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Town of North Andover
Planning Board
Minutes of the Meeting
Tuesday, February 16, 2010
Town Hall, 7:00 PM

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Members present: Richard Rowen, acting Chairman
Timothy Seibert, regular member
Courtney LaVolpicelo, regular member
Michael Walsh, regular member
Michael Colantoni, alternate member

Member absent: John Simons, Chairman

Staff present: Judy Tymon, Town Planner
Mary Ippolito, Recording Secretary

As John Simons is absent, Richard Rowen is acting chairman this evening. Chair called the meeting to order at approximately 7:00 pm.

Chair announced the following postponement APPLICANT WISHES TO POSTPONE:

CONTINUED PUBLIC HEARING:
Elm Development Services, 1275 Turnpike Street, Site Plan Special Permit and Continuing Care Retirement Center Special Permit to construct a 125-unit apartment CCRC within the V-R zoning district.

DISCUSSION: bond release:
Brian Darcey – Peachtree subdivision - is requesting a partial release of \$15,000.

Judy made a site visit.
Judy: This is a request for a Site Opening bond for \$15K. Brian Darcey is requesting the release on behalf of Mr. Minicucci, developer. Gene Willis submitted a memo stating he has no issue with this release. Planning Department still has a \$15K bond for the roadway and won't be released until they go for Street Acceptance.

Chair: did \$15K cover the work on Chestnut Street? Judy: no, there was one remaining drainage issue that has been resolved, a final check list of items w/DPW.

Brian Darcey: added a drainage structure on Chestnut Street - there was runoff coming down behind houses located on Chestnut Street, runoff was tied into Peachtree drainage system and their pond and it seems to be working properly now.

Chair; has issued been resolved regarding problem with Chestnut Street abutter? Judy: as far as she knows there has not been an issue. However, if applicant would go further

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1 with requesting Street Acceptance then Gene Willis, DPW Engineer, would put in writing
2 whether he accepts everything on the check list.

3
4 Attorney Tom Urbelis: received a contract from Arco's attorney between Arco and
5 Peachtree.

6
7 Atty. Urbelis: told him that this wasn't something between the Planning Board and
8 Peachtree, whatever private arrangements between Arco and Peachtree would be between
9 the two parties and that he offered no opinion as to the enforceability of this agreement.

10
11 Mr. Darcey: stated he talked to Tom Sawyer this afternoon and there is an agreement in
12 place and that Arco gets a portion of the bond release.

13
14 Chair: PB will release the bond to Peachtree then its Peachtree's issue how to send the
15 money to Arco.

16
17 Motion by: MW to get the Site Opening bond released and closed out for \$15K, 2nd CL,
18 motion was unanimous.

19
20 **DISCUSSION:**
21 **Planning Department fees.**

22
23 Judy: adjusted the fee schedule, presented a handout to the PB tonight. See preliminary
24 subdivision and definitive subdivision, raised the base fee and kept the lot fee the same.
25 There was evidence of a much higher Special Permit telecommunication fee in North
26 Reading. Judy: changed the Site Plan Review fee as we're close to Town of Andover
27 and that's by keeping the base fee the same and raising the gross floor area amount. SP
28 are \$300.00 but it applies to individuals who apply for Watershed SP, Common
29 Driveway SP, Access Other Than Legal Frontage SP; those are usually applied for by the
30 homeowner.

31
32 Chair: if someone were having a Common Driveway SP in the Watershed, technically,
33 they are two separate SP, did we address waving some of those fees? Judy; there is no
34 language regarding fees in language of regulations in North Andover. We should add
35 language to PB regulation fees.

36
37 Atty. Urbelis: if waiving fees then articulate a specific reason if you waive some fees.

38
39 MW: our fees are consistent with the surrounding fees in towns.

40
41 Judy: this goes to BOS. TS: say our general position is not to over-burden the home
42 owner for simply upgrading their personal property. Chair: if we have a 20 house
43 subdivision you may have Frontage Exception SP, Watershed SP issues, Common
44 Driveways SP, in a 20 house subdivision ok, if they have 3 SP ok, but if it's a single-
45 family house and all they want to do is re-route their driveway and it takes 2 or 3 SP then
46 it's over-kill. The fee structure is in place and on a case by case basis if it appears to be

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1 overkill and we're collecting more fees than the work we're performing then maybe we
2 can waive some of the fees.

3
4 Chair: attempt is to have the fee structure representative of the work done to administer
5 SP or the work done for the fee. There are cases where it's relatively simple work and
6 we're charging double or triple fees and that's not right. Other times you put a lot of
7 work into it so it's appropriate to collect other the fees.

8
9 Motion by MW to recommend the proposed fee structure as presented, 2nd by TS, vote
10 was unanimous.

11 12 13 **DISCUSSION:**

14 **David Torres representing Clearwire**, 200 Fifth Avenue, 3rd floor, Waltham, MA
15 02154, headquartered in Kirkland, WA an agent of Goodman Networks and affiliated
16 with Sprint. Property located in North Andover: 451 Andover Street - installation of
17 wireless enclosed in chimney facade (applicant submitted pictures). Installation of
18 wireless at 300 Chestnut Street (applicant will submit pictures when filling application).

19
20 Judy: Mr. Torres is here for his pre-application conference to the PB regarding 2
21 potential sites, 451 Andover Street and 300 Chestnut Street relative to 4-G equipment.
22 When applications are coming in if they require RF reports we will request that an
23 engineering review be done.

24
25 David Torres: Clearwire is licensed by FCC to provide high speed wireless internet, it's
26 a new product. Mr. Torres is the agent in this area for the deployment of their network.
27 421 Andover Street has a chimney and will contain 3 panel antennas on a post; a
28 fiberglass piece will be painted to look like the other chimneys, and one small wireless
29 chimney to match the other equipment.

30
31 Mr. Torres: Affidavits were done by T-Mobile for sound and RF on a previous
32 application.

33
34 Mr. Torres: wants to submit a noise affidavit instead of a full noise report because the
35 technology - is a full RFR emissions report required? Judy: assumes that when any kind
36 of RFR material is submitted that the PB will have their Engineer review them. This is
37 4G technology. The distance is mitigated by frequency licensed by FCC, the lower the
38 frequency the further it goes. Higher frequency requires closer placement. It is less
39 power, foot print is smaller and impact is smaller, emissions and power uses are less.

40
41 TS: to cover N.A. you would need more? Mr. Torres: he isn't a RF engineer; he'll come
42 to the next hearing to explain this. It's driven by topography more than anything; it's a
43 line of site based technology panels do dispersion in area, if you send e-mail and
44 depending where the panel is pointing, it will travel much further much faster.
45

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1 Mr. Torres: Coverage will be full coverage and fully mobile, travel to Lawrence, or even
2 to Chicago, pay monthly fee you don't have to try to find a local place in town that has
3 WIFY.

4
5 Chair: if you are requesting affidavits in lieu of reports - cell phone and WIFI coverage
6 is an extremely high visible thing in this Town. You will open yourself up for criticism if
7 you don't follow the letter of the law to the best of your ability. We have a flawed bylaw,
8 however, if you try to deviate from the requirements of the bylaw where it does make
9 sense to provide a report he would recommend submitting a report and be in compliance
10 to the best of your ability.

11
12 MW: would concur with Chair on that for a couple of reasons that site has a number of
13 antennas up there already; it's a high noise area anyway. This is a new technology
14 coming in thru our usual process; building networks on the cellular wireless side, the first
15 application making representation we know where this is going to go, and that if it works
16 here you are going to try to build a network. So he wants to know at least a baseline of
17 what your technology is going to show in terms of RF and in relation to others

18
19 Chair; if the reason is you prefer to submit an affidavit rather than a report it may cost
20 you more defending your position rather than just submitting the report.

21
22 TS: Judy: accepted an affidavit for MetroPCS installation for their site instead of a
23 report. Usually Dr. Hayes submits a full RF emissions report. TS: Clearwire is installed
24 in Lawrence, MA.

25
26 Judy: BH antenna will be attached to outside on existing chimney and painted.

27
28 Mr. Torres: the picture submitted tonight is not a fully representation of the installation
29 site.

30
31 MC: will 3D antenna come down, or see a trend to fewer antennas? Mr. Torres: it is
32 trending, it has to do with over-lapping and whether some of the stuff can be converted.
33 Towns prefer co-location. Clearwire has an affiliation with Sprint. With 4G there is a
34 big push to make it compatible with future growth.

35
36 Mr. Torres: 300 Chestnut St. will have 3 dishes and 3 panels. Refer to the pictures
37 submitted tonight.

38
39 TS: Planning Board is trying to create an overlay district in Town. Mr. Torres might
40 want to know in case he comes before us next summer we are hoping that you will locate
41 in the overlay district. It is important to co-locate. Give the overlay district to applicant's
42 engineer so they can have knowledge of it.

