

KARL & TANIA BORG
44 Pine Street
03-52

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, OCTOBER 14, 2003

The Board consisted of:

Jonathan G. Gossels, Chair
Melinda M. Berman, Acting Clerk
Patrick J. Delaney III
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate

Notice was published in the Sudbury Town Crier on September 25 and October 2, 2003, posted, mailed and read at this hearing.

Mr. Gossels, Chair, explained the requirements necessary to substantiate the granting of a variance. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Karl Borg was present to represent a petition for a Variance to construct a pool which will result in a rear yard setback deficiency at 44 Pine Street.

The property consists of .42 acres. The size of the proposed pool is 17X37 feet. The rear yard setback deficiency would be approximately 15 feet.

Mr. Borg explained that the size of the lot presented constraints in that the septic system and leaching field doesn't leave much space for a pool. As a result, he said the pool could only be put in the area proposed. He referred to his plan submitted with the application and drawn to scale which provides an overview of his dilemma.

Letters in support of the petition were received from abutters Brian and Julie Williams, 76 Autumn Street, and Raymond and Penny Wright, 32 Pine Street. The Williams are the abutters who would be most affected. Mr. Borg pointed out the location of those abutters on the plan.

Mr. Gossels asked what type of fencing was proposed. Mr. Borg replied that he would install a 5-foot standard fence, probably a black metal fence. He said right now there is a 6-foot stockade fence along the back and halfway down one side property line. He said the neighbors would not be able to see the pool.

The Board reviewed the plans. They were primarily interested in the type of fence, particularly in terms of privacy for the abutters given the fact that the lot is so small. Mr. Borg

was agreeable to installing a stockade fence along the sides; however, he was not sure as to the type of fence that would be in front of the pool area.

No abutters were present. There were no further questions from the Board. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: “To grant Karl A. & Tania Borg, owners of property, a Variance from the provisions of Section 2600, Appendix B of the Zoning Bylaws, to construct a 17X37 foot in-ground swimming pool, which will result in a rear yard setback deficiency of 15 feet \pm , property located at 44 Pine Street, Residential Zone A-1; subject to the following:

1. Applicant is required to provide a 6-foot stockade fence extending from the stockade fence along the rear property line for 100 feet along both sides of the property.”

VOTED: In favor: 5 (unanimous) Opposed: 0

REASONS: The petitioners require a variance to construct an in-ground swimming pool in their backyard approximately 15 feet from the lot line which will result in a rear yard setback deficiency.

The Board makes the following findings concerning the circumstances relating to soil conditions, shape or topography of the land in question:

- The lot is a long narrow lot (approximately 100 feet wide and 190 feet long).
- The land is essentially flat and level.
- The lot corners are not square to the road. The lot angles back to left slightly as you face the lot from the street.
- There is a leaching field that extends from the rear of the house; the bounds of the septic system extend almost to the 30-foot rear setback line.
- The house is 38 feet from the front lot line at the closest point.
- The rear of the lot in question abuts the rear-side of the adjacent lot

The Board finds there to be special circumstances relating to the shape or topography given the narrow shape of the lot, the position of the house and the bounds of the existing septic system. Placing the pool in the front yard would create a front yard setback issue, and the same holds true on the sides.

Desirable relief may be granted without substantial detriment to the public good or substantially derogating from the intent and purpose of the zoning by-law because given the position of this lot in relation to the adjacent lots, a swimming pool in the rear will not substantially interfere

with the abutter's use of their property. In fact, it was reported at the hearing that there is a machine shop on the portion of the property the directly abuts where the pool would be located.

Therefore, the Board approves the request.

Jonathan G. Gossels, Chair

Melinda M. Berman, Acting Clerk

Patrick J. Delaney III

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

OMNIPOINT HOLDINGS, INC.
BOSTON EDISON CO/NSTAR
163 Boston Post Road
03-53, 54, 55

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, OCTOBER 14, 2003

The Board consisted of:

Jonathan G. Gossels, Chair
Melinda M. Berman, Acting Clerk
Patrick J. Delaney III
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate

Notice was published in the Sudbury Town Crier on September 25 and October 2, 2003, posted, mailed and read at this hearing

Mr.Gossels, Chair, explained the requirements necessary to substantiate the granting of a Use, Variance, Variance and Special Permit. He also explained that if anyone is not satisfied

with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Paul Gascoigne was present representing the applicant, Omnipoint Holdings, Inc., a wholly-owned subsidiary of T-Mobile for a Use Variance, Variance and Special permit for a wireless communications facility which utilizes an existing BECO electricity stanchion at 163 Boston Post Road. He said this application is virtually identical to that which was approved in 1999 for the applicant at that time, AT&T Wireless.

A design review was held in August and subsequent to that meeting the plan was revised. Although Mr. Gascoigne did not have those revisions, he said they didn't really differ substantively from what was included in the application package. He add that a wetlands survey was done and reflagged which shows that things haven't changed much in four years.

It is proposed to use an existing 100 ft. 5 in. facility locating on a power mount which is essentially a pole inside that mount with a foundation attached to the stanchion rising up approximately 20 feet above the existing structure with antennas located on that structure. This would be connected to three equipment cabinets at the base of the tower which are essentially the size of three small refrigerators on a 6X8 foot fenced-in concrete pad.

Mr. Gossels asked whether the antennas would be mounted inside the pole or externally.

Mr. Gascoigne said this question came up at the design review meeting. He said the antennas could be mounted either way as coverage would not be affected. The initial application
OMNIPOINT HOLDINGS, INC.
BOSTON EDISTON CO./NSTAR
163 Boston Post Road
03-53, 54, 55 Page 2

package contains a photo simulation showing externally mounted antennas. Additional simulations were forwarded which show them internally mounted with a canister mounted to the top of the pole.

Another question which came up at the design review meeting was whether this could be made to accommodate an additional carrier. Based on the industry standard, there could be one carrier. T-Mobile would be going 20 feet above the existing tower which be would be at the top. The next carrier could go down to around 107 feet. Approximately ten feet of separation are needed between carriers.

Mr. Klofft asked why the applicant didn't just go for the 107 feet instead of 120 feet.

Mr. Gascoigne said this was done for the coverage needs in that area. He referred to Tab 4 of the application which contains coverage maps and the RF report.

Mr. Gossels wanted to discuss what the difference in coverage would be at the proposed height vs. lower.

Mr. Gascoigne said he didn't have any information as to what that would be other than the fact that 120 feet seemed to be a good height that works for the coverage hole and also the fact that this had been approved previously. The thought was to utilize something which this Board has already looked and felt was appropriate rather than propose a new facility.

In addition, Mr. Gascoigne said the Planning Board had actually looked at this and made a recommendation which is included in Tab 3. It says although the proposal to install antennas on the electric transmission tower will result in a height that is in excess of the bylaw, given the ground elevation below the road surface, it is opined that the view of such a facility on the existing tower would be less intrusive from adjacent roadways than construction of a monopole.

This is an identical application. It's the same exact transmission, and tower that proposes the same exact access road, and except for the internally mounted antennas, everything else is the same.

Discussion followed on why 120 feet was approved for the previous application. It was Mr. Phelps' recollection that AT&T needed the height for coverage. The topography was such that the area actually sat down in a hollow and was below the grade of Route 20. He asked whether any other carriers have approached T-Mobile.

Mr. Gascoigne said he hasn't been approached for this pole. He noted there was another petitioner here this evening looking to be the fourth carrier on a stealth monopole which is in close proximity. The height that would be available is 100 feet which would be lower than T-

OMNIPOINT HOLDINGS, INC.
BOSTON EDISON CO./NSTAR

163 Boston Post Road
03-53, 54, 55 Page 3

Mobile's site. Mr. Gascoigne said he could provide an additional RF affidavit regarding the height requirement.

Mr. Phelps thought the Board was generally happier with this location than the landfill. What happened was that AT&T basically had both options. This Board felt that the Boston Edison site was aesthetically a better location. Mr. Phelps said would feel more comfortable keeping it at 120 feet in case there is another carrier.

Mr. Delaney asked if 130 feet could then be made to accommodate a third carrier.

Mr. Gascoigne said it could; however, it raises questions with regard to the foundation. The existing structure which T-Mobile is working with has its own foundation, and coming up through the structure imposes limitations with regard to the diameter. He could get an answer if the Board prefers to look at a higher height.

Mr. Delaney said the bylaw encourages collocation; perhaps a maximum build-out should be considered.

Mr. Gossels wanted to know what this proposal would look like if it were designed to house three carriers.

Mr. Gascoigne said the pole would have to be 130 feet assuming the foundation is adequate and the antennas fit into the BECO tower.

Mr. Delaney said the drawings show the external antenna; it's not clear what the diameter of the pole is.

Mr. Gascoigne said the drawing is to scale but agreed it would be difficult to tell from the drawings.

Mr. Delaney asked what the diameter was at the base and top for what is being proposed.

Mr. Gascoigne did not know the answer. He felt that to be more of a design question to be addressed at a later time.

Mr. Delaney said this Board would not approve a large structure without knowing the dimensions. He felt the Board needed to know the base and diameter of the 2-carrier proposal and the feasibility of a 3-carrier proposal. In addition, once the tower is constructed to a height, he would want to know if it could be made taller to accommodate other carriers, or whether that something that has to be done at the beginning.

OMNIPOINT HOLDINGS, INC.
BOSTON EDISON CO./NSTAR
163 Boston Post Road
03-53, 54, 55 Page 4

Mr. Delaney also asked why a canister is proposed. He said there was no canister at the landfill when it was first constructed.

Mr. Gascoigne asked whether the design of this proposal was offensive to the Board.

Mr. Klofft felt a single sealed unit that doesn't have canisters is more aesthetically pleasing.

Mr. Phelps countered that a canister is more aesthetic than an array of antennas.

Mr. Gascoigne said this is different than the stealth at landfill. With this proposal, construction is going inside the actual stanchion. There is more electrical and anchoring that has to be done.

For the record, Mr. Gossels acknowledged receipt of a letter from Town Planner, Jody Kablack dated October 10, 2003 which raises issues with regard to the balloon test to which T-Mobile in its letter dated October 14, 2003 requested a waiver of this requirement given the previous approval of a virtually identical application by AT&T Wireless.

Mr. Delaney said while he has always felt the balloon test to be very helpful, he has already seen it for the previous case. Mr. Klofft felt that if three members have already seen it, he would have no objection to a waiver.

The consensus of the Board was to waive the balloon test.

There were no comments from the public.

The consensus was to pursue the following: (1) the base and diameter of the pole for the two carrier proposal, (2) feasibility for a third carrier and whether the height and/or width would change, (3) dimensions of the foundation and whether it can accommodate a third carrier, (4) whether or not the antennas can be mounted without the additional canister.

Mr. Gascoigne said he could obtain the information and asked whether the hearing had to be kept open.

From a procedural point, Mr. Gossels said the hearing should be continued. Mr. Klofft added that if the Board decides to accept a third carrier, a balloon test will be needed to see whether the additional ten feet is a substantial difference.

Mr. Delaney asked whether T-Mobile is in the habit of putting the equipment in exterior cabinets instead of a building.

OMNIPOINT HOLDINGS, INC.
BOSTON EDISON CO./NSTAR
163 Boston Post Road
03-53, 54, 55 Page 5

Mr. Gascoigne said this was the norm, adding that these are climate controlled units.

Mr. Delaney suggested the recommendation for a 3-carrier situation include housing for additional carriers.

Mr. Gascoigne said all he is here is to do is simply accommodate T-Mobile's own equipment. As time goes on and additional carriers come on board, he said they are going to need to enter into a lease agreement with NSTAR and subsequently create their own pad for their equipment. T-Mobile is leasing space that will accommodate their own equipment. He said T-Mobile is not proposing a pad to accommodate additional carriers. Further, he said AT&T did not do that.

Mr. Delaney said AT&T built a building. He believed that building was built to support additional carriers.

Mr. Gascoigne said he could check this. However, he said T-Mobile doesn't have a requirement to build a building.

Ms. Berman said if a building is not part of this proposal, at least it should be determined that there is someplace there for another carrier to house their equipment. That would be a minimum. She said it wouldn't be advantageous for the Board to approve a pole to house three carriers if there wasn't a place for them to house their equipment.

Mr. Delaney said the Board would not be approving a facility just for T-Mobile. He said the Board's job is to approve it so it can accommodate multiple carriers. He said T-Mobile's job is to get a pole and electronics to service customers at this location.

Mr. Gossels said the Board is asking T-Mobile to look at whether or not the ground space around this monopole can support additional carriers and what would have to happen to support three different carriers at that site.

Mr. Gascoigne said NSTAR would have to agree to lease space to the additional carriers. The owner has to agree to go on record as saying there is additional space.

Discussion followed on how additional carrier's equipment might be accommodated. The Board wanted to know whether a structure could be superimposed over T-Mobile's equipment at a later date with the intention of accommodating other carriers within the structure.

Mr. Gascoigne agreed to provide the information requested by the Board. The hearing was then continued to November 18, 2003. (It was subsequently rescheduled to November 24, 2003)

OMNIPOINT HOLDINGS, INC.
BOSTON EDISON CO./NSTAR
163 Boston Post Road
03-53, 54, 55 Page 6

Jonathan G. Gossels, Chair

Melinda M. Berman, Acting Clerk

Patrick J. Delaney III

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

SOUTHWESTERN BELL MOBILE SYSTEMS LLC
D/B/A CINGULAR WIRELESS
20 Boston Post Road (landfill)
99-55 Amendment

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, OCTOBER 14, 2003

The Board consisted of:

Jonathan G. Gossels, Chair
Melinda M. Berman, Acting Clerk
Patrick J. Delaney III
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate

Notice was published in the Sudbury Town Crier on September 25 and October 2, 2003, posted, mailed and read at this hearing.

Mr. Gossels, Chair, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Present: Attorney Alex Parra and Dan Bilezikian, representing Cingular Wireless

Attorney Parra explained that this petition is for an amendment to SP 99-55 issued to AT&T in February 2000. That special permit allowed a limit of three carriers together with town emergency facilities. The diameter of the monopole was limited to 36 inches at the base and 26 inches at the top. Condition 5 required an equipment shelter 30X22 feet.

It is proposed to put a 10-foot wide addition on the existing equipment shelter so that its dimensions become 22X40 feet and to add an antenna array on the monopole with the centerline approximately 115-116 feet above the ground level with a stealth shroud (canister) wrapped around the antennas so that it would give the appearance of being part of the pole with a bump-out. The diameter of the shroud would be approximately 48 inches. The diameter of the pole where the shroud would be is approximately 24 inches. This would be connected with coaxial cable which would go across the existing bridge to the equipment shelter, then to the addition to the shelter.

Attorney Parra said this proposal has been reviewed by the Selectmen who have approved it. However, they have asked that Cingular Wireless agree to provide space for the town in their portion of equipment shelter to install the town's equipment which is a whip antenna at the top of the pole.

Mr. Gossels asked whether the narrowest possible diameter is 48 inches.

SOUTHWESTERN BELL MOBILE SYSTEMS LLC
D/B/A CINGULAR WIRELESS
20 Boston Post Road (landfill)
99-55 Amendment Page 2

Attorney Parra said it was his understanding that the technology of Cingular Wireless is such that this is the smallest they can use.

Referring to the 10 foot separation discussed earlier (Cases 03-53,54,55 – Omnipoint) and looking at this drawing, Mr. Delaney said it appears that what is existing right now are antenna structures located on the monopole between 140-150 feet, 130-140 feet and 120-130 feet. He said Cingular is proposing to locate one section down, which at the time of the original proposal was considered not to be not tall enough for a carrier. He said apparently after three years now it is tall enough. He said this Board was also told previously by AT&T that they couldn't fit enough cables into the diameter of the pole to support another antenna.

Mr. Bilezikian said the cables would come down the back side of outside pole and would consist of nine individual cables, each being 7/8s in diameter clamped 2-3 feet apart. He referred to Tab 3 of the application which includes a photo simulation. The cables are naturally black but can be painted the same color as the tower. The same is true for the band clamps.

Mr. Gossels felt that aesthetically this seems to just be a messy solution as opposed to some other solution to the conduit on the backside of the pole. Mr. Phelps agreed noting that from the photo simulations the cables are very visible.

Mr. Delaney said this monopole already has a suspicious bulge in it, and the one that was approved and built did not have a bulge in it.

Attorney Parra said that belongs to Verizon and is a 30-inch bulge.

Mr. Gossels said in some places antennas are inside poles. Therefore if antennas can be placed inside a 24-inch diameter pole, he asked why couldn't Cingular do it here within a 30-inch diameter shroud.

Mr. Bilezikian said PCS carriers can do it because they use different equipment. The cellular companies cannot do it which is why Verizon has a bulge.

Mr. Delaney asked whether another pole would be technically feasible or would a second pole block the first pole.

Mr. Bilezikian said two poles are feasible.

Mr. Gossels asked whether the location for the previous application, the Boston Edison site, would work for Cingular.

Mr. Bilezikian was not sure.

SOUTHWESTERN BELL MOBILE SYSTEMS LLC
D/B/A CINGULAR WIRELESS
20 Boston Post Road (landfill)
99-55 Amendment Page 3

The Board thought Mr. Gossels' suggestion a good one.

Mr. Klofft felt this proposal seems to try and create capacity where there wasn't really any capacity while there is a structure less than a third of a mile away. He felt it would be worth investigating whether or not that would work, and then to create a pole that is more useful for all.

Attorney Parra said Cingular has been actively involved with this site for this application for quite a period of time. He felt they would be loathe to switch directions at this time.

Mr. Gossels said it was the Board's position that there are concerns regarding some of the aspects of this application.

Mr. Phelps asked whether Cingular looked into the Boston Edison site.

Mr. Bilezikian said Cingular was not aware of the possibility until now.

Mr. Phelps said one difference is that for the landfill location the rent goes to the town, which has motivated the Selectmen to allow an extension by a 2-1 vote.

Mr. Gossels said his concern is with the looks of the proposal.

Mr. Phelps said this proposal is the second one submitted to the Selectmen. He said after feedback the first time around, Cingular came back with the canister approach.

Attorney Parra said there is an existing tower. Although it was created initially for three carriers, it is structurally capable of supporting this proposal. Looking at the photo simulations, he did not feel this to be a big difference in terms of visual impact.

Mr. Klofft said he would disagree on one point. He said the shroud is slightly unattractive, but then again the pole is slightly unattractive. However, to propose stringing wires down the back of the pole and then painting them to match the pole adds a maintenance issue because the cable will flex in the wintertime and the paint will crack and peel. He would be more amenable to the proposal if the cables could be put inside.

Mr. Delaney said when the monopole was originally constructed, AT&T went over and over again that there was no space left inside for another carrier.

Mr. Bilezikian asked whether the Board would be prepared to approve if Cingular could prove that it could go inside the pole.

Mr. Delaney said the Board could not answer that question right now but clearly it has two concerns: one is that the structure would be larger than it is now, and the other is the appearance of the cables. He would say that the BECO tower looks like an attractive option, certainly more attractive than building on this installation.

Mr. Bilezikian said Cingular has invested a substantial amount of time and money on this proposal for them for them to give up on to go with something which has not been approved yet. He added that this is the result of an RFP and the design was more or less dictated. In a sense, he said cellular carriers are at a disadvantage at this time. They can't fit the antennas into a pole of that diameter and are forced to bump it out and destroy the aesthetics of it.

Mr. Delaney said the Board approved that pole and had long discussions on the subject of diameter. A couple of options were presented. The Board put a lot of thought into the tradeoff in diameter which maxes out now at 36 inches at the base and smaller at the top as a tradeoff to get another carrier in there. He said this is the eastern entrance to the town. Granted it's not pretty but the Board doesn't want to make it any worse.

Ms. Berman said she participated in the original application and was initially was very concerned about putting this pole up. Now that it's been here for a while she never sees it. However, she felt there is nothing aesthetically pleasing to this pole no matter what is done to it and, with what is proposed for the outside, as long as it's maintained, she personally didn't see it as being any worse than it already is.

Attorney Parra said he would be willing to look at what the alternatives are in terms of the cable.

Mr. Delaney said at the original hearings, after reaching the conclusion that tradeoffs in diameter had to be made in order to accommodate a third carrier, the Board was also of a mind that it should be very careful of anything being installed on the outside of the pole, which is why he raised the question as to why the existing protrusion was allowed without ZBA approval.

He added that to the extent that the conditions specify that anything mounted externally needed ZBA approval, that's how concerned the Board was. Mr. Delaney would say that in order to ask this Board to waive the requirement established by the previous sitting Board, Cingular has to demonstrate why that condition is no longer necessary, and not just that it's useful for the purposes of installing another communications facility.

Mr. Bilezikian asked if it is the sense of the Board that its response to the BECO tower would be positive.

Mr. Phelps said he wouldn't discard the option of the BECO tower although he understood Cingular's investment in this application.

Mr. Bilezikian was not even sure at this point if it would work.

Attorney Parra asked whether the issue the Board wanted Cingular to pursue is primarily the cable and if there is a way to reduce the bulge.

Or, Mr. Klofft said, the Board would want to see other alternatives if the cable cannot be installed internally.

The Board noted it had no issue with the proposed ground facilities.

The hearing was continued to November 18, 2003. (It was subsequently rescheduled to November 24, 2003)

Jonathan G. Gossels, Chair

Melinda M. Berman, Acting Clerk

Patrick J. Delaney III

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

