



# Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • [www.hopkinton-nh.gov](http://www.hopkinton-nh.gov)

Tel: 603 746-3170

Fax: 603 746-2952

## HOPKINTON PLANNING BOARD MINUTES JANUARY 12, 2016

Chairman Bruce Ellsworth opened the Hopkinton Planning Board meeting of Tuesday, January 12, 2016, beginning at 6:30 PM in the Hopkinton Town Hall. Members present: Chairman Bruce Ellsworth, Vice Chairman Michael Wilkey, Ex-Officio James O'Brien, Cettie Connolly, Celeste Hemingson, and Alternates Clarke Kidder and James Fredyma. Members absent: Timothy Britain, Jane Bradstreet and Alternate Richard Steele. Staff present: Planning Director Karen Robertson.

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Chairman Ellsworth declared a quorum present.

### **I. Review of the Minutes and Notice of Decision of December 8, 2015.**

Review of the Minutes and Notice of Decision was deferred to the February 17, 2016 meeting.

### **II. Conceptual Consultations.**

There were no conceptual consultations.

### **III. Applications.** (*Public hearing will immediately follow if the application(s) is/are accepted as complete.*)

At the recommendation of Chairman Ellsworth, the Planning Board reviewed the applications out-of-order.

- 1. Lot line Adjustment Application #2016-01**, Arthur F. Siciliano on behalf of Gary Rondeau and Deborah Samodai, located at 392 and 432 East Penacook Road, Tax Map 243, Lots 25 and 26, R-4 District.

Tom Carr, in place of Mr. Siciliano and on behalf of Mr. Rondeau and Mrs. Samodai, addressed the Planning Board explaining that the purpose of the lot line adjustment is to adjust the lot line between Lots 25 and 26, so that the existing sheds and portion of the property that they are located on are joined to Mr. Rondeau's property. Currently, the two (2) sheds are on the adjacent property, which Mr. Rondeau and his sister, Mrs. Samodai, intend to sell.

In reviewing the plan, Mr. Carr noted that an address correction is necessary on the final plan.

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*Adopted: 03/02/2016.*

Mr. Wilkey, seconded by Mrs. Connolly, moved to **ACCEPT** application #2016-1 as complete and for consideration. Motion carried unanimously in favor (O'Brien, Connolly, Hemingson, Kidder, Fredyma and Wilkey).

Chairman Ellsworth opened and closed the public hearing portion of the meeting as there was no public comment.

Mr. Wilkey, seconded by Mrs. Connolly, moved to **APPROVE** application #2016-1 as presented with a correction to the address as noted by the Applicant's representative. Motion carried unanimously in favor (O'Brien, Connolly, Hemingson, Kidder, Fredyma and Wilkey).

2. **Site Plan Review/Conditional Use Permit Application #2015-12**, New Cingular Wireless PCS, LLS d/b/a AT&T Mobility and American Tower Corporation, located at 72 Emerson Hill Road, Tax Map 218, Lot 12, R-3 District – Continuation of the November 10th and December 8th hearings. The applicant is proposing a wireless telecommunications facility to include a mono-pine telecommunications tower and related equipment shelter within a fenced-in compound on leased land owned by Stonynook Farm.

Matthew Burke of Tower Resource Management, Inc. addressed the Board on behalf of AT & T Mobility and American Tower Corporation. Mr. Burke reiterated from previous meetings the need for a waiver from the height restriction as the maximum height allowed is 90' or 20' above the average tree canopy (§3.10.6.b, §3.10.9). The tower being proposed is 115' in height, AT&T's antennae will be at 110' and the branches will reach 115'.

Discussion ensued concerning the balloon test that had occurred on Saturday, December 26, 2015. In reviewing the photographs of the balloons at a centerline height of 95' and 106', along with photo simulations of the actual mono-pine, the majority of the Board believed that the tower should be camouflaged as a mono-pine, rather than the tower being constructed as a mono-pole. At this time, members discussed what they had seen at various places when the balloon test had occurred.

Discussion ensued concerning section 3.10.6.d of the Zoning Ordinance, requiring a minimum easement or leased area "equal to an area having a radius of 125% of the tower's height plus additional area for accessory structures and access". While the 100' x 100' proposed lease area will not be in compliance, any increase in the area may include portions of the existing farm buildings. Mr. Burke provided a map indicating the use of the two (2) buildings (pig feeding and hay storage), along with the distances from the buildings to the mono-pine. Brief discussion ensued concerning the relocation of the monopine so that it meets the required 145' setback from buildings. In response, Mr. Burke noted that due to the topography in the area, relocation of the tower would require the need to increase the height in order to make up for the difference in the elevation.

Mr. Kidder asked if the property owner had any objections to the two (2) farm buildings being within the fall-zone of the tower. Mr. Burke replied no. Mr. Kidder did not object to the proposal, noting that if the waiver involved an adjacent property owner then he would have concerns.

Mrs. Hemingson expressed concerns with the proposed location of the tower, noting that it is in open field. She explained the intent of the Ordinance is to require that towers be camouflaged, such as locating the tower in a forested area. Given the fact that the Applicant has made no effort to camouflage the tower, since it is being proposed in a field near the edge of a street, Mrs. Hemingson believed that the Applicant had not successfully addressed the criteria to be granted a Variance for the waiver.

Discussion ensued amongst the members as to the spirit and intent of the Wireless Telecommunications Ordinance, with Mrs. Hemingson, again, indicating that the intent of the Ordinance is to require towers to be camouflaged. Chairman Ellsworth concurred, but suggested that the Ordinance does not require that towers be unseen.

Mr. Burke suggested that constructing the tower at another location on the property that is at a lower elevation or constructing a shorter tower would not reduce the possibility of the Applicant coming back in the future for a second tower, as a shorter tower would reduce the number of possible carriers that could collocate.

Mr. Wilkey inquired as to whether consideration had been given to locating the tower near the existing tree line at the edge of the field. Mr. Burke replied yes, but when considering the topography, difference in elevation, and the fact that the access drive already exists, they believed the best location is where the tower is now being proposed.

Mrs. Connolly noted that, for the most part, the tower will only be seen by those people driving on Emerson Hill Road, which is a dead-end road.

Mrs. Hemingson reiterated the fact that the Applicant is requesting a waiver from the height restriction and therefore must meet the Variance criteria, which she believed that the Applicant had not done successfully. In particular, Mrs. Hemingson was not convinced that the spirit and intent of the Ordinance would not be affected by granting the waiver as the proposed location for the tower is in an open field.

Chairman Ellsworth asked members for a consensus as to whether they were in favor or opposed to limiting the tower height to 90' or 115'. In response, Mrs. Hemingson and Mr. Wilkey were in favor of limiting the height of the tower to 90'. Mrs. Connolly, Mr. O'Brien, Mr. Fredyma and Mr. Kidder were in favor of allowing a maximum height of 115'.

Mrs. Connolly asked that the record reflect her agreeing to a height of 115' was not due to the fact that she wanted to limit the potential for additional towers.

Chairman Ellsworth asked for a consensus of the Board as to whether they were in favor or opposed to allowing a leased area having a radius of less than 125% of the tower's height. All were in favor.

Mr. Kidder, seconded by Mrs. Connolly, moved to **WAIVE** the provisions of section 3.10.6.b, maximum height limitations, of the Zoning Ordinance. With six members voting, four voted in favor (O'Brien, Connolly, Kidder and Fredyma) and two voted in opposition (Hemingson and Wilkey).

Mrs. Connolly, seconded by Mr. O'Brien, moved to **WAIVE** the provisions of section 3.10.6.d, minimum leased areas, of the Zoning Ordinance. Motion carried unanimously in favor (O'Brien, Connolly, Hemingson, Kidder, Fredyma and Wilkey).

Reasons for granting waivers:

- 1) There was no evidence that surrounding property values would diminish as a result of granting the waivers. Certified notice was provided to the abutters. Public notice of the proceedings, including the balloon test, was published in the Concord Monitor. Subsequently, there was no member of the public present at the Planning Board's November 10<sup>th</sup>, December 8<sup>th</sup> and January 12<sup>th</sup> public hearings.

The elevation of the existing silo, in which AT&T's cellular equipment is currently located on, is 488 feet with the centerline of AT&T's antennae located at 85 feet. The elevation of the monopine will be 468 feet with the centerline of AT&T's antennae at 106 feet. When taking into consideration the difference in elevation, AT&T's antennae on the monopine will be located at the same height as it is currently on the silo.

- 2) There was no evidence that the public's interest will be adversely impacted as a result of the increased height of the monopine or reduced leased area. Based on the balloon test and the photo simulations presented, the monopine will be most visible from Emerson Hill Road (dead-end), I-89 northbound, Franklin Pierce Highway Bridge, and from an area along Putney Hill Road. For the most part, these areas are not heavily populated. Other locations that it may be visible are locations in which the monopine will be in the foreground or background of existing tree lines.

The increased height of the monopine tower will allow for additional coverage to the north and east of the tower, particularly places to the north of I-89, north of Exits 4 and 5. Additionally, the height of the monopine will allow for accommodation of three (3) carriers, while a shorter monopine will only accommodate two (2) carriers.

The reduction in the leased area will have no impact on the public, including abutting properties, as the minimum distance of the monopine from the property lines will be met. The impact, if any, will be to the property owner as the monopine will be less than the required distance of 145 feet to two (2) accessory farm buildings that are on the property. The owner of the property consented to the application and plans that reflect the monopine less than the required distance.

- 3) Substantial Justice: Granting the height waiver will have little to no impact on the public. In other words, the public would realize no appreciable gain from denial of the Variance.

The centerline of AT&T's antennae on the existing silo is 85 feet. The silo cannot support future equipment needs and therefore, a new monopine tower will be constructed. The centerline of AT&T's antennae on the monopine will be 106 feet, which will also allow for additional cellular coverage to the north and east of the monopine. Furthermore, the monopine will be able accommodate three (3) carriers. The difference in elevation of the silo and tower will be 20 feet.

Granting the waiver for the required leased area will have no impact on the public as the monopine will meet the setback requirements from property lines.

- 4) The spirit and intent of the Ordinance will not be broken by granting the Variance (Waiver) as it is anticipated that the monopine will not change the character of the surrounding area. A goal of the Personal Wireless Service Facilities Ordinance is to provide for reasonable opportunity for the siting of personal wireless service facilities, including their ability to provide “services to the community quickly, effectively, and efficiently.” The existing silo already contains AT&T’s cellular equipment and that equipment is currently visible from surrounding properties. The silo cannot support future equipment. Erecting the tower will provide the carrier with the opportunity to provide cellular service in areas that there is currently no coverage.

There will be a 20 foot elevation difference between the location of the tower and the surrounding properties. Due to the elevation difference, the tower should appear shorter than it actually is.

Furthermore, designing the tower using stealth technology, such as a monopine, will make the tower less obtrusive; thereby, reducing the aesthetic impact.

- 5) The height and lease requirement is not necessary in order to give full effect to the purpose of the Zoning Ordinance (health, safety, convenience, general welfare, property values, efficiency and economy) and the goals of the Personal Wireless Service Facilities Ordinance, which is to preserve the Town’s authority, provide for reasonable opportunities for siting personal wireless service facilities quickly, effectively, and efficiently, to reduce adverse impacts, and to provide for collocations. Stealth technology will be employed as the tower will be erected as a monopine with all antennae camouflaged by branches.

Again, the property is unique in that it is located at the end of a dead-end road that is at a lower elevation than surrounding properties; thus, requiring the tower to be constructed at a height that exceeds the requirements of the Ordinance in order for AT&T’s antennae to be located at the same height of that of the silo.

Mr. Kidder, seconded by Mrs. Connolly, moved to **APPROVE** application #2015-12 as presented with the following conditions:

- 1) The height of the monopine is not to exceed 115 feet;
- 2) The branches of the monopine shall begin no higher than 20 feet above the base of the tower;
- 3) All cables shall be located within the trunk of the monopine;
- 4) The trunk of the monopine shall be brown and all antennae shall be green;
- 5) Arborvitaes shall be planted along the north and east sides of the compound;
- 6) Camouflaging techniques for the monopine shall be maintained at all times, so to reduce the aesthetic impact;

- 7) Prior to issuance of the Building Permit, the Applicant shall provide the Town of Hopkinton with a non-lapsing \$50,000 bond representing the cost of removal of the monopine, antennae and associated equipment. Bond is to cover expenses for removal of the facility in the event that the facility is abandoned;
- 8) Prior to issuance of the Building Permit, the Applicant shall provide the Town of Hopkinton with proof of appropriate liability insurance with respect to the monopine, antennae and associated equipment;
- 9) Once construction is completed, the Applicant shall provide the Town of Hopkinton with an as-built plan, certified by a professional engineer, verifying the overall height – measured from the average finished grade to the highest point, including all attachments, and
- 10) All successors assume the same conditions and responsibilities, including but not limited to, bonding and liability insurance.

With six members voting, five voted in favor (O'Brien, Connolly, Wilkey, Kidder and Fredyma) and one voted in opposition (Hemingson).

#### **IV. Adjournment.**

Chairman Bruce Ellsworth declared the meeting **ADJOURNED** at 8:25 PM. The next regular scheduled meeting of the Hopkinton Planning Board is at 6:30 PM on Wednesday, February 17, 2016 at the Hopkinton Town Hall.

Karen Robertson  
Planning Director

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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.