



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, April 28, 2021
Belmont Mill and Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members; David Dunham and Sharon Ciampi.
Members Absent: Mark Mastenbrook (E)
Alternates Present: John Froumy
Staff: Elaine Murphy and Dari Sassan.

The Chairman opened the meeting at 6:02pm and welcomed those in attendance. He announced that as Chairman of the Belmont Zoning Board of Adjustment, he finds that due to the state of emergency declared by the governor, this public body is authorized to meet using both electronic means and in person. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

ABUTTERS' HEARING – CELLCO PARTNERSHIP DBA VERIZON WIRELESS:

Continuation of a request for a variance of Article 5 Table 1 of the Zoning Ordinance to allow a wireless communication facility with a monopole structure in the “RS” zone. Property is located at 73 Bishop Road, Tax Lot 205-009-000-000, ZBA # 0921Z

The chairman explained that M. Mastenbrook, who sat on the original Board, is unable to attend tonight’s meeting. Vice Chair N. Patten is present and has reviewed the application, minutes and material provided. She is prepared to sit on this application if the applicant is willing. Mr. Carl Gehring stated he agrees to have N. Patten sit on the Board replacing M. Mastenbrook as a voting member for tonight’s hearing. Alternate J. Froumy sat on the original Board and will remain on the Board for tonight.

Mr. Carl Gehring - Gehring & Associates, Mr. Egor Evsuk - Verizon Wireless’s Real Estate Department, Mr. Mark Correnti - Real Estate Appraiser Valuation Expert, Mr. Don Haes - Certified Health Physicist, Mr. Doug Sheadel Acoustical Expert, and Mr. Keith Vellante Radio Frequency Engineer were present for this application.

Attending via Zoom:
John & Elizabeth Christianson, home

Glenn Welch, home
Sarah Mirski, home

Mr. Carl Gehring explained that they are here for variance to build a cell tower. NH statute book abbreviate RSA 674:33. He read the criteria for a variance. There is no diminution in value of surrounding properties. The variance will not be contrary to the public interest. The spirit of the ordinance is observed. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship. The proposed use is reasonable. He stated that none of the criteria says everyone has to be happy or that the tower cannot be seen. Mr. Gehring stated they do less land clearing and are less intrusive than construction of a single-family house. He used a model to show how a tower is constructed with the base being underground and the tower above.

Mr. Gehring stated the tower will be providing WIFI for the neighborhood. He stated their expert Donald Haes, Jr. concluded that the RF field calculations data indicate the summation of the proposed tower maximum PWS (Personal Wireless System). RF (Radio Frequency) contributions would be within the established RF exposure guidelines and 10% lower than OSHA allowed. Additional calculation suggests that even if the monopole had three additional PWS provider's antennas attached the site would comply with all established RF guidelines. The closer a phone is to the tower the less RF is needed and the farther away from the tower the more RF is needed. RF is a non-issue it is like a router for the neighborhood.

Mr. Gehring explained that if the tower is on the commercial strip, it would be more visible from areas like Cotton Hill Road because they would have to build a higher tower. They are trying to offer more coverage and are offering a mono pine. He noted the statute does not address aesthetics requirements. He stated that it is not true that you can't sell a house because a tower is near it. Buyers will not know when the tower was erected, some will not notice it and some buyers will not have any issues.

Mr. Gehring stated that they have met the criteria. They have the Telecommunication Act behind them. Federal law regulates towers so this does not set a precedent that would open the door for more towers all over town. This is one pole on one lot. They are not proposing any other towers or any zone changes.

J. Froumy stated they have discussed having a cell tower in the commercial zone and only needing a special exception compared to having it in a residential single-family zone and needing a variance. The applicant has explained that the tower in the commercial zone would not work for them as they would need to have two sites and taller towers to get the coverage, they have with this one site. The applicant is offering a monopine to allow it in the residential single-family zone. J. Froumy stated that he has checked some of the elevations in the commercial zone and some elevations are higher in the commercial zone than the proposed lot that may work and avoid meeting the criteria addressing the diminution of property values because it would be in the commercial zone. Mr. Gehring explained the different elevation in the commercial zone, the different commercial uses on some site that would affect the tower requiring the tower to taller than the one proposed. He also stated that they would need two towers instead of one. Wherever they put a tower they will have a

new set of abutter and new concerns. This tower is on a knoll is less intrusive than if they put one on Rte. 106.

J. Froumy stated the tradeoff would be to locate the tower in the commercial zone and it would provide coverage but the tower would have to be higher. There would still be abutters but they would be commercial abutters.

Mr. Gehring stated there are concerns from people miles away and down the street. The problem is the intersection of Bishop Road and Rte. 106 is the targeted region and the other sites that were looked at did not get owner's approval to lease the property. They have a lease on this site. The site is suitable for construction of a tower, the utilities are available, there will be no blasting and no diminution of property values.

D. Dunham wanted to know if there is another cell tower in Belmont. The members explained to him that there is one near the intersection of Rte. 140 and Rte. 106.

J. Froumy wanted to know if they have explored other properties in the commercial zone. Mr. Gehring stated that they have looked at other location but from the technical aspect it is not a wise thing to do. It is not feasible and would not provide the best coverage. J. Froumy stated the site is not feasible, not because it is cost prohibited, but because it does not fit the technical aspects associated with a tower. Mr. Gehring explained it is driven by RF, longitude and latitude and the height of the tower above sea level. This site was chosen because they could execute a lease and the site could fill a gap in coverage.

S. Ciampi clarified that they need a tower there to cover the gap in service. They did a study from this location and others and this site has the best service and signal in the area.

J. Froumy wanted to clarify that multiple towers would be needed if they picked another location. Mr. Gehring stated there is no other location that could do what this site can do. If they chose a site on Rte. 106 to the north then it would interfere with the one to the south and vice a versa

P. Harris stated the location impacts the size of the tower and the ability to communicate. He also wanted to verify that the tower complies with FCC regulations, Mr. Gehring referred to Tab 5 of the application that was submitted outlining all the FCC licenses that they have. He explained that they hired independent engineers who determine where the best locations are for towers. This location will benefit the neighborhood and would address a dead zone in communication. It does not require any water or sewer or other municipal services. He has to meet all five criteria in order to be approved. They have to meet FCC regulation which are strict.

S. Ciampi stated that she is new to the Board and wants to know if the tower itself is going to add to the tax base. D. Sassan stated he believes it is taxed. S. Ciampi stated she was just wondering, it will not impact her decision, she is not making a decision based on tax value. Mr. Gehring stated that taxes are determined on local jurisdiction, they are not adding children in the schools but they will be paying the bill for them. This is a modern version of a telephone pole.

The chairman opened the hearing to public comment.

Ms. Sarah Mirski, stated she owns a big white house that is 103 years old. She stated that when they did a balloon test it could be seen front and center from every room. It will have a visual impact. Mr. Gehring stated that if they put a monopine tower it will be less intrusive and blend in with the trees. There will not be any lights on the tower. The proposed tower height is good, they don't need any more height. In the future if there needs to be a height adjustment, they would need to come back for approval. The duration of construction is 3-6 months but it is not continuous because there are times when they have to wait on concrete to cure.

Ms. Mirski stated she wants to make sure there is specific language on what the future growth of site would be. They are working to preserve larger parcels in the area and to preserve open space and farming. She wants to be mindful to keep recreation and open space preserved for the future.

D. Sassan stated the town is preempted from prohibiting co-location on the tower. They can co-locate on the tower within certain parameters without additional zoning approval. Mr. Gehring stated no lights are required on the tower unless they are 200' or closer to a runway. The plan showed space for future carriers so they will not have to have multiple towers.

Ms. Mirski wanted to know if the tower is a monopine how does that work. Mr. Gehring stated it is integrated into the tower. The tower will be maintained. The period of construction will be a couple of months which is less than a single-family residence. D. Dunham wanted to know how the tower is set. Mr. Gehring stated it is set with a crane.

Mr. Glenn Welch stated that they need cell coverage in the area. He is in support of having the monopine pole with one set of antennas. The elevation study did show that from Cotton Hill Road the tower does obstruct the views of Gilford and Sanbornton. D. Sassan explained that the members have the pictures based on calculated elevation. Mr. Welch stated that the tower obstructs the views of Lake Winnisquam 30 miles of shoreland. The tower also can be seen from the lake. The tower can be smaller and on Rte. 106 and meet all the criteria. Mr. Welch stated he did not see a lot of the material presented. P. Harris stated that they have thoroughly discussed all the criteria. Cotton Hill Road is high up and they overlook the town and see everything below them. D. Dunham stated you can't put up a tower that will not be seen no matter where it is.

Mr. John Christenson stated he agrees with Ms. Mirski and Mr. Welch, he likes the idea of moving the tower in a southerly direction. He lives on Cotton Hill at an elevation of 1040'. He will be looking eye level at tower and that is not something he wants to wake up to and see all day. He does not want to watch the sunset over a tower. When he moved in it was for the view. Cotton Hill Road is one of three designated scenic roads in town. The tower is in the middle of two scenic roads. There are ten properties on Cotton Hill Road with fantastic views, some have mountain views, views of Mount Washington and Vermont. There are six more high end homes in Gilford that will have their view compromised. They were not notified and did not know what was happening until they read it in the newspaper. He is disappointed that he was not notified. Mr. Gehring stated he talked to Mr. Christenson about having a monopine tower which would be better than a regular tower. Mr. Christenson would prefer having the tower in a commercial zone where the tower will not be seen as easily from Cotton Hill Road. Mr. Gehring stated even if they go south on Rte. 106 someone will see

it. He apologized that the people that live on the hill can see what happens down in the valley but the tower is 1.5miles from Cotton Hill Road. Mr. Christianson stated there are other places to put the tower.

P. Harris stated there was consideration for putting the tower in that part of town. Mr. Gehring stated it will not affect property values, it is an allowed use with a variance and the five criteria have been met. The Planning Board will deal with the aesthetics.

P. Harris asked the abutters if they are opposed to the tower. Ms. Elizabeth Christenson stated she is not opposed to the tower but the location of it. She wanted to know if the abutters would be notified of the balloon test. D. Sassan stated notification is done through the newspaper. N. Patten stated the residents on Cotton Hill Road are too far away and would not be notified as abutters.

There being no further questions or comments the chairman closed the public hearing.

P. Harris stated the Board will be making an informed decision. They have reviewed the information provided to them in their packets along with the new information provided tonight. He is feeling good about the public input provided.

J Froumy stated that an issue is that people don't want it in their backyard. Concerns are that the view will be obstructed. The Board has to look at the issue objectively and obey the laws. If the tower is not allowed here and goes somewhere else there will be other abutters who may not want it next to them. He stated there are more cell phones in New Hampshire than land lines. He compared a tower to when multiple cable on pole were first introduced. At first everyone noticed them and now they are part of the landscape that we don't notice. Cell towers are necessary to close the gap in services in the event of an emergency. The Board looks at the ordinance and if the criteria are met. Cell towers may replace telephone poles in the future.

P. Harris stated at the beginning of the meeting there was discussion about safety and communication in the event of an emergency. The gap in service will be fill allowing communication in that area in the event of an emergency. The upgrade in cell service is an important upgrade.

The Board recessed from 7:35pm to 7:52pm

J. Froumy explained that guiding rule for substantial justice is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by granting a variance that meets the other four criteria. Any loss to the individual which is not outweighed by a gain to the general public is an injustice.

BOARD ACTION – CELLCO PARTNERSHIP DBA VERIZON WIRELESS:

MOTION: J. Froumy moved to grant a Variance of Article 5 Table 1 of the Zoning Ordinance to construct a wireless communication facility with a monopole structure in the "RS" zone as it meets all the criteria.

1. The variance will not be contrary to the public interest because the intent of the

ordinance is to maintain the essential character of the neighborhood and protect, public safety and welfare. In recognition of the balance required by these requirements, it is clear that the ability to communicate in the event of an emergency outweighs reasonable aesthetic concerns therefore the public interest is served.

2. The spirit of the ordinance is observed because the intent of the ordinance is to maintain the essential character of the neighborhood and property, public safety and welfare. In recognition of the balance required by these requirements it is clear that the ability to communicate in the event of an emergency outweighs reasonable aesthetic concerns therefore the public interest is served.
 3. Substantial justice will be done because the effect of granting the variance will benefit the commercial interest of the applicant, however the benefit to the public in terms of safety and convenience is at least as great. Therefore, substantial justice will be observed.
 4. The variance would not diminish the value of surrounding properties because surrounding properties in the area and in sight of the tower will benefit by the service provided. It is subjective but a plausible conclusion that property values will not be diminished in light of the more certain access to the telephone network.
 5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because in accordance with Title 47 of the U.S. code, “the unique” suitability of a proposed tower site must be considered. The degree of suitability supersedes the conventional standards for “Special Conditions” of a property. Testimony revealed such suitability.
- and
- b. the proposed use is a reasonable one because it does meet special exception requirements of Article 9 as applicable. It is not incompatible with other uses through the creation of noise, fumes, dust, smoke, other impacts.

Additional conditions:

1. Site Plan approval shall be required from the Planning Board who will address property maintenance, mono-pine pole or other aesthetic requirements.
2. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
3. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
4. Approval expires on 3/24/2023 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. patten and carried (5-0)

OTHER BUSINESS:

BOARD'S ACTION -MINUTES:

MOTION: On a motion by P. Harris, seconded by D. Dunham it was voted unanimously to accept the minutes of February 24, 2021 as written. (4-0-1) S. Ciampi abstained

MOTION: On a motion by P. Harris, seconded by D. Dunham it was voted unanimously to accept the minutes of March 19, 2021 as written. (5-0)

MOTION: On a motion by P. Harris, seconded by D. Dunham it was voted unanimously to accept the minutes of March 24, 2021 with the following corrections:
Include David Dunham, home on page one under zoom attendees. And on page 2 paragraph 6 change “he also stated” to “P. Harris also stated” (5-0)

ELECTIONS:

MOTION: N. Patten made a motion to elect P. Harris as chairman.

The motion was seconded by J. Froumy and carried (4-0-1) P. Harris abstained.

P. Harris made a motion to elect N. Patten as vice-chairman.

The motion was seconded by D. Dunham and carried (4-0-1) N. Patten abstained.

ADJOURNMENT:

MOTION: On a motion by N. Patten seconded by D. Dunham it was voted unanimously to adjourn at 8:13pm. (5-0)

Respectfully submitted,

Elaine M. Murphy
Administrative Assistant