

Great Barrington Zoning Board of Appeals

Minutes of July 19, 2011, meeting.

Attending were Ron Majdalany, Carolyn Ivory, Kathy Kotleski, Michael Wise and alternate Don Hagberg, also Building Commissioner Ed May. The board organized for the year, re-electing Ron Majdalany as chairman, Carolyn Ivory as vice-chairman and Kathy Kotleski as clerk. The board on a motion by Ms. Ivory, seconded by Ms. Kotleski, approved the minutes of the April 5, 2011, meeting.

The board at 7:32 p.m. opened a public hearing on the special permit application of **Pittsfield Cellular Telephone Company dba Verizon Wireless** to replace existing telecommunications antennas atop Fairview Hospital. The secretary read the notice and said the notice had been properly advertised and posted and was mailed to abutters whose names appeared on the certified list from the Assessors.

Ellen W. Freyman, representing the applicant, said Verizon Wireless wants to swap out 12 antennas that are on the hospital now (behind a faux brick façade) and install newer 4G technology antennas. The present installation, she said, is pre-existing and nonconforming but has a special permit as the result of a court settlement. The power density calculation is virtually the same as for the present setup, she said in answer to a question from Mr. Hagberg. It is 27 percent of the admissible level. In answer to a question from Mr. Wise, she said she could not provide a reading of the power density from the entire complex because AT&T's figures are not available. Chairman Majdalany noted that Town Planner Chris Rembold in a memo suggested zoning bylaw section 5.2 does not apply as there is no change of use. Under section 10.4, the board said all provisions were met.

Mr. Majdalany appointed Mr. Hagberg to vote in place of member Madonna Meagher. Mr. Wise moved that the ZBA finds no adverse effect of the proposed changes on any of the criteria spelled out in Section 10.4 of the zoning bylaws. It is a change of antennas, a change of technology, but not a change of use.

Ms. Ivory seconded. All voted in favor of the application. Ms. Kotleski will write the decision.

The board met with Mr. and Mrs. Marvin Lieberman of **Seekonk Ventures/Barrington Bagel Co.** and their counsel, Kate McCormick, to discuss conditions of a special permit for their building at 777 South Main St. John MacGruer showed the board photos and pointed out what he termed repeated violation of an SP condition regarding parking in Space 20, as designated on a plot plan from the property's original special permit. The space, per an amended SP from 2009, was to be reserved for deliveries only, either by vendors or restaurant personnel going out to make deliveries. Mr. MacGruer also provided photographs of trash containers usually nestled at the northeast corner of the building sitting instead away from the building. Building Commissioner Ed May said he has been to the site several times, once in a while witnessed a violation of the use of Space 20 (corrected when he went inside to ask). He said he issued two citations on May 27, 2011, one for the parking space, the other for noncompliant Dumpster.

Ms. McCormick said the recent Dumpster relocation was so oil that had splattered against the building from a vehicle incident could be cleaned. Mr. MacGruer said photos show the Dumpsters too close to the road during the past winter. Mr. Lieberman said the containers, when properly placed by the trash hauler, stick out no more than 8 inches. Mr. May said by law the containers are to be no closer than 10 feet to the building. Mr. Majdalany said there appeared to be repeated violation of the SP conditions. There was discussion of relocating the Dumpsters to elsewhere in the rear parking lot. Ultimately Ms. McCormick agreed to return to the board's next meeting to relate the results of a planned new site visit by Mr. May to see if the Dumpsters could be placed close to the building in a way that would satisfy codes and also the SP condition, or to suggest a different course.

The meeting adjourned at 8:35 p.m.

Respectfully submitted, Bernard A. Drew, secretary