

**Jackson Zoning Board of Adjustmen**  
**August 11, 2011**

**UNOFFICIAL UNTIL APPROVED**

**Draft November 20, 2010**

**Members in Attendance:** Frank Benesh, Dave Mason, Brian Walker, Lisa McAllister. Alternates attending the meeting were Martha Benesh and Gino Funicella,

Visitors: Ray Abbott, David Tradewell, George Howard, Larry Siebert, Planning Board members; Beatrice Davis, Selectmen's Representative to the Planning Board; Susan Way Planning Board Recording Secretary, John Fichera, Jerry Dougherty III, Lisa Fearon, Warren Schomaker, Bill Wogisch, Penny Miller, John Allen, Bob Tafuto, Jonathan McNeal, Bob Davis, Will Dodge

Chairman Benesh called the meeting to order at 7:04 p.m.

**Amend and approve minutes of June 15 (?), 2011 meeting** There are no minutes to approve tonight. They will be approved with this set at the next meeting.

Chairman Benesh noted the next item on the agenda for both the Planning Board and the Zoning Board of Adjustment is joint Public Hearing to consider the application from AT&T; he is chairing both Boards but each Board has its own agenda and will have its own record.

Chairman Benesh opened the Public Hearing at 7:08 p.m. Certified letters have gone out to all abutters and the hearing was noticed in the *Conway Daily Sun*. There is no quorum for the Planning Board; the applicant has the right not to move forward; the applicant chooses to continue. The plan is to have the information presented as regards both waivers, abutters and members of the public will be asked for comments and then the Public Hearing will be closed for each Board to deliberate its respective waiver.

**Public Hearing – Northern Mountain Realty Trust (Map R17, Lot 31-b) Waiver of Fall Zone** Attorney Lisa Fearon represents the applicant and appreciates the scheduling of a joint meeting for this Public Hearing. She will be presenting the case for both petitions for waivers (fence surrounding the compound/Planning Board; fall zone to be 125% of height of tower/ZBA).

First and foremost, Lisa Fearon noted the facility will be safe, it presents no threat to public safety; it complies with all current standards; it will withstand snow and ice and the plan is to remove the bottom fifteen feet of rungs off the ladder so there is no chance of someone climbing it. The tower will be minimally visible and the location allows AT&T to use already existing equipment; sighting in that area will allow 3G service while there is only 2G service now.

John Fichera spoke about how this will affect the ski area. The Verizon compound has a fence; the NPR tower waived the fence and anti-climb so is presently on a tower that can be climbed. Removing the bottom fifteen feet of the rungs is good; the area would lose trail space around the tower if it was fenced; he would like to see the fence done away with. No one can climb it; it's a burden and serves no purpose. Regarding the fall zone, John noted that folks are skiing right by the lift towers that are taller than the forty-five foot tower that AT&T is proposing; folks already ski under and around the towers; this is a lot safer than telephone poles folks walk by every day; this tower is engineered for winds up to 120 mph; the bottom of the tower is heavily armored; it won't bend; it's solid as a rock.

Lisa McAllister asked who determined the safety of these towers and was informed the FCC has standards that all telecommunication towers have to adhere to. The emissions off this tower are well below the FCC standard. Public safety is being served. Lisa also wanted to know if the NPR tower that got a waiver is similar to the one being proposed; this was affirmed. John noted Jackson just adopted a cell tower ordinance; it doesn't identify FM antennas.

Dave Mason noted that Exhibit G is an engineering report on the tower; in maximum problem conditions the tower could be expected to bend over above the slip joint; in determining the mean fall zone it means half the time the pole could snap at less than half the height of the tower and half the time the pole could snap at more than half the height of the tower. This means it could snap with twenty-five feet of tower falling; how would that be addressed. Lisa Fearon noted the tower is structurally designed to withstand icing, snow and wind; it is unlikely it would snap. Larry Siebert noted the ski area would be shut down in 120 mph winds. Martha Benesh noted if there is a possibility or probability then there is liability; if the town approves this would the Board members be liable if something unforeseen happens? Dave Mason noted the town has insurance; nothing these members do here would void that insurance protection; also members of the Board, as long as they are acting in good faith, are indemnified. Gino Funicella noted in the severe icing about fourteen years ago they had gusting winds up to 105 mph after the ice storm. Has any thought been given to a deicing mechanism; heavy ice would be a reason why the tower could snap in a high wind. John Fichera noted there are gusts all the time up there up to 105 mph; the ice storm of '98 was severe; the antenna creates heat; the biggest problem is sail effect. There were no issues with the lift towers when the mountain had five days of rain and twenty-eight degree weather. We can't guarantee the weather; but heat is generated by the antenna; the Board is doing due diligence. When asked what the weight of a fully dressed out tower is John noted he doesn't know but can get that information for the Board. The engineers rated the tower to 120 mph. Lisa Fearon noted the industrial code for towers is based on the ground elevation of where the tower is; the standard is 120 mph for this location as proposed. Gino noted that on bridge designs an engineer signs off; do we have an engineer sign off regarding this collapsible tower; the Hudson Design Group signed off with its engineer for the tower as designed. The members were reminded the plan doesn't say the tower would collapse on itself; it says it has a potential fall zone of half its height. Chairman Benesh noted if the Board feels uncomfortable approving the fall zone it could ask the applicant to indemnify

the town. Dave doesn't think that's needed. Lisa Fearon noted proof of insurance was turned in. Martha asked John at what wind speed would the mountain be closed and he noted once winds get to be 35 – 40 mph it becomes unsafe so they start slowing the lift and then they will shut it down. There were no further questions from the Board members.

Chairman Benesh asked if there were any comments from abutters or members of the public; being none the Public Hearing was closed at 7:32 p.m.

The Zoning Board will now consider the request to waive the fall zone of 125% of the height of the tower. Gino Funicella will be the voting member. **Dave Mason, seconded by Gino Funicella, made a motion to approve the waiver on the fall zone. The motion passed 4-0-1 (Walker, McAllister, Mason, Benesh in the affirmative, Funicella abstains).**

There being no further business the Board adjourned at 7:36 p.m.

Respectfully submitted by:

*Martha D. Tobin*

Recording Secretary