

THE PLANNING BOARD
Town of Frankestown
Frankestown, New Hampshire 03043

October 13, 2009
PROPOSED MINUTES

Planning Board Members Present: Bob Lindgren (Chairman), Sarah Pyle, Mike Tartalis (alt.), Larry Johnson, Linda Kunhardt, Bill McNeil (alt.), Ben Watson.

Zoning Board Members Present: Silas Little (Chairman), Charles Pyle, Lois Leavitt, Richard Barbalato

Members of the Public Present: Dennis McKenney, Ivan Pagacik, John Ratigan, Robert Carey, Martina Villalard Bohnsack, Stephen and Jan Griffin, Ed and Roon Frost, Helene Harbage, Joe Robaitaille, Polly Freese, Mark Limbert, Kathy Boire, Mary Frances and Bob Carey, Ron Baptiste, BJ Carbee, David Maxson, Catharine Roehrig, Leigh Robinson, Paul Knight, Nick Wilder, Ben and Robin Haubrich, Brewster Ames, Ken Campbell

Ben Watson is taking the minutes in the absence of Minutes Clerk Melissa Stewart.

Chairman Lindgren brought the meeting to order at 7:22 pm.

Review of Meeting Minutes

The Board reviewed the proposed minutes for September 22, 2009. Kunhardt offered the following changes:

p. 3 - Under "Announcements and Communications", change "Kunhardt" to "The Planning Board".

p. 4 - End of first sentence to read (words added in italics), "voted to adopt the new map by resolution *as per RSA 674:57*."

Name spelling corrections - Watson will send corrections to M. Stewart for Ivan Pagacik, David Maxson, and John Ratigan (pp. 2-3).

Johnson moves to approve the minutes as amended. Pyle seconds. All in favor.

Announcements and Communications

Planning Board member Lisa Stewart has requested that the Board schedule a time for an administrative discussion. Potential dates are discussed, but no date or location has been set, due to scheduling conflicts.

Lindgren announces that the Board will be receiving an application for a minor subdivision (2 lots) on Greenfield Road (Rte. 136) by the end of this week, and alerts the Completeness Review Committee. The public hearing on this case will be scheduled for Tuesday, November 17.

Continuation of Public Hearing for Case No. 09-SP-2 and 09-SP-3 (New Cingular Wireless/AT&T site plan review)

Members of the Zoning Board join the Planning Board for a joint public hearing, as requested by the applicant.

Lindgren introduces Ivan Pagacik, the independent consultant that the Town has engaged to review AT&T's wireless plan for the land use boards. Pagacik says that AT&T has provided him with the application materials for both sites proposed (on Route 136 and on Dennison Pond Road), along with significant engineering information. He will perform a preliminary engineering analysis, but is here tonight seeking any preliminary questions, input, and direction from the two boards.

Sarah Pyle ask Pagacik for a brief synopsis of what a normal report would include.

Pagacik says that typically he:

1. Looks at the RF (radio frequency) information, including the reasons why the applicants say they need to use a particular site location, and examining the gaps in cell coverage that the applicants are trying to fill.
2. Looks at specific of what applicants are proposing, for instance, is the proposed height necessary to achieve coverage? What are the alternatives, including alternate heights of facilities.
3. Looks at potential alternative sites.

In general, Pagacik says that he examines how the various options sit in with the applicants needs and objectives. Also, he says that he can give guidance to the boards regarding the design and engineering of the facility itself, including types of structures, etc.

Sarah Pyle asks about the potential, but as yet unidentified, "third site" that AT&T has indicated they would need to fill in coverage near the center of Frankestown. What about examining this as part of a full-town strategy?

Pagacik discusses interconnections between different facilities, also known as "handoffs." The design and siting of each facility will have an impact on the others in the coverage area. He will ask if AT&T has done any engineering work on this "third site."

Sarah Pyle states that her understanding is that the location of facilities is meant to cover the major highways through town and the homes and businesses located along these corridors.

Attorney Stephen Anderson, representing AT&T, says that the three sites planned for Frankestown are needed to ensure connectivity of signal.

Watson asks about the feasibility of examining other facilities to see if they could cover the gap in the town center; specifically, would making the tower on Crotched Mountain somewhat higher eliminate the need for the "third site"? Pagacik responds that he is sure he can provide that information for the boards' reference.

Sarah Pyle mentions that she saw little difference between the coverage maps for a 100-foot versus a 150-foot facility on the Route 136 site. She also points out that the two coverage maps submitted for the Dennison Pond site differ. Pagacik agrees and says that he will review the two maps and develop a single baseline map to avoid confusion.

Atty. Anderson says AT&T will redo the maps to avoid ambiguity. He shows the boards a copy of an RF report prepared by C2 Systems of Manchester and dated August 5, 2009. He will make this available to the boards.

Attorney John Ratigan, representing an abutter, expresses his confusion about the approach or methodology used in generating these divergent RF coverage maps. Pagacik says that it appears two similar, but different, software programs were used to develop the maps.

Ken Kozyra (KJK Wireless) says that some RF plotting was done by AT&T; Mr. Goulet of C2 Systems the used his own tool, which is a similar software program and should yield consistent results. KJK will marry up the information.

Attorney Robert Carey, representing an abutter, asks if Pagacik will be examining alternative sites for the facilities, and whether he will take into account the visibility of the facilities and other potential impacts. Pagacik responds that he will take direction from the boards. For instance, if the town requests it, he can provide information on disguising the appearance of towers/poles, or even locating them. What he cannot do, however, is act as a site acquisitions agent on behalf of the applicant.

Atty. Ratigan asks virtually the same question of Pagacik, who says that he can and does perform "proactive" work for towns when they request it.

Atty. Anderson asks Pagacik to clarify what his mandate typically is when he is brought in as a consultant in the middle of a case, as opposed to before an application is filed. Pagacik says that his main role at this point of the process is generally to review technical data.

Resident Steve Griffin asks how fast is wireless technology changing, and whether the proposed facilities will be adequate to accommodate the next generation of technology.

Pagacik responds that wireless has traditionally been primarily a voice network. Today, with faster data transfer and digital technology, what works in voice applications won't necessarily work in the area of data downloads. The next generations are 3G and 4G systems, which require a stronger, better signal for data transfer. The ultimate goal of wireless is to establish one line for phones and other digital devices, so that the land line would eventually go away, and so that video, music, and other data could be downloaded to a phone or multifunction handheld device in real time.

In terms of whether the wireless facilities are going to be obsolete, Pagacik says that a client of his in Pennsylvania has invested \$56 million just in licenses to build out a network around Philadelphia --

a huge investment that is based on a 30-year lease, not a short-term thing. These wireless sites are configured to be adaptable to future 3G and 4G technology.

Watson mentions that removal of disused facilities is provided for in the town's telecom ordinance. Lindgren says that AT&T has agreed to a performance bond to cover such exigency.

Charles Pyle asks if AT&T has provided information to Pagacik on the existing and proposed facilities on the summit of Crotched Mountain. Kozyra (KJK) says yes, that material has been provided to him.

David Maxson, an independent wireless consultant engaged by abutters, asks to address the boards. He explains that the boards are empowered to require applicants to look at all reasonable alternatives for siting and design of wireless facilities.

Maxson states that based on his preliminary analysis, that the Mills property in New Boston would be viable even at the height of 100 feet, based on AT&T's own coverage analysis. Also, he suggests that another property on Bunker Hill Road in New Boston would have potential, and might be a shorter structure, with clear views to the east and west.

Maxson questions the C2 Systems analysis dated August 5, 2009, saying that it shows a tremendous amount of in-building coverage, whereas the AT&T analysis done by Mr. Brewer shows far less in-building coverage.

He also refers to the analysis of coverage from the existing ATC tower on Bible Hill.

Maxson has performed his own drive test measurements and compared them to the final computer plot to see how they correlate. He asks what methodology was used by the applicants, saying that there is lots of room for error based on bad data. His own findings, based on an informal drive test from New Boston to Frankestown along Route 136 found significantly less signal strength than AT&T is indicating. In other words, the "handoff" from facilities in New Boston to those in Frankestown may not happen as anticipated. He asks for a copy of information from AT&T such as proposed heights for facilities, etc.

Atty. Anderson responds that certain proprietary information belonging to AT&T is confidential and could be provided to outside consultants only with the permission of AT&T. It has been provided to Pagacik, however, without the signing of a confidentiality agreement, because Pagacik has worked for towns and not shared proprietary information with other clients.

Silas Little (ZBA Chair) asks why any of this proprietary information was not supplied to the boards.

Anderson replies that if proprietary information is given to the boards, it is part of the public record and could no longer be considered confidential. He cites the rules of procedure used in the court system for expert testimony. The information has been given to Pagacik, so that he will have a complete picture and can advise the boards or make recommendations based on the confidential information, without having to make it public.

Little thinks that the boards should have access to this information.

Anderson asks what exactly the boards are looking to AT&T to provide - Software? Source codes?

Sarah Pyle agrees with Little that the boards should have access to all information and says she is bothered by this "hair-splitting."

Kunhardt believes that there is a reason for AT&T to want to keep certain information proprietary. Watson agrees.

Atty. Carey says that land use boards are regulatory, not judicial, bodies and are not bound by the rules of evidence.

Little asks applicant for a list of what was sent to Pagacik.

Kozyra (KJK Wireless) says that Pagacik works only for municipalities; he doesn't share confidential information. Whereas Mr. Maxson uses the information to inform other cases in other towns.

McNeil asks Pagacik about the quality and nature of the proprietary information given to him by AT&T. Pagacik says that the information deals with existing systems and would not be available to the public off of, say, the Internet.

Sarah Pyle asks why the proprietary information was given to Pagacik without his having had to sign a confidential agreement.

Anderson says that it has never been required or deemed necessary to do this in the past. However, AT&T can send a confidentiality agreement to Pagacik and ask him to sign it.

Little asks if AT&T will send confidential information to Maxson if the ZBA requires it.

Anderson argues that the fruits of this proprietary information will be in the public record, as a result of Pagacik's analysis. He asks why, if this is a good enough standard for a court, it would not be acceptable for an administrative body such as a land-use board.

Atty. Carey expressed concern that the applicant is effectively "freezing out" opposition by restricting access to all information, and debate over it.

Atty. Ratigan asks if this information has been provided only to the town's expert, but not to the public or the boards, does this present a problem?

Little says that, until the ZBA has a list of materials provided to Pagacik, with a notation as to which items are asserted to be proprietary or confidential, he doesn't feel that the Zoning Board can move forward.

Anderson says that it may be possible to "put the genie back in the bottle" - AT&T will ask Pagacik to return all of the confidential information supplied to him, and that he can then request this material

as needed to perform his analysis. He requests that Town Counsel find a way to do this. Pagacik says he will submit, through the boards, a list of proprietary information he might need from AT&T.

Resident Leigh Robinson asks what Maxson would be looking to determine from the confidential information. Maxson says that he is specifically looking for a table of information giving the heights, locations, frequencies, and coverage areas for all AT&T facilities in the region, in an attempt to derive his own version of RF coverage based on AT&T's own data.

Charles Pyle says that for the ZBA to make a ruling, they will need to know what information is being provided and how that information was derived. He believes that this information should be presented in an open process, and that members of the public should have access to it.

Sarah Pyle suggests the Planning Board focus on siting options and camouflage/screening. In regard to the Mills property in New Boston, the board was told by the applicant that it was unsuitable.

