

**SEEKONK ZONING BOARD  
REGULAR MEETING**

**MINUTES  
December 14, 2009**

Present: Ch. Edward F. Grouke, Gary Sagar, Keith Rondeau, Robert Read (late), Ronald Blum, M. Brisson (for Gary Sagar on petition 2009-34)

7:00 Chairman Edward F. Grouke called the meeting to order.

**G. Sagar made a motion to approve the minutes of April 30, 2009, May 11, 2009, June 1, 2009. Seconded by R. Blum and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: Approve (5-0)**

Ch. Grouke First matter on the agenda is a postponement:  
**2009-31 Venditti Family Ltd. Partnership, 1782 Fall River Avenue**, Seekonk, MA Owner, by Francis Venditti, 160 Warren Avenue, Seekonk, MA, 02771, petitioner, requesting an **Appeal** of the Zoning Enforcement Officer's Decision to allow the owner to post/erect signs and/or banners on his own property that feature other businesses at 1782 Fall River Avenue, Plat 1, Lot 34 in an Industrial Zone containing 694,782 square feet.

**G. Sagar made a motion to continue this public hearing to January 4, 2010 at 7 PM with an inclement weather date of January 5, 2010 7 PM. Seconded by R. Blum and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: Approve (5-0)**

Ch. Grouke The next two matters on agenda:  
**2009-32 MTTI/78 Leavitt St., LLC**, 78 Leavitt Street, Seekonk, MA Owner, T-Mobile Northeast, LLC, 15 Commerce Way, Suite B, Norton, MA 02766, Applicant, by Peter Fales, Centerline Communications, LLC, 960 Turnpike St, #28, Canton, MA, 02021, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** Under Section 9, to allow the collocation of antennas on an existing monopole and ground equipment inside the existing fence-in compound at 78 Leavitt Street, Plat 7, Lot 132 in an Industrial Zone containing 86,635 square feet.

**2009-33 MTTI/78 Leavitt St., LLC**, 78 Leavitt Street, Seekonk, MA Owner, T-Mobile Northeast, LLC, 15 Commerce Way, Suite B, Norton, MA 02766,

Applicant, by Peter Fales, Centerline Communications, LLC, 960 Turnpike St, #28, Canton, MA, 02021, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** Under Section 9, to allow the collection of antennas 130' high on an existing monopole and ground equipment inside the existing fence-in compound at 78 Leavitt Street, Plat 7, Lot 132 in an Industrial Zone containing 86,635 square feet.

Michael Dolan 121 South Main St. Attorney (Sworn in) As it was mentioned the subject property here is at 78 Leavitt St. Property owner is 78 Leavitt Street LLC. The subject property is a 2 acre lot in the industrial zone as well in the telecommunications facilities overlay district. The existing 130 foot wireless telecommunications antenna monopole at the property was erected over 12 years ago by AT&T. They installed the antennas at 127 foot center line. With the recent merger of AT&T and Singular Wireless because of this consolidation of networks AT&T no longer has a need for the antenna that is currently on this tower. As such T. Mobile is proposing to attach their 9 wireless communications antennas at the 127 foot line mark where the AT&T antennas are located. My client would attach one small antenna at the 40 foot level. The applicant would also install radio cabinets on a concrete pad within a 15 X 16 foot area in the existing fenced in area at the base of the monopole. T. Mobile is happy to find this location so they do not have to erect a new structure.

The relief we are here for tonight is pursuant to section 9. 6.8.1 of the Seekonk Zoning Bylaws. It says "addition antennas and equipment may be added by right to existing telecommunication structures that previously received a special permit under section 9. 6 of the bylaw." This subject monopole facility however was constructed prior to the adoption of section 9.6 notwithstanding this technical distinction in light of (inaudible) of this wireless bylaw and then this board could view T. Mobile's attachment as a by right situation under the current code. To the alternative, the current use of the structure subject site, are a legal nonconforming use of the structure and, pursuant to section 5.3 of the zoning bylaw "pre-existing legal nonconforming structures or uses may be extended or altered by special permit on the finding by the zoning board of appeals that such change, extension or alteration shall not be substantially be more detrimental than the existing nonconforming use in the neighborhood". In this instance AT&T would remove its facility and its antenna and T. Mobile would swap in nearly identical antennas. In short the change would not be substantially more detrimental than the existing nonconforming use. I don't think it is necessary but out of caution my client filed an application for variance relief. As I mentioned earlier I think the special permit is the more appropriate way to go.

Muhammad Ibrahim 15 Commerce, Norton, MA (sworn in). I am here representing T. Mobile for radio frequency.

G Sagar Is this site replacing the petition for Briarwood Plaza?

M. Dolan These are two separate search rings for the coverage objectives, they can not cover the same areas.

G. Sagar Can you cover the Briarwood area with this location?

M. Ibrahim No, this is different.

G. Sagar There was no appeal filed on Briarwood, am I correct?

M. Ibrahim That I don't know because we already submitted all that with T. Mobile. (M. Ibrahim presented a color- coded plan showing existing coverage) Mr. Chairman, the green is the incoming coverage and the light green is (inaudible) coverage. If you look here this is 195 and the blue diamond is the proposed location. This here are all existing sites all of them are around 150' in height, currently if you look into the white area we have a coverage gap, we have a 1 mile coverage gap. Last time since we have been working on (inaudible) band that covers about 1-4 miles depending on area. These are the simulations based on the map, with help of tools, Wampanoag Road covered with the existing 100 other poles and this covers School St., Anthony St. and surrounding residential and commercial area within 1-1.5 mile radius from the existing pole. This does not include area for Briarwood, we are trying to cover south of the town, won't help the north area. We will still have a coverage gap in the north end of town, how far from pole to Briarwood plaza; this map only shows southern part of town that is about 3 miles north of this location.

K. Rondeau Using the last petition as an example, there was not sufficient need shown for the cell tower in the neighborhood, coverage was not going to alleviate the problem. My question to you now is can you explain on why the need for the coverage?

M. Ibrahim If you look here there is a 1 mile coverage hole on Wampanoag Ave, Forbes Street, School street, and also lack of in building coverage this area is commercial. We have customer complaints in building and in vehicle coverage. Light green is in vehicle, green is everything, white shows nothing for coverage, you might get something but we can't guarantee, in vehicles and in buildings, we get repeated customer complaints, we compile reports on a quarterly basis.

Ch. Groucke The Building Inspector questioned if there was a building permit, do you have any information on that?

M. Dolan AT&T put that tower up 12 years ago and had a building permit at that time but the town cannot find it.

G. Sagar Probably what happened 12 years ago knowing the thought process by the people in charge then was they thought all that was needed if it was in an industrial area

there wasn't any relief in zoning they just had to do a site plan with the planning board. So it would not have come before the ZBA. This is where we want to see these facilities in an industrial zone so I fully support their petition to give them the relief they need

- Ch. Groucke Anyone wish to speak in favor? No response.  
Anyone wish to speak against? No response.  
All right any further discussion? There are antennas on there but they will be taking them off.
- G. Sagar As the Building Inspector has interpreted to go to the 130' you'll need a variance correct?
- M. Dolan I don't want to speak for her but it sounded like some confusion perhaps as to how to interpret this since it was one of these towers you were referencing which was built before the wireless bylaw and you know, had this tower been approved under the new wireless bylaw we wouldn't even be here. But technically it wasn't so we should be here and then the question is it a special permit or a variance? It would seem the special permit would be the most appropriate one with the tower being there and the swap out of antennas.
- G. Sagar So you need the other 30' in height?
- M. Dolan Well as I said one could look at it that the tower is a legal nonconforming structure and it is just an addition to that.
- Ch. Groucke I tend to agree that a special permit is all we need to do because it is the fact that it is there at 130' height and I will accept the fact that there was a building permit for it.
- G. Sagar I agree there are some grandfathered rights there and just because they can't find the building permit does not mean it doesn't exist. I say give him what he needs a special permit and a variance. I think that we should support this; this is what we have been advocating for so they don't end up in residential neighborhoods.
- M. Dolan If you feel more comfortable with a special permit as to the use and a dimensional variance whatever...
- K. Rondeau What is the height limitation on the bylaw.
- Ch. Groucke 100'.

