

Edgartown Planning Board Meeting Minutes
April 19, 2016 at 5:00 PM
Town Hall – 1st Floor Selectmen’s Room

Members in Attendance: Robert Cavallo, Michael McCourt, Alan Wilson, Fred Mascolo, Robert Sparks
Staff in Attendance: Georgiana Greenough, Assistant; Lucy Morrison, Clerk

Chairman Michael McCourt opened the meeting at 5:17 PM.

**5:18 PM: Continuation of a Public Hearing: AT&T/Fynbo, 14 Sampson Ave (34-197) SP: Wireless.
Construction of a 104’ temporary cell tower.**

In Attendance: Brian Grossman-Anderson and Krieger AT&T

Mr. Mascolo was absent from the public hearing held on March 15th.

Mr. Grossman approached the Board. There was no additional information from what was presented on March 15th. The application was referred to the MVC as a DRI, and went through two hearings. The Commission voted to recommend approval for one year to construct the temporary tower. Adam Turner was present and stated that a formal statement will be issued on April 28th. The MVC also recommended that a bond be in place so that funding is available in case the project falls through and the tower needs to be removed. Mr. Grossman stated that the one year limitation is acceptable and makes sense, since the ultimate goal is to pursue the permanent solution.

Mr. McCourt suggested that the Board condition the application with a review in 6 months. Mr. Grossman stated that there would be no objection to a six month review, but asked that the approval for the temporary tower be for the full year. The overall permitting timeline for the permanent tower will probably take six to nine months, if things go well, and the temporary tower will be needed for the full year.

Mr. McCourt reiterated that the formal approval from the MVC will be issued on April 28th. He stated that if the application is approved by the Planning Board, that approval is dependent on the MVC. However, there are no changes expected from the MVC. Mr. McCourt stated that he understood that the applicant was under a tight window. Mr. Grossman stated that every day is important. He stated that AT&T plans to apply for the building permit as soon as possible, and will be foregoing the appeal period, knowing the risk.

Ms. Greenough stated that 44 letters of support and 12 letters of opposition were received on this application, many of which were forwarded from the Chappy Cell Committee. The letters are in the office and available to the public. Ms. Greenough read a sampling of the letters.

Molly Pickett wrote on April 19th to oppose the tower for reasons stated in a previous letter. If the application is approved, she encouraged the Board to set up an escrow account to remove the tower in the future, install a larger fence, install a fence or plant a hedge to provide a buffer to the abutters, limit the height of the tower to 104 feet and prohibit external installations. She requested that the Planning Board provide specific items that will be reviewed, instead of using the “but not limited to” language in the application. Ms. Pickett also requested that the site be monitored regularly for electromagnetic radiation.

Mr. Sparks commented that under federal law, the Planning Board is not allowed to deny an application for a cell tower due to the electromagnetic radiation emitted from cell phone towers.

Mr. Grossman explained the limitation language, because it would be impossible to list every piece of equipment as part of the overall installation. In the public notice setting, there are things not specified by words, but that are included in the plans.

Robert and Cornelia Hurst wrote on April 14th to support the application.

Richard Knight wrote on April 19th to support the construction of the temporary tower.

Linda Eckles wrote on April 4th to oppose the tower being located in a residential district. She stated that a better solution would remedy the situation for more than only AT&T customers. She was also concerned as to how the tower would affect property values on the surrounding homes.

Mr. Mascolo asked if the tower would only serve AT&T customers. Mr. Grossman stated that this point has been discussed at prior hearings. The tower will only work for AT&T customers, but GSM phones, like T-Mobile, will be able to make emergency calls. Ordinarily, other carriers co-locate onto the tower; but for the temporary tower, the timing makes it much less likely. The permanent tower will have a much greater opportunity for other carriers to co-locate, once other carriers choose to install their infrastructure.

Mr. Wilson stated that each carrier will need antennas. Mr. Mason explained that the tower was designed to accommodate interior antennas, as opposed to exterior ones. Mr. Wilson stated that he was aware that fiber optics were installed on Chappaquiddick, and thought it would be for this. Mr. Grossman stated that for the temporary tower, the fiber optic technology did not make sense, which is why the satellite is being used. The permanent solution will have access to fiber optics. Mr. Grossman explained the difference between CVMA and GSM technologies, and the different equipment.

