

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
June 18, 2012**

The West Orange Zoning Board of Adjustment held a special meeting on June 18, 2012 at 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer called the meeting to order at approximately 8:00 P.M. It was announced that Notice of this meeting was given to the Township Clerk, the West Orange Chronicle, and posted on the Township Bulletin Board on May 31, 2012 in accordance with the "Open Public Meetings Act."

Alice Beirne, Esq., Board Attorney, read the Opening Statement.

PRESENT: Bruce Buechler, Gregory Bullock, Deborah Gabry (9:37 pm), Philip Neuer, Bart Quentzel, William Steinhart, Mark Sussman

ABSENT: Eric Sacks,
Alice Weiss (excused absence)

ALSO PRESENT: Eric Keller, Consulting Engineer
Board Attorney: Alice Beirne, Esq.
Board Secretary, Rose DeSena
Harvey Grossman, Public Advocate

ANNOUNCEMENTS

July 19, 2012 (Regular Meeting) – 8:00 PM
August 16, 2012 (Regular Meeting) – 8:00 PM
September 20, 2012 (Regular Meeting) – 8:00 PM
October 18, 2012 (Regular Meeting) – 8:00 PM

SWEARING IN

Consulting Engineer for the Township of West Orange, Eric Keller, was sworn under oath.

RESOLUTIONS

1. **ZB-12-06/Communication Infrastructure** **Carried from 6/14/12**
Block: 84.01; Lot: 22; Zone: B-2
10 Marcella Avenue
"D" variance for more than one use to install four (4) commercial dish antennas on an existing tower

Chairman Neuer asked if any Board member had any changes or comments regarding this proposed resolution. Mr. Buechler stated that had some changes and had previously given them to Ms. Beirne.

Chairman Neuer stated that this resolution changes why this cellular tower application is being treated differently and does not require a variance. He said that this was based on new State and Federal legislation which were the bases for the Board’s decision. Chairman Neuer said that they will come back to this resolution after the break.

After the Board resumed for a break and came back into session at 9:37pm, Ms. Beirne read the amended resolution to the Board members, all of whom confirmed that they had read this draft. Mr. Buechler made a motion to adopt and Chairman Neuer seconded. All were in favor.

2. ZB-12-09/Interpretation **Carried from 6/14/12**
 56 Undercliff Terrace South
 Block: 45.20; Lot: 48; Zone: R-5
 Interpretation of Chapter 25- 4b – definition of “story”
 and “buildable lot”

Chairman Neuer asked if any members of the board had any comments or changes regarding this proposed resolution. Mr. Bullock stated that he was under the assumption that the Board wanted all of the pages numbered on the resolution. Ms. Beirne stated that she would do that.

Mr. Bullock made a motion to adopt this resolution which approved the interpretation of this property as constituting a buildable lot; Mr. Sussman seconded the motion.

Vote was as follows:

| | | | |
|-----------|-----|----------------|-----|
| Buechler: | - | Steinhart: | Yes |
| Bullock: | Yes | Sussman: | Yes |
| Gabry: | - | Weiss: | - |
| Quentzel: | Yes | Chairman Neuer | Yes |
| Sacks: | - | | |

Mr. Buechler made a motion to adopt the interpretation of “story”; Chairman Neuer seconded.

Vote was as follows:

| | | | |
|-----------|-----|----------------|-----|
| Buechler: | Yes | Steinhart: | Yes |
| Bullock: | Yes | Sussman: | Yes |
| Gabry: | - | Weiss: | - |
| Quentzel: | - | Chairman Neuer | Yes |
| Sacks: | - | | |

APPLICATION

ZB-12-05/Seton Hall Preparatory School

Carried from 5/17/12

School Property@ 120 Northfield Avenue

Block: 58; Lot: 1.01; Zone R-6

House Property @ 170 Northfield Avenue

Block: 59.04; Lot: 1.04; Zone: R-5

Preliminary and Final Site Plan approval

“D” use variance for the school building addition and “D” variance for the height of the new school building addition; “D” use variance for the house on an adjacent lot to be used for administrative offices & “C” variances for parking for the school and house and “C” variance for the number of stories for the school building addition, for the expansion of an existing building and using the adjacent property to house their administrative offices

EXHIBITS

A-15 Consent of Carlos & Sara Henriquez dated 6/18/12

A-16 Consent of Michael B. & Kimberly L. White dated 6/18/12

A-17 Consent of Svetlana Salern dated 5/15/12

A-18 Planners Report prepared by Peter G. Steck dated 4/5/12

DISCUSSION

Robert C. Williams, Esq., attorney for the applicant, approached the podium and began detailing what occurred at the last meeting on 5/24/12.

Chairman Neuer referred to a case involving Nuckel vs Little Ferry Planning Board. The Chairman stated that, according to the decision of this case, the four properties that utilize the easement must be part of the application. He also stated that because of these properties, this application will require two “D” variances for a second principal use and commercial use of the driveway. There was some discussion between the Chairman and Mr. Williams regarding these issues. Mr. Williams stated that the easement had unrestricted use long before 1950 and that all of the properties are conforming. He said that Nuckel does not cover our situation; he then used an easement for a hotel as an example, stating that the easement gives them the right to have access to the property.

Mr. Buechler asked Mr. Williams if he thought a driveway was an existing non conforming use. Mr. Williams said no, that it is just an easement for access.

Chairman Neuer stated that the Nuckel case states that it is a second principal use and Mr. Williams made his argument that it is not.

Chairman Neuer asked Mr. Williams if there was any reason why he cannot get the property owners consent for a second use just for the applicant’s protection. Mr. Williams said that he

would have to amend the application. He also said that he would have to re-notice because he did not notice some of those properties; he only noticed the properties that are 200' from the easement. The Chairman stated he believes that Mr. Williams already properly noticed. He said that his concern is that he does not want this Board voting on something that they do not have proper jurisdiction over, specifically those three properties. Ms. Beirne stated that if the Board determines that it is a second principal use then they do have to re-notice.

Mr. Buechler stated that, in reference to the old easement, Nuckel states why it would need a variance. He said that it will be an intensified use of the driveway according to testimony. Mr. Buechler stated that the Nuckel case was in 2011 and that this Board just wants to get it right.

There was discussion regarding the auto body lot. Mr. Williams stated that the lot is an expansion of a non conforming use because the driveway itself was never approved. He stated that they are not doing something with that lot; they are only driving cars on the easement and using the house as an office.

Chairman Neuer asked Ms. Beirne if she saw a problem with them continuing with the application. Ms. Beirne said that she wants the applicant to re-notice for the next meeting but they can continue their application tonight. She said that the notice must include utilization of the driveway for commercial purposes. Mr. Buechler told Mr. Williams to identify the other lots by lot numbers.

Mr. Williams stated that he did amend the parking from nine spaces to five spaces and limited it to the five spaces. He said that there will be four regular and one handicap parking space. Mr. Williams explained that two of the employees will come to work in their own car and one of the employees, who live on Beverly Road, will walk to work.

Mr. Williams presented the Board with written consent from the three neighbors who utilize the easement. Chairman Neuer noted that the written consent of Carlos & Sara Henriquez, dated 6/18/12, was pre-marked as Exhibit A-15; written consent of Michael B. & Kimberly L. White, dated 6/18/12, was pre-marked as Exhibit A-16 and written consent of Svetlana Salern, dated 5/15/12, was pre-marked as Exhibit A-17. These Exhibits were accepted into evidence.

Mr. Williams called his traffic engineer to testify. Mr. Craig Peregoy approached the podium and was sworn under oath. Mr. Peregoy detailed his educational and professional background stating that he studied traffic engineering as part of his educational training, has been licensed as a civil engineer, in the State of New Jersey, for 12 years and has worked as a traffic engineer for a number of years. Chairman Neuer accepted Mr. Peregoy an expert in traffic engineering.

