

Franeestown Zoning Board
Proposed Minutes
May 27, 2010

Members Present: Silas Little (Chair), Sue Jonas, Richard Barbalato, Lois Leavitt and Charles Pyle

Board reads motions for rehearing.

Meetings opens at 7:45 p.m.

Little opens the meeting by stating that this is a public meeting and the purpose is to consider two motions for rehearing for the following case only: *Special Exception (Cell Tower) granted April 18, 2010 on property owned by Charles and Rita Pettee and property located on Dennison Pond Road, Map 6, Lot 61-2.*

Notices were posted in two places as required by right to know law: Monday at Town Offices and Saturday at the Post Office. Following introductions of members present, the Board determines that they wish to consider AT&T request first.

Little summarizes the AT&T motion for a rehearing as follows: 1) Apparently after special exception was granted, the cell tower cannot be located exactly as approved due to wetlands and slope issues. Cell tower site needs to be moved northerly approximately 32'. 2) A minor change in way driveway comes off of Dennison Pond Road is necessary. Appears a shallow "S" curve has been added. 3) Change to language in condition for site plan approval. Question is not a decision on merits as an opportunity for a hearing on proposed changes to our approval of April 18, 2010.

Pyle thinks that the Board should grant the motion. He does not agree with all of the proposed changes and has concerns over slopes and wetlands, but thinks should have a rehearing to discuss changes. Board can fix language. Adds that they requested rehearing be for limited purposes, but notes that Board has right to change other items, if something else needs to be addressed.

Following a brief discussion, Pyle moves to grant the motion for a rehearing, Leavitt seconds. Motion approved - 5-0. Little notes that Pyle's statement regarding rehearing is accurate, not limited to what applicant requests.

Second request for a rehearing is from John Ratigan on behalf of abutters: Jones, Simakova, Roehrig and Kaufmann. Little summarizes request in the second part of motion that take exception to the Board's findings on the criteria for its decision. Not persuaded that there is anything in that discussion that "hasn't been ploughed over before".

Regarding the first position that there is another piece of land suitable for cell tower, no indication that it is available and that AT&T is interested. "Pie in the sky." If Jones and Simakova buy property and make a deal with AT&T, then nothing to prevent them from coming back before the Board. All this motion says is one can avail oneself of this site, speculation. Not persuaded there are any grounds for a granting a rehearing.

Pyle notes that this is one of sites AT&T examined before the current approved site. According to ZBA records they did an RF study. Peter Marchant was given OK by AT&T to proceed. One of sites they looked at before current site.

Little interjects that nothing has been concluded, only an opportunity to purchase. Pyle no harm in holding a rehearing. Little says hypothetical; letter from Lisa Campbell states that they have executed a deal to purchase - not a binding agreement.

Mrs. Leavitt believes a lot is being asked of Board; doesn't feel it is our business. Mr. Barbalato says it is all based on a what-if's. Little agrees.

Mr. Pyle asks what harm to hold a hearing. Board approved a site with limited co-location opportunities and concerns by abutters. Pyle if site did prove to be worthy with more co-location and remoteness it would solve all the problems. Entitled to rehearing. If they come to hearing and it is all hypothetical with no advancement and no interest by AT&T, then nothing further can be done. Little notes that should have been done in the motion.

Board discussion on motion continues.

Little says at this point it is only speculation. Pyle does not agree. Hearing is to find out status. Jonas brings up issue of property available and supports rehearing. Barbalato would love site that is better, but wonders about status of property. Pyle notes that if we grant a rehearing and they come with nothing more than this, then nothing further happens. Little notes that Mr. Ratigan's office prepared the Campbell letter.

Barbalato asks if we can put a time limit. Levitt questions how do we know it is a better site? AT&T looked at that site before Pettee site. Pyle adds that AT&T may come and say no, no, no to this site, but what is harm in holding a rehearing to determine status. Leavitt supposes that we have to be fair. Barbalato wouldn't mind a rehearing if we could keep it from going on and on. Little says we can grant motion for rehearing only for issue of proposed site. Barbalato would be comfortable with that. Limiting scope. Pyle agrees that we reviewed other items during deliberations. We had competing information on values and determined not applicable. Does not want to go through ATC site already discussed. Campbell/Sanderson information is new. Barbalato would not have a problem if we could limit to just that issue. Pyle believes that Board has the ability to limit discussion. Little says that Board can indicate that its decision is to partially grant rehearing to address issue of Sanderson property, its availability and whether that would change our decision.

Pyle moves that we approve the application for rehearing to just consider the availability of the Sanderson property period, paragraphs 1-5 in motion. Jonas seconds. Pyle, Jonas, Little and Barbalato in favor; Little opposed.

Board selects July 8, 2010 as the rehearing date at 7:30 p.m. Notices will be needed Little will notify

Pyle moves to close hearing all agree. *Meeting closed at approximately. 8:15 p.m.*

Respectfully submitted,

Charles M. Pyle
Vice Chairman, Francestown Zoning Board of Adjustment

June 2, 2010