

Fracestown Zoning Board
Proposed Minutes
January 14, 2010

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

Meetings opens at 7:35 p.m.

Mr. Little opens the meeting at 7:35 p.m. by announcing that the first application to be considered will be a request for a Variance by Crotched Mountain Properties, LLC, which will be followed by the continuation of public hearings on the applications of New Cingular Wireless for cell tower(s).

Public Hearing: Crotched Mountain Properties LLC: Application for Variance, property located at 615 Fracestown Road, Fracestown, NH. Map 12, Lots 12-1, 1A, 1B, 1C, 1D, 1E and Map 7, Lot 15

Following introductions of Board members hearing the case, Mr. Little open the hearing by noting the location of the property, address, and map and lot numbers. He notes that the applicant is requesting a variance under Article 3 Section 15 of the Fracestown Zoning Ordinance for light fixtures on the ski mountain. Mr. Little asks the applicant to describe the application for a variance as it is not readily apparent why the lighting ordinance applies.

Kathleen Sullivan from Manchester, representing Crotched Mountain LLC, refers to letter from the engineer hired by the Fracestown Board of Selectmen to examine the lights. Mr. Little notes that the appendices to Mr. Reno's Report are attached to the application but not the actual report. Ms. Sullivan provides a copy of the report, which is distributed to the Board. Board members read letter

In reviewing the letter Mr. Little states that attached to the report is a recommendation of a plan for lights from July, 2003. Copy is barely legible; he asks for a legible copy for the Board's records. Mr. Little also asks if anyone has verified what lights are out there today. Does it accurately reflect what lights were placed on the mountain? Felix Kagi, General Manager of Mountain, responds that this represents the original design for the location of lights. Ms. Sullivan states that Mr. Reno did have access to materials and the Mountain.

Mr. Little states that the Board needs to know what is being applied for, to which Ms. Sullivan responds what is out there. Little wants to know what the variance is being sought for. Plan before the Board appears to be a recommendation, not necessarily what was actually placed on the Mountain.

Sullivan notes that an engineer can study the lights and come back in sixty days with a plan on the location of lights. Mr. Little replies that 60 days would place the plan on the agenda of the March meeting of the Board. Sullivan agrees and asks if there is anything else the Board wants to know. Little states that a variance is being requested because some lights appear to be above the horizontal plane and the Board wants to know what is there.

Mr. Pyle asks how long the lights will be on and would they be turned off before the next meeting. He suggests that the Board might want to visit the Mountain and observe the lights. Mr. Kagi replies that they typically close after the third weekend in March, so lights should be on through the next meeting.

Mr. Pyle also notes that he pulled the original ZBA case, which he chaired, for the opening of the ski Mountain. There was a request for a Variance for lights that was withdrawn following receipt of a letter from the P.B. that the indicated a variance was not required. Mr. Pyle reads from the Planning Board letter, makes copies for the Board and applicant, and provides a file copy. Mr. Watson, the Planning Board Chair at the time, is in attendance and notes that he has not located the files, but recollects that they approved the lighting plan based on what was proposed. Mr. Pyle states that now may be the time to resolve the lighting issues by hearing the current case. Mr. Watson notes that there is a recreational exception under Article 3 Section 15. Planning Board recommended that lighting be directed downward.

Kagi states that drawings were recommendations for minimum lighting; over lifetime less candle power. Mr. Pyle notes that this “brings us to where we are now, to determine what is there”.

Question as to what prompted the Selectmen to request a lighting report. Mr. Little did not know, but surmises that someone observed that lights were not at the horizontal. Ms. Sullivan agrees. This part of the meetings is adjourned.

Public Hearing continued to March 11 at 7:30 p.m.

This portion of Hearing ended at approximately 8:10 p.m.

Public Hearing on next case commences at approximately 8:20 p.m.

Mr. Jones steps down and Mr. Barbalato joins the Board as an alternate.

Continuation of Public Hearing: New Cingular Wireless Application for Variance (slope) and Special Exception (Cell Tower), property located on New Boston Road, Map 6, Lot 63-2.

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.

Mr. Little opens the hearing at approximately 8:20 p.m.

Mr. Little states that this public hearing is the continuation of two applications for Cell Towers; one located on New Boston Road and the other on Dennison Pond Road. Applicant is New Cingular Wireless LLC.

Mr. Little asks the Planning Board Chairman, Bob Lingren, if the Planning Board has any commentary or position on two the two applications. Mr. Lindgren states that Planning Board met to review materials, but was not able to come to a conclusion and continued their hearing to February 2 to discuss the issue further and may have recommendations at that time.

Mr. Little reviews information received since the last public hearing. A letter is on file from Mr. Knight withdrawn his property from consideration. Mr. Carey, represents the Carey’s abutters to the New Boston Road site, comments that a new letter has been submitted asking that his property again be considered as a possible site. According to Mr. Little the ZBA received information, dated January 7, 2010, pictures and photographs for both sites. Supplementals also include analysis of the site and RF studies with a summary of different heights. Dennison Pond analysis of different

heights in 10' increments between 100' and 150'. January 4, 2010 letter earlier with work done by Mr. Marchand and Mr. Goulet, and engineering work done by Dewberry showing driveway slopes.

Mr. Carey, Orr & Reno, submitted a letter with a report from Mr. Garvin, NH Division of Historic Resources. Also included is a letter from Mr. Knight dated Jan 14, indicating that subject to the modifications of setback requirements, he would consider offering his property for a cell tower. Carey letter includes an appraisal and report by Mr. Maxim.

Also included in material were minutes from the New Boston cell tower hearings, balloon test photos and a report from Mr. Pagacik. Letter dated January 4, 2010 includes an analysis of AT&T sites in New Boston and alternative for providing services to Francestown. Report authored by Mr. Maxim. Copy of Appraisal report For Mr. and Mrs. Carey, New Boston Road and abutter to proposed tower on New Boston Road.

Mr. Pyle states that he has information from Cathy Roehrig, abutter to Dennison Pond property that apparently was not in submittals to the Board. Mr. Pyle has copy of a letter but not a copy of the attached appraisal. Mr. Pyle copies the letter for Board and applicant, and he will check with Town Office on the originals submittals.

Mr. Little had been handed a photo of a balloon test on old Foote, now Biafore property, on New Boston Road. Balloons were at three different heights.

Mr. Little followed up on a statement made at the last joint meeting by Mr. Anderson about a possible conflict with Mr. Pyle, hearing the ZBA case. He wants to know if Mr. Anderson will be bringing forward any complaint. Mr. Anderson replies that he is not challenging Mr. or Mrs. Pyle from sitting on either the Zoning or Planning Boards, respectfully. He wanted to know if the opposition would object and make it grounds for an appeal. Mr. Carey and Mr. Ratigan both indicated that they had no objection. Mr. Little asked if anyone else had an objection. No one spoke.

Mr. Ratigan submitted a letter to the Board, regarding a January 7, 2010 letter with an appraisal of Jones property. Passes out copies of letter and will provide the appraisal later on. Mr. Little makes copies for the Board.

Mr. Little asks Mr. Anderson, if has anything he wishes to address tonight. Mr. Anderson states that the Planning Board has set January 26 as the deadline for all submissions to that Board. Suggests the same for this Board. He hopes that all information will come in by that date and suggests one more ZBA hearing to digest information before deliberations. He has no formal presentation but will answer questions and Mr. Goulet is available to discuss maps. Mr. Little summarizes January 26 as the date set to get all information with a plan for hear final public submissions and move to deliberate.

Mr. Little noted that at the last meeting there was some discussion on Mr. Pagacik's alternatives. One was the ATC Tower on Bible Hill and the other Mr. Knight's property. Copy of Mr. Pagacik's report was included in Mr. Carey's submissions. Mr. Pyle provides a copy of Mr. Pagacik's supplemental report that was forwarded to him from Sarah Pyle, Planning Board member. Mr. Pyle summarizes the letter and provides copies for Board. Notes that color renditions may not copy well. He reads from the letter, which discusses height and coverage for ATC and Knight sites. Maps show coverage and gaps, which follow-up an earlier report. Contrasting of map 3, the ATC site at 165' with map 10, Knight site at 150'.

Mr. Little recognizes Mr. Carey, who states that there needs to be a balance between what AT&T wants and can get under law, and what the town permits to preserve its rural character. "Good walls make good neighbors". Cites case law that one town (Hopkinton) did not have to provide coverage to another town. What works for Francestown? Discusses New Boston and comments that New Boston has done its thing and cannot ask for more. Mr. Carey reviewed the New Boston minutes which indicated that Francestown had already approved tower site on border of Francestown. Other cites in New Boston reference site at New Boston Road. Think of alternative site as balance to what helps town and what helps AT&T. Adds that Mr. Pagacik states that other sites warrant a closer look. Mr. Knight's site should be looked at: related to neighbors, remote location. AT&T did talk to Mr. Knight but indicated only site available due to wetland and other setbacks was near his house. Mr. Knight's response was letter to Mr. Carey that he was still to having his property considered, if he can get relief for setbacks. Mr. Pagacik's report states that at 150' it is still a viable option. Mr. Pagacik stated at the Planning Board hearing that the white zone indicates a threshold not a complete drop in coverage. Also gaps may be less than 1/8th of mile. Law permits dead zones. Mr. Carey discusses Knight and Biafiore sites. Summarizes that it is all about a balance, refers to 7.19 of the Francestown Zoning Ordinance. Submits that AT&T resistance to other sites is because coverage is not in New Boston.

Mr. Little recognizes Mr. Ratigan, who notes that this is possibly first instance where no existing tower. Looking at ordinance suggest to applicant that alternate sites be considered. Submission of appraisal information form from him, Mr. Carey and Ms. Roehrig. Evidence before the Board provides indication on property values. Suggest that the Town can ask applicant for further investigation of sites. No houses on remote location of Knight property. Biafore also provides great coverage. At 110' might not provide co-location coverage. Consider providing applicant with multiple sites to choose from.

Mr. Little asks if anyone else wishes to address the Board. Mr. Wilder, Dennison Pond Road, remarks that he could see the balloon test on the Biafiore property from his front window. Balloon at 150' is "quite obnoxious" and would have a "deleterious affect on property values and be public nuisance". 110' would be more reasonable. Suggests that Biafore site would be close to road and be a shock. Mr. Little notes that two other sites are before the Board for consideration and there has been no application for the Biafore site. Balloon test had been arranged with a day's notice.

Mr. Little asks if anyone else would like to peak. Hearing no one turns again to Mr. Anderson, who asks Mr. Goulet to speak. He notes that the difference between second analysis and earlier rendition on Knight property was due to a correction of the actual location. Second analysis is the actual site. Issue came up at the Planning Board hearing as to why information is different between consultants and AT&T. Difference is drive test data. Mr. Pagacik does not have the same drive test data. Mr. Goulet shows map with actual drive test data. Drive test was done to validate model. With tower on ATC site at 165' actual drive test shows better coverage because was done in March with no leaves on trees. He displays the RF studies. Mr. Little asks about what is being shown. Map overlays. Goulet's superior states that it shows drive test and prediction data. Per Mr. Goulet they drove over 34 miles of roads and software is taking samples in milliseconds.

Mr. Little states that map doesn't really show anything. Plots actual drive data over colored shading. Why not on a flat two dimensional plane. Mr. Goulet is providing a map showing what had been previously provided to the Board. Thought current map would be an aid not a hindrance. Drive test was done at request of Board and used for the Crotched Mountain application.

Mr. Pyle asks about drop in coverage around Ferson Road. Would Oak Hill site provide coverage there. Mr. Goulet responds that it would not. Tuned model was purpose of drive test and drive data. Trying to show that drive test verifies data.

Mr. Little refers to ordinance for Cell Towers and that applicant shall demonstrate that all possible alternatives..... best preserve town natural beauty, etc. How does this discussion and maps address these criteria? Mr. Goulet had turned on Crotched Mountain, Oak Hill sites and then ATC and New Boston sites. Combined in building and car coverages. Refers back to display map and explains coverage of different sites. Not just car or house coverages alone. Trying to provide coverage as much as possible.

Mr. Barbalato interjects that somewhere there will be gaps no matter what the alternative. Mrs. Jonas agrees and not sure what the percentage of reliability that has to be provided and what is reasonable coverage. Mr. Little notes that issue is whether locations meet the criteria of the Ordinance; not just maps.

Mr. Anderson addresses Mr. Little's comments. First he notes that criteria are whether there is a reasonable alternative. He states that the Planning Board regulations state that the height of ATC Tower cannot be extended above 165'. Should it be extended there would still be gaps. They are trying to find a site within the limits of the Ordinance. He presumes that they should try their best to come within the requirements of the Ordinance. "Seamless coverage within targeted area". Objective of signal strength discussed. Refers to Mill site that covers Francestown from New Boston and discusses Knight site, putting Tower in back corner would violate setbacks.

Refers to prior photos and discussed New Boston Road site. Shows photos from different angles: what can be seen and what cannot. Shows location of properties to New Boston Road site. Nearest house is about ¼ mile. Mr. Little corrects that there is a house at the bottom of the hill, which Mr. acknowledges and corrects himself that no house has a view of Tower. In Francestown, Mr. Anderson believes that the proposal respects the ordinance criteria. He refers to the Biafiore balloon test and notes that Tower would be more conspicuous. Dennison Pond Road site has heights with visual issues and they are trying to improve location by possible sliding Tower down the hill away from Roehrig property. Believes that is Planning Board will resolve issue once a Special Exception has been granted. AT&T tried to look carefully and address best place to place a Tower where it would meet criteria of Ordinance. Trying to find location where one Tower would be fine, not two. Trying to protect the interests of the ordinance. Tired to negotiate with Mr. Knight; can't put it where needs a variance.

Mr. Little states that they are applying for a variance at the New Boston Road site.

Mr. Pyle interjects that they are trying to find a site that meets everything in ordinance. If that was true there would be nothing for the Zoning Board to do, except here requests for special exceptions. Applicant can come for a variance for wetlands, slopes or setbacks. If so, they would not be applying for variance on Pettee property. Mr. Anderson trying to meet ordinance with special exception. Variance requests can be made.

Mr. Anderson states that this is different; Mr. Little replies that Mr. Anderson should be any distinction in writing to the Board. Mr. Little also notes that Mr. Anderson provided letter that Mr. Knight signed. Mr. Anderson agrees. They had a wetland's scientists on the Knight property and lots of wetlands. Tried to find site not near wetlands, but Mr. Knight did not like proposed site.

Discussion followed on variance distinction. Board determines that it is not interested in discussing this issue further tonight.

Mr. Anderson asks Mr. Goulet about Knight property, which re reviews. Even with Oak Hill turned on this explains why Knight property will not work. Pyle asks if moving Tower changes coverage. Elevation is slight and location is 250-300' to NE; ground elevation would be 5' higher. Mr. Goulet cannot determine coverage. RF does reflect reading from a current location. Mr. Marchand notes not all abutters to Knight property are related to him. Sanderson's not related and not all abutters may be happy with location. Mr. Pyle asks if Board has copies of RF study he is displaying; Mr. Goulet says yes.

Mr. Little suggests to the Board that they should review materials and discuss further to understand materials before the next meeting. Asks the Board if they would like to meet before the February 11 meeting. Board agrees and suggests Feb 4 at 7:00 p.m. Pyle suggest meeting closer to February 11 will be fresh in anticipation of meeting on the 11th Little notes that this would be public meeting, not a public hearing. Public hearing would be on the 11th at 7:30.

Mr. Little asks the meeting if there is anyone who wishes to add something this evening; no one speaks.

Motion by Mr. Little to hold public meeting on the February 4 at 7:00 p.m., Leavitt seconds; all agree.

Leavitt moves that public hearting be continued to February 11 at 7:30 p.m., Pyle seconds. All agree.

Public hearing is closed at approximately 10:00 p.m.

Public Meeting – February 4, 2010 at 7:00 p.m.

Public Hearting – February 11, 2010 at 7:30 p.m.

Respectfully submitted,

Charles M. Pyle
Vice Chairman, Francestown Zoning Board of Adjustment

January 20, 2010