

## **Zoning Board of Appeals Meeting Minutes**

Minutes of February 17, 2016

Continued hearing from January 20, 2016 and December 9, 2015 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, Chair; Jim Buckley, Clerk; Vaughn Hathaway, Paul Schold, David Orth

Alternate members present: Jim Reinke, Mary Moore, Dick Johnston

Meeting called to order at 7:31 PM

Additional correspondence received:

- 1) Town Counsel's opinion regarding the potential conflict of interest of David Kirwan; Town Counsel determined Mr. Kirwan did not have a conflict;
- 2) First piece of correspondence requesting the recusal of Mr. Kirwan from this hearing, received from Gregg Richardson, claiming conflict of interest;
- 3) Supplemental request for recusal of Mr. Kirwan from Mr. Richardson, again claiming conflict of interest;
- 4) Town counsel's opinion regarding potential conflict of interest of Vaughn Hathaway; Town Counsel determined Mr. Hathaway did not have a conflict.

Mr. Kirwan said he has some correspondence that he will cover with everyone, but will not read it in detail because it is very long, but it will become part of the record.

He explained, for those who were not in attendance at the January 20<sup>th</sup> meeting that came to an abrupt halt, the potential conflict of interest where he worked for Verizon for 24 years and had retired 14 years ago.

Since that meeting, he has been in contact with Town Counsel, Attorney Joe Cove, who in turn contacted the State Ethics Board, to discuss this particular situation and he will address those findings shortly.

There was correspondence received from Mr. Richardson that states he has made several requests for Mr. Kirwan to recuse himself as Chairperson of this particular hearing. He stated his past employment history of 24 years with Verizon; citing his employment history with Verizon as a means of self-promotion on his *Linked In* site. The correspondence goes on to talk about the activities of the Chairman at the December 9, 2015 ZBA meeting creating a reasonable appearance that he was not impartial and might unduly influence other members by having a lack of impartiality; that as a result he sided with Verizon regarding some of the questions asked and some statements made about real estate and that the Chair should recuse himself to restore public confidence.

Mr. Kirwan noted all comments and written remarks will be kept with the office file and filed with the Town Clerk's office for anyone interested in viewing the full reports.

Mr. Kirwan continued reviewing correspondence. Attorney Cove's opinion has determined that in the proper application of the relevant law to the clear and substantial factual evidence, there was no evidence of an immediate, direct or even remote economic benefit to Mr. Kirwan, to his wife or to Mr. Hathaway and there was no basis for disqualification. Mr. Cove further spoke with the State Ethics Board and specifically with the attorney on that Board and they were in agreement that there was no conflict.

At this point, Mr. Kirwan gave instructions on the hearing procedures, on how this meeting would be conducted and that all discussion is to be directed through the Chair and not to the petitioner and to keep discussion within a reasonable timeframe. Mr. Kirwan further explained that after the public has had their opportunity to comment, the public portion of the meeting will end and the Board will then take time to discuss everything they've heard and there may be a decision made tonight or at a future meeting. He also noted that the meeting was being televised and videotaped by LCAC and tape recorded by the ZBA.

Mr. Kirwan opened discussion to the applicant to address the questions raised at the December 9<sup>th</sup> meeting, requiring additional information to be presented.

Mr. Victor Manougian, Attorney for Verizon Wireless, introduced Mr. Scott Adams, PE, Advanced Engineering Services, Inc./Verizon; Mr. Keith Vellante, RF Engineer, C Squared Systems, LLC; and Mr. David Tivnan, Vital Site Services, Inc./Verizon.

Mr. Manougian said additional information requested: one was from Mr. Hathaway was for photo simulations, Mr. Kirwan asked for a locus map of the property, and Mr. Orth asked for the fall zone analysis.

He explained for those who were not present at the last meeting that if Verizon shows it has a gap in coverage, Federal Law allows them to seek a feasible location and move forward. He introduced Mr. Scott Adams to assist with the review on the Fall Zone Analysis Report.

Mr. Adams noted his affiliation with Advanced Engineering Group and that he was a licensed professional civil engineer in the State of Massachusetts. He explained that Advanced Engineering Group was an engineering consulting firm for the wireless industry, providing services for the design and construction of wireless facilities. He has been involved with the design and construction of wireless facilities throughout New England for over 15 years.

He explained the antenna support structure, proposed by Verizon will consist of a 150-foot tall tapered, slip-joint galvanized steel monopole. The base diameter will be approximately 4 feet and will taper to approximately 2 feet at the top.

The pole is manufactured in 30 to 50 foot sections and assembled in the field with a slip-joint or friction joint between adjacent sections. The proposed pole and foundation will be designed by a Massachusetts registered professional engineer in accordance with the Mass State Building Code and the national tower code to withstand the most severe wind and icing conditions.

The design ensures that in the event of a monopole failure it would bend or fold over on itself, rather than completely topple like a tree.

Engineering studies on tower failures and debris scatter show a statistical mean "fall zone" of ½ the overall structure height is suitable for a monopole antenna support structure.

The exact manufacturing specifications will be determined once Verizon receives local approval. The tower can be outsourced to up to 5 vendors that will supply detailed design standard plans that would be reviewed by Verizon, as well as a review through the local building permit process that meets local and state required standards for design.

Mr. Kirwan asked to see a pictorial representation of the fall zone as it pertains to the residences in the area.

A PowerPoint presentation was shown, as each point of interest was discussed and reviewed.

Mr. Adams said as shown on page Z-1 of the Site Plan, this will be a 150-foot tower and from the rear property line it will be 112-feet; the distance to the nearest structure is 233-feet; to the nearest dwelling is 274-feet; there's 281-feet to the frontage on King Street; to the dwelling at the back of the property was 336-feet; there's 83-feet from the 100-foot wetland buffer; and the closest distance to the property line is 63-feet, with no other buildings or structures within that area other than the additional 12-feet shown along there. Every distance shown to every structure, is not only over 75-feet, but actually over 150-feet as well.

Mr. Hathaway asked where the plan shows 63 feet and a tower is required to be within 75-feet, does that require an easement from the people who own the property to the left for the additional 12 foot easement.

Mr. Adams said typically, if a structure were to collapse, they don't shear off and go flying 75-feet, they actually bend upon themselves. They use that example as a worst case scenario, but towers are designed to collapse within its height. He would not expect it to actually pass that property line.

Mr. Hathaway understood the explanation on what is likely to happen and what's extremely unlikely to happen. Since it was designed to collapse within 75-feet, he asked if there was a location that the owner of the property behind this site would have to take into consideration.

Mr. Adams felt that was more of a legal question, and the engineered plan does show the property line being at 63 feet but the support base will be within the 75-foot.

Mr. Hathaway said the Town has a bylaw allowing accessory structures to be no closer than 10-feet and what was being talked about here was a 2-foot difference. Mr. Adams agreed.

Ms. Moore asked about the structure at the base and if there were any bolts or concrete at the base.

Mr. Adams said the foundation will be 20 x 20, 3 feet deep by 6 feet from the grade of the property. Based upon how the design factored in safety, the foundation would be the last to fail. There is a high factor on safety, they triplicate steel on the lower section and if it were to fail, it would fail within itself. These structures are designed and constructed in accordance with ANSI/TIS/EIA-222 State standards and he would make sure the tower was constructed to meet those standards.

Ms. Moore asked about the bolts. Mr. Adams said the bolts are built into the design standards in safety and if the tower were to fail, it would not fail at the bolts. It is designed to fail within itself and if it were to happen, it would actually reduce and lessen the load.

Ms. Moore asked how often a tower gets inspected. Mr. Adams said towers are inspected regularly. Every time someone co-locates on a tower would require an inspection of that facility and inspections are done on a regular basis.

Mr. Jim Buckley said the Zoning Bylaw has a section called Wireless Communication Bylaw and under Purpose it states, "avoid damage to adjacent properties from facility failure through engineering and careful siting of facilities." He asked if there was any way this tower could be placed at another spot on the lot. Even if the Board agreed the tower would fold in on itself at 75-feet, is there a way that the tower could be moved 75-feet away from the property line.

Mr. Adams said they do have some restrictions and shifting it over would make it closer to the wetlands. They could try to look at it further to see if there was some flexibility on where they might be able to shift the tower slightly over and still maintain the compound and get the 2-feet extra. At the current distance, part of the pad is already restricted for development, but they might be able to slide it over slightly and get the extra 2-feet to meet the 10-foot requirement.

Mr. Kirwan asked if it was Advanced Engineering Group who determined the specs for the height of the tower.

Mr. Adams said that's an RF determination as far as where gap in coverage exists and that determines the height of the tower needed to accommodate that gap.

Mr. Kirwan said it was stated that a monopole comes in 50-foot lengths. He asked if a tower was ever put up at a nonstandard height, such as 130-feet or 120-feet.

Mr. Adams said they are designed to be site specific and could be designed and constructed to any height.

Mr. Kirwan asked if that meant the effectiveness of this particular tower to meet the particular need, means it must be 150-feet or could it be 130-feet.

Mr. Adams said he would like to have the RF engineer address that question.

Mr. Kirwan agreed, asking the Board if there were any further questions for Mr. Adams.

Hearing none, he opened the floor to Mr. Keith Vellante, of C Squared Systems, LLC.

Mr. Vellante included with the review - 4 color coded maps showing existing towers with the heights on those towers.

He said he was contracted by Verizon to discuss their general needs for this site. As part of their analysis, they went into these sites and measured heights at 40-feet below and 40 feet above throughout the north. *The coverage maps were presented on a projection screen.*

The first attachment is Attachment A that shows the existing coverage as it sits today: the Leicester 2 site at Walmart on Route 9 at 100-feet, the site labelled as just "Leicester" off West Street, Cherry Valley near the water tanks at 148-feet; Worcester Coes Pond site at 129-feet; Leicester 3 site off Stafford Street, Cherry Valley at 147-feet; North Oxford site off Route 56 at 115 feet and Spencer site off Bacon Hill Road at 200-feet. Shown in the center of the map is the Leicester 4 site at 30 Huntoon Hwy. proposed at 150-feet.

The sites along Route 9 cover east/west across the north; the Mass Pike across the south is covered by the Spencer and North Oxford sites. The scale shown on the map, a 2 mile distance about 2 and a half inches.

So, they are trying to fill a large gap up along Route 56 to northern Oxford and coupled with that, it will improve service along the turnpike.

Attachment B shows the projected coverage with the project site and how much each site covers. With this tower, they will be able to improve universal coverage throughout because of the height variation. The reason for the height, areas to the north and west, have a lot of hills and valleys and coverage would improve in those areas. Attachment C shows the existing sector footprints and Attachment D shows the sector footprints with the proposed site and it shows overall coverage would improve.

Mr. Hathaway asked if the tower will affect the people who will be located near the tower. He asked if benefit from the tower went out on an angle or would benefit the people who will be impacted visually.

Mr. Vellante said the antenna themselves are air directional, they send ultra-energy out into the air by a narrow vertical beam through the three sectors and in order to get the range of coverage, they need the height to get over the terrain. They can't just crank up the power when they need to cover a lot of area. They're directed out towards the horizon, so there is not a lot of focus necessarily from the ground up, but there would most definitely be coverage provided for the people in the immediate area.

Mr. Manougian reviewed the locus map showing the properties in relationship to the tower, along Route 56 and Pleasant Street and reviewed the visual impact analysis report. He first explained how the visual impact analysis was done: they tethered a balloon 150-feet from the tower site location and took pictures from 22 different locations around the adjacent neighborhoods. They then simulated a 150-foot tower, from the tower site location, showing what the visual impact views would be from the same 22 locations around both neighborhoods (*presented on the back wall*) as follows:

- View #1- Existing & proposed views from the east on Huntoon Memorial Highway;
- View #2- Existing and proposed views from the northeast at the intersection of Huntoon Memorial Highway and King Street;
- View #3- Existing & proposed views from the north on King Street;
- View #4- Existing & proposed views from the north further up King Street;
- View #5 -Existing/proposed views from the south on Edward Street, the balloon were not visible from this location;
- View #6- Existing & proposed views from the southeast at the intersection of Edward Street and Huntoon Memorial Highway;
- View #7- Existing & proposed views from the southeast at the intersection of Clark Street and Huntoon Memorial Highway;
- View #8- Existing & proposed views from the southeast on Huntoon Memorial Highway;
- View #9- Existing & proposed views from the east on King Street;
- View #10- Existing & proposed views from the east on King Street;
- View #11- Existing & proposed views from King Street near the intersection with King Terrace;
- View #12- Existing/proposed view from the north at the intersection of Pleasant and Huntoon Memorial Highway, balloon was not visible from this location;
- View #13- Existing/proposed view from the northwest on Pleasant Street, balloon was not visible from this location;
- View #14- Existing & proposed views from the northwest at the intersection of Pleasant Street and Victor Ave;
- View #15- Existing & proposed views from the west at the intersection of Pleasant Street and King Street;
- View #16- Existing & proposed views from the west on Pleasant Street;
- View #17- Existing & proposed views from the southwest on Pleasant Street;

View #18- Existing & proposed views from the southwest at the intersection of Pleasant Street and Brickyard Road;

View #19- Existing & proposed views from the southwest on Brickyard Road;

View #20- Existing & proposed views from the west on King Street Ext at the eastern intersection with Sunset Drive;

View #21- Existing & proposed views from the west on Sunset Drive;

View #22- Existing & proposed views from the west on King Street at the western intersection with Sunset Drive.

Mr. Kirwan asked about the addition of realistic branches being put on the pole. He said after viewing the photographs and where the pole can be seen through existing trees from a distance. He asked if there could be more of a camouflage put to it. He suggested that the camouflage, with some of the neighborhood trees and the pole amongst the trees, could be made to look like a pine tree.

Mr. Manougian explained it's been his experience where there's a natural grade setting, as shown in the first couple of photo shots, the pole would not blend in any better with a fake "monopine," especially when traveling up Route 56. He felt the pole would blend in better with the natural grade and surroundings if it were kept a neutral gray color.

Mr. Johnston said at the previous meeting, there was some discussion regarding alternate sites and Verizon was supposed to get together with the Town Administrator to talk about that. He asked what the outcome was.

Mr. Manougian said it was his understanding that the alternate sites they had first looked at, was Town owned land, on the water tank at Memorial School and the Town Administrator indicated that it shouldn't be located near a school and the tank site itself, was not large enough to put a tower of this size there. The water tanks off Green Street would not be large enough for the placement of a tower this size, for the tower pad, associated equipment shed, and for an access drive. This tower, at 150-feet at this location, 30 Huntoon Highway, allows for a larger coverage area.

Mr. Johnston said the Town Administrator explained to him that he had not had any contact from Verizon regarding alternate sites and did not make a statement that a tower should not be near the school.

Mr. Manougian referred this question to Mr. David Tivnan, Vital Site Services, Inc. for Verizon.

Mr. Tivnan said when they first started the search for a site, he contacted the Town Administrator and looked at 3 possible sites. One of the reasons they couldn't choose the school site was that there wasn't enough ground space for a tower this size.

Mr. Johnston stated again, when he spoke with the Town Administrator, the Town Administrator did not recall having a conversation with Verizon. There is Town-owned land very close to that water tower and he brought up the possibility of going there and it was pretty much dismissed because of the one reason regarding the target area. He is troubled by that and from what he understood, based on the comment Mr. Manougian made at the initial meeting, was that there was a lot of resistance on putting these facilities on schools. He questioned whether or not the so called target area was too narrow. He looked at a number of sites south of this proposed location that are industrial sites away from residential places, but outside of the target area. Based on comments in response to his suggestion on the water tower on Lehigh Road being out of the target area, he asked if that would indicate the target area was something less than 4,000 feet across. He was asking why that has to be such a small target area and that maybe there could be better sites down the road.

Mr. Johnston continued. There are a number of other possible sites. For instance; places like Worcester County Welding, Liberty Movers, Millbrook Distributors or out by the other commercial facilities that have access to rear lots and he was wondering why this facility couldn't be better placed there.

Mr. Tivnan said when he first started doing a search in the area, he first contacted the Town Administrator and they looked at different sites, structures and other things that might be available and at that time there was nothing in the abutting districts available. They considered Millbrook Distributors, which was a target failure and outside the target area. They contacted Paul Morris who was interested and they were successful negotiating a deal. There were a couple of other landowners they did try to contact and were interested, but it was not conducive for a tower with what they had for a landscape available. Out of all the sites looked at, this site was dead center or bulls-eye to what their engineers were looking for.

Mr. Hathaway said several years ago the Board approved a tower further down on Huntoon Highway and he was wondering if that site was looked at.

Mr. Tivnan said the signal goes roof top to roof top and tower to tower with wireless carriers. They did look at that site and it was too far south from an engineering perspective.

Mr. Hathaway said he understood the reason for needing a tower, but was wondering if another site could provide similar service but not be as visually impacting.

Mr. Tivnan said when they build these towers, they look at where new construction will fit and they are looking to put it where there's a bulls eye.

Mr. Hathaway asked why the other location that was previously approved wouldn't work.

Mr. Tivnan said that site didn't work for their engineers; they did not like that site and did not pursue it.

Mr. Hathaway said it probably would have been good for the Board to see the difference.



Mr. Tivnan said on the maps it shows the neighboring towers sector and that one was much further south.

Mr. Johnston said he was not satisfied with the answers and asked about Henshaw Street at Cooper's Farm.

Mr. Tivnan said that was too far south, but did talk with the property owners and they did have some land where they can't grow anything, but there were other issues they did not prefer and 30 Huntoon is the preferred site.

Mr. Johnston said that this may be Verizon's preferred site, but clearly it's not the preferred site of the neighborhood in back.

*At this point, Mr. Kirwan asked the audience to refrain from showing their enthusiasm too much with their clapping.*

Mr. Reinke asked if the preferred site was for the construction or for the performance of the tower itself.

Mr. Tivnan said the performance of the tower. Towers can't be too close and there is spacing required in order to provide the proper coverage.

Mr. Reinke said the other areas shown on the coverage map shows where Verizon still won't have coverage. He asked if there were any plans for a future site to be developed.

Mr. Tivnan said no, not that he was aware of.

Mr. Reinke asked if there were other sites Verizon looked at that would provide this coverage.

Mr. Tivnan said they did look at existing buildings and at the church steeple next door, but because of the weight of the antenna it would have created a safety hazard.

Mr. Hathaway said back to his earlier question about the coverage and the alternate location on Huntoon Highway. He asked for clarification on the coverage areas and need for additional towers. Even after this tower is put up, will there be a need for other towers.

Mr. Tivnan said he didn't know that answer.

Mr. Hathaway said if the Board was to grant this tower that's close to a residential area and then Verizon finds they need more coverage in another area, will there be need for another tower and could the towers be combined and put in another area. He understood Verizon saying they will get the most coverage from this one tower at this location, but potentially, will there be a need for more towers.

Mr. Tivnan said he could not say whether there would be a need for additional coverage. This is the only tower and active search range in Leicester and he did not know what the future plans were.

Mr. Hathaway asked about the possible need for coverage in other areas.

Mr. Tivnan said they only focus on the areas where there's a need and can't factor in possible new sites.

Mr. Hathaway asked for confirmation that there was no firm plan that leads to more towers.

Mr. Tivnan said that's correct.

Mr. Hathaway asked about the possibility that if there was likely to be more than one tower, would Verizon pick a different locations, or if staying with this location, there will only be a need for one tower.

Mr. Tivnan said at this point, there will only be one tower and they can't determine what will be needed in the future.

Mr. Kirwan asked if the owner of this particular piece of land, where Verizon wants to put the tower, was not interested having a tower on their property, how would Verizon find and develop another location that would still meet the needs for Verizon service.

Mr. Tivnan said he had contacted the Town first to see what structures could be utilized and at the same time, contacted several private land owners. Mr. Morris' property was the only site that works from an engineer's perspective.

Mr. Kirwan asked for confirmation that Verizon would have walked away and not have built a tower at all unless they got your site.

Mr. Tivnan said they would have had to continue trying to work with other landowners to find an area that worked for Verizon.

Mr. Orth said this tower is relatively close to a residential area and if Verizon could find an area that was not as residential as this area is, it would probably be a lot easier without so much opposition. He asked if Verizon wasn't able to use this location, where would they go.

Mr. Tivnan said a tower is allowed in all zoning districts, including residential properties, so their first choice was municipal land or a church with a steeple and then they looked at a commercial industrial property site prior to going to a residential site. The property that identified the need was a commercial property site where their engineers recommended it needed to be.

Mr. Orth said a church steeple was mentioned a few times, was that looked into.

Mr. Tivnan said he didn't know if the church would have been interested in putting up a steeple and then leasing the steeple for a tower.

Mr. Kirwan asked if Verizon already signed a lease for the proposed site. Mr. Tivnan said yes.

Mr. Johnston asked Mr. Vallente to consider that if there was an acceptable site south of this property that sits about 4,000 feet south and asked what would that do to the ability to tighten the gap. He noted it would put the tower further down Huntoon Highway, closer to Stafford Street, between Clark Street and Stafford Street.

Mr. Vallente said that site sits much lower and was surrounded by North Oxford's Alpha site.

Mr. Johnston said even though you don't have all the information, it would seem that a taller tower at that location would be less offensive than the proposed location. He asked if Verizon could cover the gap with a taller tower.

Mr. Vallente said he thought that doing additional calculations about different possible heights would be cumbersome. They can't just come up with a height to draw more coverage due to all the surrounding structures. Having a tower on a lower site would not cover the gap and the surrounding landscape and structures would block coverage.

Mr. Johnston said just to the east of that site just mentioned is an elevated area on Henshaw Street; it's yellow in color, which would indicate its elevated. He asked if the gap could be covered from that location.

Mr. Vallente said it would change the coverage area and when you pick up coverage in one area, you then lose coverage in another area.

Mr. Hathaway noted the photo simulations did give a different perspective and along Route 56, Huntoon Highway, and he noted how much you can really see the tower. There were some areas that had less of an impact than others, but he was surprised how much the tower could be seen from some locations west of the site.

Mr. Kirwan asked for any further comments or questions from the Board; hearing none, and before opening discussion to the public, he asked Mr. Manougian for any closing comments. Mr. Manougian said relative to Section 3.2.05, Transportation, Communication, Utility #4, a Wireless Communication is allowed in all zones by Special Permit. This facility is proposed on Route 56 in the RIB Zone where it's allowed by Special Permit.

Under Section 5.4, Wireless Communication Bylaw, he felt they have met all the requirements in that section. A wireless communication facility may be allowed in zoning districts as specified under Section 3.2.05 upon the issuance of a special permit by the Zoning Board of Appeals.

The reality is with wireless communication facilities, Verizon's record about towers and antennas; they've put antennas on water tanks and other communication facilities. Just like telephone poles were back in the early days and in this instance, it was preferable to put up a pole. The telephone brought the same thing, but unfortunately it has to be a pole, like his team found, to be more effective.

They picked the coloring and the monopole design that would maximize communications and would aid the fire and police departments by adding their antennas to the pole.

Mr. Kirwan explained that at the December meeting there were several people who got up to speak, some at length, and meanwhile there were some people who had no opportunity to speak. Some may recall there was another hearing that night where the applicant had to wait an hour beyond their scheduled time to present their petition. The Board had to continue this meeting in

order to accommodate the next petitioner and some people did not have their chance to say their piece.

He asked the people who had already spoken at the last hearing, to allow the people who have not had a chance to speak.

Everyone will have the opportunity to speak, but please limit themselves to 10 minutes, in order to give other people the same opportunity to speak. He asked for everyone to line up behind the microphone to speak.

Discussion opened to public

Ms. Deborah Clark, 1 Victor Ave asked how many antennas would be installed.

Mr. Kirwan believed it was 12 antennas.

Ms. Clark asked if 12 was the typical amount with other carriers.

Mr. Manougian said 12 antennas was the typical amount.

Ms. Clark asked if anyone else could add onto that.

Mr. Kirwan said Verizon would have 12 and other carriers who may wish to co-locate.

Ms. Clark asked what direction the antennas would go.

Mr. Vallente said the antennas would be facing south.

Ms. Clark said wasn't there something mentioned about more service for the Mass Pike and wouldn't the alternate site be closer to the Mass Pike if the pole was placed south of this location.

Mr. Vallente said it would be at the tip of where they were trying to reach.

Ms. Clark said it was stated they needed this spot for more coverage and also it was stated they wanted the service to reach the Mass Pike.

Mr. Vallente said no, what was stated is this antenna could cover as far as the Mass Pike, but not necessarily the Mass Pike.

Ms. Clark disagreed and said if they wanted to reach the Mass Pike, they could move the tower further south, as Mr. Johnston stated, by 4,000 feet.

Ms. Kate Flynn, 492 Pleasant Street, asked why a tower wasn't allowed near a school, but it's okay to be put one near a neighborhood with children. She also spoke on her concern regarding property values and how the cell tower may affect her property and neighboring properties.

Mr. Hathaway asked for the photo simulation that showed the tower from Ms. Flynn's property. Upon review, the tower was not visible from her property.

Ms. Flynn didn't agree with the balloon test results.

Mr. Ray Sabol, 2 Victor Ave, said he was adamantly opposed to where this tower was going to be put. He does not want to be looking at a cell tower when looking out his window, every single day, while washing his dishes. Where this tower is going to be put, his pregnant wife, as she walks around the house, would be staring out the front window of their house, right at a cell

tower that will be transmitting signals. For the past 9 years he served in the military and had people telling him the things that were good for him, when they weren't and things that weren't good for him, when they were. He is not going to sit here and have some corporation come into his community, harm his family, and ruin his property values. He rents to own the house he lives in and he will bring this back to his landlord that he would not be purchasing that house in a neighborhood with a cell tower.

Mr. Tom Buckley, 76 King Street, said he does not live in the range of the cell tower, but he was approached by several people who live in that neighborhood. He asked, through the Chair, to read a letter from Father Jack Lizewski, who is the pastor of St. Judes/St. Aloysius Church. Mr. Kirwan agreed. Mr. Buckley read the letter, which stated Father Lizewski's opposition to the tower.

Mr. Kirwan said Father Lizewski noted in his letter on never being notified of this hearing. After checking the Certified Mailing return receipts, it was found that the notification was sent, but returned by the post office, stamped undeliverable. [The address used was on the Certified Abutters List from the Leicester Assessors Office.] Mr. Kirwan asked for confirmation on the address being P.O. Box 296, Rochdale, MA. A few people present noted it being the wrong P.O. Box.

Tom Buckley continued. He read Section 3.32: Residential Industrial Business Zone (RIB), A. Intent. He said this section reads directly to what his concerns are, that where this cell tower is being placed is in between two populated neighborhoods. He asked when Verizon measured the distance from where the proposed tower was going to go, to the abutting properties, particularly on the west side, which would be the church, Mr. Collin's property, Mr. Leary's property and Route 56, Huntoon Highway that is right there; he was curious where they measured from to each property.

Another concern was with the way Verizon conducted their balloon test, because he felt the 150 foot measurement was not done up-close. It might have been comparable for some properties, but he would have liked to have seen some pictures from the top of Sunset Drive, where a lot of those properties are and the top of Brickyard Road and from the parking lot of St Judes that directly abuts the property.

Mr. Hathaway explained there were pictures taken from those sites. Mr. Buckley said they weren't taken from the top of those hills.

Mr. Hathaway disagreed noting there were photo simulations shown from those areas. Tom Buckley said if you take pictures from behind the trees, you going to get things blocked up. There were pictures taken from King Street going up the hill from Huntoon Highway that showed the pole and that is what will be seen from Pleasant Street, from Sunset Drive, from

Brickyard Road, and from across the street inside King Terrace. That monopole, facing west, is what everyone will see. As for the balloon test, and some of the pictures shown, he felt some of the angles made it look like the tower would blend in like a tree and he didn't agree with that. Mr. Hathaway said the measurement of the 150 feet did not have to be up close.

Tom Buckley said when Verizon said they spoke with the Town Administrator that was almost two years ago. They met with the Town Administrator prior to looking at this site and they spoke about the possibility of the tower going on Memorial School. They also asked if there were any other municipal properties available, which the Town Administrator had said he didn't know. That was it and there was no further communication after that. He just wanted to be clear that they did not submit other alternate sites, they just didn't admit it.

Ms. Linda Buckley, 76 King Street, said dated January 18<sup>th</sup>, 2016 was a rebuttal to the real estate consultant of New England. He did an appraisal in regards to valuation of property when they were surrounded by, in relation to cell towers. This is her response to Verizon's appraiser. It was her professional opinion as a realtor since 1987, that this appraiser had many defects and had very little response to subject properties at 30 Huntoon Highway, Leicester. First of all, the appraiser was from New Hampshire and did not use comparable property in Leicester. Their appraiser showed the average days of property on market over the last 6 months, for example, in Westborough it was 70 days versus 129 days in Leicester. This means that property sells much quicker in Westborough, one of the areas comparable to Boston. Property values are higher and sell much quicker compared to Leicester, which is considered a blue collared Town. In her opinion, this 150-foot cell tower will only hurt the valuation of the value on homes in the direct area of this monopole. The properties that Verizon's appraiser, from Concord, New Hampshire used, should be thrown out completely. She then spoke on additional reasons why.

What she felt they were dealing with here, at 30 Huntoon Highway, was 150 foot cell tower, which will be stuffed into an RIB Zone area that is a densely populated area of residential homes that are going to be affected. She stated finding many discrepancies and errors in Verizon's appraisal report. She said she was recently involved in a real estate sale that involved a cell tower issue in Auburn. The seller was pre-approved for an FHA Loan, but because the property was within the 150 foot fall zone of a cell tower, they did not receive the loan. Verizon's appraiser shows single family homes within 1,500 feet or less of other cell towers in Leicester with the closest being within 510 feet. If that were the case, this cell tower would not be visible from homes, but this proposed 150 foot cell tower on Huntoon Highway would be approximately 230 feet, maybe, to the nearest home. There would be a decrease of valuation that would be caused to the homes by the presence of this tower.

She is asking the Planning Board and Zoning Board to defeat this proposal and that Verizon finds another suitable location that will not affect the tax payers who own property. She felt she had a suitable location for Verizon located up the street next to Liberty Movers, where there's a piece of property for sale. It's a 5 acre lot that's located in Highway Business that's less than 1 mile away from 30 Huntoon Highway. – *Clapping* -

Ms. Buckley read another insert taken from the real estate consultant of New England that was submitted by Verizon on values to properties located in Abelian, Texas.

Mr. Doug Belanger, 13 Harberton Drive, asked for some clarity regarding the deadline on filing the decision on this application.

Mr. Kirwan said the deadline for this decision is 150 days from the stamp on the original petition, which puts the deadline to the end of March.

Mr. Belanger said when given the choice between the credibility of the Town Administrator and the representatives to Verizon, the Town Administrator wins. He wants to state for the record, seeing on a daily basis and knowing for a fact, as mentioned tonight, that there are additional viable sites a mile away from where this site sits. As mentioned by Mr. Johnston, those sites were in the same vicinity. He will speak to what he considers a very difficult decision and rarely will the Board of Selectmen vote on something that is in the Planning Board or Zoning Board's court. But, the Selectmen did take oath and when the public comes before them with concerns about a change to their way of life, asking the Board to look into their concern, they did. By a 4 to 1 margin, after listening to the residents, the Board voted against the cell tower.

Mr. Belanger continued. The difficulty with this is that the Morris family is a great family in Town, who has given so much to this community. The reason he voted in opposition, in support of the neighbors, were the facts presented before the Board. He said there was a halfway house allowed in that neighborhood the residents had no say in and that affected that neighborhood and affected the abutters to that neighborhood, all of which are in the same circle. It basically comes down to that and with all respect to the Zoning Board: do what is right.

*Clapping*

Mr. Bob Alves, 5 Brickyard Road, said when the halfway house came into their area, they didn't have a say in the matter and they did try to fight it, but couldn't. This here he feels they have some say to this Board. He is asking the Board to use their own judgement when voting for this tower, regardless to what Verizon is saying. He felt the pictures that were taken from Brickyard Road were not from the top of the hill and that most of the pictures taken, were to the advantage of Verizon. He felt the reason there were no other sites considered was because of the infrastructure of the site being considered. Verizon wouldn't have to do anything, because there's a road there and it's cheap. He's been in construction for 50 years and knows what it

would cost to move to another site and have to spend the money, but yet they come into a residential area.

### *Clapping*

Mr. Gregory Richardson, 448 Pleasant Street, first stated disagreement with Verizon's photo simulations presentation. He submitted a copy of an Affidavit signed by Mr. Scott Richardson stating he witnessed the balloon test conducted for the cell tower and observed the balloon frequently being moved as the wind blew.

Mr. Richardson then proceeds to present his own computer version of a balloon test with photo simulations. [Note: Mr. Richardson did not submit copies of his photo simulations to the Board.]

He said it was in Verizon's own testimony that they used their own employees and not an outside agency. He explained how Verizon puts a GPS on the balloon and a GPS on the ground and had a camera record the pictures, but he didn't know what they used as a height finder. Also, typically the balloon tether would be secured to a mast for stability and as stated in the signed Affidavit; Scott Richardson noticed the balloon tether was not stable. They also used a 12-foot wide green balloon and because it was green, made it less noticeable. He noted that most independent companies would have expert testimony and photographers' present materials and Verizon did not provide independent Massachusetts experts multiple times.

Verizon did the balloon test on a Saturday, from 8am to 4pm and there was no notification, by the Town or Verizon, to the abutters about the test. If abutters were notified, they could have made sure that the balloon test was done right.

Mr. Richardson presented his own simulated pictures showing the discrepancy in the height and measurement, on the balloon and tower simulations between Verizon's and his own version.

Mr. Hathaway said he did notice the balloon and tower were off in some pictures Verizon presented and did notice the color of the balloon, but felt a different color wouldn't have made it any more visible.

Mr. Richardson disagreed and said the picture showing the balloon taken from Pleasant Street in the church parking lot, was taken when the balloon was moving, because it was shown below the tree line.

In Verizon's own testimony, they said the balloon was 65-feet above the trees. He said due to the rotation of the balloon, in some pictures where the balloon was not visible, that perhaps it was somewhere else it shouldn't have been.

Mr. Richardson once again pointed out Verizon not meeting the provisions of the Bylaw by not having all the permits approved from the FCC and FAA and also again pointed out Verizon giving a false impression when claiming it was from the FAA, the Federal Aviation



Administration, when it was the Federal Airways & Airspace. He again stated the tower being in close proximity of Worcester Airport and needing to register with the FAA.

Mr. Richardson submitted material entitled; “*What are small cells and distributed antenna systems*; by Paul Macchia” that he downloaded off the internet. It was a question and answer format with Mike Haberman, Vice President of network support/Verizon Wireless that explained small cell technology.

*Clapping*

Mr. Mike Lessard, 4 King Terrace, asked for Verizon to show the photo simulation taken from the King Street, King Terrace, Route 56 area. He said that picture shows a direct shot of the tower and that was across the street from his house and what he would be looking at every single day.

*Clapping*

Mr. George Leary, 487 Pleasant Street, said he had with him tonight; Mr. Daniel Jalbert, a Real Estate qualified appraiser, but before his rebuttal to Verizon’s appraisal information, Mr. Leary spoke on Verizon’s search for a cell tower site.

Mr. Leary felt this tower was not about providing better service for the families in Leicester. He said Verizon claims this pole is supposed to stop the dropped calls and he is a Verizon customer and has never had a dropped call. He questioned if this pole was really for improving their coverage gap or was it more about the traffic along Route 56. The landowner is a good man, but he has two businesses already operating on a small parcel of land and he is looking to put another business on this lot. He loves capitalism, but who pays for it, all the residents in the neighborhood. These people are the backbone of this community who pay their taxes to this Town, versus a cell tower.

Mr. Leary noted that it was mentioned this Town was perfectly willing to do business with Verizon and willing to help find another location. This is Verizon’s number one spot and he believes that, but it doesn’t mean it’s the only spot. There were 5 other spots mentioned and they may or may not be suitable for Verizon, but they are all in close proximity to this site. They have to look at that, instead of devastating people’s lives. This is a beast and the only way to kill a beast is with the silver bullet and he will give the Board the silver bullet. It’s in the green folder that’s in front of the Board and these are all very true cases.

Verizon Wireless, through the Telecommunication Act, has filtered all sorts of protections for themselves. They could succeed taking away your federal land, your taxes, but the courts will defend what the people say.

He wanted to point out that the people, the homeowners and property owners, have a right to expect zoning enforcement. When looking at the underlying zoning in the RIB zone, it talks about increases to property values, not decreases. This tower will cause financial ruin.

He wasn't sure about the rarity of this and he wasn't suggesting the Board make a decision tonight; however, this is the law. He points out, under his Finding #9, pages 2 and 3, that it shows the Town itself wants to minimize adverse impacts. He felt the tower didn't fit within the zone.

He highlighted the sentence that tells him the applicant has to demonstrate the facility will have minimal impact and giving their reasons in order for the Town to make their decision. This is why he wrote a memorandum to show the Board what he was talking about. He noted submitting 7 Findings, all of which show the effects of this cell towers.

Mr. Leary submitted Finding #8, which explained how the proposed location would create a physical hazard to the residences and church surrounding the tower site. He explained that the tower poses an electromagnetic pulse hazard to nearby property due to possible lightning strikes and that if the 1,000 gallon propane tank were to be compromised and ignite, could result in an explosion that could be catastrophic to the residences and church nearby.

Attached with Finding #8, was a copy of a letter from James DiCentes noting his concern of possible lightning strikes and the effects it would have on the large swamp adjacent to the site. Also attached was a copy of a memorandum from; The LPGI & Affiliates, The Lightning Protection Experts, entitled: *Tower Owners Need To Be Held Accountable, By Law, For Private Property Damage*. There was also a third attachment, which was a copy of a fire report from the Leicester Fire Department regarding the cell tower located at 488 Stafford Street, Cherry Valley. The fire report, dated 8/28/2011, showed there was a fire in the equipment shelter, but was quickly detained, having minimal damage.

Mr. Leary submitted Finding #9, which explained how Verizon failed to comply with the Submittal Requirements and General Requirements of the Bylaw. He explained Verizon did not submit at the time of application, a fall zone analysis, information regarding the height, color or materials of the antenna and copies of all applicable permits. Verizon also failed to comply with the General Requirements of the Bylaw by failing to demonstrate the tower would have minimal visual impact. He said further explains the property owner's rights and to have their zoning laws enforced.

Attached with Finding #9 was a copy of Section 5.4, Wireless Communication Bylaw and talks about the two zones in questions and residential values. Also attached was a copy of page 5 of the 12/9/2015 ZBA Draft Minutes and highlighted was a statement made by Mr. Manougian that the trees were at least 65-feet.

At this point, Mr. Kirwan interrupted, reminding Mr. Leary that the Board was trying to keep each person within a 10 minute margin and he did realize there was a lot of information. He reminded Mr. Leary on mentioning he had a guest speaker present and then asked for him to move it along.

Mr. Leary continued. He said the Town's people have a right that Verizon complies with these submittal requirements, which Mr. Richardson touched upon earlier. He strongly encourages the Board not to waiver from these submittal requirements that would to defeat the purpose of the underlying zone.

At this point, Mr. Leary introduced Mr. Daniel Jalbert, Real Estate Appraiser & Consultant. Mr. Daniel Jalbert confirmed he works with the Worcester District Court, Superior Court, Federal Tax Appellate Court, and Boston Superior Court.

Mr. Leary asked Mr. Jalbert if he had worked in Land Court before, was a qualified expert in Massachusetts, was certified as a real estate appraiser and licensed in the State of Massachusetts. Mr. Jalbert answered yes to all and that he prepared a real estate consulting report, an unbiased report that was submitted to this Board and also sent to Verizon.

*-Clapping -*

Mr. Leary asked Mr. Jalbert if he accepted the phrase "Buyers determine property values".

Mr. Jalbert said yes and would depend on how the buyer was looking for property. Buyers all make very similar decisions, whether it's for the area or what's around the area. Mr. Leary asked for the general rule.

Mr. Jalbert said the general rule is that there is buyers' resistance; there are fewer buyers in a neighborhood with a cell tower and reductions on those properties could be up to 20% of their value.

Mr. Leary asked who determines what a property would sell for, the buyer or the seller.

Mr. Jalbert said the buyer.

Mr. Leary asked Mr. Jalbert to explain how a cell towers affect property values.

Mr. Jalbert said with cell towers it's not that scientific; basically families with children will look at an area and consider whether or not it to be good to live in. When there's a tower in view, it could reduce the buying price.

The buyers compare one house to another and they might not consider a neighborhood with a tower that could fall down. He agreed with an earlier statement that the longer a house stays on the market, there is usually a loss in value and the seller won't get their price.

Mr. Leary asked when there are less buyers, does it mean the price goes lower and with more buyers, the price would be higher. Mr. Jalbert agreed.

Mr. Leary asked what Mr. Jalbert's conclusion was for this neighborhood, if this cell tower were to go in.

Mr. Jalbert said in his certified opinion, a neighborhood with a cell tower in proximity, creates a diminution in value from 10% to 20% a stigma based buyer resistance and with structures within the fall zone, the cost exceeds 20%. The properties with no visual impact would have a diminution of value of 10% and properties with visual impact would exceed 20% decline in property value.

At this point, Mr. Kirwan asked Mr. Leary to wrap up his presentation.

Mr. Leary submitted an Affidavit from his contact with the Division of Real Estate Appraisal Certification, Gary Williamson, who confirmed Andrew Lemay, Real Estate Appraiser was not presently licensed in Massachusetts and that he has no temporary licensure.

Mr. Leary continued. He is not an expert or a licensed real estate appraiser either, but he submitted his own commentary on Verizon's appraisal. Verizon's appraiser considered houses that were 1,500 feet away, when saying it was 1,000 feet before property prices would be affected. Eight out of the 16 properties, 50% did not have a view of the cell tower and 8 out of the 16 properties sold for less than the market; 8 out of the 16 sold for more and 100% of the properties that sold for more than the market value did not have a view or had a minimal view of the cell tower. In this instance, there will be 17 houses within a few hundred feet and hundreds of other homes within close proximity.

Mr. Leary said he has some statements made by Mr. Lemay that the Board should take into account on credibility. He asks who the Board believes and what the Board believes is fact.

In Mr. Lemay statements, from an evaluation from 2009, it says that the homes located in the immediate proximity and that also have visual exposure to a cell tower, the properties would have a lower sale price than other homes on the street.

Although, the statement goes on to say that sale data didn't show any evidence that there was a measurable impact on residential values due to the proximity of a cell tower. The statement concludes that due to topography, existing tree growth and proposed location, the tower would not be easily visible from the neighboring properties and values would not be measurably impacted. Mr. Leary said Mr. Lemay's focus was on no one being able to see the tower and in this instance, hundreds of people will see this house.

Mr. Leary again reviewed Verizon not meeting the submittal requirements

Mr. Victor Taylor, 101 Sargent Street, said he wanted to thank the Morris family on being good citizens of this Town and to thank them for all the help they have given him and this Town on various projects.

Mr. Manougian spoke on the misinformation given, in testimony, regarding the distances from properties and structures. He also spoke on the many different ways a visual impact study could be done and why Verizon chose doing a balloon test.

He said it was an exhaustive test that he witnessed and it was not windy. If the balloon moved, they waited to take the picture. There were several pictures taken from the top of Brickyard

Road and from the top of Sunset Drive. They submitted the FCC licenses with their submittal and what they do throughout New England. What was submitted with the application package was accepted by the Planning Board with a condition that all necessary State and Federal approvals prior to receiving a building permit.

Mr. Vallante explained how the balloon test was conducted.

Mr. Kirwan informed everyone that people were starting to leave and asked for all questions to come to a close.

Mr. Leary disputed how the balloon test was conducted and all testimony given by Mr. Manougian. He also submitted another copy of Father Jack Lizewski's letter and Findings #10 which states how Verizon failed to demonstrate a significant gap in coverage.

Mr. Leonard Margadonna, 51 Grove Street, said the property where the cell tower is being proposed is in an area where it's zoned for. If I didn't want to live next to a pig farm, I wouldn't buy a house next to a pig farm. Mr. Belanger made the statement that if he saw a cell tower where he wanted to buy a home, he wouldn't buy the home.

Mr. Margadonna continued. This property is in a business district that was zoned for business, to allow a business owner to do business and make money. He feels bad for the residents who bought property there, but they bought property next to a business zone. If you don't want to have a business in your area, then don't buy property next to a business zone.

Ms. Patricia Soucey disputed Mr. Margadonna's statement saying she lived and grew up in the house her son now owns. At that time, there were no businesses or cell towers to be concerned about. A lot has changed, and not necessarily for the better. *-Clapping-*

Mr. Kirwan again needed to inform everyone that some Board members were in need to leave and to please wrap up any further comments.

Mr. Tom Buckley disputed Mr. Margadonna's statement stating most of the homes in that area were there long before many businesses went in on Route 56, which was the reason for creating the RIB Zone. Those homes were there first before Route 56 went in. *- Clapping -*

Mr. Ray Sabol disputed Verizon needing a cell tower at this location. *- Clapping -*

Mr. Kirwan explained that at this point, no decision will be made tonight. There has been a lot of information submitted and the Board will need to take time to review all the information, in relation to the Zoning Bylaw, in order to make an educated decision.

Mr. Orth recommended for Verizon to provide additional information regarding property and visual impacts.

Mr. Hathaway asked to also provide additional information as to why the alternate locations mentioned would not work.

Mr. Kirwan asked for order and once order was regained, he explained that this meeting will need to be continued and all agreed to continue to March 9, 2016 at 7:30PM.

Again Mr. Kirwan asked for order and once order was regained, he asked for a motion to continue.

MOTION: Mr. Hathaway moved to continue this hearing to Wednesday, March 9<sup>th</sup> at 7:30PM requesting Verizon provide additional information on property values, visual impacts and alternate locations.

SECONDED: Mr. Orth – Discussion: None

VOTE: All in Favor

Meeting adjourned at 10:35PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox