

The January 6, 2010 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
James M. Stanton, Member
James S. Decelle, Member

Meg Kundert, Associate Member

7:00 p.m. – Trio Auto Clinic – Case #19-09

Ms. Murphy read the public hearing notice for **TRIO AUTO CLINIC, Case #19-09**, with respect to property located at 1439 Main St., Walpole and shown on the Assessors Map as Lot No. 40-148, Business Zone.

The application is for:

A Special Permit under Section 5.B.4.e of the Zoning Bylaws to allow a salesroom storage area for used car sales. All vehicles to be parked on paved surfaces.

The applicant, John Nassar, explained that he acquired the business about 3 ½ years ago, but does not own the property. He is pursuing a used car sales license. He has three employees. Their parking is on the left of the building and in the front. He has five parking spaces in the back of the property, and two spaces under the sign. There are also two to three parking spots inside the building. Also, Mr. Heavey, Heavey Plumbing, next door allows him to park in his parking lot. The dumpster is located on the right of the building on lot B, which is owned by the owner of this property. He would advertise his cars on Craig's list, the Internet, and have signs on the cars themselves. There would be no outside signage.

Ms. Murphy commented that the dumpster should be located on this property, not on the abutting property.

Mr. Decelle asked the applicant to research the Town Bylaws and find out how many parking spaces are required for this property and its uses, and per the square feet of the building; prepare a plan showing the parking spaces on the property; and submit a letter from Mr. Heavey stating that he is allowing the applicant to park on his property and how many vehicles can be parked there.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to continue the hearing to January 20, 2010 at 7:00 p.m.

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

7:30 p.m. – T-Mobile Northeast, LLC – Case #20-09

Ms. Murphy read the public hearing notice for **T-Mobile Northeast, LLC, Case #20-09**, with respect to property located at 41 Wagon Road, Walpole and shown on the Assessors Map as Lot No. 7-18, Park, School, Recreation and Conservation Zone.

The application is for:

A Special Permit under Section 10.F of the Zoning Bylaws to allow the collocation of a wireless facility to the existing water tower. The proposal will not exceed the height of the water tower.

Terri Feuersanger, represented T-Mobile Northeast, LLC, and explained the proposal to co-locate six tower antennas in an effort to find coverage solutions. John Hasenjaeger owns the access road. There is a lease agreement between T-Mobile and the Town. The equipment would be out of doors next to another carrier and will have its own fence within the fenced area. There would be fans for the equipment, but no air conditioning.

The radio frequency engineer presented a plan that indicated the areas of existing coverage and the areas of marginal and no coverage. He then showed the Board the areas that would be covered with the proposed installation.

Ms. Murphy asked if there were any comments from the public.

Renn Leveckis, 47 Wagon Rd., was concerned about the increase in radio frequency as more antennas are installed and the affect that could have on the abutters and asked how much radio frequency T-Mobile would be putting out.

Ms. Feuersanger did not know.

Mr. Leveckis asked how often T-Mobile is required to test the site.

Ms. Feuersanger said they are not required to do that. The radio frequency engineer stated that the Board could require the testing as a condition.

Mr. Leveckis said he did not want a generator or anything that would generate noise on the site; and requested that wires be properly maintained, and that the telephone number of a local person be made available to the town by the various wireless companies.

Susan Shroba, 47 Wagon Rd., informed the Board that there is a 2 to 3 foot hole in the fence that surrounds the water tower, rusted out buildings, which is an eye sore, and there is an exposed wire on the ground. She was very concerned about the safety of the people in the area.

The Board will write a memo to the Town Administrator requesting the site be properly maintained, the fence be checked out and repaired and the telephone number of a local representative for the various wireless companies located on that site.

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to close the public hearing for Case #20-09.

The vote was **5-0-0 in favor**; therefore, the hearing was closed. (Murphy, Case, Cunningham, Stanton, DeCelle voting)

A motion was made by Ms. Murphy and seconded by Mr. Cunningham on behalf of the applicant to grant a Special Permit under Section 10.F of the Zoning Bylaws to allow the collocation of a wireless facility to the existing water tower. The proposal will not exceed the height of the water tower.

The vote was **5-0-0 in favor**; therefore the application for **Special Permit is hereby granted**, subject to the following conditions: (Murphy, Case, Cunningham, Stanton, DeCelle voting)

CONDITIONS:

1. The applicant shall post emergency contact information clearly visible at the site;
2. The radio frequency there shall be tested once a year; a copy of the test results to be sent to the Zoning Board of Appeals;
3. The Wireless Communication Facility, as represented by the applicant, six (6) wireless communications antennas will be co-located on the existing water tank and placement of related equipment shall be located at the base of the tank, as shown in the plans filed with the application;
4. As stipulated by the applicant, lighting or noise to be generated by the operation of the wireless communication facility will meet criteria as established by the Town;
5. There shall be no use or storage of toxic or hazardous materials on this site;
6. All equipment shall be properly maintained and secured at all times.

