



Township of Montclair

205 Claremont Avenue

Montclair, NJ 07042

tel: 973-509-4954

fax: 973-509-4943

MONTCLAIR ZONING BOARD OF ADJUSTMENT



**Graham Petto, P.P., AICP**  
**Assistant Planner**

**Department of Planning and Community Development**  
**[gpetto@montclairnjusa.org](mailto:gpetto@montclairnjusa.org)**

## **MINUTES OF THE BOARD OF ADJUSTMENT**

### **February 8, 2017**

**ORDER:** The meeting was called to order at 7:35 p.m. by Graham Petto. Mr. Petto read the notice of compliance with the New Jersey Open Public Meetings Act and indicated that appropriate notice was forwarded to the officially designated newspaper of Montclair and posted in the Municipal Building. The schedule of meetings is also posted on the Township website.

**ROLL CALL:** Mr. Petto called the roll. Present were Mr. Harrison, Mr. Fleischer, Mr. Reynolds, Ms. Baggs, Mr. Moore (arrived at 7:45pm), Mr. Allen, Mr. LaVail, Mr. McCullough, Ms. Daye, Mr. Sullivan, and Mr. Petto. Ms. Chowaneic, was excused.

### **APPROVAL OF MINUTES:**

Mr. Harrison introduced the minutes of the January 18, 2017 Board meeting. He noted a few edits to the minutes as presented. Ms. Baggs also noted edits to the minutes. A motion was made by Mr. Reynolds, seconded by Mr. LaVail to approve the minutes as amended. The minutes were approved unanimously with Mr. Fleischer, Ms. Daye and Mr. McCullough abstaining.

### **RESOLUTION FOR 2016 BOARD OF ADJUSTMENT ANNUAL REPORT**

Chair Harrison introduced the Annual Report for consideration by the Board.

Ms. Baggs noted that the Board had discussed elimination of the abandonment of use language of the ordinance. She stated that this should be added to the recommendations.

Chair Harrison agreed with Ms. Baggs note and further noted that the language is contrary to case law on the abandonment of use.

Chair Harrison noted that the chart in the Annual Report should be modified to note those approved applications that had conditions of the approval and has variances denied as part of the approval.

A motion was made by Mr. Fleischer to approve the Annual Report with the modifications as discussed by the Board. The motion was seconded by Mr. Reynolds and passed unanimously.

### **OLD BUSINESS:**

**Resolution for App. 2478: Joseph & Donna Wilson. 213 Highland Avenue. Bulk variance for rear yard setback.**

Chair Harrison introduced the application.

A motion was made by Ms. Baggs, seconded by Mr. Reynolds to approve the resolution as submitted.

The resolution as approved unanimously with Mr. Fleischer, Ms. Daye and Mr. McCullough abstaining.

**Resolution for App. 2484: Rogier & Alexander Intres. 23 Chester Road. *Bulk variance for lot coverage***

Chair Harrison introduced the application.

A motion was made by Mr. Reynolds, seconded by Mr. Moore to approve the resolution as submitted.

The resolution as approved unanimously with Mr. Fleischer, Ms. Daye and Mr. McCullough abstaining.

**Resolution for App. 2485: 530 Highland Avenue Capital LLC. 530 Highland Avenue. *Bulk variances for front yard setback and number of stories.***

Chair Harrison introduced the application. He noted an edit to the resolution as presented.

A motion was made by Mr. Reynolds, seconded by Mr. LaVail to approve the resolution as amended by Chair Harrison.

The resolution as approved unanimously with Mr. Fleischer, Ms. Daye and Mr. McCullough abstaining.

**App. 2487: 10 Norman Road. Harry & Arlene Moskowitz. *Bulk variance for side yard setback of new garage.***

Chair Harrison introduced the application. Present for the application were the applicants Harry & Arlene Moskowitz.

Mr. Moskowitz summarized the application for the Board. He noted that the proposed location of the garage would be adjacent to the garage on the adjacent property. He also noted that the proposed location of the garage and driveway with turnaround was selected to preserve large trees on the property. He also noted that the proposed design and roof line of the garage is consistent with the design of the neighborhood.

Mr. Allen what the proposed setback would be to the side property line near the adjacent garage. Mr. Moskowitz stated it would be 2 feet.

