

PLANNING BOARD MINUTES

March 9, 2011

APPROVED as AMENDED & CLARIFIED:

3/23/11_jrl_____

AGENDA: CONT. COMPLIANCE: TAMI & PAUL ZAREAS/RICHARD BACON
 77 Ravine Drive, #111-084
 CONT. SITE PLAN: MAXTON TECHNOLOGIES INC., Chestnut St.,
 #115-026
 CONT. SUBDIVISION/MERGER: PEMI-VALLEY HABITAT FOR
 HUMANITY INC./ALAN BARNARD, S. Main St., #115-008 & -009
 PCC: FREUDENBERG NOK, Pleasant St., #225-002

ATTENDING: Dan Paradis (Chairman), Elizabeth Seeler (Vice Chair), Phil Dion/Don Milbrand
 (Sel. Reps.), Murray Campbell, Janice DellaCroce, Denice DeStefano, Steve
 Favorite (Alternate)

ABSENT: Clay Dingman (ill)

OTHER: Michael Capone (Town Administrator), public

The meeting opened at 7:00 p.m. Mr. Favorite sat in for Mr. Dingman.

CONT. COMPLIANCE: TAMI & PAUL ZAREAS/RICHARD BACON

Mr. Paradis read an e-mail that had been received from Mr. Zareas in which Mr. Zareas asked for a continuation to the May Planning Board meeting.

M. Campbell made a MOTION, second by S. Favorite, to CONTINUE THE COMPLIANCE HEARING FOR TAMI & PAUL ZAREAS TO MAY 11, 2011. The motion CARRIED.

CONT. SITE PLAN REVIEW: MAXTON TECHNOLOGY INC.

Mr. Paradis began by stating that he would like to take the advice of the Town Attorney in which the Board takes all testimony and then holds the final decision to the next meeting so that the decision can be written up and then deliberated on for adjustments.

At this time, Ms. Seeler and Mr. Dion stepped down and Mr. Milbrand sat in for Mr. Dion.

Mr. Paradis asked if Steve Kelleher, Maxton Technology Inc., had the revised plan yet. Mr. Kelleher stated that he is still waiting the wetlands stamp. Mr. Paradis read the 3 conditions previously asked for: the wetland seal on the plan, the waiver for the completion date on the plan, and the posting of the removal bond and insurance. Mr. Kelleher agreed and added that the posting of the bond and insurance is to be done when everything is ready to go.

Planning Board Minutes

3/9/11

MAXTON SITE PLAN continued:

Jim Nyberg, Slim Baker Foundation, asked if anyone from the Board had looked at the existing tower on Hemp Hill. He then submitted photos showing no deterioration. He added that the average life of a telephone pole is 30 to 40 years and a Class 6 pole, like this one, can be 100 years or more. He would like to see a separate engineer hired so as to determine the usability of this pole. The letter from Bay State Engineering (Maxton's engineering firm) states that the tower is maxed out. Mr. Nyberg stated that all of the antennas on that tower could be removed as they are not being used.

Mr. Nyberg went on to say that he talked with the home owner who stated that he began negotiations with Sunstar originally but they went away. Maxton then negotiated with him and then the contract was not the same as they had negotiated. Mr. Nyberg wants a professional engineer to be hired by the town to verify the use of this tower. There used to be a tower on Chestnut St. years ago, Mr. Nyberg stated, and it was replaced by Hemp Hill. It doesn't make sense to go back to the original area now.

Mr. Paradis stated that the Board received testimony stating that Hemp Hill isn't the best coverage. We had a specialist last meeting who said that he was being as objective as he could be. Mr. Nyberg again asked that the Board reconsider hiring another professional. Mr. Kelleher stated that they do not have to choose one site over another. Mr. Paradis stated that they only have to look at the existing structures not the location. We have the evidence that they have done this. Mr. Kelleher added that the new equipment will provide better reception than on the telephone pole. He appreciates Mr. Nyberg's concern but feels that they have done all that has been asked of them.

Mr. Nyberg then referred to the Bay State letter again in which they state "tower structure close to capacity". This would not be true if the unused antennas were removed. Mr. Kelleher reminded him that, even if the structural pole is okay, it does not cover as well; it overshoots some of the town. Mr. Nyberg again asked for an outside professional.

Elizabeth Seeler, Slim Baker Foundation, asked Steve Favorite if he was in the cell tower business and Mr. Favorite stated that he was not. Ms. Seeler then stated that he is in the communications business and asked, if she were in her car, in her garage, would she be able to use her cell (which is with Verizon). Mr. Favorite stated she would if Verizon has an agreement. She then asked if Verizon would pay roaming charges and he answered that they would not. Mr. Favorite went on to say that this new tower will improve reception in the downtown area. Mr. Paradis added that coverage will depend on the carrier and that Maxton has spaces to be rented out. A discussion continued back and forth as to what would need to be done for carriers.

Mr. Kelleher stated that they have agreements with Team Mobile and ATT. If Verizon or US Cellular are interested that could be added. Mr. Paradis stated that it is not in the Board's power to require that Maxton carry specific companies (when Mr. Nyberg asked that we do so). Both Mr. Nyberg and Ms. Seeler challenged this. Mr. Nyberg continued by saying that Mike Capsalis learned that 82% of the people here have Verizon. Mr. Paradis stated that this increases competition and is not up to the Board

Planning Board Minutes

3/9/11

MAXTON SITE PLAN continued:

although he feels that Maxton may want to look into the possibilities as this would be in their best interest as well.

Ms. Seeler then asked if the lease is going to take 80 years to pay back. Mr. Paradis explained that the contract is not up to the Planning Board. Phil Dion, Bristol, stated this is like asking the Ford garage to also have Chevrolet. No-one can make Maxton take on Verizon. Their purpose is to improve cell service.

Mr. Campbell stated that we have only talked of cell phones so far this evening when the #1 priority is for the emergency departments. There may be other carriers added in the future. Emergency coverage is the primary need. Mr. Nyberg asked if the equipment will be better than that on Hemp Hill. We have been told that there is a 4 minute delay but he spoke with Lakes Region Dispatch who said that there is no problem that they know of. Mr. Nyberg went on to say that some of our firemen have told him that they pick and choose which runs to make. Mr. Milbrand asked what credentials the person from Lakes Region Dispatch has. Mr. Nyberg answered that he is in charge of communications. Mr. Milbrand then stated that, at the last meeting, we had a professional who testified. As Mr. Milbrand held a professional license in Pennsylvania previously, he seriously doubts that this professional would compromise his license and give false information.

Victor Labonte, Chestnut St., stated that, when we were first discussing this case, the Board was not against hiring an outside professional. He asked why they did not want to do so now. Mr. Milbrand answered that he felt that what was presented last time covered this. Mr. Paradis added that we have had lots of testimony since that has satisfied the Board. We have to only consider Site Plan requirements. Maxton has a right to build a tower and, by Federal law, we cannot prevent a tower from coming to the town.

Mr. Favorite asked what happened with the agreement with the owner where the present pole is. Mr. Milbrand stated that those negotiations fell through and they also found that it is not the ideal location. Mr. Nyberg again mentioned that he talked with the owner and there was no problem. Mr. Kelleher stated that there were 2 issues: 40 acres are owned and 20 + of that is in Conservation. Second, this is a Scenic Highway. Mr. Kelleher also stated that they did not get very far with the owner nor his girlfriend (whose name is the owner of the property). This happened way before Maxton came up with the present plan and even the previous outfit had a problem with the owner.

Mr. Campbell stated that one memo received says "redundancy" and he asked for an explanation. Mr. Kelleher answered that this refers to the Alexandria site which does not cover the downtown or going out to Route 104 (the redundancy referred to).

Mr. Nyberg then asked the Board to at least disguise it as a tree. Mr. Paradis explained that we discussed this last time. Mr. Nyberg stated that he only saw that we discussed color.

Planning Board Minutes

3/9/11

MAXTON SITE PLAN continued:

Susie Putnam, Putnam Drive, asked about the communication with the public. She asked if it is not misleading to say that the contract is to rent an area 100' x 100' and not include the fall line, the two lots involved, the height, etc. Mr. Paradis stated that Maxton received Variances from the Zoning Ordinance on the fall line, etc. Ms. DellaCroce added that voting this coming Saturday will be her voice. Ms. Putnam then asked how the Board can complete this Site Plan as the vote on the contract is next Saturday. Why wasn't tonight's hearing postponed. Mr. Paradis mentioned that Article 3, the Zoning Amendment voted in yesterday deals with the height. Cell towers are exempted as they are commonly higher. Mr. Milbrand also mentioned that Article 12, the lease, is a separate issue.

A gentleman from Ellen Lane asked if the tower will be lit. Mr. Paradis explained that lighting would require Maxton to go back to the Zoning Board for a Variance in order to keep it unlit if they went over the height. It was then asked if this is to be an emergency communication tower and Mr. Paradis stated that it will be able to carry both emergency and cell communication. Mr. Nyberg stated that the FAA would require lighting if necessary. It was asked if this project has been submitted to the FAA and Mr. Kelleher answered that it has but he has not heard back as yet. The next question was if environmental stuff has been met, such as the wetlands. The Ellen Lane gentleman stated that we should hold off until we know the lease has been approved. It was mentioned that the lease is valid for one year, at this point. The Board was then asked about a soil test being done. Mr. Kelleher stated that they have done initial tests but not extensive ones.

Mr. Nyberg asked why they are opposed to more carriers when this will provide them with more income. Mr. Milbrand stated that they are not opposed; the statement is incorrect. Mr. Nyberg then asked him why they got into the negotiations to begin with. Mr. Milbrand answered that the Selectmen were encouraged by many people to begin with; then they looked at the emergency communications and felt that it would be income on unused town land. He added that people will have a choice as to their carrier. Mr. Nyberg then asked them to look into US Cellular or Verizon. Mr. Dion stated that the town of Bristol does not own this tower and we cannot tell them who to negotiate with. He feels that it would behoove Maxton to want to negotiate with these carriers. Mr. Kelleher added that it would be best for Maxton to have as many carriers as possible and Mr. Paradis felt that the assumption is that they will have more.

The Ellen Lane gentleman then asked it be put in another location as they don't want it in their neighborhood. He strongly suggested that they find another lot. Mr. Paradis explained that the Ordinance does not allow the Board to decide where the tower will go. The gentleman felt that the Board is just afraid to do anything and is forcing this on the neighbors as he marched out of the hall. Mr. Paradis answered that he is welcome to his opinion.

Planning Board Minutes

3/9/11

MAXTON SITE PLAN continued:

Mr. Favorite felt that we are beating a dead horse. The tower will be in someone's back yard, in someone's view, etc. In due respect to the neighbors, this location shows it to have the best coverage. The Board does not know, nor have control over, who will be on the tower. He mentioned that Northfield started with one and now has 5 carriers.

S. Favorite made a MOTION, second by D. DeStefano, to HAVE MAXTON PAY TO HAVE THE TOWN HIRE AN OUTSIDE CONSULTANT TO VERIFY WHAT MAXTON HAS PRESENTED TO THE BOARD.

Mr. Milbrand asked if they have submitted everything and was told that they have. Mr. Milbrand then expressed that he feels that this is excessive. Maxton has already done a lot. Ms. DeStefano stated that she was unable to attend the last meeting and she understands that Slim Baker's functions will not be impeded. However, she does not want to put it in a neighborhood that is against it without receiving justification. Ms. DellaCroce added that she feels that Maxton has done a great job but we, as laymen, could have missed a pertinent question and she feels that we should do as the neighbors are asking. Mr. Paradis reminded the Board that this is late in the process to be asking for this when we are only allowed 65 days. Maxton has already allowed us for tonight. Mr. Favorite agreed that we might have missed something as Ms. DellaCroce stated. Mr. Paradis asked Mr. Kelleher if we did vote to do this, would there be a problem. Mr. Kelleher asked what a consultant will provide for, even if he prefers another site, we are not obligated to go there. Mr. Paradis reminded everyone that the Alexandria site is not in our town and Mr. Kelleher asked what would be left that is relevant. He feels that everything has been answered. Mr. Milbrand asked what the objective would be if location is not in the Board's purview. Ms. Seeler answered the objective would be to confirm what we have heard from Maxton.

The motion then CARRIED to hire a consultant, 4 for and 2 against.

Mr. Paradis then asked the Board's opinion on procedure. They discussed the 65 day issue with Mr. Kelleher who will have to speak with his company. Mr. Paradis asked that Mr. Kelleher let him know as soon as possible and in the meantime, we shall look into a consultant. Mr. Milbrand felt that it is to reconfirm Cablevision and coverage from this new site. Mr. Kelleher stated that this now pushes them out to May for an opinion. Mr. Paradis thought that we can try to get an answer by our workshop meeting. The Board agreed. Mr. Milbrand added that, in these two weeks, we shall also have the vote on the contract. Ms. Seeler asked if we were not going to look at the communications issue and added that a variance was asked stating that it would improve communications. Mr. Paradis stated that they have the variance which we have to acknowledge.

D. Milbrand made a MOTION, second by J. DellaCroce, to CONTINUE THIS HEARING TO MARCH 23, 2011. The motion CARRIED.

CONTINUED SUBDIVISION/MERGER FOR PEMI-VALLEY HABITAT FOR HUMANITY INC.

Mr. Paradis stated that Alan Barnard, representative for Habitat here, called and asked to continue their hearing to April.

D. DeStefano made a MOTION, second by J. DellaCroce, to CONTINUE THE HEARING FOR PEMI-VALLEY HABITAT FOR HUMANITY INC. TO APRIL 13, 2011. The motion CARRIED.

PCC: FREUDENBERG NOK

Mr. Paradis advised that a PCC (Preliminary Conceptual Consultation) is neither binding on the applicant nor the Board.

Rene Lefebvre, representative, stated that they have applied for a permit. They have machinery coming in that is required to sit on the existing machinery and will require an addition of height that is 27' x 30' x 12' high. It will be a steel structure. There is no additional floor as it is just to keep the weather off the machinery. Mr. Lefebvre asked if this needs to come before the Planning Board.

Mr. Paradis read 8.3 of the Site Plan regulations. Mr. Lefebvre asked if it could be a Minor Site Plan. Mr. Paradis then read the ability of the Board to waive any Site Plan. A discussion followed in which it was felt that there is no increase in floor area so it becomes 0 sq. ft. where no more than up to 400 sq. ft. is allowed to be waived by the Board. Mr. Lefebvre mentioned that the total height of the building would be in compliance as he checked this with the Fire Chief already. The existing height is 21' and the additional 12' will bring it to 33'. The addition is to have a flat roof. Mr. Paradis stated that it is not adding floor space, will not require a light, is within the height regulations and within the setbacks. He then read the description of "waiver".

M. Campbell made a MOTION, second by D. DeStefano, to WAIVE THE SITE PLAN FOR THE PRESENTED ADDITION FOR FREUDENBERG NOK. The motion CARRIED.

