

**MINUTES OF THE BOARD OF ADJUSTMENT
JULY 13, 2005**

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

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

Assistant Secretary Charreun announced that at the request of the applicant, the application of **New York SMSA Limited Partnership- d/b/a Verizon Wireless, 320 Orange Road** has been postponed until the August 17, 2005 regular meeting and that the Board has been granted an extension of time through that date.

Chair Harrison called the continuation of the site plan and variance application of **Omnipoint Communications, 641 Bloomfield Avenue**. Robert Garofalo, Esq., appeared as attorney for the applicant and called Theresa Begley, Zoning Specialist for T-Mobile USA, Inc., who was sworn. Ms. Begley stated that she had investigated the options for the applicant to obtain easements from the owners of the adjoining properties in order to flush-mount the proposed antennas and stated that she had received no response.

Marked into evidence were:

A-2 Letter from Theresa Begley to the Township Manager, dated June 3, 2005

A-3 Letter from Theresa Begley to the owner of 631-635 Bloomfield Avenue, dated June 29, 2005

A-4 Letter from Theresa Begley to the Township Attorney, dated June 29, 2005

A-5 Letter from Theresa Begley to the Township Attorney, dated July 7, 2005

The Board questioned Ms. Begley.

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

Mr. Garofalo, Esq., called David Robinson, Radio Frequency Engineer, who was sworn and stated his qualifications. He stated that he had investigated alternative sites in the vicinity of the proposed installation and stated that the newly constructed parking deck on Orange Road would provide the necessary coverage; however, the structure is not available. He also stated that no other buildings in the area are tall enough and that using a combination of shorter structures would provide incomplete coverage.

The Board questioned Mr. Robinson.

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

Mr. Garofalo further questioned Mr. Robinson. Mr. Robinson stated that although utilizing a flagpole to house antennas is possible on the rooftop, it would require a large amount of structural refurbishing of the existing building.

Mr. Garofalo called Charles Whelan, Architect, who was still under oath. Mr. Whelan described the revised plans and the locations of the 6 proposed antennas. He stated that the plans have been revised to depict the decrease from 12 to 6 antennas. He described the proposed screening of the antennas using the RF transparent material and the screening of the equipment cabinets using a panel that would be finished to match the building. He continued by describing the photo-simulations that have been prepared for the application.

Marked into evidence were:

- A-6 Northeast view: photographs of the existing conditions
- A-6a Northeast view: photo-simulations of the proposed antennas without screening
- A-6b Northeast view: photo-simulations of the proposed antennas with screening

- A-7 Southeast view: photographs of the existing conditions
- A-7a Southeast view: photo-simulations of the proposed antennas without screening
- A-7b Southeast view: photo-simulations of the proposed antennas with screening

- A-8 Northwest view: photographs of the existing conditions
- A-8a Northwest view: photo-simulations of the proposed antennas without screening
- A-8b Northwest view: photo-simulations of the proposed antennas with screening

- A-9 Southeast view: photographs of the existing conditions
- A-9a Southeast view: photo-simulations of the proposed antennas without screening
- A-9b Southeast view: photo-simulations of the proposed antennas with screening

Mr. Whelan stated that, in his opinion, the stealth screening makes the proposed antennas more visible, but do provide a cleaner appearance. He also stated that the proposed screening for the equipment cabinets is effective.

The Board questioned Mr. Whelan.

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

Mr. Garofalo, Esq., called David Karlbach, Professional Planner, who was sworn and stated his qualifications. Mr. Karlbach described the application and reviewed the conditional use requirements within the Montclair zoning ordinance. He stated that the application fails to meet 1 of the 4 conditions, which is the condition that requires that the height of the antennas not exceed the height of the structure to which they are mounted. He stated that the applicant has addressed this issue and it has been determined that it is not possible to mount the antennas flush with the building. He stated that the type of variance required for this deviation may be granted because the fact that the building occupies the entire lot is an extraordinary and exceptional situation uniquely affecting the subject property and the strict application of the zoning ordinance creates practical difficulties and places undue hardship on the applicant.

Mr. Karlbach stated that, although the application requires a variance, the site remains appropriate for the proposed installation. He stated that the proposed installation would remedy an existing coverage gap and uses an existing structure which already contains existing wireless telecommunications equipment. He further stated that the proposed installation would be unobtrusive and would not create any nuisances to the public. He continued by stating that the Board has varied options for different types of screening and the application can be granted without substantial detriment to public good.

The Board questioned Mr. Karlbach.

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

Mr. Garofalo recalled David Robinson, Architect, who was still under oath. Mr. Robinson described what factors go into the site selection process. He also stated that the interference of tree clutter also determined the height needed for antennas.

Mr. Garofalo summarized the application.

The Board discussed the application.

On motion by Mr. Fleischer, seconded by Mr. Whipple, the application was approved, subject to the following conditions:

1. The applicant shall apply to the Historic Preservation Commission for approval of the plans revised through June 15, 2005.

2. The applicant shall within one week from July 13, 2005, by certified mail return-receipt, contact the adjacent property owners in an effort to secure air rights to flush mount its antennae on the subject building. The applicant shall report to the Historic Preservation Commission on the results of its inquiry.

3. The applicant shall screen the proposed equipment cabinets in accordance with the plans revised through June 15, 2005.

4. The applicant shall move the antennae in Sector B closer to the existing penthouse. The applicant shall screen those antennae with one continuous stealth screen extending from the edge of the penthouse and covering both of the antennae in the Sector. The screening shall be painted to match the existing penthouse.

5. The antennae in Sectors A & C shall only be screened if screening is recommended by the Historic Preservation Commission. Any such screening shall conform to the recommendations of the Historic Preservation Commission.

6. The applicant shall pay any required development fees to the Montclair Housing Trust Fund in accordance with Montclair Code Section 2502-39 et seq.

7. The applicant shall be responsible for all inspection fees required under Montclair Code Section 202-27 as well as escrow fees incurred in connection with review of this matter.

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