



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Meeting of the Mashpee Planning Board
Wednesday, May 1, 2019
Waquoit Meeting Room, 7:00 PM

Call Meeting to Order

7:00 PM – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance

Approval of Minutes

- Review and approval of meeting minutes from April 17, 2019

Public Hearing

7:05PM – May 6, 2019 Town Meeting Warrant, Proposed Zoning Amendments

- Warrant Article __: To amend Section E of §174-5(G) Light Industrial Overlay District
- Warrant Article __: To amend §174-25 (I) (10) of the Zoning Bylaw "Accessory uses" by adding the letters "SP" under the columns identified as C-3 and I-1 and further to amend §174-25 (E) (2), Principal retail business and consumer service establishments by adding the letters "SP" under the column identified as I-1.

7:10PM – Warrant Article 26: To amend §174-45.6(E) Light Industrial Overlay District

New Business

- C Rowley April Invoice
- Process for Planning Board to hire consultant

Old Business

Chairman's Report

Board Member Committee Reports

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Greenways/Quashnet Footbridge, Historic District Commission, MMR Military Civilian Community Council.

Updates from Town Planner

- 950 Falmouth Road Affordable Housing update
- Evergreen subdivision update
- Update on Town Meeting zoning amendment proposals
- Planning Department transition to electronic permitting

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK
APR 25 2019
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**Mashpee Planning Board
Minutes of Meeting
April 17, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 7/3/19**

Present: Chairman Mary Waygan, Joe Cummings, Dennis Balzarini, David Weeden, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

Absent: David Kooharian

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan at 7:00 p.m. on Wednesday, April 17, 2019. The Chair stated that the meeting was being videographed and recorded and asked that speakers approach the microphone stating their name and comment, addressing the Chair. Comments will be addressed by the Board or staff or taken under advisement if necessary. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES—April 3, 2019

MOTION: Mr. Balzarini made a motion to approve as presented. Mr. Cummings seconded the motion. 3 yes, 2 abstain

PUBLIC HEARING

7:10 p.m. Bennett Environmental Associates for Windchime Condominium Trust- Consider an application to modify a Special Permit issued February 4, 1987 and recorded at the Barnstable County Registry of Deeds in Book 5734, Pages 225-269. Such application was made for consideration of the release of the escrow funds held under the Special Permit to make improvements to the on-site wastewater treatment system through the BRP WP 68 “Treatment Works Plan Approval” permitting process; and to seek reduction in the Wastewater Treatment Monitoring Plan as commensurate to the environmental monitoring requirements specified under the Groundwater Discharge Permit 263-3M1.

The appointed time having arrived, the Chair read for the record the request and the Public Hearing Notice. David Bennett, of Bennett Environmental, was representing the applicant and noted that the modification for ground water monitoring had been withdrawn. Mr. Bennett provided a copy of the draft report, to be filed in 10 days. Mr. Bennett confirmed that he had been in receipt of the draft Decision, which he shared with Mr. Mooney, Chair of the Windchime Condominiums Association.

Mr. Cummings stated that, were the matter a monetary issue, he would recuse himself. Mr. Lehrer noted that, when the matter was initially opened, Mr. Cummings had recused himself,

which was reflected in the Decision. Mr. Cummings agreed to recuse himself from the vote but indicated that he had comments about the proposal. Mr. Cummings noted inconsistencies referenced in the number of bedrooms listed in the proposal on page 3, adding that there was a total of 314 bedrooms. On page 4, Mr. Cummings noted that the average flows listing the lows and highs were also inaccurate, adding that he had researched older records showing June 17, 2010 low of 4,050 gallons (compared to 9,000) and high on December 4, 2009 of 34,463 gallons (compared to 18,000). Mr. Cummings provided documentation to Mr. Bennett, who made notes to incorporate the information into the report. Mr. Cummings wished to ensure that the plant was built as needed and Mr. Bennett stated that it would be built as approved, based on the groundwater discharge permit allowing 31,000 gallons, currently encompassing 314 bedrooms in 50 buildings, which is completely built out. There were no additional comments from the Board, the public or the staff.

MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Weeden seconded the motion. 4 yes, 1 recusal

MOTION: Mr. Balzarini made a motion to approve, as presented, the Planning Board decision for Windchime Condominiums Special Permit Modification dated April 17, 2019. Mr. Weeden seconded the motion. All voted unanimously.

Mr. Balzarini signed the Special Permit Modification.

7:15 p.m. May 6, 2019 Town Meeting Warrant, Proposed Zoning Amendments
-To amend Section E of 174-5 (G) Light Industrial Overlay District
-To amend 174-25 (I)(10) of the Zoning Bylaw "Accessory Uses" by adding the letters "SP" under the columns identified as C-3 and I-1 and further to amend 174-25 (E)(2), Principal retail business and consumer service establishments by adding the letters "SP" under the column identified as I-1

The appointed time having arrived, the Chair read the request for the record. There was consensus from Board members to postpone the matter to be considered later in the evening. There was no public comment for the proposed Zoning Amendments.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to 8:30 p.m. Mr. Weeden seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to move the Public Hearing to 9:30 p.m. Mr. Weeden seconded the motion. All voted unanimously.

The Chair reopened the Public Hearing but there was consensus to continue the hearing to May 1. There was no public comment on the matter.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to May 1 at 7:05 p.m. for the Zoning Articles. Mr. Weeden seconded the motion. All voted unanimously.

7:30 p.m. Blue Sky Towers II, LLC Application for Special Permit to erect a Personal Wireless Service Facility as required by Section 174-25 (H)(9); 174-45.3 of the Mashpee Zoning Bylaw at 101 Red Brook Road, Mashpee Fire Station #2 (Assessor's Map 104, Lot 2) consisting of a 150' monopole. This Public Hearing is being reopened by the Planning Board following referral to The Cape Cod Commission as a Development of Regional Impact (DRI). The Public Hearing opened on June 6, 2018.

The appointed time having arrived, the Chair read for the record the request and informed the public of the new set up and location of the shared microphone, to provide public comment. The Chair read the Public Hearing Notice. The Chair authorized Planning Board Alternate Member, Robert Hansen, to sit as a full member.

With the Public Hearing now in session, the Chair read a statement into the record to fully disclose communications between Mr. Lehrer, Blue Sky Towers, LLC attorney Elizabeth Thompson and Mashpee's Board of Selectmen and Town Manager, submitting the letters for the record. Ms. Thompson's letter suggested that Chair Waygan and Mr. Balzarini had engaged in improper ex parte communications in this matter and acted in a manner so as to deprive the applicant its due process of law. The Chair categorically denied the substance of the reported ex parte statements and questioned the source of the alleged statements or denying the applicant a fair and impartial tribunal on the merit of its application. Chair Waygan confirmed that she, unequivocally, would engage in the hearing in an impartial and unbiased manner, and would base her decision on the application according to applicable law and record of the proceedings and therefore saw no reason to recuse herself from the matter.

Mr. Balzarini also offered a statement for the record, in the interest of full disclosure and in reference to the same letters provided by the Chair. Mr. Balzarini stated that, despite any possible statements previously made regarding the proposed project or previously submitted zoning article, would, as a member of the Planning Board, engage in an impartial and unbiased manner and would make a decision based on law and the record of the proceedings. Additionally, Mr. Balzarini so no reason to recuse himself from the matter.

The Chair welcomed the public to tonight's Planning Board meeting and reminded attendees that the meeting was being videographed and recorded and that anyone providing public comment at the microphone should state their name and address, with all comments directed through the Chair. Comments may be addressed directly by the Board, or others, or taken under advisement. The Board appreciated public participation in matters that were being considered by the Planning Board, to assist with decisions being made. The Chair described the order of presenters, asking that Planning Board members wait to express opinion until substantial or all testimony had been made and the Public Hearing closed.

Attorney Elizabeth Thompson, representing applicant Blue Sky Towers, LLC, described the proposed 150 foot monopole communications tower to be located at 101 Red Brick Road/Fire

Station #2. As part of the proposal, Verizon would locate their antenna at 146 feet above ground level, TMobile would be located at 136 feet and Mashpee Fire and Police emergency safety equipment would be located at 100 feet. Two additional spaces would be available for potential future wireless service providers. The proposal was submitted in answer to an RFP issued by the Town of Mashpee in May, 2017. The Town of Mashpee would serve as a landlord and would maintain control over the facility, and, in 2017, recognized that a serious gap of service existed in the area. Consideration of the Special Permit application by the Planning Board was suspended while the matter was considered by the Cape Cod Commission, as a Development of Regional Impact. During proceedings, the applicant worked closely in all aspects of the project with Cape Cod Commission staff, including consultation with a wireless expert to review technical material. The project has since been approved by the subcommittee and the Cape Cod Commission because the benefits outweighed the detriments. In particular, it was noted that there was a gap in coverage for two carriers and the proposed location was suitable and the only feasible site. Once it was discovered that the site did not sit within the Wireless Overlay District, the applicant sought approval for a height variance from Mashpee's Zoning Board of Appeals, which was unanimously approved on February 13, 2019, with a height of 150 feet being the minimum height necessary to close the gap coverage.

Ms. Thompson referenced Mashpee's Bylaw and a provision that indicated that a decision by the Planning Board could not be contrary to the Federal Communications Act of 1996. Specifically, a decision by the Planning Board could not prohibit wireless services, and Ms. Thompson stated that case law in this jurisdiction showed that carriers with gaps in coverage, with only one proposed feasible location, was a special request that could not be denied by the Board. Ms. Thompson also referenced a January 2019 Federal Communications Commission issued order stating that prohibition standards were outdated due to the broad use of wireless services, beyond cellular data, and a decision could not materially prohibit provision of cellular service. Ms. Thompson stated that the technical review had been lengthy and extensive, and asked that the Special Permit be approved.

Jessie Moreno, Prepare Design Group, summarized the location of the facility, situated on a 30 acre parcel in the shape of a triangle, and featuring a 150 foot monopole tower that would utilize the existing paved driveway of Fire Station #2. There would be a 45 foot extension to a 100 foot by 100 foot lease area, inside which there would be a 70 foot by 70 foot compound, consisting of $\frac{3}{4}$ inch stone. The wireless compound would hold carrier ground equipment at the base. The monopole of 150 feet tall would carry antennae and radio equipment at various heights. The ground equipment would not need water or sewer, but would require telecommunications and electrical from the street. A chain link fence with gate would be located outside of the facility and would feature some stormwater management and only a few trips per month, per carrier. A propane generator would be located on site, in case of an electricity outage. Mr. Moreno confirmed that just 1% of the 30 acre lot would be disturbed and existing corridors would be utilized to limit clearing, consistent with the RFP. Existing vegetation would be in place on three sides, shielding the structure from the road, and there would be no trash generated on site.

Mr. Balzarini inquired about the fall zone and proximity to residences. Mr. Moreno responded that the fall zone was located on the property, with the Fire Station being the closest building, though not in the fall zone, even if there was a wind storm.

Mr. Hansen inquired about the hardship that allowed permitting. Ms. Thompson responded that the variance issue was addressed by the ZBA, and was not a matter before the Planning Board. Ms. Thompson explained that obtaining a variance under Massachusetts state law included a criteria showing proof of hardship and the necessity for a variance. Mr. Hansen inquired about the hardship and Ms. Thompson responded that the hardship was due to a significant gap in coverage, with the topography determining the necessary height of the facility.

