

Franeestown Zoning Board
Proposed Minutes
February 5, 2009

Members Present: Silas Little (Chair), Mike Jones, Lois Leavitt and Charles Pyle

Mr. Little opens the meeting at 7:30 P.M and states that Mr. McKendry has asked that the Palmer Case be continued until April so that he may have time to prepare plans. Mr. Pyle moves that the Palmer Case be continued to May 7 at 7:30 p.m., Mr. Jones seconds, all in favor.

Palmer case continued to May 7, 2009 at 7:30 p.m.

Mr. Little states that correspondence has been received from Mr. Anderson, representing AT&T, requesting a continuance until March and that a joint Planning Board and Zoning Board site walk be scheduled. Discussion on possible joint site walk, no date determined. Mr. Little moves that the case be continued to April 16 at 7:30 p.m. Mr. Jones seconds, all in favor.

AT&T case continued to April 16, 2009 at 7:30 p.m.

SBA Network Services & AT&T Wireless application for Variance, Case #09-VA-1

Sue Jonas enters and joins the Board. Mr. Little opens by noting that SBA Network Services is requesting variances from Section 3.1 to enlarge facility by more than 20% and Section 7.19.1(b) for setback of proposed tower on property located on Map 7, Lot 1 on top of Crotched Mountain. New Tower must be setback the greater of 50' or 150% of height of tower. Proposed tower height is 100'; therefore required set back would be 150'.

Mr. Springer, representing the applicant, states that SBA has a 40' tower on the property and is proposing to replace it with a 100' tower and a maintenance building. Variance is requested for an increase of greater than 20% and for setbacks – joint application by SBA and AT&T. Mr. Springer discusses the background and history of wireless carriers, and notes that every federally licensed wireless carrier has an equal opportunity to provide service. He also provides an overview of the site, the proposed new tower and new maintenance building. Tower will provide opportunity for other carriers to co-locate. Vehicular traffic will be one or two times a month for each carrier. Included with application is a summary of a FCC NEPA report, which indicates no adverse effect of the wilderness, and a SHPO covering historic preservation.

Dan Goulet, representing AT&T, shows the effect of coverage for a 100' tower and displays maps showing coverage areas.

Mr. Little questions access to the site. Road from neighboring site is to be extended. Mr. Little questions slopes by referring to contour lines on map. Mr. Pyle mentions prior case and explains that access to the site by foot was not easy. Mr. Little asks what is within 150 feet of tower and impact of potential fall zone. Mr. Springer discusses fall zone.

Mr. Springer reviews the criteria for requested variances.

Mr. Little asks about the protection of the National Geologic Survey disk. Mr. Springer notes that there are two disks and protection would be considered a part of approval. He also notes that ZBA would only approve the current case and, if any additional relief were needed, the applicant would have to comeback for additional approvals. Mr. Pyle asks for clarification that new maintenance shed will not be closer to lot line. Mr. Springer says this is correct. Current sheds will remain. Mrs. Jonas asks if another carrier wants to co-locate would they want there own shed. Mr. Springer responds yes, but they would need there own approval.

Bob Lindgren, identifying himself as the closest private abutter with land located in neighboring Bennington, asks why the current 40' tower would not be enough. He also notes the

visual impact of a 100' tower on the entire community. He asks about the impact of 100' tower and suggests a balloon test. Mr. Springer responds that three companies will be using the one tower, hence the need for the additional height. Mr. Little follows by asking if there any propagation plans have been developed to show coverage at other heights. Mr. Goulet replies that he used 100 feet as the minimum height for a tower and had not prepared additional maps. He explains if height is reduced further, other carriers may need additional height elsewhere. They would have preferred 150' tower, but he was trying to propose a tower with the least impact. Less than 100' would mean loss of coverage. At 100' there is already a loss of coverage.

Mr. Springer states that application has not been filed with the Planning Board. He prefers to go to the ZBA first. Discussion of continuing hearing for additional information on coverage for different tower heights and the possible need for additional ZBA relief for a proposed road extension.

Mr. Little asks for any additional questions from those in attendance. Mr. Lewis asks about health concerns. Mr. Goulet replies that analysis shows no health concerns. Mr. Springer adds that federal law prohibits denying a tower based on health concerns. Mr. Pyle asks for clarification that there would be no risk to anyone hiking around the tower. Mr. Springer and Mr. Goulet state that the tower will be safe.

Susan Cook asks for clarification about other carriers. Mr. Springer states that other carriers would be able to use tower. They would need to apply for any necessary approvals. Board cannot unreasonably discriminate against another carrier. If denied, other carriers might be looking for their own towers. The benefit of the proposed tower would be to co-locate for other carriers. Mr. Pyle notes that another carrier would need a special exception if not located on an existing site.

Board agrees that hearing should be continued to April 16, second on the agenda.

Hearing continued to April 16, 2009

Scott Jackson application for Variance, Case #09-VA-2

Mr. Jackson is applying for a variance from Article 2-A, Section 3.3(1) for the purpose of constructing a gravel driveway over slopes in excess of 25% on property located on Map 8, Lot 68. Mr. Little begins the hearing by briefly describing the application. Scott Jackson, Tom Carr, Meridien Land Services and Chris Danforth are in attendance. Notices were sent to applicant, abutters and other interested parties.

Mr. Little asks if the applicant has gone before the Conservation Commission (ConCom), which Mr. Carr indicates he had. Zoning Board has received no correspondence from the ConCom, but Bob Lindgren, ConCom member, offers information on the ConCom's deliberations. According to Mr. Lindgren ConCom considered the proposed location of the driveway to be the best. They added two conditions for the ZBA to consider: 1) maintenance of the culverts and 2) that the driveway be gravel.

Mr. Carr shows the Board a plan for the proposed gravel driveway, including a sediment and erosion control plan that has been reviewed by Mr. Danforth. As requested by the Francetown Fire Department, Mr. Carr states that a gravel turnout has been added about half-way along the driveway and a "T" turnaround added before the house. Mr. Carr reviews the criteria for a variance.

Mr. Pyle asks if there is an alternative location for the driveway, specifically asking about a site north of the proposed driveway along Old Country Road North. Mr. Carr notes that the area is still steep with a small swale between the >25% slopes. It was considered, but not a good option. Discussion followed on culvert, level spreaders, erosion control and run-off.

Mr. Pyle questions if Board should view the site before considering the case and a discussion on a possible site walk follows. It would be difficult to see original slopes, but Mr. Carr has indicated where the original slopes were on the plans before the Board. Mrs. Leavitt states that she has heard enough information to render a decision; Mr. Jones agrees. Board determines that site walk is not necessary.

Mr. Little notes that if there is no further public information, the public hearing portion should be closed and the Board deliberate the application. Mr. Pyle so moves to close public hearing, Mr. Jones seconds, all in favor. PUBLIC HEARING IS CLOSED.

Mr. Little asks whether or not the Board believes that the applicant has met the criteria for granting a variance as specified in their application. Mrs. Leavitt, Mr. Jones and Mrs. Jonas agree that the applicant has; Mr. Pyle agrees subject to conditions. Mr. Little notes the two conditions of the ConCom: 1) culvert maintenance and 2) gravel driveway. He notes that if someone wants to pave the driveway in the future they will have to come back before the Board.

Mr. Little notes the following conditions:

- 1) Plan to be approved is substantially as presented before the Board,
- 2) Subject to Planning Board approval of driveway application,
- 3) Culverts are to be maintained,
- 4) Further relief is required by ZBA if proposal to pave driveway, and
- 5) Approval by Fire Chief (signing copy of plan would be sufficient).

Mr. Pyle notes that applicant and Mr. Carr have stipulated that the Fire Chief has requested a turnout about half-way and a turn around "T" at the house.

Mr. Pyle moves that application be accepted subject the conditions as noted by Mr. Little, Mr. Jones seconds, all in favor.

Variance for construction of driveway over slopes greater than 25% is granted.

Other Business

Board has received a letter from Baybutt Construction, concerning prior ZBA approvals at Crotched Mountain Resort, and asking that the "time clock be reset for the permits" previously granted. Discussion on prior case, which involved converting a maintenance building into a spa, adding a deck and pool to spa and moving the maintenance shed to another location. Board discussed prior case and approval. Letter does not specify what the new owners may be applying for. Board agrees that Crotched Mountain Resort should file a new formal application and show what is being proposed and where they need ZBA action.

Mr. Little also states that he has received a partial application from a Mr. Farrell Application as presented is for a special exception with no reference to the article in ordinance he is requesting relief from. Mr. Farrell has apparently constructed a building within 100' of wetlands. Mr. Little proposes that he go back to the applicant and ask him to specify the section of the ordinance and also that he may need relief from setbacks. Board agrees and Mr. Little will write Mr. Farrell.

If an application comes, March meeting will be March 12, 2009. If no application, there will be no March meeting.

Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Charles M. Pyle III
Vice Chairman