

**TENAFLY BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
7:30 P.M. December 6, 2010  
MINUTES**

**ROLL CALL**

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

**OPEN PUBLIC MEETINGS ACT STATEMENT**

Chair Gilbert 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 24, 2009, and the Record on January 6, 2010 and posted on the bulletin board in the lobby of the Municipal Center."

**COMMUNICATIONS**

1. Resignation of Mr. Lorenzo effective November 10, 2010.  
After some discussion Mrs. Gilbert said she would be willing to act as Chair for this meeting, and at the reorganization meeting in January a new Chair would be elected.
2. NJ Planner, November 2010 issue.
3. E mail confirmation from Mr. Stanzione re: SMSA d/b/a Verizon, hearing carried to January 10, 2011.  
Motion by Mrs. Crook second by Mr. Kominsky to carry this application to January 10, 2011 with no further notice required by the applicant. All members on a voice vote were in favor.
4. Meeting dates for 2011.  
Motion by Mr. Farrell second by Mr. Kominsky to approve January 10, 2011 as the first meeting date for 2011. All members on a voice vote were in favor. Board Secretary to notice this date only.

**APPROVAL OF MINUTES**

Motion by Mr. Fox second by Mrs. Crook to approve the minutes of November 8, 2010. All members on a voice vote were in favor.

**MOTIONS FOR ADJOURNMENT** – none scheduled.

**UNFINISHED BUSINESS**

Carried from 10-4-10:

T-Mobile Northeast, LLC.

44 Franklin St - 905/7.

Use, Site Plan. ZB2010-25. (Rec'd 9/24/10, decision by 1/21/11)

Mr. Edwards was present for the applicant and requested the application be carried to January 10, 2011 and asked if the Board had chosen their experts yet. Mrs. Gilbert apologized for the lack of Board experts adding it was going slower than expected.

Motion by Mr. Grossman second by Mr. Farrell there will be a balloon test on the premises known as 44 Franklin Street, on Thursday, December 9<sup>th</sup> 2010 at 10:30AM in the event of inclement weather this test will be conducted on Friday, December 10<sup>th</sup>, 2010 at 10:30AM. The application will be continued to Monday, January 10, 2011 at 7:30PM or as soon thereafter as the matter can be reached in

Minutes approved: 1-10-2011.

the Council Chambers, in the Municipal Center, 100 Riveredge Road, Tenafly. All members on a voice vote were in favor.

Carried from 10-18-10; 11-8-10:

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.]

Motion by Mrs. Crook second by Mr. Kominsky to carry this application to January 10, 2011 at 7:30PM or as soon thereafter as the matter can be reached in the Council Chambers, 100 Riveredge Rd, Tenafly with no further notice required by the applicant. All members on a voice vote were in favor.

## **NEW BUSINESS**

Tucker, 24 Knoll Rd – 1404/24.

Front yard setbacks, A/C units, paver patio, front yard from prior variance. ZB2010-28.

*(Rec'd 11/23/10 decision by 3-23-11.)*

Present for the applicant was Mr. Urdang who said his witness would be Scott Lurie the architect. Mr. Urdang said this application is for three variances after final construction from prior variances granted in August 2006. He continued the variances are as follows: front yard setback of 27.9' at the new addition, where 27.5' was originally granted, a paver patio in the side yard that does not meet the 10' side yard setback and three condensers on the north side of the house that are in the front yard setback.

Scott Lurie, gave his address as 645 Lotus Ave, Oradell, New Jersey, gave a summary of his education and experience and was sworn in by Mr. Ritvo. Mr. Lurie went through the three variances that are now needed, and offered into evidence a board with nine photographs and a marked up site plan; Mr. Ritvo marked this A-1; Mr. Lurie had made smaller copies for the Board, these were marked A-1A and the Site Plan was marked A-2.

Mr. Lurie explained the numbering of the photographs matched up with the numbers on the site plan; which were different views of the variances being requested from different points of the property and street. Mr. Lurie said in his opinion the 4" difference in the front yard setback was imperceptible, it was an error in marking this point in the field; the condensers cannot be seen; there were two condensers on site, a third unit was added after construction, the units are not visible due to the topography and foliage; the paver patio extends 5' into the side yard, this too is not visible in the location it is as there is a 30" wall, and foliage, the patio would be visible if it was in the rear yard. In his opinion there would be no negative impact on the neighborhood.

In response to questions from the Board Mr. Lurie said the condensers were not shown on the original plan, there is a door from the family room/kitchen area that leads out to the patio; the existing patio is of a similar size to the old one, and he could not remember if the previous patio was on the plan.

Mr. Mottola offered a Site Plan done by Ernest Myhren, dated 2/60 revised 1/85 which did show the paver patio.

There were no questions or comments from the audience.

Mr. Urdang gave a summary of the application.

Motion by Mrs. Crook second by Mr. Kominsky to go into deliberative session. All members on a voice vote were in favor.

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Mrs. Crook said she would be in favor of granting the variances, the property is enhanced, the patio is convenient and the front yard setback of 4' is imperceptible.

Motion by Mrs. Crook second by Mr. Grossman to approve the variances.

Roll call vote:

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

Opposed: None.

Front yard setback 27.5', three condensers in front yard, paver patio 5' from side property line.

Nanus, 109 Serpentine Rd -1906/4.

Rear yard setback for deck. ZB2010-27. (Rec'd 11/24/10 decision by 3-24-11.)

Present was the homeowner David Nanus, who was sworn in. He offered a package containing photographs and history for the property; this was marked A-1 by Mr. Ritvo. Mr. Nanus explained they bought the house in 2009 and the existing deck was there; he felt that due to the topography of the property which drops off by about 5 feet near the deck. Mr. Nanus explained that adding a small extension onto the deck would at least protect his small children and some of the neighborhood children from serious injury, while the children were playing outside. Mr. Nanus explained the photographs in Exhibit A-1; concluding that the deck is not visible from the front of the house, there is no negative impact on the neighborhood and safety is not an issue now; in looking at the property from the rear yard the 2' variance being asked for is imperceptible.

There were no questions from the Board, Mr. Kominsky commented on a succinct presentation and handout.

There were no questions or comments from the audience (no one was present).

Mr. Nanus gave a brief summary of his application.

Motion by Mr. Kominsky second by Mr. Fox to go into deliberative session. All members on a voice vote were in favor.

Mr. Kominsky said he had no problem with the variance request and would approve it.

Motion to approve the rear yard variance by Mr. Kominsky second by Mr. Farrell.

Roll call vote:

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

Opposed: None.

Rear yard variance of 28' approved 7-0.

**CLOSED SESSION**

At 8:30PM Board Attorney Ritvo read the following resolution:

Motion by Mr. Grossman second by Mr. Fox to go into closed session. All members on a voice vote were in favor.

RESOLVED that in accordance with N.J.S.A. 10:4-12 the Zoning Board will go into Closed Session for the purpose of discussing litigation with Rodsan v. Tenafly Board of Adjustment.

Minutes approved: 1-10-2011.

Minutes will be taken of the meeting and as to the closed session released to the public at the time the matter is resolved.

The Zoning Board returned to open session at 9:05PM.

## **ADJOURNMENT**

Motion by Mrs. Crook second by Mr. Fox to adjourn the meeting. All members voting in favor the meeting was adjourned at 9:05PM.

Respectfully submitted,

Lindsay Graham  
Board Secretary