

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
JUNE 24, 2020
Approved: AUGUST 12, 2020**

Chair Chris Tracey called the meeting to order at 7:00pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40B and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

Others Present: Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Frank Carlson, Barbara & Gregory Romero and Rick Maiore

Variance Hearing – Cello Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.
Opened at 7:05pm. (See page 2 for complete details)

Approve Minutes

Steve Moeser made a motion to approve the minutes of March 11, 2020, as drafted and the minutes of May 27, 2020 as amended. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

Adjournment

At 8:16pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye, Michael Lawton, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

- Town of Harvard, Zoning Board of Appeals Agenda, dated June 24, 2020
- Verizon Photo Simulations, Harvard 3 MA, 12 Woodchuck Hill Road, Harvard, MA 01451, March 6, 2020
- Attachment A: Harvard 3 – Existing/Approved 700MHz LTE Coverage, undated
- Attachment B: Harvard 3 – 700MHz LTE Coverage with Proposed Site, undated
- Attachment C: Harvard 3 – Existing/Approved 700MHz Sector Footprints, undated
- Attachment D: Harvard 3 – 700MHz Sector Footprints with Proposed Sites, undated
- Attachment E: Harvard 3 – Area Terrain Map, undated
- Draft Zoning Board of Appeals Minutes, Prepared by Liz Allard, March 11, 2020
- Draft Zoning Board of Appeals Minutes, Prepared by Liz Allard, May 27, 2020

Harvard Zoning Board of Appeals

Variance Hearing Minutes

Cello Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road

June 24, 2020

The hearing was opened at 7:05pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

Others Present: Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Frank Carlson, Barbara & Gregory Romero and Rick Maiore

This hearing is for a Variance filed on behalf of Cello Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120 foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Christopher Swiniarski, the Attorney for Verizon Wireless, along with David Tivnan, of SAI Group, were present. Attorney Swiniarski detailed the process before Verizon Wireless, which includes this variance application along with a Special Permit and Site Plan Review application with the Harvard Planning Board. On behalf of Verizon Wireless, Attorney Swiniarski is seeking a dimensional variance to the height provision with Harvard's Protective Bylaw, as it pertains to wireless communication towers, Chapter 125-27 of the Code of the Town of Harvard. The existing tower would be removed and replaced with a tower at 160 feet. Attorney Swiniarski detailed the photo simulations at six different locations. Attorney Swiniarski stated there is a significant need in Harvard to increase the service area. An extensive search of the area was conducted, which included the Town's water tank on Bolton Road, which turned out not to be a viable location. Attorney Swiniarski detailed the improved coverage within Harvard this tower will provide, with additional coverage along Mass Ave, Bolton Road, Slough Road, Still River Road, Ayer Road and Littleton Road, with additional areas between East Bare Hill Road and Stow Road. With a majority of 911 calls being made by wireless device, both the Fire and Police Departments have stated they are in need of reliable service in Town. When asked, Attorney Swiniarski confirmed the service would not be 5G at this time.

Chris Tracey stated although there will be increased coverage for some areas around Town, there is not a huge change to the overall coverage within Town, such as the south end of Bolton Road. Attorney Swiniarski detailed the engineering task required to cover all areas in Town. Attorney Swiniarski reviewed the Federal criteria for the issuance of a variance, which include establishing the most viable way to cover established gaps in service. Attorney Swiniarski detailed the criteria for a variance under Mass General Law, Chapter 40A, and how these criteria have addressed. Mr. Tracey asked if there were any other locations along the ridge that would establish better coverage. Attorney Swiniarski stated all factors considered this to be the best location, but it is not necessarily the only location. Attorney Swiniarski noted a tower currently exists in the proposed location. Michael Lawton asked if there were any alternatives that could be considered on the property that would not require a variance. Attorney Swiniarski stated there was not; at 105 feet the tower is not providing sufficient coverage. As Attorney Swiniarski understands it the tower was previously permitted at 130 feet 9 inches with the antenna at a

higher location. Mr. Lawton asked if an analysis was conducted at the current height. Attorney Swiniarski stated it had not, but the Town is unable to deny the extension of the tower by 10% its existing height. Mr. Lawton stated conceivable the tower could be increased to 180 feet. Attorney Swiniarski stated the findings could include language that prohibits an increase to that height.

Steve Moeser asked if there is any necessary relief from the Planning Board. Attorney Swiniarski stated the proposed tower meets the criteria under Chapter 125-27 of the Code of Harvard, other than for height and setbacks. In regards to the setbacks, the encroachment is to the abutting property, which is in common ownership of the property in question. Mr. Moeser requested additional information in regards to the tower. Attorney Swiniarski stated the information has been provide within the application packet and is more of a Planning Board issue rather than a Zoning Board of Appeals (ZBA) issue. Mr. Moeser stated the ZBA would be seeking to grant minimal relief.

Orville Dodson had no comments.

Theodore Maxant stated he spent a considerable amount of time discussing this proposal with those in the area who are not interested in having a tower located here. Mr. Maxant has not spoken with the property owner, Rich Maiore. Mr. Maxant believes it would benefit the citizens of Harvard for the tower to be well screened from the road, even in winter. If asked today, Mr. Maxant would vote in the affirmative.

Greg Romero, an abutter, stated in reality the end product of the tower with additional co-locators will look different then the photos show. Mr. Romero can see the tower in the winter from his property and would like there to be additional screening, along with safety considerations due to the proximity of the tower to his property. Attorney Swiniarski stated they are bound to Federal Communication Commission (FCC) regulations for wireless facilities, which are detailed in the report included with the application. The report concludes that with the maximum number of co-locators the tower would still be below the 1% of the permissible threshold under FCC regulations. Mr. Lawton questioned if the report included other co-locators. Attorney Swiniarski stated it did not, but the report could be updated to include that information.

The Board agreed the application should be reviewed by an outside consultant. Liz Allard will obtain proposal for review by the Board at the next meeting. Steve Moeser made a motion to continue the hearing to August 12, 2020 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye, Michael Lawton, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk