

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
APRIL 7, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:45 P.M. Members present were Chairman Clayton, Vice Chairperson Mary DeSarno, Wilma Morrissey, Anthony Rembiszewski, Jim Gray, Wayne Palmer, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Hoover, Planner Bergailo and Reporter Arnone.

SALUTE TO THE FLAG

Attorney Hirsch announced that all requirements under the Open Public Meetings Act had been complied with for this meeting and read the purposes of the Board of Adjustment.

Chairman Clayton said the Speedway application will be carried to April 21, 2004.

Mrs. DeSarno recused herself on the Omnipoint application.

CARRIED APPLICATIONS

CASE #BA37-2003 – Date application complete: November 21, 2003. Carried from January 14, 2004 and February 4, 2004

APPLICANT: OMNIPOINT COMMUNICATIONS, INC.

PROPERTY: 5019 Belmar Boulevard, Block 917.01, Lot 27, GI-2 zone

RELIEF REQUESTED: Conditional Use

Richard D. Stanzione, Esq. appeared for the applicant.

Attorney Stanzione said the application will be amended reducing the height from 170' to 130'. This is a wireless facility. The property is located at Wyckoff Road and Belmar Boulevard. It is off Route 34N. We need variances because there are a few things we have not met. The property is 1.75 acres and 2 acres are required. This is a permitted conditional use in this zone. Because of the height of the proposed tower the setback needs to be 130'. We don't meet that on two property lines. We have 81' and 102'. Also there is a tower separation in your ordinance which is required. The tower needs to have 260' between structures. We are only 50' from the substation.

Mr. Palmer asked if prior to starting this application you had looked at any other sites in the community as a possibility. Attorney Stanzione said he was here 6 – 7 years ago. The Board denied the application. It was located at Quail Ridge Driving Range. Based on that denial we had to look elsewhere. We have made application with the Garden State Parkway to use their site at the 138 exit, also at the rest stop and the site north toward Tinton Falls. We have looked at other existing structures. Mr. Palmer asked if the applicant looked in surrounding

municipalities. Attorney Stanzione said we have a number of other structures to the south and to the north. We also have a new pole on Route 33 in Neptune. Mr. Palmer asked if they had any other locations in Wall Township. Attorney Stanzione said yes, many but they won't cover the gaps.

Sworn by Reporter Arnone:

Daniel J. Collins, Electrical Engineer

Entered into evidence:

A-1 Mr. Collins' revised report – Antenna Site FCC RF Compliance Assessment and Report dated April 5, 2004

Mr. Collins gave his credentials which were accepted by the Board.

Mr. Collins explained radio waves that are emitted by an antenna, he used the microphone he is holding as an example, a signal is being sent from this microphone to another unit that is sending the signal up to a speaker. That is how a cell phone works. Because it uses radio signals the FCC is aware that they need a safety standard. They have had standards since 1997. That standard is the rule. It is in the New Jersey Radio Protection Act. Mr. Collins said RFT radio waves allow our cell phone to connect with the network. If you are in compliance with FCC you are in compliance with the State.

Mr. Collins said the formulas are explained in the report. The exposure level at ground level is dependent upon power issues, the height of the antenna and the characteristics of the antenna in terms of their focusing effect of the radio signals. The straight line distance counts. The greater the distance the less the exposure. Human height counts. The conservative assumptions that the RCC recommends are that you assume that the antenna are at full power all the time. The net result is too significantly over state the exposure levels.

Attorney Stanzione asked if there is a graft that shows the calculations of the emissions at various distances from the antenna height in your report. Mr. Collins said the table is on page 9 and the graft is on page 10. It shows the FCC safety limits. The worse case exposure is 3/10 of 1% of the FCC limits. The worse case exposure is more than 325 times below the FCC limits.

Mr. Palmer asked is there any scenario that the surrounding public would have health issues in any way that you can think of. We have to look at public safety. Mr. Collins said you haven't got a chance of exceeding the limit. The FCC has deemed these base stations to have no impact on the human health environment.

Mrs. Morrissey asked what affect these antenna will have on car radios. Mr. Collins said PCS's have frequencies assigned to them and them alone. There cannot be any interference with TV, radios, car radios, etc. It does not affect computers, medical equipment or any airport radio systems, etc. This site would be in full compliance with FCC * DEP regulations.

Mr. Slocum asked what FAA approvals are needed. Attorney Stanzione said what approvals are needed will be addressed by another witness.

Mr. Palmer asked if Mr. Collins was familiar with the site. Mr. Collins said he drove pass it. Mr. Palmer said even with the reduction in height if this should fall, for whatever reason, could

there be an electrical problem with the sub-station. Attorney Stanzione said that will be answered by the site engineer. Attorney Stanzione said the power companies are very strict about how we affect their operation.

Mr. Gray asked if Omnipoint were to lease space to another company would that change your calculations. Mr. Collins said yes it would. Mr. Collins said with each new player we would be obligated to do a report. If you would fill it up with five or six poles the exposure would be different. It would still be in compliance.

Mrs. Morrissey asked if Omnipoint would share the pole. Attorney Stanzione said we would be willing to allow other carriers. They would also have to get permission from the power company and would have to come before this Board.

Richard Durik, 5025 Megill Road, said Mr. Collins said there is no effect on car radios, house radios. TV. Mr. Durik said it has been his experience going toward Farmingdale there is radio interference that occurs for about ¼ mile. How can you guarantee this is not going to cause any interference? Mr. Collins said this does not cause that kind of interference. There may be some type of cable TV problem or a power line problem.

Jeff Erb, 2421 Ramshorn Drive, asked what safeguards do you have being 50' from a power substation. Attorney Stanzione said someone else will answer that.

Richard Conroy was sworn. Mr. Conroy gave his credentials which were accepted by the Board.

Attorney Stanzione asked Mr. Conroy if he was familiar with Omnipoint. Mr. Conroy said yes.

Attorney Stanzione asked where Omnipoint stands in the area of licenses with FCC. Mr. Conroy said it operates PCS network. It is in the 1900 MHz range. Omnipoint received its license in 1993. Mr. Conroy gave a history of cell phone companies.

Attorney Stanzione asked about the difference in coverage. Mr. Conroy explained if you go higher the signals won't travel as far.

Attorney Stanzione asked if there was a limitation of the ability to cover. Mr. Conroy said the whole system design is from the 1980's. A lot of carriers use CDMA. They digitize the frequency that allows more than one user to access one pair of frequencies thru their type of digital technique. They have a lower height and lower power hand sets.

Attorney Stanzione said T-Mobile is the parent company. Can they access A T & T, Verizon or Cingular One? Mr. Conroy said no. It is an independent system. Users cannot roam onto other systems.

Attorney Stanzione said Omnipoint needs a base station in the area in order to provide coverage for their customers. Mr. Conroy said yes.

Entered into evidence:

A-2 Omnipoint Communications – Proposed Wall II overlay map.

Mr. Conroy said this started as an analog system. Cell sites were much taller and gave off much more power. PCS systems deploy digital technology.

Mr. Conroy said it consists of two main parts, a base map and overlay. He described the base map. Mr. Conroy identified the existing sites. There is a pole in Tinton Falls we are located at 164'. There is a facility, Wall III, on Route 18 and another at the intersection of the Garden State Parkway and 195. There is a facility in Howell that is located on a water tank. There are also two others in Howell. We are located on an existing monopole.

Attorney Hirsch asked if Omnipoint was co-located. Mr. Conroy said Omnipoint is co-located on all of those sites with other carriers.

Mr. Conroy said the first overlay shows the coverage. There are several gaps in communication. There is a gap on Route 34, along Belmar Boulevard from the Garden State Parkway to Main Street. There are several other gaps.

Attorney Stanzione asked Mr. Conroy to explain the procedure. Mr. Conroy said the process is to identify what the existing network covers and where the gaps are then issue search rings. There are no existing structures along Route 34/Belmar Boulevard. The closest is somewhere between 1 – 1¼ miles away. That would not provide coverage to Route 34/Belmar Boulevard. The existing structures are too far away.

Attorney Stanzione asked Mr. Conroy to explain the overlay showing what will be covered if approved. Mr. Conroy said it will fill in the gap along 34, Megill Road, Belmar Boulevard toward the Howell II facility. There will still be gaps remaining. There are no existing structures in the area to cover those sites.

Attorney Stanzione said there is an airport in the area of Route 34. Was application made to FAA for clearance? Mr. Conroy said yes. I am not aware if that has been approved. Attorney Stanzione said this is subject to FAA approval.

Attorney Stanzione asked Mr. Conroy to explain the tower equipment. Mr. Conroy said there will be a series of antenna on top of the pole. They will be 56" long and 8" wide. They will be panel types, rectangular in shape. There will be 12 in total. There will be four antennas on each platform. There will be equipment cabinets at ground level. Attorney Stanzione asked if this facility was less intrusive. Mr. Conroy said yes.

Attorney Stanzione asked if there was a necessity for the overlap. Mr. Conroy said yes the coverage needs to overlap. If a user travels their cell phone is going to be connected with one tower as it moves away from a tower it will connect to another tower.

Mr. Palmer asked if there is anything in the electrical cabinets that can be of concern to public safety. Mr. Conroy said no.

Attorney Stanzione said Route 34 has businesses and industrial parks. Will this coverage be allowed inside the buildings? Mr. Conroy said yes. All the carriers provide indoor coverage. It will support data transmission.

Attorney Stanzione asked about interference with radios, TV, etc. Mr. Conroy said there will be none.

Mr. Kerr said there is still a lot of open space with no coverage. Did you say you would use existing facilities to fill those in? Mr. Conroy said yes and that is the case in most areas. The existing structures could be used or enhanced.

Mrs. Morrissey asked why doesn't Sprint and Omnipoint co-share. Mr. Conroy said different technology. Their system has a little more coverage. When they get more users their coverage will drop off.

Mr. Gray said Sprint probably has the same problem in that general area. Mr. Conroy said that is a good assumption. Mr. Gray said Sprint can come and ask to be put on this tower. Mr. Conway said maybe.

Mr. Palmer asked would Mr. Conroy be the one to answer questions regarding the sub-station. Attorney Stanzione said no that would be the next witness.

Mr. Slocum said Omnipoint has a lot less coverage than their competition. Mr. Conroy said there is not that much difference. They have a little more coverage.

Mr. Palmer asked are there any other uses now or in the future other than cell phone use. Are there multiple uses with this tower? Mr. Conroy said it is a multi-purpose business use. All producers are required to enhance 911 services.

Chairman Clayton said you testified about being on the other poles in the area at different heights. Does the height have an effect? Mr. Conroy said the height of the facility is the major component of how far it will cover. The actual coverage is based upon the average terrain.

Chairman Clayton asked if they looked at adding to the height of the existing towers and what affect it would have in coverage. Mr. Conroy said it would not make a difference.

Chairman Clayton asked if other applications are approved would it affect any coverage in this area. Mr. Conroy said no.

Tom Ross, 2407 Ramshorn Drive, asked if raising the height of the tower to 200' you would lose coverage. Mr. Conroy said if you increase the height substantially people right underneath it lose coverage. People further away would have coverage.

Mr. Ross asked if it was 1900 MHZ. Mr. Conroy said 1930 – 1935 PCS A band. Mr. Ross said Sprint would be higher. Mr. Conroy said yes.

Mr. Ross said this tower is 130'. You won't rent it out to anybody above you. Mr. Conroy said right. Mr. Ross said if you do rent this out is there a limit as to how many you can rent it to. Mr. Conroy said you can rent it to as many as the Board stipulates. Mr. Ross said you can have 72 antennas. Mr. Conroy said yes. Mr. Ross asked because you are so close to the airport would you need lights. Mr. Conroy said anything over 200' needs lights. The FCC has not made any determination yet on this application.

Mr. Ross asked about security. Mr. Conroy said that will be addressed by the site engineer.

Mr. Ross asked how much money is this worth to Omnipoint. Attorney Stanzione objected. Attorney Hirsch said that is not relevant.

Chairman Clayton said we are going to carry this to June 2, 2004.

Attorney Stanzione waived the time limits.

Attorney Hirsch said no further notice is required.

The Board recessed at 9:05 P.M.

The meeting resumed at 9:20 P.M.

Mr. Cinelli arrived.

CASE #BA38-2003 – Date application complete: December 22, 2003. Carried from February 18, 2004, March 9, 2004 and March 17, 2004.

APPLICANT: SUNNYSIDE MANOR

PROPERTY: Ramshorn Drive & Lakewood Road, Block 876, Lots 16 & 44.01, R-30 zone

RELIEF REQUESTED: Use with variances

Michael Landis, Esq. appeared for the applicant.

Attorney Landis said when we concluded at the last meeting Mr. Boesch was concluding his testimony.

Mr. Boesch, previously sworn, said the site is located in the R-30 zone. Minimum lot area required is 30,000 s.f. we are proposing 250,511 s.f. Minimum lot width required is 125' and we are proposing 384'. Minimum lot depth required is 150' and we are proposing 768'. Minimum lot frontage required is 100' and we are proposing 1,138'. The building coverage is 14%. Building height is 35'. The site is 5.75 acres after the subdivision. The application conforms to the R-30 zone on all counts. We are making improvements. The setback from Ramshorn Drive will be 130'. That is double the existing. The rear setback existing is 57' from the southerly line and proposed is 76'. The existing footprint is 18,975 s.f. The proposing building footprint is 30,314 s.f. The existing roof elevation is 106 and the proposed is 74. The pavement setback is 3½' off the property line now and the proposed pavement closest to the south is 75', 61' to the north and from the parking spot 49' to the east. The driveway from the pump station is 15' closer. The existing driveway is 18' wide and 25' is proposed. The impervious coverage existing is 57,000' and proposed is 62,600 s.f. We are adding additional parking and footprint to the property with only 5,200 s.f. difference.

Mr. Boesch said there were two issues from the last meeting. Three criteria difference between the first floor and the grade plain. 4.95' is still satisfying the 6' condition. The other comment was the average growth rate of tulip trees is about 2' – 3' per year.

Mrs. Morrissey asked if there were plants that grew faster and is this the best landscape plan. Mr. Boesch said this is the best landscape plan and there are some but they have a short life expectancy.

Mr. Cinelli asked if the landscaping can be enhanced along lot 43, 35 and 36. Mr. Boesch said revised plans were submitted. Along lot 43 there was a drainage swale across common boundary. The swale was eliminated in lieu of a berm. Plants located on the slope are moved to the top. We will provide additional shrubs going toward lot 35. Mr. Cinelli asked if they will be encroaching onto the property line. Mr. Boesch said we will go along the common line. Mr. Cinelli asked if you encroach onto lots 43, 35 and 36 does that soften the look from those properties. Mr. Boesch said he is not certain. The topography drops. Mr. Cinelli asked if Mr. Boesch can get back to the Board before the next meeting showing if they can enhance those three lots. Mr. Boesch said the last plans there were significant additional plantings on lots 35 & 36.

Mr. Palmer asked if Sunnyside will be maintaining the landscaping, trees, berms, etc. Mr. Boesch said yes. Mr. Palmer asked how frequently. Mr. Boesch cutting of grass will be done on an as need basis. There will be policing of the landscaping. The trees should be pruned once a year. The Board requires a two year maintenance bond to guarantee this. You cannot say that the owner has not maintained the landscaping. Landscaping has not been one of his downfalls.

Mrs. Morrissey asked Mr. Boesch to describe the court yard patio. Mr. Boesch said they are hard surface so people can come out and utilize it. They are not a grass surface.