The Chair asked that Board members hold their questions to allow the project proponent to complete their presentation. The Chair asked for clarification regarding images being shown in the presentation and its location in Board member application packets and Ms. Thompson responded that there were additional plans requested by the experts which appeared in the supplement.

Verizon Radio Frequency Engineer, Keith Vellante, referenced maps submitted with the application regarding existing cell sites located in Mashpee and depicting Verizon's needs. Areas in green represented regular coverage with existing Verizon facilities. Due to the topography, an additional cell site was necessary to extend the coverage. Mr. Vellante noted that many residents have removed their home phones, utilizing instead cell service, that was becoming a larger part of their daily lives and creating the need for additional capacity. Mr. Vellante discussed the sporadic coverage available in southern Mashpee, where there was also an increased number of users on the fringe of coverage, impacting usage closer to cell sites. Mr. Vellante showed how the new site would extend coverage and lessen the burden on other users, closer to other cell sites. Mr. Vellante noted that the height of the monopole was necessary due to the distance and topographical challenges.

TMobile Radio Frequency Engineer, Ricky Kareoke, showed TMobile's existing coverage and discussed their need to better cover the gap and showed how the new tower would improve their coverage. Referencing the map, Mr. Balzarini inquired about areas that showed there would continue to be no coverage with the new cell tower and Mr. Kareoke responded that in the future, there would likely be improved technologies which would be able to cover the area.

Mark Correnti, FairMarket Advisors, LLC, provided a report detailing the effects of cell towers to property values. Ms. Thompson indicated that the report had been provided in response to concerns expressed by abutters at the Cape Cod Commission hearing. Mr. Correnti explained the way in which he researched whether the project could reduce the value of a house, measured by researching sales in Mashpee, including similar homes within sight of existing towers. Mr. Correnti noted that buyers were the market makers and described specific sales located in Mashpee, as well as homes in Barnstable. Mr. Correnti found that sales of homes were not negatively impacted by the view of cell towers, and in fact, found that sale values were higher

compared to the median value during the same time period. It was Mr. Correnti's opinion that buyers were paying for residences, rather than consideration of a cell tower. Mr. Balzarini referenced the pictures shown, suggesting that the cell tower likely would not be seen on property due to tree screening, and inquired about the distance of the proposed tower from view, to which Mr. Correnti responded that the site would be approximately 400 feet from the closest home.

Mr. Balzarini inquired about the zoning of the cell tower in a residential area and Ms. Thompson responded that wireless facility service use was allowed in R-3, but the height required a variance from the ZBA. Mr. Balzarini inquired about the proximity to the wildlife sanctuary and Ms. Thompson responded that NEPA reviews had been completed in coordination with Federal authorities and since being located within a boundary acquisition zone, could approach the owner to purchase the land, but it has been concluded by Cape Cod Commission professionals that it was permissible. Mr. Balzarini inquired whether the Cape Cod Commission's consideration was based on the site being located in the Wireless Overlay District and Ms. Thompson responded that the decision was based on their analysis and noted that the use was allowed in R-3 Zoning by Special Permit from the Planning Board.

Mr. Balzarini inquired about hardship and the need for the project proponent to review the entire town for additional potential sites, inquiring about other sites considered. Ms. Thompson responded that an extensive alternative site analysis had been completed by the project proponent and carriers, within a search area, to review significant coverage gaps. Ms. Thompson reported that many properties had been examined, and a table submitted with the application, with more than 40 sites identified and ruled out. Ms. Thompson stated that there was not one feasible alternative to the proposed site that the applicant or carriers could identify. Mr. Balzarini referenced the coverage maps described previously and inquired whether it would be more effective to locate the tower closer, to improve cell coverage toward the beach. Planning Board members asked that the public not clap. Ms. Thompson responded that the radio frequency data from the carriers determined the area requiring coverage. One site would not cover 100% of an area, all sites worked together to close the gaps, and it was possible that an area by the beach may not be covered. Ms. Thompson stated that it was not the target to provide 100% coverage. Mr. Balzarini suggested that people had expressed concern to him about not having coverage by the beach, sharing a story from a resident about needing coverage. Ms. Thompson stated that the carriers utilized scientific data to close the gaps and individual Board members or audience members referencing their coverage and carriers was not scientific data. Mr. Balzarini agreed that there was a gap in coverage.

Mr. Cummings agreed that the cell tower should be located closer to the ocean. Mr. Cummings inquired about the number of back-up generators and Ms. Thompson responded that Verizon was the only carrier proposing a generator and that future carriers may wish to seek permitting separately to add a generator. Mr. Cummings expressed concern about multiple generators running at the same time for each carrier. Ms. Thompson reported that a sound study provided in packets indicated that four generators would be well below allowable noise levels, as determined

by the Bylaw. Mr. Cummings inquired whether the New Seabury site and driving range had been reviewed. Ms. Thompson confirmed they had, adding that Verizon initially had a lease with New Seabury, but the lease was mutually terminated by both parties before the issuance of this RFP. Ms. Thompson indicated that, prior to release of the RFP, Verizon Wireless again approached New Seabury, but there was no interest, making it a not feasible alternative.

Mr. Weeden referenced Verizon's coverage maps and inquired about the difference between Beta coverage and Gamma coverage, from the same tower. Mr. Vellante stated that the site on Industrial Drive featured three sectors which addressed different directions, north, southeast and southwest. The map showed the additional capacity burden of that site, which could be alleviated with the proposed cell tower.

