



TOWN OF SHREWSBURY
Richard D. Carney Municipal Office Building
100 Maple Avenue
Shrewsbury, Massachusetts 01545-5398

February 27, 2017

LOCATION: Selectmen's Meeting Room, Municipal Office Building

MEMBERS PRESENT: Ron Rosen, Chair
Paul George, Clerk
Melvin Gordon
Dale Schaezke
Lisa Cossette
Maribeth Lynch, Associate Member

STAFF PRESENT: Christopher McGoldrick, Assistant Town Planner

Mr. Rosen opened the meeting at 6:30PM and reviewed the procedures.

The Board members held copies of each appellant's application.

Minutes:

The minutes were not ready for approval.

Sign Bills:

Mr. Rosen announced the following bill:

- \$240. – Worcester Telegram & Gazette – for January 30, 2017 legal notices
Total = \$240.

VOTE TAKEN:

Motion: Mr. Schaezke moved to approve the bills. Mr. George seconded. Motion carried.

Bills: The bill was unanimously approved and signed.

Hearing 1:

271 Spring Street (Rural A) – American Tower Corporation & T-Mobile Northeast, LLC
Variations – Cell tower, Height in a residential district

Continued from January 30, 2017

Mr. Rosen read the legal notice into the record. Other acting Board members included Ms. Cosette, Mr. George, Mr. Gordon, and Mr. Schaezke.

Presentation

- Atty. Edward Pare of Brown Rudnick was present to represent the appellant. He reminded the Board that he was there to request a one hundred forty-nine (149) foot cell tower.

- Revised plans dated February 15, 2017, were submitted (H1:E1). He specifically mentioned that the revisions were due to abutter concerns at the January 30, 2017 meeting related to setbacks and proximity to the nearest residence. Page C-101, "Overall Site Plan", was mentioned as showing the setback from cell tower to the corner of 21 Settlers Rd at 1,515 feet and the closest house, 98 Blackthorn Rd, at 1,053 feet.
- Reports were submitted on the results of the balloon test conducted February 14, 2017. One version showed a series of photographic renderings with the proposed cell tower as a monopole (H1:E2); the other series showed it as a "monotree" (H1:E3). Benjamin Caron, Caron Associates Design, explained the details of the test which he conducted with the aid of his co-worker/technician, Mr. Barreiros.
 - Mr. Caron took the photos. Mr. Barreiros handled the balloon equipment.
 - The balloon is tethered at one hundred (100) feet, representing the height of the proposed cell tower.
 - During the test, Mr. Caron was always in communication with Mr. Barreiros, and the photographs were only taken when conditions were optimal. Since the balloon had to be vertical in order to render the proposed height correctly, it was not photographed when it was at an angle of more than seventy degrees (70°).
 - Both reports also showed maps with color-coding showing which roads were driven on and from which roads the balloon was visible. He noted that they are also considered as "predictive views", which could vary somewhat based on the height of the viewing person. The perspective of their reports is from the standpoint of a six (6) foot tall person.
 - On any of the roads traveled, Mr. Caron was never more than one and a half (1 ½) miles away from the proposed site.
 - The test was conducted for six and a half (6 ½) hours on that day, until it became too dark.
 - Atty. Pare summarized by saying that overall this test showed a fairly low visibility for this proposal.

Board Questions

- Mr. Gordon asked if High St and Blackthorn Rd were driven.
 - Mr. Caron, Yes, the balloon was most visible from Blackthorn Rd and Hickory Bend Rd. He added that he tried to take the photos from the most visible spots to help represent the worst case scenario.
- Ms. Cossette asked if there were any other alternatives than those presented in their studies? Femtocells? Distributed antennas?
 - Atty. Pare replied that those solutions are for in-home use. Distributed antennas have a limited range from where they are placed. He reiterated what he had explained at the last meeting, that they are looking for in-building coverage to help with local commercial business coverage.
- Mr. George asked more specifics about from which directions the balloon was visible.
 - Mr. Caron answered that it was visible from the streets to the north, but not to the east. He explained that the New England average/standard tree height is fifty-five (55) feet. However, some of the old pines in that area are over one hundred (100) feet high.
- Mr. Schaetzke asked if there were competitors in the area who were already covering it and related anecdotal experience of his friends' phones have better coverage than his. It seems that there may be something else that can be done to provide coverage besides the proposed tower. He asked what else can be done?
 - Atty. Pare said that there may be competitors with coverage, but that he didn't have that kind of knowledge about competitors. However, he said, "if you build it, they will come." The cell companies often share infrastructure, meaning poles but not antennas.
 - In terms of an alternative to erecting a tower, Atty. Pare said there may be very little. DAS systems are very expensive.

Abutters

- Twenty-five (25) abutters expressed the following concerns or suggestions:
 - That not all alternative options seemed to have been exhausted, including a lower pole height - such as one hundred (100) feet instead - co-locating with other carriers, other possible high elevation/less populated sites such as Ward Hill and including already pre-existing sites on tall structures, etc.
 - Claims that the results of the balloon test were misleading. Several said the views were very visible from their homes, more than the photos showed. Two abutters submitted their own photos taken during the balloon test to show its visibility – one abutter submitted five (5) photo views on one (1) page (H1:E6), and the other submitted one (1) page with one (1) photo. (H1:E7).
 - Opposition that it seemed “irresponsible” to place it in a residential neighborhood, including concerns for the aesthetics of having an “ugly structure” in a “beautiful area”. Also, since one’s home is generally considered one’s most valuable asset, the concern for the impact on home values.
 - Some thought the project would benefit the few, rather than the many. It also seemed to be against the Master Plan or the vision for the Town.
 - Some agreed they did not always have good coverage, but found other ways to deal with it by either using a booster or the internet instead. However, they were still not in favor of it just for the sake of the convenience. Alternately, a few commented that either their current coverage was fine or that it could be improved with this equipment. It was stated that there are alternatives to a larger tower to provide coverage.
 - There was a concern about the tower having an adverse effect on a nearby well.
 - Some were concerned with the cleanup of the site. Would cleanup take place on the entire parcel of land, or just where this equipment would be located?
 - Since several were unsatisfied with what they felt was a lack of technical data presented, a suggestion was made to continue the hearing in order for the Town to have time to hire its own peer reviewer to review the appellant’s technical claims on the gap/need for coverage and for the need for it to be rectified using this equipment.
 - Mr. Rosen also mentioned that several letters and emails had also been received from abutters in advance of the meeting. Most expressed opposition while one (1) was in favor, saying it would help offer more coverage. A letter from AquAeTer (Tennessee) was also sent to the Planning Board and cc’d to the Zoning Board. It said that per Federal regulations they were notifying the Town of the proposed tower and requesting any relevant information with regard to any potential effects on historic properties nearby.
- The appellants’ representatives and Board members expressed the following in response to the above concerns:
 - Atty. Pare said that one hundred forty-nine (149) feet is T-Mobile’s standard height for all its poles. He said that a 100 foot tower was not considered by T-Mobile.
 - Mr. Caron replied that some views are impossible for him to get since he is not permitted to trespass on private property. He explained that he tries to show the balloon above the trees whenever possible, not through them.
 - Mr. Gordon explained that it is not within the Board’s purview to make their decisions based on how they may affect surrounding property values. Therefore, Mr. Rosen rejected considering a report summary prepared by George Valentine of Valentine Appraisal Associates on the potential impact of the tower on property values (H1:E5).
 - Atty. Pare explained that typically they look for large properties with large setbacks. This was one of the largest sites identified. He clarified that they never claimed the tower would not be seen. Mr. Almuida offered more detail on how this site was chosen, including why it was chosen among the eight (8) sites in Town that they had originally

considered. Generally, sites of five (5) acres or more are identified (this site is thirty-seven {37} acres). Some land owners were not reachable or amenable to having their land leased. The center of Shrewsbury and residential properties in that area were the service objective.

- Mr. Rosen asked if any of those other sites were located in the Town's Commercial or Limited Industrial zoning districts. Mr. Almada, No.
- Regarding the technical data, radio frequency engineer Mr. Connel Rey Cabalatungan was introduced and his resume was submitted (H1:E4). It was explained that he was not the engineer who filed the technical report submitted with the appellant's application, but he handles work similar to that engineer (who was unable to make the meeting). He reiterated that the technology proposed would address both the outdoor and indoor coverage issues, while alternatives – like the femtocells – would not.
- Atty. Pare said there would be no impact on the well.
- Regarding the AquAeTer letter, Atty. Pare said that that request from them should not hold up the Board's right to close the hearing and make a decision.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- Mr. Schaetzke commented that he did not believe they demonstrated a hardship.

VOTE TAKEN:

Motion: Mr. Schaetzke moved to deny the Variances for 271 Spring St. Mr. George seconded. Mr. Gordon opposed. Motion carried.

Hearing 1: The Variances for 271 Spring St were denied, 4-1.

Hearing 2:

126 Hartford Turnpike (Limited Business) – Dunkin' Donuts Variance – Drive-up window

Mr. Rosen read the legal notice into the record. Other acting Board members included Ms. Cosette, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Franchisees George Cadette and Andrew Cadette were present, as was Atty. Jonathan Finkelstein to represent them. Atty. Finkelstein began by thanking the Board for continuing the hearing in order to offer them more time to prepare and to meet with Highway Superintendent, John Knipe.
- Atty. Finkelstein reminded the Board of the history of this property. The permit to build this Dunkin' Donuts was pulled in 1997 and it was completed in 1999. At that time, a drive-up window was applied for and denied.
- The original site plans submitted with this Zoning Board application were submitted with revisions. The revisions were itemized. It was first thought that it would be better to avoid access on Hartford Tpke and to use Flagg St instead. Now, after input from the Town staff, that idea has been reversed.
- Plan version 1 showed the existing site. Proposed plan version 2 ("Alternate 1"), showed the entrance and exit remaining the same on Hartford Tpke. Proposed plan version 3 ("Alternate 2"), showed the entrance and main exit remaining the same on Hartford Tpke, but also with the escape lane exiting on Flagg Rd instead. In both proposed versions, the parking space count was reduced from twenty-six (26) to thirteen (13) and the dumpster relocated. The escape lane is for those who may need to leave the drive-up line. The drive-up window would not be for commercial vehicles.
- There is one (1) delivery per week of the donut supplies, and one (1) dumpster pick-up per week.
- The business hours are 5am to 7pm.

Board Questions

- Mr. George asked...
 - Where the speaker for the drive-up would be located. About four (4) cars back.
 - How does this site compare with the Maple Ave location in terms of parking and traffic flow?
 - Maple Ave is a lot bigger. There are about twenty-two (22) parking spaces and room for about 16-20 cars in the drive-through. Here there are eleven (11) parking spaces, meeting the ten (10) space minimum.
- Mr. Gordon asked...
 - If the Sip N' Scratch would leave, if this was approved.
 - George Cadette, Yes. The reason for this request is that business has been poor, dropping off since 1999. Drive-through's were not as common then as they are today. Then they would see 6,000-7,000 customers per week; now it is a little over 2,000 per week. With this request, they are hoping to increase their customers by twenty percent (20%) or four hundred (400) customers per week. The significant hours for the drive-through are 6:30-10:00am, and with a bit of activity in the afternoon as well. Andrew Cadette detailed the drop in the past two (2) years more – two (2) years ago there were 2,500 customers and this year past year there were 1,890.
 - If there was a "Do Not Enter" sign on the east side. Yes.
- Mr. Rosen asked...
 - When they added the drive-through on Maple Ave, how did their numbers increase? George Cadette answered by about 20%. Andrew Cadette added that one almost needs a drive-through today for the convenience - for mothers or bad weather days, e.g.
 - If they would be OK with either of the two (2) alternative plans presented. Yes.
- Ms. Cossette asked for their feedback on the tractor trailer comment in letter submitted by an abutter. George Cadette admitted that trucks do tend pull over, with the drivers running in to get coffee, whether there is a drive-through available or not.
- Mr. Schaetzke asked what their hardship was.
 - Atty. Finkelstein replied, Financial. They will have to close the store if this is not granted. Dunkin' Donuts really only wants to be located in high traffic areas.

