

**Franeestown Zoning Board**  
***Proposed Minutes***  
**September 9, 2009**

Members Present: Silas Little (Chair), Abigail Arnold, Sue Jonas and Charles Pyle

Mr. Little opens the meeting at 7:30 p.m., introduces himself, followed by Board member introductions. He notes that only four members are present and asks if applicant would like to continue the hearing tonight or wait until October 8 and a full Board. Applicant indicates that he would like to continue the hearing tonight.

**Public Hearing: Montgomery Application for Variances (2), property located at 1204 Pleasant Pond Road, Map 19, Lot 15.**

Application is to construct a septic system within 100' of wetlands and within 125' of mean high water: Article 2, Section A-2.6(a)(1) and Article 2, Section A-6.4(1). Shannon Monahan, septic designer, is representing the applicant.

Mr. Little reads from the application. Proposed system would meet state guidelines, but not the Town's setbacks. His belief is that the application should be for a use variance not an area variance. Board agrees and requests that the applicant amend the application for the criteria for a use variance. Mr. Little notes that notices were sent to abutters and the Conservation Commission (ConCom). He asks if ConCom has had a chance to look at application, which was only recently received by the ConCom Chair, Betsy Hardwick. A copy of the application is given to Ms. Hardwick; ConCom will meet on Monday to review.

Mr. Little asks if the Board wants to do a site walk and a brief discussion follows (*see decision on site walk later*). He asks the applicant if they want to do presentation tonight and applicant agrees. Ms Monahan presents plans to the Board. She explains that there are two lots with cottages on each owned for many years by the Montgomery family. Access for second cottage is through first lot. There are too many issues with first cottage to be able to put in a septic system. Second cottage will meet state guidelines, but not Town's. Both cottages currently use outhouses. They would share a well. Owners are elderly and lack of sanitation and running water present a hardship.

Pyle asks Monahan to describe the system. It is an envro-septic pump-up system. System will pump to leach field behind the cottage from plastic tanks and plastic pump chambers. Driveway is too narrow (8') to bring in a septic tank on a truck. Pyle asks if effluent goes from the house to tank and pumped up to field - three bars on plan. Monahan says yes.

Harry Woodbury asks for clarification on location of field: leach field is 90' from Pond and 85' from wetlands. Mr. Little asks distance from mean high water: septic tank is 75' from Pond; leach field is about 90' from mean high water. Betsy Hardwick asks for clarification on setbacks. Ms. Monahan states that because of soil type distance needs to be 75' per state guidelines.

Hearing no further questions, Mr. Little reminds applicant that they may want to supplement application for the use variance criteria before the next meeting. Board discusses a site walk - Sept 19 at 10:00 a.m. to meet at the Public Landing on Pleasant Pond Road. All agree.

**Site Walk - September 12, 2009 for a site walk at 10:00 a.m. at Pleasant Pond Road**  
**Public Hearing continued to October 8, 2009 at 7:30 p.m.**

**Continuation of Public Hearing: SBA Network Services & AT&T Wireless application for Variances (expansion of use greater than 20%, setbacks, slopes), and for a Special Exception (wetlands crossing) by SBA Network Services Case #09-VA-1**

Ms. Arnold steps down and Mr. Barbalato joins the Board. Mr. Little notes that the next case is a continuation of application by SBA properties for a variance to construct a new cell tower higher than the current one and increase the area of use. Applicant also requests a variance to construct a road across steep slopes and a special exception to cross wetlands.

Mr. Springer is representing applicant. Also in attendance are Dan Hamm, project engineer, Audré Klumb, wetlands scientist, Russ Putnam, project manager and Shannon MacMannis, project manager. Mr. Springer presents a new plan for the proposed road, color coded plan with the proposed changes. Road will no longer go where steps are; no blasting will be required - amendments are for steep slopes and a second wetlands crossing. Since July hearing, he has met with Town Counsel, Bart Mayer, ConCom members and others to address issues raised about easement. Changes being proposed are for road to go around ledge rather than straight up where wooden stairs are. Prior plan will be abandoned. Plans have been amended for a second wetlands crossing. Second bridge will not impact the wetlands and may have a stone base to lift bridge up a bit.

Four areas of road are to be addressed, labeled "A", "B", "C", and "D" on the plan. No blasting, but some fill will be needed. Fill will not be permanent and could be removed, if tower ever gets taken down. On plan the slope, both existing and proposed, and a cross section of road has been indicated - Sheet P-1; tied to sheet C-2. Area "A" is an outcropping on the existing road - small area about 9' in length with proposed fill of 20 cubic feet. Area "B" is ledge face about 5' high straight up; no way around it. Will not blast, but will fill slope of 37% slope. Area "C" is next area that will require 370 cubic feet of fill and a resulting slope of 26%. Area "D" has an existing slope of 23% with 240 cu ft of fill. 17% slope when finished. They will remove stairs, which are considered dangerous.

Dan Hamm, professional engineer, notes that the intention is to minimize fill. Fill will start with rock (12" or less) with smaller on top. Goal is to make road passable for utility vehicles. Wood chips will be added to blend road back to nature. Mr. Little asks about side slopes. Wall will be about 3'. Base will not be significantly wider than top. Hamm says there is not a lot of drainage so should not be a lot of wash when completed. Little notes that plan states paved roadway, but there is no plan to pave. Hamm agrees, just a standard note on plan. Little asks if possible to amend plan to make it clear road will not be paved; Hamm agrees. Jonas asks about slope of area "B", which Hamm clarifies. Pyle asks if area "A" is in the Town's easement. Yes.

Mr. Little asks ConCom if they have seen the new plan, which they have not. A copy is presented to Betsy Hardwick, ConCom Chairman.

Pyle asks for further clarification of crossing and proximity to wetlands. According to plan it looks like road comes within a couple of feet of wetlands; Hamm agrees.

Further discussion of area "B" runoff; Jonas asks for clarification. Hamm states that proposal would not be worse than now, since it is mostly ledge.

Polly Freeze asks if area of new road has been flagged. Discussion follows. Russ Putnam states it has not been flagged, but agrees to do so. Mr. Little asks if members of the Board wish to have a

formal site walk or go with ConCom. Board agrees to go on site walk with ConCom. ConCom will be meeting on Monday.

Pyle notes that issue from last meeting was a letter from the Fire Chief, who thought he had sent letter. In fact letter was regarding another cell tower application. Mr. Springer will contact the Fire Chief.

Bob Lindgren asks about use of road during construction and how many trips after construction. Would road be open to town. Once built about one trip per carrier. Road has been scaled back from initial proposal. New road will be passable by ATV's, bobcats and four wheel drive vehicles. Road would be gated with a Nox (sp?) box for police/fire and uninvited vehicular traffic would not be permitted. Foot traffic would continue as now. No hand rails. Hair pin turn is about 50' from ledge. Construction will take about 30 days. Russ Putnam reviewed proposed road and sites "A", "B", "C" and "D". Lindgren asks about dump trucks versus bobcats. Mr. Putnam states that they will not be able to use dump trucks under the new plan.

Mr. Little asks where staging area for fill will be. Mr. Putnam proposes bringing materials up to site "A" and then bringing materials up to the SBA property. He doesn't think trucks will be able to go up any further. Materials would most likely be brought up to the top by a loader.

Mr. Little notes that the Board has received letter written by Jennifer Vadney and husband that addresses the previous plan. Because of new plan he suggests that she may wish to supplement letter before the next hearing.

Hearing no other questions, Mr. Little asks for motion to continue case to October 8<sup>th</sup>. Pyle moves. All agree

**Public Hearing continued to October 8, 2009 at 7:30 p.m.**

**Public Hearing: New Cingular Wireless Application for Variance (slope) and Special Exception (Cell Tower), property located on Dennison Pond Road, map 6, Lot 61-2.**

Next application is from New Cingular Wireless to place a cell tower and construct a road on site located on Dennison Pond Road, Map 6, Lot 61-2. Property is owned Charles and Maria Pettee. Applicant is New Cingular Wireless, who has applied for Special Exception to construct a cell tower and a variance to build a driveway with a grade exceeding 10%.

Mr. Little states that he has down work for the Francetown Land Trust, one of the abutters and that an Attorney with his Peterborough law firm apparently handled legal work for the estate of Jonathan Roehrig. Asks if anyone has a problem with him continuing to hear this case; no one objects.

Mr. Pyle notes that John Ratigan, present in the audience and an attorney for an abutter, handled a zoning case for Mr. Pyle and his wife many years ago. He has spoken with Mr. Ratigan about the status of case only; asks if anyone objects to him continuing to hear this case. No one objects.

Representing New Cingular Wireless, AT&T: Peter Marchand, Attorney Wilson and Dan Goulet RF engineer. Mr. Marchand describes the history of sites, meetings and applications to date. Current proposal is for a 150' monopole, 50' by 50' site and access road. Dan Goulet discusses the RF study and shows various coverage maps, with both in-building and vehicular coverage. Goal is to provide in-building coverage to be a competitive alternative to land lines. Maps show current coverage, proposed coverage with Crotched MT and two additional sites; plan for coverage with

current Pettee tower. There will still be some uncovered areas on Bible Hill Road, where there are no buildings. They conducted a drive test. Mr. Goulet discussed the microwave site on Bible Hill; problems are too far from target area and topography. Mills site in New Boston doesn't really work. Pettee site on New Boston Road was better, but willing to go with this one.

Doug Wilson from Anderson & Kreiger and representing New Cingular Wireless makes a presentation on the applications for variance and special exception. He suggests that variance is not necessary because the ordinance addresses a road, not a driveway. He provides an updated set of plans to the Board and notes that two application packages have been submitted: plans dated 8-27-09 and this evening. Wetlands and stream have been flagged; road is far enough away from wetlands. Other setbacks are shown on plan. Only a small portion of driveway (12-15') will cross a slope. Brief discussion of Sept. 4 site walk and Mr. Wilson provides photos showing balloon test and photo simulations. Balloons were positioned at run at 150' 130' and 110'.

Mr. Pyle asks about location of slope, which Mr. Marchand locates on the map, which has been color coded for different degrees of slope. Approximately 20' will be on slope greater than 12-14%; existing slope is now 12-13%. Sarah Pyle asks for clarification. Highest slope will be about 14%. Mr. Pyle asks for further clarification about road: two sections are greater than 15%. Mr. Little asks about upper end of greater than 15%; Mr. Marchand will clarify, but estimates of existing slope are 15 to 18%. Again he is not exactly sure and will verify. Mr. Little reviews the ordinance and clarification of whether a variance would be required.

Mr. Little asks if the ConCom has any comments; no one present has any comments.

Mrs. Freeze states that she could see two balloons from the barn on the Carey property on Rte 136.

Mr. Little asks Mr. Wilson to address the special exception conditions for wireless communications. Mr. Wilson reviews the application and Ordinance Sections 7.19 and 7.19.1. Looking for a better site for town. Current site is outside the view shed of the other site on New Boston Road, has substantial setbacks, and a tree canopy. This site is not as good as other site, but willing to go with it. Designed to accommodate multiple carriers as ordinance requires. 7.19.1(c) requires setback, which Wilson reviews. Current proposal meets setback requirements as shown on plan.

Mr. Little asks if anyone wants to speak in favor of application; no one speaks

Mr. Lindgren asks a procedural question about the two applications. Mr. Little notes that the first application for a Tower near New Boston Road has been continued indefinitely. If the Board was to consider that case, the ZBA would have to renote it. Mr. Lindgren asks if the Planning Board would then consider site approved by special exception; Mr. Little states that would be practical result.

Mrs. Freeze asks about a third tower. Would one still be needed? Mr. Marchand agrees. Mr. Pyle notes that RF study map shows little coverage on Main Street; Mr. Goulet agrees.

Maureen vonRosenvinge asks if photo stimulations could show co-location apparatus at different heights. Discussion on what it would look like.

Vic Hyman, Candlewood Hill Road resident, notes lot a big pines (60' to 70') and asks about site compound. Mr. Marchand states that compound will be 50' by 50' as shown on map; lease area is

100' by 100'. Mr. Hyman asks about cutting down trees. Mr. Marchand responds that site is fairly open; tree removal will be minimal. Base will not add to tower height; tower will be 150'

Francois Gauthier asks about different tower heights, bottom tower on balloon test was 110'. Mr. Marchand notes that 150' will be maximum at proposed site. Different frequencies have different heights. Mr. Goulet reviews frequency that AT&T has versus other carriers. At lower height for AT&T gaps start to open up. 150 is minimum height AT&T needs for its design and coverage.

Mrs. Pyle asks for clarification that they need height of 150'. Mr. Marchand states they will look at lowering height before Planning Board hearing on Sept. 22, which would affect application before ZBA. Discussion on height of prior New Boston Road tower application. Little notes that the ZBA was waiting for Planning Board to pick an engineer consultant. Mrs. Pyle notes that the issue of hiring a consultant is still being discussed by the Planning Board and any study would be available for both Boards. Mr. Pyle notes that ZBA would be appreciate having a study. Mr. Lindgren questions whether the hiring of an engineer is the Planning Board's or ZBA's role.

Attorney John Mr. Ratigan, representing abutter Jones, states that the Francetown Zoning Ordinance suggests the Planning and Zoning Boards can hold a joint hearing and may hire a consultant. He suggests that the Boards hire a professional consultant to advise the boards and the public. He notes that all photos were taken when there is foliage of trees, but no leaves on trees for a good portion of the year. His client has a large tract of land and the site is being investigated for a possible solution. He submits letters to the Board, which he does not need to be read into record. He requests that the record remain open for neighbors to contact appraisers and professionals.

Mr. Little asks if anyone else wishes to address the Board. Mr. Little then reads from a letter from Brewster and Elizabeth Ames, Dennison Pond Road, who are opposed to cell tower location due to the impact on views, mockery of conservation easements and negative impact on property values. He reads second letter from Catherine Roehrig, who is opposed to site due to non-compatible to surrounding land use, adverse effect on her antique farmhouse, fact that she will see tower and adverse effect on resale value. Asks for time to submit an appraisal. Attached to the letter are some photos of balloon test as seen from her property. Copies of both letters given to Mr. Marchand. Letter from Fire Dept indicates no life and fire safety code issues, but vehicle turn around needs to be enlarged.

Mr. Pyle received a letter from Virginia Roehrig Kaufmann via e-mail. Her property abuts site and is listed on tax map as owned by her brother Jonathan Roehrig. She objects to tower and is concerned about property values. Mr. Pyle also reads e-mail from Pam Avery, Dennison Pond Road abutter and owner of field across the street. She is concerned about negative impact of tower. E-mails entered into the record and copies provided to the Board and applicant.

Mr. Little reads letter regarding appraisal of Jones property from Mr. Albrecht of Hawk-eye appraisals, Moultonborough, NH and negative impact.

Mr. Hymen asks about letter from the Fire Chief and turn around area that needs to be larger. Mr. Little reads again from Fire Chief's letter. Mr. Marchand replies that proposed turn around would be within the standard guidelines for such a site.

Cathy Burn, Candlewood Hill Road resident, states that she does not want tower and hopes that Boards will consider hiring an outside consultant. Mr. Robinson also agrees that outside consultant should be hired and suggests that Kaufman will see bottom of structure from her property.

Mrs. Freeze asks about another site as suggested by Mr. Ratigan. Is that site being explored? Yes, according to Mr. Ratigan.

Francois Gauthier asks Mr. Pyle about a person in Weare near the proposed site, who has property that might be a suitable site. Mr. Pyle provides a copy of information on Mr. Bob Pare to Mr. Marchand that he received from Pam Avery. Property is above Dennison Pond Road.

Mr. Little suggests that the Planning Board is considering a consultant and that this case should be continued to the Oct. 8<sup>th</sup> ZBA meeting. He adds that if a consultant has been hired, the Board may want to continue further, until the consultant completes a report. Mrs. Pyle suggests that the consultant should be hired and questions provided by both Boards. Mr. Little suggests that height issues need to be resolved and that consultant would review both sites. Mrs. Jonas asks for clarification about the Jones property, which would not be part of study because no application is being considered. Only two sites are now under review. Mr. Little clarifies that choice is not between the two sites; it is either or or neither nor. Cannot speculate which site is better. Mr. Pyle agrees and says choice is a, b, or none of the above.

Mr. Lindgren suggests that the Planning Board may decide that the issue of a consultant is a Zoning Board issue. Mr. Pyle asks why the Planning Board started the ball rolling in April with discussions about a consultant only to change now. What has changed that would cause the Planning Board not to hire one. Mr. Little agrees.

Mrs. Freeze asks about property values and says that people at the Planning Board hearing were told that was a ZBA question. Mr. Little states that the Board has been informed that people are contacting consultants. Current application includes property value reports from other towns. He refers to consultants reports that cell towers have no adverse effect from Londonderry, Enfield and Bedford. Impact studies were submitted. Question raised about appraisal from Monadnock area. Peter Marchand notes that this week they are starting to do appraisals in Francestown. Hopefully they will have information for Planning Board hearing on Sept. 22.

Silas asks if the board agrees to adjourn to Oct 8 at 7:30 p.m. So moved and all agree.

**Public Hearing continued to October 8, 2009 at 7:30 p.m.**

Meeting adjourned at 10:07 p.m.