

**RECOMMENDATION ON THE
SPECIAL EXCEPTION & VARIANCE APPLICATION OF
Hartz/MLB - Antennas - Spec. Exception & Variances
FILE #15-572**

I. INTRODUCTION

Pursuant to Public Law 2015, Chapter 19, the New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

Applications for one special exception use and two bulk variances have been filed with the NJSEA by the MLB Network, LLC, for the premises located at 40 Hartz Way, identified as Block 54, Lot 2.02, in the Town of Secaucus, New Jersey. Said premises is located within the Hackensack Meadowlands District's (District) Light Industrial A zone. The special exception use and variances are sought in connection with the applicant's proposal to install a ground-mounted satellite antenna on the subject premises.

Specifically, the applicant is requesting special exception approval pursuant to:

1. N.J.A.C. 19:4-8.15(d)2vi(3), which states that, where a sender/receiver antenna or dish is proposed with a diameter or any dimension larger than 12 feet, it shall be considered a special exception use.

In addition, the applicant is requesting bulk variance relief from the following:

1. N.J.A.C. 19:4-8.15(d)2v, which requires that an antenna mounted on the ground shall not exceed 15 feet in height above the ground level. The applicant is proposing a ground-mounted satellite antenna with a height of 39.33 feet.

2. N.J.A.C. 19:4-8.15(d)2vi(2), which requires that the diameter or maximum dimension of the antenna shall be a maximum of 12 feet. The applicant is proposing a ground-mounted satellite antenna with a maximum dimension of 37.67 feet.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the NJSEA Offices on Tuesday, January 5, 2016. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question is identified as Block 54, Lots 1 and 2.02, and is located in the vicinity of Hartz Way and American Way in the District's Light Industrial A zone. Block 54, Lot 1 contains a mixed-use building of approximately 40,000 square feet with space allocated for broadcasting studios, office, and warehouse uses. Lot 2.02 contains a building of approximately 204,000 square feet, which is occupied by the MLB Network studio facilities. The subject lots are united as a zoning lot of record pursuant to N.J.A.C. 19:4-3.22, which allows both properties to be utilized as a single unit for zoning purposes. The total zoning lot of record area is approximately 11.8 acres.

The surrounding properties consist primarily of light industrial uses, warehouse and distribution facilities, offices, and retail uses.

In addition to broadcasting baseball-related news and events, the MLB Network facility on the subject site will soon be responsible for receiving and transmitting NHL Network programming. To accommodate this, the applicant is

proposing to install a ground-mounted satellite receiving antenna with a height of 39.33 feet and a maximum dimension of 37.67 feet on Lot 2.02 in the side yard between the two buildings. The proposed state-of-the-art ground-mounted satellite antenna will be utilized to receive transmitted signals and will be in line with eight existing ground-mounted satellite antennas, which face south in an east-west orientation. Once the new satellite antenna is operational, three existing antennas will be removed. The applicant is also proposing to install an eight-foot-high board-on-board fence to screen the base of the proposed ground-mounted antenna from adjacent properties and the American Way right-of-way (ROW). Installation of the new satellite antenna will require the removal of four (4) parking spaces. However, a parking surplus will remain upon completion of construction

B. Response to the Public Notice

A written letter of support, dated December 29, 2015, was submitted to this Office prior to the public hearing by David B. Drumeler, Esq., Secaucus Town Administrator.

III. PUBLIC HEARING (January 5, 2016)

A public hearing was held on Tuesday, January 5, 2016. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; and Ronald Seelogy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
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- A-1 "Overall Site Plan 40 & 44 Hartz Way," Drawing Number C-100, prepared by McLaren Engineering Group, dated December 2, 2015.
- A-2 "Site Plan," Drawing Number C-101, prepared by McLaren Engineering Group, dated December 2, 2015.
- A-3 Aerial photograph exhibit of 40 and 44 Hartz Way and photograph exhibit of driveway between 40 and 44 Hartz Way looking east, prepared by McLaren Engineering Group, dated December 2, 2015.
- A-4 Photograph exhibit of parking lot at 44 Hartz Way looking north towards 40 Hartz Way and photograph exhibit of parking lot at 44 Hartz Way looking northwest towards 40 Hartz Way, prepared by McLaren Engineering Group, dated December 2, 2015.

B. Testimony

Louis Rainone, Esq., of the firm, DeCotiis, Fitzpatrick, & Cole, LLP, represented the MLB Network at the hearing. The following witnesses testified in support of the application:

1. Gary T. Fippinger, Director, Facilities Mgmt., MLB Network; and
2. John M. Speer, P.E., P.P., McLaren Engineering Group.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Special Exception to permit a sender/receiver antenna or dish with a diameter or any dimension larger than 12 feet as per N.J.A.C. 19:4-8.15(d)2vi(3).

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.13(e) state in part that, *a special exception use shall not be granted unless specific written findings of fact are made based upon the evidence presented that supports the following conclusions:*

1. *The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public.*

The granting of the requested special exception to permit the installation of a ground-mounted satellite antenna will contribute to and promote the welfare and convenience of the public. The purpose of the antenna is to receive and disseminate information to the public. The proposed improvements will be consistent with the character of the existing development, which already contains several existing ground-mounted satellite antennas. Furthermore, the proposed antenna is intended to replace three existing satellite antennas. All relevant District performance standards as enumerated in N.J.A.C. 19:4-7 will be met.

2. *The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood.*

The proposed ground-mounted satellite antenna will be compatible with the surrounding land uses and will not cause substantial injury to the value of other properties in the neighborhood. Lot 2.02 is part of a

zoning lot of record, which also includes Lot 1 to the south (44 Hartz Way). A board-on-board fence will screen the base of the new ground-mounted satellite antenna from the property to the east identified as Block 56, Lot 1 (25 Enterprise Avenue North). The area in which the subject property is located consists primarily of a mix of warehouse and distribution facilities, light industrial uses, retail, and office uses. There are no residences within the immediate vicinity of the proposed ground-mounted satellite antenna.

3. *The special exception use will not dominate the immediate neighborhood in a manner that could prevent development and use of neighboring properties in accordance with the applicable regulations, in consideration of the following:*

- i. The location and size of the special exception use;*

The location and size of the proposed ground-mounted satellite antenna will not dominate the immediate area or neighborhood as to prevent development in accordance with District zoning regulations. The proposed ground-mounted satellite antenna is similar in nature and arrangement to the existing ground-mounted satellite antennas on the subject property. The proposed ground-mounted satellite antenna is to be installed in a location along the common side lot line of the subject properties, and will provide sufficient distance from the American Way ROW and adjacent properties. The proposed location will not be visually intrusive to employees or visitors at other facilities in the neighborhood. Additionally, the installation of the proposed antenna will result in the removal of three existing antennas on the site.

ii. The nature and intensity of the operation of the special exception use;

While the proposed ground-mounted satellite antenna represents an increase in capacity of broadcast transmission capability, the new satellite antenna will be unmanned, requiring only occasional visits by outside personnel for maintenance. This low intensity use will have no detrimental effects on the surrounding properties, and is consistent with the existing use of the site as a broadcast facility.

iii. The location of the site with respect to access and circulation;

The location of the proposed ground-mounted satellite antenna on the subject premises is accessible from both American Way to the south and the vacated portion of Hartz Way to the west. Installation of the proposed ground-mounted satellite antenna will not impact access and circulation on either American Way or the vacated portion of Hartz Way. There is adequate area available for parking for maintenance personnel. Routine maintenance is performed on a semi-annual basis by non-MLB personnel who arrive in one vehicle. Existing site access points and on-site circulation routes will remain as is and are adequate to serve the proposed ground-mounted satellite antenna. Therefore, the proposed special exception use will not dominate the neighborhood or impact the use of surrounding properties.

iv. The location, nature, and height of structures, walls and fences on the site; and

The location, nature, and height of the proposed ground-mounted satellite antenna will not dominate the surrounding area. The new ground-mounted satellite antenna has been designed to the required height to accommodate television broadcast operations. A proposed board-on-board fence will be installed as a continuation of the existing fence line and will be of the same height and material as the existing security fence.

v. The nature and extent of landscaping and screening on the site.

The site is presently well-maintained and landscaped in an appropriate manner. The applicant is proposing to install board-on-board fencing at the base of the new ground-mounted satellite antenna for screening and security purposes. Existing pavement in the vicinity of the proposed antenna will be converted to open space, which will provide additional opportunities for ground-level screening.

4. Adequate utilities, drainage and other necessary facilities have been or will be provided.

The requested special exception on the subject premises will not detrimentally impact the existing utility infrastructure. The subject property is currently developed with a broadcast studio facility and contains all required utilities. The site will continue to function as it exists, since the MLB Network currently operates a television

broadcast facility at this location. The proposed ground-mounted satellite antenna will not affect the ability of the existing on-site drainage system to perform in a safe and efficient manner. Additionally, the existing utility infrastructure, including electric, water, sanitary sewer and gas, is adequate to meet the requirements of the uses on site.

5. *Adequate access roads and drive aisles have been or will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion.*

The neighborhood's existing roadway network can satisfactorily support the proposed ground-mounted satellite antenna. Access to the television studio facility will be maintained from both the American Way ROW and vacated Hartz Way. The location of the proposed ground-mounted satellite antenna will not impact site circulation, nor will it cause any additional congestion in the area.

6. *The special exception use will not have a substantial adverse environmental impact.*

The granting of the requested special exception to permit the installation of the proposed ground-mounted satellite antenna will not result in any substantial environmental impacts. Installation of a landscaped area within former paved parking space stalls immediately adjacent to the proposed ground-mounted satellite antenna will result in an increase in the amount of open space provided on site by approximately 0.2 percent. District environmental performance standards will be met for noise, vibration, glare, air emissions and hazardous and radioactive materials. It is anticipated that microwave radiation generated by the proposed

ground-mounted receiver satellite antenna will be less than levels created by an antenna that sends transmission signals. The proposed ground-mounted satellite antenna cannot move; therefore, no motor noise will be created.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.15(d)2v, which requires that an antenna mounted on the ground shall not exceed 15 feet in height above the ground level. The applicant is proposing a ground-mounted satellite antenna with a height of 39.33 feet.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. Concerning bulk variances:

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The property in question is the site of the MLB Network facility, which is a national cable sports television broadcasting studio. In addition to broadcasting baseball-related news and events, the MLB Network facility will soon be responsible for receiving and transmitting NHL Network programming. In doing so, there has arisen a set of circumstances unique to the subject property that requires the installation of a satellite antenna with sufficient capabilities to support the satellite feed for both television networks.

Typically, an overlap of baseball and hockey seasons occurs from March to June each year. The proposed ground-mounted satellite antenna's height above grade level is dictated by the requirements for a specific antenna with the capacity to simultaneously receive satellite transmissions for two sports networks in order to provide adequate broadcast coverage of each sport.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the proposed variance will not adversely affect the rights of adjacent property owners or residents. There are no residences located proximate to the site, and the adjacent properties are primarily industrial and commercial in nature. The proposed ground-mounted satellite antenna has been placed in a location that minimizes its visibility, proximate to other existing antennas at the subject property.

There are eight existing ground-mounted satellite antennas and three smaller satellite dishes at the subject property. The proposed ground-mounted satellite antenna will replace three existing satellite antennas and will be approximately 2.5 feet lower in height than the tallest antenna on site. Therefore, it is anticipated that the height of the proposed ground-mounted satellite antenna will not affect the development on adjacent properties.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The applicant has testified that the height of the proposed ground-mounted satellite antenna is the minimum required for the proposed state-of-the-art antenna to receive satellite transmissions for both the MLB and NHL Networks. If the satellite antenna were not approved at the proposed height above ground level, the MLB Network facility would not be able to receive broadcast transmissions when both television networks are active between the months of March and June each year, which would substantially impact the ability of the networks to provide their services to the public. Therefore, a denial of the variance request will result in peculiar and exceptional practical difficulties, and exceptional and undue hardship to the applicant.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The proposed variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The applicant testified that no public health concerns have been raised resulting from the existing satellite antennas at the site, one of which is installed at a greater height above ground level than the proposed ground-mounted satellite antenna. The proposed ground-mounted satellite antenna will receive transmission signals

only and will not transmit, thereby avoiding adverse impacts to public health and safety.

v. The variance will not have a substantial adverse environmental impact.

There will be no glare, noise, air quality concerns, or other adverse environmental impact resulting from the height of the proposed ground-mounted satellite antenna. The height of the proposed satellite antenna is approximately 2.5 feet lower than the tallest existing satellite antenna on the site. Aesthetic impacts due to the size of the proposed ground-mounted satellite antenna are minimized by its location adjacent to existing satellite antennas. The proposed location of the antenna along the common lot line of the two properties within the zoning lot of record also minimizes its visibility from public ROWs and neighboring properties to the extent possible by its centralized location on the site. The removal of a portion of the paved vehicular use area in the vicinity of the proposed antenna and its replacement with landscaping will increase the amount of open space provided on-site and provide additional opportunities for ground-level screening of the antenna.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The variance request represents the minimum deviation from the regulations that will afford relief. The height of the proposed state-of-the-art ground-mounted satellite antenna is dictated by the need to receive broadcast signals associated with two different television networks. The antenna will be located on the same lot as the

principal television studio use and will not be located within a front yard. The base of the proposed ground-mounted satellite antenna will be screened by a board-on-board fence. All minimum required setbacks will be satisfied.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The purpose of these regulations is to provide for the orderly and comprehensive development of the District, to provide for the improvement of land adequate to serve the uses to be developed on that land, and to ensure that the uses are suitably sited and, in general, relate buildings and uses to each other so that the aesthetic and use values are maximized. The use of the new ground-mounted satellite antenna at the height proposed is intrinsically related to the broadcast studio use contained within both buildings and is necessary to serve the existing use. The aesthetic and use values of the antenna at both the height and the location proposed are maximized by this application. Therefore, the approval of this variance will not substantially impair the intent and purpose of these regulations or result in a substantial detriment to the public good.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.15(d)2vi(2), which requires that the diameter or maximum dimension of the antenna shall be a maximum of 12 feet. The applicant is proposing a ground-mounted satellite antenna with a maximum dimension of 37.67 feet.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The property in question is the site of the MLB Network facility, which is a national cable sports television broadcasting studio. In addition to broadcasting baseball-related news and events, the MLB Network facility will become responsible for transmitting NHL Network programming. In doing so, there has arisen a set of circumstances unique to the subject property that requires the installation of a satellite antenna with sufficient capabilities to support the satellite feed for both television networks.

Typically, an overlap of baseball and hockey seasons occurs from March to June each year. The size of the proposed ground-mounted satellite antenna is dictated by the need to simultaneously receive satellite transmissions for two sports networks in order to provide adequate broadcast coverage of each sport.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the proposed variance will not adversely affect the rights of adjacent property owners or residents. There are no

residences located proximate to the site, and the adjacent properties are primarily industrial and commercial in nature. The proposed ground-mounted satellite antenna is sited in a location that minimizes its visibility, proximate to other existing antennas at the subject property.

There are eight existing ground-mounted satellite antennas and three smaller satellite dishes at the subject property. The proposed ground-mounted satellite antenna will replace three existing satellite antennas and will be approximately 2.5 feet lower in height than the tallest antenna on site. Therefore, it is anticipated that the size of the proposed ground-mounted satellite antenna will not affect the development of adjacent properties.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The applicant has testified that the size of the proposed ground-mounted satellite antenna is the minimum required for the proposed state-of-the-art antenna to receive satellite transmissions for both the MLB and NHL Networks. If the satellite antenna were not approved at the proposed size, the MLB Network facility would not be able to receive broadcast transmissions when both television networks are active, between the months of March and June each year, which would substantially impact the ability of the network to provide its services to the public. Therefore, a denial of the variance request will result in peculiar and exceptional practical difficulties, and exceptional and undue hardship to the applicant.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The proposed variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The applicant testified that no public health concerns have been raised resulting from the existing satellite antennas at the site, one of which is installed at a greater height above ground level than the proposed ground-mounted satellite antenna. The proposed ground-mounted satellite antenna will receive transmission signals only and will not transmit, thereby avoiding adverse impacts to public health and safety.

v. The variance will not have a substantial adverse environmental impact.

There will be no glare, noise, air quality concerns, or other adverse environmental impact resulting from the height of the proposed ground-mounted satellite antenna. The height of the proposed satellite antenna is approximately 2.5 feet lower than the tallest existing satellite antenna on the site. Aesthetic impacts due to the size of the proposed ground-mounted satellite antenna are minimized by its location adjacent to existing satellite antennas. The proposed location of the antenna along the common lot line of the two properties within the zoning lot of record also minimizes its visibility from public ROWs and neighboring properties to the extent possible by its centralized location on the site. The removal of a portion of the paved vehicular use area in the vicinity of the

proposed antenna and its replacement with landscaping will increase the amount of open space provided on-site and provide additional opportunities for ground-level screening of the antenna.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The variance request represents the minimum deviation from the regulations that will afford relief. The size of the proposed ground-mounted satellite antenna is dictated by the need to receive broadcast signals associated with two different television networks. The antenna will be located on the same lot as the principal television studio use and will not be located within a front yard. The base of the proposed ground-mounted satellite antenna will be screened by a board-on-board fence. All minimum required setbacks will be satisfied.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The purpose of these regulations is to provide for the orderly and comprehensive development of the District, to provide for the improvement of land adequate to serve the uses to be developed on that land, and to ensure that the uses are suitably sited and, in general, relate buildings and uses to each other so that the aesthetic and use values are maximized. The use of the new ground-mounted satellite antenna at the size proposed is intrinsically related to the broadcast studio use contained within both buildings and is necessary to serve the existing use. The aesthetic and use

values of the antenna at both the size and the location proposed are maximized by this application. Therefore, the approval of this variance will not substantially impair the intent and purpose of these regulations or result in a substantial detriment to the public good.

V. SUMMARY OF CONCLUSIONS

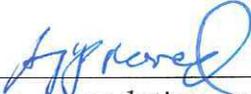
A. Standards for the Granting of a Special Exception to permit a sender/receiver antenna or dish with a diameter or any dimension larger than 12 feet as per N.J.A.C. 19:4-8.15(d)2vi(3).

Based on the record in this matter, the special exception application to install a sender/receiver antenna or dish with a maximum dimension of 37.67 feet is hereby recommended for APPROVAL.

APPROVAL
Recommendation on
Special Exception Request

2/2/16
Date


Sara J. Sundell, P.E., P.P.
Director of Land Use Management

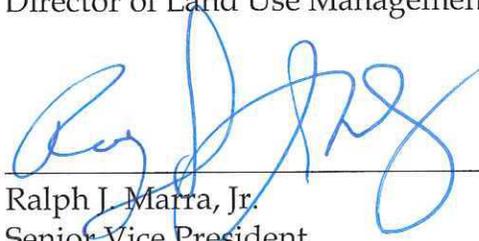

Recommendation on
Special Exception Request

2/2/16
Date


Ralph J. Marra, Jr.
Senior Vice President
Legal & Regulatory Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.15(d)2v, which requires that an antenna mounted on the ground shall not exceed 15 feet in height above the ground level. The applicant is proposing a ground-mounted satellite antenna with a height of 39.33 feet.

Based on the record in this matter, the bulk variance application to install a ground-mounted satellite antenna with a height of 39.33 feet, whereas a maximum height of 15 feet above the ground level is permitted, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>2/2/16</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>Approved</u>	<u>2/2/16</u>	
Recommendation on Variance Request	Date	Ralph J. Marra, Jr. Senior Vice President Legal & Regulatory Affairs

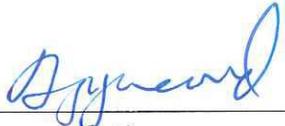
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Based on the record in this matter, the bulk variance application to install a ground-mounted satellite antenna with a maximum dimension of 37.67 feet, whereas a maximum diameter or dimension of 12 feet is permitted, is hereby recommended for APPROVAL.

APPROVAL
Recommendation on
Variance Request

2/2/16
Date


Sara J. Sundell, P.E., P.P.
Director of Land Use Management


Recommendation on
Variance Request

2/2/16
Date


Ralph J. Marra, Jr.
Senior Vice President
Legal & Regulatory Affairs