

Hopkinton Planning Board
Minutes
November 13, 2008

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting/hearing of Thursday, November 13, 2008, beginning at 7:00 PM in the Hopkinton Town Hall. Members present: Michael Wilkey, James O'Brien, Celeste Hemingson, Edwin Taylor and Jane Bradstreet. Members absent: Vice Chairman Timothy Britain, Bethann McCarthy and Clarke Kidder.

I. Review of the Minutes and Notice of Decision of August 12, September 10, and October 14, 2008.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to approve the Minutes of August 12, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Bradstreet and O'Brien).

Mrs. Hemingson, seconded by Mr. Wilkey, moved to approve the Notice of Decision of August 12, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Bradstreet and O'Brien).

Mrs. Connolly, seconded by Mrs. Bradstreet, moved to approve the Minutes of September 10, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Hemingson and O'Brien).

Mr. Wilkey, seconded by Mrs. Bradstreet, moved to approve the Notice of Decision of September 10, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Hemingson and O'Brien).

Mrs. Connolly, seconded by Mrs. Bradstreet, moved to approve the Minutes of the October 14, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Hemingson and O'Brien).

Mrs. Bradstreet, seconded by Mr. Wilkey, moved to approve the Notice of Decision of October 14, 2008 as presented. With seven members voting, five voted in favor and two voted in abstention (Hemingson and O'Brien).

II. Application(s).

#2008-13A Francis Chase – Mr. Francis Chase addressed the Board to request a one-year extension of subdivision approval should the Board determine that "active and substantial" development has not occurred. The property is owned by Francis and Ellen Chase, located off Irish Hill Road in the R-4 (residential/agricultural) district, shown on Tax Map 237 as Lot 36. The seven lot residential subdivision, including construction of new roadway, was approved by the Planning Board with conditions on August 14, 2007.

Chairman Ellsworth asked the Board to review an opinion from the Board's legal counsel Bernie Waugh concerning the issue of active and substantial development. While the opinion was not specific to Mr. Chase's subdivision it did address the issue. In particular, Attorney Waugh indicates that, "unless the Board has specified, either by regulation or in its decision, what constitutes "active and substantial development", then under the 2004 wording of paragraph IV of RSA 674:39, there simply is no applicable 12-month requirement..."

Following brief discussion, Mrs. Connolly, seconded by Mr. Wilkey, moved to recognize that no action of the Planning Board is necessary based on an opinion received from the Board's legal counsel. Motion carried unanimously.

#2008-13B Francis Chase – Mr. Francis Chase addressed the Board to request a one-year extension of a condition imposed by the Planning Board requiring that the house on Lot 7 be removed within one-year from the date of subdivision approval. The condition was imposed on August 14, 2007, as part of the Planning Board's approval of a seven lot residential subdivision, including construction of new roadway. The property is owned by Francis and Ellen Chase, located off Irish Hill Road in the R-4 (residential/agricultural) district, shown on Tax Map 237 as Lot 36.

Mrs. Robertson noted that the condition was imposed due to the fact that the existing residence is located within the 150-foot buffer area. Mr. Chase agreed, noting that due to economic reasons he has not had the financial resources to move forward with the subdivision.

Following brief discussion, Mr. Wilkey, seconded by Mrs. Connolly, moved to approve a 12-month extension for the removal of the house on Lot 7. Motion carried unanimously.

At this time, Mrs. Hemingson and Mrs. Bradstreet recused themselves from the Board.

#2008-14 Jane D.W. Bradstreet — Michael Dahlberg of Dahlberg Land Services addressed the Board to request a lot line adjustment between properties owned by the Frederick and Jane Bradstreet and Jane D.W. Bradstreet. The properties are located at 333 Gould Hill Road and 2398 Hopkinton Road in the R-2 (medium density) and R-3 (low density) districts, shown on Tax Map 240 as Lots 12 and 32.

In reviewing the plans, Mr. Dahlberg stated that the Bradstreet residence is located at 333 Gould Hill Road, shown as Lot 32. Prior to the lot line adjustment the lot consists of 3.04 acres. Following the adjustment the lot will consist of 13.27 acres. The purpose of the lot line adjustment is to allow ownership of the view to remain with the Bradstreet's main residence. Lot 12, which currently has an existing residence located on it, will have a remainder of 23.39 acres fronting on Hopkinton Road.

There was brief discussion concerning the steep slope of the 10-acres to be annexed to Lot 32.

Mrs. Connolly, seconded by Mr. O'Brien, moved to accept application #2008-14 as complete and for consideration. With five members voting, all five voted in favor of the motion (Connolly, O'Brien, Wilkey, Taylor and Ellsworth).

Mr. Wilkey, seconded by Mrs. Connolly, moved to approve application #2008-14 as presented. With five members voting, all five voted in favor of the motion (Connolly, O'Brien, Wilkey, Taylor and Ellsworth).

At this time, Mrs. Hemingson and Mrs. Bradstreet joined the Board.

#2008-15 Omnipoint Communications Inc.—Michael Johnson representing Omnipoint Communications addressed the Board to request Site Plan Review and a Conditional Use Permit pursuant to Section 3.10 of the Hopkinton Zoning Ordinance. The proposal is to co-locate six (6) panel antennas on a previously approved wireless telecommunications facility. The proposal includes the installation of all associated cabling and base equipment. The property is owned by Thomas Komisarek, located at 67 Farrington Corner Road in the R-3 (low density) district, shown on Tax Map 257 as Lot 12.

Mr. Johnson informed the Board of a roaming agreement that once existed with another carrier that had addressed Omnipoint's roaming needs. However, the agreement has since been bought out by another carrier and now Omnipoint needs to set up its own antennae. The proposal involves the installation of six (6) antennae at a height of 79-feet. It is anticipated that the antennae will be concealed by the existing mono-pine branches. Necessary cabinets will be installed within the existing fenced compound with no landscaping changes anticipated.

Mr. Wilkey questioned the actual height of the top of the antennae. Mr. Johnson stated that the top of the antennae will be at a height of 82-feet with the centerline being 79-feet.

Chairman Ellsworth inquired about the camouflage of the antennae. Mr. Johnson noted that one carrier already exists and it appears that their antennae are well camouflaged by the existing branches. He anticipated the same level of camouflage will exist for Omnipoint's antennae.

Mr. Wilkey questioned whether a structural analysis had been completed to insure that the tower can support the additional load. In response, Mr. Johnson assumed that an analysis had been completed at the initial time of permitting and construction; however, he noted that Omnipoint had not completed its own analysis. Chairman Ellsworth agreed that a structural analysis was most likely completed prior to construction which would limit the load/number of carriers.

Chairman Ellsworth then questioned who would be the point of contact should an issue arise at some point in the future. Mr. Johnson advised that he or the tower owner could be contacted.

The Board reviewed the radio frequency coverage before and after installation.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to accept application #2008-15 as complete and for consideration. With seven members voting, all seven voted in favor of the motion (Connolly, O'Brien, Bradstreet, Hemingson, Wilkey, Taylor and Ellsworth).

Tom Komisarek, owner of the property, addressed the Board to advise that Clarke Kidder had once indicated to him that the Town had not received any complaints with respect to the tower.

Mrs. Hemingson, seconded by Mr. O'Brien, moved to approve application #2008-14 with the following conditions:

- Receipt of proof of appropriate liability insurance (section 3.10.9);
- Receipt of a non-lapsing bond for the removal of all equipment, including antennas (section 3.10.9);
- The Personal Wireless Service Facility's existing level of camouflage is to be maintained.

With seven members voting, all seven voted in favor of the motion (Connolly, O'Brien, Bradstreet, Hemingson, Wilkey, Taylor and Ellsworth).

III. Other business to legally come before the meeting.

Zoning Amendments – Mrs. Robertson reviewed for discussion purposes the following proposed amendments to the Zoning Ordinance:

1. Amend section II, 2.1.J.2 Junk Yard correcting referenced NH RSA.
2. Omit section IV, 4.4.8 Additions.

3. Amend section III, Table of Uses 3.6.G.7 Earth Products Removal correcting referenced section of Zoning Ordinance.
4. Add section IV, 3.11 Small Wind Energy Systems. See NH RSA 672:1, III (a) and 674:62-66.

Brief discussion ensued concerning the Zoning Ordinance and a resident's ability to install a small wind energy system. The legislature in 2008 passed a bill that allows towns to regulate small wind energy systems; however, towns cannot impose unreasonable limitations. Chairman Ellsworth noted that the purpose of addressing the issue is because of the potential for the new law to "invalidate some provisions of municipal zoning ordinance..." as indicated in the material provided by the Local Government Center concerning land use legislation. The new law takes effect July 11, 2009.

Mr. Wilkey questioned the size of the facilities being addressed by the proposed amendment. Chairman Ellsworth advised that the facility cannot generate more than 100 kilowatts and generally provides on-site electricity. Mrs. Robertson noted that setbacks, noise limitations and structure height cannot be addressed utilizing the language in Hopkinton's current ordinance. She suggested that the Board consider the model ordinance prepared by the NH Office of Energy and Planning. The Board asked that Mrs. Robertson provide them with similar ordinances from other communities addressing these issues.

IV. Adjournment.

With no other business to come before the meeting, Chairman Ellsworth declared the meeting adjourned at 7:55 PM. The next regular scheduled meeting of the Planning Board is Tuesday, December 9, 2008, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

Upon finding that an application meets the submission requirements, the Planning Board will vote to accept the application as complete and a public hearing on the merits of the proposal will follow immediately. Should a decision not be reached at the public hearing, the application will remain on the Planning Board agenda until such time as it is either approved or disapproved.

The Planning Board reserves the right to adjourn the public hearing at 11:00 PM. All remaining applications that have not been reviewed will be rescheduled for review at the Planning Board's next scheduled public hearing.

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Board concerning application(s) may present to the Superior Court a petition, duly verified, setting forth that such a decision is illegal or unreasonable in whole or part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within thirty (30) days after the Board's final decision regarding the application in question has been filed and becomes available for public inspection in the Planning Office.