

PRESENT: Patricia Hacker, Chairman
David Stringfellow, Vice Chairman
Kevin Maxwell, Secretary
Margaret Andrzejewski
J. David Early
Jeff Mendola

EXCUSED: Paul Jusko
Michael Pohl

ALSO PRESENT: Kelly Vacco Town Attorney
John Pappano AT&T co-location
Tom Proctor AT&T co-location
Maurice Emerling R-O-W ownership applicant
Pearl Emerling R-O-W ownership applicant

Chairman Hacker called the meeting to order at 7:31 P.M.

MINUTES

Mrs. Hacker asked if there were any additions or corrections to the minutes of July 22, 2003. Being none, Mr. Stringfellow made a motion to accept the minutes, seconded by Mrs. Andrzejewski. All in favor.

CORRESPONDENCE

Chairman Hacker reported the following correspondence:

- Letter dated August 16, 2003 from Richard Brox requesting this Board's recommendation for contract extension for 2004
- Letter from John Pappano with updated RFP study
- Letter dated August 14, 2003 from Town Attorney Vacco with legal opinion of rezoning on Herman Hill Road – to be placed on agenda for September 9, 2003
- Memo dated August 13, 2003 from Deputy Town Clerk Karen Ellis with Resolution 2003-23 for placement of 'no parking' signs on 7238 Abbott Road (near George's Hot Dog Stand); on Patchin Road (near Valley View Inn); on 7264 Boston State Road (near Nick Charlaps').
- Other correspondence to read at point in agenda

AT&T CO-LOCATION AT 6405 WARD ROAD

Chairman Hacker asked Mr. Pappano if he had any additional information for the Board.

Mr. Pappano reported the following:

- Law firm of Phillips, Lytle, Hitchcock, Blaine and Huber representing AT&T
- Introduced Tom Proctor of Bechtel Telecommunications also representing AT&T
- A study was completed which showed the need for additional coverage in Boston
- Original application showed antenna at the height 230 feet, there is an existing antenna at that height, the new request is at 200 feet.
- Mr. Pappano distributed and explained revised Radio Frequency Propagation study, which takes into account the change of height location on the tower

AT&T co-location request, con't.

Mr. Maxwell asked Mr. Pappano if the application has been filed and if all appropriate fees have been paid. Mr. Pappano said both have been done, the building permit has not been applied for as of yet.

Mr. Maxwell asked if the current inventory is acceptable. Mrs. Hacker said that the inventory on file is up to date. She added that Mr. Jusko said that all is in order.

Mr. Maxwell asked Mrs. Vacco if structural analysis had been sent to the Town Engineer. Mrs. Vacco said that it had been.

Mr. Maxwell made a motion to recommend approval to the Town Board for the co-location request of AT&T; and, that the Town Clerk's office verify all existing co-locations, proper permits are filed and fees have been paid and return this update to the Planning Board. Seconded by Mr. Early. All were in favor.

EMERLING REQUEST FOR OWNERSHIP OF RIGHT-OF-WAY AT HICKORY MEADOWS

Secretary Maxwell read the correspondence:

- Letter dated July 29, 2003 to Maurice Emerling requesting his presence at this meeting
- Memo dated August 12, 2003 from Deputy Town Clerk Ellis attached to letter dated July 31, 2003 from Foit-Albert Associates to Highway Superintendent Kreitzbender regarding the subdivision plans and drainage calculations.

Mr. Maxwell commented that only the ownership of the R-O-W is on the agenda and that drainage is not part of this application.

Mr. Early asked if there already was a 30-foot access on one of these lots.

Mr. Maxwell said there is an existing 30-foot easement, not an access. He added that the easement is for access to the upper property for both the gas company and the upper property owner.

Mrs. Emerling added 'and Niagara Mohawk power line.'

Mr. Early asked are you trying to increase the size and take ownership of it.

Mr. Emerling said do you folks know the difference between an easement and ownership. For the Gas Company to come on, was originally a 30-foot strip, the lot that it's on #14 is a wide lot, it's 211 feet wide. And yet when you think about the use of the lot, if you're plowing snow and it rolls on to lot 14, you'd have a problem with water running off. The landowner that owner that bought that lot, has made a down payment on the lot, he's paying taxes on the footage that is an easement; and we have to have that in order to get up above the power line, that's a must and has been in the premises before we acquired it 34 years ago, we didn't have anything with the easement, it was part of the farm when we bought it. So we have to continue this, but to have it only 30 feet wide; we did change it from lot 13. You can see the road more prevalent now because it's all on lot 14. It was on 13, we sold out 13 with the house on it, and towards the power line you'll see where the easement went back on 13, so we thought we better change it to go straight up, and have it wider from 30 feet to 75 feet because of the problem between an ownership and an easement.

Mrs. Hacker said that the gas company said 30 feet is more than enough and the amount of time that they're going to do plowing, there is no reason that National Fuel needs anymore than 30 feet.

Mr. Emerling – well if you have a problem with the owner of 14

Mrs. Hacker – but he's buying 14 knowing that there is an easement on it.

Mr. Emerling – no, this 75 feet was taken before he bought 14

Mr. Maxwell – he's buying it contingent on a 75 foot versus 30 foot?

Mr. Emerling – yes.

Mrs. Hacker – but the approved subdivision only shows the 30-foot

Mr. Maxwell – the Plat Map filed with Erie County shows a 30-foot easement, not a Right Of Way, it's an easement.

Several discussions took place around the table.

Mr. Mendola asked if this 75 foot could lead to another building.

Mr. Maxwell explained that the R-A zoning requires fifty feet of road frontage, they're requesting 75. You can build only one single-family residence with 50 feet of frontage according to code. Mrs. Vacco is that how you're reading R-A Code.

Mrs. Vacco – well it reads (Section 123 49 A) says minimum of three acres, and (Section 123 49 B) says 75 feet for a single-family dwelling.

Mr. Stringfellow – if you have 75 feet through there you could put in a road on that 75 feet, go across the power line and develop the whole side hill.

Mrs. Vacco said that it is not a public road. Mr. Emerling agreed that it is not a public road.

Mr. Early – but in the future, if allowed by the Town, you could have a development on the hill. There is that possibility because they would allow you to use that as the access road.

Mr. Maxwell – I don't think it's opening the avenue for a subdivision I think it's opening the avenue for possibly a single-family dwelling.

Mrs. Hacker stated that she would like to have the Town Engineer's opinion, Paul Jusko's opinion, as the gas company said the existing easement is more than enough, is it opening the same situation as we had at the top of Hillcroft; and there are already existing drainage problems.

Mr. & Mrs. Emerling objected to the drainage problem being brought up.

Mrs. Hacker said that it is in the same project and in my opinion should be looked at.

Several discussions went on around the table.

Mr. Stringfellow to Mrs. Vacco: from what Mr. Emerling says, he has a filed subdivision here, clearly defining all of the lots in that subdivision, and now he has sold one, different than what is filed; and I believe that he is in legal trouble.

Mr. Maxwell said I don't think he's sold it. No way did he sell that lot, because his attorney put a close on it because the search would not allow that described or this proposed described lot to close. He has taken a down payment on it.

Mr. Emerling – we've taken a down payment.

Mrs. Vacco – I think the Planning Board is just looking for any of lots within the subdivision or any kind of change, or if you wish to change the boundary of the subdivision a request must be made to the Planning Board prior to any modifications being made, and would have to be approved by them and a new plat would have to be filed with Erie County.

Mr. Stringfellow asked Mr. Emerling if the property owner would be more pleased if the Emerling's owned the 75 feet than if he owned it?

Mr. Emerling, Mrs. Emerling and Mr. Maxwell all attempted to answer this question.

Mr. Emerling was finally understood to say, if the landowner that's paying taxes is it his responsibility about anything that happens to this, who is responsible.

Mr. Maxwell – under an access easement, whoever owns the easement has the insurance policy on it.

Once again several discussions.

Mrs. Hacker tabled further discussion until a response is received from the Town Engineer, and Planning Consultant Richard Brox. She asked that discussion be on the agenda for September 9, 2003.

NON-AGENDA ITEMS

HICKORY MEADOWS DRAINAGE

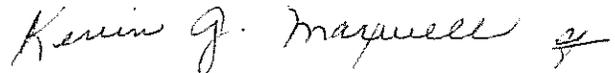
- From the memo dated August 12, 2003 from Deputy Town Clerk Ellis attached to letter dated July 31, 2003 from Foit-Albert Associates to Highway Superintendent Kreitzbender regarding the subdivision plans and drainage calculations.

Mrs. Hacker asked that it be noted in the minutes and we will wait for further information from the Town engineer.

Chairman Hacker asked if there was any more business to be brought before this Board.

Being none, Mr. Early made a motion to adjourn at 8:33 P.M., second by Mr. Stringfellow. All in favor.

Respectfully submitted,



Kevin G. Maxwell
Secretary

KGM:tjf