

Town of Carlisle

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Office of

PLANNING BOARD

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Minutes

October 23, 2006

Minutes 9/27/2006

Bills

Budget: FY08 Budget

Selectmen's 2007 Goals

Personnel procedures

GIS Development Task Force

Town Hall technology/web site

Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee.)

Public Hearing on application of Omnipoint Communications, Inc. for a special permit and site plan approval under Sec. 5.9 of the Carlisle Zoning Bylaws to install, operate and maintain a personal wireless communication facility at 871 Bedford Road (Map 11, Lot 1) on and adjacent to a previously permitted 189-foot monopole tower, owned by New Cingular Wireless, PCS, LLC.

Review of application to Zoning Board of Appeals for Comprehensive Permit under MGL Chap. 40B for 41 condominium units/12 affordable of attached housing to be known as "Coventry Woods," on Concord Street, northeasterly of 515 Concord Street (Map 8, Parcel 10 – 22.8 acres), (Application of Coventry Woods LLC and MCO & Associates, Inc., referred by Board of Appeals)

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (motion to go into executive session may be entertained)

Discussion of potential amendments to Special Permit Rules and Regulations for Accessory Apartments to incorporate zoning bylaw amendments (Sec. 5.6) approved by 2006 Town Meeting

Report on progress to obtain necessary approvals and design of footpath parallel to Cross St., as authorized in consideration of approval of Greystone Crossing Conservation Cluster special permit.

Public hearing on proposed amendments to the Zoning Bylaws:

(A) To add a site plan submission requirement to Section 5.9.3.25, Personal Wireless Communications Facilities, in accordance with the Special Permit Rules and Regulations of the Planning Board;

(B) To exempt Personal Wireless Communications Facilities from the Site Plan Review Requirements of Section 7.6.1

Informal discussion of conceptual plans to subdivide approximately 93 acres of property with frontage on Westford St. and Virginia Farme Lane, aka "Wilkins Hill," (Map 19, Parcels 40 & 41, Map 20, Parcels 9, 10A & 22) [Request of Wilkins Hill Realty, LLC]

Request for Planning Board support for Revised Plan and Recommendations of Benfield Task Force to be presented at Special Town Meeting of 10/30/06 [Request of John Ballantine]

Final review of Rocky Point (Laurel Hollow) compliance with Comprehensive Permit conditions by Board of Appeals

Chair David Freedman called the meeting to order at 7:30 pm in the Clark Room at Town Hall. Board members **Tom Lane, Brian Larson, and Kent Gonzales** and Planning Administrator **George Mansfield** were present. Peter Stuart was absent. **Michael Epstein** arrived at 7:32 pm. **Greg Peterson** arrived at 9:30 pm.

Gretchen Caywood, assistant to the Planning Administrator, Alan Carpenito (BOS, Benfield Task Force), Adam Braillard and Sean Reid (Prince Lobel Glovsky and Tye), George Dimakarakos (Stamski & McNary), Rob West (Wilkins Hill Realty, LLC), Bob Ford (Maple St.), Marilyn Saunders (Canterbury Ct), Robert West (Concord St.), Kenneth Hoffman (Spencer Brook Lane), Joan and Alex Parker (Russell St.), David Trask (Log Hill Rd.), Alan Carpenito (South Street), and Bob Zielinski (Carlisle Mosquito) were also in attendance.

Minutes

The PB discussed the draft minutes of September 27, 2006. Lane then moved to approve the minutes as drafted. Freedman seconded and the motion passed 2-0-2, with Gonzales and Larson abstaining. The PB also reviewed the minutes of the Executive Session of September 27, 2006. Epstein joined the meeting at this point. Epstein moved to approve these minutes as drafted, Lane seconded, and the motion carried 3-0-2, with Gonzales and Larson abstaining.

Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee.)

Freedman asked Larson to obtain a bill from wireless consultant David Maxson (Broadcast Signal Labs) for his services to-date, and also requested of Gonzales that the revised Rules & Regulations for wireless applications be completed as soon as possible.

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (motion to go into executive session may be entertained)

Epstein reported that no action is required on this issue by the PB at this time, and that the trial date has been postponed.

Public Hearing on application of Omnipoint Communications, Inc. for a special permit and site plan approval under Sec. 5.9 of the Carlisle Zoning Bylaws to install, operate and maintain a personal wireless communication facility at 871 Bedford Road (Map 11, Lot 1) on and adjacent to a previously permitted 189-foot monopole tower, owned by New Cingular Wireless, PCS, LLC.

Freedman opened a new public hearing by reading the legal notice. Proper proofs of notification had not been provided previously, which necessitated a new public hearing rather than a continuation. Freedman noted that all PB members present at this new hearing were eligible to vote. He added that the application and plans may be reviewed at the Town Clerk's office at Town Hall from 9:00 am to 3:00 pm Monday through Friday.

Adam Braillard (Prince, Lobel, Glovsky, & Tye) described that the applicant seeks to install, operate and maintain a wireless communications facility within and next to the 189 foot monopole already installed at this location. (The monopole was approved by the U.S. District Court as a part of a settlement of appeals filed on previous actions by the ZBA at other sites.) This proposed co-location will consist of up to three panel antennas mounted fully within the tower at 156 feet. These will enhance T-Mobile wireless coverage on Bedford Rd. and the immediate surrounding area. Braillard also added that the applicant has leased a 15' x 15' space within the approved fenced equipment compound on the ground which will be able to contain all necessary support equipment for the 3 co-located antennas. The antennas will be connected to the equipment cabinets by coaxial cable running within the tower. To comply with the FCC mandate for enhanced 911 services, the applicant will also mount two antennas (one GPS and one E911 GSM) near the cabinets they will be placing within the equipment compound. Braillard provided the proof of notification and publication of this hearing to Mansfield.

Braillard and Sean Reid, the applicant's engineer, displayed and described wireless service coverage maps for Carlisle, results of a computer modeled radiofrequency study. They described current deficiencies, and the estimated area of coverage after the equipment is installed. Once the site is up, the applicant will conduct drive tests to verify coverage area. Braillard also displayed a Town map indicating three other areas for which the applicant plans to submit wireless applications in the future. He then provided the PB with several copies of the redacted lease (financial details omitted), and with a Certification of the application content signed by a T-Mobile employee. Epstein requested some additional information on the redacted lease, which Braillard agreed to provide.

The applicant had requested a waiver of the project review fee, arguing that no additional technical review by outside consultants was necessary. However, the PB had decided in the prior hearing of September 13, 2006 that certain limited technical review is advisable, and they had proposed reducing the fee deposit to \$2000. Freedman had explained that a technical review is necessary, particularly as this is the first wireless application before the PB, since the monopole itself was approved by the U.S. District Court as part of a settlement agreement and did not go through a full application procedure before the PB.

Larson moved to reduce the project review fee from \$7500 to \$2000 in this case, particularly as the application is a collocation and not a new footprint. Epstein seconded and the motion carried 5-0. The PB noted that this does not indicate a fee reduction for all co-locations, but is particular to this case.

Freedman reported that the PB had submitted questions on this application to David Maxson (Broadcast Signal Labs) for his review and response, and that a reply had been received. Maxson reviewed the qualifications of the rF engineer and found them adequate. He also concurred with the conclusions and assertions about FCC compliance. Maxson suggested a condition of approval that nothing in the application goes against the court order. He also recommended a general liability policy be submitted annually to the Building Inspector. It was agreed that the suggested dollar amount of a removal bond was appropriate, and that environmental assessment is not necessary, with no annual monitoring needed, since the MA DPH no longer requires that a report be submitted to them, and these facilities are exempt from annual monitoring by the FCC.

The applicant will file a building permit immediately after the 20-day appeal period, with construction proceeding as soon as possible. The PB developed the following conditions of approval:

- that the Building Inspector issues a Certificate of Occupancy on tower completion
- that an insurance certificate is submitted annually to the Building Inspector
- that the applicant perform no modifications other than to their own equipment within the designated leased areas
- that nothing in the application conflicts with any provision or conditions of the court order
- that the applicant submit an annual declaration of continuing operation to the Building Inspector
- that the applicant fund a cash escrow account of a removal bond in the amount of \$13,000, and
- that notice of any termination or assignments of terms (other than financial) of the lease agreement be submitted to the PB.

Larson moved to approve the special permit and site plan approval for Omnipoint, subject to the conditions listed above, to install, maintain and operate a wireless facility at 871 Bedford Road (Map 11, Lot 1) owned by Bay Communications per the Omnipoint application dated June 29, 2006. Gonzales seconded and the motion carried 5-0.

Epstein moved to close the public hearing, Gonzales seconded and the motion carried 5-0.

Public hearing on proposed amendments to the Zoning Bylaws: (A) To add a site plan submission requirement to Section 5.9.3.25, Personal Wireless Communications Facilities, in accordance with the Special Permit Rules and Regulations of the Planning Board; (B) To exempt Personal Wireless Communications Facilities from the Site Plan Review Requirements of Section 7.6.1

Freedman opened the public hearing by reading the legal notice. He reported that this is merely a housecleaning of the amendments presented at the spring Town meeting. The goal is to keep the site plan approval process within the PB instead of requiring a separate approval by the BOS. Mansfield reported that the hearing was advertised in the October 6 and October 13th editions of the Carlisle Mosquito, and that he has the tear sheets as proof of notification.

The only citizen at the public hearing was Marilyn Saunders (Canterbury Court). Freedman assured her that the proposed amendments would have no effect on the bylaw's protections of the scenic, historic, natural and man-made resources of the town.

Epstein moved and Gonzales seconded a motion to recommend the amendments be approved at the October 30, 2006 Town meeting. The motion carried 5-0. The PB agreed that Gonzales will present the amendments at Town meeting.

Larson moved to close the public hearing. Epstein seconded and the motion carried 5-0.

Informal discussion of conceptual plans to subdivide approximately 93 acres of property with frontage on Westford St. and Virginia Farme Lane, aka "Wilkins Hill," (Map 19, Parcels 40 & 41, Map 20, Parcels 9, 10A & 22) [Request of Wilkins Hill Realty, LLC]

Freedman explained that the developer had requested an informal discussion with the PB after the agenda had been published. Despite the lack of public notice, the PB had agreed to the developer's request to encourage such preliminary discussions and because, through publication of the discussion in the Mosquito, the public would have more information about the project. He added that there will be a formal application and public hearing for this development at which the public would have ample opportunity for input.

George Dimakarakos (Stamski & McNary) presented a conceptual subdivision plan for this property that was the subject of the ANR that the PB endorsed at their last meeting. The land is along Westford Street between Curve Street and Virginia Farme Lane. The proposed conceptual plan depicted two subdivision roadways off of Westford Street, which merge further back on the property and end in a cul-de-sac. There are four proposed common driveways (CDs) off of the subdivision roadways. A total of 35 lots are proposed for the subdivision, 34 of which would be new. Dimakarakos indicated that the developer will preserve the house and driveway at 672 Westford Street.

Compared to the original ANR, this plan greatly reduces the number of proposed entrances off Westford Street. In that plan, there were 20 driveways onto Westford Street, 17 of which would be new. However, that was only for purposes of the ANR, as the developer realized this would be a highly undesirable situation. This conceptual subdivision plan proposes 2 entrances onto Westford Street, one of which would be directly across from Cross Street. The other would be just west of 546 Westford Street. The design indicates placement of homes as far back as possible on the lots along Westford Street in an attempt to preserve the streetscape as much as possible.

Dimakarakos noted that the developer intends to ask for a waiver of the grade limitation requirement that the entrance points onto Westford Street be at areas with less than a 5% grade. He added that the average lot size is 3 acres in this proposed plan. Also, every attempt has been made to design the CD locations so that they fit in with the topography. Wetlands crossings have also been kept to a minimum. Larson inquired as to whether the applicant had considered an entrance to the development from Virginia Farme Lane. Dimakarakos indicated that there were wetland issues in that area.

When Freedman asked if the developer would consider making any of the units affordable housing, Dimakarakos was unsure. Epstein suggested that since the developer plans to request waivers, they should consider offering some accommodations. When asked if they had considered a conservation cluster, Dimakarakos indicated that the applicant preferred a subdivision due to the larger number of possible lots. He indicated that the applicant would be amenable to an access restriction to Virginia Farme Lane.

Peterson joined the meeting at this point.

Epstein requested that the applicant have the proposed roadway entrances flagged so the PB can view the proposed locations during a possible site walk. Mansfield asked whether drainage and Low Impact Development had yet been considered. Dimakarakos indicated that while they had not yet been considered in detail, well impact issues were not anticipated since there is a significant recharge area (wetlands) nearby.

Review of application to Zoning Board of Appeals for Comprehensive Permit under MGL Chap. 40B for 41 condominium units/12 affordable of attached housing to be known as “Coventry Woods,” on Concord Street, northeasterly of 515 Concord Street (Map 8, Parcel 10 – 22.8 acres), (Application of Coventry Woods LLC and MCO & Associates, Inc., referred by Board of Appeals)

Epstein recused himself from the discussion as a PB member and spoke as a resident abutter.

Freedman reported on the most recent ZBA hearing on this issue, and on the meeting of representatives of several Boards with Dan Hill (attorney for the ZBA) in August. He added that while additional information had been requested by Hill from the review engineering firm (Beals and Thomas) on several points, for possible receipt before tonight’s meeting, no additional information had yet been received. Regarding the extremely high amount of earth transfer that is proposed, Mansfield recommended that the PB should request a draft construction management plan (CMP) be submitted before permit approval. This plan should specify times of operation, traffic routes, staging areas, methods of controlling dust, noise and dirt on the Town roadways, and locations for contractor parking. He added that this is a standard requirement for projects of this magnitude.

Peterson said that based on his calculations the net water demand for irrigation alone will be on the order of 1 million gallons per growing season. Based on this number, it is questionable that the development would have low impact on natural resources. Therefore, the PB should recommend to the ZBA a much more extensive use of native planting materials and of lawn limitations to reduce this number. Freedman added that this is additional evidence that this site is very “tight” for the 41 proposed units. The 23-foot septic mound that was necessary near Epstein’s property is also indicative of site problems. Another example of this being a “tight” site: Freedman reported that the Fire Chief had requested additional parking spaces but that abutters preferred that additional parking be limited to reduce impermeable surfaces and maintain as much space as possible from abutters.

Ken Hoffman (Spencer Brook Lane) pointed out that since there has never been a development of this size in the Town, the content of an acceptable CMP needs to be defined. He added that the blasting plan indicates that most blasting is in one area which is close to an abutter. He suggested that building some units in this area without basements could reduce the need for blasting.

Alex Parker (Russell Street) expressed agreement with Peterson’s estimate of water consumption for irrigation, and said the estimated irrigation requirement is therefore 2 times the draw of the houses themselves. This number will be high for several years until the plantings are established. He suggested that escrowed funds should be held until after full occupancy and several months into the dry cycle to assess any water supply problems.

