

Approved: February 19, 2014

**Wednesday January 22, 2014
New Castle Planning Board
7:00 PM New Castle Town Hall**

Members Present: Chair Darcy Horgan, Ned Robinson, David Houston, Patty Cohen, David McArdle, Eric Katz

Members Not Present: Kate Murray

Also Present: John Nestor from AT&T, Russ Cox (ZBA), Lorn Buxton (Selectmen), Andy Schulte, Clint Springer, Kathy Hollister

Chair Darcy Horgan called the January 22, 2014 meeting of the New Castle Planning Board to order at 6:59 pm

1. Review and approve minutes of November 20, 2013

The discussion of the November 20, 2013 minutes was postponed until the February meeting.

2. Discuss interest expressed by AT&T for a cell tower in New Castle. Informal presentation by AT&T representative John Nestor,

Chair Horgan provided Mr. Nestor with a statement acknowledging that this was an informal presentation and discussion.

Mr. Nestor said he was here to speak with the Planning Board to introduce the idea of putting a cell facility for AT&T in New Castle. He distributed their original proposal to the members; noting that it has been shown that this proposal will not work for the Town. Mr. Nestor explained that AT&T is looking to expand their coverage in New Castle and as such met with the Police Chief and proposed taking down the existing tower and replacing it with another one. He explained that the original proposal included a 12 x 20 boxed out area that the Chief felt used too large an amount of space in the parking area. Mr. Nestor said the Chief suggested looking at a different site and suggested the old DPW site on Pitt Lane. He said he approached the Board of Selectmen with this suggestion who suggested he speak with the Planning Board. Mr. Nestor explained that if the site is appropriate they would write a lease for a tower to be placed in the DPW yard. He noted that the tower would need to exceed the height of the surrounding trees.

Chair Horgan asked what the design of the tower would look like.

Mr. Nestor said the aesthetics of the tower could be negotiated with AT&T.

David McArdle asked Mr. Nestor why AT&T is interested in constructing a tower in New Castle and why not in Kittery Maine, for instance.

Mr. Nestor said AT&T is interested in expanding its coverage in what they term “small search rings”. He explained this term refers to areas where you would not ordinarily see towers and said this is largely driven by the great increase in demand of “smart phones”.

Patty Cohen asked Mr. Nestor what height range they are hoping to achieve.

Mr. Nestor noted that 60 feet was the height stipulated in the original proposal. He said that the radio frequency engineers will determine exactly what height is needed to acquire the signal. He said the height would be as low as possible and hopefully just above the tree tops. Mr. Nestor noted that the antennas would be a visual impairment. He said they would provide architectural renderings of what the height of the towers will look like for the Town to review.

The members, public in attendance and Mr. Nestor discussed the area that is now being proposed for the tower. It was noted that the old DPW yard is located at the bend of Pitt Lane.

Ms. Cohen noted that there is currently a TMobile antennae located in the Church steeple next door to the Town Hall. She said that was designed for co-location of another antenna and asked why AT&T would not want to place their antennae there.

Mr. Nestor said in the original review by the radio frequency engineers he was told the site would not be adequate and that the other site would provide better signal.

Ned Robinson asked if the construction of a Verizon tower in Rye NH would affect the need for a tower in New Castle.

Mr. Nestor noted that AT&T competes with the other three carriers and said that they are all looking to cover the same area.

Mr. Robinson asked if AT&T could co-license with Verizon.

Mr. Nestor said that is possible and is frequently done.

David Houston asked what AT&T’s coverage objective is.

Mr. Nestor said the objective is to cover all of New Castle. He said he could have the radio frequency engineers and the marketing representatives present to the Town to show the coverage of surrounding areas and why they feel a gap exists.

Ms. Cohen said it seems to her that the site of the tower in the church steeple should be further explored. She noted the zoning ordinance limitations may be significant enough

that the Pitt Lane site may not be a viable option. Ms. Cohen said there is a hierarchy for siting the towers and AT&T would need to comply with that as well.

Mr. Nestor agreed that it would be best to ask the engineers to take another look at the church steeple site.

Mr. McArdle reminded Mr. Nestor that AT&T would need to negotiate with the church about locating the tower in the steeple.

Chair Horgan asked if there are ways of increasing capacity with new technology.

Mr. Nestor said there are ways but they are very expensive and have not proven to be very effective. He noted having closely located towers is still the most effective manner.

Mr. Houston noted that the site on Pitt Lane has wetlands.

Mr. Nestor said they would need to perform wetland delineation and determine where a tower could be sited.

Ms. Cohen noted that the property on Pitt Lane may have too many limitations regarding height, cemetery, and wetlands. She said it is a complicated site.

Mr. Nestor said he would convey the message that the Town of New Castle would like AT&T to exhaust the possibility of co-locating at the TMobile facility.

Chair Horgan asked if AT&T had no cell tower in New Castle, if there would be a substantial gap in coverage.

Mr. Nestor said he believes there would be but noted that there is some coverage provided by the TMobile tower.

Chair Horgan asked if there was any discussion or comments from the public in attendance.

Andy Schulte asked Mr. Nestor if AT&T has considered the site on the New Castle Commons next to the public works building where the Seabrook siren tower is located.

Mr. Nestor said they have not looked at that site, but said they are happy to look at alternative sites.

Russ Cox noted that the TMobile lease in the church steeple is nonexclusive and that it was built with the possibility of having additional facilities located there. He also noted that the belfry was replaced with a completely fiberglass belfry to allow an additional facility. Mr. Cox noted that the possibility of having additional free standing towers may not be viewed favorably by residents.

Lorn Buxton noted that all of the property at The Common is deed restricted and in all cases the Town would not be permitted to lease to a commercial enterprise.

Mr. Schulte reported that TMobile will be shutting down the tower in the church steeple for a week while upgrades are performed. He suggested AT&T inquire about this and encouraged Mr. Nestor that the easiest process would be to locate in the steeple.

Mr. Nestor said he would report back and see if he can get AT&T to advance the TMobile site alternative.

Chair Horgan also suggested that they review the Zoning Ordinance section that deals with telecommunication towers. She thanked Mr. Nestor for his presentation.

3. Update on Ordinance changes by Planning Board members

Chair Horgan explained there was a meeting held between the Chairs of the land use boards in New Castle to review ordinances that have come before their boards that created issues and could use changes or updates.

Ned Robinson distributed a hardcopy of suggested ordinance changes by the Planning Board. He said the first two changes (A & B) refer to a change made in 2007 to use the term maximum building area rather than maximum living area. Mr. Robinson noted there was a section where the change was not implemented and in order to be consistent that section should be changed to use the term maximum building area (6.1.4.2). He noted the same section also has a reference to a nonexistent code section and that should be deleted as well.

Patty Cohen asked if the Zoning Board of Adjustment discussed these suggested changes.

Mr. Robinson said they have not discussed the suggested changes.

Chair Horgan asked Mr. Cox if he had any comments on the proposed changes. He did not.

Mr. Robinson said suggested changes C & D refer to building height. He noted there has been some question as to how "maximum building height" is being interpreted by the Building Inspector. Mr. Robinson said the Building Inspector should review these suggested changes. He noted that change "D" refers to changing the definition of height and change "E" refers to the definition of dwelling unit. Mr. Robinson said the changes are being suggested to make the definition less confusing.

Ms. Cohen asked if there have been problems with the current definition.

Mr. Robinson said the idea of changing the definition of dwelling unit was raised while discussing changing the definition of building height.

Ms. Cohen said she prefers the proposed definition of dwelling unit to the current definition; but noted that the Building Inspector should have a chance to review this.

Mr. Robinson noted the issue of building on a sloped lot and determining the height by average. He said there have been instances where homes were built that looked appropriate on the street side, but on the back (where the slope occurs) look disproportionately tall.

Mr. Katz said he would like a chance to review the proposed changes to be sure the wording is consistent with what is in the code book.

Ms. Cohen noted that all the proposed changes should be given to the Building Inspector for him to review.

The members discussed whether the changes should be consistent with the BOCA (Building Officials Code Administrators) code.

Mr. Robinson and Ms. Cohen said they support the idea of the changes being consistent with the BOCA code.

Mr. Katz said that lots that are heavily sloped may need relief from the ordinance by the Zoning Board.

Chair Horgan directed Mr. Robinson to provide the proposed changes to the Building Inspector for his review and to then write language that can be put forward for a public hearing.

Ms. Cohen said that there needs to be a public hearing before changes can occur to the Zoning Ordinance. She said the first public hearing would need to be held in February.

Chair Horgan said before the public hearing can be held the changes need to be written in language the way it is proposed to appear in the zoning ordinance.

David Houston suggested that the lowest point needs to be defined and that the word "grade" should be used.

Andy Schulte noted that currently maximum height is determined by the lowest point of the foundation to the highest point of the roof. He said if that is changed to an average there is the possibility that a house could be built that is 40 feet high except for one small corner which is significantly lower and makes the roof height average out to less than 32 feet and does not meet the intent of the ordinance. Mr. Schulte also noted that using average roof height would be an issue with a structure that has many different roof lines. He suggested using the highest point of the roof as the roof height.

Mr. Robinson said there may be a question as to whether or not the Building Inspector is applying the definition of maximum building height as it is currently written.

Mr. Katz said the intent of the current definition is to use the highest point of the roof.

David Houston said the concern is the lowest point.

Mr. Robinson said it is important that all concerned understand the ordinance and the definitions and that it is enforced.

Mr. Schulte asked what average grade formula is being used.

Mr. Katz said BOCA states that the grade should be measured six feet from the structure. He noted that Mr. Schulte is stating that following the BOCA code may result in taller structures.

Ms. Cohen said that is not the intent.

Mr. Schulte said the intent of the ordinance is to measure 32 feet from the foundation to the highest point of the roof. He said if a house is built on a sloped lot they will need to go before the ZBA and present their case.

Mr. Katz said he feels the Town code should be consistent with a national code and said many lots in New Castle are not level. He said he does not feel it is fair or reasonable to penalize people because their lots slope.

Ms. Cohen said she is interested in hearing what the Building Inspector's comments are regarding the BOCA and the Town codes.

Mr. Katz suggested also asking the Building Inspector how he is interpreting the current code. He said there may not be a need to change the ordinance.

Ms. Cohen noted that the Building Inspector has asked for clarification of the ordinance.

Mr. Robinson said the Building Inspector feels there are questions regarding walkout basements and where the entry to the walkout basement should be determined. He noted the code currently states calculations should be from the lowest spot.

Ms. Cohen said this is the area that needs clarification.

Mr. Schulte said the height of the building is from the lowest point outside to the highest point; whether it is a walkout basement or there are steps.

Mr. Robinson said that is what needs to be discussed and clarified. He noted he will speak with the Building Inspector about these issues and the proposed changes.

Chair Horgan noted that the February meeting of the Planning Board will most likely have a public hearing portion regarding these changes.

4. Old Business

There was no Old Business discussed at the January 2014 meeting of the New Castle Planning Board.

5. New Business

The members announced the February meeting of the Planning Board would be held on Wednesday February 19th at 7 pm.

6. Correspondence

There was no new correspondence to discuss at this meeting.

7. Adjourn

David McArdle MOVED to adjourn the January 22, 2014 meeting of the New Castle Planning Board at 8:00 pm; this was SECONDED by Eric Katz and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary to the New Castle Planning Board