



OFFICE OF THE
PLANNING BOARD
TOWN HALL, 511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 FAX (978) 649-8893
planning@dunstable-ma.gov

Planning Board Minutes Monday, July 21, 2014

Approved: August 4, 2014

Meeting was called to order by Chair, Joan Simmons at 7:32pm.
Members present: Joe VLcek, Brett Rock, George Basbanes and Joshua Kelly
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

ANR – 158 Forest Street/285 Main Street – Miller

Jeff Hannaford from Norse Design was in attendance representing the Millers. He explained that this ANR had been before the Board in October of 2013. Jeff Rider's only comment at the time was that the wetland area needed to be shown on the plan. Jeff Hannaford made the revision. George made a motion to endorse the ANR titled "Plan of Land 285 Main Street for Timothy I & Deborah P. Miller dated October 11, 2013 with a revision date of November 18, 2013, Job No. 4777, Plan No. A-110. Brett 2nd the motion. – Motion passed unanimously.

Building Permit – 33 Massapoag Way – Dan McGonigle

Mr. McGonigle presented a Building Permit for 33 Massapoag Way. This lot was approved through the ANR process in 2009. Joe made a motion to sign the permit. Brett 2nd the motion. – Motion passed unanimously.

Special Permit – Verizon Wireless Communications Facility – 516 Main St.

In attendance for Verizon Wireless: Greg Costello, Earl W. Duval, Al Flint and Dana Metzler (church). In attendance for Planning Board: Jeff Rider-Town Engineer Joan Simmons opened the Special Permit hearing at 7:44pm under Section 21 of the Town of Dunstable Zoning Bylaw (Commercial Telecommunications Towers). The attorney for Verizon explained that his client is seeking a special permit to install and operate a wireless communications facility at 516 Main Street (church) as well as approval of waivers. This installation will consist of adding three (3) antennas flush mounted and a small GPS antenna on the steeple, an equipment room (10'-6" x 10'-9") on the lower level of the building (not visible from exterior) and a natural gas powered emergency generator to the rear of the Building.

Joe asked if the equipment could be located inside the steeple and was told that because of the bell there was not enough room.

George asked about the closest Verizon equipment and was told it was 1.9 miles away.



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Joe brought up using existing utility poles for the equipment but the height, access to poles and lack of fiber infrastructure were all deterrents for Verizon.

Josh asked if the church was agreeable to the application. Dana Metzler stated that they were in full support.

The Board reviewed Jeff Rider's letter dated June 18, 2014 and asked Mr. Rider if he had any additional comments. He did not.

No one in attendance had any comments or questions and no letters were received from the Town of Dunstable Boards or Commissions.

George made a motion to close the public hearing. Joe 2nd the motion. – Motion passed unanimously.

Joshua Kelly –yes to close hearing

Brett Rock –yes to close hearing

George Basbanes –yes to close hearing

Joe VLcek –yes to close hearing

Joan Simmons –yes to close hearing

Following the hearing, the Planning Board made the following specific findings regarding the land in question and the proposed use.

- a) Above mentioned use met the provisions listed in the Zoning Bylaw, Section 21 with regard to **location, height and site requirements of the Town of Dunstable Zoning Bylaw and Rules and Regulations of the Dunstable Planning Board.**
- b) The proposed construction or use is consistent with the general purposes of the Zoning By-Law. **Property is residentially zoned that is used for an institutional use that currently includes wireless equipment of another service provider within the overlay district known as the Tower Overlay District.**
- c) The proposed construction or use will not impair the integrity of the district and adjoining districts. **The existing structure contains equipment of another wireless service provider; this proposal protects aesthetics and minimizes the adverse impacts on residents of Dunstable.**
- d) The proposed construction or use will not be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town. **The equipment will be designed in compliance with all applicable federal and**



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state regulations, including regulations governing radio frequency emissions and rules and regulations promulgated by the Federal Communications Commission.

- e) The proposed construction or use will not be detrimental to the value of nearby property. **The equipment will be sited and designed in a manner that minimizes its visibility from neighboring residences and streets.**

Waivers:

The following waivers were requested from the Rules and Regulations Governing Site Plans due to existing site conditions and limited nature of installation.

Section 3.02: Waiver requested from submitting three (3) sets of drainage calculations.

Section 3.03 : Waiver requested from submitting a minimum of ten (10) sets of plans, six (6) types of plans shall be included in the plan set showing; site layout, grading, drainage and utilities, landscaping, locus, lighting and detail.

Section 3.04: Waiver requested from submitting a traffic report.

Section 3.06: Waiver requested from submitting copies of all variances and Special Permits issued for the site or any property within 300 feet.

Josh made a motion to approve all of the waivers listed above. Brett 2nd the motion. – Motion passed unanimously.

Joshua Kelly – yes to approve waivers

Brett Rock – yes to approve waivers

George Basbanes – yes to approve waivers

Joe VLcek – yes to approve waivers

Joan Simmons – yes to approve waivers

Josh made a motion to grant the Special Permit for Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless for the installation of a wireless facility at 516 Main Street with approved waivers and findings of the Board.

Brett 2nd the motion. – Motion passed unanimously.

Joshua Kelly–yes to grant Special Permit

Brett Rock–yes to grant Special Permit

George Basbanes–yes to grant Special Permit

Joe VLcek–yes to grant Special Permit

Joan Simmons – yes to grant Special Permit

Plan: Verizon Wireless Evangelical Congregational Church of Dunstable Colocation on existing steeple, dated May 2, 2014 with a revision date of June 25, 2014 – Project No. 96210.210 – 5 sheets by Chappell Engineering Associates LLC



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**Special Permit/Definitive Subdivision Hearing – Loftis Dunstable LLC –
River's Edge Estates – River Street**

In attendance for Loftis: Alex Wolfram, Ting Chang (Cuoco & Cormier) and Melissa Robbins (Deschenes & Farrell). In attendance for Planning Board: Patrick Flaherty-Temporary Engineer for the town and Attorney Rich Larkin.

Chair Joan Simmons opened the joint hearing at 8:05pm with the Secretary reading the legal notice.

The Board first asked Pat Flaherty if the subdivision package was complete. Mr. Flaherty said that he had everything he needed in order to review the submittal. Joe made a motion that the Planning Board with the input of the interim Town Engineer has determined that the application for River's Edge Estates is complete. Josh 2nd the motion. – Motion passed.

Attorney Robbins spoke on behalf of the applicant explaining the history of the property with a court approved 36 lot subdivision. The new plan submitted for approval shows an open space development with a 50% decrease in lots. 192 acres in Dunstable and Pepperell will remain open space with the approximately 23 remaining acres in Dunstable reserved for the project. Attorney Robbins said that they have been working with the Massachusetts Division of Fisheries & Wildlife on the donation and purchase of the open space. The Board asked Alan Chaney of the Conservation Commission how his members felt about Fisheries & Wildlife's involvement. Alan stated that they would be happy to have Fisheries & Wildlife be the custodians of the property. He went on to say that they do a superb job maintaining land that they manage. George told Attorney Robbins that if the option was not accepted by Fisheries & Wildlife then the applicant should offer the property to the Conservation Commission or a 3rd party holder as stated in section 6.6.3(H) of the Town of Dunstable Zoning Bylaw.

Joan asked about the emergency access road. Attorney Robbins said that they have drawn on the plan an "Emergency Access Easement" which goes out onto the Nashua River Rail Trail but have since found that getting approval from the state could prove to be extremely difficult. In a letter dated July 3, 2014 from the Department of Conservation and Recreation, Commissioner John P. Murray said that the "connection to the rail trail would require an easement, necessitating Article 97 approval from the General Court...". Article 97 requires that all options have been explored with no feasible alternative existing. Attorney Robbins feels that the letter is a "soft no" from the state. When asked for his input, Attorney Larkin said that he agreed with counsel and that it was best not to proceed with an Article 97 initiative. The Board referred to



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the Fire Chief on whether he feels there is an alternate solution to an emergency access road. Chief Rich said that increasing the width of the road from the 22' on the plan to 26' would allow for safe and adequate access to the development. A 30,000 gallon cistern will be installed within 1000 feet of all lots and the landscaped island will be removed to make it easier for equipment to navigate the cul-de-sac. The Fire Chief would prefer a 28' wide road but with other streets in town being narrower, 26' was suggested with Attorney Robbins saying that she doesn't believe her client would object to that but would like to reserve the right to amend the plan if the change in road width affects the grassed swale drainage design. Joan asked Mr. Flaherty if he was comfortable with a 26' wide road. He said that he was.

Ting Chang was asked to explain the mechanics of the Low Impact Development (LID) for stormwater management. She said that the proposed development will not have underground catch basins, sidewalks, under-curb drainage or curbing. Instead there will be swales on both sides of the road and two infiltration systems which are designed for 100 year storms. The draw down time is less than 2 hours. When asked, Pat Flaherty said that that type of system is perfectly acceptable.

Lois Masiello from Pepperell addressed the Board asking where in Pepperell the property is located since she lives on the other side of the Nashua River. She was told that everyone within 300 feet of the project had to be notified even if that meant they were not a direct abutter.

Paul Hayes from 245 River Street asked how near the closest house will be to his home. Ting measured 700 feet. He also asked if the open space would ever be developed. The Board said that it would not. Mr. Hayes then asked about road acceptance. The Board told him that the project is proposed as a town accepted street, however, that is not in the jurisdiction of the Planning Board. Roads can only be accepted at a Town Meeting by the residents of the town.

Ann Gagnon from Fisheries & Wildlife was at the meeting and wanted to explain their involvement with the open space. She said that the 51.59 acres in Pepperell was originally part of a MESA mitigation. That property will be gifted to Fisheries & Wildlife. The Special Permit for an Open Space Development requires 35% (57.4 acres) to be gifted as a condition of granting the Special Permit. This too will be conveyed to Fisheries & Wildlife. The remaining property (83.01 acres) is proposed to be sold to Fisheries & Wildlife, therefore, keeping it all under one management. Joe asked if the



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Fisheries & Wildlife property will be open to the public. Ann said that it would and there would be a small parking area at the entrance.

After the discussion, Joe made a motion to simultaneously close the hearings for the Special Permit and Definitive Subdivision for River's Edge Estates. George 2nd the motion – Motion passed unanimously.

Joshua Kelly–yes to close hearing
George Basbanes–yes to close hearing
Joan Simmons–yes to close hearing

Brett Rock–yes to close hearing
Joe VLcek–yes to close hearing

Following the hearing, the Planning Board made the following specific findings regarding the land in question and the proposed use:

- a) The proposed construction or use meets the intent of Section 6.6 of the Zoning Bylaw through its efficient use of the property, and as such, is consistent with the general purposes of the Zoning Bylaw;
- b) The proposed construction consists of single family dwelling houses, which is the leading use provided for the District in the Zoning Bylaw, and reflects the existing development in the neighborhood, and thus will not impair the integrity of the district and adjoining districts;
- c) There was no indication in the plans as submitted that the proposed construction or use will be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town; nor will the proposed construction or use be detrimental to the value of nearby property. The applicant has a court approved plan showing 36 house lots, therefore, 18 house lots with 192 acres of open space would lessen the impact as well as provide additional open space;
- d) Such land is exempted from the lot area and frontage, yard and width of lot requirements of Section 11 and is in harmony with the purposes of that section;
- e) The area of the tract of land is not less than fourteen (14) acres as required for an open space development. The plan states it is a total of **215+/-** acres with 23+/- acres for residential construction and 192+/- acres of open space;
- f) The total number of building lots in the open space development will be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. Previous court approved subdivision for same parcel was for thirty-six (36) units. Eighteen (18) are now proposed;



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- g) Each of the lots shown on the plan has reasonable frontage on a way which the Planning Board deems adequate;
- h) Each lot is of a size and shape as will provide a building site which will be in harmony with the natural terrain and other features of the tract;
- i) All dwelling units are in detached buildings and there will not be more than one dwelling unit in a building;
- j) Proposed open space meets the following requirements as provided in the Zoning Bylaw: at least thirty-five (35%) percent of the land area of the tract, exclusive of land set aside for road area, will be open land, not dedicated to roads or lots; Furthermore, at least thirty-five (35%) percent of the open space is free of land unsuitable for development (as defined in Section 20 of the Zoning Bylaw) as required in Section 6.6.3.(G).

The proposed open space will be conveyed to and owned by the Massachusetts Division of Fisheries & Wildlife, a subdivision of the Commonwealth of Massachusetts, which the Board finds is a qualified grantee and meets the requirements of Section 6.6.3(H). If the property is not conveyed to the Division of Fisheries & Wildlife the applicant must refer to Section 6.6.3 of the Zoning Bylaw for a list of appropriate grantees and must inform the Planning Board in writing of the change.

- k) If open space is conveyed to the Division of Fisheries & Wildlife (DFW), a conservation restriction is not necessary, however, if other than DFW or the town are the beneficiaries of the property, a restriction enforceable by the town shall be recorded, providing that such land be kept in an open or natural state, and not be built upon for residential use or developed for accessory uses such as parking or roadway;
- l) The open space is of suitable size and shape and has adequate access from River Street to benefit the town;
- m) One written report from the Conservation Commission was submitted stating they "enthusiastically support the substance of the Low Impact Development (LID) plan as currently presented and feel that this optimal development of the property is of benefit to the town."



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Waivers:

The following waivers were requested from the Rules and Regulations Governing the Subdivision of Land in Dunstable, Massachusetts and Rules and Regulations Governing the Site Plans in Dunstable, Massachusetts.

Section III.B.2.e: Cut/Fill Calculations - waiver requested for perform cut/fill calculation for the site; *material will be transferred within project site, no material shall leave the site.*

Section IV.A.3: Street Cross Section – waiver is requested for a reduction of pavement width, planting strip and sidewalk along each side of the roadway. The proposed roadway calls for 22' wide pavement with grass swale on both sides of the roadway. No parking lane or sidewalk is proposed. *Due to discussions with Fire Chief, Planning Board and applicant, the waiver was amended so that the reduction of pavement roadway width will be increased from 22' to 26' for travel & parking with grass swale on both sides.*

Section IV.A.5: Dead-End Streets – waiver requested from the requirement of a dead-end street only serving 6 lots, maximum length of 600 ft. and from a landscaped island. *The Open Space Development calls for 18 residential lots with approximately 1,350lf of roadway. The landscaped island within the cul-de-sac will be eliminated to provide easy access for emergency vehicles.*

Section IV.B.2: Conveyance System – waiver requested for reduction of pipe size for driveway culverts for Lot 1 & 2. *A 10" HDPE culvert is proposed for Lot 1 & 2.*

Waiver requested for an increase to the side slope in the swale from 4:1 to 2:1 side slope in the right side swale from station 0+00 to station 2+50, and 3:1 at other locations.

Waiver requested for the installation of drainage manhole and catch basins within the street. *The design calls for grass swales instead of a closed drainage system.*



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Section IV.F: Utilities – waiver requested from the requirement to connect to municipal water system. *Development will be served by private wells and a 30,000 gallon cistern.*

Section V.3: Drainage – waiver requested from under-curb drainage. *The proposed roadway does not include under-curb drainage.*

Section V.4: Sidewalks – waiver requested to eliminate sidewalks along both sides of the roadway.

Section V.5: Curbing – waiver requested to eliminate granite curbs on both sides of roadway. *The proposed street calls for an open drainage system with grass swales. Due to discussions with Fire Chief, Planning Board and applicant, the waiver was amended so that granite curbing will be located only at the entrance to the subdivision.*

Waiver requested from installing street light within subdivision.

Waiver requested from Rules and Regulations Governing Site Plans: Article III:Submittal – for Landscape Plan and Lighting Plan.

Additional Waiver Requested

Ting Chang requested an additional waiver at the meeting which was to not tie into the Town Control System. *Pat Flaherty said that it would be an appropriate waiver as both the town control system and the plan use the state plan coordinate system.*

Josh made a motion to approve the requested waivers with noted changes to Section IV.A.3–Street Cross Section and Section V.5–Curbing and the addition of Town Control System waiver. Brett 2nd the motion. – Motion passed unanimously.

Joshua Kelly–yes to approve waivers

Brett Rock–yes to approve waivers

George Basbanes–yes to approve waivers

Joe VLcek–yes to approve waivers

Joan Simmons–yes to approve waivers

Brett made a motion to grant the Special Permit for Loftis Dunstable LLC to build an Open Space Development under Section 6.6 of the Town of Dunstable Zoning Bylaw with approved waivers and findings of the Board and subject to all terms and conditions discussed and agreed to at tonight's meeting. Joe 2nd the motion. Motion passed unanimously.



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Joshua Kelly–yes to grant Special Permit Brett Rock–yes to grant Special Permit
George Basbanes–yes to grant Special Permit Joe VLcek–yes to Special Permit
Joan Simmons–yes to grant Special Permit

Joe made a motion to approve the Definitive Subdivision submitted by Loftis Dunstable LLC for the subdivision River's Edge Estates, dated May 27, 2014 with approved waivers and findings of the Board and subject to all terms and conditions discussed and agreed to at tonight's meeting including the right to amend the approval if the 26' wide road requires changes to the drainage system. Review and approval from the interim Town Engineer is required for those changes. George 2nd the motion. – Motion passed unanimously.

Joshua Kelly–yes to approve subdivision Brett Rock–yes to approve subdivision
George Basbanes–yes to approve subdivision Joe VLcek–yes to approve subdivision
Joan Simmons–yes to approve subdivision

Plan Approved: River's Edge Estates OSD Definitive Subdivision – Dunstable Map 2, Block 6 & 9, Pepperell Map 16, Lot 8 – River Street for Loftis Dunstable LLC – dated May 27, 2014 prepared by Cuoco & Cormier Engineering Associates, Inc.

Building Permit – 328 Hollis Street – Ken Tully

Mr. Tully left the meeting so this will be addressed at a future meeting.

Carol Bacon – Affordable Housing

Carol came before the Planning Board to ask members to hold a hearing on proposed Zoning Changes that the Affordable Housing Committee would like to see adopted by the town. The changes will be typed and forwarded to the Board of Selectmen for review before a Public Hearing is scheduled.

Meeting Minutes of June 16, 2014

George made a motion to approve, as submitted, the minutes of the June 16th meeting. Joe 2nd the motion. – Motion passed unanimously.

Bills

Invoices for 53G accounts were signed off. The Secretary told members that the Riverview Estates inspection account was in the negative after the June 2014 site visit from Cuoco & Cormier. The last site inspection before June was in November of 2013. The Board voted to have Mr. McGovern deposit an additional \$2,500 into the account. The Secretary handed out the June Field Inspection Report to members for review.



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Payroll

One payroll slip was signed.

Community Preservation Member for Fiscal Year 2015

Brett made a motion to have George Basbanes remain as the Planning Board representative on the Community Preservation Committee. Joe 2nd the motion. – Motion passed unanimously.

Wireless Telecom Bill

The Secretary handed out Joan's letter addressed to Senator Eileen Donoghue

regarding the legislation that would override all local zoning and eliminate municipal control over the placement of wireless antenna's and equipment in Commonwealth. Joe made the following motion, "that the Planning Board directs the Chair to contact the office of Senator Donoghue to urge the senator to oppose any amendments to the laws of the Commonwealth that would exempt the co-location of wireless facilities from local regulation through ordinances, bylaws or rules and regulations." George 2nd the motion adding "or any other elected or administrative official" after the word "Donoghue". – Motion passed unanimously.

Update on Alexander Estates Subdivision Summons

The Secretary reported that there was a "Joint stipulation of voluntary dismissal with prejudice of the plaintiff's appeal" filed with the Superior Court.

Additional Topics Discussed Not Noted on the Agenda

None

George made a motion to close the meeting at 10:05pm. Joe 2nd the motion.–Motion passed unanimously.

Respectfully submitted,

Cheryl A. Mann
Secretary
Dunstable Planning Board