Mr. Fleischer stated that the proposed side yard setback in this area would be too close and not allow room to access the area for maintenance. He stated that 3 feet would be needed to maintain the area between the garage and the property line.

Mr. Moskowitz stated that the 2 foot side yard setback would be better for the size of the proposed turnaround in the driveway, but noted that 3 feet could be acceptable.

Mr. Fleischer stated that water runoff from the proposed garage should be directed onto the subject property and not adjacent properties.

Ms. Baggs asked if the width of the property was similar to other neighboring properties. Mr. Moskowitz stated that the property to the rear is wider than the subject lot. Mr.

Harrison referred to the Planning memo and noted that the width of the subject property is similar to others on Norman Road.

Ms. Baggs asked why the proposed garage side yard setback could not be six feet. Ms. Baggs noted the concrete pad location in the opposite corner of the rear yard which may have been the previous garage location. Ms. Moskowitz stated that a shed was previously located in that area. She also noted that there is a large tree in the yard and that this location is needed to accommodate a turnaround to drive out of the driveway. Ms. Moskowitz stated that the driveway would not extend back to this previous shed location.

Ms. Baggs asked about the health of the tree. Mr. Moskowitz stated that it appears healthy but that it has not been closely examined.

Mr. Harrison referred to the survey and noted that the existing driveway for the subject property does extend onto the adjacent lot. Mr. Moskowitz stated that they were unaware of this fact.

Mr. Harrison noted that a stream was previously located in this area, which underlies the importance to manage storm water from the garage on-site.

Comments from the Board were then accepted.

Mr. LaVail stated that he would be in favor of the application with a condition for a 3 foot setback of the garage from the side lot line and drainage accommodated on-site.

Mr. Moore stated he would be in favor of the application with the conditions as stated by Mr. LaVail.

Ms. Baggs stated that she would not be in favor of the application. She stated that the garage could be constructed to meet the required setback and accommodate the proposed turnaround area. She stated the garage could be moved towards the house to accommodate the turnaround and preserve the tree. Ms. Baggs also noted that there was no testimony by the architect, nor was there testimony on the condition of the tree.

Mr. Fleischer stated that he would be in favor of the application with the conditions as discussed.

Mr. Reynolds stated that he would be in favor of the application with the conditions as discussed.

Mr. Allen stated that he would be in favor of the application with the conditions as discussed.

Ms. Daye stated that she would be in favor of the application with the conditions as discussed.

Mr. McCullough stated that he would be in favor of the application with the conditions as discussed.

Mr. Harrison stated that the application differs from other garage setback requests as the requested location is not that of the previous garage on the subject property. He noted that the turnaround is not really necessary. Mr. Harrison stated that the main

issue is the location of the tree and that if the previous location of the garage was retained, the driveway would be very close to the trunk of the tree.

Mr. Harrison noted that the variance could be granted with no impairment to the zone plan nor detriment to the public good.

Mr. Harrison summarized the proposed conditions as discussed by the Board.

1. The garage is to be setback 3 feet from the side property line.
2. All gutters and downspouts to control runoff shall be directed away from neighboring properties and will drain onto the subject property.
3. The driveway is not to be moved any further west than the present location.

Ms. Baggs asked about proposed materials of the garage with respect to fire prevention given the close proximity to the property line and the neighbor's garage. Mr. Allen agreed and expressed concern.

Mr. Fleischer stated that with respect to the zoning ordinance, the purview is the six foot side yard setback requirement. He noted that the zoning setbacks were not written to address building codes and that those are separate regulations to which the applicant will have to comply.

A motion to approve the application with the conditions as stated by Mr. Harrison was made by Mr. Fleischer, seconded by Mr. Reynolds.

The application was approved with Mr. Harrison, Mr. Fleischer, Mr. Reynolds, Mr. Moore, Mr. Allen and Mr. LaVail voting in favor and Ms. Baggs voting in opposition.

**App. 2480: JP Morgan Chase Bank. 15-21 North Fullerton Avenue.** *Use variance for construction of a new bank building in the OR-3 zone and site plan approval.*

Chair Harrison introduced the application. Present for the applicant was attorney Greg Meese.

Mr. Meese summarized the previous testimony on the application. He noted that the applicant has addressed concerns raised by the public regarding lighting of the site and associated impacts to adjacent residential properties. He stated that the engineer would review changes to the lighting plan and the landscape plan.

Mr. Meese reintroduced Mr. DeWitt, engineer for the applicant, to testify.

Mr. DeWitt noted that there have been many changes to the plans following the previous meeting. He introduced Exhibit A-6, a series of photographs of the existing lighting on the site. Mr. DeWitt referred to the photos and noted that the current lights are directed towards the adjacent apartment buildings as well as two freestanding spot lights. Mr. DeWitt noted all the existing lighting would be removed.

Mr. DeWitt reviewed the revised landscaping changes. He noted that landscaping along the eastern property line adjacent to the apartment buildings would be increased with additional evergreens at an 8 to 10 foot planting height. Mr. DeWitt noted that at maturity, over several years, the evergreens would reach 20 feet in height.

Mr. DeWitt reviewed the lighting changes. He noted that the taller plantings along the eastern property line coupled with the reduced height of the light poles from 15 feet to 12 feet would reduce the impact of lighting.

Mr. DeWitt also noted that on sheet C-5 of the submitted revised plans, the line of sight diagram has been updated. He noted that at planting the first floor of the apartment building will be shielded from view of the bank building and at full mature height the bank building will be blocked from view.

Mr. DeWitt noted a 4 foot high fence is now proposed along the northern property line to further mitigate any light spillover.

Mr. DeWitt noted that the plans were prepared by an engineer with site lighting design specialty.

Questions from the Board were then accepted.

Mr. Fleischer noted the spacing of some lights along the south-eastern property line appeared odd. He noted that the fixtures are not centered in this area and have varying spacing between the fixtures. He stated these should be more evenly spaced to more uniformly light the site. Mr. Meese stated this could be clarified and modified.

Mr. DeWitt also noted the update to the submitted plans to illustrate the rooftop equipment on the proposed bank building. He noted that the roof drops two feet in height over the proposed vault within the bank. He stated that the rooftop equipment will be located in these area, with a parapet wall also screening the equipment.

Mr. DeWitt introduced Exhibit A-7, an updated version of Sheet C-2 of the submitted plans which illustrated the phased installation of the ATM Island. He noted that in the interim, no parking striping would be located along the northern curb line of the exit driveway.

Mr. Meese clarified that Sheet C-2.1 shows phase 1 of the ATM installation and Sheet C-2 shows phase 2 of the installation. Mr. Meese noted that both ATMs can be installed initially should the Board disagree with the phased installation.

Mr. Fleischer asked if the concrete island would not be installed during phase 1. Mr. Meese replied yes. Mr. Fleischer stated concern about off-period parking in the lot of the bank. He noted that there should remain a clear path for the ATM and that currently parking in the lot is not necessarily within spaces and can block drive lanes.

Mr. Meese stated that the proposal is to only allow parking in the lot within parking spaces and that there will be no parking in the ATM drive lanes. Mr. Meese continued that the off hour parking in the lot is a benefit to the community. He noted that Chase Bank has a desire to terminate the agreement. He noted that once the project is completed, parking will be limited to spaces only.

Ms. Baggs asked about the dumpster enclosure and if it would be needed given the scale of the bank use. Mr. Meese stated that Chase Bank does require a dumpster and trash removal would occur only once per week. He noted that removal can occur after 8am to mitigate any noise impact of the trash removal.

Ms. Baggs asked if the enclosure for the trash would be the same as previously proposed. Mr. DeWitt stated that the enclosure would be the same, constructed of masonry and to the same 6 feet in height. He also noted that a path could be installed around the dumpster to access the small lawn area behind for maintenance.

Mr. LaVail asked about the height of the proposed junipers along the edge of the retaining wall at the eastern property line adjacent to the apartment buildings. Mr. DeWitt stated they would be 5-10 feet in height. Mr. LaVail asked if the condition of the retaining wall was known. Mr. DeWitt replied no.

Mr. Harrison asked for clarification of the access to the landscape area to the rear of the enclosure. Mr. DeWitt stated that the area could be planted with shrubs instead of lawn to reduce maintenance and stated that a gate at the rear of the trash enclosure could be added to improve access to this area.

Mr. Harrison also noted some of the proposed lighting locations and associated impacts to other residential uses, not necessarily addressed under the revised plans. He asked if the lights could be further shielded to protect all neighbors. Mr. DeWitt replied yes, noting that shields can be installed on all lights.

Mr. Harrison asked for a review of the on-site parking spaces. Mr. DeWitt stated there would be 34 standard spaces, 2 accessible spaces and one loading space.

Mr. Harrison noted the requested variances for use, front yard setback and signage.

Mr. Meese reviewed the signage variance requests. He noted that the free-standing sign could be externally illuminated to eliminate the requested variance. Mr. Meese also noted that the directional signage has been revised under the new plans to eliminate the requested variance.

Mr. Sullivan stated that the remaining sign variances are for the mounting height of the sign and the wall-mounted business sign in addition to the proposed free-standing sign.

Mr. Fleischer referred back to the lighting plan and noted that there are both 15 foot and 12 foot light poles proposed. He recommended that these lights be consistent and all 12 foot poles. Mr. Meese stated this could be accommodated. Mr. DeWitt noted that lower mounting heights may result in greater hot spots of lighting. Mr. Fleischer stated that all should be 12 foot and evenly spaced. Mr. DeWitt stated this could be accommodated.

Mr. Meese then introduced Exhibit A-8, an updated proposed exterior elevation drawing of the building.

Ms. Baggs asked if the upper level glass above the entry from North Fullerton Avenue would be spandrel glass or clear glass. Mr. Meese stated that the proposal would be to use spandrel glass to mitigate any greenhouse effect of this upper space, which is inaccessible.

Mr. Meese noted that the proposed wall-mounted sign on the southern façade of the proposed building fronting the parking lot could be removed and replaced with a smaller sign over the entry door from the parking lot. Mr. Fleischer stated that the sign could be located on the door. Mr. Meese stated it could be located in the transom window panel over the door.

Questions from the public were then accepted.

Frank Rubacky, 398 Upper Mountain Avenue, asked about the parking arrangement of the lot. Mr. Meese stated that during operating hours, the parking lot would be for the bank and that after hours parking would be available.

Mr. Rubacky asked if there would be overnight parking in the lot. Mr. Harrison stated that use of the parking lot outside operating hours of the proposed bank was not part of the application before the Board.

Mr. Rubacky asked about the use variance. Mr. Meese noted that the drive-up bank use is not permitted in the OR-3 and R-4 zone districts.

Mr. Rubacky asked when an ATM was first installed at the bank location. Mr. Meese stated that the current building was constructed in 1963 and included drive-up teller windows. Mr. Meese stated that the date of installation of the electronic ATM was not known.

Mr. Rubacky asked about the proposed internally illuminated free-standing sign and that such sign could be reused. Mr. Meese stated that the free-standing sign could be illuminated externally.

Mr. Rubacky asked a series of questions regarding the proposed lighting of the site. Mr. DeWitt noted that cut sheets of proposed lights were provided on the submitted plans and that he did not have specific figures regarding the number of lumen outputs available.

Mr. Rubacky asked if auto dimming lights had been considered, because the proposed lighting for the ATM exceeds what is permitted under the ordinance. Mr. DeWitt replied no.

Mr. Rubacky stated that the proposed lighting is not compliant with the ordinance and the engineer has not provided measurements of the proposed lighting impact.

Mr. Meese noted that the applicant will modify the proposed lighting and landscaping consistent with the previous comments by the Board to mitigate all impacts to adjacent properties.

Comments from the public were then accepted.

Frank Rubacky, 398 Upper Mountain Avenue, stated that the proposed plan is an improvement over the existing conditions. He noted that Chase has been a good corporate partner for the Township.

Mr. Rubacky stated that the lighting plan is not well thought out and does not address opportunities to balance light on the site resulting in more uniform lighting. He stated that this lack of uniformity of lighting will detrimentally impact security of the site.

Mr. Rubacky also stated that spandrel glass is generally not supported in the Township design guidelines. He continued noting that the HPC Design Guidelines do not allow spandrel glass in historic districts. He recommended the spandrel glass be replaced.

Mr. Meese stated that the spandrel glass could be replaced with brick should the Board choose.

Mr. Fleischer stated that this replacement with brick would not fulfill the intent of transparency on the façade.

