



Public Meeting
Monday
February 27, 2012
Judge Welsh Hearing Room
6:30 p.m.

Members Present: Marianne Clements, Eric Gelinas, John Golden,
Peter Page and Mark Weinress.

Member Absent: Dorothy Palanza

Staff: David Gardner and Maxine Notaro

The meeting was called to order at 6:30 p.m.

Meeting Agenda 6:30 p.m.

Public Comments

Rick Murray, owner of Crown and Anchor, asked when the bylaws were going to be discussed. It did happen later in the meeting.

Motion: Move to have the two Approval Not Required applications taken out of order and heard now.

Motion: John Golden Seconded: Mark Weinress Vote: 5-0-0.

Request for Approval Not Required Application by Chester N. Lay of Slade Associates, Inc. on behalf of Roger S. Locke, Trustee to convey a small portion of land from 684 Commercial Street (Map and lot 17-1-37 to 682 Commercial Street (Map & Lot 17-1-36) with the required frontage and lot area per lot at the property located at 682 and 684 Commercial Street, Provincetown.

Mr. Lay of Slade Associates, Inc. presented the plan to the Planning Board. There were no changes and no questions from the Board.

Motion: Move to endorse the ANR as requested.

Motion: Mark Weinress Seconded: Peter Page Vote: 5-0-0.

Request for Approval Not Required Pre-Application Application by Chester N. Lay of Slade Associates, Inc. on behalf of Bronwyn Malicoat, Galen Malicoat, Robena Malicoat and Mark Protosevich to divide one parcel of land into two parcels of land (Map and lot 16- 2, Parcel 1 and Parcel 2) at the property located at **310 & 320 Bradford Street, Provincetown.**

In answer to David Gardner's question - there had been a pre-application submitted. Mr. Lay gave the background of the two properties at the east end of Town. Both lots have the minimum frontage area. Chester explained away the plan by saying that Massachusetts had previously taken a little piece of land for a drainage problem.

The shed is going to be taken down and replaced. There's also a garage under construction and it's not on the plan. Mr. Lay said that - before the final plan - he will add the garage structure. This is basically for estate planning. There was no motion required since it was just the presentation of a plan.

Case #FY12-10 Site Plan Review (Continued from February 6, 2012)

Application by WK Red Clay, LLC under the Zoning Bylaws Article 4, Section 4100 Dwelling Units and Commercial Accommodations. The applicant seeks approval for minor site plan adjustments to include reorientation/separation of approved structures (unit numbers 12, 13, 14 and 15) buildings 5 & 6 becoming more compliant, also aesthetic changes to parking layout and road alignment with minor grade changes at the property located at **21 Bradford Street Extension, Provincetown, MA (Res1 Zone).**

The Board received a request to postpone until the March 5th meeting because they weren't ready.

Motion: Move to continue FY12-10 until the March 5th meeting.

Motion: Marianne Clements Seconded: Eric Gelinis Vote: 5-0-0.

Case #FY12-11 Site Plan Review (Postponed from February 6, 2012)

Application by Sprint Spectrum, L.P. on behalf of the Town of Provincetown Water & Sewer Board. The applicant seeks a Special Permit for the modification of an existing Telecommunications Facility on the Mount Gilboa Water Tank. The modification consists of replacing 4 Sprint antennas with new ones at the property located at **108 Mount Gilboa Road (a/k/a 120 Mount Gilboa Road), Provincetown, MA (Res1 Zone).**

David Gardner said this special permit request is needed because this facility predates our bylaw. The installation does not meet any of the conditions of our bylaw but since they are "replacing in kind" the bylaw doesn't pertain to the application. The replace-

ment will be with newer and better equipment. The bylaw is very specific and any modification has to come before you.

James George from Sprint was the main presenter. It was well presented and he said that Sprint is looking to upgrade their facility. These new antennas he intends to install will enable Sprint to remain competitive and it also allows for lesser energy usage. He continued by saying that we've had an existing facility there for some time with 2 antennas facing north and 2 facing south. What he's proposing to do: he wants to take down all four antennas. Mr. George is doing an interim plan and he then went through what he intends to do, i.e. co-axial cable, etc. They're upgrading by taking 4 antennas and replacing them with two as well as two RRUs which are about as big as a brief case. These are all about reducing operating costs. The coaxial cables are responsible for losing a whole lot of power but what we're doing will create a lot better reception. The new cable will provide better propagation and it makes us more competitive.

We are going to replace 2 antennas and install new mounts – we have to have an interim plan to make sure that everything works. Basically the new equipment will be in the same position with better visual effects and we'll replace the existing cabinetry that is there. There will be no ripping up of anything. It was a well-rehearsed sales monologue which Mr. George said he's been doing all over Massachusetts for his company.

David Gardner said that he would recommend that the approval be for the remainder of the lease. The Planning Board members had a few questions which were addressed satisfactorily by the Sprint people.

Motion: Move that the Planning Board approve FY12-11 and have the following contained in the draft language for this project:

Motion: Mark Weinress Seconded: Marianne Clements Vote: 5-0-0.

General Findings and Conditions:

During the course of the public hearing, the Board heard testimony from Town officials and the Applicant and its representatives. No members of the public spoke to the request. No letters or comments were received for the record. After the public hearing closed, the Board met during open session at a duly posted meeting and made the following findings of fact and imposed the following conditions of approval:

Findings of Fact

The Planning Board has reviewed the application for consistency with Article 7 Section 7020 Purpose, Section 7070 General Requirements, and Section 7080 Application Requirements.

RF Coverage Determination

The existing Wireless Telecommunications Facility provides adequate coverage to the targeted sections of the Town of Provincetown and the immediate surrounding area. The Applicant has submitted a radio frequency propagation map showing its current and proposed coverage. The Planning Board has determined the modifications herein will allow the applicant to provide better voice quality and data speeds for the subscribers in the area.

The Facility

After installation of the proposed modifications, the Wireless Telecommunications Facility will remain unmanned and will only require bi-weekly maintenance visits. The only utilities required to operate this Wireless Telecommunications Facility are standard 120-volt electrical power as well as telephone service. The traffic generated by the Wireless Telecommunications Facility will be about two vehicle trips per month by maintenance personnel who will inspect the Wireless Telecommunications Facility to ensure it remains in good working order. The Wireless Telecommunications Facility will remain in compliance with all applicable local, state and federal safety codes. The use is passive in nature and will not emit smoke, fumes, odors, excessive noise, or any hazardous material and will continue as such.

Evidence of Need – Adequate Coverage/Capacity.

The site is an already existing Wireless Telecommunications Facility. The applicant is proposing to upgrade its equipment to provide better service and coverage to the area. The applicant provided propagation studies to support this assertion.

Motion

Move that the Planning Board finds the applicant meets the applicable findings in Article 7 Section 7090.

Motion by: Mark Weinress

Seconded: Marianne Clements

Vote: 5-0-0

Waivers

The applicant shall comply with all Federal, State and local regulations, bylaws and rules and other requirements, except as expressly provided by waiver herein.

Motion

Move that after careful consideration, the Planning Board approves the following waivers:

- 1. Section 7100 Independent Consultant.**
- 2. Section 7110 Monitoring and Evaluation of Compliance**
- 3. Any additional site requirements including fencing, signage and landscaping.**

4. Section 7140, three year Term of Special permit requirement and replace with condition 10 stated within, term of Special Permit to expire at the end of the current lease, with a provision to renew the Special Permit upon the successful negotiation of a new lease.

No other waivers are granted and all local bylaws and regulations not waived shall be enforced in their entirety.

Motion by: Mark Weinress

Seconded: John Golden

Vote: 5-0-0

Conditions

Motion

Move that the Planning Board vote to approve Special Permit FY12-11 as described herein and on the attached plan, subject to the following conditions:

1. Antenna and all equipment shall be painted to match the water tower to minimize their adverse visual impact. Paint shall be maintained and shall not be permitted to peel or chip.
2. No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
3. Maintenance: The applicant shall be responsible for continued site maintenance and establishing a regular schedule for site maintenance. Ongoing maintenance shall include, but is not limited to repairing, painting and maintaining the antenna, equipment cabinets, and fencing. Maintaining and replace site lighting.
4. Abandonment or Discontinuance of Use: Any Telecommunications Facility, which ceases to operate for a period of one year, shall be removed by the applicant or subsequent owner within ninety (90) days from the date of abandonment or discontinuation of use. Cease to operate is defined as not performing the normal functions associated with the telecommunications facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility Site shall be remediated so that all Telecommunications Facility improvements, which have ceased to operate, are removed. If all Facilities on a tower have ceased to operate, the tower shall also be removed, and the Site shall be re-vegetated. Existing trees shall only be removed if necessary to complete the required removal. Applicant shall, as a condition of the Special Permit, provide a financial surety payable to the Town of Provincetown and acceptable to the SPGA, to cover the cost of removal of the Telecommunications Facility and the remediation of the landscape, should the Facility cease to operate. The amount of surety shall be based on the Statement of Value provided by Tower Resource Management on February 29, 2012, and attached hereto.
5. Expiration: Special Permits shall lapse twenty-four (24) months following the issuance thereof (plus such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, Section 17), if a substantial use thereof or construction has not sooner commenced.

6. Term of Special Permit: This Special Permit shall expire at the end of the current lease, July 23, 2021. At the end of that time period, the Telecommunications Facility or Tower shall be removed by the carrier unless a new Special Permit has been obtained.

Public Hearing on Proposed Zoning Bylaw Amendments

David G. said that he had met with the VSB, the Chamber, Justin Post, and Russell Braun to hammer out some of these zoning bylaw amendments:

Provincetown Zoning Bylaws

1. Restaurant and Bars

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Section 2440, Permitted Principal Uses and delete in its entirety Section 2460, as follows:

2440 Permitted Principal Uses

		Residential			Commercial		Seashore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	M
B.	Business							
B5	Restaurant, bar	NO	NO	BA ¹⁸	BA YES ⁶	BA YES ⁶	NO	NO

Footnote 6. No sale of food, drink, or other products to persons standing in the street, sidewalk, or parking areas at or about such establishment. ~~Other outdoor service allowed only on Special Permit from the Board of Appeals.~~ 1982 ATM amended. Outdoor or patio seating shall be allowed only upon issuance of a Special Permit. Entertainment uses, as defined hereunder, within a hotel, motel, inn, restaurant or bar shall be allowed only upon issuance of a Special Permit. Such uses that are lawfully in existence when this provision takes effect may continue; however, if any change, addition, or alteration (other than the name of the establishment) is made, then a special permit shall be required.

Town Counsel Note: The definitions must be in the ZBL or in a document that is in existence and that is expressly referred to and in a location where it can be obtained and reviewed.

2460 Special Permit Requirements ~~No hotel, motel, inn, restaurant or bar holding or seeking to hold a license granted pursuant to General Laws, Chapter 138, Section 12; General Laws, Chapter 140, Section 2; or General Laws, Chapter 140, Section 183A, respectively, shall be used for the service of food or alcoholic beverages to the public or public entertainment, nor any other premises or establishment for public entertainment, nor any establishment increase its Posted Occupant Load, unless such use has been authorized with a Special Permit from the Board of Zoning Appeals as provided for in Section 5300.~~

Motion: Peter Page

Seconded: John Golden

Vote: 5-0-0.

3. Definitions

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 1, Definitions, as follows:

Article 1 Definitions

Story That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above it. For the purposes of determining the number of stories specified in the Dimensional Requirements of the Zoning By-Law, the following restrictions shall apply:

- a. If the top story of a building is roofed by a dormer covering fifty (50) percent or more of the floor area, it shall be considered a full story.
- b. Cellars, basements and/or foundation work shall not be considered a story unless used for a principal use or the walls of which extend more than an average of 3'6" (three feet six inches) on all pertinent sides from the finished grade.
- c. Floor area under a gambrel or mansard roof shall be considered a full story.

Motion: Move to remove the language as suggested under b.

Motion: Mark Weinress

Seconded: Marianne Clements

Vote: 5-0-0

4. Signage

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 1, Definitions and Section 3200, Sign Regulations as follows:

Article 1 Definitions

~~**Sign** shall mean any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs, as are advertising devices attached to motor vehicles, trailers or other movable objects if regularly located for fixed display. The following however, shall not be considered signs within the context of this By-Law:~~

Sign shall mean any device, contrivance, assemblage, or construction, whether temporary or permanent, designed to inform or attract the attention of a person, not within the building or structure on the premises, to the principal service or product offered for sale at the location on which the device is located. Any exterior building surface which is internally illuminated or decorated with gaseous tube or other lights shall be considered a sign as is any advertising

device attached to a motor vehicle, trailer or other movable object if it is regularly located for fixed display.

The following, however, shall not be considered a sign within the context of this By-Law:

- a. ~~Flags and insignia of any government except when displayed in connection with commercial promotion;~~
- b. Legal notices or informational signs erected or required by public agencies;
- c. Standard gasoline pumps bearing thereon, in usual size, the name, type, and price of gasoline;
- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;
- e. On premise signage guiding and directing traffic and parking; not exceeding 2 square feet in area, and bearing no advertising matter;
- f. ~~Awnings or similar devices, lettering not exceeding 3" in height, or symbols not exceeding four square feet in area; provided that no lettering or symbols thereon shall exceed 3" in height and no lettering or symbols shall exceed a total of four square feet in area~~
- g. Paper or cardboard signs inside display windows, provided that they are illuminated only by building illumination only.
- h. Any device with lettering or symbols placed on interior walls, provided that the device shall be placed more than 4 feet from any window or shall be placed so as to be perpendicular to the street that any window faces.
- i. Temporary holiday decorations and lighting that are void of any commercial message placed between Thanksgiving and Martin Luther King Day of each year.

~~Any contrivance assemblage, or construction whether mechanical, mobile or structural and whether temporary or of permanent character and which has the effect of attracting attention by reason of the particular shape, size form and/or material employed to the principal service, product offered for sale shall be considered a sign.~~

Article 3 Section 3200 Sign Regulations

No changes to Sections 3210 to 3223

3224 Neon, gas-filled tube type illuminated or internally illuminated signs shall not be permitted on the exterior of a building or structure. Neon, gas-filled tube type illuminated or internally illuminated signs that are visible from the outside of a building or structure in a manner that attracts the attention of a person, who is located outside of the building or structure at the premises, for any reason to the premises or to any product offered for sale may be permitted internally within storefront windows not to exceed a maximum of 25% of the window surface area. No sign shall be projected upon a building wall, street or walkway nor produce glare, flash, move or have activated lights or elements. Signage on record within the Community Development Department as of January 1, 2012 shall be exempt from this section.

No changes to Sections 3225 to 3227

3230 Sign Size

The Basic Maximum Sign Area for exterior building signs is as follows:

Residential District Res1	2 sq. feet
Residential District Res2	2 sq. feet
Residential District Res3, ResB	16 sq. feet
Commercial District TCC	16 sq. feet
Commercial District GC	16 sq. feet
Other Uses <u>Properties with greater than 200 ft of street frontage</u>	32 sq. feet
Other Districts (S-Seashore, M-Municipal Use)	16 sq. feet

Candi Collins-Boden stated that she thought it was unfair to suddenly prohibit interior neon signs after giving permission for them and allowing them for years.

Motion: Move to support Article 3 – Section 3200 – Sign Regulations as revised.

Motion: Mark Weinress Seconded: John Golden Vote: 5-0-0.

Minutes of previous meeting

Motion: Move to approve the minutes of the February 6th meeting as written.

Motion: John Golden Seconded: Marianne Clements

Vote: 3-0-2 ab (PP & MW)

Any other business that shall properly come before the board

Discussion on proposed amendments to zoning bylaw: Section 3430 Outdoor Lighting Code

David said that this article is due by Thursday, March 1st. It was discussed and everyone felt that there was not enough time for discussion and fine tuning. Peter Page went one step further and said that he felt the biggest mistake was to start with using Nantucket's by-law as a guide. Therefore there was no motion made.

The meeting adjourned at 9:38 p.m.

Respectfully submitted,

Evelyn Gaudiano

Evelyn Rogers Gaudiano

Approved by _____ **on** _____, 2012.

John Golden