

HANSON BOARD OF APPEALS
Minutes of Public Hearing January 7, 2020

Members present: William Cushing, Chairman
Joanne Miniutti, Vice-Chair
Kevin Perkins, Clerk
Sean Buckley, Alternate

Petitioner: Cellco Partnership – 19AU16
111 Liberty Street – 7:00 PM
Special Permit/Site Plan/ Variance
(cont. from 11/12/19)

Town Counsel Kate Federoff for the Board of Appeals
Atty. Michael Giaimo for Cellco Partnership

Revised Plan was submitted at the meeting of 11//12/19 thus the Board had not had time to review the Plan thus the hearing tonight. . Atty. Giaimo stated that no changes have been made to this Plan since the last meeting. He addressed the concerns of the Board stating that the tower has now been setback more than 150' from the property (173'to be more exact) from the property line; addressed Board's concerns about access; conditions on soil testing; training for Police and fire for safety - no further changes based on discussions from the last hearing. Giaimo stated that a letter from the fire department had been submitted, still waiting for one from the Police Chief which the Town Administrator was working to get from the Chief. Per Giaimo, previously the Police Chief had expressed no concerns, no objections to the tower and maybe having Town equipment co-located if need be which is something Verizon is willing to allow. Giaimo stated that they changed the style of the fence, moved it off the property line. At this point Giaimo feels that they have met all the standards – very responsive to any concerns from the Board and Board's review engineer – and we have agreed to accept conditions, have made design changes to include fencing and safety issues raised. This is a good location – the Town voted for it – it is something that is needed, continued Giaimo, will provide coverage to the Town.

Peter Palmieri, Merrill Associates, review engineer for the Town, gave an update stating the there are some items still outstanding – calculations for the 100 year storm for the sizing of the stormwater management system; performing soil testing, labeling missing on some of the contour elevations that should be added and also waiting for TSS removal calculations for the stormwater management system. Palmieri talked about the sign and some sort of fence or gatepost that would kind of alert people not to trespass – should add to conditions.

Floor open to abutters:

Bruce Davidson, 312 E. Washington St., still not happy with setback – doesn't feel the requirement has been met- still struggling with distance from the property lines. He does feel that the service will be great but still feels that the location is the most important thing. He was

told that this company has been trying to put a tower in this area for quite some time – around 10 years – and he is wondering why it hasn't been approved up until now.

Gaiimo explained that the bid went out on this site a couple of years ago and went thru Town meeting, went thru bid process, etc., so that's when Verizon came to the Town for this site.

Mark Grabowski, 248 E. Washington St., feels same way as to setbacks – three times the height of the tower – can only reduce by 1/3rd if you find substantial better design would result from some reduction. He feels that this property is unbuildable – no spot where you can be the 300' from property line or wetlands.

The Board Chairman explained that by special permit the Board is allowed to reduce that by 1/3rd – now they are also asking for a variance to allow the Board to find that if this is a good site and meets certain conditions that they will waive the section on the special permit.

Town Counsel was asked for an explanation and went on to say that by special permit you could make the reduction automatically because when a cell tower comes in they need a particular permit called a special permit from the BOA and that can happen automatically that you reduce the fall zone but for any physical, dimensional requirements that is required by the by-law it can be waived through a process called obtaining a variance from the BOA. The purpose of the variance is to allow a Board to look at any particular project and say this requirement does not make sense because of all the various factors.

Concerned citizen, concerned parent, and spokesperson for many parents Christy Spence- 343 Elm Street – asked if health concerns factored into this project – in looking at the school electric smog filters are not in place so you are going to double whammy – with technology always getting better – you are going to have concerns with parents about health and cancer. She is adamant and passionate about this – she does not take this lightly. She has four kids and will pull them out of the district. Chairman Cushing explained that there have been several meetings, this project was approved at Town Meeting, lease agreement has been signed, notices of meetings have been posted on the Town of Hanson web site and also outside Town Clerk's office and outside bulletin board. He is more than happy to look at any information you may have tonight but again the cell tower is under an extension at this point in time and either we make a decision tonight or they end up with a constructive approval which means they do not need the BOA to make a decision, they just automatically have an approval by law. So if the Board does not make a decision tonight- either for or against – they have an automatic approval to do whatever they want based on the original plan they submitted – which is not even what they have now. What they had before was 40' off the lot line now the plan is 173' from the lot line. He mentioned that this has been going on since August.

Ms. Spence continued saying that as parents their voice doesn't matter – you want to make the Town happy so people have better cell phone service – this is more important than health. She stated that her voice should matter – if one person is loud enough she shouldn't have to have 200 people here to say this is how we feel. She stated she just found out about it. Chairman Cushing said this has been kicked around for quite a while now and you have had ample opportunity if you were involved – Town meeting, look at the agendas – a lease had been signed before they came to the BOA, the Board has met with abutters, have done site visits with the abutters, met with engineers for both sides – have gone above and beyond – wish you were here in August – the school is well aware of this project – they should advocate on behalf of the

kids – so if the school is not here advocating on these issues you have maybe you should go to the School Committee and bring up your issues.

Abutter Grabowski, 246 East Washington St., was questioning the location – concerned about kids being out in the parking lot – concerned about safety training for the police and fire. How is this going to affect their property values?

Abutter Laurie Grabowski, 248 East Washington St., does not want to see this – the tower. Also concerned about the noise level. Answer- it is in an enclosure and only when the backup generators are running is there any noise – maybe once a week – 25 decibels.

Town Counsel Kate Federoff spoke on the term constructive approval means that there is a certain time frame to review and either approve or disapprove any application that comes before the BOA. This is not a local law – this is Mass. General Law statutory. So tonight if there is no decision rendered whether be positive or negative because we are waiting on additional evidence that may not be obtainable it will be approved regardless and so these folks will have their application approved without any modifications that have been made throughout the six months of hearings. She said she is hearing from the abutters present that one of the major concerns is proximity to properties and it would be closer than what is being proposed tonight. That is Massachusetts law – this Board is powerless to change it.

Motion made on the application submitted by Celco Partnership at 111 Liberty Street Map 91 Lot 26 Hanson Assessors Map for doing business as Verizon Wireless on the application for a special permit , variance and site plan approval with the following conditions:

1. Final letter of approval from Police Chief and Fire Chief stating that they have no further concerns with the way the site plan is set up;
2. Further soil testing for stormwater management for review engineer to okay;
3. TSS removal calculations ;
4. Revisions to plan showing missing elevations and contours;
5. Two posts at gravel entrance drive with chain across and a deterrent sign stating “NO TRESPASSING”;
6. Full compliance with Lease agreement with the Town of Hanson which includes removal of the tower when it is decommissioned;
7. Generator run-time scheduling during normal working hours – 3:00 pm & 5:00 pm weekdays.
8. Calculations for the 100-year storm be provided;
9. Construction workmanlike manner;
10. An agreement to leave space for the Police Department to put up equipment per their request;
11. Compliance with all local laws and other permitting in the Town of Hanson;
12. Town Counsel’s Draft;
13. Training for Hanson Fire Department – Kevin Perkins

Second: Bill Cushing

Vote: 3-0

Motion to close the public hearing at 111 Liberty Street Map 91 Lot 26: Bill Cushing

Second: Kevin Perkins

Vote: 3-0