Mr. Meese summarized the application. He noted that the Board has reviewed the application over the course of 2 meetings. He stated that the goal of the applicant is to improve the bank in Montclair. He stated that the existing building needs to be replaced. He stated that the applicant has met with the Township Development Review Committee to ensure an attractive design and noted that the design and materials have changed in response to those meetings.

Mr. Meese also noted that the applicant has addressed issues and concerns raised by the neighbors, particularly with respect to lighting. Mr. Meese stated that all pole fixtures could be a maximum of 12 feet in height and spread evenly across the property, noting that they are lower in height than the existing lights on the site. He noted that the applicant will work with the Board and all professionals to tweak the final plan to address all concerns.

Mr. Meese stated that the area behind the proposed dumpster enclosure will be planted with shrubs and an access door will be incorporated into the enclosure to address the Board's concerns about maintenance of this area.

Mr. Meese stated that any additional concerns the applicant would be happy to address.

Finally, he noted that the Board has been presented with options with respect to the free-standing sign which can be internally or externally illuminated.

Comments from the Board were then accepted.

Mr. Moore stated that he was in favor of the application. He noted that the applicant has provided extensive responses to the Board's comments. He stated that the current bank is an eyesore and desolate in the community and that the redevelopment of the site will enhance the area. He stated that the changes to the lighting plan in deference to the neighboring properties is an improvement. He also stated that the landscaped screening is beneficial.

Ms. Baggs stated that the benefits of the use variance are great and will result in an important revitalization of the property. She stated that the drive-thru use has been existing on the site for a long time and that the bank has a long history in the center of the Township. She noted that it is important to maintain a bank in this neighborhood. She stated there would be no substantial detriment to granting the use variance. Ms. Baggs stated she was in favor of the changes to the site lighting to lower the heights of the pole lights to 12 feet and increasing the number of poles with better spacing for more even lighting. She also stated that the lights should be shielded to protect neighboring properties from lighting impacts. Ms. Baggs stated that the scale of the buildings and proposed materials are in keeping with the neighborhood. She also stated that while she respected the advice of the Development Review Committee, she would suggest eliminating the spandrel glass on the entrance pavilion. She stated that an alternative could be to raise the elevation of the overhang canopy to 10 feet 8 inches and center the signs in the bricked area in place of the spandrel glass. Ms. Baggs stated that she was generally not in favor of the internally illuminated free-standing sign, but wanted to hear comments from colleagues.

Mr. Fleischer stated that he was generally in favor of the application. He stated support for the previous comments made with respect to the site lighting by Ms. Baggs. He also noted that there should be no parking outside designated spaces on-site and no overnight parking. He stated that ATMs are associated with the bank use, which will be the principal use of the site. Mr. Fleischer stated that 2 signs are sufficient for the site and that he is not in favor of the third sign. He stated that the canopy could be raised, as noted by Ms. Baggs and the area bricked over with a sign located in the center. He stated raising the canopy would also increase the glass area below to increase façade transparency. Mr. Fleischer also noted concern about the phased installation and recommended that the concrete island in the driveway for the second ATM not be installed during the first phase.

Mr. Reynolds stated that his colleagues have summarized many of his comments. He noted agreement with the sign comments as well. He stated he is not opposed to overnight parking at the site and stated that all parking for non-bank uses should be done within marked spaces only. He stated he was generally in favor of the application with the conditions as discussed.

Ms. Baggs noted that a condition to limit refuse collection between 8am and 2pm should be added.

Mr. Allen stated that he was generally in favor of the application and agreed with previous comments. He stated that overnight parking should be permitted as there is no overnight on-street parking permitted in the area.

Ms. Daye stated that she would be in favor of the application. She stated support for the proposed landscape and lighting changes. She stated this would be a good rehabilitation of the site.

Mr. McCullough stated that he was generally supportive of the application. He stated that the proposed design appears contemporary and does not necessarily reflect the character of the neighborhood. He stated appreciation for the redesign of the parking lot and attention to the landscaping by the applicant. He stated that the proposed plan is a significant improvement for the site. He noted that proposed lighting of the signage should be minimized to soften the appearance. He stated he would be in favor.

