



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 6/22/10

Zoning Board of Appeals Meeting Minutes March 23, 2010

Members in attendance: Richard Rand, Chairman; Richard Kane; Gerry Benson; Chan Byun; Dan Ginsberg, Alternate; Sandra Landau; Alternate

Members excused: Mark Rutan, Clerk

Others in attendance: Kathy Joubert, Town Planner; Bill Farnsworth, Building Inspector; Elaine Rowe, Board Secretary; Attorney Simon Brighent; Peter Fails, site acquisition specialist for T-Mobile; Mohammed Abraham, T-Mobile; Ronald & Nancy Doyon, 2 Wilson Road; Sandra Gluck, 386 Main Street; Noel & Armand Barrett, 54 Maple Street; Tony Rino, 28 Woodstone Road, Julianne Morin, 266 Main Street; Christine & Geoff Mowry, 11 Settlers Road; Peter Utzschneider, 243 West Street; Phil Lambert, 22 Assabet Hill Circle; Ellen Silverstein, 130 Chase Road, Marlborough; Evelyn LeBlanc, 136 East Main Street; Janice Bisset, 136 East Main Street; Michael & Patricia Foglia, 9 Little Pond Road; Paul Blanchard, 346 South Street; Cindy Albert, 4 Dowling Lane; Beth Tower, 116 Wesson Terrace; Robert Campbell, 89 Meadow Road; Joanna D'Avolio, 2 Horseneck Road, Shrewsbury; Lori Regis, 1 Bush Road, Hudson; Martine Rahn, 95 Warren Street, Boylston; Lois Hannah & Matthew Black, 133 Chase Road, Marlborough; Kristen & George, 5 Blueberry Lane; Dr. Lyna Watson, 3 Howe Lane; Bernadette Aube, 4 Country Way, Shrewsbury; Elizabeth Deastlov, 5 Flintlock Drive, Shrewsbury; Matthew Restenbaum, Worcester, MA; Mike DiCenzo, 374 Stimpson Road; Gale Daniels, 27 Colburn Street; Elisha M. Grant, 89 Meadow Road; Laura Ziton, 1A Pond View Way; Paul Weiss, 27 Maple Way, Boylston; Willy Chang, 40 Ridge Road; Robin Manning, 46 Bartlett Street; Christine Curley, 132 Dartmouth Street; Megan Byron, 15 Stirrup Brook Lane; Avinash Sangappa, 222 Robert Road, Marlborough; George J. Cernigliaro, 2 Abenaki Road; James & Meghan Gasek; Lawrence Cotter, 162 East Main Street; John & Rebecca Hunt, 127 East Main Street; Sahayam & Ramona Michael, 22 Bridle Ridge Drive, North Grafton; Paul Reuter, 89 Rice Avenue; Linda DiMare, 13 Fairway Drive; Marie DiMauro, 38 Rawson Hill Drive, Shrewsbury; Beth Nolan Conners, 55 Danforth Lane, Bolton; Mary Anne & D.R. Curtis, 8 Fisk Drive; Maureen Mongeau, 201 Pleasant Street, Berlin; Debra Laviolette, 7 Paulene Drive, Franklin; Susan Green, 24 Priest Road, Berlin; Maria Maglitta, 6 Blackstone Lane, Grafton; Tomas Simeszek, 35 Venus Drive, Shrewsbury; Michelle Gillespie, 117 Howard Street, Planning Board; Lynn Dufault, 7 Harriet Avenue, Shrewsbury; Mariesa Capelle; Jon Lien, 57 Fisher Street; Terry LeBlanc, 109 West Main Street; Nancy Avery, 199 Coburn Avenue, Worcester; Andrea Bibi; Paul A. Jankovich, 24 Little Pond Road; Jan & Todd Berry, 38 Meadowbrook; Kim Henderson-Lee, 1 Edmunds Way; Marjorie Cernigliaro, 2 Abenaki Road; John Ovano, 17 Fairway Drive; Laura Haney, 58 Juniper Brook Drive; Karen Bunton, 24 Harriet Avenue, Shrewsbury; Bridget Kearney, 110 East Main Street; Kerry Carlucci, 24 Brigham Road, Berlin; Ann Fahey & P. Michael Fahey, 137 Dutcher Street, Hopedale; Laura Enos, 36 Girard Street, Marlborough; Linda Hardy, 36 Maynard Street; Dave Faucher, 6 Rustic Drive; Renee Knaf, 502 Williams

