

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

Mr. Braswell called the meeting to order at 7:36 p.m.

Mr. Braswell asked all to stand for the Pledge of Allegiance.

Mrs. Cummins read the following statement: As per requirement of P.L. 1975, Chapter 231. Notice is hereby given that this is a Reorganization/Regular Meeting of the Borough of Highlands Zoning Board of Adjustment and all requirements have been. Notice has been transmitted to the Two River Times and the Asbury Park Press. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present: Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell, Mr. Cervantes, Mr. Connelly**

**Absent: None**

**Also Present: Carolyn Cummins, Board Secretary  
Greg Baxter, Esq., Board Attorney  
Robert Keady, P.E., Board Engineer  
John D. Maczuga, P.P.**

---

**Reorganization:**

**Appointment of Chairperson**

Mr. Gallagher offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD RESOLUTION  
DESIGNATING CHAIRPERSON  
FOR THE YEAR 2012**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that **Ken Braswell** be appointed Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2012.

Seconded by Mr. Fox and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher**

**NAYES: None**

**ABSTAIN: Mr. Braswell**

**Appointment of Vice Chairperson**

Mr. Kutosh offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD OF ADJUSTMENT RESOLUTION  
DESIGNATING VICE CHAIRPERSON  
FOR THE YEAR 2012**

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that **James Fox** be appointed Vice Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2012.

Seconded by Ms. Ryan and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher,  
Mr. Braswell  
**NAYES:** None  
**ABSTAIN:** Mr. Fox

**Appointment of Board Attorney**

Mr. Gallagher offered the following Resolution and moved on its adoption:

**RESOLUTION APPOINTING ZONING BOARD ATTORNEY  
FOR THE CALENDAR YEAR 2012  
AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT  
FOR PROFESSIONAL LEGAL SERVICES**

**WHEREAS**, there exists the need for Professional Legal Services to be provided to the Zoning Board for the calendar year 2012; and

**WHEREAS**, such Professional Legal Services can only be provided by licensed professionals and Gregory Baxter, Esq., of the firm of Caruso & Baxter is so recognized; and

**WHEREAS**, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that the law office of Caruso & Baxter has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit the law office of Caruso & Baxter from making any reportable contributions through the term of the contract, and

**WHEREAS**, the determination of value has been placed on file with this resolution with the Board Secretary; and

**WHEREAS**, has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment of the following:

1. Greg Baxter, Esq. of the law office of Caruso & Baxter is hereby appointed as Zoning Board Attorney for the period of January 1, 2012 through December 31, 2012 and said appointment is made as a non-fair and open contract.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

3. A copy of this Resolution shall be placed on file with the Zoning Board Secretary of the Borough of Highlands.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Ms. Ryan and adopted on the following roll call vote:

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell**

**NAYES: None**

**ABSTAIN: None**

**Approval of Board Attorney Contract**

Mr. Gallagher offered the following Resolution and moved on its adoption:

**RESOLUTION AWARDING CONTRACT  
A NON-FAIR AND OPEN CONTRACT  
FOR PROFESSIONAL LEGAL SERVICES  
TO GREGORY BAXTER, ESQ. OF THE LAW OFFICE OF CARUSO & BAXTER  
&  
APPROVING 2012 CONTRACT**

**WHEREAS**, there exists the need for Professional Legal Services to be provided to the Zoning Board of Adjustment for the period of January 1, 2012 through June 30, 2012; and

**WHEREAS**, such Professional Legal Services can only be provided by licensed professionals and Greg Baxter, Esq. of Caruso & Baxter is so recognized; and

**WHEREAS**, Greg Baxter, Esq. of Caruso & Baxter was appointed as Zoning Board Attorney for the calendar year 2012 on January 5, 2012; and

**WHEREAS**, Greg Baxter, Esq. of Caruso & Baxter has submitted the attached 2012 contract for approval; and

**WHEREAS**, the Zoning Board has reviewed and hereby approves of the attached contract.

**WHEREAS**, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that Caruso & Baxter has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit Caruso & Baxter from making any reportable contributions through the term of the contract, and

**WHEREAS**, the determination of value has been placed on file with this resolution with the Borough Clerk; and

**WHEREAS**, the law office of Caruso & Baxter has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised; and

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

**WHEREAS**, certification of the availability of funds is hereby made as follows:

Account #1151 -3755           \$ 5,205.00  
For Legal Services for the Period of January 1, 2012 through June 30, 2012.