Mr. LaVail stated he was generally in favor for all the previous reasons stated by other Board members. He stated that the sign on the southern façade of the building fronting the parking lot is not necessary. He stated that the application should not be phased and the second ATM drive lane should be installed with the other proposed site development. He stated support for Ms. Baggs suggestion to raise the canopy and eliminate the spandrel glass.

Mr. Harrison stated that the standard of proof for the requested use variance is higher in this case as the applicant is proposing to demolish the existing building. However, he noted that the site is particularly suited for the use, noting that there are few spaces in the downtown area to accommodate a drive thru ATM. He stated that the proposed enhancements to the site with landscaping will improve the site. He also stated that the applicant has shown special reasons for the requested variances. He stated he has no concerns about the front yard setback variance which will improve the existing

condition, also noting that the adjacent buildings are relatively close to the street. With respect to signage, Mr. Harrison stated that the variance for the logo height is minor and that many companies have logos slightly larger than letter. Mr. Harrison stated that the free-standing sign should be externally illuminated as there was no justification for the internal illumination. He stated agreement with Ms. Baggs comment regarding adjustments to the sign placement and spandrel glass.

Mr. Harrison summarized the conditions as discussed by the Board:

1. The applicant shall adhere to the plans submitted to and reviewed by the Board.
2. The applicant shall stripe the future bypass lane with "no parking" until the second ATM improvements are constructed as part of Phase 2.
3. The applicant shall comply with and satisfy comments 1 through 7 contained in the October 25, 2016 review memorandum prepared by W. Thomas Watkinson, P.E., P.P., Board Engineer.
4. A door shall be installed at the rear of the dumpster enclosure.
5. The dumpster shall be emptied between the hours of 8:00 a.m. and 2:00 p.m. and not more than once a week.
6. Shrubs shall be planted in lieu of grass in the area behind the dumpster.
7. The applicant shall submit a revised lighting plan with light poles not exceeding 12 feet high with shields on the rear, spaced to provide uniform lighting levels within the property and at the property boundaries (excluding lighting of the ATMs) not exceeding the brightest illumination level of the current plan subject to review and approval by the Board Engineer.
8. All directional signs shall conform to the ordinance.
9. All parking shall be within designated parking spaces.
10. The applicant shall obtain approval from and comply with the requirements of the Essex County Planning Board.
11. The freestanding sign shall be illuminated with ground mounted lighting only.
12. The proposed wall-mounted business sign facing the parking lot shall be eliminated and replaced with a sign located below the canopy and centered above the entry door facing the parking lot.
13. The spandrel glass shall be replaced with brick at the three faces of the entrance pavilion and above the door facing the parking lot.
14. The applicant shall be bound by representations made on its behalf by its attorney and professionals during the course of the public hearings.
15. 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.

A motion was made by Mr. Fleischer to approve the application with the conditions as stated by Mr. Harrison, seconded by Mr. Reynolds. The application passed unanimously.

**NEW BUSINESS:**

**App. 2486: 630 Valley Road. T-Mobile Northeast, LLC. *Wireless telecommunications installation in N-C zone.***

Mr. Harrison introduced the application. Present for the applicant was attorney Frank Ferraro.

Mr. Ferraro summarized the application. He noted that the applicant is proposing to upgrade antenna equipment owned by the applicant at the subject property. He stated that the applicant would be installing 3 new antennas on the building on the subject property in addition to 3 existing antennas owned by the applicant on the property.

Mr. Ferraro referred to three prior resolutions by the Board for the applicant from 2003, 2005 and 2006. Mr. Harrison noted that the Board could not locate the 2006 resolution for the applicant at the subject property and stated that a copy should be provided to the Board for review. Mr. Ferraro stated he would share a copy of this resolution.

Mr. Ferraro introduced Mr. Peter Ludas, engineer for the applicant.

Mr. Ludas referred to Sheet C-1 of the submitted plans and reviewed the existing and proposed antenna installations on the building. He noted that the proposed heights of the three new antennas, labeled as A, B and G on the submitted plans, would be 62 feet, 62.5 feet and flush mounted to the building.

Mr. Ludas stated that the equipment cabinet on the roof of the building owned by the applicant would remain and that only the equipment within the cabinet would be upgraded.

Mr. Ludas stated that there would be no other site work, no additional utilities, no changes to parking on the site and there would be no other site plan impact.

Mr. Ludas also noted that a structural report had been prepared regarding the integrity of the building.

Mr. Fleischer asked about the two proposed lollipop antennas when the Township has an ordinance to avoid such installation. Mr. Ludas stated that the two proposed antennas would be installed on two existing pole-mounts on the building.

Ms. Baggs asked for a review of the orientation of the plans. She asked if there would be a screen located behind the proposed antenna on the Lorraine Avenue façade. Mr. Ludas replied yes and stated that this would be painted to match the building.

Ms. Baggs asked if there would be a screen located behind the proposed antennas at the northeast corner of the building near Valley Road and Lorraine Avenue. Mr. Ludas replied yes and stated that this would also be painted to match.

Mr. Ludas noted that the screens are not owned by the applicant and in fact are owned by other carriers with installations on the building.

Mr. Harrison asked about the location of the existing antennas owned by the applicant and if they are consistent with the prior Board approvals. He stated that the previous approval by the Board was for 63 feet and the existing antennas are 65 feet. He noted

that it appears that some T-Mobile antennas are installed on Sprint equipment. Mr. Ferraro stated he was unsure what has happened previously.

Mr. Harrison stated that this may raise concerns about notice compliance for the application.

Mr. Harrison asked for a detailed review of all existing and proposed antennas owned by the applicant on the building. Mr. Ludas reviewed them in detail for the Board.

Mr. Ferraro also reviewed the antennas and proposed heights for the Board as well.

Mr. Fleischer asked why the proposed pole-mounted antennas could not be installed flush mounted to the parapet wall of the building to minimize visual impact. He also asked if the applicant could develop a screen to shield the antenna.

Mr. Ferraro stated that it would be difficult to develop a screen as there are already many antennas in the area. He also noted that the pole mounts are existing on the building.

Mr. Harrison asked for another review of the existing antennas on the building and those proposed under the application. He noted that it appears that 2 of the antennas will remain as is. Mr. Ludas re-reviewed the proposed size and heights of the antennas on the building.

Mr. Ferraro stated that he does not see a problem with the notice noting that there is no height information lacking from the notice.

Mr. Sullivan stated that the question is whether the notice is sufficient for the application.

Mr. Ferraro stated that the notice is sufficient for what is being requested.

Following the review, Mr. Harrison stated that he believed the notice published for the application to be deficient. Mr. Harrison stated that the notice as published is overly specific and detailed regarding the requested variances. He stated that as read, the notice states that 2 antennas are staying the same but just being relocated when it appears they are being replaced. He stated that in fact, 4 antennas are being modified as they do not meet the prior height approval granted by the Board. Mr. Harrison stated that further complicating the issue is the lack of the 2006 resolution from the Board, which Mr. Ferraro stated the applicant had received.

Mr. Ferraro stated he had no concern about the notice and would like to proceed with the application.

At this time, Mr. Harrison announced that the application following the current application would be carried to the March 15, 2017 meeting with no further notice:

**App. 2491: 62 Wildwood Avenue. Eileen Opatut & Joan Garry. Bulk variance for lot width & front yard parking for new single-family dwelling.**

The Board continued discussion of App. 2486.

Mr. Fleischer stated that each antenna needs to be reviewed independently. He stated that the top of each antenna is reviewed individually and not as a collective height for all

antennas. He stated that the proposed height of 65 feet is now 2 feet higher than the previous antenna.

Mr. Sullivan stated that the Board could compel the applicant to comply with the prior approved height under the current application.

Mr. Ludas that there are site limitations on the roof that prevent flush mount installation in one area of the roof.

Mr. Fleischer noted that there are existing flush mounted antennas on the building and asked if the applicant could locate the new antennas between these existing antennas.

Mr. Moore asked if the antennas could be smaller to minimize impacts. Mr. Ferraro stated that the RF engineer would testify on that.

Questions from the public were then accepted.

Frank Rubacky, 398 Upper Mountain Avenue, noted that this appeared before the HPC. Mr. Ferraro replied yes and stated that the application appeared before the Commission in January and also appeared previously as part of the 2006 resolution.

Mr. Rubacky noted that the property is in a landmark district and discussed with the Board the review of the wireless application in context of the HPC. Mr. Harrison stated that the Board is considering the application as a conditional use variance and has to review the request of the applicant in this context.

