

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Of May 17, 2010**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on May 17, 2010.

Acting Chairman Jane Spindel called the regular meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Diner, Mr. Karas, Mr. Lowenstein, Mr. Puzio, Ms. Spindel
Mr. Meer, Mr. Frankel, Mr. Sacchinelli & Mr. Blecher
(Mr. Newman arrived 7:35)

Absent: Ms. Taylor,

Also in attendance were William Soukas, Board Attorney; Karen Kocsis, Court Reporter; Ann Peck, Assistant Zoning Officer and Cathy Bozza, Zoning Board Secretary.

Ms. Spindel announces that Application#09-038, 18-35 River Road, LLC will be carried to a Special Meeting of June 14, 2010.

New Residential:

1. Application#10-021, Igor & Irena Bass
5-12 Lyncrest Avenue, Block 4405, Lot 15, Zone R-1-3
Proposed addition would decrease the side yard setback from 6.11' to 4.78' where 10' is required. Removal of concrete will decrease the existing impervious coverage from 35.80% to 35.45% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements. FAR of 39.99% where 37% is permitted requires a D-4 variance as per Section 125.57.D.(1)(d)

Fees have been paid and there is proof of service.

Mr. Soukas(Board Attorney) swears in: Mr. Igor Bass (Applicant)
5-12 Lyncrest Avenue

Mr. Larry Guthartz (Licensed Architect
in the state of N.J.)

Mr. Guthartz has testified before this Board many times and is accepted as an expert witness in the field of Architecture.

Ms. Spindel asks Mr. Guthartz to please explain the application...

Mr. Guthartz begins by stating the application is for a rear addition to the existing residence. It will expand into a two story addition. The purpose is to add a family room, rearrange the existing Kitchen/Dining area and move the Master Bedroom on to the second floor.

Mr. Guthartz testifies that most of the houses in the neighborhood are Cape Cod's for the most part but ...referring to the pictures he provided, he explains there have been several houses that have been enlarged....where there are full second floors.

The house will maintain the front yard setback and will still look like a Cape but in the back is where most of the height will be affected. The house height will not exceed 29.45ft.

Mr. Guthartz explains they will be adding a deck to the rear of the house...continues with the calculations and changes to be made to the home. He is here for the FAR. Existing at 23.45% - Proposed is 37.55%.

Mr. Karas notes that Impervious is being decreased by 1.9%....questions the North side of the house on survey versus proposed site plan...

Mr. Guthartz explains there is a 5ft. easement that runs along the North side of the property line and on the 1st floor level, he pushed it back 6inches, but on the second level it will be at 4.78%, a 6 inch overhang...the overhang decreases the sideyard...

Discussion continues.....

Front of home will remain brick façade.

Dormers will be Stucco.

Roof will be shingles.

Patio is being removed and replaced with wood deck.

Ms. Spindel opens the applicant to residents within 200ft. Seeing no one,

Ms. Spindel closes this portion.

Ms. Spindel opens the applicant to the General Public. Seeing no one.

Ms. Spindel closes this portion.

Mr. Meer makes 1st. motion to approve the application

Mr. Diner seconds the motion.

VOTE: Mr. Diner, Mr. Karas, Mr. Lowenstein, Mr. Puzio, Mr. Frankel, Mr. Meer
& Ms Spindel.

Application Approved.

2. Application#10-023, Wilfred & Amy Hopwood,
7 Bolton Place, Block 3808, Lot 10, Zone R-1-3
Proposed new rear porch & front entry would maintain existing side yard setback
Of 8.83' where 8' is required. Would increase the existing impervious coverage of
38% to 42% where 35% is permitted as per Section 125-12 Schedule of area yard
and Building requirements.

Mr. Soukas swears in: Mr. Wilfred Hopwood (Applicant) 7 Bolton Place
Ms. Amy Hopwood (Applicant) 7 Bolton Place

Fees have been paid and there is proof of service.

Ms. Spindel asks Ms. Hopwood to proceed.

Ms. Hopwood refers to Board Exhibits. She explains they live in Radburn and have a Colonial Revival house that is attached and they are proposing to close the existing open front porch with glass door panels, keeping within the footprint and the style & character but have an entry way. We are also here to make changes with the existing back porch, which is just a framed screened porch. We would like to enlarge and enclose it, again to give it the feel of a Colonial Revival House.

Ms. Hopwood explains she has a growing family and would like to have the house grow with them....

Mr. Soukas refers to the Board Exhibits....asks if it is the same drawings that are with the application.

Ms. Hopwood states yes, there are two boards, one being sheet 1 of 1...

Points to the Board Exhibits and continues with her testimony.....explaining the percentage changes with Impervious coverage and the reasoning behind the Impervious Coverage increase....Explains they did major work in the backyard to work on the drainage...They put in dry well of 8ft. in diameter x6ft.deep...the downspout on the corner has underground piping, perforated piping....we would like to keep this and in doing this proposed work, we would re-align that downspout & drainage.

Mr. Diner mentions that the FAR proposed is 42% which is higher than the 40%, was that not part of the denial?

Mr. Karas notes that a D-Variance was necessary in this application....

Discussion.....

The Board Attorney explains to Ms. Hopwood that unfortunately because of the omission of this variance, the notice is invalid and (the Board) does not have the jurisdiction to act or consider the application. The applicant is actually required to re notice and come before us again....

Ms. Hopwood understands and will come pick up the Denial Letter with the correct wording and variances needed to re-notice...

Application carried to June 21, 2010

3. Application#10-024, Jacob & Amy Vaknin,
34-21 Linwood Road, Block 2417, Lot 4, Zone R-1-2
Proposed new covered front porch would increase the existing building coverage of 33% to 36% where 25% is permitted. Would increase existing impervious coverage of 45% to 47% where 35% is permitted. Would reduce existing front yard setback of 28.4' to 23.4' where 30' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Blecher is recusing himself from this application.

Fees have been paid and there is proof of service.

Mr. Soukas swears in: Mr. Jacob Vaknin (Applicant)

Ms. Spindel asks what he is proposing.

Mr. Vaknin begins his testimony, explaining he would like to have a Front Porch to enhance the curb appeal of the house and to enhance the value of the home. His house is the only Ranch home and refers to the pictures submitted with his application and notes that it would enhance his home.

Impervious Coverage increase is discussed.

Mr. Vaknin notes this is all they would like to do, nothing else.

Porch would be 2/3 across the front and 8ft. deep.

Mr. Puzio notes a drawing on the survey, looks to be some sort of extension to the home. that he does not see on the plans submitted. He questions Mr. Vaknin on this.

Mr. Vaknin explains that he was thinking of doing an extension to the kitchen but no longer is considering this. That has been eliminated.

Ms. Spindel notes Mr. Newman arrival. (7:35pm)

Ms. Spindel opens the applicant to residents within 200ft. Seeing none.
Ms. Spindel closes this portion.

Ms. Spindel opens the applicant to the General Public.

Mr. Joe Mele, with the Fair Lawn Environmental Commission steps forward.

Mr. Soukas swears in: Mr. Joseph Mele
15-25 11th Street, Fair Lawn, N.J.

Mr. Mele questions the applicant and asks with the new front porch, is there an existing porch now?

Mr. Vaknin states no. There is a concrete slab that is going out approximately 31/2 ft. and it will have stairs starting about 8ft. to the front door.

Mr. Mele wants to know if Mr. Vaknin needed a front yard setback variance?

Ms. Peck replies it is already included.

Mr. Mele asks if there is any way to reduce the Impervious Coverage back to the existing condition, where you are increasing about 2%. Can you bring that down to 45% somewhere else on site?

Discussion.....

Mr. Lowenstein asks if the applicant would consider reducing the proposed Front Porch size?

Mr. Vaknin explains it would not look aesthetically in balance with the house if he were to do that....it would look to small in relation to the house.

Ms. Spindel agrees.

Ms. Spindel asks if there are any other questions from the Board. Seeing no one.

Ms. Spindel opens the applicant to residents within 200ft. Seeing no one.

Ms. Spindel opens the applicant to the General Public. Seeing no one.

Ms. Spindel closes this portion.

Mr. Meer makes 1st motion to approve the application.

Mr. Karas seconds the motion with an amendment. The motion should reflect the one item and that is; the concrete pad in the rear of the property be removed and the walkway in the rear of the property be removed.

Ms. Spindel notes that the walkway had been removed.

Mr. Meer accepts the amendment.

Mr. Meer seconds the motion.

VOTE: Mr. Diner, Mr. Karas, Mr. Puzio, Mr. Frankel, Mr. Meer & Ms. Spindel.

YES. (Mr. Blecher gone for evening)

Mr. Lowenstein: **NO**

Motion carries.

Application Approved.

(Mr. Newman arrives. Time:7:35)

Mr. Newman opens next application.

