

The November 14, 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

**7:30 p.m. – Christopher Maloof - Case #20-07**

Ms. Murphy read the public hearing notice for Christopher Maloof, Case #20-07, with respect to property located at 28 Sawmill Road, Walpole and shown on the Assessors Map as Lot No. 27-405-Lot 5, RA Zone.

The application is for:

Variance from Section 4-B of the Zoning Bylaws to allow a pool cabaña to be built on the back lot line of the property where a 10-foot setback is required, and any other relief required.

Attorney Brian Walsh represented the applicant and explained the request. He also submitted two letters from abutters voicing their approval of the project. Attorney Walsh explained that when the applicant moved into the house a drainage ditch did not exist in the rear yard. However, they found they had water leaking into their basement and asked the contractor to correct the problem. The contractor built a drainage ditch in the rear of their yard, which solved the problem. Now the applicant must locate the 16' x 10' pool house in a way that does not impact the drainage system. The applicant is considering putting in a toilet and a half bath as well, so bathers do not have to go into the home before changing. The pool house would not be heated; no outside lighting would shine into abutting properties; the house would be built on a concrete based monolithic slab, per Walpole requirements.

Because the plan did not show the location of the drainage systems and other details, the Board asked the applicant to prepare a plan showing where the drainage line is, the location of the pool and where the heater lines would be located, where the fence is actually going to be and the location of the existing deck. The hearing was continued to December 12, 2007 at 8:00 p.m.

**8:00 p.m. – Omnipoint Communications – Case #19-07 (contd. from 10/3/07)**

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.

Adam Braillard, Prince, Lobel, Glousky and Tye, represented the applicant and explained the request to collocate wireless facility antennas on the existing tower at 522 High Plain St, next to Applebee's Restaurant. The purpose of the additional antennas is to fill the gap in services along Rt. 1 and Rt. 95 in Walpole.

Ms. Murphy asked for comments from the public, there being none, closed the hearing.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant Special Permits under Sections 3-I(4) and 3-B(7) of the Zoning Bylaws to allow wireless facility antennas on an existing tower.

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. As stipulated by the applicant at the public hearing there shall be no flood lighting.
2. As stipulated by the applicant at the public hearing the addition will be constructed consistent with the plans submitted at the public hearing.

#### **REASONS FOR DECISION:**

It is the finding of the Board that the applicant has met the requirements under Section 3-I(4) and 3-B(7) of the Zoning Bylaws in that:

- i. Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood.*  
The construction shall not cause vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood in that minimal maintenance traffic will be added and nothing further.
- ii. Shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood.*  
The construction shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood. As represented by the applicant, intermittent maintenance visits is all that is expected.
- iii. Shall not have a greater lot coverage than allowed in the zoning district in which the premises is located (refer to Section 4-B).*

The construction shall not have a greater lot coverage than allowed in the zoning district in which the premises is located in that the lot coverage is not changed from what is already there.

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

The construction shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes in that there are no known dangers to the area due to the proposed installation of the wireless connection.

- 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.***

The construction 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. As represented by the applicant, post installation of the product will be in compliance with FCC regulations.

- vi. ***Shall not adversely effect the character of the immediate neighborhood.***

The construction shall not adversely affect the character of the immediate neighborhood in that there is no change to the existing stanchion and there will be minimal traffic.

- 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.***

The construction shall not be incompatible with the purpose of the zoning bylaw or the purpose of the zoning district in which the premises is located.

\* \* \* \* \*

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, on behalf of the applicant to grant a Variance 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 vote was **(5-0-0) in favor**; therefore the application for a **Variance** is hereby **granted**, **subject to the following conditions**:

#### **CONDITIONS:**

1. As stipulated by the applicant at the public hearing there shall be no flood lighting.
2. As stipulated by the applicant at the public hearing the addition will be constructed consistent with the plans submitted at the public hearing.

### REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements of Section 8C of the Zoning Bylaws.

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.*

The Board finds that the applicant has shown substantial hardship due to the topography in that the 60-foot limitation would leave the applicant with major gaps in coverage.

2. *Desirable relief may be granted without substantial detriment to the public good.*

Desirable relief may be granted without substantial detriment to the public good in that the applicant is not changing the existing structure in any way other than adding their equipment to the existing tower which will provide adequate coverage to an area of significant gap in services to the local Town's people, and thereby, a benefit to the public good.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The Board finds that the granting of this Variance with the above-imposed conditions does not substantially derogate from the purpose and intent of the By-law in that the proposed wireless facility will allow the applicant to provide adequate coverage to an area of significant gap in services to the local Town's people, and thereby, a benefit to the public good.

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

### DISCUSSION:

#### Oak Street Condominiums

Michael Viano presented his requests to the Board and was sent the following letter:

The Zoning Board of Appeals, at its meeting of November 14, 2007, read and discussed your letter dated November 9, 2007 requesting a modification to paragraph B. 23 to allow for construction of two buildings prior to completion of infrastructures.

After the discussion between you and the Board, the Board concluded that it is not an advisory board and that paragraph B. 23 under General Conditions in the decision dated May 1, 2007 stands as written.

Regarding your request for an administrative modification to your permit to allow a change of the holder of the permit from Oak Street Condominium, LLC to QR Development, LLC (QRD), the Board concluded that pursuant to Section 8-E of the Zoning Bylaws, this petition has been previously acted upon and denied and the Board cannot take any further action on the request.

**Blades/Iorio Arena**

A motion was made Ms. Murphy, seconded by Mr. Cunningham, to go into executive session to discuss pending litigation and return to regular session to adjourn.

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

The meeting was adjourned at 10:00 p.m.

Daniel J. Cunningham  
Clerk

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Minutes were approved on January 9, 2008.