

ZONING BOARD OF ADJUSTMENT
June 20, 2017
FINAL MINUTES

1. Call to Order

The session was called to order by Chair Laura Davies at 7:00 pm.

2. Introductions

Members present Rick Thielbar, Clerk, John Hauschildt, Laura Davies, Chair, Kevin Baum, and Alternates Martha Pennell were also present. Staff present: Barbara McEvoy and Jennifer Dionne. Members of the public were present as well.

3. New Business

The application of Varsity Wireless Investors, LLC for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses, Article 5, Sections 5.2 and 5.4.2 F. to permit the construction of a wireless communication tower and associated site improvements on the property at 8 Kingston Road. The subject property is located in the NPNeighborhood Professional zoning district. Tax Map Parcel # 81-49. Case #17-16.

A PowerPoint presentation was shown to the Board explaining the project and why varsity wireless felt it was important for Exeter. Stephen Keller Varsity Wireless explained the property to the area, they flagged for wetlands and explained the commercial condo location that is nearby. Andrew Lemay Real Estate New England appeared before the Board to explain how they selected their data and what the numbers mean when they said that the cell phone tower will not have any impact on real estate values in the area. Mr. Thielbar wondered if they were differentiating between towers put on the side of the buildings, or free-standing towers. It was confirmed they use free standing towers. The real estate data was explained at length. Mr. Baum asked if and how they account for a lack of view compared with this site where there would be more exposure. It was explained you rarely see the whole tower, you may see bits and pieces from different locations but you don't see the whole thing.

Mr. Hauschildt asked about how they use the size of a home as the comparison because in Exeter that may not work. Houses not far from each other around here could have very different values. Mr. Hauschildt did not understand the conclusion based on the data presented. Mr. Lemay explained why they used the data that they did, and that they did not use the same houses for all their Exeter comparisons. They are slightly different groupings. They tried to bracket on square footage.

Mr. Hauschildt asked to see the map of the proposed coverage for the site, this was shown. Mr. Hauschildt asked if the difference they were talking about was in building coverage, and this was confirmed. Mr. Hauschildt asked how many homes this tower would provide in home coverage for. It was estimated at 150-200 homes. Mr. Hauschildt then asked about coverage with other carriers in this area. It was explained the FCC weighed in on this, and it is on an individual carrier basis they cannot say that AT&T is already here so T Mobile cannot build here. Mr. Hauschildt asked why can't T Mobile piggy back on a tower by a competitor in the area, and it was explained that these competitors may not have in home coverage in these areas. Mr. Hauschildt also asked if here was anything that could be done to

minimize the starkness of this tower. It was explained that T Mobiles antennas cannot be stored internally. They felt this was the best to accommodate T Mobile. Mr. Baum asked if the graph was existing T Mobile locations, are other towers on this map. There were no existing towers not shown on the map. Ms. Davies asked if there was more interest than just T Mobile for this tower. It was explained typically they only have one anchor tenant, but they build them to hold multiple in case of future interest. There is currently no commitment from other providers. Ms. Pennell asked if they were actively seeking other carriers, and it was confirmed that they were marketing aggressively. Ms. Pennell asked about the tower going on the transfer station, the primary tenant is the Town of Exeter. Ms. Pennell does not understand why they need both towers and why can't one suffice. The coverage for the transfer station tower would not provide coverage for the area that this tower would provide. Mr. Thielbar felt they needed many more towers to get the coverage that they need. He wondered if that was the plan. It was explained that T Mobile did this analysis based on their data and part of this is where the population centers are. It also depends on the location and what is around it. Mr. Thielbar said one of the problems he has, is the talk about safety. He feels what is being talked about here is about smart phones and not phone calls. He feels they are blending two separate subjects together. It was explained that the way things are going is that these are much more blended then previously. Voice is moving to LTD services similar to the data. Mr. Hauschildt asked the applicant to speak to the post 1972 properties. It was explained that this will not create additional traffic, and does not contribute to heat, light smoke or pollution. He does not feel the answer on the special permit meets the criteria. Mr. Hauschildt also asked them to speak to the adequate screening that is required.

Christopher Gurshein, 19 Westside Drive: He thanked the members of the Board for their time, he submitted a 12-page letter on the application. He feels the first thing to do is to discuss whether this is essential, he does not feel this fits this definition. He feels the footprint is in the residential zone and not consistent with the neighborhood. He feels this will adversely affect this residential neighborhood. The visual effects on his property values could be negative he found multiple studies that indicate that values may decrease 10-15%.

Gabe Walker, 21 Westside Drive: He can't imagine that going from the current pristine view of the wetland to one with a 130-foot tower will not have an impact on their property values. The tree coverage is short in the area, and in the winter, they can see across the way. He will not see just the top of the tower, he will see the majority of this tower. Also, he has T Mobile and he does not have issues with coverage in his car or his home. They have few problems.

Denise Gurshein, 19 Westside Drive: She requested the data for the number of residents impacted and she does not have this information still. She has questioned her neighbor's coverage and they have no problems. The impact on property values to her has not been sufficiently answered. Her final question is why was Brickyard Condos not considered for this location.

Tracey Jeffers, Riverwoods: They have approximately 650 residents at Riverwoods and on a daily basis they hear from residents the complaint from cell coverage. She is not clear on which tower would help Riverwoods but she wanted to make it known they have issues with this in this area.

Varsity Wireless again discussed market share in the area.

Public Session was closed and the Board entered deliberations. Mr. Hauschildt has a few issues with this, he is not convinced that the essential service was adequately addressed. He is not convinced that this

will not have an impact on property values and he does have a problem with the lack of screening. Mr. Hauschildt sees problems with the lack of hard numbers, they were requested at the last meeting and they still do not have them on the number of people this would provide service for. Mr. Baum didn't want the special exception for height to be overlooked. Mr. Thielbar also has a problem with the essential use, he said it comes back to whether this fits the definition of an essential service. Mr. Thielbar also feels telecommunications just speaks to telephones and not internet services. Mr. Hauschildt and Ms. Davies disagreed with this because they are now linked and communication is now not just speaking on the phone. The Board's biggest problem was with the screening and landscaping, this is a large tower. Mr. Baum felt this was a problematic site due to the topography and the ability to screen.

Mr. Baum went through the criteria in the application one by one. The board had issues with A and D.

MOTION: Mr. Hauschildt moved to deny the application because the application does not meet the criteria for A and D. Mr. Thielbar seconded. Mr. Theilbar, Mr. Hauschildt and Ms. Pennell voted aye. Mr. Baum and Ms. Davies voted nay. The motion passed 3-2.

The application of Ben and Sarah Anderson for a special exception per Article 5, Section 5.2 and Article 6, Section 6.10 to permit the use of an existing barn structure for community gatherings (for the sharing and cultivation of the arts). The subject property is located at 66 Newfields Road, in the RU-Rural zoning district. Tax Map Parcel # 24-29. Case #17-18.

Ben and Sarah Anderson appeared before the Board to discuss the project. They have a barn on their property that was previously renovated to be a fully finished space that was previously used for art. They started offering irregular gatherings at this location and the response has been surreal. It was brought to their attention that the exchange of money for tickets requires that they appear before this Board for approval. The Word Barn is in the back of the property and most windows face the interior core of the property. There is also already more than enough space to park on the property already.

Mr. Theilbar asked what they are asking the Board to do. It was explained they were looking for a special exception but gathering space does not qualify as it's not a qualified use. Doug Eastman explained they were looking for home occupation and this would meet this as this is their occupation. Mr. Hauschildt read the definition of home occupation. Mr. Hauschildt said there is no doubt that they have great love for what they do but it doesn't seem to fit the special exception. Mr. Baum says it's not a neat fit, but artist and musician is covered here. He does not know that there is a major difference between this and an art open house. Ms. Davies asked if there was a maximum number that they would allow. Mr. Anderson said the maximum number is 100 people. Mr. Hauschildt asked if a fire inspection had taken place, it was confirmed they had none. But it does have signage and extinguishers in every room. Ms. Pennell asked how many outside doors or fire exits they have. It was confirmed there are 5 exits. Ms. Pennell asked if they sold alcohol, they do not sell it but they offer it. Ms. Pennell asked about the previous permits and it was confirmed they were unaware of any. Mr. Baum said that he was not sure if special exception was the right way to go on this. They have concerns on the safety issues and the numbers. Mr. Hauschildt explained that this does not fit all of the special exception and there is no way they can approve, but they could approve the variance with certain conditions.

Ms. Davies is having a hard time with this fitting special exception criteria for home occupation, she also agreed that a variance was the better way to go.

Mr. Anderson requested to withdraw the application.

The application of Kimball Island, LLC for a variance from Article 5, Section 5.6.6 to permit no off-street parking where 61 off-street parking spaces are required for the proposed uses at the island property located at 4 String Bridge. The subject property is located in the WC-Waterfront Commercial zoning district. Tax Map Parcel # 7231. Case #17-19.

Ms. Pennell wanted to disclose that her Aunt and Uncle used to own this property and she previously listed this property when she was a real estate agent.

Justin Pacey appeared before the Board representing the applicant. They are seeking relief to permit 0 off street parking spaces where 61 are required. They would like to build a 140-seat restaurant in the Grist mill and move that current tenant to the annex. The history of the site was explained.

Jeff Turner, owner of the property: They have been working with the HDC for the past couple months, it's a post and beam property. The beams are separating and they received permission from the HDC to strip the entire building and correct these issues. They have owned this property for a little over 3 years, they have not determined what type of restaurant will be here yet but they are working towards this. Mr. Baum asked if the foot print was changing, and it was confirmed it was not it was a restoration and new windows.

Ms. Davies said the rational for no parking on site is because of a variance from 1977. It was explained it was a condition of a former approval, and it was because of a safety issue. The fire chief at this time stated they needed to have access to the property in case of an emergency. Ms. Davies asked why they would even remove the handicap parking from site. Mr. Turner said it's a tight space and he feared issues with the visibility of backing up. Mr. Thielbar said the most convenient parking space would be the library, and he had concerns about this. Mr. Turner said that peak days would be Friday and Saturday and the library would be closed during the peak evening and night hours. Mr. Hauschildt had concerns about the lack of handicap parking on this site. Mr. Turner felt this would be a nice entry way into down town.

Mr. Pacey explained why this project met the criteria. Mr. Pacey said they met the hardship criteria because it would be impossible to fit 61 parking spots on this location.

Ms. Davies asked if the applicant would be willing to maintain any of the spaces even if just a few handicap spaces. Mr. Turner said his hope was the ADA ramp in the loading zone would accommodate this need for handicap and he would prefer not to have any spots on the lot.

Todd Deluca, President of Chamber of Commerce: They strongly support the plan to renovate this property and the removal of this parking spot. They have to consider the development on what this island would look like, and losing 8 spots seems fair in adding green space. They urged the board to approve the variance.

Dan Chartrand, 63 Jady Hill Ave, and Selectboard Member: This project syncs up with the way the masterplan is going, there is a real vision for the downtown and this fits that vision. The way that customers are shopping has changed dramatically over the years. They need to revision down town as a community space. He can think of no greater place for gathering then restaurants. They need to shift

away from the parking ordinance, as they hold back downtown. He begs this board to shift their thinking on this cumbersome ordinance.

Rachel Phillips, Exeter Mill: She is concerned about the parking issue. Due to events, down town she cannot find parking in her lot often. The parking is not sustainable in this area.

Sherry Smith: Wrote a letter in favor of the project.

The public session was closed and the Board entered deliberations. Ms. Davies felt they had an obligation to consider the parking situation. Mr. Baum is comfortable with this for a few reasons. They are talking about an existing non-conforming lot with 8 spots. The loss of the 8 spots is really a drop in the bucket. Adding the lawn here would be greater benefit than the 8 spots would provide. Mr. Baum does understand the concerns for the library and the mills, but this is an enforceability issue rather than a zoning issue. Mr. Theilbar asked if there was a way to structure the response on the existing variance. Mr. Baum said they are asking for these uses with 0 parking, they are asking for relief for parking. Mr. Hauschildt felt they could draft the motion to clearly articulate parking. Ms. Davies felt as a community they needed to discuss their parking needs going forward at some point. Mr. Hauschildt understands this point, but he spends a lot of time in downtown and rarely has a problem finding a spot. He agrees they will eventually need to discuss this, but it would be out of the purview of this Board.

Mr. Hauschildt went through the criteria of the application and if they were met.

MOTION: Mr. Hauschildt moved to approve the application as presented for no off-street parking where 61 spaces are required for restaurant, retail and similar uses, Mr. Baum seconded. The motion passed unanimously.

Approval of Minutes:

MOTION: Mr. Hauschildt moved to approve the April 18 and May 19 as amended. Mr. Thielbar seconded. The motion passed 3-2 abstentions. Mr. Baum and Mr. Pennell abstained.

Mr. Hauschildt explained at the Spring Conference there were two issues to note. One being common sense reasons for continuing a public hearing. They suggest that the wording be very specific if they are continuing a public hearing. The bigger thing is pending legislature that is expected to pass that will change how they vote on variances. They should be making changes to their rules and procedures. The zoning board would be voting separately on each criterion in a variance. If this becomes law they would need to amend the rules.

Adjournment

There being no other business before the Board this evening, Mr. Hauschildt moved to adjourn at 10:48, seconded by Mr. Baum, and the vote was unanimous. The session was adjourned by Ms. Davies.

Respectfully submitted,

Jennifer Dionne
Recording Secretary