

**CANDIA PLANNING BOARD
MINUTES of August 3, 2011
APPROVED**

Present: Mary Girard, Chair; Sean James, Vice Chair; Ginny Clifford; Judi Lindsey; Kim Byrd; Albert Hall III; Steven Bradley Alt; Carlton Robie, Board of Selectmen; Dennis Lewis, Road Agent

Chair Girard called the meeting to order at 7:00pm, immediately followed by the Pledge of Allegiance.

Minutes July 6, 2011

A. Hall **motioned** to accept the July 6, 2011 minutes as amended. J. Lindsey **seconded**. **All were in favor**. Page 2, 4th paragraph 13th line, change “roadway” to “driveway” and add “s” to “need”, 18th line add “said before “they”, 5th paragraph change quotations to foot, Page 2 3rd paragraph change “give” to “make” reverse “bond removal”, 6th paragraph add “s” to “culvert”, Page 4 3rd paragraph change “issue” to “approve”, 5th paragraph do not capitalize woods road, add dashes to father-in-law, 8th paragraph change “National” to “Natural”, add “s” before “aid”, Page 5, 3rd paragraph capitalize DES, change “abstained” to “against.”

Continuance 7:15 pm – Major Site Plan Application: New Cingular Wireless PCS, LLC (“A & T”) c/o Susan M Roberts, Anderson & Kreiger, LLP One Canal Park, Suite 200, Cambridge, MA 02141; Owner: Paul Hunter 606 North Road, Candia NH 03034, Map 402 Lot 10: To permit construction of a 100’ monopole cell tower, gravel access road and a 75’ x 75’ compound with a generator. ZBA case #567 granted special exception to allow 100’ monopole cell tower. For additional information please call the Land Use Office at 483-8588.

Susan M. Roberts, Anderson & Kreiger and Jacqui Swenson, K.J. Wireless were present for the applicant. Abutters Dennis Orzechowski, 55 Halls Mill Road and Kevin Deslongchamps, 608 North Road were present.

Chair Girard said the applicant has submitted new plans reducing the compound from 75feet to 50 feet. S. Roberts passed out the new plans to the Board members.

S. Roberts said at the last meeting they had begun to go through the comment letter from Stantec. She said the meeting was continued so they could respond to the letter from Stantec and give their response to Stantec to review for tonight’s meeting. She apologized they weren’t able to get the response to Stantec in time for them to review for tonight’s meeting.

S. Roberts said they have reduced the compound down to 50 feet by 50 feet. She said they had to have the plans updated along with a new storm management plan. She said they had to get approval from the ZBA on the reduction of the compound and still be substantially in accordance with the approved plans by the court. She said what was filed tonight was a stipulation to be filed at the court so the court is aware of the reduced compound size and that everyone is in agreement.

S. Roberts said they submitted a letter dated August 1, 2011 that had a table addressing each one of the concerns by the Stantec. She said they added the abutter’s addresses, and added sediment and erosion comments in the plans. S. Roberts said they submitted a separate erosion plan and addressed other concerns from Stantec’s review letter. She said they submitted a separate document containing waivers they would like to discuss tonight. She said she was not sure if Stantec had seen the waivers yet.

S. Roberts said the court order requires a 100’ monopole. She said a mono-pine cannot be provided because it adds anywhere from 3 feet to 6 feet onto the tower. She said the additional height would violate the court order and would require a variance. She said they cannot provide a mono-pine because they do not want to go before the ZBA again or do anything to disturb the court order. She showed photos of the proposed cell tower area that were submitted during the ZBA

process that showed hardwoods. She said a mono-pine would not go with all the hardwoods in the area. S. James said it is possible to use a mono-pine but not without lowering the monopole. S. Roberts said they want to be able to use the entire 100' monopole.

S. Roberts said her hope tonight is to come up with a schedule before next meeting. She said they will work with Stantec to address everything to hopefully be able to close the hearing at the next meeting.

A. Lachance said they received the revised plan from AT & T Monday evening August 1, 2011. He said he had looked through them briefly and it appears issues raised have been addressed. He said he had no issues with any waiver request except the first one. He said the other waivers are for requirements in the regulations that don't or shouldn't necessary apply. A. Lachance said he had to go through the formal process of addressing them. He said he has a question with the first waiver request 4.03d. He asked if the Board records plans with the registry because the registry only accepts mylars that have a valid boundary survey stamp on them. Chair Girard said Major Site Plans are recorded at the registry. S. Roberts confirmed with the Board that the plan is to be recorded with the registry. She asked if the plan could be stamped without surveying the entire property. She said in the past they have used past survey information for their plans. There was a discussion that a survey must have been done for AT & T to be able to use the two boundary lines to arrive at the precise location of the proposed tower and state the footage of the fall zone at 151 and 158 feet.

C. Robie said the engineer that drew the plan must have surveyed the property lines. S. Roberts said her engineers did not survey the property. S. Roberts said that note 14 on drawing CO1 reads, "*14. Property line information was located from deeds, plans of record and field survey evidence.*" She said this is a generally accepted practice for preparing plans for wireless facilities. S. James said the contour lines must have come from a previous survey. S. James asked A. Lachance if the plans could be stamped by either a L.L.S. (Licensed Land Surveyor) or PE (Professional Engineer). C. Robie said as a Board member he would like to see documentation of what plan was used. S. Roberts said maybe they should request a waiver to not record the plans. S. James said it appears they did a field survey. S. Roberts asked if recording at the registry was in the regulations. Chair Girard said it is under Article 4.00 Submission requirements, 4.01 "*Copies must include Mylar for Registering at Rockingham County Registry of Deeds.*" S. Roberts said that doesn't require you to file it. She said there is nothing that says "the plans shall be registered". Chair Girard said the Planning Board records Major Site Plans.

S. James suggested going over the remaining waivers and see if anyone has questions on the remaining waivers. Chair Girard asked the Board to look at the requested waivers. A. Hall asked if S. Roberts wanted an answer tonight. He said they just received the list of waivers yesterday.

K. Byrd said if the parcel has not been surveyed, then how can AT & T guarantee the measurements are correct. S. Roberts said she was not saying they haven't survey that area. She said they have not done an entire parcel survey. K. Byrd said the Road frontage is 204' and the lot does get wider but can't be certain of the exact measurements without a survey.

S. James said if there are no comments on the waivers then the Board should vote on them. S. Roberts said she can go through them. She said most of the waivers are for the area around the compound and access road. She said one of the waivers is to not provide information for the rest of the 9 + acre property. C. Robie said the Board should know what plan the applicant used.

S. James **motioned** to approve the table of requested waivers with the exception of waiver 4.03 d valid boundary survey until more information is presented. J. Lindsey **seconded**. M. Girard, S. James, G. Clifford, J. Lindsey, C. Robie **were in favor**. A. Hall **abstained**. K. Byrd **was against voting on a block of waivers. Motion carried 5-1.**

Chair Girard asked the Board if they wanted to continue the hearing or wait for Stantec to respond to the applicant's letter. A. Lachance said a continuance would be good, then he can work

together with the applicant on an agreed upon schedule to have everything ready for the meeting on August 17, 2011.

S. Roberts said Stantec is going to provide a response to their letter by Tuesday, August 9, 2011 which the Board will also receive. Then the applicant and Stantec will talk amongst themselves and if there is a need for a revised plan AT & T will have that done by Friday, August 12, 2011 and, if another letter is needed, Stantec will have a letter by Monday, August 15th. K. Byrd asked where the existing storage unit shown on the original plans is going to be located because it is not shown on the revised plan. S. Roberts said it would go inside the compound.

K. Deslongchamps said the tower is very close to his house and will be more visible in the winter and asked if the tower & compound could be moved 300' further back on the property where there is a grove of hemlocks that would hide the compound and tower. Chair Girard said they cannot change the location from the court approved plans. K. Deslongchamps asked if they could get some conifers planted for a buffer. He asked if there could be a stipulation that the trees cannot be cut down which buffers the tower site. He said once the cell tower is up, Mr. Hunter the land owner could go in and cut down all the trees. Chair Girard said they can tell AT & T not to cut the trees within the square leased area but cannot impose a stipulation on the land owner.

C. Robie read the letter from Upton & Hatfield into record, "*Dear Attorney Roberts: Enclosed please find the original signed Stipulation in Furtherance of Final Judgment as you requested. Stipulation in Furtherance of Final Judgment – In furtherance of the Final Judgment entered in this matter on April 19, 2011, the parties stipulate and agree as follows: The following plans, prepared by Dewberry-Goodkind, Inc. Dated August 1, 2011, which have been submitted to the Candia Planning Board for Site Plan Approval, are substantially in accordance with the Approved Plans identified in the Court's Order dated April 19, 2011 at page 11:*" C. Robie said from reading this it appears they have met the criteria. Chair Girard said they have to build the cell tower per the court approved plans and abide by all ZBA conditions.

K. Deslongchamps said the abutters were told at the ZBA meeting that plantings of trees and buffer stipulations were to be done during the site plan approval. S. Roberts said they were not going to do any plantings around the compound. She said they were going to try to not disturb vegetation and, vegetation that is disturbed, they are going to replant. J. Lindsey asked if AT & T could plant some trees in the area near the compound to provide a better buffer to Mr. Deslongchamp's house. S. Roberts said they normally do a reasonable landscape around the compound to screen the compound. She said regarding the issue of cutting trees, she suggests talking to town council on whether the Board has authority to order AT & T to enter into some sort of agreement with the land owner where the owner couldn't cut trees in certain areas. She said this has happened in other cases they have been involved with and this could possibly be a condition.

K. Deslongchamps asked who he would go see to get a stipulation in about the trees. He said he was told by the ZBA that the PB could do this stipulation and now the PB is saying the ZBA should have done this. S. James said it sounds like AT & T can put some cover in their lease area which would be reasonable. He said it may delay the site plan and make it more difficult to do a permanent easement to the deed. He said the concern is site visibility at the base and AT & T said they would do landscaping. Chair Girard said the Planning Board can look into the legality of an easement to see if the Planning Board has the right to impose this. D. Orzechowski asked about the placement of co-locaters whether it was 20 feet or 10 feet. He said on plan C03 the placement shows proposed carriers at 97 feet, 87 feet and 77 feet. S. Roberts said 10 feet is fairly standard. D. Orzechowski said on the court ordered plans, co-locaters were to be 20 feet apart. He suggested the two plans be reviewed for comparison to see if there are any other discrepancies. S. Roberts said that D. Orzechowski was correct. She said they can take off the co-locaters heights because the tower is not tall enough for co-locaters. A. Lachance said they were not tasked to do a comparison

between the court approved plans and the submitted plans but said he can do a comparison. S. James said he would like to see that done. He said it is a valid concern.

S. James asked about the removal bond. A copy of the letter from Stantec about the removal bond was given to S. Roberts. Chair Girard said this will be discussed at the continuance.

C. Robie said the Board asked Stantec at the last meeting for the removal bond information and wanted to know why the Board did not receive the information until yesterday August 2, 2011. A. Lachance said he did not know there was a sense of urgency and thought he had to have the removal bond information for the meeting tonight. He said in the future he will get the information out as quick as possible. A. Lachance said he spoke with someone that does cell tower removals and he said the biggest component of a monopole is galvanized steel that cannot be used as scrap metal. He said he is not sure if it is considered hazardous because the galvanized steel cannot be melted down because it releases a toxic gas. A. Lachance said lattice towers are painted steel that can be melted down. He said he is open to discussing the removal bond with their engineers.

A. Hall **motioned** to continue the public hearing to August 17, 2011 at 7:15pm. K. Byrd **seconded. All were in favor.**

Chair Girard told the abutters they would not receive a notice and this would be their only notice that the public hearing has been continued to August 17, 2011 at 7:15pm.

Other Business

Michael Thompson Major Subdivision Map 413 Lot 046, Application fees

Chair Girard said Mr. Thompson is coming forward with another preliminary major subdivision and has requested a waiver of the application fees. She said the Board might consider waiving some of the application fees.

S. James asked if he has submitted his application and Chair Girard said he is waiting to see if any of the fees may be waived. Chair Girard said the Board would only waive the preliminary application fees not the public noticing or abutter noticing fees. K. Byrd asked what the preliminary fees were and Chair Girard said the application is \$150 plus \$75 per lot origination fee. She said the noticing fees are separate. Chair Girard said it is a new application for the same plan. S. James said Mr. Thompson's reason for missing the deadline for filing the Final Application was his engineer was looking into the FEMA regulations and had requested information from FEMA and had not yet received it. K. Byrd suggested not using the word "waive" but say "give him credit for".

K. Byrd **motioned** to give Mr. Thompson credit for the application fees for the Preliminary Major Subdivision and lot origination fees only, not the noticing fees. A. Hall **seconded.** K. Byrd said the credit would be for the same amount of lots, not additional lots. G. Clifford asked if the credit would be given if they came forward with a new application and K. Byrd said yes the credit would be for either the same or a new application for the same lot. **All were in favor.**

Chair Girard said it is her understanding Mr. Thompson is coming back with the same plan. She suggested when the Board sends Mr. Thompson a letter to ask him to look at the previous letter, dated December 20, 2010, as he has not addressed all of the Board's concerns on the subdivision.

Raymond Planning Board meeting

Chair Girard said the Raymond Planning Board has invited the Candia Planning Board and surrounding towns to a joint Planning Board Meeting Thursday September 22, 2011 at 7pm at the Raymond High School media center if anyone is interested in attending. She said it is a chance to get together with other Planning Boards. She said the Raymond Planning Board hosted a meeting last September 2010 for area Planning Boards. J. Lindsey said she attended the last one and found it to be beneficial and encouraged other members to attend. J. Lindsey said they go around and ask everyone what issues their town is facing that may help other towns. She said she found other Planning Boards were similar.

Candia Sand & Gravel

J. Lindsey asked if the Candia Sand & Gravel reclamation plan had come before the Board. Chair Girard said there was an informational meeting with one selectman, the building inspector and herself. She said the owners of Candia Sand & Gravel want to come back and reclaim the property. C. Robie said notes were taken. J. Lindsey asked if this should have come before the Planning Board. Chair Girard said when they make an application they will come before the Planning Board. C. Robie said they wanted to know what to do with their reclamation plan. He said he told the owners they need to resubmit a new reclamation plan and that they are court ordered to reclaim the area with no mining.

J. Lindsey asked shouldn't they have come before the selectmen? She felt it was improper. A. Hall said it was informal. Chair Girard said they cannot start the reclamation until they submit an application to the Planning Board. C. Robie said before there is any talk of back room politics and under handed stuff he wanted to speak. He said the engineers from Jones & Beach called him at his home as a selectman from the Town of Candia. He said they wanted to know if they could get some help on how to start the reclamation plan for Candia Sand & Gravel. He said he wasn't sure how he could help but he could hear him out with the Building Inspector and the Planning Board Chair. He said whether they heard the owners out on the phone or talked to them at the town there was nothing underhanded about it. C. Robie said notes were taken if anyone would like a copy.

The next Planning Board meeting is August 17, 2011 at the Town Hall at 7pm.

A. Hall **motioned** to adjourn at 8:30 pm. K. Byrd **seconded**. **All were in favor**.

Respectfully submitted
Sharon Robichaud
Land Use Secretary