

**Town of Otisfield
Planning Board Minutes
Community Hall
April 13, 2021
7:00 PM**

1. The meeting was called to order at 7:00 PM by Chair – Karen Turino.
2. **Attendance:** Members present were Chair – Karen Turino, Vice Chair – Rick Jackson, Stan Brett & Herb Olsen. (Absent - Otis Brown & Pauline Flagg – Alternate & Recording Secretary)

Secretary: Tanya Snow

Code Enforcement Officer: Fred Collins-Absent, Deputy CEO, Rick Micklon requested to be in attendance.

3. **Announcement of Quorum:** Board has a quorum.
4. **Approve Secretary's Report:**
 - A. Public Hearing Minutes from March 23, 2021. *Motion to accept minutes. RJ/SB – Unanimous.
 - B. Regular Meeting Minutes from March 23, 2021. *Motion to accept minutes. HO/SB – Unanimous.
5. **Discussion & Comments from public:**
 - A. Heather Mills- Pond View Drive. Requesting location of Cell Tower. KT: Application states 264 Bell Road, right below where Peaco Hill intersects Bell Hill Road. Rick Jackson showed her on a map.
6. **Residence - Based Business Applications:**
 - A. None.
7. **Shoreland Zoning Applications:**
 - A. None.
8. **Wireless Application:**
 - A. Ronald Balistreri, represented by Scott D. Anderson of Verrill Law Office. Map R08/Lot 14. Preliminary meeting for Cell Tower located at 264 Bell Hill Rd. took place on November 10, 2020. Application fee \$500.00 has been received. Balloon Photo simulation took place on Saturday, November 21, 2020 between 9 am and 12 noon. (Pictures submitted into public record) KT: Stated at a prior meeting the Wireless telecommunications facilities Ordinance will stand alone. No other ordinance need be applied. TS posted notice of application in the newspaper on January 11, 2021. The application was deemed complete on February 23, 2021 and a letter was sent to the applicant indicating that. The Public Hearing was held March 23, 2021 at 6 PM via Zoom and in person.
Submittals: Kristen Roy submittals from the Cell Tower Public Hearing were entered into public record at the Hearing on March 23, 2021. They are 1) Conflicts & Severability Complaint and 2) Request of Independent Review. Copies of those documents were given to the PB secretary, TS, at this meeting (April 13, 2021), since copies were not left for the file at the Hearing. We also received a submittal at the Hearing on March 23, 2021 from George Chianis; Vice President of Viridi Wireless LLC, on behalf of Virginia Arsenault which was entered into public record that night (March 23, 2021). Copies of his letter were distributed to TS and the PB members tonight. (April 13, 2021). The link to the Zoom recording of the Public Hearing on March 23, 2021 will also be saved and was entered into public record tonight. Kristen Roy had new submittals tonight for Public Record: 1) List of Exhibits, 2) Transportation

Department, and 3) "Public Hearing Redress" stating it is presented by her as an Otisfield citizen and as a representative of the Otisfield MSAD 17 School Board.

7.2. Planning Board Approval Standards. Review continued

An application for approval by the Planning Board under Section 5.1.B must meet the following standards:

- 7.2 N.** Conservation, Erosion and Sediment Control. Soil erosion and sedimentation of water courses and water bodies shall be minimized. The following measures shall be included, where applicable, as part of any Wireless Telecommunications Facility and approval. Items 1-10

DISCUSSION: This was included in the September 22, 2021 submission under Appendix D as Z-3. Erosion and sedimentation control notes, address the issues. CEO: This plan has been done by a licensed engineer. * All agree.

*Motion that 7.2 N items 1-10 are met and the CEO will monitor during construction. RJ/SB – Unanimous.

- 7.2 O.** Phosphorous Export. A Wireless Telecommunications Facility proposed within the direct watershed of a lake or pond listed in Appendix A shall be designed to limit phosphorus runoff to the levels established in Appendix A. Items 1. Phosphorus export shall be calculated according to & 2. Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development"

DISCUSSION: The site is not in any direct Watershed listed in Appendix A of the Ordinance. Nothing in the project will generate phosphorus. This is N/A because it is not within one of the documented watershed areas. CEO agrees. This applies to all of 7.2.O.

*Motion that 7.2 O. is N/A. HO/SB – Unanimous.

7.3 Standard Conditions of Approval

KT stated that a letter, detailing these Standard Conditions of Approval, will be sent to the applicant requesting that a responding letter be returned to the PB indicating they agree to abide by the Conditions and how they will do that. The applicant will have that for the next meeting. She also noted that any Conditions of Approval must be documented on the final Site Plan per the Ordinance.

- 7.3 A.** The owner of the wireless telecommunications facility and his or her successors and assigns agree to: 1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response. 2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties. 3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location. 4. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles.

DISCUSSION: The application, dated September 22, 2020, includes as Appendix H, the required letter dated July 30, 2020. All agree.

*Motion that 7.3A has been met by the letter dated July 30, 2020. All agree. RJ/HO – Unanimous.

- 7.3 B.** Upon request by the Town of Otisfield, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

DISCUSSION: Supplement to the application dated February 23, 2021, under Tab B has documentation of the Radio Frequency Emissions Exposure, FCC Compliance Assessment. It shows the applicant is compliant as designed. The predicted emissions are approximately 0.55% and 0.11% which is less than 1% of the MPE Limits. This is very low according to the FCC regulations. All agree this has been provided.

*Motion that 7.3 B is acceptable based on the data provided in the MPE Report. RJ/SB – Unanimous.

- 7.3 C.** Guarantees. All guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or nonrenewal be sent by certified mail to the Town of Otisfield. The guarantee shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five (5) years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate;

DISCUSSION: The Guarantee that is most important is the Removal Bond. This would provide a performance bond for removal of the structure installed for the case where it's been abandoned. If it goes un-used for 12 months, applicant would need to take it down or the Town could apply the Guarantee Bond. It was agreed that the Performance Guarantee would not be required as long as a Decommissioning Guarantee is in place.

*Motion that 7.3 C. 1. The PB does not require a Performance guarantee. RJ/HO – Unanimous.

- 7.3.C2 a.** The applicant agrees to provide a Decommissioning Surety Bond that is equal to 125% of the estimated demolition and removal costs. The costs will be based on an estimate provided by the independent contractor selected by the applicant after bids have been requested. The applicant cannot put the project out for bid until the Town of Otisfield has approved their application.

*Motion that it's a condition of approval, if application is approved, that a removal bond be submitted to the CEO before a building permit is issued. RJ/HO – Unanimous.

- 7.3.C2 b, c, d.** The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original pre-construction condition as practical as determined by the Planning Board. c) Unless the landowner requests otherwise, all above ground structures...shall be removed, and the land returned to a condition as near to the original pre-construction condition as practical. d) The type of guarantee shall be approved by the Board of Selectmen. The Board of Selectmen will have the authority to require either....

DISCUSSION: The PB/CEO has to check with the BOS to accept the terms and the type of bond. BOS approving the bond, not the amount. The applicant will provide an estimate of the costs of removal to the PB after the application has been approved, if it is approved, once a construction company has been selected based on their cost estimates. Scott will try to provide a removal amount at the next PB meeting.

*Motion that it will be a Condition of Approval, if the application is approved, that the applicant provide an estimate of the costs to remove the tower and as near as possible to return land to its original condition for the PB to approve the amount of the guarantee and for the BOS to approve the type of guarantee. RJ/HO – Unanimous.

- 7.3.3.** Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

DISCUSSION: The financial capacity will be proven prior to doing any construction. The applicant will provide the financial statement of the most recent quarter. We will also have the removal bond as protection.

*Motion that provision of financial capacity be a Condition of Approval, if the application is approved, before the CEO can issue a Building Permit. RJ/HO – Unanimous.

7.3 D. Inspections;

1. During construction, a schedule acceptable to the Planning Board for inspections during construction will be established by the CEO.

DISCUSSION: PB members agree CEO will establish this. Applicant will bring schedule and amount of costs for removal at the same time. All agree. We think that CEO will do a schedule that is suitable.

*Motion that the PB turn the inspection scheduling over to the CEO. SB/RJ – (2) for RJ/HO (2) against KT/SB. *Motion failed.

*Motion that during construction, a schedule acceptable to the Planning Board for inspections will be established by the CEO and brought to the Planning Board as the Ordinance suggests. SB/RJ – Unanimous.

2. Completed Wireless Telecommunications Facility.

a. Inspections of towers by either a Maine Licensed Professional Engineer or a qualified third party mutually agreed upon by the applicant and the CEO shall be performed to assess structural integrity. Such inspections shall be performed as follows: i. Monopole towers - at least once every seven (7) years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence. ii. Self-supporting towers - at least once every five (5) years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence. iii. Guyed towers - at least once every three (3) years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

DISCUSSION: The tower will be a Monopole which requires inspections at least every (7) years. Applicant agrees to all of 7.3.d.2 above and they agree to pay for all of it.

*Motion that a.i,b,c and d are required of the applicant as written. RJ/SB – Unanimous.

7.3 E. Removal and Storage of Materials 1. All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers. 2. Outside storage of materials shall not be permitted except as specifically approved by the Planning Board

DISCUSSION: #1, all items will be removed with the removal bond if not removed by the applicant at their expense. There will be no outside storage of materials so # 2, is N/A as of the application under consideration today. There are only the radio boxes and all exterior exponents. CEO: Should a building ever be constructed, ie: Fire Dept needs something, then outside storage might be applicable at some point. All agree.

*Motion that E.1. is acceptable as written and E.2. is N/A. RJ/HO – Unanimous.

7.4 Waiver of Planning Board Approval Standards and Standard Conditions of Approval

*Motion that 7.4 is not applicable because no waivers were requested or granted. SB/HO – Unanimous.

SECTION 8. ISSUANCE OF BUILDING PERMIT

The CEO shall not issue a permit for the construction of a new Wireless Telecommunication Facility or any change to an existing Wireless Telecommunication Facility that requires CEO or Planning Board review until the CEO or Planning Board has approved the facility and all applicable conditions have been met.

