



# Town of Hopkinton

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## HOPKINTON PLANNING BOARD NOTICE OF DECISION NOVEMBER 12, 2013

Notice is hereby given that the Hopkinton Planning Board met on **Tuesday, November 12, 2013, at 6:30 PM** in the Hopkinton Town Hall, 330 Main Street, Hopkinton, and made the following decisions:

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### I. Review of the Minutes and Notice of Decision of October 8, 2013.

**Celeste Hemingson, seconded by Cettie Connolly, moved to APPROVE the Minutes of October 8, 2013 with a correction on page five, paragraph five by changing the word “different” to “difference”. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Steele and Britain).**

**Celeste Hemingson, seconded by Cettie Connolly, moved to APPROVE the Notice of Decision of October 8, 2013 as presented. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Steele and Britain).**

### II. Application(s).

**#2013-13 Chalk Pond Investments, LLC.** Application for a two lot subdivision of property located off Pleasant Pond Road in the Towns of Hopkinton and Warner. The property consists of a total 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 being 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. This is a continuation of the October 8, 2013 hearing.

**Motion made by Jane Bradstreet, seconded by Edwin Taylor to CONTINUE application #2013-13 to the Planning Board’s December 10, 2013 meeting so to allow engineering review of the plans. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Steele and Britain).**

**#2013-14 New Cingular Wireless PCS, LLC (“AT&T”).** Application 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. This is a continuation of the October 8, 2013 hearing.

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*Approved with correction 12/10/13.*

**Request for waivers:**

1. Height Limitations (3.10.6(b)): Provision requires that a proposed facility not exceed 90 feet in height. AT&T requests a waiver from this provision as AT&T is proposing a 100 foot monopine tower for its facility.

**Motion made by Celeste Hemingson, seconded by Bruce Ellsworth, to DENY the waiver as requested. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor and Ellsworth).** Reason for denial: The Planning Board was not convinced that the difference in coverage is significant enough that it should outweigh concerns for the Zoning Ordinance. Furthermore, the Applicant was unsuccessful at satisfying the Variance criteria specifically, “spirit of the ordinance” and “hardship”.

2. Height Limitations (3.10.6(b)): Provision requires that a proposed facility not project higher than 20 feet above the average tree canopy height. AT&T is proposing a 100 foot monopine and the average tree height within 50 feet of the proposed tower is approximately 58 feet.

**Motion made by Jane Bradstreet, seconded by Cettie Connolly, to APPROVE the waiver as requested. With seven members voting, three (Bradstreet, Connolly and Langwasser) voted in favor and four (Hemingson, Taylor, Ellsworth and Britain) voted in opposition. Motion failed.** Reason for denial: The majority of the Planning Board did not believe that there is a significant difference in coverage from 78 feet to 90 feet that would justify deviating from the requirements of the Zoning Ordinance. Furthermore, the Applicant was unsuccessful at satisfying the Variance criteria specifically, “spirit of the ordinance” and “hardship”.

3. Easements of Leased Areas (3.10.6(d)): Provision requires easement or leased area have a minimum 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 has a 100’ x 100’ leased area for its proposed 100 foot monopine tower and compound.

**Motion made by Bruce Ellsworth, seconded by Celeste Hemingson, to DENY the waiver as requested. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor and Ellsworth).** Reason for denial: The Planning Board was not convinced that the additional area was not available as the parcel in question is over 55 acres. The leased area is not only intended as a fall-zone, but is also intended to protect the trees in the area from being removed at some point in the future. Furthermore, the Applicant was unsuccessful at satisfying the Variance criteria specifically, “spirit of the ordinance” and “hardship”.

**Motion made by Jane Bradstreet, seconded by Bruce Ellsworth, to CONTINUE application #2013-14 to the December 10, 2013 meeting, so to allow the Applicant an opportunity to review their proposal or to present an amended application. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Ellsworth and Britain).**

**#2013-15 H.R. Clough, Inc.** Application for Site plan Review to add a propane storage facility at property owned by Alan R. Davis Revocable Trust, located at 76 Pine Street in the VB-1 district, shown on Tax Map 101 as Lot 30.

**Motion made by Cettie Connolly, seconded by Jane Bradstreet, to ACCEPT application #2013-15 as complete and for consideration. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Steele and Britain).**

**Motion made by Celeste Hemingson, seconded by Cettie Connolly, to APPROVE application #2013-15 as presented with the condition that the Applicant provide a revised site plan showing the correct location of the fence. Motion carried unanimously (Bradstreet, Connolly, Langwasser, Hemingson, Taylor, Steele and Britain).**

### III. Other Business.

**Zoning Amendments (2014).** Planning Board briefly reviewed two provisions in the Zoning Ordinance for amendments.

1. **3.10 Personal Wireless Service Facilities.** For your review, copy of new legislation concerning Personal Wireless Service Facilities (PWSF's), effective September 22, 2013. In particular, the Law now exempts collocation on or modifications to an existing structure (tower) from review by the Planning Board unless the collocation or modifications cause a "substantial change" to the structure. A determination of the extent of change will be made through a process involving the Town issuing a building permit.

Planning Director Karen Robertson is to the Planning Board with draft changes and is to schedule a public hearing for Tuesday, December 10, 2013.

2. **3.6.H.1 Accessory buildings, such as private garage, playhouse, woodshed, greenhouse, tool shed, private swimming pool, or similar structures or additions thereto, normally associated with a residence or residential use, subject to provisions of Section IV.** At a meeting of July 1, 2013, the Select Board decided that "no building permit is required for tree houses as tree houses are a risk and as such no building permit is required; however, if a homeowner wants to build on their property it would be at his/her own risk. Further, the Planning Board is requested to review the Zoning Ordinance and make any required changes to assure that permits are not required for tree houses."

Planning Board unanimously agreed to defer this matter indefinitely.

**Subdivision Regulations (2014).** Planning Board unanimously agreed to defer the matter until sometime after March 2014.

**Capital Improvements Plan Revisions (2014).** Planning Board unanimously agreed that there is no need to meet with Town Departments. Planning Director Karen Robertson is to schedule a public hearing for December 10, 2013.

**IV. Adjournment.** With no other business to come before the Board, Vice Chairman Britain declared the meeting adjourned at 10:14 PM. The next regular scheduled meeting of the Planning Board is Tuesday, December 10, 2013, at 6:30 PM in the Town Hall.

Karen L. 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.