

PLANNING BOARD MINUTES

March 8, 2022

PRESENT: Margaret Olson (Chair), Lynn DeLisi (Vice-Chair) Stephen Gladstone, Robert Domnitz, Gary Taylor

STAFF: Paula Vaughn-MacKenzie

7:00 PM **Public Hearing, Section 12.6, Wireless Communications Facilities Overlay District: T-Mobile Northeast, LLC, (Sprint) 9 Mary's Way/37 Cambridge Turnpike, Parcel 111-9-0.** Special Permit to maintain an existing wireless facility for a new term. Vote expected.

MO opened the public hearing.

PVM presented the history on these permits and the project as submitted by the applicant.

T-Mobile, successor to Sprint and MetroPCS, is proposing renewals to 5 special permits. Three of these will be new permits because the existing permits have been expired for 4 years. All the waivers being requested, as well as the responses to sections 12.6.5 and 12.6.6, are effectively the same for all the applications. The Planning Board has historically approved many of these waivers for renewals without modifications, however they customarily require an updated RF emissions report, a set of plans, an agreement to notify the Board of all future communications with the FAA and a statement on the record of whether the applicant has any knowledge of future facilities being planned for the next 20 months. The applicant stated that because they are not proposing changes, they have requested waivers to all of the submittal requirements contained in Section 12.6 of the Zoning Bylaw.

The current Special Permit was issued on March 13, 2012, and expired on March 13, 2017. The 2012 Permit Extension Act and the COVID Emergency Extension Act extended the permit until the state of emergency was lifted on June 15, 2021. The applicant is before the Board requesting a renewal of the Special Permit for an additional term.

Legal Notice was properly advertised in the local newspaper and abutters were notified. The Planning and Land Use Department did not receive any requests for the submission materials or any comments.

The applicant is not proposing any changes to the existing Wireless Communications Facility.

The Special Permit for the Tower, owned by Crown Castle, was approved by the Planning Board on September 14, 2021. This Special Permit is for Sprint's (now T-Mobile) equipment on the Tower.

Adam Brillard, from Prince Lobel Tye, is duly authorized to act as Agent for Applicant.

Compliance with Section 12.6.4 of the Zoning Bylaw:

PVM stated that the applicant's waivers are based on the information from the original special permit application. Jennifer Curtin and PVM reviewed the files for this property. There was a modification in 2015 for new equipment with an updated emissions report.

Submittal Requirements:

- a) Notarized statement signed by the applicant that all information included in the submittal is materially accurate, true, complete, and verifiable.

The applicant submitted a notarized narrative complying with this requirement.

- b) A map of the Town and the area within 2 miles of Lincoln's boundaries showing the locations of (1) existing Wireless facilities and proposed facilities for the next 20 months by the applicant's wireless provider; and (2) the existing and known proposed facilities of other service providers.
- (c) Data from field measurements of existing radio emissions levels to be taken within 45 days of the application.
- (d) Equipment, data and drawings, etc. describing equipment, antenna, mounts, shelters and security barriers.
- (e) Plans showing location of tree cover within 500 feet of the proposed facility and other details, and topography contours.
- (f) Drawings of the proposed facility
- (g) Schedule for testing of proposed facility, height of the facility and visual impact (balloon testing)
- (h) Plan showing the facility within the overlay district including contour lines within 150 feet radius from the base, and location of trees over 20 feet tall.
- (i) Copies of all written or electronic communications between the applicant and the FAA concerning the proposed site.

12.6.4.1 requires a pre-application conference between the applicant and the Planning Board with notice to abutters and formal advertisement. The purpose is to discuss planning, design, and siting of the proposed facility.

12.6.4.2 Unless waived by the Planning Board, the applicant shall submit copies of all written and electronic communications to be submitted by the applicant to the FAA at least 14 days prior to such submission.

The applicant requests waivers of 12.6.4 (b), (c), (d), (e), (f), (g), (h), (i), 12.6.4.1 and 12.6.4.2. The applicant states that since the facilities at the site are existing and have been operational for many years the requirements are not applicable to the Special Permit renewal as there are no changes being proposed.

The applicant has not stated that there have not been changes since the original special permit application. PVM recommended that the Planning Board require the same documentation that is routinely submitted for a request for a new special permit where no equipment changes are proposed as follows: an updated emissions report, plans, an agreement to notify the board of future communications from the FAA, and a statement of whether the applicant has any knowledge of future facilities planned for the next 20 months.

Lesley Delaney Hawkins, representative from Price Lobel Tye, said that these are five existing installations, and they are not proposing any changes or modifications just seeking a renewal. They are willing to send additional information that the Planning Board requests.

PVM stated that the applicant stated in their request for waiver to section 12.6.4 (c):

The applicant stated that the facilities distribution of radio signal radiation was measured at the ground level at the boundary of the abutting properties and measured at locations of existing and proposed structures of the abutting properties as part of the original Radio Frequency Coverage Study. The facility's distribution of radio signal radiation was found to compliant with federal safety limits. There are no proposed changes so there will not be any increased radio signal radiation. Therefore, there will be no adverse effect with respect to human health hazards due to radio signal radiation.

BD asked when The Commons were fully built out. Measurements at ground level would not tell the story for people who live at higher stories.

MO said that the Tower has changed since 2012. If anything, the application is wrong.

GT said that there has been considerable development in the vicinity of these Towers, and that needs to be reflected in the submissions.

Christopher Redmond said that when they refer to the “original special permit” they mean the most recent special permit, for this it is the 2015 modification where there was an emissions study conducted.

Ms. Hawkins said that the applicant will connect with Jennifer Curtin to coordinate the documents for a more robust application and requested a continuance.

BD said that the application should be deemed incomplete. They asked for a waiver from 12.6.4.2, which requires the applicant to submit a copy of all communications with the FAA. He asked why they would want a waiver from that. The Board would like to be able to weigh in if there are lighting changes proposed.

Ms. Hawkins said that they will come back with a more robust application.

SG moved to continue the hearing to April 26, the Board deemed the present application incomplete, and requested a current RF report or a copy of the most recent RF report with a statement that there have been no changes made since the most recent application, an updated set of plans, an agreement to notify the Board of future communications with the FAA and a statement on the record that the applicant has no knowledge of any plans for the next 20 months. GT seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

7:10 PM Public Hearing, Section 12.6, Wireless Communications Facilities Overlay District: T-Mobile Northeast, LLC, (MetroPCS) 0 Bedford Road/131 Cambridge Turnpike, Parcel 127-13-0. Special Permit to maintain an existing wireless facility for a new term. Vote expected.

MO opened the public hearing

MO moved to continue the hearing to April 26, the Board deemed the present application incomplete, and requested a current RF report or a copy of the most recent RF report with a statement that there have been no changes made since the most recent application, an updated set of plans, an agreement to notify the Board of future communications with the FAA and a statement on the record that the applicant has no knowledge of any plans for the next 20 months. SG seconded. SG aye, LD aye, BD aye, MO aye, GT aye.

PVM said since there have been no applications since 2009, we would request a statement that nothing has changed since 2009.

MO said if the applicant has an existing RF report, she asked that staff give an opinion on if it is acceptable or if a new report should be done.

7:20 PM Public Hearing, Section 12.6, Wireless Communications Facilities Overlay District: T-Mobile Northeast, LLC, (MetroPCS) 169 Lincoln Road, Parcel 161-11-0. Special Permit to maintain an existing wireless facility for a new term. Vote expected.

MO opened the public hearing

MO moved to continue the hearing to April 26, the Board deemed the present application incomplete, and requested a current RF report or a copy of the most recent RF report with a statement that there have been no

changes made since the most recent application, an updated set of plans, an agreement to notify the Board of future communications with the FAA and a statement on the record that the applicant has no knowledge of any plans for the next 20 months. BD seconded.

BD said that we may not need a new RF report if nothing has changed since the original application.

MO said that she would like the applicant to check themselves to determine that nothing has changed since that is unlikely considering how long ago the permit was done.

PVM said that they can submit a statement to the Board that there have been no equipment changes since 2009 in lieu of a new emissions report.

Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

7:30 PM Public Hearing, Section 12.6, Wireless Communications Facilities Overlay District: T-Mobile Northeast, LLC, (Sprint) 169 Lincoln Road, Parcel 161-11-0. Special Permit to maintain an existing wireless facility for a new term. Vote expected.

MO opened the public hearing.

The most recent Special Permit was issued on August 30, 2011, had a term of five years, and was due to expire on August 30, 2016. There was a renewal in 2015 with no emissions report. There was an emissions report submitted with an Eligible Facilities Request in 2018.

MO moved to continue the hearing to April 26, the Board deemed the present application incomplete, and requested a current RF report or a copy of the most recent RF report with a statement that there have been no changes made since the most recent application, an updated set of plans, an agreement to notify the Board of future communications with the FAA and a statement on the record that the applicant has no knowledge of any plans for the next 20 months. GT seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

Business

Minutes

PVM said that BD and GT submitted edits to the minutes that will be incorporated.

MO moved to approve February 22, 2022 minutes as amended. SG seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

Liaison Reports

MO said that she, PVM, Bob Wolf, and Clarissa Rowe met with the new Minute Man NHP director, Simone Monteleone. MO initially reached out to her as a liaison to BPAC to communicate the need for crosswalks. Ms. Rowe was asked to attend because she is a landscape architect and Planner who has a relationship with MassDOT. MO stated that Ms. Monteleone is not opposed to crosswalks but does not want them to lead to archeological sites or wetlands. She said that MassDOT put the crosswalks in their plan without investigating what the road actually looks like. For example, the planned crosswalk at Mill Street does not lead directly into the parking lot. Ms. Monteleone said that she would like time to determine where the crosswalks should be. The crosswalk at the Minuteman School was put in at the request of the Park, but the Park said that it leads into archeological area. MO added that the Section 106 process is continuing, and we will hopefully get crosswalks and splitter islands because they are all part of the traffic calming.

BD said that removing the crosswalk at the Minuteman Tech driveway makes sense, but it may be useful to replace it with a splitter island since it is a good place for drivers to begin to slow down and notice that they are entering the Park.

PVM agreed that there is a need for a series of traffic calming measures because one crosswalk will not accomplish reduced speeds along the length of the corridor. PVM stated that Ms. Monteleone understands that traffic calming will reduce noise and make the park experience better.

BD asked about the Brooks Road crosswalk.

PVM said an issue is that it crosses the Concord line, and Concord is not in favor of crosswalks.

BD said siting it opposite the visitor parking lot would be an option.

PVM agreed and said the Town could ask for it again. She noted that the purpose of the meeting was to give Ms. Monteleone context on the three years of work that have gone into MassDOT's plan. The Town of Lincoln has been advocating for bicycle and pedestrian safety for a long time.

SG said that he sat in on the Select Board meeting last night and the Community Center will be brought up at Town Meeting. There would be room to add new debt for a community center as the debt from the schools tapers off. There is a limit on how much debt the Town can take on and the school project took a lot of that. As the bond is paid off, the total amount of debt decreases. He added that there is a Finance Committee meeting coming up soon where more information on this will be presented.

GT said that we have benefitted from an AAA bond rating which reduces the interest to be paid on a bond. If we get too deep into debt, it will jeopardize that rating. We would like to preserve our rating to keep interest rates on existing and future bonds low.

BD said that, even though we are paying down the balance on the bonds, there is a fixed payment. So taxes will be increased with more debt even though there is more headroom for borrowing.

7:40 PM Public Hearing, Section 12.6, Wireless Communications Facilities Overlay District: T-Mobile Northeast, LLC, (MetroPCS) 295 Cambridge Turnpike, Parcel 132-25-0. Special Permit to maintain an existing wireless facility for a new term. Vote expected.

MO opened the public hearing.

MO moved to continue the hearing to April 26, the Board deemed the present application incomplete, and requested a current RF report or the most recent RF report with a statement that there have been no changes made since the most recent application, an updated set of plans, an agreement to notify the Board of future communications with the FAA and a statement on the record that the applicant has no knowledge of any plans for the next 20 months. GT seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

7:50 PM Public Hearing for Town Meeting warrant article 35, proposed changes to the Lincoln Zoning Bylaw Section 19.3 Violations and Penalty: to increase the fine amount from "not exceeding \$100 dollars for each offense" to \$300 dollars for each offense as follows:

19.3 Whoever violates any provisions of this By-law shall be punished by a fine ~~not exceeding one of three~~ hundred ~~(\$100)~~ (\$300) dollars for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense to replace it in its entirety.

MO opened the public hearing.

David Summer, Chair of the Zoning Board, presented the proposed bylaw change. They would like to increase the fine for zoning violations. In his 10 years on the Board, they have fined 1 or 2 people and those fines were ultimately waived in court. This is not for revenue gathering, just in keeping with the times and to be used as another tool in the toolbox when faced with zoning violations.

LD said that there are few ways to enforce the fines.

MO said that is a limitation of state law. She agrees that it is still a worthwhile statement.

LD said that the first questions people may have is what happens if people do not pay the fines.

Mr. Summer said that is an issue that has been discussed with Town Counsel who advised that the Town would have to bring a lawsuit to enforce the fine in Land Court. Judges do not usually enforce these kinds of fines.

MO said that the fine helps the Town go to court. If the result is that the violation is fixed and the fine is waived, then the goals of the town have been met since the goal is compliance not to gain revenue.

BD said that it is worth going to court to stop someone from violating the building code.

PVM said that the \$300 per day is the maximum that the State will allow for these kinds of fines. We are looking for compliance and not to go to court.

LD asked what the other Towns do for fines and that it would be good to reference it in his presentation at Town Meeting.

Mr. Summer said that other Town's use \$300. Mr. Summer requested that the Board endorse the warrant article.

MO moved to close the public hearing. GT seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

MO moved to endorse the warrant article. LD seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

8:10 PM Briefing and Request for Endorsement by Paul Shorb on Citizens Petition Town Meeting Warrant Article 31 and related motion: To see if the Town will vote to request home rule legislation to establish the authority to restrict the installation of fossil fuel infrastructure in major new construction.

Paul Shorb presented the proposed warrant article. This warrant article and draft bylaw have been drafted by the Green Energy Committee.

MO asked if this is sponsored by the GEC and if they have endorsed it.

Mr. Shorb said that it got on the warrant through a Citizens Petition and the GEC has endorsed it.

PVM asked if it will be presented at Town Meeting as being proposed by the GEC.

Mr. Shorb said that it will be presented by him and Trish O'Hagan as citizen's petitioners with remarks being that it has been endorsed by the Green Energy Committee.

BD asked if they are members of the GEC.

Mr. Shorb said that he is a voting member of the GEC but Trish is not.

PVM said that the Citizen's Petition is short and asks for special legislation for the Town to be able to ban fossil fuels. This is over and above state building code and is not allowed on a Town by Town basis unless the Town receives special legislation. Other towns have put this forward; Lexington, Concord, Acton and Brookline and all have been rejected. The state does not want different building codes in every city and town. This is a way for Lincoln to add its voice to try to get the state to move in the direction of banning fossil fuels. The motion includes an addition to the general bylaw. This bylaw was based on Acton and Lexington's bylaws which have not been accepted by the Attorney General.

Mr. Shorb said that the AG has rejected the first one, because the requirement is that a home rule petition be done prior to submission. He said that this is more of a push to the legislature into a net zero stretch code.

PVM said that the general bylaw needs some refinement. These are significant policy discussions that should be made during a public process. Usually, a bylaw takes a year to craft before being presented to Town Meeting. The section on the Building Inspector having discretion to make a financial analysis as currently written may create liability issues for the Town. The appeals process should not go through the Select Board. If enforcement consists of denying building permits, the appeals would go through the Building Code Appeals Board. The Planning Board may support the political statement to move the Town toward banning fossil fuel, by endorsing the citizen's petition without the bylaw. If the legislature allows it, then Lincoln could work to craft a bylaw that goes through the proper public process.

MO said that she shares the concerns raised by PVM. There needs to be multiple public hearings when drafting a bylaw. She agrees with making statements on energy use. She is concerned with the motion because it attaches the bylaw. She would like to support the petition and push for the stretch code.

Mr. Shorb said that they are open to revising the motion as they have until March 18th. He is interested in PVM's evaluation of how the bylaw draft can be improved to still bring it to a vote at Town Meeting. He agrees that it is not usually how a bylaw is passed, but this one is simple. The Town can then discuss if they are willing to say that all new building shall be electric.

BD said that it would be the better path to build momentum and connect with the residents. He is concerned that people will think the Green Energy Committee is going further than they should.

GT said that it is not just the GEC that is concerned about this. Senator Barrett is also concerned with how the stretch code is being handled and he is pushing for the kinds of changes the GEC is talking about. It is important to support public statements that say Town's should be able to enforce a code that bans fossil fuels in new construction. It is important for these statements of principle to be discussed and send a concrete message to the legislature.

Ms. O'Hagan said that the climate bill passed last year has clear guidelines of greenhouse gas reductions. Without electrification, those are not possible. We have to push for the government to put the law into effect.

GT said that cities and towns cannot pass building codes that exceed what is in place at the state level.

Mr. Shorb said that the reason for the problem is that, if the state does not approve the current proposal, Towns are prevented from changing their codes. They should allow towns to opt into all electric if they want to. The comment period for the stretch code proposal has been extended to March 18th.

MO said that she would not be willing to support the motion with the bylaw attached. Net Zero only works if other people are burning no fuel. Emphasis needs to be on minimizing fossil fuels, while net zero is an accounting issue because it is predicated on the idea that you produce in renewables as much as you consume through fossil fuels.

BD asked if the language in the petition talks about a regulation or bylaw or does it just open up the option. He added that this would be a multiyear process where a foundation is built with the public.

Mr. Shorb said that they can vote on a home rule petition and give a less detailed bylaw. The motivation is to push the town to grapple with these issues at this town meeting.

GT said that this can be brought as a Sense of the Town, and it will open up the discussion.

PVM said that such actions will be discussed and vetted through the Climate Action Plan process. The public process is to reach out to as many people as possible to get buy-in from the town.

Mr. Shorb said that they want to make a push now to put pressure on the legislature and do not want to wait for the CAP to be done.

PVM said that Mr. Shorb should return to the March 22 Planning Board meeting with a revised motion. Mr. Shorb agreed.

Review and vote on Housing Choice Letter

The Board discussed non-substantive changes to the letter. PVM will go to the Conservation Commission tomorrow night to invite them to sign on. The letter will be addressed to DHCD and be copied to our reps at the legislature.

LD moved to vote to endorse the letter with the corrections made by BD and GT. MO seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

MO moved to adjourn. GT seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye.

Approved on March 22, 2022.