



Director of Community and Economic Development

UPDATE

May 3, 2021

■ Zoning Board of Appeals Request for Comments – 24 Mill Road Variance

The application seems to make a reasonable case for hardship based on topography and due to other physical constraints of the property. Should precedent exist for this specific type of approval of a variance and should the applicant's reference to similar setbacks present in adjacent or nearby residences be the case, then the hardship plus granting the variance pose no detriment to the public good, the granting of this request seems judicious.

■ Continuation of a Renewal of a Special Permit and Driveway Site Plan Approval Hearing- SBA 2012 TC Assets, LLC, 60 Old Shirley Road

Based on discussion at the prior meeting of the Planning Board, I have drafted the following special conditions for your consideration. They are based on the special conditions used for the 2016 application with the following modifications:

1. Condition #7 related to information for the Assessors was requested to be waived or amended out and I would agree. The initial valuation should be sufficient for these types of installations and the Assessors should be able to revise valuations according to generally accepted practices.
2. Condition #8 related to lapsing of approval and payment of penalty is no longer relevant.
3. I have drafted a "change in technology" provision intended to acknowledge that cellular technology changes constantly and that rather than hamstringing applicants with a static set of limitations, request that applicants, with each new application, bring us their new specifications so they can be embedded into the findings. Further, the Board reserves the right to have these peer reviewed as they deem necessary.

Special Conditions Recommended

The following conditions and limitations shall run with this Permit. They may be altered only by an application to this Board to modify the Permit, or if such alteration is determined to be minor and meets the following requirements, they may be altered only by the written and recorded consent of four (4) members of the five (5) member Board, upon a vote taken at an open meeting, and then only if:

- a. The change is consistent with the findings above;
 - b. The change does not reduce a requirement of the Bylaw; and
 - c. The change does not prejudice the interests of anyone entitled to notice of the hearing on the Permit.
1. The conditions of the original and subsequent Special Permits for this facility shall remain in full force and effect, with the exceptions to this provision noted below.
 2. The Grantee shall maintain the \$25,000 bond (Bond Number CMS0286373 from RLI Insurance Company) as required by §125-27H(2) to assure the Special Permit holder's compliance with its obligations in the event that the holder ceases to use the tower and to remove parts owned by the Special Permit holder and all accessory equipment/structures so owned.
 3. The Grantee shall file with the Building Commissioner and the Board an annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission (FCC) and the American National Standards Institute (ANSI).
 4. The Grantee shall provide prior written notice to the Building Commissioner and the Board in the event of a change or increase of use of the tower or the Grantee's facilities on or at the tower, change of Grantee, or cessation of use on or at the tower. Any change in use or increase in the intensity of use of the tower shall require a new Special Permit.
 5. The term of the Special Permit is for five (5) years from the expiration of the twenty (20) day appeal period after the filing of the decision with the Town Clerk pursuant to MGL Chapter 40A, Section 17. All provisions of the Special Permit shall be binding on the Grantee, its successors, or assigns.
 6. The Grantee shall remove all installation(s) on the tower and all related accessory equipment/structures when there is a cessation of use for a period of at least one (1) year, and/or one (1) year following expiration of the Special Permit, unless renewed.

Exceptions

1. In recognition that cellular technology is constantly evolving, the Board shall provide the Grantee with the opportunity to provide updated technical specifications in order to amend limitations on antenna unit counts and dimensions, transmitting frequencies, transmission radiated power levels, and other relevant criteria provided that such modifications do not reduce the structural integrity of the tower, supporting structures and facilities, and accessories, and otherwise meet the requirements and use restrictions of the Bylaw and the Telecommunications Act of 1996 and successor and supplementary legislation. For any extension of this Special Permit, the applicant shall submit updated descriptions of specific use and intensity criteria to support findings of

the decision. The Planning Board reserves the right to pursue peer review of any such modifications and request that the Grantee cover the costs of such peer review.

It is recommended that the Board first determine their level of comfort with the proposed special conditions and ask the applicant if they agree with them as stated. Once this is addressed, a motion with these special conditions can be considered.

■ Continuation of a Renewal of a Special Permit and Driveway Site Plan Approval Hearing - CCATT LLC, 336 Old Littleton Road

Based on discussion at the prior meeting of the Planning Board, I have drafted the following special conditions for your consideration. They are based on the special conditions used for the 2016 application with the following modifications:

1. Condition #4 of original 2001 Special Permit removes the designated paint color for the fence since the site is already not readily visible.
2. Finding #22 and Condition #10 related to signage, the applicant should provide an updated existing sign inventory and this should be incorporated into findings and updated each time the applicant seeks to add a sign.
3. I have drafted a “change in technology” provision intended to acknowledge that cellular technology changes constantly and that rather than hamstringing applicants with a static set of limitations, request that applicants, with each new application, bring us their new specifications so they can be embedded into the findings. Further, the Board reserves the right to have these peer reviewed as they deem necessary.

Special Conditions Recommended

The following conditions and limitations shall run with this Permit. They may be altered only by an application to this Board to modify the Permit, or if such alteration is determined to be minor and meets the following requirements, they may be altered only by the written and recorded consent of four (4) members of the five (5) member Board, upon a vote taken at an open meeting, and then only if:

- a. The change is consistent with the findings above;
 - b. The change does not reduce a requirement of the Bylaw; and
 - c. The change does not prejudice the interests of anyone entitled to notice of the hearing on the Permit.
1. The conditions of the original and subsequent Special Permits for this facility shall remain in full force and effect, with the exceptions to this provision noted below.
 2. The Grantee shall maintain the \$25,000 bond (Bond Number KO9337337 from Westchester Fire Insurance Company) as required by §125-27H(2) to assure the Special Permit holder’s compliance with its obligations in the event that the holder ceases to use the tower and to remove parts owned by the Special Permit holder and all accessory equipment/structures so owned.

3. The Grantee shall file with the Building Commissioner and the Board an annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission (FCC) and the American National Standards Institute (ANSI).
4. The Grantee shall provide prior written notice to the Building Commissioner and the Board in the event of a change or increase of use of the tower or the Grantee's facilities on or at the tower, change of Grantee, or cessation of use on or at the tower. Any change in use or increase in the intensity of use of the tower shall require a new Special Permit.
5. The term of the Special Permit is for five (5) years from the expiration of the twenty (20) day appeal period after the filing of the decision with the Town Clerk pursuant to MGL Chapter 40A, Section 17. All provisions of the Special Permit shall be binding on the Grantee, its successors, or assigns.
6. The Grantee shall remove all installation(s) on the tower and all related accessory equipment/structures when there is a cessation of use for a period of at least one (1) year, and/or one (1) year following expiration of the Special Permit, unless renewed.

Exceptions

1. Condition 4 of original 2001 Special Permit shall be modified to waive the specific color of the painting requirement.
2. Finding 22 and Condition 10 of original 2001 Special Permit shall be modified to the signage existing at the time of this application. The applicant shall provide an inventory of the current signage and such signage shall be incorporated into the current findings of this decision.
3. In recognition that cellular technology is constantly evolving, the Board shall provide the Grantee with the opportunity to provide updated technical specifications in order to amend limitations on antenna unit counts and dimensions, transmitting frequencies, transmission radiated power levels, and other relevant criteria provided that such modifications do not reduce the structural integrity of the tower, supporting structures and facilities, and accessories, and otherwise meet the requirements and use restrictions of the Bylaw and the Telecommunications Act of 1996 and successor and supplementary legislation. For any extension of this Special Permit, the applicant shall submit updated descriptions of specific use and intensity criteria to support findings of the decision. The Planning Board reserves the right to pursue peer review of any such modifications and request that the Grantee cover the costs of such peer review.

It is recommended that the Board first determine their level of comfort with the proposed special conditions and ask the applicant if they agree with them as stated. Once this is addressed, a motion with these special conditions can be considered.

■ Design Review Board

The present membership of the Design Review Committee includes the following:

1. Justin Brown, Chair
2. Rochelle Greayer
3. Suzanne Dutkewych
4. Vacant
5. Steve Moeser

We need to fill vacancy.

■ Continuation of the Proposed Protective Bylaw Amendments Hearing

Unless members have any further issues with the bylaws to discuss and should there be no further public comment, it is recommended that the Public Hearing be closed.

Members should consider discussing the Town Meeting “script” to introduce the Article being cognizant of the amount of time to be allocated to this. It is suggested that checking with the Town Administrator and Moderator might clarify this.

Please advise staff if you want any technical documents to be brought to Town Meeting in case you need to refer to them or seek clarification.

■ Re-introduction Open Space Residential Development Bylaw

Introduction

The Planning Board had advanced a draft bylaw that it was considering bringing to Annual Town Meeting in 2020 for Open Space Residential Development. It would have been a “replacement” for the existing Section 125-35, Open Space and Conservation Planned Residential Development (OSC-PRD). The reason that replacement has been recommended is because the existing bylaw has so many shortcomings, that it doesn’t make sense to try to amend it.

The new draft bylaw has undergone 14 revisions starting with an early version that MRPC had developed for the Board back in 2017. Since then, Mr. Ryan has revised it based on best practices, the new state model bylaw, other town bylaws, and recommendations from consultant Randall Arendt.

Comments

Overall, let me provide the following thoughts prior to any review or discussion.

1. The bylaw is long. While there is the need for some length, it could probably be tightened up a bit. The key is to include all of the requirements related to designating and classifying open space, as open space is at the center of this type of development.
 2. We may want to think about breaking it up into more than one “type” so that we and developers can be more flexible and offer a number of different community options, including very small ones, which would be the most popular with our citizens.
-

3. Some towns use density bonuses to incentivize. Mr. Arendt is iffy on that for the first iteration of the bylaw due to worry about passage, and I understand that. So, I backed off of the huge list of bonuses I was offering in Draft 12. The reason to offer bonuses is not only to incentivize this model but also to get back some public goods like parkland, affordable housing, senior housing, net zero buildings and other energy efficiencies, etc.
 4. The Bylaw has been broken up into 125-35 (the OSRD bylaw) and 130-21 Subdivision Regulations. I'm wavering on the latter because it seems unlikely that subdivision will be a big part of our bylaw due to sewer issues, but we may still need to put process and procedure in a Chapter 130 section.
 5. I hope to do a presentation on the bylaw before you dive into it too deeply. I am confident that it may answer many of your questions and preclude others.
-