



Town of Barnstable
Zoning Board of Appeals
Minutes
February 13, 2013

Laura Shufelt - Chair	Absent
William Newton – Vice Chair	Present
Craig Larson	Present
Alex Rodolakis	Present
Brian Florence	Present
George Zevitas	Present

Introduction of Board Members – Members introduce themselves

Approval of Minutes from January 9, 2013

Motion is made by Brian Florence and seconded by Alex Rodolakis to approve the minutes as submitted.

Vote:

All in favor

Vice Chair – William Newton reads a summary of the appeals before the board tonight. At 7:02 PM., William Newton calls Appeal No. 2013-001.

7:00 PM Appeal No. 2013-001 - **New AT&T Mobility**

AT&T Mobility, as Lessee, has petitioned for a Special Permit in accordance with Article X, Section 240-108 – Antennas Permitted by Special Permit in all zoning districts. The Petitioner is proposing to add three panel antennas, six remote radio heads and one surge arrestor within the Petitioner’s 117 foot lease area on the existing tower. The existing tower is a structure and use accessory to the Barnstable County Sheriff’s Office Department of Public Safety. The subject property is located at 3195 Main Street, Barnstable, MA as shown on Assessor’s Map 299 as Parcel 024. It is located in the Village Business-A and Residence F-2 Zoning Districts.

Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton. Representative: Gerry Squires.

Mr. Squires gives a summary of the relief being requested. He indicates that the reason for this request is in order for AT&T to have the ability to utilize LGTE technology by placing new equipment on the tower in addition to what is existing. He indicates that they have a structural analysis to hold the additional equipment, authorization from the landlord, and Site Plan Review approval.

William Newton clarifies with Mr. Squires that they will be augmenting the lease area with new equipment and not removing any existing equipment. George Zevitas asks about approval from Old King’s Highway Historic

District Committee. Principal Planner – Elizabeth Jenkins indicates that because of the nature of the application, they had the chair from OKH review this application. According to OKH's chair, Carrie Bearse, the tower was existing and determined that there wasn't a need for approval from that committee.

William Newton indicates that he has concerns about the height and based on storm and wind activity whether the tower could sustain this additional equipment without the danger of something coming off the tower. Mr. Squires indicates that each one of the analyses take into account approximately 120 to 150 wind loads for these different towers and is part of the structural engineering report. He indicates that there are also federal codes for towers in reference to wind and ice.

William Newton notes that there is no one in the audience but asks if there is anyone here who would like to speak either in favor or in opposition. No one speaks.

Brian Florence reads a letter of concern from an abutter, Nancy Weir of 3279 Main Street in Barnstable.

Craig Larson makes findings:

AT&T Mobility, as Lessee, has petitioned for a Special Permit in accordance with Article X, Section 240-108 – Antennas Permitted by Special Permit in all zoning districts. The Petitioner is proposing to add three panel antennas, six remote radio heads and one surge arrestor within the Petitioner's 117 foot lease area on the existing tower. The existing tower is a structure and use accessory to the Barnstable County Sheriff's Office Department of Public Safety. The subject property is located at 3195 Main Street, Barnstable, MA as shown on Assessor's Map 299 as Parcel 024. It is located in the Village Business-A and Residence F-2 Zoning Districts.

1. The existing lattice telecommunications tower was permitted use and structure accessory to the Barnstable County Sheriff's Department public safety function and it was determined to be necessary for the Sheriff to perform essential government functions.
2. A letter dated July 15, 2003 from the Barnstable County Sheriff James Cummings to the ZBA affirmed that all applications to add commercial users to the tower would be subject to review by the Board.
3. The Applicant seeks a Special Permit to locate commercial equipment on the accessory tower pursuant to Article X, Section 240-108 – Antennas Permitted by Special Permit in all zoning districts.
4. A November 29, 2012 Site Plan approval letter was issued for the proposed installation.
5. The proposal by AT&T mobility to locate three new panel antennas and appurtenant equipment on an existing lattice communications tower at 3195 Main Street, Barnstable meets all of the requirements of Section 240-107 of the Zoning Ordinance. The proposed equipment conforms to the setback requirements in the RB District.
6. A structural analysis prepared by a Registered Professional Engineer from Massachusetts found that reinforcements and/or replacements to the tower are necessary to support the additional loads proposed by AT&T.
7. Based on an evaluation of the material submitted and the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and does not represent a substantial detriment to the public good or the neighborhood affected. The proposal will not be substantially more detrimental to the neighborhood than the existing building or structure. The installation of the proposed antennas will not substantially alter the appearance of the tower.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

Craig Larson makes a motion to grant the relief being sought with the conditions 1 through 4 as outlined in the staff report.

Conditions

1. Special Permit 2013-001 is granted to AT&T Mobility to allow the installation and operation of three antennas, six remote radio heads, and one surge arrestor on the existing tower at 3195 Main Street, Barnstable, MA, and accessory equipment as shown on the plans submitted and approved by the Site Plan Review Committee entitled "AT&T- Site Name: Barnstable County Sheriff, Site Number 1368", six sheets, dated November 2, 2012, prepared for AT&T, drawn and stamped by Chappell Engineering Associates.
2. Prior issuance of a building permit for installation of the requested antennas and appurtenant equipment, work shall be completed to reinforce the tower in accordance with the Tower Structural Analysis prepared and stamped by Chappell Engineering Associates, LLC dated November 29, 2012. No building permits shall issue for the proposed antenna installation until evidence has been submitted to the satisfaction of the Building Commissioner that all required reinforcements/replacements are complete and the tower can support the additional loads.
3. All work shall be completed in accordance with the requirements of the Site Plan Review approval.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit for the installation.

Seconded by Brian Florence.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

GRANTED WITH CONDITIONS

7:01 PM

Appeal No. 2013-002

- New

AT&T Mobility

AT&T Mobility, as Lessee, has petitioned for a modification of Special Permit No. 1998-043 to add two panel antennas, four remote radio heads, and two surge arrestors within the petitioner's 80 foot lease area on the tower and add one panel antenna, two remote radio heads and one surge arrestor within the 66 foot lease area on the tower. The subject property is located at 49 Ocean Street, Hyannis, MA as shown on Assessor's Map 326 as Parcel 025. It is located in the Hyannis Village Business Zoning District.

Members assigned: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

Representative: Gerry Squires

William Newton asks Mr. Squires if the location is on town property. Mr. Squires indicates that it is not on town property but is on area owned Verizon.

Mr. Squires indicates that they are separating the antennas but they are still are going to be in the areas where there are antennas presently. He indicates that they have also been approved on January 16, 2013 by the Hyannis Main Street Historical District Committee. They passed structural analysis which he has submitted with his application as well as site plan approval.

Brian Florence comments to Mr. Squires that in regards to the structural analysis report, he sees a lot of disclaimers such as they weren't able to inspect the foundation. He reads part of the engineering report and comments that the report doesn't address some of the issues pertaining to its structural integrity. The members discuss. Brian Florence suggest putting in a condition stating that the engineer is to clarify his report and would not feel comfortable voting on this without it. Mr. Squires is okay with a condition to that affect.

William Newton clarifies with Mr. Squires that this proposal is adding equipment to the 80 foot area where AT&T currently resides on the tower. Craig Larson clarifies that these towers are not owned by AT&T and asks that if these towers need to be recertified at any intervals. Elizabeth Jenkins indicates that with the newer towers, as a condition, it is written as a condition and is not consistent with all of this but that if they do make alterations or changes, that they must have a new structural analysis report to make sure that it is sound. They discuss. William Newton asks Elizabeth Jenkins if structural aspects are discussed at site plan review. Ms. Jenkins indicates that site plan review process is to make sure that all aspects of zoning are met. Ms. Jenkins then indicates that there was a question of standing on this proposal and that it wasn't clear that permission was ever received from Verizon.

Gerry Squires indicates that AT&T is in the process of working on an amendment with Verizon which hasn't been supplied as of yet, and is okay with a condition based on the pending standing issue. Ms. Jenkins recommends not conditioning standing. Alex Rodolakis agrees and that standing is a pre-requisite. Mr. Squires asks if this may be continued to a future date until he can get a letter of authorization/standing.

**Motion is made by Brian Florence and seconded by George Zevitas to continue this to March 27, 2013 at 7:00 PM.
Vote:
All in favor.**

CONTINUED TO MARCH 27, 2013 at 7:00 PM

Mr. Squires asks Brian Florence for verification of what his concerns are regarding the engineering report. Brian Florence indicates that if he were to condition it, that the condition would read: "Engineer to provide a more comprehensive review and certification to the satisfaction of the Building Commissioner that the existing tower is suitable to carry the new imposed loads.

At 7:40, William Newton calls Appeal No. 2013-003 and reads it into the record:

7:02 PM Appeal No. 2013-003 - New AT&T Mobility

AT&T Mobility, as Lessee, has applied for a modification of Variance No. 2002-116, as modified by Variance No. 2012-060, to add three panel antennas, six remote radio heads, and one surge arrestor within the 158 foot lease area on the tower. The subject property is located at 215 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as Parcel 071. It is located in the Residence F Zoning District.

**Members assigned: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton
Representative: Gerry Squires
Mr. Squires gives a summary of relief being requested.**

Alex Rodolakis makes findings:

AT&T Mobility, as Lessee, has applied for a modification of Variance No. 2002-116, as modified by Variance No. 2012-060, to add three panel antennas, six remote radio heads, and one surge arrestor within the 158 foot lease area on the tower. The subject property is located at 215 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as Parcel 071. It is located in the Residence F Zoning District.

Findings

- The proposal by AT&T Mobility to add three panel antennas, six remote radio heads and one surge arrestor within the 158 foot lease area on the existing monopole communications tower at 215 Old Falmouth Road meets all of the

requirements of Section 240-107 of the Zoning Ordinance. The installation is supported by a passing structural analysis prepared, signed and stamped by a Professional Engineer registered in Massachusetts.

- A Site Plan approval letter dated November 29, 2012 was issued for the proposed installation.
- Based on an evaluation of the material submitted and the evidence presented, the proposal will not be a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

William Newton asks Elizabeth Jenkins about detriment to the neighborhood regarding a fall zone and how far from that tower the residential area is. Ms. Jenkins indicates that there is a fall zone equal to the height of the tower protected by an easement.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

Motion is made by Alex Rodolakis and seconded by Brian Florence to grant the relief being requested as stated in the staff report by conditions 1 through 5

1. This modification of Variance 2002-116 is granted to AT&T Mobility to allow the installation and operation of three panel antennas, six remote radio heads and one surge arrestor within the 158 foot lease area on the existing monopole communications tower and accessory equipment at 215 Old Falmouth Road, Marstons Mills as shown on the plans entitled "AT&T – Site Name: Ocean Street - Hyannis, Site Number: 1145" dated December 3, 2012, drawn and stamped by Chappell Engineering Associates, LLC.
2. All conditions of Variance No. 2002-116 shall remain in full force and effect.
3. All work shall be completed in accordance with the requirements of the Site Plan Review approval and the Cape Cod Commission Type 1 DRI Minor Modification.
4. No work shall be done on the tower if protected birds are found to be nesting on the structure.
5. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit for the installation.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

GRANTED WITH CONDITIONS

At 7:52, Newton reads appeal no. 2013-004 into the record.

7:03 PM

Appeal No. 2013-004 - New

AT&T Mobility

AT&T Mobility, as Lessee, has petitioned a modification of Special Permit No. 1997-008 and Variance No. 1997-009, as issued by a Memorandum of Understanding dated August 18, 1999 and as modified by Special Permit No. 2002-129, to add three panel antennas, six remote radio heads, and one surge arrestor within the Petitioner's 250 foot lease area on the tower. The subject property is located at 749 Oak Street, West Barnstable, MA as shown on Assessor's Map 215 as Parcel 015-002. It is located in the Residence F Zoning District.

Members assigned: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

Representative: Gerry Squires

Mr. Squires gives a summary of relief being requested

William Newton asks Brian Florence if he is okay with the structural analysis report. Mr. Florence indicates yes. No questions or comments from the board members:

Brian Florence makes findings:

AT&T Mobility, as Lessee, has petitioned a modification of Special Permit No. 1997-008 and Variance No. 1997-009, as issued by a Memorandum of Understanding dated August 18, 1999 and as modified by Special Permit No. 2002-129, to add three panel antennas, six remote radio heads, and one surge arrestor within the Petitioner's 250 foot lease area on the tower. The subject property is located at 749 Oak Street, West Barnstable, MA as shown on Assessor's Map 215 as Parcel 015-002. It is located in the Residence F Zoning District.

Findings

- The proposal by AT&T Mobility to add three panel antennas, six remote radio heads and one surge arrestor within the 250 foot lease area on the existing lattice communications tower at 749 Oak Street, West Barnstable meets all of the requirements of Section 240-107 of the Zoning Ordinance. The installation is supported by a passing structural analysis prepared, signed and stamped by a Professional Engineer registered in Massachusetts.
- The proposed antennas will not increase the height of the tower.
- A Site Plan approval letter dated November 29, 2012 was issued for the proposed installation.
- Based on an evaluation of the material submitted and the evidence presented, the proposal will not be a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning ordinance.
- The proposal fulfills the spirit and intent of the Zoning Ordinance and does not represent a substantial detriment to the public good or the neighborhood affected. The proposal will not be substantially more detrimental to the neighborhood than the existing structure.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

Motion is made by Brian Florence and seconded by Craig Larson to grant the relief being requested with conditions 1 through 4 as stated on the staff report:

1. The request to modify Special Permit 1997-08 and Variance 1997-09, as modified by Appeal No. 2002-129, is granted to AT&T Mobility to allow the installation and operation of three panel antennas, six remote radio heads and one surge arrestor within the 250 foot lease area on the existing lattice communications tower and accessory equipment at 749 Oak Street, West Barnstable, as shown on the plans entitled "AT&T – Site Name: Oak Street - Barnstable, AT&T Site Number: 1108" dated October 24, 2012, drawn and stamped by Chappell Engineering Associates, LLC.
2. All conditions of Special Permit 1997-08, Variance 1997-09, and Appeal 2002-129 shall remain in full force and effect.
3. All work shall be completed in accordance with the requirements of the Site Plan Review approval.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit for the installation.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

GRANTED WITH CONDITIONS

William Newton reads appeal No. 2013-005 into the record:

7:04 PM

Appeal No. 2013-005 - New

AT&T Mobility

AT&T Mobility, as Lessee, has petitioned for a modification of Variance No. 2006-012 in order to add three panel antennas, six remote radio heads, and one surge arrestor within the petitioner's 130 foot lease area on the tower. The subject property is located at 1138 Main Street, Osterville, MA as shown on Assessor's Map 119 as Parcel 009. It is located in the Business A and Residence C Zoning District.

Members assigned: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton
Representative: Gerry Squires

Mr. Squires gives a summary of relief being requested. He also indicates that he has received Cape Cod Commission DRI approval.

William Newton asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

Alex Rodolakis makes findings:

AT&T Mobility, as Lessee, has petitioned for a modification of Variance No. 2006-012 in order to add three panel antennas, six remote radio heads, and one surge arrestor within the petitioner's 130 foot lease area on the tower. The subject property is located at 1138 Main Street, Osterville, MA as shown on Assessor's Map 119 as Parcel 009. It is located in the Business A and Residence C Zoning District.

Findings

- The proposal by AT&T Mobility to add three panel antennas, six remote radio heads and one surge arrestor within the 130 foot lease area on the existing monopole communications tower at 1138 Main Street, Osterville meets all of the requirements of Section 240-107 of the Zoning Ordinance. The installation is supported by a passing structural analysis prepared, signed and stamped by a Professional Engineer registered in Massachusetts.
- A Site Plan approval letter dated November 29, 2012 was issued for the proposed installation.
- Based on an evaluation of the material submitted and the evidence presented, the proposal will not be a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

Motion is made by Alex Rodolakis and seconded by Brian Florence to grant the relief being requested with the conditions 1 though 4 as outlined in the staff report:

1. This modification of Variance 2006-012 is granted to AT&T Mobility to allow the installation and operation of three panel antennas, six remote radio heads and one surge arrestor within the 130 foot lease area on the existing monopole communications tower and accessory equipment at 1138 Main Street, Osterville, as shown on the plans entitled "AT&T – Site Number: MA1082, Site Name: Osterville Main Street," dated September 6, 2012, drawn and stamped by Advanced Engineering Group.
2. All conditions of Variance No. 2006-012 shall remain in full force and effect.

3. All work shall be completed in accordance with the requirements of the Site Plan Review approval and the Cape Cod Commission Type 1 DRI Minor Modification.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit for the installation.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, William Newton

NAY: None

GRANTED WITH CONDITIONS

Open – Chairman’s Discussion - none

Upcoming Meetings – next meeting is February 27th.

Motion is made by Brian Florence and seconded by George Zevitas to adjourn.

Vote:

All in favor

Meeting adjourned at 8:04 PM