

MARCH 9, 2010 MINUTES
OAKLAND BOARD OF ADJUSTMENT
OAKLAND COUNCIL CHAMBERS – 8:00 P.M.
PUBLIC MEETING

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- Adoption of an annual schedule of meetings
- Posting a copy of same at Borough Hall
- Forwarding a copy of same to the Record
- Mailing a copy to any person requesting same

FLAG SALUTE, MEETING OPENED AT 8:02 P.M.

ROLL CALL: Present: Messrs. Johnson, Haas, Smid, Wegman, Jensen and
Chairman Lepre.
Absent: Messrs. Chadwick and Schneeweiss

Also in attendance, Mr. Matthew Cavaliere, Esq. (Board Attorney), Mr. Steve Lydon, Burgis Associates (Board Planner) and Mr. Kevin Tichacek, Boswell Engineering (Board Engineer).

PUBLIC MEETING BEGINS:

1. Appointment of Board Planner.

Chairman Lepre announced that Mr. Haas was appointed by the Board to review the criteria for applicants applying for the Board Planner's position. Mr. Haas expressed that after reviewing the applicant criteria, he recommends that the Board re-appoint Burgis Associates as Board Planner.

Motioned by Mr. Haas and seconded by Mr. Wegman, to appoint Burgis Associates as Board Planner.

Roll Call Vote: Ayes: Messrs. Johnson, Haas, Smid, Wegman, Jensen and
Chairman Lepre.
Nays: None
Abstain: None
Absent: Messrs. Schneeweiss and Chadwick

2. **Weidmuller** – 214 Manito Avenue, Block 3304, Lot 4. Public hearing for a rear yard setback.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in a RA-2 zone, was light in traffic. Chairman Lepre reviewed the comments from the various departments and reviewed zoning issues.

Mr. and Mrs. Weidmuller, homeowner, and Mr. Papaleo, contractor located in Boonton, New Jersey, were sworn in.

Mr. Papaleo testified that his client is proposing to add a one-story rear addition to expand the kitchen and add a large family room. Also, extend the existing basement under the rear addition and a two-story addition is being proposed to expand the existing garage into a two-car garage with a master bedroom and full bathroom above.

The Board questioned the total height of the addition. Mr. Papaleo responded that the over-all height would remain at 22.75 feet.

The Board questioned if the applicant contacted the Shade Tree Commission for trees that appeared to be cut down. Mr. Weidmuller responded that the trees were dragged out of the woods for removal. He informed the Board that he has contacted John Schauss with the Shade Tree Commission concerning a tree that needs to come down.

Motioned by Mr. Jensen and seconded by Mr. Smid, to open the meeting to the public regarding matters concerning the Weidmuller application was voted unanimously by the Board.

No comments.

Motioned by Mr. Smid and seconded by Mr. Jensen, to close the meeting to the public regarding matters concerning the Weidmuller application was voted unanimously by the Board.

Chairman Lepre questioned if the applicant would agree to stipulate that the home would not exceed four-bedrooms. Mr. and Mrs. Weidmuller agreed to the stipulation.

Motioned by Mr. Wegman and seconded by Mr. Haas, to approve the Weidmuller application contingent upon the home not exceeding four-bedrooms and Health Department approval.

Roll Call Vote: Ayes: Messrs. Johnson, Haas, Smid, Wegman, Jensen and
 Chairman Lepre.
 Nays: None
 Abstain: None
 Absent: Messrs. Chadwick and Schneeweiss

3. Faren – 41 Algonquin Trail, Block 5404, Lot 21. Public hearing for a side yard setback.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in a RA-2 zone, was light in traffic. Chairman Lepre reviewed the comments from the various departments and reviewed zoning issues.

Mr. Faren was sworn in and testified that he would like to improve his “sixties style” home by expanding the kitchen, dining and living area and adding a second floor addition over the garage including two additional bedrooms and expand existing two bedrooms.

The Board questioned the footprint of the basement. Mr. Faren responded that the basement was unfinished with only the utilities.

The Board questioned if the second floor addition would be extending closer to the street. Mr. Faren responded that they would be removing the overhang making the second floor extend less than it currently does with a new canopy over the front door.

The Board questioned the number of bedrooms. Mr. Faren responded that there would be four-bedrooms on the second floor addition. Currently, there are three-bedrooms but the septic is designed for four-bedrooms. Chairman Lepre questioned if the applicant would agree to stipulate that the home not exceeding four-bedrooms. Mr. Faren agreed to the Boards stipulation.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to open the meeting to the public regarding matters concerning the Faren application was voted unanimously by the Board.

No comments.

Motioned by Mr. Johnson and seconded by Mr. Smid, to close the meeting to the public regarding matters concerning the Faren application was voted unanimously by the Board.

Chairman Lepre expressed that the improvements being proposed are comparable to improvements made in the neighborhood. He entertained a motion.

Motioned by Mr. Jensen and seconded by Mr. Smid, to approve the Faren application contingent upon the home not exceeding four-bedrooms.

Roll Call Vote: Ayes: Messrs. Johnson, Haas, Smid, Wegman, Jensen and
 Chairman Lepre
 Nays: None
 Abstain: None
 Absent: Messrs. Chadwick and Schneeweiss

- 4. MetroPCS, NY, LLC (1) – 97 Yawpo Avenue, Block 4101, Lot 1, Cell T01.**
Public hearing for a preliminary and final site plan for a conditional use and use variance.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in a CO-Corporate Office zone, was moderate in traffic. Chairman Lepre reviewed the comments from the various departments and reviewed zoning issues.

Mr. Gregory Meese with Price, Meese, Shulman & D’Arminio located in Woodcliff Lake, New Jersey was before the Board to represent the applicant.

He explained that the applicant is seeking approval to attach six antennas at the height of 93 feet and 7 inches to an existing 100-foot monopole. In addition, the applicant proposes to provide ground level equipment cabinets associated with the antennas within a 20'X 20' area.

Mr. Meese suggested that the professionals representing the applicant be sworn in. Mr. David A. Weinpahl, PE with On Air Engineering, LLC, Mr. Ronald Reinertsen, PP, AICP with Pennoni Associates, Inc, Mr. Daniel Penesso, Project Engineer for MetroPCS, NY, and Mr. David Collins with Pinnacle Telecom Group were sworn in. All professionals reviewed their qualifications and the Board accepted their qualifications.

Mr. Cavaliere stated for the record that the Board was familiar with both sites and the approval for height extension at the Yawpo Avenue location.

Exhibit A-1, Photo showing the height of different carriers.

Mr. Weinpahl, with On Air Engineering, LLC located in Cold Spring, New York, explained that the monopole is located north of the high school parking area. He reviewed the various communication carriers that have antennas installed on the existing monopole and their elevations.

Mr. Weinpahl explained that equipment cabinets would be supplied within a 20'X 20' area. All equipment supplying the communication carriers on the monopole is located within a fenced in area.

Mr. Collins with Pinnacle Telecom Group located in Cedar Knolls, New Jersey explained that the RF (Radio Frequency) compliance assessment for this monopole has been conservatively calculated with proposed and existing antennas at 1.13 percent which is 87 times below the FCC emissions limit for safe continuous human exposure.

The Board questioned if there were optimum spacing between the communication carriers on the monopole and if the applicant or other carriers could experience interference. Mr. Weinpahl responded that the standard distance between communication carriers are 10-feet. An Intermodulation Analysis is conducted to avoid interference from other frequencies.

Mr. Penesso explained the reasons for the positioning and the height of the antennas on the monopole.

The Board questioned the weight of the antennas to be installed. Mr. Weinpahl responded that the antennas weigh approximately 30 lbs. each and was calculated during the structural analysis having no affect on the stability of the monopole.

A discussion ensued concerning the structural analysis and the actual height of the tower. Mr. Lydon expressed that the structure suggests that the tower is 120-feet tall. Mr. Tichacek responded that the lightning rod on top of the tower is also factored in with the structural analysis.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to open the meeting to the public regarding matters concerning the testimony of MetroPCS, NY, LLC professionals representing the application was voted unanimously by the Board.
No comments.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to close the meeting to the public regarding matters concerning the testimony of MetroPCS, NY, LLC (1) professionals, representing the application, was voted unanimously by the Board.

Chairman Lepre entertained a motion.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to approve the MetroPCS, NY, LLC (1) application.

Roll Call Vote: Ayes: Messrs. Johnson, Haas, Smid, Wegman, Jensen and
 Chairman Lepre.
 Nays: None
 Abstain: None
 Absent: Messrs. Chadwick and Schneeweiss

5. **MetroPCS, NY, LLC (2)** – Thornton Road, Block 3204, Lot 7.01, Cell T01. Public hearing for a preliminary and final site plan for a conditional use and use variance.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in an IP-Industrial Park zone, was light in traffic. Chairman Lepre reviewed the comments from the various departments and reviewed zoning issues.

Mr. Gregory Meese with Price, Meese, Shulman & D'Arminio located in Woodcliff Lake, New Jersey was before the Board to represent the applicant.

Mr. Meese explained that the applicant proposes to extend the height of the existing monopole by 10-feet for a total height of 150-feet to accommodate the installation of six antennas. In addition, the applicant proposes a steel platform extension to accommodate equipment cabinets and maintenance vehicle.

Mr. Meese suggested that the professionals representing the applicant be sworn in again. Mr. David A. Weinpahl, PE with On Air Engineering, LLC, Mr. Ronald Reinertsen, PP, AICP with Pennoni Associates, Inc, Mr. Daniel Penesso, Project Engineer for MetroPCS, NY, LLC and Mr. David Collins with Pinnacle Telecom Group were sworn in. All professionals reviewed their qualifications and the Board accepted their qualifications.

Mr. Weinpahl explained that the tower currently is crowded so the applicant is proposing a 10-foot extension to be added for the installation of six more antennas. In addition, a 17' X 4 ' steel platform bump-out for equipment cabinets and room for a maintenance vehicle surrounded by a fence matching the existing enclosure are being proposed.

A discussion ensued concerning the number of variances. Mr. Tichacek informed the Board that a height variance as well as a setback would be required for the application.

With the additional height, the applicant would require a 300-foot setback of which the towers height would be greater from the residential property lines.

Mr. Pennoni reviewed with the Board a 24 ' X 36' aerial photo showing the site location and how the property would appear after the improvements. Mr. Pennoni expressed that the visibility of the monopole is almost nonexistent. He entered an exhibit into evidence.

Exhibit A-1, Coverage for the MetroPCS, NY, LLC site dated March 9, 2010.

Mr. Pennoni explained that the applicant would need to be at a higher range due to clutter to achieve the desired coverage area of the existing monopole.

Exhibit A-1-A, Overlay of proposed coverage.

Exhibit A-1-B, Overlay of coverage provided over 85 feet.

A discussion ensued concerning the structural soundness of the monopole. Chairman Lepre indicated that he believed that, structurally, the monopole was at its threshold. Mr. Weinpahl responded that recently the monopole has been reinforced and this may be the last carrier permitted on the monopole.

Mr. Lydon informed the applicant that there appears to be space available at the 65-foot range. Mr. Pennoni responded that in order to achieve and provide adequate coverage to the indicated area, the applicant would have to be located 85-feet or higher in order to reduce interference due to other carriers and dense foliage. The last resort would be to construct a new monopole in the area.

The Board questioned how data is established. Mr. Pennoni responded that a tool is used while driving in a selected area to accurately calculate data. Things such as water, trees and roadways are known as clutter and interfere with signals.

The Board questioned whether two locations in Wayne, not yet be operating, would be able to handle the proposed area. Mr. Pennoni responded that those Wayne locations would not reach Oakland.

The Board questioned if there was electricity running up the monopole. Mr. Pennoni responded that only radio wave cables run up the monopole.

The Board questioned the shear point of the extended pole. Mr. Weinpahl responded that during a severe storm, such as a hurricane, any kink would occur midway. Mr. Tichacek added that monopoles are designed to have shear points and do not topple over. The Board questioned Mr. Weinpahl if he would testify that he believes that the structure is sound for this extension and the additional antennas. Mr. Weinpahl responded that he believes that the structural analysis done is accurate.

Mr. Collins testified that because the carrier is located higher up, it is less of a detriment. He explained that the emissions are 290 times less than the strict federal standards. The Board questioned if the frequency was comparable to radio wave. Mr. Collins responded that it is much less.

Motioned by Mr. Jensen and seconded by Mr. Smid, to open the meeting up to the public regarding matters concerning MetroPCS, NY, LLC (2) application was voted unanimously by the Board.

Mr. Paul Gelewski, 1137 Sycamore Lane, Mahwah, expressed that he is the owner of a four-lot subdivision off of Long Hill Road on Laura Lane. He informed the Board that the monopole could be seen from the end of the cul-de-sac of his property. His concerns were that the extension might cause a deterrent when selling off the property due to the safety issues. Mr. Collins responded that the emissions from this monopole would be 20 times less than the normal household appliance which does not affect your health.

Mr. Gelewski questioned if the applicant would possibly add some additional buffer. Mr. Weinpahl responded when he visited that area he explained that it was difficult to see the monopole.

The Board members reminded the applicant that the boroughs ordinance requires stealthing. Mr. Meese responded that this is an existing pole and no room to add stealthing.

Mr. Johnson expressed he cannot believe that this is going to cover all the gaps in the area and has concerns with the number of monopoles in the area. Chairman Lepre expressed that future technology should transcend and perhaps these towers would not be needed anymore.

Mr. Smid expressed that he still has concerns with the height extension.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to close the meeting up to the public regarding matters concerning MetroPCS, NY, LLC (2) application was voted unanimously by the Board.

Motioned by Mr. Jensen and seconded by Mr. Haas, to approve the MetroPCS, NY, LLC (2) application.

Roll Call Vote: Ayes: Messrs. Haas, Wegman, Jensen and Chairman Lepre
 Nays: Messrs. Johnson and Smid
 Abstain: None
 Absent: Messrs. Chadwick and Schneeweiss.

A discussion ensued concerning five affirmative votes are required for "D" variance approval.

Mr. Meese questioned if the two members that voted "no" would reconsider because the only alternative would be to construct another monopole for adequate coverage. Mr. Cavaliere expressed that it was not addressed at the beginning of the meeting that the Board was short two members so the applicant could carry to the next meeting making available the meeting transcripts to the absent Board members. Mr. Meese expressed that he would prefer to review concerns of the Board members that voted no.

Chairman Lepre suggested the Board take a five-minute break in order for the members discuss their concerns.

Meeting recessed at 10:15 p.m.
Meeting resumed at 10:20 p.m.

Mr. Meese had Mr. Weinpahl reviewed the structural analysis once again. Mr. Tichacek reminded the Board that the site in question is Borough owned and leases to the monopole carriers.

The two Board members expressed that they have not changed their minds. Mr. Meese requested that the application be carried to the April 13, 2010 public hearing.

Motioned by Mr. Wegman and seconded by Mr. Jensen, to carry the MetroPCS, NY, LLC (2) application to the April 13, 2010 meeting was voted unanimously by the Board.

MEMORIALIZATIONS:

1. **Solomon** – 32 Silver Birch Avenue, Block 1703, Lot 4. Dismissal of application without prejudice for a front and side yard setback.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to memorialize the above dismissal of application without prejudice.

Roll Call Vote: Ayes: Messrs. Johnson, Smid, Wegman, Jensen and Chairman Lepre.
 Nays: None
 Abstain: None
 Absent: Mr. Schneeweiss

2. **Dautaj** – 125 Lakeshore Drive, Block 1501, Lot 29. Approval for two side yard setbacks.

A discussion ensued concerning that the above applicant did not follow through with the request by the Board.

During the Boards site inspection of this application, it was noticed that the applicant had begun interior work without obtaining the appropriate building permits. It was discussed during the applicant's hearing and contingent upon approval that he would need to visit the building department and obtain the appropriate permits. Since the meeting, the applicant did not obtain the permits required and was served with a construction violation.

The Board questioned Mr. Cavaliere what their options were. Mr. Cavaliere suggested that they move forward with the memorialization. However, if the applicant does not obtain the appropriate building permits within 30 days of the memorialization, than the applicant loses approval for the variance and it is voided.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Johnson, Smid, Wegman, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Mr. Schneeweiss

3. Lovell – 13 Ryerson Avenue, Block 3806, Lot 20. Approval for a rear yard setback.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Johnson, Smid, Wegman, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Mr. Schneeweiss

4. Ultimate Sports America, LLC – 12 Wright Way, Block 3301, Lot 7. Approval for a use variance.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Johnson, Smid, Wegman, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Mr. Schneeweiss

PAYMENT OF BILLS:

Motioned by Mr. Jensen and seconded by Mr. Johnson, to pay bills subject to the availability of funds, was voted unanimously by the Board.

APPROVAL OF MINUTES:

Motioned by Mr. Jensen and seconded by Mr. Johnson, to approve the February 9, 2010 Minutes was voted unanimously by the Board.

OLD BUSINESS:

None

NEW BUSINESS:

None

MEETING ADJOURNED:

Motioned by Mr. Wegman and seconded by Mr. Jensen, to adjourn the public meeting at 10:45 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney/Board Administrative Assistant