

The Board consisted of:

Elizabeth T. Quirk, Chair; Stephen A. Garanin; Jonathan G. Gossels; Jeffrey P. Klofft; and Benjamin D. Stevenson

MEETING OF THE ZONING BOARD OF APPEALS

The meeting was convened at 8:40 p.m.

Continuation of Public Hearing – Cases 10-3 and 10-4 – Verizon Wireless, 199 Raymond Road:

The hearing was reconvened by the Chair, Elizabeth Quirk. Daniel Klasnick, Attorney at Duval, Klasnick & Pastel LLC, was in attendance on behalf of Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless, applicant, to present a petition for both a special permit under the provisions of Section 4300 of the Zoning Bylaws to allow a wireless facility in the Wireless Overlay District and a dimensional variance from Section 4363 of the Zoning Bylaws to allow the installation and operation of a wireless communications facility to be located within 500 feet of a residential lot line, property located at 199 Raymond Road.

Mr. Klasnick began by distributing to the Board copies of supplementary materials that Verizon Wireless prepared to answer questions raised at the ZBA meeting on March 1, 2010. The materials included revised drawings of the site with a tree survey, an Affidavit of Radio Frequency Engineer, and Coverage Maps at both 90 and 120 feet. While the Board had asked for a study of a 90 foot tower, Mr. Klasnick said that it was still the opinion of Verizon that a 100 foot tower was needed in order to accommodate future co-locators. He said that the write-up from the engineer, Jason Flanagan, showed that the height of the trees in the area would affect signal transmission at the 90 foot height and Verizon is concerned about the resulting reduction in service.

Mr. Gossels said that he did not see the materials being responsive to the Board's concerns. He did not see any factual evidence in the write-up. He also did not see why Verizon was pressing the issue of a potential fourth carrier on the tower when a fourth carrier was not part of the application.

Ms. Quirk noted that the bylaws encourage co-locating, so she thought it would be appropriate to consider as many co-locators as possible. Mr. Klasnick said that the materials provided were an attempt to respond to the feasibility of a 90 foot tower and document the tree survey at the same time. He said that the application has attempted to present Verizon's case to satisfy their coverage objectives. He further said that Verizon has opted to propose a stealth facility in order to maintain a less obtrusive tower. Mr. Klasnick said that he feels the application is in compliance with the bylaw, and was written in response to the Sudbury Water District's RFP. The only relief being sought was from the distance from a residential lot line.

Ms. Quirk said that the proposal is for a site located in the Wireless Overlay District and noted that a 100' tower is allowed in the bylaw. She felt that with the maps Verizon had demonstrated an existing gap in coverage.

Mr. Klofft disagreed that a gap in coverage had been demonstrated. He argued that Verizon does have existing coverage in the area and what they are seeking is additional coverage.

Mr. Klasnick said that through the original application and supplemental materials, Verizon has submitted maps for existing service, the radio frequency affidavit, and MetroPCS coverage maps, which show existing proposed coverage and the gaps in between.

Mr. Gossels said that wireless towers are eyesores and therefore should be as short as possible. He felt that in the photo simulations the tower would be very visible from the Sudbury Farms shopping plaza. He considered this a visual nuisance.

Mr. Stevenson suggested that ten feet isn't that much of a difference and said that he would rather have one taller tower than more than one shorter towers.

Mr. Garanin said that he would base his opinion on aesthetics. He said that the photo simulations provided by Verizon showed an ugly tower, which is why he wanted to know more about the tree canopy. He did not see a great difference in coverage from the maps provided.

Mr. Klasnick said that Verizon has tried to present the best case for a 100 foot tower, but that Verizon would be receptive to a 90 foot tower.

Ms. Quirk asked whether any neighbors were present who wished to speak.

Briana and Alexander Thuijs, 225 Raymond Road, were present. Ms. Thuijs asked about the height of the average tree because she wanted to know exactly how much over the canopy the tower would rise. The information provided did not include a specific height measurement.

Mr. Gossels said that on average mature maple trees can be between 60 and 70 feet tall. Pine trees can be higher. He then wanted to know why there was a ten foot separation between the carriers.

Mr. Klofft asked Sudbury's Building Inspector, Jim Kelly, for the average number of co-locators on wireless towers in Sudbury. Mr. Kelly estimated that the average number was three.

Mr. Klasnick said that there was interest from MetroPCS in co-locating on a 100 foot pole, but he was willing to accept a 90 foot tower.

Ms. Thuijs said that she was still questioning the gaps in coverage. She found the maps misleading because the green area that showed coverage was not shaded to show any differentiation in coverage. She said that she saw this tower as a back-up tower since there are

other Verizon towers in Sudbury. Since her property falls within the 500 foot radius of the tower she is still concerned about the safety of the tower in regard to construction techniques rather than signal safety. She said that she and her husband had purchased their property with the intent to perhaps create an accessory apartment in the garage, which falls within the 500 foot radius of the tower and she was concerned about whether they could proceed with those plans in the future due to safety.

The Board agreed that the maps could have been better illustrated through shading to show coverage. Mr. Klasnick said that he would take that into consideration in the future.

Mr. Klofft asked about fuel storage on the property. Diesel fuel would be kept on site and re-filled as needed from trucks using the access road already in existence.

Mr. Gossels said that he could support a 90 foot tower.

There were no further comments from the Board or audience. The hearing was closed.

The following motions were placed and seconded:

MOTION #1 (Case 10-3): "To grant Bell Atlantic Mobile of Massachusetts Corporation, Ltd. D/B/A Verizon Wireless, LLC, applicant, and Sudbury Water District, owner of property, a Special Permit under the provisions of 4300 of the Zoning Bylaws, to allow a 90-foot, 4-carrier stealth monopole wireless facility, including associated equipment in the Wireless Overlay District, property located at 199 Raymond Road, Residential Zone A-1, provided that

1. The monopole shall be in accordance with plans prepared by Dewberry-Goodkind, Inc., Boston, MA, dated October 28, 2009, Sheets T1, Z-1, Z-2, Z-3, Z-4, and Z-5;
2. Equipment to service the site will be located within a 70' x 70' fenced and gated compound. The equipment shelter, measuring 12' x 30' x 10.75' shall house 2 HVAC units and a diesel-powered emergency generator. Diesel fuel must be stored according to Federal and State regulations. An exterior light that complies with the lighting bylaw will illuminate the doorway;
3. All proposed antennas will be located entirely within the monopole;
4. Space shall be made available on the tower for use by Town of Sudbury public safety equipment, including but not limited to antennas, cables, and ground equipment;
5. In the event permission is granted to add antennas for fire/safety, the Applicant shall allocate space in the lease area sufficient to house the town's equipment;
6. There will be no lighting on the pole unless required by the FAA;
7. No flag will be flown at the top of the pole;

8. Vegetation on the site shall be preserved; and
9. The approval granted herein shall expire in five (5) years on March 22, 2015. Continued operation of the facility shall be subject to application for and renewal by the Zoning Board of Appeals.

VOTED: In favor: 4 Opposed: 1 (Klofft)

MOTION #2 (Case 10-4): “To grant, in the words of the application, Bell Atlantic Mobile of Massachusetts Corporation, Ltd. D/B/A Verizon Wireless, applicant, and Sudbury Water District, owner of property, a Variance from the provisions of Section 4363 of the Zoning Bylaws, to allow the installation and operation of a wireless communications facility to be located within 500 feet of a residential lot line, property located at 199 Raymond Road, Residential Zone A-1.”

VOTED: In favor: 4 Opposed: 1 (Klofft)

REASONS: A special permit is needed to erect wireless services in a Wireless Services Overlay District. The Board felt that a pole that allows for future opportunities for co-location would support the bylaw’s intent while at the same time broaden the range of available wireless services for Town residents.

The petitioner requires a variance to locate a wireless communications facility within 500 feet of a residential lot line. The Board finds that the petitioner has satisfied the criteria for granting a variance. 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. 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 or purpose of the Bylaw.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

Request for Extension of Time – Case 06-54 – William W. Peng, 115 Willis Road:

Mr. Peng was present to request an extension of time for his special permit, Case 06-54, to complete demolition and removal of his old house at 115 Willis Road. At its November 2, 2009 meeting the ZBA had granted Mr. Peng an extension until March 5, 2010 to tear down and remove his old house from his property. Mr. Peng said that due to a number of factors over the winter and the current contractor's schedule he will need more time to complete this project.

Several of Mr. Peng's neighbors were present to express their concerns that the work has not been completed.

The Board was in agreement that given the multiple extensions granted over the course of the project the work had to be completed by a definitive deadline. The Board agreed to extend the deadline until April 2, 2010. If the house is not demolished and removed by April 2 then the Board said that Mr. Peng would be in violation of his special permit and fines would begin to accrue.

Upon motion, an extension to complete demolition and removal of the old house was granted until April 2, 2010.

VOTED: In favor: 5 Opposed: 1 (Garanin)

Elizabeth T. Quirk, Chair

Nancy G. Rubenstein, Clerk

Stephen A. Garanin

Jeffrey P. Klofft

Jonathan G. Gossels

Benjamin D. Stevenson

Continuation of Public Hearing – Cases 10-9 (11 Ford Road), 10-10 (19 Greenwood Road), 10-11 (41 Great Road), 10-12 (56 Great Road), and 10-13 (10 Landham Road) – Sudbury Housing Authority:

The hearing was reconvened by the Acting Chair, Jonathan Gossels. Appearing on behalf of the applicant were Jo-Anne Howe, Sudbury Housing Authority, and Joshua Fox, Attorney at Rollins, Rollins, and Fox. The Board was in receipt of draft decisions for cases 10-9, 10-10, 10-11, 10-12, and 10-13.

The Board reviewed the decisions, making the following changes on each:

- a) Update Zoning Board Member Elizabeth Quirk’s name to reflect her married name.
- b) Correct the applicant’s name to read Sudbury Housing Authority.
- c) Confirm the lot size on the decision for 10 Landham Road.

Upon completion of the review of the draft decisions, the Board voted to close the hearing. A motion was made for each. They were seconded and it was unanimously voted to approve the decisions as drafted, with the amendments as discussed. The Board then signed the decisions.

Jonathan G. Gossels, Acting Chair

Nancy G. Rubenstein, Clerk

Stephen A. Garanin

Benjamin D. Stevenson

Elizabeth T. Quirk

There being no other business the meeting was adjourned.