

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
Wednesday, September 29, 2010

Present: Elizabeth Banks
Marge Cooney
Thomas Creeden
Adam Gaudette, Chairman
Pat Jeffries
Chris Mattioli
Maryann Thorpe

Also Present: Diane Trapasso, Administrative Assistant

Mr. Gaudette opened the meeting at 6:30 PM.

The Board introduced themselves.

Mr. Gaudette read the agenda.

APPROVAL OF MINUTES

Motion: Made by Ms. Jeffries to approve the amended minutes of September 15, 2010.

2nd: Ms. Banks

Discussion: None

Vote: 6 – 0 – 1 (Mr. Gaudette)

CONTINUATION OF THE PUBLIC HEARING OF METROPCS, LLC IS REQUESTING A VARIANCE AND SPECIAL PERMIT TO ERECT A TELECOMMUNICATIONS TOWER. THE PROPERTY IS LOCATED AT 67 ROUTE 84 (DPW PROPERTY).

Materials Reviewed:

Mr. Kreiger submitted a check of \$544.69 for the balance of the Town Independent RF Consultant

Mr. Kreiger of Anderson & Kreiger gave his summary of the whole application process:

- Started on May 12, 2010 – continued with six hearings – it has been a long process
- MetroPCS answered all questions asked by the Board and the Public
- Legal standards are the following:

1. Provide service
 2. Be competitive in the market
 3. Town bylaws – Telecommunication Act supersede
- View from the Condos – slight impact – only affects a few
 - Mr. Hutchins, Consultant for the Town agreed with the site being the best after looking at alternative sites.
 - MetroPCS’s brochures and web page – need to read the disclaimers

Mr. Kreiger stated that MetroPCS, through this application and the RF coverage maps, had demonstrated that significant coverage gaps exist in this area of Sturbridge, and that the requested variances are needed to permit MetroPCS to construct a Wireless Communication Facility on the Site and fill those gaps. Without the Facility, there will continue to be significant gaps in coverage in this area of Sturbridge. In addition, MetroPCS had demonstrated that there are no existing structures that are feasible sites for co-locating the proposed Facility, and the only site other than the unavailable existing State Police Tower identified in the search ring that could address the coverage gaps at issue is the Site. Therefore, MetroPCS respectfully request that the Board grant the requested variance reliefs.

Mr. Heywood of 95 Colonial Drive stated from information he has obtained from MetroPCS, there is not a need and coverage is sufficient. The Town should not go into a lease with MetroPCS and a tower should not be built.

At the close of the Public Hearing on September 29, 2010 the following motions and votes were made pursuant to the local zoning bylaw:

1. A motion was made by Chris Mattioli, seconded by Patricia Jeffries and voted 5-1-1 (Thomas Creeden opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 24.11 (no use variance may be granted except as allowed by the Bylaw).

2. A motion was made by Patricia Jeffries, seconded Elizabeth Banks and voted 5-1-1 (Thomas Creeden opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 12.03 (c) (a 130’ facility may only be allowed within the Wireless Communication Overlay district (WCOD)).

At this point in the voting, Ms. Cooney wanted to clarify why she was abstaining in the voting. She stated that she was appointed to the Board on July, 2010 and the Public Hearing for MetroPCS started on May 12, 2010, she already missed two of the hearings and that is why she cannot vote.

3. A motion was made by Chris Mattioli, seconded by Patricia Jeffries and voted 6-0-1 (Marge Cooney abstaining) to deny the variance requested pursuant to § 12.03 (d) (1) (a new tower must be a simulated tree (in specified zoning districts) or monopole in the WCOD only).

4. A motion was made by Patricia Jeffries, seconded by Elizabeth Banks and voted 5-1-1 (Thomas Creeden opposed and Marge Cooney abstaining) to deny the variance requested

pursuant to § 12.03 (e) (a wireless tower may not exceed 15' above the average tree canopy unless located within the WCOD).

5. A motion was made by Chris Mattioli, seconded by Patricia Jeffries and voted 5-1-1 (Thomas Creeden opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 12.02 and § 12.03 (f) (providing “fall zone setback” to the effect that “the minimum distance from the base of any ground mounted facility to any property line, road, habitable dwelling, business or institutional use, or public recreational areas shall be 120% of the height of the facility...).

The Chairman then asked the Board to consider the variances requested pursuant to the Telecommunications Act of 1996; the following motions and votes were made pursuant to the Telecommunications Act of 1996:

1. A motion was made by Patricia Jeffries, seconded by Elizabeth Banks and voted 3-3-1 (Adam Gaudette, Thomas Creeden and Maryann Thorpe opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 24.11 (no use variance may be granted except as allowed by the Bylaw) applying the standards of the Telecommunications Act of 1996.

A motion was then made by Thomas Creeden to grant the variance requested pursuant to § 24.11 (no use variance may be granted except as allowed by the Bylaw) applying the standards of the Telecommunications Act of 1996. The motion failed to get a second.

2. A motion was made by Patricia Jeffries, seconded by Chris Mattioli and voted 3-3-1 (Adam Gaudette, Thomas Creeden and Maryann Thorpe opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 12.03 (c) (a 130' facility may only be allowed within the Wireless Communication Overlay district (WCOD) applying the standards of the Telecommunications Act of 1996.

A motion was then made by Thomas Creeden to grant the variance requested pursuant to § 12.03 (c) (a 130' facility may only be allowed within the Wireless Communication Overlay district (WCOD) applying the standards of the Telecommunications Act of 1996. The motion failed to get a second.

3. A motion was made by Chris Mattioli seconded Patricia Jeffries and voted 4-2-1 (Adam Gaudette and Thomas Creeden opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 12.03 (d) (1) (a new tower must be a simulated tree (in specified zoning districts) or monopole in the WCOD only) applying the standards of the Telecommunications Act of 1996.

A motion was then made by Thomas Creeden to grant the variance requested pursuant to §12.03 (d) (1) (a new tower must be a simulated tree (in specified zoning districts) or monopole in the WCOD only) applying the standards of the Telecommunications Act of 1996. The motion failed to get a second.

4. A motion was made by Patricia Jeffries, seconded by Thomas Creeden and voted 5-1-1 (Adam Gaudette opposed and Marge Cooney abstaining) to deny the variance requested

pursuant to § 12.03 (e) (a wireless tower may not exceed 15' above the average tree canopy unless located within the WCOD) applying the standards of the Telecommunications Act of 1996.

5. A motion was made by Thomas Creeden seconded by Maryann Thorpe and voted 3-3-1 (Chris Mattioli, Patricia Jeffries and Elizabeth Banks opposed, Marge Cooney abstained) to grant the variance requested pursuant to § 12.02 and § 12.03 (f) (providing “fall zone setback” to the effect that “the minimum distance from the base of any ground mounted facility to any property line, road, habitable dwelling, business or institutional use, or public recreational areas shall be 120% of the height of the facility...”) applying the standards of the Telecommunications Act of 1996.

A motion was made by Chris Mattioli seconded by Patricia Jeffries and voted 3-3-1 (Adam Gaudette, Thomas Creeden and Maryann Thorpe opposed and Marge Cooney abstaining) to deny the variance requested pursuant to § 12.02 and § 12.03 (f) (providing “fall zone setback” to the effect that “the minimum distance from the base of any ground mounted facility to any property line, road, habitable dwelling, business or institutional use, or public recreational areas shall be 120% of the height of the facility...”) applying the standards of the Telecommunications Act of 1996.

At the close of the Public Hearing on September 29, 2010 a motion was made by Patricia Jeffries and seconded by Elizabeth Banks to deny the Special Permit requested pursuant to the Zoning Bylaw § 12.03 (c) and §24.09 for the construction and operation of a Wireless Communication Facility on Town owned property located at 67 Route 84, Sturbridge, MA. Prior to voting Patricia Jeffries amended her motion and that was seconded by Elizabeth Banks to and voted 3-3-1 (Adam Gaudette, Thomas Creeden and Maryann Thorpe opposed and Marge Cooney abstaining) to deny the Special Permit requested pursuant to the Zoning Bylaw § 12.03 (c) and §24.09 for the construction and operation of a Wireless Communication Facility on Town owned property located at 67 Route 84, Sturbridge, MA. since the proposal did not satisfy the criteria of Section 24.09 (a) through (e).

The Chairman then asked the Board to consider the Special Permit requested pursuant to the Telecommunications Act of 1996; the following motion and vote was made pursuant to the Telecommunications Act of 1996:

A motion was made by Chris Mattioli seconded by Patricia Jeffries and voted 4-2-1 (Adam Gaudette, and Thomas Creeden opposed and Marge Cooney abstaining) to deny the Special Permit requested pursuant to the Zoning Bylaw § 12.03 (c) and §24.09 for the construction and operation of a Wireless Communication Facility on Town owned property located at 67 Route 84, Sturbridge, MA. since the proposal did not satisfy the criteria of Section 24.09 (a) through (e) (applying the standards of the Telecommunications Act of 1996).

A motion was then made by Thomas Creeden to grant the Special Permit requested pursuant to the Zoning Bylaw § 12.03 (c) and §24.09 for the construction and operation of a Wireless Communication Facility on Town owned property located at 67 Route 84, Sturbridge, MA. The motion failed to get a second.

Waiver Requests:

Several waivers were requested as part of the application process. On a motion made by Thomas Creeden, seconded by Patricia Jeffries and voted 6-0-1 (Marge Cooney abstaining) the following waiver requests from the requirements of the Board's Rules and Regulations Governing Special Permits were granted:

Waiver to the requirements of Section 3.01 (providing to the effect that an applicant must request any waivers sought from the Regulations before applying for a Special Permit);

Waiver from Section 5.02 (3) (providing to the effect that the Town of Sturbridge Subdivision Control design criteria and detail standards shall apply unless the applicant includes a formal itemized waiver with justifications for each deviation);

Waiver from Section 5.03 (6) (providing to the effect that an applicant's plans must show "the total square footage and dimensions of all buildings and building elevations and floor plans, and perspective renderings);

Waiver from Section 5.03 (8) (providing to the effect that an applicant must submit a landscape plan that includes the "total square footage of all landscape and recreation areas, and description of materials to be used, and the quantity, size, methods and species of plantings); and

Waiver from Section 5.03 (9) (providing to the effect that an applicant must provide information regarding the "percent of building lot coverage and percentage of paved (impervious) area used for parking, loading and access within the property.

CORRESPONDENCE

Personal & Confidential letter from Robinson & Donovan, Attorneys at Law

OLD/NEW BUSINESS

None

NEXT MEETING

October 13, 2010 @ 6:30 PM @ Center Office Building

On a motion made by Ms. Jeffries, seconded by Ms. Banks and voted unanimously, the meeting adjourned at 8:15 PM.

