



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

MEETING OF:

May 12, 2021

MINUTES

Members Present: John J. McNicholas; Chairman; Michael W. Whitcher, Member; William McNiff, Member

Members Absent: Charles Peck, Associate Member; Jared Spinelli, Associate; Jared Gustafson, Associate Member; Member

Staff Present: Sarah Raposa, Town Planner, Lily Maranci, Administrative Assistant

Others Present: Mary Cusano, Matthew Smith, Carl Gehring, Phil Cotto, Don Haes, Sohail Usmani, Alex Benner, Edward Cannon, Nick Werthessen, Nathan Bazinet, Seth Meehan, George Mykulak, Tracy Foley,

Location: Virtual Zoom Webinar

At approximately 7:02 pm, Chair Jack McNicholas called the meeting to order and announced the meeting is being recorded. Chair McNicholas explained procedures for the meeting and read the following notice:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Medfield Zoning Board of Appeals is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the instructions on the agenda and meeting notice. The meeting is being recorded.

Cellco Partnership d/b/a Verizon Wireless, c/o Gehring & Associates, LLC, P.O. Box 98, West Mystic, CT 06388 seeks a Special Permit pursuant to Sections 300-17 and 300-14.10, and other applicable sections of the Town of Medfield Zoning Bylaw, M.G.L. Chapter 40A, and the Telecommunications Act of 1996, 47 U.S.C. 332(c)(7)(B), all rights reserved, for the installation of a Personal Wireless Communications Facility antenna inside Existing Steeple and Radio Equipment on-grade in the backyard surrounded by a solid fence. The site is located at 428-438 Main Street, Assessor's Map 43, Lots 110 and 111; RU & RS Zoning Districts; on properties owned by the First Baptist Church of Medfield.

Mr. Whitcher read the notice into the record. Mr. Gehring, who is representing Verizon, began his presentation. Verizon is proposing the installation of antennas, which would be hidden inside a church steeple. The cabling would go underground over to the adjacent lot, which is owned by the same entity. The equipment would be in the back of the church surrounded by a solid fence. They will replace the wooden louvers with fiberglass or

some other composite material that is transparent so the RF signal can broadcast through unimpeded. This is all part of Verizon's lease with the landowner. They are not able to put the antennas and the equipment in the same location because there is not enough room in the church. Verizon is an FCC licensee, therefore they are afforded certain protections under federal law. They have four licenses and will be operating multiple signals at once in this installation. Mr. Gehring then directed the board's attention to the RF report, which has a chart of the surrounding site. He pointed out that the site where the installation would be is located in Zone A, where Verizon already has made an installation at the West Mill Street Tower. He pointed out that Verizon has already made installations at all of the preferred areas in town such as the Medfield State Hospital and the Boston Edison utility easements. This would be a Section 6409 installation, in which they would already have a wireless carrier on the structure, which would be considered a base station under federal law, therefore Verizon would only need to go through an abbreviated zoning review. Verizon is hoping to improve the cell reception in downtown Medfield, and they do not have many options for locations for installation. Building this new installation near a base station would afford other benefits as well. He pointed out that the ZBA approved another carrier at a church previously that had similar elements to this project, and that under federal law, there is a provision about not discriminating against functionally equivalent wireless carriers, so Verizon would like to be given the same consideration as the other installation that was approved. The current Verizon installations, one in Walpole and another on the West Mill Street Tower, are insufficient to handle the increased bandwidth that is being used downtown. Mr. Gehring has brought in an independent health physicist, Mr. Hayes, to examine the potential health effects of the radio frequency emissions, who has found that this installation is compliant under FCC guidelines. Mr. Hayes found that the RF coming off of the site would be 6.3% of the health limit for members of the public. Verizon could have fourteen more installations in that area and still be below the health limit for members of the public. The sound coming from the equipment will be a non-issue. The antennas will go through the attic area and then down a chase on the outside of the church. The antennas will be hidden behind painted architectural features and difficult to see. The fence is a six foot, solid stockade fence which poses no security risk.

At 7:13 PM, Nick Werthessen wrote in the Q&A: "I'm the abutter of the rear of 428 Main. Can you say more about the equipment "at the back of the yard" of the second property? Can you show where it is located?" Mr. Gehring shared his screen to show the audience the site plan so they could see where the equipment is located.

Chairman McNicholas asked Mr. Gehring what his timing is for installation. Mr. Gehring said he is unsure. Chairman McNicholas asked if the lot where the fence will be located is an otherwise empty lot. Mr. Gehring said no, there is a building that is to the northeast on that lot.

No formal site visit needed. Mr. Witcher made a motion to close the hearing. Seconded by William McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

ICO, LLC (applicant/owner) of 195 Main Street, Medway, MA 02053 seeks a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-9 and the Table of Area Regulations referenced in §300-6 of the Zoning Bylaw as well as Table of Use Regulations Section 1.3 to expand the nonconforming use from two-family to three-family. The property is located at 99-101 North Street; Assessors' Map 42 Lot 046; RU Zoning District.

Mr. McNiff read the notice into the record. Mr. Cannon, who is representing ICO, LLC, began the presentation. He is joined by Alex Benner, the manager of ICO, LLC. Mr. Cannon shared his screen to show the front of the property. The property currently has two units in it. He then showed the back of the property, where there is an

expansive parking area. The lot is in the RU district and is non-conforming. It lacks frontage, lot width, a perfect square, and a side setback on the north side of the property. The applicant is asking to add a third unit in the attic area, which is currently vacant. No external additions to the property will be needed. The applicant is hoping to create additional income through creating this housing opportunity. Mr. Cannon showed an image of how Mr. Benner is hoping the property will look as a finished product. The parking area likely has room for six or more cars. The applicant is seeking a special permit to expand the property's non-conforming use either through a special permit under the town bylaw, or by a finding under Chapter 40A Section 6. In conjunction with this, the Board has the ability to grant a special permit under Table of Use Section 1.3 in the RU District. The overall design is consistent and compatible with the neighborhood as to factors of building orientation, scale, and massing. The changes to the building will be purely cosmetic. This project will not create a substantial traffic hazard. The drainage, utilities, and other infrastructure are adequate or will be upgraded to accommodate development. The proposed use will not have a significant adverse impact on property values, and Mr. Cannon believes this could improve property values in the surrounding area because of the cosmetic and landscaping improvements. This will not deprive abutting properties of light or fresh air circulation, and will not have an excessive impact on town water supply. The property was built in 1850 and was last renovated in 1988. The applicant would like to refresh the exterior with hardscaping, landscaping, paint, adding an arch top double entry door, and trim work details. The parking lot is made up of pervious stone dust.

Chairman McNicholas asked how the two apartments are separated. Mr. Benner said that the two apartments are side by side. Chairman McNicholas asked where the access to the attic area would be. Mr. Benner said it would be from the back door. Chairman McNicholas asked if it was possible that the applicant may apply to pave the parking lot. Mr. Benner said yes. Chairman McNicholas said that if they choose to do that, there should be some conditions put in place, such as a drainage structure.

Mr. Whitcher asked if there was a stormwater recharge infiltration system on the property. Mr. Cannon said that he is not aware of any. Mr. Whitcher asked if there was any lighting in the rear of the building, and if there would be any landscape lighting. Mr. Benner responded that there are porch lights, and there will be landscape lighting. Chairman McNicholas said that if there is more lighting installed, they will need to have a discussion about lighting and add some conditions so that the lighting does not affect the neighbors. Mr. Cannon said that there will likely be subtle accent landscape lighting around the parking area that will not be too bright for the neighbors.

Mr. McNiff asked what the square footage of the attic would be and what the footprint of the attic would be. Mr. Benner responded that there will be two bedrooms in the unit.

At 7:48 PM, George Mykulak wrote in the Q&A: "I am the abutter at 8 Castle Avenue. I have spoken to the applicant who has expressed a desire to upgrade the landscaping in his rear yard. Any improvement in this RU district area would be welcome. Open Spaces and Mr. McCready have created an eyesore and commercial dumping ground in the abutting 95 North Street property, probably in violation of the side yard zoning requirements. Based on the applicant's expressed desire to improve the neighborhood, I have no objection."

At 7:51 PM, Mary Cusano wrote in the Q&A: "How many bedrooms in the attic unit?"

At 7:54 PM, George Mykulak wrote in the Q&A: "There is a serious water problem in the backyard due to grading and possibly an underground stream. It floods when it rains heavily." Ms. Raposa asked Mr. Benner if this will be rectified in the landscaping plan. Mr. Benner said yes.

Chairman McNicholas and Ms. Raposa suggested that the applicant submit a landscaping plan and a floor plan to the ZBA to ensure that it will not disturb the neighborhood. This would take the applicant three weeks to submit, and afterwards, the ZBA would have fourteen days to file the decision.

Mr. Whitcher made a motion to close the hearing and keep the record open until June 2nd. Seconded by Mr. McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

Matthew Smith, Manager of Dover Mill LLC (applicant/owner) seeks a special permit under MGL Chpt. 40A §10 and/or Medfield Zoning Bylaw §300-16.5(6) for the construction of a single-family dwelling on a lot of more than 80,000 sf. The property is located at 49 Elm Street; Assessors' Map 33 Lot 091; RE Zoning District with Primary Aquifer and Well Protection Overlay (continued from 04/14/21).

Chairman McNicholas read the notice into the record. He then said that since the last meeting, Mr. Smith discovered that the Town of Medfield's zoning map was incorrect. The map wrongly indicated that the property was 2,700 feet from the Well Protection District in Zone 1, when it is actually two thousand feet from the well. Since that was discovered, the Town Counsel, Chairman McNicholas, Ms. Raposa, and the Building Inspector have come to the conclusion that almost all of Lot 2, with the exception of approximately four thousand square feet in the southeast corner of the lot, is not in the Well Protection District. The four thousand square feet is nowhere near where the proposed dwelling and septic system is located. Therefore, Chairman McNicholas is proposing to his fellow board members, and with the consent of the applicant, that the special permit application be converted to an appeal from the decision of the Building Commissioner, who will give Mr. Smith a building permit. The map will not be able to be changed until the town meeting next year, so in order to protect the town, the Building Commissioner, the current owner of the property, and the future owners of the property, Chairman McNicholas is proposing that the ZBA do a short formal decision which will be recorded at the Registry of Deeds. This will make it a matter of record that the current zoning map needs to be changed, and will have written that the Building Commissioner can issue a building permit. Chairman McNicholas asked Mr. Smith if he was agreeable to this. After some discussion, Mr. Smith agreed to this course of action.

At 8:33 PM, Tracy Foley wrote in the Q&A: "We are at 45 Elm street and abut all of the 3 lots that the Smiths own. Since there are three parcels I'm unclear about how this affects the third non-conforming parcel and how this would affect us?" Ms. Raposa responded that she would like to speak with Ms. Foley on the phone tomorrow to address this question after the Board formally votes.

Mr. Whitcher made a motion to amend the existing special permit application to an appeal of the Building Commissioner's denial of the building permit and to determine that based upon information that has been provided to the ZBA, the zoning map is wrong. As a result, we are remanding this to the Building Commissioner with the direction to issue the building permit without the special permit. The decision and the plan will be recorded. Seconded by Mr. McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

Mr. Whitcher made a motion to close the hearing. Seconded by Mr. McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

Minutes - 04/14/21 - Tabled

Deliberations

Mr. Whitcher asked about what will happen if the property on 428-438 Main Street is transferred or the church steeple is removed. Will the project run with the parcel or is it dependent on the structure? Is that something the ZBA can take into account in their decision or are we preempted by federal law? Mr. Gehring answered that Verizon has a leasehold interest and they have recorded a notice of lease on the land records on both those parcels so new owners would need to live with the installations. Mr. Gehring exited the meeting.

Mr. Whitcher made a motion to approve the special permit for Cellco Partnership at 428-438 Main Street. Seconded by Mr. McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

At approximately 8:52 PM, Mr. Whitcher made a motion to adjourn. Seconded by Mr. McNiff. MW=yes; WM=yes; JM=yes. The Vote: 3-0.

Respectfully Submitted,

Lily Maranci, Administrative Assistant