



# TOWN OF WATERTOWN

Board of Appeals

149 Main Street

Watertown, MA 02472

Harry J. Vlachos, Chairman  
Melissa M. Santucci, Clerk  
Stuart J. Bailey, Member  
Deborah Elliott, Member  
David Ferris, Alternate  
Suneeth P. John, Alternate

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[www.watertown-ma.gov](http://www.watertown-ma.gov)

## MINUTES

On Wednesday evening, **April 28, 2010** at 7:00 p.m. in the Council Chambers on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Deborah Elliott**, *Acting Clerk*; **Stuart Bailey**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Steve Magoon**, *Director, Community Development and Planning*; **Danielle Fillis Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*. *Absent: Melissa Santucci, Clerk; Nancy Scott, Zoning Enforcement Officer.*

Chair Vlachos opened the meeting, introduced the board and staff, swore in the audience and asked for approval of the pending minutes.

Ms. Elliott motioned to approve the minutes of the February 24, 2010 meeting. Mr. John seconded. Voted 5-0, approved as written.

Ms. Elliott motioned to approve the minutes of the March 10, 2010 meeting. Mr. John seconded. Voted 5-0, approved as written.

Ms. Elliott motioned to approve the minutes of the March 31, 2010 meeting. Mr. Bailey seconded. Voted 5-0, approved as written.

Ms. Elliott read the legal notice for the first Case Pending:

Pamela Kantor, 31 Katherine Road, Watertown, MA 02472, herein requests the Board of Appeals to grant a **Special Permit Finding**, in accordance with §4.06(a), Alts/Additions to Non-Conforming Structures, Rear Yard Setback, Zoning Ordinance, so as to allow the construction of a box window seat 10'10" wide x 2' deep, to be located 5' from rear lot line, but not more than non-conforming roof overhang located 2.6' from rear lot line, where 20' is required at **31 Katherine Road**, located in the SC (Single Family Conversion) Zoning District.

Ann Walters, AIA, representing the Petitioner, stated that the house, purchased in 2003, is situated in an SC zone on a corner 8,974 s.f. lot. The house is in process of renovation, the petitioner is proposing 10'x10'x2' box rear window located within the nonconforming 2.6' to 4.2' rear yard setback where 20' is required.

The board had no further questions. No one spoke from the audience.

Ms. Elliott motioned to approve the Special Permit Finding with the conditions suggested by the Planning Staff and Planning Board. Mr. John seconded. Voted 5-0. Granted.



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Ms. Elliott read the legal notice:

James Hoyt, Esquire; Prince, Lobel, Glovsky & Tye LLP for Clear Wireless, LLC - Affiliate of Sprint/Nextel, 100 Cambridge Street, Suite 2200, Boston, MA 02114 herein requests the Board of Appeals grant an **Amendment to Special Permit #00-30** in accordance with §5.14(b) Wireless Telecommunications, Zoning Ordinance so as to replace existing antennas with 3 panel antennas and add 2 dish antennas on new pipe and an equipment rack in existing equipment room at **75-85 Main Street**, located in the CB (Central Business) Zoning District.

James "Ted" Hoyt, Esquire, Prince, Lobel, Glovsky & Tye LLP, representing the petitioner, spoke on Sprint's new 4G (4<sup>th</sup> generation) of wireless internet at the speed of cable and may replace the need for landline connections. This is being rolled out nationwide and they are trying to build out the greater-Boston area. For this site, there will be a swap-out of three voice antenna with the remaining 9 existing antennas unmoved. They will place 2 dish antennas on the existing pipe on the building. He explained that the 'dish' antennas do not provide coverage in the same manner as the frequency for voice/data. Both data panel and voice panel antennas run on a lower frequency, which carries farther. The higher frequency of the dish is a line-of-site transmit and runs for a shorter distance. It provides a small beam between two dishes at two separate locations – 2 Rosary may be the other location for this dish antenna. There is a 'hub' site with several sites transmitting the beam in one direction. The hub site is wired right into the network. This is entity non-specific and they are trying to modify existing networks rather than create new applications. Attorney Hoyt detailed the locations and types of antenna being placed on the existing site.

Anoop Jaikumar, Radio Frequency Engineer, representing Clear Wireless stated that they do not have any service sites up at all.

Attorney Hoyt explained that Clear Wireless is a separate entity created by and 51% owned by Sprint. The 4G network doesn't exist. Sprint/Nextel now has a voice installation there and they are modifying that installation as an affiliate. Clear Wireless has their own FCC license.

Mr. Jaikumar stated that the 'coverage' from this site will be near Rt. 20 and the surrounding area. It is a small coverage area due to the higher frequency. They will be adding 3 other sites – 2 of which will be presented tonight.

Attorney Hoyt added that they are trying to co-locate as much as possible. Mr. Ferris asked if there will be more sites needed for Watertown. Atty. Hoyt stated it would depend on the usage and the gaps displaced from the 4<sup>th</sup> site. The photo simulations show the existing and the proposed and the change is mild. The dish may not be visible – it is a little ‘blip’ on the roof.

Chair Vlachos asked about the amendment verses coming to the board as a new entity. Attorney Hoyt explained that in their statement, they asked for the alternative if the Board felt it was necessary to apply for a separate special permit rather than an amendment. The Staff agreed the amendment was appropriate.

Mr. John asked to explain the height for coverage. Mr. Jaikumar explained the need for a clear line of site; therefore, the dish has to be higher than the parapet. The other site has to be visible, as well.

Mr. Ferris asked if one location receives information from the other. Mr. Jaikumar explained that there is one hub – and they all talk to the hub with a line of site transmit through the dish. It is actually not transmitting, this is a direct beam of data – not a wide angle like the panel antennas.

Mr. Bailey asked if the coverage is for the current antenna and it is smaller. Attorney Hoyt explained that the panel antennas both voice and data are 4' x 16" wide. Mr. Bailey stated that they must be losing coverage by removing antennas. Mr. Hoyt explained that the signal can transmit at a higher frequency. The higher the frequency, the shorter the distance for the panel antenna. The FCC assigns the frequency. The dish antenna is a data beam; a microwave. They will need more sites as the footprint is smaller. The dishes are at a height of 54' centerline or 55' at the top.

Ms. Elliott asked if there is concern with lightening. Attorney Hoyt stated that all of the dishes and antenna are grounded with #2 copper.

Steve Magoon, Director, Community Development and Planning, stated that the FCC regulations limit what we have available to consider (in regards to wireless antenna installations). He said the Planning Board meeting discussed this at length. The one thing of interest is the opportunity to collocate, which limits the impact on the community by providing service from a single location. Our prevue is to determine whether or not there is a coverage gap and the aesthetics of the facility – where it is located. This is an upgrade to an existing location. From the discussion at the planning board, this is an appropriate location.

Chair Vlachos swore in the audience arriving late.

Susan Lurier, 7 Angela Lane, Sienna Village, President of the Trustees Association, share the common ground with Rosary Drive. She wanted to speak on the impact of Rosary Drive. She was asked to wait for that case to come before the board.

Chair Vlachos declared a business mode; stated the approved recommendation from the Planning Board and Planning Staff; and read the conditions – nothing out of the ordinary.

Mr. John asked what the screening wall is made of. Mr. Hoyt stated it is usually a radio-permeable fiberglass.

Mr. Vlachos said that these cases in the past would go on for at least 2 hearing dates. Now it is different. He reiterated that we are constrained by Federal Law – we do not have a free reign to do what we want with this criteria.

Ms. Elliott motioned to grant the amendment to replace 3 panel antennas and add 2 dish antennas with proposed conditions. Mr. Ferris seconded. Voted 5-0, Granted.



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Ms. Elliott read the legal notice:

James Hoyt, Esquire; Prince, Lobel, Glovsky & Tye LLP for Clear Wireless, LLC - Affiliate of Sprint/Nextel, 100 Cambridge Street, Suite 2200, Boston, MA 02114 herein requests the Board of Appeals to grant an **Amendment** to Decision filed 4/15/04 in Town Clerk's Office superseding **Special Permit/Special Permit Finding #99-46** in accordance with §5.14(b) Wireless Telecommunications, Zoning Ordinance, so as to add 3 panel antennas (2 façade mounted; 1 within proposed faux chimney); 4 dish antennas (2 each in two proposed faux chimneys); and an equipment cabinet on existing rooftop frame, at **2 Rosary Drive**, located in the CR (Cluster Residential) Zoning District.

James "Ted" Hoyt, Esquire, Prince, Lobel, Glovsky & Tye LLP, representing the petitioner, stated that he had explained Sprint's new 4G (4<sup>th</sup> generation) of wireless internet earlier in this meeting when discussing the installation for 75-85 Main Street. He stated the new 4G may replace the need for landline connections. This is being rolled out nationwide and they are trying to build out the greater-Boston area. This network will be a significant upgrade to the service for the citizens of Watertown.

For the building at 2 Rosary Drive, they will construct on the rooftop, 3 stealth chimneys to enclose all of the dish antennas and one panel antenna. They are proposing two additional antennas on the façade. They will enclose the existing panel antenna and a proposed panel antenna in a stealth chimney. They will attach to the equipment cabinet. They are proposing a beige brick chimney to blend in with the existing façade of the building.

Mr. Bailey asked why they hadn't proposed this stealth chimney for the last case. Attorney Hoyt explained that there is an existing real chimney that they added to and would not be able to enclose.

Mr. Ferris asked if the color of the stealth brick could be red like the color of the exterior of the building. He added that the photo sims show the chimney at an angle to the roofline of the building and wants to be sure the chimney will align with the roofline of the building. Atty. Hoyt assured him that the building will use the plans not the photo simulations.

Ms. Elliott asked what the thickness of the fiberglass screen will be. Atty. Hoyt said that it is less than an inch thick – similar to a canoe. It is secured with a ballast – a metal frame that goes out and is

secured with cinder blocks. The frame is weighed down to the roof and the faux chimney is bolted to the frame. Ms. Elliott wants to be sure it is designed to withstand extreme weather as a month ago, we endured high winds. Attorney Hoyt stated this will endure up to 100 mph winds. Mr. Bailey noted that a reference to sheet A-9 doesn't show the detail. Mr. John said the support detail in on A8. There is no sheet a-9.

Mr. Vlachos asked what discussions they had with the owners of the property. Atty. Hoyt said he was not directly involved in this leasing process but generally, there is a lease where it can be amended. This one is an amendment to the lease and they entered into a new lease. He further explained that the original lease is for a specific proposal and the landlords have become more aware that there is additional revenue to be generated by having the wireless companies come back for additional equipment.

Mr. Ferris asked if this is the hub of the three sites involved. No.

Ms. Elliott asked if they have built for an expansion for this site. Anoop Jaikumar, Radio Frequency Engineer, representing Clear Wireless stated that they may have 3 as opposed to 4 when the first install the antenna.

Marilyn Petitio Devaney, 98 Westminster Avenue spoke in opposition of this proposal. She asked if she could approve and sign a building permit or if anyone could sign and then stated that the original building permit (for the wireless antennas on this site) was issued illegally as the then director, Gregory Watson signed it and he was not authorized as the Inspector of Buildings. She then said that the original building permit was not signed by an authorized person and therefore, until this is resolved, additional equipment cannot be put on this building. She distributed a copy of the signed building permit and said he was told to sign it by his authority. She then said there are no dead zones in Watertown and 104 antennas in 4 square miles is enough. She said she asked Congressman Markey, as the author of the Telecommunications Act(TCA), if he would be willing to amend the Act. He did not discuss it. The TCA states that a town/city cannot prohibit antennas or towers but they can be sited – not to be placed in residential areas. She is opposed to any more in Watertown. This site is residential and contains a day care and this building houses our elderly. Years from now we will learn the health hazards to antennas.

Chair Vlachos noted that this site was originally denied by this board. The U.S. District Court issued a judgment to the Town (to grant the antennas). The town issued a permit. He doesn't know why it was signed by Mr. Watson but it was the result of litigation. Ms. Devaney said that John DeToma, the Inspector of Buildings had left the town and the interim inspector from the State, Mr. Malvey, would not sign this and Mr. Watson was told to sign it. It is illegal. It is unfortunate what people are told to do in this town to keep their jobs.

Susan Lurier, 7 Angela Lane, Sienna Village, President of the Trustees Association, share the common ground with Rosary Drive. The law is not on our side in this situation. She looks at one of the existing antenna on this building from her bedroom window and one sits very close to the bedroom of an elderly man. She wants the board to look closely at what is being added and the aesthetics of the neighborhood before and after these antennas are installed.

Chris Luigera, 17 Angela Lane, on the Board of Trustees and on the board of Rosary Academy Learning Center (a day care/learning center). There is the aesthetic issue, which an old school building is now a residence and the building no longer looks like a residence, it looks like an industrial park. The board has monthly meetings where people voice their concerns regarding St. Joseph's. This is very visible to the residents and the surrounding residents. The landlord does not live in the state and is making revenue on this and we have to deal with this. We try to work with 1 Rosary Drive where the nuns live, it is unfortunate that the landlord did not speak to the residents. He appeals to the board for the property values and the aesthetics and what the board wants Watertown to become.

Angie Kounellis, District 8 Councillor, stated that she understands the hands of the board are tied but wonders how many more carriers and antennas are going to be allowed. All the landlords that own these buildings with antennas do not occupy them. The rulings here make a mockery of our ordinances as we are stating not within a residential district and these antennas are above the heads

of residents and the tenants are unaware. She is opposed to these antennas being erected on residential buildings. She will speak on 805 Mt. Auburn Street which will be the next case before this board. She thinks it is a disgrace what is happening to this community.

No one else spoke from the audience.

Chair Vlachos read from the April 9<sup>th</sup> Staff Report, recommending their approval to the Planning Board with the condition that all conditions from the original #99-46 shall remain in effect. The Planning Board voted 3-0 to approve this. He stated that we are constrained by federal law and we would be heroic if we were to turn these down but this would be appealed and the cost would end up on your tax bill. No one likes the antennas but everyone uses a cell phone. He has observed many unsightly antennas in other cities and towns and wonders how they approve them. This has been a gold-mine for property owners looking for additional income.

Ms. Elliott asked if the board would add a condition that the faux chimney match the color of the building and the type of brick (as well as in line with the building).

Mr. Ferris asked why these cannot be pulled in from the building. Atty. Hoyt stated that the antenna has to be a certain distance to transmit out over the building – they transmit out, not down.

Ms. Elliott motioned to approve the request for an amendment to #99-46 for the to add 3 panel antennas and 4 dish antennas and equipment cabinet with the conditions from the Planning Staff and the ones discussed tonight regarding the appearance and shape of the faux chimneys. Seconded by Mr. Bailey. Voted 5-0, granted.

Note: John-Marcus Pinard, Site Acquisitions Engineer for Clear Wireless was present at the meeting but did not speak.



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After a brief break, the Chair re-opened the public hearing. He noted that after the vote of the last case, he was handed a written statement and is not able to add it to the record as the case is closed. He stated that if the person wanted to add it as a post-hearing item...He asked Marilyn Devaney to approach the podium. Ms. Devaney said she wants what she said in the meeting to be on the record and she is submitting the hand-written notes for the record. Chair Vlachos stated that what she has said is already on the record by being recorded. He handed her hand-written notes back to her.

Ms. Elliott read the legal notice:

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James Hoyt, Attorney representing Clear Wireless, asked if the board had the correct version of the photo simulations. They have been updated due to the Planning Board's condition to stealth the installation. The architects and engineers have come up with a good solution by "stealth" the one array that stood out and was unattractive.

Chair Vlachos asked who owns the antennas on the top above the entrance. Atty. Hoyt stated they belong to AT&T. They have gone through this exercise in other municipalities and they cannot get other carriers that are properly permitted to be there, to modify their installations and they do not have leverage through the landlord. They do not have the ability to tell them to change their installation. The Planning Board anticipated the ZBA's disapproval of that installation and they were able to come up with a solution which is to stealth that array. Chair Vlachos commented that Atty. Hoyt most likely thought they could put up a similar array. Atty. Hoyt said they would prefer to go with a less expensive option. However, they are working with the municipalities to try to co-locate as much of the antenna's as possible as opposed to new sites and they are proposing stealthing those installations. Chair Vlachos asked if they are putting a dish on the end of that building. Atty. Hoyt said that it is a façade mount installation that can be painted to match - they cannot stealth that installation due to its location. They will paint the faux chimney with texture to match. The new photo simulation shows the array totally enclosed in the faux chimney. He detailed the plans on page A-2: on the left side, the faux chimney and two proposed and one existing panel antenna as well as one dish antenna. On the right side, the existing Sprint antenna and the addition of a two-foot dish

antenna, façade mounted to match existing. Page A-1, existing steel platform will house the equipment cabinet where all antennas will be run through an existing cable tray and will not be visible. They are making every effort to co-locate, to be the least obtrusive and provide the required coverage. The overall network will be a great benefit to the citizens of Watertown.

Mr. Bailey asked if they could move the dish off of the front. Atty. Hoyt said the dish can be painted to match the exterior but the placement is determined by a back-haul team and 'shot' with lasers to find exactly where they need to connect with the other facilities. He does not have the ability or the information to state another location could be done. They originally had the dish located on the roof but had determined that for zoning purposes and aesthetically, they wanted it to be 'shot' below the façade. The area they control on the roof would have this 'shooting' through the AT&T equipment, therefore, this has to be in front of the equipment, on the façade.

Mr. John asked where this is being shot to – the other side of town? He would like to see a line drawn on a map. Anoop Jaikumar, Radio Frequency Engineer, stated that he does not have a map but stated that the dish is pointed to Cambridge. He can bring the maps in. Mr. John wants to see the top of the roof, as well, so we could see the plan with the direction. Mr. Ferris added that if it is pointed towards the cemetery, why wouldn't it work on the side of the elevated stair instead of the front of it. Is this a convenience as the antenna is already there? Mr. Jaikumar said that he would have to verify the location. Mr. Ferris believes it would be better camouflaged on the side vs. the front. Atty. Hoyt said it would be convenient but it would not be expensive to put a new pipe mount, it means new brackets, etc. and the aesthetics may be disappointing. A better visual would be to have one location. It could be surface mounted but the antenna is pointed straight out with a slight tilt of the dish toward the left. Chair Vlachos suggested placing it inside the window. Atty. Hoyt said the generally do not place equipment within reach of the public. He has never heard of any going inside – they could put it behind fiberglass but not glass with metal, etc. Ms. Elliott suggested the antenna be arm mounted. Atty. Hoyt said the arm would have an elbow but it wouldn't be seen from Mt. Auburn. You would see the extension of the mounting. Mr. Magoon asked about mounted it to the top of the rear stairwell. Atty. Hoyt said he doesn't know how high up it needs to be to clear the edge of the roof and the existing antenna. Ms. Elliott asked if the 'hideous' antenna (owned by Sprint) could be moved. Mr. Jaikumar said the penthouse would block it – that is the only reason the sector was placed outside. He would have to bring the antennas up higher. Atty. Hoyt said they do not know the original permitting of that antenna but generally, going over the façade as they did is a requirement to reach the height needed – there could be a building out in front of it; some trees; a hill; something they told the RF. The height is a minimum height. The other antennas has a certain azimuth and depending on the arc, there is a minimum height that they need. He added that there is a limited ability to modify and back in '04 they needed that height. If they are proposing a faux chimney for this one antenna, it would require its own faux chimney. It cannot be added to the existing faux chimney and it cannot shoot through the At&T installation. He doesn't know if he can put a faux chimney on top of the stairwell. It would be a much larger and more obtrusive. This is one 13" panel antenna and the trade there...Ms. Elliott suggested parapet on top of the stairwell.

Chair Vlachos asked that they come back with some ideas next month.

John-Marcus Pinard, Site Acquisitions Engineer for Clear Wireless was sworn in. He said he was the person to go up onto the roof. Working with Sprint, he came up with the faux chimney so you cannot see any of the antennas up there. They cannot touch the AT&T but they would like to put up a faux chimney around that, as well. He was only able to solve one of the two issues with the prior installations. At the Planning Board, the dish was noted as a white dish on a red building and they can paint that. If they put an arm on the side of the building, they will have to have another pole to mount it. In order to hit the azimuth from the side, the arm will extend 2' out will have a tenant looking up at it. Chair Vlachos suggested the tenant could receive a discount on their rent in exchange for this (the view of the dish) as this is not a condo. Mr. Ferris said the plan shows the dish pointing towards Mt. Auburn Street and the photograph is towards the cemetery. If they were to look at the same photo and put the dish on the side, the dish would be visible...Mr. Pinard said it could due to the arm and the mount, it could be up to 3-4' sticking out. Mr. Ferris added that the faux chimney looks great and our questions are more regarding the dish. Mr. Jaikumar said the dish is pointed towards Mt. Auburn Street and the photo sims could be wrong. A faux chimney could not go on top of the stair well as the internard are shooting in that direction, the chimney would block. Mr. John said he finds it hard to believe it would

