

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

July 16, 2019

7:00 p.m. Town Hall

Present: Josef Chalot, Chair James Huebener
 Daniel Bodenski Carol Anne Jordan
 Peter Curry Andrew Gilbert

Absent: Jonathan Sahrbeck

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Chalot called the meeting to order and asked for the approval of the minutes of June 18, 2019. The minutes were approved as presented, 6-0.

OLD BUSINESS

AT&T/11 Avon Rd site plan amendment - AT&T is requesting site plan amendments to 11 Avon Rd to install antennas on the water tower and ground support equipment, Sec. 19-9, Site Plan Public Hearing.

Ted Small, Counsel for AT&T and Kristen LeDuc introduced themselves. Mr. Small said there will be a new small concrete slab 8 ft. X 17. ft installed. The pad will support an equipment shelter and an A/C generator to provide power in case of a power outage. The generator will only be used to recharge the batteries in case of a power outage.

Traffic impacts consist of two maintenance visits a month. The power to the equipment will be a new 200 amp service. Erosion control has been provided. For sound, fencing with sound barriers inside an 8 ft. fence will be installed if needed. The generator will be within sound limits. It is hard to prove until the equipment is installed. They will take the necessary steps to be in compliance.

Ms. Le Duc spoke about the placement of the generator.

Mr. Chalot opened the public hearing.

David Reardon of Trundy Road objects to the placement of this facility without some more information. He said it's not proven to be safe and he has two small children.

Pavel Darling of 9 Avon Road is concerned about the sound buffering. He would like to suggest that if more buffering is needed that it be within the existing enclosure. He would not like to have another fence added.

No one else came to speak, so the public hearing was closed.

In response to a Planning Board member question, Ms. O'Meara said under the federal communications law, local governments are precluded from considering the health impacts.

Mr. Small agreed that federal law covers the health impacts. He also said A T & T is committed to doing whatever it needs to do to meet the requirements within the perimeter of the property. If the Town should require buffering outside the perimeter, they will do whatever is necessary.

Mr. Huebener would like Ms. O'Meara to address how it's already been litigated about the placement of the towers.

Ms. O'Meara said this is a qualified alternative tower structure. There were appeals to the Zoning Board and back and forth to the court a few times. It was determined that it was an alternative tower structure. Based on that finding, the Planning Board has previously granted approval for Verizon to install antennas on the water tower.

Ms. Jordan asked about notes on the plan.

Ms. LeDuc said the notes on the plan reflect the changes that have been made, and the notes to be added are for the conditions that will be determined by the Planning Board.

Ms. O'Meara noted that the applicant has agreed to have 8 ft. fencing around the concrete pad instead of 6 ft. as shown on the current plan.

Mr. Curry noted that they have buffered the appearance of the existing tower, and he expressed sympathy for the concerns about the health effects, but said we are not allowed to consider that issue.

Mr. Huebener made the following motion:

Findings of Fact

1. AT&T is requesting site plan amendments to add antennas to the water tower (an "alternative tower structure") located at 11 Avon Rd, which requires review under Sec. 19-9, Site Plan Regulations.

2. The plan for the development reflects the natural capabilities of the site to support development.
3. Access to the development will be on roads with adequate capacity to support the traffic generated by the development. Access into and within the site will be safe. Parking will be provided in accordance with Sec. 19-7-8, Off-Street Parking.
4. The plan does not provide for a system of pedestrian ways within the development because the site is not open to pedestrians due to federal safety rules.
5. The plan does provide for adequate collection and discharge of stormwater.
6. The development will not cause soil erosion, based on the erosion control plans submitted by the applicant.
7. The development site will not be provided with potable water because the use of the site as a telecommunications facility does not require water.
8. The development will not be provided sewage disposal because the use of the site as a telecommunications facility does not require sanitary waste disposal.
9. The development will be provided with access to electrical utilities.
10. The development will not locate, store or discharge materials harmful to surface or ground waters.
11. The development will not provide for on-site disposal of solid wastes because the use of the site as a telecommunications facility does not require solid waste storage as any waste generated will be immediately removed from the site.
12. The development will not adversely affect the water quality or shoreline of any adjacent water body.
13. The applicant has demonstrated adequate technical and financial capability to complete the project.
14. The development will provide for adequate exterior lighting without excessive illumination.

15. The development will provide a vegetative buffer throughout and around the site and screening as needed.
16. The development will not substantially increase noise levels and cause human discomfort.
17. The use of shrouds and color coordinated cabling conceals the antennas.
18. The applicant will not will obstruct co-location by other providers, subject to adding a note to plan C-1 as required by this approval.
19. The proposed antennas will blend into the surrounding environment through the use of color and camouflaging architectural treatment.
20. The existing vegetation will provide a buffer and minimize visual impact.
21. The new antennas and ground supporting pad and equipment are designed in conformance with structural standards.
22. The facility is surrounded by an 8' high fence that provides adequate security.
23. No advertising is proposed on the site.
24. Based on the license issued by the Federal Communications Commission (FCC), the equipment will not interfere with existing telecommunication within the service area.
25. The applicant has agreed to remove equipment after no more than 12 months of cessation of use.
26. The applicant shall be required to post a performance guarantee for the proposed improvements on the site.
27. The Planning Board conducted a site walk at 11 Avon Rd on Monday, June 24, 2019 beginning at 5:30 pm.
28. The application substantially complies with Sec. 19-9, Site Plan Regulations and Sec. 19-8-12, Tower and Antenna Performance Standards.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of AT&T to add antennas to the water tower (an "alternative tower structure") located at 11 Avon Rd be approved, subject to the following conditions:

1. That the wood fence around the concrete pad be increased to 8' in height; After sound testing at the property line, if the decibel level does not meet the town ordinance criteria, then additional sound attenuation material should be added inside the fence surrounding the concrete pad. If sound levels still do not meet town ordinance standards, then wood stockade fence shall be installed outside the chain link fence in the area from the northerly termination of the split rail fence to the northeast corner of the chain link fence; After these measures are taken the applicant shall determine the decibel level at the property line. If the tested level is greater than that allowed by the ordinance the applicant shall meet with the town planner to determine the next step;
2. That the dead tree adjacent to the access drive be replaced with a new evergreen tree of the same species and comparable size;
3. That a note be added to the site plan C-1 that the applicant will not interfere with the colocation opportunities of other providers, in accordance with FCC regulations;
4. That a note be added to the site plan that all equipment will be removed after 12 months of cessation of use and that a performance guarantee be provided to cover the costs of removal;
5. That there be no issuance of a building permit or alteration of the site until the plans have been revised to satisfy the above conditions and submitted to the town planner.

Ms. Jordan seconded the motion.

There was a discussion of the wording for the first condition that is reflected above. It was approved as a friendly amendment.

The motion was approved, 6-0.

The board voted 6-0 to adjourn at 7:45 p.m.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary