

Board of Adjustment Meeting February 04, 2009

Chairman, Walter Dietz called the Board of Adjustment Meeting of February 04, 2009 to order at 7:28 P.M. announcing that this meeting had been duly advertised according to Chapter 231, Open Public Meetings Act. The meeting took place at the Municipal Building in the Court Room.

ROLL CALL

Joseph Jaghab - Present
Barry Quick – Absent
Helen Haines - Present
Mark Wetter, Vice Chairman - Present
Walter Dietz, Chairman - Present

Frank Valcheck - Present
John Sheridan - Present
David Wald (Alt. #1) - Present
John Stamler (Alt. #2) - Present
Leon Krals (Alt. #3) - Present
Frank Herbert (Alt. #4) - Present

Also in attendance are Mark Anderson, Esq., Board Attorney, Woolson, Sutphen, Anderson & Nergaard, P.C.; William H.R. White, III, P.E., P.P., C.M.E., Board Engineer, Maser Consulting, P.A.; Robert Ringelheim, P.P., A.I.C.P., Township Planner; Rebecca Marshall, Assistant Township Planner and Board Secretary; Jeffrey Perlman, P.P., Heyer, Gruel & Associates; and Lucille Grozinski, CSR.

Pledge of Allegiance

Business from the Floor

None

Applications:

Hillsborough 2 (Verizon Wireless) – File # BA-08-21 - Block 163.05, Lot 1.02- 776 Eves Drive

Attorney Nick Alvachia of Cooper Levenson introduces the application to the Board. This applicant is seeking approval to construct an emergency generator to an existing cell site. Verizon is adding emergency generators to all of its sites to provide system reliability in the event of an emergency and/or loss of power.

- ❖ Ron Igneri from Innovative Engineering is sworn in as a professional engineer and planner.
- ❖ Mr. Igneri testifies there is an existing wireless facility that sits on the top of the building.
- ❖ Mr. Igneri identifies where the emergency generator is being proposed and that the generator is to provide emergency backup power when the commercial power fails.
- ❖ Mr. Igneri gives the dimensions of the generator facility and testifies it is monitored remotely by Verizon.
- ❖ Mr. Igneri testifies that the generator will be tested once a week by Verizon and that air quality is monitored. Mr. Igneri testifies the generator will run on diesel fuel and that the fuel tanks are monitored remotely as well. Mr. Igneri testifies the noise of the generator falls within the state requirements.
- ❖ Chairman Dietz asks why the generator is needed “all of a sudden.” Mr. Igneri testifies that approx. 4-8 hours of power is stored in the existing batteries. In the event of a long term outage, this power would run out and that is why the generator is needed. This also complies with federal regulations.
- ❖ A Board member questions if there is a fence around this. Mr. Igneri testifies a seven foot, vinyl fence would be constructed around the generator and that the generator cannot be entered by the general public.
- ❖ Chairman Dietz asks how the sound is attenuated. Mr. Igneri says that Verizon uses a “crystal quiet enclosure” and “critical muffler”. Chairman Dietz asks where the muffler exhausts to. Mr. Ignoris says the muffler is directed straight up and there would be no fumes experienced by the residents, including those on the tennis court.

- ❖ A Board member asks about landscaping around the fencing. Mr. Igneri testifies this would not be practical because it is on an asphalt parking lot.
- ❖ Mr. Igneri testifies a riding mower would be louder than the generator. The generator noise would be comparable to a car riding at a fast speed.
- ❖ A Board member asks if there is anything around the generator to protect it from being struck by a vehicle. Mr. Igneri testifies that Verizon can put bollards around it to prevent it from being struck.
- ❖ A citizen asks how much fuel will be stored. Mr. Igneri testifies 225 gallons will be stored and this should last about six months without an actual outage.
- ❖ Mildred Shotman, representing the Condominium Community asks what does “tucked out of sight” means regarding the generator since the placement of the generator is on the corner of a circular parking lot. Mr. Igneri says this means it is not in the way of traffic.
- ❖ A citizen asks to look at the picture to see where the generator will be located. Mr. Igneri explains the depiction.
- ❖ Donna Parlin asks questions regarding the choice of the location of the generator. Mr. Igneri says the location was chosen by the landlord.
- ❖ Ms. Parlin says many of the homeowners are not happy with the location selection and why the generator cannot be moved.
- ❖ Chairman Dietz explains the Board has the authority to put the generator wherever the Board seems fit. Mr. Igneri says he will respect the decision of the Board and can renegotiate with the landlord.
- ❖ Mr. Anderson questions if the location of the generator is farthest away from the landlord’s property. Mr. Igneri says he does not think so but it is in a remote location.
- ❖ A Board member questions why the generator cannot be placed close to the maintenance building. Mr. Igneri explains this is a different lot.
- ❖ Chairman Dietz asks Mr. White where he would put the generator. Mr. White says he would put it along Auten Road with some landscaping surrounding it.
- ❖ Chairman Dietz suggests Counsel goes back to renegotiate with the landlord regarding the location.
- ❖ Mildred Trotman, from the Condominium Association asks if the generator can be placed by the dumpsters where the other “unsightly” things are.
- ❖ Mr. Igneri testifies this is not a feasible location for the generator.
- ❖ Donna Parlin asks if the generator is only meant to serve the antennae on the one building. Mr. Igneri testifies it is only going to service the facility on the rooftop.
- ❖ Counsel for Verizon asks to have the application adjourned so he can reconvene with the landlord.

Application carried to March 18, 2009 without further notice.

Roth, Jeffrey – File #BA-06-43 – Block 183. Lot 27 – 1106 Millstone River Road.

The Board goes into closed session at 7:54 p.m. to discuss potential litigation regarding this application. The hearing resumes on the record at 8:44 p.m.

The Open Meeting Resumes

Chairman Dietz summarizes where this application left off at the meeting of 05-21-08. Chairman Dietz notes that Mr. Linnus, Esq. had presented all of his witnesses and that the floor had been opened to the Public. Chairman Dietz invites the Public portion of this hearing to resume but cautions anyone speaking who may be in agreement with any other member of the Public who has already spoken to simply say that they *indorse* the comments made so as to give everyone a chance to speak.

- ❖ Public comment resumes.
- ❖ Dalia Grigorescu is sworn in. She has concerns regarding the soil and water contamination due to the deposit of mulch and fuels. Although her water level contamination is low, Ms. Grigorescu is concerned about future contamination.
- ❖ Ms. Grigorescu asks about fire prevention and suppression methods.

- ❖ Ms. Grigorescu asks about the potential safety hazards of the trucks entering and leaving the Roth property.
- ❖ Mr. Linnus comments that the arsenic levels on Ms. Grigorescu's property are much lower than what is accepted by the state.
- ❖ Mr. James Chanda is sworn in. He endorses what Ms. Grigorescu has said previously. Mr. Chanda reinforces the drinking water concerns of potential future contamination.
- ❖ Susan Mesco is sworn in. Ms. Mesco endorses what the other residents have said. Ms. Mesco comments that the activity on the Roth property has been increased over the years. Ms. Mesco is also concerned about property values.
- ❖ Susan Fenwar asks about the trailers on the lot and how the Board is going to classify them.
- ❖ Ms. Fenwar asks if there will be retail or wholesale stock or trade on the site.
- ❖ Ms. Fenwar asks if there will be materials on the property not belonging to Mr. Roth or renters on the property.
- ❖ Ms. Fenwar asks if each load of dirt Mr. Roth has on the property will be free of contaminants and if the Township will keep records of this.
- ❖ Ms. Fenwar would like the Board to consider restricting the number of trailers on the property.
- ❖ Ms. Fenwar asks the Board to consider the DEP swale in relation to the turning radius.
- ❖ Ms. Fenwar asks the Board to consider testing the area around the garage in terms of groundwater and soil.
- ❖ Ms. Fenwar wants the Board to request an LOI from Mr. Roth.
- ❖ Ms. Fenwar expresses concern about the trucks that leave in the middle of the night, often without their lights on.
- ❖ Another concerned woman from the public is sworn in. She expresses concern about the trucks leaving in the middle of the night and asks why it is necessary for a landscaper to have trucks leave at this time of night.
- ❖ Mr. Linnus asks if these trucks were seen leaving at this time during the winter months.
- ❖ Mr. Linnus explains that sometimes a landscaper salts roads in the winter at night.
- ❖ The woman explains that these are tandem trucks and not dump trucks.
- ❖ The woman concedes that she would find plowing trucks and salting trucks leaving the property at 2:15a.m. would be offensive to her. She feels it is not necessary at this time.
- ❖ Mr. William Courtier expresses concerns on behalf of the neighbors regarding the number of vehicles being stored on the lot. Mr. Courtier is concerned about the amount of traffic on the lot over the last few years.
- ❖ Mr. Courtier is also concerned about fire safety because of the mulch.
- ❖ Mr. Courtier is concerned about Mr. Roth being a "good land steward." Mr. Courtier believes Mr. Roth is carrying on his business according to what is best for him and not best for the land and has proceeded without the proper permission or documentation.
- ❖ Chairman Dietz needs to address the new configuration of Mr. Roth's driveway with regards to the DEP ditch next to the driveway.
- ❖ Ms. Lauren Shotwell is sworn in. She testifies the DEP ran a drainage ditch alongside Mr. Roth's driveway and there is the drain at the north corner of the driveway.
- ❖ Ms. Shotwell testifies that this drainage ditch is technically not on Mr. Roth's property and that the trucks entering the property drive over the drain.
- ❖ Ms. Fenwar asks now that the drain has been put in, what is the turning radius for the trucks.
- ❖ Chairman Dietz asks Mr. Ringleheim if a permit is needed for the ditch. Mr. White answers that a survey from 2004 indicates a ditch but cannot tell if the pavement was altered by the ditch.
- ❖ Mr. Hank Bartushak is sworn in as an engineer representing Sacred Heart Church. Mr. Bartushak testifies that the drainage swale requires no buffers as per the DEP.
- ❖ Mr. Bartushak testifies that the swale was poorly maintained and was cleaned out so it was functioning properly.
- ❖ Mr. Anderson asks about the 20 foot right of way that benefits Sacred Heart Cemetery. Mr. Bartushak cannot answer if this right of way belongs to Sacred Heart or not because he has not read the deeds in a very long time. Mr. Bartushak believes that Sacred Heart has given up rights to the right of way.

- ❖ Mr. Anderson asks if any of the property has been used as access by Sacred Heart to the Roth site. Mr. Bartushak says it has not been.
- ❖ Mr. Bartushak testifies that the existing, paved driveway on the Roth site was used by Sacred Heart Cemetery for deliveries and maintenance. This happens on rare occasions.
- ❖ Mr. Bartushak testifies that the driveway was used by Sacred Heart for access only two or three times.
- ❖ Mr. Anderson asks if the changes in the swale have affected access to the Roth property. Mr. Bartushak testifies it has not.
- ❖ Mrs. Shotwell makes a comment about a map depicting the turning radius on the property.
- ❖ Mr. Linnus summarizes. Mr. Linnus gives a review of the history of the uses on the property.

There is a brief break

- ❖ Mr. Linnus continues his summary. Mr. Linnus reviews the reasons a variance should be granted to Mr. Roth.
- ❖ Mr. Linnus asks the Board to respectfully grant the Applicant, Mr. Roth, a use variance with conditions.

Motion to close the public portion.

- ❖ Mr. Anderson asks Mr. Linnus to put the conditions he is requesting in a memo for the Board.
- ❖ Mr. Anderson advises Chairman Dietz to carry the hearing so Board members can take everything into consideration. This is for the benefit of Board members who have not been present for the entire hearing.
- ❖ Chairman Dietz agrees and so does Mr. Linnus.

Application carried to March 18, 2009 without further notice.

Resolutions:

Sacred Heart Cemetery BA-06-47

Motion to approve: Ms. Haines, 2nd: Mr. Valcheck

Roll Call: Ms. Haines – yes; Mr. Valcheck – yes; Mr. Sheridan – yes; Mr. Jaghab – yes; Chairman Dietz – yes. Motion carries.

Paul Labas BA-08-11 DENIED

Motion: Mr. Valcheck, 2nd: Mr. Sheridan

Roll Call: Mr. Valcheck – yes; Mr. Jaghab – yes; Ms. Haines – yes; Mr. Sheridan – yes; Chairman Dietz – yes. Motion carries.

Girl Scouts Heart of New Jersey, Inc. BA-08-15

Motion: Ms. Haines, 2nd: Mr. Jaghab

Roll Call: Ms. Haines – yes; Mr. Valcheck – yes; Mr. Sheridan – yes; Mr. Jaghab – yes; Chairman Dietz – yes. Motion carries.

Acceptance of Resolutions for Board Appointments

Contract/Resolution – Board Attorney

Mark S. Anderson, Esq. – Woolson, Sutphen, Anderson & Nergaard, P.C.

Contract/Resolution – Board Engineer

William H.R. White, III, P.E., P.P., C.M.E. – Maser Consulting P.A.

Contract/Resolution – Alternate Board Engineer

Suburban Consulting Engineers, Inc.

Contract/Resolution – Alternate Board Engineer

John Cilo, Jr. Associates, Inc.

Motion: Mr. Valcheck, 2nd: Mr. Wetter

Roll Call: All – Aye. Motion carries.

Contract/Resolution – Court Reporter
Lucille Grozinski, C.S.R.

Motion: Jaghab, 2nd: Wald

Roll Call: Mr. Valcheck – yes; Mr. Sheridan – yes; Mr. Wald – yes; Ms. Haines – yes; Mr. Jaghab – yes; Mr. Stamler – yes; Mr. Kral – yes; Mr. Herbert – yes; Vice-Chairman Wetter – yes; Chairman Dietz – yes.
Motion carries.

Minutes of January 07, 2009 – Reorganization Meeting

Motion: Jaghab, 2nd: Wetter

Roll Call: All – *Aye*. Motion carries.

Minutes of January 07, 2009 – Regular Meeting

A typing error was noted to be corrected.

Motion: Sheridan, 2nd: Wetter

Roll Call: All - *Aye* as amended. Motion carries.

Submitted by:

Rebecca Marshall

Assistant Planner/Zoning Officer

Board of Adjustment Secretary