

## SEEKONK ZONING BOARD REGULAR MEETING

### MINUTES June 29, 2009

Present: Ch. Edward F. Grouke, Gary Sagar, Keith Rondeau, and Ronald Blum  
Absent: R. Read and M. Brisson

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

This is the meeting of the Town of Seekonk Zoning Board of Appeals, June 29, 2009. I will not go over the rules and regulations this evening.

**2009-09 Seekonk Water Department**, Water Lane, PO Box 97, Seekonk, MA, owner; Omnipoint Communications, Inc. a Wholly Owned Subsidiary of T-Mobile USA, 15 Commerce Way, Suite B, Norton, MA. 02765, petitioner, by Jackie Slaga, 95 Indian Trail, Saunderstown, RI 02874, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary, a **Special Permit** and/or **Variance**, under Section 6.2 to allow the upgrade of an existing telecommunications facility including the addition of one antenna and one equipment cabinet, at existing wireless site at 954 Taunton Avenue, Plat 17, Lot 104 in an R-2 zone containing 34,848 square feet.

Ch. Grouke The Seekonk Water Department, 2009-09, I am going to dispense with reading the legal ad for that as well. We received a letter from the Attorney, Jacqueline A. Slaga, who was present at the last meeting, presenting the petition. The letter is addressed to the Seekonk Zoning Board of Appeals, June 8, 2009. (Ch. Grouke read the applicant's letter requesting to withdraw into the record.) At this time, the applicant has requested to withdraw without prejudice, meaning they do not want to proceed with the petition at this time, however without prejudice, it means they reserve the right to file it again.

G. Sagar made a motion to grant the applicant's request to withdraw without prejudice and to close the public hearing, seconded by R. Blum **and so voted unanimously** by: Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

Ch. Grouke The next matter we will address is 2009-01, 2009-02 and 2009-03.

**2009-01 John Dias**, 30 Oakhill Drive, Johnston, RI 02919, Owner and Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary, a **Special Permit**, to allow construction of a shared driveway to serve one existing dwelling and three proposed dwellings at Plat 18, Lot 53 & 65 in an R-2 Zone (**Proposed Lot 1 containing 80,479 square feet**) at 357 Ledge Road. (**Continued until June 30, 2009**)

**2009-02 John Dias**, 30 Oakhill Drive, Johnston, RI 02919, Owner and Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary, a **Special Permit**, to allow construction of a shared driveway to serve one existing dwelling and three proposed dwellings at Plat 18, Lot 53 & 65 in an R-2 Zone (**Proposed Lot 2 containing 81,610 square feet**) at 357 Ledge Road. (**Continued until June 30, 2009**)

**2009-03 John Dias**, 30 Oakhill Drive, Johnston, RI 02919, Owner and Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary, a **Special Permit**, to allow construction of a shared driveway to serve one existing dwelling and three proposed dwellings at Plat 18, Lot 53 & 65 in an R-2 Zone (**Proposed Lot 3 containing 81,610 square feet**) at 357 Ledge Road. (**Continued until June 30, 2009**)

Ch. Grouke This matter was last on the calendar on June 1<sup>st</sup> and was continued to today's date. One of our members, who sat on the previous hearings, notified us a short time ago that he is unable to be present at this meeting tonight. We notified the applicant's attorney and began to discuss a continuance of this matter for another date due to the fact that seeing that it had been heard in part by all five members, it would be inappropriate for more evidence to be taken in the absence of another member particularly if a vote was to be taken that night. We discussed several alternative dates and we have a date scheduled for tomorrow, June 30, 2010 and the petitioner was also available and we are here to entertain a motion to continue the meeting until tomorrow, June 30, 2010.

G. Sagar made a motion to table this matter until June 30, 2010, at 6:00 PM.

Ch. Grouke Acknowledged an abutter.

Paul Miles-Matthias 363 Ledge Road, sworn in.

G. Sagar Mr. Chairman, I would respectfully disagree to any discussion without the applicant here or their counsel, this is inappropriate.

- Ch. Grouke I think Mr. Matthias was just going to ask if it not be continued until tomorrow because of his unavailability. I spoke to him to tell him about tomorrow's date and he told me he might not be available and I did not know if you were able to get coverage.
- P. Matthias I come here tonight to formally request the postponement of the ZBA discussion, which has been continued on multiple occasions to a date that I am able to attend. As you know, the discussion was postponed prior to this time on the first night it was originally supposed to be discussed because of a family emergency and part of Mr. Dias representative. The meeting of 2/29/09 was also postponed and rescheduled on extremely short notice. As you are well aware, I am under difficult situation to find someone to cover me at my work with 4 days notice, which is really not sufficient. I have done everything in my power to try to find coverage for at least 4 hours tomorrow night but I am unable to. As I am working on June 30<sup>th</sup> and unable to attend that rescheduled meeting, there will be no one else available to represent me and my concerns on that night. I am sure that we can find an agreeable date in the near future that we can all be here. This is a formal letter that has been notarized. The reason for this is not only do I want to be here but I think there are significant problems with the plan on multiple levels. We do have a Town Planner that says...
- G. Sagar Mr. Chairman, this is totally inappropriate.
- Ch. Grouke Suffice it to say that you do have objection to the plan that is on the table, we do know that you were here at the last meeting and you voiced those concerns at that time and you continue to have concerns and would it be fair to say that you have more concerns that you did not voice the last time and you would like to be heard further?
- P. Matthias Not only that, I think you need to talk to your Town Planner and I also think you need to talk to your Building Inspector who has also been notified of this in a formal letter by me with multiple questions regarding case law regarding this plan...
- G. Sagar Mr. Chairman, if he does not cease this discussion, I am walking out of this meeting. This is totally inappropriate and illegal.
- Ch. Grouke We are not going to get into any substantive...
- P. Matthias Why do you say this is illegal?
- G. Sagar Because the other side is not represented. The other issue we have Mr. Chairman...

P. Matthias (Inaudible - speaking at the same time as Mr. Sagar) ...holding a meeting when I am not here and that is legal?

G. Sagar Mr. Chairman, the other issue is that we are beyond our 65 day window if you remember at the last meeting, Mr. Antine had us sign a document and now we cannot...I sympathize with the gentleman but I do not see how we can continue this again without jeopardizing our position whatever that may be.

P. Matthias I will remind the Board that the last time we discussed this, or the last time you discussed this, you were going to talk to the Building Inspector about the specific points that were brought up by the petitioner's attorney. Is that correct?

G. Sagar Mr. Chairman, I am leaving and you no longer have a quorum for a meeting.

Mr. Sagar stepped out of the meeting.

P. Matthias (inaudible- speaking at the same time as Mr. Sagar) I can't understand why he is so upset about this. I talked to the Building Inspector regarding this particular point of law.

R. Blum We can't listen to anymore.

P. Matthias She has not reported back either to me or to you and you specifically said that you were going to talk to her last time this Board met and I hold the Board to its word. Those are two reasons that I, (inaudible) you need to confer with before a decision is made and you said you were going to do that.

Ch. Grouke Okay, we are going to do everything we need to do to properly hear and decide this petition. Now there is a request by Mr. Matthias to not continue the matter for one day to pick another day. Is there any further discussion on that?

R. Blum Mark Brisson is the other Board member and I don't know if he can be at any other meetings and we know he is available tomorrow.

K. Rondeau Gary already made the motion to continue the meeting until tomorrow.

R. Blum I will second the motion.

Ch. Grouke Mr. Matthias, I think we are constrained to go forward tomorrow with the hearing based on all the circumstances. All in favor?

**The following Board members voted:** Ch. Grouke, K. Rondeau, and R. Blum

**Vote: (Approve 3-0)**

P. Matthias Is the discussion over or can I make a final statement?

Ch. Grouke You can, but I don't want you to address the substance of the petition.

P. Matthias I will address the substance of the Board's decision. I think it is unfair to abutters, which is myself and several others, I think it is capricious in that you have granted the applicant continuances for other extenuating circumstances. I have been here to e very single meeting and I think that the Board should make a quick decision and change the venue to grant me the same opportunity that they do the other people. I think it is unfortunate that this is the case and I also think it is unfortunate that you have not kept your word in talking to your own Building Inspector as (inaudible) a fair amount of information regarding this you already said you were going to discuss this with her, I would expect you to continue to do that before you make any decisions.

Ch. Grouke Definitively going to do that.

P. Matthias I would hope that she has an answer regarding my position to her for you before tomorrow, before the meeting.

Ch. Grouke Thank you for coming.

Mr. Sagar returned to the meeting.

S. Sagar For the record Mr. Chairman, the vote that you just took was invalid. So I would move again on my original motion that we continue the Dias matter until 6:00pm tomorrow evening.

G. Sagar made a motion to continue the Dias matter until 6:00pm tomorrow evening (June 30, 2009), seconded by R. Blum **and so voted unanimously** by: Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

**2009-12 Domenic Cassisi**, 31 Oakland Avenue, Johnston, RI, 02919, owner; Omnipoint Communications, Inc. a Wholly Owned Subsidiary of T-Mobile USA, 15 Commerce Way, Suite B, Norton, MA. 02765, petitioner, by Brian S. Grossman, Prince, Lobel, Glovsky & Tye, LLP, 100 Cambridge Street, Suite 2200, Boston, MA 02114, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary, a **Special Permit** and/or **Variance**, under

Section 6.2 to allow the installation and operation of a wireless communications facility consisting of an 80' unipole and 6 wireless communication antennas within a 25'x 25' compound, at 2 Olney Street, Plat 6, Lot 9 in a Local Business zone containing 298,821 square feet.

**(Continued from June 29, 2009 until June 30, 2009)**

Ch. Grouke The next matter is 2009-12. This is the same situation; it is affected in the same way by the absence of Bob Read and this matter is going to be continued for one day through June 30, 2009.

G. Sagar made a motion to continue case number 2009-12 until 6:00pm tomorrow evening (June 30, 2009), seconded by R. Blum **and so voted unanimously** by:  
Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

**2009-18 Thomas L Wright**, 1149 Division Rd., Warwick, RI, owner and petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary a **Variance** under Section 12, to allow one additional building sign measuring 4'3" x 13' at 965 Fall River Avenue, Plat 8, Lots 103, 101 and 20 in a Highway Business zone containing 100,580 square feet.  
**(Continued from June 29, 2009 until June 30, 2009)**

Ch. Grouke The next matter is 2009-18 and this matter is affected by the absence of another one of our members tonight who at the last minute notified us of a death in the family therefore we would only have 4 members here to hear the petition and as we would customarily do, we notified the petitioner's attorney regarding that factor and Attorney Navega faxed us a letter based on the information that there would be a four member Board, he did not believe it would be in the best interest of his client to go forward without a full Board and therefore he is requesting that this matter be rescheduled to a date as soon as possible.

G. Sagar Because we have two unknowns with our two other Board members with regards to their availability, we would probably know that tomorrow, so why don't we continue this until tomorrow and then we can set a date tomorrow.

R. Blum So you don't want to hear this tomorrow?

G. Sagar No, we have too many now.

G. Sagar made a motion to continue until tomorrow evening at which time we will set a date for it to be heard, seconded by R. Blum and **so voted unanimously** by: Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

**2009-19 Bocada Enterprises**, Timberlane, Hope, RI, owner, by Stephen E. Navega, Esq., 447 Taunton Avenue, Seekonk, MA, petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision and if necessary a **Variance** under Section 12.4.2.1 and 12.3, to allow a wall mounted sign, directional sign and pylon sign at 176 Fall River Avenue, Plat 14, Lots 80, 81, and 95 in a Highway Business zone containing 593,200 square feet.  
**(Continued from June 29, 2009 until June 30, 2009)**

Ch. Grouke The final matter on the agenda is 2009-19, also represented by Attorney Navega, in his letter of June 29, 2009 he requested a postponement for a full Board. Again, we will continue that until tomorrow night for the purpose of setting a date when all of our members are here.

R. Blum made a motion to continue until tomorrow evening at which time we will set a date for it to be heard, seconded by G. Sagar and **so voted unanimously** by: Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

The Board discussed options for future meeting dates and determined that the Board's Clerk was to contact the two absent Board members to discuss availability and a new meeting date would be confirmed at tomorrow night's Zoning Board of Appeals meeting.

G. Sagar made a motion to enter into Executive Session for the purpose of discussing strategies relative to pending litigation and not reconvene in open session, seconded by R. Blum **and so voted unanimously by a roll call vote** by: Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

G Sagar made motion to adjourn the meeting, seconded by R. Blum **and so voted unanimously by a roll call vote by:** Ch. Grouke, G. Sagar, K. Rondeau, and R. Blum.

**VOTE: (Approve 4-0)**

The meeting adjourned at 7:45

Respectfully submitted by:

---

Christina Testa, Secretary