

December 16, 2014

Dear Conservation Commission:

In advance of the upcoming Conservation Commission meeting on 12/18, it is critical that the commission be notified immediately of potentially serious errors and omissions included on Varsity Wireless LLC's site plan and resulting wetlands analysis. Prior to outlining these in detail, I would first like to introduce the following from Boxford zoning bylaws 196-22 Wireless Communications Services:

- (6) A facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base.]

A facility, as defined, is the space or equipment necessary for doing something. Varsity Wireless, LLC also defines the term facility in the Project Narrative section of their conservation commission application (NOI) 2.0. "The proposed location for a new telecommunications facility consisting of a fenced compound with monopole and access road, is on a portion of privately owned land located at 12 Mortimer Rd..." Additionally, Varsity Wireless, LLC defines a facility in their Erosion Control Plan (Notes Section #1). "Applicant proposes to construct a cellular telecommunications facility consisting of a fenced compound and utility work within a lease area and easements." Also, in section 4.0 of the Project Narrative NOI Varsity Wireless, LLC states, "The majority of the facility is within cleared portions of the property; however, a small amount of clearing will likely be required." Varsity's statements here outlines that they view the "facility" as the total project. If they viewed the facility as just the tower, as an example, they would not make this reference. For the sake of brevity I will not site more examples, but they are numerous throughout the NOI and Zoning Board application and can be provided upon request.

Now that Varsity has defined a facility for the Commission, I would like to bring us back to Section 6 of our bylaws referenced above. The bylaws state that the facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices). Varsity Wireless, LLC apparently missed this requirement as all of their zoning measurements were completed using the height of 150'. Upon review of their plans, it is clear that the tower itself is 156', inclusive of faux branches and the lightening rod (appurtenant devices). In many cases this slight omission might not be material, however in this case it becomes of critical importance.

It is clear that Varsity Wireless, LLC, when making their measurements in compliance with section (6) above, made two material errors. First, their measurements were all made from tower center to impacted property lines, which is inconsistent with what is required by Boxford Zoning Laws. The measurements should be made from the perimeter of the facility, which Varsity defines in an inclusive manner, consisting of the tower, 47' x 69' compound, fence, parking space, driveway, ground equipment, easements and utilities. Next, the metric they chose for measurement is incorrect. Instead of using 156' as required, they selectively chose to use 150'. Both errors, as you will note, have significant impacts of the site plan design and on the required commercial setbacks and/or riverfront intrusions.

As was stated numerous times at the Conservation Commission meeting on 12/4, this site plan is "tight". From my review, I also concur with that assessment. To illustrate an example of the impacts these errors would have, please reference the radius plan A-1 from Varsity Wireless, LLC's NOI. First, and as an ancillary point, Varsity indicates in the zoning summary table that the tower height is 156', then incorrectly indicates distance to property line using the constraint as 150'. Next, please reference their indication that the facility is 173' from the BTA Bolt property line, using a measurement metric of the improper 150' monopine height and from tower center. When applying a measurement from the perimeter of the compound, as an example, the following math plays out:

- Tower Height 156'
- Compound size is 69' x 47'
- Half of the compound width is 23.5' (distance between monopine and interior compound perimeter)
- Measurement to property line is 23.5' closer than Varsity indicates
- New distance to BTA bolt property line is 149.5', with a constraint of 156'

As you will note, this example is using only the compound as the reference point. Varsity Wireless, LLC defines the facility to include the entire project and leased area (5357 sq. feet), well beyond just the compound area. When these items are considered into the measurements, Varsity Wireless exceeds the 156' constraints in numerous locations, such as the front yard property line.

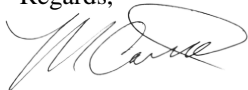
To illustrate another example, please reference the minimum setback distance chart in Conservation Commission Bylaws (page 451). It is stated that commercial, institutional, industrial, and municipal structures and associated parking facilities are required to have a 100' setback. Aside from the wetlands question this now raises, I would like to draw the conclusion that the Conservation Commission views the parking spot as part of the overall facility, as per this definition. If the measurements are now properly taken from the parking spot to the BTA property line, the following math plays out:

- Tower Height 156'
- Compound size is 69'x47'
- Half of the compound width is 23.5' (distance between monopine and interior compound perimeter)
- Parking space is 20' in length according to the compound map A-2, plus the driveway the driveway, easement area between the parking space and compound perimeter (approx. 16')
- Measurement to property line is 59.5' closer than Varsity indicates
- New distance to BTA Bolt property line is 113.5' with a constraint of 156'

The issue here pertaining to the parking space also raises an important question with respect to commercial setbacks. It is evident on the compound map A-2 that the corner of the compound is already intruding upon the commercial setback. Varsity indicates that they have cleared the bordering wetlands setback by 1' on the other side of the compound, but fail to site the overlap clearly visible on the map. When including the parking spot under the commercial setback's requirement, Varsity dramatically intrudes upon the bordering wetland buffer zone. This appears to be another problematic issue for this site plan and calls into question the validity of the project in its entirety.

Based upon this information, I ask that the Conservation Commission formally reconsiders the accuracy of this Notice of Intent. I would also ask that the Commission consider that Varsity has not requested any type of variance with the Zoning Board to breach property line constraints associated with this project. Additionally, I would request that the Commission considers the limited space by which the project current fits into the various setbacks and riverfront areas, and the impacts that even a small site plan change would have to the wetlands. I would lastly request that the Conservation Commission rejects this proposal outright, based on the unacceptable overlap of the compound into the commercial setbacks and parking space intrusion.

Regards,



Mike Cassidy