

Planning Board Meeting Minutes
April 11, 2013

Board Present: Maria Pease, Laura Curtis, Glenn Taylor, Dale Flint and John Mountainland.

Absent: Aaron Holmes.

Also Present:

1. **Call to Order:** by Chair at 6:30PM.
2. **Approval of Previous minutes:** there was none.
3. **Applicant(s):** Darren Robbins - Use Permit - Vehicle Sales & Service Property located at 42 Heald Hwy. Map 3 Lot 28

The Chair acknowledge receipt of two letters from Ms. Osborne and Theresa Roth and will hold both of them

Ms. Osborne: addressed the Chair and if you are going to explain things her hearing aids are not working really well. She asked would it be possible that there would be minutes that would be written of what you say so she could read them?

Chair: There are written minutes as well as a recording.

Could you come forward, closer would that help?

Ms. Osborne: I don't know what is wrong with them one goes in and out. She had trouble at the last meeting and thought she would request that you put this in writing is that possible?

Chair: We would probably have to send out the tape to a stenographer for

transcribing. Let me try to do my best to announce and speak as loud and clearly as possible. It's not going to take a long time. Having read both of these communications the Chair wants to make clear and she understands Ms. Osborne has been into the office asking questions. The Chair wants to make sure this is documented that what we do is communicated. First of all there are two separate applications going on for the Cell Tower. There is an application under the Land Use Ordinance and there is a separate application under the Wireless Telecommunication Ordinance. Under The Land Use Ordinance we have to do a Site Plan Review and that is what we were doing when we did the site walk. They have to submit an application and we go through the application and we determine that the application is complete under the Land Use Ordinance That's what we did last meeting. The other Application is submitted under the Wireless Telecommunication Ordinance. That hasn't been submitted yet, we are planning on receiving that April 25th.

Ms. Osborne: I thought you said you would be doing that tonight?

Chair: No. They are not ready to submit until the 25th. is when that Application will be submitted.

Ms. Osborne: That's the night of the public hearing.

Chair: No. We still need to go through that entire application and make sure that everything that is required under the Wireless Telecommunication Ordinance is in that packet to us. All the things we request under that Ordinance the visual assessment the whole list and you have a copy of that Ordinance you can go through and see what they have to submit we have to determine is that complete. We deem it complete, and whether we can decide that on the 25th or not I won't know until we see it. If it is well put together and everything is there or there may be something in that packet that we decide it's 90% complete but we want to see more information on this subject. We can ask them to go back and give us more information at that point. That hasn't even begun yet. We are in the preliminary stages of this. So not until the 25th will we even decide if we do decide if the application is complete. Once we decide the application is complete as a consensus here we say ok you've given us everything that is required under the Ordinance boom we have to have a public hearing and that date will be set. That has to happen within 30 days of us saying it's complete. Then The public hearing comes up and that's when you folks have the opportunity to do just what you have done. You've already got some foundation and groundwork and the Chair encourages them to continue with this do your research continue with research and the public hearing is your opportunity to present that.

Ms. Osborne: Will everybody in Town be notified of the public hearing I would think?

Chair: It will be posted on the board in Town and posted in the newspaper is that correct?

CEO: and people within 500ft. of the property line will get written notification. That's the way the Ordinance is written.

Ms. Osborne: Not the Telecommunication Ordinance, the Land Use Ordinance?

CEO: It's under the Site Plan Review Ordinance. The Wireless Telecommunication Ordinance does not have a notification by distance. We will post it just like we do any other posting of public hearings and we notify as required by Ordinance those people within 500ft. of the boundary line of that property in writing.

Ms. Osborne: Will there also be something in the newspaper I would imagine?

CEO: Yes.

Ms. Osborne: Where would that be I mean where would we find it?

Chair: The Courier and Free Press.

Ms. Osborne: I almost missed the little box.

CEO: If you live within 500ft. you will be notified.

Ms. Osborne: I don't.

CEO: The Courier and Free Press under all notices for all communities that's where it's posted.

Ms. Osborne: So the second section of the Free Press?

CEO: I don't know what section it is I just know we pay to have it advertised and it's advertised in those two papers.

Chair: That meets the requirements set forth by the Ordinance.

Ms. Osborne: How long before the meeting will the notification be a week two weeks?

CEO: It's usually in the Thursday night prior to the meeting so it's usually seven days.

Ms. Osborne: So it will be on a Thurs.

CEO: Correct. It's also on Town website.

Chair: That's the process we have to follow by the Ordinances. That's what the Chair wanted to take this time to do. Based on reading the letters and from information from staff saying that you wanted to make sure that you understand the process. This is the process. We are not doing anything that is fast or slow or in between or anything. We are following a set schedule we meet every other Thurs. and we are following along an Ordinance that the Town voted on and subscribe. That's the only thing we can follow we can't add or subtract to that even if we wanted to.

Ms. Osborne: I was wondering as I said that little box about the site walk was the first I heard of this and most people in the Town that she has spoken with had no idea that this was even on the radar. So how long has this been around?

Chair: She has no idea.

Taylor: It's been on our agenda, it's been on each agenda for The Planning Board we don't announce it to everybody someone wants to put a cell tower. The first time we were required to publically announce it was the notice for the Site walk.

Chair: We are just following the Ordinances.

Ms. Osborne: I have one more question. I read through the Ordinance a few times and I didn't see any grounds that could apply to have the tower I mean

I understand that we're not allowed to refuse the tower to come to a Town by the 96 Telecommunications Act we are not allowed to refuse it on several grounds. I did not see anything about property values which is a real hot button issue all over the country right now because of all the cell towers.

Chair: It's not in the Ordinance.

CEO: We don't have an application.

Chair: We can't even go there yet because it's not ---

CEO: We don't have an application yet. Everything is subjective. We don't have an Application in hand for a cell phone tower, so for the Board to make comment it would be unfair if in fact the person was making a permit because there not here to have the same opportunity that you have tonight. She asked you to come so you would understand the process.

Ms. Osborne: I understand.

Chair: So what Barry is saying we don't even have the application yet. What you're talking about your issue is exactly what should be discussed at a public hearing. These meetings aren't where that type of information comes to the Board. These are designed to look at applications deem them to be fit and correct and complete. When it comes time for all the information you have you have outlined a lot of information in these letters that's to be presented at the public hearing. The Ordinance has been written it has been accepted and it has been voted on and that's how it is. We can't add things to the Ordinance we can't require things that aren't required in the Ordinance.

Ms. Osborne: So my last question would be you can't refuse an application on certain grounds but -----

Chair: Unless it's complete. If the application is not complete we can say we have to accept the application we can do three things with it.

Ms. Osborne: I understand but once it is accepted do you have any criteria by which you as a Board not involving the cell phone company could decide where to site the tower.

Chair: No, absolutely not.

Ms. Osborne: Why not?

Chair: That's up to the individual land owners to decide how they want -- we can't tell people in Town how to use their land.

Ms. Osborne: I thought there was a previous application for something on Town garage land something a few years ago.

CEO: The thing that you have to understand is that the Ordinance is very specific on where the tower is allowed to go. Just because the Board accepts an application does not mean that the Board is going to grant the permit without going through a whole bunch of steps. The Wireless Telecommunication Ordinance which was passed by the Town in 2007 specifies where a tower can be located. So anyone who owns property that says where a tower can be located has the right to make Application. Once the application is made it is up to the Board to decide if all the criteria under that Ordinance are met. It's a long process that the Board has to go through and the Board hasn't even gone through the process because they don't

even have anything to even look at to discuss. A person came before the Board for a Site Plan Review as required by the Ordinance to say this is where we would like to have it if we put one in this is where we would like to have it.

The Board sets the criteria. The Board had a meeting and said under Site Plan Review you meet that standard. That's all they said. They then said I believe and you were at the meeting that they would hold a public hearing the same day if and when the Wireless Telecommunication has its hearing. So, the hearings are at the same time so we don't have the people coming back and forth. So, they may or may not have the application on the 25th but if you read the paper next Thurs. it will be in there if they have one to come before the Board.

Ms.Osborne: I'm a little confused. I thought I just heard you say they could accept the application if they can get everything in and we would do that on the same day as the public hearing. Did I misunderstand?

CEO: Yes you did. Once they give an application the Board looks at the application the Board can say it's complete or you need to go back and do a,b and c. If they say you need to do a, b and c and d then that's all that happens. Once they get a, b and c and d done they come back to the Board and the Board looks at everything and the Board says it is now complete. The day the Board says it's complete the Board then has 30 days to have a public hearing of which the Ordinance says people within 500ft. have to be notified and we have to post it. It is posted in the two papers on the internet and it will be posted on the board out front because we know people are interested in it and that is the procedure that we do. At the public hearing the public has a right to present evidence to the Board no matter what that evidence is. Once the evidence is presented the Board they will adjourn the Public Hearing. The Board will probably I can't speak for the Board but the Board will probably go back to a work session and they will digest all the information they were given. The applicant has given the Town \$5,000 to be put in an escrow account. The Board may decide they may want to look at something specific and they can take the monies from the escrow account the \$5,000 and have whatever was raised they can have that money spent to overcome that issue or look at that issue.

Chair: Hypothetically speaking there was ground water contamination the public raises the issue and they think the proposed whatever is going on is contaminating the ground water we can say ok let's have a scientist come in and do a study to determine whether in fact this purple shed is going to affect the ground water. If there is an issue brought to us during the public hearing and we feel it has merit we have the ability to investigate it more and we have the money to do that.

CEO: After that happens the Board has 90 days from the close of the public hearing to make a decision. So it's not something that going to happen overnight because the Board will probably have work sessions to digest both inputs decide if they are going to have outside experts come in to do the work for them but they have to do it in a timely manner because the Ordinance that was passed by the Town says it shall be a decision within 90 days.

Ms. Osborne: Will the experts be hired by them or by us?

CEO: The experts are hired by the Planning Board.

Chair: In order to have a complete application that is part of a complete application

is to have that money in escrow.

CEO: The Ordinance also says if we start using the \$5,000 if we get down to \$2500 they have to give us more to keep the \$5,000 in escrow at that level. So no matter what the Board does that escrow account has to be maintained at \$5,000. The Board could use \$15,000 if they wanted to but it is out of that escrow account. It's not out of tax money.

Ms. Osborne: That is nonrefundable?

CEO: If we don't use it we give it back to them. The non-refundable is the fee that we collect to have the hearings and those things. If there are revenues left over that goes back. The Board uses that as money to spend for using experts that is not something we put back in the general fund because it is not earmarked for that. There are a whole bunch of things that have to happen before the Board even considers whether they are going to issue a permit. A whole bunch of facts have to line up and that's why she asked you to come in tonight so you can understand the process. Barry didn't advertise them tonight because they are not here tonight and while he can assure you that the Board has made a commitment to have a stenographer here when they are here so we will have a court reporter here because regardless of what happens if there is an appeal process on either side we have a court reporter who is able to produce the document to go to court. If it goes to ZBA the Zoning Board and somebody appeals the Zoning Board of Appeals and we wind up in Superior Court we have all the documentation. The Board will have work sessions and the Board will do different things. Work sessions are public but there is no public comment it's just that there are no decisions made in a work shop.

Ms. Osborne: Are they advertised also?

CEO: I do not advertise work sessions in the paper. He advertises them on the board up outside and on the web site.

Chair: There is no requirement to do that. I will hold this at this. We wanted to extend the courtesy to explain the procedure because we do understand that there are questions about how we operate. We are not moving fast at all we are moving at the regular pace that's what we are doing. We do have an actual application on the table that we have to deal with.

Ms. Osborne: Can I submit a couple of things to you?

CEO: I would ask that you bring them to the public hearing because if we lose them and, we can't make them part of the record because we have no application.

Ms. Osborne: That's ok I would just like someone to read them before the application.

Chair: I ask that you give them to Helen and she can put them in my box.

3. Darren Robbins Use Permit - Vehicle Sales & Service. Property located at 42 Heald Hwy. Map3 Lot 28.

Applicant: I am applying for auto sales with retail. He will be working on vehicles there.

Chair: What type of retail?

Applicant: Plumbing business would be part of the retail.

Curtis: Two things, vehicle sales and service and plumbing sales.

Applicant: Not much plumbing sales just office there.

CEO: They are both allowed on the Ordinance that you are using tonight. The plot plan presented meets the minimum lot size requirement, the road frontage requirement; the lot itself meets the requirement. Should the Board approve this tonight Mr. Robbins has been advised by CEO he will DOT permit before issuing building permit.

Chair: Average number of vehicles on lot?

Applicant: 10 to 12. Servicing only vehicles he sells. Vehicles once sold he will not be servicing.

For the record: Board is using the 2004 Land Use Ordinance as advised by Town Counsel.

Motion made by Laura Curtis to accept application. Seconded by Glenn Taylor. Unanimous.

Motion made by Laura Curtis to adjourn to workshop. Seconded by Glenn Taylor. Unanimous.

These minutes were approved on April 25, 2013 with the following amendments. Page 7 CEO comment: he will (get a) DOT permit before issuing a building permit.