

Planning Board Minutes 03/20/12

DRAFT
NEWMARKET PLANNING BOARD MEETING
TUESDAY, MARCH 20, 2012
MINUTES

Present:

Rick McMenimen, Justin Normand, Peter Roy (Vice Chairman), Diane Hardy (Town Planner), Val S
(Chairman), Janice Rosa, Elizabeth Dudley, Ed Carmichael (Town Council ex officio)

Absent:

Adam Schroadter (Alternate)

Called to order:

7:01 p.m.

Adjourned:

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & Approval of Minutes:

01/24/12, 02/14/12

01/24/12

Rick McMenimen stated he should have been listed as an Alternate under the section that lists members who were present at the meeting.

Action

Motion:

Peter Roy made a motion to accept the minutes of 01/24/12, as amended

Second:

Rick McMenimen

Vote:

Justin Normand abstained due to absence at the meeting

All others in favor

02/14/12

Val Shelton stated Peter Roy and Justin Normand's absences were excused.

Rick McMenimen stated Adam Schroadter should be listed as an Alternate in the listing for members present. He also had a correction to page 2, line 23, should say "in the amount of", adding the word "the".

Action

Motion: Rick McMenimen made a motion to approve the minutes of 02/14/12, as amended

Second: Janice Rosa

Vote: Justin Norman and Peter Roy abstained due to absence

All others in favor

Agenda Item #4 – Regular Business

Organizational Meeting to Elect Chairman & Vice Chairman

Action

Motion: Janice Rosa made a motion to nominate Val Shelton as Chairman

Second: Rick McMenimen

Vote: All in favor

There were no other nominations.

Action

Motion: Janice Rosa made a motion to nominate Peter Roy as Vice Chairman

Second: Justin Norman

There were no other nominations.

Vote: All in favor

Town of Newmarket/Cellco Partnership d/b/a Verizon Wireless - public hearing for an application for a Minor Site Plan Review for twelve antennas at a height of 160' on existing 190' telecommunications tower, cabling and 12'x30' equipment shelter with a propane powered emergency backup generator supplied by a pad mounted propane tank, at 426 Wadleigh Falls Road, Tax Map R6, Lot 52, B3 Zone.

Janice Rosa stated she is an abutter to this property, but will remain sitting on the Board, as she finds no conflict of interest. Chairman Shelton asked if anyone had any objections and no one spoke to this.

Daniel Klasnick, from Duval, Klasnick, & Pastel, LLC, was the attorney representing Cellco Partnership d/b/a Verizon Wireless and he presented the application.

He had a handout for the Board containing an overview of the application materials. Chairman Shelton stated the Board had been given, in their packets, the application, specifications, site plan, generator information, and copies of everything submitted. Attorney Klasnick stated the handout was in the form of a PowerPoint he had printed out.

Diane Hardy stated the application was substantially complete. They will be asking for waivers. She recommended the Board approve the waivers.

Action

Motion: Peter Roy made a motion to accept the application of Cellco Partnership d/b/a/ Verizon Wireless for the review for twelve antennas at the height of 160 feet on the existing 190 foot telecommunications tower, cabling, and a 12'x30' equipment shelter with a propane powered emergency backup generator supplied by a pad mounted propane tank at 426 Wadleigh Falls Road, Tax Map R6, Lot 52, Be Zone

Second: Rick McMenimen

Vote: All in favor

Attorney Klasnick stated this particular proposal comported with the standards and requirements and they would be utilizing an existing tower developed for this purpose. The site, parking, and access has already been established and utilized. There is a history of existing use and co-location. The site is ideal, set back substantially from the public way, largely obstructed by existing trees and a building. There is no need to do any additional clearing or grading. The equipment shelter would be located in an existing 60'x60' fenced area. The antennas will be on the existing tower. The emergency generator propane tank will be outside of the fenced area on a 4'x10' concrete pad. It is located outside of the fence, because it has to be set back at least ten feet from any "spark zone" requirements. There will not be any impact on water and sewer, as this is unmanned. It will be installed in compliance with all applicable construction standards.

He stated they are requesting three waivers. There is a requirement for a National Environmental Policy Act (NEPA) filing. The proposed antennas are going on an existing tower and will not extend the tower by more than 10%. This is categorically excluded from that requirement of preparing a NEPA filing. Since they are not changing the physical layout of the property with a subdivision, they are asking for a waiver from two different boundary survey requirements. There was also some additional site information required regarding boundary survey information.

He had a large scale plan and indicated the positioning of the equipment on it. He stated there are already co-locaters above where Verizon's antennas will go.

He stated Verizon had provided coverage maps to the Board, along with a Radio Frequency (RF) affidavit that outlines the requirements and the need to fill a substantial gap in coverage. This facility will satisfy that gap in coverage. They had provided other materials about RF safety.

Chairman Shelton opened the public hearing.

There were no comments.

Chairman Shelton closed the public hearing.

Elizabeth Dudley asked about a viewshed analysis to show what the proposed equipment would look like. Attorney Klasnick stated those were not available at the time of filing. He did have photo simulations with him and he distributed them to the Board. He stated anyone driving down the road is not going to notice a difference.

Elizabeth Dudley asked, in terms of the generator building, if there was any buffering proposed for neighbors. Attorney Klasnick stated Verizon designs their facilities with consideration for the noise. There are already several generators out there on concrete pads. Verizon's generator will be inside of the equipment shelter and it is fitted with a critical grade silencer. This generator will be quieter than the existing generators and is only used for emergency purposes. There is a testing requirement for liability. Other than that, the generator will not operate unless the power is disrupted. It is tested once a week for 20 minutes.

Rick McMenimen asked about the location of the propane tank and if it was next to the property line. Attorney Klasnick stated it was next to the leased area line.

Chairman Shelton asked if there was a reason the propane tank was not buried. Attorney Klasnick stated Verizon Wireless does not typically bury tanks and it is less disruptive to put it on a pad. It is easier to refuel and service, also.

Diane Hardy gave background information about the lot, which is owned by the Town. She pointed out that Doucet Survey has done a survey for the subdivision of the front of the lot for another purpose. The survey shows the Sewall Well location and well radius. The tower was built before environmental regulations were on the books at the State level for a protective well radius; there is still interest in seeing that area is protected to the extent possible. This property is in the Aquifer Protection Overlay District. She stated she had a discussion with the NH Department of Environmental Services (NHDES) and they agreed having a propane-fired system was superior to other fuel sources. They did mention the regulation regarding the 400' protective radius and that it be maintained in a natural state to the intent possible and that it be used for the protection of the wells. She asked if the propane tank could be located outside of the 400' area. She passed a map around to the Board showing half of the leased area falls into the 400' wellhead radius. Attorney Klasnick stated the tank does fall within the wellhead protection area. He stated the facility is designed in compliance with the bylaws requirement where propane is allowed and with NHDES regulations, which seem to recommend propane tanks. The physical layout was selected, because of the proximity to the generator and the need to run a line between the two. He asked the Board to consider they are using propane. Verizon is a tenant of SBA and these drawings have been accepted by them. Chairman Shelton stated there is existing infrastructure within the wellhead protection area now.

Elizabeth Dudley asked if the building could be moved outside of the 400' radius. She thought it was reasonable to ask that nothing be built within that 400' area. Attorney Klasnick stated there is already equipment in that area for other carriers. He stated, if the Board feels the tank should be relocated, Verizon will work to relocate it. Elizabeth Dudley

stated it did not make sense to build anything within that area. Justin Normand stated the greatest risk is during refueling. He did not think the building was much of a threat environmentally. Elizabeth Dudley stated she was speaking of minimizing the disturbance of the area and to try to protect the aquifer district.

Chairman Shelton stated it appears the propane tank could be located to the southwest of where it is now being proposed. It would be outside of the wellhead area and there would still be direct access. Chairman Shelton stated there are not any construction reasons why the propane cannot be located outside of the wellhead protection radius.

Diane Hardy stated the applicant is requesting a waiver from the NEPA requirements and they have provided a memorandum of agreement regarding Section 106 of the National Historic Preservation Act, where co-location of antennas is exempt from that process. She would recommend granting the waiver to that requirement. We now have the boundary survey and she recommends Bill Doucet sign the plan and the survey information become part of the official record of this application. There is also a waiver for other site information. She stated the applicant has provided a detailed site plan and a waiver would be in order.

Diane Hardy asked if the proposed location of the propane tank and pad conflicts with any buffering around the perimeter of the site. This would include the amended location. She asked if the applicant would need to replace any of the buffers. Attorney Klasnick stated there are some small shrubs planted against the fencing. The location of the tank will not conflict with that.