**G. Sagar made a motion to close the public hearing and uphold the decision of the building inspector. K. Rondeau seconded and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Groucke.**

**VOTE: (5-0)**

**K. Rondeau made a motion to grant a special permit and a variance for petitions 2009-32 and 2009-33 based on the fact that is a legal non-conforming site and falls within the town bylaw for telecommunications cell tower. The variance is needed for height limitation and applicant showed a need for extra coverage and they looked at other sites which and other sites were either not available or not applicable for need demonstrated. Seconded by G. Sagar and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Groucke.**

**VOTE: (5-0)**

Ch. Groucke The next thing on the agenda:  
**2009-35 Luis T. Simas and Maria C. Simas**, 284 Miller Street, Seekonk, MA Owners, by Kathy Simas, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance and/or Special Permit** under Sections 6.3, 6.5, 6.6 and 5.3, to allow the construction of an 840 sq. ft. footprint addition onto an existing 3 bedroom dwelling at 284 Miller Street, Plat 6, Lot 175 in an R-4 containing 22,500 square feet.

Paul Carlson InSite Engineering 1539 Fall River Avenue, Seekonk, (sworn in) I am here representing Kathy Simas and Mark Gagnon, located at 284 Miller Street. This is a legal nonconforming lot, 22,500 sq ft. My client is seeking a special permit, under zoning bylaws section 5.3 and a variance under Section 6.3 to construct a 30' x 28' addition because they have a minimum lot area. The front yard set back is 50' according to regulations; they have 48.5' and a rear yard setback from 80' to 71.7'.

G. Sagar How old is this dwelling?

P. Carlson It was built in 1973.

G. Sagar The reason I ask the age of the house this parcel was victim to 1979 rezone in town, so it made it legal nonconforming. I think they clearly have a hardship. Where is the septic?

P Carlson The septic is located to west of house, septic will not be affected; the tank will have to be relocated and will go before Board of Health.

G. Sagar Based on this it is the only logical place to put it.

Ch. Grouke Anyone to speak in favor? None.  
Anyone against? None

**G. Sagar made a motion to close the public hearing and uphold the decision of the building inspector, seconded by R. Read and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: Approve (5-0)**

**G. Sagar made a motion to approve petition seconded K. Rondeau and so voted unanimously by: G. Sagar, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: Approve (5-0)**

Board took a brief recess.

Ch. Grouke:

**2009-34 The Town of Seekonk**, a Municipal Corporation with its principal business address at 100 Peck Street, Seekonk, MA, Owner, by Alan R. Jack, Fire Chief, Petitioner, requesting a **Special Permit** under Sections 5.3, and 11, to extend or alter a lawfully preexisting, nonconforming fire station use and structure at the Richard C. Banna Memorial Fire Station, 30 Pine Street, Plat 33, Lots 114 & 115 in an R-1 zone containing 10,916 square feet.

G. Sagar 30 Elaine Ave. Seekonk, MA (Sworn in). I am here representing the Fire Department. I have 15 documents that I want entered into the record:

1. Disclosure of Gary S. Sagar under Chapter 268A-4/30/09
2. Zoning Letter, dated November 24, 2009 from Mary McNeil, Town of Seekonk Building Commissioner/Zoning Enforcement Officer.
3. Official Minutes, Zoning Board of Appeals – April 30, 2009.
4. Official Minutes, Zoning Board of Appeals – May 11, 2009.
5. Official Minutes, Zoning Board of Appeals – June 1, 2009.
6. Letter from Thomas R. Thibodeau, December 14, 2009.
7. Gallagher picture & 1925 Town of Seekonk Annual Report.
8. Stock Certificate dated October 1, 1928, issued to Walter Erving Crawshaw, Sr. by North Seekonk Volunteer Firemen's Association, Inc.
9. Deeds and Mortgage Plat 33, Lots 114 & 115.
10. 1929 Town of Seekonk Annual Report.
11. Wedding Invitation August 12, 1933, for the marriage of Myrtle Crawshaw and Joseph Edmond Thibodeau.

12. 1934 Town of Seekonk Annual Report & picture of "Engine 2".
  13. Traffic Assessment Study dated May 14, 2009 by David Cabral, Seekonk Public Works.
  14. Neighborhood Study dated May 27, 2009 by John Turner.
  15. Suggested Stipulations for Special Permit.
- Per Mr. Sagar's request, the board voted to include these 15 exhibits as part of the record.

Two individuals not available to attend tonight's meeting due to other obligations, Chief Charron and Tony Araujo. ZBA member Mr. Read flew in from St. Thomas to attend this meeting.

Mr. Sagar referred to two drawings:

This was the original submittal when we asked for the special permit then there was some discussion by an Attorney representing an abutter that thought we should have a variance, we applied for the variance and this board granted both. In the original design we were going to extend the perimeter of the building. This design was chosen because it was the simplest in form and would give the maximum amount of roof area to heat with solar. One abutter appealed to land court in Boston, on our part we went back to be cooperative and redesigned the building to make it L shaped. It takes this existing corner and limits rear yard encroachment at that corner turns the building at a right angle and makes up difference to L shape. This does not give area on roof for solar but hopes it will meet our needs. We have also taken 4' from handicapped ramp and made it 34'. We have redone all parking and enclosed handicapped ramp to be inside. It is not what we initially wanted but the Fire Chief believes it is workable. We have lost a lot of time and incurred expenses and hoping to move forward. I have only one witness to call tonight.

Chief Jack Gerry Drive Seekonk (sworn in) I had input to the current design and this would meet with the needs of the department, initially it was not our primary design but we feel would meet needs of department, could go forward with the structure. There has never been interruption of this use as this building being a fire station to my knowledge.

R. Blum Is the design inside the same as it was?

G. Sagar It will change a little, the second floor will be turned and have some modifications to stairwells. We have eliminated the community room and made it a training room. The building will be larger in the front, it will be 34'x36' and in the back we picked up an extra foot. We would like to request on the stipulation that the town will install the Opticom sensor system, at the traffic lights at Pine St. & Central Ave. This will allow the emergency vehicles to control the traffic signals reducing the noise levels. The town will install a 6-foot high PVC fence along easterly boundary line with lot 117 and rear boundary line is lot 95 & 96 also on the western side lot 113 approx 46' rear quarter of the fire station to rear

property lot 96 & 97. We will be running a fence along the common property line. We heard from one of the neighbors when it rains water floods his yards so under the stipulation number 3 the town will redesign the parking lot to eliminate flooding on adjacent property.

Item number 4 the town will not encroach the side yard set back. The town will minimize when ever possible the impact on abutting properties when doing instruction and provide green initiative.

Thank for this opportunity during this process which we begun almost a year ago now we have received great cooperation from the following town departments and their employees, Mr. Lamoureux, Dave Cabral, Beth Hallal, John Hansen, Mr. Hendrix, the Assessors, Town Clerk, and Assistant to certify and attain documents at the library, and the ZBA secretary.

Ch Groucke No variance is necessary because of configuration of the building. We have the maximum amount of parking spaces we can get. From discussing with the town attorney and zoning enforcement officer no variance is needed only a special permit.

K. Rondeau In both presentations heard this new design is workable but not what was initially wanted. It will meet the needs but not best-case scenario?

G. Sagar All things considered we thought we were going to be the first green building in town, that effort has been hampered.

K. Rondeau The use of building will remain the same?

G. Sagar We have done away with community room and now it will be training room we have reduced a little of its use.

Chief Jack Training room would allow for slide presentations, CPR recertifications, still large enough to gather some people but not enough as before.

Ch. Groucke Anyone wish to speak in favor? None no response  
Anyone wish to speak against? None no response  
Questions? None.  
Any questions from the Board?

R. Blum One last question, so this new design will still fill needs of the departments even though it has changed?

Chief Jack It will allow garage access for vehicles we intend on keeping there, and will incorporate ADA options but we will change how it is accessed. As far as



livable space, it does change the configuration inside somewhat but as far as livable area the second floor is still there.

- M. Brisson Will ADA requirements still be there if there is no community room?
- G. Sagar Yes it is still required because it is a public building.
- K. Rondeau In the last presentation there were schematics as to the appearance of what the building would look like and you wanted it to fit in nicely with the neighborhood is the appearance going to remain the same considering the fact that you changed it?
- G. Sagar Yes, colonial in nature and same design but the gentleman who donated all his time did not want to do more work unless approved.
- R. Read The people to the right and behind embrace the new design?
- Ch. Groucke Mr. Carson and Ms. O'Hara are here tonight but their Attorney is not here who was here last time. I would assume there is an on going dialogue between with their Attorney and this new project?
- G. Sagar Mr. Araujo and the town attorney have been in constant discussion with the abutters and the residents.
- Ch. Groucke We can have a discussion now with the board.
- R. Blum If the changes will make it better for everybody, I feel supportive again, the same stipulations are before us, the group has done due diligence and I have no other concerns or questions.
- Ch. Groucke It seems requires less relief, no variance and it is not substantially more detrimental than the existing non-conformity which is an easier requirement to meet. Requires less of a burden and less obtrusive.
- K. Rondeau Use has been pared down, the fact is it is a fire station is now and has been since 1925, proposed use is to continue being fire station.

**M. Brisson made a motion to grant the petition as resubmitted with stipulations Mr. Sagar presented to the board based upon the fact that it is not detrimental to the neighborhood and no substantial alteration of the use of the building and is in keeping with the neighborhood. Seconded by R. Read and so voted unanimously by: M. Brisson, R. Blum, R. Read, K. Rondeau, Ch. Groucke.**

**VOTE: (5-0)**

Stipulations:

- A.) The Town will install an “Opticom Sensors” system or equal at the traffic signals at Pine Street and Central Avenue. This will allow the emergency vehicles control of the traffic signals, reducing the noise level from emergency warning systems, when responding to an emergency incident;
- B.) The Town will install a 6’ high PVC fence, along the easterly boundary line with Lot 117 and the rear boundary line with lot 95 & 96. Also, along the westerly side property line with Lot 113, a distance of approximately 46 feet from the rear corner of the fire station to the rear property corner with Lots 96 & 97. The style of the fence shall be determined with input from the abutters who share the common property lines;
- C.) The Town will re-design the parking lot to eliminate flooding of adjacent property;
- D.) The Town will not encroach in the side yard set back any closer to the common property line with Lot 113 with any structure as currently exist;
- E.) The Town will minimize whenever possible any impact to abutting property during construction;
- F.) The Town will include “Green Initiatives”, in the design of the building as feasible and practical;
- G.) The Town will make all reasonable efforts to complete the project as soon as possible once construction begins.

**M. Brisson made a motion to close the public hearing seconded by R. Blum and so voted unanimously by: M. Brisson, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: (5-0)**

**K. Rondeau made a motion to uphold the decision of the building inspector seconded by M. Brisson and so voted unanimously by: M. Brisson, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: (5-0)**

**R. Blum made a motion to adjourn meeting seconded by K. Rondeau and so voted unanimously by: M. Brisson, R. Blum, R. Read, K. Rondeau, Ch. Grouke.**

**VOTE: (5-0)**

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And Work Session  
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Meeting adjourned at 8:45 PM

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Florice Craig, Secretary