

**APPROVED**  
**CANDIA ZONING BOARD OF ADJUSTMENT**  
**MINUTES OF December 23, 2008**

**Present:** Boyd Chivers, Chair; Frank Albert, Vice-Chair; Ron Howe, Judith Szot, Arlene Richter, Amanda Soares; Alternate.

**Absent:** Ingrid Byrd; Alternate

Chair Chivers called the meeting to order at 7:00 p.m.

**Approval of Minutes**

Chair Chivers asked A. Soares to sit for J. Szot to review the minutes A. Richter **motioned** to accept the minutes of November 25, 2008 as presented. R. Howe **seconded**. **All were in favor**. J. Szot arrived at 7:05pm and Chair Chivers had A. Soares step down after the reviewing and voting on the minutes. J. Szot was seated for case 08-565.

**Case #08-565 Applicant: New Cingular Wireless PCS, LLC (“AT & T”) c/o Stephen D Anderson, Anderson & Kreiger, LLP One Canal Park, Suite 200, Cambridge, MA 02141; Owner: Paul Hunter 606 North Road, Candia NH 03034, Map 402 Lot 10: For appeal under Section XII 12.02(A), Special exception under Section V 5.02(D, d-1), Section XII 12.01(B) & Section 13.02 and Variances under Section V 5.02(D, d-2), Section XII 12.02C and Section VI 6.01(G) to permit construction of a new tower replacing existing tower and relocating an existing equipment shelter with diesel generator in a residential district.**

Doug Wilkins from Anderson & Kreiger and Kevin Breuer Engineer were present for the applicant. Abutters Megan Colby 616 North Road and Dennis Orzechowski, 55 Halls Mill Road were present. Chair Chivers explained the case is continued from November 25, 2008. He said the ZBA was recently informed there was a defect in the notice to the abutters. The abutter’s notices went out November 10, 2008 and proper notice was not given to Megan Colby of 616 North Road who recently purchased the property on October 3, 2008. The previous owner was notified. This in effect invalidated the first hearing as not all abutters were notified as required per RSA 676:7 Public Hearing; Notice.

Chair Chivers pointed out that Megan Colby made an effort to make it to the meeting tonight. Megan Colby requested that the case be continued so she would have time to review the information on the case. D. Wilkins suggested to go forward and present his material and if she had any questions that he would be there to answer them. F. Albert was in favor of hearing the presentation. J. Szot said the law is clear and states the abutter can choose or refuse the right to waive to be noticed. J. Szot said M. Colby made it clear that she refuses the right to waive to be noticed which means the case can not be heard further.

J. Szot **motioned** to continue the hearing until January 27, 2009. A. Richter **seconded**. Discussion followed. Chair Chivers said the applicant brought up a good point that the notice was defective and she wants the same rights as the other abutters had at the first meeting. J. Szot said if the hearing continues it will be defective and if brought

before the courts, the courts will rule the case is defective. J. Szot reiterated that M. Colby requires a legal notice. R. Howe said that this case like any case is too important to have mistakes going forward and that the applicant should start all over. Chair Chivers said the issue is whether to continue the case or have the applicant withdraw the case and resubmit a new case. D. Wilkins asked for time to decide. Chair Chivers answered it has to be decided tonight and further explained that it is up to the Board whether to reject the application and require the applicant to resubmit.

J. Szot withdrew her **motion** to continue case 08-565 and A. Richter withdrew her **second. All were in favor.**

J. Szot **motioned** to reject case 08-565 due to defective notice to the abutters. A. Richter **seconded. All were in favor.**

**Other Business**

Chair Chivers asked the Board if there were any other business to discuss and hearing none asked for a motion to adjourn.

F. Albert **motioned** to adjourn. R. Howe **seconded. All were in favor.**

The meeting was adjourned at 7: 40 p.m.

Respectfully submitted,  
Sharon Carrier  
Recording Secretary