Joan Parker (Russell Street) pointed out that the Epsteins will suffer the most with this new development. The 23-foot septic mound is within 150-feet of their well, and impacts their vista. She added that at the time of the Town Meeting vote that appropriated \$200,000 to the BOS to expend for two additional affordable units at this site, there were negotiations in place with the developer toward a Memorandum of Understanding (MOU) on key issues. These negotiations have since fallen apart. She suggested that the BOS should contact the Mosquito to inform them that the developer had reneged on this agreement, as the majority of the Town does not know the status of this situation. She also felt that this issue on Coventry Woods should go before Town Meeting again for a new vote, as this seems like a lot for the Town to go through to earn a one year moratorium on affordable housing.

Michael Epstein (Spencer Brook Lane), speaking as a resident abutter, reported that the developer had contacted him a few hours before the last ZBA hearing and stated that he will not be signing a MOU. Epstein spoke of the time and money that has been spent by the abutters in relation to the MOU.

Epstein also said that the landscape plan is only preliminary, and a more detailed one should be required. Concerning the blasting plan, pre and post blasting studies should be required. A lighting plan needs to be provided. Epstein suggested that measures should be taken to preserve old stone walls on the land where possible, as it seems to be basically a clear cut with some minor exceptions. There are also septic and well issues still to be resolved, as the engineer for the ZBA has recommended the installation of 2 monitoring wells, and the developer has thus far refused to do this. Also, the abutters’ wells should be tested for quality and quantity, as it is possible that advance testing will indicate that the site will not support the number of units proposed.

If an MOU had been finalized, Epstein said that the abutters were going to waive rights to appeal since they would have a direct contract with the developer allowing the abutters to bring action directly against the developers if certain promised items were not completed. Now with no MOU, the only recourse is the appeal process through the ZBA. Epstein said that without the MOU, there were issues the abutters agreed to in the spirit of compromise that now should be reevaluated.

Freedman proposed sending a memo to the ZBA as soon as possible recommending a CMP and an outline of requirements for its content. He asked Ken Hoffman to provide support detail on the proposed contents of the CMP. Mansfield said that even municipalities well experienced with such large developments require draft CMPs in advance of issuing the permit. Freedman added that the other issues requiring attention can be addressed in a subsequent memo to be sent to the ZBA after the next PB meeting on November 13, 2006, but in advance of the next ZBA hearing on November 20th. The Board agreed to this proposal.

Peterson said that a routine procedure in other Towns is for the Department Heads to meet every two weeks to delve deeper into details of various projects underway, and that this would be very helpful for projects such as Coventry Woods.

Request for Planning Board support for Revised Plan and Recommendations of Benfield Task Force to be presented at Special Town Meeting of 10/30/06 [Request of John Ballantine]

Freedman reported that the Benfield Task Force had agreed upon a revised plan for the Benfield land and asked for PB support at Town Meeting. The plan redesignates Parcels 1 and 2, switching their proposed purpose. In the revised plan, Parcel 1 directly on South Street will be used for housing, and Parcel 2 will be open space. Gonzales said that the new proposal is more in line with what the PB originally wanted for the land.

Alan Carpenito (Benfield Task Force) reported that since the Town is unable to carry out the plan voted for at the Annual Town Meeting due to the discovery of a native American site as well as a protected species habitat on the land, the plan has been revisited. He added that when the necessary 800-foot distance is demarcated from the vernal pools, only Parcel 1 remains available for construction, with a maximum of 26 units.

When Peterson commented that Natural Heritage did not allow any flexibility regarding this land, despite Carlisle's 33% open space as indicated in the 2005 Open Space and Recreation Plan, Carpenito said that the organization did not want to set any precedent and is therefore adhering to their Regulations.

Peterson also noted that Parcel 4, the largest parcel, will be kept as open space as preferred by the Benfields and the State.

Freedman moved that at the Town Meeting of October 30, 2006 the PB state that it supports the motion for Benfield A that will swap Parcel 1 for Parcel 2. Larson seconded and the motion carried 6-0.

Epstein moved to adjourn the PB meeting, Lane seconded and the meeting adjourned at 11:10 pm.

Respectfully Submitted,

Gretchen Caywood
Administrative Assistant
Carlisle Planning Board