



# TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 1/19/16

## Planning Board Meeting Minutes December 17, 2015

**Members in attendance:** Theresa Capobianco, Chair; Michelle Gillespie; Leslie Harrison; George Pember; Amy Poretsky

**Others in attendance:** Kathy Joubert, Town Planner; Elaine Rowe, Board Secretary; Chris Swiniarski, attorney for Verizon; Dave Tivnan, Verizon; Dr. Lyna Watson, 3 Howe Street; Gerard Bourque, 19 Jefferson Road; John Brewer Jr., 369 Hudson Street; Anthony & Laura Ziton, 17 Franklin Circle; Alan Archibald, 78 Ridge Road; Mary Bassett, 3A Pondview Way; Roger Langevin, 18 Autumn Lane; Renee Lorine Arnold, 57 Assabet Drive; Chuck & Jan Brown, 18 Franklin Circle; Danielle and Alan Lau, 35 Shadylane Avenue; Shannon Archibald, 110 Howard Street; Beth Richardson from The Goddard School, 10 Davis Street; Arthur Butt

**Chair Theresa Capobianco called meeting to order at 7:00PM.**

### **Public Hearing – Special Permit Application for proposed Wireless Communications Facility at 386 West Main Street**

Applicant:	Verizon Wireless
Engineer:	Chappell Engineering Associates, LLC
Date Filed:	December 1, 2015
Decision Due:	April 28, 2016

Leslie Harrison made a motion for the Planning to vote to allow the petition of the applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless for a special permit for a wireless communications facility at 386 West Main Street, within two years of the Planning Board's unfavorable special permit decision dated November 24, 2015, which denied the applicant's request for a Special Permit and Site Plan Approval to allow a Wireless Communications Facility to be located on the property located at 386 West Main Street, due to specific and material changes in the conditions upon which the previous unfavorable action was based, those changes being that the present application will be heard by a full, five member board, whereas the previous application was voted on by only four members and although three members voted in favor, under section 9 of the Zoning Act an affirmative vote of four members of a five member board is required to approve the application. George Pember seconded; motion carries by unanimous vote.

Leslie Harrison made a motion that the Planning Board consent, as required by section 16 of Chapter 40A of the General Laws, the Zoning Act, to consider the special permit application of Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless for a wireless communications

facility at 386 West Main Street within two years of the Planning Board's unfavorable special permit decision dated November 24, 2015. George Pember seconded; motion carries by unanimous vote.

Chris Swiniarski, attorney for Verizon Wireless, explained that he was before the board on a re-application for a special permit and site plan approval for a proposed wireless communications facility. He summarized prior discussions, and noted competing interests between municipal bylaws and federal law, with federal law pre-empting local bylaws. He noted that, under federal law, permitting of a facility requires the applicant to show that there is a gap in coverage and that this is the most feasible means to address that gap. He indicated that coverage maps showing the gap were included in the application packet. He explained that, over the past 6 months, the applicant and board have discussed alternate locations. He voiced his understanding that new information has come up about the site at 300 West Main Street, but emphasized his position that the applicant has met all of the criteria under federal law to obtain approval for a tower at 386 West Main Street.

Ms. Capobianco asked Mr. Swiniarski to explain why 300 West Main Street is not a feasible alternative. Mr. Swiniarski explained that the only available space on the pole will accommodate 3 antennas at a maximum, and Verizon needs a minimum of 6 antennas and ideally 12 antennas to deploy their network. He also discussed the question of available ground space, and noted that as of this morning he understands there may be some ground space available but it is not sufficient for what they need. He expressed a willingness to further investigate this possibility, but noted that there would still be a problem with the antennas. He indicated that this option is not viable for Verizon's needs.

Ms. Poretsky asked if Mr. Maxson was supposed to attend tonight's meeting, as she has some questions for him. Ms. Joubert voiced her expectation that Mr. Maxson was planning to attend this meeting.

Ms. Poretsky noted that Mr. Maxson, in his memo dated November 12, 2015, indicated that "while limiting antennas to this reduced volume is an imposition on the ideal configuration of the facility, is not necessarily fatal to the successful use of the existing tower to improve coverage." She also commented that there are a couple of waivers needed that are not listed on the application, and asked if they need to be. She indicated that the applicant had listed the waiver of the 500 foot setback from a residential lot line, but there is also a required side setback of 1½ times the height of the tower. Ms. Poretsky noted that the setback on the west side is only 37.9 feet and is 60.3 feet at the rear. Ms. Capobianco indicated that the board can consider these waivers as part of tonight's hearing. Ms. Joubert suggested that the board ask the applicant to verify the location of the proposed tower and to address the issue of required setbacks. In responses to a question from Ms. Capobianco, Mr. Swiniarski confirmed that the location and layout of the proposed facility have not changed since the original hearing. Mr. Swiniarski also stated that, as part of the previous hearing, he had gone through the ordinance and provided a statement of compliance with the ordinance along with a separate waiver request. He noted that it is within the board's discretion to grant any waivers that it feels is necessary. Ms. Joubert indicated that, as part of the new application, tab 15 in the application packet contains details about the waivers. Ms. Poretsky reiterated her understanding that the bylaw requires a 500 foot setback from a residential lot line and the proposed tower appears to be 237 feet away. She also discussed the required setback of 1½ times the tower height, which she feels should also be in the application. Mr. Swiniarski indicated that the location of the tower is specifically what is pre-empted by federal law. Ms. Poretsky explained that the board requires every applicant to request any necessary waivers, and she feels that this applicant should be required to do so as well. She referred to her recent memo dated 12/17/15 in which she indicated that the following waivers are needed:

- 7-10-040 E (10) 1000 foot setback required from a schools (approximately 670 feet shown)
- 7-10-040 E (8) setback minimum for WCF, 150 feet required (37.9 feet shown on the west side; 60.3 feet shown on the north side)
- 7-10-040 E (8) 500 foot setback required from a residential lot line (approximately 240 feet shown)
- 7-10-040 E (6) 1 mile separation required between cell towers (1880 feet shown)
- 7-10-040 F (5) unmanned equipment and/or building shall be no more than 200 square feet (312 square feet shown)

Ms. Poretsky stated that one of the questions she had for Mr. Maxson was regarding his comments that the applicant would need a variance of the required distance from school. Ms. Joubert noted that Town Counsel had reviewed the original decision and made a couple of corrections, specifically stating that waivers were needed and not variances. Ms. Poretsky voiced her understanding that waivers were needed for setbacks of less than 1½ times the height of the tower on each side, a minimum of 1 mile between towers, and the unmanned equipment shed. Ms. Joubert stated that the only waiver not in the original decision is the one for the setback of 1½ times the tower height, but it can certainly be added along with the equipment shed.

Ms. Poretsky suggested that, since this is a new application, the board should put in the waivers being sought. Ms. Capobianco asked if the board is required to go through the entire packet, since 6 meetings were previously held for this project. Ms. Joubert confirmed that the board is not required to do so if they feel that they have all of the information necessary to render a decision.

Ms. Poretsky reiterated her desire for Mr. Maxson to be available for consultation, given the new information that has come to light. She noted that, as of the last hearing, it appears that there is some ground space available at 300 West Main Street. She recalled that Mr. Maxson had stated that the applicant might be able to make it work if there is space on the tower there, and that it could be prudent to move the proposed facility further east.

Ms. Poretsky noted that she had included a map in her memo showing where the proposed tower is to be located. She commented that the coverage area shaded in blue is all wetlands and undevelopable. She suggested that the tower at 300 West Main Street would cover a better area of town and she does not see what Verizon will gain by having a tower at 386 West Main Street. She voiced her opinion that the board could require the applicant to co-locate on the existing pole. She reiterated that the needed coverage can be obtained without having to build another tower.

Ms. Poretsky noted that there was also a question about whether the flag on the pole could remain, and voiced her opinion that the flag would not be impacted since it is not being raised and lowered. She suggested that adding 3 antennas will not change the look of the flagpole and would not interfere with the flag. She indicated that the memo she provided includes a map with blue highlighting to show the area that is to be covered by the proposed tower. She voiced her opinion that the 300 West Main Street location would provide better coverage.

Mr. Swiniarski stated that the 300 West Main Street site does not work because Verizon cannot meet their needs with 3 antennas. He noted that the existence of ground space is not of any value because more than 3 antennas are needed. He explained that Mr. Maxson has provided 4 separate reports at this point, and emphasized the need to consider the entire analysis and not pick and choose only certain details from each report. He reiterated that, as he has maintained all along, Verizon is not in the tower

business and if it were possible to use the existing tower at 300 West Main Street they certainly would have done so immediately and would have been able to get their antennas up within weeks. Ms. Poretsky questioned the need for a 100-foot tower to cover only a small stretch of roadway.

Ms. Gillespie referenced the map and asked if it shows state-owned land or if it also contains land owned by Bigelow Nurseries that can be developed in the future. Ms. Joubert noted that a large portion of the land north of West Main Street is state-owned, but the land across the street is privately owned (part is owned by Borgatti, some is owned by Bigelow Nurseries and there may be some that is owned by Zecco Brothers).

Ms. Gillespie asked about development potential for the land between Route 9 and West Main Street. Ms. Joubert noted that the board had adopted a specific bylaw that only pertains to that land. Ms. Gillespie recalled Town Meeting discussions about doing an overlay for that area to allow for future development. Ms. Poretsky commented that the board cannot vote based on potential development 5 or 10 years from now. Mr. Swiniarski noted that a map was generated, at the board's request, to show the coverage differential of various tower heights. He explained that the engineers have designed a tower in the best possible location to provide the coverage where it is needed.

Ms. Poretsky commented that the coverage map Mr. Swiniarski provided for a 75-foot tower was relatively similar to that for the 100-foot tower. She noted that when Mr. Swiniarski was asked why a 75-foot tower would not suffice, he indicated that the trees would get in the way.

Ms. Capobianco asked Mr. Swiniarski about the need for 12 antennas, and whether co-location will still be possible with such an array in place. Mr. Swiniarski confirmed that it will be, and noted that it makes sense to have space for co-location when going to the trouble to build a pole. Ms. Poretsky noted that there could be up to 48 antennas on the pole. Ms. Joubert explained that the bylaw requires the applicant to provide space for co-location.

Ms. Poretsky reiterated her desire for the board to have the opportunity to speak with Mr. Maxson before closing the hearing. She noted that much of what was included in the last decision was based on Mr. Maxson's expert opinion, so she would appreciate having a chance to ask him questions.

Mr. Pember asked for clarification on the antenna. He voiced his assumption that all antennas currently on the flagpole at 300 West Main Street are located within the cylinder and nothing sticks out and, because of that, it is difficult to do anything more than 3 antennas. Mr. Swiniarski indicated that the number of antennas that are needed will not fit within the cylinder. Mr. Pember commented that the only way that co-location would work would require Verizon use all 4 spaces. Mr. Swiniarski noted that the 4<sup>th</sup> space will be too low on the pole to accomplish anything. Mr. Pember indicated that, while it might be possible to mount on the outside of the pole, it would likely be objectionable because of aesthetics. He stated that, while 300 West Main Street is the preferable site, it would require a complete remake on the pole so he does not see how that location is a viable site. Ms. Poretsky suggested that adding antennas to the outside of the existing pole will be much less of an impact than a 100-foot monopine. Mr. Pember reiterated that the existing pole can accommodate only 3 antennas and Verizon needs 12. Ms. Poretsky recalled that Mr. Maxson had indicated that Verizon could get by with 6 antennas. Mr. Swiniarski commented that merely getting by is not the goal and is in direct opposition to the intent of federal law. He noted that federal law was designed to support competition between carriers to provide better service for the public, so carriers are supposed to achieve the best service possible.

Ms. Gillespie discussed the flagpole design at 300 West Main Street, and noted that the residents on Cyrus Way and the occupants of the office park all see it as a flagpole. She commented that, once antennas are added on the outside of the pole, it becomes more than a just a flagpole. Ms. Poretsky suggested that, for the general public, 3 antennas mounted on the outside of the pole will not be a major issue. Ms. Harrison reiterated that the applicant needs 12 antennas. Ms. Poretsky commented that Mr. Maxson did not believe this to be the case. Ms. Capobianco stated that the board cannot give the applicant less than what they are asking for and cannot tell them that they need to get by with less. Ms. Poretsky stated that federal law allows for competition but does not mean that the applicant has to be better than all of the others.

Ms. Capobianco asked for details about where the available space is on the tower at 300 West Main Street. Mr. Tivnan indicated it was at 65 feet, which would not do anything for Verizon. Ms. Poretsky recalled that Mr. Maxson had asked Verizon to do a coverage analysis. She noted that he had done his own analysis in 2013 where he demonstrated that the tower would provide the needed coverage. Mr. Swiniarski commented that data has changed dramatically since 2013.

Ms. Joubert recalled that, when the town hired Dave Maxson to revise the WCF bylaw, which unfortunately was not supported at Town Meeting, he talked particularly about the 1 mile separation and indicated that it is a violation of federal law and there is no science behind it, and recommended that it be stricken from the bylaw. She also recalled that he suggested that we would see more towers in the future and not less. She commented that, while this hearing is not about what the tower looks like, the board does have the ability to change what it looks like. Ms. Capobianco commented that the board members all agree that cell towers are eyesores, but the board is not here to take a consensus of whether or not they like cell towers. She emphasized that personal opinions do not enter into the matter, and the board is obligated to comply with the local bylaw and federal law.

**Roger Langevin, Post Commander for the American Legion at 4 West Main Street**, introduced members of the executive board who were also in attendance. He explained that the Post has concerns about construction of a tower at 386 West Main Street and, since they have not had sufficient time to research those concerns, they are requesting ample time to survey their board and membership at large. Ms. Capobianco asked Mr. Langevin if the Post has any specific concerns to share with the board. Mr. Langevin indicated that he has not yet had the time to discuss the issue with the group, and noted that the Post has over 300 members. Ms. Capobianco asked when the Post intends to meet. Mr. Langevin noted that their next meeting is scheduled for the first Sunday in January, at which time they will take a vote on the matter if they have a quorum. Ms. Capobianco asked if the American Legion Post is an abutter. Ms. Joubert confirmed that it is. Ms. Capobianco asked if they had received a notification about the original hearing. Mr. Langevin indicated that he had received a letter about tonight's hearing. Ms. Joubert explained that notification about the original hearing would have been received in July. Mr. Langevin commented that he is not aware of such a letter as he only became Post Commander In September. Ms. Capobianco noted that, while she appreciates the Post's concerns, the board has already held 6 meetings on this matter and she is not sure how much more time they can allocate to it. She stated that, if the board feels that a continuation is appropriate, they will certainly endeavor to do that. Mr. Langevin voiced concern, especially given the number of children attending functions at the Post. After checking the records, Ms. Joubert confirmed that a notification letter was mailed to the Post on July 20, 2015 and details of the crane test were mailed on August 19, 2015. Ms. Harrison explained that federal law prohibits the board from taking into consideration any concerns about health effects.

Ms. Capobianco noted that the board can consider any information that contradicts what the applicant has provided. Mr. Langevin reiterated that he only recently became aware of this proposal, and members of the Post have some concerns. Ms. Capobianco asked Ms. Joubert to provide Mr. Langevin with a copy of the application and information about the statute. Ms. Harrison commented that the board is concerned about the welfare of the town's residents but is bound by the law.

**Beth Richardson, representing The Goddard School located at 10 Davis Street,** noted that she received a notification letter on December 17<sup>th</sup> at which time she immediately sent an email to the town and to the families of her students. She indicated that not one family is even remotely excited about this proposal and they have all signed a petition opposing it. She commented that the proposed location is not a good one, given the close proximity to the school and the children in its care. Ms. Joubert noted that she had forwarded several emails, including Ms. Richardson's, to the board members and has also provided copies this evening. Ms. Capobianco asked Mr. Swiniarski about the tower's distance from The Goddard School. Mr. Swiniarski stated that he had not taken that measurement. Ms. Poretsky indicated that it is approximately 670 feet. Mr. Swiniarski indicated that he is still of the position that The Goddard School is not a school under the definition of schools, and the location of the tower is a matter of federal law.

Ms. Gillespie explained that the bylaw originally provided for a 500 foot setback from schools, but was revised to increase it to 1000 feet because residents wanted them to be further away. She recalled that Mr. Maxson was skeptical that the town's bylaw would be upheld in federal court. Ms. Joubert noted that sheet C-01 in the small site plan documents shows The Goddard School's lot. Ms. Capobianco reiterated that concerns about health risks cannot be considered by law, and asked if the school has any other specific concerns about the proposal. Ms. Richardson stated that, when looking for a school for their children, parents do not want to see overhead wires or cell towers nearby because of safety concerns. Ms. Capobianco commented that the board is limited by law in what it can consider when rendering a decision. Ms. Poretsky suggested that the board should take into consideration the impact on an existing business and if there is another viable location option, it should be considered. Ms. Capobianco reiterated that the board is bound by law.

