

**Town of Leicester
Zoning Board of Appeals
Meeting Minutes**

Minutes of December 9, 2015

Hearing on the petition of Verizon Wireless of 900 Elm Street, Manchester, NH for a Special Permit to construct a 150- foot monopole telecommunications facility with associated antennae and equipment on property located at 30 Huntoon Memorial Highway, Leicester, Ma

Members present: David Kirwan, Chairman; Jim Buckley, Clerk; Vaughn Hathaway, David Orth, Paul Schold

Alternate members present: Mary Moore, Richard Johnston

Meeting called to order at 7:30PM

Instructions were given on Hearing procedures

Voting at tonight's meeting: David Kirwan, Jim Buckley, Vaughn Hathaway, Paul Schold, and David Orth

Mr. Kirwan read into the record, the Federal Telecommunications Act of 1996, Section 704, Facilities Siting; Radio Frequency Emission Standards. (a) National Wireless Telecommunications Siting Policy '(iv). "No State or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions" (text attached). He noted, with that said, the issues pertaining to environmental conditions regarding cellular, will not be discussed at tonight's meeting.

Mr. Buckley read the Legal Ad Notice, Application, Authorization letter from Paul & Laura Morris granting permission to Bell Atlantic Mobile d/b/a Verizon Wireless. (Complete application attached- Attachment A)

Submitted into evidence: return receipts from the Certified Mailing; a Registered Plot Plan (Attachment C)

Correspondence received: a Motion from the Board of Selectmen, Site Consideration from the Building Inspector, a letter from Gulla Magnusson, 494 Pleasant Street, and a Neighborhood Alert Flyer that was distributed to neighbors; all correspondence was read into the record by Mr. Kirwan (attached- Attachment B)

At this point, Mr. Kirwan opened discussion to the applicant to present their petition to the Board.

Mr. Victor Manougian, Attorney for Verizon Wireless, made the presentation.

He was here representing Verizon Wireless, for property located at 30 Huntoon Memorial Highway; Map 37A, Parcel E3; owners, who are here tonight, are Paul & Laura Morris.

The property is located in the Residential Industrial Business Zoning District (RIB) and they are seeking a special permit under Sections 3.2.05 of the Leicester Zoning Bylaws, for placement of a 150-foot monopole.

Mr. Manougian said the application material did a good job describing what was being done and didn't want to get into too much detail, but he wanted to review page C-1 of the plan submitted. Page C-1 shows where the tower platform will be located and where the center of the tower will be placed. He pointed out the tree line that went around the property from Route 56 over to King Street. He also pointed out the 100-foot buffer from the wetlands and they are 83-feet outside the 100-foot buffer.

When they go for Site Plan Review, they will show there will not be any changes to the impervious areas on the site, other than the foundation for the tower and for the shelter. There will be a gravel drive, so there will be minimal runoff change for drainage.

They are proposing to build a 150-foot monopole, as shown on page Z-2 of the site plan. On that page, it shows the pole and four additional spots for potential co-locations. The additional spots are not part of this application. That can happen sometime down the road and would come back before the ZBA for the appropriate permitting.

Under Section 5.4, one of the few things it stresses was to encourage co-location and minimizing the overall number of towers in Town. They felt they did show that.

There has been a lot of talk about the tower having 60-antennas and he wanted to point out this application shows 12-antennas right now and they don't know what the future will bring.

Mr. Manougian continued. The Bylaw also discourages using properties in the historical district and encourages a monopole design with neutral colors. They will paint the pole any color the Town prefers, but normally they would paint it a neutral gray. There will be no lighting on the tower at all, it's not required, because it does not meet the FCC Guidelines for lighting the top of the tower.

Prior to the issuance of a building permit, they are required to submit a bond that will cover the cost of removal of the tower when it's no longer needed and abandoned. They will file a bond with the Town to make sure that if Verizon doesn't take the tower down; the Town will have sufficient funds to take it down.

He didn't want to go through the complete application and felt the project review letter addressed how they felt this met the criteria for Site Plan Review, as well as the Special Permit.

In addition to the review letter submitted, the special permit application, the certified abutter's list, and the radio frequency report to show why this site was needed, also the wetland resource evaluation and the registered plot plan were also submitted.

There has been a lot of discussion about this site, as well as looking at alternative sites. Verizon determines where they have a gap in coverage and then they develop a search range. Then someone will look within that search range to find viable real estate for a tower.

At this point, Mr. Manougian introduced David Tivnan, who is the Real Estate Acquisition Specialist from Vital Site Services, Inc., who found this site on behalf of Verizon and Peter Polenta', who is the Radio Frequency Engineer, who prepared the reports submitted.

Mr. Manougian explained how this site was found. They looked at municipal sites after speaking with the Town Administrator, who expressed the Town's need for antennas to be located on top of towers allowing for better communication.

They looked at sites within the search range that were Town owned properties. One site was the Clark Street water tank, and even though it was within the search range, it didn't reach the height criteria to satisfy the needs that would fix the communication gap that's there.

The property size is 150 x 150 feet and was capped at that size for the placement of the water tank, which doesn't leave enough room to put a tower and the necessary access road needed.

Another site looked at was the water tank on Lehigh Road, which is actually out of the search range, and had the same issues as the Clark Street site; it didn't reach the height criteria and it didn't have the ground space for placement.

Another site was the Elementary School, which was also outside the search range and they found that site wouldn't work either.

They finally went to the private land owners within the search range, looking for the highest location that would address the gap coverage issues and found this site.

With respect to the radio frequency report, there is a public capacity issue in this area and this area is covered within the search range. The report also includes the distances between existing Verizon sites and topography of the land. He gave an example that when he was on his way to this meeting, he received a phone call and could not hear or understand who he was speaking with.

Mr. Manougian continued. They feel there was a need for this tower and once this tower is on line, it will cure the gaps in coverage along Route 56, Pleasant Street, Peter Salem Road, Clark Street, and surrounding neighborhoods.

The RF Report shows, just in the vehicle traffic along Route 56 cites 7,595-vehicles a day north of Stafford Street, and 5,932-vehicles a day traveling south of Pleasant Street. So there will be a lot of traffic that will benefit from this, in addition to the Town benefiting, if they chose to install emergency communication equipment on the tower.

There was some correspondence read into the record tonight and although he didn't want to get too much into the Town Department's approvals, all Departments were in support of this, with no one opposing it.

He did notice what was read into the record tonight from the Board of Selectmen's Meeting and obviously heard about the meeting as well. He did see the newspaper article that he found online and upon leaving his office this afternoon, got to read the Motion in the (Selectmen's) minutes. Ultimately, in the letter from where the motion was read, the Chairman of the Selectmen did point out in the last statement, the ZBA holds the authority to grant or deny the Special Permit. He has never heard of a Board of Selectmen getting involved in this kind of thing, but they are the Board of Selectmen and they can do that. But ultimately, it's the vote of this Board that approves or disapproves the tower.

He did read the Wireless Bylaw and it clearly allows this kind of installation in all zones in the Town, subject to a Special Permit from the ZBA. He felt this complies with the regulations within the Bylaw and that this should be approved subject to Site Plan Review, which is also filed and that will be coming down the road, assuming the Board approves this tonight. At this point, Mr. Manougian completed his presentation and turned it over to the Board for comments & questions.

Mr. Kirwan repeated the hearing procedures in that the Board will be first to ask questions and then discussion will open to the attendees.

Mr. Hathaway asked if there were any photo simulations on what the tower will look like after installation. Mr. Manougian said no, because the Bylaw didn't require it.

Mr. Hathaway said the Board has approved other towers and agreed it was not required, but sometimes it helps alleviate concerns people may have. There is a General Requirement in the Bylaw where it states the tower having minimal visual impact, and a photo simulation can help address those concerns.

Mr. Manougian said this tower would be very similar to what was seen on Route 9 standing monopole at 150-feet, but noted not having photo simulations.

Mr. Hathaway noted the difference being, it's not just the pole itself, but where it's located. For example; the pole on Stafford Street can't even be seen and driving down the road, people don't even know it's there. The tower in Cherry Valley can be seen driving down Route 9 from the Center of Town. He felt a photo simulation would be very helpful to show if there would be a possible impact on the area.

Mr. Kirwan asked from the aerial photo, the small square box shown in the southern portion of the red outline of the site, if that was the proposed site for the tower. Mr. Manougian agreed.

Mr. Kirwan said when he drove in on King Street and took a left onto the gravel path, this site was actually on the next step lower, further away from King Street. Mr. Manougian agreed. Mr. Kirwan continued. As mentioned, the lower you get, the taller those trees look that line the street and along the west side, but will the tower actually, at 150-feet, project above those trees from that location? Mr. Manougian said he would say yes.

Mr. Kirwan asked if it was by a significant amount or would it be just the top of the tower seen. He felt that was where Mr. Hathaway's comment came into play, because it's hard to know from the property site versus the height of the trees. He questioned what the height of those trees were and thought maybe around 60-feet or more.

Mr. Manougian said he would put the trees at around 65-feet. The elevation from the site goes up and when you get to the top in the rear, the elevation goes up around 20-feet more.

Mr. Kirwan said it was mentioned there would be a generator and 1000-gallons of gas to feed the generator; he asked when the generator would kick in and why it would kick in.

Mr. Manougian said obviously when there's a power failure, but aside from that, it will cycle once a week for 5 minutes during the day in the early afternoon. The sound the generator would make is not disruptive. The generator was built into the equipment shelter that's 12' x 26' and 2/3rd of the shelter will hold the equipment and the other 1/3rd of the shelter will have the generator. The exhaust from the generator will be filtered outside and the exhaust from the generator would be no more than a small pickup truck.

Mr. Orth asked what type of fuel would be used. Mr. Manougian said it was propane.

Ms. Moore said in accordance with the Bylaw, a fall zone for a tower should have been submitted with the application and she couldn't find one.

Mr. Manougian said the ordinances don't require a specific fall zone, but it does talk about a fall zone analysis.

Ms. Moore noted that information was supposed to be included with the application.

Mr. Manougian agreed, but said towers don't fall and if they did, they wouldn't fall past the property line, because they bend at a certain point and wouldn't reach any structure off property.

Mr. Orth said he found it very difficult to say that towers will not fall; things fail; planes don't crash either.

Mr. Manougian said he has never heard of one falling, but did hear of one burning to the ground.

Mr. Hathaway said the Board has had other petitions where the applicant provided information for a fall zone and it seems to be a concern.

He understood that the tower maybe smaller than others, but it would be good for the people to know that if there were a tornado that directly hit the tower, it's going to fall somewhere and the fall zone information would show the abutters where.

Mr. Manougian said what goes into the fall zone analysis of the tower is what kind of structure it is and then manufacture would take control of that and pick the site that would determine the type of structure and what that structure can take and not take.

At the time of 8:07, Mr. Kirwan acknowledged the Cumberland Farms representative, Marc Belanger of Bohler Engineering scheduled for an 8:00PM hearing, that there would be a delay in the start of his hearing. Mr. Belanger accepted.

Mr. Johnston asked about elevation in relationship to Pleasant Street. He drove by that site from King Street and he would guess the elevation change from Pleasant Street to the site, it might be around 40 to 50-feet.

Mr. Manougian said the elevation from Pleasant Street itself wasn't shown on the plan.

Mr. Johnston said his arithmetic shows this tower will rise 100-feet above Pleasant Street, which means there will be lots of neighbors that are going to have direct sight of that tower.

Mr. Manougian didn't disagree, and felt the photo simulations would address that.

He asked David Tivnan for confirmation that the way the towers are designed. If something were to happen, the top 40% of the height would fall on the tower's 60%.

Mr. Hathaway said he was aware of the design features, but at the least, the applicant should show that.

Ms. Moore noted that it was also part of the Bylaw and should have been submitted with the application.

Mr. Manougian understood and will provide that information.

Mr. Kirwan asked about the support equipment used for the monopole. He saw that it will be surrounded by a chain-link fence and asked if the fence would be visible to the population who lives in the immediate area and if so, would Verizon use vinyl fencing or something that would be aesthetically pleasing to surround such an installation.

Mr. Manougian said absolutely and wanted to note that would be addressed during the Site Plan Review process. There will be chain link fencing around the facility, with color slats within the chain link fence if requested. He pointed out that there was a lot of existing vegetation that will remain and with the tree line surrounding the property, they felt that part of the tower would not be visible from the neighborhood or the houses in the surrounding area, but the photo simulations will help show that.

Mr. Kirwan asked about the possible fake pine tree use.

Mr. Manougian said no, because they felt it would not work at this site, but they would consider doing that if the Board required it.

They found that the mono-pine, Mr. Kirwan referred to, works best within a tree-line that starts at around 20 to 30 feet. If they put a mono-pine in this location, it would definitely be above the tree line and stand out more than a neutral colored pole.

Mr. Kirwan asked if there were studies to show the number of homes that maybe visually impacted by the monopole versus the number of homes that will benefit from having service improved.

He asked what the number was of population who can expect better service. It does seem in today's age, there are fewer and fewer people who have land-line telephones in their homes and are depending more on cellular services as their primary carrier. There are now wireless PCs,

iPads, etc. where the demands for those services are increasing and it does impact, by having poor service in an area, by driving people away from that area.

He asked if Verizon knew what number of population would be looking for improvement.

Mr. Manougian said they hadn't run those numbers.

Mr. Orth thought they should be able to get that information by looking where the bills go.

Mr. Peter Polenta' said they had never been asked that question before, but what he can show the Board on the population map, where the current capacity coverage is and where it lacks sufficient signal strength. It's figured by dimensional signal strength over time, as usage increases, moving forward, as well as the traffic patterns. That's the only hard data they are able to provide, as far as which house has how many Verizon wireless devices.

Mr. Orth said upon viewing the map supplied with the application packet, he noticed there was a lot of empty space south of the proposed tower. He asked if that area was considered.

Mr. Polenta' said that was a swamp area.

Mr. Kirwan said that Verizon doesn't spend thousands and thousands of dollars to install one of these things without knowing that they have a client base that needs it. He felt there must be some data out there.

As far as those 12 antennas that are originally being installed on the monopole, he asked if those were clearly for Verizon clients. Mr. Polenta' said yes.

Mr. Kirwan said if he were one of the other carriers, they are not getting benefit from sticking a pole there, unless they buy lower down on the pole. So it's still being primarily for whoever subscribes to Verizon services. Mr. Polenta' agreed.

Mr. Manougian said it also affects the number of vehicles that travel on the road and there are large amounts of traffic that travel that road on a daily basis.

Mr. Polenta' said Verizon Wireless was not in a tower business and wants to provide improved enhanced coverage to their customers and the last resort was building a tower. They would prefer to go onto existing building, structures, water tanks, etc. There are no structures in this neighborhood that would work to provide the coverage gaps that exist and will only get worse until we get antennas in the area.

Mr. Schold said if the Board were to grant this special permit and only allowed Verizon antennas on top, then made the condition that no one else can go on that pole; would the applicant accept that?

Mr. Tivnan said the Town's Bylaw states that if a tower has to be built, it should be built to accommodate as many carriers as possible to avoid the problem of towers being built up and down Route 56. They are here for themselves only and in the spirit of the Bylaw, they had to show mutual carriers could go on the pole, after going through the proper channels and permits to do so.

Mr. Orth said the co-location could not happen without seeking approval first.
Mr. Tivnan said they were not seeking permission for anyone else, but themselves.

Mr. Orth confirmed that Verizon was putting in 12 antennas for themselves. Mr. Tivnan agreed it would be 3 sectors of 4, equaling 12 antennas.

Mr. Orth asked if the co-locators would put up the same amount.

Mr. Tivnan explained that some of the carriers use less, but usually no more than 12.

Mr. Johnston asked regarding alternate sites; upon reviewing the Area 3 map, Attachment E, there is a very high elevation right off of Baldwin Street and off of Salminen Drive. He asked if that area was considered.

Mr. Tivnan said he wasn't exactly sure where those locations were, but they did contact the Town for eligible use of property and from there, went to the private property owners. They checked with commercial properties first that were within the search range, because they can't get too close to abutting towers or other cell sites and the objective was to cover Route 56 and this location was a bullseye for a tower. This site is the center of where their existing and anticipated coverage was lacking. By putting a tower in this location, they will meet their objectives.

Mr. Johnston asked about the Memorial School site. Mr. Polenta' said that was out of the search range. Mr. Johnston noted it was right up the street.

Mr. Tivnan explained there were no more cell sites because the technology is such that the towers have to be closer and closer together. With that being said, when the engineers are looking for a new cell site, it gets to be neighborhood specific.

Mr. Johnston said there is a large chimney on the school that rises above the entire area.

Mr. Tivnan said it was not approved by the engineers because it was too far north.

Mr. Johnston said it did not appear to be that far north at all. Mr. Polenta' said it is from an engineer's perspective.

Mr. Kirwan asked for any further comments from the Board; hearing none, opened discussion to the public, reminding the public on hearing procedures.

Mr. George Leary, 487 Pleasant Street asked Mr. Manougian, through the Chair, if any of the homes in the area were within the 150-foot fall zone; from his eye, he felt there were.

Mr. Manougian noted that it wasn't a Bylaw requirement, but if talking about a 100% fall zone buffer, that was not required by law and he did not think any homes were, but wasn't sure.

Mr. Leary said he wanted that information, because if he were to sell his home, the bank would require that information.

Ms. Patricia Soucie, 492 Pleasant Street asked how far back from where the pole stands are the distances from Pleasant Street.

Mr. Hathaway requested that because this was another question regarding the fall zone, for the Board to wait until there was more knowledge on the fall zone, rather than expecting the applicant to figure it out at a meeting. He suggested continuing and having an analyst provide that additional information.

At this point, Mr. Kirwan informed everyone that potentially, the applicant will be asked for further analysis to be presented to the Board pictorially, that will show the fall line from all directions, so everyone will know what is being talked about.

Mr. Manougian asked if the Board wanted them to map the distance from the tower to the houses. Mr. Kirwan agreed, because it may alleviate what might be a lot of the people's concerns.

Mr. Manougian noted that after some quick calculations, they figured it was around 200-feet to the rear property line from the tower. Mr. Tivnan pointed out where the 150-foot mark would be approximately.

Mr. Thomas Buckley, 76 King Street said, he was not here to contest this because of where he lives. The only reason why he got involved was because he and his wife were contacted by the residents in the area.

One of the gentlemen had mentioned never seeing the Board of Selectmen address an issue. Being on the Board of Selectmen and this being a hot button, rather than arbitrarily making a decision on his own, he told the residents that he would do some research, because he wasn't completely aware of what was going on, which he did.

He then approached the Town Administrator and asked to have this cell tower location put on the agenda, not to make a decision, but to discuss it, because there were quite a few people who were concerned. He didn't want to break any rules or step on anyone's toes, but he does want to address this for the residents, which is his obligation. He had asked if it was appropriate and was told yes it was.

Mr. Buckley continued. He felt as though he was able to answer some of the questions regarding some of the concerns that were brought up, based on his own research.

In terms of cell phone pick-ups, he has this old cell phone and never had any issues with pick-up in his area and he has lived in this area for 30-years.

Mr. Orth assumed it wasn't Verizon; Mr. Buckley said no, it was Sprint.

Mr. Hathaway felt it was not pertinent to this in that the proposed is for Verizon, not Sprint. All agreed.

Mr. Buckley said he also knew that Sprint has locations on the other three cell towers in Town. When he did the research, he found that the residential fears were health risks, aesthetic issues and potential devaluation of their property.

He also looked up the Telecommunication Act of 1996 and knew what cannot be considered and what wasn't admissible. He looked at the area being affected and knowing there would be a 150-

foot pole there, and the hill was around 40-feet and the average tree was around 50-feet, so above that, the tower goes up above between 80 to 100-feet.

His concerns were with the homes around that area. He counted the homes and there were 32 homes going east, across from 30 Huntoon Highway and going down King Street. Going up King Street, on the north side, which abuts the site property, there are 6 homes; going through the King Street & Pleasant Street intersection & south to Greenville Street, there are 54 homes, including Brickyard Road; then going into Dawn Acres up Sunset Drive, around to King Street Ext., there is another 35 homes and all those homes are up on a hill and they will, with no doubt, see the tower.

He asked some of the people how they felt about a cell tower in that area. Their response was, if they were looking to buy a home and they saw a tower in the area of that home, they wouldn't even get out of the car. That was not him. That was what he had been told.

He explained his wife being a Real Estate Agent, and said that depending on the drop area, there is an issue with winning FHA loans.

There is a Town Bylaw in place that protects residential neighborhoods from detrimental effects of adding things to an area and it's written in the RIB Overlay District.

He understood the need for cell towers, but did not feel that it was appropriate to put a cell tower in an area where there will be residential homes affected and the potential effects of the mentioned residential property values based on that site and location of the cell tower.

He understood that the Board of Selectmen will not decide this and that was the reason he said they would be willing to work with Verizon to find a suitable location if they were denied. They do not want to prohibit them from coming in and Verizon did locate in Town back in 2007.

Also, there was a denial of a cell tower back in 1998 and the Zoning Board unanimously denied a request for a special permit based on aesthetics to that area. The company appealed on the grounds that the ZBA's decision was not supported by substantial evidence contained in a written record supplied by the Telecommunication Act of 1996. The District Court disagreed and granted the defendant's Motion for Summary Judgement and concluded that the record did contain substantial evidentiary support to the ZBA's denial. It came down to location of residential homes anywhere from 200-feet to 750-feet and schools at 360-feet; 700-feet and 1350-feet and aesthetics in the area.

The Town of Leicester gets 90% of their tax revenue from residential homes, so obviously there is a concern. There is also an over 55 housing that is south of this site and then there's the Condo complex, Laurel Wood Heights that would be impacted as well.

All he was saying was, if there is going to be cell tower, let's not affect the residential areas.

Mr. Hathaway said he was on the Zoning Board at the time of that denial and it was a completely different application. It was a larger tower, with lattice metal work painted red and white, with a red flashing light on it. In that sense, it was a very different proposal than what is being proposed here tonight; it is completely unrelated.

That is why he personally wanted to see photo simulations, but just because that one had visual impact, doesn't mean that this one would.

Mr. Buckley felt the visual impact would be very similar and related to a school, there was Memorial School.

Mr. Hathaway said that specific tower was larger, and painted red and white with flashing lights and that was not what is being talked about here.

Mr. Buckley submitted a letter that was given to his wife from Sandra Flink of 61 King Street who is sick and living at the Meadows. She asked to have her letter given to the ZBA to read regarding her concerns with health risks.

Mr. Kirwan agreed to read the letter into record, but noted it would be disregarded as far as the health risks.

Mr. Kirwan asked if this area was once a residential zone versus an RIB and did the RIB come in subsequent to that. Mr. Buckley said yes.

Mr. Kirwan said if so, how did that take place and why did it take place?

Mr. Leary said he was on the Planning Board at the time the RIB Zone was drafted. He explained that back in the 90s there was a push made by the Commonwealth of Massachusetts to look at affordable housing in Leicester; Chapter 40B, and was basically a mandate. They needed to develop an area for multi-family housing or the State would put one in anyway. The Board decided that the best location would be along the Route 56 corridor, right at the tip as you came in, because there were already houses there and there was already some industry there. So they decided to put the multi-family housing down in that area, and also because there were businesses there, and knowing the businesses and houses would be next to each other, they thought it would create a dynamic, which here could be a serious detriment to the area, especially to businesses over all to houses.

So it was decided at that time, to put in language that it would allow or promote only businesses that would be quiet, harmonious with residential structures and would increase the value of residential homes in the vicinity.

That amendment was approved, and it was amended twice by two successive Planning Board votes over the 25 years, but the intent and purpose had never been changed, so it's been endorsed by multiple Planning Boards.

Mr. Kirwan said unfortunately, when a Town converts to this type of zoning it does open it up in areas that perhaps didn't allow them before. Mr. Leary noted that Route 56 was already a Business Zone. The Pleasant Street, King Street and Dawn Acres area were always residential. The Route 56 strip was pretty much unrestricted development.

Mr. Kirwan said this would account then for the businesses currently located at 30 Huntoon Highway. Mr. Paul Morris said the building was built in the 1950s.

Mr. Kirwan said when talking about the loss of tax revenue, he was very concerned that was a perception rather than truth or the reality. Does the Town go out and reassess properties to tax them differently, because 560-feet away on the horizon, you can see a cell tower. Is the Town going to start devaluating, for tax purposes, those homes in that area? He was not so sure.

He knows Mrs. Buckley and has worked with her because he is also a real estate agent.

He has been thinking about, does it in fact take away from the value of someone's home. In his opinion, at this point and he won't say he's an expert on this, he wasn't so sure.

He thought it could also be a selling point, for example; if someone was buying a home that had a pool, it attracts a certain type of buyer and could add value. Another type of buyer, as soon as they see a swimming pool, has no interest and detracts from the value of the home. It is likewise with cell towers, there are people that will not consider the fact of a cell tower in the neighborhood as detrimental and may feel they have the greatest ability to communicate. Then there will be some people that say, not too thrilled with that and would look at a different area. As a realtor, when he goes out to evaluate a home, he is evaluating the home based on recent sales of properties in the area and that's what determines the value. Recently, he approached several real estate appraisers raising that same question and hasn't received any responses yet. As a realtor, he wasn't going to take \$20,000 off a price because he can see a cell tower, but he would take \$20,000 off the price if the roof needed to be replaced.

Mr. Leary said he has some informative evidence to offer, if the Board cares to hear it. He has a certified list of appraisers, one a Federal Court certified list, and State Court certified list that could answer that question regarding the homes in the area.

Mr. Hathaway said regarding the cell towers and appraisals of similar properties throughout central Massachusetts. For the 1998 petition, he probably drove 150 miles looking at houses for which they had been provided information about property values for property located near cell towers. What he is saying, is that if we hear evidence, we need to know they're similarly sited and similarly visible.

Mr. Kirwan said he would also like to note that in the 1996 Telecommunication Act, there's a portion that specifically addresses the impact, as far as property values.

Mr. Leary said the Federal Court has routinely upheld Zoning Board denials.

Mr. Kirwan said maybe that takes it to the next step then, on whatever the Board decides.

At this point Mr. Kirwan read into the record, the letter submitted by Mr. Buckley from Sandra Flink of 61 King Street. (w/ Attachment B)

Mr. Gregory Richardson, 487 Pleasant Street felt there wasn't a reason why they didn't have any numbers showing the amount of subscribers using the system, and felt they should be able to come up with a number. But they did have the numbers of the 16,000+ who travel through Route 56, because that is where the numbers hit the roof. At the end of the day, they want to get those people serviced.

On page 6 of their report, Attachment B, shows the proposed coverage area. The facility will provide coverage along 1.3 miles of Route 56, which has a lot of traffic daily; 1.2 miles along Pleasant Street, south of Route 56; 0.7 miles along Peter Salem Road, between Pleasant & Henshaw Streets; 0.4 miles along Clark Street, between Pleasant & Henshaw Streets. He felt the real customer base and the reason the tower is wanted, was for the travelers along Route 56. Mr. Tivnan said the traffic count was public information and available through the Mass Department of Transportation. The numbers are documented and included in this report and those numbers included both the north side and the south side.

Mr. Richardson said what they didn't have, are the number of residents and people who are going to be living there and would receive service. He felt that should have been easy information to get.

Mr. Tivnan said on page 6, it also shows a population count. He did not have Verizon's specific data, but in terms of population, they were talking around 1500 additional residents. That is what they are trying to center their operation around and in his mind that was a significant number.

Mr. Kirwan reminded everyone that all questions were to be directed through the Board.

Mr. Richardson said it was mentioned that Verizon's last resort was to put up a cell tower. The fact of the matter was, there are better solutions. He does have a YouTube video that maybe the Board could indulge him that shows the technology that Verizon is actually trying to push and it's called Distributive Antennas Systems.

Mr. Paul Morris pointed out that Mr. Richardson didn't even live in Town.

Mr. Richardson noted he was the owner of 487 Pleasant Street and will be living there as of March 1st. His question to Verizon was, could the DAS service be explained, because he felt in this industry, cell towers are their own technology and it's kind of like going hunting for a rabbit with a shot gun.

What they have now is what is called distributive antenna systems, where they actually put the two foot towers along the telephone poles. The thing about this is, they can cherry pick where they want them and where they want the signal to be. The nice thing about it is, since many of these telephone poles are on municipal land, the Town can collect the money for rent.

Now, he was driving along Route 56, where Verizon said the need is and on both sides of 56, think about it, many of these towers a few years ago, had up to 6 providers. The point is that there are tower alternatives. There are towers where the Town can actually collect the revenue by putting them on another tower or in a location where the tower is. At the end of the day, if that cell tower goes up and they still need particular service, they can actually target these distributive antenna systems.

Mr. Kirwan said at this point, this meeting started at 7:30 and it is now approaching 9:00 and there is another hearing scheduled. He would like to put forth, a motion to the Board, either on...

Mr. Leary said he had some information here that he would like to submit as evidence.

Mr. Kirwan asked Mr. Leary to wait one minute and allowed another attendee to speak.

Mr. Michael Knox, 750 Whittemore Street said he was the superintendent to one of the three water districts in Town of Leicester. He would be the lone person to offer support of the construction of the tower. The public water utility that he currently manages is undergoing some changes to their water meter upgrade. They will be converting from a remote reading system to a cellular system. The base fact on the cellular system is a CDMA, which Verizon falls within that platform and Verizon is the strongest out of those cellular providers. As far as numbers go, his district currently serves 4,400 people in the Town of Leicester, plus 70% of the businesses. Converting to this type of system, would be a great asset to the district.

Mr. Leary asked to submit additional evidence. Mr. Kirwan agreed noting that it would be something they would need time to review.

Mr. Leary submitted his findings to be considered. A proposed memorandum of knowledge, it may be getting ahead of ourselves, but there's a series of findings. He wanted to make sure the Board was 100% clear that it is the ZBA's decision to make and there's probably never been a stronger case in the history of cell towers for denial than this, because what this Board decides will be upheld in the Federal Courts.

Mr. Hathaway said he was having a hard time understanding the statement that this is the strongest case.

Mr. Leary said it would be upheld. If the Board votes to deny, it will be upheld.

Mr. Hathaway asked why this one in particular would be upheld.

Mr. Leary explained looking at the first proposed finding...

Mr. Kirwan interrupted noting the Board did not want to go through each finding. If the Board can review the material themselves and then have it opened for discussion at the continued meeting.

Mr. Leary submitted into evidence: a packet consisting of Proposed Findings 1 thru 7 and a Real Estate Report. The findings will help the Board understand the testimony given and seeing that the tower will give a 20% reduction in property value. This is a massive figure to the homeowners living in the area and would really have an impact by taking 20% of their real estate.

The second finding is that the Board is certainly authorized to deny a cell tower if it doesn't fit with the intent and purpose of the zone it's in. If you look at the zone in question, the RIB zone is meant to improve the value of the residential properties so they can work harmoniously. This denies it and undermines it. The wireless overlay zone says "to minimize impact to residential neighborhoods" and this does not have a minimal impact.

Mr. Orth said instead of going on and on and obviously Mr. Leary was opposed to the cell tower going at this location, he asked if Mr. Leary had an alternative location.

Mr. Leary said yes he did. The Board of Selectmen has indicated that this looks like a Town wide problem. It affects taxes in the local community, which means a cut in services and will be an increase elsewhere to make up the difference. They have instructed that if this Board denies

this permit, they will contact Verizon immediately and have instructed the Town Administrator. There is no question Verizon will get a cell tower or some other method to solve this. No one has suggested that Verizon will be shut out. The fact is whether or not this Board will listen to the residents in this area and protect them from having this huge adverse economic consequences imposed upon them, so that Verizon will make better cell service, when there is always the possibility and likelihood that this Town will work reasonably and thoroughly with Verizon and will be able to come to a compromise trying to find another location.

Mr. Orth asked if he had another location.

