

The October 3, 2007 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 7:30 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
Joseph F. Doyle, Jr., Associate Member

7:30 p.m. – Omnipoint Communications – Case #19-07 (Continuance Request)

Ms. Murphy read the public hearing notice for **Omnipoint Communications**, Case #19-07, with respect to property located at 522 High Plain Street, Walpole and shown on the Assessors Map as Lot No. 36-81, LM Zone.

The application is for:

Special Permits under Sections 3-I(4) and 3-B(7) of the Zoning Bylaws to allow wireless facility antennas on an existing tower; and

Variances from Sections 3-I(3)(f) and 3-I(3)(e) to allow antennas at a height greater than 60 feet and within two miles of an existing facility.

The applicant requested the hearing be continued to November 14, 2007.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing for Omnipoint Communications Case #19-07 to November 14, 2007, as requested, at 8:00 p.m.

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

8:15 p.m. – Town Counsel

Ms. Murphy and Mr. Hiltz informed Town Counsel that they believe they will have to recuse themselves if the Walpole Woodworkers site project goes forward and comes before the Board, and asked for her advise. Attorney Ilana Quirk advised that if there is even an appearance of impropriety a Board member would want to use their best judgment in order to avoid an appeal being centered around that issue. However, they can sit in the audience and make it very clear they are speaking as an individual, not as a member of the Board. Attorney Quirk will prepare a statement for the Board to send to the Board of Selectmen, when appropriate, informing them that they are aware of members of the Board who are abutters and are recusing themselves from a particular case, and further, that it will not affect their impartiality as a member of the Board.

Blades Realty/Torio Arena

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to go into executive session for the purpose of discussing strategy for pending litigation and the Board will go back into open session following the close of the executive session.

The vote was **5-0-0 in favor**. (Ms. Murphy –aye; Mr. Case – aye; Mr. Cunningham – aye; Mr. Hiltz – aye; Mr. Stanton – aye)

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to go out of executive session and back into open session.

The vote was **5-0-0 in favor**. (Ms. Murphy –aye; Mr. Case – aye; Mr. Cunningham – aye; Mr. Hiltz – aye; Mr. Stanton – aye)

50% Rule

Attorney Quirk referred to MGL 40A, Section 6 and informed the Board that if the construction does not increase the non-conforming nature the Board can find that it would not be more non-conforming. According to the Bylaw the applicant would need to go before the Board for a Variance. Regarding Mr. Doyle's question on whether non-conforming refers to the structure or the use. Attorney Quirk said that her opinion is that "non-conforming" refers to the use as well as the structure.

9:30 p.m. – Paul Cisternelli – Case #16-07 (cont'd from 9/19/07) (Murphy, Case, Hiltz, Stanton, Decelle, Doyle)

Ms. Murphy read the public hearing notice for Paul Cisternelli, Case #16-07, with respect to property located at Lot 1 – Renmar Avenue, Walpole and shown on the Assessors Map as Lot No. 32-87, LM and WRPOD – Area 3 Zones.

The application is for:

A Variance from Section 4-B (schedule of dimensional requirement) and Section 10D(1)(c)(2) for lot area requirement to allow a proposed commercial building to be constructed on existing Lot 1, containing 38,675 s.f., where 40,000 s.f. is required;

A Variance from Section 4-B to allow proposed building to be constructed with a setback from Renmar Ave. of 25 feet, where 50 feet is required;

A Variance from Section 4-B(j) to allow outside storage area for equipment to be located with a setback from Renmar Ave. of 10 feet, where 50 is required; and

A Special Permit under Section 10D(3)(b) (Water Resource Protection Overlay District) to allow the storage and handling of toxic or hazardous materials on premises, in quantities greater than those associated with normal household use; and

A Special Permit under Section 10-D(3)(d) for a non-residential use to allow 44% of the lot area to be rendered impervious, where 15% is allowed, and any other relief from the Zoning By Laws required for the proposed development on Lot 1.

John Anderson represented the applicant and submitted a new plan showing the new placement of the pavement where the outside storage and parking would be, (44% impervious cover), and the new gravel area. The height of the building would be approximately 20 to 22 feet, where 40 feet is allowed. The slope at the retaining wall would be a maximum of 3 feet.

Mr. Decelle asked why the parking spaces in the back were pushed up near to the abutter and why the vegetation needed to be removed.

Mr. Rossi explained that is because they may want to install two overhead doors. Mr. Anderson continued that if conditions are not right for that, they may put the wall further up and have only one door which would be less impervious cover, but that would not affect the Special Permit.

Mr. Case asked if the grit/oil separators are in the gravel section according to the plan. Mr. Anderson explained that the plan shows the pavement is left around it. After the Town Engineer has the test holes drilled, she may ask for more pavement around that area.

Mr. Hiltz was concerned about the type of fence the applicant is planning to use and the need for it to discourage children from climbing it. Mr. Anderson said that this would be decided during the site plan approval, but that he expects it would be a stockade fence, with possibly a second chain link fence for security.

Ms. Murphy opened the hearing for comments from the public.

Cameron Daley, an abutter, asked if the plan conforms to Section 4 of the Zoning Bylaws regarding the 50-foot setback. Mr. Decelle explained that the property between this property and the residences makes the difference. Mr. Stanton explained that the application is in the LM zone, which abuts the residential zone. Mr. Daley asked if the retaining wall would be considered a structure. Mr. Stanton informed him that a retaining wall is an exception to that rule.

A motion was made by Ms. Murphy, seconded by Mr. Case, on the behalf of the applicant to grant a Variance from Section 4-B (schedule of dimensional requirement) and Section 10D(1)(c)(2) for lot area requirement to allow a proposed commercial building to be constructed on existing Lot 1, containing 38,675 s.f., where 40,000 s.f. is required;

A Variance from Section 4-B to allow proposed building to be constructed with a setback from Renmar Ave. of 25 feet, where 50 feet is required;

A Variance from Section 4-B(j) to allow outside storage area for equipment to be located with a setback from Renmar Ave. of 10 feet, where 50 is required; and

A Special Permit under Section 10D(3)(b) (Water Resource Protection Overlay District) to allow the storage and handling of toxic or hazardous materials on premises, in quantities greater than those associated with normal household use; and

A Special Permit under Section 10-D(3)(d) for a non-residential use to allow 44% of the lot area to be rendered impervious, where 15% is allowed, and any other relief from the Zoning By Laws required for the proposed development on Lot 1.

The vote was **5-0-0 in favor**; Ms. Murphy, Mr. Case, Mr. Hiltz, Mr. Stanton, and Mr. Decelle voting. The decision will be completed at the Board's next meeting.

There being no further business, the meeting was closed at 11:00 p.m.

Daniel J. Cunningham
Clerk

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Minutes were approved on November 28, 2007.