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**LITCHFIELD PLANNING BOARD**  
**August 3, 2010**

Minutes Approved 9/7/10

**Members present:**

- Edward Almeida, Chairman
- Leon Barry (arrived at 7:40 p.m.)
- Carlos Fuertes
- Frank Byron, Selectmen’s Representative
- Joel Kapelson, Alternate (arrived at 7:28 p.m.)

**Members not present:**

- Jayson Brennen, Clerk
- John Miller, Alternate

**Also present:**

- Steve Wagner, Nashua Regional Planning Commission, Sr. Planner, Circuit Rider
- Lori Dogopoulos, Acting Administrative Assistant

**AGENDA:**

- 1. Continuance of Bernice and Harry Cahill, 72 Pinecrest Road, Map 13 Lot 26  
Applicant to subdivide one lot into two lots.**
- 2. Continuance T-Mobile Northeast, LLC Site Plan Review and approval to install,  
operate and maintain a wireless communications facility (WCF) on a 140’  
monopole tower at a site owned by Tabernacle Baptist Church Map 2 Lot 29, 240  
Derry Road, Litchfield, NH in the highway commercial zone.**

**Any Other Business:**

**Correspondence:**

- **Application: Planning Board member**

Chairman Edward Almeida called the meeting to order at 7:28 p.m. Mr. Joel Kapelson was appointed as a voting member.

**1. Continuance of Bernice & Harry Cahill**

Mr. Michael Grainger, M.J. Engineering, LLS, representing the applicant came forward. Mr. Larry Cahill was present. The Board is in receipt of a letter from L. C. Engineering

1 dated July 21, 2010. Mr. Grainger said he added the notes on the plan as recommended  
2 by Lou Caron (L.C. Engineering): Put roof drains in (infiltrators); the driveway for the  
3 new lot will be at a grade to continue the drainage going across the driveway down to  
4 Pinecrest northwest section; and underground utilities. The other change made is to reset  
5 bound on corner of northwest portion of the lot and put the waivers on the plan.

6  
7 **Waiver** - Section 530 k & m: Drainage and erosion control. Mr. Wagner said that there  
8 is a Fire Department letter pending and he spoke with the Fire Chief who indicated as  
9 long as the house is 500 feet to the hydrant, he had no problem and he supports the  
10 waivers. Mr. Byron **MOTIONED** that the Litchfield Planning Board grants the  
11 applicant, Map 13 Lot 26, Cahill Subdivision, the waiver to Section 530 k & m. Mr.  
12 Kapelson seconded. Motion carried 4-0-0.

13  
14 **Waiver** - Section 415: Irregular shaped lot. The regulation states that the R-value is  
15 supposed to be .4 and R-value for this lot is .389. Mr. Wagner: The purpose (irregular  
16 shaped lot requirement) was to prevent somebody from creating an irregular lot just to  
17 meet the minimum requirements. I think on this lot you have extenuating circumstances  
18 in that they had to locate the driveway on the opposite side of the lot and their main  
19 frontage was taken to avoid the potential vernal pool.

20  
21 Chairman Almeida said it is in the spirit of the ordinance and he had no problem with  
22 it...it is not a situation where they are trying to create an irregular lot. Chairman opened  
23 the meeting to public comment. There was no public comment. There were no abutters  
24 present. Chairman Almeida **MOTIONED** to grant the waiver to Subdivision Regulation  
25 Section 415 for Cahill Subdivision Case 1007 LIT SD M13-L26. Mr. Byron seconded.  
26 Motion carried 4-0-0.

27  
28 At 7:40 p.m. Leon Barry, member, arrived.

29  
30 **Appendix J Driveway Permit** - The driveway permit application was sent to Kevin  
31 Lynch, Code Enforcement Officer, who said he could not act on it until the subdivision is  
32 approved.

33  
34 Chairman Almeida opened the meeting to public comment. There was no public  
35 comment.

36  
37 Mr. Wagner noted that as a condition of approval add on the plan Note 12 that the  
38 northwest corner bound is to be set in addition to the other bounds. Another condition is  
39 the driveway permit Appendix J. Also, a letter from the Fire Department.

40  
41 Chairman Almeida **MOTIONED** to approve the Cahill Subdivision Case 1007  
42 with the following conditions:

- 43  
44 1. Mylar. 2. Plan copies with professional seals and signatures. 3. Electronic submission

1 per regulations (as-builts as required). 4. All fees paid and escrow maintained as required.  
2 5. Bound to be set on the northwest corner of the property (and so noted on the Plan Note  
3 12) 6. Driveway to be built in accordance with Appendix J. 7. Final letter of approval to  
4 be received from the Fire Department (house meets the 500 feet from a hydrant). Mr.  
5 Kapelson seconded. Motion carried 5-0-0.

6  
7 **2. Continuance of T-Mobile Northeast LLC Site Plan**

8  
9 7:50 p.m. Present: Attorney Jennifer Lewis (Prince Lobel), Andrey Tsikanovsky (Hudson  
10 Design Group), Dinesh Dasani (RF Engineer T-Mobile) and abutters Mr. & Mrs. Susan  
11 and Kevin Powers. Ms. Lewis questioned whether or not Mr. Kapelson was able to vote  
12 on the matter. It was pointed out that he is an alternate, he is appointed to vote this  
13 evening and that he is up-to-date on the case.

14  
15 **Subdivision approval:** Mr. Tsikanovsky told the Board that they modified the layout of  
16 the road specifically the turnaround and that they designed it per the Fire Chief’s input  
17 and Mr. Wagner’s input. Also noted there would be a sign at the entrance to the  
18 compound stating No Parking Emergency Exit Do Not Block. The access road would be  
19 12-foot wide to make sure it is in compliance with Appendix J requirements. They feel  
20 they are now in compliance.

21  
22 **Lease** - Ms. Lewis said that T-Mobile would maintain the gravel part per the lease  
23 agreement with Tabernacle Church and the Church would maintain their parking lot  
24 from the street to the access road. Mr. Almeida: So, if this road deteriorates over time, T-  
25 Mobile has to bring it up to spec?

26 Ms. Lewis: That is correct.

27 Mr. Barry: How often does T-Mobile review that road?

28 Ms. Lewis: They perform maintenance visits at least once a month...

29  
30 It was said that snow plowing is done as needed and there would be no gate at the  
31 entrance. A letter from the Fire Chief is forthcoming and he approves the plan as  
32 submitted and verbally agreed to it. As far as the safety response plan, the Fire Chief  
33 needs to get an address for 911 and figure out the procedures because there may not be a  
34 landline on the site. Chief Schofield approved the plan and conditionally approved the  
35 response plan and as a condition of approval would be these items in place prior to a  
36 building permit. The Board reviewed the emails from the Fire Chief.

37  
38 Ms. Lewis said that the safety plan would be posted at the site by T-Mobile. She provided  
39 a statement as to collocating Town equipment at the compound and a letter from T-  
40 Mobile is forthcoming. Ms. Lewis stated that T-Mobile said they would allow access to  
41 the compound to put ground equipment: the collocation and equipment installation would  
42 be at no cost to the Town.

1 Mr. Byron asked about an email regarding a cap on the tower. Ms. Lewis said that they  
2 are not proposing an extension to the tower and urges the Board to go without the cap  
3 type antenna. The concern is if there is a cap, the tower would be even higher than 140  
4 feet. One condition of approval is a maximum height not to exceed 140 feet.  
5 Mr. Almeida is still concerned with the clearing of the road with the church not plowing  
6 their parking lot at times. This was discussed as to making sure the lot is plowed. Ms.  
7 Lewis explained that it is not T-Mobile's property so they cannot plow the parking lot. "If  
8 we are out there and the church wants us to do it, we would." She further explained that  
9 T-Mobile is leasing the land for the tower. Mr. Barry suggested writing it into the  
10 agreement that this is what the Board is looking for - that the parking area is maintained  
11 and plowed. Ms. Lewis replied that the lease with the Church has been executed. Ms.  
12 Lewis: Reason dictates that if we need to access the tower in the back and it is not  
13 plowed, we are going to plow it to get to the tower. It is not our property so we could  
14 tentatively be trespassing on the church's driveway.

15  
16 It was suggested asking the Church to provide some assurance, and that it could be a  
17 condition of approval. It is made clear that Tabernacle has an obligation to keep their  
18 portion of the driveway clear...and if there isn't a safe access for emergency vehicles to  
19 the site, the matter would have to be revisited.

20  
21 Mr. Wagner: We just need an agreement between the Town and T-Mobile. I do not think  
22 we do not need specifics.

23  
24 It was said that the lease agreement for the Town is being dealt with by the Selectmen,  
25 and the police and fire chiefs and that it is irrelevant for site plan approval. The Town's  
26 antennas would be located on the outside the tower. A copy of the specification from the  
27 Town was provided by Ms. Lewis for the record. Ms. Lewis also stated that the Town  
28 would have access to the compound.

29  
30 Mr. Wagner: The access to Town equipment would probably be the same for an  
31 emergency - a Knox box something with multiple locks. Mr. Tsikanovsky: Typically a  
32 combination lock is used at the main gate or a Knox box with key.

33  
34 Chairman Almeida opened the meeting to public comment.

35  
36 Mrs. Susan Powers, 10 Cutler Road: As you all know, I am against this cell tower.  
37 I am disheartened to learn that Town Counsel has been in negotiations to lease to put  
38 whatever they have to do with this tower prior to being put in. I think that is jumping the  
39 gun so to speak. It also bothers me that through all this, all we have heard is it will be  
40 totally contained. It will be a contained pole, it will be a monopole and now our Town is  
41 going to be the first to put an outside antenna on it...I think these are great concerns. It  
42 just keeps changing all the time...

43

1 Mr. Byron: In response to your comment there has been no discussion with Town  
2 Counsel with the applicant or anybody on this. The discussion you were hearing was that  
3 I believe the Chairman was suggesting that there needs to be a review by Town Counsel  
4 at some point in the future and that was the lease between the Tabernacle Church and T-  
5 Mobile in terms of maintenance and access road, and stuff like that. There is no  
6 discussion that was going on between Town Counsel and anybody in terms of leasing for  
7 space on the tower.

8  
9 Mrs. Powers: So, how did the plans for outside antennas come into T-Mobile's  
10 possession for our Town?

11  
12 Mr. Byron: The request came through from the Fire Chief and Police Chief in getting an  
13 antenna placed on to that for emergency purposes. The reason being is the police  
14 department is having difficulty on Route 102 being able to communicate with the  
15 cruisers. So, at that point, there was an individual named Mr. Man...he requested from  
16 the Town the specifications for the equipment and at that point the Fire Chief and Police  
17 Chief and a consultant for the Town that handles their emergency equipment met and  
18 provided to them, Mr. Man, the specifications for the antennas that would work for the  
19 Town. After that as far as today I received a message from Mr. Man stating that the Town  
20 would need to provide that equipment and he would submit an application to T-Mobile to  
21 see if T-Mobile would grant access to the tower. There is no firm commitment from T-  
22 Mobile that they will give us that as far as I am aware.

23  
24 Ms. Lewis: They have to go through the application process...

25  
26 Mr. Wagner noted that it is also reflected in the Town's Mitigation Plan and the fact that  
27 there is a dead zone in that portion of Town and they were looking to put in an antenna  
28 somewhere to increase their signal. Mr. Byron noted that it is also reflected in the zoning  
29 ordinance that the consideration would be made for installation of emergency  
30 communications.

31  
32 Talk ensued. Telecommunications Ordinance 165.01 f states that *applicant agrees for*  
33 *maximum shared use of the facility with other telecommunications providers and with*  
34 *governmental agencies at industry standard lease rates.*

35  
36 Mrs. Powers asked if the antenna would be on the outside of the tower. Mr. Dasani: The  
37 type of antenna they utilize needs to be on the outside.

38  
39 Mr. Kevin Powers, 10 Cutler Road, talked about snow removal of the parking lot  
40 "coming from a snowplow driver". Ms. Lewis pointed out that in the lease with  
41 Tabernacle it states *the landlord shall maintain and repair all access roadways from the*  
42 *nearest public roadway to the property in a manner sufficient to allow vehicular and*  
43 *pedestrian access at all times.* So, if they do not do it, they are in default under the lease.  
44 T-Mobile would have the ability to terminate the lease.

1  
2 There would be a removal bond posted in case the Town has to take the tower down.

3  
4 Ms. Lewis: All I can suggest, and I do not mean to be speaking for T-Mobile because I do  
5  
6 not know if they are going to agree but in the lease negotiations, you may want a  
7 provision in there saying that the Town we will have access to the site in the event of an  
8 emergency so that would put a burden on T-Mobile to make sure that the Town accesses  
9 the site. T-Mobile is not obligated to go plow the Church's driveway...the landlord is  
10 clearly obligated to plow the driveway. We have a resource to enforce that provision  
11 whether it is through termination; they would be in default with the lease. In terms of  
12 what the Town can do to enforce it, I do not know...force the Church to have a contract in  
13 place with a snow removal company prior issuing any permits.

14  
15 Mr. Wagner suggested informing Town Counsel as to the Church's history of not  
16 maintaining their parking area. Ms. Lewis: The Church has an incentive to keep this lease  
17 in place; not only are they going to be receiving rent from T-Mobile under Section 4d  
18 they would receive additional fees for any collocation - that means any other carriers on  
19 the tower...surely they would not want to jeopardize this lease.

20  
21 **Bond** - Ms. Lewis said they would post an amount whatever the Town requires but  
22 typically it is about \$25,000. Mr. Tsikanovsky said they could provide an estimate of the  
23 removal cost which is anywhere from \$5,000 to \$25,000 depending on installation,  
24 location, etc. The bond would include removing the access road, the tower, the  
25 foundation, everything. The bond language would have to be reviewed by Town Counsel.  
26 Mr. Wagner went over the regulations for bonding. In his experience, he would like to  
27 see something in writing should T-Mobile sell to someone else that there would have to  
28 have a bond in place.

29  
30 Ms. Lewis: The approval as a condition would apply to whoever takes over the tower.  
31 Mr. Wagner: We would have to make sure that the Town is notified of a change of  
32 ownership. Mr. Tsikanovsky: We could make a general statement that the tower's owner  
33 is to maintain a removal bond in the amount agreed upon with the Town.

34  
35 A condition that the applicant would post a removal bond in amount sufficient to remove  
36 and restore site to existing condition. An engineer would come up with the amount and  
37 Town Counsel would approve the language terms. Talk ensued. It was said that T-Mobile  
38 could hire Andrey to provide an affidavit as certified by an engineer as to the cost to  
39 remove the tower.

40  
41 Ms. Lewis said that they are looking for an approval this evening.

42  
43 Conditions were reviewed. Applicant to post and maintain a bond sufficient amount for  
44 removal and restoration of the site; terms and conditions acceptable by Town Counsel.

1 Ms. Lewis said that they would provide a construction affidavit at building permit  
2 application.

3  
4 Talk went on as to painting the tower. It was pointed out that a galvanized pole is the best  
5 way to go due to little maintenance involved.

6 Mr. Wagner suggested adding a note that Tabernacle keeps the current tree line and that  
7 the existing natural buffer be maintained within best management practices for removing  
8 diseased trees. It would be enforced by the Code Enforcement Officer. This would  
9 maintain a visual barrier to abutters except for clearing of dead trees and any additional  
10 clearing would be approved by the Planning Board.

11  
12 Talk went on as to the installation of antennas for Town equipment. Mr. Byron suggested  
13 that the external antenna(s) does not go above the tower and proposes a stipulation that it  
14 not go above 100 feet. It was suggested the plan states that external antennas must be  
15 mounted on the steel portion of the tower not to exceed 100 feet and no antenna to extend  
16 beyond the 140 feet.

17  
18 Mr. Barry expressed concern that there could be 10 antennas and suggested limiting the  
19 amount of antennas.

20  
21 Ms. Lewis: Any commercial carrier has to go through the process. In terms of restricting,  
22 you are restricting it for the Town not for other carriers. Commercial carriers need to  
23 mount internally and they need to go through the process. We can't mount externally but  
24 it appears the Town it appears can. So, you are limiting the Town's ability to mount  
25 external.

26  
27 It was suggested limiting the Town antennas to two mounted. Ms. Lewis said she would  
28 presume that the lease agreement with the Town would most likely call out the number of  
29 antennas to be mounted by the Town and any additional antennas would have to go  
30 through the process. Ms. Lewis: My understanding is T-Mobile is amenable to leasing  
31 space to the Town at no cost and allow the Town to go into the compound at no cost.

32  
33 It was then suggested making it restricted to one antenna for fire and one for police.  
34 Condition would be the maximum tower height to be 140 feet; external antennas and  
35 equipment not to exceed 100 feet. Any antenna above 100 feet to be internal and the total  
36 number of external antennas to be two - one for police department and one for fire  
37 department. Ms. Lewis said that the only external antenna that they would allow would  
38 be government. They do not want external antennas but would allow it for the Town.  
39 Also, should the Town use antennas that comply with their requirements for internal  
40 mounting, it is possible they could do so but that would take one of the collocation spots  
41 and T-Mobile would have to make a decision and there may be a cost.

42  
43 Mr. Wagner mentioned that the tower shall be inspected quarterly and a written report  
44 sent to the Code Enforcement Officer. Two missed inspections shall constitute an

1 abandoned tower. Also, the bond reviewed annually for inflation adjustments. It was  
2 suggested to just say applicant shall abide with conditions that the bond is in compliance  
3 with the Town regulations and ordinances.  
4

5  
6 It was suggested having Tabernacle sign the plans. Mr. Wagner wants to make sure  
7 Tabernacle knows they have an obligation. Applicant would include the wording of the  
8 conditions on the construction drawings and the Church would sign off on the  
9 construction plans. The following conditions to be incorporated in the construction  
10 documents and applicant required to get the signatures, notifying landlord: In order to  
11 maintain a visual buffer to the abutters existing tree line to be maintained except for  
12 clearing of dead trees. Additional clearing to be approved by the Planning Board. The  
13 maximum tower height not to exceed 140 feet; external antennas and equipment not to  
14 exceed 100 feet. Any antenna above 100 feet is to be internal and the total number of  
15 external antennas to be two - one for fire one for police.  
16

17 It was noted that any changes to the site plan, they would have to come back to the  
18 Planning Board. The Board discussed a time limit to complete the conditions. It was  
19 agreed conditions to be met within 60 days of conditional approval and applicant to  
20 report back to the Planning Board every 30 days.  
21

22 Early in the application process, a question was raised as to whether or not to perform test  
23 pits prior to approval. Mr. Tsikanovsky said that they would provide borings and design a  
24 foundation, which would be incorporated into the Town design, and be available to the  
25 Building Inspector as well. Ms. Lewis told the Board that they could provide construction  
26 drawings in the 60-day timeframe. Mr. Wagner pointed out that Lou Caron did not have  
27 a problem with test pits being done after the approval because the soils are fine.  
28

29 **Approval** - Chairman Almeida **MOTIONED** that the Planning Board approves the  
30 application for Tabernacle T-Mobile Tower, Case 1005 LIT M L29, Map 2 Lot 29, 240  
31 Derry Road, Litchfield, NH, with the following conditions:  
32

- 33 1. Plan copies with professional seals and signatures.
- 34 2. Original Mylar with professional seals and signatures.
- 35 3. Electronic submission per regulations (As-builts as required).
- 36 4. Bond estimate.
- 37 5. All fees paid, and escrow maintained as required.
- 38 6. Changes to Plat as detailed in minutes and the report.
- 39 7. Final approval letter from the Fire Chief.
- 40 8. Maximum tower height to be 140 feet; any additional equipment or antenna not to  
41 exceed this height. External antennas and equipment not to exceed 100 feet and any  
42 antenna above 100 feet to be internal. Total number of external antennas to be two - one  
43 for fire and one for police.

1 9. Applicant to post and maintain a bond in sufficient amount for removal and restoration  
2 of the site. Terms and conditions acceptable by Town Counsel. Applicant shall provide a  
3 cost estimate certified by a licensed professional engineer. Applicant shall abide by the  
4 conditions that the bond will be in compliance with the Town regulations and ordinances.

5 10. Town shall have 24 hours a day 7 days a week emergency access to the site.

6 11. Emergency response plan to be in place prior to issuance of building permit.

7  
8 12. In order to maintain visual buffer to abutters, existing tree line to be maintained  
9 except for clearing of dead trees. Additional clearing to be approved by the Planning  
10 Board. Mr. Leon Barry seconded. Motion carried 4-0-1. F. Byron abstains.

11  
12 **ANY OTHER BUSINESS**

13  
14 **New Applicant** - The Board is in receipt of an application from Barry Bean to serve on  
15 the Planning Board. Mr. Byron **MOTIONED** to bring in the applicant Barry Bean at the  
16 August 17, 2010, meeting. Mr. Almeida seconded. Motion carried 5-0-0.

17  
18 **Nashua Regional Planning - Council meeting:** Mr. Barry reported on the meeting he  
19 attended on July 22, 2010. They spoke about what they plan to accomplish next year and  
20 what they accomplished this year. The things accomplished - a lot of input on the Broad  
21 Street Parkway that is on schedule to do something. The Hudson Connector - looking at  
22 roundabouts and also considering doing the Exit 36 south from Nashua involving a loop  
23 to go to the mall.

24  
25 There being no further business, Mr. Barry **MOTIONED** to adjourn the meeting. Mr.  
26 Almeida seconded. Motion carried 5-0-0. The meeting adjourned at 10:35 p.m.

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Edward Almeida, Chairman

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Leon Barry

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Carlos Fuertes

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Frank Byron, Selectmen

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41 \_\_\_\_\_  
Joel Kapelson

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43  
44 Lorraine Dogopoulos, Recording Secretary

**Litchfield Planning Board**

**August 3, 2010**

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