

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING OCTOBER 1, 2008

Present were Messrs. Musmanno, Cole, Biocchi, Gluckler and Ms. Gould.

The meeting was called to order at 7:20 p.m.

On a motion made by Mr. Musmanno and seconded by Mr. Flotta, the Board voted 4-1 to adopt the Minutes of the September 3, 2008 meeting as presented by the Clerk; Mr. Biocchi abstained since he was not present at the earlier meeting.

There being no objection from any member, the Board proceeded to hear the application of Ms. Leeper, who appeared on her own behalf.

Ms. Leeper stated that the proposed kennel license was not intended for breeding purposes. The dogs are a bichon fries (7 years old), about 8 lbs, a yellow labrador (7 years old), 75 lbs, a standard poodle (3 years old) and a weimaraner (just below 2 years old). When outside are confined with an area marked off by partial vinyl fencing and hidden electric fencing; the vinyl fence extends from the house to the side lot lines, with front and rear yard electric loops. The applicant has resided at the present address for several years and there have no complaints to neighbors or the Animal Control Officer. The lot is 1.01 acres, with $\frac{3}{4}$ acre lawn area. All dogs are spayed or neutered and are largely indoor dogs, and are not left outside unattended. Petitioner was specifically asked if she had knowledge of any complaints and replied that she did not.

There were no questions from the public. Ms. Christen Creeden of 12 Hickory Drive spoke in favor of the application, stating that she did not know until recently that there were four dogs in the house. No one spoke in opposition to the application.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Metro PCS Massachusetts LLC. The application was stated to relate to provision of six panel antennas on the existing 140 foot tower. There would be four outdoor cabinets on the ground, two battery and two equipment, connected to the

antennas via a coaxial cable within the tower. There would be no increase in height or lateral extent of existing tower; the new antennas would fit at the 122.5 foot level below the second (from top) existing sets of antenna. Stress analysis of the load imposed by the new antennas is still on-going. There would be a small cooling unit similar to a computer fan on two of the cabinets, which would emit about 52 dB at 10 feet away. The cabinets would require 200 amp service at 120 Volts, and the cabinets would be 115 from the property lines. There would no emergency generator; the batteries provide 8 hour backup power. Each of the six new antennas weight 18 lb.

There were no questions, statements or correspondence from the general public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Ms. Janice Kopacz, who appeared in person together with Mr. Bill Hempstead. Ms. Kopacz stated that there would be no change to footprint of the structure, all of which was already present. The plan presented represents the second floor layout. The stairway needs to be altered to conform to the Building Code. The rear exit door leads to the enclosed porch. The house is 34 x 26 feet, and the bedroom closet 8 x 4 feet. The lot is about 12,000 square feet with a total frontage of about 200 feet on both Coffee Street and Lee Lane. There are no existing variances or special permits. The upper story is a recent addition and an extension of the ground floor is needed to allow clearance for the stairs. The auxiliary family dwelling unit will be occupied by the applicant's mother. There have been no changes in the parcel since the 2006 ZBA decision. The driveway will be extended from Coffee Street to Lee Lane to provide parking for three cars.

There were no questions, statements or correspondence from the general public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

After a brief recess, the Board agreed unanimously to deliberate on the application of Metro PCS. A motion was made by Mr. Musmanno, seconded by Mr.

Biocchi and passed unanimously to find that the applicants met all the requirements of Article V-S of the Zoning ByLaw. A second motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to find that, suitably conditioned, the proposed modification would not cause substantial detriment to the public good. Accordingly, a motion was made by Mr. Cole, seconded by Mr. Musmanno, and passed unanimously to grant Metro PCS a special permit to add antennas and ground equipment in accordance with the plans presented, subject to the following conditions (the proposers and seconders of each condition appear after the condition; both conditions were agreed unanimously):

(a) the petitioner shall provide a certification from a professional engineer that the tower can accept the increased structural loadings of the proposed modification; (Gluckler/Biocchi); and

(b) the petitioner shall demonstrate to the satisfaction of the Zoning Enforcement Officer that the proposed modification will not result in a violation of the noise requirements of ArticleV-B-2 of the Zoning ByLaw (Cole/Musmanno)

The Board proceeded to deliberate on the application of Ms. Leeper. A motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to find that the grant of a suitably conditioned special permit would not cause substantial detriment to the public good. A second motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to grant Ms. Leeper a kennel license subject to the following conditions (the proposers and seconders of each condition appear after the condition; all conditions were agreed unanimously):

(a) not than 4 dogs shall reside at the premises (Musmanno/Cole);

(b) dogs shall not to be left outdoors unattended (Musmanno/Biocchi); and

(c) the privileges of this license are limited to keeping domestic pets owned by residents (Musmanno/Biocchi).

The Board then unanimously agreed to deliberate on the application of Ms. Kopacz. A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the petitioner failed to demonstrate that the conditions resulting in this Board's decision of September 6, 2006 relative to this site have substantially changed. A second motion was made by Mr. Cole, second by Mr. Musmanno and passed

unanimously to deny the requested special permit for the reasons stated in the foregoing finding.

On a motion by Mr. Musmanno seconded by Mr. Biocchi, the Board approved the Minutes of its September 3, 2008 meeting as presented by the Clerk; the vote to approve was 4-0 with Ms. Gould abstaining as she was not present at the earlier meeting.

The Board reviewed a letter from Delphic associates requesting an extension to their Section 40(b) permit. The Board agreed unanimously that this was a minor change and elected to act immediately. On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board agreed to amend its decision of October 19, 2005 to Rice Associates by adding as Condition 24, "This permit shall lapse if the use does not commence on or before November 5, 2010."

By unanimous consent, applications of Giovangelo, J Lee and Cantrell were approved for advertising.

The Board then agreed unanimously to adjourn.