Mr. Palmer said he is concerned if you put in everything when it will be addressed if we need a new tree. Mr. Boesch said with berms the more drastic the slope the more water run-off. It stops where the roots are. The water stays where the ruts are. We design some gentler slopes so the rain can reach the roots. There will be an irrigation system.

Mr. Bernard asked about plantings on the slope. Mr. Boesch said planting more into the slope of the forward edge of the new plants are even with the finished grade. We will provide the plans.

Mr. Bernard said in the new plan, in the parking area to the south, you created two islands with no landscaping. Mr. Boesch said we would put shrubs but no trees. The recharge units are underneath those islands.

Mr. Bernard asked if they were going to put up a fence to protect the trees at the canopy line. Then a delay of the fence the last 6' from the base of the trees. Mr. Boesch said we don't want to take any trees out. Where we are able to the tree preservation fence will be installed.

Mr. Bernard asked if some of the residents will be able to drive. Mr. Boesch said that is for Mr. Keane. Mr. Bernard said some spaces should be closer for those people that do drive. Mr. Boesch said I don't know how much closer we can get. Assigned parking can be done. Mr. Keane will go over that.

Mr. Swayze asked Mr. Boesch if he had a chance to review the report of April 5, 2004. As a condition of approve the applicant should dedicate ROW along Lakewood Drive and Ramshorn Drive to match the existing ROW. Mr. Boesch said he has no objection to granting a road widening easement in lieu of dedication. We are proposing to improve our frontage on

Ramshorn Drive. Improvements will be put in. The dedication of additional properties would need an impervious coverage variance.

Richard Drewes, 2505 Ramshorn Drive, asked are you aware that just south of this project the projects were approved with a condition of a row dedication. Why on an easement? Mr. Boesch said he does not know the particulars. He can't respond. Attorney Hirsch said it may have been done through an easement.

Mr. Drewes said at the last meeting Mr. Boesch testified regarding landscaping. Mr. Boesch said that is correct. Mr. Drewes said with the old application you said that you have changed it and there is no swale. Attorney Landis asked Mr. Drewes what application he is talking about. Mr. Drewes said the current application in the previous submission. Mr. Boesch said the swale is being eliminated.

Mr. Drewes asked Mr. Boesch if he was a professional engineer. Mr. Boesch said no. Mr. Drewes asked if the engineer was coming back. Attorney Landis said he will be available at the next meeting.

Mr. Drewes, regarding the swale, he asked if it was a swale or does it detain water of 2'. Mr. Boesch said the area on the south property line is designed to hold 2' of water. It proceeds in a southwest direction. Mr. Drewes said it detains water. Mr. Boesch said yes.

Mr. Drewes asked about the detention area along the southerly property line. Mr. Boesch said it is along the south and east. That has been eliminated. The underground basin remains.

Mr. Drewes said two meetings ago the engineer testified you could not put an underground storage basin in. Mr. Boesch said he received additional information from Storm Tech and based upon that information he designed an underground basin. Mr. Drewes said the underground basin is part of this application. Mr. Boesch said yes.

Mr. Drewes asked has the Engineer talked to regulatory agencies as it relates to that concept would be acceptable. Mr. Boesch said that was part of Mr. Buletza testimony because he knew what the State required at that time.

Mr. Drewes said the last basin that was proposed calls for a basin area on private property east side of Ramshorn Drive. Mr. Boesch said we are not calling for a basin.

Mr. Drewes said wouldn't it make sense to take the entire basin and rectify the problem. You made comparisons between the original application and this. Mr. Boesch said between the existing conditions for this application.

Mr. Drewes asked Mr. Boesch to list the variances and waivers needed for this project as the project manager. Mr. Boesch said sidewalks, use, and dedication of property. Attorney Hirsch said the variances would be for R-30 zone. Mr. Boesch said a variance is needed for the required number of loading docks. Mr. Drewes said how about the length of the loading dock. Mr. Boesch said he doesn't know. Mr. Drewes asked about parking. Mr. Boesch said a parking variance is not needed. Mr. Drewes asked about encroachment into the buffer. Mr. Boesch said a 75' buffer is needed between residential and non-residential. That has been met. However in a similar requirement of a nursing or personal care only 50' is required. No buffer variance is

needed. Mr. Drewes said even though there are encroachments into that driveway, drainage, basins, parking etc. Mr. Boesch said parking adjacent to the facility states only 50' buffer is required. Mr. Drewes asked what about the unpaved area used for parking. Mr. Boesch said the overflow parking is unpaved that would be a waiver. Mr. Drewes asked about signs in a residential zone. Mr. Boesch said that is permitted within the zone. It is 10' off the property line.

Mr. Drewes said 10% of the parking lot needed landscaping. Mr. Boesch said a variance is not needed. 10% is needed for a large parking field if parking space is immediately adjacent to landscaping.

Mr. Drewes said regarding the item related to the ROW deed. Would a variance be required for building coverage and lot coverage? Mr. Boesch said an impervious coverage variance would be needed. Right now the building has 12.3% coverage where 14% is permitted.

Mr. Drewes said there is no way the building size could be reduced. Attorney Landis said this is going into the settlement. Attorney Hirsch said this is a public hearing. We are not locked into anything yet. The Board can modify the application. This is not contract zoning. If the Board chooses it could deny this application. Any structure could be made smaller.

Mr. Drewes said you are taking soil off site in excess of 500 cubic yards. Mr. Boesch said we will use the excess soil to fill in where the old building will be demolished.

Mr. Drewes asked about the different heights of the building. Mr. Boesch said the changed grade elevation along a portion of the east and south building faces is about 39. On the west and north, finished elevation grade is about 50. The grade plain is calculated at the building corners and averaged to establish a changed grade of 45.72. We came up with a building height of 2.28'.

Mr. Drewes asked where the building appears to be three stories on the east and south exposure, what is the height. Mr. Boesch said 35'. Mr. Drewes asked if those calculations were provided. Mr. Boesch said some time ago.

Mr. Drewes said the public notice listed three variances. Mr. Boesch said he doesn't recall. Mr. Drewes said he has a letter that indicates that there are two variances required. There are six to eight variances and three to four waivers required.

Mr. Drewes said there was never any discussion about the EIS. He asked if one was prepared. Mr. Boesch said no.

Mr. Drewes asked Mr. Boesch if he was the project manager. Mr. Boesch said yes. Mr. Drewes asked if this EIS is the same one submitted with the original application. Why wasn't a new one done. Mr. Boesch said he can't say. Mr. Drewes asked if Mr. Boesch thought it would be of value to have an EIS as part of this application. He asked if Mr. Boesch would consider doing an EIS. Mr. Boesch said they have to do one for the CAFRA application.

Mr. Drewes said the natural lawn area where the building is being moved to that includes the original parcel and the second parcel. Mr. Boesch said it includes both. Mr. Drewes asked if Mr. Boesch was aware when we get heavy rains what occurs there. Mr. Boesch said it gets 2' of water.

Chairman Clayton said there will be a special meeting on May 4, 2004. We will start with the public questioning. The meeting will be on May 4, 2004 at 7:00 P.M.

Attorney Hirsch said we also have proposed a special meeting on May 18, 2004. We would hope that we can finish at that meeting.

Mr. Brown asked what the process is. Can the public address the Board. What is the time limit? Attorney Hirsch said it is up to the Board. If we have 50 people we will have to limit how much time each person will have.

Mr. Brown asked does the public have the opportunity to ask questions again. Attorney Hirsch said once a witness is done, he is done.

Mr. Bernard said he asked the Township Committee if they wanted sidewalks in that area. They do not want them. Mr. Bernard said he will not be available on May 4.

MINUTES TO BE ADOPTED: Mrs. DeSarno moved to approve the minutes of the study sessions and regular minutes of February 4, 2004 and February 18, 2004. Mr. Cinelli seconded the motion, which was unanimously approved.

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 10:35 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary