

MINUTES OF THE BOARD OF ADJUSTMENT
February 13, 2008

PRESENT: Vice Chair Fleischer, Ms. Cockey, Ms. English, Ms. Holloway, Mr. Rubenstein, and Mr. Whipple; also, Mr. Koenig, Esq., and Mr. Charreun, Assistant Secretary

ABSENT: Chair Harrison (recused), Mr. Haizel, Mr. Susswein, and Mr. Franco, 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 recused himself from the application. Vice Chair Fleischer called the continuation of the application of **Omnipoint Communications, Inc, 153 Park Street**. James Pryor, Esq., appeared as attorney for the applicant and called Timothy M. Kronk, PP, who was sworn and stated his qualifications. He stated that he had visited the site, familiarized himself with the proposal in this matter, including the site plan, the present site plan, the previous one, and also attended all but one of the hearings of this matter before this Board and read transcripts.

Marked into evidence were:

- A-7 Aerial Photograph from Atlantis Aerial Survey, 4/16/07
- A-8 Photo board simulation
- A-9 Photo board simulation
- A-10 Historic Preservation letter of November 21, 2007 (for identification)
- A-11 Photo simulations regarding equipment compound
- A-12 Photo simulations of equipment compound
- A-13 Photos, View of Proposed Equipment Area from Driveway near Entrance Looking Southeast
- A-14 Same title as A-13, with brick compound
- A-15 Photo board, Existing Flagpole Locations (physically marked)

Mr. Kronk stated that Omnipoint Communications is experiencing coverage deficiencies in this portion of Montclair, and that although they do not comply totally with the wireless telecommunications ordinance, that the spirit and intent of the goals and purposes of that ordinance are met. There was no ability to locate this facility on any of the higher priority candidates based upon the review of the ordinance. The use promotes the general welfare based upon its connection to emergency services. The use has become integral to our business and our personal lives, which is why it is beneficial to the general welfare. The site is particularly suited and the statutory requirements for the grant of the positive criteria under the D1, D6 use variances are met. With regard to the negative criteria, the use is a benign commercial use. It has none of the traditional negative impacts associated with land development. The use does not have any noise. Some sound is produced by the equipment cabinets which

will be in complete compliance with all local and DEP standards for the emissions of that type of sound. It would not rise to the level of a nuisance since there is no glare, no odor, and no vibration. There are no noxious characteristics. It is an unmanned facility so it will not have any impact on parking or traffic. The proposed installation will be in compliance with the FCC and DEP compliance for the emissions of radio energy. The only negative impact that is associated with the application is the impact of visibility. He described the aerial photograph and the photo board simulations photographs that were taken on September 27, 2007. At that time the three-foot diameter red weather balloon was floated from the proposed tower location. The tower simulated in white as is described on the revised engineering drawings. A simulation of an American flag is also depicted on the tower. The best attempt to camouflage this type of structure is in the nature of the flagpole structure and this is the best method available to minimize the visibility of the antenna support structure

The Board questioned Mr. Kronk who answered numerous questions regarding the variances requested and the photo simulations submitted. Vice Chair Fleischer called for questions from the public. Nuria Amari, 152 Park Street asked about the photo simulations. Matt Garrison, 149 Park Street, also asked about the photo simulations and the balloon test. Pam Henke, 159 Park Street, also asked about the photo simulations and the variances requested. Margo Cochran, 159 Park Street, asked about the proposed flag on the tower. Connie Thames, 161 Park Street, asked about the mature tree canopy in the area and the height of the tower. Terry Thornton, 160 Park Street, asked numerous questions regarding the zoning ordinance and the variances requested, the Municipal Land Use Law, the review of the State Historic Preservation Office, the Telecommunications Act of 1996, and the Master Plan 2006 reexamination. Merrill O'Brien, 160 Park Street, asked questions about alternative sites, different types of antenna systems, the construction of the tower, and the photo simulations.

Vice Chair Fleischer announced that the meeting would be continued at the special meeting scheduled for February 27, 2008 and that no further notice would be given. On motion by Mr. Whipple, seconded by Ms. English, the meeting was adjourned at 11:20 pm.