

APPROVED
CANDIA ZONING BOARD OF ADJUSTMENT
MINUTES OF July 28, 2009

Present: Boyd Chivers, Chair; Frank Albert, Vice Chair; Ron Howe; Arlene Richter; Judith Szot; Ingrid Byrd; Amanda Soares, Alternate

Absent:

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

Approval of Minutes

I. Byrd **motioned** to accept the minutes of June 23, 2009 as presented. F. Albert **seconded**. **All were in favor.**

Continuance Case 09-567 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 a Special Exception under Section V 5.02 (D, d-1), Section XII 12.01(B) and Section 13.02 and Variances under Section VI 6.01(G) and Section XII 12.02C. To permit a wireless communication facility in a Residential District consisting of a 180+/- lattice tower with side yard “fall zones” of less than 150% of the tower’s height within a 75’ x 75’ fenced equipment shelter will be located. The compound will include an equipment shelter and diesel generator. A gravel access drive is also proposed and utilities will be brought in from existing sources on the property.

Applicant Douglas Wilkins, Anderson & Krieger LLP and Jacqui Swenson, K.J. Wireless were present. Abutters, Mrs. Kevin Deslongchamps 608 North Road, Mr. & Mrs. Daniel A Deslongchamps 584 North Road, Dennis Orzechowski 55 Halls Mill Road and Mrs. Chris Chiesa 37 Halls Mill Road were present.

Appraisal reports from Fremeau Appraisals were received Monday July 27, 2009 at the Town and the applicant received the report today, Tuesday July 28, 2009. The abutters did not see the report until tonight.

Chair Chivers said it was unfair to everyone to close the hearing without giving everyone a change to read the report. Questions and or challenges can then be brought back to the next meeting.

The applicant was agreeable to pay the additional charge of \$206.50 from Fremeau Appraisals for the additional printed copies and overnight fees.

Chair Chivers said K. J. Wireless used Fremeau Appraisal in the past to conduct similar studies and it is not foot noted on the report. Chair Chivers said it is relevant to know this since they have come to certain conclusions from previous studies. D. Wilkins said this was disclosed beforehand and feels that it is not relevant. The studies done for K J Wireless were a 2004 site specific report that was updated in the spring of 2005 and an individual appraisal in Bow in 2005. D. Wilkins said appraisers have the responsibility to be impartial and this should not be an issue.

It was the consensus of the Board to allow time for the Board and the abutters to read and comment on the report. Chair Chivers said the Board will listen to the applicant’s comments tonight.

D. Wilkins said the new appraisal confirms reports that have been submitted with their application. He said the report cited replacement of one tower for another tower which is significant to the Fremeau Appraisal.

A. Soares asked if land was taken into account around the tower that was not built on yet and asked if this land is lower in value and could possibly have restrictions on building.

D. Wilkins did not refute that alternatives were not ruled out because of radio frequency. It was reiterated that other sites meet their objectives that would less affect another neighborhood where fall zones do not fall on other properties. The applicant is clear that their position is for a tower on 606 North Road. The tower proposed is 150' from all abutters. The existing 18" diameter antenna is to be replaced by an 18' triangle based lattice tower.

Mrs. Chris Chiesa was concerned with the applicant clearing approximately 100 feet square which would make the tower much more visible. She said to take note on page 50 #1 saying the information in the report is specific to the needs of the client and #5 they state they have no qualifications to discuss radio active waste or devaluation of property. Chair Chives said the FCC Act established radio frequency as a non-challengeable item. D. Orzechowski was also concerned with the amount of clearing that would reduce the visible barrier. He also said he is an AT & T customer and he has service on Halls Mill Road. Diesel generators were discussed.

Chair Chivers asked the applicant what they were asking for because the application states a 180' tower and they are proposing several different heights. It was discussed that if the applicant wants to ask for a different tower that would be a different application. D. Wilkins said they submitted a number of alternatives and if denied on the variance they will ask for a 100' tower which doesn't require a variance.

It was the consensus of the Board that they have to decide and vote on what is presented on in the application.

Mrs. Kevin Deslongchamps said she would like to hire their own appraiser and asked if the Zoning Board would come do a site walk on their property. The Board told her that they would not pay for the study. Chair Chivers asked to have her send the applicant a copy of the study before the next meeting.

The Board discussed a site walk on Mr. & Mrs. Kevin Deslongchamps property at 608 North Road property and Halls Mill Road. The site walk is scheduled for Tuesday August 4th at 7pm.

I. Byrd **motioned** to continue Case #09-567 until August 25, 2009 at 7 p.m. J. Szot **seconded**. **All were in favor.**

Case #09-573 Applicant: Paul Spezzaferri 89 Highland Street, Candia NH 03034; Owner: same; Map 405 Lot 076-115; For a Variance under Section 6.02 to construct a 12' x 20' open deck on the rear of the house within the setbacks.

Paul Spezzaferri was present. No abutters were present. Chair Chivers summarized the case. Lots are small and irregular at Candia Highlands. The applicant's lot is triangular shaped and abuts common land. The Board did not have any issues or questions. P. Spezzaferri said the house was built 14 years ago with sliders in place for a deck out the back.

J. Szot read into record 12.02 C Variances:

12.02 C. Variances: The Board of Adjustment shall hear and decide requests for variances from the terms of this Ordinance. No variance may be granted unless ALL of the following criteria are met:

1. No diminution in the value of surrounding property would be suffered.

The Board affirms there would be no diminution

2. Granting of the variance would be of benefit to the public interest.

The Board finds in the positive.

3. Denial of the variance would result in unnecessary hardship to the owner arising out of special conditions affecting the land and/or buildings that distinguish the property from other similarly restricted property in the area.

The Board finds in the positive.

4. *Granting the variance would result in substantial justice.*

The Board finds in the positive.

5. *The use will not be contrary to the spirit of the Ordinance.*

The Board affirms the use would not be contrary to the spirit of the Ordinance.

J. Szot **motioned** to grant a variance under 6.02 to construct a 12' x 20' open deck within the back setbacks. F. Albert **seconded**. **All were in favor.**

Other Business

August 25, 2009 is the next scheduled Zoning Board of Adjustment meeting.

I. Byrd **motioned** to adjourn at 7:55 p.m. R. Howe **seconded**. **All were in favor.**

Respectfully submitted

Sharon Carrier

Recording Secretary