---

Stephen Pfeffer, CFO

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of the Borough of Highlands of the following:

1. Greg Baxter, Esq. of the law office of Caruso & Baxter is hereby awarded a non-fair and open contract for professional legal services to be provided to the Zoning Board for the period of January 1, 2012 through June 30, 2012 for an amount not to exceed \$5,205.00 and that the attached contract for 2012 is hereby approved.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Board Secretary of the Borough of Highlands.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Ms. Ryan and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:       Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
              Mr. Gallagher, Mr. Braswell**  
**NAYES:     None**  
**ABSTAIN:   None**

**Appointment of Board Engineer**

Mr. Gallagher offered the following Resolution and moved in its adoption:

**RESOLUTION APPOINTING ZONING BOARD ENGINEER FOR THE CALENDAR  
YEAR 2012  
AS A NON-FAIR AND OPEN CONTRACT**

**WHEREAS**, the Borough of Highlands Zoning Board has a need for professional engineering services as a non-fair and open contract to be provided to the Board for the calendar year 2012 pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, such professional engineering services can only be provided by licensed professionals and Robert Keady, P.E. of the firm of T & M Associates is so recognized;

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

**WHEREAS**, the Board Secretary has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, T & M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T & M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit T & M Associates from making any reportable contributions through the term of the contract; and

**WHEREAS**, T & M Associates has completed and submitted a Political Contribution Disclosure Form in accordance with P.L. 2005, c271; and

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Highlands Planning Board as follows:

1. Robert Keady P.E. of T & M Associates is hereby appointed as Zoning Board Engineer for the calendar 2012 and said appointment is made as a non-fair and open contract.
2. This contract is awarded without competitive bidding as "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
4. A copy of the Resolution shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Fox and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

**Appointment of Board Secretary**

Ms. Ryan offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD OF ADJUSTMENT  
RESOLUTION APPOINTING BOARD SECRETARY  
FOR THE YEAR 2012**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that Carolyn Cummins be appointed Secretary of the Zoning Board of Adjustment for a term of one (1) year expiring December 31, 2012.

Seconded by Mr. Kutosh and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

**Resolution Setting 2012 Meeting Schedule**

Ms. Ryan offered the following Resolution be memorialized and moved its adoption:

**RESOLUTION SETTING THE SCHEDULE FOR REGULAR  
MEETINGS OF THE  
BOROUGH OF HIGHLANDS ZONING BOARD OF ADJUSTMENT  
FOR THE CALENDAR YEAR 2012**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that the following schedule is hereby designated as the official Regular Meeting Calendar of the Zoning Board of Adjustment for the year 2012. The official meeting days shall be the first Thursday of each month unless otherwise noted.

February 2, 2012  
March 1, 2012  
April 5, 2012  
May 3, 2012  
June 7, 2012  
July 5, 2012  
August 2, 2012  
September 6, 2012  
October 4, 2012  
November 1, 2012  
December 6, 2012  
January 3, 2013 Regular/Reorganization

**BE IT FURTHER RESOLVED** that all meetings will be held at the Highlands Municipal Building, Council Chambers, 171 Bay Avenue, Highlands, NJ, at 7:30 p.m.

Seconded by Mr. Kutosh and adopted by the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

**Resolution Designating Official Newspapers**

Mr. Kutosh offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD OF ADJUSTMENT RESOLUTION  
DESIGNATING OFFICIAL NEWSPAPERS  
FOR THE YEAR 2012**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that the **ASBURY PARK PRESS, and THE TWO RIVER TIMES**, are hereby designated as the official Newspapers for the Borough of Highlands Zoning Board for publications which are required by law for a term of one (1) year, expiring December 31, 2012.

