

Planning Board Minutes  
Monday, October 18, 2010  
Grace Gouveia Building, Room 6  
26 Alden Street, Provincetown, MA 02657

Planning Board Members Present: Howard Burchman, Dorothy Palanza and Peter Page, Marianne Clements and John Golden.

Staff Present: Maxine Notaro, Permit Coordinator and David Gardner, Assistant Town Manager.

Howard Burchman called the meeting to order at 6:03 p.m.

Site Visit 5:00 p.m. 15 Standish Way

Present: Dorothy Palanza, Howard Burchman and Peter Page.

### **Meeting Agenda**

#### **Public Comments**

None.

#### **Request for Approval Not Required Pre-Application**

**William N. Rogers, II, P.E. & P.L.S. on behalf of Bay Harbour LLC, II**

Lot 17 is to be conveyed from Lot 14, 10 Harbour Drive to Lot 15, 8 Harbour Drive, Provincetown, MA

William Rogers said the 127 square feet triangular piece of property is to be conveyed from lot 14 to lot 15 to make a relocated septic system more conforming. Board members say no issues with the proposal. Mr. Rogers to submit the actual ANR filing for the next meeting of the board.

#### **Continued Public Hearings**

##### **Case #2010-17 Site Plan Review**

**Application by Anne K. Malone, Esq. of Prince, Lobel, Glovsky & Tye LLP on behalf of Nextel Communications of the Mid-Atlantic, Inc. and its affiliate Sprint Spectrum, L.P.** under Article 7, Wireless Telecommunication Towers and Facilities of the Zoning Bylaws. The applicant seeks to modify their Special Permit (Case No. 2002-12 dated August 25, 2003) regarding the requirement for the Radio frequency ("RF") Emissions monitoring at the property located at **232-236R Bradford Street, Provincetown, MA (Res3 Zone).**

John Golden said he spoke with David Maxson who said he would not come down to a meeting until his company has received payment from Nextel for the outstanding testing's. He further stated that the testing is not longer required based on the time in operation.

Howard Burchman said Nextel had originally agreed to the Special Permit conditions and agreed to the monitoring process and to date, Nextel is delinquent in their obligation and agreement of the Special Permit and now they want the Planning Board to modify the special permit to eliminate that payment portion.

Anne Grant stated they should be concurrent to pay David Maxson.

Howard Burchman said he was one of the members who sat in on the original hearing. Waivers were requested and this was not one of them. Nextel has not fulfilled their agreement by the Planning Board.

Marianne Clements said John Golden mentioned that to date, Broadcast Signal Labs has not been paid.

Anne Grant said based on the knowledge of technology of today the testing is no longer necessary at that site. It states under 7040 of the bylaw under the Monitoring Protocol the Planning Board may require a by regulation the use of other testing protocols. The Planning Board may issue regulations that monitor the testing protocols. The

technology they have now does not require the semi-annual testing. This was her interpretation of it. The letter from David Maxson of Broadcast Signal Labs stating the testing was no longer required was drafted to the Town and not Nextel. Any major modification to the site would require further testing to the site.

Howard Burchman said it has come down to Nextel applying a Special Permit based on the bylaw. Not to mention the health issues within the town.

Marianne Clements said the site does not have the setbacks that would be required today. It is not within the normal setbacks; therefore, the site should still be monitored.

Howard Burchman said the engineer might be telling the truth and there is good cause to examine this however, the bylaw required the testing. Town Meeting would require a 2/3<sup>rd</sup>'s vote to change the bylaw. The Planning Board has clear obligations to the town based on the current bylaws.

There is another site coming into town. Nextel might want to look at and reconsider relocating.

Dorothy Palanza said the town's people would not be happy to know the testing is not being done, especially when the bylaw states the oweness is on the applicant to pay for the testing.

John Golden said other people are going to be dealing with the fear factor at town meeting.

Dorothy Palanza asked what the modifications would be such as, to eliminate the testing based on a letter from David Maxson.

Anne Grant said the testing could be done say every five (5) years.

Peter Page asked what the benefit to the town would be. The only benefit would be to the applicant(s).

Anne Grant said the town would not be burdened with the extra paperwork when it is not necessary.

Howard Burchman said Nextel has contracts with their customers/subscribers. Do they let people out of their contracts? I don't think so.

Motion: To deny Case 2010-17 for the request to modify Special Permit 2002-12 dated August 25, 2003.

Moved: Dorothy Palanza. Seconded: Peter Page. Voted: 4-0-1 (Howard Burchman).

#### **Case #FY11-02 Site Plan Review**

##### **Application by Craig Combs under Article 2, Section 2320 of the Zoning Bylaws for High Elevation**

**Protection District A.** The applicant seeks approval to remove the covered front stoop, Cupola and chimney and construct a 304 square foot Kitchen and Front Hall and Roof Deck addition and remove the rear deck and add two window bays and, to extend the existing roof over the new Front Hall at the property located at **15 Standish Way, Provincetown, MA (Res3 Zone).**

Tom Thompson stated that electrical will not be affected. They are replacing the deck in back and will have permeable surface for drainage. They will not be disturbing any sensitive areas.

Howard Burchman asked if they had an illumination plan.

Tom Thompson submitted lighting and planting plans as well as a narrative of 2320, 3340 and 4262. There will be lighting at each doorway and at the low retaining wall with ground lighting along the walkway. There are not public safety issues. The privet will not go higher than 6' to 8' in height.

Peter Page said the lighting plan depicts A as the pathway lighting and B is the doorway lighting. There must be a notation that spot lights will be removed.

Motion: Move to approve Case FY11-02, for 15 Standish Way, plan 0-10889 dated 9-6-10 by Schofield Bros. with the following conditions:

- Existing flood lights to be removed
- Low wall not to exceed two feet (2') above grade
- Fixtures to match illumination plan
- Privet hedge height limited to eight feet (8')

Moved: Dorothy Palanza.      Seconded: Peter Page.      Voted: 3-0-2 (MC and JG).

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Motion: To approve as presented.

Moved: Howard Burchman.      Seconded: Dorothy Palanza.      Voted: 5-0-0.

Any other business that shall properly come before the Board

None.

**Adjournment**

Motion to adjourn at 7:25 p.m.

Respectfully submitted,  
Maxine Notaro, Permit Coordinator