Referencing New Seabury/Rock Landing at a 60 foot elevation, Mr. Weeden inquired about analytical data that would show why the site was not chosen. Mr. Vellante understood that Verizon had a proposed facility at the location, but he believed that the feasibility was an issue of other elements such as landlord, lease ability, constructability or other issue. Mr. Weeden asked again for data about the site to better clarify the hardship. Ms. Thompson stated that she wanted to keep the hardship issue separate. Regarding feasible alternatives, Ms. Thompson stated that the area in New Seabury was initially considered because it was central to the gap. However, as previously mentioned, without a willing landlord, it was not a feasible site. Ms. Thompson stated there was no feasible site in New Seabury of suitable size, with suitable topography, with a willing landlord. Mr. Weeden asked for the vetting of the site and Ms. Thompson stated that an Alternative Site Analysis, Exhibit 11, was included in member packets. Ms. Thompson stated that 111 Rock Landing Road was located on the last page, adding that the Country Club location was not included in the report because it was not feasible, due to an unwilling landlord. Mr. Weeden inquired about the three commercial properties that were not feasible and Ms. Thompson responded that they were not feasible due to radio frequency, but that there was no additional information. Mr. Weeden stated that it would seem that, with a higher elevation, there would be better coverage area for carriers, and closer to Popponesset where coverage was needed, and located on commercial property. Ms. Thompson responded that it was unfortunate that it did not work out between Verizon Wireless and New Seabury and no viable alternatives were identified to close the gaps.

Mr. Balzarini referenced Ms. Thompson's prior statement that the Federal government could step in regarding a Planning Board decision, but asked why the government then could not step in regarding the Rock Landing site. Ms. Thompson responded that the government expected due diligence showing there was a significant gap in coverage with no feasible proposals for what was being proposed. Ms. Thompson stated that the provided technical information showed the gap from two wireless service providers, which was reviewed by a wireless consultant.

Referencing elevation and the monopole, Mr. Weeden inquired about images noting a height of 150 feet, but other details in the packet noted a 200 foot monopole. Ms. Thompson responded that the 150 foot monopole was approved by the Cape Cod Commission. Mr. Weeden inquired

about the diminishing of coverage as carriers were located below a certain elevation. Ms. Thompson responded that there would be space for other carriers at 126 feet and 96 feet, but there were no firm commitments from other carriers at this time, noting that an existing tower created a viable option to cover a percentage of a gap. Mr. Weeden suggested Mashpee could be approached for a second tower in the near future and Ms. Thompson responded that an approved tower provided a viable solution for a carrier, and more cost effective than building and permitting a second tower. Mr. Weeden stated that the TMobile report showed that coverage was greatly diminished as it lowered, not covering the target area in New Seabury. Ms. Thompson stated that carriers used different technologies and licenses that could impact coverage. Mr. Weeden inquired whether back-up generators were required for carriers and Ms. Thompson responded that it was not a Federal mandate. TMobile would be providing back-up batteries.

Mr. Hansen inquired about the percentage of residents impacted by the coverage and the number of homes in the area. Mr. Vellante responded that, based on an analysis of 2010 census data, an additional 1,400 residents would receive coverage, and structures numbering 2,300, based on GIS data. Mr. Hansen inquired about the percentage of coverage for the area but Mr. Vellante did not have the information. Mr. Hansen suggested that the new green coverage area was predominantly undeveloped, except for the more dense area by the beach where there would not be coverage. Ms. Thompson stated that various cell sites worked together to close the gaps in coverage, adding that undeveloped areas still needed coverage due to potential emergencies.

A recess was taken at 8:40 p.m. and the meeting reconvened at 8:52 p.m.

Chairman Waygan referenced Mashpee's Personal Wireless Service Facilities Bylaw and the Radiation RFR Standards in Section H that applications required FCC Guidelines to be met and a copy of a letter of approval from Mass Department Public Health 105 CMR 122.000 submitted. The Chair has seen the FCC Guidelines letter but inquired whether the approval from Massachusetts Department of Public Health was included with the application. Ms. Thompson responded that it was not included because CMR 122.000 was no longer a good regulation of the Commonwealth of Massachusetts and no longer required. Ms. Thompson further stated that the Massachusetts Board of Health website had a document stating that it was no longer required and would print a copy to send to Mr. Lehrer. The Chair requested a document stating that 105 CMR 122.000 is no longer in effect and Ms. Thompson agreed.

The Chair stated that the Bylaw also allowed the Planning Board to require the applicant to fund the services of an RFN Engineer to review the documentation regarding the FCC Guidelines. Mr. Balzarini liked the idea. The Chair asked that Mr. Lehrer to look into the matter further.

The Chair referenced page 10 of the revised photographic simulation packet. Mr. Lehrer stated that he was unable to print out the simulations for the Board, but would provide them as a hard copy at a future meeting. The Chair inquired whether plans had been submitted for the monopines. Ms. Thompson stated that the original plans submitted were designs for a monopole

as a preferred design according to town bylaw and the Cape Cod Commission regulations. During Cape Cod Commission discussion, there was consideration of other design alternatives. If the monopine was preferred by the Board, they would submit plans. The Chair noted that the Cape Cod Commission deferred the decision to the Planning Board and their website included the plans, so requested that the engineered plans be submitted to the Board for consideration and Ms. Thompson agreed. Ms. Thompson noted that there were additional design alternatives to include coloring in light blue or grey, adding that the project proponent was open to those alternatives. The coloring was difficult to see in the projected photos, but would be included in packets.

Referencing the applicant's response to Mashpee's RFP in the Special Permit application, the Chair requested that a copy of the RFP also be submitted as part of the application. Ms. Thompson stated that she could not provide a copy of the RFP but that it could be acquired from the Board of Selectmen. The Chair asked Ms. Thompson to make arrangements to have it forwarded to the Planning Board but Ms. Thompson reiterated that it would need to come from the Selectmen and suggested that the Planning Board could ask Town Counsel if there was a question about the RFP. The Chair noted that the RFP was referenced in application materials and requested that the applicant provide a copy of the RFP. Ms. Thompson stated that she could request a letter from Town Counsel confirming that there was a signed lease document as a result of an RFP, which was a public document that could be requested from the Board of Selectmen. Ms. Thompson stated that she would be discussing with her counsel and Town Counsel whether the applicant would provide the RFP to the Planning Board. The Chair stated that requests for Town Counsel typically went through the Town.

