



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
April 18, 2019**

Members present: Members Barney Ovrut, Kim Mellen and David Brown, Associate Member Lorraine Brue (at 7:15 p.m.)

Chairman Ovrut opened the meeting at 7:00 p.m. in the Gala Meeting Room of the Foxboro Town Hall, 40 South Street.

7:00 p.m. Adrienne Banks of Smartlink, LLC seeks a Special Permit from the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 7.2.2-1 Wireless Communications Facilities to allow the installation of a rooftop wireless communication facility. The property, located at 38 Neponset Avenue, owned by Schneider Electric Systems USA, LLC, is located in the General Industrial Zoning District and is not located in any restrictive overlay district. Ms. Mellen is recusing herself from this petition, therefore the Board did not have a quorum when the meeting was opened at 7:00 p.m.; the Associate Member is expected by 7:30 p.m. The Board and the Applicant agreed to continue the hearing until that time.

Minutes

The Board reviewed the minutes of March 21, 2019.

A motion to approve the minutes of March 21, 2019 as amended was made by Ms. Mellen and seconded by Mr. Brown. The motion carried 3-0-0.

7:10 p.m. Continued Public Hearing - Hercules Realty Trust seeks Variances pursuant to the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 4.3.1, Section 6.1.10.(3), Section 6.4.3, Section 6.4.5.(1) and Section 6.4.8.(2) to allow the subdivision of 35 & 45 Panas Road (Assessors Map 006, Parcel 012 & 006/001) into two conforming lots (Lots 1A & 1B). The property is located in the LI Zoning District and is not located in any restrictive overlay district. Atty. Frank Spillane was present representing the applicant, Hercules Realty Trust. An email has been received from Planning Director Paige Duncan stating that the Planning Board was generally in support of the petition. Mr. Ovrut read the email into the record. The Board also conducted a sitewalk on the property since the last meeting. This petition is to divide the existing lot into two separate lots.

The Variances requested were reviewed with the Board. Lot 1A would need variances from Sections 6.1.10. (3) – internal driveway, 6.4.3. – screening and buffering and 6.4.5.(1) – non-residential abutting residential land. Lot 1B would need variance from Sections 4.3.1. – access through legal frontage only, 6.1.10.(3) – internal driveway, 6.4.3. – screening and buffering, 6.4.5.(1) – non-residential abutting residential land and 6.4.8.(2) – parking areas prohibited from the screening and buffering area.

Ms. Brue arrived at 7:15 p.m.

Mr. Ovrut asked if 6.4.6 or 6.4.5 should be applied. Atty. Spillane stated that 6.4.5 had the higher standard so that is the one they are requesting, after further discussion it was decided that 6.4.6 would be applied. The Board also had concerns with access to the Davis' land, if a variance may be needed, Atty. Spillane stated that a variance would not be necessary for the buildings, there may be one needed for the plantings.

Variance criteria was discussed. The wetlands in the area can only have one crossing, per Conservation regulations, this becomes a unique characteristic of the lot. Having a second crossing would result in a negative impact to the wetlands. The substantial hardship is the health and age of the owners of the lot, it will be a financial hardship to them if the lot is not divided.

There were no abutters present.

A motion to close the Public Hearing for 35-45 Panas Road was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board immediately moved into deliberations. The wetlands on the property, the value of separate lots and the fact that the project is not substantially detrimental to the public good satisfy the criteria for a variance.

A motion to grant the requested variances for Lot 1A from Sections 6.1.10.3, 6.4.3., and 6.4.6.1. and variances for Lot 1B from Sections 4.3.1., 6.1.10.3., 6.4.3., 6.4.6.1. and 6.4.8.2. at 35-45 Panas Road as shown on the Zoning Board Plan was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

Adrienne Banks of Smartlink, LLC seeks a Special Permit from the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 7.2.2-1 Wireless Communications Facilities to allow the installation of a rooftop wireless communication facility. The property, located at 38 Neponset Avenue, owned by Schneider Electric Systems USA, LLC, is located in the General Industrial Zoning District and is not located in any restrictive overlay district. Ms. Mellen recused herself from this petition, Ms. Brue is now present and the hearing can proceed.

Atty. Michael Dolan was present representing the applicant, New Cingular Wireless/AT&T. The Application was submitted by a representative of Smartlink, LLC on behalf of AT&T; Smartlink is the site acquisition agent of AT&T and is not owned by AT&T.

Atty. Dolan explained that AT&T is continually building out their wireless network and would like to locate 9 antennas on the tower at 38 Neponset Ave. to fill a coverage gap in their network. The 9 antennas would be located on a platform on the roof of the clock tower. The total height from the ground to the tip of the antennas would be 85'6", which will not exceed the height limitation of 94'. There will also be ground equipment located behind a locked gate, maintenance would occur approximately once per month.

The antennas will utilize obscuretech technology which is a mirrored surface that will reflect the surrounding sky conditions to help obscure the antennas to the human eye. There are no proposed changes needed to the existing tower, no trees are proposed to be cut or removed and the closest residential abutter is located approximately 400 feet away.

The new antennas will also provide improved wireless communication to town citizens, businesses and public safety officials. The site is located in the General Industrial district, the bylaw directs wireless communication equipment away from residential districts.

The Board asked if other carriers could co-locate on the site, Atty. Dolan explained that they would need their own antennas but it is an acceptable practice to co-locate and it has been done at many other locations around the state.

The property will be leased from Schneider Electric with a five year lease with four five-year renewals. No lighting, flags or banners are proposed.

No abutters were present.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Brue. The motion carried 3-0-0.

The Board immediately moved into deliberations. The Board feels that the design standards have been met and there is a need to close a gap in wireless coverage in the area. The installation will also not affect any residential zones or abutters.

A motion to approve the special permit for the installation of a rooftop wireless communication facility at 38 Neponset Avenue with conditions that there be no more than 9 antennas located no greater than 94 feet from the ground as shown on the plans; the permit is granted to New Cingular Wireless/AT&T and shall not be transferred without written authorization from the Board, no other carrier shall be allowed to locate on the tower without written authorization of the Board and that AT&T shall maintain the mirrored film on the antennas to keep it in reasonable condition was made by Mr. Brown and seconded by Ms. Brue. The motion carried 3-0-0.

The meeting was adjourned at 8:15 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk