



Town of Tyngsborough
Planning Board
25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext. 115

MINUTES
October 7, 2010
APPROVED

Attachments:

1. Meeting Agenda
2. NMCOG Draft Special Regulations for Wind Energy & Solar Energy Conversion Systems: 10/7/10
3. David E. Ross Associates – 180 Sherburne Ave. Cell Tower: 8/19/10 & 10/7/10
4. Deschenes & Farrell, P.C. Special Permit Application for SBA Towers Cell Tower at 180 Sherburne Ave.: 6/30/2010
5. Attorney Charles Zaroulis Email - Review response of SBA Towers Cell Tower special permit application: 8/18/2010
6. Northeastern Consulting Forestry Services letter – Vernal Pond Review: 6/16/2010
7. Town of Tyngsborough Department Comments
8. Conservation Director, Matt Marro Email – Vernal Pool Concerns: 8/17/2010
9. Conservation Director, Matt Marro Email – Response to Aerial Spectrum, Inc. Vernal Pool Survey: 9/28/2010
10. Deschenes & Farrell, P.C. Response to David E. Ross comments dated 8/19/10: 10/5/10
11. Aerial Spectrum Photo Simulations of Balloon Test (conducted 9/11/10): 9/30/2010

Members Present: Steve Nocco, Chairman
Tom Delmore, Vice Chairman
Bill Gramer
Steve O'Neill (arrived at 8:00pm)
Caryn DeCarteret, Associate Member
Jesse Johnson, P.E.: David E. Ross Associates
Richard Fox: Town Counsel
Pamela Berman, Administrative Assistant

Members Absent: Jim Miller

7:00pm - Meeting called to order by Chairman S. Nocco

NMCOG representative George Russell appeared before the Board to review the Draft Wind & Solar Energy Conversion System regulations. NMCOG has offered their expertise in drafting a set of regulations that would regulate these types of structures. Feedback from the Planning Board is instrumental in determining how to proceed with a set of regulations for these systems. Selectwoman Elizabeth Coughlin spoke on behalf of the Energy and Environmental Affairs

Committee (EEAC) to warn against rushing into adopting these regulations without involving the EEAC and the Board of Selectmen. She went on to point out that there are many issues involved that have not been addressed by the EEAC, and urged the Planning Board to consider a joint meeting with the EEAC to discuss these issues. B. Gramer assured Ms. Coughlin that the Planning Board was not rushing through these regulations, and was only approached by NMCOG to ask whether these types of conversion systems would be something that the Board would be interested in regulating. T. Delmore agreed that a joint meeting with the EEAC was a good idea which was scheduled for October 21, 2010.

7:30pm **180 Sherburne Ave.** – SBA Towers for T-Mobile, USA Special Permit
Application for the proposed installation of a ~160 ft. monopole style cell tower.

T. Delmore: Motion to appoint Associate Member Caryn DeCarteret to Jim Miller's vacant seat for this hearing.

B. Gramer: 2nd the motion

In Favor: 3 Opposed: 0 Absent: 2

Passes: 3-0-2

Tom Delmore recused himself from this hearing as he is a resident of Bridle Path Way which abuts the site of the proposed cell tower.

S. Nocco announced that due to unforeseen circumstances, member Steve O'Neill would not be able to attend tonight's hearing. Therefore, due to a lack of a majority quorum, the hearing would have to be continued.

C. DeCarteret: Motion to continue this hearing until October 21, 2010

B. Gramer: 2nd the motion

In Favor: 3 Opposed: 0 Absent: 2 Abstain: 1

Passes: 3-0-2-1

7:50pm S. Nocco received a phone call from member S. O'Neill who reported that he was on his way and would be arriving at the Planning Board meeting shortly.

C. Decarteret: Motion to withdraw the previous motion to continue the hearing.

B. Gramer: 2nd the motion

In Favor: 3 Opposed: 0 Absent: 2 Abstain: 1

Passes: 3-0-2-1

8:00pm S. O'Neill arrived.

C. DeCarteret: Motion for a 15 minute recess

B. Gramer: 2nd the motion

In Favor: 3 Opposed: 0 Absent: 1 Abstain: 1

Passes: 3-0-1-1

8:15pm Hearing Continued

Attorney Kevin Eriksen appeared before the Board representing the applicant SBA Towers. Dishant Shah, RF Engineer for T-Mobile, and Peter LaMontagne for SBA Towers also appeared. Atty. Eriksen briefed the Board on the application for a 160 ft. monopole cell tower to be erected on a 53 acre parcel known as 180 Sherburne Ave. The monopole would be painted brown and green in order to blend in with the foliage, and be contained in a 70' x 70' fenced compound. T-Mobile's equipment would be installed internally on the pole which would be able to accommodate up to five carriers. Atty. Eriksen pointed out that the tower would be located approximately 470' from the nearest residence, and 550' from Sherburne Ave. itself. He went on to say that all of the zoning setbacks have been met with this proposal. In addition, Atty. Eriksen said that the site is an ideal one due to its remoteness and should be of minimal impact to the surrounding streets and residents.

