

Topsfield Zoning Board of Appeals

October 23, 2012

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Robert Moriarty, 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; Larry Beals, Chris Novak, Marisa Pizzi, Charles Itz, Scott Butler, Dan McIntyre, Paul Collins

78 Alderbrook Drive Continued Public Hearing: At 8:10PM, Chairman Moriarty called to order the continued 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.

Mr. Larry Beals of Beals Associates representing the Applicant reviewed the latest revision of the site development plan dated September 21, 2012.

The revisions on the plan dated September 21, 2012 include the following:

1. The existing paved driveway width has been expanded to create a total pavement minimum width of 18 feet extending from the entrance at Alderbrook Drive to the proposed private driveway for the proposed home at 78 Alderbrook Drive.
2. At the edge of the new pavement (both sides), a one foot wide gravel shoulder/drip edge has been added. It was added to provide stability to the shoulder and to create an area to infiltrate the runoff generated by the additional two feet of pavement.
3. Notes have been added indicating the location of trees and plants to be removed that are too close to the new pavement including the following:
 - a. One six inch maple
 - b. One twelve inch white pine
 - c. One ten inch ash
 - d. One eighteen inch maple
4. On the eastern side of the existing driveway and north of the proposed driveway, the pavement has been expanded for a distance of 50 feet to include an additional two feet of pavement so that the pavement width in this area is 20 feet to allow for a pull-off and to accommodate the turning radius of larger trucks entering the private driveway.
5. On the western shoulder of the existing driveway in an area south of the proposed private driveway, the common driveway shoulder has been expanded and stabilized with gravel to accommodate the turning radius of larger trucks.

6. At the up-stream end of the existing 12” drain pipe cross-culvert, a gravel shoulder has been added with an embedded geogrid with H-20 load capacity to protect the inlet of the culvert.
7. To prevent the reported sheeting of water across the driveway and associated icing, a shallow swale has been added along the eastern or up-hill edge to convey minor amounts of flow in a northerly direction to a driveway runoff infiltration area located at the northeast corner of the common driveway where it intersects Alderbrook Drive.
8. The northern side of the private driveway has been reinforced with grass pavers to accommodate the turning radius of a fire truck.
9. The planting note for the plantings located along the southern edge of the proposed private driveway has been expanded to state that shrubs will be selected that have a maximum height of three feet.
10. Along the eastern edge of the common driveway in an area south of the proposed private driveway, a note has been added that vegetation will be trimmed to improve sight distance and that low growing shrubs will be selected that have a maximum height of three feet.
11. A note has been added indicating that the sight distance from the proposed private driveway in a southerly direction is 135 feet.
12. The common driveway detail was revised to illustrate the expanded pavement width, gravel shoulders, and swale.
13. A note was added stating: “Following project completion, any damage caused to the common driveway shall be repaired to its existing condition.”

The Board discussed with Mr. Beals concerning the use of pavers abutting the private driveway to expand the driveway to support a fire truck for an emergency response. Chairman Moriarty requested specific specifications for the plastic tubing in lieu of pavement. The Board also discussed the types of low growing shrubs and their placement relative to items No. 9 & 10 above. It was noted that this final revision dated September 21, 2012 would be incorporated into the decision.

Member David Moniz made the motion to close the public hearing; seconded by Member Jody Clineff; so voted 5-0.

At this time resident Scott Butler raised the issue of a maintenance agreement to compel the applicant to pay for repairs and maintenance of the common driveway. Chairman Moriarty again reaffirmed the Board’s position on the matter as stated in previous meetings that the Zoning Board had no authority to compel the execution of a maintenance agreement.

The Board made the appropriate findings relative to the required zoning relief. Chairman Moriarty moved that the Board adopt the foregoing findings and grant 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.

The motion was seconded by Clerk David Merrill; so voted 4-0. Member Gregor Smith abstained since he was not present for the entire public hearing process.

224A Boston Street: At 8:30PM, Chairman Moriarty called to order the public hearing to consider the application of Massachusetts Electric Company d/b/a/ National Grid for premises located at 224A Boston Street for substation upgrades that include the replacement of most of the existing 13kv and 23kv equipment and facilities at the existing substation, including the existing control house and removal of its existing 4kv equipment with all of the work confined to the existing fenced yard of the substation. The Applicant is requesting: (1) a finding pursuant to Section 3.05 of the Topsfield Zoning Bylaw for the replacement of the existing control house and replacement of existing non-building structures; (2) variances from the side yard setback requirements under Article IV, Section 4.02, Table of Dimensional and Density Regulations, for the new control house, a relocated capacitor band, a new bus support switch structure, a new 23kV riser structure, three light poles and for any other proposed non-building structure to the extent required.

Attorney Marisa Pizzi representing the Applicant Massachusetts Electric d/b/a National Grid made a presentation to the Board in connection with its Application for a finding pursuant to Section 3.05 of the Topsfield Zoning Bylaw and variances from the side yard setback requirements under Article IV of the Zoning Bylaw, Table of Dimensional and Density Regulations for the purpose of upgrading the equipment and facilities at its electric substation. Ms. Pizzi noted that the existing control house is a pre-existing non-conforming structure and with other non-building structures are located on a .59 acre parcel known and numbered as 224A Boston Street which is landlocked. The property's only means of access to a street is by way of an access easement over an adjacent property.

The substation was constructed in the early 1950's. It is the primary electrical supply to the Town of Topsfield serving approximately 1,600 customers. The substation houses a 23/4kV transformer, which supplies two 4kV feeders, and a 23/13kV transform, which supplies a 13kV feeder, as well as associated equipment and an approximately 144 square foot control house. Currently, the existing equipment is supported by two side-by-side 13kV and 4kV bus structures. The entire substation is enclosed by a 6-foot chain link fence.

The primary purpose for the project is to upgrade the deteriorated condition of the existing equipment and facilities and eliminate the antiquated 4kV distribution feeders in order to improve the substation's capacity to reliably handle current loads and reduce outages. The existing facilities are supported by 60 year old wood poles that have an unknown, but limited, remaining useful life. Modern distribution feeders are typically constructed at 13kV, which provides for a more reliable system.

Ms. Pizzi then described the project for the Board. This project would replace most of the existing 13kV and 23kV equipment and facilities at the substation, including the existing control house, and would remove the existing 4kV equipment and facilities.

Specifically, the project would include the following work referred together as the “Substation Improvements”:

- a) Removal of the existing control house, the existing wood pole-supported bus structures, a 23/4kV transformer, the 4kV feeder position and associated equipment;
- b) Relocation of the existing 23kV station capacitor bank within the substation yard;
- c) Installation of one 23kV-13.2kV transformer, one modular bus structure for a new 13kV feeder position and related equipment including circuit breaker, disconnects, regulators, motorized switches and re-closer;
- d) Installation of one 14' x 20' control house;
- e) Replacement of one 23kV pole structure for the existing 23kV transmission lines entering the substation from the northeast;
- f) Installation of a new 23kV riser structure for the existing 23kV transmission lines entering the substation from the northeast and continuing underground to the proposed modular structure;
- g) Installation of a new bus support switch structure for the existing 23kV transmission lines entering the substation from the northeast and continuing to the southeast side of the proposed modular structure;
- h) Installation of three new light poles;
- i) Replacement of the existing 6-foot chain link fence with a 7-foot chain link fence plus one additional foot of barbed wire in order to comply with National Electric Safety Code standards;
- j) Excavation for and installation of underground conduit and cable;
- k) Foundations for the new equipment and New Control House; and
- l) All associated work and equipment necessary for a complete substation upgrade.

Ms. Pizzi then reviewed the zoning history of the property. When the substation was constructed, the zoning in effect at that time, allowed the public utility use by right in the business district. The substation has continuously been used for public utility purposes since its initial construction and there have been no unlawful changes or extensions thereto. The property is pre-existing nonconforming as to lot size, frontage, lot depth and lot width. The lot has no street frontage, and therefore does not comply with the minimum required lot frontage nor does it comply with lot depth and lot width requirements per the definition in the Zoning Bylaw. Because none of the property's lot

lines divide the property from a street, it has no front lot line and, therefore, no rear lot line. Therefore, all of the lot lines of the property are side lot lines and only the side yard setback requirements are applicable. The northeasterly side yard is the only yard that currently complies with the minimum 40 foot side yard setback requirement.

Ms. Pizzi reiterated the zoning relief sought as follows: (1) a finding pursuant to Section 3.05 of the Topsfield Zoning Bylaw for the replacement of the existing control house and replacement of existing non-building structures; (2) variances from the side yard setback requirements under Article IV, Section 4.02, Table of Dimensional and Density Regulations, for the new control house, a relocated capacitor band, a new bus support switch structure, a new 23kV riser structure, three light poles and for any other proposed non-building structure to the extent required.

Ms. Pizzi further noted relative to the request for a finding that the New Control House would not be more detrimental or objectionable to the neighborhood than the current structure. It would be approximately 280 square feet which would be slightly larger than the 144 square foot existing control house; and as the existing control house, the new control house would be located within the substation fence. The Project as a whole including the new control house is consistent with the public utility use that has existed at the property since the early 1950's; and as such would have no greater impact on the neighborhood than the existing control house and public utility use.

Ms. Pizzi then noted that because all of the pre-existing non-conforming non-building structures, consisting of 13kV and 23kV equipment and facilities, would be replaced in approximately the same location with the substation fence, this work would constitute maintenance and repair activities and does not amount to a structural or substantial alteration or enlargement of a non-conforming structure. The new structures would not be materially different from the structures they are replacing. As a result, a finding is not required for these non-building structures. If, however, the Zoning Board disagrees then the Applicant would request that the Zoning Board grant a finding for such structures.

Finally, Ms. Pizzi addressed the requested zoning relief sought for the various structures for the Substation Improvement's Project. She noted that the project meets the required criteria for the grant of a variance from the side yard setback requirements for the structures described above as follows:

There exist circumstances relating to the shape and topography that especially affect the property and structures, but do not affect generally the Business Highway District. The substation is located on a small parcel which has limited space to install new equipment and build new facilities. The new structures would encroach into one or more of the side yards, but would remain within the substation fence. Also, the bus support structure and the 23kV riser structure cannot be located anywhere on the property in compliance with the minimum side yard setbacks. This is also the case for the three light poles.

The substation improvements are necessary to address the poor condition of the existing equipment and related reliability issues. If the side yard setback requirements are literally

enforced, the Massachusetts Electric Company would not be able to perform the substation upgrades necessary to ensure continued reliable electric service to its customers in Topsfield.

Relief may be granted without substantial detriment to the public good. The use of the property for public utility purposes has existed for approximately 60 years. The substation is the primary supply of power to the Town of Topsfield, serving approximately 1,600 customers. Without the requested relief, Massachusetts Electric would not be able to continue providing reliable electric service to these customers.

The project is consistent with the purpose and intent of the Zoning Bylaw, including, but not limited to, facilitating the adequate provision of a public requirement (i.e., electric service); encouraging the most appropriate use of land throughout the Town; and preserving and increasing the Town's amenities. This project would ensure that the residents of Topsfield would continue to receive reliable electric service.

The Board discussed the application and zoning relief requests with Ms. Pizzi and Mr. Chris Nowak, the Project Manager, who responded to technical questions posed by the Board members. Chairman Moriarty stated that based on the bylaw's definition 1.99 for a "structure", he did not believe that the light poles would fall under that category, and therefore, would not require a variance. The rest of the components would be classified as structures. The other members concurred. The Board agreed that the project was basically the reconstruction of prior structures with side yard encroachments due to the size and shape of the small parcel of land on which the substation is located.

The public hearing was closed.

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 Section 3.05 of the Topsfield Zoning Bylaw for the replacement of the existing control house and replacement of existing non-building structures; (2) variances from the side yard setback requirements under Article IV, Section 4.02, Table of Dimensional and Density Regulations, for the new control house, a relocated capacitor band, a new bus support switch structure, a new 23kV riser structure as proposed.

Seconded by Member David Merrill; so voted 5-0.

Meeting Schedule: The Board discussed the November / December meeting schedule. Ms. Knight noted that she was not aware of any upcoming applications for the Board except for the minor modification request by the Institute for Savings relative to the fence along Park Street. It was the consensus of the members that would prefer to meet in November to discuss the modification rather than meet in December. The regular scheduled meeting for December is Christmas Day, December 25th. If there is a filing requiring a December meeting, then said meeting would be scheduled for Tuesday, December 17th.

The meeting was adjourned at 10:11 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator