

MINUTES OF THE BOARD OF ADJUSTMENT
June 15, 2005

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

ABSENT: Ms. Cockey, Mr. Haizel and Mr. Flood

Assistant Secretary Charreun called the roll and announced the regular meeting of the Montclair Board of Adjustment. Notice had been given in accordance with the Open Public Meetings Act.

On motion by Mr. Fleischer, seconded by Ms. English, the **Minutes of the May 18, 2005** regular meeting were adopted, Ms. English, Mr. Flood, and Mr. Whipple abstaining.

On motion by Ms. English, seconded by Mr. Fleischer, the following Resolution memorializing the approval of the application of **Peter and Susan Carr, 89 Highland Avenue** was adopted:

WHEREAS, Peter and Susan Carr, owners of property at **89 Highland Avenue**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow for front yard setbacks less than that required pursuant to **Montclair Code Section 347-33B(2)** in connection with the construction of a two-story addition and alterations proposed to an existing 1½-story area of their single-family dwelling on property designated as Lot 1 in Block 502 on the Township Tax Map and located in the R-0 Mountainside Zone; and

WHEREAS, the applicants submitted a site plan, floor plans, and elevations, prepared by Sionas Architecture, P.C., dated March 7, 2005, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 18, 2005 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property is a corner lot located at the intersection of Highland Avenue and Edgewood Terrace and contains a single-family dwelling with an attached 2-car garage.

2. The applicants' proposal is to construct a two-story addition at the southeasterly corner of the dwelling and alterations are proposed to an existing 1½-

story area located at the southerly side of the dwelling that would increase the height of that area of the dwelling.

3. The subject property received a front yard setback variance on February 11, 1960, in order to have the existing dwelling constructed with 35-foot front yard setbacks from Highland Avenue and Edgewood Terrace. Subsequently, the subject property received another front yard setback variance on February 27, 1963 for the construction of an addition to the dwelling. The existing dwelling has front yard setbacks of approximately 36.53 feet and 38.82 feet from Highland and Edgewood Terrace, respectively.

3. On Highland Avenue, the required front yard setback is 82.5 feet, based on the average front yard setback of the 2 nearest principal structures on Highland Avenue. The existing one-story section located at the southerly side of the dwelling has a front yard setback of approximately 46 feet from Highland Avenue. The alterations proposed at this area of the dwelling add height to that portion of the structure and require a variance in that a front yard setback of 82.5 feet from Highland Avenue is required and a lesser front yard setback of approximately 46 feet is proposed.

4. On Edgewood Terrace, the required front yard setback is 90 feet, based on the average front yard setback of the 2 nearest principal structures on Edgewood Terrace. All of the proposed work is located less than 90 feet from Edgewood Terrace, and requires a variance. The proposed addition at the southeasterly corner of the dwelling has a front yard setback of 34 feet from Edgewood Terrace. The expansion of the masonry terrace is located just behind this addition. The alterations proposed to the area of the existing one-story section located at the southerly side of the dwelling are set back approximately 46 feet from Edgewood Terrace.

5. Based on the location of the lawfully existing dwelling, the shape of the lot, and the topography of the site, the applicants demonstrated practical difficulties and undue hardship and that the requested variances are justified. Furthermore, the fact that the proposed 34-foot front yard setback from Edgewood Terrace is not in keeping with the 35 feet that was approved in 1963 is acceptable considering the site characteristics mentioned above, as well as the fact that the proposed addition can not be reduced further in size and retain its utility as interior space.

6. Although a certain significant mature tree would be removed in order to accommodate the proposed work, the subject property would still contain many other existing significant mature trees and landscaping.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of **Peter and Susan Carr** for a variances pursuant to *N.J.S.A. 40:55D-70C(1)* and (2) to permit front yard setbacks less than required is hereby approved; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the applicant, Township Manager, Township Council and Township Clerk.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the following Resolution memorializing the approval of the application of **Kelly and Brian Meith, 106 Edgemont Road** was adopted:

WHEREAS, **Kelly and Brian Meith**, owners of property at **106 Edgemont Road**, did make application to the Board of Adjustment of the Township of Montclair for variances pursuant to NJSA40:55D-70c to allow side yard setbacks less than required pursuant to **Montclair Code Section 347-46A(2)(b)** in connection with the construction of a detached one-car garage and the installation of 2 central air conditioning units on property designated as Lot 17 in Block 1708 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by EKA Associates, P.A., dated December 4, 1998, and a plot plan, floor plan, and elevations prepared by the applicants, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 18, 2005 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property is a corner lot located in the R-1 One-Family Zone at the intersection of Edgemont Road and Godfrey Road. The property measures approximately 7,505 square feet in area and contains a 2½-story single-family dwelling and an 8-foot wide driveway from Godfrey Road. There is no existing garage on the subject property.

2. The applicants' proposal is to construct a detached one-car garage in the rear yard and install 2 central air conditioning units in the northerly side yard.

3. The property survey indicates that the existing dwelling on the lot has a northerly side yard setback of 5.78 feet to the northeasterly corner of the dwelling and 7.15 feet to the northwesterly corner of the dwelling. A side yard setback of 3 feet is proposed from the northerly side property line for the detached garage, which is not in keeping with the side yard setback of the dwelling along the northerly property line and represents a new intrusion into the required side yard setback, which is not justified since the applicants could construct a fully conforming detached garage without the need for any setback variances.

4. Two (2) central air conditioning units are proposed in the northerly side yard, with side yard setbacks of 4.15 feet and 3.5 feet respectively. The applicants submitted a plan depicting future additions along the rear wall of the home, which will reduce the usable rear yard area of the property. Furthermore, the fact that the property is a corner lot also limits the usable rear yard space on the property and limits the potential locations for the proposed central air conditioning units

WHEREAS, the Board, based on the foregoing findings concluded that, with respect to the variance requested for the side yard setback of the detached garage, the applicants did not prove peculiar and exceptional practical difficulties and exceptional and undue hardship and failed to prove that the variance could be granted without substantial detriment to public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to *N.J.S.A. 40:55D-70C(1)*; and

WHEREAS, the Board, based on the aforementioned findings, concluded that, with respect to the variance requested for the side yard setback of the detached garage, the applicants did not prove that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and failed to prove that the benefits of the deviation would substantially outweigh any detriment and failed to prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of *N.J.S.A. 40:55D-70C(2)*;

WHEREAS, the Board, based upon the foregoing findings, concluded that, with respect to the variance requested for the side yard setback of the central air conditioning units, the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to *NJSA40:55D-70C(1)*; and

WHEREAS, the Board, based on the aforementioned findings, concluded that, with respect to the variance requested for the side yard setback of the central air conditioning units, the applicants did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and

proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of **Kelly and Brian Meith**, for a variance pursuant to *N.J.S.A. 40:55D-70C(1)* and (2) to allow a side yard setback less than required for the proposed detached garage is hereby denied; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Montclair, that the within application of **Kelly and Brian Meith** for a variance pursuant to *N.J.S.A. 40:55D-70C(1)* and (2) to allow a side yard setback less than required for the proposed central air conditioning units is hereby approved subject to the following conditions:

1. The proposed central air conditioning units shall not be located closer to Edgemont Road than the midway point of the northerly side wall of the dwelling.
2. All new fences shall conform to the height requirements and shall be constructed in a manner that will form an enclosure around the proposed central air conditioning units and provide screening.
3. The proposed garage shall conform to all zoning requirements.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the applicant, Township Manager, Township Council and Township Clerk.

On motion by Mr. Fleischer, seconded by Mr. Susswein, the following Resolution memorializing the approval of the application of **William and Rhonda Halperin, 30 Midland Avenue** was adopted, Chair Harrison abstaining:

WHEREAS, William and Rhonda Halperin, owners of property at **30 Midland Avenue**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40:55D-70c to allow for a rear yard setback less than that required pursuant to **Montclair Code Section 347-45D** in connection with the construction of a two-story addition onto an existing two-family dwelling on property designated as Lot 16 in Block 2214 on the Township Tax Map and located in the R-3 Garden Group Zone; and

WHEREAS, the applicants submitted a property survey prepared by Richard J. Hingos Inc., dated July 17, 2001, and floor plans and building elevations prepared by MBA Architects, dated April 6, 2005, that depicts the new construction; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 18, 2005 at which time it was established that notice was

properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property is an interior lot located in the R-3 Garden Group Zone and contains a 2½-story, two-family dwelling and a short driveway that does not lead to any garage. The property has 55 feet of frontage along Midland Avenue and contains 3,867 square feet of lot area. The lot is 70.77 feet deep at its deepest point from Midland Avenue.

2. The applicants' proposal is to construct a two-story addition at the rear and northerly side of the dwelling that would contain approximately 1,000 total square feet of floor area.

3. The existing dwelling has a nonconforming rear yard setback of 11 feet. The proposed addition would be aligned with the rear of the existing dwelling and would also be set back 11 feet from the rear property line, in lieu of the 25 feet required in the rear yard. The propose addition meets all other height and setback requirements.

4. The applicants demonstrated that the location of the proposed addition is the most practical for dealing with the unique characteristics of the subject property, namely the shallow depth of the lot, the location of the existing dwelling on the lot, and the limited amount of usable outdoor green space.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicants proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40:55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variance application of **William and Rhonda Halperin** is hereby approved; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the applicants, Township Manager, Township Council, Township Clerk, Township Engineer and Construction Code Official.

On motion by Mr. Fleischer, seconded by Ms. English, the following Resolution memorializing the approval of the application of **Tom Hodgson, 122 South Fullerton Avenue** was adopted:

WHEREAS, Tom Hodgson, owner of property at **122 South Fullerton Avenue**, did make application to the Board of Adjustment of the Township of Montclair for a variance pursuant to NJSA40: 55D-70c to install two air conditioning condenser units in a front yard pursuant to **Montclair Code Section 347-46C** on property designated as Lot 18 in Block 2109 on the Township Tax Map and located in the R-1 One-Family Zone; and

WHEREAS, the applicant submitted a property survey prepared by Farro Bros. Engineers & Surveyors, dated January 13, 1976, with the location of the proposed central air conditioning units marked by the applicant; and

WHEREAS, this matter came on to be heard at a meeting of the Board of Adjustment held on May 18, 2005 at which time it was established that notice was properly published and the property owners within 200 feet of the property in question had been properly served notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings:

1. The subject property is an irregularly shaped corner lot located in the R-1 One-Family Zone, and contains a 2½-story frame dwelling. The property has frontage on 3 streets: South Fullerton (east), Gates Avenue (south), and Orange Road (west). The survey depicts that the driveway is from Orange Road and that the front door faces South Fullerton Avenue.
2. The existing setback of the dwelling in the northerly side yard measures 5 feet at its largest point, which does not provide sufficient space to install the proposed central air conditioning units in a manner that would comply with the zoning ordinance.
3. The applicant proposes to install 2 central air conditioning units in the Orange Road (westerly) front yard of his property, which requires a variance. The proposed location for the units is near the northwesterly corner of the dwelling and would meet the 6-foot setback requirement from the northerly side property line.
4. The applicant demonstrated that there is no other practical location due to the unusual characteristics of the property.
5. With proper landscaping screening, the proposed central air conditioning units would be effectively shielded from view to prevent any detriments to the streetscape and the adjoining property.

WHEREAS, the Board, based upon the foregoing findings, concluded that the applicant proved peculiar and exceptional practical difficulties and exceptional and undue hardship and did prove that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and the zoning ordinance pursuant to NJSA40: 55D-70C(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicant did prove that the purpose of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and proved that the benefits of the deviation would substantially outweigh any detriment and proved that the variance could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to the requirements of NJSA40:55D-70C(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Montclair that the variance application of **Tom Hodgson** is hereby approved, subject to the following condition:

1. The proposed central air conditioning units shall be screened on the westerly and northerly side by evergreen shrubs.

NOW, THEREFORE, BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the applicants, Township Manager, Township Council, Township Clerk, Township Engineer and Construction Code Official.

