

CASE 10-3, 4
Verizon Wireless
199 Raymond Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, March 1, 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 February 11 and February 18, 2010, posted,
mailed and read at this hearing.

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

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 providing a brief overview of the project and distributed to the Board
copies of a Wireless Facilities Analysis that Verizon Wireless had prepared to answer questions
that evolved from the ZBA meeting on January 4, 2010. Included was information on the
methodology used to determine site selection of 199 Raymond Road and the gaps in wireless
coverage in that area of Sudbury. The Wireless Facilities Analysis also included a chronology for
an attempted co-location at the Frank G. Feeley Park tower, correspondence from Albert Renzi,
Superintendent of the Sudbury Water District, correspondence and coverage maps from Gerry
Squires, Agent for MetroPCS, and a physical description of backup power required for Wireless
Facilities.

Mr. Klasnick said that the chronology of correspondence about Feeley Field with Sudbury's
Town Counsel occurred between 2007 and 2008. The Town did not issue an RFP for an
installation at Feeley Field, in part because there were concerns about the amount of ground
space needed to accommodate the equipment compound. At that time there were no other
existing structures on which to co-locate in Verizon's search area, and then the RFP from the

Sudbury Water District was issued and leases were then executed by both the Water District and Verizon.

Ms. Quirk said that it was good to see the chronology and referenced an e-mail that the Board received from Planning Director Jody Kablack that described the challenges the Feeley Field site posed for potential co-location. Ms. Kablack said that due to the physical conditions of the site, including the existence of wetlands and overall space constraints with existing development there, the Selectmen did not issue an RFP for an additional carrier at Feeley Field.

Mr. Klofft was also satisfied with the information provided on the Feeley Field issue, however he still had reservations about whether or not there was a significant gap in coverage in the area of Raymond Road. He asked whether or not MetroPCS was a co-applicant for the variance and special permit.

Mr. Klasnick said that he was not amending the application at this point to include MetroPCS. Verizon is seeking the variance and special permit.

Mr. Gossels said that he was comfortable with the location of the tower, however he was not comfortable with the 100 foot height of the tower because of the visual disturbance it would pose.

Mr. Klasnick said that a 100 foot tower was necessary to send and receive signals without obstruction by trees. He referenced the balloon test and said that from most views the tower would be only slightly visible. He said that it was a realistic height that was as high as it needed to be in order to close the gap in coverage in Town. He also said that MetroPCS, as a potential co-locator, concurred.

A discussion of the coverage maps ensued. Mr. Klasnick said that customers are not satisfied with only voice service but also want data transfer services. He said that this would be the new wave of technology and that Verizon, along with MetroPCS, would be able to offer this.

Mr. Klofft suggested that perhaps an 85 or 90 foot pole might be better.

Ms. Quirk asked whether a shorter pole would have enough room for a co-locator.

Mr. Klasnick said that he proposed a 100 foot pole because that is what is allowed in the bylaws with consideration for four co-locators on the tower. No analysis has been done for a shorter pole. Mr. Klasnick said that there probably wouldn't be any visual difference between 83 feet and 100 feet. Two additional co-locators would have to be positioned below MetroPCS and would be below the tree line. Verizon would need the top two heights and so the ability for two more potential co-locators on the site would be lost.

Ms. Quirk said that she wants to promote co-location. Mr. Stevenson said that the decision would be a trade-off in that it might be better to have one higher tower with co-locators than three or four shorter towers.

Mr. Klofft said that no one has done the analysis for lower towers at the site. He felt that the coverage gap just was not big enough to approve 100 feet.

Mr. Stevenson said that he would approve a lower height if feasible because then if a viable co-locator comes along an extension could be sought as has been done elsewhere in town.

Mr. Klasnick argued that 100 feet is not a tall tower in comparison with others and said that the wireless overlay district requirements say that it can be built. However, because it is within 500 feet of a residence a variance is required. He mentioned the visual documentation once again stating that there is a slight view of the tower from Boston Post Road and very little view looking south on Raymond Road. He has proposed a stealth facility with the antennas inside the towers as a compromise.

Mr. Stevenson asked whether there were homes within the setback. Mr. Klasnick reported that there was one home.

Alexander Thuijs, 225 Raymond Road, was present to express his concerns about the location of the tower. He said that he is also an engineer and said that he feels that the tower would need to increase its wattage in order to maintain high frequency. He had a number of concerns regarding health for his family and asked whether there were no other sites available other than his backyard. He also wanted to know why a lower height was not being considered and why co-location elsewhere was not an option.

At that point Ms. Quirk read the letter from Jody Kablack concerning the inability for co-location at Feeley Field as mentioned earlier. Mr. Klofft said that since potential health issues resulting from cell towers are unknown the ZBA cannot take them into consideration.

Mr. Garanin asked about the height of the tree canopy in the area. The height was unknown. Jason Flanagan, engineer for Verizon, noted that when considering placement on a tower, ten feet was the required distance between carriers.

Ms. Quirk asked whether it would be possible for Verizon to consider studying the effects of a tower that would be lower than the treeline. Mr. Klasnick said that a study could be prepared.

Since the Board wanted to have more information before making a decision, Mr. Klasnick formally requested that the hearing with the full application be continued to March 22, 2010, the next meeting of the ZBA.

There were no further comments from the Board or audience. The hearing was continued to March 22, 2010.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

CASE 10-14 & 15
Clear Wireless
36 Hudson Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, March 1, 2010

The Board consisted of:

Elizabeth T. Quirk, Chair; Stephen A. Garanin; Jonathan G. Gossels; Jeffrey P. Klofft; Benjamin D. Stevenson; and Jonathan F.X. O'Brien

Notice was published in the *Sudbury Town Crier* on February 11 and February 18, 2010, posted, mailed and read at this hearing.

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

Scott Lacy, Attorney at Prince, Lobel, Glovsky & Tye LLP, was present to represent a petition for variance relief under the provisions of Section 4352 of the Zoning Bylaws, to allow the extension of an existing 100 foot wireless monopole for an additional 10 feet to a total height of 110 feet. A special permit is also required under the provisions of 4350 of the Zoning Bylaws, to allow the co-location of a second carrier on an existing wireless monopole. The property is located at 36 Hudson Road.

Mr. Lacy explained that the companies using the existing tower include Sprint, Nextel, and Cingular. The proposed extension would internally house three new WiMAX antennas and two new wireless backhaul dish antennas that are each one foot in diameter. The antennas and dishes would be covered by a shroud that would match the color and texture of the existing tower.

Mr. Lacy explained that WiMAX is basically high speed data transfer. Clear Wireless would work in conjunction with Sprint Spectrum and Nextel which offer a service that would compete with broadband and cable companies so that Sprint customers would not only be able to have better phone service but also high speed data transfer service as well. He noted that this sort of bundled service is the future of wireless services.

He noted that as required by the Zoning Bylaws a balloon test was conducted on Saturday, February 20, 2010, and he provided the Board with images taken during the test by Network Building & Consulting, LLC. Mr. Lacy reported that it was the expectation that the extension would be relatively unobtrusive. The tower and balloon was most visible from the vantage point of Peakham Road, and was not visible from all other perspectives.

Mr. Stevenson asked whether or not Clear Wireless was proposing the addition in order to close a gap in coverage or for Clear Wireless to provide additional services. Mr. Lacy said that they are providing a new data service that is approved by the Wireless Communications Act. He referenced the various propagation maps submitted in the application and noted that the first phase the Clear Wireless' plan calls for co-locating on existing structures first and then seeing where gaps in coverage might be. As Mr. Lacy mentioned, Clear Wireless with WiMAX is a new service of high speed data transfer but not voice

service. Clear Wireless would work in partnership with Sprint which does have the voice service currently on the tower.

Mr. Stevenson said that he is in favor of co-locating on the existing pole because with the extension visibility would not be significantly greater than it is currently.

Ms. Quirk noted for the record that the ZBA was in receipt of an e-mail message from the Chair of the Sudbury Historic Districts Commission (HDC), Linda Hawes, dated March 1, 2010 requesting that the ZBA carefully consider any visual documentation of the balloon test as HDC members reported that the balloon test had occurred during windy conditions and due to the fact that the actual hours of the test appeared to be different than the hours posted in the newspaper. Carole Wolfe and Lee Swanson, members of the HDC were both present to ensure that the photographs provided to the ZBA represented an accurate depiction of conditions they had witnessed. The tower is just outside the Sudbury Centre Historic District.

Andrew Thompson of Centerline Communications, the site acquisitions consultant, was present and informed the ZBA that he had spoken to the person responsible for documenting the balloon test. He said that the photos were taken between 7:00 and 8:00 a.m. on February 20 and he said that the wind conditions were fine for the test at that time, however he acknowledged that the wind did increase later in the morning. He referenced the image provided to the ZBA taken from the vantage point of Peakham Road, where the balloon was shown flying directly over the tower, unaffected by wind at that point.

Ms. Wolfe said that she still had concerns about the history of the tower, which she noted was originally denied by the ZBA. Mr. Gossels said that he had served on the Board when the proposal was originally reviewed and was initially not in favor of it. However, he said that he now has had more years in which to experience the towers and their impact on the town and does not feel the same way about this tower.

Ms. Quirk said that she was comfortable with the photographic evidence provided. She also noted for the record that the Planning Board had submitted a memo dated February 23, 2010 stating that at their February 17 meeting it was voted unanimously to recommend that the ZBA approve the extension in order to encourage co-location. She also noted a February 11, 2010 memo written by Jody Kablack, Director of Planning and Community Development, that raises issues for consideration as the ZBA crafts conditions for the extension.

Mr. Garanin asked whether there were any structural upgrades needed for the base of the tower. Mr. Lacy did not believe that any work needed to be done.

Ms. Quirk asked whether any abutters were present. Roanna London, 46 Hudson Road, expressed great concern over the proposed extension as the tower is clearly visible from behind her property. She noted that several trees had been taken down during the winter and expressed great dissatisfaction with the visual disturbance of the tower due to loss of trees. She said that an even higher tower would have a direct impact on her property. She was also concerned about creating a taller tower in an historic district.

Mr. Stevenson asked Ms. London to clarify the view from her house. Ms. London said that the tower currently rises to the tree line and the extension would go beyond that. Again she noted that trees in that area are coming down which makes the tower more visible.

As a condition of the special permit the Board discussed landscaping at the site of the equipment compound. Part of the discussion revolved around whether landscaping had previously been planted by the current occupants. In the end it was determined that Clear Wireless would work out the landscaping with Sprint at the western property line.

The Board discussed with the applicant posting a bond for the future dismantling and removal of the ten foot portion of the tower.

There were no other questions from the Board or audience. The hearing was closed.

The following motions were made and seconded:

MOTION #1 (Case 10-14): "To grant Clear Wireless, LLC, applicant, and Ti-Sales, owner, a Variance under the provisions of Section 4352 of the Zoning Bylaws, to allow the extension of an existing wireless monopole for an additional 10 feet to a total height of 110 feet, property located at 36 Hudson Road, Business District #7."

VOTED: In favor: 6 (Unanimous) Opposed: 0

MOTION #2 (Case 10-15): "To grant Clear Wireless, LLC, applicant, and Ti-Sales, owner, a Special Permit under the provisions of 4350 of the Zoning Bylaws, to allow the co-location of a second carrier on an existing wireless monopole, property located at 36 Hudson Road, Business District #7, provided that

1. All proposed antennas, which include three WiMAX antennas and two wireless backhaul dish antennas, will be located entirely within the monopole;
2. Equipment to service the site will be located within the Ti-Sales compound, out of view from the public way, and enclosed by chain link fencing;
3. Plantings shall be placed along the fence at the western property line to the extent possible;
4. Vegetation on the site shall be preserved; and
5. A bond to dismantle and remove the ten foot extension of the facility shall be posted prior to issuance of a building permit."

VOTED: In favor: 6 (Unanimous) Opposed: 0

REASONS: The petitioner requires a height variance to extend an existing wireless monopole for an additional ten feet to a total height of 110 feet. A special permit is also required to allow co-location on an existing wireless monopole. It was the Board's opinion that the ten foot extension on a pre-existing nonconforming structure would not have a substantially greater impact on the surrounding neighborhood and historic district than currently exists. The Board also felt that allowing the co-location would support the bylaw's intent while at the same time broaden the range of available wireless services for Town residents.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Gararin

Benjamin D. Stevenson

Jonathan G. Gossels

Jonathan F.X. O'Brien

CASE 10-16
Tony Ho and Helen Huang
15 Hollow Oak Drive

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, March 1, 2010

The Board consisted of:
Elizabeth T. Quirk, Chair; Stephen A. Garanin; Jonathan G. Gossels; Jeffrey P. Klofft; Benjamin D. Stevenson; and Jonathan F.X. O'Brien

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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.

Tony Ho, applicant and owner of the property, presented his proposed plans to demolish an existing three-bedroom home and build a new two-story, four bedroom colonial style home on his property. Mr. Ho explained that he has been a Sudbury resident for over ten years and now, with a growing family, needs to expand his residence.

Mr. Ho said that the house would have the same orientation toward the street as the existing house and would comply with all setback requirements. There would be no changes to the driveway. Mr. Ho said that it is his intention to the extent possible to maintain the mature trees on the lot to help screen neighbors' views, however there are a few older trees in the back of the house that may have to be removed because they are leaning toward the house.

Mr. Ho said that he had discussed his plans with his primary abutters and both have been supportive of the plans.

Mr. Gossels expressed his concerns that the house, for its enlarged size, was sited too close to Hollow Oak Drive. He asked the applicant whether he had considered moving the house back. Mr. Ho said that he had not considered doing so because he did not want to lose trees and yardage. He noted, however, that in reviewing the plans Building Inspector Jim Kelly had also questioned moving the house back.

Mr. Gossels again suggested moving the house back ten feet. Mr. Ho was concerned that the house would not be aligned well with the neighbor's house if it were moved back.

Mr. Klofft said that moving the house back would avoid a looming quality due to its size and height and cited another newly built house nearby as an example. Mr. Ho said that he took the height of the house into consideration when choosing a hipped roof style which would not appear as tall.

Mr. Gossels and Mr. Klofft both expressed their preference for moving the house back.

Mr. Stevenson questioned the number of trees that would have to be removed from the back of the house. It was noted that there was about 20 feet of yardage between the house and treeline at the rear of the

property so there could be enough room to move the house directly back and still have a rear yard setback of 64.2 feet.

After some more discussion and sketching on the plan for clarification, Mr. Ho then agreed to move the house back.

There were no other questions and no abutters were present. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Tony Ho and Helen Huang, applicants and owners of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow the demolition of an existing non-conforming structure and construction of a new residence not to exceed 4,200 square feet, property located at 15 Hollow Oak Drive, Residential Zone A-1 subject to the following:

1. The new house will be constructed ten feet back from the location as shown on the Proposed Plot Plan dated January 6, 2010, prepared by Sullivan, Connors & Associates, which is incorporated into and made part of this Special Permit, so that the front setback from Hollow Oak Road measures 57.7 feet.
2. The applicant will preserve the wooded areas in the rear and side yards to the extent feasible in order to screen the house from abutting properties. If significant tree removal is necessary in these areas the applicant shall replant the area to fulfill this condition.
3. This Special Permit shall lapse if construction has not begun, except for good cause, within 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.
4. Construction must be completed no later than one year after commencement."

VOTED: In favor: 6 (unanimous) Opposed: 0

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and the design will be compatible with the surrounding homes in the neighborhood.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

Jonathan F.X. O'Brien

CASE 10-17
Brett Taylor
25-33 Union Avenue

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, March 1, 2010

The Board consisted of:
Elizabeth T. Quirk, Chair; Stephen A. Garanin; Jonathan G. Gossels; Jeffrey P. Klofft; Benjamin D. Stevenson; and Jonathan F.X. O'Brien

Notice was published in the *Sudbury Town Crier* on February 11 and February 18, 2010, 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.

Brett Taylor, applicant, presented his proposed plans for a freestanding, double-faced directory sign and two free-standing double-faced directional signs to replace existing signage at property located at 25-33 Union Avenue. The new directory sign would replace the existing sign which is currently only an address sign. The applicant requires a special permit because of limited street frontage.

Mr. Taylor said that he had met with the Design Review Board (DRB) on January 14, 2010 and had incorporated the DRB's suggestions into the sign application. The signs would use two colors, dark green with gold lettering and the posts for the directory sign would be granite.

The Board asked about lighting of the signs. The directory sign would be externally lit and would be maintained according to Sections 3225 and 3226 of the Zoning Bylaws. There would be no electric lighting of the directional signs.

The Board and the applicant then discussed the placement of name panels on the directory sign and the applicant clarified that no blank panels would be hung from the sign. The space between the bottom of the sign and the ground would be no greater than forty percent of the height of the entire sign.

There were no other questions and no abutters were present. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Brett Taylor, applicant, and E.B. Realty, owner, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws, to allow one double-faced, free-standing directory sign on Union Avenue to replace an existing address sign and two free-standing, double-faced directional signs as proposed in the application dated January 28, 2010, property located at 25-33 Union Avenue, Limited Industrial Zone, provided that

1. The color scheme will be limited to two colors, green with gold lettering, as is currently used on the existing sign;

2. A uniform typeface will be used for the entire sign, including tenant name panels;
3. No blank tenant name panels shall be hung from the sign;
4. No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. except signs on premises open for business;
5. Only white lights shall be used for direct illumination. Illumination shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways; and
6. The space from the ground to the bottom of the sign shall not exceed forty percent of the total ten foot height of the sign.”

VOTED: In favor: 6 (Unanimous) Opposed: 0

REASONS: The petitioner requires a special permit to install a directory sign because of limited street frontage. The Board finds that the location of the property justifies the granting of a special permit for the directory sign and directional signs. The signs will not be a detriment to the surrounding area and will not alter the character of the zoning district which is zoned limited industrial. The signs will not cause visual confusion, glare, or offensive lighting in the area, nor will they interfere with traffic safety. The Board notes that after a meeting between the applicant and the Design Review Board, the Board has recommended that the Board of Appeals consider the exceptions requested.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Stephen A. Garanin

Benjamin D. Stevenson

Jonathan G. Gossels

Jonathan F.X. O'Brien