

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**TOWN OF PETERBOROUGH**  
Monday, August 1, 2011 – 7:00pm  
1 Grove Street, Peterborough, New Hampshire

**Present:** Loretta Laurenitis, Jim Stewart, Sharon Monahan, David Sobe, Tricia Cravedi, Maude Salinger and Matt Waitkins.

**Also Present:** Dario Carrara, Code Enforcement Officer; Laura Norton, OCD Administrative Assistant.

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**Case No. 1171 PSNH** Request for a variance to Article III §245-15 H&J of the zoning ordinance. Applicant requests the Board’s approval to alter the natural surface configuration within the wetland buffer. The property is located on Old Dublin Road, Parcel Number U002-036-000 in the Rural District.

The meeting was called to order at 7:00 p.m. Acting Chairman (Chair) Laurenitis welcomed the audience and introduced the Board and Staff. She reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions from the audience; and closure of the case followed by deliberation and decision.

Chair Laurenitis then appointed Alternate Matt Waitkins to sit for Alice Briggs and read the variance application request. She reminded the audience members to please state their name for the record if they had a comment or question. Ms. Salinger noted the Variance request should be from Article III not Article II as stated. Mr. Carrara replied by noting “yes, Article III, thank you.”

PSNH Environmental Coordinator Jeffrey Bemis introduced himself and noted he would be presenting the case for the Board. He introduced Steve Hogan, Supervisor of Substation Construction and Maintenance and Phil Massicotte, Senior Engineer in PSNH’s Civil Engineering Department.

Mr. Bemis explained they were seeking a variance to be able to do equipment maintenance work in their pre-existing substation yard on Old Dublin Road. He pointed out that the parcel was surrounded on three sides by wetlands which had recently been delineated. He added “the proposed work is in the Wetlands Protection Zone.” He noted that the existing electrical transformer would need to be completely removed and replaced by a mobile substation while the maintenance work is done.

Using a graphic Mr. Bemis pointed out the substation access area and current fence line. He noted the site constraints “will require us to temporarily expand the fence line to the east side and provide crushed stone and gravel to secure the soil and accommodate the weight of the mobile substation and the heavy equipment” adding “we will need to get a crane in there to perform the

work and the soils are pretty soggy.” Mr. Bemis concluded by noting “that would be the alteration of the natural surface configuration and that is why we are here.”

Mr. Bemis noted he had met with both the Code Enforcement Officer and Conservation Commission representatives at the substation, adding “they are very familiar with the site.”

Chair Laurenitis noted the impact was to be temporary and asked “how long a process will this be?” Mr. Bemis replied “2 to 3 weeks.” Chair Laurenitis asked about the area impacted by the gravel with Mr. Bemis and Mr. Hogan both agreeing it would be 300 to 400 square feet. Ms. Monahan interjected “is the gravel also temporary?” Mr. Bemis replied “no, that would be the one permanent impact.” Mr. Bemis went on to explain “we felt there would be added impact to attempt to remove it *and* it provides other benefits from a safety perspective as well.” Ms. Monahan asked about improvements to the access area adding “improvement means permanent usually.” Mr. Bemis again used a graphic to point out the access, existing footprint, and proposed expansion and a brief discussion that included the delineation of wetlands, wetland flags and where the gravel will go followed. Mr. Bemis concluded by noting “that is pretty much it, gate to substation.”

Mr. Sobe asked about the weight of the temporary substation versus the permanent one. Mr. Hogan replied “the mobile substation is 60,000 pounds.” Mr. Sobe asked how that amount of weight might affect the sub soils “that is pretty heavy stuff” he said with Mr. Hogan replying “it is the lightest one we have.” When asked when the work would be done Mr. Bemis replied “as soon as possible. We have had this planned since February of this year.” Mr. Sobe asked about the maintenance and how often it is required. Mr. Hogan gave the Board a brief history of the substation and noted maintenance of this caliber (a re-build process) is required “about every 12 years.”

Mr. Stewart interjected “I would like to clarify the scope of the project.” He went on to review the request to remove the current substation, bring in a mobile unit to manage power needs while the original substation is rehabbed and then returned. He asked “is adding crushed gravel the only change?” Mr. Bemis replied “yes” adding “and the fence line that is extended 10-12 feet out while the mobile unit is in place will revert back when the construction work is done.” Chair Laurenitis asked “and the gravel remains?” with Mr. Bemis replying “yes.”

Mr. Waitkins asked what the Conservation Commission had to say about the extension of the fence and addition of crushed gravel. ConCom representative Francie Von Mertens spoke briefly about their site visit to the substation. She noted “there is already gravel there, the addition of new gravel for stabilization would go on top of the existing gravel.” She noted the upland soils and the high function of the wetland to the east. She went on to note “the job seems necessary and the efforts to minimize impact are in place” but stated she had some concern about the amount of gravel that will be used (noting) the PSNH request of gravel use was “as *required* or as *needed*.” A brief discussion about what may be required followed with Ms. Von Mertens asking the Board to consider the amount of gravel used as a condition of approval.

Ms. Salinger asked “why are you requesting a variance in the first place?” She went on to note “the impacts will be temporary and a variance goes with the land.” The members briefly

discussed the definition of “temporary” and the fact that additional gravel would be placed on top of existing gravel at the site. Ms. Salinger noted “you are not changing the contour or grading the land. You are not doing anything to require a variance.”

Mr. Carrara explained his thought process and how he came to the decision that a variance would be required for the application request. He acknowledged that a variance goes with the land. Ms. Salinger noted “it will be granting something permanent for something temporary.” Mr. Carrara defended his position by noting the expansion of the fence 10 to 12 feet and “a few more feet to do the work. My take was a variance was needed. Whether issued on a temporary or permanent basis I do not know.” Mr. Stewart interjected “they must work in there on a weekly or monthly basis – do they have to get a variance every time?” A brief discussion about the configuration of the site, the wetland buffer and potential use of a Conditional Use Permit followed. Mr. Bemis concluded by noting “we had a conversation with Dario which led us to this (variance application) and that is why we are here.” Mr. Carrara noted he had discussed the application decision with Ms. Ogilvie (Director of Community Development) who agreed a variance was the appropriate application. “In following the right procedures this is the road we came down” he said.

Ms. Salinger asked about the potential of the gravel being washed into the wetland buffer. The members reviewed the drainage issues on the site with Ms. Von Mertens reiterating that she did not like the “*as required*” language in referring to the amount of gravel used. “It is a loose term” she said.

Ms. Monahan asked why the gravel by the higher functioning wetland on the east side could not be removed. Mr. Bemis pointed out the wetland flags and replied “we believe there would be much more of an impact trying to remove it than just leaving it alone.” The members went on to discuss silt fencing and sediment barriers and whose responsibility it would be to maintain those buffers. Ms. Monahan asked about the construction of a berm with Mr. Bemis pointing out a natural wooded buffer in front of the wetlands. They also discussed the possibility of adding hay bails for extra protection from runoff in the wet season.

Mr. Waitkins concluded by noting “to me we are working towards the fact the this has to happen in some fashion” adding “we need to finalize the notion on whether or not you need a variance or not. If not, we would have to be clear that the temporary fence is temporary and decide how to cover that through other ordinances.”

A brief discussion about the variance criteria followed and the members agreed the mandate of §245-15 H4 (that no construction activity is allowed to occur within five feet from the edge of the buffer) deemed a variance necessary. Ms. Salinger summed it up by noting “the question is *do you need a variance for temporary work?*” She noted the need for monthly visits for routine maintenance to the site and equipment was the answer to the question. “*You need it for a permanent reason*” she said.

Mr. Carrara noted he was not viewing the monthly maintenance as much as he was the existing equipment being detached and replaced by a mobile unit as well as the extension of the safety fence.

Ms. Salinger pointed out that by granting the variance approval “we allow them to do the maintenance they need to do without having to come back to us.” Mr. Carrara added “as long as the footprint remains the same. If they wanted to make changes they would have to come back.”

Chair Laurenitis asked for clarification on the gravel line with Mr. Bemis once again using to graphic to point out the current and proposed fence lines and where the gravel would be placed. Ms. Monahan asked about erosion control measures. A brief discussion about who may be responsible as well as who would inspect such measures followed. Mr. Bemis assured the members erosion controls measures would be taken adding “I am just not sure if it would be us (PSNH) or if we would hire a company to do it.”

Chair Laurenitis also asked that a condition be that the ConCom do a site visit/inspection after the work is done “to assure the buffer has been maintained and the impacts are gone.” Mr. Carrara interjected “I don’t mind keeping an eye on it.”

Ms. Von Mertens reiterated the recommendations of the Conservation Commission, particularly the request that the roots of shrubs and trees not be disturbed. “Pruning a branch or two is fine, prune away” she said adding “but don’t disturb the roots.” Mr. Bemis noted that request would be respected adding “we have no intention of doing anything on that slope.” He also noted that there would be no fuel storage or actual fueling done on site.

Lastly the members briefly discussed the time frame involved for inspection and removal of silt fences and other erosion control devices.

The Public Hearing closed at 7:50 p.m.

### ***Deliberation***

Chair Laurenitis began by noting “my sense is that the Board feels this is necessary” adding “and it is already a filled in area.” The members agreed when Mr. Waitkins interjected “we support the application right?” A motion was made/seconded (Waitkins/Monahan) to approve the request for a variance with all in favor. The members then crafted the approval and conditions.

### **Minutes:**

A motion was made/seconded (Laurenitis/Monahan) to approve the Minutes of June 6, 2011 as written.

The meeting adjourned at 8:45 p.m.

Respectfully Submitted,

Laura Norton  
Administrative Assistant  
**Approved as written 9-8-11**