

APPROVED
Town of Fitzwilliam
Planning Board Meeting
November 17, 2015

Members Present: Terry Silverman, Robin Blais, Mac Landy, Suzanne Gray and Nancy Carney, Selectman's representative.

Others Present: Abutters Pinney and Ford, Michael and Marion Wheeler, Bob and Betsy McGonagle, Chris Holman, Selectman, Eversource Team

Call to Order: 7:00 PM

7:00 PM Public Hearing (continued). Eversource (PSNH) application for a conditional use permit for proposed wetland impacts within the Wetlands Protection Overlay District, Fitzwilliam ordinance Section 127-16.1, D.4., to co-locate the new Q166 transmission line with an existing line and install poles in a utility corridor; and associated application for a site plan review of this corridor and existing substation, including a sound study report and landscaping plan.

Lisa Kavarnos introduced the Eversource team: Tracy Tarr, Wetlands Scientist – GZA, Chris Howell, Sound Engineer - Burns & McDonnell, Joe Drouin, Line Design Engineer - Power Engineers, Jim Jiottis, Manager of Transmission Engineering – Eversource, Chris Allwarden, Sr. Legal Counsel – Eversource, Bonnie Kurylo, Community Outreach – Eversource, Laurel Boivin, Municipal Relations – Eversource, Allen Desbiens, Regulatory Affairs - Eversource

Tracy Tarr addressed the Board. She gave an overview of what has been accomplished in the last year and a half regarding the conditional use permit, including the removal of the 379 structures from the plan, and option 3, chosen by the Planning Board is on the plan, as are the landscaping plans. She said that since all the items related to the conditional use permit have been addressed, and the sound study really relates to the site plan review, she asked if the Board would review the conditional use permit application tonight and handle that first, before moving on to the sound study and site plan review.

Silverman said that in his estimation the Board wants to review the project as a whole, and determine if impacts have been reduced. The site plan review process will go forward in any case.

Mr. Howell, Sound Engineer, asked if the Board had reviewed the Sound Study. They had not. The town received it on Monday and the Board got it tonight. He reviewed the Executive Summary, which concluded that there is nothing more they can do. The substation permit did not have a specific noise level goal, with the agreement being that the substation not be louder than the ambient noise. He said the mitigation efforts have resulted in transformers at 4 decibels and the substation noise is at ambient noise levels. Decibel levels at the affected residences is around 20 decibels.

Mr. Ford, an abutter, noted that the discussion when the application was heard for a variance, was that the substation would be quiet, unless it was the middle of the night when people were sleeping. It was purported that the substation would not be disturbing to residents. He added that now it is very disturbing, even at night. He added that if the Town thought the noise level would be disturbing they would have set a specific noise goal.

There was a lengthy discussion about frequencies, decibels and tones, and Eversource's ability to mitigate the noise. Mr. Howell said that the substation noise is below EPA criteria.

Both the Ford's and the Pinney's can hear the hum, as could several Board members who have visited their

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homes. Mr. Pinney said that around here it is quiet and the utility knows it is a widespread problem. Blais asked about the effect on human hearing. She said hearing the same frequency for a long time affects hearing.

Silverman asked the model number of the three transformers in use at the substation. He noted that one in Keene is much quieter. Eversource has a spare transformer on site and Silverman asked if it could be energized without the two others. There was some discussion about when the substation was on or off during the sound study.

Mr. Ford said that at the time of permitting the substation under a variance, the full range of issues was not addressed comprehensively. These issues were not disclosed, because if they were the permit would not have been granted. He added that the view from Gap Mountain is permanently ruined.

Silverman asked how substation location affects noise. Mr. Howell said that sites at a lower elevation than the substation will hear less noise, and those at a higher elevation will hear it more. There was some further discussion about other abutters who hear the noise too.

Mr. Howell said the sound from the substation will meet standards anywhere.

Mr. Pinney said that the report indicates that the sound mitigation is done, but he recalled that at one time Eversource told the selectmen that a sound wall was an option, but it was never modeled. Mr. Howell said a sound wall will not work for the Pinney or Ford residences because the sound will just travel up over the top of any wall, due to the elevation of their homes. Pinney said at first they had suggested a 200 foot long, 23 foot tall wall at a cost of \$1 million dollars. He asked if they didn't do any modeling how could they say it would not work. Mr. Howell did say a wall would absorb some sound, but he couldn't say if it would every day or just some days.

