

Official

**HOOKSETT ZONING BOARD OF ADJUSTMENT
MINUTES
Tuesday, JULY 14, 2009
HOOKSETT MUNICIPAL BUILDING
35 Main Street**

CALL TO ORDER

Chair Pearson called the meeting to order at 7:05 pm

INTRODUCTION OF THE BOARD

Chairman C. Pearson, Vice Chair R. Duhaime, J. Levesque, R. Bairam, G. Hyde (alternate), and J. Gorton (Council rep.)
D. Johnston excused.

ELECTION OF OFFICERS

J. Levesque moved to nominate C. Pearson as chairman of the Zoning Board of Adjustment.

Vote unanimously in favor

J. Levesque moved to nominate R. Duhaime as vice chairman of the Zoning Board of Adjustment.

Vote unanimously in favor

APPROVAL OF MINUTES

June 9, 2009

J. Levesque motioned to approve the minutes of June 9th, 2009 as presented. Seconded by R. Duhaime

Vote unanimously in favor. 1 abstention (C. Pearson)

CONTINUED PUBLIC HEARINGS

CHARLES & DEBORAH HOLT (Continued)

313 Londonderry Turnpike, Map 25, Lot 39 and 39-1

Medium Density Residential

Variance from Article 5, Section A to allow certain limited commercial uses in a new building to be constructed on the property in a medium density residential district. Permitted uses would be limited to passive, low impact commercial uses including general, professional and/or medical office space, personal care providers and/or service companies such as mortgage companies or day care providers and similar low impact uses.

C. Pearson stated that a letter was received from Mr. Holt's attorney requesting a continuation of the hearing.

G. Holleran stated that his attorney sent a letter and he requested that it be added to the record.

R. Duhaime motioned to continue the public hearing to August 11th, 2009. Seconded by J. Levesque

Vote unanimously in favor

HOMES FOR LIFE/JOAN ELLIOTT/STEPHEN AUSTIN

South Bow Road & Mary Ann Road, Map 12, Lot 14-4

South Bow Road & Mary Ann Road, Map 12, lot 13*

South Bow Road, Map 16, Lot 53*
Low Density Residential

Special Exception from Article 18, Section E.1 for construction of access roads; driveways, water impoundments and drainage ways at proposed subdivisions "LaBonville" and "Austin Woods"

*Variance from Article 18, Section G.2.a which requires a 40-foot setback from the wetland boundary to any structure or any paved area and shall remain in its natural, undisturbed state.

J. Levesque recused himself.

Four (4) members of the Zoning Board are available to hear and vote on the application. A positive vote of 3 members is necessary for approval. The applicant was given the opportunity to continue until a five (5) member board is available. The applicant agreed to proceed with four members.

The site walk was done and correspondence has been received from both the Planning Board and the Conservation Commission.

Eric Mitchell representing Homes for Life: We think we submitted all the necessary information for the Board to make a decision. We are requesting a Special Exception for a crossing and a second request for a variance to go through the buffers where the crossings are. There are two (2) road locations, which impact the wetlands. There is an area on lot 33, which is within two (2) wetlands that are within 80 feet. This was a logging trail, however the pathway is wide enough to drive a car. Access to lot 33 is in the upland area of the property. Although it is in the setback, it is the least intrusive spot. We have documents from the owner that talks of the history of the lot. It is not really a logging trail, it had been a trail used by the owners for some time.

Page 9 of the hand out has a picture of what the trail looks like.

You have, in your file, letters from the Conservation Commission and a letter from the Planning Board recommending the project. Once this process is completed, we will file plans with the Planning Board.

R. Duhaime: At the Planning Board meeting last night, I see they wanted to combine these lots. I have concerns with the boundaries and a lot of water runs through this property. Planning wants to do away with lot 26. That would keep you out of the wetland buffers.

E. Mitchell: Lot 26 there is nothing proposed to be in the wetland. We have options to reconfigure those lots at the end of the street so it won't be a shared driveway. From the PB comments last night, we are not crossing the wetland there and we are not in the wetland buffer so these issues are for the PB to consider and not for the ZBA.

R. Duhaime: If you did combine lot 26, it would get you back within the setback.

E. Mitchell: We may be able to look at lot 24 and we will work with Planning. The zoning changed a year ago to allow the buffer to change. Several of these lots may have to change shape and many may be gone by the time that Planning gives their final approval. We have noted their concerns.

Open Public Hearing
No comments

Close Public Hearing

C. Pearson: We don't have the specific wetland impacts.

E. Mitchell distributed an updated chart identifying the wetland impacts.

P. Rowell recommended that the buffer zones be marked with permanent monumentation

C. Pearson agreed to make that recommendation to the Planning Board.

Eric Mitchell agreed to put markers on the trees with aluminum nails.

***R. Duhaime motioned to approve the Special Exception from Article 18, Section E. for seven (7) wetland crossings for the construction of a Conservation Subdivision as indicated on plan dated 3/25/09 and Austin Woods plan submitted by ECM (page 3). Seconded by R. Bairam.
Vote unanimously in favor***

E. Mitchell: (Lot 26) We propose the wetland easement and a buffer restriction to the rear. 1/3 of the lot has wetland and buffer (40%).

R. Duhaime: That is my concern because the owner will come back here to do some construction in his front yard.

E. Mitchell: When we get to the Planning Board we will look at shifting all the lots. There is a potential that this lot will go away or it may be reshape to allow more buildable area.

The Zoning Board requested a memo be sent to the Planning Board expressing their concerns with Lot 26.

R. Duhaime: How many lots are in the wetland buffer? Lot 17 is another lot I would like to see go away.

E. Mitchell: The road had to be moved and several lots were moved. When we started, there was a 25-foot setback required and the zoning changed to a 40-setback requirement and the open space changed which left us less space to move the lots around on. We have reduced lots already due to the change in zoning and haven't been before Planning Board yet.

Markers every 50 feet on a steel post where there is a wetland buffer
Planning to review Lot 26 for reconfiguration

***R. Duhaime motioned to approve the Variance from Article 18, Section G.2.a which requires a 40-foot setback from the wetland boundary to any structure or any paved area and shall remain in its natural, undisturbed state, for this subdivision with the condition that any wetland buffers be marked with aluminum tree markers every 50 feet and the Planning Board review the reconfigured of lot 24, 25, and 26 to make lot 26 a better a lot. Seconded by R. Bairam
Vote unanimously in favor 4:0***

JENSENS, INC

3 Mailhouse Road, Map 19, Lot 4-1

An Appeal of Administrative Decision issued on March 16, 2009 by the Code Enforcement Officer which stated "the remaining 8 units in your 91 unit 'older persons' [over 55] must meet Article 7 section 3.f in that 10% of the dwelling units meet Americans with Disabilities Act requirement for accessibility."

Variance from Article 7 Section B.3.f which states within any elderly or older person housing developments, a minimum of ten (10) percent of the dwelling units shall be compliant with the requirements of the American with Disabilities Act (ADA)

C. Pearson: Based upon our request for the applicant to appear before the Planning Board, we have received a letter from the Planning Board, which was read into the record. .

J. Levesque expressed concern that Jensens was not including the ADA or Easy Living availability in the marketing campaign.

Attorney: Since this will be required to build to the Easy Living standards, we will adapt our marketing campaign accordingly. We are happy to include it in our ad. Jensen has communities all up and down the east coast and they have never been asked to do even one ADA or Easy Living Home. With Easy Living, we can meet the spirit and intent of ADA without the downside. This will be good for Jensen and the Town. This will be only the second home in the state to be built using the Easy Living Standards and it will put the town ahead of the curve.

J. Levesque: Are the mailhouse and the community center handicap accessible?

Jensens: Yes.

Open Public Hearing
No comments

Close Public Hearing

R. Duhaime: You will let people know that ADA homes will be available and you will advertise that these are Easy Living Homes.

Jensens: We can't guarantee that every ad will have all the information you want but generally speaking, we will make the modifications to the printed material.

***R. Duhaime motioned to grant the Variance from Article 7 Section B.3.f which states within any elderly or older person housing developments, a minimum of ten (10) percent of the dwelling units shall be compliant with the requirements of the American with Disabilities Act (ADA) to allow the 8 remaining homes to be built to Easy living standards with the condition that if someone visits the property they are made aware of the ability to be fully ADA compliant. Seconded by J. Levesque.
Vote unanimously in favor***

NEW PUBLIC HEARINGS

CROWN COMMUNICATION

210 Whitehall Road, Map 15, Lot 86-1
Industrial Zone

A request for a Special Exception as specified in Article 11, Section B.2 to install a wireless communication facility in the Industrial Zone.

A Variance from Article 28, Section O.5:a which requires a front, side and rear yard setback equal to the height of the tower. The proposal is to construct a 150-foot monopole tower. The center of the tower is a greater distance than the height of the tower from the front and rear yards, but is 113.67 feet from the side yard to the east property line.

D. Klasnick distributed an informational packet which is posted on the website along with a link to the PowerPoint presentation.

Daniel Klasnick representing Crown and AT&T: This is an application for the installation of the wireless communication tower.
See attached PowerPoint.

Whitehall Road is depicted with an existing structure and a driveway, which goes to an existing house and a commercial size garage. Crown will extend the existing access and install a gate

and continue the roadway to the locus parcel. Utilities will be underground and a meter bank, transformer and all the utilities will go from the same location under the roadway to the site. A second drawing shows the proposed compound with a turnaround and parking for the occasional service vehicle. The compound will be 50' x 50' and will be surrounded by a chain link fence with barbwire. It will be set up for any additional carriers. There is adequate space for the co locators.

A depiction of the monopole and the AT&T antennas with 360 degrees of coverage with the fencing was shown. Because of the existing driveway, this is a great site without too much site development.

This would be a recorded inertest and would follow any sale of the property.

We included photo simulations taken in April of 2009. The foliage was down at that time. Now there is more foliage and the representations are made when it would be most visible. We included 6 photo simulations in the power point: three from Farrwood, two from Whitehall and one from the extension on Crane's Way. In addition to the photos, they drove around the surrounding area and an additional page includes where the facility could be visible from. The impact is limited to the immediate area and is not visible from around the town.

AT&T prepared an RF report, which details the gaps in service. They looked at alternative locations. Page 17 of the handout imports two of the coverage maps. The yellow star indicates the proposed site and Page 18 shows the improved coverage and the gaps filled by this location.

Standards for Special Exception were read into the record.

1. The wireless communication is less intrusive and a more passive use than other industrial uses such as warehouse, freight terminal or auto body shop.
2. We included a study and showed no property value diminution.
3. No hazard and the facility will be maintained 24/7. The likely hood of any damage historically has been proven and is very unlikely. The facility will benefit the public by providing better service.
4. It requires no water or sewer and the utilities are underground and all needed will be provided by the applicant.
5. This is an industrial district and we have pictures to show the industrial nature of the district.

Area Variance Standards read into the record

1. The real estate appraisal states no diminution
2. Benefit by increased wireless service. Public safety is improved though better service. Wireless is much more a part of our society.
3. Hardship – particularly for wireless communication, the Daniels case says that if there is a gap in coverage, the board needs to consider it as a hardship. Although there are other industrial areas, there are none as suitable for this tower. The unique characteristics of this property make it a reasonable hardship.
4. Residents are without service
5. This is an allowed use. We are asking for a variance for the setback. It meets the setback on three sides. The only place it does not is on the industrial side. There is no way to place the tower to avoid the setback.

Page 19 is a recap

R. Bairam: How many antennas will be located on the tower

D. Klasnick: AT&T will have 6. Verizon will have 4.

AT&T will have 2 per sector. Years ago there were 4. The technology has come a long way and improve technology so you need less. You will see 2 per sector so each carrier will have 6. It is set up for 4 providers.

The industry standard is to have 10 feet of separation.

Verizon wireless for example does 12 feet

R. Duhaime: The height is also an issue. If it was shorter it would be less of an issue. Why is it required to be 10 feet?

Dan: it is required so the antennas can function properly and there will be no interference. If they were closer, the vertical pattern would shoot into the back and there would be interference.

R. Duhaime: Would a 120-foot tower work rather than 150 feet?

Dan brought some drawings showing why 150 feet is required. A three dimensional image of the terrain in Hooksett was shown. You must cover the trees. There are hills that block the signals. This location has a line of site of 150' minimum. We would have preferred taller. AT&T is trying to provide in building coverage. Green is in building, the orange is in vehicle, and the grey is what we want to go away (I may make a call outside my house or outside my car.) If we had 190 feet, we could get more of Chester Turnpike, so 147 feet is bare bones. AT&T is trying to fill in all the white. In a perfect world, there would be no white. The tree height in NH averages 65 to 75 feet. They will continue to grow to 85 to 100 feet up north. If you want less towers and you make shorter towers, the bottom carrier will be reduced and that will just increase the need for more towers.

J. Levesque: The property that is short for the drop zone is industrial?

Yes

Chris Yanchar, 26 Farrwood: You said there is significant gap coverage, how much is there really. I have AT&T and I have full bars in this location. Could this be moved to the southeast?

Dan: Bars don't represent quality. You can have bars but depending how many people are using the service, you begin losing bandwidth. The phone manufacturers control the bars. It is a marketing tool. The phone is limited to output. Bars are not a good indicator.

Chris Yanchar: How many homes are effected.

Dan: I don't know where your house is but the plot shows existing coverage in small patches. We are looking at where AT&T has tested and found no coverage. They do a lot of testing. These plots are based on signal strength. The green is solid for building coverage, the orange is vehicle and grey is marginal. You don't have quality coverage.

Chris Yanchar: Can you clarify the issue with the property selling if the new owner doesn't want the variance.

Dan Klasnick: The lease agreement will be recorded interest. The sale is subject to the tower and the lease.

Jim Swalgren, 20 Farrwood: We put a lot of money into our property and now there will be a tower we will need to look at. Will there be lighting on the tower at night. You say the property value won't be effected and if so, is there a guarantee of that?

Dan Klasnick: On this submission, we included a statement there will be not lighting. With regard to property value, I'm not an expert, but if you review the report we provided, an evaluation was made of other communities where a tower was visible and the determination was made that there was no impact. This could even be an amenity if someone wanted to use this technology. I must refer back to the report. Wireless is so ingrained and some people may be looking for that when buying a home. The report is uploaded to the website.

Jim Swalgren: Can you make it more blend able to the natural surroundings?

C. Pearson: Can you dress up towers to look like the evergreens?

Dan: I've seen some done in the past, and it doesn't seem like the trees in this area are evergreens. If you dress up this tower, it will be more visible and more odd. The monopole is different. This is not a lattice tower. It is much less visible. Crown would prefer a lattice tower because they are easier to maintain but as a concession are proposing a monopole.

Jim Swalgren: This is not a commercial area, this is a residential area. If you look at the pictures, this is a beautiful neighborhood. Now you will see a big metal pole out of our backyard. Why wouldn't they pick a more commercial area and put the pole higher. The value will go down. It will be in my backyard. It makes no sense to put this in the middle of a residential area.

C. Pearson: Did you look at other areas?

Dan: We included an alternative site analysis. If you look at the zoning, most of the area is LDR and I have a map of the surrounding area. There is a lot of industrial use on those properties. It isn't all residential. The carrier is trying to locate where they want the use to be. LDR is not an allowed use. With that constraint, they looked at this small block of industrial land off of Cranes Way, which desirable because of access and seclusion. Access is limited. Unfortunately, you need the height. Crown looked at alternative locations, but you need to find location that is zoned, and a willing landowner, and an area in need of coverage.

C. Pearson: Did Crown approach MS&G, which has significant land and some high points. That is zoned Mixed Use which is an allowed use. There are some good elevations up there.

Jim Donahue: I think they are trying to fill the area more to the east. The proposed location is right along Whitehall Road for the commuter traffic from Candia to Manchester. The hill at Dubes shadows Whitehall. The signal couldn't go over that ridge and then dip down. The site is close to the road so it can get through that cut in the road.

Close Public Hearing

A Site Walk is required and the Board requests a balloon test at 150' and at 120'. The Board would also like the applicant to submit their real estate consultant report and require a consultant of the Town's choosing at the expense of the Applicant do an independent study. This study should include the most recent data available to determine the impact in value on the surrounding residential community.

The applicant is scheduled to appear before the Planning Board on August 3, 2009 at 7:00 PM. The Board requests the lease agreement be submitted for review by the Town's attorney.

Site Walk – Monday, July 27 at 6:00 pm at Crane's Way.

Public Hearing is continued to August 3, 2009.

The applicant will contact Police and Fire regarding use or interference with the tower.

ADJOURNMENT

The chair adjourned the meeting at 9:30 pm.

Respectfully submitted,

Lee Ann Moynihan