

**ZONING BOARD OF ADJUSTMENT**  
**September 19, 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 Laura Davies, Chair, Bob Prior, Kevin Baum, and Alternates Joanne Petito and Hank Ouimet were also present. Staff present: Doug Eastman, Building Inspector/Code Enforcement Officer and Barbara McEvoy, Deputy Code Enforcement Officer. Members of the public were present as well.

**3. New Business**

**Continued discussion of the application of Building Block School (Wren and David Hayes) for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5. Section 5.2 to permit an existing child day care facility to be converted to a private school offering classes to a maximum of 62 students through the elementary years (up to grade 6). The subject property is located at 125 Kingston Road, in the R-1, Low Density Residential zoning district. Tax Map Parcel #101-31. Case #17-21.**

Wren Hayes appeared before the Board to discuss where the project stood since the last meeting. The traffic flow for the site was discussed. She met with Dave Sharples and he informed her she needed to discuss the issues with the state itself since she lives on a state road. The state informed her they would like to see a hard copy of the plan, and if they wanted her to do this they could not come out to see the site for 30-60 days.

The applicant informed the Board that they have been working to reduce cars on the road, and they have staggered the drop off times so that cars can no longer queue up on the road. This was discussed at length.

The Board entered deliberations. Ms. Davies said that the footprint was the same and there was no opposition from the abutters. The applicant has brought this to the town planner and the state as requested. They could condition their approval on the state's decision. If the DOT is ok with it then she is OK with it. The Board discussed the special exception criteria and how it was discussed at the previous meeting.

**MOTION:** Mr. Prior moved to approve the application for special exception with the following conditions, the applicant shall secure an updated driveway permit from the NH Department of Transportation or provide an email stating that an updated driveway permit is not necessary. Copy of the permit or email shall be provided to the code enforcement officer prior to any use of the property as a private school. Second condition access to the property be limited to right turn in and right turn out only while it is operated as a private school. Mr. Ouimet seconded. The motion passed unanimously.

**Continued discussion on the rehearing request for 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 NP-Neighborhood Professional zoning district. Tax Map Parcel # 81-49. Case #17-16.**

Francis Parisi representing the applicant, Varsity Wireless appeared before the Board to discuss the project. He gave a procedural overview of what had occurred up to this point.

Chris Davis, President of Varsity Wireless appeared before the Board, they had a neighborhood meeting a few weeks ago to discuss screening with the neighbors. They also looked into created a fund for the neighbors to place plantings on their own properties to screen. They captured video and pictures in the area to show the Board and abutters. They also had the planning board visit the site, and visit 19 Westside Drive to show the site lines to the property. They used all the information gathered to show the impact. They feel that most of the properties on westside drive will not have a view of the tower. That said, there are some properties that will be impacted by this, 11, 13 17 and 19 Westside Drive would be impacted. This was discussed at length.

They sent out a request to meet with the neighbors, they sent out about 87 invitations to the Westside Drive neighborhood and 8 people (5 households) attended that meeting. Varsity performed more tests based on the feedback at this meeting. The potential landscaping and ideas for screening was discussed at length. Varsity was discussing putting in a fund in escrow with \$30,000 in it for the structures and trees for screening on private property. Mr. Baum wasn't sure how the fund would work, especially with opposition from the neighbors. Mr. Parisi felt they were meeting the requirements for the special exception that they were requesting.

Darrell Chichester, 4 Laperle Ave: He wanted to say that he understands Varsity initially filed back in the Spring and it was denied, and then requested a rehearing which was also denied. It seems to him that they have exhausted their options with this Board without refiling. Also he was at the meeting they held on the 7<sup>th</sup> and he appreciates what has varsity has brought here tonight, the issue they had at that meeting was that they showed up and said they had a few options, and asked what the neighbors would prefer. He is a visual person would rather see examples of what can be done. So he appreciated this being presented tonight but it was not available at the meetings with abutters. He feels more details need to be provided on where the numbers came from for the \$30,000 fund, and give abutters a chance to digest it and understand it all.

Jeff Bouvier, 1 Hillside Drive: He does not have very good cell phone service, he cannot make phone calls or text messages. He feels there is a need for this tower in this area.

John Kelly, Silvia Drive: He lives in the neighborhood and he pleads with the abutters who he does not know, he does not feel that Varsity has reached out to the neighbors enough. Not everyone in the area knows the tower is even being built. He does not feel it was right they were applying pressure on the Board by bringing in the Government regulations. He was also not happy that they implied they did not need abutters approval. He does not believe anyone here would agree to having this in their back yard.

Chris Gurshin, 19 Westside Drive: He prepared some statements for the Board, he handed out a handout to Board members. He is unclear how his view would change when there was no foliage on the trees based on the presentation presented by the applicant tonight. He reiterated that this is a wetland area with low elevation. He also wishes they would present the 5-array tower being presented when it is fully built out for the abutters to see the impact. He reiterated some points from previous meetings. He also

presented a signed petition from neighbors. Mr. Gurshin discussed cell phone coverage in the area. He feels that there has been no additional information that changes anything since this application was initially denied. He also recommends that the town investigate placing this tower somewhere else, there is a soccer field by the Brickyard park that may work better and it would be in the area where people actually need it. He expects that if this approved the town would reimburse the abutters for what they would be losing.

Paul Martin, 2 Tilton Avenue: He asked what the definition of screening to the Board was. Is it consistently or only during certain seasons of the year. He had no idea what was going on, he received a letter about the meeting at the library. He was not aware this was even being considered until that time. He does not feel any of the income generated from this would even benefit Exeter. He feels abutters who are contributing to the town financially are being seriously impacted.

Marleen Moore, 17 Westside Drive: She has been renovating her home, and she would like the board to focus on the pictures in the last set from the presentation because this is her house. The total array will be extremely visible from her property when there are no leaves on the trees she urges the Board to consider the impact.

David Walker 21 Westside Drive: They have been talking with Varsity and they have put in efforts to try to address concerns. His ideal situation is the tower is not there and he prefers the Board not accept the application. He feels the Board needs to bring in people who are independent of the application to present the information rather than the applicant. This would ensure that their job was done properly and would provide confirmation on what was provided by Varsity.

Darrell Chichester stated that this wasn't the only property they could build on, and he bases this on the fact that at the meeting they were told that they approached other locations and the property owners were not approving of it being on their properties.

Mr. Parisi said that zoning bylaw in Exeter is different than any other surrounding towns which is why this has been done the way it has. He knows the ZBA knows this but for the audience, they have been working with Exeter for about 3 years. They approached Exeter to build a complimentary facility and they are still moving forward with this. The soccer field has already been discussed as a location and it is not available. He discussed the facilities in town and NH and how many already exists. He also agrees with the challenge on what adequate screening means.

Ms. Davies wanted to answer a few questions that were raised in regard to the application denial, and the denial for rehearing. The Board met with counsel and decided then to rehear it so everything here is legal. They have followed procedure in. In regard to how people are notified, there is a definition in town on who is an abutter and procedure was followed in this regard as well. There is not a requirement that extends beyond the direct abutters and the meetings involve public notices that this was before the Board.

The Board entered deliberations. Mr. Prior said the only criteria they can use is whether it meets criteria A-H, this is not a subjective decision. He thinks that they got off on the wrong foot with the decisions originally on whether or not this is a public benefit, which is why they had to revisit the original denial. That is because the criteria A states that the use is permitted by special exception, they do not have to

determine whether or not the use is needed or essential they simply determine whether or not it is covered by special exception in the zone. The answer here is yes, it is. This was discussed at length.

Mr. Prior read the special exception criteria and the Board discussed these criterions at length. Criteria I and J do not apply here. D (landscaping and screening) and H (negative impact on abutters) are the sticking points in this application. Mr. Prior felt that the applicant has done a very good job at reaching out to neighbors and the time constraints meant that there was not a lot of possible feedback. He feels landscaping has been met, but the screening may be the issue. Ms. Davies said they cannot expect the impossible of the applicant, and that how this is written it is up to the Board to determine what is adequate.

Ms. Petito felt that a tower of this height cannot be completely screened but there is federal law that says that local zoning boards have regulations to follow but that we are not allowed to not allow cell towers. The Board discussed the issues surrounding screening, etc. at length. Mr. Prior felt that there was no way to meet criteria that landscaping would be sufficient and would obscure the view. The Board discussed this at length.

Mr Ouimet had problems voting tonight, with the information from tonight. He feels some of the items need more details finalized. Ms. Davie agreed with this. The Board discussed the merits of continuing the public hearing.

Ms. Davies wasn't sure it was fair to the applicant for the Board not to say how they feel about this application. Mr. Ouimet asked how do you get to that when there is missing information and most abutters have left the meeting. Ms. Davies explained she is not suggesting a final decision tonight, but to provide the applicant with more information. The board discussed this.

**MOTION:** Mr. Baum moved to continue to the normally scheduled October meeting to allow the applicant time to present landscaping proposal to abutters and to propose a condition relative to approval relative to offsite landscaping, Mr. Prior seconded.

**MOTION:** Mr. Prior moved to amend the open motion, first to say both 'onsite' and 'offsite' wherever the word 'offsite' occurs and to reopen the public hearing at the next hearing for this application,

**MOTION:** Mr. Prior moved to amend the motion again to state that the applicant and abutters can submit materials up until the end of the public session. Mr. Baum seconded. The motion passed unanimously.

#### **Other Business:**

#### **Katherine Churchill, DMD – Case #1466 193 High Street, Tax Map Parcel #70-114 – Request for one-year extension of approval**

Mr. Baum said he would recuse himself on both extension requests. Mr. Prior saw no reason not to approve this request. Mr. Ouimet asked if there had been changes to the zoning bylaws since this was originally approved. It was confirmed that it had not.

**MOTION:** Mr. Prior moved to grant the extension request for one year, Mr. Ouimet seconded. The motion passed unanimously.

**Porches of Exeter, LLC (Kathleen Mahoney) – Case #1471 1, 9 &19 Franklin Street, Tax Map Parcels #72-70, #72-72 and #72-122 -- Request for one-year extension of approval**

The counsel for the applicant appeared before the Board. This case is pretty straight forward. Mr. Prior asked that since the approval actually expired in July if there was any problem with approving the extension at this point. It was confirmed they make the motion retroactive.

**MOTION:** Ms. Petito moved to grant the extension request for one year from July 2017 to July 2018, Mr. Prior seconded. The motion passed unanimously.

**Approval of Minutes:**

Approval of Minutes: July 18, July 20 and August 15, 2017

July 18: The Board discussed amendments to be made.

**MOTION:** Mr. Prior moved to accept the July 18, 2017 minutes as amended. Mr. Baum seconded. The motion passed unanimously.

July 20: The Board discussed amendments to be made.

**MOTION:** Mr. Prior moved to accept the July 20, 2017 minutes as amended. Mr. Baum seconded. The motion passed unanimously.

August 15: The Board discussed amendments to be made.

**MOTION:** Mr. Prior moved to accept the August 15, 2017 minutes as amended, Ms. Davies seconded. The motion passed unanimously.

**Adjournment**

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

Respectfully submitted,

Jennifer Dionne  
Recording Secretary