

PRESENT: Dever, Chairman, Pelczar, Vice- Chairman; Flanders, Thorpe, Clark, Edney, Code Enforcement Officer, Tivnan, Clerk

Clark moved, Thorpe seconded, THAT WE APPROVE THE MINUTES OF MAY 14, 2009. Voted unanimously.

PUBLIC HEARINGS

2876. SAI FOR ATT MOBILITY: An appeal for a SPECIAL EXCEPTION (ARTICLE VII, SECTION B-5) to co-locate on the existing communications facility, Tax Map S17, Lot No.17E, located at 15 Northview Drive in the Commercial Route 3 South District.

Peter DeMarco - ATT is here to co-locate on an existing tower. We have been before the Planning Board. Passed to the Board written evidence they are in compliance with the FCC and they meet the requirements of the National Environmental Policy Act. I am asking for a waiver on 3 thru 7 from the Board in writing. The ordinance was designed for new towers.

3. An inventory of existing towers that are within the jurisdiction of the Town and those within one mile of the Town borders, including specific information about the location, height, design, as well as economic and technical feasibility for co-location. Written evidence shall be presented that no existing structure can accommodate the applicants proposed antenna in a manner that will achieve the required technical result.
4. A description of the proposed coverage range together with the technical reasons for the facility design.
5. A description of the tree covers on the subject property and adjacent properties by dominant species and average height, as measured by or available from a verifiable source.
6. Representations, dimensioned to scale, of the proposed tower, antennas, equipment shelters including elevation drawings of all structures and the vegetative buffer.
7. A visual impact assessment including before-condition photographs and after-condition photographic simulations of the proposed facility showing what can be seen from any public viewpoint as inventoried and assessed in the report prepared by Thomas Kokx Associates dated March 8, 1999, on file at the Meredith Planning Office.

Dever – I don't believe this Board has the power to waive any parts of the regulations. We don't have the authority. We are not the Planning Board. I

understand what you are saying. It does look like it is a little bit of overkill for another antenna but looking at #6 it does mention antennas. DeMarco – I do have that here. That's on the drawing. I can ask for a continuance until we provide the information or ask the Board to grant the special exception pending us delivering the information. I'll finish with the presentation. The criteria for all special exceptions within the town are:

- a. That the use will not be detrimental to the character or enjoyment of the neighborhood. The site is presently used for wireless telecommunication purposes.
- b. That the use will not be injurious, noxious, or offensive to the neighborhood. – Visual effect is minimal and no additional use other than telecommunications equipment purposes.
- c. That the use will not be contrary to the public health, safety, or welfare by reason of undue traffic and unhealthful emissions. – Virtually no traffic contemplated. Site will meet FCC requirements for safety and signal interference.

This has been reviewed by the Planning Board. I believe we meet the criteria for a special exception. Thorpe – Does this application meet the requirements for a special exception and if it does, I guess we have the authority to grant it? Dever – However, there are some specific requirements when it comes to the cell tower ordinance. Those have to be met also. He does meet the others under the general requirements for a special exception. We can't waive the specific requirements in the tower ordinance. Flanders – What are the points in question? It looks like #3 doesn't apply. Clark – I agree with Brian, yet it says "the application for a special exception shall require certain information" and it appears to me those are criteria that would encourage the applicant to do exactly what the applicant is doing. He is putting it on an existing tower. It seems a shame to make them come back. Dever – We don't have to make them come back. As he suggested, we can approve it subject to him providing the additional information. There was a lot of thought that went into this ordinance. Flanders – I think we need to narrow it down on what he needs to come back with. It looks like #6 is covered. Clark – Let's address the ones he doesn't have. Dever – In our deliberative session we can work it out. The information that was provided to us tonight was not given before hand, so we did not have a chance to review it. DeMarco – I believe the ones we don't have are #4 and #5. Dever – I suggest you clearly delineate all of them. Hearing closed at 7:15 PM

2877. SHERMAN SALTMARSH, JR. An appeal for a VARIANCE (ARTICLE V, SECTION D-4) to transfer 7,429 ac. from Lot 12 to Lot 10 to allow new septic to fall within the boundaries of Lot 10, making Lot 12 more non-conforming, Tax Map U22, Lots 10 & 12, located at Sachem Cove Road in the Shoreline District.

Carl Johnson – He would like to transfer a small portion of one of the lots he owns to be a portion of another lot he owns. It is located in Sachem Cove. He currently owns 3-

lots of land that are on the lakeside and 3-lots on the backside of the road. Lot 12 is currently referred to as the main house. This is not a change in use but an adjustment to the line between lots 10 & 12. No new building will be erected. Lot 10 is not large enough to support a new septic system with the current lot configuration. By transferring a small parcel of land from one ownership to the other, there is no increase to the density. We are just shifting parcels. He wants to make a transfer. This makes both of these non-conforming lots more similar in size. We are here for a variance because he is making a non-conforming lot technically a little more non-conforming, but he is also making a non-conforming lot conforming, by the same amount. This transfer of land does not make it so small that you could not get a state approved septic system on it. In terms of the criteria for granting a variance; the use is residential and there will be no change. There will be no new structure so it will not be detrimental to the neighborhood. There is no other land available for this septic. Hearing closed at 7:31 PM

2878. CARL JOHNSON FOR VANDERVELDE ASSISTED LIVING GROUP: An appeal for a SPECIAL EXCEPTION (ARTICLE V, SECTION D-9, G.1.a.) to install a water line through a wetland with 139 s.f. of temporary direct impact and a temporary buffer impact of 329 s.f., Tax Map S21, Lot 12, located at 153 Parade Road in the Res./Forestry Rural Districts.

Carl Johnson - This property is more commonly known as Forest View Manor. The current facility consists of three Manors. Manor III is the brick building down by the road and there are two additional structures, Manor I and Manor II. There was an application to the Planning Board for an amendment to the site plan to expand Manor I and Manor II to provide shared rooms. That was approved by the Planning Board and there is a foundation permit granted to start construction on Manor II. It was discovered with the expansion of the two buildings, the sprinkler system would be inadequate. The sprinkler system for Manor III was over designed in the event they need the additional pressure for the other two buildings. The sprinkler system needs to be beefed up for the expansions by connecting the water lines between Manor III, Manor I and Manor II. In order to provide water from Manor III to the other two facilities, you need to cross the wetland. There are no other water sources available which will provide enough pressure and capacity for the sprinkler system. This will be a temporary impact. They will dig the waterline, lay the line, and then replace the wetland to its existing condition. The Zoning Ordinance does allow crossing of a wetland with a utility. That is what we are proposing. In addition to the 139 sq. ft. of temporary wetland impact there is also a temporary buffer impact of 329 sq. ft. (Passed photographs to the Board) We believe this proposal is consistent with Section C (purpose and intent) of the Overlay District. There are no other alternatives. We have made application to the State of NH. You have a letter from the Conservation Commission that is in your packet. They have no objection. Dennis Kehl – Not sure where in relationship this is to my property. Johnson – You are an abutter to the north of this property. This proposal is about 500' down slope from the Kyle property. Hearing closed at 7:43 PM

2879. CHYREL AND DAVID GALLAGHER: An appeal for a VARIANCE (ARTICLE V, SECTION D-4.B.) to reconstruct existing home 50' from the shoreline, 65' required, and build a new garage within the 30' setback to the ROW, Tax Map S16, Lot 12, located at 93 Bonney Shores Road in the Shoreline District.

Carl Johnson – I hope you got a chance to look at this property because it has an unusual circumstance that goes with it that causes us to believe we are justified in asking for the variance; when in a normal situation to ask to be under 2' from a property line may seem to be pushing the limit. This is an attempt to put an expansion to a property in the least objectionable place to anybody. The unusual feature of this property is when the access to Bonney Shores was laid out; it was laid out as a dead-end with a cul-de-sac. It was ultimately developed with the cul-de-sac being chopped off. It is a one-way loop. That created a ROW that is part of Bonney Shores Road, which is not used by the town as any portion of the road. (Presented a picture to the Board showing Carl standing at what would be the 30' setback from a normal ROW situation had the ROW been constructed the way the roadway was constructed.) The flag behind Carl will be the nearest corner of the garage to the road. That is considerably beyond where the normal ROW would be. We are asking to remove, renovate, and replace an existing single-family dwelling and build a new garage. I met with Mike Faller, Director of PW, and he has no problem with the garage being located that close to the ROW. His only concern was there is some ponding that happens on the other side of the road. When it over flows in a big rain event, the water goes down between Gallagher's and Valpey's driveways and there is a rise before it gets to the lake, so it doesn't get to the lake. Mike just wanted to make sure Mr. Gallagher would not be doing anything in his proposal that would cause water not to go there. I have made modification to the owner's original design based on what I think is a more equitable situation in order to get a reasonable sized house. The lot coverage is at 20%. The total sq. ft. of everything, including all impervious surface, is 3300 sq. ft. We don't think it would diminish surrounding property values. It is not contrary to the public interest because it is not creating a new use. The special conditions of the property are because Bonney Shores Rd. was originally designed with a layout that is different than what currently exists. The garage can go no other place on the lot and stay within the side setback. We feel this is not contrary to the spirit of the ordinance. The ordinance allows for reasonable encroachment if it can be shown no harm will come to the public or abutters. Thorpe – I assume their lot of record does not include the old ROW that was never built on. Johnson – Correct – Flanders –(Asked Carl to point out property lines.) Thorpe- Would he be paving the town's ROW for a driveway? Johnson - Mike Faller doesn't care. Many times when you build a driveway you are paving well within the town's ROW to get to your house. Sandra Sabutus - We are abutters and have no objection to this. Donald Trudeau – I live one house away and I think this will enhance the value of not only the Gallagher's home but the neighbors. Hearing closed at 8:05 PM

2880. SACHELS REALTY TRUST, LLC.: An appeal for a SPECIAL EXCEPTION (ARTICLE V, SECTION D-9) to allow construction of a 1,300' long cul-de-sac associated with an 11-lot subdivision with 3 wetland crossings totaling 4,532 sq. ft. of

direct impact and buffer impacts of 27,584 sq. ft., Tax Map R07, Lots 49 and 50, located off Meredith Center Road in the Residential District.

Carl Johnson – This project is located at the corner of Meredith Center Road and Collins Brook. It encompasses a little over 30 acres. We recently went before the Planning Board and were approved for an 11 lot subdivision. The most significant wetland is the Mill Brook wetland. With the exception of the isolated wetlands, all wetlands and streams drain into either Mill Brook or directly into Lake Winnisquam. For the most part, we are avoiding all of the wetlands that are of importance to the town. In order to construct the roadway, for access to the lots, there will be three very small impacts to the wetlands. Randall Shuey – We have walked this numerous times. There is an existing power- line easement that goes thru the property and an existing gravel road that connects to one lot. That easement will be relocated. The wetland impact area is all associated with the road itself. There is a total of 4532 sq. ft. of impacts. The largest wetland is a forested one. We have labeled it wetland A. It has some areas where it ponds water. Most of the ponding is back towards the center of the wetland. The other wetlands on site are all small forested pockets of wetlands with some connections. The highest value wetland is Mill Brook. The next highest value is Collins Brook. Let me run thru the criteria that needs to be met in order to grant the special exception.

1. *Promote health, safety, and welfare of community*

- The proposed project does not propose any negative impacts to the health, safety, or welfare of the adjacent neighbor or future community. This will be a private development.

2. *Prevent degradation of surface and ground water quality*

- Water quality will be maintained on the site thru construction.

3. *Preserve the ability of wetlands to provide treatment for water quality, filter pollutants, trap sediments, retain & absorb chemicals and nutrients*

- There is no need for detention basin design. This allows for more sheet flow thru the buffer areas and the natural areas before it gets to the wetlands.

4. *Prevent the destruction of or significant changes to natural wetlands which provide flood storage.*

- One of the reasons that we don't need to provide flood storage on this property is because there is so much flood storage immediately adjacent to the development.

5. *Prevent the destruction of habitats for rare, unique, threatened, or endangered species of flora and fauna.*

- No habitats of rare or unique species were observed on the property.
- A request to the Natural Heritage Bureau is pending.

6. *Prevent the development of structures and land uses in wetlands*

- The only impacts to wetlands are for road crossings. The roads have been placed to minimize the impacts to wetlands. No structures will be built in wetlands and none of the proposed activities will cause the degradation of surface or ground water.

7. Preserve and enhance aesthetic and recreational values associated with wetlands

- The proposed activities will not impact the aesthetic or recreational value of the wetlands. Mill Brook provides both high aesthetic and recreational values, neither of which are impacted by the proposed project.

8. Protect fish and wildlife habitat, maintain ecological

- Wetland A is the only system on the property that involves proposed wetland and wetland buffer impacts. Wetland A does not provide fish or shell fish habitat and minimal wildlife habitat. Proposed activities will not result in an ecological negative shift of balance.

We think this plan with the use of spread out storm water flows, not having concentrated direct discharges anywhere, the use of good planning and minimal impact is going to provide an enhancement to the area. Donna O'Neil – I am an abutter and I am at the top end of this project. The reason I am against this is because of the environmental impact to the wildlife. We have lived here for approximately 24 years. Shuey – Most of the larger mammals in there are going to be moving around in there. The main wildlife corridors are generally the wetland areas. There may be some displacement of those larger wetlands according to RSA. 483 a-1b (wetland rules,) there are no wetland dependent wildlife species on site. We are not impacting any fish habitat that is associated with Mill Brook or Collins Brook. The house setbacks off of the prime wetland are going to be more than the 150'. O'Neil – My concern is where are all the animals going to go? I did write a letter to the Meredith Conservation Commission and I did not get a response from them. I also emailed them but I never heard from them. Johnson – The Board has to realize we are here for a specific reason. That is the impacts we talked about and with the exception of the three small areas of impact, we are meeting or exceeding by a great amount all of the setbacks required by both the subdivision regulations and the Zoning Ordinance. All of the other development issues were addressed at the Planning Board level. Dever – Did you say you did not get a copy of the Conservation Commissions letter? O'Neil – I did not. Dever – Passed a copy of the letter to Mrs. O'Neil. Johnson – We do have to go to the State for approval. Hearing closed at 8:30 PM.

DELIBERATION

2876. SAI FOR ATT MOBILITY:

Dever – The ZBA Board does not have the authority to grant a waiver. Clark – Maybe this should be continued. We did not get the information until tonight. Pelczar – He's not asking to build a new cell tower. Should we have him come back next month for two criteria he's missing? Clark-I don't feel strongly about this. I would be happy to go either way. Dever – My feeling is the ordinance was available to him. He could read what he had to do. It's not a whole lot of work. He could address those points easily but he made no attempt to address all of them. He just asked for a waiver. We can't grant a waiver. We are not the Planning Board. Flanders – So are you in favor of a continuation? Dever – You guys make the motion and I will vote. The continuance is fine with me.

Clark moved, Pelczar seconded, IN CASE # 2876, SAI FOR ATT MOBILITY, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE VII, SECTION B-5) TO CO-LOCATE ON THE EXISTING COMMUNICATIONS FACILITY, TAX MAP S17, LOT NO.17E , LOCATED AT 15 NORTHVIEW DRIVE IN THE COMMERCIAL ROUTE 3 SOUTH DISTRICT, BE CONTINUED TO JULY 9, 2009 SO THE MISSING INFORMATION MAY BE PROVIDED IN A TIMELY MANNER. Voted 5-0 in favor.

2877. SHERMAN SALTMARSH, JR.

Thorpe – This seems to be well thought out. The property owner is only moving his own boundary to his own property. I don't have an issue with this. Clark – This doesn't violate the spirit and intent of the ordinance.

Clark moved, Pelczar seconded, IN CASE # 2877, SHERMAN SALTMARSH, JR., I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D-4) TO TRANSFER 7,429 SQ. FT. FROM LOT 12 TO LOT 10 TO ALLOW NEW SEPTIC TO FALL WITHIN THE BOUNDARIES OF LOT 10, MAKING LOT 12 MORE NON-CONFORMING, TAX MAP U22, LOTS 10 & 12, LOCATED AT SACHEM COVE ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

2878. CARL JOHNSON FOR VANDERVELDE ASSISTED LIVING GROUP:

Clark- I visited this site and have to say the impact is very minimal. I think there is very little problem with this.

Pelczar moved, Flanders seconded, IN CASE # 2678, CARL JOHNSON FOR VANDERVELDE ASSISTED LIVING GROUP, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE V, SECTION D-9, G.1.A.) TO INSTALL A WATER LINE THROUGH A WETLAND WITH 139 S.F. OF TEMPORARY DIRECT IMPACT AND A TEMPORARY BUFFER IMPACT OF 329 S.F., TAX MAP S21, LOT 12, LOCATED AT 153 PARADE ROAD IN THE RES. /FORESTRY RURAL DISTRICTS BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

2879. CHYREL AND DAVID GALLAGHER:

Clark – I want to thank the abutter who came out and gave us their opinion. For me personally, it makes it easier when judging the criteria.

Thorpe moved, Pelczar seconded, IN CASE # 2879, CHYREL AND DAVID GALLAGHER, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D-4.B.) TO RECONSTRUCT EXISTING HOME 50' FROM THE SHORELINE, 65' REQUIRED, AND BUILD A NEW GARAGE WITHIN THE 30' SETBACK TO THE ROW,

TAX MAP S16, LOT 12, LOCATED AT 93 BONNEY SHORES ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE WITH AN ENCROACHMENT OF 1.7' TO THE PROPERTY LINE. Voted 5-0 in favor.

2880. SATCHELS REALTY TRUST, LLC.

Clark – I think it should be noted we have one neighbor who feels the wildlife would be impacted by this development. However, we also have a report from a licensed environmental company and a report from the Conservation Commission and both tell us at most, there will be minimal impact. Thorpe – The neighbor is objecting more to the entire development than what we are here for tonight, which are wetland impacts. We are here for the wetland impacts and not the development. Flanders – She’s the abutter that is probably the farthest away. Dever – And they didn’t show.

Clark moved, Flanders seconded, IN CASE # 2880, SATCHELS REALTY TRUST, LLC., I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE V, SECTION D-9) TO ALLOW CONSTRUCTION OF A 1,300’ LONG CUL-DE-SAC ASSOCIATED WITH AN 11-LOT SUBDIVISION WITH 3 WETLAND CROSSINGS TOTALING 4,532 SQ. FT. OF DIRECT IMPACT AND BUFFER IMPACTS OF 27,584 SQ. FT., TAX MAP R07, LOTS 49 AND 50, LOCATED OFF MEREDITH CENTER ROAD IN THE RESIDENTIAL DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

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Meeting adjourned at 9:00 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on _____, 2009.

Jack Dever, Chairman