

## **APPROVED Minutes of the Planning Board Meeting of February 22, 2011**

**Members Present:** Tom Cottrill (Chair), Jeff Hollinger (Vice-Chair), Peter Bianchi (Board of Selectmen Representative), Emma Crane (Conservation Commission Representative), Paul Gorman (Alt.), Michele Holton

**Members Absent:** Michael Doheny (Secretary), John Tilley, Deirdre Sheerr-Gross (Alt.)

**Others Present:** Peter Stanley (Planning & Zoning Administrator), Rachel Ruppel (UVRPC)

Chair Cottrill called the **MEETING TO ORDER** at 7:30pm. He asked alternate, Paul Gorman, to sit in for Michael Doheny, who was absent.

### 1. Proudstone Corp. (PC's) Concept SPR/Need for SPR.

Mr. Daren Sweat and Mr. Doug Dow, co-owners of Proudstone Corp, were present to request waiver of full Site Plan Review. They have recently purchased and reopened Peter Christian's Tavern, and they wish to return existing office/storage space back to two apartments on the second floor as originally approved in 1991. In the 1990's there were small efficiency apartments which at some point were converted to office/storage space. Mr. Stanley said that he has calculated the parking with the current mix of uses and with the proposal to add two apartments and found that there is ample parking. He added that the space that was for Artisans (in the front of the restaurant) is now designated for "Gourmet Garden." Mr. Stanley said that they just want to do what was on the 1991 plan and he didn't see an issue with converting back to two apartments. Since these two apartments were originally approved he did not see the need for a site plan review.

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Michele Holton) to waive a full Site Plan Review for Proudstone Corp., provided the applicants complete a Fast Track Application for Site Plan Review and obtain a Certificate of Occupancy approved by the Fire Chief for fire code compliance and approval of a plan for a phased automatic sprinkler system installation. THE MOTION WAS APPROVED UNANIMOUSLY.**

### 2. Peter & Harriet Messer, Final Minor Subdivision

Mr. Stanley handed out maps of the proposed subdivision. The purpose of the minor subdivision is to separate the house and barns on the lot from the balance of the property. It was found that each lot has ample acreage from a soil standpoint to verify the minimum lot size. One lot line has been moved since previous meetings so that the property line does not go through a shed on Joseph Messer's property. Mr. Stanley said he had no issues with this minor subdivision. Mr. Messer had been to the Planning Board in April and May and was granted waivers for both Topographic and Soils mapping of the entire site and a Survey of the entire lot. Everything that has been asked of him has been submitted.

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to approve the final minor subdivision for Peter and Harriet Messer, as presented. THE MOTION WAS APPROVED UNANIMOUSLY.**

### 3. Stark Trust Merger of Map 50, Lots 008-000 & 016-000

Mr. Stanley explained there are two parcels on either side of Lake Shore that the owners want merged. The septic for the home is on the parcel across the road, away from the lake.

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Jeff Hollinger) to approve the Stark Trust Merger. THE MOTION WAS APPROVED UNANIMOUSLY.**

### 4. Telecommunications Chapter – Discussion of Issues and Options

Rachel Ruppel, a GIS specialist and a planner from the Upper Valley Regional Planning Commission (UVRPC) was at the meeting to give a presentation on telecommunications and how current changes could/would affect the telecommunications chapter in the Master Plan. She has taken on the responsibility of reviewing the chapter and wanted to talk about the direction she thought it should go in. She also wanted to get whatever input the members of the Planning Board may have regarding the information.

Ms. Ruppel shared some information about the status of the cell tower/service industry and some changes they should know about. She pulled some coverage maps from Sprint, T-Mobil, AT&T and Verizon to show the data coverage in the New London area. The maps showed some gaps that exist. She explained that the cell industry is evolving from just voice (calls), to voice and data (calls and online services), to faster voice and data. This was an important thing for the Planning Board to know, as Verizon is planning to expand to 4G service in places where there is currently 3G service, by the middle of this year. They will need to put up more towers to keep up with the information transferring and she foresees an influx of tower permits coming forth. For this 4G coverage, the range of the towers is less and they need to be closer together.

Mr. Bianchi asked about US Cellular, as it wasn't one of the maps she referenced. Ms. Ruppel thought that their coverage map would be similar to Verizon's but explained that coverage really depended on changes of topography, tree coverage and whether the user of the phone is inside or outside. Ms. Ruppel summarized that it was safe to assume that more towers would be going up and that more permits would be requested around the region.

Ms. Ruppel referenced the Telecommunications Act of 1996, which stated that local governments could not discriminate among personal wireless service providers (PWSP).

They cannot prohibit or cause the cumulative effect of prohibiting PWSP.

They cannot regulate PWSP based on the environmental effects of RF emissions if the RF emissions level falls within FCC regulations.

Mr. Bianchi said that there was a request at last year's Town Meeting for the owners of the cell tower proposed at the Transfer Station to make an effort rent space on the tower to cell companies that would improve cell service to users in New London, and not just to users passing through New London on I-89. When the lease was created, the owners of the tower would not include this request, but they said that they'd make every effort to offer space to those specified vendors. Mr. Bianchi wondered if this new law had anything to do with this scenario. Ms. Ruppel said it did not. She said that if there was already a

tower in town and certain companies were already on the tower, and another company came and wanted to put up another tower, the town can't deny them just because they "have enough service" already.

Mr. Stanley said that they could do a lot to restrict where towers are located. He added that the ordinance allows towers in any zoned district in New London.

Mr. Hollinger asked how many different carriers could go on a tower. Ms. Ruppel said that it depends on the height and structure of the tower. She added that when going from 3G to 4G, towers will be needed every 1.5 to 2 miles. Mr. Stanley noted that there is about six miles of highway through the town of New London.

Mr. Stanley explained that the height limitations in New London's Zoning Ordinance can effectively reduce the chance of a tower going in.

Ms. Ruppel noted that in several states, but not New Hampshire, it could take 1-2 years or more to have a local government act on a permit. Now, if they want a permit to put up an antenna on an existing structure, whether it a church steeple or silo for example, the Town is required to render a decision within 90 days. Applications for a new tower required decisions within 150 days. When an application comes in and is date stamped, the Town has 30 days from that date to request further information, which is inclusive of the 90 and 150 day limits.

Ms. Ruppel emphasized that the decision has to be in writing, but also supported by substantial evidence in a written record. There needs to be proof of which properties will be effected and how. Applicants can appeal to State or Federal Court. Increasingly, Applicants are going straight to Federal Court, where they are less sympathetic to town ordinances.

Ms. Ruppel went on to explain that the 30- day review period is a critical time. She said that Mr. Stanley would go through a checklist that she is currently developing, which would make sure that the application was complete, including having the abutter notice correct, checking to make sure that everything is there that needs to be there, and that the departmental review process is scheduled to happen. Immediately, the application needs to go out for a third party review, which is paid for by the applicant. She explained that an escrow account can be set up so there is money up front from the applicant to do this review. The Planning Board will vote on the application's completeness and will require any additional information in writing. She remarked that the paper trail is incredibly important in this situation.

Ms. Ruppel said that there is some grey area in that if an application requires a site plan review from the Planning Board or one or more variances, the deadlines can be affected. Some applicants make this part of one application. If it is not possible to meet the 90-150 day deadline, the applicant and the town can agree to an extension, in writing.

Ms. Ruppel recommended using the federal definition to explain the difference between co-location, (a new antenna on an existing tower, building or structure) versus the building of a new tower. She also recommended condensing the three tiers into one expedited review to meet the 90 day deadline. New

tower applications are granted 150 days for review. Because of the timeline, she recommended asking for everything that they think they might want, up front. They should take into consideration aesthetics, visual impacts and public safety concerns. Those are things that abutters will surely bring up.

Ms. Ruppel explained that right now, tower height is set relative to the tree canopy, within 150 feet radius of the proposed tower. One current situation is that there would currently be no way to put an antenna on a barn in the middle of a field. A variance is needed if a tower is 10' higher than a tree canopy. A tower needs to be substantially higher than 10' above the tree canopy to be effective. Ms. Ruppel recommended setting the maximum tower height. Towns have a lot of say in the camouflaging of the structure, as well. Mr. Stanley said they have to make some reasonable effort to allow the technology.

Regarding tree height and visual impact, Ms. Ruppel suggested looking at the minimum height of trees in New London. She explained that there were fewer trees in the southeast regions of New Hampshire in comparison to New London. Any tower or antenna taller than 200' must have lighting as required by the FAA.

New London regulations require ongoing maintenance and upkeep of towers. Bonding can be put in place to take down obsolete towers that are not taken care of by the owners.

Ms. Ruppel said that she recommends separating co-location and new towers in the ordinance. She noted that there is another type of tower that exists in some parts of rural New Hampshire which is called "Fixed Wireless Broadband." Using this sort of tower, an internet signal is transmitted in a directed fashion to homes, neighborhoods and businesses. They tend to be substantially smaller with smaller footprints and have less equipment shelters around the base. The Regional Planning Commissions around New Hampshire recommend that towns permit these types of towers through an expedited review process. The signal can be sent through vegetation better because it is not traveling as far as between cell towers.

Ms. Ruppel's plan is to come back next month with a marked up copy of the Zoning Ordinance. She asked for input from the PB. Mr. Stanley said the PB should address issue of height limitation in a formal way. If the Planning Board requires information and Zoning Board of Adjustment does as well, they need to collaborate with each other so the tower company doesn't have to duplicate things. They will need good information on existing coverage to show that they are not building a tower so high that it goes beyond overlapping coverage of the other towers. Height should be technologically justified. Mr. Stanley said that the tower company in the existing agreement had stated the height would be 130'. He added that the RPC has some third party review people who work just for municipalities in order to give an unbiased review. This will be paid for by the applicant.

Mr. Bianchi asked if satellite communications would be in competition with this type of service. Ms. Ruppel said that there is a company that is working on getting consumer level satellite phones in the market. Some people use them in very remote areas where there is no wired infrastructure. She felt that it was still a long way away from any competition with regular cell phones. Her proof of this was that people are coming to depend on the cell technology and are putting a lot of money into making it better.

Ms. Ruppel asked if there was any sense that any zoning district would discourage towers. Mr. Stanley said that along the interstate was the ARR zone, where towers would most likely be placed. Chair Cottrill suggested view vistas would probably raise the most concern among many in town. Mr. Stanley said that they need to keep up with the telecommunications ordinance and added that they have to go through this because of the telecommunications act.

Chair Cottrill wondered if the allowance for a tower at a certain height would cause others to think they could apply to put other objects up, such as wind turbines. Mr. Stanley said that they are two completely different things and would not be related.

There being no other discussion, Chair Cottrill called for a motion to adjourn.

**IT WAS MOVED (Peter Bianchi) AND SECONDED (Emma Crane) to adjourn the Planning Board meeting of February 22<sup>nd</sup>, 2011. THE MOTION WAS APPROVED UNANIMOUSLY.**

The next meeting is March 22, 2011.

The meeting adjourned at 8:39pm

Respectfully Submitted,

Kristy Heath, Recording Secretary  
Town of New London