**Laura Ziton, 17 Franklin Circle,** stated that she loves the town and the trails and, while she realizes that this has been a lengthy process, she has several concerns about this proposal including environmental impacts, safety, setbacks, parking, gap in service, and aesthetics. She noted that the proposed location, adjacent to the trail, is at a significantly higher elevation than the land surrounding it.

Ms. Ziton, citing safety as her largest area of concern, discussed several articles she researched about the hazards of cell towers. She stated that, as the proliferation of towers increases, the dangers of them also increases. She noted numerous cases of people climbing on towers, falls from towers, and towers falling over, all of which make it clear why we have setbacks. She also questioned whether periodic RFR measurements and structural tests are ever done on these towers.

Ms. Ziton explained that, based on her conversations with the Fire Department, it appears that this tower may pose a brush fire risk. She also noted that there is no setback to protect the cars in the parking lot. Ms. Ziton cited several case of collapsing towers and equipment failure, and provided copies of the articles she found addressing safety concerns with these facilities. She emphasized the importance of the town doing its due diligence before approving this request.

Ms. Ziton addressed additional safety concerns with the proposal to locate this tower in a parking lot. She asked how the town will monitor the site after dark, and noted this will be an attraction to children. She voiced her understanding that the Community Preservation Committee has expressed concerns about safety at the proposed town common, which is in a well-travelled area and is well lit. She indicated that the tower will be set back at a trailhead, and will be too easily accessible. She reiterated her opinion that the setbacks exist for a reason.

Ms. Ziton also noted that the trails are heavily used, and the loss of parking spaces will be a tremendous disservice to town residents who use the trails. She also suggested that the safety concerns have not been adequately addressed. She commented that the purpose of co-location is to avoid proliferation and encouraged the board to remember the purpose of our bylaws and to enforce them. She also indicated that it is not possible to validate the gap in coverage claims, but noted that some of the best coverage in town is from Verizon. She reiterated her opinion that allowing Verizon to construct a tower in this location is not the best decision and asked the board to consider the serious safety risks of having a 100-foot tower near a recreation area.

**Mary Bassett, 3 PondView Way,** stated that she only recently became aware of this application and voiced agreement with the concerns expressed by Ms. Ziton. She commented that the American Legion Post should be afforded time to work through their concerns about the potential impacts of the proposal, and asked the board to think long and hard about approving a tower at this location.

Ms. Capobianco asked Mr. Swiniarski to identify other properties that Verizon had considered. Mr. Swiniarski stated that he had considered 300 West Main Street, the Bigelow property across the street, and the American Legion parcel. He explained that the proposed tower cannot be put just anywhere in town, but needs a specific location in order to achieve the coverage that is needed. He noted that Verizon had spent 6 months looking for alternate locations and did not find anything better than the 386 West Main Street property, which provides the most viable way to address the gap in coverage. Mr. Pember asked about safety concerns. Mr. Swiniarski indicated that there will be a fence with barbed wire around the compound, and offered to make the fence as tall as the board would like it to be. Mr. Pember asked about the concerns with the tower blowing over during periods of high winds. Mr. Swiniarski commented that other structures in the neighborhood would fail before the tower. Mr. Tivnan indicated that the tower is built to the most stringent codes and, were it ever to be hit directly by a hurricane, it will likely be the last structure to fail.

Ms. Ziton stated that the information she provided is current. Ms. Harrison voiced agreement with Mr. Swiniarski's position. Mr. Tivnan explained that the tower is designed to have its weakest point 60% above ground level, and any collapse would result in it folding like a knife and remaining within the compound. Ms. Joubert recalled that similar concerns were raised when the board was considering the flagpole at 300 West Main Street, and a similar explanation about where the towers break was given at that time. Ms. Capobianco commented that some of the cases presented by Ms. Ziton were the result of human error and not failure of the tower itself. She also commented that the number of failures is relatively low, given the number of towers that are in existence. She also stated that it is impossible to prevent every accident from happening. Ms. Ziton questioned who would be liable if the tower were to fall on a car in the parking lot. Ms. Joubert mentioned that the bylaw prohibits the use of barbed wire.

Arthur Butt from the American Legion expressed confusion, and asked what would happen if the board denies the applicant's request. Ms. Capobianco explained that federal law supersedes our local bylaw, so a denial would likely be overturned in court.

