

**TOWNSHIP OF MAHWAH
BOARD OF ADJUSTMENT**

MEETING MINUTES

JULY 5, 2023

The combined public/work session meeting of the Board of Adjustment of the Township of Mahwah was called to order at 7:30 p.m. by Mr. Cannava, acting Chairman, with the reading of the opening statement followed by the flag salute and a reminder that Board of Adjustment meetings are being videotaped and broadcast live. It was noted that adequate notice of the meeting was provided.

These minutes are a synopsis of the meeting. A verbatim audio tape recording is on file with the Board Secretary at the Board of Adjustment Office, 475 Corporate Drive, Mahwah, NJ. Copies of the tapes may be purchased for a fee.

PRESENT: Mr. Calijone
Mr. Cannava
Mr. Coplin
Mr. Lockwood
Mr. Martin

ABSENT: Mr. Jackson
Mr. Kearney
Mr. Sitar

ATTORNEY: Mr. Ben R. Cascio, Esq.

PROFESSIONALS: Ms. Kristin Russell, PP, Colliers Engineering & Design
Mr. Michael J. Kelly, PE, Township Engineer

I. APPROVAL OF BILLS:

Colliers Engineering & Design	May 17, 2023 & June 7, 2023	Meeting Attendance	\$400.00
Ben Cascio, Esq.	June 7 & 21, 2023	Meeting Attendance	\$500.00
Ronald P. Mondello, P.C	June 6 & 7, 2023	Mahwah BP, LLC – Litigation	\$900.00

A motion to approve the bill for Colliers Engineering & Design was made by Mr. Martin, seconded by Mr. Calijone.

A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

A motion to approve the bills for Mr. Ben Cascio, Esq was made by Mr. Martin and seconded by Mr. Lockwood.

A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

A motion to approve the bills for Ronald P. Mondello, P.C. was made by Mr. Martin and seconded by Mr. Lockwood.

A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

II. APPROVAL OF MINUTES:

1. MINUTES OF DECEMBER 1, 2021

A motion to approve was made by Mr. Cannava, seconded by Mr. Lockwood. All eligible Members voted in favor.

2. MINUTES OF JUNE 21, 2023

A motion to approve was made by Mr. Martin, seconded by Mr. Lockwood. All eligible Members voted in favor.

III. MEMORIALIZING RESOLUTIONS:

1. DOCKET #1543-23 – CAMP ACORN, INC. 10 LEIGHTON PLACE, BLOCK 173, LOT 138

Resolution granting non-profit enrichment program servicing children and adults with developmental disabilities for a Conditional Use Variance.

A motion to approve was made by Mr. Martin, seconded by Mr. Coplin. A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

**2. DOCKET #1536-23 – THE PLANT CHURCH
125 GLASGOW TERRACE, BLOCK 173, LOT 138**

Resolution granting Site Plan, Soil Movement and Conditional Use Applications to reorient, expand and improve on-site parking on an undersized lot that does not meet all requirements for a place of assembly.

Mr. Kelly had language to add into the Resolution; Mr. Cascio will update the Resolution accordingly.

A motion to approve with Mr. Kelly's comments, was made by Mr. Lockwood, seconded by Mr. Martin. A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

**3. DOCKET #1544-23 – ANTHONY PETRALIA
21 CHAPEL ROAD, BLOCK 157 LOT 6**

Resolution granting variance relief to permit improved lot coverage to be 35.1% where 30% is the maximum permitted.

A motion to approve was made by Mr. Lockwood, seconded by Mr. Martin. A roll call vote revealed 5 aye votes by Mr. Calijone, Mr. Cannava, Mr. Coplin, Mr. Lockwood and Mr. Martin.

IV. OPEN TO THE PUBLIC:

Mr. Cannava opened the meeting to the Public for general questions or statements. No members of the Public participated.

V. PUBLIC HEARING(S):

**1. DOCKET #1532-22 – NYSE GROUP, INC.
1700 MACARTHUR BOULEVARD, BLOCK 139, LOT 4**

Applicant is seeking Conditional Use Variance relief and Preliminary and Final Site Plan approval from the Township Board of Adjustment to remove the existing 160-foot monopole and equipment enclosure and install 2 180-foot lattice towers with each having microwave dish antennas and a 360 s.f. equipment enclosure.

Mr. Michael Lavigne, Esq. with Fox Rothschild, LLP located at 49 Market Street Morristown, NJ 07960 representing the Applicant approached. Mr. Lavigne gave a brief overview of the application and why they are before the Board. Additionally, he reviewed

verbally the updates that had been provided to the Board. Mr. Lavigne explained this evening he had a total of two Expert Witnesses and one representative from NYSE Group, Inc. It was requested to have Mr. Lavigne's first Expert Witness and the representative from NYSE Group, Inc be sworn in at the same time as they will be able to answer questions together that may come up from the testimony.

Mr. Jamie Brown, Owner and Principal of Yotta Services LLC approached and was sworn in by Mr. Cascio. At this time Mr. Cascio also swore in **Ms. Margaret Niche, head of ICE Global Network located at 1700 Macarthur Boulevard, Mahwah NJ 07430**. Mr. Brown provided further details on his professional and educational backgrounds and was recognized as an expert in his field by the Board.

Mr. Brown explained the towers are to be constructed and operated by NYSE Group, Inc. The FCC has approved all licensing and there is to be no experimental equipment. He explained the single tower currently on site is not sufficient for their needs; it was built as a monopole and has served its purpose for a time.

The proposed poles were designed with consideration for fair access to those coming in as newcomers and others already accessing the current pole. The goal is whether an antenna towards the top of the pole or at a lower level is being utilized the service and functionality would be the same.

Mr. Brown described the purposed antennas to be used; explained they would predominantly be 3-ft dishes with narrower bands and frequencies can be revised on both towers. The antennas will be a gray color to help blend in to the background instead of another color that will make them stand out more.

Mr. Brown went over the security at the facility; stating the overall security of the location is very secure. There are significant gates with cameras, armed guards and site is protected from the inside as well. There is no proposed landscaping for the towers as there is planting already in place around the building to not appear obvious.

Mr. Brown explained the poles are set to standards put forth by the FAA and FCC with regards to inspections of the towers. The current set schedule for inspections is every 3 years; the proposed poles will be inspected annually. With a very limited number of authorized climbers; additionally, NYSE Group, Inc. will be responsible for those with access to the poles.

Mr. Brown explained there is a very light footprint with the poles, there is to be no lighting on the pole and no heat to radiate off with the only sound being equivalent of an AC unit. It was explained that anyone off site will not be able to hear the AC unit as its designed to make a sound no louder than a whisper.

Mr. Martin asked if there is a plan in place for first responders in the event of any emergencies. Ms. Niche explained their inhouse Network Engineers at the facility have plans in place, which she would not be able to speak to. Mr. Martin asked if all 41 antennas would be going up at once. Mr. Brown explained the plan is to have around 27-29 to go up to start.

Mr. Cannava asked what kind of risk would there be if an individual attempted to break into the facility to gain access to the poles? Mr. Brown explained it would take a very long time to get to the pole and be able to disrupt in any way; the bigger threat would be to the person trying to break in. Mr. Cannava asked what the chances are that a pole could come down, for example with a hurricane or strong winds. Mr. Brown stated that poles do present a chance to come down, however majority of those that have come down are usually as a result of being abandoned or not cared for properly. He also explained they do not topple over but would crumble and fall on themselves with the likelihood of it happening very rare.

Mr. Lockwood made reference to the term Dark Pool previously used, looking for an explanation of the term. Mr. Brown explained it is an off-market trade, privately done not publicly. Mr. Lockwood asked why the need for poles, why couldn't a software be used to help with the sharing of information? Ms. Niche explained there is no software NYSE Group, Inc. is aware of and comfortable using that would not pose a severe security threat with the possibility of hacking or malware.

Mr. Daniel Mollin, Chief in House Counsel with NYSE Group, Inc. approached to help explain further the fair and equitable trading standards NYSE Group, Inc is held to. He further addressed the concerns Mr. Lockwood presented in an effort to clarify.

Mr. Kelly asked what the schedule would be if they were to be approved? Mr. Brown advised there would an estimated 3–5-month window, 28 days from breaking ground to construction however, the plans could vary depending on weather. The existing tower would be removed once replacement towers have gone up. Mr. Kelly wanted to know if these new proposed towers would make the DOT towers obsolete? Mr. Brown explained most co-locators will migrate over however the towers will remain available for non-market information. Additionally, Mr. Kelly wanted to know if the proposed towers are at max build out and if 54 antennas can be supported? Mr. Brown stated the towers are close to max build out as proposed; yes, the structures can support 54 antennas. Further Mr. Kelly asked if the towers could be extended? Mr. Brown explained all towers are capable of expansion however at this point there are no plans for expanding.

At this time Mr. Cannava called for a recess; meeting reconvened at 9:48 pm

Mr. Paul Ricci, PP with Ricci Planning located at 177 Monmouth Avenue Atlantic Highlands, NJ 07716 approached and was sworn in by Mr. Cascio. Mr. Ricci went over his educational and professional backgrounds and was deemed an expert by the Board. Mr. Ricci began by reviewing all variances needed by the applicant, reviewed general setbacks and addressed items presented in the report dated June 28, 2023 prepared by Ms. Russell.

Mr. Lockwood asked the distance between the 2 towers. Mr. Ricci stated the towers are to be 367.5 feet apart from each other. Mr. Lockwood asked about the simulated photos that had been requested at the prior hearing to show no foliage around the towers. Mr. Ricci explained he was unable to produce those images.

Mr. Ricci reviewed in detail the simulated photos he did have showing what the 2 towers would look like from different vantage points. Mr. Lockwood asked what the width of each tower would be; Mr. Brown stated between 11-12 feet however the exact measurement was not finalized yet.

Mr. Ricci reviewed the benefits of having two towers instead of one tower and how no landscaping is needed because of the security measures in place and proposed with the new towers. He stated no matter what is done, all towers will have some visibility.

Mr. Lockwood pointed out through out the testimony this evening it was mentioned the proposed towers would have a positive impact on jobs in the area, he requested to see some data to support that theory.

Mr. Cannava stopped questioning at this time announcing the matter to be carried to the August 2, 2023 meeting with no further notice required.

VII. ADJOURNMENT:

A motion to adjourn was made by Mr. Coplin, seconded by Mr. Lockwood. All voted in favor. The meeting adjourned at 10:49 p.m.

These minutes were prepared by Michelle Sheydwasser, Board of Adjustment Recording Secretary. The minutes were provided to the Board of Adjustment on July 14, 2023 for approval at the Regular Meeting to be held on July 19, 2023.