

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

WEDNESDAY, September 24, 2003

Present: Theophile Beaudry
Mary Blanchard
Jeff Bonja
Robert Cornoni
Pat Jeffries
Gary Jeznach
Ginger Peabody, Chairman

Also in Attendance Nancy Campbell, Clerk

G. Peabody opened the meeting at 7:00 PM and read the agenda. She stated that the Board had held an emergency meeting on September 18th to select a technical expert in the field of radio frequency (RF) engineering at the expense of the applicant to review data submitted by the applicant's RF engineer. The minutes for September 18, 2003 meeting were reviewed. M. Blanchard made a correction to paragraph two, line two, to read, "...some discussion it was voted..."

Motion: to accept the minutes of September 18, 2003, as corrected, by M. Blanchard

2nd: T. Beaudry

Discussion: None

Vote: In favor – M. Blanchard, P. Jeffries, R. Cornoni and T. Beaudry
Abstained – J. Bonja, G. Jeznach and G. Peabody

G. Peabody stated the Board had agreed to engage the services of David Maxson, of Broadcast Signal Lab, LLP, Medfield, MA. L. Adams had forwarded a scope of work and details of the application to D. Maxson.

**PUBLIC HEARING CONTINUATION– SPECIAL PERMIT – GREEN MOUNTAIN REALTY CORP.
– TO PERMIT THE CONSTRUCTION OF A 130 FOOT MONOPOLE TOWER AND RELATED
WIRELESS EQUIPMENT AT 126 CLARK ROAD**

The first session of this public hearing had been held on September 10, 2003. G. Peabody continued the hearing at 7:00 PM. She recognized George T. Chianis, of Pine Hill Site Development, Chelmsford, MA, agent for Green Mountain Realty Corp, who submitted photographs taken during the balloon test conducted on September 13, 2003. G. Chianis introduced Attorney Michael Rosen, of Devine, Millimet & Branch of Andover, MA who continued with the presentation and addressed the following:

- Since St. Anne's water tank was not a facility of Type 12.03(c), there was no facility located within one mile to the proposed 130-foot monopole. G. Peabody felt this was a point open for interpretation.
- The fall zone of the proposed 130-foot tower measured 156 feet which complied with the requirements of the fall zone at 120% of the height to the facility.
- Nextel would be open to recommendations of the Board or its consultant for the color scheme of the facility so that it would blend with the landscape and sky minimizing its visual impact.
- Atty. Rosen described the attachment of the co-applicant's antennas to the tower and the accommodations for future carriers, up to four, noting that the antennas would not exceed ten feet above the level of the attachment to the monopole. Future carriers would be required to come before the Board for approvals.

M. Blanchard questioned the FAA's reference to a 176-foot tower on its application. Victor Drouin, President, Green Mountain Communications, Inc. explained that when the exact location of the tower was identified to the

FAA, the additional thirty feet was allowed for the purpose of air traffic safety. G. Chianis verified that the height of the proposed tower would not exceed 130 feet and was approved by the FAA without lights.

- The equipment shelters would be designed with traditional colonial architecture within the leased 50 foot by 50 foot area which would be surrounded by an eight foot locked stockade fence camouflaged by eight foot arborvitae bushes.

G. Peabody noted this was a rather large area and asked if it needed to be clear cut. G. Chianis commented that Green Mountain needed to lease and clear cut such a large area to provide enough space to accommodate up to six carriers. However, the fencing would surround Nextel and T-Mobile's shelters and expand as other carriers were added.

- Security lighting would be provided by a 150W motion light attached above the equipment shelters. The FAA did not require any marking or lighting for aviation safety.

G. Peabody was concerned the motion light might be triggered by wildlife. Atty. Rosen noted the lighting would be directed within the fence and the Building Inspector could check the perimeters and distances to minimize any light from going outside the stockade area.

- There would be one parking space to be used when maintenance was performed on the carrier's equipment with each carrier requiring approximately one service trip per month.
- There would be no signage at the facility.

G. Peabody asked if there were questions from the Board. There were none. She asked for questions from the public.

- Ronald Caron, 290 Clark Road – had previously requested permission for a tower and been turned down due to the impact to the area; felt the overlay area was too small for the proposed tower.

G. Jeznach interpreted the bylaws to say that the fall zone was not required to be entirely within the overlay district. Atty. Rosen agreed with G. Jeznach adding that the requirement was that the facility be located within the overlay district. He noted that the proposed monopole was designed to collapse within approximately 40% of its actual height. The fall zone was for the safety against falling debris should the tower collapse.

- Bob Giordano, 6 Wildwood Lane – requested that the Board ask its RF consultant three points - 1) was it feasible to co-locate the proposed facility on the St. Anne's water tank; 2) were there other sites available to locate the proposed tower aside from the selected residential site and 3) did the tower need to be 130 feet, the maximum height allowed.

G. Peabody stated all three concerns were included in the scope of work D. Maxson would be reviewing.

- Peter Grudzien, 288 Clark Road Ext. – expressed his displeasure that he had had positive test results and a contract for a communication facility to be located on his property at 297 Clark Road in October 2000 and was later informed by the company that it were not interested due to legal issues brought up by Town officials.

Atty. Rosen felt the two situations mentioned by area residents regarding previous opportunities for communication facilities were presented by speculators and not as custom tower builders like Green Mountain Realty Trust.

G. Jeznach requested that the Chair hold all questions and concerns from the public until the presentation was completed. G. Peabody felt the issues were of a technical nature and the meeting format would continue as in the past allowing for questions from the public. M. Blanchard agreed technical questions should be allowed, but public opinion should be heard after the presentation was complete. G. Jeznach totally agreed with M. Blanchard and disagreed with G. Peabody.

Atty. Rosen continued with the presentation.

- The co-applicants would adhere to the FCC Guidelines for Evaluating the Environment Effects of Radio Frequency Radiation.
- There would be no discharging or storage of hazardous wastes on the site.
- The ground mounted equipment would not generate noise in excess of 50dB to the property line.

J. Bonja asked the contents of the equipment shelters and if there was a concern for leakage. G. Chianis stated they contained computers and base radios with a rack of sealed batteries. The shelters were either precast concrete or stick built and leakage was not a concern.

- Atty. Rosen noted other materials submitted with the application – radio frequency materials, FAA approval, technical specifications of the antennas, Executive Office of Health and Human Services, technical description of the facility and how it was selected, description of the capacity of the facility and a locus plan.

J. Bonja wanted to ask for later discussion if the frequencies would interfere with personal radio, CD radio, ham or FM transmission or television. Atty. Rosen felt this would not be an issue, but that the RF engineers could get into more specific details. G. Chianis submitted the résumé for the applicant's RF engineer.

- Photographs of the view test were presented and reviewed by Arthur Simonian, P.E., of Diversified Technology Consultants. G. Chianis submitted a notarized letter of the balloon test conducted on September 13, 2003.

G. Jeznach felt that the photographs were biased and wanted to know if area residents had taken any photographs of the balloon. Atty. Rosen countered that the work had been done by an independent outside consultant who had no financial interest in the applicants. Photographs had been taken from the lot lines of each abutting property and each adjacent street (per zoning bylaws) in an effort to find the balloon for the Board. In the instance that the Giordano's had given permission to access their property, he had instructed that the photographs be taken from where the family spent most of its time, the predominant viewing area. Due to liability issues the photographer did not go onto any other private property. J. Bonja asked how high the balloon was above the tree line. A. Simonian stated that the balloon was flown 130 feet above ground level making it approximately 65 feet on average above the trees and that the ground elevation was approximately 850 feet. P. Jeffries stated the photographs as taken meant nothing to her since she was more interested in the view from residents' backyards.

G. Peabody recognized:

- Bob Giordano, 6 Wildwood Lane – stated that for seven months out of the year the 130-foot tower would be “right in our face”; submitted three photographs showing the balloon as it appeared from his barn, horse fields and backyard; felt the tower would have a huge visual impact to the residential area.
 - Peter Grudzien, 288 Clark Road – asked if the photographer saw the balloon when he was taking pictures throughout the Town. He did not eliminate pictures where the balloon was visible; did not object to the proposed tower if it were done properly; felt that the overlay district might not be the only location for the proposed tower if a hardship could be identified.
 - Charles Blanchard, 26 Farquhar Road – asked the location of photograph #26 on Big Alum; felt that from this photograph it appeared the tower would be the most predominant thing one would see from that side of Big Alum. A. Simonian described the location to be the west side of Big Alum.
 - John Grudzien, 107 Clark Road – commented that the balloon was visible from Big Alum, the Giordano's property and Clark Road even though the photographer did not have it in the photographs.
- Atty. Rosen asked that the Board advise the applicant and co-applicants of the RF engineer consultant it selected to be sure there were no conflicts and to confirm the fee that was to be paid by the applicant for the review.