4. Application#10-025, Galina & Oscar Ortiz,
4-25 Summit Avenue, Block 4403, Lot 25, Zone R-1-3
Proposed addition would increase the building coverage from 20% to 28% where 25% is permitted. Would increase the impervious coverage from 31% to 41% where 35% is permitted. Would maintain existing side yard setbacks of 4' and 4.3 where 8' is required as per Section 125-12 Schedule of area yard and building Requirements. FAR of 45% where 40% is permitted requires a D-4 Variance as per Section 125-057.D.(d)

Mr. Nathan Streitman steps forward (Architect for the Applicants)

Mr. Newman swears in: Mr. Nathan Streitman (Licensed in the State of N.J.)

8 Audobon Place
Fair Lawn, N.J.

Mr. Oscar Ortiz (Applicant)
Ms. Galina Ivanova(Applicant)

Mr. Nathan Streitman has extensive Architectural experience and is accepted as an Expert Witness in the Field of Architecture.

Fees have been paid and there is proof of service.

Mr. Streitman explains he is here tonight to request an expansion of an existing non conforming single family use. It is a Cape and we would like to expand it to a two story similar to the residents immediately across the street and similar to some other residents in the general vicinity of my clients. Refers to the photos submitted with application.

Mr. Streitman goes into detail of the proposal.....

They will remove the present garage. Enlarge it by 3.3ft. in width...Increase the depth by 6ft.

Proposing a Open Vestibule Entry to be added to the front of the home with new walkways & driveway.

The existing rear porch is to be removed and replaced with a Sunroom that would be 13x19ft.

The roof will be removed where there is currently an attic, and the second floor would follow the footprint of the present house and the proposed garage enlargement and the second floor would contain 3 bedrooms, two bathrooms, a kitchen & dining area & a Living area.

The purpose of the expansion is to provide for Mr. & Mrs. Ortiz's family which would include Ms. Ortiz's Mother& Father, who would be coming here to live with them in this house.

Mr. Streitman continues explaining the reason behind the Kitchen area on the second floor....

It may be necessary to have two different food preparation areas....with the older adults living on the first floor, they would like to have a second kitchen in case they need it.

Mr. Streitman testifies that it is NOT a two family house. Only one entrance will be available from the front yard.

Mr. Streitman reviews the variances they are asking for....

Mr. Newman asks Mr. Streitman if he is familiar with the FAR Ordinance and if he is familiar with N.J. Land Use Law, being so.....Mr. Newman asks Mr. Streitman to convince the Board and within the limits of the Law, approve a FAR of 45% in this situation and I need you to convince the Board that this is NOT a two family waiting to happen.

Mr. Streitman begins to answer Mr. Newman's concerns and explains that the additional space that the Ortiz's require is not being provided by the present physical accommodations. They need additional space in the house....

Mr. Newman reminds Mr. Streitman that it does not have any bearing on any approvals by this Board.

Discussion continues.....

Ms. Ortiz steps forward and explains that her parents are getting very old....

Mr. Newman steps in before Ms. Ortiz continues and tries to explain to her that it would be interesting to the Board to understand maybe how you would co-habituate & why this set up is not a two family, but nothing about your personal situation can have any bearing on our decision, so although we understand why you are making improvements because you have elderly parents moving in with you....their needs and your needs for physical space can't have any bearing on our decision by Law....I would be interested in how you are all going to be sharing the space together and the second kitchen and how that plays a role....

Ms. Ortiz continues with the concern that Mr. Newman & the Board has and explains that she would like them to live on the first floor so they wouldn't have to use the stairs and we would like to move upstairs & create the bedrooms and stay there. We will live together but they will have their bedrooms downstairs...

Ms. Ortiz says she would like just a little kitchenette, with a sink so we could make coffee in the morning, etc....

Mr. Newman states that there are many single family homes that are two floors with one kitchen....

Mr. Ortiz steps forward and thanks the Board for their time & explains that he is from South America & his In-Laws are from Russia. The food is very different....(Laughter) He was trying to cook his food & his Mother-in-Law spent hours & hours in the kitchen cooking certain foods that he doesn't like. He really does not want to impose on their time when they are in the kitchen, the same as he does not want them imposing on his time when he is trying to cook for his family. That is the bottom line and why they would like a small kitchenette of some sort.

Mr. Meer suggests that maybe we could put in the Resolution something that states that if the home is sold, the kitchenette, if approved, would have to be removed or eliminated?

Discussion....

Mr. Karas questions Mr. Streitman on the side yard setback and if it would be changing & questions him on the rear sun room expansion...

Mr. Streitman explains.....the house itself is rectangular but the property is a parallelogram and as a result of that, you have a 4.3ft. setback and the rear is a 3.2ft. setback on the Southside which will not change.

Questioning continues on setbacks & the proposal submitted.....

Mr. Karas confirms that there will be 3 bathrooms in this proposal....

Mr. Streitman explains there will be a bath in the basement, one on the first floor, and two baths proposed for the second floor...

Mr. Karas mentions the FAR Ordinance and why there is an Ordinance on the FAR.

Discussion....

Mr. Streitman defends the proposal stating this application mimics the house across the street. There are other houses in the photographs submitted that have been expanded because of the family needs in a way to provide additional space and he does not feel that this expansion should be categorized as a McMansion.....

Mr. Newman asks Mr. Streitman “How many other homes on this particular block are of this size house you keep referring to on this block”?

Mr. Streitman testifies there are several.....

Mr. Ortiz steps forward and testifies there are three houses on his side of the street and another three houses across the street.

Mr. Newman asks, “Does it fit the character of the neighborhood, is the character of the neighborhood unexpanded Cape Cods?”

Mr. Streitman feels they are not harming the character of the neighborhood by changing this one Cape Cod.

Mr. Streitman continues to explain the reasoning behind the expansion.....

Discussion & Questions continues.....

Mr. Frankel questions a portion of the site plan....asking the size of a particular room.

Ms. Spindel states that all in all it is a nice size house, it is not huge, but on this size lot it is an opposing house in her opinion. It is very close to the property line, especially on the North side. The kitchen on the second floor is not too big, measures 15x10, but as you stated, for a second small kitchen, just to get coffee, it is quite a large kitchen.

Discussion continues on the second kitchen.....

Suggestions on reducing the spaces and reducing the whole footprint of the house are offered. Are 4 bathrooms needed....

Discussion.....

Mr. Newman states that the applicant has two big obstacles here that we have been mentioning in various ways. You have a proposal, in my strong opinion set up as a two family. You have a complete second living space on the second floor missing nothing and a complete totally separate living space on the first floor missing nothing. Totally separate kitchen, bedrooms, bathrooms....there is no co-habitation required in this dwelling.....

Mr. Newman continues to explain that is a big issue for this Board to even consider approving something like this. The other situation is the FAR. You are quite a bit over the allotted FAR and I have heard nothing in your testimony that this Board could work with in terms of Municipal Land Use Law that would enable us to consider an approval of that FAR.

Mr. Newman suggests to Mr. Streitman to go back and discuss with his clients another variation of the proposal that would reflect and address the concerns of this Board and if they would like to come back another evening....

Mr. Streitman suggests changing the FAR to bring it down closer to the 40% but he is not quite sure what the Board's reasoning is behind the concern with the second floor kitchen....are you saying that the kitchen area is prohibited?

Mr. Newman clarifies that the way it is presented, he is asking this Board to approve an application that is in essence a two family dwelling, in my opinion and there is no reason why this Board should approve such an application. Desiring a second kitchen in an application is not grounds for an approval. We cannot take into consideration personal hardships....

Discussion continues....
Suggestions are given....

Mr. Newman asks the applicants if they would like to come back at a later date and show us something different. He also reminds the applicants, that they do have the option to continue if they want....

Ms. Ortiz steps forward to speak and tries to explain that all they are trying to do is make the house better for the block and it would still be in the same style as the Tutor style that it is...speaks of aesthetics...

Mr. Newman agrees with Ms. Ortiz but explains they are not allowed to consider aesthetics in their (the Board's) evaluation. The Architect can discuss this with you & the reasons that would have to be presented to us in order to grant a variance above & beyond the allotted FAR & none of it has been presented to us this evening. If you proceed tonight and the application is denied, you would have to come back with a what is called a "significantly different application"....you would have to change things much more than you would if you go back & reconsider things now. We certainly want to work with you and that is the reason why we are making things clear to you before we get to vote on the application.

Mr. Streitman accepts the deferral after consulting with his clients.

Application carried to June 21, 2010

RECESS:

Mr. Newman reopens the meeting:

Commercial New Business

1. Application#10-126, T-Mobile Northeast, LLC.
19-01 Pollitt Drive, Block 4802, Lot 1, Zone I-1
Proposed 110' monopole and equipment cabinets would require a use variance as Cellular Antennas are not permitted in the I-1 zone. Height variance required for 110' monopole which exceeds the permitted height of 40'. Reduce existing rear yard setback of 44.9' to 16' and 28' where 50' is required. Increase in the existing impervious coverage of 77.1% to 77.2% where 60% is permitted. Requires site plan approval. Sections 125-57(1)(d)(1) Use variance D-1 Use/D-6 Height- Section 125-65 Site plan. Section 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is proof of service. (Outstanding water bill)

Greg Meese steps forward. (Attorney for Applicant) states all utilities have been paid as of today and taxes have been paid to date. We have the original owners consent form to submit as well as a copy of the Corporate disclosure & lastly a full title search on the property.

Mr. Newman advises Mr. Meese that new testimony usually will not be heard after 10:00 p.m.

Mr. Meese agrees.

Mr. Meese begins by explaining that this is a new application for T-Mobile Northeast, LLC. The application is for 110ft. monopole with 9 antennas & 3 equipment cabinets at the base of the pole.

The way the Borough code structures the zoning for these wireless communication facilities is to limit only 3 locations in town, in the CA or Commercial Antennas zones and T-Mobile is already in each of these zones....

The subject property is in the I-1 Restricted Industrial Zone. The applicant has sought a location that has Commercial uses surrounding it. The closest Residential property is around 750ft. away on the Southside of Route 208.

It is not within one of the Commercial Antennas zones, so a use variance is required, together with various reliefs as well as waivers....

Mr. Meese continues....

Height Variance is needed. 40ft. is required & 110ft. is proposed.
Impervious Coverage is 60% required. 77.1% existing. Increase to 77.2% proposed.
Side Yard for principal structure, 50ft required, 21ft. proposed.
Minimum rear yard 50% required. 16ft. proposed.

Similar setbacks for accessory structures....

Mr. Meese has brought 4 witnesses tonight.

1st witness will be Paul Couvret, Professional Engineer.

Mr. Soukas(Board Attorney) would like to mention that it is his understanding that the Ordinance has recently been revised.

Discussion.....

Mr. Meese proceeds and calls his first witness.

Mr. Newman swears in: Mr. Paul Couvret (Licensed Professional Engineer in N.J. since 1993) He is also licensed in Pennsylvania, Maine & D.C.

Mr. Newman accepts Mr. Couvret as an Expert Witness.

Mr. Couvret testifies and describes the existing site....provides a Sheet Exhibit, marks it A-01 for the overall existing site conditions & A-02 for the proposed.

A-01 is a Plan view of the survey at the site.....testifies the property is a single story, brick building. It is a ringed route to provide access all around it....The proposed cell tower site is proposed on the Northeast corner of the property in the side yard between it and the adjacent property which is also an Industrial use...

Testimony continues.....

Mr. Couvret explains that Sheet 2 shows a much larger scale plan view of the application. It is unmanned. There will be nothing visible...Eastern side of the fenced corner will be two mobile equipment cabinets. The monopole itself is proposed on the Northwest corner of the fenced area.

There is an accommodation for three other carriers in the future to provide for co-location to reduce the number of towers in the Municipality.

Proposal of lights at the facility are discussed. Mr. Couvret explains there are work lights proposed on top of the cabinets. The lights only come on when turned on by a technician working at the site.

Mr. Couvret explains that the site is visited once a month for interval maintenance and of course if anything is needed before that, but normally once a month is the frequency of the business.

He testifies to no noise interference from the site.
Design waivers connected with the site plan are discussed.

Mr. Meese speaks to Mr. Paul Azzolina's report dated May 14, 2010, paragraph 10... there is a waiver request for the building envelopes for front rear side yard setback lines? The Engineer has offered no objection to the granting of this waiver....

Mr. Couvret states, the best place to put this power on this lot is up on this Northeast corner in an area that is not being used currently and to keep it as far away from the property line and the curb line of the existing facility.

It will be a 9ft. setback on the side yard to the accessory structure and a 16ft. setback from the actual antennas itself and in the rear it will be a 21ft. for the antenna itself and 28ft for the cabinets...

No Traffic flow and existing parking facilities would be affected.

Testimony continues.....

Grade issues are discussed.
Drainage issues are discussed.

Soil types would only come into play when the actual foundation structure was designed and that is normally done at a later date and that design would of course be submitted for Review.....

Soil erosion....
Site Triangle...

Traffic Impact...
Environment Assessment Report

Mr. Courvet testifies and states no impact regarding the above.

Questions from Board Members on Balloon testing, etc....Heights & coverage areas are questioned.... and why 110ft. is needed.

Mr. Meese asks that all questions be answered by the RF Engineer, who is the next witness....

Discussion continues....

Mr. Newman opens the witness to residents living within 200ft. seeing none,
Mr. Newman opens the witness to the General Public, seeing none.

Mr. Newman closes this portion.

Mr. Meese calls his next witness:

Mr. Newman swears in: Mr. Ben Shidfar, has a BS in Electrical Engineering, has been in
the Telecom Wireless Industry since 1986. Independent
Consultant since 1998....

Mr. Newman qualifies Mr. Shidfar as an Expert Witness.

Mr. Meese begins his questioning of Mr. Shidfar.

The FCC licenses T-Mobile to supply wireless mobile services, cell service, telephone
data and 911 services...service has evolved over the years and has become complex and
requirements and needs have evolved and grown to what it is today.

Explains it is not just telephone service anymore. It involves data, video, texting & 911 is
a big part of this.

T-Mobile requires antennas facilities...

Mr. Shidfar refers to several Exhibits he has brought to share with the Board.

A-3-is titled Borough of Fair Lawn- Computer generated map...Two sided Exhibit with
two overlays, two base maps.

Mr. Shidfar begins in detail the description of the Map. Shows streets names & Municipal
Boundaries and a yellow, green & blue triangle with information pertaining to the green

triangles are the existing network that T-Mobile has in & around the Borough of Fair Lawn....

4 Telecommunication facilities exist in the town of Fair Lawn....

Testimony continues.....

A4-Zoom view of the Map with overlays.....

Mr. Shidfar discusses A4, the same information only with the Zoomed in view...
Covers the 208 & the Northwest portion of Fair Lawn...

Testimony continues.....

Mr. Shidfar explains the reason for the service area and the additional coverage needed at these sites for better coverage for all.

There is a coverage block in the South, southeast direction, there is a half mile gap on Rt. 208 and there is poor service on Fair Lawn Avenue....the purpose of the planned site is to close this gap and to provide additional coverage in this gap.

Mr. Shidfar explains the reasoning behind the 110ft. monopole and the proposed facility. It would be the minimum height that would provide the coverage to support the gap because anything lower than this would not close that gap & would not serve the purpose of building this monopole.

Discussion continues.....

Commercial Strip would get good coverage from this monopole.
Speaks to reliable service....T-Mobile would like to provide this.
It would provide additional coverage to Residential homes,
It would provide 911, overlapping coverage or seamless coverage.
It fulfills FCC obligations and what is mandated by the Federal Government.

Additional coverage is needed and this site would have to be supported in order to provide this, and T-Mobile selected a location that is in an Industrial Zone surrounded by Commercial Uses far removed from a Residential Zone in order to provide the coverage it needs to the highway as well as Residential areas.

Mr. Shidfar is questioned on any concerns regarding this site and if it would cause any interference with any electronic equipment that may be operated in any of the businesses or homes that are in the surrounding areas...

Mr. Shidfar states no, no matter who the carrier is...All have to be accepted by the FCC. No equipment accepted by the FCC will interfere with any electronics. No concerns regarding this subject.

Questions & Testimony continues.....

Discussion on the maximum height of monopoles for gaps in areas...

Mr. Shidfar states in order to close this gap, 150' height would be the best in order to do so...

Mr. Newman then asks; "Why are we not talking about 150ft. in height then, to try & decrease the proliferations of these sites, rather than look for shorter, so that we have more sites?"

Mr. Shidfar agrees.

Mr. Newman explains, only in the sense that you are in the Industrial Zone. Another mobile application that we have heard here was strikingly different and in a Residential zone but we are now talking about a site that makes sense for a cell tower. I don't see why you wouldn't be looking to go higher to cover more areas so that we are not sitting here another evening talking about another monopole on someone's front lawn.

Balloon Testing is discussed....

Visibility is discussed.....

Discussion continues.....

Mr. Frankel questions Mr. Shidfar on the empty lots next to the proposed site and whether or not the height of a new building in the future would obstruct the signal of the monopole. At what height would it not interfere?

More Discussion.....

It is determined if a building were to be put up on the empty lots the size of Nabisco, the signal would be blocked completely.

Mr. Karas discusses the site on Morlot Avenue (VFW) and testimony from the Engineer heard at that meeting regarding the gap on 208....questions that gap..?

Mr. Shidfar explains that gap he is speaking of was South on 208....closer to Paramus & the gap he is talking about is the gap from the Nabisco building down to Fair Lawn Avenue....

Questioning continues.....

Discussion on carriers, towers and antenna locations.....

Concern on the amount of towers that are going to be erected & envisioned....

Mr. Newman opens this witness to the General Public, seeing none.

Mr. Newman closes this portion.

Mr. Meese (Attorney for the Applicant) notes the late hour and asks if he can call his next witness, RF Compliance Expert before his Planner because his testimony is literally 3minutes...

Mr. Newman swears in: Mr. Joseph Chiaravallo, RF Compliance Expert
Pinnacle Telecom Group,
14 Ridgedale Ave;
Cedar Knolls, N.J.

Mr. Newman asks his qualifications and accepts Mr. Chiaravallo as an Expert Witness.

Mr. Meese begins his questioning asking Mr. Chiaravallo if he is familiar with the standards of the FCC for admissions for these types of facilities.

Mr. Chiaravallo begins by explaining they use formulas mandated by the FCC for these types of facilities.

Mr. Chiaravallo explains the procedure. You plug into these formulas the exact perimeters of the site, height, power out, etc.... run a computer program which calculates the RF exposures levels on the ground. Anything less than 100% is considered in compliance. Anything over 100% is out of compliance. Doing this site, the level is .06% roughly 1600x less than the FCC standard.....

Report submitted by Pinnacle Telecom Group is marked A-5
The report was submitted January 21, 2010.

Discussion on report.

Mr. Chiaravallo completes his testimony.

Mr. Newman opens the witness up to the General Public, seeing none.

Mr. Newman closes this portion.

Mr. Newman swears in: David Karlebach,
Professional Planner in the State of N.J.

Mr. Newman accepts Mr. Karlebach as an Expert Witness.

Mr. Meese would like to enter Photo Simulation as Exhibits.

A-6 – Series of 6 Photographs...

Mr. Karlebach explains he went to the site & tethered a Red Latex Balloon approximating 3ft. in diameter to a height of 110ft. The wind was perfectly calm that day and he drove to various locations & photographed the Balloon....He explains how he took photos & put them into a photo-editing program/Photo shop and then in place of the balloon, he super imposed 110ft. steel monopole structure with 9 antennas at the top...

Each exhibit is in the same format.

Left Photo- shows existing conditions.

Right photo- Enhanced to show what the monopole would look like.

Mr. Karlebach continues with his testimony explaining 3 different views from different locations on Rt.208...

Mr. Newman questions site views from Residential areas?

Mr. Karlebach refers to Exhibit A-7.

A-7, (4x) Photos of existing conditions...Plaza Road North.....couldn't see Balloon at all. Speaks to photos in detail....regarding Residential areas, mostly heavy wooded areas..

About 2100ft. West/Southwest of the site, during Spring/Summer months when leaves are on trees, it is pretty invisible..

Mr. Karlebach does point out that you can see it from Henderson Blvd. as the Photo indicates...Chandler Drive will have a filtered view of the tower.

Testimony continues....

Exhibit A-8- views from the Industrial Park.

Mr. Karlebach believes it is well centered within the Industrial Zone and the nearest residential uses are approximately 1150ft to the Southwest on the opposite site.

Continues with distances calculated from Residential Sites...

Discussion & questioning on height issues continues....

Mr. Karleback does testify that the residents on the opposite side of Rt. 208 would have a more significant view of the monopole in the winter months....over in Henderson Blvd. and the surrounding area....

Discussion continues.....

Mr. Karas questions the design of some monopoles and mentions that there are monopoles which look like trees...is there a reason why this design could not be used...

Mr. Karlebach states there is no planning reason why it couldn't be of that design, but that it is an Industrial area and normally the fake tree design is reserved for certain settings.....

Discussion continues.....

Needlepoint design is discussed.....within a flagpole.

Mr. Karleback does not recommend this design and explains his reasoning to the Board.

Mr. Karleback summarizes his testimony and states that this is an I-1 restricted Industrial zone. Some of the uses permitted are Manufacturing establishments, Offices, Public Utilities and warehousing....

T-Mobile has facilities at three locations in the Borough of Fair Lawn but continues to suffer radio coverage deficiencies, which necessitates new sites other than the ones in the CA zones...

Speaks to the variances required...

1. Height variance.
2. Impervious Coverage.
3. Side Yard Setback
4. Rear Yard Setback
5. Side Yard for Accessory Structure
6. Rear Yard setback for accessory structure.....

Mr. Karlebach speaks to the proofs needed for the variance and does not see any detriment to the Public Good....

Mr. Karlebach believes that this proposed installation represents the least intrusive method of providing service into this area.

Public Benefits outweigh Public Detriments.....benefits are numerous.....
Only negative impact he sees is the slight visual impact around the surrounding areas.
No substantial Impairment of the Zoned Planner's Zoning Ordinance.

Mr. Lowenstein has a lot of concerns & questions regarding these sites....

Discussion continues.....

Mr. Newman asks Mr. Shidfar, (Applicant's Engineer) to step forward and briefly review the criteria again and what needs to be fulfilled in order to cover a gap and the Industry standards that govern all those calculations...maybe it would help with questions & concerns of the Board.

Mr. Shidfar is glad to explain. He begins the principle behind wireless communications and the service provider's desire is seamless coverage, and a seamless coverage is provided through handoff from site to site to site....

Before the whole network of wireless telecommunication antennas were built, there was a different network....

Mr. Shidfar explains.....telecom technology evolved....year to year...Customer demands, etc.....there is a gap on 208 and the design for this site happens to be a certain level, so the coverage gap was mitigated at a certain height that was minimum and what the FCC mandates....

Questioning & Discussion continue.....

Mr. Newman asks if there are any further questions for this witness or any other witness from the Board. Seeing none.

Mr. Newman opens the witness to the General Public.

Mr. Newman swears in Mr. Joe Mele again,

Mr. Mele asks if there was any discussion on having the antennas on top of the Nabisco building.

Mr. Meese explains that it had been his understanding that Nabisco has been asked numerous times and has said No, numerous times.

Mr. Mele asks" If they were to entertain it, it would be a good option?"

Mr. Shidfar states it would be an absolutely good option.

Mr. Meer questions the RF analysis.....Light frequency?

Concerns are answered....

Mr. Newman swears in: Craig Miller
5 Ramapo Terrace
Fair Lawn, N.J.

Mr. Miller questions the Tele Communications Act allows them to do this, does it not tie the hands of the Zoning Board? It would allow them regardless, so why are we here?

Mr. Meese responds and explains the Tele Communications Act...it says when a carrier demonstrates the need for a facility a Municipality cannot prohibit them from providing the service as necessary.....

Mr. Meese continues.....

Detriments are nonexistent...
Need for coverage.....

Discussion continues...

Mr. Meese summarizes the application.

Mr. Newman asks for a motion.

Mr. Meer makes 1st motion to approve the application.
Ms. Spindel seconds the motion.

VOTE: Mr. Diner, Mr. Karas, Mr. Puzio, Ms. Spindel, Mr. Frankel, Mr. Sacchinelli
Mr. Meer & Mr. Newman, **YES**. Mr. Lowenstein, **NO**.

Minutes

1. Mr. Lowenstein made a motion to approve the minutes for the February 22, 2010 meeting and Mr. Diner seconded the motion.

VOTE: All Present - AYE

Estimates/Bills:

1. Birdsall Engineering in the amount of \$1,938.75 regarding T-Mobile, Northeast
2. Birdsall in the amount of \$750.00 regarding 18-35 River Road, LLC.
3. Birdsall in the amount of \$375.00 regarding T-Mobile Northeast.
4. Azzolina & Feury in the amount of \$60.00 regarding T-Mobile Northeast
5. Azzolina & Feury in the amount of \$120.00 regarding T-Mobile Northeast.
6. Azzolina & Feury in the amount of \$600.00 regarding Grande Point Fitness, LLC.
7. Azzolina & Feury in the amount of \$4,730.00 regarding 18-35 River Road, LLC.

Mr. Diner made a motion to approve these estimates & bills and Ms. Spindel seconded the motion.

VOTE: All Present – AYE.

Mr. Karas would like to see copies of the bills that are presented for approval prior to the meeting so that he knows what he is approving.....

Discussion amongst the Board Members....

It is the consensus of the Board to have the bills scanned & e-mailed to each member prior to the each meeting.

1. Karen Kocsis in the amount of \$275.00 for tonight's meeting & an additional fee for overtime on tonight's meeting in the amount of \$150.00.

Mr. Karas made a motion to approve these bills and Mr. Diner seconded the motion.

VOTE: All Present – AYE

Resolutions:

1. Application #2010-005, Just4Wheels Cars, Inc., 4-24 Banta Place, Block 3411, Lot 1, Zone I-2– Motor Vehicle Rental/Leasing Company- Approved.
2. Application #2010-019, Calle Simon Quinta & Lourdes Acha, 39-40 Morlot Avenue, Block 2401, Lot 1, Zone R-1-2-Expansion of Driveway- Approved.
3. Application #2010-020, Thomas & Kimberly Tomesco, 10-11 Alexander Avenue, Block 4526, Lot 29, Zone R-1-3– Addition- Approved.

Mr. Diner made a motion to accept these resolutions and Mr. Puzio seconded the motion.

VOTE: All Present – **AYE.**

Adjourn

Mr. Lowenstein made a motion to adjourn this meeting and Mr. Sacchinelli seconded the motion.

TIME: 11:30 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk