

REGULAR MEETING OF FEBRUARY 9, 2009

The meeting was called to order by Chairman Peter Kortright at 8:00 P.M.

The notice of the Open Public Meetings Law was read.

Roll Call

Present: Chairman Peter Kortright, III, Todd Malkin, Joseph Baladi, Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback Absent: Joseph D'Arco, Honey Morgenstern

Also present: Board Engineer Kevin Tichacek, Board Attorney Douglas Bern, and Board Secretary Cathy Hochkeppel.

Approval of Escrow Bills

Upon motion by Todd Malkin and a second by Barry Winston, the escrow bills were unanimously approved. AYES: Todd Malkin, Barry Winston, Philip Cassidy, Larry Metzger, Joseph Baladi, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback, Chairman Kortright

Approval of Minutes

Upon motion by Deputy Mayor Lisa Swain and a second by Todd Malkin the minutes of the December 15, 2009 Special Meeting were unanimously approved. AYES: Chairman Peter Kortright, III, Todd Malkin, Joseph Baladi, Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback.

Upon motion by Todd Malkin and a second by Barry Winston, the reorganization minutes of January 12, 2009 were unanimously approved. AYES: Chairman Peter Kortright, III, Todd Malkin, Joseph Baladi, Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback.

Upon motion by Todd Malkin and a second by Deputy Mayor Lisa Swain, the regular meeting minutes of January 12, 2009, were unanimously approved. AYES: Chairman Peter Kortright, III, Todd Malkin, Joseph Baladi, Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback.

Memorializing Resolution

Shrestha, 16-37 River Road, Block 5615, Lot 13

Douglas Bern explained the memorializing resolution. Upon motion by Todd Malkin and a second by Phillip Cassidy, the resolution was unanimously adopted. AYES: Chairman Peter Kortright, III, Todd Malkin, Joseph Baladi, Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain.

General Public Comment

Harvey Rubinstein asked about the Route 208 corridor study and, specifically, Croucher Lane. Todd Malkin explained that after review, it was the recommendation of the committee that there should be no direct traffic into that road.

Bris Avrohom; 30-02 Fair Lawn Avenue; Block 2603, Lot 5; site plan

Ira Levine noted that this application is continued. The applicant is seeking waiver of the lighting requirements and the buffering requirements. The applicant does not feel that more than one lighting pole is necessary since there is little activity in the evening. There will also be less interference with neighbors. The applicant is seeking waiver of the buffering requirements where there is a drainage swale. It was noted that there presently is heavy vegetation and trees. With regard to the rear, Mr. Levine stated that the playground is 80 feet from the neighboring property and buffering would serve no real purpose.

It was noted that Mr. Fox was previously sworn in. Mr. Fox explained the lighting plan and isolux lines. There will be a 16 foot high pole mounted light fixture which he believed would be adequate. He noted that there will be no more than 15 students at this day care center.

Chairman Kortright asked Board Engineer Tichacek if the parking area would be safe. Mr. Tichacek stated that the rear of the lot is unlit with just adequate lighting but the applicant indicated it will not be used heavily at night. There is also an existing utility pole. Mr. Levine indicated that there is residential property along the back. Functions with regard to the school wouldn't take place at night. Larry Metzger asked about lighting of the playground and Mr. Levine explained there will be no children playing outside during the nighttime. He also stated that there is an existing light pole that is in the general proximity of the playground area.

Rabbi Saltzman, 16-26 Alden Terrace, was sworn in and testified that the state indicated that 15 students would be the maximum allowed. Rabbi Saltzman testified that for evening services there is an average of 10-12 people and only half drive to the synagogue. He testified that they never had any complaints about lighting. The eastern side of the building was described by Matthew Fox. Pictures of the site were marked as Exhibit A-4. Mr. Fox explained the pictures and the current landscaping. The applicant has requested a waiver of some of the landscaping. He explained the pictures in detail and stated that the applicant will provide additional plants and will supplement the existing buffer. It was noted that a revised landscaping plan would have to be submitted to Boswell Engineering since the applicant did not intend on following the current plan. Chairman Kortright noted that for the future, it is easier for the Board if the plans presented are the ones the applicant intends on following and that it is more difficult to make a decision when the plans don't reflect what the applicant is requesting.

Matthew Fox suggested that he work together with Boswell engineering and the plan be subject the Board Engineer's approval.

Chairman Kortright opened the matter to the public.

Harvey Rubinstein, 28 Rutgers Terrace, stated that the apron of the driveway and sidewalk abutting it is in bad shape. He suggested that the applicant fix the apron and the sidewalk. Mr. Levine stated that the sidewalk was the Borough's property but stated that the existing apron will be replaced. Mr. Levine explained why they were requesting variances from the buffering requirements and deviation from the lighting plan.

No other public wished to be heard.

Kevin Tichacek added that there are two existing non-conformities, namely, the interior side yard set back and the aisle width of 24 feet. Deputy Mayor Swain moved that the application be approved granting the applicant's requests to deviate from the lighting plan and landscape plan with waivers requested along the eastern lot 4 and no plantings along the rear south border, no additional plantings on lot one and two, the entrance apron to be replaced per County standards, the applicant to address the concerns of Fire Prevention Bureau and subject to the State's approval.

New Cingular Wireless; 20-05 Saddle River Road; Block 1801; Lots 3-5, 9-11, et al; minor site plan

Judith Babinski appeared on behalf of the applicant. She explained that her client was awarded a bid by the Borough. They are proposing two temporary towers until a determination has been made by the DEP with regard to the existing tower. The carriers are putting small shelters on the ground. The cabinet will be up off the ground.

Stephan Guillabert was sworn in and qualified as a RFD expert. He presented a drawing that was marked as Exhibit A-1 and testified that it depicted the areas that currently were not covered by cellular signal. Another drawing was marked as Exhibit A-2. Mr. Guillabert explained that the drawing depicted coverage after the installation of the tower.

Deputy Mayor Lisa Swain asked about Glen Rock's tower and was told it does not completely cover this area. Mr. Guillabert testified that this tower will enhance the coverage along Saddle River Road which is known for poor coverage.

Aldrich Gamboa, 141 industrial Way, Cranford, NJ, was sworn in, qualified as an RFD expert and explained similar maps on behalf of Verizon. He demonstrated that coverage was currently lacking and the tower would provide the needed coverage.

Anthony Suppa, 600 Parsippany Road, Parsippany, was sworn in and qualified as an expert engineer. Mr. Suppa explained the site plan and the two temporary towers. There will be a temporary pole and equipment. These sites need a small area. The poles are not lit. There will be two temporary poles next to each other. There will be an equipment shelter. Any local approval is subject to DEP approval. Mr. Suppa explained that they met with the Borough Engineer and other representatives of the Borough and picked the area where it would be the least intrusive. He explained that the poles are different heights because otherwise they would interfere with each other.

Phillip Cassidy asked about fencing and security and Mr. Suppa explained the alarm system. He further explained that temporary towers are truly temporary and are not designed as anything other than a tower.

Chairman Kortright, III opened the matter to the public.

Steven Smedresman, 42-01 DeBruin Drive, long time resident of Fair Lawn, questioned why not one member has inquired about the placement and the health issues. Chairman Kortright explained that this is a permitted use and health issues are beyond the Board's

jurisdiction. Mr. Smedresman asked about the location, and Mr. Suppa explained that this was the only appropriate place to site the temporary poles.

Alana Rudis, 11 Meadowview Terrace, asked how it would look. Mr. Suppa explained that the towers are two feet wide, steel gray, galvanized steel. Mr. Suppa added that they are about half the size of the current tower. Ms. Rudis was not familiar with the existing tower.

Ms. Shekhets, of 17 Meadowview Terrace asked about safety and commented that the current pole was put up without approval of the Department of Environmental Protection. It is illogical. She suggested that nothing be done until the DEP has ruled in this matter. Ms. Babinski explained that the current site is in an existing condition. DEP is notorious for taking its time with these types of decisions.

Robert Waxman, 42-29 DeBruin Drive, a licensed professional engineer in the State of New Jersey asked about the radiation standards and the FCC's conclusion. Mr. Gamboa explained that they complied with the FCC standard. In response to Mr. Waxman's question, Mr. Gamboa explained that the waves from a cell phone are more powerful than the waves being transmitted from the tower. The transmission is 1/100th to 1/500th of the allowable rate. He added that sitting in this building that has a police and fire antenna, one would probably have greater exposure than from the cell tower area.

Harry Postner, 13-10 2nd Street, asked if the antennas are eventually added to the existing tower will there be an increase in radio frequency waves. Mr. Gamboa said the total output will be negligible less 1/100th of one percent that is permitted.

Vicky Dicker, One Meadowview Terrace, stated she is very concerned about the health issue. She is concerned since they have young children and about the effects. Chairman Kortright explained that the Board does not regulate this aspect and it is controlled by the Federal government.

Mr. Waxman added that the consensus of the scientific community is that exposure to RF radiation below these guidelines is safe. The exposure is 100 times lower than that which is permitted.

Lyubov Kugel, 42-21 DeBruin Drive, stated she believes property values in the area will decrease. She added that the residents pay taxes to the town and the town has to respect their opinion and the value of the properties. She added that it does not matter how skinny the tower is, it is still there. Chairman Kortright explained that the Board cannot consider property values for a permitted use.

Ms. Shekhets of Meadowview Terrace asked how the Board could consider this application. Chairman Kortright explained that it is a permitted use and the law says that the applicant has to prove they have a gap in service which the applicant has done. Ms. Shekhets was concerned about an increase in traffic. Mr. Suppa stated there will be a maintenance man who will check matters once every four to six weeks so the traffic generated would be negligible.

Adrein Anderesen, 20-18 Saddle River Road, stated that he does not believe there is a gap of coverage because he has no problems.

Scott Osback replied that he works at the DPW site and although he can receive service when he is in the yard, the minute he leaves the area, the call is dropped.

Oleg Abraizov, 42-16 DeBruin, stated he has no problems with service.

Anna Dobin, 42-17 DeBruin Drive, asked about the radio frequency emissions and if they would be the same once they are all on one tower. She was told they would be similar.

Steven Smedresman asked if the town would receive income and was told that it would but that is not a consideration of this Board. Scott Osback commented that this is also a public safety issue. If there is an accident, a cell call cannot be made. Mr. Smedresman complained that the stench from the compost is offensive. He also felt that the standards for the applicants were different since the prior applicant had a greater level of inquiry by the Board.

Barry Winston explained that cell towers have been litigated in the past and Courts have ruled in favor of the towers. There is very limited local jurisdiction.

Oleg Abra, 42-16 DeBruin Drive, commented that she believes the board should listen to the neighbors.

Deputy Mayor Swain asked about a time limit on the temporary towers and Ms. Babinski stated that because the DEP moves so slowly, that could be difficult. It was agreed that the Board could obtain a status report if the matter was not resolved within 18 months.

Todd Malkin moved that the application be approved, subject to the Board engineer's review of the structural calculations and a status report to be submitted to the Board Secretary in 18 months time. Deputy Mayor Swain seconded the motion that was unanimously adopted. AYES: Chairman Peter Kortright, Todd Malkin, Joseph Baladi,

Barry Winston, Phillip Cassidy, Larry Metzger, Deputy Mayor Lisa Swain, Baruch Gadot, Scott Osback.

Adjournment

Upon motion by Todd Malkin and a second by Scott Osback, the meeting was unanimously adjourned at 11:15 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Municipal Housing Liaison/
Land Use Administrator/
Secretary of the Planning Board

CH:mc