

**LINCOLN ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TUESDAY AUGUST 19 2014 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Vice Chair Ron Landry, Jonathan Ham, James Martin II and Board of Selectman Representative Patricia McTeague

Members Excused: Chair Paul Beaudin II

Members Absent: None.

Staff Present: Planning and Zoning Administrator Carole Bont, and Wendy Tanner (recorder)

Guests:

- Conrad W.P. Cascadden, Esq., Sheehan & Gordon, PA, 107 Storrs Street, Concord, NH 03302, in place of Karyn Forbes, Esq.

I. CALL TO ORDER:

Vice Chair Landry called the meeting to order at 6:05

**II. CONSIDERATION OF DRAFT MEETING MINUTES FROM:
August 6, 2014**

Motion: To Approve the Meeting Minutes of August 6, 2014 as Submitted.

Motion: Patricia McTeague Second: Don Landry

All in Favor: (4-0)

III. CONTINUING AND OTHER BUSINESS.

No other business.

IV. NEW BUSINESS

- 6:00 pm. **Application for Administrative Appeal of Planning Board's 6/25/2014 Decision.**

1. Case #ZBA #2014-01

- a. Petitioner/Abutter: Kevin Sargis, Trustee of the Hunter Realty Trust ("Hunter Realty"), 44 Old Princeton Road, Fitchburg, MA 01420
- b. Beneficiaries of Trust of Petitioner/Abutter: Daniel Nigrosh, Rossana Nigrosh, Petitioner's Attorney: Karyn Forbes, Esq., Sheehan & Gordon, PA, 107 Storrs Street, Concord, NH 03302
- c. Project Location: Location of proposed cell tower – 3 different sites proposed, 60 Loon Mountain Road Tax Map 126, Lot 0020, General Use District
- d. Applicant's Attorney: Thomas W. Hildreth, Esq. (formerly John F. Weaver, Esq.), McLane, Graf, Raulerson & Middleton, PA, 900 Elm Street, Manchester, NH 03101, on behalf of his client:

- e. Applicant: Cellco Partnership d/b/a Verizon Wireless (“VzW” or “Verizon”), 400 Friberg Parkway, Westborough, MA 01581
- f. Property Owner: CLP Loon Mountain, LLC (“Loon Mountain”) (formerly known as CNL Income Loon Mountain, LLC), 60 Loon Mountain Road, Lincoln, NH 03251
- g. Other Party: Richard (Rick) Kelley, President and General Manager, Loon Mountain Recreation Corp., 60 Loon Mountain Road, Lincoln, NH 03251

DESCRIPTION: Under Land Use Plan Ordinance, Article VIII (Board of Adjustment), Section A (Board of Adjustment), Paragraph 1, Petitioner/Abutter Kevin Sargis, Trustee of the Hunter Realty Trust, is appealing a decision of the Planning Board made on June 25, 2014 to the Lincoln Zoning Board of Adjustment (ZBA). Beneficiaries of the trust are Daniel & Rossana Nigrosh. Hunter Realty Trust property abuts Loon Mountain. Petitioner is appealing a decision of PB made on 6/25/2014 to ZBA, requesting the ZBA grant an administrative appeal.

The petition was filed in connection with an application for a telecommunications facility including a 100 foot monopole and associated support structures proposed by applicant Cellco Partnership d/b/a Verizon Wireless to be located on land of CLP Loon Mountain, LLC (“Loon Mountain”) (formerly known as CNL Income Loon Mountain, LLC). Applicant Verizon proposed 3 different sites for the location of the facility on 60 Loon Mountain Road (Tax Map 126, Lot 0020) (General Use District) all of which are alleged by Petitioner to have separate, distinct and varying impacts on the petitioner’s property. Land Use Plan Ordinance, Art.VI-A, Sec.F3 provides: “Where allowed and as approved in site plan review, a telecommunications tower may include reasonable minor, accessory amenities such as one storage building not to exceed 100 square feet and a parking area not to exceed 200 square feet (only with a surface approved by the Planning Board). Any other structure or larger parking area is permitted only as allowed by otherwise applicable provisions of this ordinance.” Verizon’s Site Plan Review application includes proposed 312 sq. ft. building. On 6/25/2014, PB voted to approve 312 sq. ft. storage building. Petitioner requests ZBA review 6/25/2014 PB decision *de novo*, & reverse PB decision.

ACTION: Acceptance of the appeal as administratively complete by the Zoning Board.

ACTION: The Zoning Board may conduct a public hearing, or schedule a public hearing at some future date established during this meeting.

ACTION: Grant the appeal, grant the appeal with modification, or deny the appeal by the Zoning Board.

Vice Chair Landry read the following:

In this case on August 14, 2014 the petitioner Kevin Sargis of Trustee of Hunter Realty Trust, by and through his attorney Karyn P. Forbes of Shaheen and Gordon, requested a continuance of this hearing until November 5, 2014 at 6:00 PM. According to town counsel, if the Planning Board grants final approval to the cell tower on September 24th 2014 then the 30 day appeal period will expire on October 24th 2014. If no appeal is filed then the petitioner will withdraw the ZBA appeal after October 24, 2014 so there will be no need for the ZBA to hear this case on November 5th, 2014.

However, if something unexpected happens with the Planning Boards final approval or an appeal is filed, the ZBA will be in a position to hear this case on November 5th, 2014. Today the ZBA needs a

quorum to approve this motion to continue this case until November 5th, 2014 at 6:00PM. Our town council attorney, Peter Malia, recommends that the ZBA approve a motion to continue this case until November 5, 2014 at 6:00pm.

Conrad W.P. Cascadden of Shaheen and Gordon PA, informed the ZBA that he had spoken with Attorney Karyn Forbes about this case, however, his knowledge of the cell tower was limited. His understanding was that there were three plans Verizon was offering. Currently there is a conditional site plan approval for the Verizon Plan dated Augusts 12, 2014. The approved site has been determined through discussions between Attorney Forbes and Verizon. The Plan dated August 12, 2014, is acceptable to their client. If they can come to a final agreement with that site, their client will not need any hearing before the ZBA. A final agreement is close. He thanked the ZBA for coming.

Vice Chair Landry asked if there were any further questions and if Cascadden was all set with his discussion. Cascadden had nothing further to add.

Motion to continue case ZBA2014-02 until November 5, 2014 at 6:00PM.

Motion: Patricia McTeague Second: Ron Landry

All in Favor: (4-0)

V. OTHER BUSINESS

No other business.

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

No public participation.

VII. ADJOURNMENT

The meeting was adjourned by 6:25 pm.

Motion to Adjourn:

Motion: Patricia McTeague Second: Ron Landry

All in Favor: (4-0)

Respectfully submitted,

Wendy Tanner, Planning and Zoning
Recorder

Dated: August 19, 2014



Don Landry, Vice-Chairman