Street, Marlborough; William Monaghan, 158 Main Street, Southborough; Mary Beth Ryan, 213 Whitney Street; Paula Lambert, 50 Hamilton Circle, Marlborough; John Kaminsky, 7 Laurel Avenue; Beth Keller, 13 Bolton Street, Hudson; Tracey Rabbitt, Boylston; Mana Coutu, 471 Boston Turnpike, Shrewsbury

Chairman Rand called the meeting to order at 7:03PM.

Mr. Farnsworth cautioned the large audience about the importance of keeping the doors open and aisles clear for egress.

Public Hearing to consider the petition of Ronald G. Doyon for a Variance/Special Permit to allow construction of a garage to be located less than the required 15 feet from a side property line on the property located at 2 Wilson Road

Chairman Rand appointed Dan Ginsberg as a voting member for this hearing.

Mr. Doyon explained that he is seeking a reduction of the 15 foot setback to 8 feet to enable him to construct a garage on this 16,400 square foot lot. He explained that his home is quite small and the garage is needed for storage of vehicles, lawn equipment, and assorted possessions.

Chairman Rand asked if it is possible to locate the garage elsewhere on the parcel. Mr. Doyon noted that it is not feasible to do so, given the location of the driveway and proximity to the home.

Mr. Byun noted that the proposed garage will be 8.7 feet from the side line, and asked if it is possible to reduce the size of the garage to meet the setback requirements. Mr. Doyon explained that he would like to include the breezeway for access to the back yard without having to go around the garage. Mr. Byun asked Mr. Doyon if he would consider narrowing and lengthening the garage. Mr. Doyon commented that doing so would still not allow him to meet the minimum setback because the garage needs to be at least 18 feet wide.

Mr. Ginsberg asked if it is possible to locate the garage in back of the house. Mr. Doyon indicated that there is an above-ground pool in the back yard. In addition, he noted that the location of the existing driveway dictates the location of the garage. Mr. Ginsberg asked if there had been any negative feedback from any of the abutters. Ms. Joubert stated that she has not received any. Mr. Doyon submitted letters of support from 14 of his neighbors.

Ms. Landau explained that the board has the authority to grant a variance only if there is a hardship due to the shape of lot, topography of the lot, or soil conditions. Mr. Doyon stated that the shape of the lot creates the hardship.

Mr. Farnsworth stated that, should the variance be granted, the project will be in compliance relative to impervious cover under the groundwater bylaw and for gross floor area.

Dan Ginsberg made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Public Hearing to consider the petition of Paul and Jody Blanchard for a Variance/Special Permit to allow the maximum gross floor area of a proposed attached accessory dwelling unit to exceed 25% of the gross floor area of the existing single-family home on the property located at 346 South Street

Chairman Rand appointed Dan Ginsberg as a voting member for this hearing.

Paul Blanchard explained that he is seeking approval to build an in-law addition for his mother in law, and noted that he is in compliance with all requirements with the exception that he exceeds the allowable increase in gross living area by 242 square feet. He explained that, since his mother-in-law is handicapped, he needs to make the space wheelchair accessible for when it becomes necessary for her to use one in the future.

Mr. Blanchard stated that the addition will be attached to the back of the garage, adjacent to the in-ground pool. He explained that he had previously been granted a special permit for the proposed addition but did not understand that there is a limit on the size of an in-law apartment, which cannot exceed 25% of the existing gross living area.

