

**Town of Leicester Planning Board
Meeting Minutes**

MEMBERS PRESENT: Jason Grimshaw, David Wright, Debra Friedman arrived at 7:15pm, Sharon Nist, Adam Menard

ASSOCIATE MEMBER: Alaa AbuSalah

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary

MEETING DATE: **January 5, 2016**

MEETING TIME: 7:00PM

AGENDA:

- 7:00PM Public Application:
 Pondview Subdivision, Request for Release of Surety
- 7:10PM Approval of Minutes:
 12/1/2015
- 7.15PM Town Planner Report/General Discussion:
 A. Upcoming applications
 B. Miscellaneous Project Updates
- 7:30PM Discussion Cont:
 Site Plan Review, Monopole telecommunications facility (cell tower), 30
 Huntoon Memorial Highway, Verizon Wireless

Mr. Grimshaw called the meeting to order at 7:00pm

Public Application:

Pondview Subdivision: Request for Release of Surety

The applicant was notified after the last meeting on the Board's vote. Another letter was sent with a copy of the procedures they needed to follow and a response has not been received.

Ms. Buck recommended the Board take no action at this time.

Approval of Minutes

12/1/2015

MOTION: Ms. Nist moved to approve the minutes of December 1, 2015, noting a minor correction on page 5, as amended

SECONDED: Mr. Wright – Discussion: None

VOTE: All in Favor

Town Planner Report

Upcoming applications

- Preliminary Subdivision application for 23 house lots to be located on Marshall Street at the Old Leicester Airport property. Discussion is scheduled for the 1/19/2016 meeting.
- Fire/EMS Headquarters Site Plan Review application to be located on 1 & 3 Paxton Street. Discussion is scheduled for the 1/19/2016 meeting.

- Dog Kennel/Training Facility Special Permit application to be located at 1030 Stafford Street Mill complex. The Public Hearing has been scheduled for the 2/2/2016 meeting.
- Zoning Amendment Public Hearing for the Main Street, Cherry Valley area located between Auburn Street and Church Street, will likely be scheduled for the 3/1/2016 Meeting.

Project updates

- Additional parking information not yet submitted from the Easter Pearl applicant.
- Subdivision Regulation revisions will be scheduled for an early spring meeting.
- EDSAT tool final draft report received at the end of December. After some review, some information needed to be clarified, regarding the high school graduation and discrepancy on percentage of students going onto college. A public meeting related to the study will be held in January 2016.
- Ms. Buck will be meeting with the Town Administrator next Tuesday regarding the draft budget and draft goals and objectives for FY17.
- Ms. Buck will be attending a conference on Design Regulations sponsored by Mass Development on 1/27/2016
- There's been no further activity at 1603-1605 Main Street
- 104 Huntoon Memorial Highway property owner has been informed that he needs to file an NOI application with Conservation and a Site Plan Review application with Planning before doing any further work.

Discussion Continued:

Site Plan Review, Monopole telecommunications facility (cell tower), 30 Huntoon Memorial Highway, Verizon Wireless

Mr. Grimshaw gave instructions on meeting procedures and then opened discussion to the applicant.

Mr. Victor Manougian, Attorney for Verizon Wireless made the presentation. Mr. David Tivnan and Paul Morris were in attendance.

Mr. Manougian said at the last meeting, they went through the site plan review regulations and the sections of the Bylaws and spoke on how they met the conditions of the Bylaw. At the Board's request, discussion was continued to tonight's meeting, allowing them time to put together a Fall Zone Analysis Report.

Mr. Manougian submitted a report to the Planning Office earlier this week and again at tonight's meeting, from Marc R. Chretien, P.E., a licensed professional Civil Engineer in the State of Massachusetts. He said Mr. Chretien did an analysis, by the way of an Affidavit, regarding the proposed construction, design and fall zones on a monopole style pole. Mr. Chretien has been involved with the design and construction of wireless facilities throughout New England for over 15 years. That include tower analysis, foundation analysis and design, geotechnical analysis and reporting, drainage analysis and design, surveying, site design, and acoustical noise studies.

Mr. Manougian continued. The report goes on to talk about the proposed 150 foot monopole and how such monopoles are designed. The base diameter will be approximately 4 feet and will taper to an approximate diameter of 2 feet at the top. The monopole is designed in sections that are between 30 to 50 feet long and are assembled in the field with a slip-joint or friction joint between adjacent sections. The monopole and foundation will be designed by a Massachusetts registered professional engineer in accordance with the Massachusetts State Building Code and the national tower code to withstand the most severe wind and icing conditions that can be reasonably expected to occur at the site. He read from the Affidavit, #6, explaining the industry statistics on monopole failures being extremely rare. He said where Mr. Chretien stated “a statistical mean fall zone of ½ the overall structure height” that includes the equipment on the tower as well as the tower bending on itself. He also read #7, which explained code requirements and industry design standards on a 150 foot monopole surviving a Category 5 Hurricane in the Town of Leicester.

Mr. Manougian said while the Town Regulations do not have a fall zone requirement, they felt based on the Affidavit submitted that this was a safe installation for the property in consideration of the location of the property and the distances from the abutting property lines and structures.

Ms. Buck said at the last meeting, the Board had asked for the fall zone information and to prepare a draft decision. She noted the only changes needed in the draft decision would be: to reference the Affidavit, correcting a typo error related to a date, mentioning that the Affidavit helped the Board make a finding related to safety, adding a condition that is related to the submittal of additional copies of the final plans, and noting that Mr. Wright was ineligible to vote because he wasn't present at the last meeting.

Ms. Friedman asked if all concerns raised at the initial discussion had been resolved. Ms. Buck said yes.

Mr. Grimshaw asked if the Board had any further comments or concerns; hearing none, opened discussion to the public.

Mr. Gregg Richardson, 487 Pleasant Street, Attorney representing abutters felt the fall zone analysis did not give all the information on how far away the abutters were if the pole were to fall. Looking at the map, the 150 foot goes outside the property. He said, the attorney for Verizon mentioned something about the acoustical noise report and that report was not included. There was also no drainage report included. He also had some concerns on the location of the wetlands. The wetlands are 809 feet above ground level and where the tower is located, is 344 feet above ground level, which means there will be a 25 foot drop. He wanted to know where the cell tower would go when it falls and will it fall into the wetland. He asked why the fall zone report didn't give all the figures.

Mr. Richardson continued. The Federal Housing Authority will not provide insurance for properties that are within a fall zone. What they use for a fall zone is the distance and height of the tower and because that was not included in the fall zone report, the property owners don't

know if they would be able to get insurance. He had those figures and submitted a copy to the Board.

Mr. Richardson stated that at the Zoning Board of Appeals Public Hearing, Verizon's Attorney mentioned that the FCC did not require lighting for this tower. He said that the lighting of the tower was an FAA requirement and not up to the FCC. Towards the end of the application packet, it states that the structure does not require lighting, but there was no reports provided showing the tower being outside the 5 mile radius of an airport. Worcester Airport falls within the 5 mile radius of where they want to put the cell tower. The FAA just came out with a circular advisory report dated 12/4/2015, stating that structures being 100 feet or less, lights should be installed in a manner to ensure unobstructed view from one or more of the lights installed. Since the tower's airspace is within the 5 mile radius, it comes under the national airspace system from the ground all the way up 2,500 feet. The only way the tower won't have lights is if they send the FAA a notice of proposed construction. The FAA will then issue a report, in accordance to the guidelines set forth in the advisory report and this tower will require lights. Those lights will be red LED lights and could be blinking and he felt that will be an eyesore.

Mr. Richardson said that on page 6 of the Site Plan Review Application submitted by Verizon, under Drainage Report it states, the study found the project would have minimal or no adverse effect on waterways or wetlands taking into account the drainage on the property following the construction of the facility. Mr. Richardson said he would like to see what the conclusion was to that statement, because to his reading, there is no conclusion. The environmental report shows only the facts and one of facts has to do with the plants and it looks like there are more wetland plants than are shown. The digging was done by the environmental surveyor in June and he dug down 4 inches to moist soil, 11 inches to ground water and continued to 16 inches to more groundwater and as we know, the groundwater recharges to drinking water. He would also like to know the size of the concrete pad, because the building will be 12 x 26 foot, which will have substantial runoff that will affect the wetlands.

Mr. Richardson asked if the pole could be extended, because the pole is at 150 feet today, could it go to 175 feet tomorrow? As Verizon finds people who are interested in placing their antennas on the pole, will these co-locators be putting up their own equipment building? Also, there's a 9 foot spark zone around the propane tank, which could actually be a bomb, and half the range of the spark zone is outside the fencing; he asked if Verizon could also address that.

Mr. Manougian said they have nothing to add, other than they comply with the FAA Regulations that are in place and the Town's Consultant has backed up what they have submitted about the drainage.

Mr. Tom Buckley, 76 King Street, said even though this pole will not affect his property, he was approached by several residents and he did some of his own research on this. He said when Verizon started their study, it was stated that the research was done for a 100 foot monopole. He asked if they were talking about a 100 foot pole or a 150 foot monopole. Mr. Manougian apologized for the confusion and stated it was for a 150 foot monopole.

Mr. Buckley said looking at the different aspects of this and the reading under Section 3.32, RIB Zone, A. Intent, which states: “the intent of this section is to provide for residential uses in somewhat higher density than in other residential zones and to provide and increase the value of residential property situated in the vicinity of operating businesses, to protect the community from the detrimental effects of development not suited to location near residences, to protect persons and property against the hazards of pollution; to conserve natural conditions and open spaces; to separate and otherwise divide potentially conflicting property uses and to provide a harmonious relationship between residential and commercial development.” His point was there are residential neighborhoods to the west and to the east of this site and this pole will be put smack dab right in the middle.

Mr. Buckley said that he won’t speak for the ZBA, but they requested the fall zone affect at full failure, not half way down the pole, but at full failure. He asked if the tower were to fall east, at full failure, where would it land? Another concern is with aesthetics and property values. As stated by Mr. Richardson, property values will be affected. There are 120 homes within the distance of this tower that he felt will have a detrimental effect. The homes at the top of Sunset Drive and across from Huntoon Highway will definitely be in sight of this pole.

Mr. Paul Collins, 12 King Street, said this site was right across from his property. He was told by Mr. Morris that if the pole were to fall, it would never hit his house because it was 173 feet away, but he never mentioned anything about his barn. He has a 60 x 40 foot barn. Mr. Morris said it was 173 feet from the property line. Mr. Collins said okay, it’s less than, but he has a conflict of interest anyway, because Elder Affairs hooked him up to lifeline and gave him a beeper and he can’t get 2 bars on the machine that they use, so he couldn’t get lifeline. He does have mixed emotions about this.

Katie Flynn, 492 Pleasant Street, said they are almost done with an addition project to their home and if this tower is built, she felt it will lower her property value and she may not be able to sell her home. She was asking the Board to give this some consideration. She had an abutter’s list of 17 single family homes that were within 300 feet of this proposed tower that will be affected. In regards to the fall zone analysis, she noted the cell tower on Stafford Street catching fire two years ago and asked for more information on how they would deal with this tower catching fire. She then submitted a copy of the Stafford Street Cell Tower fire report.

Mr. George Leary, 487 Pleasant Street, felt it was clear that the Town of Leicester would like Verizon to have a tower. It’s also been made clear by the Board of Selectmen that they will work with Verizon to help pick a location for this tower. This tower was selected by Verizon to suit their purposes, which is fine for Verizon, but how does that suit the purposes of the Town? What everyone is asking is for protection, because this Town takes the value of their homes and gives it to a multi-national corporation. No one is saying that Verizon was not welcome in Leicester, what they are saying is, why not give the Town an opportunity to work with Verizon and locate in another vicinity that is not surrounded by houses. So if the cell tower does catch fire, there won’t be the possibility of people being burnt out of their homes or loss of life. This is a very serious proposition facing this end of Town. That whole zone [RIB] was built around the idea that businesses and residential uses can be located near each other and not distort the value of the residences. If something like this is allowed, who knows what will happen. Property

values could drop and the next thing the area is blighted and who wants to be blighted in that section of Town.

He asked the Board to think very carefully about what they are being asked to consider here. We are the Town's people, the backbone of the Town, people who pay the taxes. They are asking for the Board's protection against this tower, not to bar Verizon from being in Town, but to give more time to pick another place.

Ms. Linda Buckley, 76 King Street, asked if Verizon had explored other opportunities along Huntoon Highway. There is a parcel of land next to Liberty Movers that has been for sale for a while owned by Blair and Milbrook owns a lot of land along the highway. She asked if they had talked to any of those land owners, because these are properties that do not have residential homes around. Mr. Mangouian said they have declared this the site center of the coverage zone needed in this area. They did check other properties along Huntoon.

Ms. Buckley asked where the other properties were, because the ones she mentioned are only ½ mile away. Mr. Mangouian said this site provides the coverage in the gaps.

Ms. Sandy Wilson, 3 Mayflower Circle, asked Ms. Buck to review when she and the Town Administrator started working with Verizon over a year ago helping them find locations and had researched many locations throughout the Town. Ms. Buck said she wasn't involved in that process, but it was her understanding that the Town Administrator did meet with Verizon.

Mr. Leary said he was told by the Town Administrator that it was a suggestion for a location and that it didn't sound like a good location and there was no formal application from Verizon for any other spot in Town.

Ms. Wilson noted that was not what she said. Verizon approached the Town Administrator about finding other locations. He did look around and investigated some other locations, as well as Verizon investigating other locations, and the property owners were not interested in allowing it. Mr. Leary felt Ms. Wilson was mischaracterizing what the Town Administrator said, because what he said to him was it didn't look like a good location, end of discussion.

At this point, Mr. Grimshaw reminded the audience that there would be no open discussion and all discussion was to be directed through the Chair. Ms. Buck said she wished she could shed more light on that, but she wasn't involved in those conversations.

Mr. Richard Bates, 9 King Street, asked if any members of the Board were going to be affected by this cell tower. Mr. Grimshaw noted he lived in Dawn Acres, at 13 Sunset Drive.

Mr. Bates said his house is directly across from where this tower is going and didn't really have any issues about seeing the tower, but did have concerns with what it was going to do the property values.

Katie Flynn, 492 Pleasant Street, said concerning the fencing and the razor wire on top. Looking into this further, it looks like this was something that could attract vandals and people they don't want in their neighborhood. It seems the proximity to neighborhoods is too close.

A resident from the Pleasant Street area said she had concerns with the proposed 1,000 gallon propane tank on site and the possibility of a fire.

Mr. Paul Fitzgibbons, 61 ½ King Street, asked what exactly will the Board be voting on and what does the Board's vote mean. Also, being the Planning Board has the Planning Board planned for any of the other towers in Town. Ms. Buck explained that the Board does not plan locations for towers; they respond to applications. Every cell tower in Leicester requires review by two separate boards, the Zoning Board of Appeals and the Planning Board.

Mr. Fitzgibbons asked how many towers are already in Town. Ms. Buck said three towers. She explained that the ZBA looks more particularly at the use itself and the specific section of the Bylaw related to cell towers. The Planning Board looks more at overall site characteristics and some things aren't even applicable to towers, for example; parking, utilities, water, and sewer. If the Planning Board approves, it will be a separate approval from the Zoning Board of Appeals and it would still need the approval from the Zoning Board of Appeals and that hearing was continued to January 20, 2016.

Mr. Fitzgibbons asked what exactly the Planning Board's vote meant. Ms. Buck said it's the first of a two-step process to approve a cell tower.

Mr. Grimshaw agreed saying that both Boards had jurisdiction over this.

Mr. Fitzgibbons asked if the Board votes yes, it meant it's approved and no means it's not approved. Mr. Grimshaw said yes, if the Planning Board votes to approve, that means they are approving that location that cell tower and construction based upon what the Planning Board looks at. The Zoning Board also has jurisdiction over this and to some degree, for different reasons and each Board has different things they look at. There is definitely some overlap and where a lot of this discussion is going, but as Ms. Buck stated, both Boards have shared jurisdiction over the approval process. If one Board approves, it doesn't necessarily mean it will happen.

Mr. Fitzgibbons said the Planning Board will vote either yes or no on whatever this cell tower is. Mr. Grimshaw said the Planning Board will vote to approve or disapprove the construction of the cell tower.

Mr. Fitzgibbons asked what the advantages were for Leicester to have this cell tower and if this was the first the Board has heard about this. Mr. Grimshaw said no, asking if he meant this was the first meeting about it.

Mr. Fitzgibbons said this is the Planning Board and it would seem that planning was part of this Board. Does the Board plan? Mr. Grimshaw noted he wasn't sure where Mr. Fitzgibbons was going with that question. Mr. Fitzgibbons said as the Planning Board for the Town, the Board is

supposed to approve whatever is going forward or everything in Town as far as commercial property and locations. What is the Planning Board's job? Mr. Grimshaw said there will be certain things that will come before the Board and based upon the Zoning Bylaws, will govern what happens.

Mr. Fitzgibbons said as technology improves, will we be needing more and more of these towers and has anyone ever discussed with Verizon in regards to the fire and police answering a call to this location? Ms. Buck said it was discussed and noted in the previous meeting.

Mr. Fitzgibbons asked if the Board was planning for the future. Mr. Grimshaw wasn't sure how Mr. Fitzgibbons wanted him to answer that. Mr. Fitzgibbons felt the Planning Board should plan for the Town's well-being into the future. Mr. Grimshaw thanked Mr. Fitzgibbons and said his opinion was noted.

Mr. Wright explained the comment relative to the Fire & Police Department answering a call at this location. Any application that comes before the Board for any type of project is sent to every Town Department, Committee and Board for review prior to a meeting. They will provide their opinion to the Board, which would be taken into account and then the Board would base their decision upon that. Talking about a Planning Board and planning for a Town, the Planning Board doesn't plan what is going to go where, because that is already determined in the Bylaws set by the Town and by zoning districts. The Board tries to incorporate structures, businesses, and different types of uses, including a cell tower, based on the Bylaws of the Town and those zoning districts and what fits in that zoning district. If it meets all those regulations, the Board will vote yea or nay on whether or not accept it.

Mr. Wright said his question was, if this Board votes yes the cell tower can go in, but the ZBA says no, there's a split decision, what happens? Ms. Buck said they can't build it. Mr. Wright said so just because Planning says yes, doesn't mean the ZBA will say yes and if Planning says no, ZBA can say yes.

Mr. Fitzgibbon said it doesn't seem like there is a lot of planning going on as far as where these things can go. As far as fire and police communications, he would hope that Verizon wouldn't charge the Town for putting any of their equipment on the tower.

Ms. Buck clarified that this application was sent to 13 Boards and Committees for comment and all comments came back recommending approval. Comments from the Police and Fire recommended approval and an independent consultant reviewed the application regarding the drainage and all the comments came back recommending approval, with the exception of the Selectmen. The Selectmen did not issue a specific report to the Planning Board; they only made their recommendation to the ZBA.

