touch down point.

Mr. Kataria stated that there would be no interference from other local services in the area since they are on a different frequency band.

Mr. Dalziel questioned the need for 12 antennas when 3 antennas on a tower is the norm.

Mr. Kataria stated that there are 3 sectors which require 2 antennas for each frequency band in order to provide the necessary coverage.

In response to Mr. Dalziel, Mr. Kataria stated that the additive nature of the exposure level would depend on the frequencies and the range covered. He added that the antennas provide a fixed level of power and that, even if all 12 antennas were propagating in one direction and there were multiple carriers on the tower, the exposure level would still be well below the acceptable industry standards.

In response to Mr. Pizzi, Mr. Kataria stated that the majority of Cingular customers would use the BCS 900 frequency band and that he did not have a coverage map for the 850 frequency band. He further stated that he did not know the percentage of customers using each frequency band.

Mr. Godwin stated that he believed that AT&T Wireless, which Cingular recently acquired, had customers on both bands.

In response to Mr. Schommer, Mr. Kataria stated that, because of the blocking level, he did not believe additional antennas would be needed for the next few years. He added that he did not know when the proposed antennas would reach their blocking level because he did not know the traffic levels in the area and could not extrapolate the data for usage from other sites.

The meeting was opened to the public for questions.

In response to Ms. Janice Wilson, 30 Robin Hood Lane, Mr. Kataria stated that any signal below –85 DPM provides less than optimum service and that only Cingular Wireless would utilize the antennas for coverage one mile along Shunpike Road.

There being no further questions, the meeting was closed to the public.

Mr. Suppa reviewed his educational and professional credentials and was accepted by the Board as an expert witness.

Mr. Dalziel noted that the submitted plans indicate that the applicant is AT&T Wireless.

Mr. Schommer stated that New Cingular Wireless merged with AT&T Wireless in 11/04 and that the plans were filed prior to that time.

Mr. Suppa described the site plan as depicted on Sheet Z03 of the submitted plans. He explained that the subject property contains 1.5 acres and a 225 foot right-of-way and is located south on Shunpike Road. He further explained that the subject property contains two towers, with a landscaped island area between them, and that his client is seeking approval to install 12 antennas on the 115 foot PSE&G tower located to the rear and south of the lot. He added that a tree line is located on the easterly side of the property and residential properties with no buffer are located to the westerly side of the property. He further added that access to the site would be provided from Shunpike Road via a 12 foot wide gravel access drive leading to the back of the tower. He stated that his client is proposing to install a 12 foot by 20 foot turnaround area at that location and that a small SVU-type vehicle would visit the site once every 4-6 weeks for routine maintenance. He further stated that a small 300 square foot compound would be located in front of the tower on a concrete foundation and that a 450 square foot Fort Worth insert would be installed under the tower. He explained that the proposed compound would be set back 250 feet from Shunpike Road and that the closest residential property would be located 40 feet from the proposed compound. He then described the compound and the tower as depicted on Sheet Z05 of the submitted plans. He explained that cabinets containing radio equipment would be mounted on a 6.5 foot high, 9 foot by 18 foot concrete pad. He further explained that a Fort Worth insert would be located inside the tower which facilitates the mounting of the antennas. He added that PSE&G performs all the work on the tower for safety reasons and that the 50 inch by 10 inch by 3 inch antennas would be mounted on a 14 square foot platform which is mounted to the Fort Worth insert. He added that, according to a structural analysis performed by Paul J. Ford & Company, the tower insert with the proposed antennas is structurally sound and meets all the codes. He further added that a copy of that report would be filed with the building permit application. He stated that 200 amp service would be provided to the site through an underground land line. He further stated that no lighting is proposed for the site and that two small signs containing their name and emergency phone number would be installed at the site. He

explained that a 7 foot chain link fence would be installed around the compound. He further explained that landscaping is a potential problem at the site since PSE&G has a policy of clear cutting its properties to ensure adequate access. He added that his client would install a small amount of landscaping consisting of leather leaf and arborvitae, between the proposed compound and Shunpike Road and between the proposed compound and Robin Hood Lane. He further added that there would be no water or sewer hookups at the site and that drainage would be negligible.

Mr. Suppa stated that the issues raised in Mr. Banisch's memo dated 7/5/05 would be addressed by Mr. Kronk. He then reviewed and addressed the issues raised in Mr. Schommer's memo dated 6/3/05. He explained that panel type antennas would be installed at the site and would be within the required parameters. He further explained that the Police and Fire Departments would be able to access the facility and a silent alarm would be active at the site 24/7. He added that his client would work with PSE&G to provide adequate screening for the site.

Mr. Schommer questioned why this location was chosen if there are other suitable towers in the area.

Mr. Suppa stated that the tower to the north is 10 feet lower in elevation and is located in a wet area. He added that the south tower provides easy access to Shunpike Road.

In response to Mr. Dalziel, Mr. Suppa stated that the 5 foot wide proposed gate opposite the service drive depicted on Sheet Z05 of the plans is a pedestrian gate for equipment access and was included at PSE&G's request.

In response to Mr. Benton, Mr. Suppa stated that, although his client would monitor the construction activity at the site, PSE&G performs the work on the tower for safety reasons.

In response to Mr. Dalziel, Mr. Suppa stated that each antenna contains 2 cables for a total of 24 cables and that an outside cable bridge was required because all the cables would not fit inside the Forth Worth insert. He explained that the Forth Worth insert and the cable bridge would measure 3.5 feet end to end.

Mr. Dalziel questioned the aesthetics of the cable bridge/Fort Worth insert and stated that, in his opinion, it would visually increase the mass of the tower.

Mr. Suppa stated that the detail of the cable bridge would be added to the revised plans.

In response to Mr. Dalziel, Mr. Suppa stated that there would be no standby generator installed at the site and that the 3 cooling fans facing south toward the tower would emit noises of below 50 decibels at night, which is well below the industry standard. He emphasized that noise would not be an issue at the site. He added that the compound would contain a concrete pad with 6.5 foot high cabinets and that his client requires all the antennas and cabinets immediately. He further added that the proposed chain link fence around the compound would be 7 feet high to screen the cabinets.

In response to Mr. Matthews, Mr. Kataria stated that whip antennas cannot be used at the site because of the low elevation and capacity issues.

A discussion followed concerning the potential noise from the fans. It was determined that the fans would emit noises of less than 50 decibels, which is well below the industry standard, and would not run constantly. It was further determined that the applicant would provide information about a similar facility with a similar fan system so interested parties could experience the noise level first-hand.

Mr. Wilson questioned if the tower would structurally support another array of antennas.

Mr. Suppa stated that commenting on a hypothetical antenna addition from another carrier would be speculative on his part.

Mr. Schommer noted that any additional antennas would require Board approval.

In response to Mr. Dalziel, Ms. Shevade stated that PSE&G owns the tower and the subject property and that the Fort Worth insert would be a Cingular installation. She added that collocation of antennas on a tower is an industry standard and that carriers must maintain a 10 foot separation distance from each other.

Mr. Banisch suggested that, since PSE&G also owns the lot to the south of the subject property, it would be feasible to install the compound on the opposite side of the tower.

Mr. Suppa stated that he did not know if relocating the compound would be feasible; however, he would raise the issue with PSE&G.

The meeting was opened to the public for questions.

Mr. Alan Anderson, 66 Pine Street, questioned why the antennas and compound could not be located off Pine Street since PSE&G has an easement in that area.

Mr. Suppa stated that site selection concerns would be answered through testimony from a site acquisition expert. He then indicated the location of Mr. Anderson's house in relation to the tower on the plans. He added that he would provide more information about the noise at the site at the next hearing. He further added that the equipment cabinets would be screened and that the color of the antennas would match the tower.

In response to Ms. Celeste Fondaco, 299 Shunpike Road, Mr. Suppa stated that her property is approximately 165 feet from the leg of the tower.

In response to Ms. Janice Wilson, 30 Robin Hood Lane, Mr. Suppa stated that the existing tower is approximately 38 feet from her property line and that the proposed compound in front of the tower would be the same distance. He stated that the height of the concrete pad with the cabinets on it would be approximately 7 feet. He added that there are no other sites in the area where his client could "piggyback," and that the options are either to collocate or build a new tower.

Mr. Wilson noted that a height variance would be required because the proposed fence would exceed the allowable height of 6 feet. He stated that the public notice contained the standard catch-all for any additional relief required.

There being no further questions, the meeting was closed to the public.

Mr. Dalziel announced that the Board site visit would take place on 8/6/05 at 9:30 A.M. He then announced that the application of New Cingular Wireless PCS, No. 05-84-3, is carried to the 8/18/05 hearing with no further notice.

Mr. Pizzi made a motion to adjourn the meeting which was seconded by Mr. Walters. All were in favor.

The meeting was adjourned at 11:05 P.M.

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Cynthia L. Phillips  
Board of Adjustment Recording Secretary