

**MINUTES
ZONING BOARD OF APPEALS
DECEMBER 20, 2005**

Board members met at Stow Town Building at 3:05 p.m. to discuss the appeal filed by **Anderson & Kreiger, LLP, 43 Thorndike Street, Cambridge, Mass. on behalf of New Cingular Wireless PCS, LLC, 580 Main Street, Bolton, Mass.**, concerning the determination of the Building Inspector in refusing the issuance of a building permit for a Wireless Service Facility at **501 Gleasondale Road, Stow**. Also, the petition for variances from Zoning Bylaw Section 3.11, "Wireless Service Facility", i.e., 3.11.7.2 – Setbacks; 3.11.7.1.a – Height; 3.11.4.2.d – Location of Facilities; to allow extension to a smokestack at **501 Gleasondale Road**.

Members present were John Clayton, Edmund Tarnuzzer, Donald Dwinells, Richard Martin (associate) and Michele Shoemaker (associate).

Douglas Wilkins of Anderson & Kreiger was present, as was Jonathan McNeal and Ernesto (?). Interested citizen Peter Mills of Gates Lane was in attendance.

Mr. Tarnuzzer, who had chaired the public hearing held December 5th, noted there had been a memo from Town Counsel Jonathan Witten to the Planning Board dated October 10th that had just come to the attention of this board. It was Mr. Witten's opinion that the New Cingular petition need not be brought to the ZBA and that the Planning Board is the special permit granting authority pursuant to Section 3.11. A copy of that memo had not been provided the ZBA nor the Building Inspector. Mr. Wilkins offered no comment on Mr. Witten's opinion.

Mr. Tarnuzzer said that, at this time, he would favor granting the requested variances and allow the Planning Board to determine if a special permit should be granted by that board. It would appear that Town Counsel favors that approach. Mr. Clayton did not believe the memo of Town Counsel played a role in this proceeding and that the Board should decide on the petition before it. He did not believe the appeal of the Building Inspector's action was necessary.

Mr. Wilkins was asked if the appeal of the Building Inspector's action would be withdrawn if the variances were granted. His response was that he would forward a letter of withdrawal

The members reviewed a draft decision that had been reviewed by Town Counsel. Mr. Clayton moved to grant the requested variances. Ms. Shoemaker seconded. The vote was unanimous in favor of the motion to grant the variances.

The meeting was adjourned at 3:15 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board