

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**FEBRUARY 13, 2006**

The meeting was held in Stow Town Building and was opened at 7:00 p.m. Members present were John Clayton, Edmund Tarnuzzer, Donald Dwinells, Charles Barney (associate) and Michele Shoemaker (associate). Ernest Dodd of the Planning Board was in attendance.

The purpose of the meeting was to discuss the application heard February 6th for special and petition for variance filed by **Nextel Communications of the Mid-Atlantic, Inc.** for a Wireless Service Facility at **501 Gleasondale Road**. The applicant sought a special permit under Section 3.9.1, "Non-Conforming Uses and Structures", and variance under Section 3.11, "Wireless Service Facility", i.e., 3.11.7.2.a. and 3.11.7.2.c. re Setbacks, to allow installation of twelve panel antennas on the existing smokestack.

Nextel requested variance from Section 3.11.7.2.a. to allow installation of a WSF within 1,000 feet of a residence and from Section 3.11.7.2.c. to allow a WSF within 200 feet of an existing, non-residential building not on the same lot as the proposed WSF. Mr. Tarnuzzer pointed out that variances related to setbacks had been granted more than once to other carriers for that site and did not believe, in this case, there was reason variances could not also be granted. He continued that the intent of the zoning bylaw is to favor co-location of wireless service facilities. A draft of a variance decision suggested by Mr. Tarnuzzer was reviewed by the members.

On motion of Mr. Tarnuzzer, second by Ms. Shoemaker, it was voted unanimously to grant the requested variances, subject to the conditions and statements recited in the draft decision.

With regard to the special permit request, Mr. Tarnuzzer pointed out the language of Section 3.9.1: "...other than Wireless Service Facilities, which may not be altered or extended unless specifically allowed in Section 3.11 of the Bylaw...", thereby excluding such uses from the non-conforming bylaw. A special permit in this case becomes the jurisdiction of the Planning Board. Communications from Town Counsel Jon Witten in that regard were referred to. It was Mr. Tarnuzzer's opinion that the special permit request be denied for the reason that the Planning Board is the proper permit granting authority.

Mr. Tarnuzzer moved and Mr. Barney seconded, that the application for special permit under Section 3.9 be denied. It had been stated at the hearing that the special permit application had been submitted in order "to cover all bases". Mr. Dodd noted that if, after hearing before the Planning Board, the applicant is not satisfied, it may return to the Board of Appeals. When put to a vote, the motion to deny a special permit under Section 3.9 was voted unanimously in favor.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board