

**Official  
As of 4/07/08**

**BOARD OF ZONING ADJUSTMENT  
MINUTES  
MARCH 11, 2008  
Hooksett Town Hall**

**CALL TO ORDER**

Chair T. Murphy-Roche called the meeting to order at 7:02 PM.

**ATTENDANCE**

Chair T. Murphy-Roche, Vice-Chair C. Pearson, C. Pearson, R. Savoie, R. Bairam (alt), G. Hyde (alt), J. Levesque, and R. Duhaime

**OLD BUSINESS**

**Continuation of Public Hearings:**

**OmniPoint Communications/T-Mobile, 305 Bicentennial Drive, Map 44 Lot 3.** Rehearing the decision of the Zoning Board of Adjustment for the erection of a 180' tall structure to provide telecommunications. A Variance was denied from Article 5.b.1 to allow a wireless communications structure in the MDR, Medium Density Residential District AND a Variance denied from Article 28 O.5.a. to allow the structure not to meet the required rear and side setbacks for same.

**NEW BUSINESS**

**Pennichuck Water, 16 Springer Road, Map 5 Lot 116.** Request for a Special Exception, as provided under Article 5 B. Uses Permitted by Special Exception, 1. Public Utility facilities, in the MDR, Medium Density Residential District, to erect a new pumping station in a new location on the property, to replace an existing pumping station.

D. Ware, Pennichuck Water: We were here last fall and withdrew our application based on public testimony regarding the location of the pump house. We have submitted a revised plan. The new pump house is shown on the Site Plan Utilities. The new facility will be constructed two feet away from the existing tank next to the old pump house. The actual station, as you look at it from the street, has a 9-foot high wall with double doors on the front of the structure. The landscaping plan shows the new facility. The old facility will be removed and the area loomed and seeded. It will be visible from Springer Road but will be lower than the old facility. In the original proposal, the building was located close to Springer Road. As a result of the neighbors concerns, we have moved it back next to the existing structure.

T. Murphy-Roche: Is there a need for a new easement?

D. Ware: The easement is being finalized between the two (2) attorneys. The tanks are underground. The landscape plan is just to loom and seed. That is all the existing owner was interested in.

J. Levesque: This is a pumping station with no more wells?

D. Ware: We abandoned the wells. We entered into a twenty-year arrangement with Village Water.

D. Ware read from application (see file)

There are five (5) pumps. The bottom three (3) pumps will service the existing 29 homes and 42, 55+ homes on the top of the hill. There is no ability to take on added demand. The limit of what this station will provide has been reached because of limits on supply, which is the Hooksett Village Precinct.

T. Murphy-Roche: We've seen a change in location. This isn't a maneuver to get us to approve it in this location and later it will be request to move it later?

D. Ware: We withdrew the former location because of public input. It has been moved and will be constructed in this location if approved.

R. Savoie: I would like to see the easement plan before making a decision.

R. Bairam: Will there be blasting?

D. Ware: No

J. Gorton: D. Hess sent an email asking for a continuance because he couldn't attend as a result of the school election.

S. Croteau: Mr. Hess also asked for a delay.

Close Public Hearing

Site walk is scheduled for March 18 at 6:00 pm at Springer Road.

**Rules and Regulations of the Hooksett Board of Zoning Adjustment.** Proposed changes to the existing local regulations.

T. Murphy-Roche suggested that all new members should be given a rules and procedure.

A. Under "Officers", 3. **A Clerk** shall be elected... I do not believe we have ever done this in the past. You may wish to consider nominating a member to serve in this position for the purposes of acting as "editor" of the minutes and to maintain the points necessary for the wording of resolutions. This person could be authorized to draft resolutions, as well. This person must be a regular member of the board. I will need to reword this entire paragraph before the changes are adopted.

M. Bonsteel recommended restoration of the position for this purpose of reviewing the minutes as discussed.

***C. Pearson motioned to leave the Clerk in its current status as suspended. Seconded by R. Savoie.***

***Vote unanimously in favor***

Under "Meetings":

1. Regular meetings shall be held at the Town Municipal Building, 16 Main Street, Hooksett, NH at 7:00 PM on the second Tuesday of each month. Any application's hearing that commences before 10:00 PM will be heard. Any other applications left on the agenda after 10:00 PM will be put over to the next regular meeting OR to a special meeting, at the discretion of the board. (No other changes)

Amend to read: Applicants will be heard until 10:00 PM, at which time may be continued to the next scheduled meeting.

**R. Savoie motioned to accept B as amended. Seconded by C. Pearson.  
Vote unanimously in favor.**

C. Under “Applications”:

- a. ....A \$50.00 application fee for one or two family residential and a \$100.00 application fee for commercial, industrial or multifamily residential shall accompany all applications, together with \$10.00 per abutter, including that of the applicant, in a check made payable to the Town of Hooksett. The cost of the published legal notice shall be determined and the applicant notified, in writing, by the Recording Secretary. The amount shall be provided to the town before the scheduled hearing or the application will not be considered complete by the board. (Note: this is alluded to under “Public Notice” and included here for clarification.) Twelve (12) collated sets that include the completed application (in ink), abutter list, certified plot plan, site location map, existing land uses of abutting properties, parking plans (existing and proposed), landscaping plan, utility, well/municipal water, septic/sewer locations, all easements and right of ways and any other pertinent information necessary for the board to reach a determination must be submitted a minimum of twenty-five (25) days before the meeting, not including the meeting date, to be considered for placement on the agenda. If the applicant does not believe that any of the listed required materials are pertinent to the application, a written explanation for not providing the specific information must be included with the application, signed by the applicant or the agent for the application.

Prior to approving this changes, Tracy Murphy Roche suggested looking into what other towns in the area are charging.

Each member was assigned two (2) towns to research:

- J. Levesque - Concord/Bow
- R. Duhaime - Goffstown/Dunbarton
- T. Murphy Roche - Manchester/Bedford
- C. Pearson – Auburn/Candia
- G. Hyde – Allenstown/Pembroke

D. Under “Decisions”: The board shall decide all cases within **30 days**. ... Notice of the decision will be made available for public inspection within **72 hours**, as required by RSA 676:3, and will be sent to the applicant....

E. Under “Records”:

1. Final written decisions will be placed on file and available for inspection within **72 hours** after the decision is made.
2. Minutes of all meetings shall be open to public inspection within **144 hours** of the meeting.

M. Bonsteel recommended that for D. and E., we remove the verbiage and simply reference the State Statute.

**676:3 Issuance of Decision. –**

I. The local land use board **shall issue a final written decision**, which either approves or disapproves an application for a local permit. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval.

II. Whenever a local land use board votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefore, shall be placed on file in the board's office and shall be made available for public inspection **within 144 hours of such vote**. Boards in towns that do not have an office of the board that has regular business hours shall file copies of their decisions with the town clerk.

**676:5 Appeals to Board of Adjustment. –**

I. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

II. For the purposes of this section:

(a) The "'administrative officer" means any official or board who, in that municipality, has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility.

(b) A "'decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the ordinance, which is implicated in such enforcement proceedings.

III. If, in the exercise of subdivision or site plan review, the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance, which would be appealable to the board of adjustment if it had been made by the administrative officer, then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

**Section 676:6**

**676:6 Effect of Appeal to Board. –** The effect of an appeal to the board shall be to maintain the status quo. An appeal of the issuance of any permit or certificate shall be deemed to suspend such permit or certificate, and no construction, alteration, or change of use, which is contingent upon it, shall be commenced. An appeal of any order or other enforcement action shall stay all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with such officer, that, by reason of facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life, health, safety, property, or the environment. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by the superior court on notice to the officer from whom the appeal is taken and cause shown.

**Source.** 1983, 447:1. 1995, 243:2, eff. Jan. 1, 1996.

**Section 676:7**

**676:7 Public Hearing; Notice. –**

I. Prior to exercising its appeals powers, the board of adjustment shall hold a public hearing. Notice of the public hearing shall be given as follows:

(a) The appellant and every abutter and holder of conservation, preservation, or agricultural preservation restrictions shall be notified of the hearing by certified mail stating the time and place of the hearing, and such notice shall be given not less than 5 days before the date fixed for the hearing of the appeal. The board shall hear all abutters and holders of conservation, preservation, or agricultural preservation restrictions desiring to submit testimony and all nonabutters who can demonstrate that they are affected directly by the proposal under consideration. The board may hear such other persons, as it deems appropriate.

(b) A public notice of the hearing shall be placed in a newspaper of general circulation in the area not less than 5 days before the date fixed for the hearing of the appeal.

II. The public hearing shall be held within 30 days of the receipt of the notice of appeal.

III. Any party may appear in person or by the party's agent or attorney at the hearing of an appeal.

IV. The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.

**Source.** 1983, 447:1. 1985, 159:2, eff. July 26, 1985. 1996, 226:1, eff. Jan. 1, 1997. 1997, 142:6, eff. Aug. 8, 1997.

***R. Savoie motioned to delete verbiage in D. and E. and reference the RSA. Seconded by R. Duhaime.***

***Vote unanimously in favor***

Attendance: The Board will follow The Rules of Attendance.

**APPROVAL OF MINUTES of 2/19/08.**

***R. Duhaime motioned to table the minutes of February 19, 2008. Seconded by R. Bairam.***

***Vote unanimously in favor.***

**ADJOURNMENT**

The Chair declared the meeting adjourned at 8:00 PM.

Respectfully submitted,

Lee Ann Moynihan