Mr. Ford noted that while this sound may meet criteria everywhere, this project had to meet the criteria for a variance, and that makes this different from other situations. He said the variance was granted without information or conditions, adding again that if the Town knew they would have instituted measures to protect the neighbors.

Mr. Pinney said he never would have bought the property if he had known a substation was to be built. Mr. Ford said it is a matter now of public record so future buyers will beware.

Gray asked about solutions since we still have a noise problem. Mr. Howell said it is not his decision how to continue. He said Eversource is not saying the substation is not audible. Mr. Pinney asked if there were any options left. Mr. Howell said there are always options. Mr. Pinney said he would like to hear his suggestions. Mr. Howell suggested installing a noise cancelling generator at the Pinney residence. He added that he could come up with an infinite number of solutions but at what cost, but said 'there is nothing to shoot for here.' He added there are a lot of variables that come into play with a wall and there is not a numeric values here for Eversource to shoot for. He said that generally the station noise is the same as the ambient noise, which was the criteria for approving the first permit.

Mr. Pinney asked if Eversource had any moral or ethical responsibility. Mr. Howell said he personally thought

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that legally, Eversource has gone beyond their requirement. Mr. Ford noted that decibel level is a legal term, whereas a variance criteria states that the station should not negatively affect the neighborhood.

There was discussion about clarifying distinctions between frequency, decibels, and hertz. Landy likened it to a cello in a symphony, where there is one constant tone one can hear throughout the music.

Silverman said the Town would like a professional review the sound study, asking if the applicant would be willing to pay for this review. The applicants conferred and agreed to pay for an expert to review the study. Attorney Allwarden asked how quickly it could be done. Silverman noted that Eversource has delayed the process by requesting several continuations, which the Planning Board has granted. He added that now the Board needs a professional engineer to review the study and explain it in layman terms.

Mr. Ford said that a professional could also advise the Board about options and possible solutions. Silverman asked if Eversource agreed. Attorney Allwarden agreed as long as the review was conducted by a sound engineer similarly qualified to the Burns Engineers and it would be financed by Eversource. Mr. Howell asked if the Board could commit to a timeframe. Silverman said they would make a good faith effort to get it done within a two month timeframe, since there are holidays in the next two months.

Silverman moved, Gray seconded and the Board voted to continue the public hearing to the first Tuesday, two months from tonight.

Blais said she would like to discuss plantings since they have not been finalized. Silverman said the ongoing maintenance issue has not been settled. He said the site plan review might determine that this is not a viable spot for the substation, adding that would be a draconian solution but given how it was misrepresented during the initial permitting process when the Board did the first site plan review. Silverman noted that if there hadn't been so much fill brought in the station may not have been at an elevation which exacerbated the noise and prominence of the station, especially since buffer vegetation was removed.

Tracy asked if there was any additional input regarding plantings. The Board agreed that landscaping maintenance was a big issue, and planting in standing water was too. Blais said the Town was adamant that it will not maintain the plantings. Silverman noted that Eversource tree maintenance throughout town under electrical wires has been too severe in places, cutting the actual buffer zones which are part of the site plan review.

7:30 PM Public Hearing to present proposed site plan review regulation amendments that are intended to apply only to large scale construction projects that will disturb three (3) or more acres of land, public or private.

These amendments, if adopted by the Planning Board, will be incorporated into the Site Plan Review Regulations of the Planning Board (Chapter 219 in the Code of the Town of Fitzwilliam). The amendments address the following kinds of large scale construction projects:

- Construction of facilities required to facilitate the transmission and distribution of natural gas, electrical power, water and communications; and
- Construction of roads, bridges, tunnels, water supplies, sewers, electrical grids, natural gas supply and telecommunications; and

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- Construction of warehouses, manufacturing plants, electrical generation facilities, natural gas and petroleum plant facilities; and other product production facilities.

Silverman called the next public hearing to order. He explained that the proposal is to amend the site plan review regulations to address large scale construction projects, which are not addressed in the existing regulations.

Carney asked for clarification or specific definitions for ‘large scale heavy construction’ other than the reference to a 3 acre or more area of disturbance. Silverman noted that a proposed noise ordinance, which the Board will take up at the next meeting, includes a list of noise sources that are excluded from the proposed ordinance. These sources would also be excluded from the regulation proposed tonight.

Michael Wheeler asked if the proposed regulations were intended to stop growth. Silverman said no, they are to fill a gap in the Town’s regulations, which were not written to regulate large scale construction projects.

Selectman Holman requested clarification regarding the 3 acre disturbance, asking if it applied to a one acre disturbance on a three acre lot. It does not, it applies only to a three or more acre disturbance. He asked if the Town would need to hire experts to oversee the construction, since the Town does not have the expertise now to do so. Silverman said if experts were needed for any purpose related to the project, the applicant would have to pay for them. Mr. Holman asked about enforcement. Gray said that the application process is for the purpose of insuring all the information needed is received for the Board to consider during a public hearing. Mr. Holman asked for more specifics regarding the permits needed for any project. Silverman said the Town does not allow work to begin without all the permits being secured.

Mr. Holman asked if an attorney had reviewed this proposal, adding can the Board legally ask for ‘as built’ plans? Silverman said the Board receives and signs final plans upon approval of the project. He noted that these large projects, like the pipeline, change their plans all the time. Silverman also noted that the proposed regulation is being enacted by several surrounding towns in an effort to regulate the pipeline construction project and similar large scale projects in the future.

Mr. Holman thought this was a lot to ask a homeowner. Silverman noted that the proposed regulation is for commercial construction uses, not residential uses. Mr. Holman had several other questions regarding residential uses, which were also not affected by the proposed regulation. He also brought up the issue of solar and wind projects, which he felt should be exempt.

Marion Wheeler asked how this proposal would affect the Bard building being torn down and rebuilt. Blais said this regulation will not be onerous for a large construction outfit. Silverman said for big construction projects there is usually need to mitigate effects of the project and this proposal gives the Town some control over construction and mitigation.

Selectman Carney said the Selectmen’s concern is about enforcement. Gray asked how enforcement happens currently. Blais said the Town could hire a qualified engineer, at the applicant’s expense, to oversee the project and enforce conditions.

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Silverman moved, Blais seconded a motion to adopt the proposed regulation. Discussion followed.

Mr. Holman stated that the Select Board has not even had an opportunity to discuss this. Silverman said the Planning Board will be happy to meet with the Select Board to discuss amendments. Gray said that as a Planning Board they are also in a tough situation with Eversource, dealing with noise for more than a year and a half, adding that this regulation is not targeted at any one project. She said the Board needs the regulation in place to manage big construction projects going forward.

Mr. Holman raised the issue of composting, of matching soils, dredging Scott Pond, disturbing the fish population. Mr. Ford said there needed to be a closer look at decibel levels.

Blais called the question and the Board voted unanimously to adopt the regulation as proposed, to be incorporated into the site plan review regulations, with amendments allowed as needed.

The Board then discussed a proposed noise ordinance that comes from New Ipswich. The noise ordinance, if passed, will be referred to in the Large Scale, Heavy Construction Regulations just adopted by the Board, as a companion to item # 17 in these regulations, which states “Noise emanations resulting from the proposed operations are limited to 10 decibels above ambient noise at the building structure and equipment housing line. All exhausts shall be equipped with sound suppression equipment to meet this condition.” Silverman moved, Blais seconded and the Board voted to move the proposed noise ordinance forward for a public hearing.

Silverman added that this proposed ordinance applies to commercial and industrial noise only.

Minutes. The Board reviewed the November 3, 2015 meeting minutes. Silverman moved, Gray seconded and the Board approved the minutes as written.

The Board met briefly with David Coate, a sound engineer recommended by Dana Pinney, from Pembroke, MA. He submitted his resume and qualifications. Silverman asked if he would consider reviewing the Eversource sound study and project for the Town. He would and took a minute to review the meeting tonight. He said that what the Eversource sound engineer presented was fairly accurate, but he was dubious about the estimated cost of a sound wall. He proceeded to inform the Board of the work he has already done for Mr. Pinney, who engaged him to do so. He showed the Board some early sound analyses with possible options for sound mitigation depicted. He noted that what’s needed is a way to break the line of site to interfere with the way the sound travels from the station. He added that there are a lot of options to accomplish this.

Silverman asked Mr. Coates to submit a formal proposal for the Board’s consideration. Mr. Coates will submit a scope of services and the technical tasks to be performed. He will also review the sound study submitted by Eversource and make comments. He said that even if the state has not adopted noise level standards, towns can do so.

The meeting was adjourned at 9:45 PM.