

ACTON PLANNING BOARD MEETING

APPROVED

January 7, 2010

A. ROLL CALL – 7:00

Members present were:           Chip Venell – Chairman  
Yoli Gallagher  
Keith Davis  
David Jones- 2nd Alternate

Members absent were: Thomas Cashin – Vice Chairman  
Jessica Donnell – 1st Alternate

Also present were Kenneth Paul, Code Enforcement Officer; Peter Marchant for KJK/US Cellular, Richard Trafton, attorney for KJK/US Cellular; Donald Winslow for Pauline Bragg; Robert Smith, William Cataneyse and John Nadeau.

B. MINUTES

There were no Minutes to be approved.

C. PUBLIC HEARINGS

1. Pauline Bragg – 672 H Road – M224/L022 – Conditional Use for Timber Harvesting in the Resource Protection District – Mr. Winslow advised he is representing the applicant in this request. He explained the application is to do some selective harvesting in the 250’ strip of the Resource Protection District in the area of the brook behind H Road. He stated they have already done selective cutting in other areas of the lot. He mentioned the proposal is to remove eight to ten loads from that area. He said in the prior cuttings and this cutting he has and will use best management practices. He advised the fueling of the equipment has been done in the landing area and not on the wood portion of the site.

Robert Smith stated had been a concern about the brook leading into Square Pond and asked if that had been addressed during the site walk.

Mr. Venell answered in the negative and then confirmed that the brook did run into Square Pond. He stated there is a very small percentage of cutting that can be done in the Resource Protection District and what is being proposed isn’t close to that figure. He mentioned that the Code Enforcement Officer expressed no concern about what is being requested.

Mr. Davis explained when they did the site walk, it was noted that all the setbacks had been maintained. He mentioned during that time he noticed the cutting was being done in a very responsible manner and it was difficult to identify the areas which had been cut because the harvester did a very good job. He stated there will be very few trees removed from the Resource Protection District.

After ascertaining that there were no further questions or comments from either the Board or the audience, Mr. Venell closed the public hearing at 7:08 PM.

A Motion was made and seconded to accept the Conditional Use Application submitted by Pauline Bragg for timber harvesting in the Resource Protection District. Davis/Jones. After a brief discussion, the Motion and second were withdrawn.

At this time the Board reviewed the Findings of Fact and determined that most of the criteria were either met or not applicable.

A Motion was made and seconded to approve a Conditional Use Permit for Pauline Bragg for timber harvesting in the Resource Protection District with the condition that all fueling and lubrication be done in the landing area. Davis/Jones – Unanimous.

2. William Catanesye – 127 Heath Brook Drive – M152/L002 – Conditional Use Permit for an Apartment - Mr. Venell explained the public hearing procedure.

Mr. Catanesye advised he would like to convert the 15' x 60' area on the second floor of his existing garage into a one bedroom apartment with a kitchen and full bathroom. He stated the existing septic system was constructed to be oversized and he can provide a letter from the engineer stating that. He mentioned he will be installing a fire alarm and a sprinkler system since there is a breezeway between his dwelling and the garage. He explained that the Code Enforcement Officer has been to the site since the house is only four years old and mentioned that he has spoken to the Code Enforcement Officer about this proposal during the last four years. He stated there will be two means of egress and the stairway going to the second floor will be enclosed.

After ascertaining that there were no questions or comments from either the Board or the audience, Mr. Venell closed the public hearing at 7:22 PM.

Mr. Venell advised that the Code Enforcement Officer has received some telephone calls from the abutters, but complaints. He mentioned that the Code Enforcement Officer has said he has no problem with the application.

At this time the Board reviewed the Findings of Fact and determined that most of the criteria were either met or not applicable.

A Motion was made and seconded to approve a Conditional Use Permit for William Catanesye for an apartment on the second floor of his existing garage.

Davis/Jones – Unanimous.

D. UNFINISHED BUSINESS

KJK Wireless for US Cellular – 1881 Route 109 – Site Plan Review for a Wireless Communications Tower – Peter Marchant representing KJK/US Cellular explained that after the public hearing and speaking with the pilots that use the Old Acton Airstrip, they are proposing a third site for the tower. He stated the Board will determine which site is preferable given the concerns expressed at the public hearing. He said the third site is located 860' from the second location which is where the pilots felt would be best to address their landing concerns. He stated the elevations are the same as they were for the first and second locations. He advised for each of the sites the compound housing the equipment will be the same. He said they have decided to place the generator inside the shelter.

Richard Trafton, the attorney for the applicant, referenced the sheet of proposed conditions which he said were identical to what was approved for the Shapleigh tower. He mentioned there is one condition that gives the Town's safety departments the ability to use the tower for their communications as long as it goes through the regular application process.

To Mr. Venell's question of what did that entail, Mr. Trafton explained it is a one or two page form that is required by US Cellular so that they are aware of what entity is using the tower and whether there will be a problem with the other uses on the tower.

Mr. Paul suggested that a Knox Box be installed so that the Fire Department will have access in the event of an emergency.

John Nadeau felt the compromise location, while it would be better moved another 100', is very good as it removes the tower from FAA standard for a visual approach. He said the reason for his wish to have it moved is that while he knows the area well, other pilots may not which could create a problem. He pointed out that he just got the coordinates this week and they may be incorrect.

Mr. Venell felt that would be a problem wherever the tower is located. He stated he thought it was a good plan. He mentioned that the airstrip isn't covered by the FAA.

After a brief discussion with Mr. Marchant and a thorough review of the plan containing all three locations, Mr. Nadeau stated he was satisfied with the third location as it relates to the airstrip.

At this time, there was a brief discussion concerning the color the tower will be painted and it was Mr. Nadeau's opinion that white would be better than orange since white is more reflective in the evening. He stated he would prefer not to have a light on the tower, but mentioned if one was installed, it really wouldn't be a problem because the airstrip is only used in the daytime. He felt that if a light is installed, it could be regulated by a timer.

Mr. Davis mentioned it is his recollection that there was a general consensus during the public hearing that no one was interested in having a light on the tower.

Mr. Trafton stated if they use hazard paint on the tower, a hazard light is required to be installed on the top. He said it would be a red blinking light which will operate 24 hours a day as per the FAA's requirement.

To Mr. Venell's question whether this tower will be galvanized steel like the one in Shapleigh, Mr. Marchant stated it is a muted gray. He said since the tower can be seen during the day, it really can be any color.

To Mr. Davis' question as to how often structures such as the tower are abandoned, Mr. Trafton stated never that he is aware of. He pointed out there is a provision in the lease with the property owner that the tower will be removed if it isn't used for a certain period of time.

To Mr. Venell's question what would occur if US Cellular went out of business, Mr. Trafton stated if the Board requires a bond, they will provide one since they have done it in other towns to which Mr. Davis responded he feels people will be more comfortable if that is done.

At this time, the Board reviewed the criteria for a Site Plan Application and it was determined that they were either met or not applicable.

Mr. Marchant mentioned that if there are other carriers on the tower, they will have their own shelters which will be reviewed by the Board with Mr. Venell advising that would require an amended plan.

Mr. Trafton explained that there are master lease agreements with all the other major carriers dealing with the sharing of towers. He mentioned with regard to emissions, a report was submitted with the original application and they will respond to the Town should a question arise about that matter since they don't know what type of system the other carriers will use. He said the maximum number of carriers that can be on the tower are five. He stated if the Town requires an FCC emissions check, they will obtain one. He said with regard to power for the generator, where it will now be inside the shelter, they will be using diesel fuel which will be contained in a double lined tank with an alarm as opposed to the propane gas that was originally proposed.

A Motion was made and seconded to approve the Site Plan Review application for KJK/US Cellular for a wireless communications tower on site C-3 on the property owned by Arthur Kelly

on Route 109 subject to the conditions submitted which are attached hereto and made a part hereof. Davis/Jones – Unanimous.

E. NEW BUSINESS

There was no new business to come before the Board.

F. OTHER BUSINESS

There was no new business to come before the Board.

G. CODE ENFORCEMENT OFFICE BUSINESS

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

G. ADJOURNMENT - The Meeting was adjourned at 8:45 PM.

Respectfully submitted,

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ANNA M. WILLIAMS,  
Recording Secretary

Conditions of Approval for  
US Cellular c/o KJK Wireless

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On January 7, 2010; the Planning Board Reviewed Application for Site Plan Review for KJK Wireless, to erect and operate a personal wireless facility on land owned by Arthur Kelly/DBA Kelly Orchards on Tax Map 234 Lot 44 in the Town of Acton. The Board approved this permit with the conditions as follows:

- 1) The owner of the wireless telecommunications facility, and its assigns, agree that, subject to the provisions of its lease for this site and subject to the tower's structural limitations, it shall allow maximum co-location opportunities at reasonable fees and costs to other wireless telecommunications providers.
- 2) Upon request by the municipality, the owner shall certify compliance with all applicable FCC radio frequency emissions regulations.
- 3) A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.  
An applicant for a Site Plan Review permit under this section shall post a performance bond with the Town prior to obtaining a permit of \$10,000 for the cost of removing the structure. The performance bond shall be for a minimum term of five years. It must contain a mechanism satisfactory to the Town, for review of the cost of removal of the structure every five years and a mechanism for increasing the amount of the bond should the revised cost estimate so necessitate. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense.
- 4) The tower shall have no safety beacon unless required by the Federal Aviation Administration which at present requires no beacon because the tower has a height of 190 feet.
- 5) The tower shall remain unpainted and shall be a galvanized steel color.

- 6) The facility shall have no signs or visual advertising, except the minimum size identification sign required by the Federal Communications Commission.
- 7) The facility shall comply with applicable federal, state, and local building, electrical and safety codes.
- 8) The owner and its assigns shall deal in good faith with the Town of Acton to afford public safety communications use of the tower with no rental costs, but requiring the Town to undergo the routine written application process as required at other sites.

NOTE:

US Cellular shall provide the Town with a Bond for \$10,000 to be delivered to:

Town of Acton  
Acton Planning Board  
35 H Road  
P.O. Box 540  
Acton, Maine 04001

Respectfully,  
Dwight Venell  
Chairman