

CASE 10-1
Camp Sewataro
One Liberty Ledge

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, January 4, 2010

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

Notice was published in the *Sudbury Town Crier* on December 17 and December 24, 2009, posted, mailed and read at this hearing.

Ms. Quirk, as Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Mark Taylor, applicant, accompanied by several family members and staff, presented a petition to renew Special Permit 05-6 granted under the provisions of Section 2140 of the Zoning Bylaws, to conduct a summer day camp. The property is located at One Liberty Ledge.

Mr. Taylor gave a brief summary of the history of his special permits and renewal terms. He explained that he was seeking only a few modifications to the permit which would include adding two weeks to the June camp session to accommodate a half day preschool program; extending the hours of daily operations from 8:30 a.m. to 3:30 p.m. to 7:00 a.m. to 6:30 p.m. to accommodate working parents of camp attendees; making the camp accessible on evenings and weekends to parents and families of campers during the summer camp session so that families can enjoy the facilities together outside of regular camp hours; and opening the camp for occasional use throughout the year for special programs for school children or weekend family activities. He stated that these changes would allow Camp Sewataro to better serve families by making the camp and its facilities accessible.

Ms. Quirk said that she was generally in favor of the requested changes.

Mr. Gossels said that he is a big fan of the camp and feels Camp Sewataro is a great institution for the Town. He was amenable to increasing the duration of the camp session into June, and felt that extending the hours of daily operation would help spread out the traffic generated at drop-off and pick-up times. He also said that opening the camp for use on summer evenings and weekends along with occasional times throughout the year would add revenue for the camp, although he requested further definition in the conditions for extending usage.

Mr. Taylor said that additional uses could include programming during school vacation weeks, field trips from area schools or Sudbury Extended Day, and additional programming such as weekend courses on snowshoeing, cross country skiing, fly fishing or rock climbing.

Mr. Klofft asked whether there were any neighbors present who wished to comment on the proposal to extend operations into the evenings or on weekends.

Bill Dowie of Liberty Ledge Real Estate Trust, property owner, said that he had a meeting at his house that was attended by six abutters. Most of the response from abutters appeared to be positive.

Joseph Lobacki, resident at 135 Greystone Lane, said that his only concern was whether traffic would increase on summer weekends. Mr. Taylor said that he planned to only offer extended use to approximately 100 camp families (out of 600 campers), a measure he felt would limit traffic.

The Board discussed the language of the existing conditions and whether changes needed to be made in regard to daily hours of operation. As there were no restrictions imposed for hours of operations current conditions were sufficient. Additionally the "summer session" was broadly defined so that the issue of extending the camp session needed no further definition.

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

The following motion was placed and seconded:

MOTION: "To grant Camp Sewataro, Inc., applicant, and Liberty Ledge Real Estate Trust, property owner, renewal of Special Permit 05-6, granted under the provisions of Section 2140 of the Zoning Bylaws, to conduct a summer day camp, property located at One Liberty Ledge, Residential Zone A-1, as follows:

1. The number of campers for nursery, kindergarten and first graders shall not exceed 150.
2. The number of campers for all other campers to age 14 shall not exceed 450.
3. The camp may also offer additional programming for up to 100 camp families on evenings and weekends during the regular camp session in June, July, and August through Labor Day.
4. The camp may also be opened for occasional use up to 15 days per year outside of the regular summer season, September through May.
5. This permit will expire in five (5) years on January 4, 2015, and the Board will consider renewal upon receipt of proper application on or before that date."

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

REASONS: This camp has been in existence since 1960 and has operated with no detriment to the neighborhood. The Board finds that the petitioners have consistently met the requirements for the granting of a special permit and considers this camp to be an asset to the community. Proper facilities are in place for this operation which continues to exist harmoniously with the surrounding neighborhood. No complaints have been received with regard to camp operations.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

CASE 10-2
Robert and Michelle Hause
47 Pratts Mill Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, January 4, 2010

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

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Robert Hause, applicant and owner, presented a petition for a special permit under the provisions of Section 5500 of the Zoning Bylaws to allow an accessory dwelling unit in an existing detached barn on the applicant's property located at 47 Pratts Mill Road.

Mr. Hause explained that he wanted to turn the existing space above his barn into an accessory dwelling. He said that he may have his mother-in-law moving into the space.

Ms. Quirk questioned whether Mr. Hause was selling his house as she had recently seen a for-sale sign on the property. Mr. Hause said that he is in fact considering selling as he looks around for other property.

Ms. Quirk clarified the fact that upon sale, or transfer of ownership, a special permit for an accessory dwelling is then terminated and the new owner would be required to seek a special permit for the unit if it were to be occupied.

Ms. Quirk asked what renovations needed to be completed in order to have a fully functioning unit. Mr. Hause said that the barn has been used for storage for 30 years. There is about 500 square feet of living space, which is heated and which has been used to house guests. A bathroom at the site is about a year old. Kitchen facilities would have to be added.

Mr. Klofft asked whether there was an adequate septic system to which Mr. Hause answered that the main house was equipped for three bedrooms and Health Director Bob Leupold said that he would only have to remove his garbage disposal to make the system comply.

Ms. Quirk noted for the record that the Zoning Board was in receipt of an e-mail from Jacqui and Joe Bausk, neighbors across the street at 50 Pratts Mill Road, stating that they were in support of the project.

Mr. Hause said that there are few neighbors who would be impacted by the project, particularly due to the fact that parking was in the back of the property.

Ms. Quirk then asked whether any neighbors were present who wanted to speak. James Congleton, direct abutter at 3 Wilson Road, expressed concerns about the project because the accessory dwelling would be visible from his property where he has a pool. He has been disturbed in the past by activity on the Hause's property mainly involving noise. He has concerns about the potential for use of the barn for business ventures and referenced the large number of trucks already parked on the property. He then presented photos of the Hause's barn as seen from the vantage point of his dining room window.

Mr. Klofft questioned whether vegetative screening could help in regard to the view. Mr. Hause noted that Mr. Congleton has a vinyl fence surrounding his pool already.

Kenneth Rice, 10 Wilson Road, said that he was concerned about the fact that a recent broker's listing referenced the accessory apartment at the site. Mr. Congleton provided the Board with a copy of the broker's listing.

The Board then discussed whether or not the apartment met the criteria of the bylaw. While the Board felt that its physical characteristics did meet the criteria, the intent as it related to the management of the apartment was questioned. For example Mr. Klofft said that bylaw was written with the intent that the accessory dwelling would be managed in an owner-occupied situation where the dwellers, or renters, would have a close association with the property owner. The Board debated the timing of the request for the special permit given that the house was for sale.

Mike Hunter, a Sudbury realtor, argued that the bylaw was written to encourage more housing options in Sudbury. And he further said that so far prospective buyers have not expressed an interest in maintaining an accessory apartment on the site. Mr. Hause said that he felt that it was his right as a homeowner to make his property marketable to prospective buyers.

Ms. Quirk suggested that given the Board's conflicted opinions about whether this case fit the intent of the bylaw, a vote on the special permit would probably not be favorable. She told Mr. Hause that if his house were taken off the market and he was going to reside there and wished to proceed with creating the accessory dwelling then he could re-file an application for a special permit with the Zoning Board and all filing fees would be waived.

Mr. Hause requested that the application for the Special Permit for an accessory dwelling be withdrawn without prejudice.

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

The following motion was placed and seconded:

MOTION: "To accept a request from the Applicants to withdraw Case 10-2 without prejudice."

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

REASONS: Relying on the information submitted, it is the determination of this Board that the applicant's objective to create an accessory apartment in order to improve the marketability of his house, which is currently for sale, is not the intent of the accessory apartment bylaw.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

CASE 10-3, 4
Verizon Wireless
199 Raymond Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, January 4, 2010

The Board consisted of:

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

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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. Also in attendance on behalf of Verizon Wireless were George Evsiouk, Site Acquisition Consultant, Jason Flanagan, RF Engineer, and Jeffrey Barbadora, Construction Manager.

Mr. Klasnick began by distributing handouts dated December 30, 2009 that showed ten photo simulations from the required balloon test. The Board was previously in receipt of an electronic version. A second set of handouts included a summary of his presentation.

Mr. Klasnick proceeded to explain that the applications for special permit (Case 10-3) and variance (Case 10-4) evolved through a request for proposals (RFP) by the Sudbury Water District. Verizon Wireless was ultimately given by the Water District the rights for the proposed facility at their site and entered into a Land Lease on August 3, 2009. Mr. Klofft wanted to know whether prior to receiving the RFP Verizon had presented a counter proposal for other possible tower locations. Mr. Klasnick said that he had worked for at least two years on the Feeley Field tower location and had worked with Planning Director Jody Kablack and with Town Counsel on behalf of other wireless clients. He said that it was Ms. Kablack who had pointed him in the direction of the Water District's RFP. Mr. Klasnick said that Verizon Wireless originally wanted to co-locate at the Feeley Field site, but that the site was not available for their purposes. Mr. Klofft wanted to know why not. Mr. Klasnick said that he believed that it was unavailable due to concerns about ground space, wetland setbacks, and the location of Verizon Wireless' shelter. Ms. Quirk asked about the possibility of co-locating any carrier at the site. Mr. Klasnick said there may have been one slot available but Verizon abandoned the idea to pursue the 199 Raymond Road site because it was within the Wireless Overlay District and appeared to be the most suitable site to accommodate their needs.

