

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
WEDNESDAY, JUNE 22, 2011, 7:30 P.M.**

Present: Bruce Kmosko
Cathleen Lewis
Leona Maffei
Sam Pangaldi, Alt. #2
Stephen Brame, Vice Chairman
Peter Kremer, Chairman

Absent: John Gladwell, Alt. #1 (Absent/excused)
Charles Lavine (Absent/excused)
Frank Scangarella (Absent/excused)

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slaugh, P.P., AICP, Planning Consultant, Clark•Caton• Hintz
David M. Roskos, Attorney, Sterns & Weinroth
Sara A. Summiel, Recording Secretary

1. Statement of Adequate Notice

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers.

2. Resolution

Resolution of Memorialization 12-11z approving Preliminary and Final Site Plan Application No. SP-4/05, Cellco Partnership, d/b/a Verizon Wireless, Nextel Communications, Cingular Wireless and SprintPCS for Site Plan Approval, 3730 Lawrenceville Road, Tax Map Block 7001, Lots 54 and 55.

Vice Chair Brame moved and Mrs. Maffei seconded to approve Resolution No. 12-11z with Amended Conditions.

Vote:

AYES: Kmosko, Maffei, Pangaldi, Brame, Kremer
ABSENT: Gladwell, Lavine, Scangarella
INELIGIBLE TO VOTE: Lewis

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3. **Application No. ZB-14/10 & SP-11/10 (SIMONE INVESTMENT GROUP, LLC), Bulk Variance, 100 Federal City Road, Tax Map Page 27.03, Block 2701, Lot 81.01. (Public Comment Closed)**

The hearing was recorded. Jurisdiction continued from June 1, 2011.

Also present was Susan Kardasz, Certified Court Reporter for the applicant. Copy of Transcript is available via request to the applicant.

Michael T. Hartsough, Esq., represented the applicant.

Mr. Roskos stated that this meeting is for the Board's deliberations only. He proceeded to review the process with regard to the applicant's Use Variance request that will require five (5) affirmative votes based on the evidence placed on the record.

Mr. Roskos reviewed the list of Board Members Attendance and stated that members who have missed meetings have reviewed the entire transcript of missed meetings. The following members: Mrs. Lewis, Vice Chair Brame and Chair Kremer have signed and provided required Affidavits. (See Attachment No. 1)

A discussion took place by Mr. Roskos and the Board with regard to a threshold issue raised by Mrs. Maffei, in that the applicant did not seek in its application an interpretation of the Ordinance, but instead filed an application request for a Use Variance to permit the proposed residential detox use in the PO Zone. Mr. Roskos proceeded to state that the applicant did advance the idea that the proposed use should be permitted under the PO Zone and that the application was not formally amended. In addressing the granting of the Use Variance and the concept of a residential detox permitted use, Mr. Roskos requested Mr. Slaugh to review, for clarification, the Professional Office Zone Text. Therefore, Mr. Slaugh referred to Section 416 Professional Office District and explained the Purposes and Permitted Uses.

Mrs. Maffei addressed the zoning history of the proposed site and stated that there is no designated zone for a detox center. She proceeded to question whether the proposed application should be considered a use variance. Mr. Slaugh referred to his Report dated June 1, 2011, reviewed the distinction from the Sleep Center and stated his executive opinion that the proposed request is a Use Variance application. In addition, he stated that New Jersey Laws does not require every Use to be accommodated in a Municipality. He explained that the closest use to the proposed use is a Residential Healthcare facility.

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Mr. Roskos made reference to the 2011 Edition of Land Use Ordinance 5-2.3 with regard to Permitted and Prohibited Uses. He did not believe that the proposed Use was listed among the Permitted Uses in the PO Zone. A discussion followed by the Board with regard to the residential component. Mr. Roskos recommended the Board to move forward and act upon the application, as a Use Variance. In addition, he suggested that the Board evaluate whether the proposed Use is an inherently beneficial use.

Chair Kremer addressed the legal basis and proceeded to read his detailed summary regarding special consideration, question of need, capacity to accommodate the demand, and the site's suitability. In his closing summary, he did not feel the proposed use to be a non-profit, or a charitable enterprise, or inherently beneficial. Also, he stated that the applicant did not demonstrate substantial need and felt that the proposed use would not be an appropriate 24-hour operation for the nearby residential area.

Vice Chair Brame stated that he agreed with Chair Kremer in that the proposed use is not inherently beneficial. He felt that the scope of service was well beyond the borders of Lawrence Township and Mercer County. He felt that it was difficult to reconcile the use as a value to Lawrenceville or Mercer County since potential clients would be coming from other areas of the Northeast Corridor. He stated that the exclusivity issue did not demonstrate a community use; and therefore, felt that no inherently beneficial use was established.

Mrs. Maffei read her prepared statement and gave an overview of the proposed use from the testimony given by the applicant and professionals. In her closing summary, she stated that Lawrence should be an example of a beacon of light and fine the proposed detox center to be an inherent beneficial use for the surrounding neighborhood.

Mrs. Lewis expressed her struggles with regard to the continued discussions about the type of acceptable payments and lack of available treatment to patients because of their Medicare or Medicaid coverage. She stated that there were alternative treatment facilities in Mercer County that would not turn clients away. She addressed the Master Plan and stated that the use would be too intense for the proposed setting since it would border a residential area and found no compelling argument to substantiate the proposed use. In her closing summary, she did not feel the proposed use would be inherently beneficial to the Community.

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Mr. Pangaldi addressed the proposed residential setting and the short period of time the client's would stay for observation. He stated that there are a lot of individuals in need of help in Lawrence Township and Mercer County. He stated that any need for help or treatment would be an inherently beneficial use. He addressed the PO Zone and stated that the medical component could be worked out. He reviewed the concerns stated by the Community, but did not feel he could vote on speculation only. In his closing summary, he stated that he could not vote against the proposed use.

Mr. Kmosko stated that he concurred with Chair Kremer and Vice Chair Brame and felt that the proposed use was not inherently beneficial to the Community. He stated his concerns that the poor would be excluded from using the proposed detox center. In his closing summary, he stated that the use would not be inherently beneficial.

Mr. Roskos addressed the inherently beneficial use and reviewed the Board's comments. He requested the Board to comment on the alternative Medici approach and whether the Use Variance could be granted to serve the general welfare. A discussion took place by Mr. Roskos and the Board regarding the Zoning, Master Plan and whether the proposed site is suitable for the proposed use. A discussion followed by Vice Chair Brame with regard to the existence of other alternatives that can provide the same or similar services. Mrs. Maffei and Mr. Pangaldi stated that the site is suitable for the proposed detox center. Mrs. Lewis and Mr. Kmosko stated that the site is not suitable and would not be beneficial to the Community.

Vice Chair Brame moved and Mr. Kmosko seconded to Reject the Use Variance.

Vote:

**AYES: Kmosko, Lewis, Brame, Kremer
NAYES: Maffei, Pangaldi
ABSENT: Gladwell, Lavine, Scangarella**

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Exhibits: None

Witnesses: None

Placed under oath were Township Professional, Brenda Kraemer, P.P and Brian Slaugh, P.P

4. Old Business/New Business/Correspondence: None
5. Adjournment;

There being no further business to come before the Board, the meeting was adjourned at 9:14 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,

Sara A. Summiel



Sara A. Summiel

Recording Secretary

MINUTES APPROVED: December 21, 2011