

Planning Board Minutes

2/9/11

CONT. SITE PLAN: MAXTON continued:

Mr. Paradis explained that the Application was accepted as complete with some conditions. At our last meeting, we did forget to vote on the request to waive the date of completion. Mr. Demarco requested this based on various permits that they will still need.

C. Dingman made a MOTION, second by M. Campbell, to WAIVE THE DATE OF COMPLETION. The motion CARRIED.

Ms. Seeler stated that Slim Baker Foundation has hired a lawyer (Baldwin & Callen, PLLC) and she presented copies of a letter from the Attorney, Stephen M. Whitley, Esq. Ms. Seeler explained that she is on the Slim Baker Board and is filling in for Jim Nyberg, Vice Chairman, who is in the hospital. She is also accompanied by Heather Huckins, secretary, John Stokoe, Gordon Tapply, and Mason Westfall.

Mr. Paradis expressed his gratitude in having received a copy earlier and that the Town Administrator, Michael Capone, checked into the allegations quickly. We received an answer from Mark Puffer, Esq. (Gardner, Fulton & Waugh, PLLC). Mr. Paradis will not read the answer as this is confidential but will summarize what has been accused and our answer:

#1. The town lease is invalid as the Planning Board and the Conservation Commission were not asked for their input. This is a Selectmen's issue and shall not be addressed here.

#2. Variance from 10.8.6 of the Zoning Ordinance which states that a tower not be located in an open area. Mr. Paradis explained that the Board had voted on this and had determined that it did not violate the Zoning Ordinance.

#3. Applicant has not met 15 day previous to hearing requirement of basic needs. Mr. Paradis stated that the Board has been advised that this is basically up to the Board. He then read the motion taken at the 12/16/10 meeting in which the Site Plan was accepted as complete with the following conditions of a wetland seal on the plan, waiver for the completion date on the plan, and the posting of the removal bond and insurance. After that, we asked about the tower on Hemphill Road as it is within 2 miles of the town border. This falls into the second order of information. Mr. Paradis feels that the Board voted the application as complete with minor items. He is disappointed, however, that we only got this additional information tonight which slows down the process as the Board needs time to digest it. Mr. Dingman stated that he agrees with this. Mr. Paradis read the letter from Bay State Design and stated that the State seal is on it.

Robert Anderson, independent Engineer hired by Maxton to access the Hemphill site, then spoke. He explained that at 80' that tower does not work and at 180' it still doesn't work as it overshoots the downtown and does not reach Route 104. The pine trees are just below the top of the tower. He added that the tower is full. Mr. Kelleher, Maxton Technologies, stated that they couldn't put anything on that tower even if it was okay.

Planning Board Minutes

2/9/11

MAXTON SITE PLAN continued:

Ms. DellaCroce asked which tower they were referring to and Mr. Kelleher stated that it is the Alexandria tower, which is located only about 350' away from Bristol's present tower.

Mr. Paradis read Zoning Ordinance 10.5 on page 62 which states that Personal Wireless Service Facilities (PWSF) shall be permitted in all Zones but the applicant must first prove that other possible existing structures have been found unacceptable for use. Mr. Kelleher stated that the Alexandria tower does not work for either structural or frequency. Mr. Anderson added that the hill location does not cover the area that Bristol is looking for. It is not desirable and doesn't work for this purpose.

At this time, Mr. Paradis read Fire Chief Steve Yannuzzi's letter which states that our present tower does not cover so we have to use a second transmitter for every call which delays response time. He also expressed that the Alexandria tower would not cover their emergency services either. Our current tower is near the Alexandria tower. Mr. Paradis then mentioned that he has coverage maps that Chief Yannuzzi lent him.

Mr. Paradis brought up the statement by Atty. Whitley where he encouraged the hiring of an independent consultant. Mr. Dingman stated that he would like to have someone else help the Board to understand all the material that we have been given. Mr. Milbrand pointed out that Chief Yannuzzi's letter looked at the towers and came to the same conclusions. Mr. Paradis stated that the Zoning Ordinance says that they are to look at other structures which Maxton has done. Mr. Milbrand asked what a consultant would do. Mr. Paradis felt that if we had any alternate locations we might need a consultant. Mr. Campbell stated that Maxton has given the Board a lot of information and added that anywhere in the North end of Bristol, Sugar Hill interferes with reaching the necessary areas. Mr. Favorite added that a tower on Sugar Hill would also be seen. There is no place in town where it would not be seen.

Mr. Milbrand explained that the Selectmen have been working on this for two years due to encouragement from the public. They have looked at many locations and found that this one is the best. Mr. Paradis stated that the Planning Board, which is in charge of the Zoning Ordinance, could have restricted to location to Rural or made it 500' from neighboring properties but wanted to be as unobtrusive as possible because, by being too strict, it would be impossible to place a tower anywhere in town. Mr. Kelleher added that there is a coverage gap through-out the town and there is no other good location.

Ms. Huckins questioned Mike Capsalis' research in which he found out that, because of contracts that Maxton has, 82% of the carriers now used would not be covered. Mr. Paradis stated that those carriers would now work when they couldn't before. He feels that this tower would increase services. He again mentioned that, by Federal law, we cannot refuse a cell tower in the town. As a Site Plan Review, the Board has to determine if the plan meets the Zoning Ordinance.

Planning Board Minutes

2/9/11

MAXTON SITE PLAN continued:

Ms. Huckins stated that she understands the need of technology but questions the effect on a natural area where recreation is the chief use. Mr. Paradis felt that this is a judgmental call.

C. Dingman made a MOTION, second by M. Campbell, to HIRE A CONSULTANT.

Mr. Favorite questioned what they thought a consultant can do beyond what has already been done. Mr. Dingman answered that it would be someone who is familiar with the technology that we have been given. Mr. Anderson stated that he, as an independent, is willing to explain anything that the Board needs. He added that, in regard to Ms. Huckins' question, this site will provide additional coverage. Mr. Dingman asked if a lower tower could be used. Mr. Anderson stated that the present proposal is designed for additional coverage. If it is lower, you would have to add other tower sites in order to maintain the same coverage. The height designated is appropriate for the needed coverage. With this technology, you have to have a line of site. A densely populated area such as NY City or Boston can have criteria that can be lower but that is not the case out here where there are trees and hills. Mr. Dingman then asked if other technology will be coming in the near future. Mr. Anderson stated that this tower will be good for 30 or more years. The basic tower does not change and it is needed due to our trees and hills. Mr. Paradis also mentioned that the top of this tower will handle the town emergency needs at a different frequency. Mr. Anderson stated that he feels that this is a good deal for the town. Ms. DellaCroce asked if the tower was lower, could a replicator be located elsewhere, such as a Church tower. Mr. Anderson again stated that it would drop the area of coverage. The EMS height being lowered would decrease their footprint. Mason Westfall, Slim Baker, stated that his concern is of height and would it be better to be higher. Mr. Anderson stated that it would not. He used a flashlight as an example and stated that when you shine a flashlight too high, it goes right over the town. Mr. Westfall asked if there would be any reason for Maxton to go higher. Mr. Anderson assured him that higher would not add coverage for the town and the tower is not designed to be higher. They may have a 20' whip on the top. Mr. Paradis stated that one restriction is that anything over 200' must have a light. Mr. Kelleher assured everyone that they did not want to get into lighting and if they ever did, they would need to come back to the Planning Board. Mr. Westfall asked the finished height and Mr. Kelleher stated 198' (a monopole of 190' plus a whip). Ms. Seeler asked if it is 190' or 199' and Mr. Paradis stated that they have 180' on the centerline on the maps. Ms. Seeler stated that, having been involved in writing up the Ordinance on Cell Towers, she is not happy with this and would like confirmation of Chief Yannuzzi. Mr. Milbrand stated that we have his letter and his is an independent opinion. Mr. Paradis then displayed the maps that Chief Yannuzzi had lent him.

At this time, discussion was closed and a vote on the motion for an independent consultant was held. The MOTION was defeated, 1 for, 4 against, and 1 abstention by the Chair.

Planning Board Minutes

2/9/11

MAXTON SITE PLAN continued:

Next, Mr. Paradis brought up the visual issues. He pointed out the wireless checklist #16, 17, and 18. He feels that #16 & 17 are guidelines. #18 asks for the least possible visibility. Mr. Demarco, representative for Maxton, stated that this is why they are using a monopole. Fencing is to consist of a chain link with slats.

A discussion was then held as to tower color. Mr. Paradis thought that most are galvanized. Mr. Anderson stated that grey or natural rust are used frequently. Mr. Westfall stated that the trees there are mostly evergreen. Mr. Kelleher mentioned that the tower will be tougher to see from the town due to the ridgeline behind it. Mr. Anderson stated that it is his personal opinion that the Navy paints ships grey so they will not be seen. Mr. Westfall then asked if the receiving devices will be shiny and Mr. Anderson stated that they are all dull grayish.

Ms. DellaCroce asked how Zoning Ordinance 10.7.5 fits and Mr. Paradis stated that this was one of the variances that was granted. Ms. Huckins asked the Board to think about lowering the tower and have something else in town that would still give the same coverage. Mr. Paradis stated that there are two major types of cell phones. 80% have one of those systems that can be turned around to these others. Mr. Kelleher mentioned that they have already received a variance for the height. Mr. Milbrand stated that anyone else who comes has to go onto this tower until it is full. Once full, more towers could be applied for. Mr. Paradis added that two carriers used to be what was done but nowadays there are many more. Mr. Anderson mentioned that there are also wireless services.

Mr. Dion stated that we are going to get a tower somewhere. Zoning could rule on the view issue. Mr. Paradis said that the Zoning Ordinance clearly states that what is not allowed is a clearly visible open area. Mr. Milbrand feels that "clearly visible" means something such as R. P. Williams' parking lot and Mr. Paradis added a field or swamp. Mr. Favorite stated that the day that they took photos from Inspiration Point, the balloon could be seen but the tower base would not be visible. Mr. Paradis mentioned that, if the Northern Pass goes through, it will be seen much more than this. Ms. Huckins stated that every few years Slim Baker trims the trees to keep the view.

Susie Putnam asked if they had the results from Hemphill and Mr. Kelleher answered that this is the one that they had reported on first. Mr. Paradis stated that everything about it has been submitted but was not given to the Board until tonight.

As to visible, Mr. Milbrand said that the ordinance refers to the ground area. Mr. Paradis agreed that it is the base that is referred to. If they trim the trees, they might be able to see it, maybe.

D. Milbrand made a MOTION, second by S. Favorite, that A VARIANCE IS NOT NEEDED FOR VISIBILITY. The motion CARRIED, 4 for, 2 against.

Planning Board Minutes

2/9/11

MAXTON SITE PLAN continued:

Mr. Favorite stated that he would like time to go over what was given to them tonight and asked that we continue the hearing again. Due to the 65 day rule and the storm last month, Mr. Paradis had to ask the applicant if he was okay with another continuation. Mr. Kelleher agreed and the Maxton hearing is continued to March 9th.

At this time, Ms. Seeler and Mr. Dion returned to the table and Mr. Milbrand stepped down.

PEMI-VALLEY HABITAT FOR HUMANITY INC.:

The secretary had received a phone call from Alan Barnard asking for a continuation as they are dealing with budget issues.

C. Dingman made a MOTION, second by E. Seeler, to CONTINUE THE HEARING FOR PEMI-VALLEY HABITAT FOR HUMANITY TO MARCH 9, 2011. The motion CARRIED.

MINUTES OF JANUARY 26, 2011:

The following amendments were made: Page 1, 3rd paragraph from the bottom, last line, replace “complimentary” with “complementary” and 2nd paragraph from the bottom, 4th line, replace “complimentary” with “complementary”. Page 4, Unfinished Business, 1st paragraph, 2nd line, replace “certification” with “Design Guidelines”.

C. Dingman made a motion, second by E. Seeler, to approve the minutes as amended. The motion carried with 1 abstention.

BALLOT LANGUAGE:

Mr. Paradis asked the Board if they are willing to use the language that Atty. Waugh suggested. The Board agreed and Mr. Paradis will do this.

REPORTS:

HDC: Mr. Dingman stated that they met last night and continued working on the Design Guidelines.

SELECTMEN: Mr. Dion stated that there is to be a public meeting on two bond issues tomorrow night (Library and also \$250,000 for Water/Sewer improvements to be incorporated with the TE Grant for Downtown).

CIP: Mr. Campbell expressed his concern that the Kelley Park Commission has asked for a \$17,000 tractor that was never submitted to the CIP committee. Mr. Capone stated that they have a Master Plan, he understands, and it has always incorporated into the budget before. Mr. Capone agrees that it should be a CIP item. Mr. Dion stated that everything for the last 10-15 years has been done by the Master Plan of the park. He feels that the CIP is for big tickets only. Mr. Paradis stated that it qualifies for CIP. Ms. Seeler added that Kelley Park has trust funds for equipment and they should use that.

Planning Board Minutes
2/9/11

CIP continued:

Mr. Campbell continued by saying that a group has formed with an economic development forum. Joe Denning is involved. Mr. Capone added that this is designed to improve Bristol's Downtown. We had supporting organizations at this meeting and they will be available to the Bristol businesses for any help they may need. Ms. Seeler stated that we had an Economic Development Group 20 years ago that faded out.

PLANNING BOARD MEMBER TERMS:

The secretary explained that the terms for Janice DellaCroce, Clay Dingman, and Steve Favorite will end with this March town meeting. All three stated that they are willing to continue on the Board. The secretary will see that their names are submitted to the Selectmen.

NEXT MEETING:

Our next meeting will be held February 23, 2011 at 7:00 at the town office. Attorney Bernie Waugh will be giving his annual Municipal Law update and all Board members are encouraged to attend. If you want a copy of these updates ahead of time, Mr. Capone will have hard copies available.

With no other business, E. Seeler made a motion, second by C. Dingman, to adjourn at 9:25 p.m.

Respectfully submitted,
Jan Laferriere, recording secretary