

ZONING BOARD OF APPEALS ~ TOWN OF CHESTER

WARREN COUNTY ~ NEW YORK

MINUTES OF MEETING ~ AUGUST 26, 2008

IN ATTENDANCE: Mary Jane Dower, Elizabeth Morris, Sam Sewall, John Grady, and Secretary Pat Smith. Absent was Ken Marcheselli. Zoning Administrator Walt Tennyson was also in attendance.

MINUTES: On a motion by Mr. Grady, seconded by Mrs. Morris, the Minutes of the July 29th meeting were accepted, as presented. Motion carried 4/0.

CORRESPONDENCE: ZBA Minutes of July 29, 2008; Planning Board Minutes of July 21, 2008; Zoning Office Activity Report for July 2008.

PUBLIC HEARING: #382-V ~ Omnipoint Communications, Inc. proposal to extend the existing tower located at 269 Starbuck Hill Road, Tax map parcel # 104.-1-17, and to co-locate antennas on the proposed extension.

Having been duly advertised on August 18th, 2008, the Public Hearing on this project was opened at 6:01 p.m. by Vice - Chairperson Dower. Applicant was represented by Matthew Kerwin, Associate of Hiscock & Barclay.

Mrs. Dower explained that this was a Class A project and subject to issuance of a Park Agency permit following review by this board. This is an existing project, and is being reviewed by the ZBA due to the proposed extension of the antenna, not the location of the antenna or of the tower itself. An amendment had been submitted which changes the location to each carrier's antennas slightly, but the overall project remains the same. No letters or correspondence of any sort has been received, either pro or con from the adjoining property owners with regard to this project.

At this time, Mr. Grady made a motion to deem this application complete, and that the de minimis changes would not warrant re-advertisement of the public hearing notice. Motion seconded by Mrs. Morris, and carried 4/0.

Mr. Kerwin appeared on behalf of Omnipoint, which does business as T-Mobile, a wireless service provider similar to Verizon or Cingular, now AT& T. Their goal is to expand their service for coverage along Interstate 87. He explained that as you travel along the Northway, there is no cell coverage in spots, and spotty coverage, at best. Therefore, T-mobile, as well as other providers, is trying to fill in the coverage gaps where they are seen, to provide better coverage to their customers, residential and businesses, along with coverage to emergency service providers in the area. Their goal is to prevent tragedies such as occurred last winter, by providing adequate, reliable coverage along these areas. As an FCC licensed wireless provider, they are obligated to provide coverage in their license areas, and I-87 is within this license area.

Mr. Kerwin reviewed the plans that had initially called for locating antennas on the existing tower located at 269 Starbuck Hill Road, intending to add a 12 foot extension to a 60 foot tower at a centerline height of 65 feet. Their further intent had been to relocate another existing antenna, but then learned that those antennas cannot be relocated.

The extensions still stand, but Omnipoint will be putting their antennas at the top of the extension, instead of the other carriers. The revised plans reflect the proposed co-location of Omnipoint's antennas on the tower extension at a centerline height of 70 feet. Omnipoint's RF engineer has examined this proposed antenna co-location and determined that the antenna placement will not interfere with either carrier's operation at the site.

The tower is barely recognizable from Starbuck Hill Road, and not visible at all from Route 9. They are proposing to co-locate six antennas, each antenna approximately 5 ½ feet tall by 6 inches wide by 3 or 4 inches deep. The tip of the antenna would be about 6 or 8 inches above the actual top of the extension for about 72 feet, plus.

The antennas would be connected to the power source at the base of the tower using co-ax cables that run down the existing guide tower, and they will connect to equipment cabinets located on the 10'x 16' concrete equipment pad at the base of the tower. The equipment pad, as with the existing shelters for AT&T and Verizon will be located within the fenced compound at the base of the tower to prevent animals or anything else from getting in there to create a problem. The equipment cabinets are roughly the size of a small refrigerator. Omnipoint, also, consistent with other providers in the Industry, has gone with back up generators for continued cell coverage during a power outage, so that a call coming in will not be dropped. The generator will come on only during a power outage, and the generators are also small in size.

Since Omnipoint is a public utility in New York State, they are treated to a different standard of zoning, and, as a public necessity, it is pretty evident that there is a need for this service, and the coverage that they plan to provide is non-existent at this time.

Computer generated topography maps were shown, plotting in the proposed site, the elevation of the proposed antennas, and then taking into account the existing topography and all of the other structures, foliage and any other impediments that may affect their coverage.

Mr. Grady questioned whether they were asking for enough coverage. He indicated sections on the map showing four locations that did not seem to be getting enough. Mr. Kerwin stated that obviously better coverage would occur by going higher with the tower, much like a flashlight diffuses more light when it is held away from an object. They operate at a different frequency than their competitors, a very rapid wavelength, easily impeded by topography & vegetation. Verizon, on the other hand, operates at a much slower frequency, and reaches a larger coverage area, not impeded as much by surrounding factors. Therefore, Verizon would not need as many sites as T-Mobile. T-Mobile, however, is aspiring to provide seamless wireless coverage along I-87, and is proposing 18 sites within the Adirondack Park at the current time. Mr. Kerwin then continued to name the proposed sites in their plan. In answer to the query by Mrs. Dower, Mr. Kerwin explained that they prefer to co-locate on an existing tower, if at all possible, rather than to construct a new one, and there would only be this single tower in the Town of Chester. Should they determine down the road the need for additional sites here, then they would propose it at that time, maintaining the Park Agency's standard of invisibility,

maintaining the integrity of the town, and the beauty of the Adirondacks.

Following discussion, the Board reviewed the five part criteria provided by Omnipoint, and found, as followed, in agreement with the information provided:

1. Whether the granting of an area variance will result in an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The requested variance from the Town's maximum height requirement will not change the character of the community. A telecommunications tower already exists on the property, and Omnipoint simply wishes to extend the tower by 12' and place six (6) antennas on the extension. The project is consistent with the intended use of the existing tower, and will be screened by natural vegetation so as to minimize any adverse visual impacts.

2. Whether the benefit sought by Omnipoint can be achieved by another feasible method that would not require an area variance.

Omnipoint has evaluated potential co-location sites in the Town and determined that the tower located at 269 Starbuck Hill Road was the only site that allowed Omnipoint the opportunity to meet its coverage objectives in the immediate area. The presence of an existing antenna at a height of 55', guy wires just below that, and the surrounding tree height prevented Omnipoint from co-locating on the tower at the current available height. The proposed 12' extension is the minimum extension required to allow Omnipoint to achieve its coverage objectives in the area and to address the existing coverage gap without building a new tower.

3. Is the requested variance substantial?

The requested variance is not substantial, particularly when considering the current tower height of 60', the rural location of the tower and the natural screening that surrounds the site. It is also minimal when you look at the alternative of the erection of a new tower.

4. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood?

The variance will not have an adverse effect on the physical or environmental conditions in the neighborhood. The tower is located in a rural setting and the proposed extension will be screened by surrounding vegetation. Additionally, the facility is inert and will not produce any environmentally harmful conditions to the neighborhood.

5. Is the situation self-created?

The need for a variance is not self created. Omnipoint, as an essential service provider, is entitled to provide its public utility service to the area. To provide its service, antennas must be placed on a facility high enough to clear the surrounding ground clutter (natural and manmade) and in an appropriate location so as to achieve the necessary coverage and fit within the existing network. Accordingly, there is a limited geographic area in which a cell site can be placed to meet the coverage requirements. Omnipoint requires a certain tower height at the proposed location to clear the existing trees and proved the coverage pattern necessary for

adequate and reliable service to the objective area. Outside of building a new tower, the proposed extension presents the only option for Omnipoint to provide its essential service. Accordingly, the variance allowing the extension is not self-created.

Following discussion and review, a motion was made by Mr. Grady for a negative declaration with regard to SEQR, seconded by Mr. Sewall and carried 4/0.

Following that, a motion was made by Mr. Sewall, seconded by Mrs. Morris to close the public hearing at 6:45 p.m.. Motion carried 4/0.

On a motion by Mr. Sewall, the board finds for approval of Variance #382-V in that the proposed location of 269 Starbuck Hill Road is needed in order for Omnipoint to provide adequate and reliable wireless telecommunications service coverage to the Town of Chester area, by means of a 12 foot extension to an existing tower, with six antennas co-located on such extension. The board further finds that co-axle cables will connect the antennas to three (3) equipment cabinets placed on a concrete pad at the base of the tower inside the existing fenced area, and an emergency backup generator will also be placed on the concrete pad to activate in the event of a loss of electrical power. Omnipoint satisfies the requisite showing of need for the facility under the applicable New York State law and complies with the provisions and intent of the Telecommunications Act. The board also finds that the aforementioned actions will not cause any adverse environmental impact to the neighborhood area or to the town. Motion was seconded by Mr. Grady, and carried 4/0.

BOARD PRIVILEGE: It has been determined that Mr. Elwood Findholt began his term on the Zoning Board of Appeals on May 23rd, 1995. Having received and accepted his resignation from the board, a motion was made by Mr. Sewall, seconded by Mrs. Dower to send a letter thanking Mr. Findholt for his dedication in service for 13 years on the Zoning Board of Appeals, and to the people and community of the Town of Chester. Motion carried 4/0.

Get well wishes are also extended to Mr. Ken Marcheselli who has sustained injuries due to an accident.

ADJOURNMENT: On a motion by Mr. Sewall, seconded by Mrs. Morris, the meeting adjourned at 7:00 p.m.

Respectfully submitted,

Patricia M. Smith ~ Secretary