

ZONING BOARD OF ADJUSTMENT
VILLAGE OF RIDGEFIELD PARK
Bergen County, NJ

Minutes of Regular Meeting
Thursday, April 20, 2006

The Chairman, Mr. Cathcart, called the meeting to order at 8:00 p.m. in the Municipal Building.

The Chairman announced that this meeting is being held in accordance with the Open Public Meetings Act, N.J. S. A. 10:4-6 et seq., notice of which was published in The Record on the 16th day of December, 2005.

Roll Call: Present: Messrs. Cathcart, Morton, McCormack, Wohlrab and Ms. Perrotta
Absent: Messrs. Vorhees, DellaFave, MacNeill & Spontak

A motion was made to approve the minutes of the March 21, 2006 meeting as prepared; all in favor.

Correspondence:

Permit Fee and Certificate Log Reports for March 2006
Letter from attorney DeMarrais: draft resolution for Case # 1379 - Kontogiannis
Revised Residential Site Improvement Standards
Report from Boswell Engineering, re: RHY Construction, 81 Teaneck Road
Ltr from Planning Board, re: RHY Construction, 81 Teaneck Road
Ltr from Boswell Engineering, re: RHY Construction – revised density calculations

The Chairman read the Rules of Procedure.

A resolution for the following case approved at the March 21, 2006 meeting was read into the record. A copy is attached.

CASE # 1379 – KONTOGIANNIS, Block 79.01/Lot 19 – 153 Poplar Street

The Chairman announced that there are three (3) cases set for hearing:

CASE # 1374 – NEXTEL, Block 75, Lots 3 & 4 – 239 Main Street (continued)
CASE # 1384 – RHY Construction – Block 134.01/Lot 18 – 81 Teaneck Road
CASE # 1385 – ISTANBOULIAN – block 6, Lot 11 – 337 Fifth Street

CASE # 1385 – Istamboulian, Block 6, Lot 11 – 337 Fifth Street

An application for a variance to construct an above-ground swimming pool to the rear of the existing property located at 337 Fifth Street.

The Chairman was presented with proof of taxes paid, notice to property owners and proof of publication. The applicants, Hagop and Hermine Istanbulian, were sworn in. The applicants testified that they wished to replace a small (12 foot diameter) pool with a larger pool (24 foot diameter). If approved, they would place it as shown on the survey submitted with their application. The pool would be 6.75 feet from each side property line. The ordinance requires 10 feet. The case was opened to the public. No one appeared. The Board went into work session to consider this case and returned with the following decision:

Case # 1385 - Istanbulian

Ms. Perrotta, seconded by Mr. Morton, made a motion to approve the application. The resolution was read into the record. A copy is attached.

Roll Call: Mr. Cathcart – Yes Mr. Morton - Yes
 Mr. McCormack – Yes Mr. Wohlrab – Yes
 Ms. Perrotta - Yes

CASE # 1374 – NEXTEL, Block 75, Lots 3 & 4 – 239 Main Street (continued)

Warren Stilwell, Esq. represented the applicant. Testimony had previously been heard on the case at the January 17, 2006 and February 21, 2006 meetings. Attorney Stilwell noted that there were only five Board members in attendance at this meeting. Mr. Stilwell proposed that they be allowed to finish testimony, but hold the vote until the next meeting when more members may be in attendance. A transcript would be provided to the members to read prior to the next meeting. Mr. Stilwell noted that they had received copies of three reports by the expert retained by the Village, Bernard Nelson, and he wished to bring up their RF engineer first, and then hear the testimony of Mr. Nelson.

The Board attorney, Mr. DeMarrais, wanted to state for the record that the Village has just placed out for bid the possibility of a new cell tower at the Department of Public Works facility on Industrial Avenue.

William Betesh, Esq., of Durkin & Boggia, was sworn in. He stated he was not there to object to the current application, but to note for the record that the Village is in the process of preparing bid specifications to lease land at the DPW facility for construction of a cellular monopole. Placing a cell tower in this area would satisfy the Village ordinance. In this zone it is a permitted use. The FAA has issued a report approving the site. Mr. Betesh introduced the following documents:

V1 – Draft notice to bidders with specifications

V2 – Resolution to be introduced and adopted at the April 25, 2006 Commissioner's Meeting.

V3 – Certified copy of Ordinance # 0607 – adopted April 11, 2006, authorizing ground lease

V4 – Report from FAA accepting specifications

V5 – Certified copy of Ordinance # 0307 adopted November 11, 2003, regulating placement of wireless telecommunication facilities in the Village of Ridgefield Park

Mr. Betesh wished to make the Board members and applicant aware of these new developments. The specifications allow up to 4 co-locators, along with a link to the RP Police Dept. The ordinance is designed to limit proliferation and encourage co-location of cellular facilities. The specifications state that one carrier would take the lease and build the tower.

Other carriers would negotiate with the successful bidder. It would be an initial 5 year lease with renewals for up to 20 years.

Mr. Stilwell questioned Mr. Betesh about the following details:

The height of tower – it can be up to 137 feet high

Is there a minimum bid? - \$ 2000/month

What increases will be allowed? Annual or per term?

What are the percentages of increase?

Winning bidder will build

Town leases ground, carrier leases space to other co-locators

Mr. Betesh noted he could send copies to applicant when finalized; copies also to Board counsel and members.

Mr. Betesh concluded his comments.

The attorney for Case # 1384 – RHY Construction – asked to speak to the Chairman. His client requests an adjournment of the case to next month, as only five members are in attendance. He agreed to an extension of 120 day limit and requested that no further notice be required.

Chairman announced to those present that case would be adjourned to next month, with no further notice required.

A five minute recess was called.

Board returned to continue with Case # 1374 – Nextel.

Mr. Stilwell presented Exhibit # A-9 – a copy of the Village tax map with distances from proposed cellular site to schools measured. To Lincoln School – 1121.5 feet, to Alphabet Soup Daycare – 657.5 feet. To Saint Francis School – 380 feet.

Mr. Jaime Manuel – RF Engineer – was sworn in. He had previously testified at the January 17, 2006 hearing. He discussed Exhibit A-2 with overlays, describing the information that was presented in the exhibit. Green color means a Nextel subscriber is assured the ability to place and retain a call. Green areas are where signal strength is -76 dbm or stronger. Nextel and the provider of equipment (Motorola) has identified this as the minimum required.

Exhibit A-10 was marked and introduced by Mr. Manuel. Drive test data. A phone inside a car is connected to a computer. Data points show signal strength level. Green means -76 or better. Yellow is -76 to -80. Gray is lower than -80. Green is reliable, consistent service; yellow means phone can receive signal, but cannot always place a call. Gray means no calls. The proposed site at 239 Main Street is in the gray area. The drive test data was incorporated into Exhibit A-2, showing vicinity of the proposed site. “Reliability” is based on Nextel’s and the telecommunications industry’s standards. Nextel doesn’t have any sites in Ridgefield Park. The green dots are Nextel site in the vicinity of the Village, but not actually in it. The Board questioned why Nextel has not provided testimony as to complaints from subscribers about dropped calls. Board wants to know number of complaints to determine if lack of service is a big issue or not. Wants data from customer service. Attorney for applicant indicated such information may be considered proprietary. Mr. Manuel stated the system itself tracks and records dropped calls. Mr. Manuel states that the difference in elevation between Camelot and DPW is 97 feet. The Board questioned that height. In exhibit A-2, lower right, scale seems too sharp. Should be more gradual.

Public questions – within 200’ in favor – no one appeared.

Public questions – within 200' against – the following appeared

Jane Hrbek – questioned the size of the orange area on the exhibit. Mr. Manuel testified that it is a 10 block by 10 block area.

Counsel has no further testimony to introduce.

Bernard Nelson, expert retained by the Board, was sworn in. Degree in electrical engineering specializing in radio frequency since 1980. Practicing since 1953. In preparation for this meeting, he testified that he read and studied the Village ordinance, the application of Nextel, Boswell's report, the transcripts of the previous two hearings, the RF engineers reports, and finally, tonight's drive test data.

Mr. Nelson's conclusion based on the technical aspects is that there is not enough data to determine there is truly a gap in service. A2 just gives design data. Mr. Manuel stated that anything below -76 dbm will not go through. Nelson says this is not true. Nelson says gray area is not necessarily unusable. Drive test data is quantifiable, actual measurements. Does not show any dropped calls or failed attempts. No data showing drop-off. No rates or percentages given for dropped called or failed attempts.

Nelson stated he suggested two things in his February report. The Nextel site north of RP on Queen Anne Theatre could get south-facing sectors to help cover the gray area. Likewise, site # 2408 to the south of RP could get north-facing sectors. Board questioned Mr. Nelson regarding proposed cell tower site at DPW. Would this be useful to cover the area Nextel wants to reach with 239 Main site? Mr. Nelson testified that the 130 foot proposed tower might be marginally useful for the proposed area. It's all about angles and directions. If too high, signal could overshoot ridge and interfere with other sites. Regarding Mr. Manuel's testimony that signal strength of at least -76 dbm is "necessary," Mr. Nelson stated that Federal law was written in regard to telephony only, not enhanced digital services, like cameras, email, etc. Mr. Nelson questioned whether -76 dbm was "necessary" for basic phone call services (sending and receiving calls, and maintaining a call when connected.). In regard to potential health hazards associated with the RF emissions, Nelson testified that the levels at which the equipment transmits is 1/100th to 1/1000th of what is allowed. FCC rules also state that an application cannot be refused on the grounds of health concerns.

Warren Stilwell questions Bernard Nelson whether he has ever testified regarding Nextel before. Nelson indicated he had. Stilwell asks whether Nelson has specifications from Nextel regarding subscriber equipment, manufacturer's information. No says Nelson.

Mr. Stilwell stated that the record would reflect what Mr. Manuel has testified regarding subscriber usage – telephony vs. enhanced usage (text messaging, and data transfer, for example) – that Nextel designs to allow customers to have option of using all the services. The Board then asked the public if they had any questions specifically for Mr. Nelson. Susanna Delapava questioned Mr. Nelson's earlier statement that there are no health hazards related to this technology. Mr. Nelson responded that the FCC has set guidelines for exposure that are very high. Most emissions are 4 – 10% of the allowable limits set by the FCC. A person would have to be very close to receive any exposure. Also, this type of radiation is not ionizing. Molecules in the body do not react to exposure.

Sonia Lavallo questioned the possibility of long-term health hazards due to exposure over time. Mr. Nelson testified that there is no cumulative damage to the body's systems, likening the RF emissions to the heat of a stove top or fire. If you stay close to the source, there can be damage. If you move out of range, there is no lasting damage. The Board attorney noted for the record that Mr. Nelson is an electrical engineer, not in the medical field.

Johannes Garcia came forward and questioned the studies done in other countries on the effects of RF emissions on health. The Board questioned Mr. Nelson whether the strength of the signal could ever be increased to the point where it could cause damage. Mr. Nelson indicated in his opinion it was not physically possible to reach that strength.

Mr. Stilwell stated that Dave Collins' report which was submitted and discussed at an earlier meeting, reviewed the standards and the establishment of safe levels.

Mr. Nelson's testimony was complete.

Mr. Stilwell indicated he was reserving the ability to bring forth rebuttal testimony at the next hearing. He indicated the Board would be provided with a transcript of tonight's proceedings.

The case was opened to the public.

Within 200' in favor: no one appeared.

Within 200' against: no one appeared.

Outside 200' in favor: no one appeared.

Outside 200' against: the following persons appeared:

Robert Schreiber: Questioned how signal strength expressed as -76dbm related to the number of bars (1 to 5) on a cell phone. Mr. Manuel responded that it is not directly related. Signal strength can vary. -76 dbm can vary from 5 bars to 1 bar.

Lisa Rodes: Questioned whether the -76dbm benchmark is for just regular phone service or also for the enhanced services. Mr. Manuel indicated that the -76dbm is for everything: phone and enhanced services.

Board adjourned the case to next month.

Mr. Stilwell indicated he would do his summation at the next meeting.

Meeting adjourned at 10:15 pm.

Respectfully submitted,

Linda Quinn
Secretary

Tapes # 450 & 451

The case was open to the public. No one appeared.

The Board went into work session at 8:45 pm and returned with the following decision:

Case # 1379 - Kontogiannis

Mr. MacNeill, seconded by Mr. Vorhees, made a motion to approve the application.

The resolution will be memorialized at the next meeting.

Roll Call:	Mr. Cathcart – Yes	Mr. Morton – Yes
	Mr. McCormack – Yes	Mr. Vorhees – Yes
	Mr. MacNeill - Yes	Mr. Wohlrab - Yes
	Mr. DellaFave - Yes	

The meeting was adjourned at 9:05 pm.

Respectfully submitted,

Linda Quinn
Secretary

TAPE # 449