

CAUCUS SESSION: 7:15 P.M. Municipal Building First Floor Conference Room  
Deal and Monmouth Roads  
Oakhurst

DISCUSSION: Planning Administrator Marianne Wilensky explained to the Board that a Radio Frequency Engineer has been hired to consult on the T-Mobile, LLC application. After reviewing three proposals, Mr. Ronald E. Graiff was decided to be the best candidate. A special meeting for T-Mobile Northeast, LLC will be held on November 21, 2011. There were no objections from the Board.

REGULAR MEETING: 7:30 P.M. Public Meeting Room  
Deal and Monmouth Roads  
Oakhurst

MEMBERS PRESENT: Tracy Berkowitz  
Mario Delano, Alt. II  
Jane Grabelle  
Warren Goode, Chair  
Russell Malta  
Eric Menell, Alt IV  
David Messer  
Leon Pflaster, Alt I  
Henry Schepiga, Vice Chair  
Sylvia Sylvia, Alt III

MEMBERS ABSENT: Richard Van Wagner

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney  
Marianne Wilensky, Planning Administrator  
William Fitzgerald, Board Engineer  
Rachel Goncharko, Board Secretary  
Recording Secretary

Chairman Warren Goode announced that the notice requirements for the Open Public Meetings Act have been satisfied, a copy of the notice was sent to the Asbury Park Press and the Coaster, posted in the Township Hall, and filed in the Office of the Township Clerk on September 2, 2011.

**MINUTES FOR APPROVAL** A motion was made by Henry Schepiga and seconded by Jane Grabelle to approve the **minutes from the meeting of August 3, 2011.**

In Favor: Berkowitz, Grabelle, Malta, Messer, Schepiga, Goode  
Opposed: None  
Ineligible: Delano, Menell, Pflaster, Sylvia  
Absent: Van Wagner

### **RESOLUTION MEMORIALIZATIONS**

**Ilan High School**  
Block 207, Lots 1, 8  
1200 Roseld Avenue  
Wanamassa  
**Bulk Variance Approval**

MOVED: Schepiga SECOND: Delano  
FAVOR: Berkowitz, Delano, Malta, Schepiga  
OPPOSED: None  
INELIGIBLE: Grabelle, Menell, Messer, Pflaster, Sylvia,  
Goode  
ABSENT: Van Wagner

**Ilan High School**  
Block 207, Lots 1, 8  
1200 Roseld Avenue  
Wanamassa  
**Conditional Use Approval**

MOVED: Schepiga SECOND: Delano  
FAVOR: Berkowitz, Delano, Malta, Schepiga  
OPPOSED: None  
INELIGIBLE: Grabelle, Menell, Messer, Pflaster, Sylvia,  
Goode  
ABSENT: Van Wagner

**Ilan High School**

Block 207, Lots 1, 8  
1200 Roseld Avenue  
Wanamassa

**Preliminary & Final Site  
Plan Approval**

MOVED: Schepiga SECOND: Delano  
FAVOR: Berkowitz, Delano, Malta, Schepiga  
OPPOSED: None  
INELIGIBLE: Grabelle, Menell, Messer, Pflaster, Sylvia,  
Goode  
ABSENT: Van Wagner

**Hollywood Golf Club**

Block 40, Lots 1, 2, 34, 111  
510 Roseld Avenue  
West Deal

**Bulk Variance Approval**

MOVED: Schepiga SECOND: Grabelle  
FAVOR: Berkowitz, Grabelle, Malta, Messer, Schepiga,  
Goode  
OPPOSED: None  
INELIGIBLE: Delano, Menell, Pflaster, Sylvia  
ABSENT: Van Wagner

**Hollywood Golf Club**

Block 40, Lots 1, 2, 34, 111  
510 Roseld Avenue  
West Deal

**Conditional Use Approval**

MOVED: Schepiga SECOND: Grabelle  
FAVOR: Berkowitz, Grabelle, Malta, Messer, Schepiga,  
Goode  
OPPOSED: None  
INELIGIBLE: Delano, Menell, Pflaster, Sylvia  
ABSENT: Van Wagner

**Hollywood Golf Club**

Block 40, Lots 1, 2, 34, 111  
510 Roseld Avenue  
West Deal

**Minor Site Plan Approval**

MOVED: Schepiga SECOND: Grabelle  
FAVOR: Berkowitz, Grabelle, Malta, Messer, Schepiga,  
Goode  
OPPOSED: None  
INELIGIBLE: Delano, Menell, Pflaster, Sylvia  
ABSENT: Van Wagner

**RESOLUTION to hire a Radio Frequency Engineer**

Chairman Warren Goode read a resolution to hire Mr. Ronald E. Graiff, P.E. as a Radio Frequency Engineer to serve as a consultant for the T-Mobile Northeast, LLC application. A motion of approval was made by Chairman Warren Goode and seconded by Henry Schepiga.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None  
Ineligible: Delano, Menell, Sylvia  
Absent: Van Wagner

**RESOLUTION OF RECOGNITION**

Chairman Warren Goode read a resolution thanking retired Board Secretary Margo Simpson for her years of service to the Board of Adjustment. A motion of approval was made by Chairman Goode and seconded by Henry Schepiga.

In Favor: Berkowitz, Delano, Grabelle, Malta, Menell, Messer, Pflaster, Schepiga,  
Sylvia, Goode  
Opposed: None  
Ineligible: None  
Absent: Van Wagner

**CASES CARRIED to October 6, 2011**

**Victor Cohen**

Block 56, Lot 6  
101 Holly Terrace  
Deal Park

**Mark R. Grossmann**

Block 40.03, Lot 6  
602 Deal Road  
Ocean

**Steve Sourias**

Block 33, Lot 50  
710 Harvey Avenue  
Oakhurst

**CASE CARRIED to November 21, 2011**

**CASE CARRIED to December 8, 2011**

**T-Mobile Northeast, LLC**

Block 1, Lots 30, 31, 32  
1215-1229 West Park Avenue  
Wayside

**Linda Reichenstein**

Block 3, Lot 41  
34 Arno Street  
Oakhurst

**CARRIED CASES**

**Sion Palacci**

Block 55, Lot 2  
140 Roseld Avenue  
Deal Park  
Zone R-2

This is an application to keep a hedge row in a front yard with a variance for hedge over maximum height in a front yard.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Mr. Palacci explained that his children and grandchildren spend the summers at his home and that the hedge protects them as well as the house which is located across from a park. Mr. Palacci believes that the hedge will not bother anyone as he has a gardener maintain it at 10 to 12 feet.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None

A motion of approval was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None  
Ineligible: Delano, Menell, Sylvia  
Absent: Van Wagner

To be memorialized on October 6, 2011.

**Bernice Burnstein**

Block 3.03, Lot 20  
35 Branch Road  
Oakhurst  
Zone R-5

This is an application to erect a 5' high PVC fence on this corner lot with a variance for a front yard setback of 0' where a minimum of 30' is required.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky explained that there are two possible alternatives for the fence. The whole fence could be moved back 15 feet or a fence 4 feet in height would run along the street, then two, 8 foot long panels would go around the corner and then the fence would continue along the yard at five feet in height.

Mr. Schepiga asked if an open fence would be acceptable. Ms. Wilensky said she would not need a variance in that case. Ms. Burnstein commented that she wants privacy and an open fence would not work.

Board Engineer William Fitzgerald commented on his report, agreeing with Ms. Wilensky that the best alternative would be to make the fence along the first 15 feet of the property 4 feet high and then increase to 5 feet high. He believes that this will have no impact on privacy. Mr. Fitzgerald also brought up that a Flood Hazard Area Variance is required. He explained that the Township of Ocean's master drainage plan was formulated in 1978 and indicates that portions of the property may be within a flood hazard area. But, most recent Federal Emergency Management Agency (FEMA) maps indicate that the property is not located within a flood hazard area, so he has no issues concerning that. He said that the first 15 feet of the fence should be lower than 5 feet high because of the way it would appear from the street.

Mr. Fitzgerald explained that the five foot high fence will not provide much more privacy than the four foot high fence. The fence running along the first 15 feet of the front yard should be 4 feet high to provide for a better visual effect for the people living down the street. Mr. Fitzgerald confirmed that he is not proposing changing the placement of the fence, just the height.

Ms. Wilensky marked into **evidence A-1** a photograph showing a 30 foot holly tree in the corner of the property.

Ms. Burnstein cannot envision the height of the fence changing from 4 feet high to 5 feet high due to aesthetic reasons. Chairman Warren Goode explained that the ordinance requires no fence within the first 30 feet greater than 4 feet high. By doing this for the first 15 feet, Ms. Burnstein would meet the purpose and intent of the zoning ordinance.

Ms. Burnstein said that the fence would be in the middle of Peachtree Road, not on a corner. Mr. Fitzgerald explained that it is on the corner of her property and her front yard consists of the first 30 feet back from Peachtree Road. Chairman Goode explained that Ms. Burnstein has two front yards because she is located on a corner lot.

Ms. Wilensky said that the ordinance did not envision very high fences and a high fence would affect the people living behind the property to the east. When they are standing in their yard on Peachtree Road their line of vision is cut and makes the house seem more closed in. Due to the property being on a corner lot, the Board would grant some relief, but Ms. Wilensky cannot remember a case where the relief went all the way to the property line. Ms. Wilensky advised that if Ms. Burnstein wants to construct the 4 foot high fence, along with removing all the shrubs that was also proposed, it should go all the way around the corner to provide some openness for the property behind or the whole fence should be moved back so that there is no fence in the front yard at all.

Mr. Fitzgerald said that there is a driveway on the adjacent property that will be affected by the fence. Typically the Board would not let any fence be constructed within 15 feet of a street line as it may obstruct the vision of someone driving.

Ms. Burnstein said that her neighbor has two young children, ages 2 and 4 years old. She believes that a 4 foot high fence would be an attractive nuisance. Mr. Fitzgerald commented that a five foot fence would be just as attractive to children. Ms. Burnstein replied that it may not be because the 5 foot high fence would be solid.

Ms. Wilensky said that the best alternative may be to move the whole fence back to the 15 foot line. Ms. Burnstein thought that she would have to move the fence back 30 feet but Ms. Wilensky reminded her that moving the fence back to the 30 foot line would be complying with the ordinance and would not require a variance. Moving it to the 15 foot line would require the granting of relief. Mr. Fitzgerald said that he was under the impression that Ms. Burnstein did not want to move the fence back the whole 30 feet, and she agreed.

Chairman Goode said that a compromise needs to be made. Ms. Burnstein said that she is not satisfied with either alternative. Ms. Wilensky offered that Ms. Burnstein does not need to make a decision tonight and that the case can be carried to the next Board of Adjustment meeting on October 6, 2011. Ms. Burnstein decided that she would

construct a 4 foot high fence for the first 15 feet of the property. Ms. Wilensky clarified that the fence will go along the front line and the 4 foot high fence will go around the corner for a minimum of 15 feet, and then the 5 foot high fence will continue for the rest of the way. Ms. Burnstein agreed.

Board Attorney Mark Steinberg noted that the plan shows fifty percent open-spaced picket fence in the front yard. The solid fence picks up at the 15 foot line where it increases to a 5 foot high fence.

From the audience: Lawrence Burnstein, Tinton Falls, was sworn in and addressed the Board. Mr. Burnstein said that there are 20 foot tall bushes on the property. He asked if it would be acceptable to replace the existing bushes with 14-15 foot tall bushes. Ms. Wilensky said that a variance would be required because the existing bushes are not legal even though they have been there for a long time.

Mr. Burnstein asked if it would be acceptable for the back portion of the fence that will be 4 feet high to be a solid fence. Ms. Wilensky said that it would also require a variance because the ordinance calls for an open fence along the first 15 feet of the property.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None

A motion of approval was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None  
Ineligible: Delano, Menell, Sylvia  
Absent: Van Wagner

To be memorialized on October 6, 2011.

