

The February 4, 2009 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman
Ted C. Case, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Craig Hiltz, Member
James M. Stanton, Member

James S. Decelle, Associate Member

7:00 p.m. – MetroPCS Massachusetts, LLC, Case #01-09

Ms. Murphy read the public hearing notice for MetroPCS Massachusetts, LLC, Case #01-09, with respect to property located at 522 High Plain St., Walpole and shown on the Assessors Map as 36-81 Lot No., Highway Business Zone.

The application is for:

A Special Permit under Section 10F(3)(A)(1)(d) of the Zoning Bylaws to allow the co-location of six (6) wireless antennas at 138 feet above ground level of an existing 180 feet above ground level tower. Related equipment is proposed to be placed within existing shelter.

Mr. Hiltz informed the Board that he works for Verizon, a competitor of the applicant, and recused himself from the hearing.

Ajay Sawant, MetroPCS Engineer, presented the proposal and explained there is a vacant spot on the lattice tower located at 522 High Plain Street. The existing carriers are T Mobile, AT&T and Verizon.

Ms. Murphy asked for questions for the public, there being none,

A motion was made by Ms. Murphy, seconded by Mr. Cunningham to close the hearing.

The vote was **5-0-0 in favor.**

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant the Special Permit under Section 310F(3)(A)(1)(d) of the Zoning Bylaws to allow the co-location of six (6) wireless antennas at 138 feet above ground level of an existing 180 feet above ground level tower. Related equipment is proposed to be placed within existing shelter.

The vote was **5-0-0 in favor**; therefore the application for a **Special Permit is hereby granted**, subject to the following conditions:

CONDITIONS:

1. The Wireless Communication Facility, as represented by the applicant, will be co-located at 138 feet above ground on an existing 180 feet above ground level tower, as shown in the plans filed with the application;
2. As stipulated by the applicant, there will be no lighting or noise to be generated by the operation of the wireless communication facility;
3. There shall be no use or storage of toxic or hazardous materials on this site.

REASONS:

At the Public Hearing, the applicant presented testimony that the Wireless Communications Facility meets all of the Walpole Zoning By Laws' requirements for the Board to grant a Special Permit. **Specifically, the applicant presented testimony that the site of the facility is an appropriate location and that installing the facility will improve wireless telephone coverage for local residents and businesses in compliance with Department of Public Utilities and Federal Communications Commission quality of service requirements.**

The applicant also presented testimony that the facility will not adversely affect the neighborhood as there will be no serious hazard to vehicles or pedestrians from the use and no nuisance will be created by the use. The applicant further testified that the facility will not be visually intrusive due to the location on the existing above ground level tower, and is therefore adequate and appropriate.

It is the finding of the Board that the applicant has met the requirements under Section 3-B of the Zoning By Laws in that:

- i. ***Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.***

It is the finding of the Board that the project is a Wireless Communications Facility and shall introduce very little additional vehicular traffic to the site and no pedestrian traffic.

- ii. ***Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.***

It is the finding of the Board that the project is a Wireless Communications Facility and no employees or regular visitors are expected to visit this installation on the site, except for periodic maintenance of equipment.

- iii. ***Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.***

It is the finding of the Board that the project is a Wireless Communications Facility and therefore shall not have a greater lot coverage than allowed in the zoning district in which the premises is located.

iv. *Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes.*

It is the finding of the Board that the project is a Wireless Communications Facility and electronic equipment will be stored on the existing structure and will not be a serious hazard to the immediate neighborhood.

v. *Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.*

It is the finding of the Board that the project is a Wireless Communications Facility and therefore shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood.

vi. *Shall not adversely affect the character of the immediate neighborhood.*

It is the finding of the Board that the project is a Wireless Communications Facility and therefore shall not adversely affect the character of the immediate neighborhood due to the location in the existing above ground level tower.

vii. *Shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.*

It is the finding of the Board that the project is a Wireless Communications Facility and therefore shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

7:30 p.m. – 5th Fairway Development, LLC, Case #18-08 (40B) (Murphy, Cunningham, Hiltz, Stanton, Decelle present)

Ms. Murphy read the public hearing notice for 5th Fairway Development, LLC, Case #18-08, with respect to property located at 156 Baker St., Walpole and shown on the Assessors Map as Lot No. 35-135, GR Zone.

The application is for:

Comprehensive Permit to allow construction of an 18-unit condominium pursuant to MGL 40B, Section 21.

Ms. Murphy informed the applicant that the Town Engineer received quotes back from three firms for the traffic study review on February 3, but has not yet been able to review them to make a recommendation to the Board. The Town Engineer recommends a maximum amount of \$5,750 to be put in escrow from the applicant to cover the cost of the traffic study review.

Ilana Quirk, Town Counsel, informed the applicant that the Town Engineer will not be able to obtain quotes for the drainage peer review until she receives the drainage calculations, so she can put together a scope of work.

Mr. Thurston agreed to \$5,000 to be put in escrow for the cost of the firm that will do the traffic study review.

Mr. Cusson informed the Board that one of the bidding firms, VHB, may be in conflict because a number of their clients are using them on other projects, but has no conflict with the other two

firms. He was given a copy of the three bids and the scope of work. Mr. Cusson requested a meeting with the chosen firm.

Attorney Quirk informed the Board that the Town did not accept Chapter 39. Section 23(d), and therefore, Mr. Case cannot vote on this case due to his absence at the previous hearing.

Attorney Witten had submitted a letter to the Board regarding comments from the abutters. He asked the Board if the applicant's traffic study scope was adequate; further, regarding site control, Attorney Witten thought the Board had to be in possession of documents proving that the buyer and seller have site control. He informed the Board that the Walpole Country Club have a court case claiming adverse possession which is currently under appeal. Attorney Witten offered to forward this information to the Board and Town Counsel. He informed the Board that the abutters have hired a Civil Engineer and would like him to make a presentation this evening, if the Board approved.

Attorney Quirk explained that the Zoning Board does not have jurisdiction over ownership issues.

Mr. Cusson informed the Board that their traffic consultant was going to be engaged the following day, but he is not sure how long it will take for the study to be completed.

Mr. Hiltz was concerned about the time line and suggested it might be a good time to request an extension.

Mr. Cusson said he would not be agreeable to an extension. He plans to have their Engineer attend the February 25 meeting.

Mr. Thurston said that he preferred that the Civil Engineer not be allowed to make any comments at this time.

The Board allowed Conrad Neufman, Civil Engineer to speak.

Mr. Neufman explained that he was originally involved in this project a couple of years ago through Bill Goode. He noted some concerns at that time regarding water supply, sewer management and capacity, roadway configuration and on-site drainage. He was once again contacted by the abutters and has reviewed the plans for this project submitted in October 2008. The plan is a schematic that does not have a lot of information, therefore, he has the same questions he had with the previous project. Mr. Neufman will act as a consultant for the abutters and will review the reports and documents for them, and meet with the Town Engineer with their questions and concerns.

Mr. Cusson explained the next set of plans will be more definitive, but not complete.

Ms. Murphy requested that the applicant bring their drainage engineer and, if possible, their traffic engineer for the next meeting on February 25.

Mr. Cusson agreed.

Attorney Quirk recommended the Board emphasize that the plans need to be received by the Town Engineer a week to ten days prior to the next meeting on February 25. The Board concurred.

Mr. Cusson said he would have them as soon as possible.

Ms. Murphy asked Attorney Witten to provide the Board with the information on the Court Appeal regarding the Adverse Possession. Attorney Witten said he would provide that information.

Paul Howe, 222 Baker St., asked how the Traffic Study takes into consideration the change in traffic during the summer months?

Attorney Quirk told him that the Town Engineer is aware of that issue and the scope of the traffic review would take that into account.

Robert O’Leary, Washington St., asked if the appraisal for the property would be provided?

Attorney Quirk informed him that Attorney Witten has indicated he would try to obtain for information for the Board.

Joe McMannus, Beal St., asked if the Country Club won it’s case for Adverse Possession, would the loss of 7,000 feet make the project unfeasible?

Attorney Quirk asked that the 7,000 foot area be denoted on their plans.

Mr. Thurson agreed to have a separate plan drawn up showing the disputed land.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing to February 25, 2009 at 7:30 p.m.

The vote was **5-0-0 in favor.**

There being no further business, the meeting was closed at 9:00 p.m.

Daniel J. Cunningham
Clerk

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Minutes were approved on March 18, 2009.