



Town of Westminister

MASSACHUSETTS 01473
FROM THE OFFICE OF THE
PLANNING BOARD
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William C. Taylor, II - Chairman, Marie N. Auger - Vice Chair, M. Donald Barry Michael Fortin Jon Wyman

MINUTES OF REGULAR MEETING

Monday, September 10, 2012

Room 222, Town Hall

Attendees: Marie Auger, Don Barry, Bud Taylor, Jon Wyman, Mike Fortin, Stephen Wallace-Town Planner

Absent:

Additional Attendees: Mr. Dean Johnson, Mr. Nate Johnson, Ms. Kate Conway Bjorkman, Mr. Paul Aldrich

7:00p.m.

The Planning Board opened the meeting. Bud informed those present the meeting was being audio recorded. Motion by Don to approve the August 27, 2012 meeting minutes amended to include his comments about the bank concerning the road at Rowtier Drive. Seconded by Jon. Voted AIF to accept the minutes as amended.

Don made a request related to the August 27th meeting to allow each board member to speak in entirety before another member speaks. The chair noted the request and agreed with Don.

7:04p.m. *Public Hearing regarding a set of regulations for the siting of Wind Power Facilities per Section 205.39.3 of the Zoning Bylaw.*

Bud read the public hearing notice and opened the public hearing which he stated had been publicly noticed. Stephen stated the Wind Power Bylaw passed at the May 2010 annual town meeting specified a set of regulations would be adopted by the PB. The Attorney General Office had reviewed the Bylaw and offered two cautions: 1) Define SHADOW FLICKER in the bylaw and 2) clarify bonding as it appeared in the regulations. Stephen stated he had forwarded the comments to Town Council had not yet received comment from them.

Don stated he would like to continue the hearing until such time Town Council had weighed in on the subject. Mike seconded for discussion and asked the chair to recognize members of the public who had spent their time to attend the hearing and allow them to speak. Bud polled the PB members for comments and questions.

Both Don and Mike wanted to hear from the public.

Jon stated he did not think Town Council would comment on flicker but they might on the surety.

Bud asked Stephen to ask to hold a place on the fall town meeting warrant to get the language corrected.

Bud then recognized Mr. Dean Johnson who stated he was concerned that there had been a lease for two wind towers on land owned by Donald LeBlanc from Westminister Country Club that were proposed within 600 feet of his home. Mr. Johnson stated he was attending the hearing to stay current on the situation. Stephen stated he had contacted Elisha Erb, the attorney involved in the project, who stated the project was dead in the water at this point in time.

Mr. Johnson noted there was a spring and possibly wetlands at the site of the base of one of the turbine locations.

Mike stated the PB was aware of the lease on the property and the proximity of the proposed turbines to local residences had played a role in the crafting of the Bylaw and regulations. The PB had invited independent wind turbine consultants to review the proposed bylaw and regulations to help the board understand the needs of turbine siting needs. The consultants had reviewed the LeBlanc site and stated they had stayed away from promoting it because they felt it was located too close to neighboring homes. The PB was well aware that any project too close to people was a bad project and received ongoing awareness of the turbines located too close to residences in Falmouth from news articles provided to the board from the DEP.

Bud asked for a voice vote to continue the hearing. All were in favor to continue.

7:24p.m. Public hearing on several housekeeping amendments to the Town's Wireless Communications Towers and Facilities Bylaw (Section 205-39.2 within the Zoning Bylaw) and some minor changes to the Overlay District Map.

Bud read the public hearing notice and Stephen described the amendment.

Stephen stated he had been requested by the Selectmen to draft several amendments aimed at bringing our Zoning Bylaw into compliance with both State and Federal laws governing the siting of wireless communication facilities. After sharing a first set of amendments with the relevant local permitting authorities, several additional amendments were proposed.

Stephen explained that the first amendment covers waivers for wireless communication facilities associated with public safety providers and an exemption for ham radio operators. According to Town Counsel, public safety providers are not currently exempt from the bylaw.

§ 205-39.2, Section B(1): (Applicability), amendment to item a, and new Items c and d.

B. Applicability; terminology.

(1) Applicability.

(a) The requirements of this section shall apply to all wireless communications facilities, **as well as any material change or proposed change to an existing facility**, except where federal or state law or regulations exempt certain users or uses from all or portions of the provisions of this section, **and except for public safety providers as set forth in (c) below**, and is intended to repeal and supersede any section of the Zoning Bylaw which may conflict with the provisions of this section as they apply to wireless communications towers and facilities, as defined herein.

(b) No wireless communications facility shall be considered exempt from this section by sharing a tower or other structure with such exempt uses.

(c) Waivers: For wireless communication facilities intended for use by local, regional, state and/or federal public safety providers, the Special Permit Granting Authority may waive strict adherence to the requirements of this section (with the exception of the height limitations and required fall zones).

(d) Exemptions: Facilities used by a federally-licensed amateur radio operator ("ham radio"), as referred to in MGL Chapter 40A, Section 3.

Ms. Kate Conway Bjorkman asked if the changes would mean that public safety departments would not have to go through the bylaw with the exception of just the height and fall zone requirements? She asked how things would proceed if the changes were voted in. Stephen explained that the entity who wanted a waiver would still have to go through the application process, advertise a public hearing notice, and appear before the ZBA to present their case. Abutters and the public would have a chance to speak at the public hearing.

Stephen explained the second amendment modifies the definition of "existing facility" within the Wireless Communications section of our Zoning Bylaw that will bring it into compliance with a recent amendment to the Federal Telecommunications Act of 1996 (see Kopelman & Paige memo dated March 20, 2012).

§ 205-39.2, Section B(2): (Terminology).

MODIFICATION OF AN EXISTING FACILITY — Any material change or proposed change to an **existing** facility, including but not limited to power input or output, number of antennas, change in

antenna type or model, repositioning of antenna(s), **removal or replacement of transmission equipment, co-location of new transmission equipment**, or change in number of channels per antenna above the maximum number approved under an existing permit or special permit.

The third amendment is simply fixing a minor error: the bylaw mentions three types of location, not four.

§ 205-39.2.C(1)(a)[4]: Location of facilities.

[4] If adequately demonstrated to the ZBA in the special permit process that each of the ~~four~~ **three** types of location is not feasible, erection of a new facility which complies with the other requirements of this section and where visual impact can be minimized and mitigated.

Stephen explained the last amendment modifies the Special Permit section of our Zoning Bylaw to bring it into compliance with MGL Chapter 40A, Section 9, which states that the appeal period for a Special Permit *shall not* include the time required to pursue an appeal or await a legal determination. Town Counsel had recommended this change.

§ 205-50. Special Permits.

B. A special permit granted by the Board shall lapse within two years, **which shall not include such time required to pursue or await the determination of an appeal if one is taken**, ~~including such time required to pursue an appeal if one is taken~~, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date, except for good cause.

Stephen explained the Montachusett Regional Planning Commission would prepare a corrected map of our Wireless Communications Overlay District and this would also require an amendment to the bylaw.

Jon asked the significance of the Zoning Overlay Map. Stephen explained all parcel types needed to be treated the same. Included parcels did not necessarily mean a cell tower could be built on the parcel. Marie asked if the parcels were the same. Stephen stated newly created tax exempt parcels were being added to the map.

Don made a motion to accept all the amendments as a block. Marie seconded. Voted AIF.

Stephen stated he would proceed to turn the amendments into warrant language and submit them to the town clerk.

Discussion Items:

7:38p.m. Discussion with Paul Aldrich regarding a potential use of his property on Adams Street.

Mr. Paul Aldrich explained a brief history of property he owns at 100 and 112 Main Street and the project he had proposed before the economy slowed and prevented him moving forward. He explained he was interested in doing a combo project in stages of over 55, rental units and condos. The first part of the project would be to remove the existing barn behind 100 Main St. on Adams Street, recycle the beams and usable material, and put in a small two story duplex of two units of single floor living space with one car garages on each end. Mr. Aldrich presented a packet of information for the board to review which summarized the ideas he has. (attachement). Mr. Aldrich explained he had looked into but did not have the resources to build a "Wellington" type building. Mr. Aldrich explained that a need not being addressed were empty nesters who wanted downsize and also stay in town. He would use the duplex to feel out the market and use any profit to start expanding into the property behind 112 Main Street using Main Street as the access point.

Stephen stated Mr. Aldrich could proceed on the Adams Street duplex without input from the PB but the phase two portion Mr. Aldrich was describing was just a discussion topic at this time.

Don stated to the board and Mr. Aldrich that he would have to divide the property to build the duplex. Stephen told Mr. Aldrich he would be happy to sit down with Mike Gallant to interpret the land requirements.

Mr. Aldrich explained that the present economic conditions present the biggest challenge to provide an affordable elderly and/or downsizing alternative to the Westminster market.

There was discussion of the costs to fund the state required studies for a 40B project.

Mr. Barry stated that the Village at the Old Mill elderly project was too expensive for many local people and no homes were being built. The elderly were looking for affordable housing.

Stephen stated he felt Mr. Aldrich was proceeding wisely in taking the two step approach to the project and was clear in his thinking of the needs of the Westminster housing market: empty nester, starter homes, affordable homes and elderly housing.

8:10p.m. Holiday schedule.

Bud asked the board for input regarding moving the Columbus and Veterans day meeting dates from Monday to Tuesday. Don made a motion. Marie seconded. Voted AIF.

8:13p.m. Letter from State Legislators on Wind Siting Reform

Bud asked board members to review the letter received from state reps in response to the PB letter sent to them (attached) .

8:14p.m. Pay Invoices for public hearing newspaper notices

Don made a motion to pay the Gardner News invoices for \$204.48 and \$153.36 for the public hearing notices for the wind and cell tower hearings. Seconded Marie. The PB voted AIF to adjourn.

8:15p.m. Noise Study and zoning for layover facility

Bud asked board members to consider asking Town Council to comment on the layover proponents claim they were exempt from local zoning. After much heated discussion about the subject and about the use of Kopelman and Paige as Town Council, on Stephens advice, Don made a motion to ask the BOS to have Town Council answer the question if the layover proponents were exempt from local zoning. Seconded Marie. The PB voted AIF.

8:31p.m.

Don made a motion to adjourn. Seconded Marie. The PB voted AIF to adjourn.

Four Pages of Minutes
Respectfully submitted,
Michael Fortin

4 Attachments :

- 1 Regulations for the siting of Wind Power Facilities per Section 205.39.3 of the Zoning Bylaw.
 - 2 Amendments to the Town's Wireless Communications Towers and Facilities Bylaw.
 - 3 Project presentation from Mr. Paul Aldrich for Adams Street duplex.
 - 4 Gardner News invoices for public hearings.
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