



# 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

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## MINUTES

On Wednesday evening, **July 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; Melissa Santucci, Clerk; Stuart Bailey, Member; Deborah Elliott, Member; David Ferris, Alternate Member; Suneeth P. John, Alternate Member; Steve Magoon, Director, Community Development and Planning; Nancy Scott, Zoning Enforcement Officer; Danielle Fillis Evans, Senior Planner; Louise Civetti, Clerk to BOA.**

Chair Vlachos opened the meeting, introduced the board and staff, and swore in the audience.

Chair Vlachos asked for a motion on the first agenda item, approval of the June 30, 2010 minutes. Ms. Santucci motioned to accept the minutes as printed; Ms. Elliott seconded. Voted 5-0, approved.

Ms. Santucci read the first legal notice:

Gulizar Calisir, Manager, AGAS Realty, LLC, 805 Mt. Auburn Street, Watertown, MA 02472, herein requests the Board of Appeals grant an **Amendment to Special Permit #03-17**, to allow interior alterations of existing 2-tenant commercial space into 3 commercial tenants to accommodate new owner's fur business – retail, storage, repair/altrs and cleaning, together with alterations to building façade with front portico, 6'-11 ½' x30'-4", over new/existing entrances with some site modifications, including rear storage at **694 Mt. Auburn Street**, located in the LB (Limited Business) Zoning District.

Chair Vlachos asked David Ferris, Alternate to be the voting member and Suneeth John, Alternate will not be voting on this case.

Steven Parnagian; Attorney, Parnagian & Marinelli, PC; 58 Winter Street, Boston, MA, representing the owner/petitioner, stated his client purchased the property in April, 2010. He detailed the anticipated space reductions for the two current tenants and explained that Suphi Furs will occupy 2,513 sf, of that will be 560 sf showroom/retail; 281 sf of office space with the remainder as alteration and storage. A neighborhood meeting was held on July 7, 2010 at the site with 3-4 people attending and learned of the concerns over future tenants. Having to ensure that this neighborhood concern is addressed, he suggested a condition to the Planning Board - new tenants would be required to come to the board for a determination based on the proposed use. They also agreed to require deliveries be made via the parking lot side door instead of the Prentiss Street side door.

Member Santucci questioned the outside storage area in the rear of the parking lot - she does not recall approving the structure. Ara Barsoumian, 152 Bellevue Road, Watertown, project manager, also representing the owner, stated that the outside storage was made for Concord Electric to store electrical conduit and pipes that are too large to store inside the building. Nancy Scott, Zoning Enforcement Officer noted that the original approval by the Board did not have this exterior storage, and it appears the former

owner erected it without any approval. Chairman Vlachos asked what was being stored in the storage area next to the building – an oil tank and a snow blower.

Referring to the submitted site plan, Member Ferris inquired about the unmarked space next to parking space #16 along Prentiss Street as there is now curbing that the Town installed. He believes that handicapped parking space #15 is not a regulation size, but noted the handicapped parking space #2 is fine. He believes deliveries can be made to the Prentiss Street side as there is a garage door opening there and the truck could park parallel to the building and across parking spaces #18, 19 and 20, where there exists an approximate 40'+ curb opening as opposed to blocking a portion of the sidewalk or trying to deliver by backing up the narrow driveway to the rear parking area where there is only a man door.

Member Elliott asked about the deliveries for the other two companies. Mr. Barsoumian explained the rug company is mostly internet sales which are delivered directly to the customer's home. Concord Electric utilizes the garage door on Prentiss Street. The fur business does not anticipate any large deliveries and the one or two deliveries can be hand walked into the business. Member Elliott noted that there is not a lot of green space to place snow onto. The Board notes that the original approval condition #15, provides "if necessary, petitioner shall truck snow off-site if parking spaces are found to be impacted."

Member John noted that the Staff report indicates the parking lot light monitor at the driveway is not working. Mr. Barsoumian said it is presently working and noted that the last owner took the meter out; however, it is now replaced and operational again.

Member Elliott asked Ms. Scott how many parking spaces are required. Ms. Scott explained that the requirement is based on the 6,000 square footage (1 per 350 sf office/retail) – 17 are required at this site.

Member Santucci noted that condition #11 will need to be amended as it states that all deliveries to the building will be made from the rear parking lot. Attorney Parnagian noted that with the new interior layout, the Collins Rug Gallery rug will have only the front door and no access to the rear. Same will go for Concord Electric. The Board discussed the practicality of requiring all deliveries to the rear parking lot via the narrow driveway; particularly the semi-trailer trucks delivering to Concord Electric. Backing into this driveway would impede traffic on Mt Auburn Street and reconsideration of that condition is necessary. Deliveries for the rug and fur business will continue to be via the existing driveway.

The Board heard from the audience. Margaret Cassidy, 22 Prentiss Street asked how the Board tracks the conditions it sets on decisions. She said it is up to the neighbors to monitor these things – Mr. Mastroianni (prior owner) was forced to do these things by Ms. Scott after the neighbors complained. The box truck deliveries for Concord Electric are made on the Prentiss Street side as access to the back is impossible for a truck but it was voted by this board. Traffic is an issue here and more tenants means more traffic. Ms. Cassidy said the original condition (deliveries to rear lot) is impossible to work and it makes more sense to ignore the condition than to obey it. She asks the Board to make the condition reasonable.

Fred Zartarian, 27 Prentiss Street stated that no one uses the back parking lot. He is concerned with parking along the street. Deliveries are definitely made on the Prentiss Street side and the semi-tractor truck blocks the sidewalk. Snow removal is never taken off the site – it is pushed onto the sidewalk blocking the path. He cannot see the 16 parking spaces noted as being available at this site.

Councillor Angie Kounellis, 55 Keenan Street, submitted a written letter dated July 14, 2010 and again stated her and the neighborhood's concern with the possible use of future tenants. She wants the Board to condition this decision that requires future tenant approval/review. She noted that the proposed fur business would appear not to be detrimental; but future uses adding to the already congested area is a major concern. She doesn't recall the outside storage area and asks where the enforcement is. She also noted that the snow has never been removed from the site and notes that deliveries by Concord Electric are in violation of the previous decision by not utilizing the rear parking lot. Ms. Kounellis said that trucks traveling down Prentiss Street damage tree branches; however, she believes that since the owners will be on-site, this change will be a win-win situation.

Marilyn Petito Devaney, Westminster Ave., asks the Board to listen to the neighbors.

Chair Vlachos reiterated the original condition #15 stating the snow must be trucked off site. Attorney Parnagian agreed that the new owners will comply with the conditions.

Ms. Scott suggested amending Condition #11, to allow Concord Electric to deliver to the Prentiss Street garage door opening instead of through the rear parking lot 'man' door. Discussion of the suggestion by Member Ferris to utilize spaces 18-19 and 20 together with the loading area in front of the garage door would be a viable condition together with delivery times. Attorney Parnagian stated that his client will have to comply with the conditions and a discussion by his client with Concord Electric must be forthcoming enforcing the conditions set by the Board.

Member Elliott is in favor of the petition suggested conditions restricting tractor trailer trucks on Prentiss Street; the hours of delivery; and making parking spaces #18, 19 and 20 dual-purpose spaces for delivery and parking. She also suggested that this petitioner come back to the Board after the winter for a 6 month review.

Member Santucci is also in support added that the condition should state that the trucks cannot block the sidewalk; and they should eliminate the proposed landscaping near parking space #3 which is noted to be reinstalled.

Member Bailey stated the exterior storage fenced area should be removed when Concord Electric vacates the property.

Mr. John suggested reconfiguring the parking with the exterior storage area moved. Steve Magoon, Director, Watertown Community Development and Planning Department stated that the parking area is underutilized and the existing storage area is not an issue at this time.

Chairman Vlachos noted that he was part of the original approval and noted that the previous petition was carefully looked at and scrutinized by the Board. He supports the request noting that the new use by the new owner will not adversely impact the site. He concurs with the the proposed conditions mentioned and suggests that he supports amending the delivery condition and suggests the petitioners come back for a review one year after the issuance of the Certificate of Occupancy

Ms. Santucci motioned to approve the petition with the conditions discussed. Ms. Elliott seconded. Voted 5-0, granted.

**Documents reviewed:** "A-101, Proposed Site and First Floor Plan" and "A-203, Proposed Elevation and Exterior Views" dated 6/17/2010 and prepared by Harout Kelian Architect with registered architect stamp dated 6/24/2010; "L1.00, Site Plan" dated 7/16/03 prepared by Trilogy Partners; and (3) three separate plans showing changes and annotations by Harout Kelian Architect and printed on June 25, 2010: "As Permitted 5/28/2003", "Existing Conditions", and "Proposed" to the plot plan originally prepared by Middlesex Survey Inc with revision dated 5/15/03 from the control plans of the 5/28/03 decision.



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Chair Vlachos announced Ms. Elliott is recused from this hearing and both Alternate Members will be voting.

Ms. Santucci read the legal notice:

David P. Barnett, President, The Proprietors of the Cemetery of Mount Auburn, 580 Mt. Auburn Street, Cambridge, MA 02138, herein requests the Board of Appeals grant a Special Permit Site Plan Review in accordance with §5.00(f), New Construction of More than 4,000 sf; so as to raze existing dwelling; hoop house and 3 greenhouses and construct 30'-10"x 50' hoop house with connecting 4 greenhouses, varying depth 53' 2"- 77'-3" x 145'-2" with walkway connector to existing 1-story garage & flower shop /potting head house; Phase 2, raze walkway connector and 1-story garage and construct 2-story, Horticulture Center, 50'-1" x 116'4", having 7-bay garage with potting head house and retail flower shop on first floor and 2nd fl offices; various site improvements with 21 parking spaces at 94 Grove Street, located in the I-2 (Industrial) Zoning District.

Attorney William York, Gilman, McLaughlin & Hanrahan, representing, David Barnett, President for The Proprietors of the Cemetery of Mount Auburn, introduced the project group: Mike Albano, CFO; Candace Curry, Director of Planning and Sustainability Planner; Sam Lasky, Senior Associate, William Rawn Associates, Architect; Adrian Nial, Reed Hilderbrand Associates, Inc., Landscape Architect; and John Scott, PE, Rist-Frost-Shumway, Engineer. (Note: David Barnett, President, out of state due to a death) Attorney York presented a slide presentation as he described the cemetery's Meadow Extension project. With this project they have submitted their application to the US Green Building Council to achieve Platinum LEEDS Certification while ultimately making Grove Street a "front" door to the Watertown community. The current greenhouses, attached to the headhouse, are over 30 years old and are energy inefficient to operate and need to be replaced. The existing headhouse (one-story garage building and potting/flower shop area) is also in need of updating.

Attorney York states that the project will be done in phases, based on operation, financing and fundraising efforts. With Phase 1A - Grove Street view - includes the construction of the 4 new greenhouses and two hoop houses, approximately eight feet tall, be semi-permanent structures used to acclimate new plantings and phase 1B would include the 10,057 square-foot horticultural building. The existing one-story headhouse would remain during phase 1A.

However, the petition, Special Permit in accordance with §5.00(f) (subject to §9.03, Site Plan Review) for new construction that would exceed 4,000 square feet, before the Board is approval for the combined phases.

The existing dwelling, 94 Grove Street together with the hoop house will be razed. The existing driveway to the left of the dwelling is access/service road to this entire site. This will be refurbished and remain. The new greenhouses and new hoop house will be setback 20' from Grove Street. The greenhouses, 20' to their ridgeline are clear glass walls and roofs, they are sited in a saw tooth pattern, stepping back 8' every 36' appearing to follow the slight curve of Grove Street. A temporary covered walkway will be built in connecting the new greenhouses to the existing headhouse. In Phase 1B, the greenhouses would then be permanently attached to the horticultural building, forming an L-shaped "Horticulture Center."

Member Bailey expressed concern with the glass green houses being so close to the street and being a target for rocks. The Cemetery is looking to be more visible and a presence along the street in a positive way. Member Ferris asked if the area is secured. Attorney York stated that the area is fenced with a gate and only the "birders" have keys to get in very early morning. The Board received a separate sheet L-10.05, Site Details, which detailed the new 3' high cast-iron bollard fence and railing system to be located in front of the hoop houses and greenhouses along Grove Street.

The cemetery is not employing additional workers, it is anticipated that five full-time and five part-time employees, all current Cemetery employees, would work in the horticultural center. Anticipated traffic would include 20 vehicles and one to two trucks per day. In addition, a tractor-trailer would deliver materials to the recycling yard approximately once a week. Cemetery customers would continue buying flowers and plants at the site, typically accessing the area from the driveway connecting to the burial grounds. Chairman Vlachos queries whether the flower shop is open to the public. Attorney York indicated the retail flower shop is generally for use by families/friends of those that are buried there. This use will continue.

The project complies with all dimensional setbacks; including the parking. Cemeteries and their associated structures falls within the Table of Uses Regulations under the heading of Institutional, therefore "other institutional" with parking requirements 1 per 600 sf. The 10,057 sf horticultural building requires 17 utilizing this category. Parking is based on gross square footage<sup>1</sup> of a use and in this instance exclusion of mechanical rooms, approximately 1,000 sf; and garage area, 1,680 sf where it serves a dual purpose of equipment storage, van parking and parking of small tractor/golf cart vehicles is excluded. The combined total is 2,680 sf subtracted from 10,057 sf or 7,377 sf requiring 12 parking spaces @ 1 per 600 sf. Total spaces provided are 21 -- the existing east-west drive would be rebuilt with seventeen (17) parking spaces -- for greenhouse staff and customers -- and three (3) bicycle racks that accommodate six bicycles. An additional four (4) parking spaces for staff would be located beyond this drive to the north, parallel to the service drive. The only lighting remote from the buildings would be three pole-mounted lights for the parking spaces. A detailed of the pole light was submitted to the Board that evening.

The driveway on Grove Street would be repaved, and a double swing gate would be provided. A new concrete sidewalk would be installed along Grove Street, replacing a dirt footpath. The sidewalk will extend the length of the project area. A crosswalk would also be added at the east end of this new sidewalk. In addition, the inactive curb cut on Grove Street would be eliminated and replaced with a new curb, though the Petitioner would like retain the option of reactivating it in the future.

Member John asked about the runoff water collection. Mr. Lasky, Senior Associate, Architect stated that there is an underground system-a rainwater harvesting system to supply the greenhouse irrigation system. Backup supply would be provided by the Cemetery's on-site well system from the spring to fall and municipal water system in the winter. This new system will save approximately 300,000 gallons of municipal water a year. Additionally, the gray water will be utilized in flushing the toilets in the horticulture building only.

The Board heard from the following people: Marilyn Petito Devaney, Westminster Avenue spoke in favor of the project and asked that they extend the sidewalk to Coolidge Avenue.

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<sup>1</sup> Section 2.31, Gross Floor Area. "The total area, expressed in square feet, of all floors of a building excluding all parking and loading areas, traditional roof appurtenances, such as mechanical penthouses, all other mechanical rooms...etc."

Alyson Karakouzian, 143 Grove Street, spoke in favor of the project stating that she has gone on their tours; they have improved the sidewalk and wishes too it can be extended, but she as well as the neighbors at 141 Coolidge that could not be here are in total support of this project.

Dennis Duff, 33 Spruce Street is in favor of the plan; however, he'd like them to offer space for the recycle center for Watertown and to consider a tree farm, which is badly needed.

Town Councilor Angie Kounellis, said that at the neighborhood meeting on July 7, 2010, the neighborhood supports the project; there will now be visibility into the cemetery; they are sprucing up the area; wants the town to continue dialog for a Payment in Lieu of Taxes (PILOT) program with the cemetery.

The Board closed the hearing and discussed the positive merits of the project. They commended the team and supporting staff.

Ms. Santucci motioned to approve the Special Permit/Site Plan Review with the conditions discussed. Mr. John seconded. Voted 5-0, granted.

**Documents Reviewed:** "Mount Auburn Cemetery Meadow Extension Project" prepared by William Rawn Associates, Architects; Reed Hildebrand Associates Inc. Landscape Architecture; Rist-Frost-Shumway Engineering, P.C., Civil Engineer dated June 25, 2010: "L-0, Context Plan", "L-1, Plot Plan-Phase 1A & 1B", "L-1.01a, Site Materials and Layout Plan-Phase 1A", "L-1.02a, Site Materials Plan-Phase 1A", "L-2.01a, Site Grading Plan-Phase 1A", "L-3.01a, Planting Plan-Phase 1A", "C-0.01, Civil Notes, Legends, & Abbreviations", "C-0.02, Existing Conditions Plan", "C-1.01a, Demolition Plan-Phase 1A", "C-3.01a, Site Drainage Plan-Phase 1A", "C-4.01a, Site Utility Plan-Phase 1A", "C-5.01a, Erosion & Sedimentation Control Plan Phase 1A", "C-6.01, Civil Details", C-6.02, Civil Details", "L-1.01b, Site Materials and Layout Plan-Phase 1B", "L-1.02b, Site Materials Plan-Phase 1B", "L-2.01b, Site Grading Plan-Phase 1B", "L-3.01b, Planting Plan-Phase 1B", "C-1.01b, Demolition Plan-Phase 1B", "C-3.01b, Site Drainage Plan-Phase 1B", "C-4.01b, Site Utility Plan-Phase 1B", and "C-5.01b, Erosion & Sedimentation Control Plan Phase 1B". Dated April 19, 2010: "A-3.01a, Elevations-Greenhouses-Phase 1A", "A-4.01a, Building Sections-Phase 1A", and "A-4.01b, Building Sections Phase 1B". Dated 7/1/10: "A-1.50b, Floor Plans-Phase 1B". Dated 5/27/10: "A-3.01b, Elevations Headhouse Phase 1B", "A-3.02b, South Elevations from Grove Street"; Site Details (Fencing along Grove Street, L-10.05, 5/28/10



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Chair Vlachos announced that Mr. John would be voting as Alternate member on this case.

Ms. Santucci read the legal notice:

Carmen DeMarco, SAI Communications, Inc., on behalf of T-Mobile Northeast, LLC, 231 Newbury Street, #3, Boston, MA 02116, herein requests the Board of Appeals to grant a Use **Variance** under 1996 Federal Telecommunications Act (TCA), **Variance** from §5.13(a)1, Prohibited Zone -Two-Family (T District); §5.13(a)2, Prohibited location on residential structure and less than 50' from residences, Wireless Telecommunications Facilities, Zoning Ordinance, so as to allow three (3) panel antennas within proposed faux chimney atop residential building and BTS equipment cabinets within basement/storage lease area at **240 Waverley Avenue**, located in the T (Two-Family) Zoning District.

Scott Lacy, Attorney with Prince Lobel Glovsky & Tye, presented the case for T-Mobile, stating that this is an installation completely camouflaged within a 30"x30", 8' high faux chimney on a building at 35' in height, making it 43' with 3 panel antennas and two small antennas for E911 compliance. The ancillary equipment will be cabled inside the building to the basement and an HVAC condenser to the rear of the building, screened by existing vegetation. The photo simulations show the property from Lowell Avenue, Waverley Avenue and from a street behind this property. He stated that T-Mobile has a significant gap in coverage – he referred to radio frequency coverage maps that had been submitted to the Planning Board. The town hired an independent RF Engineer, Mark Hutchins, who submitted a report stating that there is a significant gap in coverage within this area. As a result, T-mobile is trying to find a location in the area. The WZO limits the zoning districts for installation and a single family zone is not one of them. None of the allowed districts could be used to close the gap. An alternative site analysis was submitted with 23 sites and Mr. Hutchins agreed that the alternate sites would not provide the necessary coverage.

Chair Vlachos stated that these are mostly random locations and are so far away that they wouldn't have been considered just on location – only a few are appropriate to this request.

Atty. Lacy added there were 3 locations that from a radio frequency perspective may have been appropriate but requiring different things - 9 Lowell Avenue was considered but the owner did not want to lease and 212

Waverley Avenue and the Fire Station was looked at but it is a lower ground elevation and a lower building. They would need those buildings at 55' to clear the higher terrain.

Mr. Bailey asked if this is the highest spot in the area, how is Sprint or other carriers covering this area? Atty. Lacy said the technologies are different and the frequencies are different. Verizon predates the FCC and may be on a building that is not allowed now.

Mr. Vlachos asked if the coverage in a vehicle vs. coverage in a building and what is protected by the FCC. Mr. Lacy said a newsletter from the CDC states that as of 2008, 20% of homes only had a wireless phone, they do not have landlines. Therefore, the direction of all cell companies is to have in building coverage – it has to be a stronger signal to propagate through the building. (There was reference to the light green/dark green coverage maps, where light green shows in-vehicle coverage and dark green, in building coverage). A worst-case scenario was also presented for the emissions calculations – if you were to be standing directly in front of the antennas, what is the signal strength and that would still comply with the FCC. The building is 35' high and then the antenna height would mean the signal is being sent out to the sides of the antenna, not below. The CDC also stated that the trend is for households to be cutting their landlines.

Mr. Vlachos asked if the FCC requires us to permit facilities that have both in-vehicle and in-building coverage or if there is in-vehicle coverage, is that enough. Atty. Lacy said, in their opinion, the first circuit Omnipoint vs. the City of Cranston addressed that – it is up to the carrier to target what is the signal strength they are trying to target and in this case it was in-building coverage and it was appropriate for the carrier to do that, if it makes sense to do so. In an urban environment, it makes sense to. That was allowed by the TCA and is protected by the TCA. Mark Hutchins also referenced a case in NH where that issue came up and that court also confirmed that in-building coverage is protected.

Mr. Vlachos asked about the four-family residence and if the equipment was being located within a specific apartments basement area. Atty. Lacy said no, it is a storage area in the basement – reference drawing. Mr. Vlachos asked if the building is professionally managed. Nancy Scott, Zoning Enforcement stated that the owner lives next door.

Mr. Ferris asked how the chimney would be supported. Atty. Lacy said it would be affixed to the roof, reinforcing the roof rafters – it would have to comply with building code. There will be a cap on the chimney to prevent water from penetrating through the top. The bottom would not be sealed to the building.

Mr. Vlachos asked what the income from the four tenants is vs. the income from the carrier. Mr. Lacy doesn't know. Mr. Vlachos said he wants to know. What if the income received from the installation of the antennas dominates the income of the building, the landlord could be dependant on that income that they don't care what happens to the rest of the property and the real value of the property is in the antennas – then the property would deteriorate. He considers this a real problem. Atty. Lacy noted that this is a private contractual agreement.

Mr. Vlachos said this would have a detrimental effect on the four units as people wouldn't be interested in renting because of antennas above their heads and the landlord wouldn't care because the income from the antennas is so great. Mr. Lacy stated that he would ask the landlord if he would accept a condition that the property has to maintain an appropriate condition. His client will not disclose how much money they are spending. Mr. Vlachos said on any other residential building, there are many units and the antenna values do not dwarf the rental income. If 90% of income is coming from the antennas and 10% from rental, it could have a detrimental effect as a residential use by this commercial use, the antenna.

Mr. Ferris asked about the 30" x 30" for the chimney and stated that a real chimney is 2' higher than the roof it is next to and this is proposed at about 8'. The appearance is convincing. If it were a real chimney, it would be about 3' high.

Ms. Elliott asked about maintenance. Atty. Lacy stated it would be only 1x monthly. They will look at the exterior and if necessary, they will check the antennas. They do not physically check unless they are not working.

Ms. Elliott asked how they would access the roof – she stated a concern with the slope and asked if they would use scaffolding, etc? Mr. Lacy said they would have access to the roof and is willing to find out more

information about how they would perform the maintenance. Ms. Elliott added that there is access from inside the building but with the size of the chimney, it would be difficult for a regular sized person to actually get in there. Mr. Lacy said they do not generally need to be replaced they do not malfunction or break but he will get more information for her.

Mr. Bailey asked if this is 3G? Will they be looking for 4G down the road?

Dishan Sha, RF Engineer for T-Mobile, stated that even if they are looking for 4G, they would not be adding anything – they may need to replace antennas but there would be no physical change. They have not used 4G or have 4G plans now and he doesn't know if they would use satellite dishes then. Atty. Lacy said, 'as of right now, it is 3G'.

Mr. Ferris asked if the photo simulations are done to scale. Atty. Lacy said that they are done to scale.

Mr. Vlachos asked Mr. Ferris about the chimney height. Mr. Ferris said a chimney is normally 2.5' higher than the highest point of the roof.

Marilyn Petito Devaney, 198 Westminster Avenue – She believes this is a health hazard. Watertown is oversaturated. She asked Congressman Markey to amend the TCA and limit the number of antennas in Watertown. She had legislation withdrawn at MMA to allow Building Inspectors to permit antenna installation without PB or ZB approval. She is concerned that this installation is to benefit the town of Belmont. You can say no regarding aesthetics. She asks the board to table this until they have more information.

Anne Miller, 249 Waverley Avenue, stated that she has submitted a petition with over 100 signatures against the installation of antennas on single and two family homes. She suggests commercial buildings like the public works building or the fire department building.

Chair Vlachos will determine a Business Mode unless there are more questions.

Mr. Bailey asked to explain the requirements of a tower. Atty. Lacy said a ground elevation of 55'. If starting with at two-story building at 30' add 25' above that. A tower would need additional relief – a variance. He understands the issues with the rent but the property owner lives next door and it would affect her property.

Mr. Vlachos said that if there is a small residential building, the income from the carrier could dwarf the income from the rentals as well as the impression people have of antennas. She could lower the rent in the building; it would effect the rental income of her neighbors and it would effect the value in the neighborhood.

Mr. Ferris asked what would happen to the lease, if the property were sold. Mr. Lacy said the lease would stay with the property and the new owner would acquire the lease.

Mr. Bailey asked if the town could hold the lease for a carrier. Atty. Lacy said there is an RFP process. Steve Magoon, Comm Dev. Director stated that the town would issue an RFP for a location and it would be open to multiple carriers. One carrier would lease space to other carriers and provide service to E911, etc.

Ms. Devaney asked the board to entertain a motion to table this to see what kind of tests Natick has done. Mr. Vlachos said the board has to vote on what is presented here and not on what someone else is doing. He added that the Planning Board hired an independent radio consultant although his license number is not on his report. Mr. Lacy said that Mr. Hutchins has been acknowledged at court cases as being an expert in this field. Mr. Magoon said there isn't any such thing as a licensed RF engineer. Mr. Vlachos said engineers have to have a license. His concern with the independent RF engineer's report is the fact that it is missing a license number and the noted 23 possible sites could have included his own house. He stated that the report lists the Tufts Health building which is on the complete other side of Watertown and not close to the site in question. This report includes inappropriate locations and it makes it appear as if exhaustive investigating was done. Another example is St. Lukes Parish, Belmont – "too far north to meet coverage objective", where is the data that says that.

Ms. Santucci suggested that they look at the list of alternatives or at least the three sites that the consultant suggested and get some RF's at those sites: 9 Lowell Ave., 212 Waverley; and she doesn't think the fire

station is an option due to the RFP process, so the two locations would require similar relief. Mr. Magoon said an antenna facility at either of those locations would provide the coverage required, according to Mr. Hutchins' report.

Ms. Elliott asked if it is possible for the independent engineer to review other sites. Mr. Vlachos attempted to decipher the report, 'Out of the 23 sites, 20 were not feasible...'. Mr. Magoon said there are very few sites that could actually cover the area needing coverage. Mr. Ferris asked how tall a building would have to be to provide coverage – at 9 Lowell Avenue. Mr. Lacy said the owner is not interested in leasing. Mr. Vlachos asked how do we know that he just doesn't want more money than the Waverley Street homeowner. Mr. Lacy said he would provide more information in regards to that. Mr. Lacy added that the property is right across the street, in the same neighborhood.

Mr. Vlachos said again, that his problem with this is that it is a residential property with four units that is being turned into a commercial property. For profit activity is going to dominate the site. It doesn't do that with a 30 or 40 unit building. Mr. Lacy said that it is not a business; people don't visit it; there are no customers; people won't know it is there. Mr. Vlachos argued that the effect of this turns it into a commercial enterprise as opposed to a residential enterprise. It will effect the management of it and the area around it.

Mr. Bailey asked if the lease is signed, the building is sold with the antennas. Who would want to buy a property with antennas?. Ms. Santucci asked if they would be willing to share the lease. Mr. Vlachos said if the lease for the antennas is \$300 a month and the lease for an apartment is \$1200 a month then what he is saying doesn't hold water but if it is the opposite that is his concern. Numbers tell the story.

Mr. Lacy added that if there are other conditions in the lease regarding maintenance that would alleviate other questions. If they are obligated to maintain the property, then that would alleviate the concern of the property falling into disrepair.

Mr. Vlachos said again that the concern is creating a commercial enterprise within a residential area. Mr. Lacy said he would provide information on the other locations – the fire station requires an RFP, so that is out; 9 Lowell Avenue with the absence of a willing landlord, that is out and he will evaluate 212 Waverley Avenue in terms of what type of facility for height – at least 55' and this is a 1 ½ story building and would need a significant structure on top. They believe this (240 Waverley) is the only feasible location.

Ms. Santucci said the board has made it clear what they are looking for. Another important point is the income from the antennas being attractive to the landlord in a way that would hinder the residential incomes and if they look at the other locations, there may be 3 or 4 carriers on the roof proportionately it is probably the same situation.

Mr. Bailey asked if they would create an antenna design for the fire station if it were able to be done for a visual comparison. A chimney would be a good way to hide something.

Mr. Lacy said they would take the coordinates for the fire station and the other two locations, create the coverage maps to get comparable coverage in the area, what height those antennas would have to be mounted at and that would dictate the design but based on the initial analysis, it is 55'.

Mr. Bailey's thoughts were that the neighbors might visually prefer a chimney on top of a roof rather than a tower across the street.

Mr. Lacy said he will follow-up on three alternatives including design and maintenance.

Mr. Vlachos said the board does not meet in August and will continue this case in September unless there is a real need. He will then read into the record all of the items submitted like the signed petition, etc.

Mr. Lacy requested the case be continued to the September 29, 2010 Zoning Board hearing.



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## MINUTES

On Wednesday evening, **July 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*; **Melissa Santucci**, *Clerk*; **Stuart Bailey**, *Member*; **Deborah Elliott**, *Member*; **David Ferris**, *Alternate Member*; **Suneeth P. John**, *Alternate Member*; **Steve Magoon**, *Director, Community Development and Planning*; **Nancy Scott**, *Zoning Enforcement Officer*; **Danielle Fillis Evans**, *Senior Planner*; **Louise Civetti**, *Clerk to BOA*.

Chair Vlachos indicated that Mr. Ferris will be voting as the alternate member on this case. This is a continued case from the June meeting.

Ms. Santucci 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 a **Special Permit** in accordance with §5.13, Wireless Telecommunications Facilities, Restricted Zoning District, Zoning Ordinance and a **Use Variance** in accordance with the Federal **Telecommunications Act (TCA)**, so as to install (3) panel antennas, 3'6" in height: (1) attached on existing elevator penthouse, (1) attached on existing chimney - not further extending above existing roof structures at 61'-3"; (1) attached on existing stair penthouse at 58'-1", further install (1) backhaul dish antenna on stair penthouse also at 58'-1" and associated equipment cabinet on roof at **462 Mt. Auburn Street**, located in the T (Two-family) Zoning District.

Attorney Jennifer Lewis, Prince, Lobel, Glovsky & Tye LLP submitted revised photo simulations showing the existing roof top; the same rooftop angle with the dish installed; and the same roof top angle with a faux chimney; a letter from Centerline Communications stating the 4 other locations of their Site Search and updated/revised plans – all requested by the Board at the last meeting.

The backhaul dish has now been visually shielded within a proposed stealth chimney approximately 10' in height. Members were satisfied with regard to the aesthetic improvement. Members were also satisfied that the alternative sites were not completely viable.

Ms. Santucci motioned to approve the Special Permit. Ms. Elliott seconded. Voted 5-0, granted. Ms. Santucci motioned to approve the TCA Variance. Ms. Elliott seconded. Voted 5-0, granted.

Documents reviewed: The plan set entitled "MA-BOS7204-a/School and Mount Auburn":T-1, Title Sheet; GN-1, General Notes; GN-2, General Notes; C-1, Overall Site Plan; A-1, Roof Top Plan; A-2, Elevation, Detail, and Antenna Specifications; A-3, Details; S-1, S-2, and S-3, Structural Details; E-1, Electrical Single Line Diagram and Notes; E-2, Grounding Rise Diagram, Details & Notes; and E-3, Electrical and Grounding Details all revised 7/16/10 and prepared by EBI Consulting.



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Chair Vlachos is recused. Ms. Santucci acting Chairman; Mr. Bailey acting Clerk. Both alternates voting.

Mr. Bailey read the legal notice for this continued case:

Steven Rothstein, President, Perkins School for the Blind, 175 North Beacon Street, Watertown, MA herein requests the Board of Appeals to grant a **Special Permit-Site Plan Review** in accordance with Section 5.00(f), New Construction Exceeding 4,000 Square Feet, Zoning Ordinance, so as to permit construction of a 2-story building, 107.5'x 141.5', 16,502 sf inclusive of basement, for the Grousbeck Center for Students and Technology, providing 10 additional parking spaces, where 26 is required. Construct 30-vehicle parking area northerly of Hunt & Farrell Houses. Seeking a waiver for number of required parking spaces and to allow for 16 shadow parking spaces, where maximum 20% or 5 spaces is permitted. Further modify configuration of Beechwood Avenue parking lot to allow for separate entrance and exit street openings for the campus at **175 North Beacon Street**, located in the T (Two-Family) Zoning District.

The Board received additional information, including a Master Parking Plan, C-0.1, dated June 29, 2010, Gund Partnership; Preliminary Logistics Plans- phased, color coded parking plan for the parking during all of the construction; Phase 1: September 2010 - December 2010-Lower School projected parking; Phase 2 Logistics: January 2011 - August 2011; Phase 3 Logistics: September 2011- December 2011, all by Shawmut, Design & Construction. Submittal by Steve Rothstein, President, letter dated July 21, 2010 outlining pre-construction and post construction numbers; including Lower School Construction Plans.

Acting Chair Santucci stated that the Board continued the case due to the visual and parking issues from the neighborhood. If there is an issue going forward, they will reserve the right to ask Perkins to come back to the board.

Steve Rothstein gave an overview and detailed what the Board wanted in further support of their petition. He stated that they have stepped-up the enforcement of employee parking on the street. They had a neighborhood meeting on July 7th; copy of memorandum sent to employees dated July 1, 2010 was given to the Board. They have gone from numbered parking stickers to new plastic larger ones that hang from the mirror and are easily visible. Each employee will be registered and they can easily identify problem parkers.

Town Councilor, Cecilia Lenk stated that Perkins should preserve their open space and not overdo the parking. She is in support of this petition.

Marilyn Petitto Devaney, 98 Westminster Avenue, praised Perkins and supports this project.

Ms. Elliott motioned to approve the petition. Mr. John seconded. Voted 5-0.

Documents reviewed: The Plot Plan "PP-1" dated May 7, 2010; revised June 24, 2010 and stamped by Andrew John Browne, Professional Land Surveyor. The Plan Set entitled "Grousbeck Center for Students and Technology": "ECP-1.0", "Existing Conditions Plan" dated May 21, 2010, revised June 24, 2010 and stamped by Andrew John Browne, Professional Land Surveyor; "D-1.1", "Demolition & Site Preparation Plan"; "C-1.1", "Parking Lot Layout & Materials Plan"; "C-2.1", "Utilities Plan"; "C-3.1", "Grading Plan", "C-4.1" and "C-4.2", "Civil Details"; all dated May 21, 2010, revised June 24, 2010 and the revised "C-0.1", "Master Parking Plan" dated June 9, 2010, revised June 24, 2010 and prepared by Gund Partnership and Samiotes Consultants, Inc; "L1", "Site Plan" and "L2" Details, prepared by Esker Company Landscape Architecture and Gund Partnership dated May 10, 2010, revised June 18, 2010; and "A2.10", Basement & First Floor Plans, "A2.11", Second & Roof Plans "A3.10" "Building Elevations" prepared by Gund Partnership and dated May 10, 2010, revised June 24, 2010. "Hydrological Calculations to Support Special Permit Application" dated May 21, 2010 and prepared by Samiotes Consultants, Inc.



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Chair Vlachos explained the next case is under "Other Business" due to changes in the Affordable Housing Agreement as part of the approved decision conditions. Mr. John is the voting alternate on this case.

Decisions **#05-15 ASP/SP & #09-22 ASP/SPF** granted to Main Care LLC on 12/14/05 and 10/14/09.

James Patrick Duffy, Main Care LLC, appeared and requested that he be allowed to Amend/Modify Conditions #9 & #10 of decision # 05-15 ASP/SP and Condition #6 of decision #09-22 ASP/SPF with allowing a cash payment in lieu of providing one on-site affordable housing unit in accordance with the Affordable Housing Agreement made part of both decisions.

The Board received a letter dated July 28, 2010 from Danielle Evans, Senior Planner on behalf of the Watertown Housing Partnership (WHP). Mrs. Evans stated the WHP voted to amend the 2005 Affordable Housing Agreement to allow Main Care, LLC to comply with the Town's affordable requirements by providing a cash payment of \$159,055. to Watertown Affordable Housing Development Fund in lieu of providing one on-site affordable unit as required in Conditions #9 & #10, and Condition #6, of ZBA decisions noted above.

The Board had a brief discussion and concurs that since this cash payment was approved by the WHP.

Ms. Santucci motioned to approve and **Delete** Conditions #9 & #10 of ZBA decision # 05-15 ASP/SP and **Delete** Condition #6 of ZBA decision #09-22 ASP/SPF and **Replace** with new condition: *"Prior to receiving a final Certificate of Occupancy (14 Units), the Applicant must provide a cash payment in the amount of \$159,055 to the Town of Watertown's Affordable Housing Development Fund and evidence of a fully executed and recorded Amendment to the Affordable Housing Agreement."* All other conditions of both prior decisions shall remain in full effect. Ms. Elliott seconded. Voted 5-0, granted.

No documents submitted.





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Chair Vlachos noted that **49 Buick Street** had not been voted on at the last hearing and suggests the board vote to withdraw the petition. Mr. Ferris will be the voting alternate member.

Ms. Santucci motioned to withdraw the petition without prejudice. Ms. Elliott seconded. Voted 5-0, **withdrawn without prejudice**.

Mr. Bailey motioned to adjourn. Ms. Elliott seconded. Voted 5-0. The meeting adjourned at 10:55 p.m.