

# **STODDARD ZONING BOARD OF ADJUSTMENT MEETING MINUTES OF MAY 25, 2011**

Submitted by stoddard on Thu, 05/26/2011 - 8:37pm.

## **TOWN OF STODDARD ZONING BOARD OF ADJUSTMENT MINUTES OF THE MEETING HELD May 25, 2011 MEETING CONVENED AT 7:15 PM.**

Members Attending: Fred Ward, Ruth Ward, Richard Betz,  
Beverly Power and Maureen Meyer.

Correspondence: None

Minutes of previous meeting: Fred Ward moved and Ruth Ward seconded to accept the minutes of the May 19, 2011 meeting as presented, the board approved. It is noted that the building permit form needs to address drainage issues on application. Beverly Power agreed that the board should go to the Planning Board with the Community Planning Ordinance to make sure the Building Permit takes drainage issues into consideration.

Old Business: None

New Business: None

Application for Variance: 7:15 PM opening deliberative session on the Application of AT&T to construct a Cell Tower on Melville Hill.

Beverly Power explained the purpose of this deliberative session is to come to a conclusion on the proposal.

She addressed the Special Exception Finding of Facts form with the commercial zoning regulations as follows:

1. Is there adequate consideration for off street parking – Applicant has made provision for a small turn around area, as there will be no workers or customers visiting the site on a regular basis.
2. Will there be any nuisance to the neighborhood by reason of noise - After construction there will be no noise issued from the site.
3. Will there be any nuisance to the neighborhood by reason of dust - During the construction of the facility, the contractor will supply 2 daily applications of water to tamp down the dust.
4. Will there be any nuisance to the neighborhood by reason of illumination - No the Federal regulation for lighting is not required on towers of less than 199' tall.

The location of wires and fiber optic lines was addressed and it was learned that entrance to the site is serviced by a pole at the start of the wooded area of the access road. There will be no additional underground access required to the facility because there are poles already up to the houses on either side of Meetinghouse Road and any additional ones will be out of site of those residences.

The applicant's goal is to provide seamless coverage from the Roxbury tower up along Rte 9 where there presently is no coverage. Beverly Power said the Melville Hill tower shows coverage reaching up to Route 123 South, parts of Island Pond and Stoddard Village. During the application process, AT&T analyzed over 40 sites proposed by Stoddard and Nelson citizens. The board's Radio Frequency Engineer, Mark Hutchins, also analyzed numerous the alternative sites as they compared to Melville Hill, and found that they were not equal to or better than the one applied being for, as they would not provide significant coverage to the area defined in the application as their intended coverage goals.

Beverly Power commented that she has reviewed much case law over the past week and feels she understands the complexity of the proposal.

Fred Ward said Atty. Bradley had given the board two different opinions - one in which he said we can and should consider multiple towers, and a later one in which he said multiple towers require alternative technology and we cannot consider them.

Dick Betz read from Atty. Bradley's April 4th letter concerning the Clarkstown case - 2nd circuit ruling. Maureen Meyer said she felt that the Clarkstown case had very specific issues that this application does not and therefore do not apply.

Fred & Ruth said they believe the Town has the authority to require the applicant to install shorter, multiple towers. Fred Ward said Atty. Bradley's earlier advice that the board can and should require multiple sites is the only advice the board should

follow. Fred also stated that the results of Mark Hutchins report should not be considered in making our decision.

Maureen Meyer said the board has no choice of any alternate site or size of tower.

Ruth Ward said the applicant is asking for a site on Melville Hill.

Richard Betz, referring to historic locations, sees nothing in the Town of Stoddard ordinances that addresses history of any area. The disturbance of conservation lands concerns him.

Fred Ward said it is the obligation of the board to preserve the character of the town as called for by the Master Plan to maintain Stoddard as a Rural, Residential and Recreational Community. He said a single placement isn't what will change the town's atmosphere but cumulative placements will certainly infringe on the Master Plan's objectives.

Beverly Power noted that 2/3 of the land in Stoddard is conserved, making it the highest in any town south of the White Mountains. She feels that wildlife will return to the area using their existing trails and will make use of the road after construction is completed.

She also said, that after reviewing the legal briefs repeatedly, and Atty. Bradley's advice as well, she felt we do not have the right to insist the applicant install multiple towers. Fred again continued to insist that multiple towers are the only option we should consider. Beverly Power polled the board to find out their feeling on the multiple tower issue: are you in favor of following Atty. Bradley's earlier advice that we could insist on multiple towers: Fred & Ruth Ward voted Yes. Atty. Bradley's revised opinion letter which, after reviewing case law, advised

that we cannot require multiple towers. Maureen Meyer, Richard Betz and Beverly Power indicated that they would follow the revised opinion letter and not require multiple towers. Beverly Power took a poll on multiple towers and Maureen Meyer, Richard Betz and Beverly Power voted to take them off the table and the Fred Ward and Ruth Ward voting not to abandon them. .

Fred Ward asked (ON 5/5/2011) what kind of coverage and what connectivity with the Roxbury tower will the Melville Hill tower provide. Will there be more coverage than Murdough Hill, Richer Property and Roxbury together?

Richard Betz noted that smaller towers are not going to perform any better than the 110' tall monopole now being proposed. Ruth Ward said the board has two choices - to approve or to deny with specific reasons for denial. She concluded that 1 tower on Melville Hill or no tower with specifically written reasons.

Richard Betz said the May 3, 2011 revised proposal called for a monopole or unipole (stick) tower. The monopole could have flush mounted antennas or antennas mounted on a triangle platform. The unipole tower could have antennas inside, with no visual effect. The flush mounted or internal antennas provide the same coverage.

Conditions for approving the application were drawn up as follows:

1. Construction to start after Labor Day, when school is in

session, and, weather permitting, up thru the spring of 2012.

2. Flag/Traffic control personnel will be at each blind site on any road leading to the construction site, during times when trucking will occur.

3. Silt fences will be placed to protect the Granite Lake water quality per Site Plan Review Regulations.

4. The tower is limited to a unipole of 130' at the original site.

5. The pole will be painted a non-reflective color of "rough rapids" on an Ace paint strip or an agreed upon color that will adhere to the sheathing.

6. The AE Con report (section 10) will be used for implementation of stipulations along North Shore Road, Aten Road, West Shore Road, the access road to the site and any other road used to approach the site.

7. Heavy delivery trucking will be confined to 9:00 AM to 2:00 PM to provide safety for children along the roads awaiting or leaving buses.

8. A performance bond, the final amount to be determined by the Site Plan Review process, will be provided to remove the structures and cement foundations, if they should no longer be needed. The foundations will be removed to a depth of 2', covered with earth and seeded.

9. The applicant agrees to implement the revised engineering plan for the access road with improved drainage control subject to revisions, dated 12/15/2010, based on the Planning Board's Site Plan Review process.

Pat Putnam read the conditions to the board, and a majority of the board voted to accept them as conditions, should the

application be approved.

Beverly Power asked the board to complete the Special Exception Finding of Facts forms and the conditions to be attached to that finding.

The results were:

For approval - Beverly Power, Maureen Meyer and Richard Betz.

For denial - Ruth Ward and Fred Ward.

The application was approved by at least 3 members of the board and is therefore awarded.

Application for Special Exception: None

Adjourned: Richard Betz moved and Fred Ward seconded to adjourn at 10:25 PM, the board agreed.

Respectfully submitted,

Patricia E. Putnam  
Secretary

These minutes, of the Town of Stoddard Zoning Board of Adjustment, have been recorded by the Board Secretary. Though believed to be accurate and correct, they are

subject to additions, deletions and corrections by the Committee members at the next meeting when the Committee votes its final approval of the minutes. They are being made available at this time to conform to the requirements of NH RSA 91-A:2.