

OMNIPOINT COMMUNICATIONS, INC.
T-MOBILE USA, INC.
PETITION FOR VARIANCE
FEBRUARY 5, 2007
(Continued from January 8, 2007)

The public hearing continued from January 8, 2007 was reconvened at 7:30 p.m. in Stow Town Building on the petition filed by **Omnipoint Communications, Inc., a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Norton, Mass.** for variances to allow installation of three wireless telecommunications antennas within the existing belfry of **First Parish Church of Stow & Acton, 339 Great Road** under Sections 3.11.4.1 (not located in the Wireless Service Facility District); 3.11.7.2.a (setback from residential buildings less than 1,000 feet; 3.11.7.2.b (setback from municipal buildings less than 1,000 feet; and 3.11.7.1.d (height in excess of 35 feet). The property is shown on Stow Property Map U-10 as Parcel 34-1.

Board members present: John Clayton, Edmund Tarnuzzer, Charles Barney (associate), Michele Shoemaker (associate), Lee Heron (associate). Mr. Clayton continued as chair.

Attorney Daniel Visalli of Prince, Lobel, Glovsky & Tye, LLP was present on behalf of the petitioner. The Board was in receipt of a letter from Attorney Brian Grossman requesting this hearing be continued to March 5, 2007 at 7:30 p.m. The purpose of the continuance is to allow the applicant the opportunity to meet with the Planning Board for a pre-application conference that is scheduled for February 13th. As the deadline for the Board's filing of a decision in this matter is currently February 28th, the applicant agreed to a further extension to March 28, 2007.

Mr. Clayton advised he would like to close this hearing that opened in December. He felt there was enough on record to base a decision and reminded that the Board is not authorized to grant a use variance. Mr. Visalli's opinion was there may be that authority under the Telecommunications Act.

Mr. Tarnuzzer was in sympathy with the applicant because of the delay caused by the Planning Board in not scheduling an earlier meeting. Mr. Clayton asked if it was felt there would be some new information for a March 5th continued hearing. Mr. Visalli replied in the affirmative, but said he could not predict what might occur as a result of the meeting with the Planning Board. If it is felt that board is authorized to issue a special permit, the matter can go forward. Town Counsel's opinion is for the matter to go before the Planning Board in accordance with the Town's bylaws. If there is a denial from the Planning Board, the applicant will be in a position to appeal, although that is not something they want to do. If the reason for denial is the lack of use variance, then Mr. Visalli said the TCA come into being. What if Town Counsel's reading is incorrect?

Mr. Tarnuzzer agreed that this hearing has dragged on, but it is not the fault of the applicant. He would be willing to grant a continuance to March 5th.

Ms. Shoemaker moved to grant a continuance to March 5th. Second by Mr. Barney. The vote was unanimous in favor. The Board accepted the grant of extension to March 28th for the filing with the Town Clerk of the decision in this matter.

The hearing was adjourned at 7:45 p.m. to be reconvened on Monday, March 5, 2007 at 7:30 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board