

## ZONING BOARD OF ADJUSTMENT

### MINUTES

JANUARY 20, 2021

A meeting of the Conway Zoning Board of Adjustment was held on Wednesday, January 20, 2021 at the Conway Town Office, 23 Main Street, in Conway, NH, beginning at 7:00 pm. Those present were: Chair, John Colbath; Vice Chair, Andrew Chalmers; Luigi Bartolomeo; Steven Steiner; Richard Pierce; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve. Alternate, Jonathan Hebert; and Alternate, Jac Cuddy, were in attendance.

#### **PUBLIC HEARINGS**

A public hearing was opened at 7:00 pm to consider a **SPECIAL EXCEPTION** requested by **BEAR HILL DEVELOPMENT, LLC/VERTEX TOWERS, LLC** [FILE #21-01] in regards to §190-13.E.(3) and §190-13.K.(12) of the Conway Zoning Ordinance **to allow the installation of a 166-foot tall Wireless Communication Facility and to allow the Wireless Communication tower to exceed 55-feet in height** on Artist Falls Road, North Conway (PID 219-243.1). Notice was published in the Conway Daily Sun and certified notices were mailed to abutters on Friday, January 8, 2021.

Franci D. Parisi appeared before the Board. Mr. Colbath read the application and the applicable sections of the ordinance. Mr. Parisi stated the tower needs to be above the trees and the terrain to provide the signal. Mr. Parisi stated the facility on top of Mt. Cranmore provides pretty decent coverage to downtown North Conway, but on a Saturday, there are capacity issues and challenged by the amount of traffic. Mr. Parisi stated they are trying to improve their capacity by constructing closer to downtown North Conway.

Mr. Parisi stated this is proposed in an area that is minimally invasive to the neighborhood. Mr. Parisi stated they are using an existing driveway along the power lines, so the amount of road construction is minimal. Mr. Parisi stated it would be a fenced in 60' x 60' compound with a small driveway to service the facility. Mr. Parisi stated this is an unmanned facility; there will be no water, sewer or traffic.

Mr. Parisi stated someone will check on the equipment once a month. Mr. Parisi stated there will be no noise, smoke, or impact on the neighborhood, and there will be an extensive vegetative buffer. Mr. Parisi stated this is a monopole; a single pole 160-feet with antennas attached. Mr. Parisi stated this is very low powered and not designed to cover all of North Conway.

Mr. Parisi stated they conducted a visibility demonstration by putting a balloon in the air. Mr. Parisi stated the balloon was actually higher than the facility, and there really was no visibility. Mr. Bartolomeo asked if non-visibility would impede the performance. Mr. Parisi answered in the negative. Mr. Parisi stated the pole will be 100-feet above the trees which will create a better signal without a great visual impact.

Adopted: February 17, 2021 – As Written

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Mr. Bartolomeo asked if there would be a blinking light on the top. Mr. Parisi answered in the negative. Mr. Bartolomeo asked what the finish on the monopole is. Mr. Parisi answered a non-reflective galvanized steel.

Mr. Parisi reviewed the criteria to grant the special exception. Mr. Bartolomeo asked if the road would be plowed in the winter. Mr. Parisi stated it would not be plowed on a regular basis, only if there is an emergency. Mr. Parisi stated they will have to apply for a site plan review with the Planning Board.

Mr. Colbath asked for public comment; Jennifer MacMillan stated she is strongly opposed. Ms. MacMillan stated she just built a house; this is a place about the beauty and nature, and she has concerns with the effects on the wildlife. Ms. MacMillan stated she has no problem with her phone other than the pocket in Center Conway, and around Crest and the Police Station. Mr. Steiner stated it is a capacity issue. Mr. Parisi stated different sites have different purposes; and this is a capacity site.

Jac Cuddy asked if this would address the dead spot between the Red Jacket and Dunkin on Route 16. Mr. Parisi stated absolutely. Jon Hebert asked if this is three phases will it be active on all three phases. Mr. Parisi answered in the affirmative.

Daymond Steer of the Conway Daily Sun asked how is it above the trees but cannot be seen. Mr. Parisi stated when you have a tree in your face a 160-foot pole is not visible; and there is also some topography. Mr. Parisi stated based on different vantage points, it is not invisible.

Mr. Cuddy asked how close will this be to the new bike and walking trails. Mr. Irving stated he spoke with the Town Engineer, and this will not have an impact on that maintained tree cover between the pole and the path. Mr. Irving stated from the path it will most likely not be seen.

Mr. Colbath read item 1. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that since the visual impact of wireless communication facilities can transcend town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact. This requirement has been satisfied.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 2. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints. This requirement has been satisfied.** Mr. Colbath asked for Board comment; there was one. **Motion carried unanimously.**

Mr. Colbath read item 3. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instruments to other wireless communication services. This requirement has been satisfied.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Colbath read item 4. **Mr. Chalmers made a motion, seconded by Mr. Steiner, that the Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto. This requirement has been satisfied.** Mr. Colbath asked for Board comment; there was none. **Motion carried unanimously.**

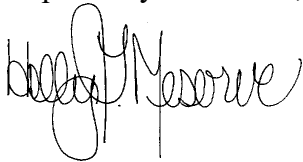
**Mr. Chalmers made a motion, seconded by Mr. Steiner, that, based on the forgoing findings of fact, the Special Exception pursuant to §190-13.E.(3) and §190-13.K.(12) of the Town of Conway Zoning Ordinance to allow the installation of a 166-foot tall Wireless Communication Facility and to allow the Wireless Communication tower to exceed 55-feet in height be granted. Motion carried unanimously.**

#### REVIEW AND ACCEPTANCE OF MINUTES

Mr. Colbath appointed Mr. Hebert as a voting member in place of Mr. Pierce. **Mr. Chalmers made a motion, seconded by Mr. Hebert, to approve the Minutes of November 18, 2020 as written. Motion carried with Mr. Bartolomeo and Mr. Steiner abstaining from voting.**

Meeting adjourned at 8:13 p.m.

Respectfully Submitted,



Holly L. Meserve  
Planning Assistant