

ACTON PLANNING BOARD MEETING

August 5, 2010

A. ROLL CALL – 7:00

Members present were: Chip Venell – Chairman
 Thomas Cashin – Vice Chairman
 Yoli Gallagher
 Keith Davis
 Arthur Kelly – 2nd Alternate (Voting in place of Mr. Jones)

Members absent were: David Jones
 Jessica Donnell – 1st Alternate

Also present was Kenneth Paul, Code Enforcement Officer; Scott Anderson and Chip Fredette for Verizon Cellular and Richard and Kathy Currier.

B. MINUTES

June 17, 2010 – A Motion was made and seconded to approve the Minutes of the June 17, 2010 Meeting as submitted. Davis/Kelly – Unanimous.

July 1, 2010 – A Motion was made and seconded to approve the Minutes of the July 1, 2010 Meeting as submitted. Gallagher/Kelly – 4/1 – Abstention (Mr. Davis as he was not present for the Meeting).

July 15, 2010 – The approval of the Minutes of the July 15, 2010 Meeting was postponed as there wasn't a quorum present from that Meeting.

C. UNFINISHED BUSINESS

Verizon Wireless – Site Plan Review for a Wireless Telephone Tower – M228/L001 and M225/L004 – Chip Fredette advised that the balloon test was done and indicated the location of that test on the plan. He explained the area was marked as was the road into the proposed site. He mentioned the site walk was done on July 19, 2010 which was the same day as the balloon test.

To Mr. Cashin's question whether there are any streams indicated on the topography map that may intersect with the site, Mr. Fredette explained there is a wetland area on a portion of the proposed access road. He mentioned the road in that area is only 8' wide and they will have to widen it to 12'. He stated they will be submitting the required paperwork to the DEP.

Mr. Anderson explained what the DEP permit process entails and what could occur if that agency has a problem with any work that has been done. He mentioned what the Watershed Analysis says and how that information translates to the map. He indicated the location of the balloon test on the map and where the photographs contained in the material submitted this evening were taken since it was the optimum view of the area. He stated the reason it was necessary to have a good view of the balloon was so that the information put into the computer would be clear.

Mr. Cashin advised at the last review of this proposal, the Board asked whether their equipment could be located on the tower that will be placed on the Kelly property. He asked given the existing technology of cellular towers at this time will there be a need for another tower after this project is approved?

Mr. Fredette stated he doesn't see that occurring in the near future with Mr. Anderson explaining that the company is attempting to build out the network. He said should another company wish to construct its own tower, it will probably check with the Town to determine the location of any existing towers.

Mr. Fredette said, in his estimation, there should be no additional towers required for this area in the foreseeable future and the ability for another company to use an existing tower is determined by the frequencies that are being used.

Mr. Anderson explained that the FCC licensing process requires that a company show there is a need for another tower and to a question concerning the grounding for the Tower; he referenced the map and indicated that there will be a rod at the top of the tower to carry any lightning to the ground. He advised that the site is on high ground and doesn't interfere with the Acton Air Strip. He stated there will be a lock box with a key available to the Fire Department and the building will have an alarm on it.

At this time, there was a brief discussion concerning the location of any wetlands or streams on the site with Mr. Venell explaining what the Board saw on the site walk and Mr. Fredette advising that they are proposing to install a good deal of erosion control measures to address any spring flooding that may occur.

To Mr. Cashin's concern about the potential to undermine the water quality of any drinking water wells in the area of Route 109, Mr. Fredette advised he doesn't see how that will occur.

Mr. Anderson gave a brief overview of what the DEP requires during its review process with Mr. Cashin asking to have that information submitted to the Code Enforcement Office.

To Mr. Cashin's question about installing a gate at the Route 109 entrance to prevent ATV access to that area, Mr. Fredette indicated the location of any gates that will be installed. He said he doesn't anticipate there will be any more problems that currently exist and the site will be monitored on a monthly basis. He mentioned that the security measures that will be taken should eliminate the trash dumping that currently occurs in that area.

Mr. Venell advised that John Nadeau, the owner of the Acton Air Strip, stated he has no problems with this proposal and that the company was going to discuss his suggestions.

At this time, the Board reviewed the Site Plan Review checklist as to what may still be necessary and what has already been submitted.

To Mr. Venell's question concerning the grade of the driveway, Mr. Fredette advised they have kept it at 15% which is the usual grade and advised he doesn't have the road profile at this time. He said the access road can be gravel, but nothing is final now because they don't know what they will find during construction.

It was determined that all criteria and requirements for approval of a Site Plan Review have been met.

A Motion was made and seconded that the standards and criteria of Article 6.6.4.7 – Site Plan Review – and Article 9.6 have been met for the Verizon Wireless application for a cell tower. Davis/Cashin – Unanimous.

A Motion was made and seconded to approve a Site Plan Permit for Verizon Wireless for the erection of a wireless tower with the following conditions:

**Conditions of Approval for Verizon Wireless’
Application for a Site Design Review**

On August 5, 2010, the Acton Planning Board approved a Site Plan Review Application for Verizon Wireless to erect and operate a personal wireless facility on land owned by Barbara Sewell Trustee located at Route 109, Tax Map 228 Lot 001 and Tax Map 225 Lot 004 in the Town of Acton. The Board approved the application with the following conditions:

- 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 Code Enforcement Officer 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 Code Enforcement Officer that the facility has not been abandoned.

