

Otsego County Planning Commission

Approved Minutes for Special Meeting September 1, 2021

Special meeting called to order.

Call to Order: 6:00pm by Chairperson Hartmann

Pledge of Allegiance.

Roll Call:

Present: Mr. Hartmann, Mrs. Jarecki, Mr. Maxwell, Mr. Hilgendorf, Mr. Brown, Mr. Marlette, Mr. Scott, Mr. Sanders, Mr. Dipzinski, Ms. Corfis

Absent: Mr. Caverson

Staff Present: Ms. Boyak-Wohlfeil, Mr. Marquard

Public Present: Anthony Amine, applicant, AT&T representative, Alan & Jennifer Boughner, property owners

Chairperson Hartmann welcomed Thom Marquard to the County and asked him to introduce himself.

Mr. Marquardt stated he was Planning & Zoning/Capital Projects & Grants Director; he had started working with the County in May.

Approval of minutes from: July 19, 2021

Chairperson Hartmann requested discussion on the minutes; hearing none requested a motion.

Motion made by Mr. Hilgendorf to approve minutes as presented; Seconded by Mr. Brown

Motion approved unanimously.

Consent Agenda: None

Other: None

Public participation for items not on the agenda: None

Public Hearing:

1. **PZSU21-002** – Alan & Jennifer Boughner, owners, AT&T Mobility, lease owner, represented by Anthony Amine, applicant, are requesting a Special Use Permit for property located in Dover Township at 659 Marquardt Rd Gaylord, MI 49735. The proposed use of the property is for the installation of a 280' wireless communications tower. The property is currently zoned FR/Forestry Recreation and the use is a permitted use subject to special conditions in a FR District.

Parcel identification number:

050-032-100-030-02

659 Marquardt Rd

Gaylord, MI 49735

Legal Description:

W 1/2 OF THE NE 1/4 SEC 32 T31N R2W SPLIT FROM 050-032-100-030-00 FOR 1995

Chairperson Hartmann stated since this was a special meeting, the Commission would address the case before them only. He opened the public hearing and requested comment from the applicant.

Public hearing opened: 6:03pm

Anthony Amine, applicant/representative of AT&T, stated he had come before the Commission to request relocation of the wireless tower currently on Treetops property. When Treetops had requested

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the removal of the tower, AT&T began looking for a suitable location that would maintain the current coverage and possibly improve it. The request was for a two hundred eighty-foot (280') tower on a leased piece of property located at 659 Marquardt Rd. He had been before Dover Township and had received their approval. As the site plan provided, they were able to site the tower and meet the setbacks required. The tower would be taller than the existing one due to the elevation changes but should allow AT&T the same amount of coverage. Cell phone towers were a grid network that connected one to the other. Propagation maps were provided to show the current coverage, future coverage with approval of the request as well as coverage if the request were disapproved. The site plan depicted the placement of the tower, the road accessing the tower and the setbacks; the Ordinance requirements had been met. The current tower would be decommissioned after the new tower was operational. He stated he was happy to answer any questions from the Commissioners.

Mr. Hilgendorf questioned how far the proposed tower was from the current one; he wanted to be sure the coverage would remain the same.

Mr. Amine stated the proposed tower was approximately between a half mile to a mile east of the current tower and the propagation maps showed the coverage would remain the same. The tower was taller due to the elevation difference from the Treetops property but the two hundred eighty-foot (280') tower would provide the same coverage and maybe improve it slightly.

Mr. Brown questioned why the tower wasn't built higher to satisfy the needs of all the people in the area for cell service.

Mr. Amine stated from a height standpoint, it was an engineer challenge with the topography but because cell service was a grid network, if they went too high, they could shoot over the other towers and possibly cause interference with the existing ones. The quality of the signal could also become degraded.

Mr. Dipzinski stated he thought towers over two hundred ninety-nine feet (299') were a whole other issue; for permitting purposes, towers over three hundred feet (300') had additional requirements.

Mr. Amine stated height was a tricky balance but as far as lighting a tower, the threshold was two hundred feet (200'); any tower taller than one hundred ninety-nine feet (199'), required lighting.

Mr. Dipzinski asked if the current tower was lit.

Mr. Amine stated no.

Ms. Corfis questioned the propagation maps and requested clarification.

Mr. Amine explained the differences in the maps provided.

Mr. Dipzinski questioned if AT&T would be the tower owner or if they would piggyback off of it.

Mr. Amine stated it would be an AT&T tower but it would provide availability for colocation of other services.

Mr. Marlette questioned if the tower would have 5G capability.

Mr. Amine stated the equipment on the tower would determine the capability but the tower would be able to handle 5G equipment.

Chairperson Hartmann asked the planned completion date of the tower.

Mr. Amine stated they would start construction this year and would most likely have it operational spring of 2022

Chairperson Hartmann requested a copy of the letter received from Mr. Smith, neighboring property owner, be given to Mr. and Mrs. Boughner, property owners of the proposed tower.

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Ms. Corfis questioned Section 21.46.3.2 referred to in the letter.

Ms. Boyak-Wohlfeil stated that section referred to the Planning Commission's ability to request additional research at the applicant's expense if the tower height was more than what was required.

Mr. Hilgendorf stated a one hundred seventy-nine-foot (179') tower would be a permitted height in the zoning district so the issue would only be the height.

Mr. Boughner stated the proposed tower may be a little bit closer to Mr. Smith's property but would basically be at the same height as the existing tower on Treetops property.

Mr. Amine stated they had contacted a number of neighboring properties to determine a good location and ruled out some because of elevations and setback requirements.

Chairperson Hartmann requested further comment; hearing none, closed the public hearing.

Public hearing closed: 6:18pm

Advertised Case:

- PZSU21-002** – Alan & Jennifer Boughner, owners, AT&T Mobility, lease owner, represented by Anthony Amine, applicant, are requesting a Special Use Permit for property located in Dover Township at 659 Marquardt Rd Gaylord, MI 49735. The proposed use of the property is for the installation of a 280' wireless communications tower. The property is currently zoned FR/Forestry Recreation and the use is a permitted use subject to special conditions in a FR District.

Parcel identification number:

050-032-100-030-02

659 Marquardt Rd

Gaylord, MI 49735

Legal Description:

W 1/2 OF THE NE 1/4 SEC 32 T31N R2W SPLIT FROM 050-032-100-030-00 FOR 1995

With no further comments from commission members, Chairperson Hartmann requested a motion for approval of the Finding of Fact for PZSU21-002.

Motion made by Mr. Scott to approve Exhibit 13 Finding of Fact for PZSU21-002 as presented; seconded by Mr. Maxwell. *SEE ATTACHMENT 1*

Motion approved unanimously.

Chairperson Hartmann requested a motion to approve the standards of Section 19 for PZSU21-002.

Motion made by Mr. Scott to approve the standards of Section 19 for PZSU21-002 as being met; seconded by Mr. Maxwell. *SEE ATTACHMENT 2*

Motion approved unanimously.

Chairperson Hartmann requested a motion for approval of PZSU21-002.

Motion made by Mr. Scott to approve Special Use request for parcel number 050-032-100-030-02 case PZSU21-002 for a 280' wireless communications tower located at 659 Marquardt Rd in Dover Township replacing the existing tower at 3962 Wilkinson Rd – Existing tower to be removed and the performance guarantee and FAA approval to be submitted prior to the issuance of the building permit; seconded by Mr. Maxwell.

Motion approved unanimously.

Mr. Amine thanked the Commission.

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Unfinished Commission Business:

Discussion ensued concerning the proposed definition for a Mixed-Use Resort and the proposed permitted districts. The issue will be discussed further before moving the proposed language forward.

New Business: None

Reports and Commission Member's Comments: None

1. Otsego County Parks & Recreation report
2. Land Use Services report

With nothing further, the special meeting was adjourned.

Adjournment: 6:34pm by Chairperson Hartmann

Pete Maxwell; Secretary

Christine Boyak-Wohlfeil; Recording Secretary

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ATTACHMENT #1:

OTSEGO COUNTY PLANNING COMMISSION

**PZSU21-002
050-032-100-030-02
SPECIAL USE PERMIT**

GENERAL FINDING OF FACT

1. This proposal is for a special use permit for a parcel located in Dover Township at 659 Marquardt Rd Gaylord, MI 49735. *Exhibit #1, Exhibit #5*
2. The purpose of the special use permit is for the location of a 280' wireless communications tower. *Exhibit #1, Exhibit #5*
3. The proposed tower will replace an existing tower located at 3962 Wilkinson Rd Gaylord, MI 49735. *Exhibit #6*
4. The property is located in a FR/Forestry Recreation Zoning District. *Exhibit #2*
5. The proposed use is a permitted use subject to special conditions in a FR/Forestry Recreation Zoning District. *Exhibit #3*
6. The proposed property is 80 acres with a leased area of 3600 sq. ft. *Exhibit #4*
7. The proposed property is currently under the ownership of Alan & Jennifer Boughner. *Exhibit #4*
8. The proposed special use permit will be represented by Anthony Amine, applicant and representative of AT&T Mobility. *Exhibit #1, Exhibit #7*
9. The Public Hearing Notice was published in the Herald Times on August 13, 2021. *Exhibit #8*
10. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*
11. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
12. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*
13. Otsego County Land Use Services has reviewed the request and found the documentation submitted in order. *Exhibit #3*
14. The Planning Commission has the authority to approve a special use permit after review per Section 19 of the Otsego County Zoning Ordinance. *Exhibit #3, Exhibit #13, Exhibit #14*