Abutters

- Eight (8) abutters spoke regarding their concerns about the project, mainly regarding traffic and safety. Many echoed each other's anecdotes, with one (1) abutter characterizing it as it would be a "horror show":
 - There are two (2) sharp, blind corners to navigate. Because there is no left turn allowed exiting, many drivers turnaround in their neighborhood. This becomes dangerous when the drivers are impatient and children are either playing or waiting for the bus.
 - Flagg Rd is a dead end. Those who turn down it, also need to back up. However, some do so unsafely, again risking their children's safety. They would prefer no exit onto Flagg Rd.
 - Atty. Finkelstein said that they had originally heard that Flagg Rd was their recommended access, but have since heard differently from the Highway Department and Mass DOT.
 - Since it is such a high traffic area, it is already challenging for those who live in the neighborhood to be able to exit onto Hartford Tpke. Some have waited in a backlog of cars for up to five (5) minutes to do so. It was suggested a traffic signal should be put in.
 - Since trucks cannot get into the lot to park, they park nearby. This creates both idling emissions as well as ruins the end portions of the lawns where they park.
 - Some abutters said that although they frequent the Dunkin' Donuts themselves, the Cadettes were not good neighbors towards the neighborhood. One (1) abutter noted that they do not haul the snow away, but instead push it into his own parking area. He also said their trash blows around the neighborhood, and he often picks it up himself. But it bothers him when it blows into the lake.

- Two abutters questioned that despite what the site plan showed, that two (2) lanes could fit behind the building – both the drive-up lane and the escape lane. One of them asked about the rear setback as well.
- One suggested that if the business wasn't doing well, perhaps a more viable business should be considered for that location. Since the service there tends to be slow, some customers have been seen leaving the line. There are also now three (3) more Dunkin' Donuts on Route 20 since this one was built. However, another abutter feared another kind of business that might be worse for the neighborhood could come in.
- One neighbor, who submitted a letter in advance of the meeting, had been at the original 1977 hearing. She reminded the Board that all the traffic issues mentioned were reminiscent of the reasons why the drive-through was not granted then. She also invited the Board out to view her lawn in order to see the damage that the parking trucks have caused to it.
- Mr. McGoldrick reminded all that if this Board approved it, it would then go before the Planning Board for site plan review.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- Ms. Cossette was against any access to Flagg Rd.
- Mr. George was against the request due to the safety concerns.
- Mr. Schaetzke saw no hardship.
- Mr. Rosen and Mr. Gordon were in favor, with Mr. Gordon only in favor of access on Route 20, since accommodating an increase in business traffic would not cause an undue hardship on the neighborhood.

VOTE TAKEN:

Motion: Mr. Gordon moved to approve the Variance for 126 Hartford Tpke, only with access on Route 20. Ms. Cossette seconded. Mr. George and Mr. Schaetzke opposed.

Hearing 2: The Variance for 126 Hartford Tpke was denied, 3-2.

Hearing 3:

87-97 Boston Turnpike (Commercial Business & Apartment) – Gerardo Sarli Variance – Outdoor refrigeration

Mr. Rosen read the legal notice into the record. Other acting Board members included Ms. Cosette, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Mr. Sarli was present. He is the owner of the new Gerardo's business at this location. He would like to have a four (4) foot by ten (10) foot walk-in refrigerator outside in back of the building.

Board Questions

- Mr. Gordon commented...
 - That this seemed about the same size as the request for a storage shed that they had allowed for Lakeside Grille.
 - That Mr. Sarli also has existing Gerardo's locations in both West Boylston and Westboro.
- Mr. George...
 - Commented that he had gone inside the tenant space while it was being worked on and noted what the Building Inspector had also seen - that the electrical room was being used for storage and it shouldn't be. Mr. Sarli agreed it was true, but that it was not his own storage. Mr. George followed with the landlord should address that concern then.
 - Asked the distance between the building and freezer. One (1) foot, with a rubber roof over it.
- Ms. Cossette asked...

- Why he wanted the outside location for it. Mr. Sarli responded that it is a full-size bakery and that they have a lot of equipment that they need room for (for baking).
- About if it encroached on parking spaces. Yes, two (2).
- For his feedback regarding the concerns mentioned in the Building Inspector's and Fire Chief's memo dated January 30, 2017. He answered that the owner of the plaza may need to take a more extensive review of them.
- Mr. Schaetzke asked what the hardship was and if he had considered any alternatives. Since they bake everything from scratch, and since all the equipment needed has been loaded into the store, the space is too small to fit the freezer now. But they will need a freezer for their products.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:

Motion: Mr. Gordon moved to approve the Variance for 87-97 Boston Tpke. Mr. George seconded. Motion carried.

Hearing 3: The Variance for 87-97 Boston Tpke was unanimously approved.

Hearings 4 & 5:

730 Boston Tpke (Commercial Business) – MK Realty Partner, LLC

315 South Street (Commercial Business) – RWW Realty Partners, LLC

2 Special Permits (each) – Automobile sales, Garage & repair shop

Mr. Rosen read the legal notice into the record. Other acting Board members included Ms. Cosette, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- It was decided that these two (2) hearings would be heard at once.
- Mark Wagner, principal of Wagner Auto Group, was present, as was his father Ron Wagner in the audience. Atty. Richard Ricker was present to represent them.
- Atty. Ricker reminded the Board that they had been before them in 2014 for 730 Boston Tpke and 333 South St. However, the lots have now been reconfigured. Now 730 Boston Tpke is the location for the new Kia building, and 315 South St is the location for their new auto service building.
- He categorized the request as an "important redo". He explained that the Building Inspector considers the 2014 building permit expired since construction of the building has not begun. However, he disagreed, since the site plan was approved at Planning Board and a lot of preparatory site work has taken place.

Board Questions

- Mr. Rosen confirmed that the request was "pro forma".
 - Atty. Ricker, Yes, but this time with the final configuration of the lot line. Also, the service building will now face South Street.
 - He added that the new Kia sales building would be located at 730 Boston Tpke. This building will be slightly smaller than the current one, but more up-to-date. It also has been approved at Planning Board now.
 - He clarified that one (1) garage repair and sales license was being sought now from the Board of Selectmen (BOS) – only for 315 South St. So the Special Permit request for sales at 730 Boston Tpke was withdrawn. They intend to talk to the BOS about auto storage as well. There is ample parking to meet the requirements.

- This reconfiguration will be an improvement for Wagner's site; each dealership will sit on its own lot.
- Mr. George asked about the old car wash's foundation.
 - Atty. Ricker replied it is on the Mercedes lot, not on either of these two (2) subject lots. An appeal on the car wash decision was filed today. If it cannot proceed as planned, they will use the building for some other purpose, such as detailing. They will reassess the situation as needed.
- Ms. Cossette brought up the Building Inspector's email dated February 24, 2017, regarding the number of vehicles displayed.
 - Atty. Ricker said the Building Inspector had had interaction with the managers about that. The question is whether vehicles can be on the slope of Route 9, and that this is being addressed.
 - When Ms. Cossette countered asking whether they were currently using that area or not, Atty. Ricker replied, Yes, to some extent.
 - Mr. Rosen joined asking which of the dealerships were using it. Atty. Ricker answered that all of them have vehicles in front and that they "need to tweak" it.
 - No engineer was present to speak to it. However, Mr. McGoldrick informed the Board that their parking schedule that was reviewed in great detail when they were before the Planning Board. The conditions imposed by previous decisions, regarding customer parking and storage, were also reviewed at that time.
 - Atty. Ricker added they have off-site parking as well.
 - Ms. Cossette inquired as to how it is enforced if the conditioned numbers are found to be off. It is enforced by referring to the approved site plan.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- There was some discussion regarding any conditions to impose. Mr. Rosen said that since he viewed this as a formality regarding the previous Special Permit granted to them, he would view any new conditions imposed as unnecessary.

VOTE TAKEN:

Motion: Mr. Schaetzke moved to approve the Special Permit for both 730 Boston Tpke. Mr. George seconded. Motion carried.

Hearing 4: The Special Permit for 730 Boston Tpke was unanimously approved.

VOTE TAKEN:

Motion: Mr. Schaetzke moved to approve the Special Permit for garage repair for 315 South St. Mr. George seconded. Motion carried.

Hearing 5: The Special Permit for garage repair for 315 South St was unanimously approved.

Hearing 6:

**22 Carter Road (Rural A) – Stephen & Nicole Lonton
Variance – Shed (side setback)**

Mr. Rosen read the legal notice into the record. Other acting Board members included Ms. Cosette, Mr. George, Mr. Gordon, and Mr. Schaetzke.

Presentation

- Mr. Lonton was present. He explained that he would like to add a sixteen (16) foot by twenty-five (25) foot storage shed. He would need a Variance for twenty (20) feet of relief from the required thirty (30)

foot side setback in order to place it ten (10) feet from the side property line. If he tried to meet the 30 foot setback, it would push it close enough to the pool to create too much shade over it.

- Since the property slopes, the requested area is one of the only flat spots.

Board Questions

- Mr. George asked...
 - If the pool was in a level area of the yard. Yes, and there is also a level spot near the driveway.
 - If he had spoken to his abutters. Yes, especially on the side nearest to where the shed would be, and they were supportive.
 - If there would be any screening. Yes, there are trees and arborvitae on that side.

Abutters

- One (1) neighbor on Carter Rd spoke in support.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- The Board thought that there was a hardship with the slope.

VOTE TAKEN:

Motion: Mr. Schaetzke moved to approve the Variance for 22 Carter Road. Mr. George seconded. Motion carried.

Hearing 6: The Variance for 22 Carter Road was unanimously approved.

Hearing 7:

689 Main Street (Residence B-1 & B-2) – Denise Ducimo

Use Variance – Operate a dry cleaning pick-up & drop-off business

Mr. Rosen read the legal notice into the record. Ms. Cossette recused herself. Other acting Board members included Mr. George, Mr. Gordon, Ms. Lynch (for Ms. Cosette), and Mr. Schaetzke.

Presentation

- Ms. Ducimo was present, as was her architect, Jay Gallant. She explained that the first floor of this property had formerly had a beauty salon in it. She would now like to have a new tenant who would operate a dry cleaning pick-up and drop-off service.
- She believed the impact of the new business would be less than that of the former business.

Board Questions

- Mr. Rosen asked...
 - How much time had elapsed since the last business was active in that location. Ms. Ducimo said it was just under two (2) years, by a month.
 - If it being listed as available to be leased during the time it was empty counted as time being operated as a business.
- Mr. Gordon commented that it had been used as a business for years and there seem to have been no issues there. Mr. Gallant agreed it had always been used as a business.
- Mr. George asked...
 - What was proposed for the hours of operation? 7AM-7PM.
 - Whether there would be a dumpster on site? No.
 - Whether there would be trucks making deliveries to the site? Only vans.

Abutters

- One (1) neighbor from Main St, who had also submitted a letter with his concerns, was generally in support except for concerns for traffic flow and potential accidents, with the traffic crossing lanes for egress, in that area. He said he had already witnessed 2-3 accidents in that area recently. Another

particular concern was the erosion of the sidewalk. He believed it needed a hard curb installed. Mr. Rosen answered that that would fall under the purview of the Massachusetts Department of Transportation (DOT).

- One neighbor from Main St spoke in support.
- As there were no further comments from the public, the hearing was closed.

Board Discussion

- There was some discussion regarding how long the members themselves thought the tenant space has been empty, and therefore, whether the request should have been for a Special Permit vs. a Use Variance, as the Building Inspector saw it. There was also some discussion about imposing conditions.

VOTE TAKEN:

Motion: Mr. George moved to approve the Use Variance for 689 Main St with one (1) condition. Ms. Lynch seconded. Mr. Schaetzke abstained. Motion carried.

Hearing 7: The Use Variance for 689 Main St was approved, 4-0.

1. Hours may be 7am-7pm, seven (7) days per week.

New Business:

None.

Old Business:

None.

Correspondence:

None.

The meeting adjourned at 9:13PM.

Respectfully submitted by,

Michele M. Bowers, Administrative Assistant

Reviewed by,

Christopher McGoldrick, Assistant Town Planner

Approved by vote of the Board,

Paul M. George, Clerk

Full Hearings & Documentation

The full hearings are available to view online on Shrewsbury Government TV30 under this meeting's date. Each appellant's application is kept on file in the Building Inspector's office.