

CASE 13-7
New Cingular Wireless PCS, LLC/
AT&T Mobility
199 Raymond Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, May 20, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 2 and May 9, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He 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.

Applicants Michael Dolan of Brown Rudnick LLP and Peter Reed of Centerline Communications were present to request on behalf of New Cingular Wireless PCS/AT&T Mobility a special permit to add a ten foot extension to an existing monopole creating a height of 100 feet and to expand the fenced equipment compound at the Sudbury Water District-owned property at 199 Raymond Road. Mr. Dolan explained that the tower expansion would be necessary to fill a gap in network service and enhance the high speed data network services as shown in the engineering report included in the application.

Mr. Dolan explained that six panel antennas would be added to the extension within the monopole and additional electrical equipment would be installed in the equipment compound which would expand approximately sixty-three square feet. He said that the tower is situated in the Wireless Overlay District and the benefit of extending an existing tower would be that a new tower would not be built. He said that the Town's bylaws do encourage co-location whenever possible. Verizon and MetroPCS have antennas already installed within the pole.

Per the requirements of the bylaws a balloon test was conducted on May 18, 2013 and Mr. Dolan distributed copies of both photo simulations and photographs from the test. He said that the existing tree canopy surrounding the site will continue to minimize the impact of the tower.

Mr. Dolan referenced legislation passed by Congress, Section 6409 of the Middle Income Tax Relief Act of 2012 which prohibits local governments from denying any eligible facility's requests from making modifications to existing wireless towers or base station that does not substantially change the physical dimensions of the tower or the base station. In this instance the equipment compound will continue to be within the Verizon leased area with only a ten foot extension to the structure Mr. Dolan feels that New Cingular Wireless PCS is an eligible facility.

Mr. Klofft agreed that parts of Sudbury have inadequate wireless services, including voice and data services, and the additional antennas would enhance coverage, however he questioned the applicant as to whether this request was not solely to close a coverage gap but that it would also serve to add bandwidth to support other wireless services. He added that other service providers could seek to build new towers in Sudbury so allowing this extension would avoid another new pole.

Mr. Gossels said that the Board did impose a height limit of ninety feet when the permits were sought for the original tower however he added that Sudbury citizens have expressed a desire for wireless services and it is important to improve those services.

Mr. Dolan said that the proposed equipment shelter would be contained within Verizon's equipment shelter. He said that formal approval from the Sudbury Water District had been obtained. A letter was included in the application. One change was requested by the Sudbury Water District which wanted New Cingular Wireless PCS to use natural gas fuel rather than diesel due to the proximity to the wetlands.

The Board then reviewed a memo dated March 29, 2013 from Director of Planning and Community Development Jody Kablack that was submitted with New Cingular Wireless PCS' original submission for a special permit (ZBA Case 13-6) to ensure that all of her points had been addressed. The Board agreed that all had been met.

No neighbors were present to speak about the proposal. There being no further questions from the Board or those present, the hearing was closed.

The following motion was made and seconded:

MOTION: "To grant New Cingular Wireless PCS, LLC/AT&T Mobility Corporation, applicant, and Sudbury Water District, owner, a Special Permit under the provisions of Section 4300 of the Zoning Bylaws, to add a 10' extension to an existing monopole creating a height of 100', to install 6 panel antennas with related equipment onto the monopole, and to expand the fenced equipment compound on property located at 199 Raymond Road, Residential Zone A-1, subject to the following:

1. The generator will be fueled by natural gas,
2. There will be a ten-year inspection of the tower and equipment cabinet a copy of which will be submitted to the Zoning Enforcement Agent, and
3. A Site Plan application will be submitted to the Sudbury Board of Selectmen for their approval.

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

REASONS: A special permit is needed to modify an existing wireless services monopole in a Wireless Services Overlay District. The Board felt that the extension of an existing tower would not be detrimental to the neighborhood and would support the bylaw's intent while at the same time broaden the range of available wireless services for Town residents.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan F.X. O'Brien, Clerk

Elizabeth T. Quirk

Jeffrey P. Klofft

CASE 13-8
Jin Ma
26 Alta Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, May 20, 2013

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on May 2 and May 9, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He 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.

Applicant Jin Ma was present to request a special permit to raise six hens on his property at 26 Alta Road. He explained that he and his family had recently moved to the property where there was an existing chicken coop that had been installed by the past resident. He wanted permission through the special permit to raise the chickens and his children were particularly interested in the project. He was not requesting permission for a rooster.

Mr. Ma had included photographs of the coop and pen area. He said that he was not planning to make any changes to the coop and pen and there was plenty of vegetation to shield it from view.

Mr. Gossels asked whether Mr. Ma wanted any lighting for the coop explaining that in the past the Board had approved low-watt lights for other coops in town. Mr. Ma said that a heating device was already present in the interior of the coop but that he would like to have a small, low-watt light in addition to that.

