

**ZONING BOARD OF ADJUSTMENT
MINUTES**

JULY 12, 2010

Meeting was called to order at 7:20 P.M.

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

Absent: Ms. Goralski

Also present: Attorney – Russ Cherkos
Terry Vogt, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of June 28th with a waiver to read – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Appeal # 3726 – T-mobile Northeast, 612 Cross Street, Block 524 Lot 4, M-1 zone. Wireless telecommunications compound.

Secretary read reports.

From: Terry Vogt, Engineer/Planner – May 10, 2010

The parcel is located in the M-1 Industrial Zone District. Wireless Telecommunications Towers are an additional permitted use in this zone. Wireless telecommunications towers and antennas may be permitted on non-municipal property in only the M-1 Zone, upon submission and approval of a site plan and conditional use permit in accordance with the regulations set forth in Section 18-1012 of the ordinance. The proposed monopole will require a variance for minimum setback from a lot line, proposing 31 feet where the ordinance requires 100% of the tower's height, or 150 feet.

Warren Stilwell, attorney for applicant. In the M-1 zone this is permitted use with certain conditions. They do not meet the condition of setback which is 150 feet and they are proposing 31 feet and also they must be 1,500 feet from a residential zone or property they are 31 feet from the R-40 zone. Also asking for preliminary and final site plan approval. Trying to redesign so that there would be less impact. Currently working with the landlord to try and find another location on the property. It is his intention to put on the Radio Frequency engineer and then would like to carry this until October which will give them enough time to redesign and possible relocate.

Mr. Chairman – he is seeking another location on this property or another property for the antenna – tonight he will only present his health & safety witness – in Octobers meeting he will proceed – the public will not be heard tonight.

David Collins, Pinnacle Telecom, sworn. Special in FCC Compliance issues.

Board accepted qualifications.

Mr. Collins testified that it is the sole purview of the FCC to make the rules and regulations and the standards. There are no other antenna companies that wish to collocate at this time. It will only be T-mobile. With all antennas operating at maximum would be 0.0362% which is way below the FCC requirements. The standards for hand held cell phones are different because it is much closer to you. There is no effect or concerns on medical devices such as pacemakers or defibrillators.

Mr. Naftali asked if the report submitted is outdated?

Mr. Collins – The electromagnetic design of the antenna has not changed, it is essentially the same thing.

A-1 report

Mr. Collins – medical devises are shielded. This is not a dual frequency antenna. The antennas will be at 150 feet at the top of the pole.

Motion to carry until October 4, 2010 – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 2.**

There will be new notice and applicant consented to waive of time.

Mr. Chairman announced to the audience that if they do not get a new notice than they will not be scheduled for the hearing.

Mr. Cherkos – when the application continues every person will be allowed to speak at that time. Applicant has not continued tonight to revise his plans to satisfy the concerns of the objectors. Applicant may attempt to re-locate the antenna.

Appeal # 3732 – Isadore Fisher, 351 Ridge Avenue, Block 224 Lots 11.01, 11.02 & 11.03, R-10 zone. To subdivide the existing lots into 2 undersized duplex lots.

Secretary read report.

From: Terry Vogt, Engineer/Planner - May 6, 2010

The applicant proposes to combine the existing rectangular Lots 11.01, 11.02 and 11.03, to vacate an existing Township of Lakewood drainage easement and then seeks a Zero Lot Line Minor Subdivision approval in accordance with Section 18-911 of the UDO resulting in proposed rectangular Lots 11.04, 11.05, 11.06 and 11.07. Lot 11.04 would be 5,250 SF with frontage on New York Avenue. Lot 11.05 would be a corner lot of 6,000 SF with frontage on New York Avenue and Ridge Avenue. Lots 11.06 and 11.07 would each be 5,625 SF with frontage on Ridge Avenue. A duplex is proposed to be constructed on each resulting lot. The front of the structure on Lot 11.04 would face New York Avenue. The front of the structure on Lot 11.05 would face New York Avenue. The front of the structure on Lots 11.06 and 11.07 would face Ridge Avenue. An existing dwelling and shed are proposed to be demolished as part of the project.

The applicant has previously obtained Planning Board approval in 2009 to subdivide the property into two lots, one of which would contain the existing dwelling and the other would contain a duplex. The applicant has also previously been denied an application in July of 2009 to subdivide the lots into two lots and construct two duplexes on the resulting lots, including demolition of the existing dwelling. A use variance is required as duplexes in the R-10 zone require a minimum of 6,000 SF (50% of the zone requirement of 12,000 SF) whereas a minimum of 5,250 SF is provided.

Samuel Brown represented applicant.

Brian Flannery, Engineer/Planner, sworn. The application is for a subdivision into 4 single family attached units, 2 duplex building. The Board denied an application for the same amount of units but they were all fronting on Ridge Avenue. They have improved the application, they are not asking for a front yard setback variance on New York Avenue. They met with the neighbors and will revise the plan to push the units back to allow for 3 double driveways.

A-1 variance map

A-2 tax map

Mr. Flannery - this area has been redeveloped and this is compatible with the area, providing housing opportunities. Reviewed Terry Vogt, engineers report. To construct a duplex the zone

requires 12,000 square feet, they are short 750 square feet. There are no negative impacts. Lots 11.06 & 11.07 they will have 6 parking spaces. The applicant is proposing unfinished basements. There are no setback variances requested along New York Avenue. They will have foundation plantings in front of the house.

The prior application had a drainage system along the property line – there will now be drywells on each individual lots. In the original subdivision the duplex was on 12,000.

Open to Public.

David Harrar, 346 Ridge Avenue, affirmed. Originally objected to this application but they worked it out with the applicant and he was in favor of this project. Would like to see 6 parking spaces. There is no grass on Ridge Avenue.

David Steiner, 14 Shoshana Drive, affirmed. In favor of this application.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 3.**

Closed to Public.

Mr. Naftali – would like to leave the 6 parking spaces but would like to see the houses moved back and some grass.

Mr. Flannery - the applicant agreed to move the houses back to allow for a 4 foot landscape area along the front.

Motion to approve: Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

Appeal # 3724 – Simon Kaufman – East 5th Street, Block 243 Lots 2 & 3, R-7.5 zone. To construct a duplex and 3 unit multi-family dwelling which requires a use variance.

Secretary read report.

From: Terry Vogt, Engineer/Planner - June 17, 2010

The applicant proposes to combine Lots 2 and 3 and then subdivide the lots, resulting in proposed Lots 2.01, 2.02, 3.01, 3.02, and 3.03, with lot sizes ranging from 3,750 to 4,825.50 square feet. A duplex is proposed to be constructed on proposed Lots 2.01 and 2.02 and a triplex (townhouses) is proposed to be constructed on proposed Lots 3.01, 3.02, and 3.03. An existing dwelling is proposed to be demolished as part of the project.

Glenn Lines, Engineer/Planner, sworn.

Adam Pfeffer represented applicant.

New plans were submitted.

Mr. Cherkos – we have to determine if this is a substantial change.

Mr. Vogt – cannot do a complete review, applicant has to agree that any technical comments will to be met. This is a less intense project.

Board was polled to see if they wanted to continue.

Mr. Zaks – there was one duplex and one triplex – he took away a house.

Mr. Gonzalez- not in favor of reviewing new plans.

Mr. Naftali – no problem – he has to agree with all Terry’s comments.

Mr. Mund – concerned about acting on something that he is not sure about.

Mr. Lankry – this application is a lot less intense than before – no problem

Mr. Gelley – this is less house – but okay for to hear the application.

Mr. Halberstam – only because this application has less variances than the original he would go along with listening to it.

Mr. Lines – because this lot is an irregular shape, variances for lot area for lot 2.01 and lot 2.02 are requested. The other variances is for lot coverage asking 32% where 30% is requested. The decks on the units is what puts them over for lot coverage. Reviewed Mr. Vogts report. Proposing 4 parking spaces per unit with unfinished basements. HVAC units will be in the back of the units. Provided individual recharge systems on each lot to be maintained by the homeowner. Will provide those plans to Mr. Vogt for review. Providing shade trees and no other landscaping.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 4.**

Mr. Halberstam asked to make the house a little narrower and provide larger side yards. The old application the houses were 25 feet wide.

Mr. Zaks – the original application was for 25 feet wide houses.

Mr. Lines - Applicant agreed to provide stucco or stone on the front of the foundation.

Mr. Zaks – would prefer stone.

Open to Public.

Mr. Lipschitz, affirmed, own property across the street. In favor of this application

Closed to Public.

Mr. Pfeffer – agreed to a stone venier. Each building has 8 parking spaces.

Mr. Lines – agreed to an irrigation system. Garbage cans will be stored on the side of the house. Lot 2.01 there is a deck on the side.

Motion to approve subject to revised plans, 2 duplexes a total of 4 lots, 27 feet wide , 8 parking spaces per building, irrigation system, front and sides of all the houses will have from grade to ground will have stucco or brick or cultured stone or veneer, garbage will be on the side behind the basement entrances, comply with any issues by the board engineer – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks, Mr. Mund,
Mr. Halberstam

Nayes: Mr. Gonzalez

Recess.

Appeal # 3738 – Princeton One, LLC, Block 159 Lots 9 & 24, B-2 Zone – To construct 5 townhouses with basement apartments.

Secretary read reports.

From: Terry Vogt, Engineer/Planner - June 4, 2010

The applicant is requesting Preliminary and Final Major Subdivision and Site Plan approval to construct five (5) townhouses. Basement apartments are proposed for each townhouse as well.

The property is located within the B-2 Central Business Zone. Townhouses are a conditional use within the zone, subject to the conditions listed in Section 18-1010 of the ordinance. A townhouse with a basement is to be treated as two (2) units in this zone. A use variance is required due to the proposed density of the development exceeding the maximum density allowed for townhouses, proposing 29.04 dwelling units per acre where the maximum allowed is 16 units per acre.

John Doyle, represented applicant. This was the site of an earlier application that went to Planning Board for a 5 story commercial building with 65,000 square feet with no parking, covering 80-90% of the land. That application did not need any variances. There were many objectors. The Board denied it and they went to court. They met with the neighbors and their concerns. They are now here with this new plan. They did not pursue the court case.

Brian Flannery, sworn. This property is in the B-2 zone where multi-family dwellings and commercial are permitted. The previous application had a much greater impact than this application. They are asking for 5 townhouses with basement apartment and are only permitted 8 per acre and need a density variance. The townhouse buildings are more consistent with the neighbors homes. Proposing 20 parking spaces at 4 per unit. The RSIS says that they should have 21 parking spaces. Mr. Flannery reviewed engineers report.

Mr. Halberstam - 5 townhouses are less intent that a 65 foot office building.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 5.**

Mr. Zaks – there should be only 3 townhouses. This is really 3 stories plus a roof. Asking for 40.1% lot coverage where only 35% is permitted.

Mr. Flannery - should be looking at the impact on the neighbors.

Mr. Zaks - The neighbors are all single family houses and there are no townhouses in this area.

Mr. Halberstam suggested that the houses should be narrower to give some room on the sides

Mr. Gonzalez- would like to get rid of one building and put more greenery there.

Mr. Lankry – would prefer residential but concerned about density. Basements are in line with the street.

Mr. Flannery – the building height is 36 feet 9 inches not to the top of the roof.

Mr. Zaks read the definition of a basement. This does not even fit into the townhouse definition. This is not a townhouse it is a multi-family unit.

Mr. Flannery – the intent of this application was to fit into the neighborhood instead of a commercial building.

Mr. Vogt – it appears to be a walk-out basement. Asked that they comply with the 35 feet height requirement.

Open to public.

Abraham Mandelbaum, 15 – 4th Street, affirmed. In favor of residential and not commercial. Asked if the building could be moved forward closer to Princeton Avenue. Would rather have breathing space between the buildings. Residential is definitely a tremendous benefit for the neighbors. Density does not impact the neighbors as much as the proximity to their buildings.

Avraham Zweiback, 19 – 4th Street, affirmed. Prefer residential setting as opposed to a commercial building.

Jacob Weiss, 16 5th Street, affirmed. The current application is much more favorable.

Closed to Public.

Mr. Zaks suggested removing one unit or two duplexes with a space in between.

Attorney asked for some time to speak with the applicant.

Chairman put the application on hold and continued the meeting.

Appeal # 3739 – County Apple, LLC, Block 171 Lots 4, 5 & 6, R-7.5 zone. To construct 6 zero lot line lots.

Secretary read reports.

From: Terry Vogt, Engineer/Planner – June 29, 2010

The applicant proposes to combine Lots 4, 5, and 6 in Block 171, then subdivide the resulting tract into six separate lots, which will have three duplexes built on them as zero lot line development. Duplexes are a permitted use within the R-7.5 zoning so long as the lot size is 10,000 square feet. Zero lot line development requires 50% of the required area for duplex structures in the zoning, resulting in a 5,000 square foot minimum area.

Adam Pfeffer, represented applicant.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 6.**

Walter Hopkin, Engineer, sworn. There is currently 3 existing single family homes. There was an approval in 2008 for over 21,000 square feet of a mix of retail and office. They will be closing up all the curb cuts to County Line Road and have one access road from Apple Street. There will be a shared parking area which will have a common access easement to all the proposed lots. There will be 3 duplex units in accordance with the zero lot line ordinance which will be a total of 6 individual units. There will be a total of 28 parking spaces. No issues with any of the comments from Mr. Vogt. Proposing landscaping on County Line Road

Mr. Zaks – would like to see a 6 foot fence on County Line Road with plantings in front with an irrigation system.

Mr. Hopkin – garbage will be brought out to Apple Street. Bins will go on the side of the units.

Open to Public. Closed to Public.

Mr. Pfeffer – promised to replace the neighbors fence if it got damaged during construction.

Mr. Pfeffer - The parking area will be maintained by a homeowners association.

Motion to approve with the condition that there be stone veneer, irrigation system, 6 foot chain link fence with green vines along County Line Road – 4 feet off property line with landscaping, building with 2 units is a duplex not a multi-family unit - Mr. Zaks

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

Appeal # 3738 – Princeton One, continued.

Mr. Doyle - Would like to reduce the unit width to 25 feet and use the 5 feet to have a side setback greater than 10 feet and it would reduce the coverage to 37%.

Mr. Zaks – would prefer to see 2 duplexes instead of 5 skinny townhouses.

Mr. Naftali – 2 duplexes would be fine or 3 townhouses. This is overkill.

Mr. Lankry – looks too dense for the area. The walk-out basement bothers him.

Motion to carry this application to September 13, 2010 with a waiver of time – Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Zaks, Mr. Mund,
Mr. Halberstam

Nays: Mr. Naftali

No further notice.

Appeal # 3740, Aaron Mansour was carried to the September 13th meeting with no further notice and applicant agreed to a waiver of time.

Motion to carry until September 13th - Mr. Zaks

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelly, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

Appeal # 3741 – Aaron Monsour was carried to the September 13th meeting with no further notice and applicant agreed to a waiver of time.

Motion to carry until September 13 – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,
Mr. Mund, Mr. Halberstam

Resolutions

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 12, 2010
PAGE 7.**

Appeal # 3737 – Sterling Forest HO Assoc. Block 423 Lots 78 & 78.01, HD-7 zone.

Resolution to approve use variance for a proposed basketball court, minor subdivision, minor site plan approved.

Motion to approve – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 11:20 P.M.

Respectfully submitted,

Fran Siegel
Secretary