

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

WEDNESDAY, September 10, 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. The Board members introduced themselves. The minutes for August 13, 2003 and the executive session of August 13, 2003 were reviewed.

Motion: to accept the minutes of August 13, 2003, as written, by J. Bonja
2nd: G. Jeznach
Discussion: None
Vote: In favor – J. Bonja, G. Jeznach, G. Peabody, P. Jeffries, R. Cornoni and T. Beaudry
Abstained – M. Blanchard

Motion: to accept the executive session minutes of August 13, 2003, as written, by J. Bonja
2nd: G. Jeznach
Discussion: None
Vote: In favor – J. Bonja, G. Jeznach, G. Peabody, P. Jeffries, R. Cornoni and T. Beaudry
Abstained – M. Blanchard

CORRESPONDENCE

G. Peabody noted the following correspondence:

Chasse & Roche, P.C. – dated August 12, 2003 – RE: Rehabilitative Resources Inc. Appeal
Kopelman & Paige, P.C. – dated August 13, 2003 – RE: Robert A. Cottone v. Cedar Lake, LLC
Kopelman & Paige, P.C. – dated August 29, 2003 – RE: Robert A. Cottone v. Cedar Lake, LLC
Peter Grudzien letter – dated September 4, 2003 – RE: Nextel Communications

PUBLIC HEARING CONTINUATION – (VARIANCE) SPECIAL PERMIT - STURBRIDGE REALTY TRUST - TO PERMIT AN OVERSIZED SIGN MEASURING APPROXIMATELY 72.2 SQUARE FEET

G. Peabody opened the public hearing at 7:05 PM noting the Board had agreed at its last meeting to review this application under the provisions of a special permit. John Reardon, General Manager for the Sturbridge Host Hotel and Conference Center and Leonard Jalbert were present for Sturbridge Realty Trust. J. Reardon stated that in 1991 the complex was granted a variance for a multiple tenant sign. In 1994 as part of the Route 20 reconstruction project approximately 3,700 square feet were taken by eminent domain creating an irregular lot line. The complex's sign was moved five feet back from its original location and J. Reardon felt this had created a visibility problem and a disadvantage for the Hotel. R. Reardon met with the Design Review Committee for the proposed sign and was referred to the Board due to its oversized measurements. He submitted a letter to the Board addressing the three criteria required for the issuance of a special permit and commented that safety was an issue due to the poor visibility of the present sign. The size of the proposed main Host sign would be eight

feet by seven feet (56 square feet) and the present Oxhead sign measured approximately sixteen square feet for a total of 72 square feet. The P. Bella's sign would be removed. It was his opinion that the impact of the increase was minimal and noted that the proposed signage was within the present brick stanchions.

G. Peabody felt the Hotel had created its own disadvantage due to the choice of color and font used on the present sign. She felt a better sign was needed and not a bigger sign. J. Reardon agreed that the script on the present sign was hard to read, but felt the additional five foot setback compounds the problem. He added that the sight distance for the sign to traffic traveling westbound does not meet the minimum safe braking distance. M. Blanchard agreed there was a safety issue with motorists slowing down to view the sign, but felt the proposed sign was larger than necessary. J. Reardon was looking for some relief and would be flexible. R. Cornoni suggested a block style lettering to remedy the visibility problem of the sign. J. Reardon countered that the Host had a lengthy name which was also part of the problem. T. Beaudry felt the Town had made set guidelines for signage with its revisions to the sign bylaws and that they should be upheld. P. Jeffries offered that the current design of the sign was unattractive and its biggest problem, not the setback. Doubling the size of the sign was not the answer and suggested a smaller sign than that which was proposed. She felt a different color would help with the visibility. G. Jeznach agreed the present coloring was a problem and block lettering should be used, but was strongly in favor of increasing the size of the sign and felt there was no reason to not support the request.

G. Peabody asked if there was anyone wishing to speak for or against the requested sign.

- Arnold Wilson, 21 Cedar Street – stated the most controversial issue relative to the zoning bylaws had been signs and that a great deal of effort had gone into their revisions.
- Jesse Houle, Heritage Green – was in favor of the larger sign if it would help improve the traffic safety issue for Route 20.

G. Jeznach clarified that he felt it made sense to increase the signage with this particular project. M. Blanchard commented that the special permit process allowed the Board to judge signs case by case and would like to reach a compromise. G. Jeznach wanted the Board to take a vote and not continue the hearing for the sake of further information. In making this comment he felt he had “been cut off” by G. Peabody when she asked the Board if it had sufficient information. The Board was ready to proceed to a vote.

Motion: to close the public hearing, by M. Blanchard

2nd: P. Jeffries

Discussion: L. Jalbert asked the Board to look at the reality of the prospective of the Hotel's request relative to the hardships and the constraints of the site. The sign would be consistent with the area, with traffic flow and with safety and presently was obscured by the Burger King sign.

Vote: All in favor

Motion: to allow a special permit to Sturbridge Realty Trust located at 366 Main Street, Assessor's map 24-24, lot 366, WDRD Book 17160, page 95, for an increase in size of the Sturbridge Host Hotel sign from 28 square feet to a maximum of 40 square feet and the dimension of the Oxhead Tavern sign shall remain the same at 16.2 square feet for a total dimension not to exceed 56.2 square feet, by M. Blanchard

2nd: R. Cornoni

Discussion: R. Cornoni noted again that block lettering would address the Hotel's problem. G. Peabody agreed stating the present sign with a different color and font would be fine. M. Blanchard felt the font and color should be left to the Design Review Committee. P. Jeffries supported the size compromise. G. Jeznach felt the permit should be granted as requested.

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

Opposed – G. Peabody

Abstained – G. Jeznach

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

G. Peabody read a disclosure submitted by herself as required by M.G.L. Chapter 268A(23B)(3) relating to conflict of interest (see attached.) She then opened the public hearing and J. Bonja read the legal notice. G. Peabody noted that the first balloon test was located incorrectly and would be reflowed on Saturday, September 13, 2003 from 8:00 AM to 6:00 PM at 126 Clark Road. She asked the Board members if they wished to move on with the hearing or continue discussion after the balloon test. The majority of the Board agreed to move on with the hearing, but restrict all discussion regarding the balloon until after the site test.

George T. Chianis, of Pine Hill Site Development, Chelmsford, MA, agent for Green Mountain Realty Corp, represented the co-applicants Nextel Communications of the Mid-Atlantic, Nextel and Omnipoint Holding Co., Inc., T-Mobile for a special permit under Chapter Twelve of the Zoning Bylaws, Wireless Overlay District. The applicants were seeking all necessary approvals for the wireless communication facility which would include:

- A 130-foot monopole structure placed within an eight foot stockade fence.
- Nextel installation – 12 panel antennas at a center line of 128 feet with an unmanned equipment shelter designed with Sturbridge character
- T-Mobile installation – 12 panel antennas at a center line of 118 feet with three monitored and unmanned cabinets
- Facility will require about two trips per month by technical maintenance personnel.
- The only utilities required will be electrical power and telephone service – water, sewer or other municipal services will not be required.

G. Chianis thanked the Board for continuing with the hearing and submitted a letter extending the timeframe for the public hearing process until November 12, 2003 with an additional 90 days to file its decision with the Town Clerk.

Motion: to allow the Chairman to sign the agreement to extend the public hearing process to November 12, 2003, by M. Blanchard

2nd: G. Jeznach

Discussion: None

Vote: All in favor

G. Chianis introduced the representatives of the project - Attorney Michael Rosen, of Devine, Millimet & Branch of Andover, MA; Marlon DePax, Nextel Communications, RF Engineer; Amir Ussaman, T-Mobile, RF Engineer; Attorney Simon Brighenti, Jr., Optasite, Inc.; Victor Drouin, President, Green Mountain Communications, Inc.; and Art Simonian, P.E., Diversified Technology Consultants.

