



Town of Southwick **Planning Board**

MINUTES

Tuesday, January 19, 2021

MEMBERS IN ATTENDANCE: Michael Doherty, Chair
Marcus Phelps, Vice Chair
Richard Utzinger
David Sutton
David Spina
Jessica Thornton, Associate
Alan Slessler, Town Planner
Meghan Lightcap, Secretary

ABSENT:

A meeting of the Planning Board was conducted via Zoom and was called to order at 7:00 p.m. by Mr. Doherty. He stated that the meeting was being recorded and asked if anyone in the audience was recording the meeting. Selectmen Doug Moglin and Joe Deedy were in attendance as well as many residents, including: Jeff King, Karina Yarrows, Chris and Stacy Rooney, Gary and Karen Uliasz, Mary and Pat Martin, Mark Kuether, Amy and Shaun Stack, Jeremy Fiorentino, Andrew and Mindi Jacob, Alie and Brandon Robb, Rick Harriman, Sarah and Ryan Hedges, Karrie Ford, Pat and Katie Armstrong, Debra Patryn, Ann Ottalagana, Mark and Cori Rolland, Steve Putnam, Cynthia Lydiard, Tony Vedovelli, Kathy Cohoon, Susan and Vinny Abbondanza, David Reale, and Dan and Jenna Searles as well as Dennis Hackett and Hope Tremblay reporters with The Reminder and Samuel Riva an Associate Attorney for Campanelli and Associates. The Verizon representatives were Michael Fenton, Stephen Sobey, Jay Latorre and Kip Divito.

PLANNER'S REPORT: 7:00 p.m.

1. I have a Zoom meeting on the Griffin Land Trust on College Highway with town officials, use is to be determined.

2. Reviewed previous solar information from November 2019, only two residents are interested.
3. Potential Owner of Crabby Joes has withdrawn his interest. There is however the interest of another potential owner who would like to have a restaurant and marina. Parking is a problem as of use.

PUBLIC COMMENTS: 7:05 p.m.

None

ROUTINE BUSINESS: 7:10 p.m.

MOTION was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve November 10, 2020 Minutes and use Electronic Signatures.

Roll call vote:

Mr. Doherty, yes	Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes
Mr. Spina, yes	Mrs. Thornton, yes		

The motion was passed unanimously.

MOTION was made by Mr. Utzinger and **SECONDED** by Mr. Spina to approve December 1, 2020 Minutes and use Electronic Signatures.

Roll call vote:

Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion was passed unanimously.

MOTION was made by Mr. Utzinger and **SECONDED** by Mr. Spina to approve December 15, 2020 Minutes and use Electronic Signatures.

Roll call vote:

Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion was passed unanimously.

MOTION was made by Mr. Utzinger and **SECONDED** by Mr. Spina to approve January 5, 2021 Minutes and use Electronic Signatures.

Roll call vote:

Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion was passed unanimously.

Mr. Doherty turned the meeting over to Mr. Phelps as he had recused himself from this hearing. Mr. Phelps began by thanking the Planning Board members and the public for participating in this hearing and providing information and testimony. Mr. Phelps listed all the names of Planning Board members qualified to deliberate on this vote for a Special Permit application from Cello Partnership d.b.a. Verizon Wireless for a Wireless Communication Facility to be located at 13 Liberty Lane; Marcus Phelps, Richard Utzinger, David Sutton, David Spina and Jessica Thornton. Mr. Phelps noted that he did speak with town attorney Mark Beglane to get an understanding of the procedures to follow in voting and reaching a decision on this application. In making a decision the Board will need to address the requirements of both Chapter 185.9 Special Permits and Chapter 185.23.1 Wireless Communications Services District. Whatever decision is made by the Planning Board will need to be supported by substantial evidence contained in a written record and referring to the requirements of the bylaws. Mr. Phelps stated that the proposed wireless communication facility under consideration needs to be looked at in the context of the benefits and cost to the community, including the need to improve cell phone coverage and add capacity in the southeastern area of town and the level of visual impact of the tower. Two balloon tests were submitted, the first on March 6, 2020 the other on December 18, 2020 which were submitted through an amendment for additional material that Verizon submitted. Mr. Phelps stated that to the best that he could determine, based on the balloon float, that the tower would be seasonally visible from ten residential properties and based on his analysis there are 158 properties within the viewing area. Another consideration is the impact on the market value of homes in the vicinity of the facility, in regards to this the Planning Board received information from both perspectives one that the cell tower has a negative impact on property values and on the other side that property values are not affected by the presence of a cell tower. Mr. Phelps stated that another important document to be reviewed is the Land Lease agreement made on January 27, 2020 by the Select Board with Verizon Wireless. In that document there are three forms of income that would accrue to the town if the facility is built; one is rental, another is revenue from a certain percentage of gross sales from other companies that might co-locate on the tower and the third is tax revenue that would come to the town. There is a clause that does require that government approval be received before anything additional could be constructed on the tower. It also has a provision that the facility would be removed after the lease expired, potentially 20 years. Mr. Phelps then asked other Planning Board members if they had any comments.

Richard Utzinger said that if you look at the Mission Statement of the Planning Board it says "To allow the residents to live in a safe and healthy environment". He does not believe that this tower includes that. David Sutton had no comment. David Spina said that what still weighed on his mind was the potential extension of the tower after it's built and whether or not they have to get Planning Board approval if Verizon wants to extend the height. He feels that theoretically Verizon would be able to extend it beyond what's allowable under the bylaws and the Planning Board would not be able to deny a tower that violated the bylaws. Mr. Phelps stated that there

was an email submitted by town attorney Beglane, circulated through the Board, that said the key was in how a condition was written to cover that aspect and if there was a substantial modification to the tower that it would not be allowed. Mr. Spina said that even an insubstantial increase would still be enough to put it over the threshold of the limits of the bylaw. Mr. Utzinger spoke up that he was under the impression that the Boards approval would be over ridden under Federal rule. Mr. Phelps said there was a possibility of that happening but it's important to know how we would write any condition into an approval and Mr. Utzinger asked him if even if the Board writes it in will that override the Federal government and he said you would have to argue that it would be a substantial change that would have a detrimental effect on the area. Jessica Thornton said, in response to some of the statements that Mr. Phelps made, that in trying to make sure they were all on the same page she would challenge the idea that once finished the facility will only be visible from ten residences. When they were out in the area of the tower site, in person, they could see that there would be ten large evergreen trees cut down from that section and an additional twenty one plus trees that will be taken away so when you talk about the amount of clearance that will happen it's important to keep in mind what will actually be cleared. She is concerned with what they will consider heavily weighed into evidence when it comes to property value issues, we have a paid appraisal stating that there would be absolutely no diminution of market value, no adverse financial effect but we've heard other testimonies that there would be. The comparables that were provided were of lesser value and located in mixed-use zones and to suggest that potential buyers will be made aware of this tower is disingenuous. The drop call service rate Verizon has asked them to meet is 0.6 percent but when you look at their drop call records it appears only 1 tower that they currently have is giving them a problem and that tower is not going to be affected by a new tower going up. Mr. Utzinger mentioned that he felt that as a member of the Planning Board they are an employee of the town of Southwick and they work for the people that live there and need to consider the feelings of the residents as he has not heard any positives come from the outcome of the tower being built. He does not feel that allowing the tower to come in that they are doing what the majority of this neighborhood wants.

Mr. Phelps explained that the written decision for this permit would need to contain findings that support the decision in order to legally stand up in court. He then explained that Board approval of the application requires a super majority vote so in this case four of the five members of the Board need to vote in the affirmative to approve the application and approval can include conditions. The other option is to vote to deny the application and in this case if two of the members vote in the affirmative to deny the application then it would be denied because a 4-1 affirmative is needed to approve it. Attorney Beglane recommended that the first vote would be on denial of the application. A yes vote is to deny, a no vote is not to deny.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mrs. Thornton to deny the Special Permit and Site Plan Approval for the Wireless Communication Facility at 13 Liberty Lane.

Roll call vote:

Mr. Phelps, no	Mr. Utzinger, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion passed unanimously.

Attorney Fenton thanked all parties involved in this hearing and asked all Board members to preserve any notes, whether hand written or electronic, to make part of public record and provide to the town for future reference. Mr. Phelps turned the meeting back over to Mr. Doherty.

7:30 p.m. Solar Bylaw

Discussion

Mr. Doherty briefly described that there were two property owners looking to add solar to large residential properties located in the R40 zone and large ground mounted solar is not allowed in the R40 zone. They would like to add large solar arrays completely hidden from property owners and the road and no one would see it, so wouldn't that be a better use of the property than selling the property to be potentially developed. Mr. Slessler said there are 166 parcels that fall under the criteria of 20 acres or more that could be affected by this change. Mr. Utzinger said he has 38 acres and has looked into this but there is not three phase power so he chose not to do it. Mrs. Thornton said that she did not think technological and fiscal barriers for a potential permit should be a deciding factor to not allow it. Mr. Phelps said that parcel size could be significant as well as the amount of vegetation that would be cleared, as some towns have run into issues with large forested areas needing to be clear cut so these solar operations could be put in. He also said that in looking at some policy guidance for regulating solar energy systems he found information in the Massachusetts Executive Office of Energy and Environmental Affairs of March of 2014 and they talked about small, medium and large scale ground mounted solar arrays but our bylaw only talks about small and large. Mr. Slessler said that when the subcommittee met to discuss this they looked at all parcels throughout town and there was a section of town in the R40 zone where residents opposed large solar farms so after a town vote it was decided to stick with just the two sizes. They looked at other towns that allowed only 2-3 acres because a lot of people found it was an eyesore. Mr. Phelps suggested looking at the town of Blandford because they just passed their solar bylaw. Mr. Doherty asked if the Board felt this was something to look into and they said they felt it was worth it. Mr. Phelps said that they should look into a medium size as this could fit onto a 25 acre parcel and still have enough room to buffer and screen the installation. Mr. Sutton suggested that the technology is catching up and should be talked about as many countries are building things using solar. Mr. Doherty asked the size of the properties and Mr. Slessler said they are in the 60 acre area. Mr. Doherty suggested the Board members prepare for the next meeting with specific criteria to discuss, as well as look at the Blandford bylaw. Mr. Moglin suggested that it was probably good to consider that as part of the bylaw the applicant hire a consulting firm and pay for it.

The Board members decided to change the next meeting date from February 2, 2021 to February 9, 2021. There was discussion about the Budget and the annual town report.

Being no further business to be brought before the Board, **A MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Phelps to adjourn at 8:45 p.m.

Roll call vote:

Mr. Doherty, yes
Mr. Spina, yes

Mr. Phelps, yes
Mrs. Thornton, yes

Mr. Utzinger, yes

Mr. Sutton, yes

The motion was passed unanimously.

Due to future meetings being held via Zoom, the meeting minutes will be approved via electronic signature on 2/9/21

Respectfully submitted,
Meghan Lightcap

The Next Meeting is February 9, 2021