

Application for Zoning Relief

Form A



Before you file this application, it is necessary that you be familiar with the requirements for filing plans and other materials in support of this application as specified in the Topsfield Zoning Bylaws and the Topsfield Zoning Board of Appeals Rules and Procedures that are available from the Town Clerk.

Incomplete applications will not be considered unless waivers are previously obtained from the Zoning Board of Appeals

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BOARD USE ONLY

Date Filed:

Date Action Due

Public Hearing:

Decision:

Revised Form Date: 04/26/2011

NATURE OF APPLICATION:

- ☒ Petition for Special Permit pursuant to Article V and XII, Section ✓ of the Zoning Bylaw.
- ☐ Petition for Finding pursuant to Article , Section of the Bylaw.
- ☐ Petition for a Variance from Article , Section , of the Zoning Bylaw.
- ☐ Petition for Site Plan Review pursuant to Article IX of the Zoning Bylaw (and the Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw; and Supplement Form C for submitted requirements and formats).
- ☐ Petition for a Comprehensive Permit pursuant to G.L.c. 40B, Section 20-23.
- ☐ Appeal from the decision dated of the Building Inspector or others pursuant to L.L. c. 40A, Section 15.

DESCRIPTION OF APPLICANT:

- a. Name Skeff's LLC
- b. Address 82 North St., Topsfield, MA 01983
- c. Phone Number 978-766-5337
- d. Interest in Premises (e.g., Owner, tenant, prospective purchaser, etc.)
(Attach copy of lease and/or letter of authorization from owner, if applicable)

DESCRIPTION OF PREMISES:

- a. Assessor's Map 41, Lot(s) 90, Zoning District IRA
- b. Location of Premises (number and street) 285 Boston St.
- c. Name and address of legal owner (if different from Applicant) Skeff's LLC
- d. Deed to the Premises recorded at (if known):
☒ Essex South District Registry of Deeds, Book 36435 Page 557
☐ Essex South Registry District of the Land Court, Certificate Number
- e. Prior zoning decisions affecting the Premises (if any):
Date of Decision 11.3.1995 Name of Applicant Dynex Mobile
Nature of Decision Special Permit for Communications Tower
- f. Present use of the Premises Major Wireless Telecommunications Facility
- g. Present structures conform to current Zoning Bylaw. ☒ Yes ☐ No. If no, in what respect does it not conform.

PROPOSAL (attach additional sheets if necessary):

- a. General Description Amend Special Permit to remove 20-year lapse provision

- b. If proposal is for construction or alteration of an existing structure, please state: *N/A*

	FRONT	REAR	SIDE(S)
1. Setbacks required per bylaw	_____	_____	_____
2. Existing setbacks	_____	_____	_____
3. Setbacks proposed <i>N/A</i>	_____	_____	_____

	FRONTAGE	AREA
4. Frontage and area required by bylaw	_____	_____
5. Existing frontage (s) and area	_____	_____
6. Frontage (s) and area proposed <i>N/A</i>	_____	_____

	FEET	STORIES
7. Existing Height	_____	_____
8. Height proposed <i>N/A</i>	_____	_____

- c. Other town, state or federal permits or licenses required, if any:

NONE

NECESSARY ACCOMPANYING DATA:

It is required that every application be accompanied by appropriate supporting data. Failure to submit appropriate and complete data could result in delay and/or denial of application for zoning relief. Place a check next to the applicable accompanying supporting data:

Variance of Special Permit Applications:

(See Zoning Board of Appeals Rules and Procedures Section III)

All required supporting data attached

☒ Yes ☐ No

Site Plan Review Applications:

(See Town of Topsfield Zoning Bylaw, Article IX, Section 9.05. See also Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw)

All required supporting data attached

☐ Yes ☒ No

Comprehensive Permit Applications:

(See G.L.c. 40B, Sections 20-23)

All required supporting data attached

☐ Yes ☒ No

Appeals from decisions of Building Inspector or Others:

(See Zoning Board of Appeals Rules and Procedures, Section III (1) (e))

All required supporting data attached

☐ Yes ☒ No

If all required supporting data is not attached, why not:

7/26/22
Date

[Signature]
Signature of Applicant

Manager
Sheila Hagg
Robert Shefferson



TOWN OF TOPSFIELD

BOARD OF ASSESSORS

8 West Common Street

Topsfield, Massachusetts 01983

Telephone: (978) 887-1514 Fax: (978) 887-1502

This form must be completed and Assessor fee of \$20.00 must be paid before release of the certified abutters list.

Submission Date **Wednesday, July 13, 2022** Issue Date **Wednesday, July 13, 2022**

Department requiring list: **Zoning Board of Appeals**

300 Ft. ☒ 100 Ft. ☐ (Conservation Only) ☐ Direct Abutters

Person/Party requesting list: **James Valeriani**

Address: **10 Arthur Road, Wakefield, MA 01880**

Phone #: **781-771-8100** Email Address **jamesvaleriani@comcast.net** Misc: _____

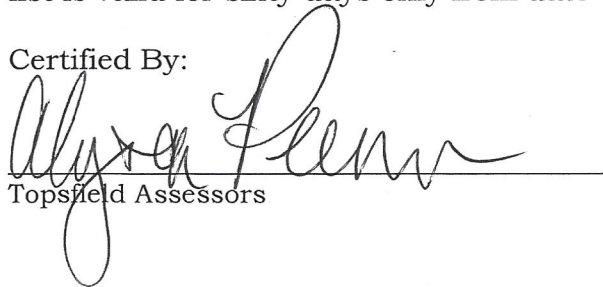
Property Owner: **Skeffs LLC**

Assessor's Map(s) **41** Lot(s) **90** Location **285 Boston Street**

Assessor's Fee Paid: ☒ Yes ☐ No

The Assessors' Office requires ten (10) working days to certify an Abutters List. This list is valid for sixty days only from date of issue.

Certified By:


Topsfield Assessors



Certification of Parties in Interest

The Board of Assessors of the Town of Topsfield do hereby certify, in accordance with the provisions of Section 10 and 11 of Chapter 808 of the Acts of 1975, that the following named persons, firms and corporations are parties in interest, as in said Section 11 defined, with respect to the premises herein above described.

TOWN OF TOPSFIELD, MA ZONING BOARD OF APPEALS

Application Supplement Form B

Attach to this form a copy of the Assessor's map (scale 1" equals 200') showing the property and all other properties and roadways within 300 feet of any portion of the property. Also, show the lot number and lot owner's name on each lot within the 300'.

List below the lot owner names and mailing addresses as shown in the Assessors' records, beginning with the property of the Applicant (locus).

Applicant's Name, Mailing Address: Skeff's LLC
82 North St., Topsfield, MA, 01903
 Telephone No. 978-766-5337

Locus: 285 Boston St.; Map 41, Lot 90

Map	Block	Location	Owner	(If different from location) Mailing Address
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SEE ATTACHED LIST

If needed, attach additional sheets.

Assessor's Certification

To the Topsfield Zoning Board of Appeals:

This is to certify that, at the time of the last assessment for taxation made by the Town of Topsfield, the names and mailing addresses of the parties assessed as owners of land within 300' of the parcel of land shown in the attached sketch were as listed.

Authorized Signature _____
 Assessors' Office _____

Date of Verification _____



300 foot Abutters List Report

Topsfield, MA

July 13, 2022

Subject Property:

Parcel Number: 41-90
CAMA Number: 41-90
Property Address: 285 BOSTON ST

Mailing Address: SKEFFS LLC
82 NORTH ST
TOPSFIELD, MA 01983

Abutters:

Parcel Number: 33-19
CAMA Number: 33-19
Property Address: 71 HOWLETT ST

Mailing Address: DJORDJIC VOJISLAV
71 HOWLETT ST
TOPSFIELD, MA 01983

Parcel Number: 34-78
CAMA Number: 34-78
Property Address: 293 BOSTON ST

Mailing Address: GREEN ACRES REALTY INC
82 NORTH ST
TOPSFIELD, MA 01983

Parcel Number: 41-87
CAMA Number: 41-87
Property Address: 270 BOSTON ST

Mailing Address: ALBRIGHT RICHARD C JR
54 HIGH ST
TOPSFIELD, MA 01983

Parcel Number: 41-88
CAMA Number: 41-88
Property Address: 286 BOSTON ST

Mailing Address: WOOD DONALD Y
286 BOSTON ST
TOPSFIELD, MA 01983

Parcel Number: 41-89
CAMA Number: 41-89
Property Address: 288R BOSTON ST

Mailing Address: TOWN OF TOPSFIELD
8 WEST COMMON ST
TOPSFIELD, MA 01983

Parcel Number: 41-91
CAMA Number: 41-91
Property Address: 279 BOSTON ST

Mailing Address: TOWN OF TOPSFIELD
279 BOSTON ST
TOPSFIELD, MA 01983

Parcel Number: 41-93
CAMA Number: 41-93
Property Address: 8 DOVER HILL RD

Mailing Address: GAUVIN DANIEL L
8 DOVER HILL RD
TOPSFIELD, MA 01983



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7/13/2022

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Planning Boards in Municipalities adjoining Topsfield.

Boxford Planning Board

7A Spofford Road

Boxford, MA 01921

Ipswich Planning Board

25 Green Street

Ipswich, MA 01938

Hamilton Planning Board

577 Bay Rd

Hamilton, MA 01936

Wenham Planning Board

5 School St

Wenham, MA 01984

Danvers Planning Board

1 Sylvan Street

Danvers, MA 01923

Middleton Planning Board

195 N Main Street

Middleton, MA 01949

**TOWN OF TOPSFIELD, MA
ZONING BOARD OF APPEALS**

**Application Supplement Form C
Site Plan Review Submittal Requirements & Formats**

Submittal Distribution Requirements and Formats:

1. An applicant shall file with the Town Clerk copies of all required documents in the quantities and forms as outlined below. The Clerk's copy of the required documents shall be kept on file by the Town Clerk for the duration of the permitting process and the remaining copies shall be distributed immediately by the Town Clerk to the following:

	Plan
Town Clerk	1
Granting Authority *	7
Granting Authority electronic	1
Reviewing Engineer	1
Conservation Commission	1
Public Works Department (Water & Highway)	1
Board of Health**	1
Historical Commission**	1
Building Inspector**	1
Fire Department**	1
Police Department**	1
Tree Warden**	1
Planning Board or Board of Appeals if not the Granting Authority **	1

* Two full size and five reduced size (11" x 17")

** Reduced size plans (11" x 17") are acceptable

Additional copies of any and all documents shall be furnished if requested by the Granting Authority or any other Board, Commission or Department.

2. An electronic copy of all documents shall be submitted to the Granting Authority, formatted in a single paginated PDF file with descriptive bookmarks for each plan set and for each document on either a CD or DVD disc.
3. An electronic copy of the final plans with same format as in section "4.11.2." above, and a full size hard copy of said plans showing the Signatures of the Granting Authority and date of approval shall be submitted to the Granting Authority.

SUMMARY:

* Granting Authority: **(2) Full Scale, (5) Reduced Size 11 x 17**

Town Clerk, Review Engineer, Conservation, Public Works: **Full Scale**

All Others: **Reduced Size 11 x 17**

Total: (6) Full Scale; (12) Reduced Size 11 x 17; (1) electronic copy

July 26, 2022

Zoning Board of Appeals
Town of Topsfield
8 West Common Street
Topsfield, MA 01983

RE: Application for amendment to special permit; 285 Boston Street;
Assessor Map 41, Lot 91; existing major wireless telecommunications facility
owned by Skeff's LLC.

Filing with Town Clerk.

Dear Members of the Board of Appeals:

Our office represents Skeff's, LLC, the owner of land at 285 Boston Street on which stands a major wireless telecommunications facility (the "Tower") and associated ground based shelters and equipment. In 1995 a special permit was issued by the ZBA to New York Cellular Geographic Services, Inc., d/b/a Nynex Mobile Communications Company, Inc. (now Cellco Partnership, d/b/a Verizon Wireless) and Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One (now New Cingular Wireless PCS, LLC, d/b/a AT&T Wireless). Verizon Wireless constructed the Tower shortly thereafter and its lease with Richard Skeffington provided for a later transfer of ownership of the Tower. In 2018 a bill of sale for the Tower was signed by Verizon Wireless, formally transferring ownership to Skeff's, LLC, owned by Robert Skeffington.

The 1995 special permit contained various conditions, including a condition that the special permit lapsed in 20 years. Although the Zoning Statute (MGL Ch. 40A) allows for time limitations for uses under special permits, it is uncommon for time limitations to be imposed on telecommunication towers, particularly now that the wireless industry has become integral to so many needs and functions of our society. In fact, the Town's current zoning bylaw provisions for Wireless Telecommunications Facilities (Article XII) does not require a time limitation be imposed on these facilities.

The Tower is and will likely continue to be the principal location of wireless communications antennas in the Town of Topsfield. There are currently four major FCC wireless carrier installations on the tower (Verizon Wireless, AT&T Wireless, T-Mobile and Sprint PCS), each with active, ongoing leases. In addition, the Tower hosts a radio transmitter for North Shore Radio FM 104.9, owned by Westport Communications LP in Beverly which is also subject to an active ongoing lease. Also there are currently four public safety antennas, in active use by the Topsfield Police and Fire Departments and the Essex County Fire Chief's Association which provides communications for the fire departments throughout Essex County.

Our review of the record title to the property and town records leads us to conclude that all of these installations have been properly permitted to date and there are no outstanding or unmet conditions to



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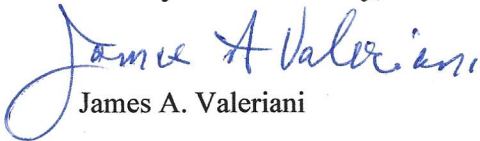
the 1995 special permit as amended. Just recently, a new major FCC licensed wireless carrier, Dish Wireless, signed a lease with Skeff's and obtained a building permit to install its antennas and related equipment under the provisions of the Spectrum Act of 2012, codified under 47 U.S.C.A. § 1455.

This Federal statute precludes local governments from interfering with the expansion of wireless telecommunication networks. Under the Code of Federal Regulations on Telecommunications Act, 47 C.F.R 1.6100, which implements the 2012 Act, states that an eligible facility includes an "Eligible Support Structure" which is defined by the Federal Communications Commission as an existing tower "if it has been reviewed and approved under the applicable zoning or siting process". Skeff's Tower meets the requirement for an Eligible Facility as it was constructed under the then applicable zoning and siting process in 1995. Also, the 1996 Telecommunications Act, codified under 47 U.S.C.A. § 332(c)(7), prohibits localities from adopting regulations that prohibit or have the effect of prohibiting wireless services, or unreasonably discriminate against functionally equivalent providers.

We respectfully request that the 1995 Special Permit be further amended to remove the 20-year lapse provision. Note that Skeff's is in final purchase-and-sale negotiations with Blue Sky Towers LLC for the Tower and the parcel of land. Blue Sky has headquarters in North Reading and provides services for development and operations to the wireless industry throughout New England. The purchase-and-sale includes a contingency that the special permit be amended to remove the 20 year lapse provision prior to closing.

This submission being made by July 26th is within the deadline for the next ZBA meeting date of August 23rd and we kindly request placement on that agenda.

Thank you and Sincerely,



James A. Valeriani

Of-Counsel, Minasian Becker LLC

781 771 8100

jamesvaleriani@comcast.net

Assessment Field Card

Town of Topsfield, Massachusetts



Parcel Information	
NO PHOTO AVAILABLE	Address: 285 BOSTON ST Map-Lot: 41-90 Patriot Account #: 1773 Owner: SKEFFS LLC Co-Owner: Mailing Address: 82 NORTH ST <p style="text-align: right;">TOPSFIELD, MA 01983</p>
Building Exterior Details	General Information
Building Type: UTIL BLDG Year Built: 2000 Grade: C Frame Type: WOOD Living Units: 3 Building Condition: Average Roof Cover: MEMBRANE Roof Type: FLAT Exterior Wall Type: CONC.PANEL Pool: False	Total Acres: 3.14 Land Use Code: 106 Neighborhood Code: 5 Owner Occupied: Condo Name: Condo Unit: Zone: IRA Utility Code 1: Utility Code 2: Utility Code 3:
Building Area	Ownership History
Gross Area: 496 sqft Finished Area: 496 sqft Basement Area: 0 sqft Garage Area: 0 sqft Detached Garage: sqft Basement Garage: 0 sqft	Sale Date: 2/9/2018 Sale Price: \$ 1 Nal Description: CONVIENCE Grantor (Seller): SKEFFS LLC, Book/Page:
Building Interior	Assessed Values
No. Total Rooms: 0 No. Bedrooms: 0 No. Full Baths: 0 No. Half Baths: 0 Bath Rating: No. Kitchens: 0 Kitchen Rating: Building Framing: WOOD Interior Wall Type: MINIMUM Fireplaces: 0 Solar Hot Water: False Central Vac: False Floor Type: CONCRETE Heat Type: FORCED H/A Heat Fuel: LP GAS Percent A/C: 100	Land Value: \$37,700 Other Value: \$455,700 Building Value: \$31,000 Total Value: \$524,400



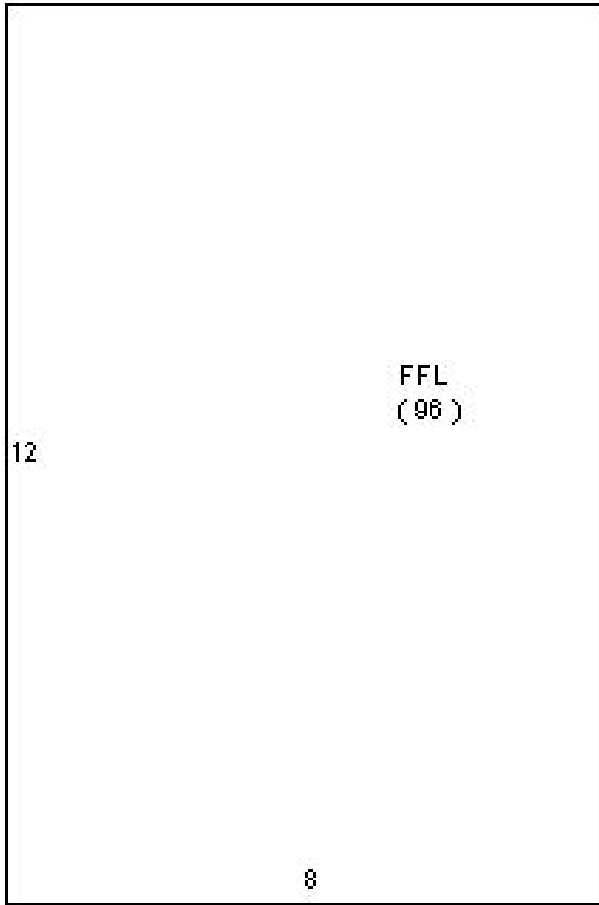
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7/26/2022

Property Information - Topsfield, MA

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Sum Area By Label :
FFL = 96



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Property Information - Topsfield, MA

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Town of Topsfield

TOPSFIELD, MASSACHUSETTS

November 3, 1995

Mrs. Beverly Guarino
Town Clerk
Town Hall
Topsfield, MA 01983

Dear Mrs. Guarino:

The attached minutes of the Zoning Board of Appeals dated June 20, 1995, July 25, 1995, August 29, 1995, September 26, 1995, and October 24, 1995 contain the record of a hearing and decision pertaining to an application of New York Cellular Geographic Services, Inc. d/b/a Nynex Mobile Communications Company, Inc. and Southwestern Bell Mobile Systems, Inc. d/b/a Cellular One for a Special Permit for a Public Utility Use pursuant to Article 3, Section 3.04 and for Site Plan Review pursuant to Article 9 of the Zoning Bylaw to authorize the construction and installation of a transmission tower at 293 Boston Street and Boston Street Rear, as filed with the Town Clerk on May 5, 1995.

Appeals, if any, shall be made pursuant to Section 17, M.G.L., Chapter 40 A, and shall be filed 20 days after filing of this notice of decisions in the office of the Town Clerk.

Sincerely,

John P. Kinhan
Chairman, Zoning Board of Appeals

JPK/jc

Attachments

**MINUTES OF TOPSFIELD ZONING BOARD OF APPEALS
MEETING AND HEARINGS OF OCTOBER 24, 1995**

The meeting was called to order by the Chairman at 7:30 PM. Present were Richard Carlson, John Kinhan, Holger Luther, Ray Gerry, and George Herland. Also present was Jeanne Chub, secretary.

Secretarial payroll and bills were signed, and the mail was noted.

Chairman Kinhan stated that the Board had received a letter dated October 24, 1995 from David Bond, 23 Grove Street, noting it was his intention to make an application to the ZBA for the replacement of an existing accessory building at 23 Grove Street and requested a waiver from the certified plot plan requirement.

Chairman Kinhan moved to grant the request for a waiver of the certified plot plan requirement, seconded by Mr. Gerry; so voted 5-0.

Chairman Kinhan moved to accept the minutes of September 26, 1995 as corrected, seconded by Mr. Luther; so voted 5-0.

COMMUNICATIONS TOWER/BOSTON STREET

Chairman Kinhan moved to restate and adopt the findings of the September 26, 1995 meeting minutes as amended with respect to the special permit only, seconded by Mr. Luther; so voted 5-0.

Special Permit Findings:

1. Chairman Kinhan moved, seconded by Mr. Luther, that the proposed use of the property enhances the public welfare and convenience by augmenting emergency and mobile telecommunications in Topsfield generally; so voted 5-0.
2. Chairman Kinhan moved, seconded by Mr. Luther, that the proposed use of the property will not create an undue traffic congestion or unduly impair pedestrian safety; so voted 5-0.
3. Chairman Kinhan moved, seconded by Mr. Luther, that the proposed use will not overload any municipally provided services, electromagnetic emissions from the tower do not pose a public health hazard, and the operation of ground facilities will not be detrimental to the public welfare or safety; so voted 5-0.
4. Chairman Kinhan moved, seconded by Mr. Luther, that the proposed use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to health, safety or welfare; voted 4-1, with Mr. Carlson opposing.

RECEIVED OFFICE OF TOWN CLERK

Topsfield, MA 01983

Date *Nov 6, 1995* Time *8:40 AM*
Beverly Ann Guarino
Beverly Ann Guarino, CMC/CHMC
Town Clerk

Mr. Carlson made the motion that the Zoning Board of Appeals grant to New York Cellular Geographical Services, Inc. and to Southwestern Bell Mobile Systems, Inc. a Special Permit to construct and operate a freestanding transmission tower at 293 Boston Street as filed in their application with the Town Clerk on May 5, 1995 subject to the following conditions:

Special Permit Conditions:

1. That all land within a radius of three hundred feet (300') from the base of the proposed tower, except when it encroaches a lot line, shall be reserved in its natural state for the exclusive use of the proposed tower and ground facilities for as long as the tower is in operation. Moreover, while the tower is in existence, said land shall not be subdivided for any purpose.
2. As offered by the applicant, the applicant shall install three (3) antennae at no cost to the Town for the exclusive use by Town agencies.
3. That "as built" plans showing the developed site be submitted to the Topsfield Building Inspector and Zoning Administrator upon completion of construction. The "as built" plans may be the marked up mylars of the submitted (revised 8/21/95) site plan signed and dated by the project engineer upon completion of the development.
4. That the Site Plan Review conditions are met.
5. That the tower or equipment shall not interfere with Continental Cablevision or cable television reception.
6. The special permit shall lapse twenty (20) years from date decision is filed with the Town Clerk.
7. The tower be limited to one hundred sixty-four (164) feet in height measured from its base.
8. No antennae be hung on the tower except those shown on a plan dated August 21, 1995.
9. No antennae that are parabolic or circumferential in shape shall be installed on the tower.

The motion was seconded by Chairman Kinhan; so voted 4-1, with Mr. Luther opposing.

Mr. Carlson made the motion that the Zoning Board of Appeals, in regard to an application filed by New York Cellular Geographical Services, Inc. and Southwestern Bell Mobile Systems for Site Plan Approval to construct and operate a transmission tower at 293 Boston Street as filed in their application with the Town Clerk on May 5, 1995, find the following:

Site Plan Review Findings:

1. The application conforms with all federal, state, and local laws, regulations, and bylaws. Specifically, the Board finds that no permit will be required for the Boston Street curb

cut, as the existing driveway will not be altered nor will its use be changed by the proposed use.

2. The total traffic on and off the site is minimal and estimated to be less than 1 to 4 car trips per week after completion of construction. There is no requirement for pedestrian movement on-site.
3. On-Site vehicle parking for four vehicles has been provided. Three are required under the provisions of Art. IV, sec. 4.12 para. B, V. Loading ramps are not required on-site.
4. No town services other than police and fire protection will be required on-site.
5. No sanitary facilities will be constructed on the site. All roof drains are routed into subdrains (dry wells).
6. On-site noise is mainly from ventilators and a power generator in case of power failure. Remote setting mitigates noise and odor.
7. Site plan minimizes disturbance to existing vegetation.
8. Site outside construction locus will be left in its native condition.
9. A telecommunication tower cannot be made architecturally harmonious with either a residential "townscape" or the natural landscape. The best that can be expected is to locate the necessarily utilitarian construction in an area which is deeply buffered by undeveloped, forested land inaccessible to the general public.

The motion was seconded by Chairman Kinhan; so voted 5-0.

Mr. Carlson made the motion that the Zoning Board of Appeals in regard to an application filed by New York Cellular Geographical Services, Inc. and Southwestern Bell Mobile Systems, to construct and operate a transmission tower at 293 Boston Street as filed in their application with the Town Clerk on May 5, 1995 subject to the following conditions:

Site Plan Approval Conditions

1. That the construction of the proposed tower and appurtenances minimize the destruction of native vegetation in the surrounding area. This can be measured by marking the boundary beyond which construction vehicles shall not travel.
2. That no chemicals be stored outside either of the two buildings, and no chemical waste be deposited on-site. The installation of the fuel tank for the emergency generator be approved by the Topsfield Fire Dept.
3. That all rubbish waste, worn parts, and obsolete equipment be removed from the site.

The motion was seconded by Mr. Gerry; so voted, 5-0.

At approximately 8:20 PM, Mr. Carlson made the motion to relocate the meeting upstairs with Town Counsel and the Board of Selectmen, seconded by Mr. Kinhan; so voted. There being no business before the Board, the meeting was adjourned at 8:25 PM.

The next meeting will be November 28, 1995 at 7:30 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "John P. Kinhan". The signature is written in dark ink and has a long horizontal flourish extending to the right.

John P. Kinhan
Chairman