



Town of Hopkinton

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HOPKINTON PLANNING BOARD MINUTES OCTOBER 8, 2013

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting of Tuesday, October 8, 2013, beginning at 6:30 PM in the Hopkinton Town Hall. Members present: Vice Chairman Timothy Britain, Ex-Officio George Langwasser, Celeste Hemingson, Michael Wilkey, Edwin Taylor and Alternates Cettie Connolly and Rich Steele. Member(s) absent: Jane Bradstreet.

Due to the absence of Mrs. Bradstreet, Mrs. Connolly was designated as a voting member.

I. Review of the Minutes and Notice of Decision of September 10, 2013.

Mrs. Hemingson, seconded by Mr. Wilkey, moved to approve the Minutes of September 10, 2013 as presented. Motion carried unanimously (Connelly, Langwasser, Britain, Hemingson, Taylor, Wilkey and Ellsworth).

Mrs. Hemingson, seconded by Mrs. Connelly, moved to approve the Notice of Decision of September 10, 2013 as presented. Motion carried unanimously (Connelly, Langwasser, Britain, Hemingson, Taylor, Wilkey and Ellsworth).

- II. **Conceptual(s).** Jen McCourt of McCourt Engineering addressed the Planning Board on behalf of Chalk Pond Investments, Inc. to present conceptual plans of a proposed 60' x 20' hammerhead turn-around to be deeded to the Town as an option to Chalk Pond Investments on-going application (#2013-13) for a two lot subdivision and road construction, located off Pleasant Pond Road. Option 1 had shown the turn-around to be located at the centerline of the roadway that had been originally designed as part of the on-going application. Option 2 had shown the turn-around proposed at the Hopkinton/Warner Town Line and a redesign of the configuration of both Hopkinton and Warner lots. Ms. McCourt's preference was Option 1 as she believed the design could be accomplished without any waivers or variances for any potential future road in that location. While to construct a future road utilizing Option 2, located at the east end of the property adjacent to the town line, will require a variance from Hopkinton for the front yard setback of the existing residence and a waiver from the Warner Planning Board for any future road profile's "K" value.

Ms. McCourt explained that prior to actually filing Chalk Pond's application for subdivision she had spoken with Planning Director Karen Robertson about constructing the hammerhead turn-around as part of an easement to the Town. At the time, Mrs. Robertson indicated that frontage easements were not permitted; however, after further review she did determine that there were situations in which similar turn-arounds have been deeded to the

Town, rather than given by easement. She had suggested that a turn-around rather than the construction of 330 feet of road would be less maintenance for the Town and would address any concerns as to which Town, Warner or Hopkinton, would provide that maintenance as the turn-around would be located in Hopkinton. Again, Ms. McCourt noted that it was her original intent to propose a short hammerhead road to provide legal frontage and access to the Warner lot allowing Chalk Pond Investments to sell off the existing residence.

At this time, a majority of the Planning Board expressed concern with the overall design and intent of the proposed subdivision (#2013-13), suggesting that the issue isn't only the design of the proposed roadway, but rather the condition of Pleasant Pond Road and whether it could withstand any future development.

Christian Hartshorn of Chalk Pond Investments addressed the Board questioning whether Mr. Taylor was suggesting that no further development along Pleasant Pond Road should be allowed, including the one additional lot that Chalk Pond Investment's is proposing. In response, Mr. Taylor expressed concern with the condition of Pleasant Pond Road and the lack of right-of-way to improve the road now or in the future. Mr. Hartshorn responded by saying that any future subdivision of the Warner lot would be required to come back before the Hopkinton Planning Board as the access would be from Hopkinton. Depending upon the design, Hopkinton would have the ability to address concerns at those meetings.

Mrs. Robertson noted that Ms. McCourt is before the Board as a conceptual asking for an opinion as to which of the three road designs the Board would prefer. Mr. Britain responded that Options 1 and 2 do not have sufficient road frontage as they do not meet Hopkinton's 300 foot requirement. There was brief discussion as to whether the lot having frontage in Hopkinton and acreage in Warner would be required to meet Hopkinton or Warner's frontage requirements. Mr. Britain explained that while the frontage is in Hopkinton, the lot needs to meet Hopkinton's frontage requirement.

Mr. Wilkey expressed concern that the plans were an effort to circumvent the law with respect to developments that straddle town lines. For example, Options 1 and 2 do not have adequate road frontage for the Warner lot. Ms. McCourt disagreed, suggesting that the options presented were intended to show that the owner's willingness to not construct a complete road for access to one residential lot. She noted that the owner's interest is to sell off the minimum acreage with the existing house; however, due to insufficient acreage to subdivide the owner had to present a design so that the frontage of the remaining acreage would be from a new road.

Mr. Britain indicated that the Planning Board needs to take into consideration a memorandum from the Highway Superintendent in which he informs the Board that Pleasant Pond Road is narrow, gravel and in poor condition and therefore does not recommend approval of the subdivision. Based on the comments and recommendation of the Highway Superintendent, Mr. Britain believed that Town's road is unable to support the subdivision and therefore the subdivision is "scattered and premature".

At the recommendation of Mr. Britain, the Board agreed that it is necessary to meet with their attorney to discuss the application (#2013-13). Ms. Robertson will coordinate an attorney/client meeting, prior to the Board's November 12th meeting.

Ms. McCourt questioned whether she should reapply based on the design options presented. Chairman Ellsworth suggested that it would not be necessary at this time.

Mrs. Robertson suggested that the Board may need to obtain an extension from the Applicant or from the Select Board, prior to the next scheduled meeting. Following brief discussion, Christian Hartshorn granted the extension in good faith.

III. Application(s).

#2013-13 Chalk Pond Investments, LLC. Application for a two lot subdivision of property owned by Christian Hartshorn of Chalk Pond Investments, LLC, located off Pleasant Pond Road in the Towns of Hopkinton and Warner. The property consists of 97.4 acres with 1.0 acres and road frontage in Hopkinton and 96.4 acres in Warner. The proposal is to create a 2.75 acre parcel with .69 acres located in Hopkinton and 2.06 acres in Warner, and to construct 330 feet of Town road to be used as frontage for the remaining 94.16 acres in Warner. The property located in Hopkinton contains an existing residence and is in the R-3 district, shown on Tax Map 206 as Lot 21. The property located in Warner is land-only and is in the R-2 and OR-1 districts, shown on Tax Map 3 as Lot 22. Note: This is a continuation of the Planning Board's September 10, 2013 hearing.

At the request of Jen McCourt of McCourt Engineering, Mr. Britain, seconded by Mrs. Hemingson, moved to continue review of the application to the Planning Board's November 12, 2013 hearing.

At this point in time, the Hopkinton Planning Board decided that it would not be beneficial to meet with the Warner Planning Board as was scheduled for October 23, 2013. A joint meeting will be considered at a future date.

#2013-14 New Cingular Wireless PCS, LLC ("AT&T"). Attorney Adam Kurth of Anderson & Kreiger addressed the Planning Board on behalf of New Cingular Wireless PCS, LLC ("AT&T") for a Conditional Use Permit and Site plan Review to erect a one hundred foot (100') monopine and associated equipment on property owned by Frank & Lois Mrozek, located at 88 Little Frost Road in the R-4 district, shown on Tax Map 237 as Lot 45. A public hearing may immediately follow if the application is accepted as complete.

Attorney Kurth began by introducing Site Acquisition Agent Peter Marchant of KJK Wireless and RF Specialist Ernesto Chua, Jr. AT&T's application for Conditional Use Permit is pursuant to Section 3.10.4(a) and (ii) Site Plan Review is pursuant to Section 3.10.7(a) of the Zoning Ordinance, along with Section 3.1 of the Site Plan Review Regulations and NH RSA 674:43-44. Pursuant to Section 3.10.8(a) of the Zoning Ordinance waivers from certain requirements have been requested.

Attorney Kurth reiterated the fact that the proposal is to erect a one hundred foot (100') monopine telecommunications tower and facility. The tower and facility will be located within a fenced compound of approximately 50' x 50' on approximately 55 acres that has extensive tree cover. The compound will be able to accommodate two other carriers. "AT & T proposes to install twelve (12) panel antennas that measure approximately 96" x 12" x 6" each at a centerline of ninety six (96) feet on the proposed monopine tower." The proposed installation will comply with all applicable safety codes, including radio frequency emissions.

The proposed installation will enable users, police, fire, Hopkinton's businesses and residents in the area of Little Frost Road, I-89 and Rte. 202/9, to access AT&T's digital system thereby improving transmission and reception.

Pursuant to Section 3.10.8, AT&T requested waivers from the following provisions of the Zoning Ordinance:

1. Section 3.10.6(b)(1) General (Height Limitation) – Requires a PWSF not to exceed 90 feet in height. AT&T is requesting 100 feet.
2. Section 3.10.6(b)(2) PWSFs in Wooded Areas – Requires a PWSF not to project higher than 20 feet above the average height of tree canopy within 50 feet. The average tree canopy is approximately 58 feet.
3. Section 3.10.6(d) Easements or Leased Areas – Requires an area equal to an area with a radius of 125% of the tower's height plus additional area for accessory structures and access. AT&T is leasing a 100' x 100' area on 55.2 acres with the closest property line being a distance of 184 feet.

Waiver justifications were outlined in Tab 2 of AT&T's application.

Peter Marchant addressed the Planning Board to review the site plan, indicating that the visual impact of the facility will be minimal as the facility will blend in with the existing natural vegetation that is on the property. Approximately 800 feet of the access drive already exists as it is used by the property owner as a woods road. However, the existing bridge along the woods road that is used to cross a wetland area on the property may need to be replaced. AT&T is working with their wetland scientist to determine to what extent the bridge replacement will be necessary. The profile for the remaining 200 feet of driveway to be constructed was included with the application.

Mr. Marchant reiterated that due to the topography of the area the lowest point in which AT&T could locate its antennae would be at 100 feet. That being said, Attorney Kurth readdressed the Board presenting the radio frequency maps showing coverage of areas in structures, vehicles, outdoors and those areas in which there is currently marginal to no coverage. AT&T believes that the proposed facility will address those areas with marginal coverage, along portions of I-89, Route 202/9, Little Frost Road, and some of the surrounding areas. In searching for an acceptable site, Attorney Kurth explained how AT&T had used propagation software to determine those areas in which coverage could be gained. Included in the search were sites of existing towers; however, in most cases there was no

availability for colocation or the height available was insufficient in addressing AT&T's proposed coverage.

In reviewing the site data used to generate the radio frequency coverage maps, Chairman Ellsworth inquired as to the actual size of AT&T's target area that will be addressed by the proposed facility. Mr. Chau estimated a size of 1-1/2 miles encompassing I-89, Route 202/9, Little Frost Road and areas in other towns that AT&T doesn't currently provide coverage.

Motion made by Mr. Wilkey, seconded by Mrs. Hemingson, to accept Application #2013-14 for consideration. Motion carried unanimously (Connelly, Langwasser, Britain, Hemingson, Taylor, Wilkey and Ellsworth).

Chairman Ellsworth immediately opened and closed the public hearing as there were no members of the audience wishing to offer public testimony.

Mr. Wilkey requested mapping showing the coverage available to AT&T if the tower were limited to 90 feet. He wanted to see the incremental different in coverage of 10 feet in height. Chairman Ellsworth concurred, but suggested that the actual height allowed is 20 feet above the average tree canopy of 58 feet. Therefore, the maximum height of the tower should not exceed 78 feet. Attorney Kurth agreed, but suggested that at 100 feet AT&T's coverage is barely able to cover the other side of I-89. He reiterated the fact that the topography of the area dictates AT&T's need for the tower to be a minimum of 100 feet.

Mrs. Robertson inquired as to whether the total height of the tower was from grade to cap or whether it included the branches or any other structure to be located at the top. In response, Mr. Marchant stated that the height proposed to the cap is 100 feet. The branches that extend beyond that point were not included in the calculation. Mr. Marchant agreed to confirm the height and provide the information at a later meeting.

Mr. Langwasser informed the Board that Mr. Marchant had approached the Town to erect a cell tower off Old Putney Hill Road, which is one of the highest points in the Town. After contentious debate and opposition of residents in the area, the Select Board decided that the location would not be appropriate. Mr. Langwasser believed that the site now proposed, off Little Frost Road, is significantly lower thereby providing constraints as to the amount of coverage AT&T is able to provide to its customers.

Mrs. Connelly questioned the specific area along I-89 that would be addressed by the proposed facility. In response, Mr. Chau indicated that the areas near Exit 5 would be addressed. Attorney Kurth suggested that they would confirm the information and get back to the Board at a later meeting.

Mrs. Robertson questioned whether all of the cables will be located within the pole of the monopine. Mr. Marchant replied yes. Mrs. Robertson also noted that typically the Planning Board requires the branches of the monopine to begin at 30 feet above the base of the tower; the branches of the monopine are to extend beyond the antennae and vary in length; and that the antennae be painted green.

At this time, the Board worked with Mr. Marchant in scheduling a balloon test for 90 and 100 feet on Saturday November 2nd from 8:30 AM to 1:30 PM with an alternative date of Sunday, November 3rd from 8:30 AM – 1:30 PM. Notice of the test will be sent by regular mail to the abutters.

In considering stealth technology, Mrs. Hemingson asked Mr. Marchant to provide the Planning Board with the height of the First Congregational Church from grade to the top of the steeple. In doing so, the Board can consider whether a design of steeple, rather than a monopine, would be appropriate for the area. Mr. Marchant will provide the information at a later meeting.

Motion made by Mr. Britain, seconded by Mr. Wilkey, to continue Application #2013-14 to the November 12, 2013 meeting, so to allow the Applicant to provide the following:

1. Clarification of coverage along I-89;
2. Radio Frequency maps for coverage at 78 feet and 90 feet;
3. Confirmation of the tower height, including the tree cap;
4. Map at a larger scale showing the coverage area existing and proposed at 78 feet and 100 feet;
5. Height of First Congregational Church from grade to steeple, and
6. Balloon test (view shed analysis and photo simulation).

Motion carried unanimously (Connelly, Langwasser, Britain, Hemingson, Taylor, Wilkey and Ellsworth).

IV. Other Business.

Notice of Voluntary Merger – Sauer Contoocook Realty Trust. Merger of two pre-existing lots, in accordance with the provisions of NH RSA 674:30-a, located off Camp Merrimac Road in the R-2 district, Tax Map 203, Lots 3 and 4. **Motion made by Mr. Britain, seconded by Mrs. Hemingson, to approve the merger as submitted. Motion carried unanimously (Connelly, Langwasser, Britain, Hemingson, Taylor, Wilkey and Ellsworth).**

V. Adjournment. With no other business to come before the Board, Chairman Ellsworth declared the meeting adjourned at 9:05 PM. The next regular scheduled meeting of the Planning Board is Tuesday, November 12, 2013, at 6:30 PM in the Town Hall.

Karen L. Robertson
Planning Director

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Planning 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.