

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. May 16, 2011  
MINUTES**

**ROLL CALL**

Present: Mrs. Crook, Mr. Farrell, Mr. Fox, Ms. Gilbert, Mr. Levene, Mr. Lieberman (arr 8:40PM.),  
Mr. Grossman.  
Absent: Mr. Brensilber, Mr. Kominsky.  
Also present: Mr. Ritvo, Mr. Hals.

**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 and posted on the bulletin board in the lobby of the Municipal Center and the Borough Web page."

**COMMUNICATIONS**

**APPROVAL OF MINUTES**

Motion by Mr. Fox second by Mr. Farrell to approve the minutes of May 2, 2011. All members on a voice vote were in favor.

**MOTIONS FOR ADJOURNMENT** – there were none.

**UNFINISHED BUSINESS**

Carried from 10-18-10; 11-8-10; 12-6-10; 1-10-11; 3-21-11.; 5-16-11.  
SMSA d/b/a Verizon. 2902/23.

Remand hearing as directed by the Appellate Division to hear testimony, as to the availability of alternate site. ZB2007-09. [Information packets received 10-5-10.]

Deliberative session and vote.

Carried from 10-4-10; 12-6-10; 1-10-11; 2-7-11, 3-7-11.; 5-16-11.

T-Mobile Northeast, LLC.

44 Franklin St - 905/7.

Use, Site Plan. ZB2010-25. (Rec'd 9/24/10, decision by 1/21/11, extension of time to ~~5/4/11~~, 6/6/11.)

Fax request received May 12<sup>th</sup> to carry this matter to June 6, 2011, extension of time given to June 6th.

Motion by Mrs. Gilbert second by Mr. Levene to carry this matter to June 6 at 7:30PM or as soon thereafter as the matter can be reached with no further notice required by the applicant for the sole purpose of setting a date to continue the hearing. All members on a voice vote were in favor.

Lee, 123 Dean Drive -906/2,3,4.

Use, Site Plan. ZB2011-02. (Rec'd 1/26/11 decision by 5/26/11.)

Motion by Mrs. Gilbert second by Mr. Fox to carry this matter to June 6 at 7:30PM or as soon thereafter as the matter can be reached with no further notice required by the applicant to continue the hearing. All members on a voice vote were in favor.

Minutes approved: 6-6-11.

Resolutions to be memorialized:

Approved: Pertsov, 9 Wight Pl – 210/14  
Average front yard setback. ZB2011-11.

Denied: Hall, 7 Standish Ct – 606/9.  
6' fence in front yard setback. ZB2011-18.

The resolutions were not ready.

**NEW BUSINESS**

Diasparra, 49 Madison Ave – 1306/3.  
Use. ZB2011-13. (Rec'd 5/5/11 decision by 9/2/11.)

Present for the applicant was Elliot Urdang. Mr. Urdang gave a brief overview of the application as it relates to COAH and similarities of use as the Dean Drive application; adding this application is bifurcated and the applicant is seeking the use variance first; they have conceptual engineering and architectural plans that will be used during testimony, and explained that if the use is granted, it would be subject to the applicant getting site plan approval from this board. Mr. Urdang said he would have three witnesses this evening, the Engineer, Planner and Traffic Expert.

Mr. Fox asked what impact on this application there is of the Grove Street project getting approval from the Planning Board to change the status of five affordable units to be rented or sold to income eligible households.

Mr. Urdang said he was not certain, but the Planner Mr. Preiss might be able to respond.

Motion by Mrs. Crook second by Mr. Farrell to select Mr. Burgis of Burgis Associates as the Planner for the Board on this matter.

Roll call vote:

In favor: Mrs. Crook, Mr. Farrell, Mr. Fox, Mrs. Gilbert, Mr. Grossman.

Opposed: None.

Mr. Levene abstained from voting.

Motion to appoint Mr. Burgis approved 6-0.

Michael Hubschman gave his business address, was sworn in by Mr. Ritvo and deemed an expert in the field of civil engineering. Mr. Hubschman described the location of the property and gave a history of Block 1306; that had been subdivided in December 2009.

Mr. Ritvo marked the following:

A-1: Colorized Site Plan on the easel;

A-2: copy of Planning Board resolution #PB1-09-10, dated 12-16-09.

Mr. Hubschman said the proposed application will consist of a four story building with 32 units, parking will be under the first floor, two lobbies are proposed; 71 parking spaces will be provided where the RSIS requirement is for 60 spaces; the lot is almost level so there should be no grading; parking spaces will be 9.5' x 18' and aisle widths will be 25', there will be two means of ingress and egress onto Madison Avenue. With regard to landscaping there will be shade trees planted, box woods, holly trees, adding, the list of plantings is on the plans. Lighting proposed is standard and there will be no spillage onto the surrounding properties. Mr. Hubschman said the variances would be addressed under the Site Plan portion of the application.

Minutes approved: 6-6-11.

In response to questions from the Board Mr. Hubschman said the property was subdivided this way to make room for this proposed building, he will take another look at lot coverage and as they could probably remove several parking spaces and make a green area for water run off; water run off will go north and into piping towards the storm drain on Summit Street; there will be seven affordable units.

In response to questions from Mr. Ritvo, Mr. Urdang said this application is for a use variance for 32 units and 7 inclusionary affordable housing units, in the architectural plans shown there is a height variance which will be dealt with in Site Plan, any approval for the use is subject to Site Plan. When asked by Mr. Ritvo if he could design a site plan with no variances, Mr. Hubschman said he was not sure if he could. After some discussion between the attorneys, Mr. Urdang said the architect is not here, but they could amend the bi-furcated application to include the height variance, then, the Site Plan would only have the 'c' variances; adding the Site Plan should be done in a few weeks, they can continue with testimony now, once the Site Plan is ready the bi-furcated application will be withdrawn and an amended application which will include Site Plan will be submitted, new notices will also be sent.

