

PLEASE READ FROM THE BOTTOM UP

-----Original Message-----

From: Roland Bartl
Sent: Tuesday, September 04, 2007 6:24 PM
To: H.W. Flood
Subject: RE: "Crisping the Acton Bylaw"

Bill:

I do not think the existing bylaw is untouchable. For all I care, the rewrite may look completely different. It needs to make sense overall. Your goals for readability, ease of use, and clarity I share. It also needs to fit within the context and framework of the zoning bylaw, but that is not to say that appropriate repetitions and cross-references may not occur.

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-----Original Message-----

From: H.W. Flood
Sent: Saturday, September 01, 2007 11:15 AM
To: Roland Bartl
Subject: RE: "Crisping the Acton Bylaw"

ROLAND:

Thank you! Your more intimate association with the existing bylaws is extremely helpful. In general, I think we are, if not on the same page, at least in the same chapter.

I think that we have a golden, once in a lifetime, opportunity to put this cell tower matter into a form that is usable and understandable (User friendly?) to the applicant, the Town officers and enforcers and the public. This is my concern - if we don't recognize this chance we will be doing battle over interpretation, intent etc. forever.

I agree that the bylaw and the Appendix (by whatever name) should be separate documents. I'm not at all sure which item goes where.

I think that the new bylaw should be referenced and annotated to identify needed knowledge from MGL's, other Town Bylaws etc. I do not think we should assume that everyone using or affected by the bylaw will have the background to dig out these contributing elements.

I hope that many of the specific questions and/or guidelines will be covered by those members of the committee who have taken on the job of clarifying and strengthening the existing bylaw. But I think that we should not feel that the existing bylaw is untouchable. This was the original impulse to start with the Concord bylaw as a clean outline. But that's another story.

Specifically, I'd like to see the committee adopt a framework (i.e. an outline) into which we can plug the various upgrades of content. Among other advantages, this approach will, in my opinion, expose conflicting controls, identify missing elements and provide the user friendly bylaw that will serve the Town in it's entirety.

Sorry for the long harangue. My button has been pushed.

-----Original Message-----

From: Roland Bartl
Sent: Friday, August 31, 2007 7:45 PM
To: H.W. Flood
Subject: RE: "Crisping the Acton Bylaw"

Hi, Bill:

So far I have only received your e-mail in preparation of the meeting on Wednesday next week. Perhaps folks will hunker down over the Labor Day weekend to get something to me pertaining to their study area, so that I can distribute a working materials package on Tuesday. So, I will hold your memo until then.

Since I am not a committee member (only staff advisor) I can respond - I hope it helps with our effort. You seem to be wanting to look at things from a mile high. I appreciate that. It is a noble effort that should help provide structure to the discussion and eventually to the revised bylaw.

First off, I agree that the current section 3.10 of the zoning bylaw could be organized better although its current structure is not entirely without order:

1. Purpose statement
2. Statement of compliance requirement
3. Definition of Applicability (includes reference to 1996 TCA)
4. General requirements and parameters for WCFs, including WCFs that do not require a special permit, that stand outside special permit discretion (call them the no-brainer items if you will).
5. WCF installations that are allowed without special permit
6. Special Permit
 - a. Requirements under the special permit, that are more specific to tower installations, that may need study and review to check compliance, or where the special permit granting authority can apply some judgment and discretion.
 - b. Basic/general special permit filing requirements with reference to rules & regulations in separate document for more details.
 - c. Findings that Planning Board has to make in the affirmative in order to grant a special permit for a WCF - they, too, are often judgment calls.

All the above parts could certainly be honed, crisped, added to, clarified, rearranged, etc. as the committee might decide to obtain the desired improvements. I would consider some items in your initial outline to be candidates for the Rules and Regulations rather than the Bylaw, except where it may be advisable to establish authority for

specific items under the special permit. Other items are already covered elsewhere so that we need not worry about them here. The following is your outline with my notations in brackets[]:

1. Purpose and Intent
 - a. List items describing purpose and intent
 - b. Cite enabling documents supporting these bylaws
 - c. Cite need to conform to Federal Law
2. Elements of an Application
 - a. General requirements. See Appendix (Rules and Regulations) for more details, definition etc.)
 - b. Penalty for False or Misleading Statements
[WE PRESENTLY COVER THIS IN THE APPLICATION FORMS FOR ALL SPECIAL PERMITS INCLUDING WCF.]
 - c. Fees and Insurance. See Appendix for details on Bonds, Indemnities, Insurance etc.
[PERMIT FILING FEES ARE SET BY SELECTMEN POLICY.]
[INSURANCES/BONDS ARE AUTHORIZED FOR ALL SPECIAL PERMITS INCLUDING WCF, UNDER SECTION 10.3.6.7 OF THE ZONING BYLAW. HOWEVER, CURRENT WCF SPECIAL PERMIT RULES & REGULATIONS ARE SILENT ON THE MATTER. WE WOULD DEFAULT TO THE MODEL OF PERFORMANCE GUARANTEE OPTIONS AND METHODS THAT IS DESCRIBED IN THE SUBDIVISION RULES AND REGULATIONS.]
 - d. Required Documentation. See Appendix for detailed listing.
3. Procedure for Review
 - a. Use or Requirement for Independent Consultant
[THE USE OF AN INDEPENDENT BOARD CONSULTANT IS PRESENTLY COVERED IN THE RULES AND REGULATIONS AND IS AUTHORIZED UNDER M.G.L. CH.40, S.53F - I HOPE I GOT THE M.G.L. REFERENCE RIGHT)]
 - b. Approval Criteria.
 - I. Relief from General and Detailed Requirements.
4. Monitoring and Evaluation of Compliance.
 - a. Criteria Requiring Tower Removal
 - I. Responsibility for Removal
 - b. Transfer of Permit.
 - c. Permit Expiration and Renewal.

APPENDIX: RULES AND REGULATIONS:

- a. Details covering:
 - General Requirements
 - Fees, Insurance etc.
 - Required Documentation
 - Approval Criteria
 - Use of Consultant(s)
 - Definitions

[THESE APPENDIX ITEMS WOULD THE BE THE SPECIAL PERMIT RULES AND REGULATIONS, WHICH MAY BE REVISED BUT SHOULD REMAIN AS A SEPARATE DOCUMENT. THEY ARE SEPARATE FROM THE ZONING BYLAW.]

As for specific items in the current bylaw section 3.10 that I think could use work:

* Definitions of certain words and terms may help (although for some it may be best to fall back on the Federal TCA), in no particular order:

wireless communications facility, personal wireless communications services, service provider/carrier, lattice tower, monopole, stealth monopole, internal antenna arrays, flush-mounted antenna arrays, triangular antenna arrays, adequate coverage, adequate capacity, ground equipment compound, co-location.

* We may want to consider easing restrictions on the placement of other communication devices (those not regulated under the Federal TCA) as co-locators on the towers as long as they don't interfere/compete for space and structural capacity with the principal purpose to the towers. Right now only Town-owned/operated communication devices can co-locate (3.10.6.10)

* The applicability section (3.10.3) could use an update to exempt some of the newer WIFI installation and services that cropped up since the bylaw was first drafted.

* Where from to measure setback and distance requirements - the base of the pole or the fence around the equipment compound.

* With respect to section 3.10.5, we may want to consider other arrangements or placements of WCF's that do not require special permits, for instance: on existing telephone poles, in light poles, or in flag poles.

* We should crisp up the prohibition against lattice towers, since not all of them require guy wires.

* The prohibition on local historic district is implied but not expressed specifically in the 500-foot separation requirement for WCF's.

That's it for now. I hope to have more from others for distribution on Tuesday.

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-----Original Message-----

From: H.W. Flood
Sent: Friday, August 31, 2007 12:08 PM
To: Planning Department
Subject: "Crisping the Acton Bylaw"

Roland and WCF Committee:

I'm looking at our existing bylaw with a view of improving the format as we develop the changes and modifications in content.

In looking at our bylaw, my first impression is that it consists of a long series of statements in more, or less, random order. I can see no attempt to make this document "user friendly" to applicant, Town government

or the public. I propose that we attempt to organize our work to fit into a logically helpful outline. My first crack at this outline will undoubtedly need much work and further thought but here is my initial attempt:

1. Purpose and Intent
 - a. List items describing purpose and intent
 - b. Cite enabling documents supporting these bylaws
 - c. Cite need to conform to Federal Law
2. Elements of an Application
 - a. General requirements. See Appendix (Rules and Regulations) for more details, definition etc.)
 - b. Penalty for False or Misleading Statements
 - c. Fees and Insurance. See Appendix for details on Bonds, Indemnities, Insurance etc.
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