Mr. Farnsworth reiterated that the bylaw stipulates that an accessory dwelling unit cannot be greater than 25% of the existing home, and noted that the proposed addition exceeds that limit by 8%. He voiced his understanding that it is not possible to reduce the size of the dwelling to comply with the regulation, so the applicant is back before the board seeking a variance/special permit.

Chairman Rand asked about the hardship. Ms. Blanchard noted that the 25% limit does not allow for a large enough addition to keep the space open and accessible for wheelchair use. Mr. Farnsworth also noted that the structure is undersized such that the applicant is not able to comply with the 25% limit for the accessory dwelling. He also noted that the home is located on an odd shaped lot.

Gerry Benson made a motion to close the hearing. Richard Kane seconded, vote unanimous.

Continued Public Hearing to consider the petition of T-Mobile Northeast LLC for a Variance/Special Permit to allow a Wireless Communication Facility to be located less than the required 1000-foot distance from a school and less than the required 500-foot distance from the nearest residential property line; and to allow the fence required to surround the proposed Wireless Communication Facility to be located less than the required distance from side and rear property lines on the property located at 265 Main Street.

Chairman Rand stated that he, Chan Byun, Gerry Benson, and Sandra Landau will be the voting members for this hearing.

For the benefit of the large audience, Chairman Rand explained the process for the hearing. Ms. Landau asked Ms. Joubert to read the federal statute that applies for this case.

Mr. Brighenti explained that he is here this evening to present the additional information that the board requested at their last meeting. He noted the location of

the property and explained that the applicant was originally seeking approval to place a standard cell tower with external antennas on the parcel. He stated that, based on feedback from the last meeting, they have modified the design to provide for placement of a 120-foot monopole with no external material. He reiterated that the tower will be placed in the center of a fenced compound that provides for the location of computer equipment. There will also be sufficient space for the town or another carrier to co-locate additional communication equipment. He reiterated that the antennas will now be contained within the pole so that nothing can be seen externally. He noted that another option would be for the antenna to be mounted flush to the outside of the pole, which allows for co-location by other carriers. Mr. Brighenti stated that T-Mobile is willing to do either, based on input from the town.

Mr. Brighenti stated that the main issue with this application is that the town has a substantial setback requirement of 1,000 feet from a school property line. He noted that, while the Federal Government allows for towns to regulate in such a manner, there must be a rational, reasonable basis for the setback. He voiced his opinion that the 1,000-foot setback is excessive, and that there is no reasonable basis for it. He also indicated that the applicant will have extremely limited options for properties in town where towers can be located once they take into consideration the 1,000 foot setback from St. Bernadette's School, Peaslee School, Algonquin High School, Zeh School and the YMCA.

Mr. Brighenti commented that the location at the Extra Space Storage facility does not provide for the needed coverage. He also voiced his opinion that the town's bylaw essentially brings tension against the federal law that stipulates that towns cannot do an effective prohibition by creating a zoning restriction that limits the placement of these wireless facilities.

Peter Fails stated that he has submitted documentation with regards to the acreage of the parcel, dry test data, and coverage at 120 feet, 90 feet, 60 feet and at the Extra Space Storage facility. He reiterated that a 120-foot tower at the Extra Space Storage facility would not provide the coverage that is needed.

Mr. Brighenti explained that, at the previous meeting, he had commented that an 80-acre parcel would be needed in order to comply with the 1000-foot setback from a school and he was asked to substantiate his data and provide a letter that supports his statement. He voiced his opinion that a parcel of just over 72 acres would be needed. Mr. Ginsberg disagreed.

