



**BOARD OF APPEALS
TOWN OF WINTHROP**

MINUTES OF MEETING

*Held on Thursday, May 26, 2011
Town Hall – Joseph Harvey Hearing Room
WINTHROP, MA 02152*

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:20 p.m. In attendance at the hearing were the following Board Members, Brian Beattie, Irene Dwyer, John Rich and Darren Baird. Also in attendance were Joanne M. DeMato, Board Secretary/Clerk, and Chief Paul Flanagan.

The following matters were heard:

AGENDA: Hearing of the following application(s) for variance and/or special permit and deliberation of pending matters and discussion of new and old business.

01.	#001-2011* Formerly #028-2007	411 Revere St.	William and Karen Diorio	PM/DB/ID
02.	#002-2011*	133 Highland Ave.	George Tzortzis	PM/BB/DB
03.	#005-2011*	1 Pond St.	FiberTower Network Svcs. Corp./Mark Panetta	PM/ID/JR
04.	#006-2011	419 Revere St.	William McKennon	

#001-2011 – 411 Revere St., William and Karen Diorio

Sitting: PM/DB/ID

In attendance: William and Karen Diorio, Atty. James Cipoletta

PM: Good evening. We continued this case from two months ago asking you to come back with some information on what you plan on doing at the site. Any more information? I don't think that the board has received anything?

JD: No.

AC: I think that the chair asked for more engineering plans and I know why the Board asked for them so that it would give the applicant the opportunity to narrow it down whether it or not he would be going forward with the work that may or may not be required but after speaking with Will I think the BI inspector's requirements add.

PM: I don't think we asked you to do it just to look into it to understand from an engineer what the ramifications are to build an addition in the area that he proposes to do it it's not just like taking a flat piece of land and putting an addition on. There were some structural consequences that had to be looked at and would run into some serious dollars and we mentioned that he should look into it and come back and tell us that you looked into it and you understand what you are doing.

AC: Yes, he does and he's at the point that he is going to actually have to submit the plans with the building permit and variance. That might be the time he's going to have to make the decision whether to do it or not. Rather spending all the money on an engineer not knowing if he's going to do. And knowing then he's going to have to spend the money to give to the BI anyway. He has thought about it because he's lived there and wants to do it I think the approach may be to do it is from the pure zoning standpoint and if the Board is advised to do it and then even though he would be required that he submit these plans to the Building Dept. It would be a condition of the variance and I think that it would pass under the code. Before we got an occupancy permit we would satisfy the fire code.

PM: With that said anything more? Questions from the Board?

ID: Not a question I would like to reiterate we didn't ask for the engineer report just to get prices we did it because the nature of the relief being requested. We don't even have a certified plot plan which is a minimum to start.

AC: You should have that.

ID: I'll go and look at them. This isn't like a structural enclosure of a porch or adding a dormer and it isn't just the parking space either which it already just kind of exists. You're practically on the zero lot line when you get to the north side of the property and you're proposing to build not just a garage but expand the house by another 9 feet. Stop to think about the 9 feet, all we have here is the sketch, the 9 feet barely makes a tiny bedroom you're going to have to based on what we saw it's just building 9 feet extra onto the house I have no idea what is inside on the other side of the wall that's a structural exterior wall. You don't have to do engineering plans to get a few prices from contractors to tell you it's going to be so much ... but...

WD: I am a contractor.

ID: What?

WD: I am a contractor so I know what it entails.

ID: Ok that's good but we don't and what we have so far isn't enough.

Chairman Marks raised the question if you make the concrete walls over the garage as wide as what it needs to be you're not going to have 9 feet at the end of the garage. If you're going to put another story or more on top of those garage walls they've just got to be more than concrete walls. I just don't think I could - not suppose to be saying no even, I just can't make a decision on this case it's just totally inadequate. There's a long way between fully engineering stamped drawing and a line around it just saying that you're going to put 9 feet on it.

AC: I understand and appreciate it but these things sometimes drift from zoning into construction and engineering and back and we hit the zoning and I don't know if we should be talking a whole lot about construction in references and I understand that there's a problem with the wall in back because it's set back into the hill and there's some earth coming down and how were going to do it and how make it on the inside and what's going to be on the inside. It's kind of beyond of the scope of the zoning request that we have although generally I think the plans may show and specifically will be able to tell you but I think for the purposes of the zoning application, construction is minimal.

ID: I would not disagree with you as vehemently if it weren't for the fact that we don't really know what we are being asked to give a variance for, we are not being asked to give a variance to build a garage, we are not being asked to give a variance for a 9 foot addition to the whole house. Someone can't just say, we'll give you a variance to clean up and shore up that parking space, that's pretty clear, we don't know based on the application what else is going to on there. It isn't one or the other it's a little too.

AC: I thought that there were plans somewhere. There should be plans that show.

WD: It's going to be extended the 9 feet for a bedroom up top and bottom.

ID: Do you have a copy of the drawing?

PM: Ms. Dwyer while you're looking at that I'll ask Mr. Baird if he has any comments.

DB: Esthetically I think that that there is room for improvement. Frankly none of the houses on the street are far apart, never were and will never be, not unless.. So for me the concept doesn't offend me but really what I'm left with is just the impact to the surrounding houses from a life safety standpoint. What happens to this house in the case of a fire in the structure or an adjoining structure? I am wondering if the Chief can comment on this.

PF: Capt. Hazlett has been in front of the Board numerous times in an attempt to stop. I've walked this site a couple of times with the BI and it is a mess, his lot is sliding down the hill, an adjacent stairwell house is starting to slide. We weren't thrilled with the whole proposal in a fire situation because it's the little house that cause the most trouble with radiant heat and other things but similar to your thinking that its such a mess and if they have to pour concrete walls and

leave it up to your expertise. We said that we could palate the project if he put in a fire alarm system, not hard-wired smokes but a fire alarms system that goes to ADT and or someone else and have it put on the deed for whoever owned that house. But the problem that we have is in the wind that the other neighbor wants to go up another story and all of the neighbors said let him do but they are all 4 feet apart we are going to hold their feet to the fire if we hold his if they want to build a larger house on a smaller lot were going to ask that a fire alarm is tied into the central station.

DB: That wiring into the fire alarm to the central station is for response time and EMT.

PF: You'd hopefully catch something in the stage rather than coming out the windows. That being said that's as much as we can do for them. Directing the project whether it's a fire rated outside wall or whatever. Right now it's a public safety hazard for about a year and every time I go by it more of the wall is down. It's not a great practice for the town because it is a unique little corner there but.

DB: Fortunately we are not a Board of precedence so what we do in one case we are not bound to do in another so that's all the questions I have Mr. Chairman.

PM: Thank you, Ms. Dwyer?

ID: I'm having a little trouble with figuring out exactly where the drawings the relief requested is 6 ft in the front year 8/10ths of a ft on the side and .13 is that right?

AC: Is that from the plan?

ID: Yea.

AC: I think that now the house as it sits now encroaches into the front yard setback so any extension of that would equally encroach on the north side.

ID: I guess my question is this .8 dimension requirements?

AC: I think it's set out in the BI denial.

BB: The table of dimensional requirements requested to the left and side setbacks.

AC: The left?

BB: It says right here. It says for the left and side.

AC: I think it's for the right, both and left side is what he means here.

ID: So what is considered to be the um...

AC: the think the sentence structure is actually the BI usage. It might be a little confusing but its basically on the left side there's a quantity that he assigns to it what's the value Mr. Beattie?

BB: It just says it doesn't give the footage. It looks like 2 ft.

AC: I think its A & P

BB: It looks like on the dock it says 2 ft.

AC: That's right 2 ft.

ID: I had a hard time reading this has an 8 and this has a 13 and I couldn't tell if they were .13 or 13.

PM: On here it says the front yard is 6.5 ft the side yard 8 ft and the rear yard 13 ft.

ID: I think possibly this is corrected at some point for copying because you can see a little nitch on the line here where it says 18 ft or .8?

PM: No it's not .8. It's 8 ft because in the back up in the corner it's with the new addition it would be 2 ft from the property line and the requirement aside that would be 10 ft. so its an 8 ft variance is what they are looking for. Right now with the way that the house sits they have eleven feet, which is within the side yard setback.

ID: I think that granting a variance this large is according to the circumstances you're practically down to the lot line in the back and it isn't like you have open space there. We had a case not too long ago where a fence was right along the property line. They are not out to open back yards so it wasn't a real access issue that's not the case here but it isn't just a size which you're asking for your asking for an enormous amount of mass there if you're going to put a two story addition on a house as well as a garage so that getting that close to the lot line and other dwelling is s real problem.

DB: Whose fence is this?

WD: My fence.

DB: Your fence? That would come down?

WD: It's already down.

DB: It's already down? All right. My question was that if there was ever a fire in the back of the house you've got a 2 ft pitch point back of that property on the corner of that house to the property line. How would you get back there?

PF: The house – there would be apparatus coming in from two different directions. That if the house had fire in the rear that fire would be fought from the Upland Rd Side.

PM: But you wouldn't know that Chief would you if you got an alarm from a house on Revere St.

PF: Right, we would be going up Upland Rd.

KD: If they would to come at the house from Upland Rd. there are 2 driveways right there that have access to the back of my house.

PM: Right but if the fire was called in it's not going to come in from Upland Rd. its going to come in from Revere St. and I think that's the problem that everybody had last time including the Capt. was fire safety in the back there with this. I think the last time you were here was withdrawn because I don't think there was consensus from the Board at that time to go forward with this. This time here there are new members from the Board; I was only one that's been here before and Mr. Baird and Ms. Dwyer are 2 new members looking at this and hearing the testimony and I would ask what is the Board's pleasure on this think we've heard a lot of things about it?

DB: I'll make a motion Mr. Chairman.

MOTION: (Darren Baird) To grant the requested variance of 6.5 feet from the front yard consistent with the existing building on 8 feet from the Northerly side

yard and 13 feet from the rear yard to construct an addition in conformity on what is shown on the plans finding that pursuant to the provisions of MGL 40A Section 10 due to the soil, shape, and topography that a variance is appropriate in the circumstances in that they strict adherence of the provision and limitations in our town by-law would create an undue hardship on the applicant and finding that it would not be substantially more detrimental to the community. The granting of the variance would be with conditions that finished materials be consistent with what is there and that prior to the receipt of a building permit for the property that they provide stamped engineering plans that are acceptable to the BI showing that this construction will effectively retain the earth and won't acerbate it any in way and subject to the Fire Dept. approval of outer wall building materials and subject to the condition that they also hard wire the smoke alarms to ADT or another systems that would bring it to a central systems to effectively allow for early response in the instance of a fire occurring on the premises.

SECOND: (Irene Dwyer)

PM: Any questions? As far as the conditions the materials, stamped engineering plans, the Fire Dept. requirements. A question for the applicant that if this was granted when would this work be done?

WD: Probably this fall or maybe sooner.

PM: Within six months?

WD: I don't know.

PM: I would list that as a condition that if the construction doesn't go forward that this would be null and void and I think that is most important the this work get done. I am swaying for this because of the condition that I see of the pictures here taken six months ago to taken most recently and that wall has opened up quite a bit this winter. The other concern that I have here is that the excavations that is going to have to take place in the back and it possible could do something to affect the adjacent neighbors because of the distance is so close to the adjacent house and possibly the houses that are on the back to their foundations so somebody is going to have to take a real serious look at this to go forward. With that.

DB: I would amend my motion to include a condition that construction of the foundation and if they are not prepared to move forward at that point in time that within a period of six months from the date of decision becomes final meaning that it's issued by the Town Clerk with no appeal being granted and you record it that means in the very least that you do something as an interim measure that is stamped by an engineer to deal with the subsidence issue that is clearly advancing and accelerating up there to make sure it does not get worse.

WD: Yes.

PM: Any other discussion?

ID: No.

VOTED: ALL IN FAVOR

#002-2011 – 133 Highland Avenue – George Tzortzis

Sitting: PM/BB/DB

In Attendance: Atty. James Cipoletta

AC: I believe at the last meeting the Board had agreed to do a view of site visit and come back here and deliberate and vote. In speaking with George today if he had any further information whether the Board asked for more information. My understanding the evidence part of the hearing was closed and that you were going to view and deliberate so I told George that he was not essential to be here.

PM: That's correct. It probably goes back about a couple of months to 6 weeks ago that we took a visit there on a Saturday morning and viewed the house. I took a couple of pictures of the house, the basement has 2 heating systems, a couple of hot water heaters, the lay out is definitely set up for a 2 family, the lay out from the second floor to the third floor is a passage stairway and not a hallway type of stairway going up there and on the third floor there a several rooms with doors with bedrooms, there was a kitchen put in and there's a bathroom up there and my feeling is that it is a 2 family and was never a 3 family based on walking through it and we had some other cases where we've been in a house and it was a single family and it definitely was a 2 family when you get in there and look at it the way it was set up the door and the way that it was set up that's definitely what it was. That's my feeling on what I observed. It's got a driveway on the side enough for two cars it's got a small piece of land on the other side of the house adjacent to the neighbors it's a lawn area. That's what I observed. Mr. Beattie got anything?

BB: Basically, the same thing, it was bought as 2 built as a 2 and I still think that it's a 2 even though they did a lot of work to the 3rd floor it looks like your basically illegal third floor apartment.

DB: This one I really was hoping to find my way through it in finding that it was a 3 family because of the home owner that maybe in over their head. But I just can't get there so I'll make a motion Mr. Chairman.

MOTION: (DARREN BAIRD) – To uphold the decision of the BI finding that this is a two family dwelling and requiring George Tzortzis to cease and desist the third floor unit finding that it was in fact that is was a two family and it continues to be a two family and that we have not been provided with evidence that it's clear to the contrary that it was ever a three family dwelling. Also because they are not entitled a finding under MGGL 40A Section 6 that this is a continuance or extension of a nonconforming use structure and the applicant has not met his burden of proof in proving that this was in fact a three family at the time that Winthrop adopted a change in zoning with the three family dwellings in A district and finally denying that applicant's request for a variance pursuant to MGL 40A Section 10 because it did not meet the requirement of MGL 40A Section

10 that due to the soils, shape, or topography of the lot there is nothing remarkable about this site which would lead to a conclusion to allow for the variance nor what a true substantial hardship under MGL 40A Section 10 exist in fact enforced the provisions of the by-law by their letter.

SECONDED: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

#005-2011 - 1 Pond Street – FiberTower Network Systems/Mark Panetta

Sitting: PM/ ID/JR

In Attendance: David Archambault, Site Acquisition Specialist

DA: Good evening, my name is Davis Archambault, and I represent FiberTower, there was a different person here at the first hearing, he was covering for me. I understand at the last meeting when we were here there was an issue regarding a previous carrier not fulfilling their variance, although I do not work for that carrier I did contact them and did get them to go out there and re-paint and I did submit photos and letters to the Board and I was actually out there right before the meeting to make sure that the last of the antennas were painted.

PM: Yep, I saw those pictures. Please pass those down.

ID: Who was the carrier?

DA: Clearwire was the company, they painted their paneled antennas but after construction they didn't paint their dish antenna and once I talked to people I know there I sent an email so they could try to get it done right away so we could move forward last month but you guys didn't have enough people so they actually had enough time to get it done.

PM: That was one of the concerns that the Board had raised and the Board had a chance to go up and take a look at the building and the location of the antenna and the other antenna that is up there and we also had some abutting neighbors that spoke not in favor of this and we know that there are other antennas from other carriers that were granted to put up there and I don't remember if there are two others or three up there.

DA: I believed that there are two existing carriers up there and just to clarify we are not a carrier we are helping existing carrier enhance and keeping their systems to keep up with today's technology and cell phones and people that are downloading stuff and doing everything wireless.

PM: So is it replacing something that is existing up there?

DA: We're replacing the telephone wire that goes up to T-Mobile equipment. Copper line right now regular telephone line goes up to the equipment for Clearwire and T-Mobile. Right now we are looking just to help T-Mobile. So if you made a phone call it goes to the antennas, it goes to their equipment, it goes up a copper telephone wire, and goes out to the world. There is so much

stuff going through that copper wire that it can't handle it so we pick a location and put fiber optics at it and then these locations they have one antenna and so it goes from your phone, to their antenna, their equipment, to our equipment, to our antenna where it goes to another location where there are fiber optics. That's all we are doing is replacing the telephone wire so that the existing service can handle more calls, service, everything they do on the phones. Ultimately, if they can't upgrade their system to handle that they would have to find another location to handle the load that they can't keep up with this one location. It might not be today and it might not be next week but ultimately if they can't enhance their system they can't go over the existing they would have to put in another site to handle the amount of load that is potentially going to be there very shortly.

PM: Why are your plans showing two new antennas?

DA: I believe our actual application is for one and we just as a matter of course we throw in a proposed future antenna in the drawings. Our application is just for the one antenna if we were to propose another antenna, we would come back to do the same thing as now. We would certainly paint those antennas to match the other antennas that are up there to match the color of the building.

PM: With increase service and replacing the wire to let them handle more service what does that do to the equipment there and the output that's going to be put through the system that's there?

DA: It's not going to increase output it just would increase the amount of calls that it could handle at any given time.

PM: So the output for the system is not going to change?

DA: No. Their equipment doesn't change at all it is just here and our equipment next to it and instead of the line going to a telephone line the line would go to our equipment back to our antennas. Our antennas would have increased the overall output but the dish antennas are very direct. The dish that it's connecting to literally they have to point directly at each other and once you get out of that direction the signal degrades very fast there is not a cell phone, a signal antennas are designed to shoot out in a pie shape so you could put 3 of them and end up make a server. Our is directly, line of sight, point to point, once you are out of that.

PM: To where?

DA: I can certainly find out which site this is going to but of the top of my head I do not know but we have another site and I don't believe it's in Winthrop that we would be shooting into. Sometimes we can shoot as much as 8 miles to do these hook-ups.

PM: So to understand and simplify it again, a call comes in to their antenna and it's picked up by your antenna and it's sent off to somewhere else?

DA: Essentially, those variant comes into their equipment just like it always would but at that point instead of turning right to go onto the copper telephone wire in the system it's going to turn left onto our equipment and then out of our antenna to another location where we have a receiving end and fiber optics.

PM: So what use will their antenna do with the system?

DA: Their antenna still has the technology to talk to your phone all were doing is transporting that signal. Our equipment doesn't know how to translate what this says.

PM: So their antenna is a receiving antenna?

DA: They receive antenna a two-way conversation but the power is being increased. You're not going to be able to pick up phones further away or anything like that. It's just going to be able to handle more information. The volume. We're taking the place of the low speed copper cables and replacing it with a system that will allow it to handle more information.

PM: You talk about their copper cables, where are those terminated.

DA: It the regular telephone wire like you have on your radio or house phone.

PM: Does that then get transmitted by their antenna or does that go out by copper lines?

DA: It goes by copper lines out to the world. If you pick up your house phone and call your house phone there is no antenna to the bottom but if I use this and I want to call your house phone and the rest of the system in the world and if I want to call you on your cell phone and you're in California it still goes on the regular fiber optics lines across the country its not transmitted through the air across the country.

PM: So that antenna is just receiving signals its not putting out a signal.

DA: My antenna?

PM: No the existing antenna.

DA: They talk back and forth to your phone from me to you here is the building with their antennas this phone if it's within range it talks to these antenna but the other end of that conversation you're calling somebody in California I talk to my phone to these antennas it goes on the copper line where it eventually get to fiber optics somewhere goes to Calif. And I'm calling you at your house it goes back to copper lines to your house phone. So with a cell phone the system will find the person your calling somewhere in California and it will find the nearest set of antennas to the cell phone and broadcast that back wirelessly signal to your cell phone. So you have cell phone to antennas and cell phones to antennas but to get to these antennas to talk it goes on fiber optics and copper lines. So across the country the copper lines are getting too slow to handle what everybody is doing YouTube or downloading stuff, doing on-line buying and all the different web based businesses that you can buy stuff on and its getting to be to be too slow. Because more and more people are using it so there are three options none of them are cost effective and/or make sense for tax. You can start stringing fiber optics lines up and down your streets so it would work, you can add new sites which would also work but you have a whole other set of big equipments and lots of antennas to make that work out, or we can add a dish and speed up their whole system and not have to put stuff all over the place.

PM: Now you said that your dish is connected to fiber optic, is that going out over fiber optic?

DA: The dish on this building will have no fiber optics no telephone wires, the dish on the other side...

PM: Where it's sending a signal...

DA: Where its sending a signal to there'll be a number of dishes cause there will be another set of antennas somewhere else that we are helping so we'll come back to there so we have one fiber optic that can handle 8,10, 15 different sites all at once faster than the copper lines can handles each one individually.

PM: I've asked some questions, anything else from the Board?

JR: You said that there are carriers up there now?

DA: I believe that there are two; I know that T-Mobile is and I know that there is Clearwire.

JR: Who have you been asked to service?

DA: Right now we've been asked to service T-Mobile.

JR: And what is the other company, one antenna can handle it?

DA: One antenna can typically handle two to three and it really depends on the volume of the area, if you go out in the middle of Idaho you can put 15 carriers on one antenna. If you go to New York City probably one antenna per carrier. In this area I would likely think that we could likely service two with one antenna. If a third one was ever to be up there or if a third one was up there now I don't know if we could handle that with the one antenna but again if we needed another antennas we would come back in front of you and ask for that if needed but I truly believe that we could handle two carriers in this type of environment with the one antenna.

JR: Where it's a direct signal that's basically no option that it has to go there?

DA: It has to go on that face and the other antennas that are there and the cable antennas that are on the ground it's the most out of the way place to put it we couldn't put it on the other side of that penthouse because it would wreck the signal.

PM: How is this the wire that you're going to put in to go up to the existing equipment where is that going to run?

DA: That'll run between our equipment and the carrier's equipment.

PM: So there's no new-wired running up the face or side of the building.

DA: No, no, no. If you look at page drawing #A01 which shows the top half of it looking down on the roof and the bottom half shows the elevation. The elevation drawing shows where the existing antennae is and then again these drawing show our dish and then a small dish on top of it. I'm sorry that's there but that's the engineering company and that's what they do. That's where proposing to show it and our equipment is off to the left and the FiberTower cabinet again it's a very small piece of equipment, we don't penetrate roof for all the sled mount and meets all wind molding all that stuff is engineered to do that. But if you look at the top half you can see the dotted lines it says proposed FiberTower co-axle run, it's the dotted line.

PM: Yep, I see it.

DA: That's where our cable from our equipment to the antenna would go and then if you look in the other direction there is two lines and they have E and T spaced out on them, that's the electrical and telephone cable. So their equipment is on that big braided square that's their equipment and that box is right now the copper line for the telephone wires are ending. We pull our power and telephone right from them with their ___ they're our only telephone customer. So there are no antennas hanging on the outside of the building, everything will still be on the penthouse.

PM: Well the penthouse is still the building, if you're looking at it. What about alternate locations here. If you're looking at the pictures here, if you look up and see it, at a certain angle the photo was taken but if you go up and stand in the street you can get a clear view of that and the other antenna that is up there.

DA: Now it is painted now so is a little harder to see but we can't go on this side because of the existing antennas we would have to make a very, very large bracket to hold it out past all of this which would make it considerably larger. We can't go on the back side cause we have to shoot in that direction and over here we would have to do the same thing we would have to make a big bracket so we can get it out in the right direction.

PM: Again I bringing this up and I'm asking the question because we were up there looking at it and I see where the neighbors are coming from with they don't want to look up at it and see it. If something was farther back on the penthouse and you had to put a mask up there or something to see it in order from likely to see it from the street that you are in the proposed location that you're looking at here.

DA: In order to get it high enough so that people aren't going to walk right in front of it you're going to pretty much see it we could put it on a free standing mask which we certainly could do but our opinion is that you're going to see it from more angles and more places. Up against that wall you're not going to see it from the other side and you're not likely to see it from really the sides when you start getting towards the front of the building is when you would see it. There is an existing dish there if that's what you would prefer an 8 – 10 ft mask to go.

PM: If you did that I'm not sure how it would be visible from the street where you have the neighbors you would have to be much further back to see it and if that would the case that somebody would walk away wouldn't object to seeing that versus somebody standing right in front of their house looking up and seeing a couple of antennas.

DA: That's certainly your call but it kind of goes back to, I use the analogy you go down the Mass Pike you see some of those big tree towers a regular tower is this big around it has antennas cause the wind is blowing up there has so much force when you make those fake trees you put some much extra wind loading and wind force the towers are almost four times bigger around so instead of having a dish on a wall that could be somewhat same color as the wall your

going have something free standing and what color do you paint that? Do you keep it gray, or do you paint it brown or red like the bricks and now your have that plus the brackets plus the tower that holds it, it would be a lot more.

PM: Yes, I agree it would be something a lot bigger. Anything else from the Board? Mr. Rich?

Allen Peabody: Can we make comments or no?

PM: No where not taking anymore testimony but I have a question for you – just to ask you since the other one has been painted has it blended in?

AP: No, I can still see it. With the variance that was granted last time it was clearly not visible as now it's on the obligation of the wireless and they said it would not be clearly visible so I'm opposed.

DA: We can paint white lines down it to mimic brick you're never going to make it invisible and I'm not Clearwire so I don't know who said what.

PM: What about some type of a shield in front of it.

DA: Again, we can put a fiberglass shield in front of it and you're still going to see the shield instead of it being round its going to be square it's not going to be invisible.

PM: I think it would be less obvious to look at it and see something that might have something that might project out from the building that might be 18-20 inches and be rectangular.

DA: It'll have to be more than that because you'll have to have clearance but the kind of is angled so it's going end up and I don't have the exact measurements for how far it was and I don't want to say that its going to be 12 or 18 inches it may be 2 ½ feet. I don't know but it's going to be bigger than the unit and it's have to have brackets that are going to hold the whatever you put up there on wind loading and what not and those aren't going to be real thin or you may have to put angle irons up there and wrap that up there in fiberglass so its going to be make the structure.

PM: Let me ask you this? With the technology and stuff that everyone has the today and advancements why can't they make something that's going to blend in the building and have an antenna behind it and rather than have a big round dish sticking up in front of you? Because I have to understand for the neighbors here and the way it's going to look up there it's not attractive I mean there are other antennas that we have granted here in the town.

DA: I think we can try to do a better job in painting it and to paint it to mimic brick so you have the white lines with the staggered short lines going up. I can't say your going make it invisible and I apologize for whatever Clearwire said I'm not with Clearwire. When they said it won't be clearly visible certainly if you don't paint it white on brick that is certainly clearly visible. But when you paint it to match I was there today, yes I see it. And honestly not to distract from your view or anything like that but it's a 120 foot building with a 3 foot circle painted and aimed at the top of the building is what we are looking for we are not looking for a 120 circle on a 3 foot building. That's a big building; we are not going higher than the roof so there will be no silhouette change.

PM: Let me ask the abutters this – if there were something that was a rectangular up there versus an antenna how would you feel about that?

Betty Peabody: I don't know if that would make that much of a difference.

DA: It would be considerably bigger.

PM: I'm trying to ask some questions on this and were trying to get some feeling on this and were not trying to come up and were trying to understand everybody's position on this and try to make a decision on this and trying at the same time have some sense where everyone is coming from.

AP: You would have thought with the advancement of technology down the road these are going to be obsolete.

DA: If they are obsolete, and they're not being used then absolutely we would take them down. Without question.

AP: you're going to have to look at another area; they don't have any other areas?

DA: With our particular equipment we're not going to go to some new place where there aren't already antennas our system doesn't work without a carrier. We don't talk to your cell phones it would be like bring a telephone line out to a vacant lot it's not going to do anything there's no reason for us to be there we are only the back up we would be with an existing carrier. It would be just a waste of money, time, and energy to put our system prior to a carrier being there.

PM: Members of the Board?

ID: I think the proposal to the Board is the least esthetic probably, I think that making brackets and putting walls in front of things just adds to the clutter and I think that this Board is somewhat limited to yes or no to these installations by Federal preemption but one thing we really can take into consideration is the site and we are not asking you to take the heat for ____ you see what happens if people don't do what they say they are going to do.

DA: And again I've got no problem with follow up and even though I did but I'm not the owner of the property and I'm not Clearwire I went and got that painted.

ID: I appreciate that but I'm just saying that there's just a certain amount of what goes on here is ____ but I think that the plan that you presented is the least esthetically problematic except putting more brackets on and putting a screen on I don't think its going to make enough of a difference to the applicant to require those changes. Personally if you were to reconsider all the hanging wires ____.

PM: Ok, Mr. Rich anything?

JR: No.

PM: What's the pleasure of the Board on this then?

MOTION (IRENE DWYER): Move to grant the relief requested on the special permit to put telecommunication equipment consisting of two antennas located on the penthouse on the address of 1 Pond Street, consistent with the engineering drawings that were submitted with the application,

DA: We're actually requesting a variance.

ID: This says variance special permit.

DA: Page 3, page 4 section 11 use variance is requested on a property in a residential district.

ID: Someone with more familiarity help me out with the wording here. The BI letter of denial says permit you have the right to request the issuance of a Variance-Special Permit from the Board of Appeals because the news circulation says Special Permit I don't want this to be.

DB: The only thing you need to say is variance here under zoning code order MGL 40A section 10 is not allowed in residential "C" district.

ID: I will withdraw the prior wording.

MOTION: (IRENE DWYER) – Move to grant the relief requested of a use variance allowing a telephone exchange in Residential "C" district and to construct two telecommunications antenna on 1 Pond Street which is in a Residential "C" District in conformance with under Chapter 40A Section 10 consistent with the drawings that were submitted with the application.

SECONDED: (JOHN RICH)

PM: Any discussions on it?

MOTION: (JOHN RICH): The condition first of all it's one antenna we're giving a variance for and secondly I'd like the dish painted to so it looks like the brick up there to be less noticeable at least from the street.

SECONDED: (IRENE DWYER)

PM: We already talked about that its one antenna and not two antenna and if this system becomes obsolete that it has to be removed within 90 days of being obsolete. Any further discussion?

DB: As a point of procedure Ms. Dwyer will have to remove as amended by her and Mr. Rich's amendments or additions based on conditions will have to be seconded and voted.

PM: Ok.

MOTION: (IRENE DWYER) – Move to remove that the application be granted with the amendment and conditions added by Mr. Rich and the Chairman.

PM: OK. Any discussion?

SECONDED: (JOHN RICH)

VOTED: ALL IN FAVOR

PM: The main motion to grant the use variance as proposed by Ms. Dwyer, we had a second on that and we had some discussion on that.

VOTED: ALL IN FAVOR

#006-2011 – 419 Revere Street, William McKennon

Sitting: PM/DB/JR

In Attendance: William McKennon, Jennifer Clark

PM: Good evening. Please proceed and tell us what you what to do.

WM: I propose to put a dormer on the existing roof for a bathroom and a bedroom for the second floor apartment.

PM: Ok. Anything else you'd like to say or present with it before we get into some questions.

WM: No that's everything. The dormer itself is not going to go into any property line whatsoever and the dormer itself won't go any higher and be lower than the existing ridge.

PM: Anything else? Closing that is there anybody here in favor of this application. Hearing none. Is there anybody here not in favor of this application? Hearing none questions from the Board. Mr. Rich?

JR: I don't have any questions Mr. Chairman.

DB: One question – can you show me actually where is it on the back of the house?

WM: Below the chimney area – there will be two windows here for the **bathroom.**

DB: This dormer will be part of the second floor unit?

WM: No right now its...

PM: That's the dormer right here.

WM: It'll be an additional bathroom and bedroom for the second floor.

DB: So there'll be new stairs? I have nothing further Mr. Chairman.

PM: Have you done the math yet and figured how much square footage you have upstairs because the 7 foot height?

WM: Yes.

PM: And how much is the floor plan of the building on the second floor where you have the rectangular walls. I'm looking at drawing # 7 and you're showing a 7-foot ceiling height in an area of 14 x 28.

WM: That's actually coming in from the outside wall 9 or 10 feet and it comes at the other side of the house 10 feet. The total of 7 feet height come to 392 square feet.

PM: Yep, that's what I got and what's the area of the second floor? Where you don't have any eaves or anything else?

WM: The second floor is 92 square feet.

PM: I'm just looking for showing that shows me a dimension of that and I think I've got it here. It got 20 & 14 would be 34 feet one way. Yep, 392, you've got the dimensions on the bottom of the sheet and I didn't see that. I've got no further questions. Mr. Baird anything?

DB: Would you have an objection to wiring this from a fire safety standpoint to such as ADT system?

WM: No.

DB: You don't have a problem with that? I have nothing further Mr. Chairman.

PM: OK. What's the pleasure of the Board?

MOTION: (DARREN BAIRD) – To grant the special permit and make a finding pursuant to MGL 40A Section 6 to the proposed construction of a dormer will not

be substantially more detrimental to the existing nonconforming structure of the neighborhood and subject to the condition that the construction be done in accordance with the plan submitted by the petitioner and also subject that the fire alarm system in the building be hardwired to an ADT or other central system for early detection purposes to allow early response from the Fire Department.

SECOND: (JOHN RCH)

PM: We talked about conditions to have the fire alarm wired to a central station, building materials exterior materials you're going to use? What kind of sheeting are you going to use on the outside, are they going to match the outside of the house?

WM: Yes.

PM: Roofing?

WM: The same. On the roofing, the roof that we have up there now probably in about 3-4 years will have to be done so for the new part we are going to use the shingles we'll use 5 years from now and eventually when we get the money for the rest.

JR: You won't be able to see it from the street anyway.

PM: No, it'll be in the back. You can see it from Upland. Do you reside in the house currently?

WM: Yes.

PM: Do you have the lower follows or do you have the apartment upstairs?

WM: The second floor. Hearing no further discussion?

DB: Mr. Chairmen before we take a vote I would amend my original motion that the original materials on the exterior have to be consistent with the existing materials and as amended so moved:

SECONDED: (JOHN RICH)

PM: For the amendment.

VOTED: ALL IN FAVOR.

PM: For the main motion as amended?

VOTED: ALL IN FAVOR.

PM: Any other business to come before us?

JD: I have meeting minutes and I received this from Attorney Cipoletta regarding the parking at the Marina.

PM: This is to modify the conditions of the variance. This is the parking at Pleasant St. He wants from November to April have boat storage down there. This is the Atlantis Marina, when we granted the petition for them down there we had offsite parking.

BB: Was it on Wyllis?

PM: Was it Wyllis down there or Willow?

BB: No, Willow is off of Washington.

PM: He presented a plan for down there and they never did and we finally got a plan and we accepted the plan for parking now they want to come in and say they want to put cars down there in the summer and boat storage in the winter. This is the parking plan they developed.

DB: This is residential?

PM: This is a pump station.

DB: What about the noise?

BB: You can get somebody with a mast up and you'll hear the noise all night long banging. There's nothing worse than that. These people are going to be working on the boats, has anybody been informed over there?

PM: They'll have to be approved by the Fire Dep't. They're going to be boats and probably gas storage.

DB: Don't they need a license for flammable open-air storage? Right now we've already approved the parking plan a while ago and now they want to modify it for boat storage that seems like a change of use.

PM: For boat storage from November 1st to April 30th.

DB: This isn't the way to bring it before us. This isn't the proper way to bring it before us, that seems to me that they are not committed use of that area for boat storage a residential use and it seems to me that they need to come before us with a petition to ask for relief.

PM: Right, I would think so. I think just submitting a letter.. I would agree and Joanne we should send him back letter stating he is going to have to make a formal submission on this and I think he should go before the Fire Department to get permission that would be one of the condition and I think we should wait to hear from them first before we do anything on this.

ID: Shouldn't they also be talking to the Cons Comm.?

PM: They've already be to the Con Comm. and that what brought this up in the first place and they asked them where is the plan for the parking and they never had a plan.

ID: __ the plan?

PM: They wouldn't approve the plan they wanted to see their plan and they never submitted the plan.

ID: I understand, but have they also showed the Cons Comm. about the car parking?

PM: They went before them and I don't know if the Con Comm. had to say to them to approve the parking plan I've never heard back from them.

BB: This is residential though. You're sure?

DB: Part of it is and part of it isn't well either way, he did come before us, and he filed a petition to modify or amend the conditions of variance, we can't amend a variance without a public hearing, they variance itself required a public hearing and to amend the variance requires notice to abutters and requires a public hearing, we couldn't move on this if we wanted to anyway. If he wants us to consider this a filing, he should give us an extension and make a notice of it.

PM: So he's going to have to make a formal application?

DB: That's it. He's filed a petition to amend but that should give notice to all abutters. He tried to do it informally but he can't amend a variance or amend a special permit without going through the same public process he went through to grant it in first place. Otherwise he would file a simple variance that nobody

objected to and then try to amend and to force for the neighbors not to give notice to.

PM: These plan here accompany notice of intent. He's got to have a filing with the Com Con.

DB: Did he already go to the Con Comm. because that's dated a year ago?

ID: Did he go there already?

DB: That's a year ago.

PM: I don't think that they could move on it because they didn't have the plan that we had on it for parking. So he must have given this plan to them because they're showing where the had to cordoned some areas off so I think they would have something coming back to us from the Con Comm. as to where they are coming from and also it has to go to the Fire Dept. and have them review it for flammable storage before we can do anything on this.

DB: We should be careful about constructive approval and do notice on this send out new advertisement and do everything we are suppose to do and if he wants to be heard on this just let him know we need to post.

JD: So he needs to fill out a whole new application then?

DB: He needs to fill out an application to amend and if wants to stand on this ok, we've got to notice it.

PM: We would have to come in and pay his fee and notice it in the paper.

DB: The notice in the paper and all that stuff, he should be, I would tell him that. He didn't submit it in enough time for us to submit it to get two weeks consecutive papers so he wouldn't be heard till next meeting anyway so we **should notice it for the next one.**

JD: OK.

MOTION: (DARREN BAIRD) – To approve minutes of meeting held on March 31, 2011.

SECONDED: (JOHN RICH)

VOTED: ALL APPROVED

MOTION: (DARREN BAIRD) – To adjourn meeting at 8:43 P.M.

SECONDED: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

Paul W. Marks, Jr., Chairman