The Chair referenced the Bylaw that did not properly identify the 1998 Town Meeting vote, noting its correction December 20, 2018. The correction defined the Wireless Overlay District shall include . . .all other land in the Town which is not located . . .within the R-3 or R-5 zone District. Ms. Thompson confirmed that the proposed site was located within the R-3 zone and not located within the Overlay District, which is why, as previously stated, the applicant sought a variance with the ZBA on February 12. The Chair stated that the application referenced the Wireless Overlay District in multiple places, particularly Section 5 regarding Satisfaction of the Standards for Wireless Communication Facilities. The Chair inquired whether the application would be updated and Ms. Thompson responded that she could but felt that she had provided sufficient testimony regarding the need for a variance for the height restriction, which has been properly obtained. Ms. Thompson will submit a letter in writing to update the application.

The correction of the Zoning Bylaw was referenced in Ms. Thompson's December 2018 letter to the Planning Board, submitted for the public record, along with the ZBA Decision and Notice of Complaint filed against the decision and appealed to Superior Court. Additionally submitted was the Town Meeting Warrant and confirmation from the Town Clerk that Article 14 did not pass at Town Meeting.

In June 2018, the Board referred the request to the Cape Cod Commission because the project was a DRI. The Cape Cod Commission provided a decision on October 18, 2018 but the review of the application by Isotrope stated that it was not clear why the applicant asserted that the site was located in the Wireless Overlay District, and suggested acquiring additional evidence for the Commission. The Cape Cod Commission made a finding that the project was located in the Wireless Overlay District. The Chair inquired whether the Cape Cod Commission had been informed that the site was not located in the Wireless Overlay District and Ms. Thompson confirmed that Jonathan Idman was made aware of the situation, adding that it continued to be an allowed use with the only meaningful impact being the need for a height variance, which has been granted. The Chair inquired about correspondence from the Cape Cod Commission regarding the Overlay District and Ms. Thompson responded that it was not necessary. The Chair stated that she had requested an opinion from Town Counsel weeks ago regarding the matter but had not yet received a response. Therefore, with consent from the Board, the Chair would submit a request in writing to the Cape Cod Commission to ensure that the matter did not require further review by the Cape Cod Commission.

Additional items being submitted to the record was the Cape Cod Commission DRI dated 10/18/19, Attorney Costello's 9/24/18 letter regarding the site's location within the Wireless Overlay District submitted to the Cape Cod Commission, Mr. Lehrer's 8/21/18 memo submitted to Cape Cod Commission regarding DRI referral and the Isotrope review dated 8/10/18.

Referencing page 9 of the application and camouflage, the Chair inquired about the height of the buffer and Ms. Thompson believed that the trees were 55 feet tall, but would submit the information in writing. The Chair inquired about lighting and signage as required in 3A and Ms. Thompson responded that there would be no lighting other than on the cabinets.

The Chair will draft a list of documents to ensure that all will be tracked and recorded. The Chair recognized the Town Planner.

Mr. Lehrer confirmed that personal wireless service was an allowed use in the R-3 district, with a height consideration requiring a variance. The variance was granted by the ZBA and can be reviewed on its merits. Regarding health impacts, 174-45.3, Section A, Paragraph 3 stated that decisions could not be made based on radio frequency thresholds when documentation that FCC thresholds had been met. Additionally, documentation was received showing the correction of significant coverage gaps.

Mr. Rowley inquired further about project compliance with FCC guidelines and the ability to override the Bylaw. Ms. Thompson stated that the applicant needed to comply with the Bylaw and that the municipality maintained some control, except if there is a significant gap in coverage with no feasible alternatives, the local control was preempted by Federal law and the decision must be approved. Ms. Thompson submitted the FCC order for the record. Mr. Rowley inquired about the details of the site and compliance with the regulations as written, and Ms. Thompson responded that they would work to comply with regulations.

Mr. Rowley inquired whether there had been changes to the site plans dated April 30, 2018 because he noticed an enclosure of 70x70 which appeared distorted and Ms. Thompson confirmed the enclosure was 70x70. It was noted that there was a newer plan dated January 8, 2019. Mr. Rowley stated that, according to zoning requirements, the metal cabinets would need to be located in a housing facility and inquired why the project did not include such a facility. Ms. Thompson responded that an equipment cabinet was less intrusive, and disturbed the land less, but Ms. Thompson stated she could look into it further but that the Planning Board could waive certain provisions of the Bylaw. Mr. Rowley questioned the statement that the Planning Board could waive the provisions, suggesting that it would be a matter of a variance. Ms. Thompson stated that personal wireless facilities could waive certain provisions. Mr. Rowley referenced 174 45.3 Subsection F2 which highlights the specifics of the equipment shelter. It was Ms. Thompson's opinion that the Bylaw did not mandate an equipment shelter and the applicant was proposing a concrete pad with an equipment cabinet, therefore rendering it not applicable. The Chair and Mr. Rowley requested that the matter be looked into further.

Mr. Rowley stated that there were additional details regarding the site specifically, but it was noted that the applicant had not received Mr. Rowley's report. The Chair provided a copy. Mr. Rowley stated that he was seeking additional information about a profile that extended out 309 feet, in the before and after photos in 174 3H 1-2/3. Ms. Thompson responded that she would review Mr. Rowley's report and get back to the Board.

MOTION: Mr. Balzarini made a motion to allow Mr. Rowley to work with the project proponent to address the items in his report. Mr. Weeden seconded the motion. All voted unanimously.

The Chair requested a copy of the most up to date plan because no one was in receipt of the 1/8/19 plan. The Chair opened for public comment, asking for kindness and consideration and respectfulness. Speakers will be limited to two minutes if necessary. Interested attendees could submit comments in writing to the Town Planner if they were uncomfortable speaking in public.

The Chair noted that she had been in receipt of 4-5 written comments in support of the proposal.

Shayne DeFrancisco, Scituate Road, found the presentation helpful and read for the record a letter she had drafted referencing California firefighters who declined the placement of a cell tower at their station. Ms. DeFrancisco suggested that the process, since 2017, was less than transparent and the proposal did not provide full coverage. Ms. DeFrancisco stated that a measured open approach was necessary in the most effective way possible.

Lynn Barbie, Surf Drive wanted improved cell service, noting that she tested cell service in Great Neck Road South and Red Brick Road, out of her concern about safety at the beach, finding that the beach was covered by the tower located in Falmouth.

Karl LeBelznik, Tracy Road, inquired about the depth into the ground the cell tower would travel and possible impacts to ground water and the aquifer. Additionally, being located on town owned land, Mr. LeBelznik inquired about the responsibility for removal once technology improved, making the tower obsolete. The Chair responded that it would likely be a Special Permit condition that the applicant provide regular updates. Mr. Cummings added that Mr. Rowley had referenced an abandonment and discontinuement of service. Ms. Thompson stated that the lease would require Blue Sky to remove the tower and the Town would be able to charge Blue Sky removal costs, in case of abandonment. Mr. Rowley added that the Planning Board could require a bond. Regarding ground water, Mr. Rowley stated that groundwater was likely deeper than the foundation and design consideration would likely be submitted to the Building Inspector at the appropriate time. Mr. Moreno stated that the foundation typically would be below grade, 20-25 feet square and 5-6 feet deep, adding that water resource findings were studied by the Cape Cod Commission on page 11 of their report.

Teresa Ronhock, Sunset Circle, expressed concern about financial hardship in the neighborhood, referencing a study completed by the Electromagnetic Health Organization, showing impacts to property values in a survey of 1,000 people. The study noted that 94% of those surveyed stated a cell tower would impact what they would pay for a property and 88% of those surveyed stated they would not purchase a property near a cell tower. The study further discussed reductions in value of 21%, after the installation of a cell tower. Ms. Ronhock stated that, while attending hearings at the Cape Cod Commission, they had requested abutter reports, deemed to be unnecessary. As a result, the homeowners acquired their own professional abutters report, noting that there would be an impact to 166 properties at this location. The study was based on the Appraisals Journal and reporting from the National Realtor's Association. Ms. Ronhock referenced another study produced in the New York Times. Ms. Ronhock added that in addition to the financial hardship, the cell tower site would also add undue stress to the families of the homeowners. Ms. Ronhock referenced the report from Isotope that noted the project proponent had not distinctly identified a coverage gap, it was identified as a coverage problem. The FCC required that a coverage gap be identified, rather than a coverage problem. In addition, the report noted that the proposed site was located at the edge of the intended service area and the author recommended a site closer to the south or closer in the service area to be more beneficial. Ms. Ronhock asked that the Planning Board not allow the Special Permit for the cell tower at this location due to the hardship it would present to neighbors and to uphold the 1996 vote to designate areas where cell towers could be placed in Mashpee. The Chair asked that the cited reports be submitted to the public record. Ms. Thompson asked to be recognized to address misstatements and the Chair did not, but recommended she read the written material.

Mike Ronhock, Sunset Circle, referenced the Isotope report which, on page 7, identified a suitable site on the southern edge of coverage at the Water Department land and did not state that the proposed site was the only site or the preferred site. In addition, it stated that Popponesset would not experience substantial improved service and would likely require future expansion to fill the coverage gap. Mr. Ronhock stated that the job should be figured out right, the first time. The report also indicated that Verizon had provided no data as to whether the proposed site was

necessary. In reference to Mr. Lehrer's quoting of 174-45-3 in the third paragraph, Mr. Ronhock pointed out that the first paragraph proposed minimizing the visual and environmental impact to the property value. Mr. Ronhock stated that the site was not chosen except by convenience rather than by engineer. Mr. Ronhock discussed potential impacts such as to the parking lot with heavy equipment and referenced research of available properties, exhibit 14, with a list of properties that were discounted as not viable alternatives. Mr. Ronhock stated that 90% of the properties were located to the north of the proposed site, further away from coverage area and only 3 properties south. Notes indicated only that sites were outside of the search area, but it was located within the coverage area and Mr. Ronhock suggested that there were additional parcels that could be considered as a site, such as Rock Landing Road. Mr. Ronhock also expressed concern about the photos of simulations not shown at tonight's meeting, with question about the scale of the balloon test and also questioned in the report. Mr. Ronhock also suggested that there were discrepancies regarding the size of the parcel and input from townspeople regarding the best location of the cell tower. Referencing the coverage maps, Mr. Ronhock inquired about changes and revisions to coverage areas and the differences between the technologies of the two carriers and the differences in coverage. Mr. Ronhock stated that much of Monomoscoy Island would continue to have no coverage while the Wildlife Refuge would have coverage. Mr. Ronhock expressed concern about the potential need for a second tower and questioned the reason why the tower would be located on the edge of the coverage area. Mr. Ronhock provided documentation to the Planning Board. Mr. Ronhock also referenced an allowable 15% extension of the tower or 20 more feet, which would impact the drop zone. The Chair suggested that Mr. Ronhock could submit additional information in writing. Mr. Lehrer pointed out that some of the documents provided were duplicates and already submitted to the public record, but the Chair responded that she would allow it.

Jen MacDonald, DeGrasse Road, stated that she would be in view of the cell tower, which she never anticipated when she purchased the house 25 years ago. Ms. MacDonald stated that there were laws in place and the cell tower was being proposed in an area outside of the approved Wireless Overlay District. Ms. MacDonald asked that the Planning Board respect the vote of the people who did not want cell towers placed outside of the Wireless Overlay District and requested hard evidence that alternative sites were fully considered.

Claudia Fernado stated that, as a customer of Verizon, she had never had an issue with coverage, stating that it was not right for the cell tower to be placed in a residential area and the people should be considered, not the money.

Linda LeBelznik, Tracey Lane, stated that she understood the need but questioned why the cell tower would need to be located at the proposed site. Ms. LeBelznik stated that the people of the Town had spoken and indicated that they did not want the cell tower in the residential area. Referencing the report that the New Seabury landlord was unwilling, Ms. LeBelznik suggested that New Seabury and Popponesset residents should get together to discuss their needs for the cell service. Ms. LeBelznik referenced a home within site of the proposed tower where a toddler

and a baby lived, expressing concern about potential health issues. The Chair noted that the Planning Board could not make a decision based on health issues.

Dianne Scannel, DeGrasse Road, located behind the site with small children, read a letter expressing her concerns about the project and the potential noise, vibration and flying debris. Although health concerns could not be considered, Ms. Scannel expressed concern about potential violation of radiation rules, indicating that the project should be placed closer to the area where it would serve the intended people or in a conservation area rather than in a residential area. It was Ms. Scannel's opinion that the Town Meeting process should not be ignored and it was the responsibility of the Planning Board to support the process. Ms. Scannel presented a letter to the Planning Board with 215 signatures, opposing the location of the tower in a residential area on Red Brick Road.

Elana Doyle, Sunset Strip, identified the home as the owner's primary asset and expressed concern about what the neighbors were experiencing with a threat to the value of their primary asset. Ms. Doyle referenced the unwilling landlords in New Seabury and pointed out that residents tonight were indicating that they were also unwilling landlords.

Peter Michaelson, Degrass Road and neighbor to the Mashpee Fire Department, stated that the property line referenced in the fall zone was not based on a certified plot line. Mr. Michaelson's land was developable and would be required to develop a property line with an engineer if he were to develop his parcel. Mr. Rowley responded that the Assessor's map and map of the area appeared to be consistent. The carved out property appeared to be well within the limit as seen on the plan and was not a certified plot plan provided it was well within the limits and did not appear to be an issue.

The Chair inquired about any additional public comment, and there was none. The Chair invited the project proponent to respond to additional comments but given the volume, Ms. Thompson preferred to address the comments in writing.

Mr. Rowley reviewed the design standards for the shelter and confirmed that although it was not a requirement, one of the three options must be selected and included underground facilities, enclosed within a shelter or visibly screened with appropriate vegetation.

The Chair referenced letters received regarding the project.

5/29/18 Jerilyn Collier Davis and Freda Byron-Twyman Letter in opposition

12/24/18 Michael & Teresa Ronhock Letter in opposition

1/2/19 Michael & Teresa Ronhock Packet in opposition

4/1/19 Philip McCahill Email in support

4/1/19 Emily Hughes Letter in support

4/2/19 Judy Kahalas Letter in support

The Chair encouraged any additional public comment to be sent to the Planning Board as soon as possible.

Mr. Hansen inquired further about the liberty to extend the tower by 20 feet as referenced by Mr. Ronhock, who agreed to send the information to Mr. Lehrer. Ms. Thompson will also address the matter in her written comments.

Mr. Weeden referenced the visual aspect of the project and looked more closely at the balloon tests in section 12 Visual Impact Assessment of the application, agreeing that, on page 8, the map and orientation showed inconsistencies. Ms. Thompson stated that it was a historical consultation and she would look into the matter further. Mr. Weeden stated that the Horatio Amos House, built in 1890, was located in the area and he expressed surprise that the balloon would not be viewed from the site. Another structure, the school, was surrounded by dense trees so it was likely the balloon could not be seen. Ms. Thompson stated that Photo 8 was requested by the Cape Cod Commission and it was confirmed that the balloon was not in view. The Chair suggested that the Board had not been in receipt of the updated photo and Ms. Thompson agreed to make the information available to the Board. Mr. Weeden stated that the Amos home was eligible for the National Historic Register.

The Chair inquired whether the project proponent was available to return for the first meeting in May but Ms. Thompson did not believe that she would be available on that date.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to May 15 at 7:10 p.m. Mr. Weeden seconded the motion. All voted unanimously.

NEW BUSINESS

Sign Special Permit Decision for shared driveway at 147 and 15 Old Barnstable Road-Mr. Lehrer confirmed that there had been no appeals filed. Planning Board members signed the Special Permit Decision, dated for today.

OLD BUSINESS

CHAIRMAN'S REPORT

The Chair reported that One Cape 2019 would take place on July 29 and 30 at Wequasset Resort in Harwich. Last year's event discussed such topics as housing and wastewater and was also an opportunity to meet Commission staff. A Cape Cod Commission listening session about the Mashpee Rotary, had taken place on April 11 at the library. There were fewer attendees than expected and comments were being sought by the Commission. Mr. Lehrer would be adding the information to the Planning Board's website.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-Mr. Weeden confirmed that the RPP had been approved and gone in to effect February 2, 2019. More information could be found on the Cape Cod Commission website.

Community Preservation Committee-Several Articles regarding CPA funds would be considered at the May 6 Town Meeting for historic preservation, open space, recreation and affordable housing.

Design Review Committee- No meeting

Plan Review-No meeting

Environmental Oversight Committee-Mr. Cummings stated that the balloon bylaw was being reviewed and the FDA was reviewing marinas and their impact to shellfish. Community Garden applications were available at Town Hall for anyone interested in obtaining a plot. Assistance will be needed to help place shellfish and pond sampling would occur two times this year. The herring began running on March 29. Quashnet River restoration would be considered at Town Meeting and the Farley Restoration and Charles River Restoration were being funded.

Greenway Project & Quashnet Footbridge-No update

Historic District Commission-No meeting

MMR Military Civilian Community Council-MMR Joint Land Use Study- Mr. Lehrer will follow up for the next Planning Board meeting.

UPDATES FROM TOWN PLANNER

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Weeden seconded the motion. All voted unanimously. The meeting ended at 10:33 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional pertinent materials may be available in Mashpee's Planning Department

-3/12/19 Letter from Bennett Environmental Associates Regarding Continuance for Special Permit Modification

-4/11/19 Draft Windchime Point Report

-3/28/19 Windchime Point Wastewater Process Plans

-4/17/19 Windchime Condominiums Special Permit Modification

-5/18/19 Public Hearing Notice for Blue Sky Towers, LLC

-5/1/18 Application for Special Permit for Blue Sky Towers, LLC

-10/30/18 Evan Lehrer Letter to Attorney Elizabeth Thompson Regarding Timothy Dorsey Statements

-11/16/18 (date stamped) Attorney Elizabeth Thompson Letter to Mashpee Board of Selectmen Requesting Recusal of Chair Mary Waygan and Dennis Balzarini

-3/19/19 (date stamped) Notice of Complaint to Superior Court Regarding Blue Sky Towers, LLC

- 9/4/18 Town Counsel Patrick Costello Email to Town Manager Rodney Collins Regarding Cell Tower-Mashpee Fire Station
- 10/18/18 Cape Cod Commission Development of Regional Impact Decision Regarding Blue Sky Towers II, LLC
- 9/21/18 Evan Lehrer Memo to Cape Cod Commission's Jonathan Idman Regarding 101 Red Brook Road Wireless, Tower Development of Regional Impact: Consistency with Local Land Development Regulations and Comprehensive Plan
- Isotrope Review of Blue Sky Towers DRI Application for Cell Tower at Mashpee Fire Station 2
- 4/2/19 Charles Rowley Letter Regarding Review of Site Plan for Blue Sky Towers, LLC
- Wireless Facility Overlay District Map
- Lease Agreement between Town of Mashpee and Blue Sky Towers, LLC
- 5/29/18 Jerilyn Collier Davis and Freda Byron-Twyman Letter to Evan Lehrer Regarding Personal Wireless Service Facility
- 12/24/18 Michael and Teresa Ronhock Packet Regarding Blue Sky Tower Wireless Cell Tower Proposal
- 4/2/19 Judy Kahalas Letter to Evan Lehrer Regarding Cell Tower
- 4/1/19 Emily Hughes Letter to Evan Lehrer Regarding Proposed Cell Tower
- 4/1/19 Philip McCahill Email to Town Manager Rodney Collins Regarding Proposed Cell Tower
- Article 14 October 2018 Town Meeting
- 4/3/18 Verizon Cell Service Coverage Map Packet
- 5/1/18 TMobile Cell Service Coverage Map Packet
- 12/20/18 FairMarket Advisors, LLC Market Study

**TOWN OF MASHPEE PLANNING BOARD
PUBLIC HEARING NOTICE**

Pursuant to Massachusetts General Laws, Chapter 40A, the Mashpee Planning Board will hold a public hearing on Wednesday, May 1, 2019 at 7:10 p.m. at the Mashpee Town Hall, 16 Great Neck Road North, to review the following zoning articles proposed for action at the May 6, 2019 Town Meeting.

Warrant Article 26:

To amend §174-45.6.E Light Industrial Overlay District

This article will require that developments permitted within the Light Industrial Overlay District conform to design guidelines for Cape Cod as approved by the Cape Cod Commission.

The full text of this article may be reviewed in the office of the Town Clerk or Town Planner at Mashpee Town Hall.

Submitted by:

Mary E. Waygan, *Chair*
Mashpee Planning Board

Publication dates: Friday, April 12, 2019
 Friday, April 19, 2019

MASHPEE TOWN CLERK

APR - 5 2019

RECEIVED BY _____

**TOWN OF MASHPEE PLANNING BOARD
PUBLIC HEARING NOTICE**

Pursuant to Massachusetts General Laws, Chapter 40A, the Mashpee Planning Board will hold a public hearing on Wednesday, April 17, 2019 at 7:10 p.m. at the Mashpee Town Hall, 16 Great Neck Road North, to review the following zoning articles proposed for action at the May 6, 2019 Town Meeting.

Warrant Article__ - Light Industrial Overlay District

This article will amend the zoning by-law to make outdoor dining an allowed accessory use by special permit in the C-3 and I-1 zoning district to an allowed eating place serving food and beverage, provided that visual screening shall be required in any area abutting a residential zone. Such screening shall consist of a solid fence, wall or mature hedge or other screen type planting of such height as to screen any diners from view from the said residential zone per section 174-25 (I)(10) of the zoning bylaw and will also make eating places serving food and beverages to be consumed within the building an allowed principal retail and consumer service use in the I-1 zoning district by special permit per section 174-25(E)(2) of the zoning bylaw an allowed use in the I-1 district to establish consistency with the provisions in the Light Industrial Overlay District.

The full text of these articles may be reviewed in the office of the Town Clerk or Town Planner at Mashpee Town Hall.

Submitted by:

Mary E. Waygan, *Chair*
Mashpee Planning Board

Publication dates: Friday, March 22, 2019
 Friday, March 29, 2019