

BOROUGH OF MIDLAND PARK - ZONING BOARD OF ADJUSTMENT MINUTES

September 9, 2009

PLEASE TAKE NOTE:

ON WEDNESDAY, SEPTEMBER 9, 2009, THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MIDLAND PARK HELD A REGULARLY SCHEDULED MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:30 P.M.

FORMAL MEETING

READING OF THE OPEN PUBLIC MEETINGS ACT

PLEDGE OF ALLEGIANCE

ROLL CALL:

Ms. Linda Herlihy	present	Mr. Glen Biswurm	present
Ms. Douglas Feick	present	Mr. John Meeks	present
Mr. Richard Kroitsch	absent	Mr. Richard Formicola, Alt. #1	present
Mr. Peter Braunius	present	Mr. Matthew O Toole, Alt. #2	present
Mr. David Zuidema	absent		

D. Doyle, Board Attorney and R. Wostbrock, Board Engineer, were also present on behalf of the Board.

Minutes of the August 12, 2009 meeting were approved.

PUBLIC HEARINGS:

KREIS, NANCY / THE STRESS REDUCTION CENTER- Block 55 Lot 7.02- Application will be re-noticed for a future meeting.

WALKER, DEBRA & BRIAN- Block 10.13 Lot 16- 133 Spruce St- Notices are in order. Debra & Brian Walker, sworn in, proposing a 4' x 15.5' addition in the front of their home to increase the size of their living room requiring a variance of 1.67'. Addition is going half way across the front of the house and not the whole length of the house; do not have a basement and require more room. A new walkway will be placed in front of the addition. Board questioned if addition could be placed in an alternate location which would not require a variance. The addition will be one story only; addition to side of home would be impeded by the driveway and an existing fireplace. Other homes in the neighborhood have recently added similar additions or front porches; would be more consistent with the neighborhood. The addition is placed on the side of the house that causes the least amount of encroachment as the house does not sit parallel to the street. Addition will expand the living room which is now 11' 4" wide x 16' long. Meeting opened to the public, with no comments, meeting closed to the public. Atty. Doyle reviewed variance criteria. Motion by Mr. Formicola to approve application, seconded by Mr. Biswurm; all voted in favor.

NEW BUSINESS:

D ALESSANDRO, STEPHEN- Block 7.06 Lot 10- 57 Busted Dr- Stephen D Alessandro, sworn in, provided copy of resolution, marked A-1. Applicant has not yet filed for building permits and requests a one year extension of variance approval. Motion by Mr. Braunius to approve an extension of one year to 9/9/2010, seconded by Mr. Biswurm; all voted in favor.

PUBLIC HEARINGS:

OMNIPOINT COMMUNICATIONS LLC- Block 11 Lot 5 - 133 Glen Ave- Application continued from July meeting; carried from August meeting with no testimony. Atty. Frank Ferraro reviewed status of application; Board has retained an RF expert to appear at the October 14, 2009 meeting; will continue with non-RF related testimony. Ms. Herlihy, Mr. Kroitsch, Mr. Zuidema, and Mr. O Toole have listened to the 7/8/09 hearing and Mr. Braunius has listened to the 6/10/09, have so certified, and are therefore eligible to vote, except Mr. O Toole who is required to listen & certify for the 6/10/09 meeting. Mr. Scheibner, Business Manager for the Ridgwood Water Company, over 25 years. The property is owned by the Village of Ridgewood, Ridgwood Water Company is wholly owned by the Village of Ridgewood. Mr. Scheibner described property; earthen berm, underground pumping facility, underground pipes, communication lines and hydrants located in front of tank. The tank consists of two tanks that are stacked. Ridgewood Water would not consider any use that would interfere with the normal operations of the tank; agreement is not specific to exact location of equipment. Board questioned access to underground facility; hatch is located above grade next to gate at northwest corner; approx. 10' x 3'. Mr. Schreiber reviewed existing equipment on tank; public safety antennas (fire, police & central dispatch), municipal band antennas, and Ridgewood Water antennas (SCADA). Mr. Scheibner advised that Ridgewood Water did not play an active roll in the vertical location of proposed antennas but only that they should not create any interference with their antennas; agreement was based on results and not specific locations. Applicants report on interference/intermodulation will be presented separately. R. Wostbrock questioned SP-1, dated 3/5/09, existing conditions; seems to be an area of space immediately in front of the tank that could be used for equipment cabinets. Mr. Scheibner advised that a 12" water main runs underground in that area and would require six feet on either side for excavation/access, a hydrant is also located diagonally. R. Wostbrock questioned the purpose of the existing shed and whether there is room for additional equipment. Board questioned why proposed equipment cabinets could not be relocated in area designated as Alawn area in front of the tank. Board questioned height of the berm and could the equipment be cut into the berm; applicant concerned about the distance of equipment to tank and antennas, would have to review RF impacts. Atty. Mark Madaio, Objecting Attorney representing the Borough of Midland Park, questioned relocation of cabinets to berm area or lawn area and accommodation of same, bid contracts and if they were subject to zoning approval, and if the bid was contingent on outcome of any other property or site. Mr. Scheibner confirmed that the location of the equipment was not specifically designated however that it can not interfere with existing operations on the property. The proposed location will not interfere with their operations and locating equipment on the northern side of the tank could create complications with servicing and maintaining the water facility. Meeting opened to the public. Pat VanDeveen, 154 Glen Ave, - questioned if equipment could be put underground and if there is room on the site for a second cell carrier and their equipment. Board questioned if Ridgewater Water limited the number of antennas that could be placed on the site; Mr. Scheibner replied no, but it would be contingent on site constraints and their ability to get approvals. Mr. Bob Van Gorp, 120 Glen Ave, sworn in, questioned how many antennas are currently on the tank and who they serve; questioned if PSE&G has any antennas. Submitted VG-1 & VG-2, photos. Mr. Scheibner is not aware that PSE&G has any antennas on the tank. Atty. Ferraro will submit testimony that will take into account all eleven of the existing antennas. Henry VanDerveen, 154 Glen Ave, questioned if there are laws that restrict the number of cell antennas at one site. Atty Madaio questioned the process or purpose of Ridgewood Water putting the site out for antenna bids. Meeting closed to the public.

Mark Nidel, sworn in, Senior Project Manager and RF Compliance Officer for Pinnacle Telecom Group, 12 years as RF compliance officer. Exhibit A-10, Antenna FCC RF Compliance Assessment Report dated 6/15/09, prepared by Mr. Dan Collins. Mr. Nidel did the mathematical calculations but did not prepare the conclusion. After brief recess by the Chair and Atty. Doyle, Atty. Ferraro advised that they will not be giving testimony re: report A-10, and that the author of report will appear at a future meeting to testify as to the analysis and conclusion. Exhibit A-11, July 2009 rev. 8/27/09, Whitman Environmental Sound Level Assessment Report (July 2009 report can be discarded). Brian Reiser, sworn in, Whitman Environmental and Engineering, Licensed Professional Engineer, civil engineering, sound level assessment. Analysis was done from equipment cabinet manufacturers specs; no background noise at the site was taken. Noise levels were taken to the property line. Atty. Madaio questioned training for sound level assessment, if assumptions include reflective noise; reluctant to accept as expert. Atty. Doyle questioned R. Wostbrock's review of reports and calculations; assuming reference sources and assumptions are fair, he agrees with the mathematics. Board discussed level and area of expertise; Mr. Reiser is a licensed professional engineer, Board should consider testimony as to what sound levels will be at the property line based on the mathematical calculations taking into account assumptions and sound mitigation measures. R. Wostbrock can review and give an opinion of report and sources. Applicant would be willing to agree to a condition that the reports and opinions be reviewed by the board engineer. Board will research availability of specialized sound experts. Applicant would have no objection to post construction testing to ensure compliance. Mr. Reiser prepared exhibit A-11, report considered manufacturers specifications, various property factors, divergence and attenuation. The decibel measurement for all three cabinets running at the same time results in worst case scenario is 67.77 dbs at the face of the cabinet. Maximum dbs permitted at the property line is 50 dbs. Adjustments for geometric divergence at a distance of 4 2 ft to property line is 13.47 dbs. Adjustment for attenuation due to ground would be 6.0 dbs increase, attenuation due to tank would be 6.0 dbs increase; 66.3 dbs at property line and not in compliance. Midland Park police code, section 3-21c.13 allows 45 decibels measured in the center of a room or place where the noise exists. Applicant is designing to the 45 decibels level at the property line. Board questioned the sound level chart showing 60.30 dbs measured at the property line; Mr. Reiser advised that a wall is proposed that will eliminate the ground attenuation of 6.0 dbs and will reduce noise by 20 dbs; total reduction 26.0 dbs or 40.3 dbs at the property line. Exhibit A-12, SB-1, sheet 1 of 1, dated 8/25/09. Proposing a sound barrier wall on both the east, west and south side of the cabinet, 8 feet in height, pvc material with styrofoam inside the slats, similar in look to a vinyl fence but mounted horizontally, located approx. 1 2 ft from the property line resulting in a noise level reduction of 20 dbs based on manufacturers specifications. Manufacturers data will be provided. Board questioned if the cabinet could be enclosed on all sides. Mr. Reiser reviewed engineering comments on letter dated 8/19/2009; Item 1 & 2; current sound level analysis takes into account the provisions in comment #1 and ordinance 34-19.1d par. 7 & 8 and cross references have been corrected. Item #3 has been corrected. Item #4; Values have been corrected/explained in revised report. T. Mobile is not proposing a generator; no additional noise levels will be generated. At the request of the Board, applicant will supply the cabinet manufacturers spec sheets. Item #6, sound barrier absorbs noise; do not anticipate noise reflection between the tank and sound barrier. R. Wostbrock questioned if a material could be added to the tank to absorb sound; applicant can look into if post construction noise reduction is required. Board questioned if a variance is required for the sound barrier walls; is it a fence or structure. Board discussed ordinance 34-20.6, does a or b apply. Applicant will provide detail of sound barrier structure. If it is a fence, a variance for 2 feet would be required for an 8' fence. Item #10, 34-20.6b2, applicant does not believe this requirement applies. Atty. Doyle, applicant,

and engineer will discuss what ordinance applies. Item #11, applicant has no objection to having property staked prior to construction and an as-built supplied upon completion. Last two items will be addressed by the RF engineer. Mr. Reiser will return at the next meeting for objecting attorney cross and for questions from the public. Motion to carry application to October 14, 2009, no further notice required, by Mr. Braunius, seconded by Mr. Feick; all voted in favor. Atty. Ferraro agrees to the extension of time.

RESOLUTIONS:

HUP RESIDENCE- Block 20.08 Lot 10- 72 Cross Ave- Resolution was reviewed by the Board and approved.

CATUOGNO, MARC- Block 10.14 Lot 14- 111 Millington Dr.- Resolution was reviewed by the Board and approved with changes.

CENTRAL AUTOMOTIVE ENTERPRISES, LLC- Block 41 Lot 1 - 595 Godwin Ave- Board reviewed previously approved resolution; will re-review for the addition of site plan approval.

COMMUNICATIONS:

HENPAL REALTY LLC- Block 6 Lots 1 & 17.01- 80 Godwin Ave- Items 28 & 29 are outstanding items. Board to follow up with applicant.

T-MOBILE/OMNIPPOINT - Block 5 Lot 1- 44 Godwin Ave- Motion by Mr. Formicola to deem application complete and to retain the services of RF Expert, Ron Graiff, to represent the board, seconded by Mr. O Toole; all voted in favor.

Adjourned at 11:10 PM
Janet Giardino
Board Secretary