REASONS:

It is the finding of the Board that the applicant has met the requirements under Section 2-B 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.***

It is the finding of the Board that the proposed facility will be unmanned and will not materially increase traffic on or near the property so as to adversely affect the immediate neighborhood. Once the facility is constructed, traffic to and from the site will be limited to one to two trips per month by maintenance personnel. As illustrated on the plans, the maintenance vehicle will access the property utilizing the existing driveway.

- 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 proposed facility will be unmanned and will not materially increase traffic on or near the property so as to adversely affect the immediate neighborhood. Once the facility is constructed, traffic to and from the site will be limited to

one to two trips per month by maintenance personnel. As illustrated on the plans, the maintenance vehicle will access the property utilizing the existing driveway.

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 applicant proposed facility complies with all applicable dimensional requirements.

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 proposed facility is passive in nature and does not produce odor, smoke, glare, or waste. The installation will comply with all applicable local, state and federal codes and regulations.

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 proposed installation will not produce vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or hazard. Further the only noise produced by the installation is from the electric fans in the ground equipment, which will not be detectable from the neighboring lots.

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

It is the finding of the Board that the proposed facility is permissible within this zoning district with the grant of a special permit. The proposed installation is entirely consistent with the existing uses on the property as well as those in the surrounding area. By installing its antennas on an existing water tank, already utilized for wireless communications purposes, the applicant can close a gap in its wireless network coverage without constructing a new tower or other more intrusive installation. In fact, the applicant submits that the proposed facility is the least intrusive means of providing the necessary coverage to this area of Walpole.

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 proposed facility is consistent with the purposes of the bylaw. The proposed facility utilizes the highest available priority site under the bylaw, and will not create a hazard as it is passive in nature and will not produce any waste. Furthermore, the installation will have a minimal visual impact on the surrounding area because the antennas will be located on, but will not exceed the height of, the existing water tank. In addition, by installing its antennas on an existing water tank, already utilized for wireless communications purposes, the applicant can close a gap in its wireless network coverage without constructing a new tower or other more intrusive installation.

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

Ms. Murphy recused herself from the hearing.

Mr. Case, Acting Chairman, read the public hearing notice for **D3A Realty Trust**, Case #21-09, with respect to property located at 920 Main St., Walpole and shown on the Assessors Map as Lot No. 25-241, CBD Zone.

The application is for:

A modification of Case #12-07, Condition #2; the removal of the short-term parking signage of “15 minutes or less”.

Mr. Ng informed the Board that he is having a difficult time finding a tenant to rent the vacant space at this location because of the 15 minute parking requirement. He also pointed out that the property has been rezoned to Central Business District on the most recent Bylaw revision.

Mr. Case asked if there were any comments from the public; there being none:

A motion was made by Mr. Case, seconded by Mr. Cunningham, to close the public hearing.

The vote was **5-0-0 in favor**; therefore, the hearing was closed. (Case, Cunningham, Stanton, DeCelle, Kundert voting)

A motion was made by Mr. Case and seconded by Mr. Cunningham on behalf of the applicant to grant the modification of Case #12-07, Condition #2; the removal of the short-term parking signage of “15 minutes or less”.

The vote was **5-0-0 in favor**, therefore the request for the modification of Case #12-07, Condition #2; the removal of the short-term parking signage of “15 minutes or less” is granted. (Case, Cunningham, Stanton, DeCelle, Kundert voting)

REASONS:

1. It is the finding of the Board that since the change in the Zoning Bylaws the new parking requirement eliminates the 15 minute parking limit.

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

DISCUSSION:

Town Counsel Letter dated December 30, 2009

A motion was made by Ms. Murphy, seconded by Mr. Cunningham, to go into executive session for the purpose of discussing litigation.

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

The Board will return to open session.

MINUTES:

A motion was made by Ms. Murphy, seconded by Ms. Kundert, to approve the minutes of September 9, 2009 and December 2, 2009 as written.

The vote was **5-0-0 in favor.** (Murphy, Case, Cunningham, Stanton, Kundert voting)

There being no further business, the meeting was closed at 10:00 p.m.

Daniel J. Cunningham, Jr.
Clerk

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Minutes were approved on January 20, 2010.