Chairman Neuer referred to two traffic reports that were submitted to the Board and asked Mr. Peregoy if he signed both of them. Mr. Peregoy replied yes.

Mr. Peregoy detailed the access road that leads to the proposed office space and the frequency of two cars passing as the same time on this road. He said that, assuming all office workers arrive at the same time and leave at the same time, the probability of two cars passing as the same time is once every three weeks. Mr. Peregoy went on to detail the areas where they can pull over on the

easement if they do pass at the same time. He said that it will be an inconvenience but it will work.

Mr. Williams asked Mr. Peregoy to describe the visibility at the end of the driveway. Mr. Peregoy stated that there is sufficient visibility and you can see the traffic.

Mr. Buechler asked Mr. Peregoy if he made any calculations based on the current workers not working there anymore and them being replaced by new employees. Mr. Peregoy said that yes he did and he based this on the five spaces they are proposing. Mr. Buechler asked where people will park if all seven employees drive to work. Mr. Peregoy said that they will park in the school parking lot. Mr. Buechler asked if there is sufficient parking in the school lot and Mr. Peregoy said that he did not do a traffic study for the school parking lot.

Mr. Buechler asked Mr. Peregoy if he thought the access road on Beverly Road was safe for egress and ingress; Mr. Peregoy said it is safe but an inconvenience.

Mr. Quentzel asked if the access road to the office needs repaving. Mr. Williams said if it is necessary to repave, then they will.

Mr. Williams told Mr. Buechler that Charles Stewart testified at the May 24th meeting that the school will be picking up an additional 18 parking spaces after the classroom addition. He said that enrollment will be down but they will have the same 102 parking spaces plus the 18 additional spaces. Mr. Buechler asked if they were proposing 120 parking spaces and enrollment of 1117 and Mr. Williams replied yes. He then asked if they were proposing five parking spaces at the house instead of the nine they originally proposed and Mr. Williams replied yes.

Chairman Neuer asked Mr. Peregoy if he had anything to support his testimony concept of simple probability regarding the easement; Mr. Peregoy said no, that the calculations that he put together are just based on his experience. Chairman Neuer asked Mr. Peregoy if there is a conflict between two cars on the easement, does everyone have the right to use the other driveways; Mr. Peregoy said no, but everyone does. Chairman Neuer stated that in order to make a decision, the Board must base it on the legality of the land ownership. He told Mr. Peregoy that, even though no one has the right to utilize those driveways, you are saying that it is your opinion that they can use the driveways and that is not in accordance with the law.

Mr. Quentzel asked what would happen if one of the owners put a gate up and Mr. Peregoy said that one of the driveways already has a gate.

Mr. Peregoy stated that in his testimony he is assuming that there will not be any visitors at the office building. Chairman Neuer asked if any signs will be posted saying no visitors allowed. Mr. Williams stated that any visitors will be advised to park on the school parking lot and walk over. The Chairman told Mr. Williams that he previously said that there would be no visitors. Mr. Williams said that there might be an occasional visitor other than the employees.

Chairman Neuer asked Mr. Williams if the use of that house is important to this application. Mr. Williams stated that the school already has offices but they are not in a good location. He said it is an opportunity to move the staff right next door to the school.

Chairman Neuer stated that he has a concern about the testimony from the traffic expert saying that the use of that driveway is efficient and that, personally, he just does not see sufficient evidence or testimony to support this assertion.

Mr. Keller asked Mr. Peregoy to point out, on Charles Stewart's plan, where the 10' width of the driveway is. Mr. Peregoy pointed to lot 102 and 103 on the plan. Mr. Keller asked Mr. Peregoy if someone was exiting from the school offices, would they be able to see; Mr. Peregoy said yes, they can maneuver themselves before they even get to that point.

Chairman Neuer asked if any members of the public had any questions for Mr. Peregoy.

Thomas Page approached the podium and stated that he lived at 15 Beverly Road. Mr. Page asked where the additional parking spaces were going to go and the Chairman explained where they were.

Daniel Kram approached the podium and stated that he lived at 16 Beverly Road. Mr. Kram asked how many feet there are from the curb on Beverly Road to Northfield Avenue and Mr. Peregoy replied 60'.

Mr. Williams called his next witness. Peter Steck approached the podium and was sworn under oath. Mr. Steck detailed his educational and professional background as a Professional Planner licensed in the State of New Jersey. Chairman Neuer accepted his credentials as an expert in professional planning.

Chairman Neuer asked Mr. Steck if he prepared the planners report, dated 4/5/12, that was submitted to this Board; he replied yes. The Chairman said if he asked him to read this report, would he base that as his testimony; Mr. Steck replied yes. Chairman Neuer asked to have Mr. Steck's report marked as Exhibit A-18 and admitted into evidence.

Mr. Steck began detailing his report, describing the school campus, how many stories the school had and the height of the school. He stated that the parking area for 102 cars is reserved largely for the faculty. Mr. Steck said that the parking accommodates the teachers and occasionally the employees at the offices located at 111 Northfield Ave.

Mr. Steck detailed the addition that the school is proposing and noted that there will be an additional 18 parking spaces. He continued by detailing where the old offices are now and where they are proposing to put the new offices.

Mr. Steck detailed the neighborhood and the area surrounding the school. He said that the office space is located in an R-5 zone and the school is located in an R-6 residential zone. Mr. Steck stated that the ordinances states that schools located in any residential areas are a conditional use.

Mr. Steck detailed the variances required for this application. He said that this application requires a variance for the expansion of a non conforming use because of the addition to the school and because the residential lot is being converted to office space it will require a variance

for the expansion of a conforming use. Mr. Steck also detailed the variance required for the parking spaces for both lots.

Mr. Steck stated that they will be replacing the existing bleachers and that will reduce the number of seats. Mr. Steck reiterated the fact that this addition will increase the number of parking spaces by 18.

Mr. Steck stated that they have satisfied the criteria because schools are an inherently beneficial use. He said that this application can be approved without detriment to the neighborhood, the zoning ordinance or the zone plan. Mr. Steck stated that every school in this Town is in a residential zone. He said that they are not expanding the student population but just trying to serve the student population more efficiently.

Mr. Steck said that the building will retain the same look and that there will not be any signage on the building. He said that the two story addition is fully conforming.

Mr. Steck stated that the purpose of relocating the offices is because it is a more efficient use. He said that there is always an element of probability regarding two cars utilizing the easement at the same time but it will be quiet in the evenings after school hours.

Mr. Steck discussed the easement and the need for a "D" variance. He said that there are already many principal uses of that driveway. Mr. Steck said that there will only be 8.2 trips per day for the office use instead of 10.2 trips a day as a residence use; he stated that an office use is more manageable than a residential use. Mr. Steck noted that the residential property cannot be accessed from Northfield Avenue or from the School property.

Mr. Buechler asked Mr. Steck if he was a licensed traffic engineer; Mr. Steck replied no. Mr. Buechler asked Mr. Steck if he is qualified to testify about traffic intensity. Mr. Steck replied yes; he stated that most professional planners do and that it is within their sphere of expertise.

Mr. Buechler asked Mr. Steck if he agrees that this is an existing non conforming use; he replied yes. Mr. Buechler asked Mr. Steck if he agrees if this driveway will be intensified; he said that the driveway will be similar. Mr. Buechler asked Mr. Steck if he thought the office space use would be the same as a residential dwelling; he replied yes. Mr. Steck stated that offices share an inherently beneficial status and he quoted a case from Princeton, New Jersey.

Chairman Neuer asked Mr. Steck if there were any conditions that he would impose. Mr. Steck said that he would suggest that they retain the residential appearance, no signage and a maximum of nine employees at this location. Mr. Williams stated that it would be up to nine employees; they currently have seven employees. Mr. Buechler told Mr. Williams that they reduced the number of parking spaces but not the maximum amount of employees. Mr. Williams said that they can reduce it to no more than seven employees.

Mr. Williams asked the Chairman if they could bifurcate the application. He said that he would like to complete the application that involves the school building and come back for the other

part that involves the residence. Chairman Neuer asked Ms. Beirne if she had a problem with the bifurcated vote and she replied no.

Chairman Neuer asked if any members of the public wanted to comment; seeing none he called for a recess at 9:27 pm.

Chairman Neuer resumed the meeting at 9:36 pm.

Chairman Neuer asked Mr. Williams if they would like to take a special meeting to finish the application; Mr. Williams replied yes.

Chairman Neuer explained that the application for Seton Hall Preparatory School has been amended to bifurcate it and that all matters that involve the school property will be dealt with at this meeting. He stated that the matters that involves the purchase of the house for offices will be dealt with at a special Zoning Board of Adjustment meeting on July 12, 2012.

Chairman Neuer asked if any members of the public had any statements or comments; seeing none the Chairman closed the public hearing.

Chairman Neuer asked if any members of the Board had any comments; seeing none the Chairman stated that it is his prerogative, as Chair, to offer a resolution. He said that Seton Hall has been a credit to this community and a good citizen. The Chairman said that they have brought positive press to the Township of West Orange and he thinks the Board should approve this application. He said that they have been granted a waiver for the environmental impact study and reminded the Board that they are not ruling on the offices tonight.

Chairman Neuer stated that the conditions will be as follows: At every baseball game, rolling seats will be in place; there will be no advertisements placed on any fences, the applicant will submit a maintenance plan for the turf; the G-Max level will be provided; padding, without any signage, will be placed on the walls; the back wall will not exceed 8' in height; the applicant will consider installing a window on the south elevation of the building; incorporate page 9 of Peter Steck's Planners report, regarding the negative criteria A-F, into the resolution.

Ms. Beirne asked Mr. Keller if he had any conditions that he wanted incorporated in the resolution. Mr. Keller stated that all comments #1-23 in the Omland Engineering review letter must be addressed; sufficient escrow payment of all outstanding Omland Engineering invoices; applicant must provide an engineers estimate for determination of engineering inspection escrow; applicant must have a pre-construction meeting prior to construction; the school must provide an operations maintenance manual for the detention system; all fencing that is installed must be black vinyl clad and all fencing posts and hardware must be black.

Mr. Sussman seconded the motion.

The vote was as follows:

| | | | |
|-----------|-----|----------------|-----|
| Buechler: | Yes | Steinhart: | Yes |
| Bullock: | Yes | Sussman: | Yes |
| Gabry: | Yes | Weiss: | Yes |
| Quentzel: | - | Chairman Neuer | Yes |
| Sacks: | - | | |

APPLICATION

ZB-12-02M/Auburn Data Systems, LLC **Modification of Prior Application**
Block: 84.01; Lot: 22; Zone: B-2
10 Marcella Avenue
Seeking one "D" variance for more than one principal use and a "C" variance for rear setback to install two (2) microwave dishes on an existing tower.

EXHIBITS

- A-1 Report dated 4/5/12 prepared by Andrew T. Haldane
- A-2 Report dated 4/6/12 American Tower Corp.
- A-3 Drawing Z3 dated 4/5/12
- A-4 Report dated 3/26/12 Pinnacle Telecom Group

DISCUSSION

Chairman Neuer noted for the record that Ms. Gabry has returned to the dais.

Mr. Michael Lavigne, Esq., attorney for the applicant, approached the podium and began detailing prior occurrences related to this application. He stated that the applicant had requested, and was approved, to modify a prior application that came before this Board which had been denied.

Mr. Lavigne stated that the applicant is currently proposing to eliminate three of the five antenna dishes that had been originally proposed for installation on an existing tower. He also stated that the two dishes will be installed at a lower height of 90' instead of 102' as originally proposed.

Mr. Lavigne stated that the Board had concerns with the prior application regarding the structure of the tower and also the fact that there was no one present at that hearing to provide testimony regarding its condition. Mr. Lavigne stated that the applicant has now provided a report, dated 4/5/12 and prepared by Andrew Haldane, which details a physical structural inspection. Mr. Lavigne stated that the applicant also submitted an updated planners report with the modified application.

Mr. Lavigne called his first witness.

Andrew Haldane approached the podium and was sworn under oath. Mr. Haldane detailed his professional experience and stated that he was a licensed engineer in the State of New Jersey. Chairman Neuer asked Mr. Haldane if he inspects towers and Mr. Haldane said yes; he said that inspecting towers has been his only job since 1995. Chairman Neuer asked Mr. Haldane if he performed the physical inspection on the tower at 10 Marcella and Mr. Haldane replied yes. Chairman Neuer accepted his credentials as an expert in inspections and structural analysis of towers such as the one which is the subject matter of this application.

Chairman Neuer asked Mr. Haldane if he was to ask him to read his report dated 4/5/12 would he testify that it is accurate and Mr. Haldane replied yes. Chairman Neuer asked to have Mr. Haldane's report dated 4/5/12 marked as Exhibit A-1 and admitted into evidence.

Mr. Buechler asked Mr. Haldane who inspected the tower before he climbed it today and he replied that two of his employees inspected the tower. Mr. Haldane stated that his testimony tonight will be based on the inspection that he performed on the tower today.

Mr. Lavigne asked Mr. Haldane to describe what he inspected today. Mr. Haldane stated that he physically climbed the tower located at 10 Marcella Avenue earlier today. He said that the inspection is performed according to the G standard which requires every nut and bolt to be inspected. Mr. Buechler asked Mr. Haldane how long it took him to inspect the tower and Mr. Haldane said 2-3 hours.

Mr. Lavigne asked Mr. Haldane if he reviewed the updated structural report prepared by American Tower and he replied yes. He stated that his company uses different software than American Tower but they concur with the report prepared by American Tower. Mr. Haldane said that the tower is structurally capable of supporting the weight of the antennas based on the Rev G-2 code. Chairman Neuer asked to have the structural analysis report prepared by American Tower Corp. marked as Exhibit A-2.

Mr. Lavigne asked the Chairman if the Board wanted Mr. Haldane to go through all of the maintenance items or if they were adequately addressed. Chairman Neuer asked Mr. Haldane if he recommends painting the tower. Mr. Haldane said that the tower has not been painted in years and the paint is there to protect the structure. Chairman Neuer asked Mr. Haldane when the tower should be re-painted. Mr. Haldane said re-painting is necessary when there is a sign of wearing. Chairman Neuer asked Mr. Haldane to specify in terms of years when to re-paint. Mr. Haldane said he would recommend re-painting within five years or spot coat in areas where needed.

Chairman Neuer asked Mr. Haldane if he was correct in saying that, according to standard G, inspections of tower are required every five years. Mr. Haldane said this is correct for a self supporting tower lattice tower. He said the tower was last inspected in 2008 and that this tower is inspected every four years.

Chairman Neuer told Mr. Haldane that his report stated that the tower needs to be painted. Mr. Haldane said that he did not specify to paint immediately in this report. He said, as a structural engineer, he is advising them to paint because he saw surface corrosion. Mr. Haldane said that he

recommends wire brushing the galvanized areas. He stated that he saw broken light sockets on the tower, during his inspection, but this was not structural. Mr. Haldane said that there are white flashers at the top of the tower that are functioning. He said that there is a lightening rod on the tower but it is not big enough to protect those towers. Chairman Neuer asked Mr. Haldane if the applicant should install a new lightening rod. Mr. Haldane said no, not at the height that they are installing their dishes. Chairman Neuer asked if not having the proper lightening rod is a safety concern to anyone in the vicinity. Mr. Haldane said no; he said if lightening does strike the tower it will just blow up the very expensive equipment.

Mr. Sussman asked about the broken light sockets Mr. Haldane saw on the tower during his inspection and asked if they were removed. Mr. Haldane said no because that is not required. He said that the FCC requires only white flashers at the top, for a 200' tower, and no other lights are required.

Mr. Bullock asked what percent of the tower needs to be repainted and Mr. Haldane said zero percent. Mr. Bullock asked why he recommended painting in his report. Mr. Haldane said that he addressed some areas that he had concerns about, regarding paint thinning, and all that means is that they need to address it at some point in time.

Chairman Neuer addressed Mr. Haldane, stating that when he writes a sentence that says to re-paint the tower then they have to re-paint the tower. He said that the Board's perception is that they need to re-paint soon.

Mr. Sussman referred to the American tower report and asked if the tower is stainless steel. Mr. Haldane said that the tower is not stainless steel; he said that the word "stainless" on the report is the manufacturer and not the material.

Mr. Buechler asked Mr. Haldane how much the 8' and 10' dishes weigh and asked if they were the same weight. Mr. Haldane said the 10' dish weighs 638 lbs. and the 8' dish weighs 500 lbs and that is based on the manufacturer's specification sheet.

Mr. Neuer asked Mr. Haldane if this tower is structurally sound to support these antennas; Mr. Haldane replied yes.

Chairman Neuer asked if any members of the public had any questions for this witness.

Carole Gottlieb approached the podium and stated that she lived at 321 Araneo Drive. Ms. Gottlieb asked Mr. Haldane if any electromagnetic rays were emitting from these towers and if any study was done regarding this. Mr. Haldane stated that he is here to testify to the structure of the tower only.

Dr. Henry Zackin approached the podium and stated that he lived at 372 DiGaetano Terrace. Dr. Zackin asked Mr. Haldane if he considered the visual aspect of placing antennas on the surrounding area. Chairman Neuer stated that Mr. Haldane did not testify to the aesthetics. Dr. Zackin asked Mr. Haldane if, during his inspection, he was able to determine which antennas on the tower are functional and which ones were not functional. Mr. Haldane said that he could not tell. Dr. Zackin asked if they could remove any of the antennas that are not functioning. Mr.

Haldane said that he is assuming that the tower would not have non functioning antennas on the tower. Dr. Zackin asked Mr. Haldane how many antennas are currently on the tower; Mr. Haldane said 12-15.

Chairman Neuer asked Mr. Haldane if he knew if any of those antennas are not functioning. Mr. Haldane said he could not tell that by his inspection.

Dr. Zackin asked if the Board could find out if any of them are not functioning. Chairman Neuer said that they could try to find out and, if there are, they will have the owner remove them.

Mr. Buechler said at the last testimony, the engineer stated that there were 37 antennas on that tower at one time and they had been removed. He said that there were non-functioning antennas that have been removed.

There were no more questions for Mr. Haldane.

Anthony Suppa approached the podium and was sworn under oath. Mr. Suppa detailed his professional background and stated that he is an expert in civil engineering. He said that he previously testified before this Board. Chairman Neuer accepted him as an expert in civil engineering.

Mr. Suppa referred to drawing Z-3 dated 4-5-12 and Chairman Neuer asked to have it marked as Exhibit A-3 and admitted into evidence. Mr. Suppa began detailing what the applicant is proposing. He said they would like to install one 10' microwave dish and one 8' microwave dish on this existing tower at a height of 90' above the ground. Mr. Suppa said that they would also be placing a small cabinet for the equipment inside of the building located on the site.

Mr. Buechler asked Mr. Suppa if these two dishes will receive microwave data and if it is the same data from the first application. Mr. Suppa said that he will let someone else answer that. He said that he was just here to define what height the dishes are being placed and where the equipment is being placed.

Mr. Buechler asked if Mr. Suppa knew if there were any non functioning antennas on the tower. Mr. Suppa said there is no way he could tell but they could find that out from the owner of the tower.

Mr. Buechler told Mr. Lavigne that if the Board approved this application there would be a condition to find out from the owner if there are any non-functioning antennas.

Chairman Neuer asked Mr. Suppa how the dishes will be affixed to the tower; Mr. Suppa replied bolts and sway bars.

Chairman Neuer asked if there were any members of the public that had any questions for Mr. Suppa.

Irene Roth approached the podium and stated that she lived at 204 Zeppi Lane. Ms. Roth asked Mr. Suppa what this will look like visually. Mr. Suppa said that there is a witness who will show photos of how it will look.

There were no more questions for Mr. Suppa.

Mr. Lavigne stated that they submitted an updated report from Dan Collins and called Mr. Collins to testify.

Dan Collins approached the podium and was sworn under oath. He detailed his professional background as an FCC compliance expert. Chairman Neuer accepted Mr. Collins as an FCC compliance expert.

Chairman Neuer asked Mr. Collins if he was to ask him to read the report dated 3/26/12 from Pinnacle Telecom Group under oath would he testify that it was accurate; Mr. Collins replied yes. Chairman Neuer asked to have the Pinnacle Telecom Group report dated 3/26/12 marked as Exhibit A-4.

Mr. Lavigne asked Mr. Collins to detail, in percentages, the electromagnetic rays coming from the dishes. Mr. Collins said less than one percent; not even one watt. He said that the human body gives off more electromagnetic rays than the antennas.

Carole Gottlieb approached the podium and stated that she lived at 321 Araneo Drive. She asked Mr. Collins how this compares to the electromagnetic rays from a cell phone. Mr. Collins said it is considerably less than a cell phone.

Ms. Gottlieb asked Mr. Collins how the wind affects the magnetic field and Mr. Collins said it has no affect. Ms. Gottlieb stated that there are tests being done on a regular basis seeing if electromagnetic rays have an effect on cancer. She stated that she has a report based on a study from St. Barnabas hospital regarding this. Mr. Collins stated that it has been established by the FCC that continuous lifelong exposure has no affect on humans and does not cause cancer.

Dr. Henry Zackin approached the podium and stated that he lived at 372 DiGaetano Terrace. He stated that a number of years ago, it was said that x-ray therapy was safe and then later it was determined that cancer was the result of this. Dr. Zackin asked Mr. Collins what he thought about the cumulative effect. Mr. Collins stated that the issue of radiation from antennas is not a new one and it has been studied since 1946 and there are continuing studies now.

Dr. Zackin asked about the collective emissions of all of the towers in the area. Mr. Collins stated that the collective emissions of all the towers in the area are still below FCC levels and in compliance.

Chairman Neuer asked Mr. Collins if there was a possibility that they could put too many dishes on the towers which would cause an adverse effect. Mr. Collins stated that you would need 400 more, like the ones that are on there now, to reach that level.

Mr. Bullock asked Mr. Collins if a bigger cell phone emits more electromagnetic rays than a smaller one. Mr. Collins said that each phone has to be tested; it depends on the phone. He said that the FCC website has all of that information on it.

Mr. Sussman asked Mr. Collins if any of the other antennas on the tower operate at a higher power. Mr. Collins said there is one antenna on another tower that is for FM broadcasting that emits one watt. Mr. Sussman asked if there were any on this tower and Mr. Collins said none that he saw.

Ms. Gottlieb stated that Public Service is right behind the Eagle Ridge Condos and questioned Mr. Collins about the emissions coming from there. Mr. Collins stated that Public Service does not transmit electromagnetic rays; it is an electrical transmission at 60 Hz. He also noted that Public Service is not subject to FCC regulations.

Chairman Neuer noted the time and stated that all the meetings of the Board end at 11:00pm.

He asked Mr. Lavigne if he would like to take half of the special Zoning Board meeting that is scheduled for July 12, 2012. Mr. Lavigne said yes but asked if they could be first on the agenda. He said that he only has his Planner left to testify.

Chairman Neuer announced that this application will be carried over to the special Zoning Board meeting on July 12, 2012 and that no further notice is necessary.

ADJOURNMENT

The meeting was adjourned by Chairman Neuer at 11:02 pm.

June 18, 2012


Rose DeSena
Zoning Board Secretary