



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 NOV - 7 P 4: 32

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-16

PETITION OF TOWN OF FRAMINGHAM

DATE OF DECISION: OCTOBER 24, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of TOWN OF FRAMINGHAM (hereinafter the Applicant), for property located at 20 and 22 INDIAN HEAD HEIGHTS. This Decision is in response to a Petition for a Special Permit for a Wireless Communications Facility (WCF) and Variances for height and setbacks as required by the Zoning By-Law (hereinafter the Application).

2. Property Owner and Applicant

Town of Framingham
150 Concord St.
Framingham, MA 01701

3. Location

Property is located at 20 and 22 Indian Head Heights and identified by Assessors' Parcel IDs 080-77-6278-000 and 080-77-4301-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on October 24, 2016 the Board voted to DENY the requested SPECIAL PERMIT and VARIANCES by a vote of one in favor of the Petition and two against. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	NO
STEPHEN MELTZER	NO
ROBERT SNIDER	YES

5. Proceedings

The Application was received by the Board on May 13, 2016 pursuant to MGL, Ch. 40A, §9 and §10, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on June 21, 2016 at 7:00 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Stephen Meltzer, Robert Snider, and Alternate Joseph Norton were present throughout the proceedings. The Board voted to continue the hearing at 7:00 PM on July 12. The Applicant requested and the Board voted to continue the hearing at 8:15 PM on August 9. The Board voted to continue the hearing at 8:00 PM on September 13. The Applicant requested and the Board voted to continue the hearing at 7:00 PM on October 24 at which point a decision was made. The Applicant consented to an extension of the Variance decision deadline on two

Dedicated to excellence in public service.

occasions, to September 30, 2016 and subsequently to November 30, 2016. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

At the initial hearing on June 21, 2016, Peter Sellers, James Barsanti, and Blake Lukis of the Framingham Department of Public Works (DPW) were present and summarized the project including their rationale. Several residents spoke in favor and against, and raised questions about the need for the project and the likely impacts. Board members questioned aesthetic impacts and how the communications system would be used.

At the next hearing on August 9, Ashley Dunn, Peter Sellers, James Barsanti, and Daniel Nau of DPW were present. Ms. Dunn presented a more thorough explanation of their plans and the studies on which plans were based. Sophia Banar (23 Crestwood Drive) gave a prepared slide presentation on behalf of roughly 200 residents opposing the project. Mr. Meltzer asked for additional clarification on the alternative locations and technologies that had been studied and why they had been ruled out.

At the final hearing on October 24, DPW was represented by Blake Lukis, James Barsanti, and consultants Kate Novik and Ivan Pagacik. They presented still more detail contained in the submission dated October 14, on the locations studied and details of the proposed communication system. Several residents from the neighborhood opposition group spoke to their concerns, emphasizing the potential for declining property values. Mr. Ottaviani stated that based on the neighborhood opposition, it was not a good location for the proposed tower. Mr. Meltzer felt that the neighbors' concerns were valid and agreed with the neighbors' contention that the proposed monopole did not constitute a replacement of the existing WCF, and that the Board lacked the authority to issue a Special Permit. Mr. Snider stated his support for the project, noting that the fears of the neighbors would likely not come to pass, and that if the WCF were not to be sited at Indian Head Heights, it would be in another neighborhood. He felt that someone would inevitably have to bear the burden of the facility. Mr. Cosgrove agreed. Ms. Craighead agreed with Mr. Meltzer's concern about the Board's authority.

Mr. Snider moved to approve the WCF as presented. Mr. Ottaviani seconded the motion for discussion. The motion failed with Mr. Snider in favor and Mr. Ottaviani and Mr. Meltzer opposed.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1. Application filed with the Building Official for a permit for a Wireless Communications Facility on a 120-foot monopole attached to a water storage tank, dated May 13, 2016.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on May 13, 2016.
- 6.3. Memorandum of support, submitted by the Applicant, entitled "Indian Head Heights Water Storage Tank Replacement Special Permit Application Project Narrative", dated May 2016.

- 6.4. Town of Framingham GIS property map showing the two applicable Town-owned parcels.
- 6.5. Report entitled "PTP Microwave Backhaul Network", prepared for the Town of Framingham Department of Public Works by Motorola Solutions, dated December 18, 2014.
- 6.6. Site plan drawings C-4 "Demolition Plan" and C-7 "Landscaping Plan" dated May 9, 2016, prepared by Wright-Pierce.
- 6.7. Photographic renderings, "Indian Head Water Tank Replacement- Proposed View – At Planting" for west, east, and northwest views, dated May 2016, prepared by Wright-Pierce.
- 6.8. Submissions from neighborhood opponents summarizing their concerns, including petition signatures and a slide presentation, stamped "Received" by the ZBA Administrator on October 24, 2016 and August 9, 2016.
- 6.9. Submissions from DPW including slide presentation handout dated June 21, 2016; "Supplementary Project Narrative" dated August 1, 2016; and "Final Supplementary Project Narrative" dated October 14, 2016.

Exhibit 6.6 shall be hereinafter referred to as the "Plans."

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the Single Residence (R-3) zoning district.
- 7.2. On May 13, 2016, the Building Official denied the Application for a permit to erect a Wireless Communication Facility upon a 120-foot monopole, pursuant to §V.E.3.a.1, §V.E.4.b.2, and §V.E.4.c.2 of the Zoning Bylaw.
- 7.3. On May 13, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit and Variances per the Zoning By-Law.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on June 6 and June 13, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. One Town Meeting Member from Precinct 8, and several other residents, appeared at the hearing.
- 7.5. The Applicant is before the Board for a Special Permit to erect a WCF on a new monopole 120 feet in height. All WCFs require a Special Permit as required by §V.E of the Zoning Bylaw. The structure would require Variances for height exceeding 80 feet and for setback less than the required 300 feet in a residential zone. Pursuant to Section IV.E.4.d of the Bylaw, a WCF may not be granted in a residential zone unless it will replace an existing WCF.
- 7.6. DPW and its consultants presented their case that the proposed monopole is needed to support redundancy in the Town's communications network, allowing for backup monitoring of the water system and emergency responder communications to remain online in the event of a disaster or power outages which may take down the fiber-optic

network. Town officials also noted the unique location of the property, which, due to its topography, could eliminate wireless dead zones that currently exist. Other locations in Town were studied and none could fulfill the Town's needs with a single tower, without much greater height than the tower proposed.

- 7.7. The overwhelming opposition to the project by neighborhood residents, documented in over 200 petition signatures, was duly noted by the Board members. Their concerns, which include a diminished visual environment and property values, as well as health impacts, are valid reasons to conclude that the site is not appropriate for such a use.
- 7.8. Regardless of whether the location is the best, or whether another communications solution would be better suited to the Town's needs, the Board lacks the authority to approve a WCF in a residential zone unless the project is a replacement of an existing WCF. The Applicant confirmed that the existing WCF on site serves only to monitor the water system, and does not service the Town's emergency responders such as Fire, Police, and EMS. The existing WCF is much smaller in height. Therefore, the Applicant's contention that the proposed monopole is a replacement of the existing WCF is inaccurate. The proposed WCF would add significant new capacity for wireless communications on site.
- 7.9. Mr. Snider moved to approve the WCF as presented. Mr. Ottaviani seconded the motion for discussion. The motion failed with Mr. Snider in favor and Mr. Ottaviani and Mr. Meltzer opposed. The concluding vote was 1 in favor 2 opposed; therefore, the Special Permit is DENIED.
- 7.10. Since the requested Special Permit cannot be granted, the requested Variances are unnecessary and are also DENIED.

8. Appeals

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: 

Philip R. Ottaviani, Jr., Chairman