

**BOROUGH OF NORTHVALE  
PLANNING BOARD/BOARD OF ADJUSTMENT  
JUNE 3, 2009**

**MINUTES**

**Chairman, Charles Amorosso, reads the Sunshine Statement into the record at 8:00 p.m.**

**ATTENDANCE:**

**PRESENT:** MR. AMOROSSO, MR. GIANNOTTI, MAYOR HOGAN,  
MR. DELAURA, MR. PERRETTI, COUNCILMAN SOKOLOSKI,  
MR. TREBINO, MR. VOLLMER, MR. PIEHLER (ALTERNATE #1),  
MRS. WALKER (ALTERNATE #2), MR. DEVLIN (ALTERNATE #4)

**ALSO PRESENT:** ATTY. GREGG PASTER, MR. LOUIS RAIMONDI

**ABSENT:** MR. DELISIO, MR. MARANA

**REGULARLY SCHEDULED COMBINED  
WORK SESSION AND FORMAL MEETING**

**FORMAL MEETING**

**2009 MASTER PLAN RE-EXAMINATION  
REPORT PREPARED BY: KAUKER & KAUKER, LLC**

Mr. Amorosso **opened the meeting to the public**. No one from the public came forward – the meeting was now **closed to the public**.

A motion to pass this report on to the Mayor and Council for their review and approval was made by Mr. Perretti, seconded by Mr. Giannotti.

**ROLL CALL:** Mr. Perretti, Mr. Giannotti, Mr. Amorosso, Mr. Trebino,  
Mr. Vollmer, Mr. Piehler, Mrs. Walker, Mr. Devlin - YES  
Mr. DeLaura - NO  
Mr. DeLisio, Mr. Marana - ABSENT

**FORMAL MEETING**

**APPLICATION OF SLEEPY'S, 271 LIVINGSTON STREET,  
BLOCK 207, LOT 6 - VARIANCE TO PERMIT A LARGER SIGN**

Atty. Daniel Gielchinsky came forward to represent the applicant. Atty. Gielchinsky is from Herten Burstein Law Firm in Hackensack, New Jersey. The applicant would like to apply for a variance to permit a larger sized sign at the site.

Mr. Amorosso stated that there were signs at the site when Sleepy's went in. He feels that the signage that they have is more than sufficient for that size shopping center. Once a larger sign is approved for Sleepy's, all others will come in for the same variance.

Atty. Gielchinsky said that in 2006 signage was already approved that is larger than is what permitted by Northvale's code. He noted that the proposed sign is pretty much of the same or similar scaled portion as some of the signage that already exists on the site.

Mr. Amorosso noted that the application is complete.

The existing sign is 18.5 s.f. and the applicant would like to put up a 67 s.f. sign. The code allows a 24 s.f. sign at the location. Atty. Gielchinsky stated that 67 s.f. would be in conformity with the anchor tenants that are at the site.

At this time, Mr. James Foertsch from K.P. Signs came forward. Mr. Foertsch stated that the current sign that is there now (18 s.f.) was a used sign that Sleepy's had in its inventory that they put up knowing that they would be applying for a variance.

Mr. Amorosso told Atty. Gielchinsky that he would like the landlord of the property present at the formal hearing. The Chairman said that he first must get rid of all the 15 minute parking signs at Woori Mart, the dry cleaners, and parking only for the Diamond Center. Atty. Gielchinsky commented that he doesn't think that there is any provision of the Municipal Land Use Law that compels him to put another witness from a different party on to make proofs for a tenant.

Mr. Amorosso said that there should not be an extra signs on the property. Atty. Gielchinsky said that that is an issue between the Board and separate legal entity. Mr. Amorosso said that if this applicant is coming for a variance, these issues have to be straightened out first.

Mr. Perretti said he would like to see the size of the letters on the plan, not necessarily the size of the sign. Atty. Gielchinsky will provide that information for all Board members. It was noted that there would be separate, individual channel letters.

Mr. Amorosso said that this sign would be bigger than any other sign in that shopping center. Mr. Foertsch said that he believes both Panera Bread and AppleBee's are larger. Mr. DeLaura said right now the sign is 18 inches long by roughly 12 feet. They will be going from 18 to 48 inches. The proposed Sleepy's sign would be larger than the other tenants.

Mr. Vollmer asked if the letter Sleepy's is the same size as the word "Exchange" in the store Jewelry Exchange. It was stated that it would be slightly larger than the word Exchange.

Mr. DeLaura has a question on page 3 of the application – "the sign is required for traffic and safety considerations". Mr. Foertsch said that if there is a sign that is appropriate for the channel box and the building that it was designed for, people will – when they starting looking around, will more easily find what they are looking for.

Mr. Amorosso asked if they realize that new larger pylon signs were put up at the entrance for this reason. This application was before the Board months ago.

Atty. Gielchinsky said the Board determined that the application was complete and is asking for a formal hearing date.

Mr. Amorosso said there will not be a hearing date until the landlord is notified that the Board wants his presence at the meeting before formal hearings are heard.

Atty. Gielchinsky urged the Chairman of the Board to recess into private session with the Board's attorney before he makes this determination. Mr. Amorosso said we will hear the application in September. Atty. Gielchinsky commented that since the application is deemed complete and if the Board doesn't take action until September, by that time, the statutory time frame will have run. He further said that he will just forward a Resolution of Approval for the Board's adoption.

Atty. Paster said that he doesn't think the Board can require the landlord's attendance for this matter, but if there are other violations of non-compliance on the lot, I think the Board can decline to hear the application.

It was noted that notices should be sent out and that this hearing will be heard at the June 17<sup>th</sup> Formal Meeting.

### FORMAL MEETING

#### APPLICATION OF SHENGQUAN DUAN, 184A WALNUT STREET, BLOCK 919, LOT 1.10 – VARIANCE FOR A FENCE

Mr. Giannotti steps down from the hearing of this application for he is within 200 feet of the premises.

Mr. Duan came forward and was sworn in by Atty. Paster. Mr. Duan is requesting a variance from the Board to put up a six foot fence in the back of his yard up to the property line and on the Philadelphia Avenue side he is requesting a four foot fence and a four foot fence next to his driveway.

Mr. Amorosso said that the applicant wants a six foot fence in the rear right out to Philadelphia Avenue and then four feet across. Mr. Vollmer stated that this is what the Board requested of Mr. Duan.

The meeting was **opened to the public**. Since no one from the public came forward, the meeting was **closed to the public**.

A motion to approve the application was made by Mr. Vollmer, seconded by Mr. Perretti.

ROLL CALL: Mr. Vollmer, Mr. Perretti, Mr. Amorosso, Mayor Hogan,  
Mr. DeLaura, Councilman Sokoloski, Mr. Trebino - YES

**APPLICATION OF OMNIPOINT COMMUNICATIONS, INC.,**  
**35 INDUSTRIAL PARKWAY, BLOCK 608, LOTS 1 AND 2 -**  
**USE VARIANCE APPLICATION**

Mayor Hogan and Councilman Sokoloski steps down from the hearing of this application for it is for a use variance.

Atty. Frank Ferraro comes forward to represent Omnipoint Communications, Inc. Revised drawings were sent to all Board members. Engineer for the applicant, Mr. Todd Hay of Pennoni Associates, Inc. came forward. Mr. Hay's office prepared the revised site plans that were submitted to the Board. The revision date of the plans is April 22, 2009. This exhibit is marked A-19.

Mr. Hay stated that the pole has been moved exactly 114 feet away from the westerly property line. The equipment platform itself has been moved approximately to 125 feet. Industrial Parkway is now shown as the front yard of this particular property. The property line to the west opposite Industrial Parkway is the rear lot line. For the zoning ordinance, the monopole has to be set back at least 100% of its height from the rear yard.

Mr. Hay said that the applicant is proposing a tower height of 110 feet. Mr. Hay noted that the A/C unit was removed by the landlord. There would be a fenced area with two gates – a double gate facing the front yard and a rear gate that faces the rear yard.

Atty. Ferraro noted that the applicant is still requesting a side yard variance from the industrial property to the south. He said the revisions brought before the Board are in response to the Board member's comments at the last meeting. Industrial Parkway was to be the front yard and opposite the building would be the rear yard. Once those changes were made, there was a requirement in the ordinance that the tower be set back from the rear property line by at least 110 feet. The changes have been made to meet that requirement.

Atty. Ferraro stated that the relief they are requesting remains the same.

Mr. Raimondi mentioned the DEP permit. Mr. Hay said that what the applicant has done to accommodate the DEP regulations, is to set the equipment up above the DEP flood hazard elevation. This would allow for a free passage of water.

The equipment is on a platform. Because of where the monopole is, the FAA does take this into consideration and they will inform the applicant if they have to light it or not or if the monopole should be striped.

Mr. Perretti asked if it is possible to put a light on the top of the monopole. Mr. Hay said that the criteria would have to be set by the function that regulates that who would be the FAA. Mr. Hay said that, at this point, they are not proposing any lights at all.

The noise study was discussed. The report was marked as Exhibit A-21. The modifications in the report say that they measure six different areas. The report was also updated to take into consideration the new equipment location as well as the air conditioning units that are running. Mr. Hay said that the change between what is existing and what is being proposed is less than ½ a decibel.

Atty. Ferraro said that what is being shown as the second lot is basically the drainage easement. This easement is to the benefit of the borough. The lots are shown as separate lots on the Borough tax map. There is one owner. The application is for both lots. Atty. Paster said that if the application was granted and the owner was to try to sell the other lot, then this variance would be nullified.

The meeting is **opened to the public**.

Mr. Lou Wotman of 222 New York Avenue came forward. Mr. Wotman asked about auxiliary generator power. Mr. Hay said that there is no generator for these types of sites.

Mr. Thomas Wierciszewski of 220 Walnut Street came forward. He asked about a DEP study being done at the site. Mr. Hay said that he did not say a DEP study would be conducted. What he said was that typically with a foundation design – they did submit that they can provide initial approval a foundation design. This design would take into account the water table as well as what the actual depth would be for not just the monopole but also for the equipment itself.

Mr. Wierciszewski asked how can the Board vote without this information. Atty. Ferraro said it is a construction detail. The applicant is here to try to get approval for the use. Mr. Amorosso said it does not come under the Board's realm; it comes under the Building Department.

Mr. Wierciszewski spoke of the noise. Mr. Hay said he provided the information the resident is asking about in his report submitted to the Board. There will be 6 antennas on the top of this pole. As a condition of approval, we can state this information about the antennas in the Resolution.

The meeting is now **closed to the public**.

Mr. Timothy Kronk, Professional Planner on behalf of the applicant, came forward and is still under oath.

Mr. Kronk said that the property is located in the LI zone. The light industrial zone does permit a wide variety of uses. Relief is required for a height variance. The side yard setback was increased to 27.9 feet and where 75 feet is required.

**Exhibit A-22** – is a compilation of maps both for the Borough of Northvale and for the Borough of Rockleigh. **Exhibit A-23** is an aerial photograph of the subject property.

Visibility in the R7.5 zones were discussed. Mr. Kronk presented two additional photo boards which were marked as **Exhibit A-24 and Exhibit A-25**. **Exhibit A-26** – is a photo board of the equipment compound itself. This was taken in front of the subject property right on Industrial Parkway. **Exhibit A-27** – is an aerial photo as the prior one only this has been enlarged to a scale of 1 inch equals 50 feet.

Mr. Kronk said that the facility will not impact any traffic or parking because the facility is only visited by a technician once every 4 – 6 weeks. The technician would run some tests in the cabinets – he does not need to access the antennas on a regular basis. There is no water or sewer required, only electric and telephone.

Mr. Kronk stated that this installation does not require any FAA lighting but if the Board were to request this, they would approach the applicant. Once the installation is built, the visibility is the impact that is on the area. The antennas have to be elevated to a location where they can see and be seen by all of the surrounding sites for them to work properly.

At this time, the meeting was **opened to the public**.

Mr. Thomas Wierciszewski came forward. He is requesting a copy of the testing that was performed at the site.

Atty. Ferraro asked if the Board would want to wait until the new ordinance is adopted on the telecommunications towers by Mayor and Council or does the Board want to vote on this tonight.

It was decided that the application will be voted on tonight.

Atty. Ferraro said that the applicant is asking for a use variance, a height variance and a side yard setback variance. The applicant is also asking for site plan approval. He asks the Board to look at the expert testimony that has been provided.

A motion to *deny* the application was made by Mr. Giannotti.

Mr. Giannotti said that this is not an accessory to the use of the building; it is a separate and distinct use. He feels it is very poor planning to wedge everything in on this lot – he feels it is too much.

This motion was seconded by Mr. Amorosso.

Mr. Perretti said that this particular building that already exists on this particular piece of property is already non-conforming in several ways. The lot area is a non-conforming building, the lot depth is non-conforming, and the lot width and lot depth is already non-conforming. The applicant is now asking the Board to give another variance – a side yard variance. Mr. Perretti said that they are trying to fit too much on this particular piece of property. The actual usable is only a few feet left. It is crowded now. It is an over use of the piece of property. Mr. Perretti does not think it is a suitable site to plant this pole on this particular piece of property.

Mr. Vollmer stated that he goes along with Mr. Perretti and stated that he doesn't think that the applicant tried to satisfy his concerns that there were no other suitable sites in that area that would be better suitable for the pole.

ROLL CALL: Mr. Giannotti, Mr. Amorosso, Mr. DeLaura, Mr. Perretti, Mr. Trebino,  
Mr. Vollmer, Mr. Piehler - YES  
Mr. DeLisio, Mr. Marana - ABSENT

**The application has been denied.**

### APPROVAL OF MINUTES OF MAY 20, 2009

A motion to approve the minutes was made by Mrs. Walker, seconded by Mr. Perretti.

ROLL CALL: Mrs. Walker, Mr. Perretti, Mr. Giannotti, Mayor Hogan,  
Mr. DeLaura, Councilman Sokoloski, Mr. Trebino, Mr. Vollmer,  
Mr. Piehler, Mr. Devlin - YES

*Correspondence* was discussed.

### FOR DISCUSSION AND REVIEW

#### Ordinance #870-2009 – Telecommunicatons Towers

Atty. Paster said that he spoke to the Borough Attorney, Thomas Randall, Esq. about the changes that had to be made. Atty. Paster said that he didn't get to actually make the revisions on the ordinance. This matter will be put on the agenda again for review at the June 17, 2009 meeting.

Regarding the **Application of the Borough of Northvale's Subdivision (Deluxe Cleaners Property)**, Mr. Amorosso stated that the Board Attorney and the Borough Attorney feel that an outside engineer come in to represent the Town on this matter.

Mr. Amorosso makes a recommendation that the town hire Mr. Costa of Costa Engineering to represent the applicant, seconded by Mr. Perretti.

All in Favor - "YES".

A motion to **adjourn** the meeting at 10:38 p.m. was made by Mr. Amorosso, seconded by Mr. Vollmer.

All in Favor - "YES".

**Meeting adjourned.**

**Respectfully submitted,**

*Laura Benvenuto*

**Laura Benvenuto, Secretary**