Assistant Secretary Charreun announced that at the request of the applicant, the application of **Willow Street Partners, LLC, 7 No. Willow Street** has been withdrawn without prejudice to its resubmission at a later date.

Chair Harrison called the variance application of **George Sanford, 86 Yantacaw Brook Road**. George Sanford was sworn and described the application. Mr. Sanford stated that a small addition is proposed at the rear corner of the second floor of his home in order to enlarge an existing room that would accommodate a home office.

The Board questioned Mr. Sanford. Mr. Sanford stated that the proposed addition is aligned with existing walls of home. He also stated that the existing home has a slightly nonconforming side yard setback of 9.55 feet where a side yard setback of 10 feet is required.

Chair Harrison called for questions and comments from the public. None were offered.

The Board discussed the application. On motion by Mr. Fleischer, seconded by Mr. Whipple, the variance application was approved.

Chair Harrison called the variance application of **Maranda Fritz, 54 Tuxedo Road**. Maranda Fritz, owner, and Steven Papadatos, Architect, were sworn. Mr.

Papadatos described the proposed additions to the dwelling and described the amount of floor area proposed with the additions. Ms. Fritz stated that her home is a 1½-story home with only 2 bedrooms and that the proposed addition would be in keeping with the other homes in the neighborhood, which contains mostly 2½-story colonial style homes with more than 2 bedrooms. She also stated that her family has grown since she purchased the home and could use the additional space.

The Board questioned the applicant and Mr. Papadatos. Mr. Papadatos described the plans in detail.

Marked into evidence were:

- A-1 Floor plans with color, on a board depicting the floor area added by the proposed additions
- A-2 Elevations with color, on a board depicting the additional height
- A-3 Three (3) photographs of the subject property and the adjoining homes on either side of the subject property

Mr. Papadatos stated that the proposed deck at the rear of the dwelling would conform to the setback requirements. He also described the requested variances and stated that the additional 6 feet of height proposed for the second floor wall and the new third floor requires a variance for the side yard setback in the easterly side yard where 10 feet is required and 7.5 feet is proposed. He also stated that the proposed shed dormer on the attic level would comply with the 10-foot setback requirement in the easterly side yard. He further stated that the proposed additions comply with the front yard setback and height requirements.

Chair Harrison called for questions and comments from the public. None were offered.

The Board discussed the application. On motion by Mr. Fleischer, seconded by Mr. Whipple, the variance application was approved, subject to the following condition:

1. The second and third floor addition shall be aligned with the existing easterly side wall of the dwelling and not be built closer than 7.5 feet to the easterly side property line. The proposed dormer on the third floor and the proposed deck at the rear of the dwelling shall conform to the 10-foot side yard setback requirement in the easterly side yard.

Chair Harrison called the application of **New York SMSA Limited Partnership-d/b/a Verizon Wireless, 320 Orange Road**. Warren Stillwell, Esq., appeared as attorney for the applicant and described the application, the conditional use requirements, and the variances required. He also noted that 6 Board members are present and asked whether a vote would be required this evening if testimony began this evening.

Mr. Sullivan informed Mr. Stillwell that he may choose to have a vote tonight or carry the vote until an additional Board member could review the record and vote on the application.

Mr. Stillwell called Danny Dichter, Radio Frequency Engineer, who was sworn and stated his qualifications.

Marked into evidence were:

A-1 USGS Map of Montclair and vicinity, with 2 overlays, prepared by Danny Dichter, dated June 6, 2005

Mr. Dichter described Exhibit A-1 and indicated the existing and planned Verizon sites in the area. He stated that the first overlay depicts Verizon's reliable coverage in the area and stated that the antennas proposed at the subject site would fill in an area of need within Montclair and fill 80 to 85 percent of the existing coverage gap in the area. He continued by describing how the area in need of coverage is determined. He also stated that Verizon has researched the area for the most suitable structure on which to locate the proposed antennas and that the subject property is the tallest structure and the most suitable location in the area. He further stated that the subject property and the installation as proposed are ideal for efficient use of the E911 service utilized by Police Departments.

