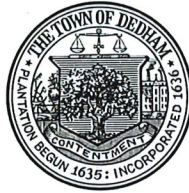


TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS

James F. McGrail, Chair
J. Gregory Jacobsen, Vice Chair
Scott M. Steeves
Jason L. Mammone, P.E.
Jared F. Nokes, J.D., Associate Member
George Panagopoulos, Associate Member



Dedham Town Hall
26 Bryant Street
Dedham, MA 02026-4458
Phone 781-751-9242
Fax 781-751-9225

Jeremy Rosenberger
Town Planner
jrosenberger@dedham-ma.gov

ZONING BOARD OF APPEALS

DECISION

Applicant: Town of Needham Select Board
Project Address: 0 West Street
Property Owner: Massachusetts Department of Transportation
Property Owner Address: 10 Park Plaza, Boston MA 02116
Applicant Representative(s): Christopher H. Heep, Esq.
Legal Notice: The Applicant requests a Special Permit authorizing a governmental use pursuant to Section 3.1.6.B.5; a special permit authorizing a tower height in excess of 85' pursuant to Section 4.2.4; and a variance of the 50' height limit for antennas contained in Section 4.2.3. The proposed project is located in Zoning District Single Residence A (SRA).

Section of Zoning Bylaw : *Town of Dedham Zoning Bylaw Section 3.1.6.B.5; Section 4.2.4; Section 4.2.3*
Zoning District, Map and Lot: Single Residence A (SRA)
Map 101, Lot 1

Date of Public Hearing: July 17, 2019 and August 15, 2019
Date of Decision: August 15, 2019
Vote: 4-0 Unanimous in favor
Voting Members: James F. McGrail, Esq., Chair, J. Gregory Jacobsen, Vice Chair, Scott M. Steeves, and Andrew Pepoli
Date Filed with Town Clerk: September 30, 2019

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The Zoning Board of Appeals (“ZBA”) of the Town of Dedham, Massachusetts, held a public hearing on Wednesday, July 17, 2019 and Wednesday August 15, 2019 in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves and Andrew Pepoli. This hearing and meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

The hearing was on the application of the Town of Needham Select Board (the “Applicant”) for a special permit authorizing a governmental use pursuant to Section 3.1.6.B.5, a special permit authorizing a tower height to exceed 85’, and a variance of Section 4.2.3 to allow antenna heights of above 50’. The Subject Property is located off of West Street, Dedham MA, and is shown on the Town of Dedham Assessors’ Map as Parcel 101-1. The Subject Property contains approximately 79 acres in total, and is located between the north and southbound lanes of I-95/Route 128 and behind the Norfolk County Sheriff’s Office. The Subject Property is owned by the MassDOT, and is part of the right of way to Route 128/I-95. The Subject Property is located in the SRA Zoning District.

The Applicant was represented by Christopher H. Heep, Esq. of Miyares and Harrington LLP, 40 Grove Street, Wellesley MA 02482.

The Applicant intends to lease a small area of the Subject Property, as shown on the site plans submitted to the ZBA. The application is to construct a public safety communications tower, antennas, and ground based equipment and infrastructure. This proposed lattice tower will be one of four (4) installations that will comprise the Town of Needham’s public safety communications network, with each site using a looped microwave antenna network; the remaining three (3) towers in this system are located in Needham.

The proposed tower will be a lattice tower that is 180 feet tall with ten (10) foot tall whip antennas and a lightning rod affixed at the top, for a total height of 190 feet. The tower

will be constructed on a foundation with an equipment shelter and a generator immediately adjacent. The site is previously disturbed due to the presence of an existing gravel access road and an overgrown laydown area. The Applicant stated in its application and at the public hearing that the tower is intended to be permanently available to the Town of Dedham's Police and Fire Departments, which will be able to site their antennas on the tower. The Applicant submitted to the Board a Memorandum of Agreement between the two towns, which will memorialize the agreement to make tower space available to the Town of Dedham without the payment of rent.

No one appeared at the hearing in opposition of this Application.

Section 3.1.6.B.5 of the Dedham Zoning Bylaw allows "[a]ny municipal facility or governmental use not specifically listed; Essential services" within the SRA District pursuant to a special permit issued by the ZBA. In addition, pursuant to Section 4.2.3 of the Zoning Bylaw, towers may exceed a height of 85 feet pursuant to special permit from the ZBA. Pursuant to Section 4.2.3, antennas have a maximum height of 50 feet, but the Applicant has determined that its antennas must be placed at heights up to 180' in order to communicate with the other components of its communications system located in Needham; therefore the Applicant's public safety communications antennas will require a variance of this regulation.

Relative to the relief requested from the provisions of the Dedham Zoning Bylaw, the Applicant submits that it has satisfied the procedural and substantive criteria and requirements for special permits under Sections 3.1.6.B.5, 4.2.4 and for a variance of the height limit applicable to antennas under Section 4.2.3. More specifically, the ZBA finds as follows:

The project satisfies the special permit criteria of Section 9.3.2: The adverse effects of the project do not outweigh its beneficial impacts. This project will serve the Town of

Needham's Police Department and Fire Department. This project will serve the public interest of allowing these departments to timely and safely respond to calls, and to otherwise carry out their respective missions. Furthermore, this site will be available for use for the same purposes by the Town of Dedham, which will have access to the tower at no cost whenever the need arises. The proposed facility will be visible, but is located within the Route 128/I-95 median in a wooded area and is separated from all residences by the highway. This site allows for the visual impacts of this facility to be mitigated to the greatest extent practicable.

With respect to the social, economic, or community needs which served by the proposal, this project will enable the Town of Needham's Police and Fire Departments to operate the public safety communications system and to timely and safely respond to calls for service. The project will allow the Town of Dedham to install similar equipment on the tower in the future, so it will ultimately provide a similar community benefit in Dedham and the surrounding area as well.

With respect to traffic flow and safety, including parking and loading, the proposed facility will be unmanned, and with the exception of intermittent visits for maintenance it will generate no traffic and require no parking or loading.

With respect to the adequacy of utilities and other public services, the Applicant will require electrical service for the Project, which it has determined is available at the site and is sufficient to support this use. The project will not involve any other demand on public services.

With respect to the neighborhood character and social structures, the site is located within the Route 128/I-95 median, behind the Norfolk County Sheriff's Office and correctional facility, and is removed from other uses by the highway. In addition, there are already

two (2) existing wireless communication facilities on the property. The proposed location is a good site for this important governmental use, and it will not have a negative impact on neighborhood character or social structures.

With respect to the impacts on the natural environment, the project will not have any negative impacts. The site is densely wooded in general. The tower site is located adjacent to an existing service road, and site clearing and disturbance has been minimized to the greatest extent practicable. In addition, this project has obtained an Order of Conditions from the Dedham Conservation Commission, and the Applicant will fully comply with all conditions and requirements imposed therein.

With respect to potential fiscal impact, including impact on town services, tax base, and employment, the project will have no negative fiscal impact on the Town of Dedham, and will not require any involvement from Town services. In addition, the site will be available for use by the Town of Dedham's Police Department and Fire Department in the future, at no cost to the Town.

With respect to the special permit pursuant to Section 4.2.4, the topography of the land and the purpose of the proposed facility both make adherence to the 85' height limit impractical. The Applicant has conducted a microwave path survey and determined that its antennas must be placed at heights above 85' in order for this facility to communicate effectively with the other locations in the Applicant's system.

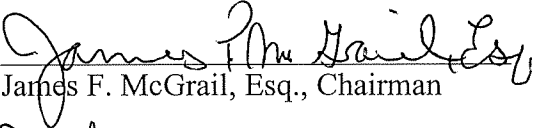
With respect to the criteria for a variance of Section 4.2.4, the topography of this site supports the issuance of the requested variance. The base of the tower sits significantly below the peak elevation at the site, which makes a portion of the tower height necessary to extend above the tree line. In addition, the Applicant's antennas at this site must be placed at heights above 50' to allow them to communicate with the other locations in the system located at the Police and Fire Headquarters and the existing telecommunications

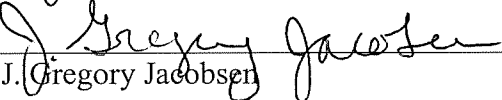
tower at Cabot Street. In addition, a literal enforcement of the Zoning Bylaw would involve substantial hardship to the Applicant. The Applicant must replace its existing public safety communications system, which employs an outdated copper wire system that is no longer serviced by Verizon, and which has previously not provided adequate coverage in all locations in Town. The Applicant's new proposed system includes three (3) installations in Needham and this proposed site in Dedham. The system works on a loop, and the Applicant's consultants have concluded that antenna heights above 50' are necessary for this facility to communicate with the two connecting parts of the system (headquarters and the existing Cabot Street tower). Finally, desirable relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw. The site is well suited for a communications tower; it is located within the Route 128/I-95 median and is separated from any nearby residences by the highway. In addition, the site already has two (2) cellular communications towers located in the immediate vicinity.

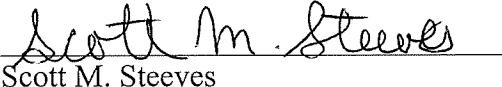
Upon motion being duly made and seconded, the ZBA voted unanimously (5-0) to grant the requested special permits and variance as required for construction and operation of the Applicant's proposed public safety communications lattice tower, related equipment and infrastructure on Assessors' Parcel 101-1 in Dedham, MA, in the SRA Zoning District. In granting this relief, the ZBA finds that Applicant has satisfied the procedural and substantive requirements for issuance of the requested special permits and dimensional variance.

This Decision is subject to the condition that the Applicant and the Town of Dedham execute the Memorandum of Agreement, substantially in the form presented to the ZBA, memorializing the agreement between the two towns to make space available for Dedham's public safety communications antennas.

Dated: September 30, 2019


James F. McGrail, Esq., Chairman


J. Gregory Jacobsen


Scott M. Steeves


Andrew Pepoli