



# Town of Eddington

906 Main Road Eddington, Maine 04428

## PLANNING BOARD

July 28, 2015

6:00 pm

MINUTES

98

**CALL TO ORDER:** Susan Dunham-Shane called the meeting to order at 6:01 pm.

**ROLL CALL:** Members present were Susan Dunham-Shane, Gretchen Heldmann, Craig Knight, David McCluskey, Charles Norburg, CEO and Russell Smith. Tom Vanchieri has an excused absence.

**MINUTES:** Motion to accept the minutes of the June 25, 2015 meeting after correcting the spelling of Aggregate.  
**By David/Craig 2<sup>nd</sup>. Vote 4-0**

**UNFINISHED BUSINESS:** The Board tabled the approval of the By-Laws to the August 11, 2015 meeting when Tom is available.

**NEW BUSINESS:** Scott Footman was present to discuss the Letter of Abandonment of the MacDonald Acres Subdivision which Russell received and forwarded to the Board. Gretchen questioned whether this abandonment letter contains everything that is required in the referenced example letter and Russell answered that yes it did.

Motion to accept the letter.

**By Gretchen/David 2<sup>nd</sup>. Vote 4-0**

Then next item is the Verizon Wireless Telecommunications Facility application for 920 Main Road, Carol Grover's property. Scott Anderson is present, he handles local permitting for Verizon Wireless along with Chip Fredette of the Site Acquisition Department (identifies potential parcels of land where they can locate new sites) and Keith Valente, radio frequency engineer who determines where gaps in coverage are located.

Mr. Anderson explained the project from the application. Map C-1 shows Mrs. Grover's property, the approximate location of the proposed tower and the nearest property line is about 700' away. Map C-2 shows the 100' x 100' leased area and the 75' x 75' fenced in area. Using an existing gravel road for access, so most site improvements will be in the area of the leased area box. Map A-1 gives the top view of the project; this site has 2 primary components, a 190' mono pole that carries the antennas and just to the right an 11 1/2' x 26' pre-fabricated equipment shelter. One room in the shelter contains the back-up generator and the other room has the signaling equipment and it is surrounded by a locked fence. A-2 shows the side view.

The 190' tower keeps it under the 200' trigger which would have to go to the FAA for the lighting threshold and it gives them a good height to allow them to give the most coverage from a single tower and yet still close enough to the ground that a signal wave length will work. Our Wireless Ordinance requires the application to contain information as to why they chose this location and height and Keith's company put together the radio frequency report that is included in the application. It talks about coverage objectives, where other towers are located that this tower will communicate with and why this tower is proposed for where it is. Also it explains how the height was chosen to communicate to other towers, to eliminate lighting issues if it is too high and not too low that would require additional towers to link with. They are all here tonight to answer any questions the Board may have.

There are two items that they hope to get input from the Board on tonight. The first one is that they

have requested a waiver for the requirement to do a boundary survey for the entire parcel. The survey is usually critical if the tower is going to be near the property line. In this project the tower is going to be 700' from the nearest property line and the Ordinance allows them to ask for a waiver of the boundary survey. Normally when they are so far from the property line and there is no question that they will meet the setback requirements, they will request a waiver of this survey. The second item is that the Ordinance requires that they do a photo simulations for the proposed tower. Ben Caron will do this by picking a morning to go to the sight to fly a balloon. The bottom of the balloon will be at 190', which would be the top of the tower. He will drive around town and identify where the balloon is visible from any public road within a couple miles. And then based on what he finds in the drive test, he will take photographs in those locations. He will then load them into his computer and swap out the balloon for an image of what the tower will look like. They will then bring these photos to the Board. They do not usually present the photos before the application because they have found that sometimes members of the Board have requests for photos from specific locations.

Susan said that this will be the preliminary review of the application. Gretchen pointed out that the property for this project is located in the Rural Residential Zone and the Wireless Communication Ordinance says it has to be located in the Farming/Agricultural Zone which in our Zoning Ordinance is now Rural Agricultural. She further said that in the Wireless Ordinance they can waive submission requirements, but not necessarily what zone it is in. Mr. Anderson said that he has talked about this with Charles Norburg. Mr. Anderson explained that there are two different ways that you see the zoning provisions. In one, you would look for the particular zone and see what is allowed in that zone. In the second way, Wireless Ordinances have a Priority of Location Provision, in which the applicant explains that they cannot go on an existing tower and then the next provision is that there are areas in town where new towers are supposed to go if they can go. The applicant would show that they cannot go on existing locations and that the locations where towers are allowed does not meet the coverage needs and then they continue down the list of priority of locations. Verizon's interpretation of this is that it is a priority of location rather than a zoning issue so they need to prove the requirements of A-1 (cannot locate on existing and does not meet coverage objective) and then that it is more than 1000' from any road. Gretchen understands his explanation but she would like the Town Attorney to review the provisions particularly where it says "only in the Farming/Agricultural Zone". Gretchen thought that this circumstance may be challengeable. Susan reviewed the Wireless Ordinance and agrees with Gretchen. Susan said that one of the letters from the Concerned Citizens stated that with the current ordinance, wireless towers would not be allowed in town. When she reviewed the Ordinance, she did notice that the only areas that it was allowed in was Rural Agricultural, which is not what they intended.

Mr. Anderson said they will explain to the Town Attorney if needed, why if the ordinance limits towers to just the book ends of the town, it would make it impossible to fill the coverage gaps. Gretchen explained that it was a sequence of events that brought the zoning to where it is now. We used to have a zoning map where most of the town was zoned Agricultural/Farming and we had an older zoning ordinance that had that specific zone. The Board has since updated the Zoning Ordinance and Zoning Map failing to realize that it was specifically called out in the Wireless Ordinance. Verizon is also proposing to collocate on the tower at the Rt. 9/ Rt. 178 intersection because they will need both towers. Mr. Anderson said they would like to keep moving forward with the photo simulation while the Board talks with the Town Attorney. Gretchen said that if the attorney says they cannot waive the zoning question, they can update the Ordinance and that would take a minimum of 90 days.

Susan would like to review the application for any missing information.

1. Mr. Anderson asked if the Board has any requests for pictures for the photo simulation. Susan requested down view from Fox Lane, Blackcap Road, Comins Lane and Grandview Drive. Gretchen verified that they also use available LIDAR data to map view sheds within the area.
2. They will let the Town Clerk know when the balloon test is going to take place so we can put it on the Town Website, email notification, etc. to notify Charles N. and the residents. (Bottom of

- the balloon is the top of the tower)
3. David noted that in Appendix B, page 2, it says 75' square fenced in compound, but Mr. Anderson said it should be 75' by 75'.
  4. Gretchen said that in Appendix C, 2. Section 402.11 they request a letter from the state agency that it is not in a scenic, historic, archaeological site. Mr. Anderson said they will get this once they know the location is being approved. They send the information to the State, Steve Mahoney, SHIPO and tribal research, etc. A change in the location by 125' to 200' could make a big change in the application process.
  5. Susan said that in Section 402.3, it talks about wetlands. Mr. Anderson said they will get the FEMA map which would show this.
  6. Appendix D, Section 6.2.5.b, Susan asked why they did not have a landscape plan. They explained that they would be cutting down trees in the fenced in area only and will be retaining the current forested area. They may ask for a waiver of a landscape plan because of this.
  7. Section 6.2.(8), Susan told them that the Eddington Clifton Civic Center (Comins Hall), 1387 Main Road is a National and State Registered Historic Site.
  8. Section 6.2(10), discusses the form of surety approved by the Planning Board for removal in case the project is abandoned. Verizon had responded that they request a removal quote as part of their bidding process to contractors following issuance of a Planning Board approval. Susan said that in order to issue an approval, they need the Surety Bond. Both parties agreed that they would need to sort this out. Verizon can give them a form of Surety used in other towns and then fill in the amount later because the contractor will know the amount. Susan feels this is another question they should ask Charles Gilbert about.
  9. Section 7.1.(F), change "700' from closets" to "closest"
  10. David asked about the generator and was told the power runs above ground to the site. The first form of backup will be battery which will provide 8 hours and then after that the generator will kick on.
  11. Susan questioned storm water management and erosion control during construction. They will provide more information in their plan with the application.
  12. Section 7.1.(P) 1, they will need to provide a report from a biologist stating that they will not cause a threat to the health or survival of endangered plants or animals.
  13. Susan asked how they know it will not impact birds. Mr. Anderson said he has never seen anything that shows birds that are affected by towers in the 15 years he has worked with this.
  14. Section 7.1.(0), David pointed out that this section also references historic and archaeological properties.
  15. Susan requested that on the next plan they include the poles on C-2. Mr. Fredette explained that there were wetlands identified near the site, along the access road, and he had asked that they show them on the map. Susan also said that in the narrative they will need to explain how they are protecting the wetlands during development.
  16. A-1 and A-2 say that they may change, and Mr. Anderson explained that the depth and width of the foundation may change, but it has nothing to do with height.
  17. C-1, Minimum lot frontage shows 100' but it should be 200'. Also they should add in the distance from the front yard to the road.
  18. Gretchen explained that they should show the delineation of the wetlands along the road on map C-2.
  19. Gretchen questioned the Ice Bridge because it did not show clearly on all of the map, particularly the height of the bridge. They said it is 8' tall, suspended above the ground and runs from the shelter to the pole itself. Its purpose is to keep ice from landing on the wires.
  20. Susan requested that they cite determination sources.
  21. Charles N. will assign a new street number for the access road.
  22. Mr. Anderson explained that they are requesting a waiver on a boundary survey because the proposed location is 700' from the property line. Section 6.3 of the Wireless Ordinance allows

the Planning Board to waive submission requirements. A boundary survey would be \$20,000.00 and \$30,000.00 for a 200 acre lot. A waiver request will be part of the application to deem it complete.