Mr. Klasnick continued with his introduction of the project. He noted that a required balloon test was conducted on December 19, 2009 to help assess the visual impact of a tower. He then walked through the physical features of the tower including a 70'x70' fenced and gated compound surrounding the 100' stealth monopole that housed the antennas and that had the ability to accommodate 3 additional wireless carriers.

He noted that the proposal has met the Special Permit criteria in that the pole would be a stealth 100' monopole, the setback is 190' from the nearest property line (the requirement is no less than 125'), there are no available locations for co-location, the tower would be a 4-carrier monopole, the equipment would be screened from public view, there would be minimal disturbance to existing vegetation, and the FAA said that there would be no lighting required on the pole.

Mr. Klasnick noted that Verizon is seeking a Dimensional Variance because the bylaws require that radiating components of wireless service facilities must be located no less than 500 feet from a residential lot line and in this case Verizon is proposing to install its pole 333 feet from a residential lot line. He said that the proposed tower site was chosen by taking into consideration the Water District's operations and use of their site, the fact that there are wetlands in the surrounding area that define buildable area, and because the location with its access road already in place would allow Verizon to easily maintain the tower. Verizon Wireless felt that this location was the best location for the site and the site was selected so that Verizon could satisfy its coverage objectives.

Mr. Klasnick showed the Board a series of ten photo simulations created from the balloon test. The Board discussed the tower's visual impact from each vantage point.

The Board then discussed the wireless coverage maps that showed both existing and proposed coverage. Mr. Klasnick said that with Raymond Road being a major roadway that people travel on a daily basis, having uninterrupted coverage in that area is essential. Mr. Klofft asked Mr. Klasnick for his opinion on level of current coverage. Jason Flanagan, RF Engineer, said that in general this area has a lower grade of coverage geared toward voice calls. But he reminded the Board that Verizon also offers data services that a facility located in this area would then be able to accommodate.

Mr. Klasnick noted that if Verizon were able to build this facility they would be able to also accommodate other carriers who could co-locate off of the site. In fact, MetroPCS has recently expressed interest in co-location at this site.

Mr. Klofft said this his problem with this proposal is that there is already a site on Raymond Road (Feeley Field) that could potentially close this gap in coverage and be significantly less obtrusive than the Raymond Road tower. He said that he understands the wetlands issue at Feeley Field. But he also felt that co-location has not been significantly looked into at other poles in town. He feels that there are other areas that allow coverage that are less obtrusive and suggested that the proposed pole would close only a small gap with a very prominent pole. The low trees in the area wouldn't screen it sufficiently. He said the Telecommunications Act doesn't give carriers the right to close all gaps, and he feels the pole is too significant of a pole.

Ms. Quirk asked whether or not anyone from the Water District was present. There were no representatives present.

Alexander Thuijs, 225 Raymond Road, an abutter to the Water District and an engineer in the field of corporate networking equipment, thanked Mr. Klofft for bringing up the issue of co-location as he felt that there should be more opportunities elsewhere for Verizon to use other existing poles. He requested more detailed information on why the other towers in town couldn't be used.

Mr. Klasnick said that he wanted to know what the other options were that are supposedly out there as he reminded the Board that he spent two years trying to get an RFP for use of the Feeley Field site. Mr. Klofft wanted to know who it was who said that the Feeley Field site wasn't available. Mr. Klasnick said that the Town controls the ground space and would have to issue an RFP and the Town did not do that for two years. Mr. Klofft again wanted to know who it was who did not consider the RFP. He said that the ZBA was not likely going to issue a special permit until the reasons for why Feeley Field couldn't be used are understood. Jim Kelly, Building Inspector, said that not all towers need special permits for co-location. If a tower were approved for collocation the carrier would be required to obtain a building permit. Mr. Klofft still wanted to know why Feeley Field, which is so close to the Water District site, could not be used for co-location. Mr. Gossels said that the Board should find out from the Town what the reasoning is for why the tower can't be used for co-location at the Feeley Field site.

Mr. Klasnick reminded the Board that if this tower is not approved then neither Verizon nor MetroPCS, which has expressed interest in getting on the tower, will have any place to go.

Mr. Klofft said that his preference would be to build another tower at the Feeley Field location over the Raymond Road site. Mr. Kelly said that there doesn't seem to be good information as to whether there was the ability to co-locate at Feeley Field or not.

Egor Evsiouk, Site Acquisition Consultant for Verizon Wireless, said that Verizon investigated as a possibility co-locating at the T-Mobile tower at Feeley Field. The tower would be leased from T-Mobile and the ground space for equipment would be leased from the Town of Sudbury. At the time of investigation there was one space available at 66 feet high. For ground space there was a 70 x 72' base. He said he could consult his notes to find out with whom he walked the site. One of the town officials was definitely from the Conservation Commission and there was one other person. At that time he was told that there were wetlands to consider there. Verizon submitted a set of plans and heard nothing for a year. Then the Water District's RFP came out which is why Verizon went ahead with this proposal.

Mr. Klofft said that if there is a way to leverage the Feeley Field site that is not obtrusive and closes the gap then he would support it. If there isn't then he feels the proposed tower is too obtrusive to simply accommodate the small gap in coverage, particularly in comparison to other towers in town.

Mr. Kelly asked why the proposed base was so large when other carriers take up less ground area for their equipment, usually 8'x8'. He noted that Feeley Field was a small site and reminded Verizon that they would have to stay within the approved site. Mr. Flanagan said that Verizon has a large base to accommodate a generator and battery backup equipment in case of emergency situations.

Mr. Klofft said that he wants wireless facilities to work in Sudbury just as long as they are in the best location possible. He also said that he can appreciate that Verizon has worked for a while on trying to come up with a proposal.

Ms. Quirk said that it would be beneficial for the Board to hear the history of why the site at Feeley Field was not a possibility before rendering a decision. Mr. Klasnick confirmed that the Board would like to see his background research on Feeley Field at a future meeting. Mr. Klofft said that perhaps a letter of opinion could be obtained from Debbie Dineen, Conservation Coordinator.

Since the Board wanted to have more information on Feeley Field as an alternative location prior to rendering a decision, Mr. Klasnick formally requested that the hearing with the full application be continued to February 1, 2010, the next meeting of the Board.

There were no further comments from the Board or audience. The hearing was continued to February 1, 2010.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

CASE 10-5
David C. Hoaglin
73 Hickory Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, January 4, 2010

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

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David Hoaglin, applicant and owner, presented a petition to renew Special Permit 04-49 granted under the provisions of Section 2632 of the Zoning Bylaws, to maintain a 70-foot radio tower, property located at 73 Hickory Road.

Mr. Hoaglin reported that no changes had been made to the tower since the original special permit was granted and he has not been made aware of any concerns or complaints about the tower from his neighbors.

There was some question about the relevance of condition # 3 as listed in special permit 04-49 which related to a performance bond that Mr. Hoaglin said had already been returned to him. Building Inspector Jim Kelly said that a performance bond was unnecessary and the Board discussed removing the condition as part of this special permit.

Mr. Gossels asked whether childproof shielding was currently in place at the base of the tower. Mr. Hoaglin explained that it was and that there had been no problems with its efficiency.

The Board discussed extending the duration of the permit from five years to ten given that there did not appear to be any issues with this tower and due to the fact that other tower operators in Sudbury currently have ten-year permits. It was agreed that the permit should be extended to ten years.

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

The following motion was placed and seconded:

MOTION: “To grant David C. Hoaglin, owner of property, renewal of Special Permit 04-49, granted under the provisions of Section 2632 of the Zoning Bylaws, to maintain a 70-foot radio tower, property located at 73 Hickory Road, Residential Zone A-1, provided that:

1. Installation shall conform to all applicable building codes and wired in accordance with UL Standards.
2. Childproof shielding, not less than 10 feet in height, shall be provided at the base of the tower.
3. This permit is non-transferable and will expire in ten (10) years on January 4,2020, 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 Board finds that this home-based radio hobby which has been in operation since 1993 is in harmony with the general purpose and intent of the Bylaws. The tower is in an appropriate location, not detrimental to the neighborhood and is shielded by tall trees which act as a buffer. The tower is not lighted, nor is it offensive or detrimental to the adjoining zoning districts as no smoke, noise or other visual nuisances are produced. The applicant has complied with the conditions of the permit and there have been no complaints with regard to the tower. There were no abutters present to oppose renewal at this hearing or previous hearings; therefore, the Board finds a ten-year renewal period appropriate.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Gararin

Benjamin D. Stevenson

Jonathan G. Gossels