

**TOWN OF DEERFIELD
ZONING BOARD OF APPEALS**

Minutes of March 26, 1998

Members present: Ron Bohonowicz, Chair; Roger Sadoski; Grace Friary; Leonard Grybko, Sr.; Fran Olszewski; Ed Pepyne, Town Counsel

Meeting called to order at 7:05 for continuation of Hearing of Delta Materials Corporation for tower repair and antenna installation. R. Bohonowicz asked that Delta Materials provide information requested at initial February 26th, 1998 Hearing.

R. Bohonowicz read letter from the Board of Assessors regarding what financial tax benefit there would be to the Town if Omnipoint Communications would have had \$200,000.00 worth of equipment located in the Town of Deerfield. The letter states that the Town would have received \$2,870.00 and an additional \$120.00 would go to the Deerfield Area Fire Protection District. Bohonowicz then read a letter from Ecotec Environmental Associates regarding wetlands issues. The letter states that an ocular assessment for presence of regulated wetlands was completed for Omnipoint's proposed tower pad site and also of the immediate vegetated corridor which abuts the access road to the pad site. It is their professional opinion that no wetlands regulated under M.G.L. Chapter 131 section 40, local by-laws and/or the U.S. Army Corps of Engineers 404 Permit Program occur on or within 100 feet of the pad site and access road and in addition, no perennial streams as defined by the Ma. River's Act were noted within 200 feet of the project site or existing access road.

Olszewski asked who owned the access road. Mr. Warner via telephone stated he did not know who owned road but thought it was commonly owned by tower users. Mr. Brown, representing Delta Materials gave the Board a list of current tenants on the tower: Warner Brothers, Inc., Nextel, Airtouch, Connecticut Radio, WPVQ, Berkshire Gas, and Suncoast Wireless Communications Corporation and a list of previous tenants of when they attached and detached which are on file. Bohonowicz asked if any applications for permits by previous or current tenants had been applied for. Mr. Warner stated that he was never involved in any permit process of current tower users. Mr. Asmann, Building Commissioner, stated that none of the current users have filed permits through his office. He also stated that he spoke with the manager of the country music station and that they had a letter written by an employee of the music station in 1990 stating that they had spoken with Mr. Asmann and that Mr. Asmann told them they did not need a building permit. Mr. Asmann does not recall having this conversation. Bohonowicz asked Mr. Warner that before any future antenna attachments are made that the proper process be followed for permit applications. Mr. Warner agreed to this request. Grybko questioned who owned the tower on the land abutting Delta Material's land. Mr. Grybko was assured by Mr. Pepyne and Mr. Asmann that the Town did not own the tower, that Continental Cable (Media One) leased all rights to Western Mass. Electric and was not a sub-tenant to Western Mass Electric on the tower. The Town only owns the land and holds a lease agreement with Western Mass. for the tower.

Olszewski made a motion to close hearing and Friary seconded.

Olszewski made a motion that a special permit pursuant to 179-2(C)(4) for increasing use of non-conforming use as well as making alterations to the tower (non-conforming structure) and a variance pursuant to 179-4(F)(1) for the addition of a structure above 35' height limit to the tower be granted to Delta Materials Corporation for Omni Point and that repairs and painting will be done as documented in plan and rendering. Also, that Omni Point or Delta Materials will remove any unused equipment on the tower at their expense. Vote was 5-0 in favor of granting special permit and variance.

Respectfully submitted by

Julie Gray