**Renee Lorine Arnold, 57 Assabet Drive**, indicated that she is a volunteer member of the Trails Committee and an avid trail user. She voiced concern about disruption of the trailhead area and impacts to this heavily used trail, especially from large maintenance trucks travelling to and from the compound.

**Dr. Lyna Watson, 3 Howe Lane**, asked if the board can consider environmental impacts. Ms. Joubert confirmed that, if there were wetlands involved, the applicant would be required to file with the Conservation Commission, but noted that this specific site does not have any wetland issues.

Ms. Ziton voiced her impression that the board is finished with these discussion, and that threats from Verizon are affecting the board's ability to consider the public's concerns. She also suggested that the 300 West Main Street option was not fully vetted. Ms. Capobianco reiterated that the board has spent dozens of hours on this application, and every single meeting has been posted and every meeting is a matter of public notice. She indicated that the board has explored every single option and even went so far as requiring the applicant to hire an expert, who has confirmed that the criteria for a gap in coverage has been met. She also noted that, while we do have information about available space on the pole at 300 West Main Street, it does not meet Verizon's needs. She emphasized that, while the members of the board are not thrilled to have another cell tower constructed, its hands are tied by the federal statute. She explained that, unless an issue is something that the federal Telecommunications Act permits the board to consider, they cannot do so.

Mr. Swinarski commented that Town Counsel has read the Act and provided advice to the board. Ms. Ziton voiced her opinion that Verizon has not compromised. Ms. Gillespie noted that the new tower must be large enough to accommodate co-location, and reiterated that the proposed tower will be located on privately owned land and not on conservation land. Ms. Ziton indicated that the parcel abuts conservation land that will be negatively impacted by this tower.

**Shannon Archibald, 100 Howard Street**, explained that she had recently moved back to town. She asked if the ground has been tested to be sure it can withstand a tower of this size and weight, given that the land is located between two wetland systems. Mr. Swinarski confirmed that a geotechnical study has been done. Ms. Gillespie noted that wetlands are located behind the parcel and across the street. Mr. Swinarski commented that the tower will not be affecting the wetlands. Ms. Joubert noted that part of the access road is on state land and also crosses Mr. Gallagher's property, and the trail starts on Mr. Gallagher's property and goes onto state land.

Ms. Archibald asked for the coordinates for the compound. Mr. Swinarski noted that the property lines are shown on the survey, and there are no wetlands or wetlands buffer zones on the parcel. Mr. Tivnan indicated that the compound will be located more than 100 feet from all wetlands. Ms. Harrison asked about diminished parking. Mr. Swinarski stated that there will be no parking spaces lost. He also voiced his understanding that the property owner has separate plans to provide more parking spaces for users of the trail.

Ms. Ziton asked if the board was going to allow the American Legion Post time to consider the impacts. Ms. Poretsky noted that, since this is a new application, the board has 150 days to render a decision. Ms. Capobianco asked for input from members of the board. Ms. Poretsky reiterated her desire to continue the hearing to allow her the opportunity to speak with Mr. Maxson. Ms. Harrison commented that she does not think anything new has come about that would necessitate further conversation with



Mr. Maxson. Ms. Poretsky noted that, per federal law, if the board gives Verizon approval for 6 antennas, it is not being prohibitive. Mr. Pember stated that he does not believe we will get any feedback from Mr. Maxson that has not already been provided. He also indicated that he is not convinced that co-location on the pole at 300 West Main Street will work and, even if it did, it likely will not address future coverage gaps. He discussed the concerns voiced by the American Legion Post, which were primarily about health risks that are specifically not allowed to be taken into account.

Ms. Ziton commented that it is not fair to the veterans to ignore their request. Mr. Pember noted that a notification had been sent to the American Legion Post and someone there had failed to act on it, and suggested that it would not be fair to the board to ask them to sit through more meetings.

