

Robert H. Strayton
307 Chappaquiddick Road
Edgartown, MA 02539

Edgartown Planning Board
70 Main Street
Edgartown, MA 02539

Via email

May 10, 2018

Dear Members:

I understand that New Cingular Wireless (AT&T) has resubmitted an application to construct a 117-foot cell tower at 14 Sampson Ave, Edgartown.

This application was the subject of a previous public hearing process, and as such cannot be reconsidered without findings by the four (4) eligible members of the Board that heard the first round of hearings.

Article IV, Section 5 states: In order to have an application which was unfavorably and finally acted upon by the board reheard within two (2) years, the applicant must request permission from the Planning Board, *showing new evidence that substantially alters the conditions on which the unfavorable action was based*. At least four (4) members of the Planning Board must agree that this condition has been met. Once the Board agrees the applicant must reapply in the normal manner.

Mr. Rappaport stated in the May 1, 2018 hearing that a vote was held, and that the vote must be recorded with the Town Clerk. That vote constitutes a "Final Action."

The applicant has not presented any new evidence, and the Board has not made any findings that *new evidence, that substantially alters the conditions on which the unfavorable action was based*, has been presented. For that reason, the Board cannot reconsider this application.

Further, Article IV, Section 4 states: Once an application has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board, unless remanded by the court.

Article IV, Section 4 clearly, and in plain language, states that any decision by the board, in order to be reconsidered, must be remanded by the court. No court has remanded this decision for reconsideration, and therefore, no reconsideration can be permitted.

The actions of the Board are contrary to the recommendations of Town Counsel, and are in violation of the Edgartown Rules & Regulations for the Issuance of Special Permits. Therefore, without findings, without a court ruling, without an unanimous vote, and findings, by the four (4) eligible members, the Planning Board is again violating the law.

The Board must reject the application for failing to meet any standard of the Rules & Regulations for Issuance of Special Permits.

Sincerely yours,
Robert H. Strayton

cc: Wanda Williams, Edgartown Town Clerk
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