

Case 07-45 – Stone Et Al – 554 Boston Post Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 & 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Ann Stone, Sharon Sutherland and Jamie Denn were present to represent a petition for renewal of Special Permit 06-35 to operate a kennel on the premises. Renewal was being requested under the same conditions as the original permit. They said there have been no issues or complaints with regard to the operation and are comfortable with the current conditions.

In response to a question from Mr. Gossels regarding the number of dogs, they replied that there are generally 5-6 dogs on the premises with the most at one time being 15.

Mr. Gossels said one of his concerns at the initial hearing was with the trail runs and dogs walking off leash. He asked whether there have been any issues with this.

They replied that there have been no problems. Dogs which are not good off leash are kept in the fenced-in area which works well. Dogs off-leash are restricted to the trail run which is on their property.

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

The following motion was placed and seconded:

MOTION: "To grant Anne Stone, Sharon Sutherland & Jamie Denn, applicants, renewal of Special Permit 06-35, granted under the provisions of Section 2313 of the Zoning Bylaws, to operate a kennel on the premises, property located at 554 Boston Post Road, Residential Zone A-1, subject to the following:

1. A kennel license will be required for this operation.
2. The dogs do not become a nuisance.
3. The maximum number of dogs allowed on the property is thirty.
4. There will be a 6:1 ratio of dogs to people allowed for this operation.
5. All dogs must wear tags which identify the business.
6. Each dog being dropped off must be on leash from the car to the facility.
7. No dogs will be allowed off leash in the area shown on the plan marked Exhibit #1 which is made part of this Special Permit.
8. Waste disposal shall be in accordance with Board of Health requirements.
9. No commercial activity consisting of breeding or sale of dogs will be allowed on the property.
10. Hours of operation shall be from 7AM-6PM. No overnight boarding of dogs will be allowed.
11. A sign in conformance with the Bylaw will be allowed.
12. Any complaints received by the applicants shall be reported immediately to the Dog Officer.
13. This permit is non-transferable and will expire in two (2) years on September 11, 2009, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

REASONS: The petitioners seek renewal of a special permit to operate a kennel on the premises. This kennel has been in operation for one year and there have been no problems associated with the operation or complaints from abutters.

The use is allowed in all districts by Special Permit from the Board of Appeals. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. The property consists of a large tract of land which contains a working farm stand located between two commercial businesses. The facility is not visible from Route 20. Adequate and appropriate facilities have been provided for proper operation. The

animals are restricted to the area as shown in the plot plan which is made part of this decision to insure the use will not be offensive to the adjoining zoning districts or neighboring properties.

The Board finds that a 2-year renewal period will allow for review to insure proper operation.

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-46 – Clarion Carriage House Inn – 738 Boston Post Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Douglas Milano, Assistant Manager, was present, representing the owner for renewal of Special Permit 04-32 to operate the Clarion Carriage Coach House Inn at 738 Boston Post Road. Renewal is being requested under the same conditions. Mr. Milano said there have been no issues with neighbors with regard to this operation.

Given that the inn has been in operation for several years without incident, Mr. Gossels would recommend a 5-year renewal period.

There were no further comments. No abutters were present. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Sudbury Hospitality LP d/b/a Clarion Carriage House Inn, applicant, Jon Haywood, owner of property, renewal of Special Permit 04-32, granted under the provisions of section 2230,A,C,Use 10 of the Zoning Bylaws, to operate a motel (inn) on the premises, property located at 738 Boston Post Road, Business District #5, provided that:

1. The westerly access (at the intersection of Boston Post Road and Lafayette Drive) shall be closed to all regular vehicular traffic and shall be access only to emergency vehicles.
2. There shall be no lighting affixed to the rear of the building.
3. The stockade fence and natural plantings (screening) shall be continually maintained and, if damaged or destroyed, shall be repaired or replaced within two weeks from such damage or destruction.
4. There shall be no rubbish pickup prior to 10:00AM or after 6:00PM.
5. Live entertainment shall be allowed on said premises provided that:
  - (1) any "live entertainment" be associated with a private function
  - (2) that it be held indoors
  - (3) that it be discontinued as of midnight
6. A lounge, located on the ground level of the premises, shall be allowed provided that:
  - (1) seating capacity shall be displayed and shall be in accordance with the requirements so stated by the State Fire Marshall and/or any other appropriate authority
  - (2) hours of operation shall be in accordance with the requirements of the applicant's current liquor license
7. This permit is non-transferable and will expire in five (5) years on September 11, 2012, and the board will consider renewal upon receipt of proper application on or before that date."

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

REASONS: The petitioner seeks renewal of a special permit to operate an inn in a business district. Under the Zoning Bylaw, the use as a hotel/motel is allowed with a special permit from the Board of Appeals and the Zoning Bylaw sets forth the criteria the Board must find in order to issue a special permit.

The inn has been in existence at this location for approximately 21 years. The petitioner, who has operated the in for the past 14 years, has complied with the conditions of the previous permits. The Board has observed that the inn has been meticulously maintained and its appearance is an asset to the area. Therefore the Board finds a 5-year renewal to be appropriate in this case.

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-47 – Robert & Sandra Williams – 11 Bradley Place

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Frank Riepe, architect, was present, representing the applicants, in a petition for special permit to alter and enlarge a nonconforming structure by constructing an addition for which a portion will encroach approximately 9 feet into the front yard setback. The lot is nonconforming in area and frontage. He distributed copies of a locus map and photos of the existing house and nearby houses. A plot plan and architectural renderings were submitted with the application.

He explained that a major renovation and expansion is planned for this house which is a ranch style house. It is proposed to remove the roof, put on a steeper roof and develop a second story cape-style house. The portion which will encroach is a one-story bay as shown on the plan which consists of approximately 100 s.f. The main façade of the existing house will remain at the same setback.

The neighborhood is a very compact neighborhood since most of the lots are nonconforming. From the photographs Mr. Riepe pointed out nearby properties which have lesser front yard setbacks than what would result from this addition.

Mr. Gossels said generally the Board is concerned with expansions that would loom, and this is not the case here with the cape style design.

Mr. Stevenson asked whether the abutters were contacted with regard to the expansion. Mr. Riepe said he had encouraged the owners to contact them, which they have. and everyone was in favor of the proposed construction.

In response to a question from Mr. Klofft regarding the second front door, Mr. Riepe explained that a new main front door would be put in as a result of removing the roof. The second door would be more of a patio door. He said the landscaping will be developed in front so that there will be a small terrace, and that door will be hardly noticeable.

There were no further comments. No abutters were present. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Robert & Sandra Williams, owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing an addition which will result in a front yard setback deficiency of 8 feet 4 inches  $\pm$ , as shown on Site Plan dated 8/10/07 prepared by Snelling & Hamel Associates, Inc., Lincoln, MA, property located at 11 Bradley Place, Residential Zone A-1."

This special permit shall lapse if construction has not begun, except for good cause, within twelve (12) months following the filing of the Special Permit approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.

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

REASONS: The petitioners require a special permit due to the nonconforming nature of the property. The Board finds that the proposed alteration and enlargement will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Only a modest portion of the proposed enlargement will encroach into the setback and the resulting renovations will enhance the appearance of the property. It was pointed out that this is a neighborhood of nonconforming lots with homes having more of a front yard deficiency than what is proposed. Further, the owners have spoken with the abutters who have no objection to the renovations.

The Board notes that the remainder of the addition, although not part of this petition, has been designed in a cape style which will not loom or visually impact the neighborhood.

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-49 – Bay Path Condominium Trust – 215 Boston Post Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the

decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Jennifer Bott, owner, was present to represent a petition to amend Special Permit 05-33 (Accessory Dwelling Unit) to include the addition of a secondary garage and driveway at 7 South Meadow Drive.

Mr. Klofft explained that this is the result of an appeal brought by Ms. Bott in March 2007 where the ZBA upheld the Building Inspector's determination that this change required an amendment to the Special Permit which was granted in 2005.

Mr. Klofft asked whether any additional changes have been made since March 2007. Ms. Bott said there were none. She said the accessory dwelling unit is identical to the plans originally submitted. Nothing in the front or rear elevation of the house has changed. It is only the side of the house facing the cul de sac. Ms. Bott said she has sent letters and has spoken with all of the homeowners on South Meadow Drive and no one had a problem with the secondary garage, driveway or accessory dwelling unit.

Mr. Gossels said at the time of the appeal, when the Board discussed this, he said he commented that he believed the Building Inspector was correct in his determination and that this was a technical issue. He felt comfortable with this application.

Mr. Klofft asked Building Inspector James Kelly for his comment. Mr. Kelly said this was a change which he felt needed to be approved by the Board. He also felt the change that was made is not detrimental to the neighborhood, nor was it significant. It was merely a process that had to be followed.

Marjorie Wallace, 148 Nobscot Road, abutter, said the garage is not visible from her home but the driveway and retaining wall are visible. Her objection was that at the first hearing a question was asked as to whether there was going to be a second driveway and Ms. Bott said there was not. She said at that point, if a second driveway was going to be put in, she would have objected because she felt it would look like an apartment.

Ms. Wallace said the Accessory Dwelling Bylaw specifically states that no accessory dwelling shall appear to look like anything other than a single family dwelling. She said there are two driveways, a retaining wall that highlights it, and there are garage doors on two sides of the house. She said originally there were three garage doors, one of which was going to be used for the accessory dwelling and this hasn't happened.

Her concern was that if someone is allowed to come in and obtain a permit to do something, and then does something different, and comes back to the ZBA, she questioned the purpose of the bylaw.

Mr. Gossels said there are two types of issues – zoning issues and neighborly issues. He said he was unhappy with the events which occurred and was upset at the appeal hearing with



what he saw as a subversion of the Board's decision; which was why the Board made Ms. Bott apply for the amendment. However, strictly from a zoning issue, he felt comfortable with this application. But there was still a neighborly issue he felt should be discussed between Ms. Bott and Ms. Wallace such as vegetated screening in an attempt at some sort of mitigation.

Ms. Bott said Ms. Wallace's house faces Nobscot Road and there is screening between her yard and the neighbor closest to her. If the garage and retaining wall were visible from her property, it would have to be from somewhere in her back yard. She said standing on Nobscot Road in front of Ms. Wallace's house and looking through to her house, one cannot see the additional garage space or retaining wall.

In response to questions from Mr. Stevenson, Ms. Wallace pointed out her house in relationship to the Bott house. She said if she is sitting in her living room and family room, she directly faces both driveways and the retaining wall. Her primary objection was that this is a violation of Section 5520 of the Accessory Dwelling Bylaw. She said Ms. Bott was asking for relief after the fact.

Mr. Gossels said this was understood. However, he said the Board has the right to reject her petition. She has to convince this Board to grant her application. One of the issues is that this is a very large house. It is not uncommon for other houses in town to be able to do the same types of architectural changes by right. It is also important that the town be able to have accessory dwellings.

Eric Poch, 154 Nobscot Road, abutter, while understanding the neighborly issues, felt that this was presented in direct association with a specific zoning bylaw and that all the other arguments have to rule on the basis of fact as it applies to that bylaw. He asked whether the as-built plans reflect either the garage or the driveway.

Mr. Kelly said there are no as-builts. To another question he replied that the original plan did not show the garage and driveway.

Discussion followed on the purpose of Mr. Kelly's determination, which led to Ms. Bott's appeal and the Board's subsequent upholding of Mr. Kelly's determination.

Mr. Kelly said the purpose for his determination was because at the time the permit was granted there was no mention of the second driveway or garage. The use was just a basement. Nor was it a walkout situation. That was changed. Part of the application was an elevation change. The proposed elevation is significant and therefore Ms. Bott had to come back to the Board for approval. The garage doesn't apply to the bylaw in terms of square footage for an accessory dwelling unit. The square footage is in compliance with the bylaw.

Mr. Klofft asked Mr. Poch if he was opposed to this amendment. Mr. Poch said if the Board were to rule in favor of the amendment to the special permit without taking into consideration the strict specifics of the bylaw itself, he would have a problem.

Mr. Gossels said the Board spent more than an hour at the appeal hearing in March discussing the specifics of the bylaw and whether Ms. Bott even had to come back to them. Ultimately, the Board ruled in favor of the Building Inspector's determination.

It seemed to Mr. Poch that that in this case there wasn't any opportunity for mitigation. He said there is a driveway coming down from the accessory dwelling with a fairly substantial retaining wall, so there's no way to screen. There is no streetscape that can be screened, no way to screen in the middle of the driveway, and screening of the top side of the retention wall would have an opposite effect on mitigation. He said it's a difficult situation.

Mr. Gossels said at the appeal hearing the Board went through the Bylaw and how this case impacted it.

Mr. Klofft said in many cases the Board deals with situations where it's clear what zoning will or will not allow. Then there are situations where zoning will allow something; however, there are issues with neighbors. In those cases the Board tries to work with the applicant and neighbor to the extent possible to say are there mitigations – things that can be done to make it less offensive to the point where there is a satisfactory end result.

Mr. Poch noted that the Board must also be cognizant that if it rules in favor of an exception based on the facts associated with the strict interpretation of the bylaw, a precedent is set.

Mr. Gossels said that applies only to variances. It does not set a precedent with special permits. There are different thresholds for special permits and variances. Typically, the circumstances surrounding special permits are sufficiently varied as to make each one unique.

It was Mr. Stevenson's understanding that the Board needs to decide whether to issue a new special permit. He anticipated the Board addressing the issue as to whether the driveway and garage fit into the nature of the rest of the neighborhood. Referring to Mr. Poch's statements relative to considering the strict specifics of the Bylaw, he asked Mr. Poch if there was a specific part of the bylaw which he felt should be adhered to.

Mr. Poch said the Accessory Dwelling Bylaw states that there will not be a separate driveway or access.

Mr. Klofft said it doesn't say driveway, it only deals with exterior entrances.

Mr. Poch felt the secondary access that makes it appear that way. Further, he felt the second driveway and the second garage clearly aligns specifically to the intent of the accessory dwelling and in his opinion seems to subvert the intent of the bylaw.

Mr. Garanin asked if the retaining wall was originally planned for at the time of the initial application.

Ms. Bott said originally there was supposed to be a swimming pool in the future. There was always going to be two retaining walls coming out of that side of the house. There was supposed to be two basement doors. However, when the addition was built, with the elevation of the property and the fact that it was all rock, they could not have two doors. Any more digging would have required blasting. That eliminated a pool. As it was constructed in 2005, before they had any idea of the garage space, it was just a sliding patio door – and there were going to be two retaining walls. The retaining wall that exists is more extensive than the one that was planned. She said they just didn't know at the time, in 2005, what those walls were going to entail.

Mr. Klofft asked whether the garage doors enter into the side of the building. Ms. Bott said they did.

With regard to adherence to the Bylaw, Mr. Klofft said the Bylaw states that all new exterior entrances shall be located on the side or rear of the dwelling. He said assuming that the garage is another entrance to the accessory dwelling, that entrance is to the side. And that would be in compliance with the bylaw.

Mr. Poch questioned the validity of the septic system and the fact that this property is located in Zone 2.

Mr. Klofft said septic is under the purview of the Board of Health which approved the system for the initial application. He said this Board has to assume that the Board of Health did its job correctly and understood the zone and what Ms. Bott was asking to do.

Mr. Stevenson asked Ms. Wallace if there was any mitigating buffering that would make her feel more comfortable.

Ms. Wallace said her overriding concern is the disregard for the Accessory Dwelling Bylaw.

Mr. Gossels explained that at the appeal hearing, the Board decided that material changes were made disregarding the original permit. That required Ms. Bott to come back with a formal application to see if the Board would amend its decision. He said that is what is before the Board this evening.

There was no further input. The hearing was closed.

MOTION: “To amend Special Permit 05-33 for an Accessory Dwelling Unit, granted to Jennifer M. Bott, owner of property, to include the addition of a secondary garage space and driveway, property located at 7 South Meadow Drive, Residential Zone A-1.

This amendment shall be made part of Special Permit 05-33 and includes all conditions of said permit. The first certification of occupancy as required under Condition 3 is September 11, 2011.”

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

REASONS: The petitioner seeks an amendment to a special permit which was granted on August 16, 2005. The petitioner subsequently made changes to the plans originally presented without benefit of an amendment. As a result, the Building Inspector determined that prior to issuance of a building permit, the petitioner must first obtain an amendment from the Board of Appeals. The petitioner appealed that determination. The Board of Appeals upheld the Building Inspector’s determination and the petitioner applied for an amendment.

The Board concurs with the Building Inspector’s opinion that this is a technical issue dealing with process. As to whether the second garage and driveway violate the intent of the Accessory Dwelling Bylaw, the Board finds that the question of two driveways resulting in the house appearing to look less like a single family has no merit since a second driveway and second garage could have been constructed as a matter of right without having an accessory dwelling unit.

The Board further finds that the accessory dwelling unit, when completed as amended, will not be in violation of the Bylaw. The Bylaw requires any new exterior entrance to be located on the side or in the rear of the dwelling, and this unit will comply with that requirement.

As a result, it is the opinion of the Board that the unit, as amended, meets the criteria under the Accessory Dwelling Bylaw.

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-50 – Jennifer Bott – 7 South Meadow Drive

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Attorney Brian Grossman was present, representing Omnipoint Communications, Inc. in a petition for a Variance to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The property is located at 667 Concord Road. Also present was Sameer Parakkavetty, RF Engineer.

Sameer Parakavetty displayed the coverage map of the area. He said the existing coverage is shown in green and the white area shows the gap in coverage. The pink area is the area that would be filled with the installation of the proposed facility.

Mr. Grossman said the site is zoned residential. A variance is required because the installation would be located 475 feet from the nearest property line, and 500 feet is required.

From a locus map, Mr. Grossman oriented the Board and audience to the location of the property. There is an existing barn on the property and it is proposed to add a small cupola to that barn to achieve the necessary height to fill the coverage gap. The overall height of the cupola will be 7 feet 10 inches above the peak of the barn roof. It will be approximately 5 feet wide.

He said this will allow Omnipoint to locate three antennas within the cupola, and these antennas will be sectored to point in three different directions allowing for 360 degrees of coverage. The height of the cupola will extend to a total height above ground level of 39 feet 11 inches.

There will be three base transceiver systems and one battery backup cabinet, power telephone cabinets, GPS and 911 antennas. There will be no generator. The BTS will be located outside the barn.

Mr. Gossels asked whether the equipment cabinets would be visible to the neighbors. Mr. Grossman replied that given the distance, he would not think they could be seen. They would be located approximately 1,000 feet from the nearest lot line from which they might be visible and will be surrounded by a 6-foot high wooden stockade fence.

In terms of external elements beyond the equipment cabinets, there will be a small cable tray which will be textured and painted to match the existing barn. The coaxial cables will then turn inside the barn running internally to the antennas.

The cupola will be manufactured by Durofiber, a company which is experienced with this type of installation.

Mr. Grossman elaborated on the criteria submitted in detail as part of the application which he felt justified the granting of a variance. He said this property includes an existing barn which is capable of being modified to allow this site to provide the necessary coverage to achieve the coverage needed to address the coverage gap. Adding a cupola and keeping the appearance of the barn minimizes any visual impact and eliminates the need to construct a tower. Although the property is 48+ acres, due to the shape of the lot, which is narrow, and the location of the barn, the facility still cannot meet the 500-foot setback by approximately 30 feet. He said there are no other alternative structures that could be constructed without the need for a variance or a use variance in the case of a tower.

With regard to hardship, Mr. Grossman said a literal enforcement of the bylaw would prevent Omnipoint from building out its network in accordance with its FCC license. It would prevent Omnipoint from providing coverage to this significant gap in accordance with its license.

Mr. Grossman felt relief could be granted without substantial detriment. He referred to the Planning Director's memo which spoke positively with regard to this application. He said relief will allow Omnipoint to provide the necessary coverage, the existing barn is adaptable to the proposed use and there will be no visual or noxious issues associated with the proposed use.

Frederick Walker, 18 Thompson Drive, abutter, commented on the location of these installations within residential districts and school areas. He said there are several children in his neighborhood and voiced concerns with regard to health, safety, oversight and maintenance associated with this type of installation.

Mr. Grossman said with regard to oversight, the property owner resides on the site. There will be a fence around the equipment cabinets to prevent unauthorized access and it will be gated with a lock. The cabinets will be set back sufficiently so that it would not create an attractive nuisance.

He said carriers have been located on school property. In Sudbury, they are located at Feeley Field which is a ball park.

With regard to health, Mr. Grossman said this site will comply with FCC regulations. He said emission standards have been developed by the FCC and Omnipoint is typically well less than 10% of those emission standards.

Michael Barnett, 64 Thompson Drive, abutter, said his house would be closest to this installation. He asked what would happen with multiple carriers in terms of emission standards.

Mr. Grossman explained that multiple carriers require calculation checks to insure compliance with regulations. He said currently there are facilities where 6 or more carriers are co-located and comply.

Mr. Gossels asked whether this cupola was designed for more than one carrier. Mr. Grossman said it is designed for one carrier. Richard Wolfe, owner, concurred.

Mr. Thompson's concern was if in the future another carrier wanted to locate there.

Mr. Klofft said another carrier would have to come before this Board for approval. If the concern was the additive effect, that carrier would have to demonstrate that it was still within limits. As to oversight in terms of regulation, he said the Board has no jurisdiction over the installation. Licensed FCC carriers are subject to FCC jurisdiction.

Mr. Grossman agreed. He said these installations are of such low power that they are not required to undertake annual emissions testing. He said, adding that this information was taken from a consultant from a town, that the 10% amount below emission standards previously mentioned is what is considered a worst case scenario assuming the site is running at maximum power with all channels being used all possible radio cabinets being used and with the maximum number of users the site can serve 24 hours/day 365 days/year.

Discussion followed with regard to the jurisdiction of the Board for these installations and the hiring of consultants to report on health aspects. Mr. Klofft said the Board has hired consultants in the past in certain situations, typically for issues where a variance was requested to install outside of the overlay district or where monopolies were being sought. In those cases, the consultant was primarily focused on the coverage gaps and whether there were other alternatives; i.e., using existing facilities. He was not personally aware of the Board hiring consultants to deal with the particular health aspects, the primary reason being that there is significant case law and court cases are universally overturned when Boards deny applications on the basis of health concerns. The way the Telecommunications Act of 1996 is written, it strips Boards of that argument as well as the argument that property values will decrease.

Mr. Klofft said Boards have control over determining if there is in fact a coverage gap and whether the wireless companies are working with the local communities to close that coverage gap.

Mr. Klofft added that Sudbury has a particular problem due to the fact that it is low and undulating which results in coverage gaps. This is part of the reason the overlay district was created and why the preference is for stealth-type systems as opposed to monopoles.

Craig Gruber, 187 Goodmans Hill Road, resident, said he would reject the word of a consultant through a third party.

Mr. Klofft said the Board can reject that information. However, he said it's not material because that issue is not within the Board's jurisdiction.

Mr. Gossels said wireless facilities prefer to achieve maximum coverage which would mean many 100-foot monopoles. The town has been working with them and encouraging them to use stealth systems which are visually unobtrusive.

Mr. Thompson said there are many other areas on this property where this could be built and be within the 500-foot setback.

Mr. Grossman said there are no other areas. Mr. Wolfe said the other barn on the property is not high enough, and it is not available.

Ms. Rubenstein asked whether the height of the cupola could have been higher to obtain more coverage, or was it based on aesthetics.

Mr. Grossman replied that in terms of height, in order to get a more notable increase in coverage it would have to be much taller and would have been out of keeping with the character, that it would have detracted from the barn.

A question was asked as to whether this cupola could house other carriers. Mr. Grossman did not think so given its size and the separation requirements between two carriers.

Mr. Klofft pointed out that the equipment appears to be higher than the stockade fence.

Mr. Grossman said if there are no fence restrictions, he would be willing to increase the height of the fence.

As to the sound of the fan, Mr. Grossman said it would be more like the sound of an air conditioner and it would not be running 24 hours/day. The orientation of the equipment is actually pointing towards the furthest point of the property.

The Board was in receipt of a memo dated September 10, 2007 from the Planning Director supporting the applicant's statement that the facility meets the intent of the bylaw and offers conditions with regard to utilities and screening of mechanical equipment.

There was no further input. The hearing was closed.



The following motion was placed and seconded:

MOTION: “To grant Omnipoint Communications, Inc., applicant, Pantry Brook Trust, owner of property, a Variance from the provisions of Section 4363 of the Zoning Bylaws, to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line, property located at 667 Concord Road, Residential Zone A-1, subject to the following:

1. All utilities running to the wireless facility shall be installed underground.
2. All mechanical equipment shall be completely screened from view by a stockade fence, which shall be maintained at all times in good repair, with access to same controlled by a locked gate.
3. External power will be by use of a battery back-up system. No generators will be allowed.”
4. Site Plan approval by the Selectmen is required.”

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

REASONS: The petitioner requires a variance to locate a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The Board finds that the petitioner has satisfied the criteria for granting a variance. Specifically, there are conditions affecting the land or structure but not generally affecting the underlying zoning district in that the Bylaw allows wireless facilities to be located in cupolas and spires of non-residential buildings or structures, or in agricultural buildings. Although this facility will be located in a cupola of an agricultural barn, it is within 500 feet of a residential lot line. The shape of the property, which is narrow, and the location of the barn is such that the required setback cannot be met. The Board finds the amount of deficiency to be minimal and further, that the proposed stealth facility will pose no danger to the residential zone because of its height, nor will it cause a visual nuisance as it will be entirely concealed within the cupola.

The Board finds that a hardship would result if the provisions of the Bylaw were to be literally enforced as this would prevent the petitioner from being able to fill in a demonstrated coverage gap and serve its existing and future customers.

The Board finds that there will be no substantial detriment to the public good if the variance is granted. The installation will comply with FCC regulations. As previously stated, it will be entirely concealed within the cupola of the barn and will be invisible to the public.

For the above reasons, it is the opinion of the Board that the granting of this variance will not nullify or substantially derogate from the intent of purpose of the Bylaw.

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

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-50 – Omnipoint Communications – 667 Concord Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Attorney Brian Grossman was present, representing Omnipoint Communications, Inc. in a petition for a Variance to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The property is located at 667 Concord Road. Also present was Sameer Parakkavetty, RF Engineer.

Sameer Parakavetty displayed the coverage map of the area. He said the existing coverage is shown in green and the white area shows the gap in coverage. The pink area is the area that would be filled with the installation of the proposed facility.

Mr. Grossman said the site is zoned residential. A variance is required because the installation would be located 475 feet from the nearest property line, and 500 feet is required.

From a locus map, Mr. Grossman oriented the Board and audience to the location of the property. There is an existing barn on the property and it is proposed to add a small cupola to that barn to achieve the necessary height to fill the coverage gap. The overall height of the cupola will be 7 feet 10 inches above the peak of the barn roof. It will be approximately 5 feet wide.

He said this will allow Omnipoint to locate three antennas within the cupola, and these antennas will be sectored to point in three different directions allowing for 360 degrees of coverage. The height of the cupola will extend to a total height above ground level of 39 feet 11 inches.

There will be three base transceiver systems and one battery backup cabinet, power telephone cabinets, GPS and 911 antennas. There will be no generator. The BTS will be located outside the barn.

Mr. Gossels asked whether the equipment cabinets would be visible to the neighbors. Mr. Grossman replied that given the distance, he would not think they could be seen. They would be located approximately 1,000 feet from the nearest lot line from which they might be visible and will be surrounded by a 6-foot high wooden stockade fence.

In terms of external elements beyond the equipment cabinets, there will be a small cable tray which will be textured and painted to match the existing barn. The coaxial cables will then turn inside the barn running internally to the antennas.

The cupola will be manufactured by Durofiber, a company which is experienced with this type of installation.

Mr. Grossman elaborated on the criteria submitted in detail as part of the application which he felt justified the granting of a variance. He said this property includes an existing barn which is capable of being modified to allow this site to provide the necessary coverage to achieve the coverage needed to address the coverage gap. Adding a cupola and keeping the appearance of the barn minimizes any visual impact and eliminates the need to construct a tower. Although the property is 48+ acres, due to the shape of the lot, which is narrow, and the location of the barn, the facility still cannot meet the 500-foot setback by approximately 30 feet. He said there are no other alternative structures that could be constructed without the need for a variance or a use variance in the case of a tower.

With regard to hardship, Mr. Grossman said a literal enforcement of the bylaw would prevent Omnipoint from building out its network in accordance with its FCC license. It would prevent Omnipoint from providing coverage to this significant gap in accordance with its license.

Mr. Grossman felt relief could be granted without substantial detriment. He referred to the Planning Director's memo which spoke positively with regard to this application. He said relief will allow Omnipoint to provide the necessary coverage, the existing barn is adaptable to the proposed use and there will be no visual or noxious issues associated with the proposed use.

Frederick Walker, 18 Thompson Drive, abutter, commented on the location of these installations within residential districts and school areas. He said there are several children in his neighborhood and voiced concerns with regard to health, safety, oversight and maintenance associated with this type of installation.

Mr. Grossman said with regard to oversight, the property owner resides on the site. There will be a fence around the equipment cabinets to prevent unauthorized access and it will be gated with a lock. The cabinets will be set back sufficiently so that it would not create an attractive nuisance.

He said carriers have been located on school property. In Sudbury, they are located at Feeley Field which is a ball park.

With regard to health, Mr. Grossman said this site will comply with FCC regulations. He said emission standards have been developed by the FCC and Omnipoint is typically well less than 10% of those emission standards.

Michael Barnett, 64 Thompson Drive, abutter, said his house would be closest to this installation. He asked what would happen with multiple carriers in terms of emission standards.

Mr. Grossman explained that multiple carriers require calculation checks to insure compliance with regulations. He said currently there are facilities where 6 or more carriers are co-located and comply.

Mr. Gossels asked whether this cupola was designed for more than one carrier. Mr. Grossman said it is designed for one carrier. Richard Wolfe, owner, concurred.

Mr. Thompson's concern was if in the future another carrier wanted to locate there.

Mr. Klofft said another carrier would have to come before this Board for approval. If the concern was the additive effect, that carrier would have to demonstrate that it was still within limits. As to oversight in terms of regulation, he said the Board has no jurisdiction over the installation. Licensed FCC carriers are subject to FCC jurisdiction.

Mr. Grossman agreed. He said these installations are of such low power that they are not required to undertake annual emissions testing. He said, adding that this information was taken from a consultant from a town, that the 10% amount below emission standards previously mentioned is what is considered a worst case scenario assuming the site is running at maximum power with all channels being used all possible radio cabinets being used and with the maximum number of users the site can serve 24 hours/day 365 days/year.

Discussion followed with regard to the jurisdiction of the Board for these installations and the hiring of consultants to report on health aspects. Mr. Klofft said the Board has hired consultants in the past in certain situations, typically for issues where a variance was requested to install outside of the overlay district or where monopoles were being sought. In those cases, the consultant was primarily focused on the coverage gaps and whether there were other alternatives; i.e., using existing facilities. He was not personally aware of the Board hiring consultants to deal with the particular health aspects, the primary reason being that there is significant case law and court cases are universally overturned when Boards deny applications on the basis of health concerns. The way the Telecommunications Act of 1996 is written, it strips Boards of that argument as well as the argument that property values will decrease.

Mr. Klofft said Boards have control over determining if there is in fact a coverage gap and whether the wireless companies are working with the local communities to close that coverage gap.

Mr. Klofft added that Sudbury has a particular problem due to the fact that it is low and undulating which results in coverage gaps. This is part of the reason the overlay district was created and why the preference is for stealth-type systems as opposed to monopoles.

Craig Gruber, 187 Goodmans Hill Road, resident, said he would reject the word of a consultant through a third party.

Mr. Klofft said the Board can reject that information. However, he said it's not material because that issue is not within the Board's jurisdiction.

Mr. Gossels said wireless facilities prefer to achieve maximum coverage which would mean many 100-foot monopoles. The town has been working with them and encouraging them to use stealth systems which are visually unobtrusive.

Mr. Thompson said there are many other areas on this property where this could be built and be within the 500-foot setback.

Mr. Grossman said there are no other areas. Mr. Wolfe said the other barn on the property is not high enough, and it is not available.

Ms. Rubenstein asked whether the height of the cupola could have been higher to obtain more coverage, or was it based on aesthetics.

Mr. Grossman replied that in terms of height, in order to get a more notable increase in coverage it would have to be much taller and would have been out of keeping with the character, that it would have detracted from the barn.

A question was asked as to whether this cupola could house other carriers. Mr. Grossman did not think so given its size and the separation requirements between two carriers.

Mr. Klofft pointed out that the equipment appears to be higher than the stockade fence.

Mr. Grossman said if there are no fence restrictions, he would be willing to increase the height of the fence.

As to the sound of the fan, Mr. Grossman said it would be more like the sound of an air conditioner and it would not be running 24 hours/day. The orientation of the equipment is actually pointing towards the furthest point of the property.

The Board was in receipt of a memo dated September 10, 2007 from the Planning Director supporting the applicant's statement that the facility meets the intent of the bylaw and offers conditions with regard to utilities and screening of mechanical equipment.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Omnipoint Communications, Inc., applicant, Pantry Brook Trust, owner of property, a Variance from the provisions of Section 4363 of the Zoning Bylaws, to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line, property located at 667 Concord Road, Residential Zone A-1, subject to the following:

5. All utilities running to the wireless facility shall be installed underground.
6. All mechanical equipment shall be completely screened from view by a stockade fence, which shall be maintained at all times in good repair, with access to same controlled by a locked gate.
7. External power will be by use of a battery back-up system. No generators will be allowed."
8. Site Plan approval by the Selectmen is required."

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

REASONS: The petitioner requires a variance to locate a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The Board finds that the petitioner has satisfied the criteria for granting a variance. Specifically, there are conditions affecting the land or structure but not generally affecting the underlying zoning district in that the Bylaw allows wireless facilities to be located in cupolas and spires of non-residential buildings or structures, or in agricultural buildings. Although this facility will be located in a cupola of an agricultural barn, it is within 500 feet of a residential lot line. The shape of the property, which is narrow, and the location of the barn is such that the required setback cannot be met. The Board finds the amount of deficiency to be minimal and further, that the proposed stealth facility

will pose no danger to the residential zone because of its height, nor will it cause a visual nuisance as it will be entirely concealed within the cupola.

The Board finds that a hardship would result if the provisions of the Bylaw were to be literally enforced as this would prevent the petitioner from being able to fill in a demonstrated coverage gap and serve its existing and future customers.

The Board finds that there will be no substantial detriment to the public good if the variance is granted. The installation will comply with FCC regulations. As previously stated, it will be entirely concealed within the cupola of the barn and will be invisible to the public.

For the above reasons, it is the opinion of the Board that the granting of this variance will not nullify or substantially derogate from the intent of purpose of the Bylaw.

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

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-51 – Omnipoint Communications – 16 Great Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 11, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Nancy G. Rubenstein, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on August 23 and 30, 2007, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Attorney Brian Grossman was present, representing Omnipoint Communications, Inc., in a petition for a Variance to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The property is located at 16 Great Road and is St. John Evangelical Church. Also present was Sameer Parakkavetty, RF Engineer.

It is proposed to locate the antenna assembly within the spire and cross of the steeple on the church. It is also proposed to replace the existing 4-inch square cross portion and replace it with a 7-inch square hollow fiberglass cross that will be painted to match the existing cross both in texture and color. This will allow the antenna assembly to be located entirely within the steeple.

Mr. Klofft asked Mr. Grossman to elaborate on the design of the installation. Mr. Grossman said the pictures submitted with the application are a representation of what it will look like. The existing elevation of the steeple and cross is 75 feet. Although the cross will be replaced, the 75-foot height will still be maintained.

Mr. Grossman displayed the coverage map of Route 117 and the surrounding area. The existing coverage is shown in green with the white area being the coverage gap. The pink color depicts the area that would be filled with the installation of the proposed facility. He said this installation will fill a significant coverage gap.

Mr. Grossman said the lot size made it a particularly difficult siting challenge. Also, the search for a site in this area was somewhat exhaustive. With regard to this site and the number of abutters and the concerns of the church wanting to be sure the members of the community were aware of what was going on, during the leasing process representatives from Omnipoint held two meetings at the request of the church to address any concerns.

There will be 3 antennas with coaxial cables running down inside the spire down to the roof, underneath some architectural features on the roof, through the roof itself to an equipment room on the second floor. The equipment consists of three base transceiver systems, one battery backup cabinet, power telephone cabinets, GPS and 911 antennas. There will be a small HVAC unit on the side of the property looking toward North Road which will be screened.

Mr. Grossman elaborated on the criteria which he felt justified the granting of a variance which was also submitted in detail as part of this application. With regard to soil conditions, shape or topography, he said given that the lot is wedge shaped and given the location of the church and general development in the area, meeting the 500 foot setback is not possible. There is no other alternative which will allow for the existing coverage gap to be filled.



With regard to hardship, Mr. Grossman said Omnipoint needs to close a significant gap in coverage and provide reliable service under the Telecommunications Act. A literal enforcement of the bylaw would prevent them from accomplishing this resulting in a potential loss of customers and the inability to compete with other FCC licensed carriers.

As to whether the granting of a variance would substantially derogate from the intent or purpose of the bylaw, Mr. Grossman reiterated that the facility complies with the requirements of the Wireless Bylaw with the exception of the 500 foot setback. It will utilize an existing steeple and the resulting facility will be unobtrusive and invisible to the public. The existing cross is adaptable to the proposed use and requires only a minor increase in the width and no increase in the height.

Since this was a dense area, Mr. Gossels asked whether Omnipoint would be amenable to a condition requiring the quietest commercial unit available for the size of the installation.

Mr. Grossman was hesitant to use the wording “commercially available” but was amenable to the term “appropriate for use”. The Board was comfortable with this.

Mr. Stevenson asked what other alternative locations were considered in that area. Mr. Grossman said they looked at the barn on Dakin Farm which provided redundant coverage, Maynard Rod & Gun Club which would not have provided the coverage needed and would have required a tower installation, and Camp Sewataro and Sierras Restaurant which were not receptive.

There were no further comments. No abutters were present. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Omnipoint Communications, Inc., applicant, St. John’s Evangelical Lutheran Church, owner of property, a Variance from the provisions of Section 4363 of the Zoning Bylaws, to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line, property located at 16 Great Road, Residential Zone A-1, subject to the following:

1. All utilities shall be installed underground.
2. External power will be by use of a battery back-up system. No generators will be allowed.
3. The HVAC unit used will be the quietest unit available appropriate for the use. It will be screened by vegetation which will be perpetually maintained.
4. Site Plan review by the Selectmen is required.”

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

REASONS: The petitioner requires a variance to locate a radiating component of a wireless service facility to be located within 500 feet of a residential lot line. The board finds that the petitioner has satisfied the criteria for granting a variance. Specifically, there are conditions affecting the land or structure but not generally affecting the underlying zoning district in that the Bylaw allows wireless facilities to be located in existing steeples. Although the facility will be located in a steeple, the structure is within 500 feet of a residential lot line. However, the Board finds that the proposed stealth facility will pose no danger to the residential zone because of its height, nor will it cause a visual nuisance as it will be entirely concealed within the steeple and cross.

The Board finds that a hardship would result if the provisions of the Bylaw were to be literally enforced as this would prevent the petitioner from being able to fill in a demonstrated coverage gap and serve its existing and future customers. A search for alternative sites within the area would not provide the coverage needed or resulted in negative responses from those owners.

The Board finds that there will be no substantial detriment to the public good if the variance is granted. The installation will comply with FCC regulations. As previously stated, it will be entirely concealed within the steeple and cross of the church and be completely invisible to the public. Additionally, no abutters were present to oppose this petition.

For the above reasons, it is the opinion of the Board that the granting of this variance will not nullify or substantially derogate from the interest or purpose of the Bylaw.

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Jeffrey P. Klofft, Chairman

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Nancy G. Rubenstein, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Benjamin D. Stevenson, Associate

Case 07-52 – Omnipoint Communications – 104 Wayside Inn Road

Case Number: 07-52

September 25, 2007

#### NOTICE OF DECISION

Location of Property:

Owner's Title Reference:

Deed Dated: \_\_\_\_\_

104 Wayside Inn Road  
(Martha Mary Chapel)

Book #: 6916 Page #: 361

Name and Address of Applicant:

Name and Address of Owner:

Omnipoint Communications, Inc. subsidiary of  
T-Mobile USA Inc.  
15 Commerce Way  
Norton, MA 02766

Wayside Inn Corporation  
72 Wayside Inn Road  
Sudbury, MA 01776

After a hearing held September 11, 2007, the Board of Appeals of the Town of Sudbury voted

MOTION: "To grant Omnipoint Communications, Inc., applicant, Wayside Inn Corporation, owner of property, a Variance from the provisions of Section 4363 of the Zoning Bylaws, to allow a radiating component of a wireless service facility to be located within 500 feet of a residential lot line, property located at 104 Wayside Inn Road (Martha Mary Chapel), Wayside Inn Historic Preservation Zone, subject to the following:

1. All utilities shall be installed underground.
2. All mechanical equipment shall be screened from view of the adjacent streets (Wayside Inn Road and Dutton Road).
3. External power will be by use of a battery back-up system. No generators will be allowed.
4. Site Plan review by the Selectmen is required."

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

Members present and voting: Jeffrey P. Klofft, Chairman, Nancy G. Rubenstein, Acting Clerk, Jonathan G. Gossels; Stephen A. Garanin, Benjamin D. Stevenson, Associates

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The reasons for this decision can be found in the minutes of the hearing on file with the Town Clerk, which are incorporated herein and made a part hereof.

Any appeal of this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and a copy of the appeal shall be filed in the Town Clerk's Office within twenty (20) days after the date of filing of this Decision in the Office of the Town Clerk.

Case Number: 07-52  
Omnipoint Communications, Inc.  
104 Wayside Inn Road  
Page 2

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NOTE: The Decision rendered herein is concerned only with the Zoning Bylaw and not with the Building Code or any other Town Bylaw. The applicant is responsible for determining and complying with Town, State, and Federal regulations in using the authorization granted.

BOARD OF APPEALS

By \_\_\_\_\_, Clerk



