

**Franeestown Zoning Board of Adjustment**  
***Proposed Minutes***  
**Public Hearing**  
**July 8, 2010**

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

Silas opens hearing by announcing that the purpose of the hearing is to consider rehearing requests submitted by New Cingular Wireless and separately John Ratigan, attorney for Robert Jones, Stella Simakova and several abutters. He adds that a letter has been submitted by Mr. Ratigan withdrawing their request for a rehearing.

Following Board introductions Mr. Little states that first the Board will hear from the applicant followed in order by persons who wish to speak in support of the proposal, those in opposition and a short period of rebuttal. He will read communication by Mr. Ratigan at the appropriate time.

Specifically New Cingular Wireless request for rehearing dated May 17 was to move cell tower site about 32' northerly with an increased elevation from 794' to 797' and to relocate the equipment compound to avoid steep slopes on southern end and wetlands on side, and also to adjust access road. Applicant also wants to adjust conditions so that Planning Board may modify actual site location. *Board granted the rehearing at a public meeting on May 27, 2010.*

Mr. Anderson speaks to proposed changes. Displays a color coded plan showing slopes. Topographical survey has determined slope on southern end in excess of 10% but less than 20%; also infringement on wetlands by a couple of feet. Proposed new orientation is to avoid slope and wetlands issues. Discusses driveway access and plantings along driveway

Board has no follow questions at this time; no one speaks in favor.

Mr. Little reads letter from Mr. Ratigan of which, Mr. Anderson has received a copy. *See copy of letter dated July 6, 2010 in file.*

Mr. Little notes Board has received additional plans and renderings on new proposed location.

Catherine Roehrig, Dennison Pond Road, is irked that slope and wetlands problems were brought up before. Site had been moved 97' farther from her house and is now moving closer. She was not at one of the balloons tests and is concerned over new location. Would like to see what new proposal would look like. Also Pam Avery, who was not able to be here, would also like to see new proposal.

Mr. Little notes that tower will be about 2 ½ feet higher or less than 2% of overall height. Brief discussion on height of tower and elevation of Ms. Roehrig's property follows.

Lee Robinson, Dennison Pond Road, urges the Board to have another balloon test. Moving the tower closer may make a difference. Francois Gauthier, Dennison Pond Road, believes that new height will make a difference and that the Board owes them another balloon test.

Mr. Little asks Mr. Anderson if he wishes to speak in rebuttal. He refers to renderings submitted last week to Board. In response to Ms. Roehrig's comments does not think that it will affect view from her property. Could not survey the site during the winter, but surveyed now and identified slopes and wetlands. Again does not believe that it will have an effect,

Mr. Pyle is bothered that issue of slopes and wetlands came up now. Does not believe that the wetlands are a major issue and is not sure why slope is an issue. Understands that road will meet requirement that no road grade exceed 10% and reads the definition of slopes under Article 2-A, Section 2-A.3.3 (2) of the Francetown Zoning Ordinance. Section discusses slopes between 15% and 24%. Permitted uses by ordinance may be constructed on such slopes; tower is now a permitted use. Conditions are that a sediment and erosion control plan approved by the Planning Board (a condition of the Board's approval), adequate water supply for fire protection (Fire Chief stated is not necessary) and no road grade exceeds 10% (plans indicate less) and all federal state and local approvals. He is bothered that property has been surveyed and now these issues come up. Mr. Little says that in fairness to applicant and engineers applications for new site were done after snow cover. They won't to get away from clearing on slope issues. Mr. Marchant notes that is correct.

Mrs. Jonas asks how from property lines tower will now be moved. Mr. Anderson 517' from new northerly line and 938' from Ms. Roehrig's property. Mr. Pyle adds that two balloon test "B" and "C" were conducted and asks if proposed site is half way between them. Mr. Little says about 1/4 to 1/3. Mr. Anderson refers to Note 10 on sheet C-3 of May 12 plans.

Mr. Gauthier, Dennison Pond Road, asks about buffer zone no matter where tower goes. Concerned that lease area is limited and does not allow for much of a buffer. Mr. Pyle responds that conditions on the original approval dealt with the issue of vegetation and screening. Mr. Gauthier asks if ZBA is more concerned with noise. Mr. Pyle responds that added conditions need Planning Board approval and they get into details of plantings more than ZBA. Mr. Little states that applicant is placing tower in wood lot that will mitigate visual effect on abutters. Planning Board will consider during site plan approval.

Mr. Little asks for further comments; hearing none Pyle moves to close public rehearing. Leavitt seconds; all in favor.

Concerning the specific criteria that the Board voted on to the grant the special exception, Mr. Little does not believe there are significant alterations to original proposals that the Board needs to reexamine all those issues addressed in that decision. Pyle believes that in Mr. Anderson's letter of May 17<sup>th</sup> there are requests for three changes.

Pyle moves that the Board first consider two of the three: (1) changing on the Notice of Decision the sentence that reads: "Cell tower is a 110' monopole designated as "Monopole B" on site plan dated March 3, 2010 and further identified as being located at Latitude

43°00'11.5N, Longitude 71°45'53.8W at an elevation of 794'" to read: **"Cell tower is a 110' monopine designated as monopine B' on site plan dated May 12, 2010"** and (2) change reference in condition (5) to **sheets C-2 and C-3 of plans dated May 12, 2010**. Pyle moves, Leavitt seconds; all in favor. No discussion follows; all in favor of changes 5-0

Pyle notes that leaves the issue of location. He suggests that the Board change the approval for a site between or within the initial proposal and the new one. Let the Planning Board determine exact site. Concerned if Board approves a specific site it may lock in too much for a site in case the Planning Board wishes to move tower. When Board was looking at two sites both had plusses and minutes. Abutters went with approved site. Little asks if Board should consider a straight line between the two sites or moving it east/west. Little believes that Board needs to find a specific location under the ordinance. Pyle does not have specific location in mind; he wants to know what Board wishes to do. He is not thinking of a broad radius, but somewhere between the two.

Mr. Little describes an ellipse or oval, which at widest point might be 20' wide with the nodes the two tower locations. Mrs. Jonas notes that we should be respectful of wetlands and is concerned over abutters. She agrees with options for the Planning Board. Pyle notes that if Planning Board determines best site is within wetlands encroachment they might need a variance. Given the site approval he would have a hard time not considering approval. Does not believe steep slope is an issue.

Mr. Little notes that old location was a 50' by 50' square and part of new location touches old one. Discussion follows on square and position of towers. Mrs. Leavitt states we want to allow the Planning Board to fine tune location.

Little moves that the Board approves a new location that is a 50' box that tower sits in and shares 50% of its footprint with May 12, 2010. Wonders whether we should reduce to 30%. Pyle asks what plans; sheet C-3, plans dated May 12, 2010. Pyle proposes that Boards adds new location to end of sentence change earlier. Mr. Little asks for Board's permission to see if proposals makes sense to engineer and Planning Board; Board agrees Mr. Anderson believes it will work by providing enough flexibility and specificity; Mr. Lindgren, the Planning Board chairs agrees. Mr. Little proposes that site 50' sq containing Tower share a minimum of 30% or more of its footprint to be approved by the Planning Board with what is shown on sheets C-2 and C-3 of plans dated May 12, 2010. Mr. Barbalato agrees. Mrs. Jonas asks for clarification that 30% is the minimum. Site with 50' square with site and tower in center that shares 30% of footprint with plans of May12, 2010. Little moves, Pyle seconds; all in favor.

Little informs Board that Mr. Ratigan has filed a notice of appeal with court. Board will need to assemble the record. Board should approve minutes and discusses time frame for assembling record. Pyle proposes that he gather and file for the Board's review. He will e-mail minutes for review and assemble information before the next meeting.

Little notes that Farrel application should be addressed at next meeting. Afterwards Board can review materials. He believes that Board has given de facto approval of minutes. Brief discussion.

Bob Lindgren addresses the Board and notes that the Bennington Planning Board is asking for comments on proposed condo development of old Highland Inn on Bennington Road. Brief discussion, Board agrees that entrance and exit is a concern, but really a state issue. Seasonal use across the street.

*Public meeting is closed at 8:54 p.m.*

Respectfully submitted,

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

July 14, 2010