

**BRIDGTON PLANNING BOARD
MEETING**

Downstair's Meeting Room

**August 5, 2014
7:00p.m.**

The Bridgton Planning Board was called to order at 7:00p.m. by Steve Collins, Chair. Those in attendance were: Steve Collins, Chair; Dee Miller; Brian Thomas; Michael Figoli; Adam Grant, Alternate; Phyllis Roth, Alternate. Absent were: Fred Packard, Vice Chair

The Pledge of Allegiance

Appoint Alternate(s) to vote in place of any absent regular member(s), if necessary

Steve appointed Adam Grant, Alternate, to act in capacity of absent regular member.

Approval of Minutes - July 1, 2014

Brian moved to approve the minutes as submitted. Michael 2nd.
5 Approve / 0 Oppose

Approval of Minutes - July 15, 2014

Brian moved to approve the minutes as submitted. Dee 2nd.
4 Approve / 0 Oppose / 1 Abstain (Michael - not present for meeting)

Approval of Minutes - July 22, 2014

Brian moved to approve the minutes as submitted with the proposed revisions as discussed. Michael 2nd. 5 Approve / 0 Oppose

PUBLIC HEARING (continued)

**New Cingular Wireless PCS, LLC (dba AT&T Mobility LLC) and
American Towers, LLC**

214 Hio Ridge Road; Map 13 Lot 53B

130' Tower w/antennas and equipment shelter on leased land

Represented by Barry J. Hobbins, P.A.

Third Party Review

Michael moved to reconvene the Public Hearing for New Cingular Wireless. Brian 2nd 5 Approve / 0 Oppose

Dee moved to allow 1 hour for the continuation of the hearing with an extension of 15 minutes if necessary. The motion failed for lack of a second.

Brian moved to limit this portion of the meeting to 9:00p.m.
Michael 2nd 5 Approve / 0 Oppose

Steve said we had three significant open items which included the question of the necessity of a new tower if the coverage problems could

be satisfied from another site or from co-locating on an existing tower and we had a question regarding the visual impact analysis and we had a question regarding the noise issue. We did reach conclusion about the applicant paying for the retention of independent experts to address these things. Unfortunately one of the independent experts had a family emergency and was not able to make it this evening so we will have to have follow-up at a later date.

Barry Hobbins, representative of the applicants, said we can address many of the issues that remain in the letter from Ransom Consulting Inc. to the Town's Planner dated July 30, 2014 in which there were 9 issues that were outlined with responses to the 9 issues. For the record the first is the report from Northeast Land and Water LLC, the original report was dated November 8, 2013, the report was amended to take into consideration the vernal pool issue. In a letter from Hudson Design Group LLC dated August 1, 2014 it discussed this particular site. In the July 30, 2014 letter from Ransom Consultants and TDG&A which was an update from Ransom Consultants outlining the 9 points regarding site development impacts. Specifically, number 9 where concern was expressed that the site removal costs were extremely low and the letter represented that they were based upon 2009 means construction cost data which is out of date and not reflective of the current data. A letter dated August 14, 2014 addressed to the Town of Bridgton from Hudson Design Group states that the following estimate has been prepared to summarize the take-down removal costs associated with the proposed ATC wireless telecommunication site at the referenced location. The costs are based on data compiled in the 2014 building construction cost data 67th annual edition industry specific data.

Mr. Hobbins said number 7 of the report discusses noise levels and in the submission we made there is a noise study dated July 22, 2014. Steve said in the noise control study report the second paragraph it is noted that the maximum property dba is 65to70dba it makes no sense to have a maximum limit and I think it is appropriate to consider the 70dba as the maximum limit.

Mr. Hobbins said the next issue is that there is no documentation as to who completed the wetland delineation and by what means a wetland delineation was necessary. I provided a report dated November 8, 2013 which has been amended to address paragraph number 3 which states specifically that the observed wetlands classified as forested wetlands has a 75' buffer zone of which 25% setback from the wetland boundary is likely to be required and no vernal pools were observed in the area of the proposed project.

Paul Veit, representing the neighborhood, said who conducted the wetland study? Mr. Hobbins said Northeast Land and Water LLC. Mr. Veit said we, the neighborhood, are not in agreement as to what has happened with the wetlands issue. Mr. Veit submitted a map as

reference. Mr. Veit said there was a subdivision that was submitted 2 years ago that had formal wetland property. There is a photo attached that shows water accumulating next to the tower site. The "X" on the map refers to a water main which I could get out of the hole it was so wet. We discussed this with the Planning Board and a comment was made that this is just forested wetlands. We expected to see a real wetland study which we did not. The Board members have not walked around the property nor have any holes been dug. Mr. Baker said do you have copies of the subdivision? Mr. Veit said no. Mr. Hobbins said is it on record in the Town? Steve Bradstreet, Ransom Consultants Inc., said the memo dated July 30, 2014 were the same comments that I had in my July 1, 2014 memo but I added in color at the end of each paragraph whether it was documented, additional information provided, or not. Based on that, I provided a cost estimate which came after the comments were sent to the Town. Vernal pools are only evaluated during two the three weeks in the spring, April and May, to count egg masses. My concern was that the study was done in October.

Mr. Bradstreet said regarding the wetland evaluation there was a question as to whether or not we looked at that determination, and we did not look at any subdivision plans. It does state that it was in accordance with known criteria for evaluating wetlands in those areas.

Mr. Veit said a thirteen story tower is significantly heavy in weight did you look at any studies that took into consider the wetness of property and with the property as wet as it is could it support a thirteen story tower? Mr. Bradstreet said no, there was no evaluation of the structural integrity of the monopole based on the soil.

Mr. Veit said should there be an evaluation of the wetness of the soil because it could impact how the tower is built? Mr. Bradstreet said although it was not documented, based on the design of the foundation, soils bearing pressure and soils condition the design of that foundation had to be designed based on existing soils conditions.

Mr. Veit said is there a report that states what the existing soils conditions are because it is so wet that you can't dig 4-5' down. Mr. Bradstreet said other than the wetland report there was no a specific soils survey done for the project.

Brian said in the report from Northeast Land and Water LLC, the conclusion paragraph, it says that it would require a filing with the Maine Natural Resources Protection Act. Mr. Hobbins said as you know we are supposed to comply with all state and federal regulations which is part of our licensing we must comply with.

Brian said it also mentions the Town of Bridgton Shoreland Zoning Ordinance. Steve said does this application fall under the shoreland zone? Mr. Baker said no, I don't believe it does, it is a forested

wetland. Mr. Hobbins said you can ask for verification from the independent consultants. Mr. Bradstreet said in that area it is a forested wetland and I don't see any need for criteria that it would trigger shoreland zone permitting through the Town.

Mr. Hobbins said at a previous meeting our radio frequency engineer gave an opinion regarding the co-located site that exists on the Sam Ingalls. I believe those issues have not been addressed because the engineer could not make this meeting. Ms. Fleck said he is available on August 14th or September 2nd. Mr. Hobbins said the 14th would not give our engineer sufficient time to review the report. We are amenable to extending the 150 shot clock requirement to allow sufficient review of the report.

Mr. Hobbins said we cannot get to the rear of the property to stake the site. Steve said is the flagging crucial to a satisfactory visual analysis? Mr. DeWan, Maine Licensed Landscape Architect, said we found reference points and from our perspective we had a reasonable sense of where we were on the site to allow us to do our evaluation.

Mr. Hobbins said it was stated that there are no plans showing erosion control or surface materials within the fenced area. Mr. Bradstreet said Mr. DeWan was correct we know the general area. We saw all the wetland flagging but I want to know where the construction is in relation to the wetland flagging. There was no site grading and erosion control plan. I know the site is a postage stamp sized lot, it is flat but there is runoff from site no matter what the base is made of and I want to be able to know and be comfortable that what they are doing is not impacting the wetland areas as well as the abutting property owners which is why I asked for a plan. Mr. Hobbins said the best solution would be for Mr. Bradstreet and the engineering firm retained by the co-applicants to have that discussion and either go to the site themselves or together to get exactly what you want addressed.

Mr. Veit said the pictures that I submitted were taken when the snow was just melting in the proposed location of the tower, could it be considered a vernal pool, it extends into the woods? Mr. Bradstreet said I am not a wetlands or vernal pool expert but based on what I know and how they are created I cannot tell you with certainty from a picture that this is a vernal pool.

Mr. Hobbins said there was an analysis done of other alternative sites for the potential of co-location we submitted in the form of an affidavit which is part of our submittal for the record. We don't have a radio frequency analysis done. Mr. Bradstreet said the entire book was reviewed for this process and #19 "site acquisition" and yes they showed the candidates but they did not specifically discuss if any property would support any additional arrays and it did not discuss the possible candidates. Mr. Hobbins said that is valid. If you look at

number 16 regarding the Sam Ingalls Road testimony was given by Ernesto Chua in which his opinion was that the tower on Sam Ingalls Road would need to be 360' high to get coverage.

Mr. Veit said this is a legal issue that might require the Board to speak with the Town's attorney. The way that Sam Ingalls tower is going to be evaluated is they had an opening at 136' and 120'. A new application has been submitted at 136'. A lawyer would ask if the applicant had awareness, which is in the Ordinance, and did they have a reasonable amount of time to co-locate and was space available on the Sam Ingalls Tower during the period of time that applicant was submitting his application. During December 2013, January - April 2014 136' was available to the applicant and he chose not to choose that site. 136' is still available because a permit has not been granted yet. The applicant did not apply when 136' was open and he had time to do it but he refused to co-locate. You need to check with the Town's attorney to find out what the relevant time would be. Mr. Hobbins said the testimony from the Radio Frequency Engineer from AT&T mobile was that 360' would not be enough therefore 136' would not be sufficient.

Mr. Bradstreet said the comments made regarding sound levels have been provided and based on the calculations provided they were accurate. They did not have a schedule as to when they were going to exercise the generator which has since been submitted and it stated that the generator would be exercised on Wednesday at 11:00 during the day.

Mr. Hobbins said if the Board determines that the site removal costs are too low and you want to increase the amount it is a matter of bonding that amount of money. Mr. Bradstreet the original value submitted was low because it was based on 2009 so I requested that it be re-evaluated which they did using 2014 and it increased the cost by 25%.

Terry DeWan, landscape architect, said my background for 30+ years has been doing visual impact assessments for a wide variety of projects. We reviewed the Bridgton Town Ordinance and it says that a visual impact analysis must be prepared by a landscape architect or other qualified professional that quantifies the amount of visual impact within 500, 2500 and 2 miles of the telecommunication structure. The analysis shall include recommendation to mitigate adverse visual impact from such properties but that is all it says. What is a threshold between acceptable and not acceptable which is not in the Ordinance so you as a Board need to decide is there an impact because there is going to be a new thing in the air. It is visual? Yes, you can see it. Is it adverse? The audience would not be here tonight if they did not think it was adverse. But is it unreasonable or not? The applicant has provided a photo-simulation collection but to my perspective it is not a visual impact assessment because it does not address a lot of things

that we typically do when we write these documents. It does not address who is going to see it, at what distance and what is the impact. DEP has what is referred to as a Chapter 315 to assess and mitigate visual impacts. I did note what was lacking the first time around (see attached) and it is quite a list.

Mr. Veit said half of the balloon test that was submitted at the last meeting occurred on April 17 which the neighborhood refers to as the "up and down" balloon test because there were no neighbors to see it. The gentlemen who is evaluating the balloon documents of May 3 is correct but the April 17 had been rejected and they went and did another balloon test on May 3. Mr. Hobbins said the applicant voluntarily, at their own expense, performed another balloon test but there was never any agreement that those documents of April 17 would be part of the record because we submitted those documents as part of the record and the application was deemed complete. Mr. Veit said the neighborhood believes the application was deemed complete way too early. Also, there were several people available to watch the balloon test which were not on the advertised date. The two people that were available were Chuck Renneker and myself, it went up and down as documented in the minutes and that is why it was demanded that there be another balloon test. You cannot accept the April 17 date because it was up and down and we were the only two people that saw it and because it was not on an advertised date. Mr. DeWan said I wish I have been retained for the balloon launch. We have done many and they are tricky to do and do right. Was there anyone in an official capacity from here to observe it? Did anyone verify that the string that the balloon was tethered on was actually 127' long? Mr. Veit said not on April 17. Mr. DeWan said the most recent application said the balloon was inflated to a diameter of 5', does anyone have any way of verifying that it was 5'? Mr. Veit said no. Mr. Baker said I believe there were more than two people present. No one measured, as far as I know, the length of the string and the diameter was not measured but I believe it was 4-5'.

Mr. DeWan said I have provided you a list of what we feel were deficiencies in the first round of submittals. To their credit they did come back and submit new information. There is a disclaimer dated June 30 that says the study does not claim in any way to show the only areas of visibility. We use a computer program that would create a view shed. I had concern about some of the accuracy of some of the mapping information, the location of photographs, the technical data that was not supplied, viewing distances, the use of various types of lenses for the photographs. It is important for us to verify the places where they took the photographs. Their recent report referred to GPS data that identified where they went but that data was not submitted.

Mr. DeWan said the enclosed area is approximately 50x50 plus a right of way access to the area. What happens to the vegetation around it? There are large danger trees and do they have an agreement with the property owner to remove the trees or are they going to be left in place which will have an impact on the visual character of the area.

Ms. Judy Veit said what color balloon is usually used for the test, red or yellow? Mr. DeWan said we typically use red and usually two balloons, one at the height of the structure and one approximately 25' below the proposed height to signify the bottom of the structure.

Mr. Bradstreet reviewed their report submitted as well as conducting a power point presentation with the following comments. We did not see a description of an impact of the users, we did not see any findings or conclusions, there was a miscalculation of the image as to what the structure will look like, we did not see an analysis from the pond and they showed very few viewpoints from public vantage points.

Mr. Veit said Mr. Goula presented a map to push the monopole back from his property based on the visual impact from his property.

Phyllis said the string is nowhere near the dimension of a monopole. Mr. Baker said the string is there to get the balloon in the air and based on that they can superimpose the base of the tower in a photo simulation.

Mr. DeWan said to conclude our evaluation we have the following comments:

1. Will the tower present a significant contrast in form, line, color, texture, scale and dominance?
2. Will the tower change the inherent character of the landscape, private and/or public?
3. Will the tower change the way people now use the landscape such as is it detrimental to a tourist economy?
4. Will the tower significantly interfere with significant views which may be defined in a comprehensive plan that the views are very special places to a community and iconic to the history of the Town?
5. Will the tower create an unwelcome focal point in the landscape such as the tower on Portland Road beside McDonalds. Mr. Hobbins said who took the photograph and where was it taken from because that is obviously much larger and would scare a lot of people who see that photo. Mr. DeWan said that is not meant to represent what is being proposed it was only meant to portray an example of a focal point.

Mr. Veit said most of the people in the neighborhood are concerned with Mr. Goula's view and we submitted a map for consideration to move the tower back. I would like the Board to consider having the independent consultant consider flying a 5' red balloon with photographic evidence just behind Mr. Goula's house and we would like it flown at the current suggested location and then if the consultant could do a computer

simulation as to what it would look like back from the current suggested location and then 450' back according to Mr. Goula's map. Steve said to Mr. DeWan in your guidance to the Planning Board how would you respond to that statement? Mr. DeWan said typically Planning Boards review the application before them and I don't know how much flexibility there is to move it and based on the map I am not sure if it could physically move back because you could run into someone else's property line. Mr. Hobbins said no matter what we do the neighbors are not going to be happy because they don't want a tower. You are now asking the applicant to take money from AT&T and American Tower for the purpose of assisting one neighbor. In working together with the Board and neighbors there can be compromises. For instance, we started out by mitigating the visual impact, by offering a monopole instead of a lattice tower which is cheaper, and we amended the lease to move the tower to a different location. I don't know if we can go further back and meet the fall-down zone. Mr. Veit said there is still 300' behind the tower and that gives plenty of room for fall zone. Dee said by moving the tower further back it may cause more disruption to the land to accommodate access via an access road.

Steve said we still need the expert opinion on the radio frequency analysis and according to the third party engineers we are lacking an erosion control plan. Mr. Bradstreet said that is a grading, drainage and erosion control plan, I want to be able to see which direction the water is running off the site. Steve said we have a problem with vernal pools which Mr. Bradstreet suggested we wait until April. Brian said the report from Northeast Land and Water LLC says there are no vernal pools but we can't really wait until April. Mr. Bradstreet an option would be to retain what was submitted and that can be done now. Mr. Hobbins said that is contrary to what Mr. Bradstreet has said, if you want to condition the application on waiting to determine in April, before a building permit is issued, we would accept that as a condition. Adam said I don't think we need to do that for this application. If we are going to require it for this application then we need to do it for every application going forward.

Steve said that leaves the conclusion of the RF study, the erosion control plan and we need to set a date for the continuation of the hearing.

Mr. Hobbins said we would be happy as part of the independent expenditure to work with the landscape architect about screening or mitigation of the site. Improving the site will improve the neighborhood to what it looks like now. The Board concurred.

Brian moved to recess the Public Hearing to Tuesday, September 2, 2014 7:00p.m. Michael 2nd. 5 Approve/0 Oppose

Steve recessed the meeting at 9:16 to 9:20p.m.

Steve reconvened the meeting at 9:22pm.

Brian moved to take the agenda out of order and go to **new business**.
Michael 2nd. 5 Approve / 0 Oppose

Standard Gastropub/William Henry Holmes
233 Main Street; Map 23 Lot 114
Additional Outdoor Seating
Request for Special Meeting
Represented by William Henry Holmes

Ms. Krieg said Mr. Holmes is short staffed this evening at his restaurant so he had to leave but he is requesting a special meeting. Steve said I wish he were present so we could ask what the necessity of haste is. Mr. Baker said it was to capture the summer season. Steve said why didn't he submit an application for this evening? Mr. Baker said Ms. Fleck and I met with him approximately 3 weeks ago and told him he needed to submit an application to the Planning Board but I am not sure why he didn't. Ms. Krieg said he gave me his application this evening.

The Board took no action on the request for a special meeting.

Randy Gardner
494 Portland Road; Map 5 Lot 91
RV & ATV Repair, Maintenance & Sales Facility
Request for Special Meeting
Represented by Randy Gardner
Randy Gardner - request for a special meeting

The Board took no action on the request for a special meeting.

Magic Lantern LLC/Frank Howell
9 Depot Street; Map 23 Lot 137
Request for Waiver for Sign
Represented by Frank Howell

Mr. Howell said we have an electronic sign which we have had since we built the Magic Lantern. There are two businesses functioning in the building, the pub and the theater, and we have information we would like to display for both businesses so the electronic sign request is to allow us the opportunity to alternate between one menu one screen and it gives the theater times and information and one that does special events. We will not flash or animate and we hope that you will give us permission to allow us to switch between the two at 8 second intervals. Steve said why does this require a waiver? Brian said we said we would follow the state regulations. Mr. Baker said a representative from DOT contacted me saying that we had illegal signs in Town and this was one of those signs. A changeable readable sign is

supposed to change once every 20 minutes. Mr. Baker said the four illegal signs that we have now have been permitted through my office and I would request that the Board allow them to stay the way they are now.

Brian said which signs are they? Mr. Baker said Magic Lantern, Food City, McDonalds and the Bridgton Veterinary Hospital.

Adam said I would like time to review this and not make a decision this evening. Mr. Howell said we do 50% of our revenue in the six weeks beginning July 3rd and there is a pressing economic issue. The moment we were notified by the state that we were in violation we stopped, however, no one else in Town did. This is a simple situation and we ran that sign that way since we built the business. Adam said I would like to know from the State if we can change the standard.

Michael moved to grant the waiver and allow the Magic Lantern to go back to the 8 second interval with text only. Brian 2nd.

Dee said I would like to consider making it retroactive for the other signs. Steve said I am not so sure if I want to act on applicants that have not yet applied? Mr. Howell said we are showing respect for this Board by being here and seeking to comply and no one else is here from the other businesses.

Steve called a vote to the motion. 5 Approve / 0 Oppose

OLD BUSINESS

**Cottages at Willett Brook - An Age Restricted Community
234 South High Street/22 Courtyard Circle; Map 9 Lot 27A
60 Housing Units/Garage and Storage Buildings/Club House
Review and Accept Findings of Fact and Conclusions of Law
Sign Mylar**

Steve read the Findings of Fact and Conclusions of Law for the record.

Brian moved that based upon the application submitted and representation to the Planning Board of the proposed project by the applicant's agent the project is approved conditional upon The shoulders of the development will be maintained for pedestrian and bicycle use and approved road names for the development. Plan approval is also conditioned upon compliance by the applicant with the plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral commitments regarding the project which were specifically made by the applicant or the applicant's agent to the Board in the course of its deliberations. Michael 2nd. 5 Approve / 0 Oppose

The mylar will be presented for signature at the September 2, 2014 meeting.

Mr. Sawyer said what is the status of the road name? Ms. Fleck said Dawn Taft, Addressing Officer, is waiting to hear from them regarding a road name. I will follow-up with Ms. Taft tomorrow and will give you a call regarding status.

**Maine Lake Science Center/Lakes Environmental Association (LEA)
51 Willett Road; Map 9 Lot 51
Researcher Housing, Conference Room, Education Center,
Parking Area and Welcome Center for Pondicherry Park
Review and Accept Findings of Fact and Conclusions of Law**

Brian said we have received additional information regarding the outstanding issues at the previous meeting. Colin Holme, Assistant Director of LEA, said a letter was submitted to the Board on July 22 addressing most of the concerns (copy attached). The overall width of the driveway is 10' wide uniformly and the shoulder width has been added to the new map which you received and it varies from 2' to 6'. The parking area that serves Pondicherry Park as well as this facility has been added to the map and 6 additional spaces has been added as well. Also on the map we changed the location of the sign to show a sign at the main entrance and a sign on the building. We plan on having lighting along the trail.

Brian read the Findings of Fact and Conclusions of Law for the record.

Michael moved that based upon the application submitted and representation to the Planning Board of the proposed Site Plan of Development by the applicant the project is approved conditional upon Exhibit E shall show the parking area located by Willett Road and clarification of free standing facility identification sign located at the entrance and on the building and dimension of the road width and walkable shoulder shall be shown on the plan and walkways to the building shall be lit to facilitate adequate and safe passage from the parking areas to the building. Plan approval is also conditioned upon compliance by the applicant with the plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral commitments regarding the project which were specifically made by the applicant or the applicant's agent to the Board in the course of its deliberations. 5 Approve / 0 Oppose

**Dead River Company
161 Portland Road; Map 9 Lot 61
Remove unused structures, install 30,000 gallon liquid propane tank
Review and Accept Findings of Fact and Conclusions of Law**

Phyllis recused herself from this portion of the meeting, therefore, Steve appointed Adam for this portion of the meeting.

Michael read the Findings of Fact and Conclusions of Law for the record.

Brian moved that based upon the application submitted and representation to the Planning Board of the proposed Site Plan of Development by the applicant the project is approved. Plan approval is also conditioned upon compliance by the applicant with the plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral commitments regarding the project which were specifically made by the applicant or the applicant's agent to the Board in the course of its deliberations. Dee 2nd. 5 Approve / 0 Oppose

**Beaverwood Creek Estates/Christian and Lynn Olsen
Beaver Pond/off Hio Ridge Road; Map 13 Lot 60A
6 Lot Subdivision
Review and Accept Findings of Fact and Conclusions of Law
Sign Mylar**

Steve read the Findings of Fact and Conclusions of Law for the record.

Michael moved that based upon the application submitted and representation to the Planning Board of the proposed project by the applicant's agent the project is approved conditional upon a new page 9 will be inserted into the Declaration of the Covenants, Conditions and Restrictions. Plan approval is also conditioned upon compliance by the applicant with the plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral commitments regarding the project which were specifically made by the applicant or the applicant's agent to the Board in the course of its deliberations. Brian 2nd.
5 Approve / 0 Oppose

The Board signed the mylar.

New Business

All new business was moved for consideration following the Public Hearing.

Approved Applications as per Bridgton Site Plan Review Ordinance 4.A.1

**JK's Nauti Boats
225 Harrison Road; Map 14 Lot 56
20x26 carport**

Bridgton Eye Care/Christine Newell
Relocation from 59 Main Street to 50 Portland Road; Map 27 Lot 18
Eye Care Facility

Topics for Discussion

A. Other/Miscellaneous

Brian moved to adjourn the meeting at 10:55p.m. Michael 2nd.
5 Approve / 0 Oppose

Respectfully submitted,

Georgiann M. Fleck, Deputy Town Manager
Town of Bridgton