

Zoning Board of Adjustment Public Hearing
Richmond Pavilion

August 12, 2020

7:00 PM

Members Present

Alan Schmidt,
Mark Beauregard
Lloyd Condon
Antoinette Cincotta

Members Absent

Larry Richardson, Vice Chairman
Jean Tandy, Alt.

Public: Kevin Fadden, Kevin Delany, Attorney Steven Grill, Esq.-Law Office of Steven E Grill-NH Attorney for Industrial Tower and Wireless, Shayna Gailinat, Esq.-Corporate Staff Attorney, Industrial Tower and Wireless, Christopher Hamilton, Jeff Taylor, Susan Taylor, Amanda Grinstead, David Mazzola, Mike Haiton, Betty Buzzell, Doug Bersaw, William Daniels, Jennifer Daniels, Mary Taylor, Eric Duda, Arlene Crawl, Bonnie McCarthy, Jed Butterfield, Dean Purcell, Elizabeth Purcell, Louie Vellarrubia (Brother Andre), Tom Griss, Greg Butko, Kim Damasco, Robert Stanley, Susan Harrington, Annette Tokunaga, Joseph Norman, John Sprague, Pam Belunis, Daniel Willcourt. This is not a complete record of all attendees.

1.Meeting called to order/roll call:

Meeting called to order at 7:05 PM

1.Election of Officers:

Schmidt acting Vice Chairman asked for nominations from the floor for Chairman. Motion made by Beauregard to nominate Alan Schmidt as Chairman. Seconded by Cincotta.

With no discussion and no other nominations from the floor Schmidt called for a vote.

All in favor. None opposed. Motion carries.

Schmidt asked for a nomination for Vice-Chairman. Motion made by Beauregard to nominate Larry Richardson as Vice Chairman. Seconded by Cincotta.

Discussion from the board, Cincotta wanted to know if Richardson would be planning to make meetings in the future. There was a short discussion on concern for Covid and the lack of people wearing face masks.

With no further discussion or nominations from the floor Schmidt called for a vote.

Two in favor. None opposed. One abstention. Motion carries.

2.Map 407 Lot 95 (Special Exception):

Public Hearing called to order at 7:10 PM.

The proposed application is for a Special Exception from Article 3 General Provisions, more specifically Section 312 for a 175' foot lattice cell tower. Map 407 Lot 95 is owned by Jeffrey and Susan Taylor, 323 Fitzwilliam Road, Richmond, NH. The parcel is 25.4 acres and is presently used as a Christmas Tree Farm.

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The proposed cell tower is permitted by Special Exception in Richmond Zoning Ordinances under Article 3, Section 312 and Article 4, under 404 more specifically 404.1. The application is consistent and supported with the Richmond 2010 Master Plan, Section VI, page 8, Public Police and Fire, page 9, Communications, page 31 and Recommendations, page 32.

Schmidt gave a briefing on how the hearing would be run to assure there was order and everyone had a chance to speak for and against the application.

At this time Schmidt asked if there were any questions about procedure. No response. Schmidt asked if the board members had any questions.

Cincotta asked for the floor and asked Schmidt to strike the meeting. Motion made by Cincotta to deny the application, it does not comply with a basic Special Exception. The principal property is a residence not a cell tower. The cell tower is not a primary use and is in violation of Article 4, Section 404. Cincotta explained that the area is surrounded by homes and will conflict with the existing residential use. Cincotta wants to deny the property for a cell tower.

Schmidt asked for a second but there was no second. Schmidt seconded the motions to afford for further discussion.

Schmidt explained that the zoning speaks straight out that Commercial Wireless can be allowed by Special Exception. (Article 3, under 312)

Schmidt went on to say that many of the parts that are being mentioned don't apply to the ZBA criteria. Zoning was put in place by the residents and their vote was for cell service. The zoning ordinance was created and citizens voted for Wireless Communication and phone coverage. This zoning exists today due to that reason.

Cincotta explained that it must comply with 403 Uses Permitted by Special Exception. Cincotta read the Article 4, under 401 Purpose and Intent.

Cincotta referred to page 4, Article , under 101 Purpose, more specifically 101.1 and read 101.1 to the board.

Jed Butterfield a resident of Richmond asked for the floor. He was acknowledged by the Chairman. Butterfield wanted to ask a procedural question. Butterfield wanted to know if this was a public hearing or a Zoning Board meeting? Schmidt explained the reason why the board started over again.

Eric Duda was asked to be recognized and agreed with Butterfield that this is a public hearing.

Schmidt stated that Cincotta should bring up her opinions after the board has listened to the public. The board needs to follow the way it's supposed to work. Schmidt asked for the applicant to please come forward and present the application.

Attorney Stephen Grill asked the board if he could begin before Kevin Fadden presented the application. Schmidt recognized Attorney Grill.

Attorney Steven Grill, Esq.-law offices of Steen E. Grill- NH Attorney for Industrial Tower and Wireless (ITW) introduce himself to the board and public.

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Attorney Grill started by stating that it was supposed to be a continuation but there were some problems with abutter notifications. Grill requested that everything from the prior record be continued through tonight.

Attorney Grill referenced his letter dated July 23, 2020 and the report from Donald L Haes, Jr., CHP, CLSO who is a radiation specialist. Gill specifically mentioned pg. 3 of that report stating briefly that there is nothing peculiar about the fifth generation wireless technologies that would set it apart from any other advancements in technologies.

Attorney Grill started by explaining that the regulation of RF emissions in the United States is within the jurisdiction of the Federal Communications Commission (FCC). The FCC studies the RF emissions and sets standards for Maximum Permissible Exposure (MPE). The local government can require that the wireless telecommunications facilities, such as this can comply with FCC regulations, they can't regulate emissions. Section 704 of the Telecommunications Act of 1996. If the local governing body has any issue it should be taken to Washington or contact your Representative.

Grill talked about the Special Exception criteria and cited the case of Daniels v Town of Londonderry. He continued to say that the law says the town had to give ITW an opportunity to provide cell services. The installation of this cell tower would significantly close a gap in service in Richmond. The Richmond zoning there is no requirement to have it on a single piece of land. There are many people who want service in areas presently not covered, this would allow hands free along Rt. 119 and Rt. 32.

Grill turned the floor over to Kevin Fadden to give the details on the proposed tower.

Kevin Fadden from Industrial Tower and Wireless from Marshfield Massachusetts took the floor to explain the application. Kevin explained that this time they have all abutters properties located on the plan.

The proposed application is for a Special Exception from Article 3 General Provisions, more specifically Section 312 for a 175' foot lattice cell tower. Map 407 Lot 95 is owned by Jeffrey and Susan Taylor, 323 Fitzwilliam Road, Richmond, NH. The parcel is 25.4 acres and is presently used as a Christmas Tree Farm.

The proposed cell tower is permitted by Special Exception in Richmond Zoning Ordinances under Article 3, Section 312 and Article 4, under 404 more specifically 404.1. The application is consistent and supported with the Richmond 2010 Master Plan, Section VI, page 8, Public Police and Fire, page 9, Communications, page 31 and Recommendations, page 32. It is appropriate with a very rural location.

The location of the proposed tower will be 1500' feet off of Rt. 119 (Fitzwilliam Rd.) and 925' feet from the nearest home owned by Christopher Hamilton. 125 feet of the tower to be a no cut zone and it is still almost four times the requirement from a private home. There is an existing gravel drive that will be used as the access driveway for the compound so there will be no noticeable difference traveling by the property. The tower compound will be 80 X 80 with a chain link security fence, and space for five (5) personal wireless service shelters on concrete pads with communications equipment, and additional supporting infrastructure. The tower will have no lights, the height is below the required height by the Federal Aviation Administration. With the height and canopy of trees and the lattice design the tower will not be seen when traveling by.

The cell tower will be used as a co-location for larger towers around the area to bring service to connect coverage through the eastern and middle portions of Richmond. The tower will cover approximately 4.0 miles south to north along rt. 32 and 3.7 miles east and west along Rt. 119.

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Cincotta mention of the NH Office of Strategic Initiatives offers to give consideration to the height of the cell tower. Fadden mentioned that lower can accomplish the same in the correct location. ITW has proposed a 175' cell tower.

Cincotta discussed the fall zone of the tower with strong winds or winter ice and snow. Cincotta mentioned if the tower fell if it would roll down the hill into wetlands.

Fadden explained that the cell tower has a fall zone 4X's the needed fall zone of 220 feet.

Cincotta wanted to know if there were any wetlands located within the 75' wetland setback for Richmond. She believes there are two separate areas of wetlands within the 75' fall zone. Fadden disagreed with Cincotta.

This was a question for Kevin Delaney. Delaney took the floor and explained that at the highest point of the tower it would not fall down and roll down the hill. That a lattice tower is designed to fall into itself. Cincotta mentioned that she has seen videos of towers fall over and was concerned about this tower.

Cincotta asked how the location was determined and were there other locations that would work? Fadden said this was not his area of expertise and that Delaney would have to answer that question.

Cincotta wanted to know if the tower did fall was ITW insured for such a catastrophic issues.

Beauregard asked for the floor and was acknowledged. Chairman I believe the applicant has answered a lot of questions that don't pertain to what we are doing here. Questions need to address to the appropriate person for clarification. Most of this is site plan review the ZBA is not the Planning Board.

Schmidt mentioned that the Zoning very simply states Special Exception and if it answers 4 different criteria and if it is approved it goes to the Planning Board under the Stie Plan Review. The ZBA scope is very limited and it's stated in the zoning that a cell tower can be allowed. All the ZBA is interested in is if this is an appropriate use following the criteria given to us.

Kevin Delaney, Engineering and Regulations for ITW. Cincotta asked how this location was determined. Delaney answered that tower sites are not random there is a lot of fore site. The site has to meet certain criteria which is a computer-generated model showing the coverage gaps used by personal wireless providers. Providers like AT&T, US Cell, T-Mobile, Dish and so on. There is roughly an 8-mile separation between towns. Once the coverage gap is discovered the location, height and reoccurring vegetation, wiling landowner, wetlands and Town Zoning. Delaney explained the coverage areas by color coding on the plan. Before and after the tower would be installed and operational. Area's presently covered was very small and additional coverage was best and the only solution. He added that cell phones are no longer and luxury but a necessity.

Cincotta wanted to know how many sites were looked at and their locations.

Delaney could not recollect the exact location of the other places but by looking at high points in town this was the best location.

Delaney continued that as for the fall zone he's been in the industry for 27 years and ITW has never had a tower collapse. The towers are built rugged and have to meet standards. Cincotta was worried about snow and ice. Delany explained that a lattice tower will fall into itself and not fall over and roll down a hill. The manifold design is one piece and will fall over.

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Cincotta discussed the scenic view shed and other environmental corridors. Cincotta asked if there was a visible balloon test done?

Balloon test was not done there is enough vegetation on the tress, it's a well wooded area and is well camouflaged. Cincotta added that 51% are indigenouss tress that have no leaves from October to April

Beauregard called for point of order, there is a cell tower West on Rt. 119 that had a balloon test and there is one place even in the winter that the tower can be seen if you're looking for it. Beauregard didn't see any reason for a balloon test.

Cincotta was concerned about adjacent property part of the duties and recommendations is to question if it will adversely affect property value of property.

Cincotta asked about backup generators and the noise to adjacent property owners. Delany said that most generators now are battery operated, some use generators and some share generators, the noise level is minimal.

Schmidt moved the meeting forward and asked for anyone present who was for the cell tower please come forward and speak.

Arlene Crowell, Director of Communications for the Cheshire County Sheriff's Office, Crowell is a resident of Richmond. Crowell's main job is the voice on the sheriffs radio all day long. Calls for 911 come to us when people are in trouble. Many don't have cell service and they need to drive to get service which means time. Crowell admitted she doesn't know about the adverse effects but it's more life safety in her opinion. Crowell's role is to communicate with fire and police and they need reliable service in this area. Repeaters that have been set up in Rihcmond are low due to the lack of cell service. With lack of coverage when an emergency arises the delay can make a difference in saving a life.

Jen Daniels, Greenwoods Road: Daniels talked about an accident her daughter was in on Rt. 119 on the hill just below the Tree Farm on a snowy winter night. Daniels daughter had no cell service to call for help. She was able to get out of the car and to the road where she was found. Daniels went on that in July of 2020 her husband fell 18 feet onto a cement floor and was severely injured. They have no cell service and thank goodness their nephew was with her husband at the time. Her nephew had to climb onto buckets in the area to be able to reach high enough to get a spotty signal. Daniels expressed that it is ridiculous to not have a cell tower and it was time the Richmond got with the times.

Elizabeth Purcell, 690 Fitzwilliam Rd. (rt. 119):Purcell didn't know if she would have a view or not have a view of the cell tower. It wouldn't matter if there were or were not leaves. She wasn't sure of the 5G ramifications and posing health risks to residents. Purcell asked residents to think about this proposal relationally, balance again the benefit of our residents and health.

Danielle Wilcourt: has her 76-year-old mother living with her who is a type 1 diabetic and they live in a dead zone. Wilcourt's neighbors shed caught on fire and she wanted to run across the street to be sure everyone was safe but she had to stay in one area of the house to make the 911 call as soon as she steps out the door, she knew she would lose service.

With no further testimony from the public Schmidt asked for folks against the cell tower.

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Amanda Grinstead, Rt. 119: started by asking the applicant to assure us that there were no conspiracies and that the tower is scientifically proven safe and put minds at rest to assure the people were safe. How many time in the past have we been told it's safe.

Grinstead referenced the Radium girls from 1916 who painted clock faces and were told it was safe. Grinstead also referenced the 1954 US tobacco manufactures jointly sponsoring an adverting campaign which questioned research findings implicating smoking as a cause of cancer. It wasn't until 2006 that the coverup was revealed to the public about the risks of smoking.

Grinstead went on to say that people are unaware of the harmful effects of cell towers and asked if there were any small cells included in the plan.

Grinstead referenced so called experts from 36 Countries and 204 county's and territories On the 5G has already been proven harmful.

Grinstead referenced House Bill 522 (HB 522) to establish a commission to study the environmental and health effects of evolving 5G technology. The results should be available by November 1, 2020. Grinstead requested that the applicant and ZBA hold off until the report is published.

Grinstead discussed Firefighters in California getting exempt status for 5G from having 5G antennas installed at fire stations. Firefighters suffered headaches, memory loss, difficulty sleeping, anxiety and extreme fatigue. Scans showed firefighters had dead brain cells from radiation exposure.

Grinstead talked about a school in Bayville NY where 30% of the students and facility fell ill as a result of the location of the cell tower near the school.

Grinstead asked the applicant if there would be small cell placement in Richmond? It was her understanding that for the 5G to work there had to be small cell placement. When asked if this was a part of the applicant's plan, they responded that it was not a part of the proposed plan. Grinstead stood fast that the 5G wouldn't work without small cell placements, usually put on telephone poles.

Attorney Grill asked to speak and was acknowledged by Schmidt.

Grill said that according to the FCC the tower meets and exceeds all regulations. Grill mentioned going to Washington or your representative. There was an exchange of words and Schmidt stopped the conversation between Grill and Grinstead.

Louie Vellarrubia (Brother Andre): asked for the floor and was acknowledged by Schmidt.

Vellarrubia talked about how this is not typical for the area. There was a document signed by 230 scientists against it. Vellarrubia continued that we do live in a society where they take money to say what they want to say. Dr. Haes gets his report from AT&T, he stands to make a profit.

Tom Griss, Amherst: asked for the floor and was acknowledged by Schmidt.

Griss has worked with antennas since 1994, amateur radio since 1965, worked on atomic subs and worked for the Air Force. He discussed that the microphone uses 2.45 gigabytes, Griss went on to say the body is mostly water. 1,2,3,4G will shake those molecules but 5G you don't want them around. 5G will interfere with the atmosphere and it doesn't work unless directly under the tower. Health fact that most of these diseases didn't exist we created them. 5G would require a new cell phone, the cell phone is a transmittal as well as a cell phone.

Mary Taylor, Rt, 32: asked for the floor and was acknowledged by Schmidt.

Taylor is a cancer survivor who read where you need to have cells in various places to get it out. Taylor lives 1 mile from 4-corners and gets 4GLTE. Taylor asked if US Cell needs to have access? The response form applicant was yes, the town is leased to companies. Taylor explained she is concerned about health risks and it is notable that there are certain health risks and it's not proven to be safe. Taylor continued that there are long

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term health effects and it could increase the risk of cancer. There is constant research being done and she asked to have the cell tower delayed until next ;year.

Greg Butko, Rt 119: asked for the floor and was acknowledged by Schmidt.

Butko talked about Federal law is whatever the company is willing to pay congress. Pipeline tried to come to town and was denied but we would have paid to have the pipeline put in our town. We will pay for the cell tower through surcharges on our bill from cell companies.

Kim Damasco, Rt. 119: asked for the floor and was acknowledged by Schmidt.

Damasco talked about the decrease in property value and the fact that 90% of home buyers and realtors don't want a tower nearby. Damasco went on to say that once the cell tower passes, they can go 20% higher on the tower height so 175 feet can go up to 195 feet. No site visit, how visible would it be. The UNH cooperative extension service stated that 51% of forest is Maple, beech and birch which mature to 50-60 feet, some reach 70 feet but the highest is 80 feet. Critical that the ZBA recognizes that this reduces property value by 20%. National Association of Realtors to heed with caution and proposal to extend 5G networks should be in no hurry. Damasco requested a balloon test to be done.

Bob Stanley, Rt. 119: Stanley is directly under the tower, he's a 3X's Cancer survivor. Stanley was upset that someone would have the gull to put in a 5G tower. Stanley mentioned that a town official came to them that night to ask them to speck to the lifesaving issues this would give our town. Stanley continued that Colony Hill and Fish Hatchery shouldn't agree with 5G its limited to ½ mile. There are many reported deaths within the 5G area. All paperwork goes to the rich while the little guy suffers. I finally have a chance to retire and now we're left with the fallout. Stanley said he loves Richmond but they will plan to move leave.

Betty Buzzell, Rt.119: asked for the floor and was acknowledged by Schmidt.

Buzzell has lived in Rihcmond for 21 years and is 86 yrs. old. Buzzell strongly promotes family and is at a place in her life where her family is finally near her. Buzzell is concerned about cell phone tower due to emitting radiation. Radiation should be avoided, and it's not good for children, animals or trees. She questioned why this was the best location. The locations is surrounded by homes. Buzzell requested that the ZBA hold off until November for the committee report.

Dr. Joseph Norman, Mill Road: asked for the floor and was acknowledged by Schmidt.

5G is brand new and it could be harmless. Norman continued that flipping the coin, the whole point is to protect the health and safety of the residents. It takes a long time to see the effects of radiation exposure. Norman was clear that he did not want this in our town.

John Sprague asked to take the floor and was acknowledged by Schmidt.

Sprague spoke of an earlier presentation on the map showing this is the best location. Sprague wanted to know where the locations were and wanted to see them on the plan.

Delaney mentioned that the applicant has been through the explanation already. Schmidt asked Delaney to please answer Sprague's questions again. Delaney explained the process for picking this spot and mentioned that originally, they were looking at 10-12 other locations but this was the best spot.

Eric Duda, Rt. 32: asked for the floor and was acknowledged by Schmidt.

Duda started off by saying he wanted equal time on the floor. He disclosed his background began as electrical engineer. He expressed that he was confused why none voting citizens of Richmond were allowed to speak.

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Duda went on to say that scientist and engineers are great resources to present against the cell tower. 5G is a concern in Richmond but only if you can't get cell service in Town. Duda went on to say that we've been exposed from the beginning just by looking at all the cell phones on the tables at this meeting. The town will not decide on our health. Duda also mentioned the property values in town. Recently a person staying with their parents in Richmond couldn't get cell service at her parent's home in Richmond. She would live in Rihcmond if there was better cell service. Duda mentioned that he almost didn't move to Richmond though they loved the town due to lack of high-speed internet. Service in Rindge and Fitzwilliam is much better. Duda continued that in reality we are not in a Court of law and we may not agree with the lawyer but it was almost like a trial not a hearing. Opinions are important and we should not degrade or local officials and thankyou to the board. Duda ended by giving Chairman Schmidt a thank you. He mentioned that it was 52 minutes before any of the public had a chance to speak. There was a person allowed to speak that wasn't from town. Duda felt this damages the discussion on the platform. Duda said he was no in line with a public hearing and said, "I want service". After tonight let's put this up, I got swayed the other way maybe or maybe not. I have already formed by opinions.

Susan Harrington, Rt. 32: Harrington wanted to just mention that she is not an elected official but mentioned the cell tower to the Fire Department. There are many spots in town who do not receive cell phone service for Fire Department. Harrington continued that it would help the Highway Department when a plow truck gets stuck. Harrington added that the lack of cell service affects more than abutters, and she's ashamed with Richmond Residents and the way the meeting was handled by the residents.

Christopher Hamilton, Monument Road: Hamilton asked for due process in the last hearing and would like to ask for more time. The last meeting was continued for 30 days and he'd like that to happen again. Hamilton said that not all abutters were notified. Mattson asked who they missed. Hamilton responded that the abutters notification only had his name and not his wife's name Ann on the address.

Hamilton asked about the road. Fadden from ITW said the road is 1500 feet from reading the application.

Hamilton feels the application is incorrect. Hamilton referenced pg. 2 of the application from the Special Exception. Stie Plan has surveyor's citification but says approximant locations not exact location.

Hamilton added that the application is incorrect and needs to be corrected. The applicant had an old application and the numbering system was 1005, the updated application the number sequence is 1105. The applicant changed the old application with the corrected numbers other than the top piece which had nothing to do with their application. The Board expressed they felt the application could be corrected if needed.

Hamilton asked if it was an assumption that nationwide carriers would be located on the tower and what towers would be used. Fadden said there are 2 in Fitzwilliam, 1 in Richmond, 2 in Swanzey, 1 in Winchester and one in Massachusetts. Not all towers have all the carriers some have 2 and some have 3. Hamilton though it was false. Fadden mentioned assuming they were on this it would be correct. Hamilton said it could be wrong.

Hamilton asked about submitting a letter from his wife Anne. Should he read it or just hand it in. The board gave him a choice. He handed the roughly 28-page document to the Land Use Assistant. The board moved on and Hamilton questioned why the Land Use Assistant wasn't going to read the document. Mattson said if he wanted it read into the recorded, he was welcome to do that but she wasn't going to read it into the record.

Hamilton declined reading it into the record.

Amanda Grinstead spoke up and wanted in writing that the company would not use small cells and also wanted to correct the minutes from the meeting of July 15, 2020 as she was quoted incorrectly. Schmidt said that it was already 10:20 PM and the minutes would wait until the next meeting board members had to work the next day.

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Motion made by Condon to continue the meeting to Wednesday September 9, 2020 at the next scheduled ZBA meeting. Seconded by Cincotta. All in favor. None opposed.

Motion to adjourn by Bearegard. Seconded by Cincotta. All in favor. None opposed. Meeting adjourned at 10:27 PM.

Respectfully Submitted.

Kandace Mattson

Handouts not read into the record:

Physicians for Safe Technology, March 25, 2019

Nassau county Supreme Court Press Room, January 11, 2010

FCC 12-152 filed by Susan D Foster California

5G Appeal, The Appeal, not dated

Letter from Betty Buzzell, 597 Fitzwilliam Road.

Yellow folder consisting of:

- Letter from Kimberly DaMasco,
- Wireless Towers and home Values,
- Forests of NH, 2015, NH State Forest Nursery (red maple),
- NH State Forest Nursery (Paper Birch),
- information on the American Beech tree,
- State of NH Emergency order #23,
- Realtor June 24, 20,
- FCC Wt. Docket no. 19-71
- FCC WT Docket no. 19-71
- Exhibit A The Real Estate Associations.
- Exhibit C Declaration of Greg McDonald
- Exhibit D Declaration of Equity Residential
- National Association of Realtors.
- Summary: National Multifamily Housing Council.

Letter from Ann Hamilton