1. CALL TO ORDER

2. ANNOUNCEMENTS & CORRESPONDENCE

- **ZHB#2020-06**: Crown Castle, 400 Stenton Avenue, Plymouth Meeting, PA; Parcel #65-00-06370-50-4, Block 052; Unit 009; AA-Residential District. By letter dated March 6, 2020, the applicant’s attorney is requesting a continuance to a May hearing date to be determine, provided that the application is heard no later than May 13, 2020.

- Applicants are requested to remove all signs after the hearing has concluded and dispose of them.

3. ZONING HEARING BOARD APPLICATIONS

- **ZHB#2020-05**: Christopher Quarino and Natalie DiFulvio, 4038 N. Warner Road, Lafayette Hill, PA; Parcel #65-00-12454-00-9; Block 022A; Unit 008; B-Residential District. The applicants are proposing to construct a 1-story, 160 s.f. addition for additional kitchen/living space. The following relief is requested: Variance from Section 116-202.B. to allow less than the 10’ minimum/25’ required aggregate side yard. The renovations will maintain the 10’ minimum side yard requirement, however it will not conform with the 25’ aggregate requirement; the proposed aggregate total will be 21’-3”. The side yard setback is regulated by this section of the Zoning Ordinance because this house was built prior to June 23, 1966 (it was originally built in 1950).

4. ADJOURNMENT
March 6, 2020

via E-mail and regular mail

Charles L. Guttenplan, AICP
Director of Planning/Zoning
Whitemarsh Township
616 Germantown Pike
Lafayette Hill, PA 19444

Re: Zoning Hearing Board Application
Crown Castle/Joshua House
400 Stenton Avenue, Whitemarsh Township, PA
Our File No.: 5984-19

Dear Charlie:

As you are aware, I represent Crown Castle in regard to its pending Zoning Hearing Board application for 400 Stenton Avenue, Whitemarsh Township, Montgomery County, Pennsylvania (“Property”).

Crown Castle is requesting a continuance as we review certain matters related to HARB issues and securing the SHPO determination. Crown Castle is agreeable to waiving the time requirements contained within the Municipalities Planning Code pertaining to the commencement and conduct of the Zoning Hearing Board hearings, provided that the application is heard no later than May 13, 2020 (to allow it to be placed on either the May 6 or May 13 agenda). This continuance also covers the Township’s obligation to process telecommunications applications within the time frame established by the Declaratory Ruling of the Federal Communications Commission issued on November 18, 2009. Therefore, please accept this letter as confirmation of the waiver of all applicable time requirements applying to this application through and including May 13, 2020.

Thank you for your attention to this matter. If you require any further information, please do not hesitate to contact me.

Very truly yours,

Nicholas A. Cucé, Jr.

NAC/kw
Enclosures
cc: Michael Furey, Esquire, Zoning Hearing Board Solicitor (via e-mail)
Sarah Brown (via e-mail)
ZHB APPEAL #2020-05
SUMMARY

APPLICANTS: Christopher Quarino & Natalie DiFulvio

PROPERTY LOCATION: Parcel #65-00-12454-00-9
Block 022A, Unit 008
4038 N. Warner Road
Lafayette Hill, PA 19444

ZONING DISTRICT: B-Residential District

SUMMARY OF RELIEF REQUEST:

The applicants are proposing to construct a 1-story, 160 s.f. addition for additional kitchen/living space. The following relief is requested:

1. **Variance from Section 116-202.B.** to allow less than the 10' minimum/25' required aggregate side yard. The renovations will maintain the 10' minimum side yard requirement, however it will not conform with the 25' aggregate requirement; the proposed aggregate total will be 21'-3". The side yard setback is regulated by this section of the Zoning Ordinance because this house was built prior to June 23, 1966 (it was originally built in 1950).

PRIOR DECISIONS:

None

Respectfully Submitted,

[Signature]

Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer
APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: 2020-05

Applicant/Appellant: Christopher Quarino & Natalie DiFulvio
Address: 4038 N Warner Road, Lafayette Hill, PA 19444
Phone #: [Redacted] Cell Number: [Redacted] E-Mail: [Redacted]

Owner: Christopher Quarino & Natalie DiFulvio
Address: 4038 N Warner Road, Lafayette Hill, PA 19444
Phone #: [Redacted] Cell Number: [Redacted] E-Mail: [Redacted]

Location of the Property Involved: 4038 N Warner Road, Lafayette Hill, PA 19444
Block #: 022A Unit #: 008 Parcel #: 65-00-12454-00-9

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):
This application is being presented to appeal the zoning code referenced as 116-2028 in order to construct a 1 story, 160 sf addition. The proposed use of the addition is additional kitchen/living space. The side yard setback requirement is 10 ft. per side with a 25 ft. aggregate requirement. The renovation plans will maintain the 10 ft. per side requirement, however do not conform with the 25 ft aggregate requirement. The proposed aggregate total is 214'. Therefore, the appeal is for consideration of an additional 3'8.

GROUNDS FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):
**Attach additional sheets if necessary
In order to renovate/expand our kitchen for modern day use and without taking away from already limited living space we require adding square footage outwards towards our driveway from the original footprint of the home. The dwelling is located on an undersized lot and therefore the current setbacks are difficult to work within. In order to achieve the aforementioned we are requesting a variance to ordinance 116-2028.

Legal Counsel (if represented):
Address: 
Phone #: 
E-Mail: 

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following: Owner(s) of Legal Title

Owner(s) of Equitable Title

Tenant(s) with permission of Owner(s) of Title (Enclose letter attesting to same)

[Signature]
Signature of Applicant/Appellant:

[Signature]
Signature of Applicant/Appellant:

RECEIVED
JAN 21, 2020
WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

Date: 1/15/20
ZHB APPEAL #2020-06
SUMMARY

APPLICANT: Crown Castle

PROPERTY LOCATION: Parcel #65-00-06370-50-4
Block 052, Unit 009
400 Stenton Avenue
Plymouth Meeting, PA 19462

ZONING DISTRICT: AA-Residential District

SUMMARY OF RELIEF REQUEST:

Crown Castle owns a 80'-6" unipole at the property location, outside of the existing fenced equipment compound. Cellco Partnership d/b/a Verizon Wireless ("Verizon") has coverage/capacity issues in this area of the Township. In order to meet Verizon’s objectives and not propose an additional pole, Crown proposes to remove its 80'-6" unipole and foundation and replace it with an 88’ unipole which would house the existing T-Mobile antennas and the proposed Verizon antennas. Additionally, the proposed unipole will be relocated within the fenced equipment compound, which will not be expanded.

The following relief is requested:

1. **Variance from Section 116-48.** (Permitted Uses in the AA-Residential District) to allow the placement of the wireless telecommunications facility in an AA Residential District.

2. **Variance from Section 116-302.A.(I) to allow for the relocation of a wireless telecommunications facility within the AA-Residential District and within 500 feet of a lot in residential use/district boundary.**

3. **Variance from Section 116-302.A.(4)(c) to allow the relocated telecommunications facility to be within 500 ft. of a lot in residential use or residential district boundary.**

4. **Variance from Section 116-302.G.(1) to allow the installation of ground-mounted equipment above ground.**

PRIOR DECISIONS:

ZHB #2005-38 (Flagpole/Public Utility Facility)--Withdrawn
Settlement Agreement 10.1.1998 of case ZHB #97-34 (Proposed Cell Tower)

Respectfully Submitted,

Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer
APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: 080-50

Applicant/Appellant: Crown Castle
Address: 6325 Ardrey Kell Road, Suite 600, Charlotte, NC 28277
Phone #: Cell Number: E-Mail:

Owner: Joshua House Associates
Address: 400 Stenton Avenue, Plymouth Meeting, PA 19462
Phone #: Cell Number: E-Mail:

Location of the Property Involved: South of the intersection of Joshua Road & Stenton Avenue
Block #: 52 Unit #: 9 Parcel #: 65-00-06370-50-4

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):
Relocation of a wireless telecommunications facility already existing on the property with additional carrier. See Exhibit "A" attached hereto and incorporated by reference.

GROUNDs FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):
**Attach additional sheets if necessary
See Exhibit "A" attached hereto and incorporated by reference.

Legal Counsel (if represented): Nicholas A. Cuce, Jr., Esquire
Address: 717 Constitution Drive, Suite 201, Exton, PA 19341
Phone #: 610-458-4400 E-Mail: nickc@rrhc.com

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following:

[ ] Owner(s) of Legal Title
[ ] Owner(s) of Equitable Title
[ ] Tenant(s) with permission of Owner(s) of Title
(Enclose letter attesting to same)

Signature of Applicant/Appellant:

Signature of Applicant/Appellant:
BEFORE THE ZONING HEARING BOARD
OF WHITEMARSH TOWNSHIP

IN RE: ZONING HEARING BOARD APPLICATION OF
CROWN CASTLE
JOSHUA HOUSE
400 Stenton Avenue

ADDENDUM “A” TO ZONING APPLICATION

I. BACKGROUND

The subject property is owned by Joshua House Associates and is located at 400 Stenton Avenue, Whitemarsh Township, Montgomery County, Pennsylvania. The property is further identified as Tax Parcel No. 65-00-06370-50-4 and is presently zoned AA Residential District. The property is roughly 3.07 acres in area and is improved by an existing building, parking lot and wireless telecommunications facility.

Crown Castle (“Crown”) currently owns and maintains a wireless telecommunications facility on the property consisting of a 80’-6” unipole that sits outside the existing fenced equipment compound – both of which are located at the E/SE corner of the parking lot.

By way of history, Omnipoint Communications Enterprises, Inc. (Now T-Mobile) in or about 1998 was denied zoning relief by the Whitemarsh Township Zoning Hearing Board to place the above-referenced facility on the subject property. The zoning Hearing Board Decision was appealed to the U.S. District Court for the Eastern District of Pennsylvania. At that point, the parties (Applicant and Township) entered into a Settlement Agreement and the facility as described above was constructed and has remained for over 20 years.

Cellco Partnership d/b/a Verizon Wireless (“Verizon”) has coverage/capacity issues in this area of the Township. In order to meet its objectives and not propose an additional pole in this area of the Township, Verizon seeks to utilize this existing facility. To that end, Crown proposes to remove its 80’-6” unipole and foundation and replace it with an 88’ unipole which would house the existing T-Mobile antennas at 73’ (centerline) and the proposed Verizon antennas at 83’ (centerline). The current unipole is 1’-3” (at the pole) and 2’-3” (at the T-Mobile antenna shroud). The proposed unipole will be 4’ in width. All antennas will remain inside the unipole and screened from view. Additionally, the proposed unipole will be relocated within a fenced compound offering additional security and assisting with the health, safety and welfare of the community. Verizon’s equipment and standby generator will be housed within the fenced compound. There will be no expansion of the compound.
II. REQUEST FOR RELIEF

Applicant requests the following:

1. The grant of a variance from Section 116-48 (Permitted Uses) of the Whitemarsh Township Zoning Ordinance, as amended, (the "Ordinance") to allow for the placement of the wireless telecommunications facility in an AA Residential District.

2. The grant of a variance from Section 116-302(A)(1) to allow for the relocation of a wireless telecommunications facility within the AA Residential District and within 500 feet of a lot in residential use/district boundary.

3. The grant of a variance from Section 116-302(A)(4)(c) of the Ordinance to allow the relocated telecommunications facility to be within 500 ft. of a lot in residential use or residential district boundary.

4. The grant of a variance from Section 116-302(G)(1) to allow the installation of ground-mounted equipment above ground.

5. Applicant requests any and all additional variances, relief or waivers as may be determined by the Zoning Hearing Board.

III. REASONS WHY ZONING RELIEF SHOULD BE GRANTED

The proposed use is suitable for the Property and is in the best interests of the community and the requested relief should be granted for the following reasons:

1. The proposed facility is necessary in order for Applicant to provide telecommunications service in accordance with its Federal Communications commission license and the Telecommunications Act of 1996.

2. The proposed use will not substantially injure or detract from the use of neighboring properties or from the character of the neighborhood and the use of the properties adjacent to the Property will be adequately safeguarded.

3. The proposed use will serve the best interest of the Township, the convenience of the community, and the public welfare by making wireless telecommunications service available and will foster competition among the other approved wireless providers.
4. The proposed use will be entirely consistent with the logical, efficient and economical extension of public services and facilities within the Township including police and fire protection.

5. The proposed facility will be designed in accordance with all applicable safety and industry standards, and will not endanger the safety of persons or property.

6. The proposed use will not over crowd the land or create an undue concentration of population.

7. The proposed use will not impair an adequate supply of light and air to adjacent property.

8. The proposed facility will be fully automated and unattended on a daily basis and will be visited only for periodic maintenance or emergency repair.

9. The proposed use will not adversely affect transportation or unduly burden public facilities.

10. The relief, if authorized, will represent the minimum relief necessary in order for Applicant to provide wireless telecommunications services and will represent the least modification possible of the regulation in issue. The height of the telecommunications facility is the minimum height necessary to perform its function.

11. The telecommunications facility complies with all applicable standards established by the Federal Communications Commission.

12. The telecommunications facility shall not cause radio frequency interference with other communications facilities located in the Township.

13. The applicant is licensed by the Federal Communications Commission to operate the telecommunications facility.

14. The telecommunications facility shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation Regulations.

15. The surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances by the proposed use or change. No signs or lights will be mounted on the telecommunications facility.

16. The telecommunications facility will be maintained in a safe manner in accordance with the requirements of the Township's Building Code.

Page 3 of 4

ADDENDUM “A”
For all of the reasons stated above, Applicant requests the above referenced relief and any other relief the Board deems necessary.

Detailed Plans of the proposed use have been submitted to the Zoning Officer, to be incorporated by reference herein, for consideration before the Zoning Hearing Board.

Respectfully submitted,

RILEY RIPER HOLLIN & COLAGRECO

Date: 1/24/2020

By: [Signature]

Nicholas A. Cucé, Jr., Esquire
Attorney for Applicant
GENERAL NOTES

1. CASTING SITE FEATURES AND PROPERTY LINE BASED ON A DRAWING BY

2. TRUE NORTH DETERMINED AS REFERENCED IN NOTE 2 (APPROXIMATE).

3. THE EXISTING FACILITY IS UNAFFECTED AND THEREFORE DOES NOT

4. THE EXISTING FACILITY IS NON-INVASIVE, AND WILL REMOVE NO ADDITIONAL

5. THE EXISTING FACILITY DOES NOT INCLUDE EXHAUST OR ANY

6. DESIGN AND CONSTRUCTION OF ANTENNA SUPPORTS SHALL CONFORM TO

7. CONSTRUCTION OF HD ANTENNA SUPPORTS SHALL COMPLY WITH 31686

8. NO COMMERCIAL OR RETAIL SIGNS ARE PROPOSED.

9. NO SITE-REGULATED STEEP SLOPES ARE PROPOSED TO BE DISTURBED.

SITE PLAN

SCALE: 1" = 30'

SITE PLAN

C-1
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OMNIPOINT COMMUNICATIONS ENTERPRISES, INC.

Plaintiff,

v.

ZONING HEARING BOARD OF WHITEMARSH TOWNSHIP

Defendant.

CIVIL ACTION

NO. 98 - CV - 690

SETTLEMENT AGREEMENT

This Settlement Agreement is made as of this 26th day of November, 1998 by and among Omnipoint Communications Enterprises, L.P., formerly known as Omnipoint Communications Enterprises, Inc. ("Omnipoint"), the Zoning Hearing Board of Whitemarsh Township (the "ZHB") and the Township of Whitemarsh (the "Township").

WITNESSETH:

WHEREAS, Omnipoint initiated a litigation by filing a complaint captioned Omnipoint Communications Enterprises, Inc. v. Zoning Hearing Board of Whitemarsh Township, in the United States District Court for the Eastern District of Pennsylvania at docket number 98 - CV - 690 (the "Lawsuit") pursuant to which Omnipoint sought to reverse the ZHB's decision denying the application of Omnipoint to construct a tower supporting several radio antennas and install equipment for its digital personal communications system (a "PCS cell site") on a parcel of
real property at the rear of 400 Stenton Avenue in the Township (the "Joshua House Property"); and

WHEREAS, Omnipoint also initiated a litigation by filing a protective notice of land use appeal captioned Omnipoint Communications Enterprises, Inc. v. Zoning Hearing Board of Whitemarsh Township, in the Court of Common Pleas of Montgomery County, Pennsylvania at docket number 9803007 (the "Appeal") pursuant to which Omnipoint sought to reverse the ZHB's decision denying the application of Omnipoint to construct the PCS cell site at the Joshua House Property (the Lawsuit and the Appeal are sometimes herein collectively referred to as the "Litigations"); and

WHEREAS, the Joshua House Property is located in the "AA Residential" Zoning District of the Township where "Public Utility Facilities", as defined in the Whitemarsh Township Zoning Ordinance ("Zoning Ordinance"), are permitted uses by special exception pursuant to Section 116-35(C)(1) of the Zoning Ordinance; and,

WHEREAS, the Joshua House Property consists of approximately 3.5 acres of land and is identified as Tax Parcel # Block 52, Lot 9. The present improvements on the Joshua House Property consist of an historic structure which has been converted to business offices (the "Joshua House"); a commercial parking lot and a heavily landscaped and wooded area to the rear of the property; and

WHEREAS, Omnipoint proposed to erect a PCS cell site with an 80 foot high unlighted tower, without any associated building or office to the rear of the landscaped area which separates the Joshua House from an adjacent quarry operation (the "Original Site"); and
WHEREAS, Omnipoint filed an application for a hearing to the ZHB requesting a special exception and certain variances to install the PCS cell site at the Original Site; and

WHEREAS, at the conclusion of the hearing, the ZHB rendered an oral determination that Omnipoint’s proposed use constituted a Public Utility Facility under the Zoning Ordinance but denied Omnipoint’s requests for a special exception and variances to construct the PCS cell site; and

WHEREAS, after initiating the Litigations, Omnipoint entered into further negotiations with the owner of the Joshua House Property to install and operate a PCS cell site on another portion of the Joshua House Property; and

WHEREAS, Omnipoint submitted to the Township an amended site plan prepared by Edwards and Kelcey Wireless, L.L.C., dated July 24, 1997 and last revised June 15, 1998 (the “Amended Plan”), for an Omnipoint PCS cell site consisting of a 78 foot high unlighted unipole, without any associated building or office at a point on the Joshua House Property closer to the Joshua House than was the Original Site (the “Alternate Site”); and

WHEREAS, the Amended Plan and the unipole design have been reviewed by the Township for compliance with the Zoning Ordinance and the Subdivision and Land Development Ordinance of the Township and the applicable provisions of Municipalities Planning Code, 53 Pa.C.S.A. § 10100 et seq. (the "MPC"); and

WHEREAS, Omnipoint believes that an Omnipoint PCS cell site at the Alternate Site will adequately serve substantially the same area and potential personal wireless service
customers in the Township as would be served by an Omnipoint PCS cell site at the Original Site; and

WHEREAS, the Township prefers the location of a unipole and PCS cell site at the Alternate Site rather than at the Original Site; and

WHEREAS, all of the parties to this Settlement Agreement, without making or implying any admissions or concessions as to their respective positions, desire to resolve their differences amicably in order to avoid the risks, burden and expense of continued litigation;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, Omnipoint, ZHB and Township agree as follows:

1. The Township and ZHB both agree and hereby certify that the installation and operation of an Omnipoint PCS cell site constitutes a Public Utility Facility and is a use permitted by special exception pursuant to Section 116-35(C)(1) of the Zoning Ordinance.

2. The Township and ZHB both agree and hereby certify that the installation and operation of an Omnipoint PCS cell site at the Alternate Site consisting of a 78 foot unipole of substantially the same design as that depicted in the photograph attached hereto as Exhibit “A”, and installed substantially where and as depicted on the Amended Plan attached hereto as Exhibit “B”, shall be permitted pursuant to the following:

a) ZHB hereby grants a special exception under Section 116-35(C)(1) of the Zoning Ordinance;

b) ZHB hereby grants a variance from Section 116-49(F) of the
Zoning Ordinance; and
c) Township hereby grants a waiver of the requirement for Omnipoint
to obtain land development approval.

3. Omnipoint shall file for a building permit for its PCS cell site at the
Alternate Site no later than September 1, 1999.

4. Upon the filing by Omnipoint for a building permit for its PCS cell site at
the Alternate Site, the Township shall, upon presentation of an application and plans by
Omnipoint evidencing compliance with the Building Code, if any, of the Township, use its best
efforts to issue a building permit promptly and within all legal time limits and, thereafter, will
take no action which would limit and/or revoke the permit or otherwise support any challenge to
the permit so long as Omnipoint complies with Township ordinances and regulations.

Omnipoint’s sole requirement for issuance of the building permit for its PCS cell site at the
Alternate Site shall be compliance with construction standards contained in the Township’s
Building Code, if any.

5. In express reliance upon the representations and actions mentioned in
premises and paragraphs 1, 2 and 4 of this Settlement Agreement and within five (5) business
days of the execution of this Settlement Agreement by all parties, Omnipoint shall take the steps
necessary, along with ZHB, to cause the Litigations to be dismissed with prejudice by requesting
the Court in the Lawsuit to enter this Settlement Agreement as an Order and by filing a Praecipe
to Mark Case Settled, Discontinued and Ended in the Appeal.
6. Upon execution of this Settlement Agreement and except for any rights, duties or obligations created by this Settlement Agreement, Omnipoint does hereby remise, release and forever discharge ZHB and Township and each of their past and present, officers, agents, attorneys and employees from any and all manner of actions, causes of action, suits, debts, accounts, contracts, agreements, controversies, judgments, damages, claims, liabilities and demands of any nature whatsoever which Omnipoint ever had, now has, or hereafter can, shall or may have for, upon or by reason of any act, transaction, practice, conduct, matter, cause or thing of any kind whatsoever that arose or occurred prior to the date hereof and arose out of, related to or is based upon, in whole or in part:

a) the Lawsuit; or

b) the Appeal; or

c) ZHB’s decision to deny the application to construct a PCS cell Site at the Original Site.

7. Upon execution of this Settlement Agreement and except for any rights, duties or obligations created by this Settlement Agreement, ZHB and Township do hereby remise, release and forever discharge Omnipoint and each of its past and present divisions, subsidiaries, parents, affiliates, partners, limited partners, stockholders, directors, officers, agents, attorneys and employees from any and all manner of actions, causes of action, suits, debts, accounts, contracts, agreements, controversies, judgments, damages, claims, liabilities and demands of any nature whatsoever which ZHB and Township ever had, now have, or hereafter can, shall or may have for, upon or by reason of any act, transaction, practice, conduct, matter,
cause or thing of any kind whatsoever that arose or occurred prior to the date hereof and arose
out of, related to or is based upon, in whole or in part:

a) the Lawsuit; or

b) the Appeal; or

c) ZHB's decision to deny the application to construct a PCS cell Site

at the Original Site.

8. The Court shall retain jurisdiction with regard to the enforcement of any
   terms of this Settlement Agreement.

9. Each of the parties hereto represents and warrants that each has not sold,
   assigned, transferred, or conveyed any claim, demand or cause of action relating to any matter
   covered by this Settlement Agreement.

10. This Settlement Agreement shall inure to the benefit of each of the parties
    hereto and their respective heirs, executors, administrators, predecessors, successors and assigns
    and shall be binding upon each of the parties and their heirs, executors, administrators,
    predecessors, successors and assigns.

11. Each of the signatories below represents and warrants that he or she has
    the power and authority to bind the party for whom he or she is signing this Settlement
    Agreement.

12. This Settlement Agreement constitutes the sole and complete record of the
    understandings and agreements of the parties hereto with respect to the matters covered herein,
supersedes any prior agreement between the parties, and may not be modified except in a writing
signed by the parties.

IN WITNESS WHEREOF, each of the parties to this Settlement Agreement,
intending to be legally bound hereby, has executed this Settlement Agreement as of the day and
date indicated above.

ZONING HEARING BOARD OF
WHITEMARSH TOWNSHIP

[Signatures]

Chairman (Acting)

BOARD OF SUPERVISORS OF
WHITEMARSH TOWNSHIP

[Signatures]

Chairman

Vice Chairman

Member
Approved as to form:

[Signature]
Solicitor, Zoning Hearing Board

[Signature]
Solicitor, Board of Supervisors

OMNIPOINT COMMUNICATIONS ENTERPRISES, L.P., on behalf of itself and as successor in interest to Omnipoint Communications Enterprises, Inc.:

By: [Signature]
Name: Charles Johnston
Title: Chief Operating Officer
OPCS PHILADELPHIA HOLDINGS, General Partner of OMNIPOINT COMMUNICATIONS ENTERPRISES, L.P.

This case is hereby DISMISSED pursuant to the agreement of the parties set forth above, each party to bear its own costs.

SO ORDERED:

[Signature]
Anita B. Brody, J.
EXHIBIT "A"

Photograph of 78 Foot Unipole
EXHIBIT "B"

Amended Site Plan Prepared By Edwards and Kelcey Wireless, L.L.C.,
Dated July 24, 1997 and Last Revised June 15, 1998
DECISION AND ORDER

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

APPLICATION 97-34
Omnipoint Communications Enterprises, Inc. First Hearing 11/10/97 Decided 1/12/98 Copy Mailed 1/13/98

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Board decides that the monopole with communications antenna and equipment cabinet proposed to be located on a portion of the property at 400 Stanton Avenue is a public utility facility in accordance with Section 116-11 of the Whitemarsh Township Code.

2. The Special Exception in accordance with Section 116-35.C(1) necessary to allow the proposed public facility use in a residential district is hereby **denied**.

3. The variance from Section 116-49.F necessary to allow the pole to be 33 feet high is hereby **denied**.

4. The Variance from Section 116-49.E of the Code necessary to allow the pole and equipment structure to invade the rear yard by 30 feet is hereby **denied**.

/ 

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.

RICHARD K. J. WRIGHT (absent)