

**Town of Warner – Planning Board
Meeting Minutes
Monday, November 2, 2009 7:00 PM
Warner Town Hall, Lower Level**

Members Present: Barbara Annis, Paul Violette, Clyde Carson, Ed Mical, and Rick Davies
Members Arriving Late: Dan Watts
Members Excused: Hank Duhamel
Members Absent: None
Alternates Present: Peter Wyman (voting for Hank Duhamel)
Alternates Excused: None
Alternates Absent: Harold French
Presiding: Barbara Annis
Recording: Jean Lightfoot

Open Meeting at 7:00 PM

Roll Call

Ms. Annis opened the meeting at 7:02 p.m. The roll call was taken. Ms. Annis asked Mr. Wyman to sit and vote for Mr. Duhamel.

Ms. Annis asked if MRT Investments, represented by Joseph Mendola, was present. There was no response, so she moved to the second item on the agenda.

1. CONCEPTUAL CONSULTATION

Applicants and Property Owners: Stephen and Andrea Dubaniewicz (Warner Country Store)

Property Location: 855 Route 103 East, Warner, NH

Map 3, Lot 65, R-2 Zoning

Description: Questions regarding the proposed sale of guns at the store.

Ms. Annis recognized Stephen Dubaniewicz. Mr. Dubaniewicz said that it wasn't clear to him why he had to come to the Planning Board meeting. He said he had called the Police Department to see if there was any problem with someone selling guns at a business in town and they referred him to the town office and said they had no problem with it. Then, he said his neighbors were contacted by letter asking if they had any problems with this. He said he fits all the Federal and State requirements to sell guns. He said it will not be a gun shop, nor is it a new store. He said it will remain as the Country Corner Store where he does deer registrations, animal registrations, licenses for hunting and fishing all year long. He added that he sells ammunition now and the natural next step would be firearms. He said that he has talked with the ATF about what the requirements are for the building and to find if it is legal to sell on consignment. He said that he understands from the ATF that he will get the license that he's applied for. He said that the ATF has told him there are no special requirements for the building other than what he is doing now.

Ms. Annis explained that the reason that he was asked to contact the Planning Board is that in the Site Plan Regulations, it says "Site Plan Review by the Planning Board is required for all proposed industrial, commercial, or multi-family developments for the change or expansion of use of all industrial, commercial, or multi-family uses." She said that this is a commercial enterprise and apparently someone from the town felt that it might be an expansion of the business and suggested that he come to the Planning Board to find out if the Site Plan Review is necessary. Mr. Dubaniewicz said that it will not be an expansion and it will be just another product coming into the store. He said there will be no additions to the building and the space that will be used will be a very small space in the back and it will be secured.

Ms. Annis asked if the Board members had any questions. She said that there was a letter from one abutter who has some concerns. Mr. Carson asked what kinds of guns would be sold. Mr. Dubaniewicz said that

most would be special order and that he would not be selling any in stock. He said that the area is commercial/residential – and it is not strictly residential as had been stated in the letter from the abutter. He said that he will do consignments where he will hold a gun for 30 days for someone and if it is not sold, it will be returned to them. Mr. Carson asked if it was going to be restricted to simply hunting-type guns. Mr. Dubaniewicz said yes, it would be only hunting rifles and there would be no pistols or revolvers. He said if he did get one that was not a hunting rifle, he would come back to the Planning Board to ask about those. He added that we live in a hunting community and that is what will be carried. He said that most of the significant sales would be special order where individuals can order through him what they want. He said that the Federal Government rules require that anytime a rifle is bought it has to be obtained through a licensed FFL. He said that he could also do the paperwork for the government to buy guns to groups of employees who buy guns all the time for their jobs. He said that the ammunition and the guns will be in two separate areas of the building and the guns will be locked up with Mr. Dubaniewicz being the only one who could unlock them and show them. He said there is no expansion of the business because it's not the kind of product where people come in shopping. He said that there is no threat to the abutting neighbors.

At this point, Mr. Watts arrived. Mr. Dubaniewicz said that the ammunition will be stored in some kind of fire proof area and will generally be carried only during hunting season and stored in his safe when it's not hunting season. He said if someone wants it for target practice off-season, then he would probably order it for them. He said that he checked with ATF and they have no requirements for alarms. He said they do come in to inspect the building and inspect the paperwork monthly. He said they have very stringent controls. Mr. Mical asked what kind of traffic increase is expected. Mr. Dubaniewicz said he had no idea but, the plan is to do consignments. He said that they are not turning the store into a gun shop; it is simply another product that they are bringing into the store. Ms. Annis asked if they are a weigh station. Mr. Dubaniewicz said they are a registration station, but they have no scales, adding that he has concern for the neighbors and dogs and animals and therefore does not want blood being dripped onto the ground from the dead deer. He said that the animals are kept in the truck and he goes and tags them there. There were no other questions.

Mr. Violette MOVED that there is no Site Plan Review required. Mr. Wyman seconded. Mr. Davies asked to clarify that the town is not licensing the sale of guns and that the motion is about the site plan itself. Ms. Annis said yes. Mr. Dubaniewicz said that the State does his background check for the sale of guns. There was no further discussion. The motion was PASSED unanimously.

Mr. Dubaniewicz thanked the Board and left.

2. CONCEPTUAL CONSULTATION

Applicants and Property Owners: MRT Investment & Development, LLC

Agent: Joseph Mendola, NAI Norwood Group

Property Location: Route 103 West, Warner, NH

Map 35, Lots 4-1, 4-2 and 4-3, C-1 Zoning

Description: Questions regarding the status of the Site Plan for the property formerly owned by R.A.W. Investments.

Joseph Mendola had arrived and asked to be re-inserted on the agenda. Ms. Annis recognized Mr. Mendola for MRT Investment. Mr. Mendola said that he is with NAI Norwood Group and is the agent for MRT Investment who purchased the RAW property when it was foreclosed. He said that he asked to speak to the Board to find if there are any permits that had been approved that need to be maintained. He said that he did not see any approved Site Plans from the Planning Board. He said he wanted to get a status on where the property stands from the perspective of the Planning Board. Ms. Annis asked if he had seen the Conditional Approval that was granted to RAW. Mr. Mendola said he believed that he had seen it. Ms. Annis said that that is what is in place right now. Mr. Mendola asked if there is an expiration date on it. Ms. Annis said there is no expiration date on the notice of decision, however, there is a law called "being vested." She said it is RSA 674:39. She said that they were not sure if this is transferable because permission was given to

RAW for the site plan. She said that based on legal advice that has been received from the town counsel (she requested that Ms. Lightfoot hand Mr. Mendola a copy), it is not transferable without a public hearing. She said that it would proceed in that way so that the new owners would know exactly what they were agreeing to and it would be in the record. She said that many of the approvals from State officials have expired and the Planning Board has no control over those. Mr. Mendola asked if it meant that from the standpoint of the Town Counsel, the permits run with the owner and not with the land. Ms. Annis said it goes to the owner, but it could be transferred to the new owner after a public hearing in order to put on the record that both parties understand what is being required of the new owner. Mr. Mendola returned the copy of the e-mail from the Town Counsel to the Board. He said that he understands that without a public hearing, the new owners will begin at square one. Mr. Violette said that the Notice of Decision had 16 different conditions and a public hearing would be held to be sure that all parties understand the conditions before it was transferred to the new owner. There was a short discussion about some of the conditions and what the new owner will have to do to meet them. Ms. Annis asked if they were aware that the Planning Board would not agree to the driveway where it currently is without the owner going to the DOT and at the owner's expense moving the entrance to park and ride down to where it is opposite the driveway that enters the RAW property. There was a discussion about the approved site plan review drawings that were completed by RAW. Mr. Mendola asked if the drawings had been signed. Ms. Annis said that the drawings would not be signed until the conditions were met, so there are no signed plans. She added that, in addition, even if they were signed, Site Plans are not recorded at the Registry of Deeds.

Mr. Mendola thanked the Board and left.

3. SITE PLAN REVIEW

Applicants: New Cingular Wireless/SAI Communications/ATT Mobility

Property Owners: Diane Violette

Property Location: 296 Kearsarge Mountain Road, Warner, NH

Map 14, Lot 36-1, R-2 Zoning

Description: Site Plan Review for a wireless telecommunication facility. The applicant proposes to modify the existing AT&T/New Cingular Wireless communication facility by adding a platform at the 105-foot level

- a. Review Application – Accept/Reject/Continue
- b. Close Meeting and Open Public Hearing
- c. Close Public Hearing and Re-Open Meeting
- d. Action Taken – Approve/Disapprove

Ms. Annis recognized Jonathan McNeal from SAI Communications. Mr. Davies recused himself as an abutter and moved to sit in the audience. Ms. Annis noted that there was still a quorum for the Board to continue its business. Mr. McNeal explained that AT&T has an existing facility at this site which consists of two whip antennas which are omni-directional antennas that are about 25 feet high. He said they are proposing to replace those antennas with a platform with 6 antennas on it at the same height. He said that the equipment that would be used would be maintained at an existing shelter at the site. He said he said that in 2003-2004, AT&T and Cingular were in a joint partnership but they were competing companies. He said they have since merged and the license was for only a 2-mile width. However, now, they have a license for everywhere in the State of New Hampshire. He said part of the intention is to provide additional coverage and part is to add new technologies to the area. He said in order to do that, they need to add the panel antennas which provide more coverage and power. He said he is expecting a structural analysis of the tower to determine if a platform can be put on the tower, but he does not have that yet. He said that the alternative would be to install 3 pipe mounts with one antenna on each for a total of 3 antennas at the same height, but it would not include a platform. He said that that reduces the capabilities for the area and actually increases the power output by 3 kilowatts per hour above what it would have been required to run it.

Ms. Lightfoot asked Mr. McNeal for the \$45.09 that is owed on the application. Mr. McNeal said the check would be written on Tuesday and he would get it to the office.

Mr. Mical asked if there is a conceptual for what is planned to be put up. Mr. McNeal said he had plans and distributed pictures to the Board members. He said that, structurally, the tower cannot accommodate panel antennas without some additional reinforcement. Mr. Mical asked if the panels will be the same height as the antennas only wider. Mr. McNeal said yes, and added that currently there is a full array of US Cellular panel antennas just below where their current antennas are. The Board members reviewed the drawings and pictures provided. Mr. McNeal said the panels are approximately 55 inches high, 11 inches wide and 5 inches deep and they provide capabilities for faster data service, called UMTS service, in the area and that would include video capability, as well. Mr. Carson asked how high the existing tower is. Mr. McNeal said that the tower structure is 100 feet high and there is a 20-foot whip above that and there are their two 5-foot antennas. He said he believes there is also one antenna that looks like an old TV antenna that is above the 100-foot level. Mr. Carson asked how high that is above the canopy. Mr. McNeal said he did not know.

Mr. Wyman asked for pictures of what currently exists. Mr. McNeal distributed those pictures. Mr. Carson asked if this tower is just for Cingular or if other companies use the tower. Mr. McNeal said that the tower was originally for MCT Communications for their TV and telephone use. He said that US Cellular is on there, too, with panels. He said that Cingular is leasing space from TDS Telecom which is the parent company of MCT. He said that if this is approved, the two 5-foot whip antennas would be removed and the panels added, but the other antennas would stay. Mr. Carson asked if there is anything higher than where their panels would go. Mr. McNeal said that the 20-foot whip and what looks like an old TV antenna are higher up. He added that part of the objective is to expand the coverage to partly cover the current dead areas, with most of the coverage improvement being in the Warner center area.

Mr. Mical asked for a diagram that shows what the increased coverage would be. Mr. McNeal distributed pictures showing the anticipated change in coverage. Mr. Mical noted that this is not just referring to the Site Plan Review regulations, but also to the Wireless Ordinance. Ms. Annis said yes, there are site plan regulations within the Wireless Ordinance. Mr. McNeal said that this tower is one of the two pre-existing towers mentioned in the Ordinance, so he did not think the Ordinance would apply to it. Mr. Mical said that modifications are being made to the tower. Mr. McNeal said it is his understanding that because it is one of the pre-existing towers in the Wireless Ordinance and so it should fall under the Site Plan Review Regulations, but not the Wireless Ordinance regulations. Mr. Carson asked if there will be anything emitted from the new antennas that is any stronger or will have a greater environmental impact on the surrounding area. Mr. McNeal said the power output is more, but they are regulated by several governmental guidelines and all of the installations are generally 1/100th of the output which is the limit for the Federal Government. Mr. Carson asked how it compares with what is there today. Mr. McNeal said he did not know the exact difference, but he said it is incremental.

Ms. Annis asked about increasing the height to 105 feet. She said that the Ordinance says that the tower shall be at least 100 feet below the nearest ridgeline. She asked if this would still be true. Mr. McNeal asked if that was part of the Wireless Ordinance. Ms. Annis said yes. Mr. McNeal said that this is a pre-existing tower in the Ordinance. Ms. Annis said that they are increasing the height. Mr. McNeal said they are not actually increasing the height of what currently exists on the tower. Mr. Mical said quoted the Site Plan Review regulations at Section II, Procedures, paragraph A, General, as follows: "Projects for the construction or alteration of wireless telecommunications facilities are directed to comply with the 'TOWN OF WARNER, NH, WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE,' and the WIRELESS TELECOMMUNICATIONS FACILITIES section of these regulations." He said that he thinks that because they are changing from the antenna to the array that is an alteration of the tower. Mr. McNeal asked if that is despite 1003.03 a. of the Wireless Telecommunications Ordinance that reads "Notwithstanding anything in this ordinance to the contrary, this ordinance shall not apply to any pre-existing towers and antennas; however, any changes to either of these facilities by present or future owners must conform with height, aesthetics and lighting Site Plan Review standards in effect at the time." Mr. Mical said that there are still the Site Plan Review Regulations to consider.

Ms. Annis said before the checklist will be reviewed, it has to be decided whether to accept the application. Mr. Violette MOVED to accept the application. Mr. Carson seconded. Mr. Mical said that there is specific information missing as to what is planned as far as the engineering specs go for the array that they want to replace the antennas with. He said he thinks that's an important part of the application. Mr. Carson asked if a vote of no on this would mean that he has to go back and do more homework. Ms. Annis said that the application can be accepted, rejected or continued. She said if the motion is denied then another motion can be made to continue or reject the application. The vote was taken: Mr. Watts, yes; Mr. Mical, no; Mr. Violette, yes; Mr. Carson, no; Mr. Wyman, yes. Ms. Annis said the application has been accepted.

Ms. Annis closed the meeting and opened the public hearing, saying that abutters would be recognized first and then other interested individuals. She said that questions will be directed to the Board and questions or comments will be limited to two minutes. She asked that no one speak a second time until everyone else has spoken once. Finally, she asked that if a question has been asked that it not be asked a second time. She asked if there were abutters who wished to speak.

Ms. Annis recognized Rick Davies. He said there were a couple of letters which were sent to the Board and the O'Neils asked that theirs be read out loud because they could not be at the meeting. Ms. Annis read the letter as follows:

Reference: Abutter Notice for Property at 296 Kearsarge Mountain Road, Warner, NH

We had every intention of attending the Public Hearing on 11/2/09 but due to a death in the family, regretfully we must travel and are unable to appear and voice our opinions.

*When our parents were approached by personnel of the Telephone Company before the 296 Kearsarge Mountain Road site was ever developed, they were **PROMISED** by the phone company personnel that from our property at 301 Kearsarge Mountain Road, we would **NEVER** see any part of it. That of course is not case and further expansion is unwise until corrections to the present failures are demanded. For many years now, looking out any window on the front of our house and even more so from standing in our driveway, the satellite dishes are **VERY CLEARLY** visible. Additional concern is of the negative financial impact to our property and the surrounding neighbors. (People driving by have recently asked what is "going on" in the road behind the gate.)*

When there was a request several years ago to put up "whip antennas", we strongly disapproved as did many of the abutters. The request was "approved" with "conditions", one being that shrubs, trees, etc. be planted and the dishes painted/covered to hide the site from our view and that of several neighbors. No matter what color they are, white, blue, green, they are still very visible and an eye sore. Even the orange cones sitting on the ground can be seen from our property. We were told that there was a planting of some sort of shrubbery, however, that too has not remedied the situation. Maybe planting more trees and shrubs on both sides of the access road into and in front of the site would provide more of a buffer to help rectify the problem. A plan to provide maintenance, repair and replacement of the foliage should be included going forward. Not only do we have to see all this equipment, if the electric power goes off, we have to listen to the roar of the generator.

*With this recent request it is our understanding that future requests will **NEVER END**. A "platform" at 105' is actually extending the tower already there (which is not set out as an "addition" in the notice we received in the mail) and 6 panel antennas will add to the declining appearance in the air with additional obstructions.*

Frankly, we are totally disgusted that the promise made to our parents many years ago has never been kept by the company/companies making that promise and discouraged that if this new request is approved it will only make matters worse.

*It is therefore our request to the Planning Board that these changes, additions, etc. to the 296 Kearsarge Mountain Road, Warner, NH site, be **DENIED** and that the Planning Board does due diligence in representation of the residents and abutters in this matter with more attention given to blocking what is already there.*

*Submitted by:
James R. O'Neil
Anne O'Neil
Patricia O'Neil
Timothy O'Neil
(sic)*

In addition, the following letter was received:

RE: AT&T/Cingular Wireless Facility on MCT Tower

Please clarify the following questions regarding the October 14, 2009 application for modifications to the existing facility:

- Drawing 1/A-1 indicates the existing tower is at elevation 100'. In the same detail, the vertical center line of the panels is at elevation 105'. Plus there is an indication of a 5' extension shown well above the centerline. Therefore the indicated tower extension may be in excess of 5' and possibly 8' or 10' extension. Please clarify.*
- There is a reference to a "platform" at elevation 105'. The drawings do not indicate one. Please clarify.*
- What is new the panel size and what is the elevation to the top of the panels?*
- Since there is a tower structure extension request per the drawing 1/A-1, a ZBA variance to the Zoning Ordinance may be required.*
- Are there any propagation maps indicating coverage? Can this be covered from another existing tower? What is the gain from the "whips"?*
- What is the current implementation status of the last Planning Board decision of April 5, 2004 (Cingular), and follow-up letters indicating a required July 2005 extension for completion? Is there a full report from the Planning Board's inspection officer?*
- Can a program be setup so abutters and the Owner can react to changes to maintain a visual buffer? There is nothing to say the future owners of 288 Kearsarge MT RD will not cut all trees and trees on the MCT site continue to grow.*

*Thank you for your consideration,
Rick Davies & Tina Schirmer
291 Kearsarge MT RD, Warner, NH
(sic)*

Rick Davies said that they live across the road from the entrance to the site. He referred to the letter above that he and Ms. Schirmer had written. He said that some of the drawings indicate a 5-foot extension with a center line, but there is a taller, new drawing that indicates an extension of 5 feet which is actually taller than the center line, so he said that he thinks that one of the drawings is incorrect. He said that he understands that the "platform" referred to is not a platform where people would be walking around. Mr. McNeal said that it is a terminology for the array and there would be no platform for walking around. Mr. Davies said there is

a question about the size of the panels. He said it sounds like they're about the size of the existing ones, but there has been no information on that. He asked if that is available. He said that since the tower is a structure and there is discussion that the Telecommunications Ordinance didn't apply to this existing tower, there is still an existing Zoning Ordinance in the town. He said that because it is a structure under the Zoning Ordinance, he wondered if it should go before the Zoning Board of Adjustment as an extension of that structure. He noted that the propagation maps have been provided, however, he wondered if this is needed and if the same thing could be accomplished from another tower without raising the issues that are being raised here. He said that there is incomplete information and he said they are disappointed that the application was accepted when the information was not complete, as was brought up by one of the Board Members. He asked if the Board Members received the April 5, 2004 notice of decision. Ms. Annis said they did. Mr. Davies said that the November conditions were rolled into the April decision. He asked if all the conditions were completed. He asked that the April 2004 decision (includes November) be rolled into any new decision by the Board for the project. He asked if there is a report from an inspection officer to the Planning Board. He said there were a number of follow-up letters regarding issues of trying to get the paint correct on the buildings; there were some plantings that may not have survived. He said that they have no determination as to whether what was asked for was ever implemented. He said they do not know where it stands as of now. He continued by referring to the O'Neil letter where they said that maybe something could be worked out. He said his recommendation is that the owners and the companies wanting to add to the facility get together with the abutters to work something out since this is going to keep coming up. He said there is a concern among some of the abutters that the owners of 288 Kearsarge Mountain Road could cut their trees down which right now offer a buffer for some of the other abutters. He asked the Board to take these things into consideration when the decisions are to be made.

Ms. Annis recognized Suzanne Telford of 278 Kearsarge Mountain Road. She asked if there will be any additional generators with the new panels. Ms. Annis said that there is nothing in the plans that state that there will be, but she asked Mr. McNeal. Mr. McNeal said no. He said there are batteries in their shelter for backup power. He said that he would understand if other carriers may have generators there as backup when the power goes out to provide service to their customers. Ms. Telford said that she does not see the tower from her location because she has a lot of trees that block it. She said that if she were to clear trees or someone else were to clear trees, it would be very visible.

Ms. Annis asked if there were other abutters who wished to speak. There were none. She asked if there were members of the general public who wished to speak. She recognized Joanne Hinnendael. Ms. Hinnendael said that she wanted to reiterate what has been said about the Zoning Ordinance. She said that when the towers were built, the Zoning Board did require the measurements for the ridgeline and the tree canopy limitations. She said that if there was a question, they ran a balloon test and wondered if for this proposal a balloon test should be conducted. She said that she thinks that the standards that have been set in the Telecommunications Ordinance and the Site Plan Review Regulations should be followed. She said she believes this is new construction.

Ms. Annis recognized David Karrick. Mr. Karrick said that he did not understand the answer to the question about the generators. He asked if it meant that no more generators would be required, but if other companies leased space on the tower, there would be a possibility that more generators would be required. Mr. McNeal said that he meant that apparently there are some existing generators and he could understand why other companies are using generators when there are power outages. However, he said, he has no control over other companies, and ATT/Cingular will not be using a generator because they have a battery back-up system in their shelter that is at the site right now.

Ms. Annis said that there are multiple companies that have business at the site which is something that needs to be kept in mind.

Ms. Annis recognized Suzanne Telford. Ms. Telford asked if there has been a study as far as microwaves are concerned and the safety of the addition of these panels to the tower. Ms. Annis said that it is her understanding that they are taking away whip antennas and replacing them. She asked if that would

increase the output. Mr. McNeal said there will be some more energy, but that energy is 1/100th of what the guidelines are by the Federal Government which regulates the emissions from these facilities. He said that all the arrays constitute the facility.

Ms. Annis recognized Rick Davies. Mr. Davies said that he did not think he got an answer on the height of the tower with the extension. He said that the drawing in two spots very clearly says extension. He said that he does not understand why the ordinance is not in effect here, adding that before the Wireless Ordinance, there was a Zoning Ordinance in effect. He said he believes this is a structure that is being extended. He said he would like clarification as to whether the structure is being extended and what the configuration is that is planned to support the new platform if it is not a structural extension. Mr. McNeal said it would be a structural extension if the 5-foot extension was used because currently there is nothing there that would support the panels at that height. He said that one of the reasons they put the whip antennas up in the beginning was because without structural changes, it would not support panels. He said that he does not believe that the height would change from what is there now because the antennas are 5-foot antennas. He said that there would be an extension of the structure itself.

Ms. Annis recognized Joanne Hinnendael. Ms. Hinnendael said that this Board has always been good about disguising cell towers. She said that she recognizes that this is a pre-existing tower, but since they are proposing some changes and some of the disguises may no longer be appropriate, perhaps the disguise could be changed.

Ms. Annis recognized Rick Davies. Mr. Davies said that he thinks they have been trying to camouflage the dishes that are there but it is difficult. He said that he thinks there needs to be a long term plan. He asked about the issues that were in the April 2004 Notice and if they had been followed up on and concluded. Ms. Annis asked Marc Violette to help to recollect what was going on. She said that at the time she remembered that they were trying to get a cover for a dish that would be a neutral color. Marc Violette said that they had tried many times to find a cover that would last. Marc Violette said that it was finally painted. Ms. Annis said that she believes that new shrubbery was planted but some of them died and they were replanted. Mr. Violette said yes. He added that their building color was changed, but there were never stipulations put on what color the other two buildings on the site could be. Marc Violette said that they tried to go with a neutral color for their building.

A member of the audience asked what plantings were done. Ms. Annis said that because the trees died at the bottom, the yews were planted on the other side so they would grow and cover in the bottom of the other trees. Mr. Violette said that not all the area is owned by the property owner. He said that where some of the trees are dead is owned by an abutter. He said there was nothing specific from the Planning Board, other than to plant something to block the big dish that is at the bottom on the ground and try to do something at the corner of the driveway to block the view from the O'Neils' property. He said that those were planted.

Ms. Annis asked if there were any other members of the public who wished to comment. There were none. Ms. Annis closed the public hearing and re-opened the Planning Board meeting. She asked Mr. McNeal to explain the pictures that had been provided and show where the panels will be placed. Mr. McNeal indicated on the picture where the platform would be and answered some of the Board members' questions about the picture.

Ms. Annis said that the checklist has to be reviewed and the waiver requests have to be considered. Mr. Mical commented that the application has already been accepted and wondered why the checklist is to be reviewed. Ms. Annis said that the waivers still needed to be considered and she reviewed the checklist and read the list of waivers requested:

III(A)4(a). Sheet size: 22" x 34" maximum:

The sheet size submitted by the applicant is 25" x 35", which is the standard size utilized by the Applicant's Engineer. The Applicant does not expect that these plans shall be filed with the Registry and respectfully requests a waiver of this provision.

III(A)4(b) Scale: not less than 1" = 100'

The scale utilized by the engineer is designed to depict the proposed changes as fully and accurately as possible, which cannot be accomplished at a 1" by 100' scale. The Applicant respectfully requests a waiver of this provision.

III(A)4(g) All existing and proposed easements.

The applicant seeks no change to existing easements. The Applicant respectfully requests a waiver of this provision.

III(A)4(h) Drawing of site showing boundaries, existing natural feature including watercourses . . .

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(i) Plan of all buildings with their type, size and location (set backs):

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(j) Location of off-street parking and loading spaces with layout of parking indicated:

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(k) The location, width, curbing and type of access ways and egress ways . . .

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(l) The type and location of solid waste disposal facilities.

The existing and proposed installation shall not be manned. The Applicant respectfully requests a waiver of this provision.

III(A)4(m) The location, size and design of proposed signs . . .

There shall be no change to existing signage, which is required by the Federal Communications Commission. The Applicant respectfully requests a waiver of this provision.

III(A)4(n) The location and type of lighting for all outdoor facilities. . .

The Applicant's equipment is located within an existing shelter. The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(o) Right of way lines of all existing adjoining streets:

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(p) Water supply and sewage disposal facilities:

The existing and proposed installation shall not be manned. The Applicant respectfully requests a waiver of this provision.

III(A)4(q) The zoning districts and boundaries for the site and within 1,000 feet of the site:

The Applicant is proposing no changes to the existing ground space. All changes shall be to the interior of an existing building and to the existing tower. The Applicant respectfully requests a waiver of this provision.

III(A)4(r) One hundred year flood elevation line, where applicable.

The installation is not within the 100 year flood elevation line.

Mr. McNeal said that he would answer any questions. He said that the footprint is not being changed. Mr. Violette said that it could continue the application, pending the additional information required. Mr. Watts asked about the height. He said that, as he understands it, the structure itself will be higher, even though there are things that are attached to the structure right now that go higher than where the proposed addition will go. He said he thinks that because it is the structure itself that is increasing, by our Ordinance, it cannot be over 20 feet above the tree canopy and without the height of the canopy being provided, we cannot say that it is within the zoning requirements. Mr. Violette said that the propagation studies were another issue. Mr. McNeal said he could provide the propagation studies. He handed out copies to the Board members. He said the footprint does not change from the standpoint of power output areas, but the quality would improve. He said there will be a lot of areas in Warner that will get coverage in an enclosed area whereas right now they do not. He said that additional areas of I-89 would also be covered. The Board members reviewed the coverage areas. Mr. McNeal added that they will also be using additional technologies for data transfer and the panel antennas are required for that. Mr. Violette asked if they are on other towers in town. Mr. McNeal said yes.

Mr. Violette asked if they are a PCS service. Mr. McNeal said yes. Mr. Violette asked if this is a much higher frequency range and therefore the tower sites have to be much closer together to provide adequate service on PCS channels. Mr. McNeal said yes. Mr. Violette asked if the original cell sites when things first started would have a range of about 12 miles between cell sites. Mr. McNeal said it was even farther than that because there were not so many customers. He said that the issue now is that there are a certain amount of frequencies and channels and those are dedicated toward customers and the more customers there are, the more times those same channels need to be re-used. Therefore, he said, if your coverage is 12 miles out, you cannot re-use that channel for another customer within that 12 mile range. Mr. Violette asked if it is correct that PCS channels have a 3-mile range even on flat ground. Mr. McNeal replied that it is between 3 and 5 miles. Mr. Violette asked if that would mean that you need 3-4 times as many towers to cover the same area as cellular. Mr. McNeal said potentially, yes. Mr. Carson asked what PCS is. Mr. Violette said it stands for Personal Communications Service which the FCC allowed in 1996. He said it is like cellular, but it is a much higher frequency and there are five different licenses in each area. Mr. McNeal said there are two at the cellular level which is a lower frequency and can travel farther. He said that is what is on the antennas on the Kearsarge Mountain Road site. He said there are a number of licensed carriers at a higher frequency which does not travel as far. He said those are AT&T, T-Mobile and Sprint. Mr. Carson asked what could be done with the higher frequency that cannot be done with the lower frequency. Mr. McNeal said it is licenses. He said that there are only two licenses for those lower frequencies in the State of Maine. And, he said that the companies purchased these at great expense from the Federal Government and you are only allowed to utilize those frequencies. Mr. Carson said, then, that it's not so much the types of services that go with this frequency, it's just a higher frequency to do the same thing. Mr. McNeal said yes, it is similar service to the cellular frequencies, with each company having their own capabilities. Mr. Carson asked if they needed that frequency to do something different. Mr. McNeal said that what they are trying to do is data transfer and that is what every other company is trying to do. But, he said that could be done at the lower frequency, as well. Mr. Carson asked if these are related to the frequencies that were freed up by the government from analog TV. Mr. McNeal said no.

Mr. Violette said that he was thinking about the two lower frequency systems that would go further between towers and those are Verizon and US Cellular. He said that all the others are PCS. He said that when you think about where you can place facilities to get the coverage, it comes down to a smaller distance between

towers. He said that when you think about whether the same thing could be provided from another site in the propagation study, it's hard to say that it could be.

Mr. Watts said that he thought that the application should be continued because we do not have the information needed on the height. Mr. Mical said that the missing piece is the engineering study of the array that is planned to be erected and whether or not the tower can handle it. Mr. McNeal said that is correct and the alternative is similar to what is there now, with panel antennas on those. He said instead of the two whips, there would be a pipe on each.

Ms. Annis asked what additional information the Board required. Mr. Watts said that there needs to be a determination of the relative height against the canopy. He said that if it is determined that that height is outside of the Zoning regulations, then a waiver will be needed. Mr. Mical said there needs to be the FCC information about the radio frequency. He said that information has been provided before and it is part of the packet. Mr. Violette asked what that would be. Mr. Mical said it would be the radio frequency expulsions. Mr. Violette said that the ridgeline measurements should be provided, too, to be sure that those requirements are met. There were no further additions.

Mr. Mical MOVED to continue the application. Mr. Watts seconded. Mr. Carson asked about whether a change in the platform gives you the opportunity to bring the rest of the tower into consideration. He asked if that would be part of the information requested. Ms. Annis said yes.

Mr. Watts said that part of the Wireless regulations is that you measure the height vs. the canopy height. He said that the Zoning Ordinance says that you cannot be 20 feet above the canopy height. So, he said, if this proposed extension is above that, they would need a variance from the Zoning Board. Mr. Carson said that beyond that, there were concerns expressed with regards to the landscaping, things around the tower and things like that and he wondered if those could be considered. He said that it appears that some of the original requirements that were laid out are not being met and he asked if it would be appropriate to ask that those things be reviewed along with this. Mr. Wyman asked if an inspector could go out and see if the requirements are being met. Ms. Annis said that was in 2004. She said she knows that the site is bothering the neighbors, but this application does not address that at all. Mr. Mical said that this applicant does not own the tower. Ms. Annis said they are leasing a part of the tower. Mr. Wyman said that there is still the obligation of the landowner to make sure that all the other requirements are met. He said that just because this applicant is not the landowner does not mean that this application can be approved and you can forget about the landowner. He said that the landowner still has a responsibility. Mr. Carson asked if you do not do it as part of this process, when would there be an opportunity to go back and look at it. Ms. Annis said that the Board can always go back to the landowner and say that according to the conditions of April 2004, they were not met. Mr. Carson asked if that would become a Selectmen's issue. Ms. Annis said yes, as the enforcing agent. There was no further discussion.

The vote was taken. The motion was PASSED unanimously. Ms. Annis asked if next month would be adequate. Mr. McNeal said yes. Ms. Annis said that would be December 7. Mr. McNeal thanked the Board and left.

Mr. Davies returned to the table from the audience.

4. MINOR SUBDIVISION

Applicants/Property Owners: Faith L. Anderson and Hope Lee Dunn

Agent: Douglas Sweet, Bristol, Sweet & Associates

Property Location: 59 Denny Hill Road, Warner, NH Map 10, Lot 103, R-1 and R-3 Zoning

Description: Minor Subdivision of one lot into two lots of 3.06 acres and 13.68 acres, respectively.

- a. Review Application – Accept/Reject/Continue
- b. Close Meeting and Open Public Hearing
- c. Close Public Hearing and Re-Open Meeting

d. Action Taken – Approve/Disapprove

Ms. Annis recognized Faith Anderson and Douglas Sweet of Bristol, Sweet & Associates. Mr. Carson asked if this was in the precinct. Ms. Annis said that part of it is. Ms. Annis asked if there has been any change since the conceptual consultation. Mr. Sweet said that the house lot has been surveyed and the monuments have been set. He said that it is very similar to the plan presented at the conceptual consultation. Ms. Annis asked Mr. Sweet to explain the plan, saying that there is a Board member here tonight who will be voting but was not at the meeting when the conceptual consultation was discussed.

Mr. Sweet said that the property is located on the intersection of Denny Hill Road and Old Denny Hill Road. He said it has about 16.7 acres and is Tax Map 10, Lot 103. He said there is an existing house on the lot and it is in two zoning districts – R-1 and R-3. He said that the majority of the property is in the R-3 district. He said there is a Public Service transmission line that runs through the property. He said that the owners wish to subdivide off the house and several acres, including the field that is behind the house, and use the stonewalls that run along the interior of the property as much as possible. He said the lot contains 3.06 acres, identified as lot 10-103-1. He said that the house is on the town sewer. He said that the remainder of the land is 13.7 acres and is identified as lot 10-103-2. He said that both lots have frontage on both Denny Hill and Old Denny Hill Roads. He added that a portion of Old Denny Hill Road is Class VI. He said the changes from the conceptual are that a survey has been done around the house lot, the monuments have been set, and the tree line has been located. He said that the second sheet shows the soil types and the topographical lines and a 3-acre buildable area has been identified. He said that in September, they had requested a waiver from doing the soil test pits because the small lot is on the town sewer and the larger lot is very large and contains reasonable soils.

Ms. Annis said that Allan Brown had said at the conceptual consultation that on Old Denny Hill Road, there was an easement that was signed by Annie Belle or somebody else that allowed for the drainage in the culvert going across the lot. Mr. Sweet said that Mr. Brown did say that and there is a ditch shown in the northeast corner. He said that he stopped at the highway garage three times and was unable to connect with Mr. Brown. He said he talked with him and he said he had it in his desk but it was not recorded and Mr. Brown never gave him a copy of it.

Ms. Annis asked if the Board had any questions. Mr. Davies said that the frontage that would be used for the new house would be Old Denny Hill Road on the northerly part. Mr. Sweet said there is no new house being proposed. Mr. Davies asked where the frontage is for the larger lot. Mr. Sweet said there are 640 feet along Denny Hill Road and there is 450 feet or so along the Class V portion of Old Denny Hill Road and another 400+ feet along Class VI Old Denny Hill Road. Mr. Davies asked why the elevation marks were stopped at the 480-foot elevation if possibly the frontage in the future would be coming off the Denny Hill Road area. Mr. Sweet the land flattens out enough that there are no more contour lines. Mr. Davies said that the Site Plan Review requires two-foot contours unless five-foot is needed because of the steepness. Mr. Sweet said that he had asked the Planning Board in September if, because the lot was so large, interpolating would be okay. Ms. Annis said that there are a number of waivers requested in the packet. Mr. Davies asked why the new iron pin that was set on Denny Hill Road was not granite per the Site Plan Review Regulation requirements. Mr. Sweet said that there is a rock in the corner, but he could not get it lined up, so he put it right in front. Mr. Mical asked if a waiver is being requested for that monument. Mr. Sweet said yes. Mr. Carson asked if a house were built on the larger lot, would it be on town water and sewer. Mr. Sweet said the end of the sewer line is on the plan. Mr. Violette said that if someone were to build, they could request an extension of the line or could at least look into the feasibility of it.

There were no further questions. Ms. Annis asked the Board members to review the checklist and to take into consideration that there is a request for 6 waivers. After the Board members finished reviewing the checklist, Ms. Annis asked for their reports. Mr. Violette said that the lot numbers should be Map 10, Lot 103 and Map 10, Lot 103-1. He said that Lot 103 would be the larger lot and the smaller one would be 103-1. Mr. Davies asked for clarification on the building setback lines. He asked if there is a place that indicates what the lines are. Mr. Sweet said they are to the left side of the map in the area labeled Zoning and

Minimum Setbacks. He said the line changes some because it goes into a different zoning district. Mr. Davies said that there needs to be a legal description of the easement. Mr. Sweet said that the reference is to Plan A done in 1916 which just shows a transmission line running from Davisville to Roby. He said in the deed, there is no length of the easement given. He said that the deed has been submitted. He added that they did not specify width for some of the properties that they crossed. Mr. Davies asked if in the past some type of quit claim deed has been required or if there is some type of procedure that could be used for the Board to put a number on it. Ms. Annis said that the Board cannot put a number on the length of the transmission easement. Mr. Sweet said that it does not mean that someone could build right up to the wires. He said that there is some state requirement that when it does not specify the width, it is something like 8 feet. He added that one would not want to be that close. Mr. Davies said that the waivers will be considered separately. He said that he understands that the waivers requested deal with the test pits and percs. Mr. Sweet said yes. He said that the general soils were shown. Mr. Davies asked if there were any wetlands. Mr. Sweet said yes. Mr. Davies asked how the 3 acres of buildable area was determined. Mr. Sweet said he did a site walk along the wall. Mr. Davies asked if there are wetlands within that three acres. Mr. Sweet said there is a watercourse coming down from the ditch. Mr. Davies said that would not be buildable. Ms. Annis said that is why they are trying to contact Allan Brown. Mr. Sweet said there is a ridge over by Denny Hill Road which is poorly drained. Mr. Davies said he understood that there was no test pit or probing done so that we don't know if the ledge is down two feet or if there is no ledge. Mr. Sweet said it was a very large lot. He said that the part of the lot that is up on the higher ground is well drained soil and there are acres of it. Mr. Davies said that is the end of their questions.

Ms. Annis asked to consider the waivers first. Mr. Violette MOVED to accept all six waivers. Mr. Mical seconded. There was no further discussion. The vote was taken. The motion PASSED unanimously.

Mr. Mical MOVED to accept the application. Mr. Davies seconded. There was no discussion. The vote was taken. The motion was PASSED unanimously.

Ms. Annis closed the Planning Board meeting and opened the public hearing. She asked if there were any abutters or members of the public who wished to speak. There were none. She then closed the public hearing and re-opened the Planning Board meeting.

Mr. Violette MOVED to approve the application. Mr. Watts seconded. Mr. Mical asked to note the change in the mapping number of the lots. He said he would like to have noted on the plan that this is a minor subdivision and if any further subdivision appears within the next 5 years, it will be considered a major subdivision. Mr. Violette said that is already in the rules. Mr. Mical said he would still like it noted on the plan and it has been done in the past. Mr. Davies asked if Allan Brown's item needs to be followed through on. Ms. Annis said that there is a culvert on the upper right corner of the 13-acre lot and it becomes very wet coming down into the lower field. She said that Allan Brown had spoken up at the previous meeting saying that he had a drainage easement going into that point. Mr. Violette said that we have already heard that the soil condition up there is very good for drainage. Ms. Annis said that Mr. Sweet has tried to contact Mr. Brown but has not been successful. Mr. Davies asked if it would be part of the Board's due diligence to follow through and if there is an easement, get it on the document. Ms. Annis said it has not been recorded and asked if it is any good. Mr. Sweet said that Mr. Brown said he had a piece of paper but he had not been able to locate it. He said that Mr. Brown knew that it was not recorded. Mr. Davies asked if it should not be part of the Board's due diligence to follow through on what appears to be a handshake agreement and it should be firmed up. Ms. Annis said it is not the Planning Board's department to do that – it is to the Highway Department. Mr. Davies said then if the plan is approved, it will be with no drainage easement, other than knowing that there is water coming down.

Ms. Annis summarized and said that Mr. Mical would like to have the lot numbers changed to read Map 10, Lot 103 and Map 10, Lot 103-1. She said that the word Lot will be change to Map. She said that the other thing Mr. Mical wanted to add the notation about if the property is subdivided within 5 years, it will be a major subdivision. There was a short discussion about this and Mr. Mical withdrew the request regarding the major subdivision notation.

Ms. Annis called for the vote on the proposed amendment to add the change of Map and Lot numbers on the plan. The vote was taken and the amendment was PASSED unanimously.

Mr. Carson asked if the plan is approved without Mr. Brown's easement, whether recorded or not, it will remove the Town's ability to enforce its interest. The Board members agreed that if the agreement can be proved and recorded, then it would be enforceable.

Ms. Annis called for the vote on the motion. The motion as amended was PASSED unanimously.

Mr. Sweet and Ms. Anderson thanked the Board and left.

5. MINOR SUBDIVISION AND LOT LINE ADJUSTMENT

Applicants/Property Owners: David Herrick, Warner Aggregates, Denis and Mary Ellen Hamilton and Tobias Nickerson

Agent: Aaron Wechsler, Aspen Environmental Consultants, LLC

Property Location: Route 103 East, Warner, NH

Map 3, Lots 51-2 and 58, C-1 Zoning

Description: Minor Subdivision of Map 3, Lot 51-2 into two lots and Lot Line Adjustment between Map 3, new proposed Lot 51-2-1 and Lot 58.

- a. Review Application – Accept/Reject/Continue
- b. Close Meeting and Open Public Hearing
- c. Close Public Hearing and Re-Open Meeting
- d. Action Taken – Approve/Disapprove

Ms. Annis asked the Board if they wished to treat the minor subdivision and then a lot line adjustment onto one of the lots or if they wished to treat it as a lot line adjustment and then a minor subdivision. Mr. Violette asked to hear the applicants' proposal first. Ms. Annis recognized Aaron Wechsler and asked him to explain the proposal. Mr. Wechsler said that it was acceptable to them to do the minor subdivision first and then consider the lot line adjustment. He said that it has taken sometime to get all the required State permits prior to returning to the Board after a conceptual consultation last winter. He said that all the permits have now been received. He said that Warner Aggregates, which is owned by David Herrick, currently has a right-of-way for access to its pit which crosses Tobias Nickerson's property. He said that has created some dust issues for another abutter and Mr. Nickerson, so to try to make things work and have access to the sand pit and remove the dust problem, Mr. Herrick is going to purchase one of the lots in the proposed subdivision to provide a legal access and to alleviate some of the problems from the current right-of-way access. He said that Denis Hamilton owns the property to be subdivided. He said the lot line adjustment is required to allow Mr. Herrick to cross wetlands in the new lot with the least impact to the wetlands. He said a driveway will be constructed through the new lot with the lot line adjustment and will provide access to the Warner Aggregates property. He explained some of the features shown on the plan. He said that they want to subdivide into two lots and do the lot line adjustment to give them their best crossing of the wetland area. He said if they had to shift to the west, the crossing required would no longer be viable to the State. He said that Lot 51-2 is approximately 7.4 acres and after the lot line adjustment, it would be 7.87 acres. He said that Lot 58 is 23 acres and it would be taken down to 21.53 acres. He said the lots being proposed are 3.7 acres with approximately 2.25 – 2.75 acres of buildable area on the lots. He said that they far exceed the State soil requirements. He said right now, aside from the access road for Warner Aggregates, there is no other proposed use of these lots. He said the driveway locations are approved by the DOT and handed out the plans that were approved by the DOT. There was a discussion about the driveway permits. Ms. Annis asked how driveway number 1 could be issued in the name of Warner Aggregates when they do not own the property. Mr. Wechsler said that DOT decided to issue it in the name of Warner Aggregates because they would be the ultimate user of the driveway. He said if the approval was not received, then DOT said that Denis Hamilton could simply amend the permit so it would be in his name. Mr. Mical noted that the permit is made for driveways number 1 and 2 and he said he assumes that the permit would cover both of the sites.

Mr. Wechsler said yes. Ms. Annis asked how Warner Aggregates can have a driveway permit to the lot that Mr. Hamilton will still own when the subdivision is completed. Mr. Wechsler said that there was only one submitted to DOT for Warner Aggregates. He added that all drives are approved and they can request that the permits be amended.

The Board Members reviewed the plans. Mr. Wechsler said that the actual access road going through for the pit is not on the subdivision plan because it is not a boundary issue. He said that a copy of the plan has been provided so their intent could be known, but it is not part of the subdivision. Mr. Mical asked if the driveway that is shown on the other plan is going to be the proposed access to the pit. Mr. Wechsler showed Mr. Mical where the proposed access to the pit will be. He said that the access road will not be an easement once Mr. Herrick purchases the property.

Ms. Annis said that the Board members had surmised that driveway 1 was another complete location. She indicated on the plans where she believed driveway 1 and driveway 2 were located. Mr. Wechsler agreed and showed the locations to the other Board members, saying that lot 2 of the proposed subdivision is driveway number 1, and lot 1 of the proposed subdivision is driveway number 2, which is the one that is closest to Hamilton Building Supply.

Mr. Davies asked if with the moving of the boundary for the lot line adjustment the boundary will be too close to the existing cell tower for its setback requirements. Ms. Annis agreed that it needed to be confirmed. She suggested that only the minor subdivision be addressed right now and then talk about the lot line adjustment after the minor subdivision has been completed. Mr. Wyman asked if the easement will meet the specifications without doing the lot line adjustment first. There was a discussion about this. Mr. Wechsler said that the whole purpose of the lot line adjustment was to allow the wetlands crossing. The members had some side discussions about the cell tower setback requirements. Ms. Annis said that the concern is that the tower is too close to an abutting property and the tower is in a no-cut zone and the tower is too close to something that is not going to exist except as dirt and water and trees. She said this is not a piece of property that can be built on. Mr. Violette said it is not putting anything closer to the tower. He said that the line is there anyway, now, and that does not change. The only change is to add a sliver of land that is about 12 feet wide. Mr. Watts said he did not think it was an issue. Mr. Nickerson said that the agreement that was made about the tower went specifically to his property line and it does not exceed that. He said that the right-of-way that is being spoken of is not included on the property card. Mr. Herrick asked how could a tower be placed next to an abutter's property and not have that abutter be allowed to sell the rights to that land and make it be worthless other than for a roadway. Ms. Annis said she would need to see what the parameter was for the no-cut zone. Mr. Wyman said that in essence, Mr. Nickerson is moving his lot line closer in to the existing tower and now it's becoming Mr. Herrick's land. Mr. Nickerson explained to the Board members where the different features were on the plans. He explained that the lot line will follow the cemetery. He said that the line that was made by American Tower and the Town goes right to the cemetery line. He said the strip that is about 12 feet wide is right next to the cemetery and is the right-of-way. He said it is not usable because it's not wide enough. Mr. Mical said it is still a right-of-way. Mr. Nickerson said there is a pipe that indicates the end of the no-cut zone.

Ms. Annis said there are some problems. She said that the Board is not the point of accepting the application because there is still discussion going on whether to do the lot line adjustment first or the minor subdivision first. She said that there is also a ruling that we end the meeting at 10:00 p.m. She said it is now about 9:58 p.m. She said that normally, the current applicant will be the first person on the agenda at the next regular meeting. She asked if it was the Board's desire to continue until 11:00 p.m. or later or if the Board preferred to do as the rules say. She said there are still more things on the agenda. Mr. Violette asked if there were construction plans that need to be done, assuming that the applicants get the approval. Mr. Herrick said that the intent is to get something moving before the ground is frozen and another meeting will push it into the spring. Mr. Wyman suggested extending ½ hour and then continue, if necessary. Mr. Davies asked if we can get the information about American Tower from the files. He said there are other things that he has questions on. Ms. Annis said it can be discussed and the items that are missing can be identified

before it's accepted that need to be researched. Mr. Violette said that if there are missing items, then they should be given to the applicants so they will have them.

Ms. Annis said that she thinks because there is a question about the cell tower, the subdivision should be done first and then do the lot line adjustment. Mr. Wyman asked if the access road has enough of a setback to do the subdivision without the lot line adjustment. He said he thought that the lot line adjustment needs to be done first. After some discussion, Mr. Violette said he thought the subdivision should be done first. Ms. Annis asked the Board members to review the subdivision checklist. The members reviewed the checklist. Mr. Violette asked if they have the corrected lot numbers to be used on the plan. It was agreed that the new lot numbers to be placed on the plan are 51-2 and 51-2-1. Mr. Mical said that there is an error in that an abutting lot number is incorrect. He said that instead of Map 3, lot 53, it should be Map 3, lot 51-1. Mr. Violette asked about adding the driveways to the plans. Mr. Wechsler said they will overlay the exact DOT plan onto the Mylar. Mr. Davies asked about pit information. Mr. Wechsler said it is on the second page of the plan. Mr. Davies said it needs to be put on the drawing. Mr. Davies said there is no state approval noted for the septic disposal system. Mr. Wechsler said there is a 4,000 square foot area suitable for a septic receiving layer as required by the State of New Hampshire and they received a subdivision from the State of New Hampshire which, therefore, deems that the area is suitable for a septic system. He said that the septic system has not been designed because the intended use of the lots does not require a septic system. Mr. Davies asked about the location of all monuments. He said that there is no information on what the intentions are for the new monuments and those would be granite in the front and preferably granite everywhere, but that would depend on the regulations. Mr. Wechsler said that the idea was to have granite in the front and rods in the back. Mr. Davies said that the new ones are not shown on the plan, indicated as "granite marker to be set" or something to that effect. There were no other items related to the subdivision.

Mr. Violette MOVED to accept the application for the minor subdivision. Mr. Carson seconded. The vote was taken. The motion was PASSED unanimously.

Ms. Annis closed the meeting and opened the public hearing. Mr. Hamilton noted that the people who had been there were all supporters. Mr. Davies asked for a point of order and asked if Ms. Annis was serious about opening to the public right now. He noted that there were a group of people in the audience who left just before 10:00. He said he thought it was highly irregular. Ms. Annis said that the people had left before it was 10:00 and that discussion took place. Mr. Davies said that he thought it should not matter. Mr. Mical noted that it is posted on the agenda that the meeting will end at 10:00 p.m. Mr. Davies said that the business that was being done before would have been nice to do with people here, but to open up a public hearing when there were people here and they left at the posted time, is improper. Ms. Annis said that since the public hearing has been opened, there should be a motion to keep the public hearing open.

Mr. Davies MOVED to continue the public hearing to December 7. Ms. Annis said that the first thing on the agenda for December 7 would be to continue the public hearing on the subdivision. Mr. Violette asked why this would be done. He said that the people were here and they left on their own accord. He said that the meeting was not adjourned and the people left before 10:00. Ms. Annis said that what they are saying is that it is on the agenda that we will stop at 10:00 p.m. Mr. Watts said that if they had stayed until 10:00 they would have known. Mr. Wyman said that the decision to continue was made at 9:58. Mr. Watts said it is similar to Town Meeting when people go home before all the votes are taken and the votes are changed later. Mr. Davies said that this is like the seminar that Mr. Duhamel went to in Manchester that was entitled "Planning Boards Behaving Badly." He said if this is pursued, then we are behaving badly. He said that he knew he could be outvoted, but if this is continued, he thought it was bad. Mr. Violette said that he did not agree. He said that if people want to stay, they can stay. Mr. Davies said that he understands the point about staying and said that if the Chair saw everyone leaving and said that we were going to take into consideration extending before they left, then, possibly he would feel differently about this decision. Mr. Wyman said that they left before the Board even decided to stay past 10:00. Ms. Annis said there was no second to the motion. Mr. Mical seconded.

There was no further discussion. The vote was taken: Mr. Watts, no; Mr. Mical, yes; Mr. Violette, no; Mr. Carson, no; Mr. Davies, yes; Mr. Wyman, no. The motion was DEFEATED.

Ms. Annis closed the public hearing and re-opened the meeting. Mr. Violette MOVED to approve the subdivision with the following conditions:

1. The new lot numbers will be placed on the plan as Map 3, Lot 51-2 for the westerly lot and Map 3, Lot 51-2-1 for the other lot.
2. The driveway plan that was approved by NHDOT will be overlaid onto the subdivision plan.
3. The lot number for the number of the abutting lot marked as Map 3, lot 53, will be corrected on the plan to be Map 3, lot 51-1.
4. The location of the new monuments to be placed will be noted on the plan.
5. The location of the test pits will be shown on the plan.

Mr. Watts seconded. There was no discussion. The vote was taken: Mr. Watts, yes; Mr. Mical, abstain; Mr. Violette, yes; Mr. Carson, yes; Mr. Davies, abstain and said he will be writing a letter to the Selectmen; Mr. Wyman, yes. The motion was PASSED.

Ms. Annis asked if the Board wished to move on to the Lot Line Adjustment or postpone to the next meeting. Mr. Watts said he thought they should continue tonight.

Mr. Davies MOVED to adjourn. Mr. Mical seconded. Ms. Annis said the motion was non-debatable. A voice vote was taken. There were two aye votes and no "no" votes. The meeting was adjourned at 10:40 p.m.