Diane Hardy asked if any toxic or hazardous materials will be stored on site or used during construction. Attorney Klasnick stated Verizon is proposing to deploy a propane filled emergency backup generator. There will not be any diesel or any type of fuel like that brought in. The generator does require some oil and coolant, but those are in compliance with all requirements. There are also batteries, as with the other co-locators.

Diane Hardy asked about the HVAC equipment. Attorney Klasnick stated there would be coolant there, as well. There is no oil kept there to be used for maintenance. It is handled by periodic service.

Diane Hardy stated, on a previous application before the Board, one of the conditions of approval for a co-location was Material Safety Data Sheets (MSDS) be provided for any hazardous materials or chemicals that may be stored on site. We do have copies of those on file. Attorney Klasnick stated that would be acceptable to the applicant.

Diane Hardy stated she reviewed the application with the Public Works Director and he was okay with the plan and proposal. She also had a brief conversation with Sean Greig, the Water and Sewer Superintendent and he had some concerns with how the site would be laid out. At the water tower, where several antennas are located, there is a chaotic layout that developed over time and things were not laid out as well as they could have been and it has caused some issues in terms of maintenance and servicing. He wanted to have the opportunity to review the plans before the building permit is issued. The property itself, even though it is Town property, was granted to the Water Department. The revenue goes to the Water Department, so they have an interest to see that this is done in a well planned fashion. Attorney Klasnick asked if there could be some sort of reasonable time period within which he would look at the design. Diane Hardy stated they will have to file a building permit. She would say within the time frame the Building Official is reviewing the application, Sean Greig could look at it, as well. There was discussion of whether this was a condition or a recommendation. Diane Hardy stated normally plans are sent out to the Public Works Director. He would look at this a little differently than the Water and Sewer Superintendent. Chairman Shelton stated she did not want to have the burden on the applicant, where they won't know if their application is approved until after the building permit is filed and Sean Greig reviews the plan. Attorney Klasnick stated they are ready to apply for the building permit immediately upon Planning Board approval. Verizon Wireless will work with Sean Greig to make certain we do this in such a manner that is reasonable. Diane Hardy stated this is Town owned property, so Sean Greig would be a valuable person to have look at the plans and comment on them.

Diane Hardy stated there will be some minimal construction work done to enhance the structure of the tower to accommodate the new antennas. She would like to get a sense, from the applicant, of the extent of the construction, how long it would last, and whether there would be a lot of equipment coming in. It is more in relation to disturbance of the site and any potential contamination issues related to the equipment that might be used on site. Attorney Klasnick stated they had included, in the application, a structural and modification plan. He stated they are replacing some of the steel at the bottom to provide additional structural support and the foundation was deemed to be sufficient, so there will not be any soil disturbance.

Elizabeth Dudley asked what provisions were made for leaks. She stated she understands it is on a concrete pad, but it is in the aquifer. Attorney Klasnick stated the site is monitored 24/7. He stated propane is gaseous, but there is typically leak detection. It is a vaporous gas. That is one of the reasons it is being used here, even if there was a leak, it would just evaporate. It would not leach into the soil.

Chairman Shelton stated they would address the waivers.

Action

Motion: Rick McMenimen made a motion to waive Section 2.03(8)(b) for the National Environmental Policy Act evaluation, Section 2.03(A)(4) the boundary survey, Section 4.04 Survey Plan requirements and Section 4.10 Site Information of our Site Plan Regulations

Second: Peter Roy

Vote: All in favor

Action

Motion: Rick McMenimen made a motion to approve a Minor Site Plan application for twelve antennas at a height of 160' on an existing 190' telecommunications tower, cabling, a 12'x30' equipment shelter, with propane powered emergency backup generator supplied by a pad mounted propane tank, requested by the Town of Newmarket/Celco Partnership d/b/a Verizon Wireless at 426 Wadleigh Falls Road, Tax Map R6, Lot 62, B3 Zone, with the following conditions:

1. Relocation of the propane tank to outside the 400' wellhead protection radius.
2. Applicant shall post a bond in the amount of \$18,488.30, which represents the cost of removal of the antenna in the event the applicant abandons the antenna and proof of adequate insurance covering accident or damage, as set forth in Section 5.07(F) and (G), prior to the issuance of any building permit for this project.
3. Prior to the issuance of the building permit for the antenna and equipment shelter, the plan showing layout of the equipment shelter, the propane tank, and the concrete pad be reviewed and approved by Sean Greig, the Newmarket Water and Sewer Superintendent.
4. The applicant shall submit Material Safety Data Sheet (MSDS) for all toxic and hazardous chemicals for batteries and HVAC equipment to be stored or used in any fashion at the site during the construction or use.
5. Any refueling of vehicles or construction equipment or maintenance shall be done to the extent practical outside of the Aquifer Protection Area.

Second: Peter Roy

Chairman Shelton stated she would like to see, where it says "reviewed and approved by Sean Greig" if they could remove "approved", so he would just review it and then add an additional condition that any disturbance of vegetation for use as buffering will be remediated.

Second: Peter Roy seconded the amendment

Vote on the amendment: All in favor

Janice Rosa stated she was concerned about any negative health factors from the antennas or equipment. When another tower was proposed in a different location, the neighboring daycare was up and arms about safety issues. She was concerned about the effects of the cell equipment on people in the area of it. Attorney Klasnick stated the calculations provided by Dr. Hayes were for a fully loaded tower operating at 100% of power output, which they never do. Dr. Hayes concluded there could be 500 similar additional installations at this location and it would still be compliant with the requirements of the FCC. The site is very much compliant.

Vote: Janice Rosa opposed

All others in favor

Acadia Engineers & Constructors – Preliminary Conceptual Consultation for mixed-use redevelopment of 13 Water Street, Tax Map U3, Lot 4, M2 Zone.

Diane Hardy explained what a Preliminary Conceptual Consultation involved.

Tim Nichols, Acadia Engineers & Constructors, presented the concept. He stated he had been in last September and had given a brief overview of the project. He would like to update the Board, refresh memories and show any new members what they are planning.

He stated the project has evolved slowly, but they have some momentum now. They received two variances, one for setbacks and one for use, increasing the residential units to seven. Their office is small, focusing on high performance buildings, renewable energies, preservation of historic buildings, and sustainable development. The reason they are doing this project is to give themselves some commercial office space and expand their business and to develop a mixed use facility. This will revitalize an important property and make it more accessible.

The original building footprint that was approved has changed slightly, but the area for which they received a variance has not changed at all. They have relocated the courtyard from the back of the building abutting the church to the front. They moved the building back from the river a little bit to give them more of a waterfront, open market feel and to provide some underground parking for the residential units. The building will be four stories, the first floor will be retail and a restaurant; the second floor will be commercial professional office space, of which his company would occupy about one third. The top two floors will be residential condominiums. There will be four on the third floor and three on the fourth floor.

Part of the reason they are doing this project is to help showcase what they do. It is a high performance building. The envelope will exceed current energy code standards. They will incorporate renewable energies, including solar panels on the roof and small vertical wind turbines, which would be two small tower units about 20 feet high. Not the typical propeller units most people think of.

With the exception of the Town easement, which is landscaped, the entire site is impervious. They will reduce the amount of impervious pavement. They will increase green space. They would like to add a rain garden. They would like to use some different best management practices. They would also like to celebrate the history of what is sometimes referred to as the "Town docks". They have looked at the history of the area and learned that it is a significant historic area. The seawall that extends from the boat ramp about 300' toward Rivermoor was the Town docks in the very late 1700s to the mid 1800s, where the gundalows would come in and unload bricks from Dover to construct the mill buildings. The original building on the property was a blacksmith shop in the 1800s and, in the 1840s, that building was razed and the current building was constructed. Most people know the building as the former "Joyce's Kitchen". In the current concept the entire building will be razed. There is not much that can be preserved in the current structure. They will recycle and reuse a lot of the building in the new structure, such as the barn wood siding, the granite stone

foundation walls, and some of the old mill stones.

As part of the market feel they want to give, on the river side of the building, they will add some historic summaries, sort of like a kiosk, that explains the history of that area to help celebrate its character.

The building height is 42' to 44' in concept. The existing building is about 42' high.

He stated they have had meetings with Rivermoor and they are working out some arrangements, including adding green space on their property, putting pocket gardens in and, in return, he would get some day parking for his building to alleviate some constraints they may face.

They are also proposing six, with the potential of seven, underground parking spaces. Those would be dedicated to the residential occupants to alleviate some parking issues in the area. The area of the residential units will be 900' to 1200'. They will be two or three bedroom units.

The current schedule is to submit a formal application to the Board in April, possibly May at the latest. Once they have approvals, they can get the "as constructed" appraisal from the bank to secure financing. They would commence construction this year, with the demolition and preparation of the site, then new construction.

They have looked at grant opportunities for renewable energies. There is only one available. It is a large commercial/industrial grant through NH PUC. They submit that on March 30 and hope to hear something soon. It is competitive.

Joe Persechino, Appledore Engineering, went over a preliminary conceptual site plan. He gave an overview of the location of the property.

He stated they are trying to fit as much parking on the site as possible for the residential units. To do that, they are proposing street level parking on the Water Street side of the building that will be located under the building, not under the ground, like a garage. Due to the grade change, there will be levels of parking, where the cars would be able to back directly onto Water Street. These will be designated solely for the residences. He stated Water Street is low traffic, a dead end.

He stated, in between the parking deck and the church, there would be a 5' sidewalk with steps leading down to Water Street to bring connectivity to the downtown.

They are also proposing a small retaining wall up against that sidewalk to allow direct delivery to the businesses in the building.

The patio out front would be potentially brick pavers to infiltrate water back into the ground, where it is paved right now and there is direct runoff into the river.

The potential landscaping will be trees, small pocket gardens; they would like to do as much as they can with that site.

They will reuse the parking that is already there, reconstructing it in place and have another five spaces and whatever other parking they can get on the parking deck for daytime use.

He stated the dumpster pad would be located on this property or perhaps they will work out a joint use. As far as recycling, they are looking at composting to see what measures they can use to reduce impact from the site.

They are also looking at an emergency access, either sloped curbing or pavers or another means of traffic alleviation to

reduce pass-through traffic to the Rivermoor area and vice versa, but still allow for emergency vehicles.

Chairman Shelton stated he was starting to get into Design Review and she explained that Design Review required public notice. She explained the discussion had to be kept at a conceptual level about the use of the property, questions he might have of the Board, etc.

Joe Persechino stated the stormwater flows toward the river, almost direct discharge. They are looking at having tree wells, porous pavers or asphalt, a rain garden by the Riverwalk and looking at infiltration trenches.

Peter Roy asked if anything they were planning to do would change the way boats are now launched. If he came down Water Street, where would he turn to back into the launch? Joseph Persechino stated he could turn into the existing parking area across from their proposed site. They are trying to limit impacts.

Elizabeth Dudley asked, given the proximity to the river, to the highest extent possible, if they could not contribute any more stormwater flow at all directly into the Lamprey River. Chairman Shelton stated they needed to pay attention to the new stormwater regulations. Joseph Persechino stated their goal is to reduce impervious area and runoff. They are striving to do this. Chairman Shelton stated they cannot have any runoff from the site. She stated they needed to be very cognizant of those regulations. The likelihood of getting waivers for those regulations might be difficult.

Ed Carmichael asked what time frame they were looking at for the start of construction. Tim Nichols stated, if the schedule goes the way they hope it will, they would be demolishing the existing building in July and doing the sitework and construction before winter to have the site stabilized and then finish in the spring.

Chairman Shelton asked if the public had any questions relative to the proposed uses. Martin McKinsey, 6 Washington Street, had concerns about the underneath parking with people backing out with minimal visibility. Chairman Shelton stated the Board was not able to get into any details, just the use. There will be time for discussion when a site plan is submitted.

Elizabeth Dudley stated she was intrigued by the design for the wind power. Tim Nichols stated the towers are 20' in height and the wind-vane is 5' in diameter. They would be probably located in a visible area to create awareness about renewable energy. They would like to showcase them.

Chairman Shelton explained this discussion was on a conceptual level at this meeting. They cannot look at engineered drawings. They are anxious to see an application before the Board, where they can get into more detail. Everyone is looking for something to happen at that site.

Tim Nichols stated there is a historical right of way from 1805, a straight corridor to the docks. It is Town owned. In 1978, the property line was aligned with the existing curb. They are going through a process with the Town Council, through RSA, to relinquish the right of way. That will impact the project significantly.

Agenda Item #5 – Other Business

Elizabeth Dudley asked about landscape regulations. Chairman Shelton stated that would be placed on the next Planning Board agenda.

Chairman Shelton stated they would address committee appointments. They would get a list and circulate it to the Board prior to the meeting.

There was discussion of taking care to keep discussions at a preliminary level when public notice was not required for a

potential applicant to come before the Board for a preliminary conceptual consultation.

Agenda Item #6 – Adjourn

Action

Motion: Rick McMenimen made a motion to adjourn

Second: Janice Rosa

Vote: All in favor