RICHARD BACON FOR ZAREAS:

Mr. Bacon stated that he understands that the Board continued this case before he arrived. Mr. Paradis explained that Mr. Zareas sent an e-mail to pass on the lighting plan and that the apartment mix-up has been straightened. Mr. Bacon stated that the apartment is upstairs over the garage, not the restaurant. It was explained to Mr. Bacon that Mr. Zareas asked that it be continued to May.

MINUTES OF FEBRUARY 9, 2011:

The following amendments and clarifications were made:

Page 2, 4th paragraph, 3rd line, replace "(Gardner, Fulton & Waugh, PLLC)." with "(Prete-Flaherty)".
4th line, replace "accused" with "alleged".

Planning Board Minutes
3/9/11

MINUTES continued:

Page 3, last paragraph, 2nd line, replace “carriers now used” with “population” and following “covered.” Add “by the technology in the proposed tower.” Replace “those carriers” with “new carriers”. 3rd line, replace “when they couldn’t before.” with “and would bring in more competition.”

Page 4, large paragraph, 7th line, replace “maintain” with “obtain”. 8th line, replace “site” with “sight”. 23rd line, replace “Planning” with “Zoning”. 24th line, replace “if it is” with “if the balloon test is” and at the end of the line, add to “Mr.” the words “Kelleher said it was 190”. 24th line, place “Mr.” before “Paradis”. 25th line, replace “happy with this and would like confirmation of Chief Yannuzzi.” with “happy with the ZBA giving four variances and she would like the Planning Board to hire a consultant to confirm Chief Yannuzzi’s and the consultant’s statements.”

Page 5, 3rd paragraph, 4th line, delete sentence beginning with “80% have one ...” 4th paragraph, 4th line, replace “added” with “that an “open area” might be”.

Page 6, last paragraph, 5th line, insert “items” following “tickets”. Last line, replace “should” with “could”.

Mr. Favorite made a motion, second by M. Campbell, to accept the minutes as amended. The motion carried.

Ms. DellaCroce brought a point-of-order and asked if those who have stepped down and are in the audience can be included in that portion of the minutes. Mr. Paradis felt that she has a point and will address it if it comes up again.

COMMUNICATIONS:

The copy of the Crail Holdings LLC merger was noted. The Board is not interested in the UNH Municipal Turf and Grounds Conference. The NH Div. of Historical Resources on Public Service/Ayers Island is to be filed. The Source and Town & City will be in the office for anyone who wishes to see it. Mr. Dion would like a copy of The Source.

REPORTS:

Historic District Commission: Chairman was absent tonight.

Selectmen: Mr. Dion reminded all of voting at town meeting this coming Saturday at 9:00 a.m., NRHS. The lease issue is to be resolved at that time. Election results are on the web.

CIP: Will hold their first 2011 meeting this coming Tuesday, March 15th.

NEW BUSINESS:

Mr. Paradis signed the merger for Patricia A. Thurber and then asked the Board to vote on a designee for this task in the future.

D. Destefano made a MOTION, second by S. Favorite, to APPOINT WHOEVER IS FULFILLING THE LAND USE OFFICER POSITION. The motion CARRIED.

Planning Board Minutes

3/9/11

NEW BUSINESS continued:

Mr. Paradis brought the attention to the memo on the lease agreement. As this is to be voted on Saturday and the Conservation Commission did vote to approve or disapprove at their meeting, the Planning Board decided to hold off on their opinion until after Saturday.

As to the hiring of the consultant, Mr. Capone will call LGC and Mr. Paradis will e-mail Mr. Capone on names that he has. A discussion followed as to asking for opinion on coverage, the signal strength and coverage of Alexandria, our emergency pole and the new site.

NEXT MEETING:

The next Planning Board meeting will be held Wed., March 23rd, at the Town Office at 7:00 pm. On the agenda is a PCC for Sara Shattuck and the Maxton continuation, plus our workshop.

With no other business, P. Dion made a motion, second by D. DeStefano, to adjourn at 8:20 p.m.

Respectfully submitted,
Jan Laferriere, secretary