



# Town of Barnstable Planning Board

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## Board Members

Mary Barry – Chair   Stephen Helman – Vice Chair   Steven Costello – Clerk   Fred LaSelva   Jeffrey Swartz   Patrick Foran   Walter Watson

John Norman – Town Council Liaison

## Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director

Paul Wackrow, Principal Planner

Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes January 28, 2019

Mary Barry – Chairman	Absent
Stephen Helman – Vice Chairman	Present
Steven Costello – Clerk	Present
Fred LaSelva	Absent
Jeffrey Swartz	Present
Patrick Foran	Present
Walter Watson	Present

Also in attendance were Elizabeth Jenkins, Director, Paul Wackrow, Principal Planner and Karen Herrand, Principal Assistant, Planning & Development Dept.

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

**Stephen Helman, Vice Chair will be sitting in as Acting Chair.**

### Subdivisions:

Whistleberry – Subdivision 454 – History of subdivision and update on Settlement Agreement discussion – Charles S. McLaughlin, Jr., Assistant Town Attorney

Assistant Attorney Charles S. McLaughlin, Jr., in attendance. He gives a brief overview of finalization negotiations for this subdivision. Gives a history of the litigation/dispute with the subdivision. Review of Development Agreements/Modifications. Review of Engineer's update/report/list, re the work that needed to be done. Covenant issues/partial releases for work. Three lots were problematic lots and the town still holds under covenant. Conservation Commission issues. Settlement Agreement has been revived. Will have a report and summary of this before the Planning Board's next session to be reviewed. Ready to obtain fully executed documents. Once done the next step will be Conservation Commission, potential wetland impact/drainage issues to be settled/finalized. Asking for a vote to accept the agreement and execute with a release of lots from covenant. Once Engineer's report received and signed off, and all met this will then be declared final.

### Regulatory Agreements:

Regulatory Agreement No. 2019-01 – T-Mobile Northeast, LLC and South Congregational Church, Incorporated seek to enter into a Regulatory Agreement with the Town of Barnstable to install a Personal Wireless Service Facility within the South Congregational Church on the property at 565 Main Street, Centerville. The Personal Wireless Service Facility consists of six (6) wireless communications antenna within the Church steeple, together with appurtenant equipment within the steeple and in the basement of the Church. All of the antennas are installed out of view behind the belfry louvers and walls of the steeple. The property is developed with a 2,200 sq. ft. church building, a 4,613 sq. ft. church annex, a 1307 sq. ft. house and 1,110 sq. ft. shed. The property is zoned CVD – Centerville Village District and DCPC – District of Critical Planning Concern, shown on Assessor's Map 207 as Parcel 053. The total land area of the lot is approximately 1.38 acres.

**Acting Chair Stephen Helman entertains a motion to open the public hearing, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.**

Attorney Ricardo Sousa from Prince Lobel in attendance representing the Applicant, T-Mobile Northeast, LLC.

Jeff Swartz states that he filed a disclosure due to the fact that he lives a mile from this destination, he has been approached by someone regarding a Facebook page. He believes that he does not have a conflict with this.

Attorney Ricardo Sousa has no objection.

Attorney Charles McLaughlin states that the disclosure has been shared with Town Council.

Attorney Ricardo Sousa states that he has no objection, Disclosure of Appearance of Conflict of Interest as Required by G.L.c.268A, section 23(b)93), see Exhibit A.

Attorney Paul Revere in attendance. Representing the Centerville Concerned Citizens. He also has no objection.

Attorney Ricardo Sousa gives an explanation of the application from T-mobile. Had obtained a building permit for this from the Bldg. Dept. This is a concealed antenna in a steeple. This is located in the DCPC (District of Critical Planning Concern). They are requesting approval of the draft regulatory agreement to permit the use within the steeple in a method that conceals it. Has been installed but not turned on. T-mobile has FCC (Federal Communication Commission) rights to do this. Not visible to public, complies to all FCC requirements. ZBA (Zoning Board of Appeals) has an application from them as well. An outside consultant has been hired by the Town to review the Applicant and the need and to confirm this back to ZBA. It has been noted that the more appropriate application to go with is a Regulatory Agreement. There is a gap in coverage. This location would cover that radio frequency gap.

Ryan Monte De Ramos, Frequency Engineer. He hands out, Exhibit B – Existing LTE All Carrier MHz Coverage in Centerville, MA. He has submitted this information. He explains the layout of the handout

Walter Watson asks about the existing towers in red, what does this indicate? Can we see what the coverage band and where they intersect, indicate why gap in this location.

Ryan Monte De Ramos answers that this is the proposed site, and existing coverage. He explains the prediction coverage from the existing sites around Barnstable. The grey dot is where the proposed site is, not transmitting now. The dark green represent in building commercial and light green, residential. Yellow represents in car coverage. Exhibit B – also shown on screen. They have collected samples to show the gap in coverage, low data transmission. This particular site will close this in.



Bandwidth coverage areas reviewed, GPS - shown on the white/grey area. Shows simulated coverage. Proposed steeple coverage.

Attorney Sousa explains spectrum bands, acquired 700 and 600 licenses for this spectrum. Consultants want to see what all the capabilities are, all licenses. There is a gap at the vicinity of the church. The yellow/grey/white does not show adequate service.

Walter Watson asks if all carriers or just T-mobile? Confirmation of slide/colors.

Attorney Sousa replies, just T-mobile service.

Ryan Monte De Ramos replies it's the bandwidth and overlay of service.

Discussion re 2100 megahertz frequency coverage.

They cannot build the foundation on 600, need spectrum to be higher. Spectrum and bandwidth explained.

Patrick Foran asks about slide 1 and slide 3 and comparison. Asks about defining commercial and residential. Will this be strictly used for T-mobile?

Ryan Monte De Ramos replies that it's a prediction tool. Commercial means harder to get signal through/more structure, residential, less structure/materials.

Attorney Sousa replies that it would be purely for T-mobile.

Patrick Foran asks where is the closest carrier/antenna? There doesn't seem to be a huge difference in the maps.

*The crowd replies – the water tower.*

Attorney Sousa states that a municipality does not have say, the FCC and Telecommunications Act dictates this, reference to the map, Exhibit B.

Steven Costello asks about the coverage gaps, are these complaints or research/data? Is there sharing of equipment? Seems as if there are more frequency issues/concerns that are upsetting to the public.

Ryan Monte De Ramos replies both, customers and heat map that identifies where most of the issues are. Data samples.

Attorney Sousa replies many shared infrastructure, all carriers may use towers/rooftops, this is shared infrastructure. There are some steeples that have this as well. Don't share equipment/antennas, separate licenses and technology as well. The site at the church steeple would only have them as opposed to the water tower that has many. He has a report to submit to Planning Board, Exhibit C.

Jeff Swartz is waiting to see what the Peer Review Report says. He will evaluate per what this says. When will this be published?

Elizabeth Jenkins states that they have an initial draft. This will be forwarded to the Applicant within the next 1 to 2 weeks at the most. They have been very responsive.

Stephen Helman asks if there is a way of accessing coverage/guessing how many in a given area? What percentage of people are T-mobile customers in this area?

Attorney Sousa isn't sure about this, not his area. He thinks this is an area outside of the Planning Board's jurisdiction. There shouldn't be a limitation as to the company providing service. They can't release data as to how many customers they have in this area. This is proprietary data laws and protection for their customers.

Walter Watson asks about the optimum height? Best range? Looked at any other locations?

Ryan Monte De Ramos replies it varies, 100, 150ft. 140 ft. would be ideal. Certain areas you cannot get. Need a site acquisition that gets done through the town, there is a search range. He evaluates the information.

Attorney Sousa interjects that they have to lease/construct/zone, they compromise on height all the time.

Brian Sullivan, in attendance, site acquisition, West Wareham Mass. They review the area for locations, height, always look for a tower, and per the bylaw something to conceal. Refers to Exhibit B, the water tank off Old Stage Rd. and Rte 28, this is a long way from the target area, too far to make the connection. The other one is the Covells Beach Bldg. not big enough. Down by the Beach, Craigville Manor, would have to build a stealth cupola bldg. and couldn't convert, not enough height.

Walter Watson asks if a distance within the area to build a tower?

Brian Sullivan replies per the bylaws this would be the last thing they would ask for, residential area, zoning by laws would not permit.

#### **PUBLIC COMMENT:**

Attorney Paul Revere in attendance, representing the Concerned Citizens of Centerville. This is DCPC area. He gives an explanation of the town wide exemption re church steeples. Cape Cod Commission – 2009 decision regarding this 9.7 acre area DCPC restrictions. Church Bldg. – handout of photos, Exhibit D, should be denied to ask for spot zoning. Regulatory Agreement – lists things that the Applicant gives to the town, for citizens, for mitigation. Some room for approval under regulatory process, town said not going to allow on the by right, the application should be denied on that basis alone.

Janet Davis, Co Chair of Centerville Concerned Citizens in attendance. Reached out to Pastor. Met with people from T-mobile and South Congregational Church, no cooperation. They have health concerns. This is due to financial issues that the church has. Asking not to grant the Regulatory Agreement – not overstep the DCPC regulations. – Opposition.

Reza Mahdavi, 38 Bacon Lane, Centerville, in attendance. Explains some of the the FCC rulings from past. The frequency goes through your brain just like it goes through buildings – opposition.

Dianne Covanda in attendance, Justice of the Peace and neighbor of the church. T-Mobile customer for 20 years, they have coverage everywhere. She didn't have complete coverage on the Centerville River. Looking at charts and trying to justify where there is no coverage - opposition.

Tom Nortz, co owner 539 Main St. Centerville. T-mobile customer. His property is on the National Register. Listed number 5 on the list for Best B & B in the country. Has concerns with property values -opposition.

Meg Loughlin, past president of the Civic Association, in attendance. DCPC, was involved with the creation of this. Principal Uses – cell tower issue never came up as principal use. She doesn't think the church meant to deceive anyone. This is historic and should adhere to DCPC regulations -opposition.

Cecelia Doucette, of Ashland in attendance, representing several citizens. Significant harm with cell phone tower usage in the area, lists biological harms from several reports - opposition.

Leanne Nichol, recent new homeowner in the area. No gap in coverage. The DCPC protects this from being there. What protections do the villagers have. There are other churches in the area that have been approached and said no to T-mobile - opposition.



Molly Sprowl, Centerville resident in attendance, member of Centerville Concerned Citizens Group. Comparisons re health issues/concerns. Uphold the DCPC and respect it - opposition.

Jennifer Lynch, member of Centerville Concerned Citizens. Cell towers are not allowed in the DCPC. Doesn't think the Town should do this with no benefit to the Town, to preserve and support and enhance the area. This would not support the local economy. Health risks, visitors may not come. Home values suffer. Local businesses may not like - opposition.

(Woman), Centerville resident (name not recorded on attendance sheet). Questions: re specific uses for businesses, would mixed uses be allowed, seems like the church is protected. How does the building become the conduit?

John Brogg, southwest quadrant, Bay Lane area, would like to hear from people from this area. He states that the further you are from a cell tower, the hotter your antenna is. Cell phones are 100 times more dangerous to the brain than a cell tower. He clarifies how many towers/equipment – total wattage facing North/max capacity is 2800 watts of input.

Sarah Burns, 75 Park Ave, Centerville Village. Health concerns/cancer. There is no choice in this situation. This type of frequency should not be around 24 hours a day - opposition.

Michael Curley in attendance, 149 Old Stage Rd., Centerville in attendance. T- mobile will have a peer review report, that is how it was left with ZBA - asks if we have seen the application/Bldg. Permit that was issued by the Bldg. Dept.? - opposition.

Stephen Helman clarifies that there will be no vote tonight and that this is a Regulatory Agreement.

Elizabeth Jenkins clarifies/confirms the procedure/process for Chapter 168, from the Planning Board to Town Council, if the Planning Board does not approve, it ends here.

Rosalie McCarthy in attendance, resident of Centerville. She has concerns with the tower going up/toxic - opposition.

Attorney Sousa replies to comments made:

Re: Exhibit D, church photos, they have entered into a stay, they were told not to do any construction. This is not complete. There would be architectural trays there if done.

**Steven Costello makes a motion to continue to Feb. 11<sup>th</sup>, 2019, seconded by Jeff Swartz, so voted unanimously.**

Patrick Foran reiterates to send any further information to Staff.

**Approval of Minutes:** March 5, May 14<sup>th</sup> and July 23, 2018 draft minutes

**March 5, 2018: Steven Costello makes a motion to approve, seconded by Jeff Swartz, so voted unanimously.**

**May 14, 2018: Steven Costello makes a motion to approve, seconded by Jeff Swartz, so voted unanimously.**

**July 24, 2018: Steven Costello makes a motion to approve, seconded by Jeff Swartz, so voted unanimously.**

**Correspondence:**

Chapter 91 Notice – 379 Lakeside Drive West, Centerville – Seasonal Freshwater Dock – MME  
Chapter 91 Notice – 129 Main St., Osterville, reconstruct boardwalk, pier - Zeikel

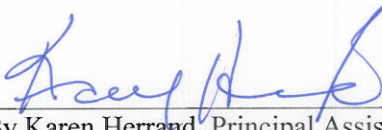
**Matters Not Reasonably Anticipated by the Chair:**

**Future Meetings:** February 11<sup>th</sup> and February 25, 2019, @ 7:00 p.m.

**Acting Chair Stephen Helman entertains a motion to adjourn, moved by Jeff Swartz, seconded by Steven Costello, so voted unanimously.**

The meeting adjourned at 8:58 p.m.

Respectfully Submitted



By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

March 11, 2019

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

**LIST OF EXHIBIT DOCUMENTS**

- Exhibit A** – Reg. Agrmnt No. 2019-01 – Disclosure of Appearance of Conflict of Interest – Jeff Swartz
- Exhibit B** – Reg. Agrmnt No. 2019-01 – Existing LTE All Carrier MHz Coverage in Centerville, MA
- Exhibit C** – Reg. Agrmnt No. 2019-01 – Report – Donal L. Haes, Jr., Ph.D., CHP Sept. 24, 2018
- Exhibit D** – Reg. Agrmnt No. 2019-01 – Pictures of South Congregational Church submitted by Attorney Paul Revere