Mr. Rubacky noted that a previous benefit cited by the Board in the 2006 approval was the removal of some rooftop equipment with a new installation.

Mr. Ferraro noted that T-Mobile has acquired MetroPCS which has equipment on the rooftop as well, which will be decommissioned as it is duplicative.

Mr. Ferraro then introduced Mr. Adam Feehan, radio frequency analyst for the applicant.

Mr. Feehan introduced Exhibit A-1, a map with a series of overlay films depicting frequency distribution of wireless service in the area.

Mr. Feehan reviewed the Exhibit A-1, noting the location of other existing frequency sites in the area and the existing level of coverage. He noted that T-Mobile, the applicant, has acquired the 200 MHz frequency, which has a large gap in coverage in this area. He stated that the gap in coverage is for commercial areas specifically, not traditional suburban areas.

Mr. Feehan reviewed the proposed coverage in the area based on the proposed installation. He noted that the proposed antennas are needed to fill the coverage gap. He stated that each antenna is sector-ized with a 60-120 degree range. He stated that 3 antennas would represent the minimum number to achieve coverage.

Mr. Feehan addressed the comment by Mr. Fleischer to relocate antennas B-1 and B-2 to the parapet wall. Mr. Feehan stated that they would require at least 3 feet separation between the antennas to ensure no interference.

Mr. Moore asked if the antennas could be smaller in size. Mr. Feehan stated that the size of the antennas is related to the frequency of the antennas. He noted that smaller

frequencies require larger antennas. He stated that some 200 MHz antenna are 8 feet in height.

Mr. Fleischer referred to the submitted plans and noted that there appears to be sufficient room between the existing flush mount antennas to install the new antennas. He stated it appears to be nine feet, but that the scale may not be accurate when compared to the photos. He stated that the drawings should have the correct scale to what is installed.

Mr. Fleischer asked if the antenna could comply with the height requirement and what would be the impact on service if it were to comply. Mr. Feehan stated that the height of the antennas could be dropped 6 feet.

Mr. Feehan also noted that antenna A-2 could be dropped to the parapet wall. Mr. Feehan also noted that antenna A-1 could be dropped to the height of the parapet as well. He noted that these reductions in height would not negatively impact the service.

Mr. Feehan stated that the pipe mount for B-1 is damaged and that there is also a spire in this area of the roof that impacts service. He stated that the antenna should be mounted at the proposed height of 64 feet 10 inches to ensure coverage.

Mr. Fleischer asked if B-2 could be relocated to the parapet wall, flush-mounted between the other antennas. Mr. Feehan replied possibly, depending on further review.

Mr. Harrison stated that B-1 should be replaced at the height that was previously approved by the Board, not the current height which does not comply.

Mr. Ferraro then introduced Mr. Joe Menio, radio frequency expert for the applicant. Mr. Menio stated that an analysis of the upgrade had been completed. He noted that the maximum anticipated exposure level from the proposed antennas will be 1.3 times lower than the FCC limit at maximum power. He stated that at the ground level, the rate would be 25 times lower than the FCC limit.

Mr. Harrison asked if the application would comply with all federal and state regulations. Mr. Menio replied yes.

Mr. Fleischer asked what use occurred on the floor just below the roof of the building beneath the wireless installation. Mr. Ladus stated that it was an office use in this space.

Ms. Baggs asked about the report and noted that the diagram on page 6 appeared to have a different configuration than the plans presented. Mr. Menio stated that the drawing in the report was a schematic and not representative of the actual locations.

Mr. Harrison stated that the application would be continued to the March 15, 2017 meeting of the Board. He noted that the applicant should clarify the missing resolution from the Board of Adjustment and address the proposed height of Antenna B-1. Mr. Harrison also stated that the applicant should address the T-Mobile installations and the MetroPCS antennas, which have been acquired by the applicant. He also noted that the applicant should consider relocation of B-2 along the parapet wall.

**ADJOURNMENT**

A motion to adjourn was offered by Ms. Baggs, seconded by Mr. Allen. The meeting was adjourned at 12:15am, February 9, 2017.

Respectfully submitted,

A handwritten signature in cursive script that reads "Graham Petto".

Graham Petto, P.P., AICP  
Assistant Secretary  
Zoning Board of Adjustment