Mr. Brighenti explained that the applicant first tries to work with towns to identify existing structures that can be used to meet the need. However, in this case, they were unable to find anything of sufficient height that would provide the needed coverage. He stated that they also work with towns to identify town-owned properties where these facilities can be located, which enables the town to get revenue and rent for these facilities. He noted that there is an existing small tower at the Police station that could be retrofitted or replaced, but that state procurement law requires that the town must issue an RFP to do so. He explained that he has investigated this possibility but was told that no RFP would be issued. He reiterated that, while the Police station does pose a viable option, the applicant must consider

that it is not available since no RFP has been issued. He also noted that the location at the Police station is within the 1,000 setback from Peaslee School.

Mr. Brighenti commented that, at the last meeting, there was some discussion about the federal law and FCC regulations. He stated that the radio frequency emissions from the proposed tower are at approximately 4% of what is allowable under the FCC guidelines at the pole and it diminishes proportionally as you move away from the tower. Mr. Brighenti also provided information about the gap in coverage that demonstrates the need for the additional tower at this location.

Mr. Ginsberg reiterated that the applicant needs a variance from the 1000-foot setback from a school property and the 500-foot setback from a residential property line, and questioned whether there is some compelling reason why this location was selected. Mr. Brighenti noted that this board has the authority to grant a variance, and that federal law also stipulates that the board must have an enhanced review if the applicant can prove that there is a gap in service that cannot be filled by any other means. He reiterated that federal law prohibits towns from preventing a carrier from closing a gap in coverage if they can do so by reasonable means. He also noted that the wireless industry has already won the fight over use variances, and towns can no longer deny one of these facilities based on these variances. Mr. Brighenti voiced his opinion that this case is a similar argument, and commented that the 1000-foot setback is one of the more significant that he has encountered. Mr. Ginsberg commented that the bylaw, including the 1000-foot setback requirement, has been approved by the Attorney General. He also suggested that the town does have the authority to require the applicant to find a location that does not violate our zoning bylaw. Mr. Brighenti reiterated his position that the zoning is too restrictive and therefore creates an effective prohibition of service that is not allowed under federal law. Mr. Ginsberg disagreed.

Mr. Kane asked if the applicant considered utilizing satellites or co-locating with another carrier who already has coverage in this area. Mr. Brighenti stated that T-Mobile's technology does not allow for the use of satellite services. Mohammed Abraham stated that T-Mobile's system is based on the PCS band and has no link with satellite. He also confirmed that T-Mobile was not assigned a frequency that is capable of communicating with satellites.

Mr. Byun asked about the tower at the Police station, and questioned whether the applicant is forbidden from making contact with the town. Mr. Brighenti stated that they are not forbidden from contacting the town, but they are forbidden from negotiating with them directly because the town is required to comply with state law and put out a proposal for all vendors to bid. Ms. Joubert voiced her understanding that the RFP for the tower at the Police station will be advertised in the Central Register on March 31st, with proposals due April 30th.

Mr. Benson stated that he had looked at the coverage map submitted by the applicant last month and it appears that T-Mobile has in-vehicle coverage in greater than 80% of the area that this tower will cover. Given that, he questioned exactly what T-Mobile's coverage objective is and stated that it is not realistic to expect to achieve 100%. He wondered how much higher a percentage they are trying to achieve and asked if they can substantiate the need with data about the number of dropped calls

or customer complaints. Mr. Kane questioned the true effect of this gap in coverage on the general public. Mr. Abraham stated that T-Mobile does have roaming coverage but does not provide roaming coverage for a 1 or 2 mile coverage gap, so they see a need to construct their own facilities. He also stated that using another carrier's network results in a cost impact to T-Mobile and therefore to the consumer.

Mr. Benson commented that the existing coverage map shows coverage in most areas. He noted that, even with what is gained by the proposed tower, there still appears to be several small areas where these gaps exist and he questions what percentage of gain will be realized by the construction of this new tower. Mr. Abraham stated that the coverage objective is along Main Street, Maple Street and Bartlett Street, where they currently have a one mile coverage hole. Mr. Benson asked why the coverage map has changed over what was presented last month, and commented that the previous map showed better coverage in the area in question.

Mr. Benson voiced his opinion that significant gaps will still exist, even after installation of the proposed 120-foot tower. He questioned how many complaints about this particular area are received each month. Mr. Abraham noted that there is currently a coverage hole of 40%, which will improve to 90% with the installation of the tower. He also stated that there is an average of 55 dropped calls per day in this area. Mr. Benson asked how they know that the dropped calls are not from those areas that will not benefit from this tower.

Mr. Byun asked if the applicant can show the difference in coverage between locating a tower at 265 Main Street and utilizing one at the Extra Space Storage facility. Mr. Abraham stated that the in-building coverage is still poor if they use the Extra Space Storage site.

Mr. Brighenti agreed to further investigate the issue of an RFP for the tower at the Police Station, but stated that the applicant has brought this application forward and would still like it to be considered.

Ms. Landau stated that the board has not yet heard from any resident indicating that they have issues with not having cell coverage in this area. She also stated that the board has not heard any explanation as to the justification for granting a variance as set forth in chapter 40A in Mass General Law or in our local bylaw. Ms. Landau also commented that she is not clear as to how the board can apply Mr. Brighenti's arguments to a bylaw that stipulates that a hardship caused by soil conditions, topography, or the shape of the lot must exist in order for a variance to be granted.

Mr. Brighenti stated that, when a carrier has found an area that would have a significant gap in coverage and has found a method by which they are attempting to provide coverage and have provided that information to the town, they have established their "reasonable means" to provide coverage. He also stated that, if the carrier has found a piece of property that meets their needs, then the town can determine that the uniqueness of the property can be justification for meeting the criteria as set forth in the bylaw. He also suggested that the board consult Town Counsel for their opinion on the arguments he has brought forth. Ms. Landau stated that she has never heard this argument used in the granting of a variance. Mr. Brighenti inferred that federal law provides for it. Mr. Ginsberg disagreed, and commented that he does not believe that there is a federal statute that requires this

board to grant a variance to allow a private cell phone provider to improve their service. He reiterated that the applicant is seeking to locate a wireless communication facility in a location that is in direct violation with our local bylaw, and he cannot imagine that the federal government would force this board to approve it. Mr. Brighenti again voiced his opinion that the town cannot intentionally or effectively establish bylaws that do not have a reasonable basis in order to prohibit the locating of these towers. He also noted that his arguments have been successful in other municipalities, and resulted in changes to their bylaws.

Ms. Joubert advised that a variance of the 500-foot setback from a residential lot line is not needed from this board because the Planning Board has the ability to grant a waiver per the WCF bylaw. However, variances are needed for the 1000-foot setback from a school, from being within one mile from another WCF installation (antennae on Extra Space Storage), and for the fence setbacks.

Ms. Joubert also asked if the applicant has considered co-locating on the cell tower at the Westerly treatment plant. Mr. Fails indicated that this possibility has not yet been investigated, but suggested that it would be too far to the east to provide the coverage that is needed.

Rick Leif, Chairman of the Planning Board, voiced his opinion that any decision is premature at this point given that an RFP for the tower at the Police Station is expected to be issued fairly soon. He also noted that the Planning Board is concerned about a proliferation of cell towers.

Mr. Ginsberg asked if it would make more sense for the board to make a decision. Mr. Leif voiced his opinion that it would not have any impact on the RFP process, and reiterated that it would be premature to reach a decision on this application tonight.

Michelle Gillespie voiced her desire for tonight's hearing to be continued, given the many questions that still remain with regards to the towers at the Extra Space Storage facility and Westerly treatment plant.

Jan Bissett, 136 East Main Street, asked about the 500-foot setback from a residential lot line. Ms. Joubert indicated that this will be addressed by the Planning Board since they have the ability under their bylaw to grant a waiver of this requirement. Ms. Bissett noted that Mr. Brighenti has now suggested that a monopole will be installed and asked if there is an ability to add an external piece to it at a later date. Mr. Brighenti stated that, if the applicant does install a monopole, they can only later add a whip antenna. He also noted that another carrier wishing to co-locate on this tower would be required to appear before the Planning Board for a special permit.

John Curtis, 8 Fiske Rd, noted that the applicant had previously stated that multiple carriers can use the same cell tower and questioned whether they have approached anyone else about co-locating on an existing tower. Mr. Brighenti stated that T-Mobile has a technology deficiency that makes it difficult to do so.

Paul Whites, who introduced himself as a former radar system engineer, asked if the coverage map presented shows the worst case scenario. Mr. Abraham confirmed that it does. Mr. Whites explained that there is a significant amount of attenuation when

an antenna is installed on a building. He also noted that there is a significant health benefit to putting an antenna on a structure instead of a monopole and voiced concern that this proposal places an antenna on the ground and near a school.

Nancy Avery stated that her son goes to the St. Bernadette School. She explained that she is on her mobile phone from the time she leaves the house until she arrives at the school and has never had a dropped call. In addition, she has on occasion sat in the parking lot and spent hours on the phone without any issues.

Christine O'Leary identified herself as both the parent of a student and a parishioner at St. Bernadette's, and voiced concerns that this application has made it this far. She also voiced her opinion that the 1000-foot setback is in place to protect school children and is not simply an arbitrary number. She urged the town and the members of the board to uphold the bylaws that the residents have put in place.

Julianne Moore, Assistant Principal at St. Bernadette's School, stated that she is appearing in response to a request from parents to voice concern and discuss the hardship this tower will place on the school. She voiced her opinion that the presence of this tower will result in students being withdrawn from the school, and noted the severe financial impact this will have on the school.

Tony Reno, 28 Woodstone Road, noted that the hardship will extend to the entire town and suggested that the public schools are not equipped to handle the influx of students from St. Bernadette's.

Donna Dupre, 20 Brigham Street, noted that even though her son will be graduating from St. Bernadette's this year, she believes in the school and feels compelled to voice her concern about the impact of this tower.

Lori Regis asked if there has been any assessment on the impact of the construction that will take place on this site. Mr. Brighenti stated that the issues of noise, construction, and traffic impacts all fall under the jurisdiction of the Planning Board.

Peter Schneider, 243 West Street, voiced disappointment at the quality of the presentation, and noted that there was an absolute absence of data and facts contained in what he considers to be a veiled threat of litigation. Based on the presentation, he believes that the decision is simple. Mr. Brighenti reiterated that the decision is to be made based on the present application and how federal law applies to it. He reiterated that the board has an obligation to make a thorough and written ruling. Mr. Brighenti also stated that he is not trying to make threats; he is simply stating that these matters do get litigated.

Mr. Schneider commented that the applicant must prove that there is a significant coverage gap as well as demonstrate the uniqueness of the property. He noted that he has not yet heard any information that confirms that this property is exclusively unique. He also suggested that the members of the board consider that there has not been a credible presentation of fact for this hearing. Mr. Schneider asked what recourse the citizens of the town have with regards to this matter. Chairman Rand explained that the decision can be appealed within 20 days of its filing.

Kim Dufo of Shrewsbury explained that she is a teacher, parishioner, and parent of a student at St. Bernadette's and questioned Mr. Brighenti about the specific locations

of other school yards where cell towers have been located. Mr. Brighenti stated that there have been antennas placed in church steeples on top of schools. Mrs. Dufo asked for specific locations in Massachusetts where there are cell towers in school yards. Mr Brighenti agreed to provide that information if this hearing is continued.

Cindy Albright presented the board with a petition containing 600 signatures opposing this cell tower.

Julianne Moore, Assistant Principal at St. Bernadette's School, voiced her opinion that the applicant has not met the criteria to support a claim as to the uniqueness of the site.