Atty. M. Rosen made the presentation and addressed the following:

- The wireless communication facility would adhere to all the requirements of Section 12.03(c) and was requesting a height of 130 feet.
- The focus of the application was the gaps on the Massachusetts Turnpike (Mass Pike) with the secondary goal being coverage for gaps on Route 20. Nextel had determined it needed a tower 150 – 160 feet to fill its gaps satisfactorily. The height was then brought down to 130 feet and lower. It was determined that a height of less than 120 feet would not meet the goal of filling the gaps along the Mass Pike. T-Mobile's calculations came in at approximately 120 feet. Atty. Rosen explained how individual carriers determine their needs relative to tower locations, optimum placement for signal coverage and the technology differences for these carriers.
- It was investigated and determined that co-location on the St. Anne's water tank (ground elevation 50 feet lower than the proposed site) would not provide adequate coverage to reach the MassPike for the following reasons: height of the water tank, lack of room for equipment, concerned that the site was

not properly permitted for the Sprint Spectrum antennae (L. Adams, Town Planner, commented that Sprint had been approved for Site Plan Review) referencing Section 12.03(a) potentially placing Nextel and T-Mobile at locations lower than 86 feet; an elevation and topography issue along with the tree line since leaf size and shape adds to interference. Atty. Rosen referenced Nextel's handout (submitted to the Board) to clarify questions relating to coverage area and gaps.

- Marlon Depaz explained a drive test had been conducted with the use of a crane and antennae to measure the signal strength from the tank at St. Anne's. Propagation studies indicated the coverage objective for Route 20 might be met from this site, but not the MassPike. Atty. Brighenti commented that T-Mobile ran a propagation test up to 110 feet and found its gaps to be similar to those of Nextel.
- The site had availability for four other carrier locations and notification letters had been sent stating as such to area carriers.
- Other locations investigated for the applicant were the tower at the Sturbridge State Police Barracks, Route 84 (400 Haynes St.) tower and Route 20 (174 Charlton Rd.) tower – due to distance and availability it was believed these sites would not work. However, the applicants RF Engineers would look into the matter further and report back to the Board.
- When questioned why Sprint had sufficient coverage operating at a height of 86 feet and Nextel and T-Mobile did not, Atty. Rosen explained how grid patterns worked for telecommunication facilities and that varying technology used different signals in different ways from the antennas to the receivers.
- Atty. Rosen showed that the Town's wireless overlay district limited the area in which the tower could be moved due to the fall zone (equal to 120% of the height of a facility from ground level) of 156 feet and the location of the lot lines.
- Atty. Rosen (Nextel) and Atty. Simon Brighenti (T-Mobile) pointed out the gaps for the respective carriers utilizing maps which were part of the application submitted for the project. Atty. Brighenti stated T-Mobile had antennae on the following towers: the Sturbridge State Police Barracks, Charlton Road (Route 20), Sturbridge Road in Charlton, East Brookfield and Brimfield on Champeaux Road.

G. Peabody asked if there were questions for the public regarding the discussion pertaining to the gaps.

- Robert Giordano, 6 Wildwood Lane – asked if the crane had been used at the site of the monopole for its testing. Atty. Rosen answered that the test using the crane had been done at the water tank at St. Anne's and not at 126 Clark Road. Tests done for 126 Clark Road had been computer generated.

J. Bonja asked 1) what assumptions for foliage were used on the propagation models used for the computer tests and 2) how much would change if the tests were run without foliage and if so, how many db's. M. DePaz stated 1) that the propagation software used took into account terrain, foliage and antenna patterns, as well as incorporating dry data for a more accurate test and the tests were based on the worse case being full leaf coverage and 2) coverage would improve to maybe 2 db's. G. Peabody asked the tree height used for the dry data – it was not known, M. Depaz would inquire. A. Simonian had taken clinometer readings from Clark Road and found the tree height to be 50 – 90 feet. He offered to get a survey for more accurate heights if necessary.

- Debbie Hill, 45 Cricket Drive – stated the Bylaws allowed the Town to retain a technical expert in the field of RF engineering to verify the applicant's information and suggested the Board do that before its next meeting.

The Board felt this should be done and would make a list of three RF consultants and their estimated costs, submit this list to the proponent who would inform the Board if there was current litigation with any of the names.

Atty. Rosen submitted supplemental information to the Board addressing the coverage gaps, the studies and the test data at the water tank.

Motion: to continue the public hearing to the Board's regularly scheduled meeting, by M. Blanchard
No second, the motion died.

G. Peabody felt there were enough topics needed to be discussed, exclusive of the gap. Therefore, she asked to schedule a meeting for September 24th. R. Cornoni asked that pictures of the balloon be provided to the Board at that meeting. It was noted that pictures would be provided.

- Monique Marinelli, 114 Clark Road – asked that the balloon test scheduled for Saturday, September 13th be flown at a later time to see how different it would look in the fall – Atty. Rosen disagreed since trees were leafed out for eight months or the majority of the time. G. Peabody noted a balloon test could be requested for the fall if the Board felt it necessary.
- Brian Friedmann, 45 Clark Road – pointed out the trees leafed out for only about five months of the year.

G. Chianis clarified there would be photos of the view test balloon taken from the road since he was not allowed on private property. He also noted that Green Mountain Realty Corp. was required to notify only the Planning and Zoning Boards of the view test and did not have to advertise the balloon test in the local newspaper.

- Molly Giordano, 6 Wildwood Lane – had given permission to the person setting up the balloon (a previous test date) to access her property and offered the same for picture taking.
- David Belrose, Big Alum Road – asked the exact mile marker for the gap in coverage on the MassPike. Atty. Rosen did not have that information for the proposed site.

Motion: to continue the public hearing to September 24, 2003 at 7:00 PM, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

PUBLIC HEARING – SPECIAL PERMIT – ELIZABETH ECKHARDT – TO PERMIT THE CONSTRUCTION OF A 24 FOOT BY 36 FOOT THREE CAR GARAGE AT 25 LIBRARY LANE

G. Peabody opened the hearing at 9:05 PM and J. Bonja read the legal notice.

Attorney George Hammond represented the applicant, Elizabeth Eckhardt for the special permit request for a 24 foot by 36 foot garage to house their two family vehicles and a yard tractor. Because there were two dwellings on the property, a permanent residence and a guest house, the lot was considered a non-conforming lot. He felt this request met the requirements for a special permit in that it did not increase the intensity or density of the non-conforming use.

G. Peabody pointed out that a garage was to be used as an accessory building only for the storage of motorized vehicles. She questioned the windowed dormer on the second floor. Atty. Hammond stated that was to allow access to the second floor storage area for large objects, that there would be no water or sewer to the building and there were no other windows. G. Peabody was concerned that the garage could be used for a second bedroom or sitting room. Other Board members did not have a problem with the dormer as drawn in the plan.

G. Peabody asked if there was anyone wishing to speak for or against the project.

- Evelyn Young, 129 Walker Pond Road – asked if the garage would have plumbing. Atty. Hammond said it would not.
- Mark Macero, 126 Walker Pond Road – read his letter requesting the Board postpone its decision until the Planning Board reached its decision for a special permit to operate a Bed and Breakfast at the same location for Elizabeth Eckhardt (see attached.)

- John Cotell, 1 Library Lane – many neighbors have concerns not for the garage but for the property becoming a Bed and Breakfast. He asked about the ventilated roof for an insulated ceiling shown on the plan. Earlier conversation had indicated there would not be insulation. He also felt the Board should decide on the special permit after the Planning Board's decision. Board members agreed the insulation/ventilation should not be an issue if conditions were such that it would not be inhabited.

G. Peabody asked for comments from Larry Adams, Town Planner. He offered that if the Board were to defer until after the Planning Board's decision, the Planning Board may first want to know if there was going to be a garage. He suggested that he could recommend the Planning Board have as a condition of a Bed and Breakfast approval (if it was approved) that any infraction of the human habitation constraints as imposed by Title V and the Planning Board's approval would nullify the special permit for the Bed and Breakfast.

G. Jeznach felt the application should be judged on the information at hand.

Motion: to close the public hearing, by J. Bonja
2nd: M. Blanchard
Discussion: None
Vote: All in favor

Motion: to grant to Elizabeth Eckhardt a special permit to construct a three car garage as requested at 25 Library Lane South, Sturbridge, Assessor's map 17, lot 25, WDRD Book 23459, page 87 provided that there is no human habitation and no plumbing, by G. Jeznach
2nd: M. Blanchard
Discussion: None
Vote: All in favor

G. Peabody reminded the applicant of the 20-day appeal period.

NEW BUSINESS/OLD BUSINESS

There was none.

Adjournment at 9:30 PM