

**TOWN OF LONGMEADOW  
ZONING BOARD OF APPEALS  
Minutes of October 3, 2006 hearing**

**Allen, Lot 1 & 2 Dunn Rd., requesting to be allowed to have a buildable lot, Petition #2005-29.**

Petition was continued to November 15, 2006 hearing.

**Kane, 1657 Longmeadow St., requesting a Special Permit to be allowed to tear down and rebuild, Petition #2006-13.**

Petition was continued to November 15, 2006 hearing.

**Albano, 403 Maple Rd., requesting a Special Permit to be allowed to tear down and rebuild, Petition #2006-27.**

Petition was continued to November 15, 2006 hearing.

**Omni Point-T-Mobile, Academy Dr. Water Tower, requesting a Special Permit to be allowed to put antennas on Tower, Petition #2006-28.**

The applicant requested a Special Permit to install a Wireless Communication facility pursuant to Article IV, Section B, Sub-section 6.12 of the Zoning By-Laws. Attorney Simon J. Brighenti, Jr. of the law firm O'Connell, Flaherty & Attmore and Scott Heffernan, a radio frequency expert for the applicant, appeared before the Board on behalf of the applicant.

The applicant is seeking to located nine PCS antennas onto the catwalk along the side of the existing water tank located at Academy Drive and place three BTS units and telecommunications facility with necessary accessory equipment on the site within the already existing 20 X 20 fenced compound near the legs of the tank. All antennas sets will be designed and painted to resemble an appearance of the existing structure.

Attorney Brighenti explained that the applicant has an obligation pursuant to the Federal Telecommunications Act and the applicable FCC licensing requirements to provide service to a significant segment of the population throughout New England and is currently engaged in a significant network built to do so.

Mr. Heffernan reviewed the radio frequency affidavit with the public and the Board and explained the current gap in the applicant's service and the issues relating to radio frequency emissions. He also explained that the radio frequency exposure levels generated by the proposed facility are substantially below the applicable health and safety standards established by the Federal Communications Commission and the Massachusetts Department of Health.

The applicant has satisfied the requirements of the bylaw with the exception of a requested waiver. The applicant requested a waiver from the requirement of Section 6.14 (1) of the bylaw for the submission of a color photograph and a rendition illustrating views of the proposed wireless communication facility from the nearest street or streets. As further required by the bylaw, a decision by the towns Planning Board was submitted noting that the Planning Board had voted unanimously to waive site and design review.

Several residents attended the meeting and asked questions or raised concerns relating to the revenue the town will receive from the applicant, the applicant's plans for the installation of additional towers in town, the health affects if any due to cell towers, noise, lighting and landscaping. The applicant addressed the public's questions and concerns with the public and the Board. The Chairman closed the meeting to the public and the Board then discussed various issues relating to noise, frequency of necessary routine monthly maintenance and wattage.

Board Member Daphne Ottani proposed that based on the photo simulations, the installation will preserve the character of the structure (the water tank) and have a minimal visual affect on the abutters, the installation is on town property which is a benefit to the community, the installation will provide wireless communications service to a portion of the community which is currently without adequate service, the applicant has complied with the requirements of the zoning by-law. By agreement, landscaping at the facility will consist of dark American arborvitae covering the south and east side of the fencing enclosing the BTS unit spaced every three feet and planted on center and being six feet tall conditioned upon a confirmation from the Town's Water Department that the placement of the trees will not hinder access to or operation of the existing water tank. To the extent the application does not fully comply with the requirements of 6.14.3, 6.14.4 and 6.14.5 of the bylaw because the application involves an installation on an existing facility and not the installation of a new facility, said requirements are waived. The additional waiver from the requirement of 6.14 (1) is appropriate due to the discrepancy in relative size between the facility and the tank, and the concomitant limited visual impact.

Board Member Ottani than made a motion to adopt the foregoing findings. The motion was seconded and by unanimous vote the motion passed. Voting in favor of the motion Ottani, Lavenburg, Plotkin, associate members Preston and Sirulnik.

Board Member Ottani then made a motion based on the findings adopted; that The Board grants a Special Permit according to Article IV, Section B, Sub-section 6.11 of the Town's By-laws to allow for the placement of antennas and associated electronic equipment cabinets (know as BTS units) within a fence compound presently existing near the legs of the tank.

The Motion was seconded and Board Members Ottani, Lavenburg, Plotkin and Associates Members Preston and Sirulnik all voted in favor of the motion there granting the Special Permit.

**Lyons, 8 Pleasantview Ave., requesting a Special Permit to re-build a detached garage, Petition #2006-29.**

Petition was continued to December 6, 2006 hearing.

**Sokol, 44 Cooley Dr., requesting a Variance to keep fencing in front yard, Petition #2006-31.**

Petition was withdrawn at meeting.

**Connery, 110 Farmington Road, requesting a Special Permit to add Dormer, Porch and addition to western side of garage, Petition #2006-32.**

Mr. Connery appeared before the Board to request a Special Permit to add an 18' X 7'6" Shed dormer to the third floor to the north side of the dwelling, to add a 14' X 7' porch addition to the rear north east corner of the dwelling and a 10' X 20' addition to the west side of the garage.

The applicant explained that the shed dormer would not increase the footprint of the existing third floor of the residence nor would it be any closer to the western property line than the existing structure. The porch would increase the nonconformity (presently 13' from side lot line) along the eastern side of the structure by seven (7) feet but will be no closer to the easterly property line than the existing structure. The garage addition would increase the nonconformity (presently 4' from rear lot line) along the northern side of the garage by ten (10) feet but will be no closer to the northern property line than the existing garage.

No one from the public spoke for or against the petition.

The Chairman then asked Board Members if they had any comments, concerns or objection. Hearing none a motion was made and seconded that the additions would intensify the existing nonconformity. Board Members

Lavenburg, Ottani, Plotkin, Bean and Preston all voted in favor of the motion therefore moving to a second motion.

A seconded motion was made and seconded that the extension of the nonconformity would not be substantially more detrimental to the neighborhood than the existing nonconformity. Board Members Lavenburg, Ottani, Plotkin, Bean and Preston all voted in favor of the motion therefore granting the Special Permit.

**Goodkowsky, 32 Bark Haul Rd., requesting a Variance to construct a retaining walls in the front yard, Petition #2006-33.**

Eric Goodkowsky appeared before the Board requesting a Variance to construct a retaining wall in front of the primary setback line and another retaining wall east of the southeast (front) corner of their existing dwelling.

Mr. Goodkowsky explained that the northwest (rear) corner of their property is approximately 28 feet higher than the southwest (front) corner of their property and approximately 26 feet higher than the southeast (front) corner of their property, that the soil around the foundation is eroding, causing the front of the house to sink and that no other practical or economically feasible measures to slow or stop this condition are available.

Some Board Member had seen the property and that the conditions described by the applicant were generally correct. The Chairman then opened the public portion of the meeting and noted no one appeared to speak in favor or against the petition.

Board Member Mark Sirulnik than made and motion and it was seconded to allow the Variance for a approximately 42 feet long retaining wall running easterly from the western property line, thence continuing northerly approximately 24 feet and second pre-cast stamped concrete retaining wall approximately 16 feet long, running easterly from the southeast corner of the existing dwelling on that property, said retaining walls to be no more than 6 feet high, be granted due to circumstances relating to soil conditions and topography of the land especially affecting that property but not generally affecting the zoning district and neighborhood in which it is located and because a literal enforcement of the by-law would involve substantial hardship to the applicant. Board Members Lavenburg, Ottani, Plotkin, Preston and Sirulnik all voted in favor of the motion therefore granting the Variance.