

Hopkinton Planning Board
Minutes
January 13, 2009

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting/hearing of Tuesday, January 13, 2009, beginning at 7:00 PM in the Hopkinton Town Hall. Members present: Michael Wilkey, James O'Brien, Celeste Hemingson, Edwin Taylor, Jane Bradstreet, Bethann McCarthy, Cettie Connolly. Members absent: Vice Chairman Timothy Britain and Clarke Kidder.

I. Review of the Minutes of December 9, 2008.

Review of the minutes was deferred to the February 10, 2009 meeting.

II. Conceptual(s).

David Dufault addressed the Board representing the Boys and Girls Club of Hopkinton. The Boys and Girls Club of Hopkinton is in the process of purchasing property at 195 Park Avenue to be used for the operations of the Boys and Girls Club. Due to time constraints with respect to the Concord Boys and Girls Club ratifying the proposal, Mr. Dufault asked the Planning Board to consider endorsing the proposal this evening. He noted that the building had been reviewed by the Town's Code Enforcement Officer to determine what, if any, changes would need to be made. Changes proposed as a result of the inspection will include the construction of a second means of egress from the basement to the outside. This will be necessary if the Boys and Girls Club wishes to utilize the basement for activities.

At this time, Mr. Dufault presented a sketch map of the property indicating the locations of the proposed access/egress to the property, including parking. The proposal is to park vehicles in the rear of the property and to have people access the building from the existing deck located in the rear of the building.

Chairman Ellsworth noted that the Planning Board cannot make any decisions with respect to the proposal until such time as a public hearing is held.

Chris Emmens, Director of the Concord Boys and Girls Club, addressed the Board to explain that the facility will be owned by the Concord Boys and Girls Club, but will be utilized by the kids in Hopkinton. Mr. Emmens reviewed the various types of activities that the Boys and Girls Club of Hopkinton offer, such as the after school program at the Maple Street School and Teen Center for the older kids. The teen program is a drop-in program. The hours of operation when operated from the Grange were Monday – Friday, 2:30 PM to 8:00 PM and with hours 8:00 AM to 5:00 PM during the summer months. The facility is staffed with a full-time person and volunteers.

Mrs. Hemingson inquired as to whether representatives had spoken with the neighbors concerning the proposal. Mr. Dufault replied no.

Mrs. Connolly inquired as to the maximum number of children that could be at the proposed facility at any given time. In response, Mr. Dufault stated that based on the total square

footage the maximum capacity is 36 children. This figure is as a result of the building code restrictions.

Board members suggested that Mr. Dufault be prepared to address issues with respect to the scale of the plan, use of the barn/shed, waivers, if any, surface drainage, distance from George's Park property to driveway and width of driveway.

Abutter Al Wait addressed the Board indicating that at such time as the application comes before the Planning Board he will ask that issues with respect to lighting, noise, hours of operation, screening, and future plans, if any, for expansion be addressed.

Mr. Wait questioned whether one bathroom will be sufficient for 36 people. He then noted that once purchased the property will most likely be exempt from taxes as the Boys and Girls Club is a non-profit organization. Lastly, he suggested that any improvements to the property be completed by local contractors.

Dick Drescher, member of the Boys and Girls Club of Hopkinton, noted the limited time frame in which the Board of Directors for the Concord Boys and Girls Club will make a decision concerning the purchase. He also noted that if the purchase is approved they then must immediately begin to fundraise to cover the cost of the purchase.

III. Application(s).

Mrs. Bradstreet is an abutter to the property owned by Merrimack County Telephone Company and therefore recused herself from review of the application of Omnipoint Communications. At this time, Mrs. Connolly replaced Mrs. Bradstreet as a voting member.

#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 Merrimack County Telephone (TDS Telecom), located at 124 Watchtower Road in the R-2 (medium density residential) district, shown on Tax Map 240 as Lot 41.

Mr. Johnson informed the Board of a roaming agreement that once existed with another carrier that had addressed Omnipoint/T-Mobile's roaming needs. However, the agreement has since been bought out by another carrier and now Omnipoint needs to set up its own antennae. It is anticipated that there will be no impact on aesthetics, ac cetera, as the proposed antennas will look very similar to those that currently exist on the tower. The tip of the antennae will be at 107-feet and will be painted to blend in with the sky. A structural analysis was completed by Merrimack County Telephone with a finding that additional support bracing will be needed prior to the installation of the antennae. The bracing will be done by the same company that had originally constructed the tower.

Mrs. Hemingson questioned whether the Planning Board is obligated to allow the additional antennae if structural modifications of the tower is necessary. She asked to see the Board's decision approving the construction of the tower so to determine the number of carriers that

the tower could support. In response, Mr. Johnson explained how the tower can support the additional antennae; however, that the owner, Merrimack County Telephone Company, requested the structural analysis which indicates that additional bracing should be installed.

Mr. Wilkey, seconded by Mrs. Connolly, moved to accept application #2009-1 as complete and for consideration. With seven members voting, all seven voted in favor of the motion (Wilkey, O'Brien, Hemingson, Taylor, McCarthy, Connolly and Ellsworth).

Public testimony was opened.

Abutter Jane Bradstreet addressed the Board stating that she recalled being told that the tower could support three arrays. She also noted that the plan presented does not depict the tower in the correct location on the property. In response, Mr. Johnson stated that he will have the plan corrected.

Public testimony was closed.

Mrs. Robertson reviewed prior Board decisions for the construction of the tower and co-locations. Each time the Planning Board required the applicants to submit certification from a structural engineer that the antennae and cables do not exceed the design capacity of the tower. Mrs. Robertson also referred to a report from a structural engineer from Rirod, Inc., dated August 1998, in which the engineer outlined the potential height and number of arrays at specific locations on the tower based on a wind load requirement of 80 mph. Mr. Johnson noted the specific location referenced in the report in which Omnipoint (T-Mobile) is now proposing to co-locate. Mr. Taylor noted that since that report the code requirements with respect to wind load have changed which may be reason for the additional bracing.

Mr. Wilkey, seconded by Mr. O'Brien, moved to approve application #2009-1 with the following conditions:

1. Receipt of a non-lapsing bond for the removal of all equipment, including antennas (section 3.10.9);
2. Receipt of certification from a Structural Engineer certifying that all required bracing and reinforcement has been completed, prior to the issuance of the building permit. For detail refer to the Structural Analysis Report prepared by TDS Telecommunications, dated December 17, 2008, prepared by H.E. Bergeron Engineers, Inc., and
3. Receipt of a revised site plan showing the correct location of the existing telecommunications facility.

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

Mrs. Bradstreet rejoined the Board for the remainder of the meeting/public hearing in place of Mrs. Connolly.

IV. Public Hearing – Zoning Amendments.

Chairman Ellsworth opened the public hearing for public comment on the following proposed amendments to the Zoning Ordinance:

1. Amend section III, Table of Uses 3.6.G.7 Earth Products Removal correcting referenced section of Zoning Ordinance. The table incorrectly references Section X Recreational Camping Parks/Residential Tenting and Camping Vehicles. The table should reference Section XI Local Regulation of Excavation.
2. Section III Establishment of Districts and Uses, add new Table of Uses 3.6.H.16 Small Wind Energy Systems in accordance with Section III, subsection 3.11. The use is proposed to be listed as permitted in all zoning districts.
3. Add new section III, 3.11 Small Wind Energy Systems. New subsection to include authority, purpose, definitions, procedure for review, standards, abandonment, violation and penalties. Subsection as a result of NH Revised Statutes Annotated 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.

There was no public comment.

Mrs. Hemingson, seconded by Mrs. Bradstreet, moved to recommend the adoption of the following proposed amendments to the Hopkinton Zoning Ordinance. Amendments to be included on the March 2009 Annual Town Meeting Warrant.

1. Amend section III, Table of Uses 3.6.G.7 Earth Products Removal correcting referenced section of Zoning Ordinance.
2. Section III Establishment of Districts and Uses, add new Table of Uses 3.6.H.16 Small Wind Energy Systems in accordance with Section III, subsection 3.11.
3. Add new section III, 3.11 Small Wind Energy Systems. New subsection to include authority, purpose, definitions, procedure for review, standards, abandonment, violation and penalties. Subsection as a result of NH Revised Statutes Annotated 674:62-66.

With seven members voting, all seven voted in favor of the motion (O'Brien, McCarthy, Hemingson, Bradstreet, Wilkey, Taylor and Ellsworth). See attached copy of full-text of amendments.

IV. Other Business.

- a) Email and Other Between Meeting Communications Policy – The Board asked that the policy be reviewed by the Board of Selectmen for their recommendation. If the Selectmen have already adopted such a policy, for consistency purposes, the Planning Board believes that they should adopt the same. Mr. O'Brien agreed to discuss the matter with the Board of Selectmen.
- b) Selectmen's Request for Feedback re Adopting Provisions of NH RSA 79-E – The Board was in receipt of a letter from Town Administrator Leon Kenison concerning the matter. Following brief discussion concerning the intent of the provisions, a motion was made by Mrs. Hemingson, seconded by Mrs. Bradstreet, to recommend that the VB-1 (village

business) district and VR-1 (village high density residential) district be the areas designated in accordance with NH RSA 79-E. With seven members voting, six voted in favor (O'Brien, Hemingson, Bradstreet, Wilkey, Taylor and Ellsworth) and one voted in abstention (McCarthy).

- c) Planning Board Monitoring of Indicators of Growth Impact (section 13.4) – Mrs. Robertson will provide findings of facts to the Board for review.
- d) Site Plan Review Regulations – Mrs. Robertson agreed to coordinate with the subcommittee work sessions.

V. Adjournment.

With no other business to come before the meeting, Chairman Ellsworth declared the meeting adjourned at 8:35 PM. The next regular scheduled meeting of the Planning Board is Tuesday, February 10, 2009, 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.