Mr. McCourt asked if there was anyone in the audience who was opposed to the project that would like to speak.

Corinne Costello stated that she was very upset about the rumors and speculation surrounding this project. She stated that the tower will be detrimental to the neighborhood, and that it should be located on town-owned property. She stated that a survey was sent out in 2015, but that she never received one. She stated that cement and guy wires are not temporary, and did not believe that this solution was

meant to be temporary. She stated that she understood the needs for cell phone service, but noted that there will still be blind spots, and if other carriers come, the tower will either get taller or bulkier with more equipment. Ms. Costello stated that this was a terrible solution after five years of work.

Mr. McCourt assured Ms. Costello and the rest of the audience that the application before the Board was for a temporary tower.

Mr. Sparks commented on the many other attempts to look at alternative sites.

Mr. McCourt stated that the Board has been to the property many times and is familiar with the area. He stated that the temporary site will be used to influence the permanent solution. The Town has the opportunity to try something, to see how it will work and then make a judgement based on facts. He added that under federal law, the Planning Board cannot deny cell phone service to an area. Ms. Costello stated that she was familiar with and understood the restrictions from that law.

Mr. Grossman stated that there is no definitive time limit on the permanent solution. He stated that as a standard, municipal boards cannot effectively prohibit cell phone services. It has been established that there is a lack of feasible alternatives, considering that been over five years, and a number of alternatives were vetted. All of those processes were done publicly. Mr. Grossman stated that AT&T agreed to meet all of the special permit criteria and can be approved even with effective prohibition. Mr. Grossman stated that under federal law, the Planning Board would be obligated to approve the application.

Rob Strayton stated that the Chappy Cell Committee had, at one point, pursued a Distributed Antenna System (DAS), which he considered a much more viable solution. He stated that AT&T proposed a tower with no hard projections of costs. He guessed that the tower itself would cost at least \$200,000, and an estimated \$800,000 to move it to the island. He speculated that a 12-14 node DAS would cost the same amount of money. He explained universal access fees as money paid into funds administered by the FCC. A large segment of that money goes to lifeline phones (emergency phones for the elderly), and to connect libraries and schools to the internet. The remaining portions of the money are put into funds designed to provide service to rural and underserved communities. Mr. Strayton stated that Chappaquiddick should qualify as rural and wirelessly underserved. He stated that as an AT&T shareholder, he suggested that the Town apply for mobility fund money, since it could alleviate the problem. Mr. Strayton stated that 75% of Chappaquiddick residents prefer the DAS over a tower. He added that the tower in this location is not beneficial, especially when coupled with the fact that Verizon and Sprint subscribers will not be able to use it. He asked how this project was in anyone's best interest when approximately $\frac{2}{3}$ of the population would not see any benefit.

Woody Filley asked to respond to Mr. Slayton. Mr. Filley was the Chairman of Wireless Committee, and he was also very excited about DAS, since it was something that everyone could agree on. He stated that he had extensive talks with the representative from Chilmark who went through the process when DAS was installed there. However, no carriers were interested in installing the system on Chappaquiddick. Verizon showed interest at one point, but a final design has not been received. Mr. Filley was unsure if

Verizon was even still working on a plan. He added that the DAS system would not address the beaches. Mr. Filley stated that there was a lot of negativity expressed in the survey about cell phone towers, but that the Committee has exhausted all other options. He stated that this is a truly unique opportunity. Mr. Filley assured the audience that the tower will be temporary, and that there will be plenty of opportunities to comment on the permanent tower. Mr. Filley stated that the Committee suggested this location because there was already a tower, and most people were unaware of it. He stated that the topography of the location, as well as the limited in vistas and views make it a great temporary site. He reiterated that there will be plenty of opportunities to review the permanent site and tower.

Mr. Wilson stated that for the DAS, the telephone poles are not tall enough to house the nodes, and the poles would need to be replaced. Mr. Filley added that telephone poles would need to be re-built where the utilities have been buried underground. There are limitations to getting the kinds of coverage that people need. Mr. Filley added that while the Committee is enthusiastic about DAS, there is no commitment from any carrier to install it.

Ms. Costello asked where the equipment would be located on the tower. Kevin Mason explained that the top 40 feet of the tower is made up of 10 foot pods; the AT&T equipment will be located inside the tower, in the pod on the top. If another carrier can fit, they have the opportunity to do so. The temporary tower will be owned by AT&T, and the outbuilding on-site is owned by Mr. Fynbo. There will need to be an agreement between parties if another carrier decides to co-locate.

Mr. McCourt reiterated that this is a temporary site and a temporary tower, and that these facts have been stated many times. He stated that there was no doubt that this tower would be temporary. He stated that the Board is fortunate to be able to review the tower on a temporary basis. Mr. McCourt added that there will also be public hearings for the permanent tower when the time comes.

Mr. McCourt closed the public hearing at 6:15 PM.

Mr. Sparks stated that people have been looking into this problem for over five years. He stated that this has been determined to be the best temporary site available. The tower will be constructed, and then reviewed in six months. Mr. Sparks thought it was a great solution. Mr. Sparks commended the scores of meetings and thousands of hours have been put into this solution.

Mr. Cavallo asked about the bond recommended by the MVC. He stated that he was unsure if that was something the Planning Board had done before. Ms. Greenough replied that it depends on the circumstances. The Planning Board has requested bonds from large subdivisions to install utilities. If a bond is mandated, further discussions with the applicant would be necessary. Mr. Grossman guessed that the bond would be about \$100,000. An engineered estimate of how much it would cost to remove the tower would be provided to the Building Inspector, and the bond would be consistent with that estimate.

Mr. Wilson asked if there will be insurance, in case the tower falls. Mr. Grossman stated that AT&T is insured.

Mr. Mascolo stated that this cell phone tower has the potential to save lives. He stated that cell phone towers are eye sores, but the number of times that they have saved lives cannot be overlooked or underestimated.

Mr. McCourt stated that he was in favor of the application due to the safety reasons. He stated that he completely agreed with Mr. Mascolo. The Board has heard testimony from the Fire Department, the Police Department and the Trustees of Reservations, who can attest that there are emergencies on Chappaquiddick that need immediate response. Mr. McCourt reiterated that this tower is a temporary deal. He stated that the people who oppose it will have a chance to move it and put the permanent solution somewhere else. He stated that the Board is here to listen to the public, and to make the right decision for Chappaquiddick. Mr. McCourt stated that considering the situation, this is an opportunity to do something good for the Town.

Mr. Sparks moved to approve the application for the construction of a 104' temporary cell tower. The applicant will negotiate with the Planning Board about a bond, and will return in six months for a site visit and a progress update. Mr. Wilson amended the motion to condition the approval based on the pending MVC decision. Mr. Cavallo seconded the amended motion, Mr. Mascolo abstained from the vote. The motion passed unanimously, 4-0, with one abstention.

6:24 PM: Vote for New Chairman

Mr. Mascolo moved to appoint Mr. Wilson. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

6:26 PM: Modification of a Special Permit: "CELLCO" Verizon, 59 North St (29A-96) SP: Wireless. Replace 12 antennas, 9 remote radio heads, 3 large junction boxes, and install fiber & power cables down existing tower. Construct 12' x 26' equipment shelter (approximately 787 +/- s.f.) Construct a concrete pad/foundation for diesel generator & back-up power, electric & telephone utilities. Expand the existing equipment compound to accommodate the new structure.

In Attendance: Elizabeth Mason, Agent

Ms. Mason approached the Board to explain the application on behalf of Verizon. She clarified the wording from the public notice by stating that nothing will be replaced. There is currently no Verizon equipment on the tower. Ms. Mason explained that Verizon would be coming onto the property for the first time. AT&T is already on that pole, as are Sprint and T-Mobile.

Ms. Mason explained that Verizon has filed a building permit application to install equipment on the property. The existing tower is 160 feet tall, the Verizon equipment will be located at 99 feet. The generator will be located in a shed. A portion of the fence surrounding the property will need to be bumped out to build the shed. No part of the application will change what already exists on the tower or the site.

Ms. Mason stated that in 2012, Congress passed Spectrum Act 6409. Ms. Greenough stated that the Board is aware of 6409. Mr. Sparks stated that the Planning Board routinely responds to carriers on this tower, and stated that this application is considered a modification to an existing permit.

Ms. Mason stated that Verizon would be coming onto the property for the first time.

Ms. Mason presented the engineered plan. The generator will be located inside the equipment shelter, with 3-inch insulation to sound proof it. Mr. Mascolo asked about decibel levels. Ms. Mason apologized and stated that she did not have that information. Mr. Mascolo requested to be shown where the generator would be located. He noted that in its current configuration, the generator will be facing all of the neighboring houses.

Ms. Greenough mentioned that certain application materials were not submitted. She respectfully requested that the Board continue the hearing until those materials are provided. The continuation will not affect the 60 day review period.

Mr. Mascolo suggested that the applicants relocate the generator so that it is on the back side of the property with all of the other carrier's generators. He also requested information on the insulation and decibel levels. Mr. McCourt suggested that the Board conduct a site visit to see the generator placement.

Mr. Sparks moved to continue the hearing to May 3rd. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

6:41 PM: Public Hearing: Butcher/Thoma, 108 Edgartown Bay Rd (51-16) SP: Coastal District. Demolish and rebuild a 3-bedroom dwelling, sewage disposal system and associated utilities on a non-conforming lot

In Attendance: George Sourati

Site Visit: Board members conducted a site visit the morning of the hearing. They reviewed the existing structure and construction plans for post demolition. The new structure shall be moved 20 feet to the east and away from the wetlands, has a relatively similar footprint and a new second story not to exceed 26' feet (Coastal District restriction). It was noted that the neighbor behind the project house may lose some view from one side of the relocated structure, but it opened up the side nearest the wetlands as a new view.

Public Hearing: Mr. Mascolo disclosed that he sold the property to its current owner five years prior to the hearing. He stated that he has no financial gain from the property, and that he will offer an unbiased opinion on the application.

Mr. Sourati approached Board and distributed the plans. The Board conducted a site visit the morning of the hearing. The existing three-bedroom ranch house will be demolished, since it has fallen into a state of disrepair. The structure was offered to local housing authorities under the demolition delay bylaw, and all parties decided to pass on the structure. The proposed structure will be a two-story house with

three bedrooms on approximately the same footprint. The structure will be shifted 20 feet to the east to remove it from the 100 foot wetlands buffer. The proposed house will be 26 feet above mean grade, and will meet all of the setbacks for the zoning district.

The Board of Health and the Conservation Commission have already approved the project.

There were no letters received on behalf of this application, and no one was present in the audience to speak.

Mr. Cavallo moved to approve the application because it meets all guidelines, moves the structure further from the wetlands and decreases the non-conformity of the lot. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

6:47 PM: Public Hearing: Cape Cod Five Cents Savings Bank, 243-247 Edgartown-Vineyard Haven Rd (21-6.21) SP: B-II Business District. Construct a 16' x 8.5' ATM building.

In Attendance: Geoghan Coogan, Richard Leonard, Mike Barnes

Mr. Coogan approached the Board with the site plan. The setbacks for the property were highlighted in yellow. The application was for a stand-alone kiosk for Cape Cod Five Cents Savings Bank. The structure would be 120 square feet. Mr. Coogan stated that the aesthetic design of the off-island kiosks would not be approved. The applicants proposed a shingled building with no signage. The roof will either be cedar or asphalt. There will be one safety light outside the front door.

Mr. Coogan stated that the condominium association has reviewed and approved of the plans. Mike Barnes, a representative of that association, stated that everyone has signed off.

Mr. Wilson asked if there will be a camera in the building. Mr. Leonard stated that there will probably be several cameras to allow for different angles. Mr. Sparks suggested that one be placed with a view of the parking lot for extra protection for the other businesses.

Ms. Greenough asked about the configuration of parking in front of the kiosk. The Planning Board would like to ensure that enough parking spaces are provided per the business district zoning bylaws. Mr. Coogan stated that based on the size of the structure, only two spaces are required, one of which will be handicapped.

Mr. Coogan added that from the back of pharmacy to Edgartown-Vineyard Haven Rd has been restricted as green space, but there are no restrictions on this location.

Mr. Wilson closed the public hearing at 6:52 PM. There were no comments or questions from the Board.

Mr. Cavallo moved to approve the ATM building as presented. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

6:53 PM: Form A: Owen Norton LLC, Baylies Way (28-226, 28-15.4, 28-15.5) Reconfigure an existing lot and create a new lot

In Attendance: Doug Hoehn

Mr. Hoehn approached the Board and explained the site plans. The properties are located off of Bennett Way. Mr. Hoehn showed the original 7-lot subdivision that created Baylies Way.

This application reconfigured Lots 4 and 5 with a piece of land located behind them, that is owned by the same people, into three lots.

All three of the lots are large enough to accommodate at least three bedrooms each based on the Board of Health calculations.

Mr. Cavallo moved to endorse the Form A. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

6:20 PM: Curb Cut: Alexandra MV LLC, 96 South Summer St (29B-3) Relocate an existing curb cut.

In Attendance: Kristen Reimann, Landscape Architect

Ms. Reimann approached the Board to explain the application. This project is located across from parking lot for Harborside Hotel. There was an existing house that served as a Bed & Breakfast that was demoed, and a new house is currently under construction. In the 1930s, a large retaining wall was built on the property. Over the course of construction, drainage issues were apparent on South Summer Street, and the applicants installed a catch basin with a drainage grate at the low point on the property. Ms. Reimann stated that the applicants would like to clad the retaining wall with fieldstone and place a bluestone cap on it. This would cover the concrete wall with a veneer to make it look nicer. Ms. Reimann showed that the proposed curb cut would be just under 13 feet long.

Mr. Cavallo asked if the old curb cut will be closed or filled in. Ms. Reimann stated that the area will be planted out.

The Board suggested that the wall be extended and used to fill in the old curb cut. Ms. Reimann stated that she did not have the financial permission from the client to promise that the wall will be extended. The Board cited the recent bylaw that limits curb cut size. Mr. Sparks stated that he could not recall a time when the Planning Board required an applicant to physically block off an old curb cut, so long as it was apparent that the area would no longer be used as a driveway.

Ms. Greenough commented on the problems parking downtown. She stated that having two driveways in the R-5 district causes issues, since parking is so precious downtown.

Ms. Reimann stated that the curb cut will be filled with flowers and possibly a fence. She stated that she could not promise the stone wall. She assured the Board that the area will not be an obvious driveway entrance.

Mr. Sparks moved to approve the application as presented, conditioned by the fact that the applicant will close off the existing curb cut with plants. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

7:15 PM: Curb Cut: Kleinman, 115 Peases Point Way (20B-89.1) Relocate an existing curb cut.

In Attendance: Melissa Thomas- Seascapes Designs

Ms. Thomas approached the Board to present the application. The existing curb cut is located where the new garage foundation is and will need to be moved. The applicants proposed that the 16-foot curb cut be moved 40 feet.

Mr. Cavallo moved to approve the curb cut as presented. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

Other Business:

Mr. Wilson asked if the other Board members were satisfied with the meeting times. The other Board members stated they were happy with the meeting schedule. Mr. Wilson suggested that the site visits be mandatory, since they are so invaluable. He also suggested that pictures be taken at the site visits to be distributed at the meeting. Mr. Cavallo agreed on importance of site visits, but thought it would be difficult to enforce attendance. Mr. Wilson reminded members that applications cannot be discussed anywhere outside of the meetings, even on the site visits. Mr. Wilson noted that the press has been calling him at home, and that he and his fellow Board members should not be discussing applications with them outside of meetings.

The Board thanked Mr. McCourt for his year of service for Chairman.

Mr. McCourt moved to adjourn. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

The meeting was adjourned at 7:30 PM.

Respectfully Submitted,

Lucy Morrison

<i>Alan O. Wilson, Chairman</i>

<i>Robert Cavallo</i>

<i>Fred Mascolo</i>

<i>Michael McCourt</i>

<i>Robert Sparks</i>
Edgartown Planning Board
Date signed: _____