The north corner would not be possible, the south corner would be visible from the street. Mr. John wants to see how they are shooting. Mr. Jaikumar said they are shooting one or two. Atty. Hoyt said there is the aesthetic issue and there is where it has to be placed...Mr. John said part of this is knowing where it is shooting – the antenna and the dish. Is it possible. Mr. Hoyt said they are pointing out from the building and the initial question is do you really want it on the side and he doesn't think we are getting a better aesthetic here. On the existing pipe is a better aesthetic. Moving it to one or the other side is going to end up with more hardware. Mr. Ferris asked if the antenna did not exist and the dish were being proposed it would not happen above the roof, which is correct. The dish is below the entrance from the parking lot and a dish from the sidewall would be less visible. Mr. Hoyt said anywhere else it would project above the roofline. Mr. Ferris said if the antenna did not exist, the dish would be placed on a side wall instead of the front wall of the "mass". Mr. Hoyt said the stairway mount only – Mr. Ferris said the dish only, not the antenna. Mr. Vlachos said there are questions and this should be continued. Mr. Pinard attempted to bring up to the monitors in the room, the exact location being shot to. Mr. Vlachos said he wanted to have something submitted. He said Mr. John wants to see where the dish is pointing to and Mr. Ferris wants to see alternatives to the location of the dish. He would like to see 3-4 alternatives and have submitted them in the form of simulations and we will pick. Mr. John said a painted dish is better aesthetically – he would like to see some photographs of the painted dish – an example of one that exists. Mr. Ferris clarified that this is proposed above an entrance of the building and he would like to see an alternative. Mr. Ferris pointed to the exact area he wants to see the alternative.

Angie Kounellis, District 8 Councillor, said 805 Mt. Auburn Street is a residential property. She commented on the Chairman's previous suggestion to have an antenna closer to a person's unit and she made comments earlier to the doorway to the roof is marked with a danger sign. It is her understanding that the technicians are told not to go in front of the rays of the equipment. Technicians know what the issues are, there is a danger sign there and we continue to place these units on top of residential properties only feet above the residents' heads. She hopes the Planning and the Zoning Staff will hear her when she says that the temporary sign that states 'for rent' on this property is permanent and has been there in excess of 5 years. This property owner is generating enough revenue from the antennas that he really doesn't care if the units are rented and she doesn't know what the condition of the units are but as a community, this should be addressed. She understands the boards' hands are tied as to health issues but the aesthetic aspect, the board should take action. She doesn't know how many antennas are on top of this building and she would like to know. This is the access point from Cambridge to Watertown. This is the gateway and is very visible. It is disturbing to see what our community looks like. The building is a non-descript brick building but when you can see all of the things hanging off of it, it is disturbing. She wouldn't rent in that building. Her constituents reside there and she hopes they know what is on the building. She hopes the board does something to alter the aesthetics of the building until the Federal Communications Commission alters their thoughts on can be done on all of the antennas located in our community.

Dennis Duff, 33 Spruce Street asked if this antenna services Cambridge more than Watertown. Mr. Hoyt said the dish is just part of a network that doesn't serve any users – not the residents of Cambridge. This is all connecting and transferring data between sights. Mr. Vlachos asked if the communication is one way. Mr. Hoyt said it goes in one direction to somewhere else. Mr. John asked if the data is going back and forth. Mr. Jaikumar said it is like a ring – it is always in one ring direction. Once designed, they decide which one will be the hub. Mr. Duff said that Watertown gets used to service other communities and he wants to know why the dish cannot go in Cambridge.

Marilyn Petitio Devaney said she has never seen so many side-bars with members and she hopes we continue this because they don't know what will be there. She wants to know who we are servicing because there isn't one dead area in Watertown with over 104 cellular antennas. She remembers the Oakley Country Club was going to service other communities. She doesn't doubt that this is what this is for. Belmont has many dead zones – at the top of Common Street. She said Belmont says 'no' and Watertown says, 'show me the money'. The people living in these buildings aren't even told. Spring has 3 petitions here this evening and how many more will we have. No one is complaining about their cell phones going dead. Parts of Belmont, Waltham, Boston have dead zones but Watertown is easy. We are easy. We want the money. We are servicing Belmont, Waltham, Cambridge. She said she read the telecommunications act. Why is it a right that Sprint can get a Special Permit and a homeowner can't fix their own house. This is a lack of

communication and is not benefitting Watertown. Where is there a need in Watertown. We only have four square miles – no one else has this many in four miles. Congressman Markey will have an answer. She is offended by the petitioner saying this is benefitting Watertown.

Mr. Vlachos asked if we had done a study on how many antennas are in Watertown and other communities. Ms. Civetti stated that Belmont has the same amount of antennas as Watertown. Mr. Magoon said the Department of Public Works has an emergency operations center and can not get cell service there. The Fire Chief is looking at ways to boost service in that area. There is also one more case before the Planning Board that shows gaps in coverage. This petition is for a new service that is expanding on the existing service. Providing this service from existing facilities is better than adding new installations on new locations on new sights.

Atty. Hoyt said he understands what the board is looking for in regarding to the alternatives and photos but wants to identifying where the antenna is shooting on the computer tonight. He explained that the service that is being provided is shown on the coverage maps and there is a corner of Belmont and of Cambridge, plus Watertown - they do overlap. This dish antenna happens to be part of the link that is linking the other dish in Cambridge and does not have anything to do with coverage. Mr. Jaikumar showed a map on the monitor with a red line through the Fresh Pond area – the other dish is sitting in Alewief on the public housing building.

Atty. Hoyt said they will provide the potential alternatives and provide photos of the painted dish. Mr. Magoon asked if they could include options to the façade mounted antenna that exists. Mr. Hoyt said Sprint already indicated they did not want that antenna touched. Ms. Evans said one of the conditions to the Planning Board was to at least try to disguise the existing and proposed and ideally to work with the other carrier but to at least cover the existing antenna.

Chair Vlachos said this will be continued to next month. Mr. Ferris asked if they could consider creating a chimney for the dish and the existing antenna on top of the stairwell without being visible from the street. Ms. Elliott asked about the parapet on top of the stairwell would look more appropriate. Mr. Hoyt said they will explore that.

Ms. Elliott motioned to continue. Mr. Bailey seconded. Voted 5-0. Continued to May 26, 2010.



# TOWN OF WATERTOWN

Board of Appeals

149 Main Street

Watertown, MA 02472

Harry J. Vlachos, Chairman  
Melissa M. Santucci, Clerk  
Stuart J. Bailey, Member  
Deborah Elliot, Member  
David Ferris, Alternate  
Suneeth P. John, Alternate

Telephone (617) 972-6428  
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[www.watertown-ma.gov](http://www.watertown-ma.gov)

## MINUTES

On Wednesday evening, **April 28, 2010** at 7:00 p.m. in the Council Chambers on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: **Harry J. Vlachos**, *Chairman*; **Deborah Elliott**, *Acting Clerk*; **Stuart Bailey**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Steve Magoon**, *Director, Community Development and Planning*; **Danielle Fillis Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*. *Absent: Melissa Santucci, Clerk; Nancy Scott, Zoning Enforcement Officer.*

Chair Vlachos requested a motion to allow the continuance of **9-11 Oak Street** as there is a letter in the file from the Attorney Paul Malurchetti to continue to May. Ms. Elliot motioned to continue. Mr. Bailey seconded. Voted 5-0, continued to the May agenda.



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## MINUTES

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### Other business:

100 Parker Street - Chico Sajovic - requesting to turn designated 'drop-off/pick-up' parking area into regular parking spaces.

Mr. Sajovic stated that (a couple of years ago) they had filed for a Special Permit as the property is over 4,000 square feet (also known as 70 Philips Street) and there were two tenants – Extra Innings, a batting cage operation and Full Out Cheer, a cheerleading studio. They had agreed to limit the parking lot (in the front) to drop-off and pick-up only as the cheerleading would have a lot of after-school kids. Extra Innings also thought there would be (they would have) significant drop-off and pick-up. Full Out Cheer has since gone out of business and a new tenant, a toddler playground, has come in. The parent has to be with the child at all times and they do not have a drop-off/pick-up at all. Extra Innings does not have the drop-off/pick-up business it was expecting. Now they would like to amend the permit to have full use of the front 18 parking spaces. There were issues in the winter when the indoor playground was going strong and signs were put up directing people to park out front to alleviate parking issues in the back. Nancy Scott, Zoning Enforcement Officer, contacted him to remove the signs and to keep the drop-off/pick-up at the front. He has taken care of the parking issue at the back as he evicted and consolidated tenants to free up 20 parking spaces in the back. They need the parking spaces in the front because of the change in tenancy.

Chair Vlachos asked if at the end of the day they put Extra Innings in the back only. Mr. Sajovic explained that it then becomes a policing issue. They already have a challenge getting people to park in the back. He said telling people to park here during the day and there during the evening, is difficult to police.

Chair Vlachos said there are businesses that do that. Mr. Sajovic said Dan Pill has spoken to his customers - repeat customers, on this. Mr. Pill was sworn in and stated that he has been there for 6 years battling where to park customers. He cannot ask all people where they park. It is not feasible – he makes an effort for the neighbors. He makes people leave if they are outside talking. It would take a full time person to stay out in the parking lot. Most of the customers know to park in the back.

Lisa Feltner, 34 Parker Street, President, Concerned Citizens Group, a neighborhood group. The permit was granted on the conditions that they accepted. It is difficult for her to hear how they have cooperated with the neighbors as she sees cars parked in the front every day. The noise is

disruptive to the Phillips and Washburn neighbors when the doors are left open they can hear the bats. The neighbors do not get relief as the operation is every day. They want the tenants to honor the terms of the original permit. The need hasn't changed for the parking. There are 20 empty spaces in the back. The front is just a convenience. She doesn't see the parking needs have changed. She believes that if the need has changed due to the use, then they should make a formal amendment to the permit and notify the abutters. No one in the neighborhood knew about this except her as Nancy Scott notified her.

Cecilia Lenk, 81 Boyd St., Councilor District B, said she wishes she could support the small businesses but she doesn't believe they are good neighbors as it is only because of Nancy Scott that she knew this was coming up on the agenda under 'other business'. It is a serious concern if the Board wants to approve this as they need to hear from other people. The traffic issues are considerable and the noise is considerable. There is parking in the back. In 2004, there was a compromise agreement that allowed these businesses to abut a historic neighborhood and coexist. The businesses have not lived up to their promise. They park on the street and have continuous noise.

Mr. Sajovic commented that they are only looking for their customers to park on their property. There isn't any Police report of any disturbances in the neighborhood. There isn't a sound ordinance that has been determined to have been violated from the activities there. He understands the concerns from the neighborhood but there are standards and protocol of what can be considered a nuisance for a neighborhood. It is a lot in an industrial zone, landlocked in a residential area. It is accessed through residential roads for hundreds of years. They are only looking to park their vehicles – there aren't any late nights, they don't serve alcohol, it is not a bar.

Mr. Vlachos asked if there are peak periods during the year. Mr. Sajovic said the indoor playground peaks in the winter on weekends – 7 days a week. The peak for the baseball is February thru May, mid is summer, off is fall to winter. It is not critical that the parking be done now. They had their peak parking on the weekends, holidays, snow days in the winter.

Mr. Pill said he takes exception to being 'not a good neighbor'. When they first petitioned in 2004, there was a lot of resistance as the building was empty for lots of years. The building was going to be used no matter what the neighbors wanted. There used to be issues with trucks going down the road. No matter what happened, the neighbors would not be happy as there is now activity where there had been none. There aren't any windows in the facility and during the summer, they open the doors to get air flow. The doors are closed in the evening.

Mr. Vlachos said he remembers the neighbors complaining about the ping, ping, ping of the ball hitting the bat. Mr. Pill said there were also complaints about cars speeding down the street and a traffic monitor was set up and it was determined that the cars were not speeding. Mr. Vlachos concurred that the Sergeant of the Traffic Department made that determination. Mr. Pill stated that the noise when they open their doors is not near the level of a noise ordinance. It is the perception.

Mr. Vlachos said there is resistance to the request and he suggests they should apply for an amendment as it is not a critical time in the business.

Mr. Pill said there could be a sign up stating 'No Parking, David's Towing' and they'd still park in that area.

Ms. Elliott suggested placing cones in the area.

Mr. Bailey said if the front door was closed off, they'd have to get in from the back – only exit from that front door.

Mr. Sajovic stated that they want to use the parking spaces on their property as full use parking. He doesn't see how he can tell his tenants to change the parking requirements during the day. If a space becomes available, they should be able to park there. They have the Town of Watertown's storm drain that floods his property several times a year and he has signs stating that the area floods and people still park there. He doesn't want to be responsible for policing people on his property.

Mr. Bailey suggested again that if the front doors weren't open for entering, they'd drive to the back to look for a space first and then drive to the front to park. Mr. Pill said it isn't safe for the kids to walk all the way around back through the parking lot. Mr. Sajovic said there is a rear door close to the rear parking lot and a front door close to the front parking lot.

Mr. Ferris said there are 18 spaces in the front and is there a time when the back parking is filled. Mr. Sajovic said in the winter months. Mr. Pill said the playground and the batting cages are used when you cannot go outside – the businesses coincide. They either have to park in the front or in the street. For the next 6-7 months, there will not be a parking issue.

Ms. Feltner took photos of the cars parked in the front and said they use that door. She said there is supposed to be a fire lane but it is not marked and there is supposed to be a parking buffer – which is why it was designated as a pick-up and drop-off area. She said they should apply for an amendment to prove their case and let the abutters be notified. Buyers at the end of Philips Street want to be notified as it is a concern with the noise from the batting cages.

Several board members stated that this (request) has nothing to do with noise. Ms. Feltner argued that the noise does have something to do with it as there isn't any parking buffer. Mr. Ferris asked how that is different from someone dropping a child off. Ms. Feltner said it is different because they congregate there and the Zoning Board addressed these issues but they are concerned with the safety of pedestrians mixing with cars and Fed Ex. She said there is a walkway right to the door in the back where it is safe to walk.

Ms. Lenk said it is important to understand that there are only a couple of them there because of the short notice. This warrants a more formal hearing. Jonathan Hecht called her. There are a lot of people wanting to speak on this and she suggests the board wants a formal hearing and it would be a good thing to do. They cannot do this justice with just a couple of them speaking on the issue.

Mr. Pill said the parking requirements have changed with a new tenant in the space. Several times over the season there weren't any spots in the back and his customers had to park in the front. He doesn't understand what the difference is in noise between drop-off or parking there. Is it not a hang-out area. There are people that talk at their cars but there are not people hanging out. There have been kids that skateboard around the building and he tells them to skateboard in the back. Part of his business is drop-off but the majority is having the parent come in to set up their child and then they leave and come back in an hour. He states it would be noisier in the front if it were strictly drop-off and pick-up as opposed to parking for an hour and then leaving.

Chair Vlachos asked the board if they would prefer a formal amendment where there would be a legal notice issued.

Mr. Bailey asked if they could attempt a trial period of a couple of months – to make an effort of people in the back. Mr. Pill said it wouldn't be a good example as he is coming into his slower months and she (the other business) is too. Chair Vlachos said it would be better for him. Mr. Bailey stated that it would be good for him to get all of the slower business to park in the back and the noise would be less from the front if the doors were not open. It would work both ways and give the board a chance to assess everything. Chair Vlachos said that would be a good idea as if they came for an amendment, things would not have changed by then and ten neighbors could show up and say they are horrible. If the activity is less, then this would work to test it out. Ms. Elliott said a 3-6 month time period to test it out and then the neighbors would be notified on the formal amendment. Chair Vlachos said he is not any more informed now than he was then.

Mr. Sajovic said that this is going to come down to people's perceptions. If it is some people's feeling that this is highly detrimental to the neighborhood, he cannot argue that. He will state that if the town brought down their acoustical measures, they would not meet any standard of a noise nuisance. He said it is hard to argue when there are five people coming down (to the meeting) saying it is a detriment to the neighborhood. He is saying that these people are only coming down to the business, getting out of their cars and going into the business; coming out of the business, getting back into their car and driving away. If someone wants to say it is horrible, then he cannot challenge that. He believes the town has acoustical monitoring equipment that would prove that this front

parking is not creating noise that is above standard. Chair Vlachos suggested they hire their own acoustical company to measure the noise.

Mr. Bailey said that they wouldn't need the front parking in the quiet period and they could shut them down completely (during the summer). Mr. Sajoivic said they do not need all of the spaces on the lot in the summer – they need the parking in the winter but they are their parking spaces and they should be able to use the spaces. As a personal owner, he sees this as the issue with the management and policing at different times of the year. Mr. Bailey said if they start now, people would get used to parking in the back now and then the overflow would go to the front. Mr. Pill said he still has a drop-off business...

Chair Vlachos asked how much data would they collect if the business is slow. What prompted them to come in now. Mr. Sajoivic said they were told by Nancy Scott to come in as people are parking in the front now – even with the signs being up. In the winter, he had removed the signs to encourage people to park in the front (overflow).

Chair Vlachos said the options are to give a trial period and have them come in with a formal amendment or not give a trial period and just come in for an amendment.

Mr. John said that the issue is that they own the parking and he doesn't understand. Mr. Vlachos said there was a lot of opposition several years ago where they wanted to use the property as it was permitted.

Chair Vlachos added that there were questions about parking and the police checked the speed with a device and there wasn't any speeding; however, there were neighbors here swearing there was speeding going on.

Mr. Ferris commented in this industrial zone, there could be far worse businesses with much more noise. Mr. John stated that he has a toddler and to make him park where the 18 spaces are and walk back with his son...what is the idea of drop-off. Mr. Vlachos explained that it is not permanent parking. Ms. Feltner said you'd have to walk further if you parked in front as the door at the front is supposed to be exit only and the cheerleading kept that door closed all the time. There are over 100 spaces in the back and the walkway leads to the door. The front was drop-off only and there isn't a parking buffer there. That was the condition. Mr. Vlachos said that it was a compromise to assuage the opposition at the hearing. It is a more malignant use to the site than what could be. Ms. Feltner said she wasn't there in 2004, she just read the notes. She said that she is half-way up Parker Street and she only hears the bats when the doors are open in the summer. She doesn't hear them in the winter. Her observations have witnessed the cars parked in the front for the convenience of using the exit door. It is more noisy in the front because they are facing the neighborhood. In the back, you cannot hear.

Chair Vlachos said he is surprised that this hasn't calmed down over the years. Ms. Feltner said it is because they were parking in the back.

Mr. Vlachos said that if this business doesn't make it because of the deficiencies in the parking, you could get another proposed use that is not as nice for the neighborhood. Ms. Feltner said she doesn't want the business to fail. She volunteers at the Hosmer and they patronize the businesses. She believes the tendency is that they own the business, they can do what they want. If they truly need more than 100+ spaces, then they should look at the front spaces. Ms. Elliott stated that if there is a perception that parking is more detrimental than drop-off, the 8 spaces adjoining the neighborhood could that remain drop-off and the 10 spaces parallel to the building become parking. Ms. Feltner said she doesn't know then where the fire lane would be. Mr. Magoon said the fire lane is 21 feet between the corner and...Ms. Elliott said it doesn't affect the fire lane as the Fire Department would have never approved those parking spaces if they could not get through. Ms. Feltner said the Fed Ex trucks are very tight...

Mr. Vlachos said this is under "Other Business" and doesn't seem appropriate to get into this much detail.

Mr. Pill said if they shut down those parking spaces, people will park in the street – not in the next 6-7 months but in the busy time.

Mr. Ferris doesn't see the difference in drop-off spaces and parking spaces. If they were using undesignated areas, he could see not using the spaces for drop-off or parking. He doesn't understand the detriment.

Ms. Elliott said this needs to be filed formally to get the neighbors here.

Mr. Bailey said if they park in the back, they give the neighbors a break b

Mr. John does not see the difference in the drop-off and parking.

Chair Vlachos asked the board to determine how they would vote if they came back to the board with an amendment. He added that they could grant the relief tonight. He stated that he has heard all of these arguments before.

Mr. Pill said they all have had the same arguments over and over and they have approached it the same way.

Chair Vlachos said that after 5 p.m., everyone park in the back. Mr. Pill said it would be difficult to police. Chair Vlachos said they could put up cones to block the area. Mr. Pill said there are so many new people everyday. He used to stay in the parking lot to direct people. It is too difficult. They need more parking spaces.

Mr. Ferris said that Ms. Elliott suggestion is a valid option.

Mr. Vlachos asked that they come back before the winter to resolve this.

Ms. Elliott asked that a representative from the new facility appear at the meeting, as well.

Mr. Sajovic asked if they could avoid the 'he said, she said'...Chair Vlachos suggested they have a meeting with the neighbors before the formal meeting.

Mr. Sajovic was surprised to learn that this was placed on the agenda under 'Other Business'.

Ms. Elliott motioned to adjourn. Mr. John seconded. Voted 5-0.  
Meeting adjourned at 10:45 p.m.