

Town of Jefferson
Board of Adjustment

Minutes

July 10, 2014

Chairman Perry opened the meeting at 7:45 p.m.

Members present: Kim Perry, Chairman; Biff Wyman, Tom Walker, Jason Call

Members absent: Cricket Ingerson

Others present: Charlene Wheeler, Board secretary; see attached sign in sheet for list of public attending

Hearing of Appeal – Wheeler

Chairman Perry opened the public hearing for case # 173-2014. Ted Wheeler, 61 Grange Road, Lancaster, NH, is asking for a Variance in compliance with Article IV, Section 1.D of the Land Use Ordinance. The applicant proposes to construct a second residence on a lot currently limited to one residence as required in the Land Use Ordinance. The property is located at 13 Wheeler Drive, Jefferson, NH also known as Map 1, Lot 37A. A copy of the application was distributed to each Board member for examination. The Board secretary read the application stating Mr. Wheeler's reasons why the variance should be granted. He desires to be close to his mother, Anne Mardin, to allow her to remain in an older mobile home already on the property. The mobile home would be removed once his mother would not be living there leaving only the proposed new residence. Chairman Perry asked Mr. Wheeler if he wanted to add anything to what had been read. Mr. Wheeler declined. Jason Call asked if a separate new septic system and water supply were planned for the new residence and Mr. Wheeler said they were. Chairman Perry asked if the new residence would have the dimensions of 60' x 28' as shown. Mr. Wheeler said yes it was and it would be placed on a slab. Jason Call asked if the new residence would be placed behind the mobile home and Mr. Wheeler said it would be placed about 150' behind. All setback distances from lot lines are within required minimums. The Board secretary reported there had been no phone calls or correspondence from anyone expressing concerns about the appeal. Biff Wyman made the motion to grant the appeal for the requested variance, seconded by Tom Walker. There were no other questions or comments and Chairman Perry closed the public portion of the hearing.

Deliberations began. It was determined the variance if granted was not contrary to the public interest, the proposed dwelling would be a new home, situated farther back from the main highway and less visible than the current mobile home. The spirit of the ordinance is observed, the plan will eventually result in having only one newer home on the lot with new septic and water systems, improving the lot. Substantial justice is done, the plan allows Mr. Wheeler to assist his mother to maintain her independence as long as

possible while improving the lot. The values of surrounding properties are not diminished, and literal interpretation of the ordinance would result in unnecessary hardship for the owners. Eventually having a newer single residence will not diminish values of surrounding properties and Mr. Wheeler's mother will be cared for in a way desired by her and her family. Biff Wyman repeated his motion to grant the appeal with the condition that the mobile home be removed from the lot within thirty (30) days after Anne Mardin vacates it. The amended motion was seconded by Tom Walker to grant the variance. The vote to accept the motion was unanimous. Mr. Wheeler thanked the Board and left the meeting.

Hearing of Appeal – Varsity Wireless, LLC and Northeast Wireless Networks, LLC

Chairman Perry opened the public hearing for case # 175-2014. Varsity Wireless, LLC and Northeast Wireless Networks, LLC, 1 New Hampshire Avenue, Portsmouth, NH are asking for a Special Exception in compliance with Article III, Section 4, and for a Variance in compliance with Article X, Sections 4.D.7 and 4.D.12 of the Land Use Ordinance. The applicant proposes to construct a telecommunications facility consisting of a 180' tall monopole tower that will structurally accommodate up to four wireless broadband telecommunications carriers. The facility would be located on the property of Kevin and Patricia Arakelian, at 1955 Presidential Highway, Jefferson, NH also known as Map 21, Lot 19A. Each Board member had a copy of the application. Rather than read the quite extensive application itself Mr. Francis Parisi, representing Varsity Wireless, was asked to present the information to those attending the hearing. Mr. Parisi, using a computer connected to a projector to show visuals, presented the facts of the proposal.

He began by introducing himself, Brian Orlandi and Michael Lawton all representing Varsity Wireless. Varsity Wireless builds, owns, and operates the infrastructure that supports wireless telecommunications services. Northeast Wireless Networks designs, builds, and owns wholesale shared access cellular networks in rural markets throughout the United States and acquires and leases wireless spectrum.

The proposed project site is on the east side of town where there are demand requirements for this type of service. Statistics were cited supporting the needs of the public. Meeting these needs are much more difficult in northern New Hampshire because of its unique topography. Also when there is an increase in demand on an existing facility it can reduce coverage.

The proposed new coverage area was shown. A balloon test was conducted on June 28, 2014 and pictures were shown so people could see where the balloon could be seen from several locations. Additionally pictures were shown with the monopole superimposed to scale in the picture so a more realistic view could be assessed. The pole is more difficult to see with the green vegetation behind it. Most trees on the site are conifers so most trees will not be bare in winter.

Site plans were shown. These had to be revised from the original application because of wetlands they are trying to avoid or accommodate wetlands on the property. (maybe change this sentence *The original application was revised to accommodate for wetlands on the property.*) There is a bridge that must be constructed to replace an aging one over a stream. A biologist from the NH Department of Environmental Services (NHDES) has already visited the property and marked wetland sites. A wetlands permit application will have to be submitted to NHDES for approval. Varsity Wireless plans to continue to work with NHDES and the town's conservation commission and building inspector (remove as *we don't have a building inspector*). Alternate sites within a five mile radius were explored that might be suitable but none were found which covered the Boy Mountain and Route 2 target area.

A Telecommunication tower is a permitted use by special exception which the application is seeking. Two variances, however, will be needed. The height of the tower exceeds the 125% of tower height minimum distance to any lot line. Mr. Parisi described the monopole design which has is constructed to have a "fold point" so if an event such as high winds or icing occurs the tower will fold rather than falling its entire length. The tower will be about four feet in diameter at its base. Also the tower will not (delete "be at least") (add "meet the") 1500 feet (add "setback") from any residence. Because of siting issues in the topography as discussed before this is an unreasonable requirement.

Chairman Perry asked Board members or other attending the meeting if they had any questions or wanted to make comments. Dave Passios, speaking for Paradise Acres, said having the tower would be an asset to the town. He was concerned about the integrity of the springs and wetlands on the site. Several abutting properties would be affected if these were damaged or polluted. Mr. Parisi said they would be working closely with NHDES and the town to ensure this didn't happen. Linda Cushman said files and information are given to all boards and commissions of the town so coordination can occur. Jason Call asked about utilities needed for the site. Mr. Parisi said the utilities were planned as being underground but because of the topography it was up to Public Service Company to assess the best way. It probably will be above ground on three poles. Signs on the site would be kept to a very minimum with only the required information posted. Linda Cushman said a location number would have to be assigned by the town so emergencies can be responded to in a timely manner. Malcolm Call asked what color the tower would be and was told a flat or battleship gray. Linda Cushman asked if growth of the surrounding vegetation could eventually be high enough to block signals from the tower. The answer was the majority of trees on site was at maturity and not expected to increase much in height. Towers are designed to broadcast only a few miles and then signals from a phone passed off to another tower. Expecting a tower on Mt. Washington to cover the surrounding area for miles isn't possible. The proposed tower structure itself wouldn't need to change in the future but the equipment supported by the tower would as new technology emerges. A letter received from Marc Herzeler shortly before the hearing began was read. He expressed opposition to the proposal saying permitting a variance from setback requirements and established distances from residences and schools could create a potential safety hazard that is not commensurate with the marginal benefit of placing a cell tower in that location. He offered no other

evidence to support his opinion. It was noted there is no school situated within 1500 feet of the proposed tower site and Mr. Herzeler's **property(change to "house" he owns the abutting property)** is approximately 1700 feet distant as determined by a map measurement. It was noted by Mr. Parisi and others that it not only surrounding property owners who would benefit by having phone signal but many people pass through the area on Route 2 and there is a large influx of people during the summer months who expect phone service. Chris Milligan, who is the Town's fire chief, said he is in favor of the proposal. Communication during emergencies is very important. Jason Call asked if equipment for municipal use could be made available on the tower and was told that it was possible to do that. Dave Passios again expressed his concern for making sure the water issues are not ignored and precautions taken to prevent spills, etc. which would pollute water supplies. He volunteered to work with the abutters on such issues. The Board secretary asked about requiring a performance bond to be set ensuring funds would be available for the dismantling of the site if that happens at some future date. It was thought the amount of the bond could be set by Selectmen at the time a building permit was requested. The permits from NHDES would also have to be in place. There being no further questions or comments Chairman Perry closed the public portion of the hearing.

Deliberations began. Jason Call said he always looks to Section 3 of Article X, the telecommunication ordinance (standards for guidance in administering the ordinance). The Board should try to minimize any adverse affects the impact of such facilities may have on aesthetics and environmentally sensitive areas. This seemed to him to reinforce the need for the requested height of the tower so there isn't a need for other towers everywhere. He is concerned about the wetland issues raised and it is very important the appropriate NHDES permits be obtained. The proposed use of the site is permitted in the Land Use Ordinance by Special Exception. However, the second requirement that it be sited in an appropriate location and of adequate area would require two variances. It was decided to address the two requests for such variances first. Setbacks to lot lines do not meet the minimum requirement of a distance of 125% of the tower's height (Section 4.D.7). However, requiring the tower to be over engineered in its construction so as to have a "fold point" should a collapse occur (which was described during the presentation) would address(**add "this"**) problem. The proposed tower would not be sited at least 1500 feet from any residence or school (Section 4.D.12). However, this is the best site for ensuring the area coverage needed and no school is within such a radius and only one landowner objected on this basis. Considering the topography of the town 1500 feet seems to be an unreasonable requirement and perhaps should be addressed by the Planning Board to recommend changes before the next town meeting. Jason Call made the motion the variances be granted with the condition described construction of the tower be completed. The motion was seconded by Biff Wyman. The vote to accept the motion was unanimous. (**just a suggestion " Jason Call made the motion to grant the variances with conditions that the construction of the tower be of the collapsible design and all NHDES permits be obtained"**)

The Board returned to considering the request for a Special Exception. The proposal does not adversely affect the surrounding area. No reasonable objection was articulated

to the Board and this is much outweighed by the public good (having access to signals in what are now “dead zones”). The proposal is in keeping with the stated purpose of the ordinance. There is appropriate siting and colocation planned for the tower. All regulations appear to have been considered. Jason Call made the motion to grant the Special Exception with the conditions that required permits be obtained, there is consultation with the town’s conservation commission, required and appropriate signs be placed onsite, reasonable access on the site be provided for safety or emergency equipment, and a bond be posted with the town before a building permit is granted. The motion was seconded by Biff Wyman. The vote to accept the motion was unanimous.

New Business

The Board has received a new application for a Special Exception from Stacey Hicks, owner of Carlisle Place, who wishes to construct a new building and expand her business to additional uses. The Board scheduled a hearing for August 14.

Jason Call made a motion to adjourn the meeting, seconded by Tom Walker. The meeting was adjourned at 10:30 p.m.

Charlene Wheeler
Secretary to the Board