Ms. Arnold asked how information about these applications is disseminated to town residents. Ms. Joubert explained that notifications are mailed to direct abutters, and each meeting is posted in the Town Clerk's office and on the town website. Ms. Capobianco reiterated that the board has spent hours hashing this out. Ms. Harrison asked if, given the feelings expressed by audience members tonight, the board would be willing to extend the hearing to one more meeting but only if there is new information brought forth and no further discussion about health concerns. Ms. Gillespie voiced her opinion that Mr. Maxson would agree with the applicant that co-location on the pole at 300 West Main Street is not viable and the only way it can be would be to alter the flagpole, which the board is not in favor of allowing. Ms. Poretsky stated that she would still like to hear it from Mr. Maxson. Ms. Gillespie stated that the board already has. She also stated that, while she is sorry that the members of the American Legion Post did not see the original notice, she believes that their concerns will pertain to health risks and the board cannot consider health concerns or aesthetics. Mr. Langevin asked why the 386 West Main Street was selected. Ms. Capobianco explained that it was the most viable option to address the coverage gap. Mr. Langevin reiterated his desire to have time to speak with his membership and executive board, but understands if the board needs to move the process along. Ms. Capobianco asked the board members if they would be inclined to continue the hearing one more time. Ms. Harrison and Mr. Pember agreed, as long as what is brought forth is new information. Mr. Swiniarski explained that the deadline for him to file an appeal of the original decision is December 24, 2015. He noted that the purpose of this reconsideration was to see if it might not be necessary to do so. He stated that, if a decision cannot be reached tonight, he will be forced to file his appeal and these proceedings will then become moot.

Mr. Langevin indicated that he would leave the decision to the board. Ms. Gillespie explained that a decision by the board tonight would enable the board to impose conditions on the project but if the applicant files in federal court, the town loses the ability to do so. Ms. Capobianco noted that the original decision included a number of conditions to protect the town's interests as much as possible.

Ms. Harrison voiced her opinion that the matter has been thoroughly explored and she is prepared to vote tonight. She stated that she no longer supports the proposal to continue the hearing. Mr. Pember noted that the only new thing that he heard tonight was the safety aspect, and he would want to explore the possibility of a waiver of the prohibition of barbed wire or include some type of requirement on the applicant to prevent public access to the compound. He also expressed a desire for the board to vote tonight. Ms. Gillespie agreed.

Ms. Poretsky commented that the board does plan out for the future, but voiced her opinion that the board cannot vote on future technology because we are not engineers. She noted that 5G technology is looking for ways to improve on existing towers, and reiterated that it is not within the board's purview

to vote on the future of technology. She stated that, while she understands the need to fill a coverage gap, she does not believe it needs to be done with 12 antennas. She expressed a desire to meet again on December 23, 2015 if Mr. Maxson can attend.

Michelle Gillespie made a motion to close the hearing. Leslie Harrison seconded; motion carries by a vote of 4 in favor and 1 opposed (Amy Poretsky opposed).

Ms. Poretsky recalled that Mr. Maxson had cautioned the board and recommended a condition limiting expansion of the tower. Mr. Swiniarski stated that doing so would be a violation of the federal statute.

Ms. Capobianco confirmed that the subject property at 386 West Main Street is located in the Business West District and reiterated that the applicant proposes to construct a 100-foot Wireless Communications Facility and a 12' x 26' equipment shelter.

Leslie Harrison made a motion to find that the Applicant established that it has a significant gap in the provision of its personal wireless services in the vicinity of the proposed facility pursuant to the Federal Telecommunications Act of 1996. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

George Pember made a motion to find that the surrounding area provides no other feasible location in which to install and operate a wireless telecommunications facility. Other nearby parcels considered as alternatives, if they were available, would not be materially better from the perspective of design and community impact. Leslie Harrison seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

George Pember made a motion to find that the applicant established a significant gap in coverage and that there is a lack of feasible alternatives. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Leslie Harrison made a motion to find that the applicant has demonstrated a reasonable effort to co-locate the proposed WCF upon an existing structure or WCF. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed)

George Pember made a motion to find that the applicant has shown that no existing space on the WCF can be leased or procured. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Leslie Harrison made a motion to allow location of a wireless communication facility less than 500 feet from a residential structure. Michelle Gillespie second; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Michelle Gillespie made a motion to allow the proposed wireless communication facility to be located less than 1000 feet from the nearest school property line. George Pember seconded, but voiced his opinion that this waiver is not needed because The Goddard School does not meet the definition of a school. Motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

George Pember made a motion to find that the proposed Wireless Communications Facility will benefit the public by increasing commercial communication services to the area in specific, as well as the Town

of Northborough as a whole. Therefore the waivers sought will not constitute a substantial detriment to the public good, nor will it nullify or substantially derogate from the intent or purpose of the Zoning Bylaw. Leslie Harrison seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Ms. Poretsky indicated that she would like to see a brown pole that is densely filled in. Ms. Gillespie suggested that the decision include language requiring town staff to review and approve final design plans. Ms. Joubert suggested that this should be a condition and not a finding.

Ms. Poretsky also suggested a condition to require any lost parking spaces to be replicated. Ms. Joubert noted that the parking area is not paved and delineated, so there is no defined number of parking spaces.

Leslie Harrison made a motion to allow the equipment shed to be in excess of 200 square feet. George Pember seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Michelle Gillespie made a motion to require the chain link fence surrounding the Wireless Communications Facility to be black in color. Leslie Harrison seconded; motion carries by a vote of 4 in favor with Amy Poretsky abstaining.

Leslie Harrison made a motion to grant a waiver to allow the wireless communication facility within one mile of an existing facility. George Pember seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

George Pember made a motion to grant a waiver to allow a setback of less than 500 feet from a residential lot line and waiving the requirement that the setback be at least  $1\frac{1}{2}$  times the height of the tower. Leslie Harrison seconded. Ms. Poretsky commented that the setback of  $1\frac{1}{2}$  times the height of the tower is in the bylaw for safety reasons, and voiced extreme concern about waiving that requirement. Ms. Capobianco indicated that she might feel differently if the abutting land were developable. The motion made by Mr. Pember carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Leslie Harrison made a motion to allow a wireless communications facility to be located less than 1000 feet from a school. George Pember seconded; motions carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

George Pember made a motion to waive the requirement that the footprint of an unstaffed equipment shed can be more than 200 square feet, not to exceed 312 square feet. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Leslie Harrison made a motion to grant site plan approval with waivers as approved and a special permit to allow placement of a wireless communications facility at 386 West Main Street. Michelle Gillespie seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

Ms. Capobianco asked Ms. Joubert to include a requirement for regular structural safety inspections.

Leslie Harrison made a motion to require the color of the monopole to be as close to treelike as possible, the branches on the monopine are to be as full as possible, and the final design plan is to be

submitted to the Planning Department for approval prior to construction. George Pember seconded; motions carries by unanimous vote.

Michelle Gillespie made a motion to waive the requirement that prohibits the use of razor or barbed wire on the fence surrounding the compound. Leslie Harrison seconded. Members of the board requested the use of flat panel barbed wire, and a stipulation that the final design for fencing should be submitted to the Planning Department for approval. Motion carries by unanimous vote.

Ms. Poretsky requested that the board include a condition limiting expansion of the approved tower as recommended by David Maxson.

Amy Poretsky made a motion to require the applicant to come back to the board in the event that he wishes to make any modifications to the tower. George Pember seconded. Ms. Capobianco stated that she cannot support this motion because a statute exists that would supersede it. Ms. Poretsky questioned why Mr. Maxson would recommend it if that is truly the case. Mr. Swiniarski suggested that Mr. Maxson recommends prohibiting anything beyond what is allowed in the statute. Ms. Capobianco made a motion to amend the motion to limit any horizontal expansion or a vertical modification of more than 20 feet. George Pember seconded. Ms. Poretsky noted that Mr. Maxson is not present to verify the intention of his recommendation. The amended motion carries by a vote of 4 in favor with Amy Poretsky abstaining. Ms. Capobianco asked Ms. Joubert to reference the statute in the decision.

George Pember made a motion to adopt the remaining portions of the Findings of Fact as written in the original decision filed with the Town Clerk on November 24, 2015. Leslie Harrison seconded; motion carries by a vote of 4 in favor and one opposed (Amy Poretsky opposed).

**Bond reduction for 333 Southwest Cutoff (baseball facility)** – Ms. Joubert noted that the original bond of \$116,000 was previously reduced to \$48,000 and the applicant is now seeking a further reduction. She explained that Mr. Litchfield had calculated a reduced bond of \$34,000. Ms. Capobianco asked if the reduced amount is sufficient to cover the town’s liabilities. Ms. Joubert confirmed that it is, and indicated that the proposed amount includes a 15% contingency.

George Pember made a motion to reduce the bond to \$34,000 with no further reductions until the project is complete.

Ms. Gillespie asked if there has been any further information from the state about the ramp from Route 20 to Route 9. Ms. Joubert noted that a public hearing was held and agreed to get more information.

Meeting adjourned at 10:35PM.

Respectfully submitted,

Elaine Rowe  
Board Secretary