

Town of Stoddard
Zoning Board of Adjustment
Minutes of Meeting June 18, 2015

The Meeting was called to Order by the Chairperson at 7:30 pm.

The Pledge of Allegiance was led by Harry Power.

Members Present

- Chairperson Paul Krampfert, Vice Chair Curtis Taylor, Richard Scofield, Angel Nicoletti, Alternate Ed Saleski, sitting in for David Costin. (Dave arrived after the first hearing began and had to leave before the second hearing began.)

Others Present

- Town Compliance Officer Harry Power, Selectman Steve McGerty, Planning Board Representative Dean Huber and Planning Board Vice Chairman Dale Smith
- For the Global Montello Group Corp., Dan Gerry, Matthew Routhier, Project Manager and Jeff Lewis of Northpoint Engineering, LLC., Abutters: Kevin & Kimberly Monty, Diane & John Washuta

Neighbors and residents of Stoddard who spoke: Matt Way, Fred Ward and

Ben Wilder

- Representing Industrial Tower and Wireless, LLC., Attorney Steve Grill of Devine and Millmat of Manchester, Kevin Fadden, Kevin Delaney and Rich Bouchee of Industrial Tower & Wireless, LLC. There were no abutters present for this hearing.

Hearing

Continuation of the Special Exception for Global Montello Group Corp., Tax Map 422, Lot 13

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- Paul read a recap of both the minutes of the 5/21/15 Hearing and the Site Visit minutes from 5/30/15 to the members and those present.
- Paul stated he researched the 2005 Special Exception for Mr. Mikes under a different owner, although it was not acted upon it's content should be considered later in this hearing. The ZBA Chair met with the Town Administrator regarding the issues raised during the hearing; specifically complaints of noise and overnight truck parking. As a result, the Town Administrator is scheduled to speak with the head of the SWRPC regarding the affect the closure of the rest stop in Antrim has had on truck drivers and the neighbors to Mr. Mikes. Also discussed, was the duplication of responsibility of the ZBA, DOT and Planning Board regarding the above issue. A letter submitted to the ZBA by the lawyer of an abutter regarding the effect of noise from overnight truck parking on this family was presented to Town Administrator. ZBA Legal counsul has offered suggestions to the ZBA and Town regarding the above issues.
- Matthew Routhier, Project Manager, presented the updated plan for construction for Global Montello. He stated the company hasn't heard from the NHDOT regarding the proposed road plans. In response to information obtained from

last months hearing, the company has removed the area previously to be used for truck parking and redesigned it as an area for employee parking. They have also moved the canopy for diesel fuel from it's originally proposed site, eleven feet deeper into the lot, to further reduce noise from use. He also stated they could arrange a camera security system for monitoring the site after hours. He left it to the Board and public asking if it would be sufficient to address the overnight parking issue.

- Paul asked for corrections to the summary from the Board. Angel asked who the monitoring would be going to. Matt responded, stating it would go to a third party. Dan stated, that the party would be instructed to contact the police or sheriff's department should someone park their vehicle on the property after hours.
- Paul then asked for corrections to the summary from the floor and alerted people to the fact that the minutes of the previous meeting are on the Town web site. There were no corrections offered.
- Paul asked for comments from the floor from anyone who is for accepting the Special Exception. No one responded.
- Paul asked for comments from the floor from anyone who is against accepting the Special Exception. Fred Ward spoke reading the definition of a Special Exception. He also spoke about, and presented the Board a copy of the NHDOT project (#16073) for Route 9. He explained the state plans for Route 9 to be a controlled access, east/west highway system. He feels the proposed project will eventually become a truck stop, causing unnecessary accidents and injuries and runs counter to the DOT plans.
- Paul addressed Global Montello representatives stating that in the 2005 special exception, the prior owner stated he would coordinate with the trash pick up contractor to operate during daylight hours and night deliveries to be made as quietly as possible. Paul asked Global Montello representatives if they could accept this provision, to which they responded they yes.
- Paul stated that during the site visit, Global mentioned berms and vegetation can be used to reduce noise and that the hours of operation could be limited to 5a through 11pm. Asked if that would be acceptable for them. Matt stated they would make their best attempt to reduce the noise.
- Paul stated he would like to close the meeting for deliberation and voting by the Board. Fred objected to closing the meeting stating there were other issues that hadn't been answered. Fred was given another 4 min to speak, He stated the 2005 Special Exception was never acted upon and it's provisions were never enforced. He feels the opening & closing hours are too expansive stating it goes against the Master Plan for the town. He mentioned the previous owners had violated the signage and lighting ordinances. Paul stated the board in 2005 did not ask for an enforcement plan for overnight parking at that the time. They asked for signage to be put up and it was. Also, as Mr. Ward stated, the Special Exception to add a dunkin Donuts at that time was never followed through. Mr. Washuta questioned whether the Stoddard police will respond to the calls from the Sheriffs Department as they haven't in the past. Paul stated that will be discussed during the Board's deliberation. Kim Monty mentioned at 4am yesterday, the backup alarm from a truck sounded going to the store dumpster. She asked that Global consider the trucks come during the operating hours of the store. Dan agreed the deliveries and dumpsters will be taken care of during operating hours of the store prior to night time. Paul stated the hours of operation are 5am – 11pm, The hours are appropriate and have been agreed upon as a condition of the Special Exception by the Global Montello representatives.
- Paul closed the Hearing for deliberations at 7:59 pm.
- Paul read Article 1 and Article IV of the CPO, stating the charge and general theme that guide the ZBA Board in making decisions. He stated we are not voting on a Special Exception for a new commercial venture, but on an increase in scope due to the addition of a Dunkin Donut drive thru and additional of fuel pumps. He opened the session for deliberation among the Board.
- Much discussion was held among board members regarding the hours of operation as it related to noise.
- Paul stated that with the increased paved area there should be less dust, smoke and odor. No one has complained about this in the past.

- Curtis stated the new lights are downward glowing.
- Paul stated the biggest concern for neighbors was losing sleep at night. He suggested the applicant should draft a credible action plan to eliminate the noise for the abutters. It could contain an alarm system, electric gate closure, night watchman etc.. Signs are not effective. He asked Global to write a letter and address it to him, stating the mechanics of how their plan addresses the noise and how it will work. Matt stated they want to utilize electronic monitoring first and though gates are not the preferred option, they can be considered should the monitoring not work to the satisfaction of the neighbors. Matt made it known that trucks can pull over anywhere if they feel they need a rest. Many questions and much conversation ensued about the effectiveness of utilizing a security monitoring system.
- Angel mentioned Safety for Entrance and Egress hasn't been addressed concretely. Much discussion ensued with Richard Scofield, Fred Ward, Richard Nicoletti, Ben Wilder and John & Diane Washutta all speaking on the subject of traffic control. Paul stated the DOT is moving slowly in response to the plans for turning lanes. Matt stated the DOT required putting in the turning lanes to allow for turning vehicles to be removed from the through travel lane, they are just slow on accepting the design. The Planning Board will also require turning lanes when they hear the project. The NHDOT has the final word on the design of the turning lanes. The new construction does include plans with better marked entrances and exits. Angel feels the project as it currently stands, does not increase the safety of the area. Matt feels the new design of the store will make the area much more visible to oncoming traffic.
- Ed spoke stating he feels the plan greatly improves the traffic situation from what it is today.
- When Paul asked how many Board Members would vote for the Special Exception with or without special conditions, no one responded. When asked who would grant the Special Exception with strong additional conditions, all 5 members voted in favor. The special conditions would be:
 1. For the Applicant to draft a plan of action that suits the Board, with specific detail addressing overnight truck parking and showing how and why it will work. This condition was unanimously accepted by the Board.
 2. Entrance/Egress/Turning lanes –The plan must include turning lanes. With the understanding that the NHDOT has the final say in the turning lanes. Paul stated we can attend the Planning Board Hearing and state our concerns. Case law states the DOT must listen to the Planning Board. He called for a vote to add this condition – Angel voted in favor. Paul, Ed, Richard and Curtis were not in favor. Addition of this condition does not pass.
- Paul asked for any other requests for conditions.
- Richard felt the applicant has done a good job dealing with lighting.
- Other conditions have been agreed to by the applicant in this hearing and will be put in writing. Paul asked for a motion for a vote.
- Curtis asked to bring the Special Exception with special conditions to a vote. Richard 2nd the motion. Paul asked if any would be in favor of amending the motion to add a statement saying that the traffic design will be done in a safe manner. Curtis reminded members that this Board cannot tell the DOT what to do. Paul rescinded amending the motion and called for a vote on the Special Exception.
- Ed, Curtis, Richard and Paul voted in favor of granting the Special Exception. Angel was not in favor.
- The special conditions will be specified in writing and sent to the applicant for signature.
- Paul suggested taking a 5 minute water break. 8:45 – 8:52

Hearing

Request by Industrial Tower and Wireless, LLC, for a Special Exception concerning Article IV of the Community Planning Ordinance – Part 3 (Telecommunications Facilities Ordinance) and Article VIII of the Community Planning Ordinance.

Applicant proposes to construct a wireless telecommunication facility to consist of a 150' tall monopole tower, on a 10,000 sq ft piece of property. The property is located at Richer Road in Stoddard, Tax Map #422, Lots 6.1 and 7 in the Rural district.

- The Secretary read how and when the Notices of this Hearing were posted
- The Special Exception was presented by Attorney Steve Grill of Devine and Millmat of Manchester. Keven Delaney, Rich Bouchee & Kevin Fadden from Industrial Tower, LLC. also present.
- The original Special Exception for a cell tower in 2001, under a different applicant, was tabled. This applicant has gone before the Planning Board on May 5, 2015. Site plan approvals were granted, subject to a Special Exception due to an increase in height of the tower from 99' to 150' and conditions including evaluation by the Fire department, which hasn't progressed yet. The requirements are that the tower must not impact the adjoining properties. This tract is a 203.6 acre parcel and a good distance from all abutters with Rt 9 being the closest at approximately a quarter mile. It will have minimal impact on any historic and sensitive areas of the town. It will serve the Route 9 area of town.
- Applicant has had discussion with the Town Administrator indemnifying the town about the class 5 road. They have drafted an agreement so the town has no maintenance obligation to upkeep further sections of Richer Rd.
- Paul asked for questions. Dale Smith questioned Steve on how is it the Town Administrator has the power to ask for the indemnification waiver to the roadway as a condition of construction and supersede the Planning Board as they had already set conditions? Steve stated he contacted Mr. Power and then the Town Administrator as a courtesy under the NH Statute 32 regarding development on an unmaintained road. A very small part of the road is class 6, a piece is class 5 and then a driveway. Dale also asked why is this hearing today if it was already granted. Paul responded saying there were differences between 2001 Crown Communication Special Exception and today's with Industrial Tower and Wireless, LLC. Today's technology has superseded the technology of 2001 and the differences were height and type of pole. It is in the same location and will require infrequent visitations to the site. Our task is to determine if there is a significant enough change to warrant tonight's meeting. Legal advice has stated there is enough of a difference to require a new Special Exception.
- Fred stated the pole may not stay at 150' forever as it may be added onto as more carriers ask for service.
- Paul stated we will amend the previous Exception however there has been no site visit yet and no balloon test yet. 2001 did have a balloon test at 110'. People went up to Bacon Ledges and viewed it's height with no problem. He asked the applicant if it is possible to schedule a balloon test and site visit for next month, prior to the next ZBA meeting on July 16. Steve replied their team is engaged on a project on 7/16. He asked for waiver for a balloon test as it is not needed and very expensive. Paul asked Mr. Delaney if the balloon test is done would you see the balloon from Rt 9. He could not answer the question affirmatively. Fred advised they do the balloon test. Paul stated this Board prides itself that they do site visits on everything that comes before them. They would like to do one including the balloon test on this project.
- A site visit and balloon test are scheduled for the same day on Monday, July 6, 2015 with a rain date of July 13, 2015 at 12:30pm. The location is at the end of Richer Road with a 1200' walk at the end of the road.
- The Applicant states the FAA does not require lighting on the tower.
- The balloon will be up 12:30 pm – 3:30 pm so Paul can view it from Bacon Ledge as that was the site it was viewed from in 2001. The Applicant is not available to attend a July meeting, so this hearing will be continued on August 20, 2015 at 7:30pm at the Town Hall.
- Time – 9:20 pm. The Board took a 5 minute break.

Business Meeting began at 9:26pm

- The May minutes were accepted with grammatical corrections.

- The May 30, 2015, site visit minutes were accepted as read.

Correspondence/Reports

- Review of May Budget
- Received statements from Keene Sentinel and Upton & Hatfield

Old Business

- All procedural work is deferred to the July ZBA meeting.

New Business

- The ZBA Attorney, Matt Serge, is now with Drummond Woodsun of Maine and will remain as the ZBA attorney.
- Fred Ward Letter – Paul read the letter aloud. Fred withdrew the letter after a brief discussion.

Adjournment

Angel made a motion to adjourn the meeting. Richard seconded the motion and the motion carried. The meeting concluded at 9:48 pm.

The next meeting will be held Thursday, July 16, 2015 at the Town Hall at 7:30pm.

Respectfully submitted,

Kathleen Ellis

Secretary