

ACTON PLANNING BOARD MEETING

April 15, 2010

A. ROLL CALL – 7:00

Members present were: Chip Venell- Chairman
Thomas Cashin – Vice Chairman
Yoli Gallagher
Keith Davis
David Jones
Arthur Kelley – 2nd Alternate

Members absent were: Jessica Donnell – 1st Alternate

Also present were: Kenneth Paul, Code Enforcement Officer; Scott Anderson representing Verizon Wireless; Norman and Debra Cloutier and Manley Gove representing Sandra Jones.

B. MINUTES

April 1, 2010 - A Motion was made and seconded to approve the Minutes of the April 1, 2010 Meeting as submitted. Davis/Jones – Unanimous.

C. UNFINISHED BUSINESS

Nancy Maloney – Fulton Road – M118/L1 – Site Design Review for a Camp – Final Submission – It was noted that there was no one present for this applicant.

D. NEW BUSINESS

1. Verizon Wireless – Site Plan Review for the Construction of a Tower for Wireless Communications – Scott Anderson of Verrill and Dana advised he would be representing the applicant in this matter. He explained that the company has been looking at a site for a new communications tower near Garvin Road. He said he is here to go over any pre-submissions for a Site Plan Review that may be required. He mentioned he understands that U.S. Cellular has recently been approved to construct a similar tower and he will obtain the information about that application and site. He said until he does, Verizon would like to go forward with this application because there is always the possibility that it will not cover this company's area. He stated he will submit information regarding the feasibility of using the U.S. Cellular tower once that determination is made. He submitted a map indicating the general location of the proposed tower and said

they might be using a woods road. He referenced another sheet that indicated what the proposed tower would look like and described it as a 190' lattice tower with an equipment shelter which will include a back up generator inside. He said it was basically a simple project which will not require any waste water service or the like.

Mr. Davis pointed out that this proposed tower will be only three miles from the one approved for U.S. Cellular.

Mr. Venell stated that is an approved site and he would encourage Verizon to look at the possibility of using it. He mentioned that there is the private airstrip to be considered which was a problem for U.S. Cellular. He gave a brief history of the problems U.S. Cellular encountered during their review that relate to the airstrip, air traffic circulation and landings.

Mr. Anderson said if there is something that can be worked out with the U.S. Cellular tower, they will be happy to go in that direction. He reiterated that the final decision will be made after Verizon has decided exactly where the tower will be placed on the site as well as the topography of the area. He explained that Verizon's engineers conducted a search range on a topographical

map which was then submitted to the site person who spoke to the property owner about hosting the tower. He stated they will be requesting a waiver for the boundary survey requirement since they will be able to show that the tower will be set back quite a distance from the property boundary. He explained the roaming charges that are incurred by a wireless communications company's customers if there is a need to use other companies' towers. He stated he will continue with the application process and submit the required information to the Board.

To Mr. Anderson's question whether the Town considers wireless communication towers to be "utility facilities", Mr. Venell answered in the affirmative.

2. Sandra Jones – Minor Subdivision on Milton Mills Road – Manley Gove advised he will be representing the applicant in this matter. He stated Ms Jones has acquired the property with "Deeds-in-Lieu of Foreclosure". He advised he had hoped the surveyor could be here this evening as he is more familiar with the site and what he has done. He submitted the completed Subdivision Application and the deed as well as the proposed layout of the lots on a plan. He stated he had hoped to obtain sketch plan approval this evening. He explained the property was obtained from Patrick Frasier and it was his understanding that at the last review of this site, the Board had agreed he could go to the center of Hebo Hibo Road since he owned the "fee" in the road. He said that all three lots must have at least two acres in the front zoning district and the area in the back is extra.

Mr. Venell confirmed that as long as there are two acres for each lot, they are buildable in the Rural Zone. He suggested the surveyor review that portion of the Ordinance.

At this time, the Board referenced the definition of "wetland area" on page 8 of the Ordinance with Mr. Venell feeling the wetland will affect Lot #3 and some of Lot #2. He suggested the surveyor map out the lots to determine how much is located in the Rural Zone as well as addressing the frontage for Lot #1.

Mr. Cashin said if the property owner is allowed to include it in Lot #1, the Board would be saying that it is frontage while in reality there can be no interruption to the right of passage with Mr. Venell asking why it can't be used as lot frontage. He said if the lot wasn't there, it [the road frontage] it could go across the lot for frontage. He pointed out that Milton Mills Road is being used and not Hebo Hibo Road, therefore, they can use the land under the lot for frontage purposes.

At this time, there was a lengthy discussion regarding obstructing a right-of-way, that the deeds to some of the properties don't list Hebo Hibo Road as a right-of-way, that the Board has reviewed the deeds to these lots in the past, that there should be no limit to access to the property in the rear and should the applicant wish to take a road by "adverse possession", the abutters must be notified.

Mr. Gove stated he understands there was a previous discussion regarding fire protection and that the applicant should speak with the Fire Chief about that to which Mr. Venell responded that the Board generally prefers the installation of a sprinkler system rather than a cistern because cisterns generally don't receive the proper maintenance. He mentioned that the Fire Chief could explain what type of sprinkler system is best.

Mr. Venell advised that the Board does have the completed Subdivision Application, therefore, a set of plans must be submitted and suggested that the applicant's representatives review the Subdivision Ordinance to determine what else is required.

During a review of the requirements of a "sketch" plan review, it was found that what was submitted this evening could qualify as a sketch plan. It was suggested that the information for

this application could be submitted for the Board to review at the second Meeting in May [May 20, 2010].

E. CODE ENFORCEMENT OFFICE BUSINESS

Norman & Debra Cloutier – 228 Hawk Road – M137/L22 – Best Possible Location – Mr. Paul explained that this is a unique situation and referenced the site plan and photographs of Wilson Lake on Hawk Road. He said he thinks one of the abutters to this property requested the same type of approval. He advised the applicants wish to demolish the primary structure which is four feet from the property line, but they don't wish to demolish the out-buildings located on the site. He mentioned the Board has approved similar applications in the past and the DEP had no problem with the process. He referenced the two other sites in that area where the Board approved similar applications. He explained the siting of the out-buildings and how they would relate to the new location of the dwelling. He mentioned a new septic system will be installed between the dwelling and the road as well as new well which will be under the driveway. He stated the dwelling will be placed as far back as possible from the septic tank. He advised the second part of this application is that the property owners wish to keep the dwelling four feet from the property line so they can have a larger lawn area. He said he has told the property owners that the Board generally requires at least a ten foot setback. He mentioned that the two out-buildings are only one foot from the property line. He advised the dimensions of the dwelling at this time are 22 x 38 with an eight foot porch. He said they haven't made any determination about the replacement dwelling since they would like to have the Board's answer to this request first.

Mr. Cloutier advised that currently the dwelling is located on cement blocks and that will not change with the new structure. He stated if the dwelling is moved from the proposed location, the neighbor will lose the water view, therefore, they are looking to site the dwelling so that will not occur. He mentioned that he has told the neighbor they will try to retain his view, but they will be required to do what the Town wants. He said their primary residence is in Arundel and they have no intention of living in Acton year round.

Mr. Cashin referenced the "non-conforming replacement" section of the Ordinance and felt what is being requested is all right since they will not be increasing the non-conformity which grandfather's the setbacks.

Mr. Paul referenced Article 1.4.7.2 and 7.3 – Relocation – page 8 of the Ordinance which states that a structure cannot be any more than 50% of the market value to go through this process.

Mr. Venell stated he agrees that the structure can be relocated, the issue is the closeness of the new dwelling to the property line. He said he would like the Board to conduct a site walk because of the property line situation with Mr. Cloutier agreeing that would be a good way for the Board to see what he is proposing.

Mr. Paul explained there would be ten feet to the building with a two foot overhang which will be an eight foot setback if the two out buildings are removed. He mentioned that the property cards had a number of different figures. He said the applicants are requesting a two-story replacement dwelling if possible as that will make the 30% permitted by the DEP.

There was a brief discussion regarding Mr. Paul's suggestion that the applicant demolish the two out buildings and use that square footage or volume to place the dwelling no closer to the water and maintain an eight foot setback [from the property line].

A Motion was made and seconded to accept the Code Enforcement Officer's recommendation that the closest point of the structure not be any closer than eight feet from the property line.

A Motion was made and seconded that the applicant demolish the two out buildings and that square footage be used for the relocation of the dwelling and for the 30% volumetric increase. Davis/Jones – Unanimous.

I HAVE CHECKED MY NOTES MORE THAN ONCE AND FIND TWO MOTIONS WERE MADE. MY NOTES INDICATE THAT THE FIRST MOTION IS THE ONE THAT WAS APPROVED, BUT WANTING THE MINUTES TO BE CORRECT, COULD YOU PLEASE BE PREPARED TO HELP ME BY CLARIFYING WHAT ACTUALLY OCCURRED.

Mr. Cashin asked whether there was a way the run off that flows into the lake could be reduced with Mr. Paul mentioning that a trench could be installed around the building and explained how that could be done. He suggested that the Acton-Wakefield Watershed Alliance be asked to conduct a site visit as they supply free technical advice as well as determining the affect the run off has on the water quality. He mentioned that group will determine whether there is a negative impact on the lake and where it begins.

G. OTHER BUSINESS

There was no other business to come before the Board.

H. ADJOURNMENT

The Meeting was adjourned at 8:45 PM.

Respectfully submitted,
ANNA M. WILLIAMS

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Recording Secretary