

**224-08-BZ**

**CEQR #09-BSA-020Q**

APPLICANT – Omnipoint Communications Inc., for Remzija Suljovic, Rizo Muratovic, Brahim Muratovic, owners; Omnipoint Communications Inc., lessee.

SUBJECT – Application August 29, 2008 – Special Permit (§73-30) to allow an extension to an existing non-accessory radio tower, to mount nine small panel antennas and related equipment cabinets on the rooftop.

PREMISES AFFECTED – 47-10 Laurel Hill Boulevard, south side of Laurel Hill Boulevard, bounded by 47<sup>th</sup> Street, to the west and 48<sup>th</sup> Street to the east, Block 2305, Lot 22, Borough of Queens.

**COMMUNITY BOARD #2Q**

APPEARANCES –

For Applicant: Robert Gardioso.

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT:**

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Queens Deputy Borough Commissioner, dated July 30, 2008, acting on Department of Buildings Application No. 410103105, reads in pertinent part:

“Proposed telecommunication facility exceeds 400 square feet allowed under TPPN # 5/98 and therefore will require a special permit from the Board of Standards and Appeals pursuant to Section 73-30 of the NYC Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility, which consists of nine panel antennas and related equipment for public utility wireless communications, which is contrary to ZR § 22-21; and

WHEREAS a public hearing was held on this application on November 18, 2008, after due notice by publication in *The City Record*, with a continued hearing on December 9, 2008, and then to decision on January 13, 2009; and

WHEREAS, Community Board 13, Queens, recommends approval of this application, subject to a condition that the applicant provide additional screening; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, and Commissioner Ottley-Brown; and

WHEREAS, the proposed telecommunications facility will be located on the roof of a four-story residential building upon which existing antennas are already situated; and

WHEREAS, the applicant states that the proposed telecommunications facility consists of six panel antennas mounted to the interior of the building parapet and extending to a maximum height of six feet above the parapet, three panel antennas mounted to the wall of the penthouse and extending to a maximum height of six feet above the penthouse, and three small equipment cabinets located on a steel frame centered on the rooftop, for public utility wireless communications; and

WHEREAS, the applicant represents that the telecommunications facility is necessary to remedy a significant gap in reliable service in the vicinity of the site caused by a lack of coverage and capacity; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the proposed telecommunications facility, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;” and

WHEREAS, the applicant represents that the facility has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the facility will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant further represents that the size and profile of the facility is the minimum necessary to provide the required wireless coverage, and that the facility will not interfere with radio, television, telephone or other uses; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed facility and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board asked the applicant to respond to the concerns of the Community Board concerning the need for additional screening; and

WHEREAS, in response, the applicant provided an alternative design that provided additional screening for the telecommunications facility; and

WHEREAS, the Board reviewed both designs and concludes that the additional screening would in fact have a greater visual impact because it would render the antenna area more visually prominent than it would be without the proposed screening; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 09-BSA-020Q, dated August 29, 2008; and

WHEREAS, the EAS documents show that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings and *grants* a special permit under ZR § 73-03 and § 73-30, to permit, within an R4 zoning district, the proposed construction of a telecommunications facility (non-accessory radio facility) for public utility wireless communications, which is contrary to ZR § 22-21, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received August 29, 2008"-(7) sheets; and *on further condition*;

THAT this approval is limited to the relief granted

**A true copy of resolution adopted by the Board of Standards and Appeals, January 13, 2009.**

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**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT substantial construction be completed in accordance with ZR § 73-30; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 13, 2009.