Mr. Dichter stated that 6 antennas are proposed rather than the 12 antennas of a standard installation due to structural issues with the building. He also stated that the antennas could not be flush-mounted to the penthouse on the roof of the building because that would lower the height of the antennas to a point where they would be less effective due to shadowing and blockage.

The Board questioned Mr. Dichter. Mr. Dichter stated that there are no other tall buildings in the area that would fill in the identified coverage gap. He also stated that the proposed site is superior to the building located at 36 Hawthorne Place in terms of filling the identified coverage gap. The Board continued to question Mr. Dichter. Chair Harrison showed Mr. Dichter the illustrations submitted by AT&T Wireless for their facility at 36 Hawthorne Place which shows their coverage gap and coverage provided by their antennas at 36 Hawthorne Place.

Mr. Sullivan stated that the illustration from the AT&T application at 36 Hawthorne Place should be marked as an Exhibit.

Marked into evidence was:

B-1 From the application of AT&T Wireless, 36 Hawthorne Place, 2 illustrations depicting their existing coverage gap and proposed coverage

Mr. Dichter stated that AT&T Wireless, who is now Cingular Wireless, uses different technology and different frequencies and, as a result, may use different criteria in their designs.

Chair Harrison called for questions from the public.

David Cummings, 8 Pleasant Avenue, asked how the gap in coverage was identified.

David Herron, Montclair NAACP President, asked if the proposed antennas would provide more than voice transmission and whether data transmission would also be provided by the proposed antennas.

William Scott, 23 Cedar Avenue, asked whether the proposed installation would give Verizon a competitive advantage over their competition and whether the public could expect that other carriers would apply to the Township to install antennas on the same site. He also asked if the applicant has considered installing a tower in any nearby cemeteries. He also asked if the owner of the building would be paid to have antennas installed on the building.

Melissa Hallock, 25 Madison Avenue, asked if the applicant had considered locating their antennas at Kelly Broadcasting in East Orange.

Mr. Hakim, owner of the barber shop at 310 Orange Road, asked how the proposed antennas could affect anyone's health.

Charles Smith, 27 Madison Avenue, asked what other equipment is proposed besides the antennas on the roof.

Chuck Sutton, 4 Orchard Court, asked how many transmitters are proposed for each antenna.

Chair Harrison called for a short recess.

Mr. Stillwell called Daniel Collins, Electrical Engineer, who was sworn and stated his qualifications. Chair Harrison stated that the only issue Mr. Collins is to testify to is whether the application conforms to the requirements of the FCC. Mr. Stillwell questioned Mr. Collins. Mr. Collins described the methodology of his studies concerning the proposed installation and stated that the application is fully compliant with the requirements of the FCC concerning exposure to radiation.

The Board questioned Mr. Collins. Mr. Collins stated that the FCC standard requires calculations assuming that people are on the floor below the roof with the antennas at least two meters above them. He stated that for people within the building directly under the antennas, the exposure level is 2 percent of the FCC standard, which is 50 times below the limit, and is the equivalent of the exposure you receive when you open your refrigerator door.

Chair Harrison called for questions from the public.

William Scott, 23 Cedar Avenue, asked if senior citizens living in the nearby senior citizens building, who may not be very mobile, would be at a higher risk for exposure.

David Herron, Montclair NAACP President, asked if signs are proposed to warn anybody on the roof not to stand in front of the antennas. He also asked if Verizon has any problems with health problems arising from wireless antennas in populated areas.

Chuck Sutton, 4 Orchard Court, asked if there are any radiation issues involved with the equipment cabinets proposed in the parking lot. He also asked if the fact that the cabinets are at ground level increases the possibility that something could go wrong and increase any health risks.

Lincoln Turner, 3 Manor Court, asked if other sites were considered. Chair Harrison stated that that issue was addressed by an earlier witness and called for further questions from the public. None were offered.

