

Topsfield Zoning Board of Appeals

June 26, 2012

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Robert Moriarty, Kristin Palace, Jody Clineff, David Merrill and David Moniz. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

Visitors: Selectman Richard Gandt; Glen Gollrad, Todd Morey, Bill McQuade, Jeffrey Rosenberg, Todd Tanger, Bruce Tarr, Frank Iovanella, James MacDowell, Kim Itz, Charles Itz, Scott Butler.

285 Boston Street/ Westport Communications: At 8:00PM, Chairman Moriarty called to order the continued public hearing to consider the application submitted by Westport Communications Limited Partnership for: (1) a finding pursuant to Article III, Section 3.05 of the Zoning By-Law; and (2) a Special Permit pursuant to Article XII, Section 12.04, paragraph C sub-sections 3 & 4 of the Topsfield Zoning By-law to add three (3) directional FM antennae side mounted at a centerline of 170' to an existing 160' lattice tower to be extended to 180', along with a parabolic antenna and related radio equipment in a 10' x 20' equipment shelter, all to be placed within the existing fenced compound of the existing Major Wireless Telecommunications Facility located at 285 Boston St.

Attorney Brian Grossman, Bill McQuade and Jeffrey Rosenberg represented the Applicant. Owner Todd Tanger was also present. Attorney Grossman stated the Applicant also known as WBOQ/North Shore 104.9 FM is licensed by the Federal Communications Commission as an FM broadcast radio station. The station serves the North shore including Topsfield and other communities in the North Shore. Attorney Grossman noted that the Applicant was seeking to modify the existing 160 foot lattice style tower located on the property to allow it to co-locate three (3) directional FM antennas on the tower at 170 feet to the centerline of the antennas and one (1) parabolic antenna at approximately 175' to the centerline of the antenna on the tower. In order to accommodate the proposed antennas, the tower would need to be extended to the height of 180 feet. He also noted that the Applicant was proposing to install associated radio equipment within a 10 foot by 20 foot equipment shelter within the existing fenced compound as depicted in the submitted plans.

Owner Todd Tanger addressed the Board noting that the radio broadcast station was a family owned business with offices in Beverly MA and its tower is currently located in Gloucester MA. WBOQ serves the North Shore including Essex County with a coverage area extending from the Tobin Bridge into parts of southern New Hampshire. WBOQ provides news, traffic, weather and sports with a focus on North Shore communities. It also provides free public service announcements and is part of the national Emergency Alert System utilized by state and local governments and includes the "AMBER" alerts

concerning missing children. In summary, the WBOQ is a family owned community based radio station.

At this time, State Senator Bruce Tarr addressed the Board in support of the application noting that the station was family owned and had a long performance history as a community based station that provided public service information to the greater North Shore area.

Attorney Grossman noted that this application was not a telecommunications case, and the Applicant was not claiming a federal exemption under the FCC rules. WBOQ is a radio broadcast facility. The application is strictly a zoning request to modify a non-conforming pre-existing structure in order for the radio station to meet the FCC licensing standard to maximize area footprint to obtain maximum coverage. Mr. Tanger also noted that currently the existing broadcast tower in Gloucester covers the North Shore and radio frequency goes over the Atlantic Ocean. The move to Topsfield would allow expansion of the broadcast area into the Andover and Lowell area. In order to remain competitive in the market as an independent radio station, the business model requires an expansion of coverage to reach more people as well as to expand its financial market to support the station.

Jeffrey Rosenberg, Todd Morey and Bill McQuade responded to technical questions posed by the members. It was noted that radio waves have a longer wavelength and are safer than microwaves. The height extension of the tower has been approved by the Federal Aviation Administration (required because of the tower's proximity to Beverly Airport) as well as by the Federal Communications Commission. Relative to the increase in height, the engineers noted that all of the space on the tower between 100 feet to 160 feet is being used by other carriers. WBOQ could not place its antennae at less than 100 feet because this elevation would be too low to allow the radio station to reach its desired coverage area.

The Board members reviewed the specific sections of Article XII of the Zoning Bylaw relative to this application, specifically, the definition for a "Major Wireless Telecommunications Facility". Section 12.01 and paragraph C of Section 12.04 which provided that a lawfully pre-existing major wireless communication facility may be permitted a one-time increase in height of up to 20 feet provided certain criteria are met. After discussion, the members agreed that the Applicant had met the criteria to be permitted this one-time height increase in that (1) the carrier falls within the jurisdiction of Article 12 of the Bylaw as a facility that transmits and receives radio waves and (2) the Applicant has demonstrated a need for the height increase in order to meet the needs of its business operation and allowing the height increase would prevent another tower from being constructed.

The Board made the appropriate findings relative to the required zoning relief. Member David Moniz moved that the Board adopt the foregoing findings and grant a finding pursuant to Article III, Section 3.05 of the Zoning By-Law; and approve a Special Permit pursuant to Article XII, Section 12.04, paragraph C sub-sections 2, 3 & 4 of the Topsfield

Zoning By-law for the extension of 20 feet in height to the existing 160' lattice tower (to a maximum of 180') and the addition of three (3) directional FM antennae side to be mounted on the tower at a centerline of 170' and one (1) parabolic antenna to be mounted at a centerline of 177', and the addition of related radio equipment in a 10' x 20' equipment shelter, all to be placed within the existing fenced compound to the existing Major Wireless Telecommunications Facility located at 285 Boston Street subject to the following conditions:

1. No portion of any whip antennas may extend above 180 feet
2. No lighting may be placed on tower (as none is required by either the FCC or the FAA)
3. Match the new extension of the tower to the color of the existing tower
4. No signage and/or any identification may be placed on tower itself
5. Signage and/or identification is allowed on ground to meet minimum requirements of FCC

The motion was seconded by Member David Merrill; so voted; 5-0.

488 Boston Street: At 9:14PM, Chairman Moriarty called to order the public hearing to consider the application of Beverly Hill Realty Trust, Frank Iovanella, Trustee, for premises located at 488 Boston Street requesting a finding pursuant to Article III, Section 3.05 of the Topsfield Zoning By-Law relative to the sub-division of a grandfathered non-conforming lot with two principal residential structures into two residential lots.

Project engineer James MacDowell met with the Board to review the site development plan for 488 Boston Street which is a pre-existing, non-conforming lot with two principal structures, a barn, other accessory buildings and two driveways. The plan for the redevelopment of the 2.3 acre lot would be to sub-divide the lot into two residential lots each with one new principal structure. The current septic system installed in 2000 would remain with one lot. The two new lots would be non-conforming. Mr. MacDowell informed the Board that he had engineered the sub-division plan to keep the two lots as conforming as possible to meet the district requirements, and that the two new dwellings would meet the required setbacks.

The Board made the appropriate findings relative to the required zoning relief. Member David Moniz moved that the Board adopt the foregoing findings and grant a finding pursuant to Article III, Section 3.05 of the Zoning By-Law to approve the subdivision of the pre-existing non-conforming lot with two principal structures into two lots; seconded by Chairman Moriarty; so voted 5-0.

78 Alderbrook Drive: At 9:25PM, Chairman Moriarty called to order the public hearing to consider the application J & J Realty LLC by John Masterson for premises located at 78 Alderbrook Drive requesting a variance pursuant to Article IV, Section 4.07J (1) of

the Topsfield Zoning By-law to use for access, egress and utilities a grandfathered non-conforming common driveway easement shared by 4 other lots for said purposes.

Project Engineer Todd Morey of Beals Associates, Inc. representing the Applicant reviewed the site plan and proposal to use the grandfathered non-conforming common driveway easement. Mr. Morey noted that the Applicant has proposed to build a single family house on a portion of the 78 Alderbrook Drive property. The site is currently vacant of structures and features a paved common drive serving four (4) lots to the rear, a paved basketball court which would be removed, and a lawn area. A Notice of Intent has been filed with the Conservation Commission to allow the construction of the dwelling, septic system and associated grading within the wetland buffer zone, which encumbers a large portion of the site. He further stated that the site had been laid out to minimize the impact to the buffer zones, and in doing so, the resulting driveway is best suited to connect to the existing paved common drive. By extending the driveway back to Alderbrook Drive, the impact to the wetland buffer zone would be much greater.

The Board members reviewed the site plan, the easement documents and easement plan which showed the length of the easement to be approximately 1,200 feet. The easement running through 78 Alderbrook Drive is approximately 350 feet long. Although the easement is 40 feet in width, the paved road used for access and egress by residents of 78A, 78B, 78C and 78D is extremely narrow at approximately 12 to 14 feet wide. The narrow width of the paved surface with little site distance and limited passage for two vehicles was a major concern for the board members.

Mr. Scott Butler of 78D Alderbrook Road read a statement outlying his concerns and objections to allowing a fifth driveway to connect to the easement. Specifically, he noted that the driveway as proposed abuts a drain connecting the two wetlands and does not provide a turning radius for delivery trucks to enter and egress the property without blocking the common driveway to thru traffic by the other residents. Mr. Butler also noted that the common drive narrows significantly in winter when shoulders and drive are banked with snow.

The Board requested that Mr. Morey contact the Fire Chief and Police Chief to review the proposed plan relative to public safety issues for handling emergency services and sought the both Chief's comments in this matter. The members agreed that they would like to go on site to view the common drive and access point for the proposed driveway. The Board also requested that Mr. Morey review the plan to engineer a driveway with entrance that would have less of an impact on the other easement users to address delivery vehicles and thru traffic.

The public hearing was continued to the July 31, 2012 meeting at 8:00PM.

Minutes: Clerk Kristin Palace made the motion to approve the minutes as written; seconded by Member David Moniz; so voted 5-0.

The meeting was adjourned at 10:46 PM.

Respectively submitted,

Roberta M. Knight
Community Development Coordinator