

CARVER ZONING BOARD OF APPEALS

April 10, 2014

MINUTES

TOWN CLERK

2014 SEP 16 PM 2 07

The Carver Zoning Board of Appeals held a public hearing on Thursday, March 13, 2014, at 7:00 p.m. at the Carver Town Hall.

IN ATTENDANCE: Stephen Gray, Chairman; Sharon Clarke, Vice Chair; James F. Nauen; Steven Maynard; Fran Mello

ABSENT: Walter Collins; Eric Mueller

ALSO PRESENT: Deborah Carlino, Clerk; members of the public

Chairman Gray opened the meeting and advised that this was a continued public hearing for the following petition:

Case No. 14-964 Petitioner: New Cingular Wireless PCS, LLC (AT&T), c/o TRM 16 Chestnut Street, Suite 220, Foxboro, Massachusetts, regarding property located at 0 Federal Road, Carver, Massachusetts. The applicants are seeking a Variance and/or Special Permit in order to erect a new wireless communications facility; 150' monopole and 50'x50' fenced in compound area for AT&T and future co-locators. The property is zoned Residential/Agricultural District, in accordance with Town of Carver Assessors Map 131, Lot 4-3.

Chairman Gray noted that the Board had received two letters from Fire Chief Craig Weston, dated March 24, 2014, and April 1, 2014 regarding the proposed tower. Further, a site visit was held on Saturday, April 5th, 2014, which was attended by Gray, Nauen, Clarke, Mello; Maynard visited earlier.

Chairman Gray discussed each point raised by Chief Weston in his letters. To wit:

1. (The Applicants) to provide communications space, free of charge, to locate up to three 12 foot antennas and three microwave transmitting or receiving communication dishes at or very near the top of proposed tower. This would include space for all necessary transmission cables, hardware, etc. from the antennas and dishes to the communications shelter on the ground. This is consistent with our original recommendation to the ZBA dated April 3, 2001 and February 9, 2012, with the addition of three microwave dishes that we utilize in our new system.

Chief Weston explained that the type of antennas that the Fire Department require are monopole style and they would need three at or near the top at 150'. The antennae are about 8' in height. He agreed to reduce his request to just one dish but felt strongly that the location of Carver Public Safety at the top of the proposed tower would definitely help with spotty coverage in this area.

Chairman Gray noted that the Board has been consistent with Carver Public Safety being located on the top of cell towers erected in Carver if they so request.

APPROVED

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Ryan Ramos, RF Engineer with AT&T, advised that the Applicants would need to verify that the other communications devices located on the proposed tower would not interfere with the emergency equipment desired by Carver Public Safety.

Atty. Dolan agreed on behalf of the Applicants to move down their equipment and that of any co-locators @5' in order to accommodate the Town at the top of the proposed pole. He did note that no equipment would be mounted on the top of the proposed tower at this time; this would be done in the future, when requested by Carver Public Safety.

2. Recommend in any agreement that it be stated that there be NO fees assessed to the Town of Carver for any current or future communication upgrades, tower design or load studies, assessments, etc. associated with tower.

Chief Weston noted that Carver Public Safety did not want to have any concerns arise, now or in the future, regarding costs being passed on to the Town of Carver regarding the proposed tower.

Atty. Dolan stated that New Cingular Wireless does not want to promise that all future potential costs will be covered.

3. Provide a minimum of twenty square feet of floor space, in a climate controlled weatherproof building at the base of the tower to be used as cabinet space for the public safety radio equipment. Our original recommendation to the ZBA dated April 3, 2001 was for 12 square feet of space. Due to more equipment needing to be installed now and in the future, we have had to increase this request.

Atty. Dolan advised that the Applicants would agree to this request but would need to increase their shelter to a prefab 12'x20' in order to accommodate the Town.

4. Provide electrical power to this shelter without charge to Carver Public Safety.

Atty. Dolan noted that the Applicants would agree to this.

5. Provide generator backup power to the communications shelter and all public safety radio equipment installed within.

Atty. Dolan noted that the Applicants would not agree to being held responsible for potential power failures, due to concerns about liability. This is company policy, he said.

Chief Weston asked if a space could be marked on the plan so the Town in the future could place a generator within the designated area.

Atty. Dolan advised that the Applicants were agreeable to this.

6. Any tower indicator lighting must be designed so as not to create interference with our public safety radio equipment. Any costs of resolving any interference issues with public safety radio transmissions will be the responsibility of the tower owners and not the Town. In the past, Carver Zoning ByLaws have required that cell towers must have a lighted beacon on the top of the tower to protect against aviation and agriculture helicopter accidents, in accordance with

FAA standards. With that said, we just resolved a major communications interference problem with a cell tower located behind 31 Main Street. The strobe light at the top of the tower was causing a severe interference problem with our communications. The tower company agreed to install an LED lighted beacon and the interference problem has subsided. It is our recommendation that all future tower beacon lighting should be LED style and not strobe style and must be documented not to create interference with emergency equipment.

Atty. Dolan stated that the consultant for the Applicants noted that the tower did not need to be lit. He offered to obtain letters from Firefly and the Plymouth Airport addressing this issue prior to the issuance of a building permit.

7. The plan indicates a 10' wide access road being built into the structure. To remain consistent with all past and future proposed emergency access roadways within our community, the access roadway for the proposed communications tower should be a minimum of 12 feet in width, all weather surface (can be unpaved) and cleared of large obstructions 2' on each side. This request is consistent with all proposed emergency access roads in Carver. Our concerns are for proper emergency access during inclement weather and firefighter safety, and is why we adhere to the 12' width.

Atty. Dolan noted that the plan shows a 10' wide access road. However, the Applicants are agreeable to a plan revision showing a 12' wide access road with 2' clearance on either side.

An abutter at 110 Cranberry Road spoke about the lighting issue. He had concerns about being able to see the tower, especially during the fall when there were fewer leaves to hide the tower.

Ms. Clarke advised that the Board usually requires a light, but if the airport, FAA and Firefly are ok with no lighting, then she would be ok with that.

Chairman Gray explained that this site was not visually obtrusive based on the site visit conducted by the Board and offered the best coverage for this area of Town.

Ms. Clarke further advised that, as noted previously, Public Safety has gaps in this area and the proposed tower will help remedy those gaps.

MOTION: by Mr. Maynard to close the public hearing

SECOND: by Mr. Nauen

UNANIMOUSLY VOTED

MOTION: by Mr. Nauen to grant the Special Permit subject to the following conditions:

1. The Applicants are to allow placement of three antennas at the top of the pole at the 150' mark, reserved specifically for Carver Public Safety, at no cost to the Town;
2. The Applicants are to allow placement of a single microwave dish at the top of the pole, reserved specifically for Carver Public Safety, at no cost to the Town;
3. There will be further discussions between Public Safety and the Applicants re: appropriate frequencies and construction at no cost to the Town of a platform on the pole for the future equipment reserved for the use of Public Safety;

4. There will be no costs or fees assessed to the Town for any upgrades associated with the tower made necessary by the requirement that Public Safety be afforded the top spot on the pole;
 5. 12 sf of cabinet space is to be provided by the Applicants for the use of Public Safety radio equipment in a climate controlled weatherproof building at the base of the tower;
 6. The Applicants will provide electrical power to the Town without charge;
 7. The Applicants will provide a space within the compound for a backup generator that the Town could install in the future;
 8. The Applicants will work with the FAA, the Plymouth Airport, and Firefly to obtain opinions re: lighting of the tower; if lighting is suggested or recommended, it will be LED and not strobe;
 9. The Applicants will widen the access road to 12' with 2' clearance on each side;
 10. If a gate is installed, it must be locked and a key is to be provided to Public Safety;
 11. If at any time Public Safety communications equipment is interfered with in any manner, usage of said tower will cease and desist until said interference is corrected at the sole expense of the Applicants;
 12. Any further modification of the plan will require Zoning Board of Appeals approval;
 13. Before a carrier may locate on the monopole, all approvals and/or filings will be done with the required Commonwealth of Massachusetts agencies with a copy of the specifications for the wireless communication equipment, including all pertinent emissions information; said information must be filed with this case in the Offices of the Zoning Board of Appeals, Town Clerk, and Inspections;
 14. The Zoning Board of Appeals must be notified of any sale or assignment of leasehold interests prior to said sale or assignment being completed. The Town of Carver must know at all times the owner of the tower and/or leases relating to it. Any new leasehold interest is bound by this Decision of the Board of Appeals;
 15. Regular maintenance of the antennas must be conducted with reports filed with the Office of Inspections;
 16. No building permit shall issue until the conditions listed in paragraphs 3 and 8, above, of this Decision have been met;
 17. Subject to the plans of record.
- SECOND: by Mr. Maynard
 UNANIMOUSLY VOTED

Adjourned

Respectfully submitted,
Deborah Carlino, Clerk