23. David pointed out that in two sections of the application, engineer and surveyor stamps are required. Our Ordinance specifies that they should be Maine engineers, but their application contains Massachusetts engineers. Verizon will look into it.
24. Charles N said that the application has 187' tower instead of 190 and it was explained that the 3' was the antenna.
25. The Board needs to send a letter to the town attorney regarding allowable zoning and the use of the word only in the Location Priority Section of the Wireless Ordinance. Regarding the Surety Bond, Verizon representatives decided by the end of this meeting, that despite what was said earlier, see #8 above, they will do their own internal estimate, have their civil engineer write a letter and then they will get a surety bond so that it is finalized and complete as part of the next application submission.
26. Gretchen said Mr. Anderson should send a letter to the Town Office explaining his case (the Verizon Wireless standpoint regarding the zoning issue.) and the Town Office will send it to the attorney.
27. Verizon can work on the narrative improvements, drawing repairs, submit written waiver request for boundary survey and include it in the plan.

The Board drafted the letter to the Attorney.

28 July 2015

Dear Attorney Gilbert,

The Town of Eddington Planning Board requests your review and advice concerning the following wording in the Performance Standards section of the Wireless Telecommunications Facilities Ordinance:

*"Section 7.1(A)(2) – New wireless telecommunications facilities may be permitted only in Agricultural/Farming zone."*

We have an applicant who desires to place a project in the Rural Residential Zone in order to meet coverage gaps. The Rural Agricultural Zones (which are the closest named to Agricultural/Farming zone) are only at each ends of the town. This item is in the greater context of three things listed in this section (full excerpt below), regarding prioritizing where to locate. Our concern hinges on the use of the word "only" in this sentence. We would like to know, if the case is made in response to this item and the other three, that a location must be outside the Agricultural/Farming zone, if this is something that is flexible, or if that word "only" shall cause us to strictly adhere to the zone requirement and thereby not allow location outside that zone.

As a historical side note, we realized that the current Zoning Ordinance and Map have been updated since the time of the Wireless Ordinance. The Wireless Ordinance at the time corresponded to an older, different Zoning Map, which basically cast the entire town in Agricultural/Farming, with small strip zones along the major roads otherwise. So, it would seem at the time, that the intent was to allow towers basically throughout the entire town.

You will be receiving through the town, a letter from Scott Anderson, who represents the applicant, outlining the applicant's position. We would like a response from you as soon as is practicable, since we would like to give the applicant a decision.

Please contact us with any questions.

Sincerely,

Town of Eddington Planning Board Members

Wireless Telecommunications Facilities Ordinance excerpt:

*7.1. Planning Board Approval Standards*

*An application for approval by the Planning Board under Section 5.1(A) (Expansion) and Section 5.1(B) (New) must meet the following standards.*

*A.) Priority of Locations. New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.*

*1.) Co-location on an existing wireless telecommunications facility or other existing structure in the following districts, as identified in the Town of Eddington Zoning Ordinance:*

*2.) New wireless telecommunications facilities may be permitted only in Agricultural/Farming Zone.*

*3.) No tower may be located within 1000' from any state, town or subdivision road.*

**OTHER BUSINESS:** The Board will move the Shoreland Zone Ordinance to the agenda of the August 11, 2015 meeting. Each Board member should go back to the minutes of the last meeting and review where they left off. (May 12, minutes, start on page 21. F.3. of the Ordinance)

**STAFF REPORTS:**

**PLANNING BOARD COMMENTS:** Susan noted that the residence on this side of the Clewleyville Farms has had tables up for a yard sale for 1 ½ weeks. Charles N. will check it out.

Gretchen said that Robbie Maquillan wanted her to let everyone know that the construction trailer behind Autoworks belongs to MDOT for their work on Rt. 46.

Charles N. will check out the sign at Tradewinds at night.

**PUBLIC ACCESS:** Rusty Gagnon ask if it is possible to get a copy of the Shoreland Zone Ordinance being reviewed. Gretchen explained that the state came up with mandatory guidelines that the Town needs to review. The Town has the option to decide whether they want to use the state version, which may be less strict, or keep what they have in the Ordinance. There is a PowerPoint presentation that also shows the changes. She can get a copy at the Town Office.

Ralph McLeod thanked the Board.

The next meeting will be August 11, 2015 to work on the Shoreland Zone Ordinance, review the response from Mr. Gilbert to their letter and the Bylaws.

**ADJOURNMENT:** Motion to adjourn at 7:45 pm.                      **By David/Gretchen 2<sup>nd</sup>. All in favor**

Respectfully Submitted,