

TOWN OF SUTTON
Planning Board
Pillsbury Memorial Hall
Meeting Minutes
December 10, 2013

Present: Planning Board Members: Carrie Thomas and David Burnham, Co-Chairpersons; Roger Wells, Julie McCarthy members; Carole O'Connell, Alternate and Dan Sundquist, Ex-Officio; (Peter Blakeman and Bob DeFelice, members were absent); and Laurie Hayward, Land Use Coordinator (LUC), Jae Whitelaw (town counsel), Mark Moser (consultant), Clark and Evelyn Davis, and representing Industrial Tower and Wireless, LLC(ITW) were Kevin Fadden, ITW Site Acquisition Specialist; Kevin Delaney, ITW Engineering & Regulatory Compliance Manager; Richard Voci, Engineer; also in attendance during the public hearings was Thomas Schaumberg.

Public Hearings: Thomas, the Chair, opened the Public Hearings and the notice was read:

You are hereby notified of a Public Hearing to be held on December 10, 2013 at or around 7:00 p.m. at the Pillsbury Memorial Town Hall, 93 Main Street, Sutton Mills, NH, concerning a request by **Clark M. and Evelyn C. Davis and Raymond P. and Mary M. Hebert**, for a property line adjustment, in a Rural- agricultural district, Route 103, Tax Maps # 01-592,123 and 01-590,128.

Mr. and Mrs. Davis stepped forward. Mrs. Davis explained that the reason for the lot line adjustment was to allow the Hebert's better access to their lot. Wells moved to close the public hearing accept, McCarthy seconded that motion and it was voted.

The chair called for discussion. Wells stated that he felt the proposed lot lines would be simpler and it doesn't create am lot of less than 2 acres. Mrs. Davis explained that she and her husband were simply try to fix a problem and, in doing so, help a neighbor. The Board members reviewed the plat and discussed the benefit of lot line adjustment to both parties. There was no correspondence and there were no abutters at the meeting. The LUC stated that there were only 2 abutters that were not a party to the transaction.

Wells moved to close the public hearing Sundquist seconded that motion and it was so voted. Wells moved to approve the application as submitted, McCarthy seconded and it was voted to approve as submitted unanimously.

It was noted that the mylar was not delivered. The LUC will ask Mr. Dobrowski to get the mylar to her for processing.

This ended the first Public hearing.

The Chair opened the Second Public hearing.

The Chair opened the second Public Hearing, noting that it was a continuance of the Site Review Application of **Industrial Tower and Wireless, LLC, 40 Lone Street, Marshfield, MA 02050, Tax Maps Lots # 01-406,086 and**

01-408,090 for Site Plan Review of the proposed plan for the construction of a 135 foot monopole wireless antenna tower in a rural-agricultural district.

Kevin Fadden stepped forward. Kevin gave a very brief summary of the history to that point. Rick Voci handed out copies of the plans that had been sent to Mark Moser of Moser Engineering and from them to LUC. The LUC asked if all of the documents handed out had revision dated in December and Voci answered yes. Board Members examined the revised plats and documents and questioned Voci on them.

The Chair asked Mark Moser to step forward and address the new plan. Moser went through points in his review letter which addressed his earlier concerns and in each case explained how the current revised plans address those concerns. There was a discussion of how using the "bench area" rather than a retaining wall would resolve drainage issues. Burnham asked if ledge would impact his assessment, referring to the note "if no ledge". Wells asked about surface treatment of the bench area. Moser said that the only treatment of the bench area would be the standard loam, seed, and mulch. Voci spoke up to note that they specified that on 2A there was a note, # 11, regarding erosion control stating that they would loam, seed, mulch any disturbed areas. Wells asked if Moser was ok with that even where the slope was 25% or more with a bench. Moser said that he was.

Moser addressed culverts and noted the engineer had added two culverts and level spreaders would also be used. Moser noted that old plans had noted a 12" culvert pipe which was not what was actually seen. The new plans show the correct, current 15" plastic pipe culverts. He noted that the purpose of the culverts is to get the water away from the road and off into the woods where it will not cause problems. He also note that the engineer has proposed two level spreaders (berms of stone) which will also direct water flow and help to alleviate drainage problems. Moser did note that he could not find the kind of modeling that would show that the 10 year storm run-off would not over top the road and that the 10-year storm was clearly addressed. In response to a Wells question, Moser said that he did feel that using the level spreaders was appropriate and reasonable for the project.

The chair asked about the road location. Moser showed board members on the plat and indicated that there would be a small change near one of the added culverts and the level spreaders. There was a section near the boundary line where the applicant had agreed to add some crushed stone. Voci added that there would be some regarding at that spot as well. The chair asked if the revision involved any change to the tower site itself. Moser answered that he was not aware of any. Moser explained that the engineer had provided a detailed sediment and erosion plan. Moser pointed out on the plans where silt fences and check dams and other erosion control measures were indicated in the plans ITW provided.

Wells asked the applicant regarding the easement; he noted that the Board still has not had an answer to questions about the maintenance. Delaney explained that ITW does have permission from the landowner to do any maintenance necessary to the road, utility, driveway areas even those that are outside the leased area. Fadden noted that there would be an "as-built plan" that would be provided at the end of site construction.

Sundquist asked what form the original agreement with Blaney, the landowner, is in. Delaney said it is a lease document. Jae Whitelaw, town counsel, asked what form the agreement takes, what notice and what will be recorded. Delaney stated that the document is the easement and that will be recorded. Whitelaw stated that the reason for the questions is her concern that there be some way for a future possible buyer to know what the agreements are that affect the property and properly noticing and registering the lease or agreement on the easement does that. Moser stated that the note on the plan indicates that the as-built will

be recorded. Town counsel replied that that does not document the agreement. Delaney stated that there is a note on the plan that will be recorded. Delaney explained that he does not have knowledge of exactly what form that might take. Whitelaw indicated that she has recommended the Board make sure that they have seen the agreement and/or have ITW's attorney provide the documentation to show that they will be able to go on the property to maintain it. Whitelaw asked who the ITW attorney is and stated that she wants to make sure that the agreement is in place. Delaney replied that it was Jefferey Engley and, here in New Hampshire, they use Steven Grill. The Chair asked for additional comments. The applicant said that they did not have anything additional. Moser stated that he is comfortable with the plans as they were revised. The Chair thanked Moser for his work on the Site Plan review. There being no abutters or other persons of interest to speak, **Wells moved to close the hearing, Sundquist seconded and it was voted unanimously.**

Wells moved that they approve the Site Plan with conditions: 1. That the Planning Board receives copies of any existing DES approval for all existing applicable culverts so that it can be determined whether the approval is still active and if approval is not still active then a new approval will be required. 2. That the Planning Board receives calculations and documentation showing that the existing culverts all meet the 10- year storm design requirement of Ordinance. And that that report be submitted to the Board's engineer for his review and recommendations. 3. That ITW be responsible for all maintenance of all of its improvements. 4. That ITW submit documentation satisfactory to the town's attorney that ITW has the right to perform the maintenance. 5. That any grading that exceeds 20 vertical feet shall have a 5 foot wide bench. 6. That it is a requirement that the construction of the approved site plan shall be inspected by our consulting engineer and that ITW existing escrow account be increased to meet the estimate of this work. 7. That because the access road and site itself are not observable from Route 103, the town shall have the right to periodically inspect the condition of the improvements providing reasonable notification has been provided to ITW.

The Chair asked about any need to notify the landowner. Whitelaw indicated that notification of ITW would suffice as most likely access would be via the easement, and to the extent that ITW has the right to go on and do any maintenance on or outside of that easement, then that would include the right that ITW authorize the town to go in and look.

Burnham asked if this then means that an extension is not required at this time. Wells explained that he feels that everything could get cleaned up and the applicant could have a conditional approval once the Board has what it needs to sign the Mylar. And, it would not require an extension as long as the applicant got certain of the conditions cleared up well in advance and reviewed by town consultant and approved by town attorney before the next Board meeting, to be held on January 14, 2014. If that doesn't happen on time, then at the January 14th meeting, they would come up against the 150 day federal requirement for a decision and there would have to be an extension agreed upon by both the applicant and the Planning Board or the application would be denied.

Delaney asked if the decision is final as long as they meet the conditions. Whitelaw said that is correct. Whitelaw further explained how the so-called "shot-clock" works and that the 150 days had to include time for reconsideration and a final decision. After further questioning about conditional approval by the applicant, Whitelaw made the distinction between a condition for approval and a subsequent condition. The decision at this meeting is a conditional and not final decision. Requirements in how the site is constructed, graded, and inspected are "subsequent conditions". For this conditional approval to be a Final Approval with Conditions, certain requirements must be met. Those conditions must be met before the Board signs the Mylar and the Mylar must be signed for the plan to have final Approval with Conditions.

Whitelaw listed the items that must be completed in advance of signing the Mylar: 1. Easement notice to be worked with Whitelaw and reviewed by Moser; 2. DES approval of existing culverts and whether that approval is still current; 3. the 10-year storm analysis is done and town engineering consultant determination of whether it meets town regulations; 4. That ITW submit documentation satisfactory to the Whitelaw that ITW has the right to perform the maintenance. Whitelaw asked if the applicant had any questions on the conditions themselves. Delaney responded no, that he just wanted to be sure that he understood the process.

The Chair asked if Board members had any additional questions. Wells suggested one amendment that a note regarding the bench. And adding wording to the motion that a note is to be added to the document so stating.

The amended approval of the Site Plan with conditions is: 1. That the Planning Board receives copies of any existing DES approval for all existing applicable culverts so that it can be determined whether the approval is still active and if approval is not still active then a new approval will be required. 2. That the Planning Board receives calculations and documentation showing that the existing culverts all meet the 10- year storm design requirement of Ordinance. And that that report be submitted to the Board's engineer for his review and recommendations. 3. That ITW be responsible for all maintenance of all of its improvements. 4. That ITW submit documentation satisfactory to the town's attorney that ITW has the right to perform the maintenance. 5. That any grading that exceeds 20 vertical feet shall have a 5 foot wide bench and a note is to be added to the site plan document so stating; 6. That it is a requirement that the construction of the approved site plan shall be inspected by our consulting engineer and that ITW existing escrow account be increased to meet the estimate of this work. 7. That because the access road and site itself are not observable from Route 103, the town shall have the right to periodically inspect the condition of the improvements providing reasonable notification has been provided to ITW.

The Chair asked if they were ready to vote. **The Board voted unanimously to conditionally approve with conditions as amended.**

This ended the second Public hearing.

The Board thanked Jae Whitelaw for her part in the meeting.

Administrative:

Minutes of previous meetings: McCarthy moved, Thomas seconded to approve the minutes of November 12, 2013 and it was voted. Thomas moved and McCarthy seconded and it was voted unanimously to approve the minutes of November 23, 2013. Burnham moved and Wells seconded and it was unanimously voted to approve the minutes of November 26, 2013.

Other Business:

There was a discussion about Public Hearings and time to notice which is 10 days for the Planning Board Public Hearings. It is 7 Days for ZBA Public Hearings and that includes changes to Ordinances. Work sessions do not have the same noticing requirements and can be called for 24 hours in advance. For work sessions, the agendas placed around town are all that is required.

Approved January 14, 2014

The Chair called for any additional business or items for discussion. Wells read a draft of a new sign ordinance and asked if the Board could move forward. There was a discussion about how to push this forward in light of public concerns about signs. It was agreed that the LUC will send out a timeline for town voter approval and draft of a sign ordinance and Well's suggestion. The LUC would also see if she could set up a time for a joint meeting with the Zoning Board of Adjustment as a Sign Ordinance work session.

Reports:

Sundquist addressed the Select Board response to the sign complaints from abutters and others. He stated that the Select Board had sent a letter to those who complained which explains that the Planning and Select Boards had reviewed and researched the issues and determined that there was no non-compliance with Zoning Ordinances and the Site Plan Review conditions on the business. The letter further explained what the public could do to request a Zoning Ordinance amendment.

It was suggested that these same people receive individual notices of any hearing on a Sign Ordinance change.

Sundquist asked the LUC to get a copy of the letter from Elly and then send a copy out to Planning Board members. There was also a suggestion that the letter be put up on the town website. The LUC will see if that is appropriate.

Next regular meeting is scheduled to include Public Hearing and will be on January 14, 2014 at 7:00 PM.

There being no further business, the meeting was adjourned at 8:30 PM.

Respectfully submitted,

Laurie Hayward
Land Use Coordinator