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

Seconded by Mr. Fox and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,  
Mr. Gallagher, Mr. Braswell

**NAYES:** Mr. Gallagher voted against the Asbury Park Press

**ABSTAIN:** None

---

---

**Regular Meeting**

**ZB#2011-2 SJD Design, LLC – Block 40 Lots 18.19, 20, Shore Drive  
Request for Postponement with no further public notice**

**Present:** Henry Wolff, Esq., Applicants Attorney

Mr. Wolff stated that he is happy to report that they located air to the land and that they should be able to proceed with public hearing in March.

Mr. Baxter stated that the Public Notice was acceptable.

Mr. Gallagher offered a motion to approve the applicants request for a postponement of the public hearing to the March 1, 2012 meeting without the need for further public notice, seconded by Mr. Kutosh and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher,  
Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

---

---

**ZB#2011-4 Louco, LLC previously known as Dakoglou  
Block 63 Lot 19.01, 231 Bay Avenue  
Review Application & Schedule Public Hearing Date**

**Present:** Henry Wolff, Esq., Applicants Attorney

**Conflict:** Mr. Britton stated that he has a conflict on this application and then stepped down.

Mr. Baxter stated that the original application for this application was filed under the name of Dakoglou for an appeal of the Zoning Officers decision then it was amended to a variance application under the name of Louco, LLC. So Mr. Wolff would like to amend the application to Louco, LLC.

Mr. Wolff – correct, the client is contract purchaser.

Mr. Baxter – so question one on the variance application on the third line will be amended to reflect that Louco, LLC is the contract purchaser. Also the letter of appeal is so amended to reflect Louco, LLC.

Mr. Wolff – yes that is my request.

Mr. Baxter explained that the prior use was a restaurant on the first floor with residential upstairs. This is a similar application, one of the questions on the appeal was if there was an abandonment of the use. He stated that the Borough has an ordinance that states that if it's vacant for two years, its deemed abandoned. So the Zoning Board is going to be basically trapped even if they agree with the appeal case because of the ordinance. So we will hear both applications simultaneously when we schedule it. He then requested that a new affidavit of application and photographs of the property and surrounding sites.

Board had brief discussion about validity of borough ordinance regarding abandonment.

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

Mr. Gallagher offered a motion to schedule a public hearing for February 2, 2012 with the condition that the application republish notice in the newspaper. Seconded by Mr. Kutosh and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell,  
Mr. Cervantes  
**NAYES:** None  
**ABSTAIN:** None

**Mr. Britton then returned to the meeting table.**

---

---

**ZB#2011-3 McGavin, P. & T., Block 35 Lot 1, 18 Valley Avenue  
Public Hearing on Unfinished Business**

**Present: Tracy McGavin, Applicant**

The following exhibits were marked into evidence this evening:

- A-8: Wall Plan and detail by the Cannon Group dated 12/14/11;
- A-9: Pool Grading Plan dated 12/14/11;
- B-2: Board Engineer Review Letter dated 12/28/11.

Mr. Baxter then reviewed his memo to the applicant dated December 5, 2011 which listed the items that the board requested from the applicant at the last hearing.

Mr. Keady – the plan has revised the layout so wall and geo grid are contained on the property, so that is no longer an issue. The second issue as for providing the notion of the plan has also been provided. However, when reviewing the grading there appears there are areas at the site that appear to be at more than a 35% slope. So he is asking for clarification as to which is correct.

Mrs. McGavin stated that her engineer that stamped this that the overall slope of the yard is less than 35% and is not regulated by the steep slope ordinance.

Mr. Keady stated that this is the exact issue that he is referring to. There is that notation however, when reviewing the grading plan and checking the grade he found a few locations that are above 35%. Because of the scaled drawings there could be just a scaling error or perhaps the notion is incorrect. So he would ask that this be confirmed.

Mrs. McGavin questioned why her Engineer would state something that is not true. She also wanted to know why Mr. Keady didn't bring this up to her engineer when he spoke with him.

Mr. Keady explained how he measured over scale of plan and that this item was identified in his updated letter dated 12/28/11 (Exhibit B-2).

Mrs. McGavin – my engineer stated what you asked for. Are you saying that you have a higher authority than her engineer. She does not understand this and further expressed her frustration with the board engineer comments about her engineer having a discrepancy.

Mr. Keady stated that her engineer can do a drawing or a letter. The plans conflict with one another.

Mrs. McGavin further expressed her frustration with the board engineer having to restate the same thing that the slope is not 35%.

Mr. Keady – this can be a condition of approval.

Mrs. McGavin stated that she did not receive the board engineers review letter dated 12/28/11.



**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

Mr. Keady stated that typically he sends it to the borough and the borough forwards it on.

Mr. Baxter explained to board that this issue can be a condition of approval.

Mr. Keady then spoke about item 7 of his recent letter about water runoff.

Mrs. McGavin stated that she provided everything that was required.

There were no public questions or comments on this application.

Mr. Gallagher offered a motion to approve the application with the condition that the slope calculations be clarified to the board engineer. Seconded by Mr. Britton and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell,  
Mr. Cervantes

**NAYES:** None

**ABSTAIN:** None

---

**ZB#2011-5 Metro PCS, Block 106.1 Lot 1, 1 Scenic Drive  
Application Review & Possible Public Hearing**

**Present:** Michael Beck, Esq., Applicants Attorney

Mr. Baxter stated that this is a combined application review and public hearing unlike normal largely because of the pending litigation. The Board Engineer has already submitted a letter indicating that the application is complete. So from a completeness standard we need to move that the application is complete.

Ms. Ryan offered a motion to deem the application complete, seconded by Mr. Kutosh and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher,  
Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

Mr. Baxter stated that he reviewed the public notice and mailing receipts and finds them to be in proper order; therefore the board can take jurisdiction and proceed with public hearing. He then explained that this application is for the Eastpointe site.

The following items were marked into evidence this evening:

- A-1: Variance Application;
- A-2: Site Plan Review Application;
- A-3: 11/4/11 Architectural plans by Lou Moglino;
- A-4: 12/5/11 FCC Compliance Report by Daniel Collins;
- A-5: Photo simulations (6 in total) prepared by David Karlebach;
- A-6: Radio frequency report by Christopher Olsen of Airwave Solutions  
Dated 12/7/11;
- A-7: Prior Resolutions of the board for antenna locations on Eastpointe:
  - A) 7/2/98 for Omnipoint
  - B) 9/3/98 for Sprint Spectrum
  - C) 2/7/02 for Cingular Wireless
  - D) 6/20/02 for AT & T Wireless PCS, LLC

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

- E) 1/6/05 for Nextel
- F) 4/7/05 for New York SMA d/b/a Verizon Wireless
- A-8: FCC declaratory ruling dated 11/18/09;
- A-9: Letter from Monmouth County Planning Board dated 12/27/11;
- A-10: Structural Report dated 1/5/12;
- A-11: One Sheet – supplement of A-3.

Mr. Baxter stated that we are trying to expedite hearing because this is the seventh application for this site. He then spoke about having live testimony of noninterference with the installation and structural integrity of the building and testimony that coverage is greater on this site verses the Stewarts site.

Mr. Beck explained that this is for one Scenic Drive and they are seeking preliminary and final site plan approval, use variance for six antennas on the Eastpointe Roof. There were six prior applications on this site which were approved. The application is proposed antenna 148 feet, 10 inches in height. Equipment will not exceed height of existing.

Christopher Olson of 14 Nancy Road, Manuette, NY was sworn in and stated the following during his testimony and response to questions from the board:

1. He gave professional and educational background as a Radio Frequency Design Expert to the board.
2. This site gets better coverage verses the Stewarts Root Beer site. He then referred to Exhibit A-6 #1 and stated the blue color is exiting coverage and the green shows the extra coverage. This will completely cover Route 36.
3. The proposed would not interfere with existing poles on Eastpointe's roof nor emergency management.
4. He spoke of the location of the antennas on the roof.