Mr. Stillwell stated that they do not intend to put forth any more witnesses this evening and that they would like to investigate some issues and return at a later date. Chair Harrison stated that the application would be carried to a special meeting held on July 13, 2005 and that no further notice will be given.

Chair Harrison called the application of **Omnipoint Communications, 641 Bloomfield Avenue**. Robert Garofalo, Esq., appeared as attorney for the applicant and described the application. He stated that the subject property is located with the Town Center Historic District and that the applicant had applied to the Historic Preservation Commission and failed to be approved. He also stated that since that time, the application has been revised, reducing the number of antennas from 12 to 6, and that screening will be added.

Mr. Garofalo called Henry Parra, Radio Frequency Engineer, who was sworn and stated his qualifications. He stated that his study of Omnipoint's coverage reveals that the area around the subject property does not have sufficient coverage and described the methodology used in determining this.

Marked into evidence was:

A-1 USGS Map of Montclair and vicinity, with 2 overlays, prepared by Henry Parra, dated June 15, 2005

Mr. Parra described the existing Omnipoint sites in the area and the coverage they provide and continued by describing the existing deficiency in coverage and how the proposed installation would fill that deficient coverage. He stated that the building on the subject property is of a height that makes it ideal to provide excellent coverage in

the area. He stated that 2 antennas are proposed in each of 3 sectors. He stated that the antennas in sector A must be located above the height of the penthouse to which they are attached because they need a vertical separation of 9 or 10 feet, as well as a horizontal separation of at least 20 feet needed from the existing antennas of other carriers mounted on the building. He continued by stating that the antennas proposed in sectors B and C could not be flush-mounted to the exterior of the building because the building is at the property line and this type of mounting would encroach on the adjoining properties. He also stated that the location of these antennas is limited by the need for horizontal separation from the antennas of other carriers on the building. He stated that the antennas could be painted to match the color of the sky and that the equipment cabinets on the roof could be screened.

The Board questioned Mr. Parra. Mr. Parra stated that the antennas could be screened by using RF stealthing, which would be made to look like a structural component of the building and still allow signals to pass through it. Mr. Garofalo stated that the applicant had not specifically contacted the Municipality about locating certain antennas over the air space of the adjoining municipally owned building to the west. Mr. Parra also stated that no other buildings in the area would provide the coverage that the subject building provides.

Chair Harrison called for questions from the public. None were offered.

Mr. Garofalo called Daniel Collins, Electrical Engineer, who was sworn. Mr. Collins described his study of the proposed installation and stated that the proposed installation is at least 45 times below the FCC's acceptable limit and is in compliance with FCC standards.

The Board questioned Mr. Collins.

Chair Harrison called for questions from the public. None were offered.

Mr. Garofalo called Charles Whelan, Architect, who was sworn and stated his qualifications. Mr. Whelan described the building on the site and described the proposed installation. He stated that the antennas mounted onto the penthouse would exceed the height of the penthouse by 5 feet 1 inch and that the other antennas mounted onto the parapet would extend above the parapet by 5 feet 4 inches. He also described the equipment cabinets proposed on the rooftop and stated that it is possible to erect a screen that would screen the view of the cabinets and be consistent with the material of the building. He further stated that the antennas could be screened by installing RF transparent boxes to go over the panel antennas that would look like chimneys or other structural components of the building.

The Board questioned Mr. Whelan. Mr. Whelan stated that they had investigated the option to locate the cabinets within the building but were unable to do so. He continued by describing the composition and appearance of the RF transparent material that is used in screening the antennas. He also stated no screening was proposed within the application to the Historic Preservation Commission.

Mr. Sullivan stated that since the applicant is presently proposing fewer antennas and has indicated that the antennas and equipment will be screened, a new application to the Historic Preservation Commission may be required if the application presently before the Board were approved.

Chair Harrison called for questions from the public. None were offered.

Mr. Garofalo stated that he has one witness left and would also like to continue at an upcoming meeting. Chair Harrison stated that the application would be carried to a special meeting held on July 13, 2005 and that no further notice will be given.

On motion by Mr. Fleischer, seconded by Ms. English, the meeting was adjourned.