On further questions from Mr. Ritvo Mr. Hubschman said the density on this lot is about 31 per acre, and was unfamiliar with the density allowed for age restricted housing; standards set on the plan are compared to permitted uses in the zone, not any other affordable multi-family zone in the Borough.

There were no questions from the audience.

Mr. Nick Verderese gave his business address, was sworn in by Mr. Ritvo and deemed a Traffic expert. Mr. Ritvo marked as A-3 a copy of a Traffic Report Memorandum dated 5/16/11. Mr. Verderese said he had used the ITE publication 'Trip Generation, 8<sup>th</sup> Edition' for reference; he had visited the site and existing businesses in the area; he also looked at the proposed use; most traffic in the area would be weekdays due to the current uses.

8:40PM. Mr. Lieberman arrived.

Mr. Verderese said the proposed residential use would complement the commercial uses, as there would not be as many residential trips. The proposed layout of the buildings and lot meets the Borough Code, adding some parking spaces could be removed to make a green/unpaved area on site; he reminded the Board that one of the conditions for the sub division of this block was that the proposed office building on lot 5.01 would use four spaces on this lot 3.02. In comparison with other approved uses for the area, on weekdays the proposed 32 unit building would have less trips than a Day Care, Office Building or Assisted Living facility, but would generate more trips on the weekends; which would not have an impact on the traffic in the area as the commercial/business uses in the area do not usually operate on weekends.

Mr. Verderese said he reviewed the proposed site plan and found the layout, site access and circulation satisfactorily accommodate the anticipated traffic. The parking spaces and aisle width meet the Borough Code and are larger than the requirements of RSIS. In his opinion there would be no negative impact on the traffic in the area.

In response to a question Mr. Verderese said he had not done a capacity analysis for traffic on this site and the proposed office building on lot 5.01, to the west.

There were no questions from the public.

Mr. Urdang suggested the SMSA d/b/a Verizon application could be heard as the board now had six members present.

Carried from 10-18-10; 11-8-10; 12-6-10; 1-10-11; 3-21-11.; 5-16-11.  
SMSA d/b/a Verizon. 2902/23.

Remand hearing as directed by the Appellate Division to hear testimony, as to the availability of alternate site. ZB2007-09. [Information packets received 10-5-10.]

Minutes approved: 6-6-11.

Present for the applicant was Mr. Stanzone the attorney and Mr. Sinkevich the attorney for the objectors. Mr. Ritvo stated for the record that certifications were received from Mr. Lieberman and Mr. Farrell who had been absent at the March 21st meeting, they certified they read the transcript of that meeting.

There were no questions from the Board or the audience on the application. Motion by Mrs. Gilbert second by Mrs. Crook to go into deliberative session. All members on a voice vote were in favor.

Mrs. Crook asked Mr. Ritvo to clarify what it is the Board is voting on. Mr. Ritvo said the Board had to determine the availability of the Nature Center site and its practicability for the use.

Mr. Grossman said he had asked much earlier in the hearing if the Nature Center was available, but was told it was Green Acres; gave a brief outline what had occurred at the last hearing.

Mr. Farrell said reading the transcript was difficult as he had no body language to guide him only the written word; he said he got hung up as part of the testimony from the executive meeting of the Nature Center referred to 'a proposal', there was no thorough discussion on which part of the property the cell tower would be, no formal letter was given to the executive committee to decide, it seemed like a loose discussion, and further testimony showed there was no specific proposal and the Nature Center made a decision on a loose proposal, if there had been an actual proposal even though the property is Green Acres, they could petition the State to allow the tower if they had a negotiated proposal. A loose proposal not a formal document was decided on, and he was undecided whether the land was or was not available based on the testimony.

Mrs. Gilbert said she is not a fan of the tower where it is, but it sounded to her that through all the testimony she felt as though everyone passed the buck, it was striking that no one said this land is available, bring me a proposal; she felt the responses were muddy and no testimony was given on a real proposal.

Mr. Fox said he felt the body language from the meeting killed it, and felt the Nature Center was not receptive to a cell tower.

Mr. Grossman said it seems obvious that the first sentence of Jennifer Kleinbaum's letter dated July 22, 2010 in response to CW Solutions was apparent that the Nature Center was not interested.

Motion by Mrs. Gilbert second by Mr. Fox that the applicant had met their proofs that the Nature Center was not available.

Roll call vote:

In favor: Mrs. Gilbert, Mr. Fox, Mrs. Crook, Mr. Lieberman, Mr. Grossman.

Opposed: Mr. Farrell.

Motion carried 5-1.

Diasparra, 49 Madison Ave – 1306/3.

Use. ZB2011-13. (Rec'd 5/5/11 decision by 9/2/11.

Mr. Urdang said after discussion with his engineer and the Board Engineer the Site Plan would be started and he asked to carry this application to July 11, 2011. Motion by Mr. Farrell second by Mrs. Gilbert to carry the application to July 11, 2011 at 7:30PM 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.

**CLOSED SESSION** – there was none.

Minutes approved: 6-6-11.

## **ADJOURNMENT**

Motion by Mr. Levene second by Mr. Lieberman to adjourn the meeting. All members on a voice vote were in favor, the meeting was adjourned at 9:25PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary