

ACTON PLANNING BOARD MEETING
December 17, 2009

- A. ROLL CALL – 7:00
Members present were:
Chip Venell – Chairman
Thomas Cashin – Vice Chairman
Yoli Gallagher
Keith Davis
Jessica Donnell – 1st Alternate
David Jones- 2nd Alternate

Also present were Kenneth Paul, Code Enforcement Officer; Peter Marchant and Richard Trafton for U.S. Cellular; Larry Julius, Dusty Parent, Donna Nickerson, Anita Buttrick, Avery and Brenda Monk, Ann Pepper, Cathy Belmont, John Zenzhi, Paul Plant, Donald Tewksbury, Arthur Kelly and Frank Covey, residents.

- B. MINUTES
December 3, 2009 – A Motion was made and seconded to approve the Minutes of the December 3, 2009 Meeting as submitted. Davis/Gallagher – Unanimous.

C. PUBLIC HEARING

KJK Wireless for US Cellular – 1881 Route 109 – Site Plan Review for a Wireless Communications Tower – Mr. Venell explained the public hearing procedure and explained that the Board is considering two locations at this time.

Peter Marchant advised he presented KJK Wireless who proposes to construct a wireless communications tower for US Cellular. He indicated the two locations being considered for the tower and mentioned the project itself will be the same in either location. He explained the proposal is for a 190' tower which will house US Cellular's antenna on the top, but there is sufficient room for additional carriers to utilize the tower area below. He mentioned the second site being considered is 82 Sanborn Road. He stated due to the proximity of the Old Acton Airstrip, the pilots felt there could be a problem with landings. He mentioned they have obtained several FAA reports which indicate that agency has no jurisdiction over the airstrip, but voiced no opinion as to the hazards of the site with respect to the airstrip. He explained the Planning Board wished to have the FAA input in the event the airstrip becomes a public facility and again the FAA voiced no concern about any hazards with regard to the proximity of the tower to the

airstrip. He indicated the location of the access road to the first site and where some trees may have to be removed. He stated there will be a 75' x 75' compound for both sites and advised they will remove only enough trees in the access road to access the compound. He felt they have complied with all the applicable Acton Ordinances and requirements, therefore, they are seeking approval for one of the two sites.

Mr. Venell explained that the first site is located near the Acton Post Office and the second site is close to the raspberry field.

At this time, the public voiced their concerns and asked the following questions.

Dusty Parent objected to the second site as the tower will be more visible from her property as she noticed during the balloon test.

Donna Nickerson explained that where she lives, on the corner of Sam Page Road and Route 109, she will be able to hear the noise of the generator when it is running. She felt locating the tower near Mary Grant's place would be better especially since she feels locating it where it is proposed at this time will devalue her property.

Anita Buttrick objected to the aesthetics of the tower.

Avery Monk said he understands the aesthetics and other concerns being voiced, but reminded everyone there is limited to no cell phone coverage in Acton which presents a hazard since most of the emergency services have problems with communications. He mentioned it is difficult to do business in Acton because of the lack of cell phone coverage.

Ann Pepper stated she is in agreement with the residents who object to the project because of aesthetics. She said she understands that Acton needs a cell tower, but she doesn't want to have to look at it. She felt locating the tower in the raspberry field would be the best site especially since there doesn't seem to be any objections to that area. She said she isn't willing to trade her view for cell phone service.

Cathy Belmont reiterated Ms Pepper's comment that while she has no cell phone service, she is concerned about the possibly devaluation of her property [to get it].

To Brenda Monk's question whether anyone present lived near site two and whether they have any concerns, Mr. Venell advised site two is basically isolated and the tower is set further back from the road than site one. He mentioned the residents who live in that area are not present this evening.

John Zanzhi stated with regard to the airstrip, there appears to be concerns with both sites. He said it appears that the FAA hasn't taken a position on this project because it is not a public airstrip, but from the information that agency provided, they agreed to review it and rather than going through the process they generally do for a public airport. He mentioned if this were a public airstrip the Board would have received more information than they have. He felt that safety is the basic concern with site two. He informed that he is aware the Board has received photographs and other information which was submitted by John Nadeau. He proceeded to explain the problems aircraft will encounter with site two when they attempt to land at the airstrip. He said he would feel better if there was a site that would remove the hazards of the tower from the aircrafts' landing path.

Paul Plant stated he has no objection to either site, but feels everyone that has spoken has a valid point.

To a question whether the tower will be attached to guy wires, Mr. Marchant advised it will be free standing. He stated while he understands the public's concerns, he reminded the group that they are bound by the criteria imposed on them by the Ordinance and whatever else the Planning Board feels is necessary. He advised there are two sites being proposed because the other sites they looked at in Town didn't work. He explained for a network to work, the company must connect to other towers and there were areas that were reviewed where US Cellular didn't have a license which eliminates those areas. He mentioned they also have to take whatever hills in the area into consideration as the signal doesn't necessarily travel over them. He said the sites being proposed are the sites where they can get the best signal. To Mr. Zanzhi's question whether they could move the tower approximately 200' from Route 109 in order to mitigate the problems with the airstrip, Mr. Marchant indicated the location of the property line and the proximity of the tower to it. He mentioned that a portion of that site goes into a gully which also doesn't work for them.

Richard Trafton, the attorney for US Cellular, stated with regard to making the tower more visible, they propose to install a safety beacon which they are not required to do. He advised they would consider the installation of a red light so that the tower can be seen by incoming aircraft.