- The applicant agreed to comply with all the provisions regarding abandonment and discontinuance by providing: 1) written authority from the owner of record allowing the Town access to the property to remove the facility should the carrier fail to do so; 2) a letter for the removal cost by a registered engineer and 3) a Site Removal Bond to the Planning Board.

G. Peabody asked if the gravel road to the facility would be restored and if approval had been given to cross the wetlands. G. Chianis said Green Mountain believed the abandonment applied to the compound – the tower itself, the antennas, the shelters and the fence and that the Conservation Commission had approved the conditions for the wetlands crossing. Atty. Rosen would forward copies of the conditions to the Board.

G. Jeznach asked that the Chair inquire if there was anyone from the public wishing to speak for the project. There was not. Atty. Rosen noted that there were two issues being addressed – the specific application and the ability to have wireless services within the Town.

G. Peabody asked if the Board would agree to schedule a meeting on October 15th for the sole purpose of Green Mountain's hearing and discussion with the applicant and D. Maxson in addition to its regularly scheduled meeting of October 8th.

G. Peabody recognized:

- Bob Giordano who commented that the Town's zoning bylaws, Section 12.01(c), served to protect the abutters from adverse impact on their property values. He submitted an appraisal of their property which stated the tower would have a negative impact on the value and marketability of their property and asked that the Board take this into consideration.
- Chris Rizzy, 120 Clark Road – concerned about his property value, the increase in noise from the MassPike once the trees were cut for the access road and the wetlands crossings. He suggested that the impact of the access road should be revisited.
- Debbie Hill, 45 Cricket Drive – referenced the zoning bylaws, Section 12.03(d), which stated a facility of Type 12.03(c) shall not be located closer than one mile to any other such facility. She noted it did not also say "if it works for you," and that it was less than one mile (from St. Anne's water tank.)

G. Peabody asked the applicant if they had reviewed the implementation of the National Environmental Policy Act of 1969 which addressed facilities whose construction would involve significant change in surface features, wetlands fill, deforestation or water diversion and statements acknowledging if there would be controversy on environmental grounds in the community. Atty. Rosen commented that the process for approvals from the Conservation Commission took four years and were very thorough. He reminded the Board that he would have copies of the Orders of Conditions for the next meeting.

- Loren Kushner, 116 Clark Road – submitted a letter to the Board with the following concerns - how did the Ryder's proposal differ from ones rejected in the past; what was the size of the maintenance trucks; a decrease in property values; that the facility would be an attractive nuisance in a residential neighborhood; security for the access road and felt there was conflict of interest with the Ryders and the Conservation Commission.

Atty. Rosen noted the distinction between this application and past proposals was that this application had two carriers who were trying to put together a site that complied with the Town's zoning bylaws. G. Chianis said there would be a locked bar at the beginning of the access road.

- John Grudzien, 107 Clark Road – concerned about the impact to Clark Road during the construction period of the project.

Atty. Rosen commented that the applicants would be applying to the Planning Board for Site Plan Review which would address construction concerns and the Conservation Commission would be monitoring the impact to the wetlands areas.

- Monique Marinelli, 114 Clark Road – submitted a letter to the Board with the following concerns: decreased property values; increased traffic to the area; impacts to wetlands; alternative locations (St. Anne’s water tank and Champeaux Road, Brimfield tower) and it would create a safety issue.
 - Chris Rizzy, 120 Clark Road – asked that the access road be moved to Wildwood Lane
- A. Simonian offered that this had been looked into and was not allowed due to legal issues.

G. Peabody asked if there were any other questions from the Board or the public. There were none.

Motion: to continue the public hearing to October 15, 2003 at 7:00 PM, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

Motion: to adjourn, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

Adjournment at 9:00 PM