43
44 Mr. Torres: will apply as soon as he can get reports ready. PB is requesting that Mr.
45 Torres pay a professional peer review in the amount of \$2K.

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1 Atty. Urbelis advised Mr. Torres that this Town is requesting a peer review be done on
2 these projects. Judy: \$2K for each peer review.

DISCUSSION:

Zoning information for Annual Town Meeting

6 . Attorney Urbelis: provided PB with copies of the proposed bylaw. He wanted to
7 make it clear that this Bylaw complies with the Telecommunications Act of 1996 several
8 references in there to TelCom Act. Made clarifications to the definitions section some
9 misspellings and added a few definitions. Bylaw defines telecommunications over-lay
10 district which encourages the carrier to look at a specific plot which are in the overlay
11 district. There aren't any schools located next to specific plots.

12
13 He went to ZBA and BOS regarding overlay district, will talk about changes to text of
14 wireless bylaw. See the zoning map which is color coded (handed out tonight).

15
16 . Antenna portion of a facility can be installed in pre-existing structure by SP.
17 Cannot install a wireless facility within a residential district. Prior to Town Meeting
18 approval is required for lease of land for Town owned land for wireless facility such as
19 Steven's Estate; they went thru RFP process and a lease and that required Town Meeting
20 approval.

21
22 . Height of monopole facility, the only kind of tower that one can construct would
23 be a monopole the others would be banned except for pre-existing uses.

24
25 Height; if greater height than 100' is required PB has the approval based on peer review
26 information. Six-hundred foot setback is not in here. Monopole, setback is twice the
27 distance of the height of the monopole (200 foot setback for fall down zone). Otherwise,
28 the setback for the facility is the setback per the zoning district. Spells out what an
29 applicant's engineer has to submit/provide from an analysis standpoint.

30
31 . Attorney Urbelis: if PB is going to publically discuss settlement of litigation, then
32 written notice must to be sent to abutters within 300 feet at least 10 days prior to public
33 hearing. Federal TelCom Act of 1996 is still out there and this Bylaw is not going to
34 prevent a company from placing a monopole or any other antenna or facility where they
35 have a substantial gap in coverage or they meet the Federal Communications
36 requirements and they have no alternative available.

37
38 Anybody! If you have questions or if you want your property included in the overlay
39 district let Judy know by Thursday; a draft of the bylaw will be added to the Town web
40 site. Attorney Urbelis and Judy will be at the BOS Meeting on Monday for input,
41 hopefully, we'll have everything ready for Town meeting.

42
43 Chair: asked about zoning districts and what colors meant? Chair: it's all of it;
44 everything that has a color is in the overlay district.

45
46 Judy: overlay map does not include private and pre-schools.

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2 . MC: discussed 4G and 3G equipment capability. Are permits issued in
3 perpetuity? Attorney Urbelis: yes, they don't have to come back in 3 years. Whatever
4 reporting requirements FCC or FAA requires on the time schedule they require, if they
5 submit one to FCC they have to submit it to us (the RF). Every 5 years we get an
6 engineering structural sound report, if Building Commissioner doesn't like this report
7 then Judy can send it out for a peer review (on monopoles).

8
9 Chair: wireless facility shall require a building permit in all cases.

10
11 . Chair; PB will review this document and get back to Judy with their edits.
12 Chair; didn't understand the map you might want to say: so all the colors in legend are
13 where? Judy: the eventual map should all be one color. Chair; under definition: say
14 definition for section 8.9 or whatever it is. Atty. Urbelis: please get all your edits and
15 changes to Judy. Chair: on the very first page of Bylaw we say this is controlled by the
16 TelCom Act Bylaw so people will be able to understand it.

17
18 . TS: it's going to be a challenge to sell anything to the Town; guesses people in
19 Town say status quo is fine enough. PB may think differently. We need 66% so it
20 requires a real selling effort, map, etc.; we're going to have a strategy and figure out what
21 points we want to communicate. How do we handle the overlay district thing if we get
22 BOS, PB and ZBA to not endorse any additions from the floor but submit them prior to
23 the Town Meeting for a proper review? Chair; for this year hears the cut off date for no
24 more changes.

25
26 . Atty. Urbelis: Judy did the map from a Planner's eye. There is no setback except
27 for the zoning district it's in. How do you justify that setback? Setbacks beyond the
28 regular zoning district, they say we want that for health considerations, or esthetics, that's
29 the Federal TelCom Act.

30
31 . Chair; we are not letting them build any more lattice or guide-tower (just
32 monopoles) but still encourage co-location. Blow up certain sections of the map more
33 clearly. PB approved 20 Elm St. installation; it was challenged in the Court and the
34 Court said not only did you rule correctly and you got a correct ruling from the Building
35 Commissioner even if he had ruled differently you still should have approved it.
36 The way the PB is proceeding is judged to be the correct course of action.

Chair called for PUBLIC HEARING:

37
38
39 **Robert Ercolini, 195 Bridle Path**, requests a Watershed Special Permit to add a one
40 floor addition 24'x6"x25' of living area and a full basement to the rear of the existing
41 dwelling and patio/deck within R-1 zoning district.

42
43
44 Judy; this will go to Con/Com tomorrow. See Jennifer Hughes (Conservation) comments.
45 Judy: this structure has a deck so existing deck is coming down, so s.f. of home without
46 existing deck is 8297 s.f. With 2 story addition, deck and patio is 2083 s.f. Which is just

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1 at 25%. Bylaw allows for 25% Judy didn't count exiting deck because it's coming
2 down. Regarding the patio, how pervious will the pavers be? The pavers are somewhat
3 pervious depending on the structure beneath the pavers: Con/Com will ask for more
4 pervious base material in order to claim you have a pervious surface there. Judy: wants
5 more info. reg. pavers. Clear up square footage issue, and are two fireplaces going to
6 stay? There are roof drains and systems placed away from the structure. Noted on the
7 plan are watering pit, soil stockpile area, location of hay bales and silt fence.

8
9 Chair; is existing structure totally conforming? Steve Stapinski, Engineer, house is
10 conforming w/zoning in its current configuration. SP proposal does comply with zoning
11 bylaw as proposed expansion is less than 25%. Square footage of the existing house is
12 8297 s.f. house alone is floor area alone without deck addition is 1234 s.f. then only
13 proposing 14.8% addition which is less than 25%. Existing house and existing deck is
14 8800 s.f. Included fireplaces within s.f. of calculations, he's going to build two chimneys
15 and two fireplaces.

16
17 Chair; explain what the dotted lines are on the plan of land. Mr. Stapinski; first line is
18 no-disturb zone etc. and went into a detailed explanation of the Watershed overlay
19 district.

20
21 Chair: explain the plan see the stairs: Mr. Stapinski: it's a bump out and those are
22 existing edge of pavement, proposed silt fence and hay bales are next to it.

23
24 Judy; explain existing stairs? Mr. Stapinski: stairs will remain as access to patio and new
25 addition and there are no new stairs. Some stairs that come over to the deck will be taken
26 out.

27
28 Chair: keep this open.

29
30 Judy; 2083 s.f. comes from what's on the plan, addition 1284s.f. plus 601 s.f. plus 248
31 s.f. Mr. Stapinski: patio itself is 104 s.f. that's being added, addition is 1234 and net
32 deck area is 242s.f.

33
34 Chair: measure everything before and everything after the difference can't be increased
35 by 25%.

36
37 Judy: 8800 is existing s.f., addition is 1234 s.f. + deck 1476 s.f.

38
39 MC: it's under 2500 s.f. it's 2200+/- s.f.

40
41 Judy: deal w/Con/Com regarding patio.

42
43 Judy: applicant submitted a note from a certified Engineer regarding water.

44
45 Mr. Stapinski: per Mr. Ercolini include two fire places and two chimneys.

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1 Judy is satisfied w/storm-water issues. Con/Com deals with this issue.

2

3 Chair: he's not on Town sewer yet? Mr. Stapinski: yes he is, but he can't service the
4 bathroom in addition except with a pump and piping changes within house. It is actually
5 less money to run a new service in.

6

7 Chair; are we going to have PB meetings on other Town warrant articles? Judy: we're
8 doing that on Monday w/BOS.

9

10 **Approve February 2, 2010 Minutes of the Meeting.**

11 Motion by TS to accept/approved Minutes 2nd by MW, vote was unanimous.

12

13 Motion by TS to adjourn at approximately 9pm 2nd by MW, vote was unanimous.

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By order of the Planning Board

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Approved

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Please note: The Planning Board reserves the right to take items out of order and to discuss/or vote on items that are not listed on the agenda.