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ATTACHMENT #2:

OTSEGO COUNTY PLANNING COMMISSION

PZSU21-002
050-032-100-030-02
SPECIAL USE PERMIT

SPECIFIC FINDING OF FACT

FINDINGS UNDER ARTICLE 21 SECTION 21.46

SECTION 21.46 WIRELESS COMMUNICATIONS

Amended 4.23.2019

Reference the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012). These set forth provisions concerning placement, location and construction of towers and related facilities for wireless services, provide rules for changes to existing towers and set time frames for municipality action. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

1. Protect residential zoning districts from potential adverse impacts of towers and antennas;
2. Encourage the location of towers in non-residential areas;
3. Minimize the total number of towers throughout the county;
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism-based county is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sighting, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of providers of telecommunication services to provide such services to the county quickly, effectively, and efficiently;
8. Consider the public health and safety of communication towers; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful sighting of tower structures. In furtherance of these goals, due consideration shall be given to the Otsego County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Wireless and cellular phone service are specially determined to not be essential services, nor to be public utilities as such terms are used in this Ordinance.

It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Also, it is not the intent to regulate ham radio antennae under this section, or to regulate towers installed at single family dwellings for personal television reception.

21.46.1 Definitions

As used in this section, the following terms shall have the meanings set forth below:

1. Antenna means any exterior transmitting or receiving device mounted on a tower, building structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Exhibit 14

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2. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
3. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting (lattice) towers, guyed towers, or monopole towers (including telephone poles). The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
4. Co-location shall mean the location by two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the County.

21.46.2 Wireless Communications Towers of One Hundred Seventy-Nine Feet (179') or LESS and Related Facilities:

Construction of Wireless Telecommunication Antenna Towers of one hundred seventy-nine feet (179') or less and Equipment Shelter Buildings are allowed in Otsego County subject to the following provisions:

21.46.2.1 Prior to approval of any new tower to be located within one (1) mile of an existing tower or other structure of equal or greater height than the proposed tower, applicant shall contact owner(s) of all said towers or structures and request permission to locate or co-locate in lieu of construction of a new tower. No new tower request shall be granted until proof of contact(s) has been provided to the zoning administrator.

21.46.2.1.1 As an alternative to contacting owners of all towers or structures, as described in the above paragraph, location or co-location on existing towers or structures shall be approved by the Zoning Administrator under applicable provisions, including [21.46.2.7.1](#).

An accessory equipment shelter building shall meet all normal requirements of accessory buildings. Any location or co-location shall not result in a height of more than twice the height of the existing structure.

21.46.2.2 Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings shall not be placed in any road right-of-way or in any easement for road purposes.

21.46.2.3 Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner) that have an area no less than the minimum parcel size for the district, as listed in [Article 17](#). No variances shall be granted to reduce this size limit.

21.46.2.4 All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer than two hundred percent (200%) of the tower's height from any property line or any residence.

21.46.2.5 A tower proposal of more than thirty-five feet (35') shall be submitted to the Otsego County Airport Manager and FAA for review and approval prior to issuance of a zoning permit.

21.46.2.6 The tower itself must be of monopole design. Guyed and self-supporting towers may be considered by the Planning Commission and require a special use permit. [[Section 19.7](#)]

21.46.2.6.1 Maximum height of guyed and self-supporting towers to be one hundred fifty feet (150').

21.46.2.6.2 Guyed towers must have a clear area radius of one hundred twenty percent (120%) of their height to protect surrounding properties/structures should a tower collapse.

21.46.2.6.3 Eight foot (8') climbing barriers are required on guyed towers.

21.46.2.7 All such tower location proposals shall be submitted with a site plan. [[Section 23.2](#)]

21.46.2.7.1 The following conditions are required for approval of an application:

Antennas may or may not be mounted on existing structures. The tower and antenna are painted or screened as to blend into the background;

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The service building shall be constructed of material such as wood, brick, or stucco, and shall be designed to blend into the natural setting and surrounding buildings. In no case will metal exteriors be allowed for service buildings;

Unless technically impossible, all connecting wires from towers to accessory buildings shall be underground;

Unless technically impossible, all electrical and other service wires to the facility shall be underground;

The service building shall be no larger than necessary to house the equipment and shall meet all setback requirements of this Ordinance.

21.46.2.8 Lighting shall be designed in accordance with [Section 21.19](#) in addition to the following:

Lights shall not be permitted on the tower or antennae unless FAA regulations require them.

Light poles and fixtures shall be located as low as practical; a greater number of low “area” lights are favored over higher lights. Incandescent lights are favored over sodium or mercury-type street lighting.

21.46.2.9 The tower and its accessory buildings shall be fenced with no less than a six-foot (6’) safety fence with a locked gate. For towers with guy wires, anchor points must have individual six-foot (6’) fencing or yellow guy protection “sleeves” for high visibility. The Planning Commission will determine which of the two (2) will be required based upon the site chosen for the tower. Signage must be installed on the six-foot (6’) fence with locked gate stating the owner’s name and contact information, including an emergency telephone number.

21.46.2.10 The application shall include a description of security. Security shall be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned for more than twelve (12) months or is no longer needed. In this regard, the security shall, at the selection of the applicant, be in the form of cash or letter of credit to remove the tower in a timely manner as required under [Section 21.46.4](#) with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys’ fees incurred by the county in securing removal. The amount of the security bond or letter of credit is to be determined by the Planning Commission. [[Section 25.6](#)]

21.46.2.11 Professional sealed documents are required for all Wireless Communications Towers [[Section 23.2.2](#)]

21.46.2.12 Soil samples and water flow analysis will not be required for projects involving less than 20 sq. ft. of soil disruption.

21.46.3 Wireless Telecommunication Antenna Towers OVER One Hundred Seventy-Nine Feet (179’) and Related Facilities:

Construction of Wireless Communications Towers over one hundred seventy-nine feet (179’) and Equipment Shelter Buildings are a Permitted Use Subject to Special Conditions under [Article 19](#). Requirements include all those in [Section 21.46.2](#), plus the following:

21.46.3.1 In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on Otsego County, location, co-location, or the provision of more than one (1) antenna on a single tower may be allowed by the Zoning Administrator and/or required by the Planning Commission.

21.46.3.1.1 As an alternative to the provisions of [21.46.3.1.2](#) below, location or co-location on existing towers or structures shall be approved as a Principal Use Permitted by the Zoning Administrator under applicable provisions, including [21.46.2.7.1](#). An accessory equipment shelter building shall meet all normal requirements of accessory buildings.

If not locating or co-locating on existing towers or structures, the applicant shall be required to provide information regarding the feasibility of location or co-location as part of the Special Land Use application.

Factors to be considered in determining feasibility or co-sharing include available space on existing structures, towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency

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interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.

21.46.3.1.2 The applicant shall be required to send a certified mail announcement to all other tower owners in the area, stating their sighting needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied space on a tower unless mechanical, structural, or regulatory factors prevent sharing.

21.46.3.1.3 Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit to: Responding to any requests for information from another potential shared use applicant. Negotiating in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable; and making no more than a reasonable charge for a share use lease.

21.46.3.2 Tower heights shall be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the county determined by the Planning Commission to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of one hundred seventy-nine feet (179'). Where the independent evaluation shows that service can be provided by a one hundred seventy-nine foot (179') or lower tower no tower in excess of one hundred seventy-nine feet (179') shall be allowed. The Zoning Board of Appeals shall not grant a variance from this requirement.

21.46.4 Removal of Wireless Communication Towers:

21.46.4.1 A condition of every approval of a wireless communication tower shall be adequate provision for removal of all or part of the facility by users and owners when the tower has not been used for a period of twelve (12) months. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations shall be considered as the beginning of a period of non-use.

21.46.4.2 At such time that removal is required, the property owner or persons who had used the facility shall immediately apply or secure the application that require demolition or removal and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

21.46.4.3 If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and /or enforced from or under the security posted at the time application was made for establishing the facility.

21.46.5

All towers in [Section 21.46](#) must comply with FCC and FAA regulations.

FINDINGS UNDER ARTICLE 19 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

SECTION 19.7 STANDARDS FOR SPECIAL LAND USE APPROVAL

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following standards:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

HAS HAS NOT BEEN MET

19.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

HAS HAS NOT BEEN MET

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19.7.3 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

HAS HAS NOT BEEN MET

19.7.4 The proposed special land used will be designed, constructed, operated and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

HAS HAS NOT BEEN MET

19.7.5 The proposed special land use will not place demands on fire, police or other public resources in excess of current capacity.

HAS HAS NOT BEEN MET

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities and refuse collection and disposal services.

HAS HAS NOT BEEN MET

19.7.7 If the proposed special land use includes more than 15,000 sq. ft. of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on twenty-five (25) year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

HAS HAS NOT BEEN MET

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

HAS HAS NOT BEEN MET

SECTION 19.8 CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to ensure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.

19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

******* Motion made by Mr. Scott to approve Special Use request for parcel number 050-032-100-030-02 case PZSU21-002 for a 280' wireless communications tower located at 659 Marquardt Rd in Dover Township replacing the existing tower at 3962 Wilkinson Rd – Existing tower to be removed and the performance guarantee and FAA approval to be submitted prior to the issuance of the building permit; seconded by Mr. Maxwell.

Motion approved unanimously.