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5 **Joint Stratham Planning Board and Zoning Board of Adjustment**
6 **Meeting Minutes**
7 **August 19, 2015**
8 **Municipal Center**
9 10 Bunker Hill Avenue
10 Time: 7:00 PM
11

12
13 Members Present: **Planning Board:**
14 Mike Houghton, Chairman
15 Dave Canada, Selectmen's Representative
16 Jamie Paine, Member
17 Tom House, Member
18 Christopher Merrick, Alternate
19

20 Members Absent: Bob Baskerville, Vice Chairman
21 Nancy Ober, Alternate
22

23 Members Present: **Zoning Board of Adjustment**
24 Garrett Dolan, Vice Chairman
25 Bruno Federico, Selectmen's Representative
26 Jim Elliott, Member
27 Chris Brett, Member
28 Phil Caparso, Alternate
29 Deidre Lawrence, Alternate
30

31 Members Absent: Arol Charbonneau, Chairman
32 Chris Cavarretta, Member
33

34 Staff Present: Lincoln Daley, Town Planner
35

36 **1. Call to Order/Roll Call.**

37 The Chairman asked members to introduce themselves from both boards.

38 **2. Review/Approval of Meeting Minutes.**

39 a. August 5, 2015.

40 The Chairman recommended tabling the minutes until the next planning board meeting.

41 **3. Public Hearing(s).**

42 a. *Joint Planning Board and Zoning Board of Adjustment Meeting*

1 **Verizon Wireless, represented by McLane Law Firm, 900 Elm Street, Manchester,**
2 **NH 03101 for the property located at 28 Bunker Hill Avenue, Tax Map 9 Lot 51.**
3 Conditional Use Permit application, Site Plan Review Application, and Special
4 Exception Permit application pursuant to Sections 19.4.2 and 19.7 of the Stratham
5 Zoning Ordinance to construct a 90' tall monopole wireless service facility, associated
6 antennas and cabling, and installation of ground based telecommunications equipment
7 and fencing.

8 Mr. Houghton started the meeting by asking the planning board members to vote on
9 whether they felt this application would have a regional impact in accordance with R.S.A.
10 36-54-58. Mr. Houghton ran through the questions addressed by this R.S.A. The Board
11 felt it would not impact economic development in the area, nor the school district or
12 increased traffic generation. The Board agreed that this development did not provide the
13 opportunity to create a more efficient road network for the regional area or that the
14 building was over 50,000 S.F. It was felt there was no visual impact to neighboring
15 municipalities, no pollution generation, no water supply impacts, and the land doesn't
16 abut any conservation land. The proximity of the tower would not be within 1000' of the
17 border of 2 municipalities and would not increase the demand on emergency services. It
18 was decided there were no other impacts not listed within the R.S.A.

19 Mr. Paine made a motion that the Verizon Wireless project at tax Map 9, Lot 51 does not
20 create a project of regional impact. Motion seconded by Mr. House. Motion carried
21 unanimously.

22 Mr. Canada made a motion to accept the application as complete. Motion seconded by
23 Mr. House. Motion carried unanimously.

24 Mr. Elliot, Z.B.A. member made a motion to accept the application regarding ZBA Case
25 # 625, as complete. Motion seconded by Mr. Brett. Motion carried unanimously.

26 Mr. Dolan made a motion to allow both Z.B.A. alternates to be full voting members.
27 Motion seconded by Mr. Elliott. Motion carried unanimously.

28 Mr. Tom Gilbert, attorney from McLane Law Firm, representing the applicant introduced
29 himself, Chip Fredette, real estate site acquisitions specialist, Keith Vallente, radio
30 frequency engineer with C Squared Solutions, and Matt Filbin, civil engineer with
31 Dewberry Engineers.

32 Mr. Gilbert gave the background to the project as stated at the August 5, 2015 planning
33 board meeting. He said that as well as having to have several Land Use approvals, this
34 would need to go before the Town meeting for vote. The audience was informed that in
35 1996 the Federal government passed the Telecommunications Act that paved the way for
36 the development of the wireless communications network. One element of the act was
37 to encourage wireless providers and public entities to find ways to work together so
38 where there are siting opportunities on federal or local properties, the parties are
39 encouraged to allow that. He continued that the Town will benefit financially; their lease
40 agreement calls for opening rent of \$30,000 to the Town which will increase 3%
41 annually; there will be co-location opportunities so the Town could earn more from that.

1 Mr. Gilbert said he has seen a number of trends; there has been a notable decrease in the
2 height of structures and cell site infrastructure has gotten much closer to the consumer.
3 He then gave many examples of where that has occurred.

4 Mr. Gilbert said he had spoken to Mr. Ron Caron, attorney for Mr. and Mrs. Foss, abutters
5 to the project who raised questions and concerns about access to the site for both Verizon
6 Wireless and the Town. Some research has been done by both sides and they are going
7 to keep an open dialogue with Mr. Caron to sort out the issue.

8 Mr. Chip Fredette presented a map showing cell coverage for the area. He pointed out
9 the area with barely to no coverage. He explained that they try to design their networks
10 so that the edges of the footprints can connect with another so there is a clean "hand off".
11 He then showed a slide showing what coverage will look like if the tower is built.

12 Mr. Fredette described their process for analyzing view sheds and showed the results of
13 their analysis with super imposed photographs showing how the tower would look from
14 various viewpoints. He talked about the type of tower and said a mono pine would fit
15 really well for this project. For the compound where the equipment shelter would be
16 housed, an area of 50' by 50' would be needed which would be fenced in entirely. They
17 are proposing an 8' chain link fence with vinyl privacy slating, but they can do a wooden
18 stockade fence too; they are open to whatever the Board chooses. They are proposing
19 some plantings around the outside of the fence and there will be 12' wide swing gate.

20 The shelter is 12' by 26' and has 2 doors; one is the radio room and the other is the room
21 for the backup generator which is only used in the event of an emergency. He added it
22 is the second form of backup; the first being a rack of batteries which gives up to 8 hours
23 of back up time. Once the site is constructed, it is inspected by the technician. The
24 technician will typically visit the site once a month for inspection purposes.

25 Mr. Fredette talked about the time frame; for a mono pine it would probably take 2 – 2.5
26 months and for a mono pole just under 2 months.

27 Mr. Gilbert talked about the access issue and referred to a plan that showed 3 separate
28 right of ways. The right of way that Verizon Wireless would use limits increasing
29 intensity of its use and that gives the Foss's some veto rights over what uses can be made
30 by the Town at the top of the hill.

31 The Z.B.A. moved to discuss the Special Exception application; Mr. Dolan read out the
32 criteria for that.

33 Ms. Lawrence asked if there would be any lighting on the tower itself. Mr. Fredette said
34 there would be one motion sensor light next to the shelter. Ms. Lawrence asked if any
35 of the co-locations used by Verizon are owned by them. Mr. Fredette said none of those
36 tower sites are owned by Verizon Wireless. Ms. Lawrence said one of the criteria
37 addresses detriment to property values in the vicinity and asked if they had any
38 information about that. Mr. Gilbert said they have compiled a number of studies in a
39 number of New Hampshire communities during his 20 years. He used the Long Hill
40 tower site as an example and said at least 8 of the houses have a direct view of that tower.
41 When you look at the assessed values from 2011 compared to today, all properties have
42 increased so there doesn't appear to be any negative impact because of the tower. Mr.
43 Dolan asked if there was any information pertaining to this tower application. Mr. Gilbert

1 said there wasn't. Mr. Dolan asked if they would expect to see that data. Mr. Gilbert
2 said they could provide it.

3 Ms. Lawrence said one of the conditions the board can place on the approval is the
4 reasonable limitations on the number of occupants and methods and times of operation.
5 She asked if other carriers co-locating on this tower, will require monthly maintenance.
6 Mr. Fredette said each carrier would have its own maintenance person.

7 Mr. Daley asked how many carriers could co-locate on the tower if it was 120'. Mr. Daley
8 said he would like to know for 90' too. Mr. Fredette replied that structurally they can
9 design the foundation and the tower to suit as many carriers as is liked. The reality is
10 that all radio frequency is subject to interference by buildings, trees and so forth so it is
11 hard for him to say if T-Mobile could use the lower heights, but if he had to guess taking
12 into consideration the fact that antenna arrays represents one carrier and those are
13 separated 10' from the center line, it might be possible to fit 3 on the tower. With a 120'
14 tower, 5 or 6 carriers could be co-located on the tower.

15 Mr. Brett asked if the possibility of the tower going to 120' was still part of their proposal.
16 Mr. Fredette said it was a bit of a trick question as they are only asking for a 90' tower.
17 If the Town wants the tower to be built structurally capable of being extended, they can
18 do that, however Verizon is not seeking relief for that height, so if another carrier comes
19 along and would like to locate higher, it would be their responsibility to seek relief.

20 Mr. Caparso said one of his concerns is when they do a comparison with the Long Hill
21 site, it is different as the tower was there before the properties were being built so there
22 is no way to adequately track the financial impact for the residents near the tower. Mr.
23 Caparso said he'd like to see an analysis of property values in towns that are equal to
24 Stratham such as Greenland, Newmarket, Newfields, North Hampton and Rye and how
25 property values have been affected which are in the sight line of a tower.

26 Ms. Lawrence asked if there were any hazardous materials other than what is contained
27 in the batteries on site. Mr. Fredette said there wasn't. He showed the shelter which
28 showed that the generator doors were 8" higher than the radio room; if somehow the
29 diesel fuel leaked, the 2 walls would contain it as would the floor.

30 Ms. Lawrence asked Mr. Fredette to address the issue of the tower collapsing. Mr.
31 Fredette said all their sites are designed by New Hampshire/Maine/Vermont certified
32 engineers. They perform a geo technical investigation post tower and send that soil
33 analysis to the lab. They in turn send their results to the manufacturer who will build and
34 design the tower. Their engineers will design the foundation specific to that location
35 based on various criteria; he has never seen a tower fall. Mr. Daley asked how the tower
36 was designed to fall.

37 Mr. Daley reminded the applicant that at the previous meeting, the board had requested
38 distances from the tower to the nearby residences and asked Mr. Fredette to talk about
39 that. Mr. Fredette showed a plan with a circle in the middle that represented 125' with
40 lines leading to properties with the distances written on them. He read out the various
41 distances. To put the distances into perspective, he used the pictures from the view shed
42 analysis.

1 Mr. Elliott asked which kind of improvements would be made to the gravel road. Mr.
2 Fredette said it will be built to code with vehicles such as a crane or trucks bringing in
3 concrete. He said the width will be 12', but the Fire Chief may prefer 15'. They would
4 be prepared to widen it to 15' if the Fire Chief requests it.

5 Mr. Dolan said he would like to hear the Planning Board's views before reaching a
6 decision. Mr. Caparso said he didn't want to make a decision until he read the property
7 values analysis anyway. He asked if a water tower was going up in the same area. Mr.
8 Daley said part of the current plan is to locate a water tank up there which will be about
9 30'.

10 Ms. Lawrence asked the applicant if there was any information addressing health
11 concerns.

12 Mr. Gilbert referred to the Telecommunications Act which states that if they are in
13 compliance with FCC regulations on radio frequency emissions, then local regulators
14 cannot make a decision based on that and in some jurisdictions they don't even allow any
15 discussion to take place about it. They have provided a report which shows that the
16 Verizon Wireless installations operate at 6% of the maximum permissible exposure.
17 They did an analysis of 4 other carriers, and even with all carriers aggregated, it is still
18 just under 18. The cell tower's radiation is infinitesimally smaller than other things
19 people are exposed to every day such as microwaves. He said it isn't an issue for this
20 application and added that for 10 years they have even had sites at healthcare facilities.

21 Mr. Caparso said they are moving toward an environment where there are no land lines
22 and asked if there was an analysis they could provide on how many land lines there are
23 versus cell phones per household in this town. Mr. Gilbert said he didn't think it could
24 be done just for Stratham, but he would look into it. He was able to give statistics for
25 New Hampshire and said in 2006 there were more 603 wireless numbers than wired line
26 numbers and that has increased since.

27 Mr. Dolan said the Zoning Board of Appeals had now concluded their questioning.

28 Mr. Houghton asked Mr. Merrick if he would be a full voting member for tonight's
29 meeting. Mr. Merrick agreed.

30 Mr. Houghton said that Mr. Daley had put together his staff review. A number of items
31 he would describe as housekeeping items and he encouraged the applicant to work with
32 Mr. Daley to clean up those issues between now and the next meeting.

33 Mr. Houghton said one thing he is looking at is the separation distance. The Stratham
34 Zoning Ordinance states that towers must be set back a distance equal 125% of the height
35 of the tower from any off site residential structure. He said the residential property near
36 the tower does not meet this regulation. Mr. Daley said it pertains to off-site facilities.
37 Mr. Paine asked if the water tower would be in addition to the property or on the property.
38 Mr. Daley said it was a little premature to discuss that now. Mr. Paine asked if it would
39 be easier for Verizon to build on top of a 30 water tower instead of building a brand new
40 tower. Mr. Fredette said no because it would be a 60' extension on top of the water tower
41 and generally water tank domes are not strong enough. Mr. Daley said the approval for
42 the water tank could be a long way off too. Mr. Paine asked if the proposed fenced off
43 area would be able to accommodate other carriers. Mr. Fredette said it should be big

1 enough. If the tower had to be expanded to 120', the fence would need to be bumped out
2 on one side. Mr. Paine discussed power to the property next. Mr. Fredette explained that
3 they use existing facilities and then go underground. Mr. Paine asked if they had some
4 kind of check lists for FCC approval. Mr. Fredette said he doesn't typically start it until
5 he thinks they will get approval, but in this case they have started it. Mr. Paine asked if
6 one of the items is the health and safety aspects to residents. Mr. Fredette said he doesn't
7 believe they will get into that. Mr. Daley added that Section 106 looks at the impact upon
8 historical structures in town also. This site is directly abutting the recently purchased
9 Cushman property. Mr. Fredette said they were particularly concerned about the
10 Cushman property and the visual impact from Scamman Farm. Mr. Paine asked if they
11 would be adding gravel from the existing driveway to the road. Mr. Fredette said they
12 would be adding gravel to that section which will probably be about 120 or 130'. It is
13 open and level.