Mr. Beck stated that he would not object to a "no interference" condition of approval.

There were no questions from the public.

Robert Toms of MTM Design Group, 670 N. Beers Street, Holmdel, NJ Building #1 was sworn in and stated the following during his testimony and response to questions from the board:

1. He described his professional and educational background as a Professional Engineer specializing in structural engineering to the board.
2. He prepared Exhibit A-3 plans which he described. Six feet three and a half inches highest point of equipment cabinets. The fifth cabinet is a PTC Cabinet. The platform is three feet above roof line.
3. The cabinet is similar in size as the other carriers.
4. Electric and telephone are required utilities which he further explained the connections.
5. No new trenches are needed.
6. Lighting, he explained dual flood lights will be on timers. The lights will be faced down at a 45 degree angle. Light will only on during emergencies and service calls.
7. There will be two antennas facing south direction 15 feet above roof.
8. Back of building, two antennas on frame toward ocean 14.4 above roof.
9. Front of building – two on front of building six feet above roof line.
10. Structural calculations, he did an analysis and explained the process of his testing. He stated that they were able to determine structure is adequate.
11. There are other provider's antennas on the roof that are higher than the proposed.
12. He described the mounting of the antennas to the roof to the board.
13. He will submit a signed letter that the structure is okay.
14. Maintenance on antennas is about every four to six weeks.

There were no questions from the public.

David Karlebach, P.P of 38East Ridgewood Ave, Ridgewood, NJ was sworn in and stated the following during his testimony and response to questions from the board:

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

1. He described his professional and educational background as a license Professional Planner to the board.
2. He stated that the site is already developed for the proposed use with several carriers.
3. There is no change in use.
4. The proposed will not create any additional building coverage or impervious areas.
5. The proposed will only require electric and phone utilities.
6. The site is located in the MF Zone and the proposed requires use variance for the use and a use variance for height.
7. Existing at the site is 154 .4 feet to the top of the structure and the proposed is 148.10 feet.
8. The proposed antennas are not the highest on the roof.
9. Four step balancing test for the board to use when evaluating the application. Step one is to determine the public interest at stake and the NJ Supreme Court has already advised us that the mere issuance of an FCC License should suffice for a carrier to establish the general welfare services served and Metro PCS is such a holder of said license. Step two the site has to be particularly suited for the use and he believes it is for several reasons. The number one reason is that this site is centrally located within a service gap area for this carrier and it enables the carrier to remedy that service gap by using an existing structure. Step three detriment effects, it's a passive use no increase or decrease of population or employment of the site. There is no traffic impact with this use. This use is a benign use because it does not generate any noise, odors, vibrations, dust or any other objectional influences. Step five the positives outweigh the negatives. There is no detriment to the zone.
10. He then described the photo simulations previously marked as Exhibit A-5

Mr. Beck spoke about Metro having no objections to withdrawing their previously denied application and their pending appeal.

Mr. Baxter spoke about the pending appeal being withdrawn with the board.

There were no public questions or comments.

Mr. Fox offered a motion to approve the application and all required variances and site plan with the conditions discussed. Seconded by Mr. Britton and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher,  
Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

---

**Approval of Minutes**

Ms. Ryan offered a motion to approve the December 1, 2011 Zoning Board of Adjustment Minutes, seconded by Mr. Gallagher and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Britton, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell,  
Mr. Cervantes

**NAYES:** None

**ABSTAIN:** None

**Borough of Highlands  
Zoning Board of Adjustment  
Reorganization/Regular Meeting  
January 5, 2012**

Mr. Fox offered a motion to adjourn, seconded by Ms. Ryan and all were in favor.

The Meeting adjourned at 9:17 p.m.

---

**Carolyn Cummins, Board Secretary**

HIGHLANDS.NJ.US