**Karen Schermond**  
Block 31, Lot 73  
531 Apple Drive  
Oakhurst  
Zone R-4

This is an application to erect a 6' high PVC fence on this corner lot with a variance for a front yard setback of 16' where a minimum of 30' is required.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Ms. Schermond wants to expand the usable portion of her backyard. She presented two photographs of her backyard which were marked into **evidence A-1**. Ms. Schermond explained that the setback would not interfere with the corner turn nor would it interfere with neighbors pulling out of their driveways and their view of the street.

Mr. Fitzgerald commented that the 15 foot setback covers that issue to make sure that there are no sight issues for drivers leaving their driveways.

Mr. Steinberg inquired if all the fencing will be replaced. Ms. Schermond said that the existing fencing is deteriorating and that all the fencing will be replaced and will match.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None

A motion of approval was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode  
Opposed: None  
Ineligible: Delano, Menell, Sylvia  
Absent: Van Wagner

To be memorialized on October 6, 2011.

**Geoffrey Howson**  
Block 34, Lot 64  
15 Kenneth Drive  
Ocean  
Zone R-3

This is an application to erect a fence with a variance for construction in the flood plain.

Ursula Howson, 15 Kenneth Drive, was also sworn into the record.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Board Engineer William Fitzgerald explained that the applicants are proposing a rear yard fence on their property where the rear property line is Poplar Brook. The Kenneth Drive subdivision was approved with a stream encroachment line along the back. The Department of Environmental Protection (DEP) looked at the property and deemed it a flood hazard area. Mr. Fitzgerald said that the applicant is proposing an open fence but based on the plan, he is unable to recommend it to the board.

Mr. Fitzgerald explained that the Township's ordinance is set up to protect the flood hazard area, so usually if an applicant's proposal does not violate any substantive DEP requirements, then he recommends the Board grant the variance because it meets the purpose and intent of the ordinance.

Mr. Fitzgerald said that the applicant is possibly locating the fence within 25 feet of the top of the bank or edge of the water, but it is not possible to determine that from the survey. Mr. Fitzgerald recommends two options. The first is to revise the plan to include the location of the northerly bank top of the brook as part of the property. The second option is to get a permit from the DEP.

Ms. Howson asked for clarification on Mr. Fitzgerald's report regarding the fence. Mr. Fitzgerald clarified that the plan is compliant as far as fence type, but they must show in the plan that no vegetation will be removed and that the fence will be located 25 feet away from the bank.

Chairman Goode advised that the applicant must get a revised survey to show these details. Mr. Fitzgerald said that for purposes of a fence, it is acceptable to measure the distance themselves by measuring off the back of the house to the top of the bank. Ms. Wilensky added that they can start from the corner of the property. They can plot points along the edge to show the location of the brook.

Mr. Howson asked if they can take those measurements themselves. Mr. Fitzgerald said yes and that he would be able to verify the measurements using aerials. Mr. Howson said that he measured today with a tape to the top of the brook to where his fence is located and it is about 25 feet. As an alternate plan, he also considered taking one of the 6-foot sections of fence and locating it closer to the house to accommodate the brook line. Mr. Fitzgerald said that he still does not know where the bank is and that the survey states that Poplar Brook meanders along the property line. He needs a sketch to show that.

Ms. Wilensky said that they have an aerial but it is not possible to make out the brook along the property line. She advised the applicant to go into the backyard and mark out the points and measure from the closest point to the house.

Chairman Goode said that the applicant needs to come back with a measurement sketch. Ms. Wilensky said that the applicant will need to come to the next Board of Adjustment meeting on October 6, 2011.

Ms. Howson asked how many points are necessary. Mr. Fitzgerald said that if it is a straight line, then two would be sufficient. Ms. Howson said that it curves slightly. Mr. Fitzgerald said that they have to show what it looks like and where the stream is.

Chairman Goode carried this application to October 6, 2011.

Meeting adjourned at 8:25 P.M.

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Rachel Goncharko  
Board Secretary  
Recording Secretary