14 Mr. Merrick asked what size, how many and what path would the hard lined telephone
15 lines take from Bunker Hill Avenue going to the site. Would they be underground and
16 what size conduits would be used? Mr. Fredette said they are going to use the Town's
17 water line easement underground from there to the site. There will be 2 x 4" and 1 x 2"
18 conduit. One will be for power and the other is for the fiber. Mr. Merrick asked if they
19 would be significantly adding overhead cables until the point they go underground. Mr.
20 Fredette said that one line of fiber will serve them just fine.

21 Mr. Daley said one thing that hasn't been discussed is alternative sites. He wanted to
22 know if they had considered other locations. Mr. Fredette said they hadn't because they
23 know it wouldn't work. Small cells are used to serve densely populated areas and cover
24 a quarter of a mile radius. Mr. Daley asked about Stratham Hill Park. Mr. Fredette said
25 he believes there is a deed restriction which prohibits commercial use there. Secondly
26 they have co-located on the Varsity Wireless tower; they would be so close together if
27 they could locate at Stratham Hill that no engineer would try to use both of them to get
28 coverage over at this side of town. Mr. Daley said he didn't see Long Hill as part of their
29 analysis and requested that they do so. Mr. Fredette said they would.

30 Mr. House said he would like to talk about the noise coming from the generator. Mr.
31 Fredette said the studies that they have done concern outside generators, not indoor ones.
32 At the distance of 22' it measures 60 decibel. It will run for 20 – 30 minutes a week
33 which can be pre-determined by the Board. If it were to kick on in the event of a serious
34 power outage, he wouldn't know how long it would last as it depends on demand of use
35 in the area. He has been told it could be refueled though. Mr. Merrick said there are
36 mufflers. Mr. Fredette said they can put sound matting in if necessary, but there is a 200'
37 tree buffer in every direction. Mr. House said he was just referring to a muffler.

38 Mr. Houghton opened the floor up to the public.

39 Mr. Caron, attorney for Mr. and Mrs. Foss talked about the access issue. He stated he
40 would like the Board to review an underlying easement deed that was recorded 2011 and
41 defined in the recorded plan D-37684. It talks of an easement at the bottom of the hill
42 from the driveway of Mr. and Mrs. Foss that was related to a curb cut that may involve
43 D.O.T. approvals if a certain intensification of use or change of use would take place on
44 either the Foss property or Town property. That particular deed defined the use of the

1 Foss property and the Town's property as follows: "residential course for Mr. and Mrs.
2 Foss and residential for a water tower for the land being held by the Town." He continued
3 that the Town was deeded that property as part of the Makris development as a settlement
4 with the superior court involving the Foss's. It was also related to the Makris
5 Development property. Mr. and Mrs. Foss question the lawful use of the driveway by
6 the Town or its tenants to travel up that driveway to the property as it presently stands.
7 In that particular easement recorded as Book 5425 Page 2283 dated April 2013 accepted
8 by the Town as well as Mr. and Mrs. Foss' the deed refers to the right on part of the
9 Foss's to withhold their consent in their sole discretion any use of their driveway to
10 service the Town property other than for residents; now there is talk of the cell tower.
11 Incident to the Makris settlement that led to the easement deed there was much discussion
12 between counsel for the parties and the Town about the prospect of use of the Town's
13 property by razing the residential property and building a water tower. Mr. and Mrs.
14 Foss agreed that for so long as the deed were to provide them with the unilateral right to
15 deny use of the Town's property for other than a water tower or residence, they would
16 sign, which they did. Incident to that discussion coincidentally a cell tower is referred to
17 and the Town's counsel and counsel for Makris and Mr. and Mrs. Foss confirmed that
18 there will never be a cell tower up there. He continued that the deeds do not talk about
19 the use of the driveway, just the water tower or residence. If one wants to argue
20 intensification of the driveway after what has been heard tonight, there are additional
21 concerns such as the residence staying. If it stays will it still be used for residential use?
22 Mr. Canada confirmed that was the plan. Mr. Caron said the Foss's may hear the cell
23 tower will not intensify use, but when they hear the residence will not be razed then the
24 present use would increase by the use of the tower. The use would be increased further
25 by the water tower. Mr. Caron said if there are more carriers on the cell tower that will
26 increase the traffic also. He doesn't know what traffic will be generated by the water
27 tower, but he would guess it would be more than once a month plus there is still a
28 residence up there.

29 Mr. Caron referred to a water easement that goes down to Market Street which he hasn't
30 read, but he has been told that the pipes are in. He said he didn't know if it needed the
31 approval of the homeowners' association to install underground electrical feed to the site.
32 If the Board concludes it does need that approval then it may be added to the Foss's
33 driveway also, intensifying the use which is a violation of the easement deed. Mr. Caron
34 said his clients' intention is not to block the cell tower, but there is a recorded deed that
35 gives them the right to say "no". It would be unfortunate if everybody ignored that
36 because if they do, they will challenge it. They are happy to work with Verizon with the
37 details they know and he is sure that Mr. Daley would be willing to work with them, but
38 the present position on record is "no, that can't occur because of the recorded deed".

39 Mr. Caron finished by saying that looking at the deed, it talks about intensification of use
40 of the properties themselves. He explained that the Foss's driveway goes out to Bunker
41 Hill and next to it is Bittersweet Lane; between the two, there is the easement referred to
42 by the deed. The deed states that "in the judgement of the D.O.T. it requires utilization
43 of within the prescribed access then the Foss's and the Town are required to use it". It
44 takes away the driveway's curb cut and everything goes out of Bittersweet Lane if there
45 is an intensification of use which the D.O.T. suggests mandates use of that little piece.
46 The easement deed also concludes that there will be no use of the driveway owned by

1 the Foss's beyond the cited uses to do with the residential and water tower. Mr. Caron
2 concluded the driveway will suffer an intensified increase in use which is not what was
3 expected.

4 Mr. Deschaine, Town Administrator, said when the Board of Selectmen entered into this
5 lease agreement with Verizon Wireless, they had Town Counsel look at this very issue
6 about access and it was his opinion that the Town did have that right, and that this use
7 was permitted. Understandably it is the right of the Foss's to contest that, but he doesn't
8 think it's germane in this form as Town Counsel has advised the Board it is appropriate,
9 and if it was found out to be a second option or second right of way that is not used
10 currently, we could deed it directly to the Town, and therefore is a second option to
11 address. He has just heard that Verizon has also looked at the water line easement.
12 Incidentally, Mr. Deschaine said the lease agreement places squarely on the lessee to
13 determine whether or not the right of ways exist. Mr. Deschaine commented that the
14 Town didn't share the opinion that there is an intensification, the reason being that the
15 water tower will probably be sourced from Exeter so there won't be a steady stream of
16 related personnel required and it may be inspected monthly or even only quarterly.

17 Mr. Houghton stated that these issues would need to be resolved and it would need to be
18 added as a condition if the Board approves the application. Mr. Merrick commented that
19 he didn't see how the Board could look at this further until this issue is resolved. Mr.
20 Merrick didn't feel one truck a year to service the cell tower would be an intensification
21 of use. Mr. Federico said intensification mean in perpetuity. Mr. Daley said Town
22 Counsel has already provided an opinion on the access issue, but if the Board wants
23 further clarification on that, Mr. Daley said he'd be happy to provide that for the Board's
24 consideration. Mr. Canada said he felt Mr. Houghton had already resolved the issue by
25 suggesting the condition. Mr. Merrick argued that if the road has to go up on the opposite
26 side that would be a major change to the site plan. Mr. Canada argued that wasn't part
27 of the application. Mr. Daley added that unless they propose an alternative access as part
28 of the application, they Board has to act on the application as proposed.

29 Mr. Caron commented that he was sure that Mr. Daley would agree that the Board
30 certainly has the authority of reviewing the application to ask the applicant to explore
31 alternative access and that might be part of the resolution. Mr. Daley said exploring
32 options is part of the review process and if requested by the Board as an option, the
33 applicant would need to respond accordingly. Mr. Gilbert asked why they would need
34 to look for an alternative access rather than clarifying the situation; they might still be
35 able to use the access as proposed. Mr. Houghton said he would ask them to look at
36 alternatives and/or solutions to the best of their ability. Mr. Gilbert said this was raised
37 as an issue to him just this morning and he said earlier on that he hoped to work with
38 Attorney Caron to resolve all of this in the days ahead.

39 Mr. Ernest Boye, resident of Bittersweet Lane asked if Verizon could come up with
40 alternative locations rather than an alternative access. Mr. Houghton said the applicant
41 has spoken to alternative locations already, but asked the Board how it felt. Mr. Merrick
42 said he was fine with what had been presented. Mr. Paine said he believed they had
43 asked the applicant this question already and they had answered, but they could ask for
44 documentation to support that. Mr. Boye said he would like documentation and
45 mentioned that the Verizon website states this whole area is covered.

1 Ms. Ciccanesi, resident Bittersweet Lane said she knows nothing about cell towers, but
2 suggested waiting to see what cell coverage they will get from the Varsity Wireless
3 owned tower. Mr. Gilbert said they always look for alternative locations and if anybody
4 has any ideas, they will evaluate them because folks in the area have the best knowledge.
5 A resident asked if any consideration had been given to the location of the transfer station.
6 Mr. Gilbert said they would look at it. Mr. Gilbert commented on the fire tower and said
7 Verizon had built on a couple of those in other towns. He said that because the staff do
8 such a careful and thorough job of researching the area, his fear is that there will be no
9 other viable alternative. He suggested working on the appearance with residents instead.
10 Mr. Paine asked if the applicant could provide the data of the analysis for alternative
11 locations that have been looked at previously. Mr. Gilbert said they could.

12 Mr. Matoglu, resident Bittersweet Lane pointed out that the applicant said all antennas
13 are the same; they are not.

14 Mr. Boye gave a short presentation on why he felt building the tower was not a good
15 idea. He started by discussing the impact on property values quoting data from a 2005
16 study done in the Appraisal Journal which states there was a 21% drop in values. Mr.
17 Boye did a calculation taking 50 houses currently valued at \$500,000 with a 20% drop in
18 value and compared the loss of income to the Town versus the income from the Verizon
19 Wireless tower; it showed a net loss of \$69,000 for the Town.

20 The next slide looked at hazardous materials found in lead batteries and the diesel
21 generator. He wanted to know what they would do if there was a leak; there are wells in
22 the area and children drink from those wells. He said lightning strikes will increase and
23 with a lot of trees in the area, there is an increased fire hazard. Falling ice or collapsing
24 towers are another hazard to be considered.

25 Mr. Boye talked about criminal activity increasing with the possible theft of building
26 materials and about the effects on wildlife. He said the US Department of the Interior
27 states the wireless proposal threatens birds, and is not consistent with current information
28 and laws that protect birds. They called for an environmental review. Multiple other
29 studies show the negative impact of electromagnetic radiation (EMR) from cell phone
30 towers on birds, bees, wildlife, and plants. Lastly Mr. Boye addressed the issue of health
31 hazards. He said non-governmental organizations are saying more research is needed
32 and shared various quotes from well-known and respected organizations.

33 Mr. Houghton said he'd like to propose to all present that a site walk be conducted. Mr.
34 Daley suggested September 2, 2015 at 5:30 pm and continuing the application to
35 September 16, 2015 for the public hearing portion. Mr. Daley asked the Z.B.A. if they
36 would like to continue on a joint basis. Mr. Dolan said they would.

37 Mr. Houghton reminded the applicant of the information that had been requested for the
38 next joint meeting.

39 Mr. Merrick made a motion for a site walk on September 2, 2015 at 5:30 pm. Motion
40 seconded by Mr. House. Motion carried unanimously.

41 Mr. Paine made a motion to continue this meeting to September 16, 2015. Motion
42 seconded by Mr. House. Motion carried unanimously.

1 Mr. Caparso made a motion to move forward with the Planning Board and extend case #
2 625 to September 16, 2015 and for a site walk on September 2, 2015. Motion seconded
3 by Mr. Elliott. Motion carried unanimously.

4 Mr. Deschaine explained that the schedule in accordance with the Telecommunications
5 Act is somewhat different and there is a very limited time in which the Boards can act on
6 this application. Mr. Daley added that from the time the application was received, there
7 are 150 days for the Boards to act.

8 b. *Planning Board Meeting*

9 **Rollins Hill Development, LLC. P.O. Box 432, Stratham, NH for the property**
10 **located at 20 Rollins Farm Drive, Stratham, NH, Tax Map 3 Lot 24, Tax Map 3 Lot**
11 **7, and Town of North Hampton, NH Tax Map 15 Lot 24.** Subdivision Application to
12 construct a 43-lot, over 55 Retirement Planned Community Development.

13 Mr. Rob Graham, representative for the applicant introduced himself, George Conway,
14 Property Owner, Lee Paladino, General Manager, Jim Gove, Wetlands Scientist,
15 Jonathan Ring, Jones and Beach Engineers, Rob Roseen, Engineer and Victor
16 Manougian, attorney.

17 Mr. Graham said he'd like to withdraw a couple of waivers; one for the front setbacks,
18 and the other for building envelopes shall not include wetlands or 100-year floodplains.
19 They have heard back from FEMA with minor comments and they anticipate that to wrap
20 up quickly. He said, in talking with Mr. Daley, it seems more reasonable to hold that as
21 a condition for the lots that it affects. Mr. Daley added following approval. Mr. Graham
22 continued that leaves one waiver outstanding, the one for the shared driveways. Mr.
23 Houghton reminded Mr. Graham that he was going to provide the Board with more detail.
24 Mr. Graham said they will have to look out in the field exactly how they want to do it,
25 but they hope to use the buffering envelope between the 2 properties as it's the least
26 amount of grading at the top of the hill. They would like to use that schematic for the
27 waiver, but understand they will provide an as built to the Board with the exact grading.

28 Mr. Ring showed on the plan the contours as you go up the hill for that portion of the
29 road which then swings in front of lots 4 through 12 with a 9.3% grading on one side and
30 10% maximum on the other side. They are trying to provide relief because it does go
31 quite a bit up hill in that vicinity and they want to avoid taking down a lot of trees. Mr.
32 Paine asked if there were any concerns with storm water run-off in that area. Mr. Ring
33 said they will be cutting through there and balancing it with the side slopes and swales
34 as they do it. They will handle the storm water as it comes down. There will be a silt
35 fence and temporary erosion sediment control, and they will re-seed and re-vegetate the
36 area. Mr. Houghton asked what the benefit of doing this would be. Mr. Ring explained
37 that these lots are fairly steep as you come off the main road so there would be 6 separate
38 driveways coming up with a fairly steep slope or they would have to switch back. This
39 way they can come up with a main road and provide shorter driveways to get into these
40 house lots which will be a little flatter also. Mr. Daley said the grading seems a little off
41 especially for one of the houses. Mr. Ring said that one house may have to shift back a
42 little bit. He said that the driveway will flatten out to 2% grading for a 30' stretch. Mr.
43 Merrick asked about what kind of asphalt would be used. Mr. Ring said it would be
44 standard asphalt. Mr. Paine asked if there would be lighting at the intersections of the

1 roads. Mr. Ring said he didn't think there was any proposed lighting anywhere for the
2 project. Mr. Paine asked if this latest version had been shown to the Fire and Police
3 Chiefs. Mr. Daley said it had not. Mr. Daley asked if there would be a retaining wall to
4 help create this. Mr. Ring said he didn't think so. Mr. Daley asked about location of
5 mail boxes and trash pickup. Mr. Ring said they would probably run those along the loop
6 road. Mr. Deschaine said there have been issues with mail boxes and private driveways
7 so the applicant should check with the post master first. Mr. Deschaine said trash pickup
8 could also be an issue so they would need to check that also.

9 Mr. Daley said with the grading being introduced along the roadway itself and then for
10 the actual looped driveway, tree removal will be necessary so he wanted to know if there
11 would be a planting plan. Mr. Graham said they didn't have one. Mr. Daley asked if
12 there would be a separate easement for these properties on the shared driveway from the
13 entire subdivision. Mr. Graham said they would probably integrate it into the common
14 property, but they need to give it some thought. Mr. Graham confirmed the drainage
15 would tie into the typical drainage connection. Mr. Daley suggested that information be
16 provided as part of the drainage analysis or the as-built. Mr. Paine commented that this
17 is being introduced toward the end of the process so does it require the relocation of wells
18 and septic. Mr. Graham said there is plenty of room on these lots to relocate them. Mr.
19 Houghton said he felt a condition should be added to granting the waiver which addresses
20 the maintenance of the driveways.

21 Mr. Merrick made a motion to grant the waiver for Section 4.4.6 with the shared looped
22 driveway approach with the condition stated by Mr. Daley concerning language being
23 written into the covenants addressing the maintenance of said shared driveway. Motion
24 seconded by Mr. Paine. Motion carried unanimously.

25 Mr. Graham said they had received comments from Civilworks which they have
26 resolved. Mr. Daley said Civilworks recommended more information be provided
27 concerning the A.O.T. process and also part of the subdivision approval; the Board
28 should not approve this until that process has been resolved. Mr. Graham said ideally
29 they would like approval on the design element so they can send that for the A.O.T.
30 process to be completed.

31 Mr. Daley said that typically for a subdivision that requires covenants or an association
32 to be developed, the subdivision regulations require a draft of the covenants to be
33 provided to the Board for review and by Town Counsel. Mr. Daley said he felt
34 comfortable when granting conditional approval absent having those documents a little
35 more formalized. The covenants will deal with the maintenance and operation of the
36 shared assets; one being the porous pavement and he would like to know who will be
37 accountable for that. Several of the Board members agreed. Mr. Houghton added that
38 the documents don't necessarily address the design per se, it addresses how it will be
39 managed going forward. It is an important component to this application. Conceptually
40 he feels the heavy lifting has been done around design.

41 Mr. Graham said he would like to talk about the structural aspects of the documents. He
42 explained that there will be a disclaimer in the documents because of possible changes to
43 the plans. Some of the aspects relating to the open space areas are important in terms of
44 how they going to hold the title to those areas. The applicant's preference is to have the

1 association be responsible for those areas and have it policed by the Board of Directors
2 who will have the authority to deal with any infractions and to put a lien on the home
3 owner. They have taken a lot of the risk out of these areas by making sure they are not
4 part of house lots. Mr. Paine asked if they would be putting a conservation easement into
5 the documents. Mr. Graham said the deed will be restricted by the declaration of the
6 covenants so there won't be a conservation easement. Mr. Daley said in addition to the
7 enforcement being done by the Board of Directors of the association, it also needs to
8 include the ability for the Town to enforce it also. Mr. Graham said there are
9 complexities that go along with creating a police power for the Town and he doesn't feel
10 it's necessary based on his experience with other developments similar to this. Mr.
11 Merrick disagreed.

12 Mr. Deschaine said the Conservation Commission spoke about this at length and they
13 recommended that a third party should be involved. Most of that discussion revolved
14 around dynamics of neighborhoods change over time, and sometimes you have a very
15 diligent board of directors and sometimes you do not. The Conservation Commission
16 feel it would be better to have a third party who understands the significance of the
17 resources being protected. Mr. Canada asked Mr. Daley that if it's in their approval,
18 doesn't the Town have the ability to enforce it. Mr. Daley said it is part of the recording
19 process also and the Town uses the South East Land Trust who monitor and do reporting
20 elements on open space areas, they report annually on infractions as well other things to
21 do with conservation areas. Simply approving open space areas as far as subdivision
22 without having that tool in place, he is not sure they could enforce anything. Mr. Graham
23 said a third party is a non-starter for the open space, but they are happy to sit down and
24 hammer out some language which gives some default language. Mr. Houghton said he
25 felt comfortable with that idea. Mr. Paine asked Mr. Graham if he would be open to
26 having the Town's consultant review the property at the applicant's expense. Mr.
27 Graham said probably not, but the Town can come and take a look at any time. Mr. Paine
28 said he was trying to avoid duplication, and have unbiased reports which can be used
29 consistently by everybody across the Town.

30 Mr. Daley said the Town does have the mechanism to enforce the rules and regulations
31 and subdivision approval, however if the mechanism isn't defined or clearly stated, it
32 leads to trouble down the road. Having the Town as an enforcing element would be
33 preferable to alleviate any ambiguities.

34 Mr. Graham turned the discussion to resolving the issue with Lindt. Mr. Daley said he
35 had been working with Lindt and their counsel on defining the actual easement. He hopes
36 to have draft language for circulation shortly which makes reference to the consolidated
37 plan as put together by Jones and Beach and Tighe and Bond.

38 Mr. Graham said they had received a copy of the letter from the Conservation
39 Commission and feels they have resolved them all. Mr. Daley said it is worth discussing
40 their recommendation for the lots adjacent to the sensitive resource areas and also the
41 abutting property with an unknown owner; they would like to get a better understanding
42 of what is located in that wetland area as delineated just west of the property line. Mr.
43 Gove said he doesn't have the right to go out there. Mr. Deschaine said it would be
44 unfortunate if later on there is an element that wasn't properly investigated just over the
45 line which could cause issues. Mr. Graham said that they have complied with wetland

1 buffers. Mr. Daley said for closure purposes, the applicant should respond to the
2 questions listed in the August 18, 2015 letter from the Conservation Commission.

3 Mr. Jim Gove, Gove Environmental talked next about the plantings, the applicant intends
4 to use for the slopes.

5 Mr. Houghton and the Board decided to go through the points made by the Conservation
6 Commission in their letter just to make sure all had been addressed. The Board agreed
7 that the applicant had addressed them all.

8 Ms. Breslin, resident, referred to the open space and in particular to the 37 acre parcel
9 which abuts her land. She sought clarification that that piece of land was no longer going
10 to be part of the conservation easement. Mr. Graham said it might be under an easement
11 to another party, but it will be a conservation restriction and it will be conservation land
12 in perpetuity. Ms. Breslin asked if restricted meant it would never be built on. Mr.
13 Graham confirmed her statement. Ms. Breslin asked if there were any uses that the land
14 could be used for. Mr. Graham said there are existing trails on the property but they are
15 not intending to construct anything new. Ms. Breslin asked if the land could be used for
16 agriculture. Mr. Graham said it could not. Ms. Breslin asked if there would be any
17 hunting on it. Mr. Graham said they had not intended to restrict it from hunting. She
18 asked if all of that will be noted clearly in the actual deed. Mr. Graham said it will be.
19 Ms. Breslin repeated her concern about the hunting. Mr. Daley said she can post “no
20 hunting” signs on her property line and no shooting is allowed within 300’ of a house.
21 Mr. Paine asked if that open space would be open to the general public or just the owners
22 of the property. Mr. Graham said it is intended to be limited access open space for the
23 homeowners. There are complications that arise from opening these spaces to the general
24 public such as insurance.

25 Mr. Merrick made a motion to continue the application to September 2, 2015. Motion
26 seconded by Mr. House. Motion carried unanimously.

27 **4. Miscellaneous.**

28 There were no miscellaneous items to report.

29 **5. Adjournment.**

30 Mr. House made a motion to adjourn at 10:46 pm. Motion seconded by Mr. Paine. Motion
31 carried unanimously.