

**Borough of Watchung
Planning Board Meeting
January 16th, 2007
Minutes**

Chairman Speeney called the meeting to order at 7:32p.m. and stated that notice of this meeting had been posted at Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, the Reporter and Star Ledger in conformance with the N.J.S.A. 10:4-6 et seq.

Present at the call of the roll were: Speeney, Boyd, Havas, Page, Addario, Pennett, Schaefer, Spratford and Pote. Mayor Ellis arrived at 7:39p.m. Also present were Board Attorney Robert Rusignola, and Board Engineer Tom Herits.

Chairman Speeney asked for a motion to waive the reading of the minutes and approve the December 19th, 2006 and the meeting of January 9th, 2007 minutes. That motion was made by Mr. Haveson, seconded by Mr. Boyd, and approved on voice vote.

Chairman Speeney asked if there were any requests for postponements. Mr. Joseph Murray, Attorney for PB06-05 K & R Valley, LLC said that the Applicant requested in writing a postponement that afternoon, and that he has already notified Mr. Traynor, Attorney for Jeff Tobey. Chairman Speeney said that due to a full calendar in February, he would like to put K & R on the agenda for the March 20th, 2007 meeting. Mr. Murray agreed and gave the Board an extension through the end of March with no further notification necessary.

Havas read: PB06-03 Pasquale Grande
92 Stirling Road Block 40.01 Lot 5
Minor Subdivision

Mr. Anthony Natale was present as Attorney for the Applicant, filling in for Mr. Mark Breitman. Mr. Rusignola asked if the Applicant was within the 190-day period, and the Clerk read the date on the resolution of July 13th, 2006. Mr. Rusignola said that they were within the 190 period and asked for the reason for the request of the Applicant for an extension. Mr. Natale said he was not familiar with the file, and would like an extension so that Mr. Breitman could appear. Chairman Speeney said that he would continue this application to the meeting of

February 20th, 2007 with no further notification required. Chairman Speeney asked for an extension through the end of February.

Havas read: the numbered conditions for PB06-R6 Omnipoint Communications, Inc. Re: PB06-11 Omnipoint Communications, Inc. FE Tower JC117WGB Bridgewater-Traynor Transmission Line 799 Mountain Blvd. Block 2.02 Lot s 7.01 & 7.02 into the record.

Mr. Greg Meece, Attorney for the Applicant was not present, but Mr. Rusignola said that both he and Mr. Meece had agreed upon the conditions, and that Mr. Meece would not be present this evening. Chairman Speeney called for a motion to approve Resolution PB06-R6. There was no discussion. The motion to approve was made by Mr. Havas, seconded by Mr. Addario. A roll call vote was taken, and the vote was all in favor of approving the resolution, except for Mr. Pote, who abstained.

Havas read: PB06-12 Pinnacle at Watchung, LLC
95 Wetumpka Lane
Block 70.01 Lot 3
Minor Subdivision

Mr. Bruce Freeman, Attorney for the Applicant was present. Mr. Freeman said this was a minor subdivision in the RR zone. It is a 3.8-acre tract of land, proposed to be subdivided into two conforming lots. Mr. Leland Titus, engineer was present and came to the microphone. Mr. Titus was sworn in by Mr. Rusignola and recommended as an expert in the field of engineering. Chairman Speeney accepted Mr. Titus as an expert. Mr. Titus submitted exhibit A-1 which was marked sheet 2. The property is south of Mountain Blvd. on Wetumpka Lane. There is an existing dwelling on the westerly side of the property, serviced by a circular driveway, and set far back on the lot. The existing dwelling will remain serviced by this circular driveway, and is also serviced by sanitary sewer. The proposed dwelling is on the easterly side of the property and due to the configuration of the lot lines of the property, it would have a long driveway, and be situated towards the rear of the lot. There are some wetlands on the property, and there is a transitional area, and a wetland swail, which they plan to fill. There is an application to the DEP to obtain a permit to do this. Each lot would exceed 60,000 sq. ft. There would be proper lot width and proper frontage. Mr. Freeman asked Mr. Titus if both lots conform to all zoning requirements. Mr. Titus said that they do. Mr. Freeman asked Mr. Titus if he was familiar with the letter from Borough Engineer Mr. Tom Herits

dated November 20th, 2006. Mr. Titus said he was. He went over all the points in Mr. Herits' letter and addressed each one. All requests would be met. Mr. Titus said that there is a tree location plan on sheet 3. Mr. Titus said that the driveway would be paved. He said the house would have a basement. Mr. Titus said there is public water available. He said that seepage pits would be installed. He said they would wait on a letter from the Fire Official. Mr. Freeman asked if sidewalks could be constructed along the front on Wetumpka. Mr. Titus said that they would need an additional permit from the DEP would be required to construct sidewalks across the wetlands area. This tract backs up to two lots on Snoden Lane. Chairman Speeney asked for Board members questions. Mayor Ellis asked about filling in wetlands areas. Mr. Titus said that it was the wetlands swale that would be filled in, not the wetlands. Mr. Titus was asked if he was familiar with the fill that has already been placed on the property. Mr. Titus said no, other than the fill that was from the overflow of a dam that was constructed for a pond. Mayor Ellis said that neighbors had said that fill was brought in. Mr. Titus said he did not know about fill dirt being brought in. Mr. Addario said that he had been told dirt was hauled in as well. Mr. Addario said he was concerned over the years about water runoff and what damage it does. He asked if water runoff would be a problem here on this tract. Mr. Titus said that uphill areas were not an issue, but that the only house that it could have an effect on, is Lot 4, Block 7.02. He said the possibility of the water coming across, and continuing on down towards Twin Brooks, could possibly affect properties downstream. He said that Lots 10,11, and 2 would not be affected. Mr. Titus said he agreed to comply with the tree ordinance. Chair asked Mr. Titus asked how much of the swale colored in blue on the exhibit would be filled in. Mr. Titus said it's more of a disturbance, being regraded, adjusting the grades to construct the house. Chairman Speeney asked if he was basically planning to redirect the swale, and regrade. Mr. Titus said yes. Mr. Titus said there is no 100-year flood plan for this area and that they are raising the basement by two feet because of the water table. Chairman Speeney asked if the existing swale was a natural swale. Mr. Titus said he'd let the wetland expert testify to that. Mr. Rusignola said that this is all contingent on DEP approval. Mr. Freeman said he understood that.

Mr. Tom Kurtz, from Block 5.01 Lot 1, owner of the house who owns the pond asked how Mr. Titus could guarantee that the swale, which removes water from the house, when regraded, would not force water onto his property. Chairman Speeney asked if Mr. Kurtz was concerned about the flow of water. Mr. Kurtz said the water flows into his property as it is now, and is very concerned about what will happen.

Mr. Bob Wolent of 12 Wetumka Lane, Lot 4 came to the microphone. He said he owns the house that might be affected. He said there are people here that own houses downstream and are concerned. Mr. Titus said that anyone downstream could potentially be affected if anyone would be. Mr. Rusignola asked if there is a storm water plan. Mr. Titus said not as this time. Mr. Rusignola asked Mr. Freeman if they intend to submit one. Mr. Freeman said not at this time. He said that at a subsequent time with the site plan. Mr. Wolent said no trees would be removed from the green zone. Mr. Titus said that was correct. Mr. Wolent asked for clarification about Mr. Titus' comment about minimal tree removal. Mr. Titus said the only place that they would have to take trees, is where the new driveway would go. Mr. Wolent asked about hydrological studies and if they were done. Mr. Titus deferred that to the wetlands expert.

Mr. Joseph Czapp, 40 Gention Lane came to the microphone, stating he resides at the bottom of the slope that extends from 95 Wetumpka Lane and Snoden Lane. He brought up the subject of fill dirt, and said that maybe it was brought in by the previous owner. He said that he is concerned about the water problem that keeps getting worse due to the fact that he has been affected by water. Mr. Titus said that the drywells, which would be constructed on the property, would hold the water until after a rain was finished.

Mr. Wolent came to the microphone and asked how you can store water in a drywell in a flooded area. Mr. Titus said that they would be built in an area that is not in a wetland area. Mr. Wolent asked if it was a dry area. Mr. Titus said that at some times of the year it is dry.

Kurtz came to the microphone and asked how tree removals would contribute to the added water runoff. Mr. Titus said that the tree removal would not add to water runoff. He said that if grass were planted properly, it would help.

Mr. Rusignola said that it was brought to his attention by one of the Planning Board members, Carol Spratford of 512 Mountain Blvd., that her property could be affected by water runoff, and decided to recuse herself from this application. Chairman Speeney excused Mrs. Spratford for this application.

Mr. Freeman brought Mr. Richard Margolis, the managing member of the LLC to the microphone to testify. Mr. Rusignola asked how many members made up the LLC. Mr. Margolis said two. Mr. Margolis was sworn in. Mr. Freeman asked

when the LLC had acquired the property. Mr. Margolis said early spring of 2005. Mr. Freeman asked about fill dirt being brought in. Mr. Margolis said that there were 3 occasions that may have required dump trucks being brought in. He said that at one point, an oil tank had been abandoned and a new one moved indoors, and dirt was taken out. Another time was an abandoned septic tank. A third time was a deck that was built, and needed to be excavated due to impervious coverage, all done by permit and that he did not cause any dirt to be brought to the lot. Mr. Margolis said that all this information was information he acquired from the previous owner.

Chairman Speeney asked for questions. Mr. Wolent asked if Mr. Margolis was aware that there had been a swimming pool at one time that was filled in. Mr. Margolis said yes. Mr. Wolent asked about dirt being brought to plant grass and regrade the backyard. Mr. Rusignola asked Mr. Margolis if at the purchase of this property, he asked for approvals. Mr. Margolis said he was only aware of what the former owner had told him, and were not part of his contract. He did not get a "*no further action*" letter. Mr. Margolis said he thought there was something from DEP. Mr. Rusignola asked Mr. Margolis to submit what he had. He asked the Clerk to ask Borough Engineer Arlene McCoy if there were any soil removal permits issued. Mr. Margolis said he thought the excavation was done in 2004.

Chairman Speeney opened questions to the public. Mr. James Huang of 128 Wetumpka Lane, opposite this tract, came to the microphone. He voiced concerns about water runoff and problems and asked that the Applicant and Board consider carefully before doing anything that would cause a problem.

Mr. Freeman brought Wetlands Expert Engineer, Edward Kuc to the microphone. Mr. Rusignola swore him in; recommended him as an expert in wetlands. Mr. Kuc was with Eastern States Environmental Associates. Mr. Freeman asked Mr. Kuc if he was familiar with this property. He said in early 2005 he spent a lot of time on this property, doing wetland delineation on the property. Mr. Kuc said that the condition found on the easterly side of the property main drainage way was found to satisfy wetland jurisdictional criteria. He discussed swales and ditches. He said areas that are not affected are in the extreme easterly side of the property. The area of immediate concern W1-6A through DEP- 3-A through DEP7-A on the exhibit. He said it was classified as an ordinary resource value swale, which has no buffer zone associated with it. It allows for disturbance of this swale. The state allows for up to an acre of swale to be disturbed. There is an application submitted to the state pending a permit. The area of immediate concern would only allow for encroachment into that 50 foot buffer zone at the area in which a portion of grading

for the driveway would be constructed, and also a portion of where the grading is for the proposed dwelling. He said that there was a requirement that that area must be compensated on the property in a one to one ratio, somewhere else on the property. Wetland transition area compensation would be added in the extreme eastern portion of the property, and the maximum you can increase the buffer zone is another 25 feet. He said by doing this buffer compensation area, this application certainly satisfies the stipulations of the buffer zone requirements. Mr. Freeman asked what the status is of the DEP application. Mr. Kuc said that the DEP has been deemed administratively complete, and is in the process of being reviewed. He said that the application was submitted on November 17th, 2006.

Mr. Freeman asked if the construction of the new house would increase the water in the wetland area. Mr. Kuc said he thought that was more of an engineering question, but that the proposed contour lines show that there is basically a concentration of overland water coming down into an area and the reason that the swale exists, is so that the water is directed to flow toward a particular area. He said the proposed regrading brings the water around the dwelling, just a little northerly from where it is directed now. Mr. Freeman asked if the water would go into the wetland area. Mr. Kuc said yes. Mr. Freeman asked if the wetland area is a natural storm water control. Mr. Kuc said that that is one of the functions of the wetland area. Mr. Kuc said that the end result is the issuance of the statewide wetlands permit number 7 and the issuance of the wetlands transition area waiver. Mr. Freeman asked if that permit runs with the land. Mr. Kuc said that yes, that would be included as a deed restriction for the property.

Chairman Speeney asked for Board questions. Mr. Rusignola asked about the metes and bounds descriptions. Mr. Kuc said that there would be a conservation area. A maximum wetlands area, a restricted area, and a compensated wetlands transition area would all be included. Mr. Rusignola asked what happens if the permit is not issued. Mr. Kuc said if it is not issued, then the application has a problem, but that based on the facts, there is no reason it would not be issued, since the necessary criteria is met.

Mr. Kurtz asked when Mr. Kuc had inspected the property. Mr. Kuc said that he inspected the area in January of 2005. Mr. Rusignola asked what the turnaround time for the application process was until permit issuance. Mr. Kuc says he anticipates at least another 60 or 90 days. Mr. Haveson asked that Mr. Kuc point out areas that were filled. Mr. Kuc said he could not because he is not familiar with any fill that was placed, and did not see any evidence of that during inspection.

Chairman Speeney opened to the public. Mr. Wolent came to the microphone. He asked Mr. Kuc why when asked about water runoff, he deferred to the Mr. Titus.

Mr. Wolent thought Mr. Titus did the same exact thing, deferring to Mr. Kuc when asked the same question. Mr. Kuc said that would be the responsibility of the Borough Engineer, to protect water runoff on the property. Chairman Speeney asked Tom Herits if there weren't local ordinances that affect water runoff. Mr. Herits said yes, that the seepage pits would have to be shown, to control water runoff. Chairman Speeney said that the Applicant submits to the Borough the predevelopment and post development characteristics. Mr. Wolent asked if any underground streams had been mapped. Mr. Kuc said that this study had been done in accordance with Wetlands Protection Act. No hydro geologic studies have been done. Tom Herits said the plan shows soil bearings by the proposed house. Mr. Kuc said that those soil bearings were just taken to a depth of 18" if it was characteristic of wetland area. It was done solely for the purpose of wetland determination. Mr. Freeman had no further witnesses. Chairman Speeney asked if anyone from the public would like to give testimony.

Mr. Kurtz of 125 Washington Rock Road came to the microphone. Mr. Rusignola swore him in. He voiced concern about the water flow on to his property, and how he thinks it will become worse. He presented a picture (R-1) which was a picture taken from the border of his property taken by himself, two weeks ago. The photo depicts a vantage from his property, facing the existing home on 95 Wetumpka Lane, head on, illustrating the drainage that currently exists. It showed some small trees that were in a marshy area. He said the water is worse in the spring. Mr. Kurtz said by regrading soil, he believes it would force more water onto his property. He said that the marshy area was on both properties, but that the marshy area in the photo was on the applicant's property. A discussion ensued about where exactly the picture was taken from, and whose property was depicted. Mr. Kurtz said his concern was drainage, and the effect from the downing of trees as far as water runoff. He said he was also concerned about the loss of privacy to his property values by cramming another house in. Mr. Havas asked if it had rained at the time the photos were taken. Mr. Kurtz said he took the photo 3 days after some rain, but that it almost never drains. Mr. Havas asked why, if that area looks like that for much of the year, why then, was it not designated as a wetland. Mr. Kuc said that jurisdictional wetlands were based on many things, not just standing water. Wetlands are not necessarily wet; they have to meet other criteria as well. Mr. Kuc said if regrading was done properly, it might even serve to help some of this water condition in the area of the photo. Mr. Kurtz said that by Mr. Titus redirecting water around the rear of the proposed dwelling, it would in his opinion; just push more water onto his property. Mr. Boyd asked Mr. Herits about underground springs, and asked if this is a likely area to have underground springs. Mr. Herits said that he wasn't sure about this area, but that at the bottom of

Wetumpka, there are springs that actually comes up through the pavement that Public Works is presently trying to address. Mr. Kurtz said there is an underground spring on his property that literally bubbles up out of the ground. Mr. Boyd asked if this is ground water runoff, or water coming up from below. Mr. Herits said he would have to go there and see for himself. Mrs. Schaefer said that in the picture it showed standing water in one of the higher points on the property. She said that she doesn't see how regrading the swale could alleviate this problem. Mr. Kuc said this is a basically flat area. There were no more questions for Mr. Kurtz. It was decided that Mr. Herits would go out to the Applicant's property, and inspect the area himself. At this point, the Chairman asked for a continuation until the Borough Engineer inspects the site. Mr. Herits will give additional testimony based on his analysis of the property. The Applicants Engineer and possibly the Attorney for the Applicant may accompany Mr. Herits. Mr. Herits will contact Mr. Titus to set it up. Mr. Kurtz asked to attend, and Chairman Speeney said anyone could go except for Planning Board members. Chairman Speeney asked that the Applicant grant a continuation until the meeting of March 20th, 2007 with no further notification necessary. Mr. Freeman granted an extension through the end of March.

Havas read: PB06-14 Sisto Realty Co
95 Stanie Brae Drive Block 11.02 Lot(s)9 & 10
Minor Subdivision and Variance(s)

Mr. Joseph Murray of Schiller & Pittenger, Attorney for the Applicant was present. James Sisto, on behalf of the owner of the property and Applicant Elizabeth Sisto, came to the microphone. His mother has signed a consent on this application. Mr. Sisto said he wants to move the lot line of the two existing lots over to allow for more frontage on one lot. He said the existing house is approximately 37 years old. Mr. Murray asked why the proposed lot configuration is to be changed. Mr. Sisto said that the front of lot 9 is very narrow, and this would give it more frontage if, at some point they want to build another home. Mr. Murray said there is a shortfall of the side lot by 6" since a garage was built in approximately 1968. This would be a variance for a distance of one half inch. Chairman Speeney asked if the application meets the bulk requirements and zoning ordinances. Mr. Murray said that a portion of this property is in Green Brook and a portion in Watchung. Chairman Speeney said that the line itself appears to be gerrymandered and wanted to know why the L shape at the bottom of the plan is there, and why the line cannot be straighter. Mr. Sisto said that most of that portion is in the Green Brook Mountain Preservation area and that he is not an engineer and that lot line split was

recommended to him. Mr. Murray said that below the zone line, is all the Mountain Preservation area. Mr. Murray said that the Green Brook portion of the boundary line has been submitted to Green Brook. Chairman Speeney said that he was against the idea of lot lines being so skewed, and asked that they straighten the lines. He said it was not good planning to have lot lines that were shaped like the proposed lines. Mr. Murray said that the lines were the control of the Applicant, as long as the lots conform to the zoning codes. Chairman Speeney said that straight lines are more important for good planning purposes, and are within the purview of the Board. A lengthy discussion ensued between Mr. Murray and Chairman Speeney about the shape of the proposed lines.

Mr. Boyd asked Mr. Herits if he put a scale on the lot line on Deer Run on the easterly end of 9B to a projection of a line that would be perpendicular to Deer run that would divide the two lots. He asked if that was 150 feet. Mr. Herits said it was 160 feet. Chairman Speeney said he is not averse to bending the line somewhat, but to the extreme it was done here, was too much. Chairman Speeney asked where the proposed home would be placed, and the Applicant did not know yet. Several Board members asked for the rationale for bending the lot line in the back of the property to add to lot 9B. Mr. Sisto said that his Engineer recommended that plan to him. Mr. Havas questioned as to whether this set up the scenario to possibly subdivide that lot again in the future.

Mr. Matthew Neuls, Engineer for the Applicant was brought up to testify. He was sworn in and recommended to the Board as an expert in the field of Engineering. He works for Harbor Consultants, and prepared the plans submitted. Mr. Murray asked him to explain the flare of the property in the back of Lot 9B. He presented exhibit A-1, which was a rendering plan which was colonized. The exhibit showed the zone lines and the Municipal boundary lines between Watchung and Green Brook. He said due to the slope in the back, they ended the proposed property line at the zone line, including the steep slope all on the proposed lot. The Borough Fire Official's report was discussed, specifically the installation of an additional fire hydrant. They discussed the location and distance of existing fire hydrants. Mr. Murray said that his client is not willing to pay for a new hydrant, unless there is some compensation from the Municipality. Chairman Speeney asked if proposed lot 9A would still have property in Green Brook. Mr. Neuls said yes, from the back of the deck of the existing home. Chairman Speeney said that since there was still Green Brook property included in lot 9A, why couldn't the line be straightened. Mr. Neuls said there was not a lot of technical reasoning for that. Mr. Rusignola asked about the list of property owners within 200 feet. He said Lot 3 in Block 157 is within 200 feet and is not listed on the Green Brook 200 foot list. He asked who the owner was. Mr. Neuls said that was owned by Sisto Realty Co.

He asked what the size of that lot was. Mr. Sisto said that parcel was owned by his mother and was about 10 acres. Mr. Rusignola asked about lot Block 157 Lot 2 and who owned it. Mr. Sisto said he had no idea who owned that property. Mr. Rusignola asked if Sisto was an LLC. Mr. Sisto said that it is a Corporation. Mr. Rusignola asked who were the officers. Mr. Sisto identified himself as president and his sister Susan as Secretary/Treasurer. Mr. Rusignola asked what the involvement was of Sisto Realty in this application. Mr. Sisto said that this is just on behalf of his mother. Mr. Rusignola said the name of the Applicant is Sisto Realty and that normally if a Corporation is listed as the Applicant, there is development planned. Mr. Sisto said there are no present plans for this property. Mr. Rusignola asked how many deeds are included in these properties. Mr. Murray said that there are 4 Deeds. He said there are two deeds for the portion in Green Brook, and two for Watchung. Chairman Speeney said he has a problem not using straight lines. A very lengthy discussion ensued about how to change the proposed line to make it straighter and where it could be moved. Mr. Murray asked the Board for suggestions. The Board members offered out several suggestions as to where to move the line and the Applicant nodded in agreement to the fact that he was willing to move the line. Chairman Speeney said that once the line was moved, the Borough Engineer would have to look at it, and Mr. Rusignola suggested that Mr. Murray go back and talk with his client and revise the plan, and come back before the Board again. Mr. Page made the comment that he is not comfortable with this application right now. He said he doesn't know what else is going on, and thought there seems to be a larger plan that is not being shared with the Board. The Mayor supported Mr. Page's view. Mr. Pote said he is uncomfortable with the line of questioning and answers tonight. He mentioned the line of questioning where the Applicant didn't know what was owned or not owned by the Applicant. Mr. Murray went offside to speak with his client.

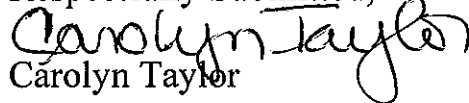
Chairman Speeney made a motion to approve the vouchers. A roll call vote was taken and the vouchers were approved unanimously. Chairman Speeney asked Mr. Havas to convene the Ordinance Committee. Mr. Rusignola said that in reviewing the Ordinance, there seems to be a very strange absence of a provision to allow cell phone towers to be added to high-tension towers. He said that there are no setback requirements for cell phone towers. He said the wording needs to be changed.

Mr. Murray came back to the microphone, and said they will come back with a revised plan of a straight line. Chairman Speeney said that if the Board gets the revised plan, they could come back in February. Mr. Rusignola said that they should give notice because discretion is the better part of valor. Chairman Speeney

said that they could appear at the February 20th, 2007 meeting. If they need to be put back to March 20th, 2007, they would not have to notice again. The Mayor asked the Applicant to make sure that all 200 feet residents are included in the notice.

Chairman Speeney adjourned the meeting until the next meeting of February 20th, 2007.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carolyn Taylor". The signature is written in black ink and is positioned above the printed name.

Carolyn Taylor
Planning Board Clerk