



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2006-2007:
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES

(Regular Meeting of 17 August 2006)

AGENDA:

- 7:00PM – **Board Business**
7:30PM – **Continued Public Hearing** for Jeffrey & Susan Marston (MBL 16-4-1) and Industrial Tower and Wireless, LLC regarding a site plan proposal to build a communications tower (EKP#06-OC)
9:30PM – **Public Hearing** for Gregory Sencoff, 10 North Road (MBL 14-3-6), in regard to a site plan for a change in ownership/tenancy of a grandfathered commercial land use in a residential zone (EKP#06-OB)
9:45PM – **Public Hearing** in regard to a change to the Subdivision Regulations (Section VII.K) (NH RSA 676:4) land character.
10:00PM – **Public Hearing** in regard to a change to the Subdivision Regulations (Section VII.R) (NH RSA 676:4) adequate fire protection.
10:05PM – **Continued Board Business**

CALL TO ORDER: Vice Chairman CE Belcher called the regular meeting of the East Kingston Planning Board to order at 7:00PM.

ROLL CALL: Mrs. White called the roll.

Members present – Vice-Chairman CE Belcher, Mr. RF Morales, ex-officio, and Mr. RA Smith, Sr.

Alternate members present – Mr. EA Lloyd, Jr.

Advisors present – Jill Robinson, PhD, Senior Planner, Rockingham Planning Commission (RPC)

Mr. Dennis Quintal, Member, East Kingston Conservation Commission Chairman (CC)

Mr. RR Donald, East Kingston Building Inspector

Mr. A Conti, East Kingston Fire Captain

Voting members – Vice Chairman Belcher noted that Chairman Day and Dr. Marston were not in attendance and announced that Mr. EA Lloyd would be a voting member this meeting.

BOARD BUSINESS:

Minutes. Mrs. Belcher entertained a motion for approval of the July 20 Regular Meeting Minutes and the August 3 Work Session minutes.

MOTION: Mr. Morales **MOVED** the Planning Board accept the minutes of the 20 July regular meeting with minor corrections as amended. Mr. Lloyd seconded, and the motion carried unanimously

MOTION: Mr. Lloyd **MOVED** the Planning Board accept the 3 August work session minutes as corrected. Mr. Morales seconded, and the motion carried unanimously.

Letter to the Board of Selectman. Mrs. Belcher directed the Board's attention to Mr. Day's letter to the Board of Selectman stating which departments/functionaries did not respond to the Planning Board's request for information for the CIP update. The lack of response is a concern.

Town Meeting Agenda. Mrs. Belcher pointed out on a list Mr. Day had prepared, the things that Board can and should work on to be ready for the Town Meeting. Mrs. Belcher stated that there was quite a bit of work to be done, and joked that the Board would never see another Thursday night until Town Meeting.

Work Session. Mrs. Belcher asked the Board to decide on a date for the next work session meeting. After discussion of the Board members, it was decided to hold the Work Session Meeting on September 28 at 7:00 PM in the Town Hall to discuss items needing to be completed for Town Meeting.

Name Plates. Mrs. Belcher announced that since the Chairman had not left the nameplates with her for the meeting, the members should introduce themselves to the attendees for tonight's meeting.

Correspondence from John Daly. Mrs. Belcher reported that she had spoken to Mr. Daly, Town Counsel, regarding his comments pertaining the two Subdivision Regulation section amendments scheduled for Public Hearing this evening. She commented to the Board

that they could discuss his input and either change the suggested language, or continue the hearings until the September meeting. Her thought was that the changes/suggestions he had for the slope issue should be discussed at greater length and perhaps the hearing for that section could be continued to the September meeting, but that since the changes for the fire protection section were minor, perhaps the changes could be incorporated into the new version and voted on this evening.

Targeted Block Grant (TBG). Dr. Robinson reported that the Town had received the grant for their TBG for a farm friendly ordinance article and would be receiving \$1,500 with a \$1,500 match, for a total of \$3,000.

Joint Meeting with the Conservation Commission. Mr. Belcher reported that the Planning Board had met jointly with the Conservation Commission at the last work meeting and had discussed the farm friendly ordinance at length. Also, Marilyn Gott had e-mailed to her web sites and agencies with farm friendly ordinances and State agencies that promote farming and agricultural in NH with ideas for zoning, etc. at the State level. Mrs. Belcher offered to e-mail anyone interested the web address and suggested perusal of the information before the next meeting.

Meeting with Mr. Glenn Tebo. Mr. Donald stated that it was his understanding that the Board would be having a visit from the developer from Cornerstone in regards to defining living space. Mrs. Belcher reported that that meeting had already taken place at the last work session and that Mr. Tebo had been apprised of the Board's definition of living space. Although it appeared he was not altogether satisfied with the explanation, he went away from the meeting fully informed of the Board's clarification of the definition for living space.

Explanation of Procedures. Mrs. Belcher explained the procedures for tonight's meeting to the attendees; stating that first the applicant would speak to the Board; the Board would ask questions of the applicant; the floor would be opened to abutters; abutters would be recognized, asked to state their name and address (spelling any difficult names) and address their comments to the Chair; the floor would be closed to abutters; and the Board would again have the floor. Mrs. Belcher asked the abutters to keep their comments short and concise and not to repeat any statements already made in the essence of time.

CONTINUED PUBLIC HEARING FOR JEFFREY & SUSAN MARSTON (MBL 16-4-1) AND INDUSTRIAL TOWER AND WIRELESS, LLC REGARDING A SITE PLAN PROPOSAL TO BUILD A COMMUNICATIONS TOWER (EKP#06-OC) AT 36 GILES ROAD, EAST KINGSTON

Mrs. Belcher opened the Public Hearing.

Mrs. White passed out copies of the plans received from Mr. Champ to the Board. Mrs. Belcher announced that a set would be provided on a table at the side for the public to review.

Mrs. Belcher reminded the Board that they had invoked jurisdiction on the proposed plan at the last meeting. She then offered the applicant the opportunity to present any new information or updates from the last meeting.

Attending on behalf of the applicant was Mr. John Champ, Site Acquisition Specialist; Mr. Donald Cody, Director of Operations for Industrial Communications (parent company of Industrial Tower and Wireless); Mr. Daniel C. Cabral, Counsel on behalf of the co-applicant, Cingular Wireless; and Mr. Richard Voci.

Mr. Cody inquired of Mrs. Belcher if there was a quorum since he noted some regular members missing from the meeting. Mrs. Belcher thanked him for his observation and replied that there *was* a quorum; that voting members would consist of herself, Mr. Morales, Mr. Lloyd and Mr. Smith.

Mr. Cody went over several items the Board had asked them to complete for tonight's meeting. The first thing was to have Mr. Jay Stephens, the Town Engineer look over the plans. On Mr. Stephens's suggestion, erosion control would now be addressed by chipping on-site vegetation, a DES standard, rather than using hay bales and silt fencing.

Dr. Robinson asked if there was detail of the barrier to be used on the plans and Mr. Voci explained that it was included on the call-outs on pages 1 and 2. It was indicated on the plans and followed around the compound, but was hard to see as it was crosshatched. He then pointed it out to Dr. Robinson and Mr. Lloyd. Mr. Voci explained that the erosion control barrier would consist of a berm of clippings around the compound 24" deep and 12-15" high. Eventually it would disintegrate on its own and not need to be removed, as the hay bales and silt fencing would have needed to be.

Mr. Lloyd asked if this erosion control would only be used during construction and not be permanent and Mr. Voci answered it would not be permanent and break down naturally over time. Mr. Cody stated that it would create its own natural berm as it decomposed.

Mr. Cody then addressed Mr. Stephen's issues individually.

Regarding Mr. Stephens statement #1 that there was no real site plan for the area being developed, Mr. Cody stated that page E1 showed a detailed plan of the compound. Mr. Voci explained it showed the compound layout with the location of the shelters and the generator layout.

Mr. Cody explained that it was a straightforward site development and was not complex construction. The foundations for the shelters would consist of concrete pads with crushed stone around it. Mr. Smith asked if all the shelters indicated on the plans would be built at the same time and Mr. Voci explained that shelters would be built as the carriers arrived and at the present time there was only the one;

Cingular. The area would be prepared and ready for construction, but not all the structures shown on the plans would be built immediately; they indicated future construction.

Dr. Robinson referred Mr. Cody to Mr. Stephens comment in his letter regarding the gravel driveway. Mr. Stephens had stated that in certain places there was a 35% slope and the gravel could erode and also referred to the temporary and permanent erosion control efforts. Dr. Robinson asked what permanent erosion control methods would be used.

Mr. Cody stated that water would shed off to the side as it went down the slope and although the chippings would settle down somewhat, they would not wash away entirely; there would still be a hump left. Also, the natural vegetation would fill back in. Mr. Voci offered that that the erosion would happen very slowly, allowing plenty of time for the vegetation to grow.

Mr. RA Smith asked where the water would run off to when a heavy rain happened. Mr. Cody answered that since they were not changing the contour of the land, the water would shed in the direction it flows at the present time. Mr. Smith asked if it would go to the road and Mr. Cody answered it would not. He stated it would filter down through the vegetation and most likely flow into the river.

Mr. RA Smith asked if the driveway would be paved or gravel and Mr. Cody answered that it would be made of gravel and reclaimed asphalt on top of the gravel. Mr. Voci explained that the reclaimed asphalt was used since it binds better than using just gravel. It was road that was torn up and ground down into small bits and was sometimes used as a road base.

Mr. Cody explained that Mr. Stephens's comments for #2 (35% slope) and #3 (erosion control) had already been addressed in the previous discussions.

Mrs. Belcher asked in regards to #2, since the Town Engineer had a concern regarding the percentage of the slope which might be more susceptible to erosion, did the Board want to consider an emergency access to the property? She asked Mr. Cody what would happen if the road washed out and he explained that the road would be repaired in a timely fashion. Mr. Voci explained that the road would be maintained on a constant basis with washouts being repaired and would be plowed in the winter. The general consensus of the Board was that an emergency access road could create more problems and it was determined unnecessary.

In reference to #4 in Mr. Stephens letter concerning sound buffering, Mr. Cody stated he felt it did not require any action on the part of Industrial Tower as Cingular Wireless and all other potential carriers would be installing hospital-grade mufflers on their generators. Mr. Cody suggested that the Board could list that on their list of conditions. Mrs. Belcher asked if Mr. Cody would give her a comparison of what it would sound like.

Mr. Cody explained that the generator would cycle itself automatically once a week to make sure it was working. It would run for a few minutes and then shut down and would only be used when power was out. Mr. Cody pointed out that it was a good thing for safety's sake since if power was lost, home phones would be useless but cell phones would still be able to be used. Mr. Lloyd asked what the noise level might be and Mr. Cody answered that it would not exceed 50 Db at a distance of 100 feet.

Mr. Donald declared he had some questions pertaining to sheet E1: The size of the compound was not indicated; it was not clear if the propane generator was inside or outside the compound; and the distance between the equipment shelters was not indicated. Mr. Voci answered that the size of the compound was 100' x 100' and was indicated on the first sheet, and that the typical size for the equipment shelters was 12 x 20 feet. Also, the generator was inside the compound. He stated that there was no minimum distance needed between the shelters.

Mr. Donald suggested that Industrial Tower might want to indicate the largest shelter size they needed on the plans, since once it was approved for a certain size, nothing larger could be built without coming before the Planning Board again. Mr. Cody checked with Mr. Cabral if the 12x20 foot shelter size would be adequate for Cingular, and he replied that it would. Mr. Cody stated that they would include the size of the shelters on the plans.

Mr. Stephen's #5 question pertained to the viewshed plan. Mr. Cody asked about the Board's viewpoint in reference to the balloon test and Mrs. Belcher stated that the would be covered in later discussion by the Board.

Question #6 referred to the variance granted by the ZBA.

Question #7 referred to the lack of tower foundation details on the plan. Mr. Cody explained that they do not receive foundation detail information from the tower manufacturer until the results of the boring tests are received which show what type of soil they are dealing with. Then the manufacturer would decide what type of foundation was needed for the soil conditions. When that information is received, it will be provided to the Building Inspector and stamped before they apply for the building permit.

Mr. RA Smith inquired about the height of the shelters and Mr. Cody replied that they were 11 feet high. Mr. Champ interjected that at request of the Board, it was currently indicated on the plans for a maximum height of 12 feet. Mr. Voci stated that the roof would be almost flat, with a slight crown in the middle for water runoff.

Question #8 referred to erosion control around the compound and Mr. Cody stated that that had already been covered in previous discussion.

Question #9 referred to the dewatering basin, which Mr. Cody stated was included on the plans as a standard item. He did not envision the direct need for it as the location was at the top of the hill. Mrs. Belcher asked Mr. Cody to explain what a dewatering basin was. Mr. Cody explained that a foundation hole just as for a home needed to be dug and sometimes the water seeped back into the hole. The water would be removed and filtered before it went back into the environment.

Mr. Cody stated that in reference to Question #10, sheets A1 and A2 had been corrected to read *East Kingston*.

In reference to the statement "existing ice bridge" in Question #11, Mr. Cody declared the word "*existing*" would be eliminated.

In reference to Question #12 and the misalignment of note numbers, Mr. Cody stated that on the current set of plans the alignment problem had been corrected.

Mr. RA Smith asked if they were going to do anything different on the steep slope section, and if they had intentions to pave the road at sometime in the future to prevent it from washing out. Mr. Cody answered that it would be bermed so the water shed off of it before it reached the slope, and that they would prefer to use the reprocessed asphalt and maintain it on a regular basis rather than paving.

Dr. Robinson asked if they had gotten any new feedback from the Town Engineer since the changes to the plans had been made. Mr. Voci stated he had nothing in writing, but that he had gone over the changes on the phone with Mr. Stephens. His main concern was erosion control and the most of the other items were minor in nature.

Mr. Cody inquired about the results of the July 27 Balloon Test. Mrs. Belcher then explained to the public how a balloon test was conducted. She referred to a map Chairman Day had provided to the Board and stated that the Board members had driven to the various locations listed on the map and documented visual site of the balloon from those areas. Of the six locations listed on the map, there was a visual of the balloon at four of the locations, with one of those visuals being only with the aid of binoculars and another the size of a small spot. Mr. Smith commented that it had been hazy on the day of the balloon test. Mr. Lloyd presented two photos taken at different locations at a focal length that was the same as what the natural eye would see; the balloon showed as a speck in one photo and was not visible in the other. Mr. Lloyd offered that his understanding was that the diameter of the balloon was the same as the diameter of the top of the proposed pole and that the diameter of the array would be twice that size. Mr. Cody verified that information to be correct. Mr. Belcher also noted that the Board had visited Autumn Lane and there had been a clear visual of the balloon from the second and third houses in, but nowhere else on the road.

Mrs. Belcher explained to the public that the purpose of the balloon test was so the Board could take into consideration the visual or obstruction that would be seen from a distance. The Board would then take that information under advisement and each Board member would make their determination if they found it a violation of the welfare and comfort to what the public is entitled to their own property. Mrs. Belcher stated that the discussion and photos helped the Board clearly visualize what would be seen when the tower was built and that the photos would become part of the file, and made the photos available for the public to see.

Mrs. Belcher referred to the photograph provided from Mr. Berry at the last meeting and informed him that the Board had taken it into consideration and it was determined that the imposed tower was neither in the correct perspective nor in the correct location.

Mrs. Belcher asked if there were additional comments from the Board. There being none, she asked for comments from the advisors.

Mr. Quintal referred the Board to Mr. LK Smith's letter asking if the height of the tower could be reduced to 150 feet to lessen the visual aspect. Mr. Quintal also had concern regarding the chipped berm as it was his opinion that it would work well with low storm flows, but he thought accumulated velocity of the water flowing down the hill could take out the berm. He suggested that they work with the Town Engineer to provide periodic detail on the plans showing cutoff locations. Mr. Quintal had another question in reference to the 100x100 pad, which was shown on plan page A3 and presumed it to be a flat area, but page A1 showed it on a sloping ridgeline. He suggested the need for a site plan for grading and slopes as it appeared that excavating or filling at the site would be necessary.

Mr. Cody answered that the change from the hay bales and silt fence to the mulched berm was on the recommendation of the Town Engineer and it would take care of Mr. Quintal's concern in reference to the water velocity. Also, the site contours on the plans had been taken from the USGS map and the actual pad site was a very flat area and would require no filling or excavating.

Mrs. Belcher asked Mr. Cody if a cutoff with a sediment basin was unnecessary and he replied that the mulch berming was on the advice of the Town Engineer. Mr. Voci stated if they found in the future there was a problem with the water flow, they would install the cutoffs so they would not need to maintain the road on a constant basis. Mrs. Belcher said she could visualize Mr. Quintal's concern with the water velocity and questioned the chipped berm as well and announced that the Planning Board would ask the Town Engineer to address that issue again.

Dr. Robinson stated that her main concern from the previous meeting had been development on steep slopes and agreed with Mr. Quintal that feedback from the Town Engineer was necessary. She also asked if the applicant could address the possibility of reducing the height of the tower to 150' as per the Conservation Commission Chairman's letter.

Mr. Cody stated that he had not seen that communication and Dr. Robinson provided a copy to him. He stated that their presentation was based on a height of 180', which allowed for present and future use, and that changing the height of the tower would mean that carriers lower down on the pole would not have adequate coverage. It was his opinion that changing the height would not change the visual, as you would still see the tower.

Dr. Robinson clarified that the issue was not just getting above the canopy, but allowing space for multiple carriers on the tower. Mr. Cody answered that that was correct; as per the Town's own bylaws, co-location for other carriers had to be provided.

There being no more questions from the Board or advisors, Mrs. Belcher opened up the floor to abutters.

Tim Berry, 285 North Haverhill Road, Kensington. Mr. Berry provided pictures taken on the balloon test day to Mrs. Belcher for the Board to review. Mrs. Belcher noted that those pictures did not show the balloon and reiterated the fact that the previous photo Mr. Berry had provided had shown a tower, which was not in proportion to the true size of the tower.

Mr. Berry also brought a stand display with various photos for the Board to review. He agreed that on the day of the balloon test, it was hazy and although there were leaves on the trees from May to October, there would be no leaves to block the view of the tower in the remaining months. Mr. Berry asked Mrs. Belcher what the diameter of the balloon was and she answered that it was approximately 3-3 1/2 ' across. He also stated that although the diameter of the pole was reported to be 3', he had pictures of monopoles in which the arrays appeared much larger than the stated 6'-7'. In Mr. Berry's opinion, the balloon test was inconclusive as the balloon was bouncing around in the wind.

It was also Mr. Berry's opinion that cell phone towers should only be located in industrial areas, and the cell tower was not for the public good, did not meet the spirit of the ordinance, and he questioned the motives of Industrial Tower. He stated that the proposed location of the cell tower being on the hill would serve Exeter as well, and he thought it could be located in the industrial area and serve only the people of East Kingston very nicely. Mrs. Belcher informed Mr. Berry there was already a cell tower located in the industrial park.

Edward Smith, 51 Giles Road, East Kingston. Mr. Smith reported that his property was tucked down into the trees. He did see the balloon and as it bobbed up and down he could only see it half of the time; therefore he felt it was an invalid test. Mr. Smith felt the Board did not take the foliage into consideration and reported that the tower would be seen from Giles Road when there were no leaves on the trees.

Monique Waldron, 285 North Haverhill Road, Kensington. Mrs. Waldron stated she had advised people on several streets in the area that there was a proposal to build a cell tower. Mrs. Waldron also stated it was her belief that allowing the cell tower contradicted the spirit of Zoning Ordinance, Article XV B2, and was contrary to the purpose and goals of the ordinance. She stated the tower was in the path of Cole Airstrip and presented a real danger to pilots, and also reported that the American Cancer Society would not endorse the safety of cell towers and Denmark had placed a moratorium of construction of cell towers. Mrs. Waldron referred to the "protection of property values" referenced in the ordinance and stated that there had been no evidence to show that property values would not be lowered, and stated that having a cell tower in view would attract fewer buyers and obtain lower property prices. Mrs. Waldron presented the Board with several copies of signed petitions for the record, which asked for a correction to be made to the decision.

Ronald J. Terrill, 59 Giles Road, East Kingston. Mr. Terrill stated he had moved to East Kingston two years ago and fell in love with the Town because it is a country town. He had attended a Vision Meeting, which talked about keeping the town rural in nature and does not want to see a tower in view from his front yard.

Carolyn E. Sullivan, 77 Giles Road, East Kingston. Ms. Sullivan stated she would not buy a house with a cell tower close to it because of the dangers and was also concerned about the effect of power lines. Mrs. Belcher stated that personally she would be more concerned with the power lines. Mrs. Sullivan asked the Board if they were going to guarantee that property values would not decrease.

Janet E. Tyrrell, 101 Giles Road, East Kingston. Ms. Tyrrell stated that if the Planning Board had joined her on the lawn or come into her home on the day of the balloon test, they would have clearly seen the balloon. She had lived in her house for 11 years and has always enjoyed the view, watching both the sun and the moon rise over the hill. She was concerned about home values due to the proximity of the tower.

Suzanna S. Farmer, 97 Giles Road, East Kingston. Ms. Farmer stated she was not an abutter, but could see the balloon all the way down her driveway. She was concerned with aesthetics, property values and the health of her family. She was upset with the Zoning Board granting the variance for the cell tower and wanted to know why they granted the variance since the ordinance states otherwise.

Mrs. Belcher explained to Ms. Farmer that she also serves on the ZBA and was at the meeting and part of the Board when the applicant came before the Zoning Board to ask for the variance. She explained that if the applicant had come before the ZBA 5-6 years ago, before the variance criteria changed, the cell tower would have not been allowed. One of the reasons it had been allowed was because the law had changed and the interpretation of *hardship* had been changed by the Supreme Court.

Mrs. Belcher further explained that five criteria have to be met for a variance and in the past, the hardship criteria had always been the hardest criteria to meet. Formerly the criteria stated "there is no other use for the property except for the proposed use before the Board." In this case and according to the old criteria, had the Board determined a house could be built on this, property, it would not have met the hardship criteria and the tower would not be approved.

Supreme Court with the Simplex decision in Portsmouth had changed the hardship criteria. The hardship criteria now says that the proposed use is a *reasonable* use of the property and does not restrict it to be the *only* use. It only states that it is a reasonable use based on the layout and the geographical characteristics of that piece of property. The ZBA looked at that; the power lines and gas line easements,

the slope of the land, and Great Brook running through the property and determined all of those hindered other reasonable uses. Based on evidence presented and the new law and how it is interpreted, the ZBA had no choice but to approve that aspect of the criteria.

Ms. Farmer responded that since the variance had to be granted because of the hardship clause, in her opinion it was the Planning Board's responsibility to make sure the visual impact of the tower was minimal and did not affect the public.

Mrs. Belcher stated that the Board's job was to facilitate the laws, regulations and ordinances voted on by the people and all those things would be considered; the Board is looking at the benefit for everyone.

Ms. Sullivan asked what the hardship was; did the property owner's have a hard time paying their taxes? She stated she had a hard time with her taxes also.

Mrs. Belcher explained that the type of hardship Ms. Sullivan was speaking about was not the type of hardship that the Board could consider. The ZBA cannot look at economical hardship; they can only consider hardship as it refers to the layout of the property.

Ms. Sullivan asked if the property was purchased to be developed and Mrs. Belcher stated she could not answer that, as she was not the owner of the property. Mrs. Belcher asked the public to direct further comments only to the tower issue.

Christine Cameron, 105 Giles, East Kingston. Ms. Cameron was concerned with property values and with the fact that her daughter rides her horse up the hill and will not be permitted to if the tower is allowed. She stated that she had had a very difficult time getting a permit to build her house and could not understand why it was so easy for the tower to be built.

George Nolan, Stumpfield Road, Kensington. Mr. Nolan stated he could see the balloon from his property and even around the corner.

Mrs. Janet Tyrrell, 101 Giles Road, East Kingston – Mrs. Tyrrell asked if the town would be receiving income from the tower. Mrs. Belcher answered that she believed the only benefit would be from taxes, and that space for the Police and Fire Department telecommunications would be provided on the tower.

Mrs. Tyrrell asked if they would leave the meeting tonight feeling that their time was wasted and was the Planning Board in a state of completion? Mrs. Belcher answered that the Board was not in a state of completion and would not be making a decision to approve or disapprove the cell tower this evening. She stated that the Board would take all the questions and comments from this meeting under advisement, and that each of the Board members would vote his/her conscience if the proposal meets the criteria of the ordinance.

Mrs. Waldron stated that if the tower construction came to pass, the horses that are boarded at her barn would be bothered by the noise and wanted to let the Board know there would be significant impact on her business.

Mr. Edward Smith asked if there would be another Planning Board meeting. Mrs. Belcher informed him that after more discussion between the Board members and the applicant, the Planning Board would be scheduling a continuance of the hearing until the next meeting, which would be on September 21st.

Ms. Sullivan asked if another balloon test could be considered on a better day. Mrs. Belcher polled the Board, it was decided that another balloon test would serve no purpose, as it had already been determined at the previous test that the balloon could be seen.

Mrs. Belcher closed the floor to abutters and asked if the Board had any further discussion.

Mrs. Belcher stated to Mr. Cody that at the last meeting, the Board had asked for a plan from the applicant showing the distance from the tower to existing houses. Mr. Champ showed Mrs. Belcher a plan with those locations marked and the distances noted.

Mrs. Belcher asked Mrs. Waldron to approach the table and show the Board where her parcel of property was in reference to the proposed tower location. Mrs. Waldron pointed out to Mrs. Belcher that the riding arena was part of the parcel in question. Since there was no distance to that location on the plan, Mrs. Belcher asked Mr. Champ if he could determine the approximate distance from the tower location to her parcel and he answered he thought the distance to be around 900-1,000 feet.

Mrs. Belcher explained to the public that at the last meeting the Board had asked the applicant to provide an overview of the entire area which included houses, identified by property owner, and the distances from the proposed tower to the residences. She explained that a copy of that overlay would be provided on the side table for their viewing.

Mr. Lloyd reiterated that there had been discussion that the diameter of the array was twice the diameter of the pole. He stated that the diameter of the array on the pole on sheet A3 looked to be 3 to 4 times the diameter of the pole. Mr. Morales suggested the applicant add the dimensions of the arrays to the pole drawing on plan page A3 and also show the taper of the tower. Mr. Lloyd requested the Board receive an updated schematic of the diameter of both the tower at various points along the height and the arrays as they sit on the tower.

Mrs. Belcher reviewed the items with the applicant that needed to be presented at the next meeting. The first item was an updated drawing representing the tower array and all the measurements. The second item is the review of the erosion plan on the steep slope. The Board would touch base with the Town Engineer regarding erosion of the chipped berm and the issue of water velocity. Mr.

Morales asked if what they were really asking for was a drainage analysis. Mr. Vosi referred to Mr. Stephens's letter in which he stated that storm water impacts would be negligible provided erosion control efforts were adequate and effective.

Mrs. Belcher asked Mr. Quintal what his opinion was and he stated that as long as the Town Engineer had a chance to review the plans, and address the Board's concerns regarding the water velocity, he would abide by his decision.

Dr. Robinson reiterated that the applicant had acknowledged that the topography had been derived from a quad map and questioned if more site-specific topography information was needed. Mr. Vosi stated they had acquired their information from the USGS map and overlaid it onto their plan. Mr. Lloyd recognized that there were two flat areas shown on the plan, but noted the tower location was not situated on either flat area. Mr. Vosi stated that they had neglected to line up the tower location with the flat area and it would be clarified in the final plan set.

Mrs. Belcher stated that the third item would be a clear depiction of the tower on page A1 showing the contour of the property.

Mrs. Belcher stated that the fourth item the Board needed was for foundation details to be provided. Mr. Vosi reiterated that the type of foundation needed for the tower would not be known until the tower was purchased and the manufacturer was provided with the results of the boring. The manufacturer would then let them know what type of foundation that was needed for their tower. Mr. Vosi assured the Board that the Building Inspector would be provided with stamped copies. Mr. Donald suggested that the statement "the monopole would be installed according to manufacturer's directions" be included on the plans. He also asked the applicant if the pads for the shelters would be monolith foundations. To Mrs. Belcher's question about the definition of a monolith foundation, Mr. Donald explained that it floated on top of the soil and was only poured deep enough to support the weight of the shelter. Dr. Robinson asked if there was any information regarding a soil survey of the site to know if blasting would be required. Mr. Vosi answered that from a visual inspection, there was nothing that would indicate that blasting was necessary.

Mrs. Belcher stated that item 4 was that the statement "the foundation would be installed according to manufacturer's specifications" be included on the plans.

Mr. Lloyd indicated that the spelling of the word aerial should be corrected on several sheets and was assured by Mr. Cody that that correction would be made on the final set.

Mrs. Belcher reminded the applicant that this new list of items needed did not supercede any of the proposed previous conditions of approval cited at the last meeting.

Mrs. Belcher read from Mr. Day's list of conditions that a letter of review and approval from the East Kingston Fire Department regarding fire safety provisions for tenant and lessee was necessary. Mr. Cody stated that this was the first he had heard of that item. Upon further discussion with the Board, it was deemed that the applicant did not know of the items on this list. Mrs. Belcher provided a copy to Mr. Cody so he could be prepared to discuss them with the Board at the next meeting. Mr. Cody requested that the hearing be continued until next month.

Mrs. Belcher entertained a motion to continue this hearing to the September meeting.

MOTION: Mr. Morales **MOVED** to continue the Jeffrey and Susan Marston communication tower site plan (EKPB#06-OC) public hearing September 21, 2006 meeting at 7:15PM. Mr. Lloyd seconded, and the motion carried unanimously.

Mrs. Belcher closed this public hearing.

PUBLIC HEARING FOR GREGORY SANCOFF, 10 NORTH ROAD (MBL 14-3-6), IN REGARD TO A SITE PLAN FOR A CHANGE IN OWNERSHIP/TENANCY OF A GRANDFATHERED COMMERCIAL LAND USE IN A RESIDENTIAL ZONE (EKPB #06-OB)

Mrs. Belcher opened this public hearing for Mr. Sancoff who is proposing to operate an automobile restoration business. Mr. Sancoff was advised to present a schematic before the Board that would depict the layout of his property, as well as an outline of his proposal.

Mrs. Belcher apologized for the lateness of this hearing and thanked Mr. Sancoff for his patience.

Mr. Sancoff explained to the Board members what the building would be used for and showed a schematic depicting the building, landscaped areas and paved areas. He stated he would use the building to conduct automotive sales and repair, which would include custom auto design fabrication and build, machine shop fabrication, sheet metal fabrication, welding, electrical wiring harness fabrication, state inspection station, and automotive cleaning. His hours of operation would be from 8am-5pm, Monday through Saturday and he would have no more than two employees.

He explained that the building is located on half an acre, that the first floor is 5,800 sf and has been fully refurbished and the second floor is 1,520 sf and the heat, electrical, and plumbing have been removed. Mr. Sancoff asked that the second floor not be considered in the site plan, as it is not used. There are three HVAC units located on the roof and the sewer system and leach field seem to be in good condition. There is a 1,000-gallon propane tank with a cement barrier around it on the property as well.

There is a monitored fire detection system with heat risers and smoke detectors located throughout the building, including the second and third floors. There are fire extinguishers located throughout the building and Mr. Sancoff will meet with the Fire Chief to decide on

a location for the Knox Box and supply him with a combination. Mr. Conti stated that Mr. Sancoff had been most cooperative with the Fire Department.

The building consists of mainly of open garage space with a showroom, finished office space and a handicapped bathroom. There is an old boiler room, which is being used as a compressor room and a cement block room in which all flammables will be stored. The only gasoline stored on the premises would be what was in the cars. He does not paint cars and only uses small amounts of solvents and thinners, which would be returned to the flammable room each evening.

Dr. Robinson asked if Mr. Sancoff intended on screening the dumpster. He did not know that was necessary and stated that he had downsized three times to a smaller dumpster and it was still too large for his needs. Mrs. Belcher stated that one of the requirements for commercial use was that the dumpster would be screened. Mr. Morales reminded Mr. Sancoff that he was a business and that garbage pickup was only for residences. Mr. Morales was inclined to allow the dumpster not to be screened in light of all the work Mr. Sancoff had done to make the building look so wonderful compared to what it had been. He reminded the Board that it was not too long ago that the Town was considering exercising eminent domain and tearing it down since it was in such disrepair. He complimented Mr. Sancoff on the magnificent job he had done in restoring the building. Mrs. Belcher reminded Mr. Morales that whatever they offered to Mr. Sancoff they would also need to be prepared to offer it to the next person. Mr. Conti suggested that there was a smaller sized dumpster available and Mr. Sancoff stated that he could downsize to that smaller dumpster on wheels which could be moved to the rear of the building and out of sight, making screening unnecessary.

Mr. Lloyd asked how many cars he would have and Mr. Sancoff answered that from 15-30 cars could fit inside the building, but he thought he would have closer to the 15. Some cars may be parked outside during the day, but no cars would be left out at night.

Mrs. Belcher advised Mr. Sancoff if he wanted a sign, he would need to approach the Board of Selectmen.

Dr. Robinson inquired if Mr. Sancoff was intending on striping the parking lot and he replied that he would leave it open. He had applied for a driveway permit for the existing driveway. She noted that lighting was indicated on the plan asked what type of fixtures they were. Mr. Sancoff replied that there were motion sensor lights above each door mostly for the Police and Fire Department need, but that there was nothing illuminated on the lot at night.

Mrs. Belcher opened the public hearing to abutters. There being none, the hearing was closed.

Mrs. Belcher stated that the conditions for approval would be submitting to periodic fire inspections, applying for a sign permit from the Board of Selectmen (if one was desired), and paying the bills.

Mrs. Belcher was unsure if the Notice of Decision needed to be recorded and chose to defer to Mr. Day on that issue. Mr. Morales stated that he thought it would be the Mr. Sancoff's benefit to record the Notice of Decision.

Mr. Quintal stated that Mr. Sancoff should include anything that he might need to do in the future on the plan. He should show where cars could park, where the lights are located, and indicate the direction of the drainage flow off the site. Showing the drainage might protect Mr. Sancoff from future problems with drainage from abutters. He also apprised Mr. Sancoff that the Registry would require a surveyor's stamp to record a site plan, which would be an added expense. Mrs. Belcher entertained the thought that the Notice of Decision would be adequate, with the copy of the hand-drawn schematics in the file.

Mrs. Belcher entertained a motion to approve the site plan review as presented for Gregory Sancoff, 10 North Road (MBL 14-3-6), for an automotive restoration business that offers automotive sales and repair, custom auto design fabrication and build, machine shop fabrication, sheet metal fabrication, welding, electrical wiring harness fabrication, state inspection station, and automotive cleaning with conditions of periodic Fire Department inspections, future signage to be presented to the Board of Selectmen, payment of all bills, and parking availability and drainage design shown on plans.

Dr. Robinson suggested that uses A-J from the schematic be listed on the Notice of Decision as well.

MOTION: Mr. Morales **MOVED** that the Planning Board approve the site plan review as presented with the conditions noted. Mr. Lloyd seconded and the motion passed unanimously.

Mrs. Belcher closed this public hearing.

Mr. Sancoff thanked the Board for their time.

CONTINUED BOARD BUSINESS

Mr. Donald presented Mrs. Belcher with a drawing of the proposed enhanced parking area for the East Kingston Elementary School from Mr. Poelaert for the files.

Mr. Smith stated that some of the tower discussion pertaining to the variance had already been addressed by the Board of Adjustment and that tonight's meeting was for the site plan review. Mrs. Belcher agreed the Planning Board only had jurisdiction on the site plan review, but that the public had questions she felt needed to be answered. Mr. Morales stated that there had been misunderstanding about the variance process and Mrs. Belcher's excellent explanation of the process was clear and distinct.

PUBLIC HEARING IN REGARD TO A CHANGE TO THE SUBDIVISION REGULATIONS (SECTION VII.R) (NH RSA 676:4) ADEQUATE FIRE PROTECTION.

Mrs. Belcher opened the public hearing for Subdivision Regulation Section VII.R.

Mrs. Belcher reported that Mr. John Daly, Town Counsel, had looked over the proposed changes to the Subdivision Regulation Section VII.K and R and had submitted his suggestions/changes for the Board to review.

Mrs. Belcher went over Mr. Daly's changes and read the complete proposed amendment to the subdivision regulation.

SECTION VII – GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

- R. Adequate fire protection shall be provided for all subdivisions, subject to review and approval of the Town Fire Chief or his deputy. Measures may include, but shall not be limited to cisterns, fire ponds, and dry hydrants. **(Adopted 12/87)**
1. Any subdivision creating two (2) new lots* shall be exempt from the requirement to provide fire protection so long as the following conditions are met:
 - a. The new lots are intended for residential use. Commercial and light industrial uses of any newly created lots, as well as lots of record, shall comply with current fire protection requirements as described by ordinance and regulation.
 - b. The final subdivision plan and individual lot deeds shall be recorded with the following note (or substantially similar language that has been approved by the Planning Board).

“Any further subdivision of either of the two, newly created lots shall necessitate the installation of an approved fire protection source in accordance with current ordinance and regulation requirements.”

* Note: A single lot of any size subdivided into two lots constitutes two (2) new lots for purposes of this regulation, regardless of the individual lot acreages resulting there from. **(Amended 8/06)**

Mrs. Belcher entertained a motion to amend Subdivision Regulation Section VII.R.

MOTION: Mr. Lloyd **MOVED** that Subdivision Regulation Section VII.R be amended with the proposed changes. Mr. Morales seconded, and the motion passed unanimously.

Mrs. Belcher entertained a motion to adopt the amendment to Subdivision Regulation Section VII.R.

MOTION: Mr. Lloyd **MOVED** to adopt the amended changes Subdivision Regulation Section VII.R as part of the subdivision regulations. Mr. Morales seconded, and the motion passed unanimously.

With no public comments offered, Mrs. Belcher closed this public hearing.

PUBLIC HEARING IN REGARD TO A CHANGE TO THE SUBDIVISION REGULATIONS (SECTION VII.K) (NH RSA 676:4) LAND CHARACTER.

Mrs. Belcher opened the public hearing for Subdivision Regulation Section VII.K.

Mrs. Belcher provided the Board with proposed changes to the Subdivision Regulation Section VII.K from Mr. Daly and stated that based on his comments, this hearing required more in depth discussion of the Board and suggested it be continued.

Mrs. Belcher entertained a motion to continue the public hearing for Subdivision Regulation Section VII.K.

MOTION: Mr. Morales **MOVED** that the Public Hearing for Subdivision Regulation Section VII.R be continued until September 21 at 7:05PM. Mr. Lloyd seconded, and the motion passed unanimously.

Mrs. Belcher closed this public hearing.

ADJOURNMENT:

MOTION: Mr. Morales **MOVED** the Planning Board adjourn. Mr. Lloyd seconded, and the motion carried unanimously at 10:15PM.

Respectfully submitted,

Barbara A. White
Recording Secretary

Mrs. Catherine Ellen Belcher
Vice Chairman

Minutes approved September 21, 2006