Mr. O'Brien asked whether Mr. Ma had spoken with his neighbors about his plans. Mr. Ma said that he had and the neighbors appeared fine with the plans. He added that the closest neighbor's house was situated about 100 yards from the coop. Ms. Quirk agreed that from her observation there was plenty of room between the neighbors and the coop.

The Board discussed with Mr. Ma a one-year permit with the opportunity for renewal. Mr. Ma agreed to the terms.

No neighbors were present to speak about the proposal. There being no further questions from the Board or those present, the hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Jin Ma, applicant, and Yang Liu, property owner, a Special Permit under the provisions of Section 2313 of the Zoning Bylaws, to raise six hens on the premises, property located at 26 Alta Road, Residential Zone A-1, subject to the following:

1. The chickens shall not become a nuisance.

2. The maximum number of chickens allowed on the property is six. No roosters shall be kept on the premises.
3. The chicken coop and pen area may be no greater than 10'x10' in size.
4. One low-watt light no greater than 60 watts will be allowed inside the chicken coop. The light may be turned on 24-hours per day.
5. Composting of waste litter shall be allowed on-site, provided that odor does not become a nuisance.
6. No commercial activity consisting of the sale of eggs, chickens, or chicken products will be allowed on the property.
7. This permit is non-transferable and will expire in one (1) year on May 20, 2014, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioner sought a special permit to raise six chickens on the premises. The use is allowed in all districts by a 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. The coop is situated in an appropriate location, will not be detrimental to the neighborhood, and its presence will not significantly alter the character of the zoning district. Adequate and appropriate facilities will be provided for proper maintenance. The permit will expire in one year at which point the applicant may seek renewal and the Board can then assess whether the coop has had an impact on the neighborhood.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan F.X. O'Brien, Clerk

Elizabeth T. Quirk

Jeffrey P. Klofft

CASE 13-9 and 13-10
Herb Chambers of Sudbury, Inc.
DBA Jaguar Sudbury
83 Boston Post Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, May 20, 2013

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

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The Board was in receipt of a letter dated May 20, 2013 submitted via e-mail from Attorney Joshua M. Fox on behalf of his client Herb Chambers of Sudbury, Inc. requesting a continuation of the hearing. A motion was made and seconded unanimously to continue the hearing to Monday, June 17, 2013 at 7:30 p.m. at the Town Hall.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan F.X. O'Brien, Clerk

Elizabeth T. Quirk

Jeffrey P. Klofft

CASE 13-11
Yong Feng Xia
69 Butler Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, May 20, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 2 and May 9, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He 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.

Real Estate Agent, David Noyes, was present on behalf of his client, applicant Yong Feng Xia, to request a special permit to demolish an existing residence on a nonconforming lot and reconstruct a new single-family home measuring approximately 4,200 square feet which will exceed the area of the original structure at 69 Butler Road. He added that Mr. Xia is planning to build the house to sell it.

Mr. Klofft noted that all of the setbacks fit the requirements.

Mr. Noyes said that he had informed approximately fifty neighbors of the plans via mail and did not hear from anyone with questions or concerns.

Mr. Gossels asked where the septic system was going to be placed. Mr. Noyes said that the location has yet to be determined, but he believed that it would be at the back of the house where there was plenty of room. If perc testing comes back showing that the system would need to be placed in the front of the house he said that it would not be visually disruptive from the street view. He did note that the Board of Health is requiring a nitrogen reduction system to be installed for the four-bedroom system.

Mr. O'Brien asked for confirmation that there would be no mounding for the septic system. Mr. Noyes said that he understood that it would not have mounding. Mr. Klofft suggested that perhaps the case should be continued to the next hearing so that a septic plan with elevations could be reviewed by the Board. Ms. Quirk suggested adding a condition to the decision about the topography as one way to avoid a continuance.

Mr. Noyes said that the applicant plans to install a fence along the east side of the property and there is a lot of vegetation on the west side, so the house should be well isolated from abutters.

Mr. Stevenson asked whether any neighbors were present who wished to speak about the proposal.

Patricia Donnellen, resident at 79 Butler Road, said that while the existing house is in poor condition its footprint is about 962 square feet. The new 4,200 square foot structure would be an increase four times the size of that.

Dave Donnellan, 79 Butler Road, said that his issues with the plans pertained to screening. He explained that several trees were already taken down between his property and 69 Butler Road and he would like to know that trees in that area would be replaced. Mr. Noyes said that his client plans to provide some screening along the southerly lot line.

Marcel Maillet, the builder, arrived at the meeting and explained that the septic system was most likely going to have to be situated in the front of the property but said that there would be no mounding.

The Board then discussed the need for a continuation so that a septic plan and landscaping plan could be presented. As a whole the Board did not feel comfortable issuing a decision on the information they had in the application because those two key pieces were missing. Mr. Noyes agreed to the continuance and said that he would meet with the Donnellans to discuss fencing or vegetation.

A motion was made and seconded unanimously to continue the hearing to Monday, June 17, 2013 at 7:30 p.m. at the Town Hall.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan F.X. O'Brien, Clerk

Elizabeth T. Quirk

Jeffrey P. Klofft