Anderson responds to Sarah Pyle's earlier comment about the lack of major difference in RF coverage between a 100 foot and 150 foot antenna on the Route 136 site. He says that AT&T has already agreed to accept a 100-110 foot height, but that this will have the effect of reducing the number of potential co-locators at the facility.

Maxson takes exception to the applicant's questioning of his credentials, and offers additional comments. He states that wireless companies often site facilities on heights of land because of better coverage area; however, in other towns, one alternative has been to move such structures downslope and not locate them on the highest elevation. One such site, based on Maxson's preliminary analysis, might be in the area just west of the intersection of Dennison Pond Road and Route 136. There are large wooded parcels on a downslope. Such a site would diminish the amount of coverage in New Boston, but Maxson proposes "split coverage," in other words, moving one facility to the east, and the other to the west, and building them at a lower height to achieve the desired coverage. He recommends siting at an elevation of 750 to 800 feet above sea level, and asks that the boards request Pagacik to consider such alternatives in his analysis and report.

Anderson responds that the Dennison Pond Road site is such an alternative, at 737 feet of elevation, located downslope on a large wooded site.

Kozyra (KJK Wireless) says that two New Boston sites have been permitted, but not yet constructed; one other site is operational. Kunhardt asks the effect of the New Boston facility sites on the estimated coverage map dated October 30, 2008. Kozyra replies that the estimated coverage was based on the facilities that have now been permitted.

A brief discussion ensues regarding the respective roles of the Zoning Board and the Planning Board in the review process.

Anderson reiterates that Pagacik will be asked by AT&T to send back to them the two documents that are considered proprietary information (two

1 to 2-page tables). They will be held by AT&T until and unless they are needed by Pagacik to do his analysis, at which point, the boards will be informed and will establish a process by which this material can be obtained.

Little says the board needs to know something about the methodology used by AT&T to understand how the data was derived - in other words, what assumptions were made in generating the RF coverage maps.

Pagacik says he doesn't have to speak to specific data, but can speak overall to how the information is generated.

Kunhardt states that, if everybody knows what the source data is, everyone can either accept it or challenge it.

Resident C. Burns (Candlewood Hill Road) asks about public access to information to and from AT&T and Pagacik.

Atty. Ratigan suggests that the boards direct Pagacik to examine alternative sites. Pyle expresses agreement; Watson disagrees.

Anderson says that AT&T has evaluated all alternatives in its analysis when it was asked to do that by the Planning Board.

Richard Barbalato (ZBA) suggests that the boards take a large view and try to get an overall picture of the needs, facilities, and possible alternatives. Watson agrees that this is how the town should be tasking Pagacik.

Lindgren opines that the Planning Board should be ruling narrowly, only on the basis of whether the applicant has satisfied the requirements of the town's site plan's regulations. Everything else should be in the purview of the ZBA.

Resident Robin Haubrich expresses her opinion that there is no need for a small town like Frankestown to make AT&T "comfortable" if we feel that there is a real need to look at alternatives.

Resident Polly Freese says that Pagacik should be considering the potential "third site" facility location.

Little asks whether different bandwidths can be accommodated when wireless providers co-locate on a structure. Pagacik says yes, this can be done.

The joint public hearing of the Planning Board and Zoning Board is continued to Thursday, December 3 beginning at 7:30 pm.

Little requests that Pagacik's written report be received no later than November 25, to give members of both boards and other interested persons ample time to review before the resumption of the hearing.

Watson recommends making a copy of the report available to the public in the Selectmen's Office. Atty. Ratigan asks if Pagacik can supply an

electronic version of the report; Pagacik agrees to do so, and will send to Lindgren.

The Planning Board will meet at 7 pm on Thursday, December 7, in advance of the joint hearing, to hold a Scenic Road Hearing pursuant to the proposed Dennison Pond Road wireless site.

Meeting is adjourned at 10:10 pm.

Respectfully submitted,

*Benjamin A. Watson, Secretary
October 15, 2009*