

Planning Board

John R. Bethoney, Chair
Ralph I. Steeves, Vice Chair
Robert D. Aldous, Clerk
James E. O'Brien IV
Michael A. Podolski, Esq.

TOWN OF DEDHAM
COMMONWEALTH OF MASSACHUSETTS



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PLANNING BOARD
MINUTES

Thursday, January 11, 2018, 7 p.m., Lower Conference Room

Present: John R. Bethoney, Chair
Ralph I. Steeves, Vice Chair
Robert D. Aldous, Clerk
James E. O'Brien IV
Michael A. Podolski, Esq.

John Sisson, Economic Development Director
Susan Webster, Administrative Assistant

Call to order 7:00 p.m. The Pledge of Allegiance was recited. Plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office.

Applicant: Cellco Partnership d/b/a Verizon Wireless
Project Address: 387 Washington Street, Dedham, MA
Case #: **SITE-09-17-2268**
Zoning District: Central Business
Representative(s): Christopher A. Swiniarski, Esq., McLane Middleton, 900 Elm Street, P.O. Box 326, Manchester, New Hampshire 03105-0326
Town Consultant: Steven Findlen, McMahon Associates

Mr. Swiniarski is seeking site plan review and approval of a minor wireless facility at the roof of the Verizon Telecommunications building in Dedham Square. The proposal is for rooftop mounted equipment concealed within fiberglass brick enclosures. This is made to look like brick but it has to be radiofrequency transparent, so it cannot be real brick in order for the antennae to transmit through it. The enclosure on the front of the building on Washington Street would measure 10' x 14' x 10' tall. The rear enclosure is not really visible from any public vantage point, and will measure 8' x 8' x 10' tall. Mr. Swiniarski provided photo simulations of the proposed facility.

Mr. Bethoney asked if he had been before the Design Review Advisory Board for their recommendation. Mr. Swiniarski said he had only been before the Zoning Board of Appeals, which approved a Special Permit for the use. Mr. Steeves asked why the facility could not be moved further back on the roof. Mr. Swiniarski explained that reception is not as good when going further back and hence is less effective the further it is located. In this case, the target area is Washington Street. The height is currently 37 +/- feet from the ground. The height off the ground including the new enclosure would be approximately 47'6." He said that this falls within the criteria noted in the Zoning Bylaw for wireless facilities.

Mr. Bethoney said there is a maximum height requirement for buildings according to the Section 4.2, Height of Buildings and Structures, Subsection 4.2.2, Buildings Permitted in Nonresidential Districts:

“Buildings in Nonresidential districts CB, GB, HB, LB, LMA, LMB, RDO, and AP, other than single and two-family dwellings, shall not exceed the height of 40 feet, measured from the average finished grade of the lot within 20 feet of the outside walls of the building to the high point of the roof, provided that for buildings with sloping roofs the height shall be measured to the eave line if no portion of the building above the eave line is used for human occupancy.”

Mr. Swiniarski said the building is not more than 40 feet tall, and this cannot be changed. Mr. Bethoney said that the proposal will increase the height 47'6" from the finished grade to the high point of the roof. He asked if there would be a roof on top of the enclosure. Mr. Swiniarski said there is not typically a roof because it does not need one. However, he said they could add a roof if it makes a difference.

Mr. Findlen noted that in Section 8.3 Wireless Communications Services Overlay District, subsection 8.3.5.2 Height states:

“A device shall be designed and installed at the minimum height necessary for the proper functioning of the telecommunications services to be provided by the device at that location. Free-standing devices shall not exceed 50 feet in height.

Mr. Findlen noted that this is not a free-standing device, so it probably falls outside this criteria. He said the 40 foot height limit would be the correct height. Mr. Bethoney said that building height cannot exceed 40 feet. He said the installation looks like a building to him. He would call the enclosure a structure. He said that he would like to ask Town Counsel for a determination. The Board agreed. He noted that the rendering on page 9 of the submission, there is an antenna on the building; he would not call that a structure. He would rather see what is proposed than the antenna, but wondered if a waiver for structure height would be required. He asked Mr. Sisson for his opinion and he concurred, saying it is an important question.

Mr. Bethoney said that this does not mean that the Board will not approve the proposal, but if the height needs to be waived, the Board would have to do it procedurally. Mr. Swiniarski asked if this fell within the purview of the Zoning Board of Appeals since it is a dimensional regulation. Mr. Bethoney said the Planning Board can grant waivers as well. Mr. Podolski

asked if the Zoning Board of Appeals brought this up. Mr. Swiniarski said he did not have the file and did not recall if a variance was obtained for height. He had consulted with the Building Department prior to the hearing, and it was not brought up. In his mind, this was not the Building Department's interpretation of what a structure is, and it was not considered a structure; he said the Building Department would have flagged this as also requiring a variance otherwise. Mr. Podolski said that if the Building Department does not consider it to be a structure on a roof, then that may get them around the height issue.

Mr. Bethoney said the Board will check with the Building Commissioner first to see if it is free-standing. If he is unsure, they will then check with Town Counsel. A letter would be required for the file. Mr. O'Brien asked if this could be considered a parapet. Mr. Swiniarski said there is a parapet that is as high on the back side. Mr. Bethoney said this is existing, and the Board is not dealing with that; the issue is the proposed enclosure in this application. He did not think the Board should decide whether it is structural or ornamental. Mr. Swiniarski said there is no structural purpose; it is there solely and specifically to address the criteria of site plan review for wireless communications facilities. It is there only to hide the equipment and is 100% ornamental. Mr. Bethoney said it appears to be structural regardless, and he would feel more comfortable getting an expert's opinion on whether or not it meets the height requirement. Mr. Swiniarski understood this, but thought it had already been determined when he went to the Building Department and when it underwent peer review. He said that they will do whatever the Board prefers.

Mrs. Webster pointed out that a copy of the Zoning Board of Appeals decision was included with the Board's paperwork. The decision stated that it was approved on the condition that the equipment will look as displayed in the pictures supplied in the application. It does not specify height. Mr. Findlen said that, in terms of the criteria, Section 8.3.5 Site Plan Review of the Zoning Bylaw states:

“Whenever possible, devices shall be sited so as to minimize the visibility of such devices from adjacent property, and shall be suitably screened from abutters and residential neighborhoods.”

The applicant is showing a screening with the enclosure, but it is up to the Board to determine if this is acceptable. Mr. Bethoney said he would just like clarification. Mr. Aldous agreed that the Board should obtain an opinion from Town Counsel. Mr. Podolski suggested starting with the Building Department; perhaps they feel that it is a free-standing structure that does not pertain to building height. If they consider the addition of the enclosure as not increasing the building height, then the applicant is all set, but the Board must have a letter that states this. Mr. Bethoney said they do not have a variance for the height to go from maximum height of 40 feet to 47'6.” If the Zoning Board of Appeals decision said that, everything would have been solved. The option would be to revise the decision to address the building height. The appeal period just started, so if it was revised quickly, it would only take a couple of days. Mr. Steeves reminded Mr. Swiniarski that the brick has to match the building perfectly.

The application will be continued. Mrs. Webster will inform the applicant of the date.