

**MINUTES
CHARLESTOWN PLANNING BOARD
OCTOBER 6, 2015**

SITE VISIT – 6:15 PM:

Members Present: Robert Frizzell (Chair); Sharon Francis (Vice-Chair); Steve Neill (Ex-Officio); John Bruno, Richard Lincourt, Rose Smith-Hull

Alternates Present: James Jenkins, Douglas Neill

Staff Present: David Edkins – Planning & Zoning Administrator
Regina Borden – Recording Secretary

Others Present: David Germain, Pastor Ron Nickerson, Dodie LaPlante, Keith Johnson

The Planning Board members met for a Site Visit at the Germain property located at 44 Northwest Street (Corner of Northwest St. & Huntley Ave.). They looked at the location of the trailer, tower, and guy wires. There is concern with the width of Huntley Avenue and the possibility of the guy anchors being within the Town's right-of-way as well as having adequate parking. Mr. Germain unlocked the trailer so all members could see the broadcasting equipment.

Mr. Germain reported that the Building Inspector, Mr. Jon LeClair, had done an inspection and found it met the regulations. Mr. Edkins advised that there have been no concerns expressed by the neighbors. None were present at this Site Visit. The width of the roadway is still doubtful; the width is what it was when it was laid out so there might not be a record. Ms. LaPlante mentioned that the fence had never been knocked down by snow plowing.

The members left the site at 6:27 PM.

REGULAR MEETING – 7:00 PM

Members Present: Robert Frizzell (Chair); Sharon Francis (Vice-Chair); Steve Neill (Ex-Officio), John Bruno, Richard Lincourt, Rose Smith-Hull

Alternates Present: Patricia Chaffee, James Jenkins, Douglas Neill

Staff Present: David Edkins – Planning & Zoning Administrator
Regina Borden – Recording Secretary

CALL TO ORDER & SEATING OF ALTERNATES: Mr. Frizzell called the meeting to order at 7:00 PM. He noted that meetings are tape recorded and asked that anyone wishing to speak identify themselves for the record. He pointed out that regular member, Roger Thibodeau, and alternate member, Duane Wetherby, were not present therefore he called upon alternate member, Patricia Chaffee, to sit on the Board for this meeting.

APPROVAL OF MINUTES OF SEPTEMBER 15, 2015:

Mrs. Smith-Hull moved to approve the Minutes of the September 15, 2015 meeting, as presented. Mr. Lincourt seconded the motion. With six members in favor, the minutes were approved. Ms. Chaffee abstained as she was not present at this meeting.

NORTH CHARLESTOWN UNITED METHODIST CHURCH – Sign Permit – 471 River Road – Map 210, Lot 20 – Zone E (Mixed Use): Mr. Frizzell advised that abutters do not need to be notified for Sign Permits. Ms. Chaffee asked where the sign would be on the church lawn. Brenda Ferland, representing the church, responded beside the church. Their neighbor is the Farwell School. The sign will be placed next to the common driveway that the church and school share. The church did not buy new signs; these signs were purchased many years ago by Leonard Gray but were never used. They were recently taken out of storage. The church would like to use them because they have the “United Methodist Church” on them. Before Route 12 there used to be signs on the road like this; when Route 12 was built the signs had to be taken down. The church was denied permission to put them back up by the State. They had to purchase the blue tourist signs that were quite expensive. There is a small sign at the church now however as one drives by it is difficult to read. These two signs will be back-to-back. Mr. Lincourt pointed out that there is no site sketch; there should be one for the records indicating where the sign will be on the property.

Mr. Lincourt moved to approve this Sign Permit application for the United Methodist Church pending receipt of the site sketch. Mrs. Smith-Hull seconded the motion. With seven members in favor, the motion was approved.

DAVID GERMAIN, cont'd – Low Power FM Radio Station W/ 70' Transmission Tower – 44 Northwest Street – Map 118, Lot 53 – Zone E (Mixed Use): Mr. Edkins reported that prior to this regular meeting the PB members did a site visit at the Germain property. All members were present except for Ms. Chaffee who was attending another meeting. They saw the trailer, tower and guy wires. One question at the last PB meeting was the position of the guy wire anchors relative to the right-of-way. The Town does not have any good records showing the width of Huntley Avenue therefore there are no official measurements as to whether or not the anchor is within the Town's right-of-way however the anchor is inside the fence and inside the Stop sign at the intersection of Northwest Street and Huntley Avenue.

Mr. Edkins had asked for a legal opinion as to whether or not the Town's Personal Wireless Service Facilities Ordinance which was adopted in 2001 would be applicable in this case. The Board is especially concerned with the “fall zone” of the tower. Attorney Bernie Waugh, who is affiliated with Gardner, Fulton and Waugh, the Town's attorneys, provided a legal opinion stating that “no” it does not apply in this case. This ordinance was primarily adopted for the purpose of regulating the construction of cellular towers. Copies of this opinion were included in the PB packets for this meeting. Mrs. Francis pointed out that Attorney Waugh did say that the PB can still guard against the creation of dangers to the public by applying the general standards of the Site Plan Regulations (Section 5.7.1 and 5.7.4). Responding to a statement from Mr. Jenkins, Mr. Edkins noted that the Town's regulations distinguish between buildings and

structures. Building set-backs apply to buildings but not necessarily to structures. Mr. Jenkins felt they should think about this in the future. Mr. Frizzell said at some time in the future they should add something about any tower, not just a cell tower. Mr. Bruno pointed out that under their Site Plan regulations they have the ability to evaluate safety issues of structures.

Mr. Edkins reported that Steve Neill is reviewing the FCC paperwork. He did not make individual copies for each member as there are about 50 pages however he did email copies to all members. Mr. Edkins received the following documents as requested at the last meeting:

- Certificate of Liability insurance that does name the Town as a Certificate holder with the provision that the Town be notified should the coverage ever be cancelled before the expiration date; the amount of coverage is \$1,000,000.00.
- A letter was received from Radio Communications Unlimited attesting to the structural integrity of the tower; there is a description of how it was erected and what it consists of. There is nothing on the document indicating that the person is a professional engineer and the letter does not have a stamp on it. He calls himself a Broadcast Engineer.

Mr. S. Neill questioned if this Broadcast Engineer was on-site during the construction of the tower. Pastor Ron Nickerson of the church said he was. Mr. Victor Pohle, via Skype, explained that Mr. Tim Kochis is an expert on towers so that is why he came to over-see this construction. He has set them up all over the country. Mr. Lincourt looked him up and felt while he might be experienced he is not a professional engineer. Mr. Jenkins said if they go back to the manufacturer of the tower they could get the specs but the problem is they will not warranty someone else's work so that is why they need a stamped document. Mr. Frizzell pointed out that if the tower were to fall down the insurance would cover any damages. Mr. Germain said the insurance company would cover any damages if they have a stamped document or not. Mr. Jenkins noted that if the PB approves this without a stamped engineer's approval the Town could also be liable. Pastor Nickerson felt that Mr. Kochis might have an FCC certification even without a technical degree. Pastor Nickerson used to have one but it is expired now. Mr. Lincourt would not consider FCC certification adequate. Mr. Bruno still has a problem with the anchors being so close to the road; it would not take much to take down the fence, stop sign and anchors. That affects the original integrity of the tower. The height of the tower determines how far out the guy wires have to be. What are the implications to the tower of a guy wire was taken out. Mr. Bruno has no experience with that. Mr. Jenkins feels the manufacturer would determine how far out the guy wires should go. Mr. Edkins copied the PB members with the letter he sent to Mr. Pohle after the last meeting that states the PB is looking for a letter from a licensed professional engineer and that the letter should be stamped. Mr. Lincourt stated that if they make a licensed professional engineer and a stamp a condition of the motion he would like to have a maintenance and inspection plan on the tower.

Mr. Bruno asked if there are regulations dealing with multiple uses on a single property. In this case there is a residential use and a broadcast use. Mr. Edkins responded that they cannot have more than one residential structure on the same lot but it does not say there cannot be more than one use on the same lot.

Mr. Bruno said if a motion is made there are a few conditions that he would like to propose: 1) Adequate bollards be installed around the anchors (similar to the Jiffy Mart); and 2) we have

continuing jurisdiction over any potential interference from the facility. Mr. Edkins pointed out that we have jurisdiction over land use and general safety conditions but they are usurping the authority of the FCC when they start talking about interference, etc. He is not sure they could make it stick including the jurisdictional issue but they could put it in the motion. There was discussion relative to the Federal Communications Commission (FCC) stepping in if there are complaints of interference.

Mr. Frizzell asked if any abutters were present and, if so, would they like to speak.

Ms. Lorraine Bertrand of Huntley Avenue stated that the FCC does not regulate if it bothers somebody. They had to put filters on their TV and radio. Mr. Germain asked if they are having problems with their TV now; they have been broadcasting since the last PB meeting. Ms. Bertrand said right now they do not have a problem but mentioned that a tenant has a problem with her computer and cell phone. Pastor Nickerson noted that the frequency of a cell phone is 10 times higher than their FM radio station; it should not interfere with a cell phone or computers.

Mr. Germain pointed out that some people are having problems picking up radio station 105.7 since they started broadcasting; it depends on individual radios. Pastor Nickerson noted that the FCC determines the broadcasting range that is the least interfering for each station and they give out a chart. Station 106.1 is the next station after 105.7. Their station would probably never be authorized to go to a higher power. Responding to a statement by Mrs. Francis regarding complaints, Mr. Germain said only one person has complained. Mr. Pohle explained that they are only testing at this time. Mr. Jenkins recommended that the PB stay away from this as it is an FCC problem; the Town has no jurisdiction.

Mr. Edkins asked if a local engineer would be acceptable. Mr. Bruno said it would be; they should provide a description of the specifications and stamp the letter. Mr. Lincourt felt they should certify the safety of the tower.

Pastor Nickerson asked if there are other towers in Charlestown now. Mr. Edkins replied there are towers for the Fire and Police Stations. They are free standing and anchored to the building.

Mr. Edkins summarized that the PB is looking for the following for completion of the application: 1) Bollards around the base of the guy wires; 2) letter stamped by a New Hampshire licensed professional engineer attesting to the structural integrity of the tower for ice and wind loads; and 3) the engineer should include a regular maintenance and inspection schedule.

Mr. Bruno moved to continue the Public Hearing on this application until the next meeting on October 20, 2015 at which the applicant should provide the following information for completeness. The PB is looking for bollards around the base of the guy wires to protect the anchors, a letter stamped by a New Hampshire professional engineer attesting to the structural integrity of the tower for ice and wind loads, the engineer should include a recommended maintenance and inspection schedule. Mr. Lincourt seconded the motion. With seven members in favor, the motion was approved.

TOWN OF CHARLESTOWN – 35' x 80' Pole Barn for Winter Sand Storage – 37 Southwest Street – Map 118, Lot 9 – Zone G-1 (Southwest Street): Steve Neill stepped off the PB for this agenda item due to a conflict as he is on the Selectboard and therefore technically the applicant. Mr. Edkins advised that this pole barn is for the storage of winter sand. The reason for this building is that they can put the sand up in the summer months to keep it dry to avoid it from freezing in the winter. Steve Neill advised that they mix salt with the sand therefore want to keep it under cover. It was noted that some poles are in the ground.

Mrs. Smith-Hull asked if there is enough room for the trucks to go in. Mr. S. Neill advised that this building will be closed on three sides; the opening will face the south so there will be adequate space. Mr. Edkins noted that this will have salt box style roof trusses. It does meet the set-back regulations.

Mr. Edkins pointed out that Towns are exempt from submitting applications to the PB. Mrs. Francis mentioned that if the Town does not share its plans with the PB there is the issue of ill-will on the part of the public. She asked if the Department of Environmental Services (DES) has any regulations for salt/sand storage. Mr. Edkins said towns are expected to use “Best Management Practices”. The Town currently stores uncovered sand there. Mrs. Francis asked Mr. Edkins to check on this for their information. Mr. Frizzell pointed out that the Town has always come to the PB in the past.

Mr. Lincourt moved to accept this application as complete. Mrs. Smith-Hull seconded the motion. With six members in favor, the motion was approved.

Mrs. Francis moved to grant final approval to this application for a pole barn. Mrs. Smith-Hull seconded the motion. With six members in favor, the motion was approved.

ST. PIERRE, INC. – 120' x 50' Maintenance Garage – 59 Jeffrey Road – Map 210, Lot 5 – Zone G-2 (Multi-Use): Mr. Charlie St. Pierre distributed copies of a scale drawing and passed around pictures of a building that will be similar to theirs. They have outgrown their existing maintenance garage and need more open space to work in. This will be 250-feet from the office. There will be five large doors and three smaller doors.

Mr. Lincourt felt this may not even be visible from the road. Mr. St. Pierre confirmed that it will not be. Ms. Gail Fellows, an abutter, was present but had no issues on this project.

Mr. Bruno moved to accept this application for St. Pierre, Inc. as complete. Mrs. Smith-Hull seconded the motion. With seven members in favor, the motion was approved.

Mr. Frizzell advised that this should be considered an amendment to the previously approved Site Plan for St. Pierre, Inc.

Mr. Bruno moved to grant final approval for this amendment to the previously approved Site Plan for St. Pierre, Inc. for the new maintenance garage. Ms. Chaffee seconded the motion. With seven members in favor, the motion was approved.

ADMINISTRATION & CORRESPONDENCE:

Zoning Amendment Calendar / 2016 Town Meeting: Mr. Edkins had distributed copies of the Minimum Schedule for amending the Zoning Ordinance or Building Code per RSA 675:3-4 & 40-13, VII. If anyone has Zoning Amendments they have to follow this schedule.

Dollar General Store: Mr. Bruno asked if Dollar General had responded to the enforcement issues. Mr. Edkins responded that they had not.

Towers: There was discussion about the possibility of drafting an ordinance dealing with towers prior to the next Town Meeting. Mr. Edkins was asked to see if sample ordinances could be obtained from the Town Attorney and/or the Upper Valley Lake Sunapee Regional Planning Commission.

Correspondence: There was no new correspondence to be presented at this meeting.

ADJOURNMENT:

There being no other business, Mrs. Francis moved to adjourn this meeting. Mr. Bruno seconded the motion. With seven members in favor, the meeting was adjourned at 8:23 PM.

Respectfully submitted,
Regina Borden, Recording Secretary

Minutes Filed: 10-12-15

(Note: These are unapproved Minutes. Corrections, if necessary, will be found in the Minutes of the next Planning Board meeting.)