To Mr. Venell's question whether the pilots present felt that would work for them, Mr. Zanzhi advised they would be happy with any measure that will make the tower more visible.

To a question whether both of the sites will work for other cell phone carriers, Mr. Marchant stated he didn't know where their network towers are located, but was confident that this tower will be sufficiently high enough for it to work for other cell phone carriers.

Arthur Kelly identified himself as the property owner and stated US Cellular isn't the first company to contact him about installing a cell phone tower. He stated he has no problem with either of the sites being considered, but also has no problem relocating it to a third site if one can be found, but not in the middle of his orchard.

To Mr. Venell's question of how many airplanes use the airstrip to land and depart each year, Mr. Davis stated it was his recollection that John Nadeau told the Board there were more than 100 but less than 200.

Mr. Zanzhi advised more than likely that number will increase because they are smaller aircraft which are more affordable. He mentioned the airstrip is only seasonal because of the winter weather, but that doesn't mean it will always be because there are aircraft that can have ski's installed.

Mr. Venell mentioned the airstrip is on the FAA's map as an emergency landing field.

To a question about possibly shortening the approach path of the airstrip, Mr. Zanzhi said that would present another safety issue and explained how it would affect landing aircraft.

Mr. Cashin pointed out that Mr. Kelly said he had no problem moving the tower somewhat in the area of site two. He said in looking at the photographs submitted by the applicant the tower could possibly be moved 500' NNE. He asked both Mr. Marchant and Mr. Kelly if that would be feasible.

Mr. Marchant stated they have identified two sites that work and in identifying those sites, they attempted not to disturb Mr. Kelly's business. He said he can't tell right now if moving it again might not create other problems.

Frank Covey advised he is a retired American Airlines pilot and as a recreational pilot, he uses the airstrip. He stated he knows the location of the tower on site two is a potential hazard.

To Mr. Cashin's question whether he could address some of the compromises that have been suggested, Mr. Marchant stated they have done that twice and reiterated he doesn't know what the problems will be on a third site. He mentioned that the two sites being proposed work within the Town's regulations.

Mr. Venell stated the applicant has presented two sites that work with its existing towers and wave paths and their representative feels they are the best locations for the purpose for which they are being used. He said everyone has now seen the two sites being proposed and he wasn't sure another site would work or not.

Ms Belmont stated she would like to have cell phone services and understands the problems with the airport, but given a choice she would rather have no cell phone service.

It was the consensus of the pilots present that moving the tower 200' from where it is proposed for site two would address their concerns.

Mr. Marchant said he understands the public's concern and that it is a difficult decision for the Board so he is willing to return to the company and suggest that the tower be moved 200 feet in the direction recommended by the pilots.

At this time, there was a lengthy discussion between Mr. Marchant and the individuals present regarding the optimum location to meet the pilot's recommendation.

After ascertaining that there were no further comments or questions, Mr. Venell closed the public hearing at 8:30 PM.

Mr. Marchant explained that after speaking with the pilots, they can more than likely move the tower approximately 500' to 600' toward Route 109 from where it is now proposed for site one.

Mr. Paul felt it would be better to move the tower 200' from the second site because it will then be less visible.

To Mr. Cashin's suggestion that Messrs. Marchant and Kelly review the newest site and return to the Board with a proposal, Mr. Marchant explained that Mr. Kelly agreed to move the tower approximately 500' to 600' to the edge of the field which means no trees will be removed. He said they will return to the company to be sure it agrees with the new location, but he felt it would be all right without having the exact engineering.

Mr. Paul said he had no problem with the new location.

A Motion was made to request the engineering calculations for the Board's next Meeting. Cashin. The Motion failed for lack of a second.

Mr. Trafton advised they would like a conditional approval at this time. He stated they have engineered a plan twice and if they obtain conditional approval, they will do it a third time. He said they are requesting Site Plan approval subject to the condition that the tower be relocated approximately 500' NE from site two if the company approves so they will not be required to present any further sites. He advised they will submit the engineering to the Board. He informed they will work with the Town's emergency services for use of the tower with a condition to make space on the tower for their needs.

A Motion was made to agree with Richard Trafton's terms for conditional approval for the newest location, site three, for US Cellular's wireless communications tower subject to submission of the engineering data approving the site at which time the Board will approve the plan with conditions. Motion was withdrawn for lack of a second.

Mr. Jones expressed a concern about limiting the conditions the Board can place on the its approval especially since they haven't approved a proposal like this in the past and are not aware of what could come up in the future. He suggested that the Board obtain the conditions other towns may have approved for this type of use and have it for the next meeting.

Mr. Trafton advised he would submit the conditions approved by the Town of Shapleigh for the Board to review prior to the next Meeting.

Mr. Marchant reiterated his comment that they have complied with all the requirements of the Zoning Ordinance as well as what the Board has requested.

After a lengthy discussion, the Board tabled the application until January 7, 2010 when they have the new engineered plan and proposed conditions.

D. UNFINISHED BUSINESS

There was no unfinished business to come before the Board.

E. NEW BUSINESS

There was no new business to come before the Board.

F. OTHER BUSINESS

There was no other business to come before the Board.

G. CODE ENFORCEMENT OFFICE BUSINESS

There was no Code Enforcement Office business to come before the Board.

H. ADJOURNMENT

The Meeting was adjourned at 9:30 PM.

Respectfully submitted,

ANNA M. WILLIAMS,
Recording Secretary