John Lien, 57 Fisher Street, stated that there are 351 cities and towns in Massachusetts and the only example of a variance cited by the applicant is for a location along the Mass Pike between exits 1 and 2. Mr. Brighenti stated that this particular site did not involve a variance but that T-Mobile had worked with the town to revise their bylaw to accommodate placement of towers. He agreed to provide further information about variances that have been granted in other communities. Mr. Lien asked Mr. Brighenti to cite specific examples in nearby communities. Mr. Brighenti mentioned a Worcester ordinance that allows these facilities in certain zoning areas and noted that there have been occasions when variances have been granted to allow the height limit to be waived. Also, while there is an ordinance that says a variance cannot be granted if it is not allowable by right, they have allowed for a special permit process because the city and their legal counsel agreed with the argument that it would be allowable under federal law. Mr. Lien asked for the location of the nearest tower that is on school grounds or in close proximity.

Robin Manning, 46 Bartlett Street, asked why T-Mobile needs so many more sites compared to other carriers. Mr. Brighenti explained that T-Mobile needs sites that are closer together because of the short wavelength they were assigned by the FCC. Ms. Manning asked why T-Mobiles cannot simply provide roaming coverage instead of constructing more towers. Mr. Brighenti stated that doing so creates an unfair advantage for the competition, and reiterated that federal law provides for a level playing field.

Geoff Mowry, 11 Settlers Road, voiced his assumption that the applicant has identified a specific location on the site for the tower and questioned the exact distance from that location to the property line at the school. Chairman Rand stated that the tower is approximately 520 feet from the closest school building. Mr. Brighenti stated that the distance to the corner of property is just over 400 feet and the distance to the nearest building is approximately 480 feet.

Rosemary Donnelly of Bolton explained that she has a daughter enrolled at the school and she finds it horrific to think of preschoolers and toddlers being that close to a tower. Because of her perception about the safety and impacts of these facilities, she will not continue to send her children to St. Bernadette's School if this petition is approved. She reiterated the extreme hardship this tower will place on both St. Bernadette's and on the public schools.

Chairman Rand asked if the applicant will request a continuance of this hearing to move toward the RFP. Mr. Brighenti commented that the same issues will exist for

the Police Station location. Ms. Joubert voiced her understanding that the proposed tower at the police station is 1000 feet from the actual school building but not 1000 feet from the school property line. Mr. Brighenti requested that the petition be withdrawn without prejudice in deference to the town's RFP to allow the applicant the opportunity to research which of the two sites will be more favorable. Once this has been determined, the applicant will then move forward with either responding to the RFP or will reapply under these terms.

Richard Kane made a motion to accept the applicant's request to withdraw the petition without prejudice. Gerry Benson seconded, vote unanimous.

DECISIONS

2 Wilson Road - Mr. Byun stated that he does not believe that the shape of the property is too narrow for the applicant to build within the regulations. However, in the presence of no opposition, he sees no reason not to grant it. Ms. Landau commented that the location for the garage seems reasonable and, given the narrowness of the lot, the board can justify approving the petition.

Richard Kane made a motion to approve a variance to allow construction of the garage no closer than 8 feet from the property line due to the shape of the lot. Gerry Benson seconded, vote unanimous.

346 South Street - Mr. Byun asked what the town's attitude has been in the past, and noted that he is in favor of approval. Mr. Farnsworth reiterated that the application meets all of the requirements with the exception of size of the accessory dwelling.

Chan Byun made a motion to grant a variance to allow construction of an accessory dwelling in excess of the 25% allowed in the bylaw, not to exceed 1100 square feet, based on the shape of lot. Richard Kane seconded, vote unanimous.

Mr. Farnsworth and Ms. Joubert discussed the proposed amendments to the Zoning Bylaw that will be presented at Town Meeting. Members of the board voiced agreement with the proposed changes.

Dan Ginsberg stated that he is not intending to continue as a member of the board beyond the end of his current term, which expires in April.

Adjourned at 9:45PM.

Respectfully submitted,

Elaine Rowe, Board Secretary