A balloon test was conducted at the site on September 11, 2010 from 8:00 am until 4:00pm, and was monitored by SBA's engineers. Several pictures were taken and have been included in the applications materials. Engineer Dishant Shah reported that the balloon could be seen from 2 locations in the vicinity. Mr. Shah added that the mature tree cover would provide ample coverage of the pole. Mr. Shah also reported that several alternate site analyses were conducted and the Sherburne Ave. location was the best location for the tower. Also, drive tests were performed and indicated a significant gap in coverage in the area which supports the need for the cell tower in this area. B. Gramer asked how the maps were generated for the drive test. Mr. Shah answered that computer simulations were used in addition to actual driving tests.

S. Nocco spoke on the need for the Planning Board to contract their own RF engineer to review the application and analyses. Therefore, he entertained a motion to request that \$3,500 be submitted into a 53G Account in order to facilitate that review. David Maxson of Broadcast Signal Lab will be conducting the review.

S. O'Neill: Motion to request a 53G Account be established in the amount of \$3,500 for the purpose of conducting an RF engineer review by David Maxson of Broadcast Signal Lab on behalf of the Planning Board.

B. Gramer: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1 Abstain: 1

Passes: 4-0-1-1

Attorney Tim Sullivan spoke on behalf of abutter Gilbert Campbell in opposition to the cell tower. Atty. Sullivan explained that the construction of this cell tower would be detrimental to the residence and would diminish the value of the homes. He went on to raise several questions as to the reasoning behind the placement and need of this tower, and added that Mr. Campbell developed the land and preserved the trees, wanting to maintain it as conservation land. Atty. Eriksen responded by pointing out that the land is privately owned and currently has a logging road that travels to the proposed cell tower site. Tom Delmore from 10 Bridle Path Way spoke as an abutter and asked what if the logging continues on the property and the tower becomes more visible in the future, and whether a different site was considered for the tower. C. Decarteret responded, saying that David Maxson will review the alternative site analyses that

were part of the application. S. Nocco and B. Gramer pointed out that the property is privately owned and is established as 61A forestry. Atty. Eriksen noted that the property never had a conservation easement designated on it.

Will Shamblay of 5 Bridle Path Way spoke in opposition to the tower voicing concerns over the health risks of a cell tower. A 22 Bridle Path Way resident concurred with that concern saying that property values and health risks were his problem. B. Gramer reiterated that the Board has to make their decision based on the facts and not speculation. Residents from 181 Sherburne Ave., and 9 Derby Lane spoke out in opposition to the tower as well, citing that the balloon test was conducted with leaves on the trees. They requested that another balloon test be conducted when the leaves are gone, that way you'd be able to really see how the tower can be seen by the surrounding residents. Atty. Eriksen said that he would explore the possibility of a repeat balloon test.

A resident from 50 Derby Lane voiced strong opposition to the tower due to the harmful radiation that is emitted from the tower. SBA Towers engineer Mr. Shah explained that the amount of radio frequency emissions was so low from a tower that the FCC does not even involve themselves with measuring the levels. He went on to say that there would have to be approximately 200 towers concentrated in one area to emit radio frequency levels close to measurable by FCC standards.

A resident from 17 Derby Lane voiced his objection to a big brown and green 160 foot tower being built. Paul Kaplan spoke on behalf of the Vesper Country Club, saying that the balloon was highly visible from the 10th hole of the Vesper Country Club golf course, and went on to add that the Executive Committee of the Vesper C.C. strongly opposes the cell tower from a visual and environmental standpoint. Mr. Kaplan explained that the Vesper C.C. is home to four nesting sites for the Bald Eagle, and was concerned that the cell tower would interfere with their habitat.

C. DeCarteret was concerned with the other vernal pools surrounding the tower site and asked if those could be plotted on the site map for reference. After a lengthy two hour debate, S. Nocco indicated that there is much more review and discussion to take place after the Board's RF engineer reviews the data. Therefore, he entertained a motion to continue the hearing.

S. O'Neill: Motion to continue the hearing until November 4, 2010

B. Gramer: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1 Abstain: 1

Passes: 4-0-1-1

B. Gramer: Motion for a 5 minute recess

S. O'Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1 Abstain: 1

Passes: 4-0-1-1

S. O'Neill: Motion to appoint Caryn DeCarteret to the Energy and Environmental Affairs Committee
T. Delmore: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1 Abstain: 1
Passes: 4-0-1-1

S. Nocco announced that Planning Board member Jim Miller contacted him and has decided to resign from the Board citing personal and professional reasons. He will submit a letter of resignation.

Administrative

T. Delmore: Motion to approve the minutes from September 16, 2010
B. Gramer: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1 Abstain: 1
Passes: 4-0-1-1

9:50pm

S. O'Neill: Motion to adjourn
B. Gramer: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1 Abstain: 0
Passes: 4-0-1-0

Minutes respectfully submitted by
Pamela Berman
Planning Board Administrative Assistant