

**COMMITTEE ON SPECIAL PERMITS
MONDAY, JULY 29, 2019 at 6:29 P.M.
WOBURN CITY HALL
COMMITTEE ROOM**

Voting members present: Chairman Richard Gately, Alderman Joanne Campbell, Alderman Mark Gaffney, Alderman Darlene Mercer-Bruen and Alderman Edward Tedesco.

Non-voting members present: President Michael Anderson,
Alderman Lindsay Higgins and Alderman Michael Concannon. Absent: Alderman Robert Ferullo

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VOTED to dispense with the reading of the previous meeting's Minutes and to approve, all in favor, 5-0.

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On the petition by 4-K Realty Trust for extension of special permit to allow for a 14-unit apartment building with a parking garage at 27 Montvale Avenue: Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina, 600 Unicorn Park, Woburn, MA. Attorney Tarby said his client filed a request to further extend the special permit. He said he will be filing on behalf of his client a request for a modification to reduce the size of the building. He said the original plan was for 10 units, with four on the first floor, four on the second floor and two on the third floor. He said the revised plan will have four units and eight parking spaces on the premises. He said there will no longer be a need for municipal parking. Chairman Gately asked if the revised plan calls for downsizing the project to four units with all parking on the property. Attorney Tarby said that is correct. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen that the request to extend the special permit "ought to pass," approved, 5-0.

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On the Order for one-year review of special permit issued to The Dough Connection Corp. at 32A, 32B and 32C Holton Street: Representing the special permit holder was Attorney Joseph Tarby, Murtha Cullina, 600 Unicorn Park, Woburn, MA, and Mark Pesaturo, President, The Dough Connection, 32A-C Holton Street, Woburn, MA. Chairman Gately said the committee wants to seek a legal opinion about whether the company trucks can be filled with diesel fuel while they are parked on the property. Alderman Mercer-Bruen said she is concerned because there was an incident on Olympia Avenue involving the fueling of trucks. She said she thinks Mr. Pesaturo runs a great business. She said she drives by every day and has not received any complaints about the operation of the business. She said she is concerned because the Diesel Direct trucks are in proximity to a residential neighborhood. She said she has reached out to Fire Chief Adgate. She said she does not believe the fuel storage permit is in Woburn anymore and the business is now in Wilmington. She said she was told they moved. She said she would like to send a communication to City Solicitor Ellen Callahan Doucette asking her if a permit is

required to have its trucks fueled on-site in this particular zoning district. She said she also wants to ask Building Commissioner Thomas Quinn if there is a permit required for this activity. Mr. Pesaturo said Dough Connection has been re-fueling trucks on-site forever. Alderman Mercer-Bruen said she is concerned because there is a neighborhood literally across the street. She said this has more to do with Diesel Direct than Dough Connection. Chairman Gately said there have also been complaints about tract-trailer deliveries during the day. Mr. Pesaturo said he gets a tractor-trailer delivery once a week. Chairman Gately said there have been complaints about traffic being blocked. Mr. Pesaturo said everyone on the street gets tractor-trailer deliveries. He said he has to stand out in the street like a jabroni and direct traffic. Alderman Mercer-Bruen said there have been complaints about trucking and acknowledged he is not the only business owner on the street who is getting deliveries. Mr. Pesaturo asked why he is not the one receiving complaints. He said if someone calls him with a complaint, he will fix the problem. He said he has never heard anything about these issues. Chairman Gately said there have also been issues with the dumpster being emptied in a manner and time that is disruptive to the neighborhood. He said his father lives in the area and he was there when the dumpster was dropped and it sounded like an explosion. He said there have also been disruptions in the neighborhood on Sundays. Mr. Pesaturo said there are no operations at his shop on Sundays. He said the only work that occurs on Sundays is when he goes in to do paperwork. Chairman Gately said there was noise coming from the building yesterday that was so loud it would shatter glass. Mr. Pesaturo said there is another tenant in the building. Attorney Tarby said there are four modules, three occupied by Dough Connection and another by a separate tenant. Mr. Pesaturo said Chairman Gately's father can call him any time. He said he lives two minutes away. Chairman Gately said other neighbors have complained about the noise. Mr. Pesaturo said he has not heard of any complaints. He said he does not want to be a disruption to the neighborhood. He said he just wants to be left alone so he can work. He said he is willing to co-exist with his neighbors and he is not doing anything unreasonable. Alderman Campbell asked how Mr. Pesaturo is disrupting the neighborhood on Sundays if he is only doing paperwork on those days. Chairman Gately said someone is making noise, and that the sound in that area echoes. He said if Mr. Pesaturo is only doing paperwork, he is not the one making the noise. Alderman Mercer-Bruen said the matter will be held in committee until it is determined whether Diesel Direct is permitted in Woburn. She said there were some red flags regarding their operations on Olympia Avenue. She said that is her reason for wanting to review Dough Connection's special permit. Mr. Pesaturo asked anyone with problems to call him, and he will fix them.

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On the Petition from Cellco Partnership for a special permit to install six panel antennas on rooftop with remote radio heads and junction boxes at 18 Frances Street: President Anderson left the table. Alderman Tedesco left the committee room. Representing the petitioner was Attorney Daniel Klasnick, 210 Broadway, Lynnfield, MA, Martin J. Lavin, C-Squared Systems, 65 Dartmouth Drive, Auburn, N.H.; and Greg Richard, Verizon Wireless, 118 Flanders Road, Westborough, MA. Chairman Gately said there was a communication from the petitioner requesting a continuance of the public hearing until September. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to send a communication to City Solicitor Ellen Callahan Doucette inquiring whether the council has a certain deadline by which to act on the special permit application, approved, 4-0. Attorney Klasnick asked if anyone objects to him making an audio recording of the meeting. Chairman Gately said he has no objection. Alderman

Higgins said Attorney Klasnick can record the meeting as long as the audience is made aware the meeting is being recorded. Chairman Gately announced Attorney Klasnick is making an audio recording of the meeting. Attorney Klasnick said he has filed paperwork with the City Clerk requesting a continuance of the public hearing until Sept. 3. He said the request also extends until Sept. 30 the deadline for the council to take action on the application. He said he understands the location has not been deemed desirable by some members of the community and he hopes an arraignment that best suits everyone can be reached. Chairman Gately said he is not sure what is going to happen. He said there is a lot of turmoil already on Frances Street. He said there is already a problem with traffic. Mr. Lavin showed the committee a series of color-coded maps indicating where Verizon Wireless facilities exist, where there are gaps in coverage and where coverage is inadequate. Attorney Klasnick distributed to the committee a map with a circle indicating the area where the petitioner needs to put antennas to fill the coverage gaps. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to accept the aforementioned document and make it part of the permanent record; approved, 4-0. Attorney Klasnick said a number of sites were examined and it was determined the most suitable location for the wireless equipment is 18 Frances Street. Alderman Campbell asked where Frances Street is on the map that was distributed to the committee. Alderman Concannon said Frances Street appears to be just beneath an S-1 zoning marker on the map. Attorney Klasnick said his client also considered the Place Lane condo building but the ground elevation is 30 feet lower than it is on Frances Street. He said the Methodist church at 523 Main Street is too close to an existing wireless facility. He said there are a limited number of potential locations within the circle indicated on the map. He said 529 Main Street, 535 Main Street, 104 Winn Street and 106 Winn Street were also considered but deemed inadequate. Alderman Gaffney asked if the petitioner had considered 162 Winn Street. Attorney Klasnick said anything outside the ring indicated on the map would not be suitable. Alderman Mercer-Bruen asked if any of the sites were eliminated because of financial considerations. Attorney Klasnick said the sites were evaluated for suitability only and there were no financial considerations taken into account. Alderman Concannon asked what the circumference area of the ring marked on the map is. Mr. Lavin said he is not sure. He said the petitioner usually starts looking for sites in the center of the area within the circle to best address gaps in coverage. Alderman Concannon asked if sites near the edge of the ring are unacceptable, and if that's true the circle is smaller than what is indicated on the map and the only area acceptable to the petitioner is Frances Street. He said the circle really isn't helpful to him because anything toward the edge of the circle is unacceptable to the petitioner. Attorney Klasnick said in some instances there are sites within the circle that are too close to existing sites. Alderman Concannon said if that's true, why are they in the ring on the map. Attorney Klasnick said the ring is a tool used by the provider uses to show the difficulty the provider has in finding suitable sites. Alderman Concannon asked if the southwest area of Woodbrook Cemetery was considered. Mr. Richard said that would require a monopole. Alderman Concannon said he does not think the occupants of Woodbrook Cemetery would come to the council to complain about the presence of wireless communications equipment. Mr. Richard said the city has rules against placing monopoles in residential zones. Alderman Concannon said the site analysis is being used to narrow the possible locations to one place – Frances Street in this instance. Mr. Richard said the site has to have elevation. Alderman Campbell agreed the circle really doesn't help and it should be much smaller. Chairman Gately said it looks like Verizon already has adequate coverage in the area. Alderman Mercer-Bruen suggested opening the hearing to the public. Chairman Gately said he would take comments

from the audience. Dr. Ronald Criscitiello, 1 Frances Street, said he is a physician at Lahey Clinic. He said adding wireless equipment is not beneficial to anyone's health. He said wireless transmissions can have a deleterious effect on a child's nervous system. He said there are families who walk in the Frances Street area and young and old would be exposed to a possible health issue. He said he has a cell phone that works fine in that location. Eileen Doherty, 9 Mishawum Road, asked if the petitioner considered the Jack's Variety building in Central Square. Mr. Richard said that building is too low. Ms. Doherty suggested the petitioner look at it again. Mr. Richard reiterated the building is too low, but they could look at it again. John Devine, 605 Main Street, said he runs a business that uses 78 telephones and he has never had a problem with gaps in coverage. He said he does not have a problem with Verizon's service. Michael Anderson, 3 Frances Street., said he is the president of the City Council but is appearing before the committee in an individual capacity. He said there is already a special permit at 18 Frances Street for a non-conforming use and asked why the holder of the existing special permit hasn't appeared before the committee. He said the nursing home is in violation of its special permit because there is an outside storage container. He said there are trucks traveling Frances Street in violation of the special permit. He said the petitioner is asking for two monopoles 15 feet high. He said Frances Street may be the best location but it is not the only location. He said there is already adequate coverage. He said the petitioner wants to address capacity, not coverage. He said the council should not allow the continuance because the shot clock is ticking. Lisa Nolan, 14, Frances Street, said she has children who are 12 and 14 years old and they have never had problems with the cell phone service. She asked the council to not allow the antennas. Margaret Pinkham, 3 Frances Street, said the petitioner has not presented an accurate depiction of gaps in coverage. She said the most accurate way to accurately analyze coverage is with a drive-by analysis. She said the FCC allows the siting of wireless equipment to address gaps in coverage, but Cellco in this instance wants to build capacity, so its customers won't experience buffering of video. Chairman Gately agreed there is a lot of existing coverage. Ms. Pinkham said the FCC encourages providers to co-locate equipment. She said the petitioner's alternative site analysis does not include the 3-story building on Main Street that was mentioned by Ms. Doherty. She said adding equipment to Frances Street is not going to fill gaps in coverage on Lowell Street and Main Street. She asked if anyone in the room knows if the nursing home is for sale. She said there is already an existing special permit at the nursing home and asked if the council can add a special permit to an existing special permit. Chairman Gately said he hasn't heard anything about the nursing home being for sale. Attorney Klasnick said the petitioner's goal is to provide wireless service to the city. He said the objective tonight is to provide information to the committee. He said his client wants to work with the city. Alderman Concannon asked why the council is considering the Cellco application as a separate special permit and not under the auspices of the existing special permit for the nursing home. Attorney Klasnick said the city's ordinance provides for separate special permits for wireless telecommunications facilities and the petitioner is proceeding in a manner that is consistent with past practice in the city. Alderman Concannon said he believes the FCC has determined this issue is so important that the federal guidelines trump local ordinance. Attorney Klasnick read a portion of a declaratory ruling by the FCC that he said makes it clear state or local regulations cannot inhibit a wireless telecommunications provider from filling coverage gaps or improving service. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to request a copy of the declaratory ruling cited by Attorney Klasnick and have the City Solicitor review and provide comment to the council prior to its meeting on August 6; approved, 4-0.

Alderman Concannon asked if the petition that is before the council is a mere formality and if the FCC has already authorized this. Attorney Klasnick said his client wants to go through the city's process and accommodate all reasonable requests. He said he does not want to get to a point where they are talking about an injunction. Alderman Higgins said the property owner should be invited to the council's meeting on August 6. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to ask the owner of 18 Frances Street to attend the City Council meeting on August 6, 2019; approved, 4-0. Alderman Mercer-Bruen said the proposed location of the antennas is very much residential and that concerns her. Alderman Campbell asked if the Methodist church will give Cellco the coverage it needs. Mr. Richard said the church was considered but determined to be too close to an existing site. Alderman Campbell asked if there is a site where the petitioner could co-locate with another provider. Mr. Richard replied there are no sites within the ring that would work. Alderman Mercer-Bruen said she cannot support the petition. She said the committee can send the matter back for action on Tuesday night but she will not vote for it. Attorney Klasnick said there is a request for a continuance before the council on Tuesday night. Alderman Mercer-Bruen said the petitioner has had plenty of time to work with the city. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell that the petition "ought not to pass" based on the following factors: 1.) The proposed use is not consistent with the scale and character of the neighborhood; 2.) The proposed use is inconsistent with the city's zoning ordinance; 3.) The proposed special permit may include conditions that are incompatible with the conditions of the existing special permit; 4.) There has been no substantial determination of a gap in coverage; approved, 4-0.

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Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to adjourn; approved, 4-0. Chairman Gately adjourned the meeting at 7:45 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees