

MINUTES OF THE BOARD OF ADJUSTMENT
January 27, 2010

PRESENT: Vice Chair Fleischer, Mr. Burr, Ms. English, Ms. Holloway, Mr. Susswein, and Mr. Whipple; also, Mr. Sullivan, Esq., and Mr. Charreun, Assistant Secretary

ABSENT: Chair Harrison (recused), Ms. Cockey, Mr. Kenney, and Ms. Kadus, Secretary

Assistant Secretary Charreun called the roll and announced the special meeting of the Montclair Board of Adjustment. Notice had been given in accordance with the Open Public Meetings Act. Chair Harrison was not present as he was recused from the application. Vice Chair Fleischer announced the continuation of the application of **Omnipoint Communications, Inc, 153 Park Street**. James Pryor, Esq., appeared as attorney for the applicant. Terry Thornton, Esq., objector and resident of 160 Park Street was also present. Vice Chair Fleischer stated that this hearing would be for factual testimony from the public with presentation of evidence and facts about the application. Once that is completed there will be also be public comment. The Board has requested written summations from Mr. Pryor and Ms. Thornton which will be reviewed at a future meeting. Vice Chair Fleischer called for factual testimony from the public.

Terry Thornton, 160 Park Street, was sworn and stated her opposition to the application. The Township has pursued the opportunity to offer a wireless telecommunications facility on the public works site, which has gone out to public bidding on two prior occasions. Mr. Sullivan read Exhibit O-20, email message on that topic from Mr. Trembulak to James Pryor and Mike Sullivan, dated 1/26/10 into the record. Ms. Thornton referred to Exhibits O-13 Summary of Test Call Data and O-14 Map laying out Test Call Data and provided the background and details of how the information was compiled. Exhibits O-21 through O-27 were marked during this part of the testimony, and several discussions between Mr. Sullivan, Ms Thornton, and Mr. Pryor ensued. Ms. Thornton also described the balloon test conducted by the applicant and cited issues that would make that study potentially inaccurate. She also addressed the historic character of her home and others in the neighborhood and that the applicant has not handled procedural requirements correctly with the NJDEP National Historic Resources Historic Preservation Office. She also stated that the applicant has not sufficiently examined the potential use of a Distributed Antenna System.

Marked into evidence were:

- O-20 Email message from Mr. Trembulak to James Pryor and Mike Sullivan, dated 1/26/10
- O-21 Audio tape of 11/11/07 test calls received by Meg Seisfeld
- O-22 Audio tape of 6/5/07 test calls received by Asa Miraglia
- O-23 Audio tape of 6/4/07 test calls received by Jane Becker
- O-24 Audio tape of 6/6/07 test calls to Maxine Johnston
- O-25 Audio tape of 7/5/07 test calls to Amanda Waters

- O-26 2/27/08 printout received from T-Mobile store depicting signal strength
- O-27 2-page Printout from T-Mobile's website on 1/27/10 depicting signal strength
- O-28 Three photographs presented by Ms. Thornton taken during Omnipoint's balloon test on 9/27/07
- O-29 Photographs of balloon test as seen from the O'Brien/Thornton home 160 Park Street
- O-30 Letter from the NJDEP National Historic Resources Historic Preservation Office by Terry Karschner, acting administrator, dated 5/27/08 to the Montclair Historic Preservation Commission
- O-31 Letter from the Montclair Historic Preservation Commissioner dated June 24th, 2008, by Edward Lippincott, to Vincent Maresca, NJDEP Historic Preservation Office
- O-32 Two-Page press release dated 1/27/10, regarding DAS network in New York City

Mr. Pryor questioned Ms. Thornton extensively. The Board also questioned Ms. Thornton. The Board took a 10 minutes recess at about 9:45 pm. Before calling for additional factual testimony, the Board selected March 24, 2010 to continue the application. Mr. Pryor granted the Board an extension of time to that date.

Matthew Garrison, 149 Park Street, was sworn and stated his opposition to the application. The proposed wireless telecommunications pole would have a significant negative impact on his property and several others in the neighborhood based on the height of the pole and its visibility. Exhibits were submitted to help support this. He cited flaws in the applicant's balloon test compared to the balloon test conducted by Mr. Steck for the objectors.

Marked into evidence were:

- O-33 Property Survey of the Garrison property, 149 Park Street, dated 1/6/03
- O-34 Photographs of balloon test as seen from Garrison home 149 Park Street
- O-35 Photographs of balloon test as seen from Blackmon residence 147 Park Street
- O-36 Photographs of balloon test as seen from various locations on the street in the neighborhood

The Board questioned Mr. Garrison. Mr. Pryor questioned Mr. Garrison extensively.

Deborah Garrison, 149 Park Street, was sworn and stated her opposition to the application. She stated that she was involved in the latter portion of the call test on November 11, 2007 and provided clarifications and additional information on the call test and the associated Exhibits. She also stated that the proposed wireless telecommunications pole would have a significant negative impact on her property and several others in the neighborhood based on the height of the pole and its visibility.

Marked into evidence was:

O-37 Newspaper article printed from the wireless estimator web site,
regarding a monopole collapse in Massachusetts

The Board questioned Ms. Garrison. Mr. Pryor questioned Ms. Garrison.

Meg Seisfeld, 147 Park Street, was sworn and stated her opposition to the application. She stated that her home has been recognized on both the National and State Registry of Historic Properties because of its distinctive architecture. She also stated that the proposed wireless telecommunications pole is highly out of character with the neighborhood and would have a significant negative impact on her property and several others in the neighborhood based on the height of the pole and its visibility.

Marked into evidence was:

O-38 Photographs of homes on Park Street near subject property taken on
2/27/08

The Board briefly questioned Ms. Seisfeld. Mr. Pryor did not question Ms. Seisfeld.

Nuria Amari, 152 Park Street, was sworn and stated her opposition to the application. She stated that her home has also been recognized on both the National and State Registry of Historic Properties because of its distinctive architecture. She also stated that the proposed wireless telecommunications pole is highly out of character with the neighborhood and would have a significant negative impact on her property and several others in the neighborhood based on the height of the pole and its visibility.

Marked into evidence was:

O-39 Photograph of balloon test as seen from Amari home 152 Park Street
O-40 Photograph of balloon test as seen from Amari home 152 Park
Street
O-41 Photograph of balloon test as seen from Amari home 152 Park Street

The Board briefly questioned Ms. Amari. Mr. Pryor did not question Ms. Amari.

Ryan Branski, formerly of 159 Park Street, and currently of 548 Upper Mountain Avenue, was sworn and stated his opposition to the application. He stated that he had used T-Mobile wireless devices frequently at his Park Street home without any issues and that the antennas are not needed in the area. The proposed wireless telecommunications pole would have a significant negative impact on the neighborhood based on the height of the pole and its visibility.

Marked into evidence was:

O-42 Photographs of balloon test as seen from the former Branski home 159 Park Street

The Board briefly questioned Mr. Branski. Mr. Pryor briefly questioned Mr. Branski.

Margo Cochran, 159 Park Street, was sworn and stated her opposition to the application. The proposed wireless telecommunications pole would have a significant negative impact on her property and several others in the neighborhood based on the height of the pole and its visibility. She submitted Exhibits depicting an existing pole in Randolph, NJ.

Marked into evidence was:

O-43 Photograph of an existing monopole designed as a flagpole at a fire department at the intersection of Calais Road and Dover-Chester Road in Randolph

O-44 Photograph of an existing monopole designed as a flagpole at a fire department at the intersection of Calais Road and Dover-Chester Road in Randolph

O-45 Photograph of an existing monopole designed as a flagpole at a fire department at the intersection of Calais Road and Dover-Chester Road in Randolph

O-46 Photograph of an existing monopole designed as a flagpole at a fire department at the intersection of Calais Road and Dover-Chester Road in Randolph

O-47 Photograph of an existing monopole designed as a flagpole at a fire department at the intersection of Calais Road and Dover-Chester Road in Randolph

The Board briefly questioned Ms. Cochran. Mr. Pryor briefly questioned Ms. Cochran.

Connie Thames, 161 Park Street, was sworn and stated her opposition to the application. Her property is included on Exhibit O-36 Photographs of balloon test as seen from various locations on the street in the neighborhood. The proposed wireless telecommunications pole would have a significant negative impact on her property and several others in the neighborhood based on the height of the pole and its visibility. The Board briefly questioned Ms. Thames. Mr. Pryor did not question Ms. Thames.

Stephen Knox, 164 Park Street, was sworn and stated his opposition to the application. The proposed wireless telecommunications pole would have a significant negative impact on his property and several others in the neighborhood based on the height of the pole and its visibility. There were no questions for Mr. Knox. The Board, Mr. Sullivan, Mr. Pryor, and Ms. Thornton discussed certain procedural issues. It was noted that there are more individuals from the public that will testify on March 24, 2010. A

subsequent meeting will then follow for review of the summations. Vice Chair Fleischer stated no further notice would be given for the March 24, 2010 meeting. On motion by Mr. Susswein, seconded by Mr. Whipple the meeting was adjourned.