An applicant for a Site Plan Review Permit under this section shall post a performance bond for with the Town prior to obtaining a permit to cover the cost of removing the structure. The owner and its assigns shall submit a quote to the Town indicating the amount necessary to remove all of the project components within the fenced in compound. The performance bond shall be for a minimum term of five (5) years. It must contain a mechanism satisfactory to the Town for review of the cost of removal of the structure every five (5) 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 an 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.
- 9) The owner and its assigns shall install a gate with a lock box a key for which shall be given to the Acton Fire Department.
- 10) Access by all terrain vehicles, i.e. ATV's will be prohibited to the best of the owner's ability.

Cashin/Davis – Unanimous.

D. NEW BUSINESS – There was no new business to come before the Board.

E. OTHER BUSINESS – There was no other business to come before the Board.

F. CODE ENFORCEMENT OFFICE BUSINESS

- 1. **Richard Currier - 43 Hickory Lane – M145/20 – Best Possible Location Permit** – Mr. Paul indicated the location of a deeded right-of-way from the abutter and the location of the footpath on the photographs submitted. He explained the existing structure is 5' from the water. He advised the applicant would like to have a 22' wide by 34' long structure which will increase the setback with a minor encroachment into the footpath. He stated the applicant's have a new septic system design. He mentioned that the applicant has obtained a DEP permit. He said although the structure could be moved back, the slope behind the garage is too great, therefore, the structure can't be located there.

Mr. Currier explained he would like to have a narrower structure which he will locate further back from the water than the existing structure is at this time. He assured the Board that he will install a silt fence and hay bales during construction. He mentioned that it will not be a year round dwelling.

Mr. Paul mentioned that the structure will be 7' from the right setback, but not in the location of the footpath. He said placing the structure there will bring it above the flood elevation. He stated the applicant has worked with the Moussam Lake Association for technical advice as well as York County Soil and Water Conservation Service. He advised he feels what is being requested is reasonable for the site.

Mr. Cashin expressed a concern about managing the run off since this site is in a neighborhood where the abutters are sensitive to protecting the lake.

A Motion was made and seconded to accept the Code Enforcement Officer's recommendation for a new dwelling for Richard Currier with the condition that the York County Soil and Water Conservation Service be involved with a plan to minimize the run off, that the best methods available be used and that the structure be located no closer than 6' feet from the water. Also, that the Code Enforcement Officer follow-up within a year to assure that the installation of the drainage has been done correctly. Cashin/Davis – Unanimous.

- 2. **Skip and Jean Walters – 95 Blue Sky – M137/L46 – Best Possible Location** – Mr. Paul explained that the structure is 15’ from the lake and the applicants would like to move it back so that it is 25’ from the lake. He said they will be removing the existing structure. He mentioned there is a cow path on the site and the applicants also own two lots across the street where the septic system will be located for this lot. He mentioned that a concrete foundation will be installed and vegetation will be replaced in the front after construction. He mentioned that although this could be a year round dwelling, he doesn’t think that is the intention of the property owners. He stated the owner will be using the 30% expansion permitted by the State and this is the type of change the DEP advocates. He indicated the location of the boat ramp and advised that it will be removed.

A Motion was made and seconded to accept the Code Enforcement Officer’s recommendation that the new dwelling for Skip and Jean Walters be located 25’ from the lake, 21’ from the center line of the travelled way and that the York County Soil and Water Conservation Service be involved with a plan to minimize the run off, that the best methods available be used and that the Code Enforcement Officer follow up within a year to assure that the installation of the drainage has been done correctly. Davis/ Kelly – Unanimous.

- 3. **Anthony Maffeo – 354 Langley Shore – M114/L17 – Best Possible Location** – Mr. Paul advised that the applicant has owned the property for a few years. He advised the existing structure is 2’ from the water on one side. He mentioned there is a jog in the lot that presents a problem. He said the applicant would like to remove the existing dwelling and move the new dwelling behind the 25’ line. He advised there will be a new septic system. He stated he would recommend that the new dwelling be located 26’ from the water and that the side setbacks be met.

A Motion was made and seconded to accept the Code Enforcement Officer’s recommendation for Anthony Maffeo and that the new structure be located 26’ from the water, that the York County Soil and Water Conservation Service be involved with a plan to minimize the run off, that the best methods available be used and that the Code Enforcement Officer follow up within a year to assure that the installation of the drainage has been done correctly. Gallagher/Davis – Unanimous.

- 4. **Landscapers’ Depot** – Mr. Paul advised that Landscapers Depot has purchased the DeBoer pit as per a letter from that company dated July 23, 2010 which contained the four items he requested. He stated he thinks that Civil Consultants will be drafting the plans. He said Mr. Cashin has asked that the Board review the proposal.

H. **ADJOURNMENT**

The Meeting was adjourned at 9:00 PM.

Respectfully submitted,
ANNA M. WILLIAMS

ANNA M. WILLIAMS,
 Recording Secretary