

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. February 7, 2011  
MINUTES**

**ROLL CALL**

Present: Mrs. Crook, Mr. Farrell, Mr. Fox, Ms. Gilbert, Mr. Kominsky, Mr. Lieberman, Mr. Grossman.  
Absent: Mr. Brensilber.  
Also present: Mr. Ritvo, Mr. Hals, Mr. Burgis, Mr. Mottola.

**OPEN PUBLIC MEETINGS ACT STATEMENT**

Chair Grossman read the Open Public Meetings Act Statement: In compliance with the Open Public Meetings Act P.L. 1975, chapter 231, the notice requirements have been satisfied. Notice for this meeting date was published in the Press Journal on December 31, 2010, faxed to the Record on January 28, 2011, posted on the bulletin board in the lobby of the Municipal Center and the Borough web page.

**COMMUNICATIONS**

1. NJPO Dec 2010/Jan 2011.
2. Letter dated 1-12-11 from Richard Stanzione, Esq re: subpoenas for witnesses in SMSA d/b/a Verizon Hearing.
3. Memo dated 1-19-11 from Police Chief re: 123 Dean Dr (ZB2011-02.)
4. Memo dated 1-18-11 from Fire Sub Code re: 123 Dean Dr (ZB2011-02.)
5. Information packet from THPC on Atwood's Highwood Park re: 44 Franklin St (ZB2010-25.)
6. Revised letter 2-7-11 from Borough Engineer re: 123 Dean Dr revised architectural drawings.

**APPROVAL OF MINUTES**

Motion by Mr. Fox second by Mrs. Gilbert to approve the minutes of January 10, 2011. All members on a voice vote were in favor.

**MOTIONS FOR ADJOURNMENT**

Request from Mr. Urdang to postpone 34 Lindley Ave and 123 Dean Drive to March 7, 2011.

Motion by Mrs. Gilbert second by Mr. Farrell to adjourn both matters to March 7, at 7:30PM or as soon thereafter as the matters can be reached, with no further notice required by the applicants. All members on a voice vote were in favor.

**UNFINISHED BUSINESS**

Carried from ~~10-4-10~~; ~~12-6-10~~; ~~1-10-11~~; 2-7-11.

T-Mobile Northeast, LLC.

44 Franklin St - 905/7.

Use, Site Plan. ZB2010-25. (Rec'd 9/24/10, decision by 1/21/11, *verbal extension of time to 2/7/11*)

Present for the applicant was Mr. Edwards of the firm Price, Meese, D'Arminio & Shulman. Mr. Edwards said Mr. Penesso is present to respond to questions from the public.

The following members of the public had questions for Mr. Penesso:

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Harry Lazarovici, 35 Franklin Street; Devon Shelley, 7 Huyler Avenue; Dennis Anacker, George Street; Ronald Copes, 3 Huyler Avenue; Lisa Pribanic, 3 Huyler Avenue; Jeff Levitt, 50 Franklin Street, and David Wall, 3 Cameron Road.

In response to those questions, Mr. Penesso said he did not know how many T-Mobile customers were in this area, but the monopole is not needed for those subscribers, it is needed for subscribers driving through the area and any other customers; the gap in coverage he estimated to be about 1.5 miles east to west and one mile north to south; the benefit of the monopole is T-Mobile customers, and agreed the owner of the property does get payment; he confirmed the height of the monopole would be 120'; the locations of the surrounding cell towers were given and Mr. Penesso said he did not know what zones they were in, nor the zone that this proposed monopole was in. Mr. Penesso did not know if other carriers were experiencing dropped calls, as the cell carriers are on different frequencies; they had looked at other sites but they were not suitable; the gap in coverage for the area would be filled with a coverage gap in the south east area of Tenaflly remaining. They had looked at multiple buildings; but they were not high enough. Mr. Penesso described the monopole and again stated the monopole is not constructed until approval is given; he explained the FCC Rules and responsibilities of the carriers to the users.

In response to questions from board members, Mr. Penesso said they did not look at lower locations or two site locations, a willing landlord is needed, and approval by the Board; they have been in discussion with this Landlord since 2006; the steeple at Mt. Carmel Church is about 65' high which with the tree cover in Tenaflly and trees averaging that height (65') the tower would need to be higher; the trees were not physically measured, he stated he has a good eye and 65' is about the average for trees in Tenaflly; there are no buildings or structures of 80' in Tenaflly; he was not present on the continuous wave drive test in January this year, the reason for the CW test was to substantiate the empirical data; he would get the calibration certification for the Board; he believes the equipment was calibrated the day of the CW drive test. Mr. Penesso explained what happens to service when towers are too close to each other and when they are too far apart.

Chair Grossman suggested a 5 minute break at 9PM.

Meeting called back into session at 9:10PM.

In response to Board questions Mr. Penesso said he was unaware of another tower being available at the Greek Church on East Clinton Avenue, and as such had not considered it. He further explained that Exhibit A-2 is real time from the CW drive test which accounts for the lack of green markings, exhibit A-3 shows the proposed coverage once the monopole is constructed.

David Hals, Borough Engineer gave his business address as 9 Post Road, Oakland, New Jersey, his credentials and experience, and was sworn in by Mr. Ritvo; and in response to a question from Mr. Fox said he did not know how many telephone poles were in the Borough and a guess would be about 1,200, as they about 40' tall and possibly placed every 150'.

Mr. Mottola, the Zoning Officer asked Mr. Penesso if the tower could be attached to a light pole. Mr. Penesso said it could be done but the cost of retrofitting light poles would be expensive due to the design and weight of the tower.

Mr. Edwards offered Mr. Karlebach as a Planner.

David Karlebach gave his business address as 38 E Ridgewood Avenue, Ridgewood, New Jersey; gave a summary of his background, education and experience, was accepted as an expert and sworn in by Mr. Ritvo. Mr. Karlebach described the lot, its location and the surrounding locations and zones; he offered a copy of the Borough Zoning Map as Exhibit A-4, which map showed the proposed monopole site at 44 Franklin Street (marked with a blue dot) and the existing Commercial Antenna approved site at 193 Grove Street.

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Mr. Karlebach said two variances are needed, one for the use and the other for building height, he disagreed with the latter variance as this is not a building it is a monopole structure. Mr. Karlebach reviewed the positive aspects of the case, which is a four point balancing test. The federal mandate is to provide seamless coverage, this facility will be unmanned, no traffic impact, no water service, minimal electric use, no noise, odors, vibrations, glare or fumes, the facility will not be easily recognizable as a telecommunications facility, all wires and conduits will be hidden in the monopole.

Mr. Karlebach offered four poster boards into evidence: these each had two sets of photographs (4) (taken the day of the crane test) showing pictures of existing conditions (on the left) showing the crane, and a photo shop mark up showing the monopole (on the right). Mr. Ritvo marked the poster boards A-5a through A-5d. Mr. Karlebach described the location each picture was taken from and the approximate distance from the proposed monopole.

Mr. Karlebach said the monopole would look like a flagpole and as could be seen from the exhibits despite the trees being bare he did not feel there was a negative impact; he outlined the interest of the NJ State Historic Preservation Office, adding an environmental consultant was at the site and present for the crane test, he did not believe the State Historic Preservation Office has made a recommendation at this time. In conclusion Mr. Karlebach said yes the pole would be seen, he considers this pole to have limited visibility even a few blocks from the site, he does not consider the impact to be substantial, and the public benefits are met, he only sees a slight detriment which is the height of the pole in relation to the surroundings. Mr. Karlebach said he did take pictures when the leaves were on the trees during a balloon test, and the trees provided a great coverage, even with the leaves off the trees at this time of year there is still buffering and cover for the pole. Mr. Karlebach said he felt the use was particularly suited to this site as it will provide service in a coverage gap area

In response to questions from the Board Mr. Karlebach said he had no certification as a graphic artist, but his exhibits have been accepted in court, he does not consider himself an expert in Photo Shop, he taught himself; he described the cabinets and the monopole, adding he did not see them as habitable which is why he does not consider them buildings. The negative impact is the visual one, but he added in time the monopole will not be seen, and he did not feel it was as obtrusive as a tower, with the antenna and catwalks on them. Mr. Karlebach said with regard to property values, his discussions with a Tax Assessor are that he has not lowered values of properties near a cell tower, someone would need to call an expert in this field, which he pointed out he is not. Mr. Karlebach added this area is mainly business related, but surrounded by residential, he could scale the distance for the pole to the nearest home; he stated he did not take pictures of the crane from all locations within about a mile from the proposed site, and there were locations he did not take pictures as he could not see the crane; he agreed that if there was collocation on the pole, another carrier may have to add cabinets, each carrier is different; as a color for the monopole he might suggest Air Superiority Blue, which has been used on fighter planes so they blend in with the sky.

In response to questions from the Borough Planner, Mr. Karlebach agreed that the people who live the closest will have the most visual impact

The following members of the public asked questions of Mr. Karlebach:

David Wall, 11 Cameron Road, Dennis Anacker, 41 Franklin Street, Harry Lazarovici, 35 Franklin Street and Ronald Copes, 3 Huyler Avenue.

In response to those questions Mr. Karlebach said he had taken photographs from Huyler Avenue looking towards the proposed monopole and he would bring them to the next meeting; if Ms. Walsh felt the greatest visual impact was from Huyler Avenue and he disagrees, then it is a matter of opinion; the noise from the cabinets had been likened to a conversation in the next room; he reiterated he was not a real estate appraiser.

Lisa Pribanic, 3 Huyler Avenue was sworn in by Mr. Ritvo. Ms. Pribanic offered three color photographs into evidence. Mr. Ritvo marked these photographs P-1a through P-1c. Ms. Pribanic said she

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did not use a zoom lens and had not altered the photographs in any way. The photos were taken on December 10, 2010, the day of the crane test; and the views are: P-1a from upstairs, P-1b from downstairs, P-1c outside their home. Mr. Karlebach said he had not gone on to anyone's property to take his photos, his were taken from the street.

There were no further questions from the public or Board. Mr. Edwards gave a verbal extension of time to March 7<sup>th</sup>. Motion by Mrs. Gilbert second by Mr. Farrell to carry the application to March 7<sup>th</sup> at 7:30PM in the Council Chambers or as soon thereafter as the matter can be reached with no further notice required by the applicant. All members on a voice vote were in favor.

Resolution to be memorialized:

Approved: 25 Depeyster Ave – 1710/4  
Front yard coverage by driveway. ZB2011-01.

Motion by Mrs. Gilbert second by Mrs. Crook to memorialize the resolution. All members on a voice vote were in favor; the resolution was memorialized. .

**NEW BUSINESS**

~~Lee, 123 Dean Drive 0 906/2.  
Use, Site Plan. ZB2011-02. (Rec'd 1/26/11 decision by 5/26/11.)~~ Adjourn to March 7, 2011.

~~Park, 34 Lindley Ave – 702/5.  
FAR, lot coverage. ZB2011-06. (Rec'd 1/26/11 decision by 5/26/11.)~~ Adjourn to March 7, 2011.

**CLOSED SESSION** – there was none.

**ADJOURNMENT**

Motion by Mr. Kominsky second by Mr. Lieberman to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 11PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary