BOROUGH OF WESTWOOD
PLANNING BOARD MINUTES
PUBLIC MEETING AGENDA
REGULAR MEETING
MARCH 25, 2010

APPROVED 4/8/10

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Planning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: Mayor Birkner
William Martin
Thomas Constantine
Richard Bonsignore
James Schluter, Vice-Chairman
Philip Cerruti
Councilwoman Cynthia Waneck
Otokar von Bradsky (Alt. #2)
Jaymee Hodges, Chairman

ALSO PRESENT:
Steven M. Paul, Esq. appeared on behalf of
Thomas Randall, Esq., Board Attorney
Steve Lydon appeared on behalf of
Ed Snieckus, Burgis Associates, Board Planner
Louis Raimondi, Brooker Engineering,
Board Engineer

ABSENT: Ann Costello(excused absence)
Daniel Olivier (Alt. #1) (excused absence)

4. MINUTES: The Minutes of **3/11/10** were carried to the next meeting.

(WWPB 3/25/10)

5. CORRESPONDENCE:

1. Letter from Westwood Historic Preservation Commission dated 2/22/10 RE: CVS, 289 Broadway;
2. Letters from Brooker Engineering dated 3/16/210 & 3/24/10 RE: Verizon Wireless;

6. RESOLUTIONS: None

7. VOUCHERS: None

8. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in

1. Verizon Wireless – One Westwood Ave, Block 907, Lot 9- Application for Minor Site Plan Approval with Variances for Proposed Rooftop Wireless Communications Facility - David H. Soloway, Esq. represented the applicant and reviewed from the prior hearing. A court reporter from Precision Reporting was present. Mr. Soloway noted we left off at the last meeting with the testimony of the architect. Chairman Hodges commented he did not understand why they could not use one of the monopoles already in existence. Mr. Soloway advised according to the testimony, they were told it wasn't available because AT&T, the carrier that built it, was in effect given an exclusive. They were assured no other carrier would be able to use that tower. It seemed to concern members of the Board at that time. He said in Council meeting minutes the subject was discussed and at least one member expressed assurances were given to the neighbors that no other equipment would go on the tower. The engineer at that meeting also understand there was an agreement that no other carriers could collocate on that tower. Mr. Soloway continued. Verizon is now pursuing this process. Also, Sprint has no coverage in the area.

Mayor Birkner commented he did not recall any requests coming to the Borough Council in any capacity seeking to use Borough properties for purpose of collocating antennas. He is a little concerned and unclear about seeking guidance from the Borough. He has certainly not been approached, nor has he seen any documents making such request. Mr. Soloway said he was not aware of a formal written request, but a verbal request.

Councilwoman Waneck commented she has been a Councilwoman for five years, and this has never come up. Mr. Soloway said he has an obligation to pursue this on behalf of his client. Mayor Birkner reiterated he has never received any requests coming in for this matter. Mr. Martin asked if there was any paperwork or correspondence. Mr. Soloway responded no, just his witness's testimony. Mr. Martin suggested contacting Mr. Huntington for any documentation. The Mayor commented the Council put in place any requests would come to the Planning Board first. He agrees that neither he nor the Councilwoman can recall any applications coming before the Governing Body. He did not see the need to contact Mr. Huntington. Mr. Martin commented if Mr. Huntington did not receive any correspondence it would counter-effect all the testimony given.

The application proceeded. The architect, Mr. Frank Colasurdo, had completed his direct testimony at the last meeting and was open for questions. Mr. Lydon stated Mr. Snieckus completed his questioning at the last meeting. Mr. Raimondi, in his memo tonight, dated 3/24/10, is to have the plans from a structural standpoint be reviewed by in-house staff of the Department of Community Affairs, as he has concerns about the seismic and wind calculations. Mr. Raimondi indicated he would accept this as a condition of any approval that might be granted. Mr. Martin and Mr. von Bradsky concurred and clarified the process. It is our Construction Official that would authorize the hiring of a special inspector at the expense of the applicant; it happens here locally and does not go to the State. Mr. Soloway was fine with having appropriately qualified individuals review that aspect.

Mr. Martin reviewed the photos, prepared by the planner, based on what the architect created, and based on what was happening on the roof of this building. If this is the only location you could go on, what strikes him is, is there any way was could do this without putting the antenna on the top of the roof, but rather in the back. Mr. Colasurdo responded the penthouse does not have the room. He can remove the concealment panel system, and install the antennas with a different technique. He can remove the screening of the equipment as well. Mr. Martin was concerned with this different architectural element on the roof of this building, which was not meant to have an antenna on it, and could the equipment be moved back. Mr. Colasurdo said it was possible to shift over the equipment

and explained he could turn the cabinet and shift it over 10'. Mr. Martin indicated it would reduce the height about 3' or so, and that was better. Mr. Bonsignore expressed concern about the effect of excessive winds as in the previous storm. He also did not like four pipes being exposed and wanted to know if there was a type of enclosure to conceal them. Mr. Colasurdo spoke about painting them for concealment, or he could design an enclosure. He would be happy to walk the building one more time with the professionals. Mr. von Bradsky asked if he could put the utility pipes on the East side of the building. Mr. Colasurdo would look into relocating them.

Councilwoman Waneck asked if he did a rendering looking up Westwood Avenue. That was a question for their Planner. Chairman Hodges asked if the gas meter would be roof mounted. Mr. Colasurdo responded yes, it is a weather proof unit. The Chairman expressed concern over the structural weight going onto the parapet, and asked if they would withstand the structural load, since they were only designed for aesthetics. Mr. Colasurdo stated their engineers reviewed it. This building has a concrete with steel skeleton and masonry covering. There is no reason to believe this building could not hold the weight they are proposing and are confident it can do it without compromising the structural integrity of the building. Also, he would like to go back and see about running the pipes vertically in the courtyard of the building. Mr. Soloway would agree to the conditions. They would make it aesthetically pleasing, either in the courtyard or via an enclosure. Mr. Raimondi asked since they made the statement about the building being structurally sound, but what happens if it is found not to be structural sound. He would have to do whatever was necessary without affecting the cosmetics. It could; however, involve interior work. Mr. Raimondi was concerned about applicant having to do intensive interior alterations. Mr. Raimondi had no other questions or comments, other than the prior condition as stated. There were no further questions of the architect.

Joseph P. Sullivan, Structural Engineer, was sworn in, qualified and accepted. Mr. Soloway noted they submitted a Structural Calculations Report, marked A14, which was prepared by Mr. Sullivan. Mr. Raimondi asked if he agreed with the information given earlier by Mr. Colasurdo, and he indicated they were also his thoughts, and it would be feasible for this location. Mr. Bonsignore asked for structural drawings. Mr.

Sullivan only had architectural drawings of interior alterations, which were consistent with his observations. Mr. von Bradsky had questions of a structural nature. Mr. Sullivan gave an overview of the structure and the details of his findings, as outlined in his report. There are about 12" of brick at the parapets. Mr. von Bradsky read from the NJ Uniform Construction Code provides that an addition should not present any new structural loads that increase the forces in any structural element of the existing building or structure by more than 5%, unless still compliant with the Sub-Code for new structures. Per his review, Mr. von Bradsky found the increase 25% in wind forces on the upper story, which triggers a wind analysis of the structure below. We do not have information on the original structural design of that building. This triggers an added burden on the structure. The wind is a worrisome number. The analysis takes many computer hours to do. He asked Mr. Sullivan to respond to that and give his opinion. Mr. Sullivan said he never had a problem, and this is a sound building, but there are Code requirements. Mr. von Bradsky said the information on structural loadings as required under *Section 1603* of the *International Building Code 2006, NJ Edition*, should be contained on the construction documents. Mr. Hodges reiterated and was concerned about the structural support of the parapet. Parapets are for aesthetic purposes and not for loads. Councilwoman Waneck suggested having Armand Marini review this as well. Chairman Hodges stated Mr. Marini could take a look at it. Mr. Martin commented he was not sure about that; Mr. von Bradsky indicated it was very complex and that the structural plans be reviewed by the DCA. There were no further questions of Mr. Sullivan.

Applicant's planner, Mr. Masters, came forward and continued under oath. The building and property are in a split, CBD/SPE Zone. The application is for the installation of nine rooftop antennas, clustered in groups of three, and supporting equipment cabinet, a natural gas powered emergency backup generator and other appurtenant equipment, on the roof of the building. The use itself, as stated by Mr. Snieckus in his report, is a permitted use, but applicant is seeking bulk variance relief relative to four aspects of the ordinance. The first variance relates to height--for buildings less than 65' in height, the equipment must be located on the ground. This was not possible, and in order to do so, they would have to remove parking spaces, so an application was made. This building is

the tallest in Westwood. The 63.6′ in height as measured to the existing top of parapet is deminimus in nature and does not substantially impart the intent of the zoning ordinance. Under the C2 test, given the fact that this is the tallest building in the town, there is no substantial detriment to the neighbor or the intent and purposes of the zone plan and it is unlikely there would be any other buildings that would fit hat requirement. The second variance is for maximum gross floor area of the cabinet structure. Permitted is 50 sq. ft.; applicant is seeking 103.125 sq. ft. Further, the maximum roof equipment height is permitted to be 6′; applicant is proposing a 10′ high cabinet structure. Per the CBD/SPE Zone, the maximum permitted height of the building is35′. The existing building height is 72.3′ at the penthouse, which is an existing non-conformity. The proposed antenna height is proposed at 73.6′.

The purposes of the MLUL would be advanced by a deviation of the Zoning Ordinance requirement. The courts have shown that an FCC license should suffice here. The height of this building on an existing building would promote a desirable visual environment, which is also a stated purpose of the MLUL. The variance can be granted without substantial detriment to the public good. There are a number of stated purposes under 65C-121. He suggested this application advances five of the nine purposes. The facility otherwise meets all of the requirements of the Borough's Wireless communication Ordinance, which encourages collocation of antennas on existing structures. They are not proposing a new tower, but antennas on an existing structure. The items pertaining to communication towers would not apply here. The screening is proposed for the rooftop equipment and antenna sectors. The equipment screen height matches the height of the existing penthouse. The application has met his burden of proof in establishing the need for the variances. It supports the conclusion that the site meets the technical objective.

Questions of Mr. Masters followed. Mr. Lydon asked if there was a setback ordinance for the antennas, and if so, does this application satisfy that. He asked what the Board could be guided by. Mr. Masters responded. Mr. Lydon asked Mr. Masters how tall the equipment was. Mr. Masters responded 73.6′ Mr. Lydon commented in the CBD/SPE Zone, the maximum height is 35′ and two stories, so they need a height variance as stated. Mr. Masters stated the penthouse exceeds 35′ as well. Mr. Lydon

noted the MLUL was amended to provide that for a height variance of more than 10' a D6 variance was required and asked why this application does not require it. Mr. Masters stated a D6 variance deals with accessory use.

The Board took a recess from 10:20 to 10:30 p.m.

Mr. Lydon looked at the ordinance pertaining to accessory use and height, so his question was valid about a D6 variance. Mr. Masters did not think D6 was valid, since this is an accessory use, not a principal use, and D6 pertains to principal use. Mr. Lydon said he is looking at variance relief. Mr. Soloway stated the antenna cannot extend 30' above the height of the structure on which it is being collocated. A variance is needed because they are not on a 65' building. Mr. Lydon was stating a variance was needed due to the height of the building. They need a variance because the equipment is not located on the ground. Mr. Soloway advised if Mr. Lydon is going to advise the Board there is a D6 variance here, then this Board does not have jurisdiction. Mr. Martin asked if the antennas become an accessory structure per the wireless antenna ordinance. Mr. Soloway felt if the Board agreed with the planner, the Board would not have jurisdiction, and they are wasting their time here. Mr. Lydon believed the ordinance can be met, and he was not convinced there wasn't a D6. Mr. Martin asked Mr. Lydon if Mr. Masters amended his testimony, would that satisfy him. Mr. Lydon was wondering if there was something in the ordinance that allowed a building to be 73.6' in the zone. The person empowered to interpret the zoning ordinance is the Zoning Officer. Mr. Masters said they would then be looking at a 93.3' tall building, if you add 30' to the 63.3'.

Mr. Martin suggested taking time to allow the Board's and applicant's planners to discuss this further and conclude the matter between them, along with having the Zoning Officer review same. Mr. Soloway suggested the Board Attorney can give an opinion also. Mr. Paul would concur with Mr. Martin's suggestion. Mr. Soloway would not concede that this is a D6 and at 10:45 p.m., they were not concluding tonight. On a practical level, the Board does not have jurisdiction over every single section of the ordinance. Mr. Lydon had no further questions. Councilwoman Waneck asked for the rendering of the view walking westerly down Westwood Avenue towards Broadway. Mr. Masters displayed a photo board, calling attention to view #2, the Melting Pot view. Mr. Soloway asked for a sense of the Board on

keeping the design screened as is or moving it. The consensus was that the equipment as screened should be kept as is. Mr. von Bradsky suggested contacting the Historic Preservation Commission. Councilwoman Waneck would contact them for comments.

The matter was carried to the next meeting, 4/8/10, with no further notice, and any time period extended.

9. DISCUSSIONS:

1. Letter from Linda Hayes, Shade Tree Advisory Committee dated 2/9/10, from RE: Ketler School Bus Lane/Driveway. Mr. Hodges advised we do not have jurisdiction to request escrow. Linda Koch is to forward this letter to the School Board President Jeffrey Zoeller.

10. ADJOURNMENT – On motions, made seconded and carried, the meeting was adjourned at approx. 11:05 p.m.

Respectfully submitted,

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MARY R. VERDUCCI, Paralegal
Planning Board Secretary