

AGAWAM PLANNING BOARD

August 15, 2019

MEMBERS PRESENT:

Mark R. Paleologopoulos, Chairman
Charles Elfman
Nicholas Pandolfi
Mario Tedeschi

MEMBERS ABSENT:

Violet Baldwin

ALSO PRESENT:

Pamela Kerr

Mr. Paleologopoulos called the meeting to order at 6:00 PM.

A. PUBLIC HEARING – Zoning Amendment – Personal Wireless Facilities & Towers –
Mayor Sapelli

Ms. Kerr presented this Zoning Amendment that addresses changes that were made to the Federal Telecommunications Act in 2012 (Section 6409 of the Federal Taxpayers Relief Act(2012). The 2012 changes to the Act provide that state and municipal governments “may not deny and shall approve” minor modifications to existing wireless towers and facilities. Minor modifications under the Act are defined as: colocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment. Currently, Agawam’s zoning requires a special permit for major modifications and contains no exceptions to a special permit application. The proposed language (180-96 Application Requirements) defines a major modification per the 2012 changes. It reads “A major modification is defined as a modification that substantially changes the physical dimensions of a tower or station by including one of the following conditions: 1) An increase in the height of the tower by more than 10% or by the height of one additional antenna; 2) A protrusion from the edge of the tower more than twenty feet or more than the width of the tower structure at the level of the appurtenance, whichever is greater; 3) An installation of more than the standard number of new equipment cabinets but not to exceed four cabinets; 4) Any excavation or deployment outside the current site or the tower or wireless service facility; 5) The change would defeat the existing concealment elements of the tower or wireless service facility; or 6) The change does not comply with conditions associated with the prior approval of construction or modification of the tower or wireless service facility unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds identified.” The proposal also defines “an eligible facilities request for modification of an existing wireless facility or tower ... “An eligible facilities request shall involve the following

on a pre-existing wireless facility or tower: collocation of new transmission equipment; removal of transmission equipment; or replacement transmission equipment”. Ms. Kerr explained that since the drafting of this proposed Zoning Amendment it has been noted that these changes necessitate three additional changes to the Zoning Ordinance: Section 180-2 “Definitions” contains a definition of *Major Modification of an Existing Facility*. This definition should mirror the proposed language change 180-96. Section 180-91 makes reference to the *Telecommunications Act of 1996*. This section should reflect the 2012 changes as well. Section 180-92 contains a definition of *the Act*. This definition should also reflect the 2012 changes.

There was no public input on this item. The members had no major concerns with these changes and were in agreement to support as they will bring the Town’s Telecommunications Ordinance into compliance with the Act.

Motion was made by Mr. Pandolfi and seconded by Mr. Tedeschi to close the public hearing.

VOTE 4-0

Motion was made by Mr. Tedeschi and seconded by Mr. Elfman to send a positive recommendation to the Town Council regarding the Zoning Amendment to Personal Wireless Facilities & Towers and to recommend that the Council incorporate three additional changes to this section as follows: **Section 180-2 – Definitions** - Delete “Major Modification of an Existing Facility” and replace with same language proposed to 180-96 D 1-6; **Section 180-91-References Telecommunications Act of 1996**. Add reference to updates made in Section 6409 of the Federal Taxpayers Relief Act (2012) or reference “as amended in 2012”; and **Section 180-92 – Contains a definition of “Act” as the Telecommunications Act of 1996**. Add reference to updates made in Section 6409 of the Federal Taxpayers Relief Act (2012) or reference “as amended in 2012”. Exact wording of the three additional changes should be provided by the Law Department.

VOTE 4-0

B. PUBLIC HEARING – Zoning Amendment – Site Plan Review – Planning Board

Ms. Kerr presented this Zoning Amendment to Section 180-13 and explained that currently the language requires 10 printed copies of site plans be submitted to the Town. In an effort to cut down on the amount of paper that we take in, the Planning Department recommends that applicants submit one electronic copy and four hard copies of the application and site plan; and an electronic copy and one hard copy of the stormwater management plan and pre and post development stormwater calculations when applicable. The second part of this zoning amendment contains wording that will go towards bringing the Town into compliance with “General Permit for Stormwater Discharges for Small Municipal Separate Storm Sewer Systems (MS4) in Massachusetts”. The wording regarding storm drain permits must be added to this section (180-13C by inserting: (n) Storm drain permit requirements pursuant to Chapter 175 Section 22 to 30 inclusive of the Code of the Town of Agawam, when applicable; and (o) Stormwater management plan requirements pursuant to Chapter 175 Section 35 of the Code of the Town of Agawam, when applicable.”

There was no public input on this item. The Planning Board sponsored this proposed Amendment.

Motion was made by Mr. Elfman and seconded by Mr. Pandolfi to close the public hearing.

VOTE 4-0

Motion was made by Mr. Pandolfi and seconded by Mr. Elfman to send a positive recommendation to the Town Council regarding the Zoning Amendment to Site Plan Review Requirements.

VOTE 4-0

Motion was made by Mr. Pandolfi and seconded by Mr. Tedeschi to amend the order of the agenda.

VOTE 4-0

G. APPROVAL OF MINUTES – August 1, 2019

Motion was made by Mr. Pandolfi and seconded by Mr. Tedeschi to approve the minutes of August 1, 2019 as written.

VOTE 3-0-1 (Pandolfi abstained)

Motion was made by Mr. Pandolfi and seconded by Mr. Tedeschi to resume order of the agenda.

VOTE 4-0

C. PUBLIC HEARING – Zoning Amendment – Permitted Uses in Business A

Ms. Kerr presented this Zoning Amendment. She explained that the Zoning Review Committee discussed concerns regarding the number of duplexes that are being built in the Business A zone and has recommended that the permitted uses in Business A be amended with regards to residential uses. Currently any use in a residence district or agricultural district is allowed in Business A. Business B currently permits any use in a residence, agriculture or Business A districts with residential exceptions which include allowable additions, alterations and rebuilds to existing residential buildings and appurtenant buildings and prohibits any new residential construction unless it is part of a subdivision plan duly recorded prior to the enactment of this section or unless individual building lots have been similarly recorded. The Zoning Advisory Committee recommends that there be a consistent policy on residential use in the business A and B districts to permit a greater consistency of the use of land and provide for a clearer interpretation of permitted uses. Duplexes are allowed in the Residence B district. Mr. Paleologopoulos asked for any public input.

Dino Mercadante, 1151 North Westfield Street – Stated that he is a business owner in town owns property zoned Business A and that he may someday want to demolish his business and build a house or duplexes. He feels that as a tax payer and landowner he has rights to develop his land and suggested that this proposal be amended so that existing owners of Business A property

would be exempt from the amendment until they sell the property and the new owners would have to abide by the new laws. He feels that if the land is sold that would be a different issue but this would provide a “loophole” for present owners to build duplexes. He stated that he has paid taxes on his Business A property all his life knowing “what the deal is” and changing this now is not fair to him or any of the existing Business A property owners. He went on to say that he can see the positive to this proposal being tax implications – business use versus residential use but landowner’s rights are as important. Mr. Paleologopoulos asked how many other business A property owners would be affected. Ms. Kerr stated that she did not have information on the number of property owners that would be affected but indicated that most intersections in Town are zoned Business A or B. Mr. Paleologopoulos asked if we’re seeing that the Business A owners are taking down business to build duplexes, selling the land to a builder to build duplexes or are they building duplexes on vacant Business A land. Ms. Kerr stated that in many cases builders are buying the Business A lots and putting duplexes on them and with no frontage requirement in Business A, often times the lots are small. She stated that property owners will still have the right to file for a zone change.

Motion was made by Mr. Elfman and seconded by Mr. Pandolfi to close the public hearing.

VOTE 4-0

The members discussed the comments received this evening and were in agreement to restrict residential uses from Business A the same as Business B but also were not sure if the Town could amend it to exempt present Business A owners.

Motion was made by Mr. Tedeschi and seconded by Mr. Pandolfi to send a positive recommendation to the Town Council regarding the Zoning Amendment regarding Permitted Uses in Business A and to inform the Council of the concerns expressed at this public hearing as well as the suggestion to exempt present owners of Business A properties.

VOTE 4-0

Mr. Mercadante stated that he would even support just allowing single family residences in the Business A zone.

SITE PLAN – Ride Replacement – Six Flags New England

Jeff Galarneau of Vanasse Hangen Brustline (VHB) was in attendance as well as Jeff Bissonnette of Six Flags New England. Mr. Galarneau explained that Six Flags is replacing a ride. Work proposed includes demo of the existing ride with construction of new ride within same footprint. Existing retaining walls will remain. Also proposed is the construction of a 28’ x 16’ operations building as well as a new portal (replacement). Two landscaped areas are shown. An iconic themed monument will also be constructed. This work will provide for a slight increase in impervious area however there will be no net increase overall as the drainage in this area of the park is over designed. The height of the ride is 67’4” therefore abutters were notified of the meeting per Section 180-49.1. Mr. Galarneau stated that a small amount of fill will be brought in

Agawam Planning Board
August 15, 2019

and the ride will be built on slab. Mr. Paleologopoulos asked if this ride will be seen from Main Street. Jeff Bissonnette stated no as the elevation drops down in this area of the Park.

Motion was made by Mr. Pandolfi and seconded by Mr. Tedeschi to approve the Site Plan for the 2020 Ride Replacement at Six Flags New England.

VOTE 4-0

E. SIGN PLANS – 466 South Westfield Street

Ms. Kerr explained that the Engineering Department comments have been addressed on a revised plan that is ready for the Board's signatures this evening.

The meeting adjourned at 7:00 PM.