

24-08-BZ

CEQR #09-BSA-050R

APPLICANT – Omnipoint Communications, Inc., for Village Greens Shopping Center, LLC., owner.
SUBJECT – Application February 5, 2008 – Special Permit (§73-30) seek approval for a proposed 90-foot non-accessory radio tower and related equipment at grade. C1-3 overlay within R3-2 and SRD district.
PREMISES AFFECTED – 230-262 Arden Avenue, south side Arden Avenue and Tarbes Avenue, Block 6025, Lot 35, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Robert Gaudioso.

For Opposition: Sherwin Berman and David Codner.

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 Staten Island Borough Superintendent, dated January 15, 2008, acting on Department of Buildings Application No. 500863309, reads in pertinent part:

“Proposed construction of telecommunication cabinets on grade and 90 feet high unipole that are not attached to a building or other secure structure that has a lawful use in commercial C1-3 district as per TPPN #5/98 is referred to Board of Standards and Appeals for approval pursuant to . . . 73-30 of NYC Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within a C1-3 (R3-2) zoning district within the Special South Richmond Development District, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 32-21; and

WHEREAS a public hearing was held on this application on May 13, 2008 after due notice by publication in *The City Record*, and then to decision on June 17, 2008; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, neighborhood residents testified in opposition to this application, citing concerns with its location and impacts on health; and

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

WHEREAS, the proposed telecommunications pole will be located to the rear of a one-story commercial building (Use Group 6) at the Village Greens Shopping

Plaza; and

WHEREAS, the applicant states that the proposed telecommunications pole will consist of a 90-foot tall pole with internally-mounted antennas and related equipment located within a fenced area; 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, a special permit is required from the City Planning Commission pursuant to ZR § 107-43, since the facility exceeds the 50-ft. height limitation of the Special South Richmond Development District; 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 pole, 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 pole has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the pole 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 states that the telecommunications pole-related equipment cabinets will be installed within an opaque fence enclosure; and

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

WHEREAS, at hearing neighborhood residents raised concerns about the proximity of the telecommunications pole to a local public school and to homes, and its potential health effects; and

WHEREAS, in response, the applicant represented that the pole would be located at least 700 feet from the local public school and from homes and that radio frequency wave exposure was well below the limits set by the Federal Communications Commission; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed pole 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 further finds that the subject use will not alter the essential character of the

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surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

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. 08-BSA-049R, dated February 5, 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 a C1-3 (R3-2) zoning district within the Special South Richmond Development District, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 32-21, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 5, 2008"-(6) sheets; and *on further condition*;

**A true copy of resolution adopted by the Board of Standards and Appeals, June 17, 2008.
Printed in Bulletin No. 24-25, Vol. 93.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

THAT any fencing will be maintained in accordance with BSA-approved plans;

THAT approval is conditioned on obtaining a special permit from the City Planning Commission pursuant to ZR § 107-43;

THAT this approval is limited to the relief granted 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; 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, June 17, 2008.