Mr. Buckley said he understood the process and that the Planning Board does make some tough decisions. He was the one who brought this to the attention of the Board of Selectmen and the Board of Selectmen voted not to support this, but not to out play anyone. He spoke with the Town Administrator about this at length, because he did not want to do anything inappropriate. The Selectmen do want to see cell towers in this Town and have coverage provided for fire and police, but they were looking at it from the standpoint of being near residential neighborhoods.

He did some research on the effect something like this has on residential neighborhoods and felt the intent of the Bylaw was to protect the residential neighborhoods from detrimental effects. Part of the conversation he had with the Town Administrator was about a cell tower at the Memorial School and that idea was turned down. He didn't have anything against cell towers, but felt that a compromise should be looked at for other properties along Huntton Highway, because these aren't small neighborhoods and there are two neighborhoods that will be right near this tower. This is why the Selectmen voted the way they did, which was 4 to 1, for that resolution.

Katie Flynn, 487 Pleasant Street, asked in terms of zoning for a cell tower, does it matter which zone, could it be just a residential zoning? This tower will be in a RIB Zone, but could it be residential or business or could it be an overlap. Is it really up to the Planning Board and Zoning Board in terms of where the tower goes? Ms. Buck explained there is a list of uses that are allowed in each zoning district and wireless communication facilities are allowed, in Leicester in every zoning district with a special permit and it is specifically allowed in the RIB District.

Mr. Leary felt there was plenty of evidence on where this pole can be located somewhere else in Town and would have no impact on people.

Mr. Richardson felt there were still questions about where the tower will fall, for example, will it fall onto Route 56, or will it fall onto Mr. Collin's barn. Those questions could be answered if there was an accurate fall zone report. Also, there wasn't a wetland resource evaluation that comes to any conclusion and it's not known what is going to happen with the drainage. He also didn't know if there was going to be additional equipment buildings for the additional companies that they will be leasing to down the road. There will be runoff from the one equipment building that will be 26 x 12, but they don't have answers to whether there are going to be more equipment buildings, because there have been other equipment buildings put in at other cell tower locations. They also didn't know whether this tower could be extended, which he was sure those answers could be found, but the answers were short coming tonight. There are many unanswered questions and he asked the Board to take this into consideration before taking a vote.

Mr. Grimshaw asked Ms. Buck to review the applicant's waiver requests. Ms. Buck explained that the applicant requested a waiver from a drainage report, which was something often required for Site Plan Review Applications. All of the Site Plan Applications are sent for review to an engineering firm and this Board uses Quinn Engineering. It was Quinn Engineering's opinion that the waiver was justified in this instance, because the amount of land disturbance and impervious increase was in his words "de minimus." Quinn Engineering did not express any objection to that issue.

Mr. Grimshaw asked if a fall zone report was required from the applicant. Ms. Buck said the Bylaw does mention a requirement for a fall zone report, but there were no specifics as to what has to be in that report. The applicants' originally requested a waiver, but both Boards had asked that they submit one. She noted that distance to abutters was not specifically mentioned in the fall zone report, but Verizon did submit to both Boards, a detailed locus plan showing the location of the tower and every abutting structure within 1,000 feet. Mr. Grimshaw invited anyone interested, to view the locus map submitted.

Father Jack Lizewski, St. Jude/St. Aloysius Parish, said he never received notification about this cell tower and heard about it from concerned neighbors and some of the parishioners at the parish. He does plan on attending the next ZBA meeting and said he was very concerned about this. Technically, the property is owned by the Catholic Diocese and he did not believe Bishop McManus was notified about this either, otherwise he would have called him. He was very strongly opposed to this tower.

Ms. Katherine Peters, 490 Pleasant Street, said she also wanted to make it known that she was opposed.

Mr. Paul Collins, 12 King Street, said he wondered as a abutter to the tower, if the 120 homes that will be affected, that by a class action suit, they would receive an abatement from the Town, so they can get their taxes reduced, since the Town is based on tax income.

Katie Flynn, 487 Pleasant Street, asked to submit the information she had regarding the 5 mile radius and the fire report on the Stafford Street Cell Tower into the record.

Mr. Richardson said in regards to Quinn Engineering's environmental report, how can they come up with a report when they don't know the number of buildings that will be there. There wasn't an answer given on whether the other companies that will be leasing out space on the tower, will be having their own equipment buildings, because there will be more runoff. How can they predict the future, without the answers? He was asking some very simple questions, will there be more equipment buildings there and is it the norm to have more equipment buildings there? He felt it was the norm and how can the Quinn drainage report say it's going to be okay when they don't know how many buildings will be creating wastewater. Ms. Buck said additional buildings were not under review by the Planning Board at the present time.

Mr. Richardson said perhaps, but what about the drainage report now and runoff report, can they get a copy of that report? Ms. Buck asked if he was referring to what the applicant submitted. Mr. Richardson said no, the applicant was asked to submit one and they didn't. So now, they are going by the Quinn report the Town sent out. Mr. Buck said the Town Engineer just reviews the applicant's submittal and the statement on Quinn's drainage report states: "The Applicant has not submitted a drainage report. As proposed, the site plan depicts deminimus [sic] impervious area, and will create no significant change in stormwater runoff characteristics. A drainage report would not provide useful information in that regard."

Mr. Richardson asked for Verizon to play by the rules and provide a drainage report. He would also like to ask for a fall zone report that will actually show the location of the tower. He also asked if he could submit the copy of the advisory from the FAA and the information from the FHA into the record.

Mr. Wright said hearing all the comments regarding this being detrimental to properties and devaluing properties by 20% and the class action suit to reduce taxes, he asked what are the capabilities that Verizon could provide, because right now the cell tower is for cell phone coverage and picking up the gaps in coverage. What other capabilities could this tower provide

in the future, such as, Verizon FiOS as being as option for Town residents & for other cable services? He asked if that was something that this tower or any other tower could do in the future.

Mr. Manougian said that was a different division within Verizon Wireless and could not answer what will be in the future. However, if it's something that was available, he was sure they would bring it in. The tower is just not for cell service, it's also for data. Also, the Fire Department has shown interest locating on the pole and has noted approval for the tower.

Mr. Michael Lessard, 4 King Terrace, said his concern was about the looks of the tower, because it was the ugliest thing he has ever seen. That is what everyone is really complaining about. He asked if it could be made to look like a pine tree or an oak, which can be done. Verizon has a lot of money and he was sure something could be done to make everyone happy.

Mr. Buckley said he had called Verizon asking if FiOS was coming in and the answer was no.

Mr. Richardson said he didn't know about the future, but he does know about today and Verizon has a system called DAS, Digital Antenna System. These are small antennas that would go on top of telephone poles or any other strategic place in Town. The Town has many easements on telephone poles and they could collect money by this. There are many communities who have been using the DAS system for quite some time and this would be a great way for the Town to generate revenue. One of Verizon's concerns was the numbers and the gaps in coverage along Route 56. Rather than putting up a tower, they could put in this system all along that highway. He felt there was a way Verizon can fix this problem today without affecting property values.

Ms. Friedman asked Ms. Buck to go over, point by point, on what the Planning Board was required to look at and whether or not this was in compliance according to the Town Bylaws.

Ms. Buck reviewed the Planning Board's 7 main criteria used when reviewing site plan applications [reading from the draft decision based on discussion at the first hearing]:

- A. The use complies with all the provisions of the Leicester Zoning By-Law;
The Board finds that the proposed project meets this standard as described and conditioned in this Decision.
- B. The use will not materially endanger or constitute a hazard to the public health;
The Board finds that the proposed project meets this standard. The project is designed to fill Verizon's gap in coverage, providing residents, visitors, and emergency personnel with better access to wireless telecommunications services and coverage. In addition, the Board finds that the monopole tower will be constructed to industry design standards that ensure public safety.
- C. The use will not create undue traffic congestion or unduly impair pedestrian safety;
The Board finds that the project meets this standard. The facility is not staffed and will require only infrequent maintenance visits by Verizon's technicians on a bi-monthly basis.
- D. Sufficient off-street parking exists or will be provided to serve the use;
Adequate space for operation and maintenance personnel is provided on site. The Board finds parking sufficient to serve the proposed use.

- E. The use can be adequately served by water, sewer, and other necessary utilities, or if these are unavailable, that they will be brought to the site at the owner's expense; or, the Planning Board is satisfied that the proposed alternatives will comply with all applicable regulations;

No water or sewer or other related utilities are required or proposed at the site.

- F. The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and streets, nor will result in pollution or degradation to surface water or ground water;

Based on the review by the Board's consulting engineer, Quinn Engineering, Inc., the Board finds that the project as proposed meets this standard.

- G. The use will not result in any undue disturbance to adjoining property owners or the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc. *The Board finds that that project meets this standard. The project as proposed will not create any noise, smoke, vapors, fumes, dust, or glare.*

Mr. Wright pointed out under (E) should note that the site will be served by a utility; electricity. Ms. Buck said she will change the wording to read "electrical service provided at owners expense."

Mr. Collins, 12 King Street, wanted to confirm that everyone understood there would be a generator there and a propane tank to run it.

Ms. Buckley said there was nothing mentioned in the Planning Board's criteria about lights. Mr. Grimshaw said that would fall under glare. Ms. Buckley asked if glare covered the issue about lights that maybe on this tower. Ms. Buck explained that lights were not address in this application and the applicant stated that there would not be lights.

Mr. Manougian said he has not had the chance to review what Mr. Richardson had referenced from the FAA, but if the law changes, they will come back to address that, but as of right now there are no lights proposed on the tower. He believed that when a site plan addresses lighting, it usually has to do with parking lot lights and building lights and the lights not reflecting onto neighboring properties. Ms. Buck and Ms. Friedman agreed. Mr. Manougian said if the FAA Regulations have changed and require lights, they will come back before the Board and address that as a modification to the site plan.

Mr. Richardson said Verizon will visit this facility twice a month and will also be leasing out more antenna space, because its industry standard that Verizon won't be the only ones who will have an interest in this site. The additional carriers that will co-locate on the tower will also need to visit and maintain their antennas. The traffic to the site, all of a sudden, will start adding up. He believed that this tower will require lights and felt there was a way to find out before any votes were taken. This could be done by Verizon following the regulations, the Board asking for an evaluation report, Verizon filling out the proper documentation and contacting the FAA for an opinion. He felt the language was clear in the FAA advisory report that this tower will need lights and he believed that there will be glare. He felt the applicant needed to find out whether lights would be required before the Board votes.

Mr. Leary said other cell providers are going to want to come in and attach to this pole and that's done by a special permitting process and the Town can't discriminate between providers. The ability for the Town to say no is very limited. He is asking about the ramifications on allowing this pole and additional antennas.

Mr. Menard felt it might be helpful on getting more information regarding the FAA ruling on lights. Ms. Nist said she quickly reviewed the advisory report dated 12/4/2015 and it states that this law doesn't go into effect until September 15, 2016. It goes on to state that proposed towers and similar structures would require 2 steady burning red lights installed in a manor to ensure an unobstructed view and it says nothing about flashing lights. Ms. Friedman confirmed that if something was approved now, lights won't be required, but they would be required to do it by September 15, 2016 forward.

Mr. Wright asked Mr. Richardson if a tower was already installed before that date, do they have to go back and install a light, or is it grandfathered in, because based on what Ms. Nist just read, that law doesn't go into effect until September 2016. Mr. Richardson said he won't talk on whether the tower would be grandfathered in, but he will talk on the language of the circular. What Ms. Nist read will be mandatory and whether the tower was put up now or later, in national airspace this will be mandatory.

Mr. Grimshaw asked if he knew whether lights would be required on a pole that was constructed before September 2016. Mr. Richardson said he could find that out, because on the second page of the advisory report it explains how to find out that answer, because the FAA is inviting questions. Therefore, the Board could postpone this meeting in order to get some clarification from the FAA.

Mr. Manougian said that if there was a law in effect now, he and his clients would know about it. This law is not in effect and they are simply asking that the Board approve the application before them tonight. They are not talking about future co-locators, or other buildings, just for approval on what is before the Board. There are no lights proposed on the plan and what Mr. Richardson presented to the Board is something that won't be in effect until September 2016. The tower will be up by then and if the law changes down the road, they will deal with it then. No one here is an FAA expert able to say that this tower would be grandfathered, so they are asking the Board to approve this plan with no lights as proposed.

Mr. Richardson disagreed because these lights are going to affect these neighbors. There are procedures in place on how to find out this information before a vote is taken. Mr. Buckley agreed.

Ms. Buck asked if the Board considered a red light to be glare. Ms. Friedman said she would not consider that glare, because it's also not a flashing light, it's just a red light.

Mr. Richardson said the FAA has determined a proper way on lighting towers that affect the national airspace. The regulation isn't mandatory, however a structure that may affect the airspace within 5 miles of an airport, will be required under the provisions of the regulations, to notify the FAA by completing a notice of proposed construction.

Mr. Grimshaw asked if the Board had any further comments.

Ms. Friedman asked if the Board wanted Verizon to fill out the form for FAA or because this will be something Verizon won't be putting a light on, can the Board look at that. Ms. Nist suggested for clarity, Verizon fill out the form and get FAA's opinion. Mr. Menard agreed.

Ms. Friedman said that lights were the only sticking point at this point and everything else is compliant and the plan, as reviewed, is compliant. If Verizon has to put lights on the tower and it's not blinking lights, it's still compliant.

Ms. Buck noted the aesthetic considerations were more under the jurisdiction of the ZBA.

Mr. Grimshaw clarified for the public that the Board felt the applicant has met the requirements with the exception of the question regarding lights.

Ms. Friedman asked Mr. Manougian if they had gotten a determination from the FAA. Mr. Manougian said they have a current filing, local and regulatory with the Federal Government. They do not have that final regulatory approval because they need the Planning Board to approve and the Zoning Board of Appeals to approve, in order to know the exact location of the tower and then they will receive the final regulatory approval. They are asking this local Board to exercise their rule and to approve what a site plan review requires. They are not putting any standard lighting on the site and there will be no tower lighting, because they are not affected by that law. They are asking the Board to approve this application without lights and if ZBA approves, then the regulatory authorities will do their final approval.

Mr. Grimshaw felt the lighting issue and the glare factor needs to be addressed before moving forward with a vote. Ms. Friedman explained it would not be a glare factor. There might be a light, but it's not necessarily a glare factor, there's a difference. The Board would be looking at glare, because when looking at a site plan review and there's a parking lot with lights, that's the glare factor.

Ms. Buckley said just by observation, it seems like the determination was made before the Board listened to the people that live near this tower. These people are residents of this Town and were there before Verizon and before this tower going in. The Board listened to the people and what they said and how it's going to affect their well-being and how when they open their doors in the morning, will see this ugly looking tower, with possibly a blinking light. These residents were here before the tower. They came, they spoke, and she wasn't sure whether the Board listened to them or not, because listening to how the Board decided that this might be approved before the lights were brought up, it was like the Board didn't want to hear what they had to say. They were here before the tower and she felt Verizon can find another place for the tower.

Mr. Grimshaw respectfully disagreed with Ms. Buckley's comment on whether the Board listens to the public's comments or not. Speaking personally, he lives at 13 Sunset Drive, in that neighborhood and it will affect him personally, but that is not his position here. This Board listens to people and he felt that statement was not the case here.

Ms. Wilson said the current application was submitted 30 days prior to the previous hearing.

Ms. Buck said the current application was submitted on October 29, 2015.

Ms. Wilson said that was quite a bit before the first hearing. The ruling for the towers and lights would apply for a tower 200 -foot or higher or a tower within 2,000 yards from a runway, would require FAA approval. This application did not meet either one of those criteria, so they didn't need to go to the FAA. They weren't aware of the current circular that doesn't even take effect immediately, but into the future. She felt at this point to hold up approving this, based on a possible ruling that may or may not affect them, is going against the whole purpose of how these Boards work based on the criteria that is currently in affect.

Katie Flynn, 492 Pleasant Street, said the information that Verizon's application states, has the cell tower outside of the 5 mile radius and wondered if that was where the gap in information was, in terms of the tower needing the lights within the 5 mile radius.

Mr. Buckley felt with wireless service, it wasn't hard to get the answers to the questions, regarding the lights. If FAA does make it a requirement, then the tower will have to have lights on it. He asked why wait until after the tower is built to get the answer to the question. Once that answer is received, then the Board can make their decision.

Mr. Richardson said the tower lights by nature and 7 inches high and LED lights. What these lights do is create glare because they want to get the pilots attention.

Ms. Friedman asked for the applicant to get some kind of determination on FAA requirements, because she didn't want to approve this if in September they will be required to put up lights, not that the Board can't approve this, but she wants to know what the Board is approving. She felt the applicant should be able to get some kind of determination, regardless whether the tower was moved within 20 feet one way or the other. She would like to see something that says no, lights are not required or yes, there will be lights required.

Mr. Wright said relative to the grandfathering comment made earlier, if the tower requires lights in September 2016, every single cell tower in the U.S., at 150 feet, will require having lights. Based on his experience with building code and how the State goes through and reissues and adopts new codes, there is usually a 6 month grace period and after the new code goes into effect, the old code can still be used. Before that code goes into full affect, after the 6 month period, they can apply for a building permit under the old building code and won't have to meet the new standards. He felt that FAA circular reads the same. His interpretation was, when this requirement takes effect in September 2016, anything constructed up and to that point, will not require what is required in the circular. Anything constructed from September 2016 on, will effect anything 150-feet below. This application was submitted back in October and if their plan meets the Town's requirement and meets the FAA requirement that's what it is.

Mr. Menard agreed waiting until more information was received regarding the FAA lighting requirements. Ms. Nist and Mr. Grimshaw agreed.

Hearing no further discussion, Mr. Grimshaw asked for a motion to continue.

MOTION: Ms. Friedman moved to continue this hearing to Tuesday, January 19th at 8pm.

SECONDED: Ms. Nist – Discussion: None

VOTE: 4-In Favor / 1-Abstained (Mr. Wright)

MOTION: Ms. Friedman moved to adjourn meeting.

SECONDED: Mr. Wright – Discussion: None

VOTE: All in Favor

Respectfully submitted:

Barbara Knox

Barbara Knox

Documents included in meeting packet:

- Agenda
- Copy of letter sent to Crescent Builders regarding Pondview Subdivision's request for final release of surety and road acceptance
- Planning Board minutes of December 1, 2015
- Copy of draft Site Plan Approval Order of Conditions for 30 Huntoon Highway Cell Tower

Documents submitted at meeting:

- Revised Site Plan for 30 Huntoon Highway Cell Tower
- Copy of a signed Affidavit from Marc R. Chretien, P.E., Advanced Engineering Group regarding cell tower designs and construction standards
- Materials submitted by abutting property owners: USDOT FAA Advisory Circular dated 12/4/2015, Unlabeled Map (IMG_3454.JPG) dated 1/5/2016, Incident Report 488 Stafford Street (incident #11-000163), and FHA Sec. 08 Property Analysis dated 8/7/2008)

Approved on: February 2, 2016