Mr. Leary said he knows that they went to Memorial School and the Town Administrator did not say yes or no. He is not suggesting Memorial School as the location but looking further down Route 56 where there are no houses in the area, maybe down near Millbrook.

Mr. Schold asked for the question to be answered, did he have another site.

Mr. Leary said he didn't want to get into a bidding war, what he was saying was the Board of Selectmen ...

Mr. Kirwan interrupted noting this part of the meeting needs to come to a conclusion. He apologized and said this part of the meeting was going to come to a conclusion.

He asked everyone to bear with the Board for a moment to see what the next steps will be.

There have been a number of arguments and a lone voice in support; there has been documentation provided that the Board has not had a chance to review, but quickly scanned through it. There has been a lot of documentation submitted in regards to health risks, which will be ignored. All those articles are downloadable off the internet, as he has seen himself.

With that said, he would like to open this to members of the Board to make a motion.

MOTION: Mr. Hathaway moved to continue so the petitioner can provide information on the fall zone analysis and photo simulations, so the Board can have an idea of what the visual impact will be.

Mr. Hathaway asked the Board if there was anything else they wanted the petitioner to provide, because he didn't want to send the petitioner back to provide additional information when they can do it all at the same time.

Mr. Orth asked for the petitioner to also provide a worst case scenario, for example, if the tower were to fall off its base, not fall in half, but fall off its base; he wanted to see the worst case scenario.

Mr. Tivnan asked to be recognized. Mr. Kirwan agreed.

Mr. Tivnan said when he spoke with the site owner, Mr. Morris, negotiating where the tower could go, he didn't care where it went on the property, so the tower could be moved so the fall zone has less of an impact. So, the tower can be moved closer to the middle of the property to help with that concern. They will get a letter from the tower manufacturer on the tower design and all towers are designed at its weakest point of 60% base up, so if it does get hit by a tornado or hurricane that is where it's designed to fall. If it does get hit by a hurricane or tornado that would probably be the last structure to fall. They are built to the codes and the codes are changed regularly; these are very rugged structures.

Mr. Kirwan said there are a number of items being requested should this continuance be granted. He would like a more sincere effort made to know the quantity of subscribers in the area. He is glad Mr. Buckley doesn't have a problem, but when he gets a cell call at his house, he has a hard time finding a signal.

Mr. Buckley said he is sure there are gaps in service and knows there is a need for cell towers. There was mention of 1100 people, 10% of residents in this Town will benefit. He was saying he didn't feel that we should not be allowing these 1100 people to take it on the chin with these gaps when there can be another way.

Mr. Kirwan asked for any further comments to be added to the motion.

Mr. Leary said he had a customer survey to submit.

Mr. Kirwan explained that the Board has to put an end to tonight's discussion at this point. Everyone's opinion will be valued and all are welcome back at the continued meeting.

Mrs. Laurel Leary submitted a petition signed by several Verizon customers not experiencing any difficulty with their service at their homes or in the area.

Mr. Kirwan noted that would be submitted into the record.

Mr. Kirwan continued. A motion has been made, with requests made by the Board to the petitioner. He asked for a second to the motion.

Mr. Hathaway reiterated his motion asking for a fall zone analysis and photo simulation. Added were the requests for the number of subscribers.

Mr. Orth added if it would be possible to look at a different site within that area.

Mr. Kirwan said if the Town Administrator was willing to work with Verizon, they have a very short window to come up with some alternatives that work from an engineering point of view that will meet the solution for communications in that area.

Mr. Leary said doesn't that put Verizon in the driver seat?

Mr. Kirwan said it was mentioned that the Town was willing to work with Verizon.

Mr. Leary asked if negotiations would be on equal footings. In other words, this is rejected and now they are on equal footings, as opposed to, if we don't agree with you, they will go with Huntoon Highway that's in the bag.

Mr. Kirwan didn't agree that was the case.

Ms. Moore said the motion was for the petitioner to present something, it wasn't said that was what it was going to be; he was asking to present something.

MOTION: Mr. Hathaway added to his motion to continue this hearing to Wednesday, January 20th, 2016 at 7:30PM

Mr. Richardson asked for Verizon to come up with a plan on using the distributive alternative systems. Mr. Kirwan doubted that because that would be asking Verizon to change their entire technology. Mr. Richardson disagreed.

Mr. Kirwan said if that was a viable alternative, he felt Verizon would already be using that.

Mr. Hathaway motioned to continue this hearing to Wednesday, January 20th, 2016 at 7:30PM, allowing Verizon to provide the Board with a fall zone analysis and photo simulation, as well as the quantity of subscribers.

SECONDED: Mr. Orth – Discussion: None – VOTE: All in Favor

Meeting adjourned at 9:10PM

Respectfully submitted:

Barbara Knox

Barbara Knox