

**MINUTES  
CHARLESTOWN PLANNING BOARD  
DECEMBER `5, 2015**

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

Alternates Present: Patricia Chaffee, James Jenkins, Doug Neill, Duane Wetherby

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 advised that the full Board is present therefore there is no need to call on alternate members.

**APPROVAL OF MINUTES OF DECEMBER 1, 2015:**

**Mr. Thibodeau moved to approve the Minutes of the December 1, 2015, meeting as presented. Mrs. Smith-Hull seconded the motion. Mr. Lincourt requested the following changes: Page 1, last paragraph, eighth line, change “gave him the license for” to “gave them the license for”. Fourth line from the bottom, change “Mr. Edkins sent them a letter” to “Mr. Edkins sent the applicant a letter”. Page 3, third paragraph, add to “Mr. Lincourt felt it should be a 6-foot fence” to “Mr. Lincourt felt it should be a 6-foot fence with anti-climate features”. At the end of that paragraph “sign” should be changed to “signs” however Mr. Edkins noted that “sign” refers to the dead end street sign at the corner of Huntley Avenue and Northwest Street. Mr. Lincourt referred to page 4, after the Drinking Water Protection Ordinance, under Policy Issues: Mr. Lincourt proposed an amendment to the Charlestown Zoning Ordinance that the conditions for Special Exceptions be made a part of the General Provisions of the Ordinance. With five members in favor, the minutes were approved as corrected. Mr. Bruno and Mrs. Smith-Hull abstained as they were not present at this meeting.**

**DAVID GERMAIN, cont’d – Low Power FM Radio Station w/70’ Transmission Tower – 44 Northwest Street – Map 118, Lot 53 – Zone E (Mixed Use):** Pastor Ron Nickerson received a letter from SCT Engineering, Mr. Stephen C. Tarbox, PE, that he gave to Mr. Edkins. Copies were distributed to the PB members. Mr. Tarbox states that “This radio antenna installation can be deemed structurally adequate provided that the repositioned helical ground anchors are installed as described in the letter”. Mr. Thibodeau felt that statement was okay as well; Mr. Tarbox references ASCE/SEI 7-05 which has been changed to ASCE 7-10. He is not worried about the wind load. The only other thing is that Mr. Tarbox has not stamped the letter. Mr. Nickerson said this came via email, Mr. Tarbox is sending a stamped original letter. Mrs. Francis referred to the third paragraph in the letter “The nominal atmospheric ice build-up is 0.75

inches; how does that relate to snow/ice storms. Mr. Thibodeau responded that ASCE 7-10 has all kinds of information for wind/snow/ice/water, etc. They run studies all around the world; they try to come up with every scenario. Mr. Thibodeau does not disagree with this. If Mr. Tarbox is putting his stamp on the letter, Mr. Thibodeau assumes he looked up the 1311 lbs however Mr. Thibodeau does not know where it came from. Mr. Bruno is concerned about the proximity of the cables to the street. What happens if they get hit? Mr. Edkins took the three Selectboard members to the site; the Selectboard has jurisdiction over the public rights-of-way. It was their consensus that they would not allow the guy wires anchors to be within the right-of-way. The Selectboard did not want to set a precedent that they would allow people to encroach into the public right-of-way. The applicant agreed to move them back a full two feet away from the road so they will be outside the right-of-way and a good deal away from the edge of the street. Mr. Germain described how the anchors are installed in the ground; cement will be poured over them. The anchors that are there now will stay but the cables will come off. The new bollard holes are already dug; tomorrow he will get pipe to drop in the holes. Mr. Germain pointed out that one guy wire is 28-inches from the original anchor toward his house and the one by the fence is 26-inches in from the original anchor. Mr. Edkins noted that the guy wires are now well inside the signs and fence. Mr. Bruno explained that if the guy wires get hit they could also pull the antenna down. Mr. Germain could pick-up the bollards tomorrow if they are required. Mr. Edkins stated that the applicants have given the PB what they asked for.

Mr. Lincourt thanked the applicant for the letter. The other issue is the radio interference. Pastor Nickerson is working with the FCC on that. The FCC will be doing further testing. Once a complaint has been made the FCC has to verify it. Mr. Edkins pointed out that the FCC has been in Town, they have been in contact with the applicant and the Police Department. The Police Chief has not received anything in writing from the FCC but they are evaluating the interference issue. That usually can be adjusted with the radio signal. Responding to a question from Mrs. Francis, Mr. Edkins replied that a copy of the original FCC approval is in the file.

Mr. Thibodeau asked about protection so people cannot climb the tower. Pastor Nickerson suggested a fence-type material wrapped up to 8-feet. Mr. Thibodeau felt it should be whatever will work to keep trespassers off the tower.

Mr. Frizzell asked if any abutters were present. There were none.

Mr. Thibodeau pointed out that it appears the tower is structurally sound, they are re-locating the guy wires, under normal circumstances the tower should not be hit. He would entertain a condition that it could be given a six-month trial period and if the FCC and Police cannot get the equipment to work the applicant would have to shut-down the operation. Mr. Bruno felt a condition could be that the radio broadcast be operated in such a manner as to not cause interference. Mr. Jenkins stated that another concern is public safety and it cannot continue to operate if it is causing interference.

**Mr. Bruno moved to accept the David Germain application as complete subject to getting the stamped letter from the engineer. Mrs. Smith-Hull seconded the motion. With seven members in favor, the motion was approved.**

**Mr. Bruno moved to grant final approval to the David Germain application subject to the following conditions:**

- **Protective bollards be installed around the guy wire anchors to prevent vehicles from striking them;**
- **Measures be taken to assure that no unauthorized individuals can climb the tower;**
- **That the radio station cannot cause interference with emergency services or other electronic communications;**
- **The PB reserves the right to re-address this approval should the interference issue not be resolved;**
- **Subject to the guy wire anchors being moved in a minimum of two-feet from their current location;**
- **Receipt of a stamped letter from the engineer, Stephen C. Tarbox, PE.**

Mr. Lincourt does not know how fast the FCC will act on the interference; he would like to see this resolved before a vote is taken. Mrs. Francis agreed. Mr. Edkins explained that is why the PB reserves the right to re-visit this approval in the future should the interference issue arise. The PB would have to hold a Public Hearing but the approval can be revoked if the applicant does not meet the conditions of their approval. Pastor Nickerson pointed out that they have been off the air but until the PB gives them approval to be on the air they cannot test their equipment. Mr. Germain mentioned they may or may not be causing the interference. According to Police Chief Connors presumably the FCC is going to issue a report on their findings. Clearly if the FCC report states that adjustments need to be made that will have to be addressed. Mr. Edkins understands the public safety aspect concerns but the PB jurisdiction over communication systems is likely pre-empted by the FCC. If there is a problem the PB can make the FCC aware of it; they have assigned an investigator. The PB does not have the authority or the expertise to make these judgments.

Mrs. Francis asked Mr. Bruno if a condition could be added to the motion that final approval is conditional upon final approval of the FCC sign-off on the interference. Mr. Edkins stated that the PB does not have the authority to impose deadlines on the FCC. Mr. Lincourt suggested that if the Police went to the site and turned on their radio and transmitter long enough for a test we would know if there was interference. Following a discussion Mr. Edkins confirmed that the applicant has been off the air since his “cease and desist” letter went to Mr. Germain; he has checked it periodically and they are not broadcasting.

Mr. Thibodeau recommended that the PB wait to vote on final approval until their next meeting but allow the applicant to turn on their broadcasting equipment to do testing. The applicant will contact the Police Chief to let him know when they are testing and then three weeks from now they will know whether to give them final approval or not. **Mr. Bruno withdrew his motion.**

**Mr. Bruno moved that the PB authorize the radio station to recommence broadcasting operations for testing purposes and that they coordinate it with the Police Chief, Fire Chief and FCC. This application will be continued until the January 5<sup>th</sup>, 2016 PB meeting. Mr. Neill seconded the motion.**

Pastor Nickerson advised that during this Christmas season he has services at four churches. He will be the one doing the testing therefore he requested that the PB continue this motion until the January 19<sup>th</sup> meeting. He is not sure how the FCC can fit this in.

**Mr. Bruno amended his motion as follows: “This application will be continued until the January 19<sup>th</sup>, 2016 PB meeting”. Mr. Neill seconded this amendment.**

Mr. Lincourt recommended amending the motion to include that the Highway Department be notified of the broadcasting. Mr. Bruno and Mr. Neill accept this amendment.

**Vote: The amended motion was approved by a unanimous vote.**

**PLANNING & POLICY ISSUES:**

**Drinking Water Protection District Ordinance:** Mr. David Duquette, Superintendent of the Water and Wastewater Department, was present. Mr. Edkins pointed out that they had talked about the necessity to amend the Drinking Water Protection District Ordinance that was adopted in 1998. He distributed copies of the GIS map that shows the district that was adopted in 1998 and folded inside is the original ordinance adopted in 1998. He also distributed the amended ordinance that Mr. Duquette and he have discussed. There are two essential changes. On page 1, under “Location”; they added a reference to the map of the new aquifer protection zone that was established by the engineers that put this project together. Unfortunately Mr. Edkins does not yet have that map. On the map that was handed-out there is the Clay Brook area and the Bull Run area. These will overlap for one big area rather than two individual ones. Mr. Duquette has been working on the well project for almost three years. Mr. Edkins noted that the other significant change is that, because the area has increased so much and with so many existing uses in potential nonconformity, they have taken some of the uses that used to be prohibited in this ordinance and made them conditional uses that the PB would have to evaluate on a case-by-case basis with the advice and consent of the Water Superintendent. The reason for that is because it is not required by State Statute or by the DES that those uses be prohibited in that zone but they have to be regulated in that zone; Mr. Duquette will have to do inspections of those uses. They are still prohibiting the discharge of waste and the high risk uses that might contaminate the water. The language they added to the original ordinance is in “bold, italic-type, underlined” and the language they deleted is shown with a “strike through”. This has to go to a Town Meeting vote and the PB needs to hold at least one Public Hearing on the ordinance; it could be held on January 5<sup>th</sup>, 2016 and there would be enough time to hold a second Public Hearing if necessary at the January 19<sup>th</sup>, 2016 meeting.

Mrs. Francis had an editorial change on page 4; Mr. Edkins agreed that 2-B “the use will discharge no wastewater on site other than to State approved wastewater disposal systems” should come out. Mr. Thibodeau noted that “all conditional uses” should be (d) instead of (3). Mrs. Francis questioned if there will be a way of informing residents of this and will this ordinance need to be complied with existing users or only new users. Mr. Duquette has a program that he implemented. The only existing user being added is Beaudry Enterprises; he will be notified tomorrow plus being notified by letter by January 7<sup>th</sup>, 2016. He has time to comply with the “Best Management Practices” outline. When he does the inspection 90% of it should be in the plan. Mr. Edkins said Mr. Duquette will have to do that regardless of whether or

not this ordinance passes because that is a condition placed on him by the permit for the well. This ordinance just gives the Department a little more legal backing. Mr. Duquette is required to send letters to all the users in the newly expanded district that have a potential for contamination but they felt it best to talk to these users before they get the letter.

Mrs. Francis asked what happened with any user who cannot meet compliance; what are the recourses? Mr. Duquette does a survey and writes up a report with copies for the State and PB; they get a certain amount of time to come into compliance or come up with a good explanation as to why he cannot come into compliance. At that time Mr. Duquette would do another inspection, make recommendations and see what remedies they can come up with. There are provisions in the State regulations for that.

Mr. Thibodeau said Section 9.4.B it should say “*New Hampshire* professional licensed engineer”. Other sections should read the same way. Mr. Edkins pointed out that more than 100 properties will be affected by this so he does not have to send out individual notices to each individual property owner but he is waiting to see the final map from VHB. Mr. Duquette will be sending letters to each and every property owner in those new and old areas after everything has been approved; he will be warning them that any potential contaminants they have that exceed a typical household volume will need to follow these regulations and that includes heating oil. There will also be a State pamphlet on “How To”. He has deadlines to meet. Mr. Edkins pointed out that this ordinance is a safeguard but the State is not requiring us to do it.

Mr. Duquette advised that they did a flow test on the new well. When they drilled it produced 1,200/gallons a minute; he had asked for a permit for 700/gallons a minute. They are now permitted for 1.5 million gallons of water a day out of that well. We now use 350 to 380 gallons per day. He does see major problems coming up with North Charlestown’s water. The regulations are getting tighter on arsenic, manganese, etc. They would need to put in a treatment system. It is possible they could connect the two systems in the future.

There was discussion on outside heating oil tanks. Mr. Duquette said people think they can put a system outside but that is soon changing with double wall tanks. Mr. Neill advised that eventually mobile homes with an outside tank will have to be stabilized. Mr. Duquette noted that some of them are grandfathered in but he will have to go in to make sure they are stable. Mr. Thibodeau thought strapping could be used to make the tanks more stable.

Mr. Bruno asked if the amended ordinance is not approved do we still have the old ordinance. Mr. Edkins responded “yes” but people have to comply with the DES regulations. Mrs. Francis likes this approach and the way it is integrated with the DES and State. Mr. Duquette mentioned that if any PB members would like to see the maps, letters or brochure that will be going out they are available. Mr. Edkins stated that the Water Conservation Plan requires them to make sure no water is being wasted.

**Preliminary Consultation:** Mr. Craig Wilson was looking for advice on how to best subdivide a 54 acre parcel in South Charlestown to settle a family estate. The PB members looked at the survey map he displayed and explained how they would like to subdivide it to enable a brother to continue operating his business. There is an existing house lot. Several options were explored.

**Proposed Amendment to Charlestown Zoning Ordinance:** Mr. Lincourt proposed the following amendment:

Amend Section 8.4 General Provisions by inserting the following as paragraph 8.4.3 and renumbering subsequent paragraphs accordingly.

“8.4.3 – No use shall be permitted which could cause any undue hazard to health, safety or property values or which is offensive to the public because of noise, vibration, dust, particulate matter, radiation, excessive traffic, unsanitary conditions, noxious odor, smoke or other similar reasons.”

Mr. Edkins advised that this will be a Public Hearing at the next meeting on January 5<sup>th</sup>, 2016. Zoning changes have to go before the Town Meeting.

**New Hampshire Electric Coop:** Mr. Edkins had a request from the NH Electric Coop to cut down 22 trees on the Meany Road which is a scenic road. This is a long stretch of road from Breakneck Hill to the Langdon Town line. The Coop submitted a map. All trees are marked. Many are dead or badly damaged. The PB has to hold a Public Hearing on this. Notice of the Hearing must be published twice. Mr. Edkins will find out how they are marked. Site visits will be done by members on an individual basis.

**ADMINISTRATION & CORRESPONDENCE:**

**Dollar General:** Copies of Mr. Edkins letter regarding the Dollar General store were enclosed in the PB packets. He has received several of the documents requested. The portable signs are gone. We are making progress.

**ADJOURNMENT:**

**There being no other business, Mrs. Smith-Hull moved to adjourn this meeting. Mr. Thibodeau seconded the motion. With all in favor, the meeting was adjourned at 8:55 PM.**

Respectfully submitted,  
Regina Borden, Recording Secretary

Minutes Filed: 12-28-15

(**Note:** These are unapproved Minutes. Any corrections will be found in the Minutes of the January 5, 2016, Planning Board meeting.)