DISCUSSION: Scott: We will respond in writing telling you we are going to accept the Conditions of Approval. We will also attach an estimate for the tower removal costs along with the latest quarterly financials for Verizon. All agree.

*Motion that we agree that CEO cannot issue permit until all of the Conditions of Approval have been met. HO/SB – Unanimous.

Sections 9 and 10 were read aloud.

Recognized by Chair:

Kristen Roy: Scribner Hill Road: Severability needs to be addressed for the Cell Tower before direct approval because it has to do with Ordinance. There are things in the Comprehensive Plan that apply to this and have not been reviewed. KT: We have stated the Wireless Telecommunications Ordinance is the only ordinance we are following. The Comprehensive Plan was referenced as required by the Ordinance. KT: The issue of Severability was addressed at the Public Hearing when you submitted your Severability document for the record and read it aloud at the Hearing. KR: I didn't get to read my submittal aloud. KT: Check Public Hearing Minutes. You did read it aloud.

KR: Have you reviewed my submittals from Public Hearing? KT: I have. HF: I saw an email dated April 13, 2021 from Kristen that said "I am submitting a redress regarding the Public Hearing", that prompted me to reach out to our Town Attorney today and Phil Saucier said that the Planning Board can't go back and revisit something that took place at the Public Hearing. The only recourse someone has is to file an appeal, which Kristen is welcome to do.

KR: I will be filing an appeal, because I was not able to talk at Public Hearing.

HO and RJ suggested the Board vote on Approval, or not, of the application. KT: said she thought a vote should wait until the applicant submitted their letter agreeing to the Conditions listed in 7.3 Standard Conditions of Approval. After further discussion and based on the verbal agreements to each Condition from Scott, it was agreed that the application be voted on for approval including all the Conditions of Approval voted on by the PB.

***Motion that we approve this application as written with the following Conditions of Approval.
RJ/SB -Unanimous:**

6.2.B(4)(e) Details of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure. The applicant must provide this to the CEO before a Building Permit can be issued.

6.2.B(4)(j) Road Opening Permit issued by the Otisfield Road Commissioner. Prior to the CEO issuing a Building Permit, a Road Opening Permit must be obtained.

6.2.B(8) and 7.2.L. There will be no disturbance or cutting of trees from June 1 through 31st in consideration of the nesting season of the Northern Long-eared Bat.

6.2.B(10) and 7.3.C. Guarantees. All guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or non-renewal be sent by certified mail to the Town of Otisfield. The guarantee shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five (5)

years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate;

7.3.C.2 Guarantee for Removal of Abandoned Wireless Communication Facilities.

a. The applicant for a new tower shall post a guarantee in the form of a continuous corporate surety bond in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor and shall not be based on services being provided by Town employees and Town equipment.

b. The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original pre-construction condition as practical as determined by the Planning Board.

c. Unless the landowner requests otherwise, all above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as practical.

d. The type of the guarantee shall be approved by the Board of Selectmen. The Board of Selectmen shall have the authority to require either a certified check payable to the Town of Otisfield, a savings account passbook issued in the name of the Town or a faithful bond running to the Town of Otisfield and issued by a surety company authorized to do business in Maine and acceptable to the Board of Selectmen. *The Surety Decommissioning Bond must be provided to the CEO and the Town of Otisfield before the CEO will issue a Building Permit.

7.3.C.3. Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

The following Conditions must be agreed to, in writing, by the Applicant before a Building Permit will be issued.

7.3.D. Inspections:

7.3.D.1 During construction, a schedule acceptable to the Planning Board for inspections during construction will be established by the CEO.

7.3.D.2 Completed Wireless Telecommunications Facility

a. Inspections of towers by either a Maine Licensed Professional Engineer or a qualified third party mutually agreed upon by the applicant and the CEO shall be performed to assess structural integrity. Such inspections shall be performed as follows:

i. Monopole towers - at least once every seven (7) years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

b. The inspection report shall be submitted to the CEO within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

7.3.E. Removal and Storage of Materials

7.3.E.1 All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers.

7.3.E.2 Outside storage of materials shall not be permitted except as specifically approved by the Planning Board.

9. Subdivision Application:

A. None.

10. Upcoming Dates:

A. Planning Board Meeting May 11th at 7:00 PM. – Cell Tower, Findings of Facts

11. Discussion & comments from Code Enforcement Officer: Rick Micklon – Deputy CEO

A. None.

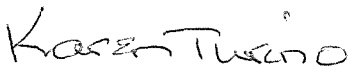
12. Discussion & comments from Board:

A. MMA Webinar on April 22nd from 4 to 7:30 PM. If anyone is interested contact TS and she will register anyone who wishes to attend.

13. Unfinished Business:

14. Adjournment: With no further business, the meeting was adjourned at 8:58 PM. RJ/HO -Unanimous.

Respectfully submitted,
Tanya Snow, Secretary



Approved by: Karen Turino, Chair
Otisfield Planning Board
Approved on: May 11th, 2021.