

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: JANUARY 18, 2012

CASE NO.: 1/18/2012-1

APPLICANT: HSL REAL ESTATE TRUST
C/O GBI, TAI DEH HSU, TRUSTEE
2 WELLMAN AVENUE, SUITE 210
NASHUA, NH 03064

LOCATION: 304 NASHUA ROAD; 2-27; C-II, WITHIN THE ROUTE 102 PERFORMANCE
OVERLAY DISTRICT

BOARD MEMBERS PRESENT: MATT NEUMAN, CHAIR
JAMES SMITH, VOTING MEMBER
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING ALTERNATE
NEIL DUNN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: VARIANCE TO ALLOW PAVEMENT TO ENCROACH INTO THE 50 FOOT
LANDSCAPE BUFFER AS REQUIRED BY SECTION 3.6.4.4.

PRESENTATION: Case No. 1/18/2012-1 was read into the record with three previous cases listed. The Clerk also read Exhibit "B" into the record, a letter in support of the appeal from the Town Planner.

JACK SZEMPLINSKI: Good evening, Jack Szemplinski, Benchmark Engineering. If you remember, I was here before you about a month and a half ago. It was a very similar variance request. Just to give you a tiny bit of overview of this project, the property is located on Route 102 and it's also the site of the cell tower. It's right next to the Comcast building. What's proposed is basically to take out the two frontage commercial lots from this property and develop the rear for Hickory Woods elderly housing. At this point, on a preliminary basis, we're looking at about ninety five (95) units or so. One of the issues that affects this development is that in our review of the project with the staff, we're trying to create a road system that does not promote circulation of traffic from Route 102 to West Road, which is actually, if you measure the distance, it would be a shortcut. So the idea was to create as many impediments to through traffic as possible while providing emergency access. At the last hearing, that loop road here, which, basically, the cell tower's right here, and there's like a loop road in this location. Since the last hearing, we were able to move the road about ten (10), twelve (12) feet to the north, which allowed for increased buffer right adjacent. Increased buffer right adjacent to the Comcast building. Actually, a portion of the building is actually a shed and it's in back of it. If you look at that proposed buffer, we're proposing to put a berm about six (6) feet tall and plant evergreens and stuff that will

46 impede visual impact, especially, you know, we don't want to have people looking, you know, into the back of
47 the Comcast building and also, you know, we don't Comcast people to look in back of our buildings. What
48 we've also done is this driveway here, it's actually a driveway to the cell tower that will, you know, that we
49 relocated it into this location to...so it basically faces another commercial use. We met on a number of
50 occasions with the Planning staff and also with Public Works, with John and Janusz, to review this proposal
51 and they kind of really liked this concept, you know, as presented. But we're only meeting...we're missing
52 about...we're supposed to have fifty (50) feet from here to here and we have about twenty six (26) feet.
53 That's what...that's the variance we're asking for. If I can maybe go through the five points...

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55 MATT NEUMAN: Please.

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57 JACK SZEMPLINSKI: Okay, the variance will not be contrary to public interest. The road will not be visible from
58 any public street. Abutting property from which relief is being sought is a commercial parcel. An additional
59 planting and screening is proposed within the buffer. An earthen berm will be constructed and planted with
60 evergreen trees. This additional screening will be considerably more effective than the current buffer area or
61 the minimum required by the ordinance. Constructing a looped road as opposed to dead-end
62 driveways...constructing dead-end driveways was one of the options that was looked at, basically break the
63 road in the middle, and just do the driveways from both sides. Constructing of a loop road as opposed to
64 dead-end driveways will provide for additional safety for Fire and Police Departments and provide for better
65 traffic circulation. This road layout has been reviewed and supported by Londonderry Public Works and
66 Planning Departments. Number two, the spirit of the ordinance will be observed. The buffer area is intended
67 to provide screening and separation from incompatible uses. By providing additional planting and
68 screening, the spirit of the ordinance will be observed. It is desirable from the planning and safety perspective
69 to have the loop road in the area to discourage general traffic from utilizing the elderly community road
70 system as a shortcut between Route 102 and West Road. Number three, substantial justice is done. By
71 allowing for the reduced buffer, we will be able to construct a new road into this development while providing
72 for good planning and safety within the community. Additional landscaping and buffering proposed by the
73 applicant will be substantially more effective than the one required by the ordinance. Abutting commercial
74 use is the backside of storage for Comcast Communications. Units have been reconfigured so that only cell
75 tower drive directly faces the reduced buffer area. Number four, the values of surrounding properties will not
76 be diminished. The road will not be visible from surrounding properties. Additional landscaping will be
77 constructed, which will provide for screening for both the elderly community and abutting commercial land.
78 Number five, literal enforcement of the provisions of the ordinance would result in unnecessary hardship. We
79 elected to answer the (A) part. No fair and substantial relationship exists between the general public
80 purposed of the ordinance provisions and the specific application of that provision to the property. The
81 purpose of the buffer specified in the ordinance is to provide visual screening between incompatible uses. By
82 constructing a landscape earthen berm as proposed by the applicant, the buffer area will be substantially
83 more effective than the one prescribed by the ordinance. The request to this application is supported by both
84 Londonderry Public Works and Planning Departments. And the proposed use is a reasonable one. Proposed
85 screening and buffering will accomplish the objective of the ordinance. It will allow the best possible road
86 layout within the Hickory Woods elderly community. I'd be happy to answer any questions.

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88 MATT NEUMAN: Neil?

90 NEIL DUNN: So what changed from this version that pushed you another twelve (12) feet into the buffer
91 zone? I believe this was the buffer that was denied before?
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93 JACK SZEMPLINSKI: Correct.
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95 NEIL DUNN: So what changed? My recollection was you still had the circular road, everything was pretty
96 much the same. So what's changed? All we know...I can see is that you wanna go further there, but what
97 happened to the rest of the development?
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99 JACK SZEMPLINSKI: One of the other variances we requested from you gentlemen was to use only a thirty (30)
100 foot setback instead of forty (40). So that gained us approximately ten (10) feet in that area. We also
101 tightened the road radius just a tiny bit to give us the twenty six (26). There was really no other alternative.
102 We looked at all possible scenarios where we could like an egg shape versus a round road, but it just doesn't
103 work with like the required radii that the Public Works just aren't willing to waive.
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105 NEIL DUNN: Right, but the last proposal, you had the thirty (30) foot setbacks in the proposal, or off the
106 street, if you will, for the driveways. And you had a fourteen (14) foot encroachment into this buffer zone...
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108 JACK SZEMPLINSKI: Right.
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110 NEIL DUNN: And so I guess...
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112 JACK SZEMPLINSKI: No, no, no.
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114 NEIL DUNN: ...what kept pushing you further back?
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116 JACK SZEMPLINSKI: No, no, no.
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118 NEIL DUNN: You still had the circular road...
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120 JACK SZEMPLINSKI: We had, on the last proposal, we had fourteen (14) foot separation between the right of
121 way line and the property line. Now we have twenty six (26) feet. Okay? So we're asking for the buffer,
122 instead of fourteen (14) feet, this twenty six (26).
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124 LARRY O'SULLIVAN: So if I...I wasn't at that meeting in October but in October, fourteen (14) feet wasn't
125 acceptable by this Board? Is that what you're saying, Neil? And now it's twenty six (26) and would that
126 become acceptable? Isn't that what this is?
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128 JACK SZEMPLINSKI: Right. And also, we did not propose all the landscaping, and it's like, as you can see,
129 there's quite a bit of effort that went into designing the berm.
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131 MATT NEUMAN: [indistinct], yeah. And that changed the look, because that berm wasn't there and originally,
132 that road wasn't there. The road was...or that access to the tower...
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134 LARRY O'SULLIVAN: Mm-hmm.

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136 MATT NEUMAN: They moved that.
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138 NEIL DUNN: It's skewed over. Yeah.
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140 MATT NEUMAN: Right.
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142 NEIL DUNN: But you've actually...again, just for my clarif...you've actually increased it from fourteen (14) to
143 twenty six (26) in that buffer zone...
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145 JIM SMITH: Correct.
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147 NEIL DUNN: ...and you're gonna berm it?
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149 JACK SZEMPLINSKI: Correct.
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151 NEIL DUNN: Okay.
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153 MATT NEUMAN: Jay?
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155 JAY HOOLEY: If I could ask you to please flip that back?
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157 JACK SZEMPLINSKI: Sure.
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159 JAY HOOLEY: I think for Larry and it might jog Neil's memory, the circle that we're looking at got slightly
160 smaller. The driveway that we see at the bottom of this drawing originally was on the right side, if memory
161 serves me....
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163 JACK SZEMPLINSKI: Right.
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165 JAY HOOLEY: And there was a home closer. So the circle tightened up slightly.
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167 MATT NEUMAN: And the impact is less because that...
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169 JAY HOOLEY: And the impact is greatly reduced, yeah.
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171 MATT NEUMAN: ...that residence is gone. Moved over to where the other...the original access...
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173 JAY HOOLEY: And effectively, the berm...fifty (50) feet could be open. The berm obviously creates much
174 greater separation.
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176 JACK SZEMPLINSKI: Right. If you're familiar with the regulation, that right now to provide buffer, we don't
177 have to really augment the existing vegetation. Just pretty much have to leave what's there and this will be a
178 much more effective buffer than you could ever get just by leaving a few of the pines and...
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180 LARRY O'SULLIVAN: A visual buffer and a noise buffer maybe, yeah.
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182 JACK SZEMPLINSKI: Right. Right.
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184 LARRY O'SULLIVAN: But it's still...one of the criteria that we have is the distance.
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186 JACK SZEMPLINSKI: Right.
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188 LARRY O'SULLIVAN: Right? So we have...the distance is really what your issue is here.
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190 JACK SZEMPLINSKI: Correct.
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192 LARRY O'SULLIVAN: And it's not gonna be...I don't think...you know, we're putting a flavor to it by saying that
193 it's gonna be less visually offensive to the neighbors or to the people that you're building for.
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195 JACK SZEMPLINSKI: Right.
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197 LARRY O'SULLIVAN: There's...well, the criteria are always going to be the distance, the visual and the sound
198 impacts on surrounding areas, so...
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200 JACK SZEMPLINSKI: Right.
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202 LARRY O'SULLIVAN: It needs to be addressed. So you've got a berm. A six (6) foot high berm, you're saying?
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204 JACK SZEMPLINSKI: Right.
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206 LARRY O'SULLIVAN: With planted trees...
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208 JACK SZEMPLINSKI: Trees on top.
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210 LARRY O'SULLIVAN: Is there a separation between the properties that Comcast has put up?
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212 JACK SZEMPLINSKI: Twenty six (26) feet to the edge of right of way and then you have another twelve
213 (12)...eleven (11) or twelve (12) feet...
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215 LARRY O'SULLIVAN: 'Till...
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217 JACK SZEMPLINSKI: ...from the actual edge of right of way to the actual pavement.
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219 LARRY O'SULLIVAN: Gotcha. That helps.
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221 MATT NEUMAN: Other questions from the Board?
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223 NEIL DUNN: Could you live with a...if we made the...the berm, you're saying, is approximately six (6) feet. If
224 we set it at a minimum of six (6) feet high, would you live with that?

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JACK SZEMPLINSKI: No problem. That's what's proposed.

MATT NEUMAN: And then there are trees planted on top of that berm.

JACK SZEMPLINSKI: Right.

MATT NEUMAN: So then it's a much, really, higher...

JACK SZEMPLINSKI: I mean, actually, the way it sits now, that this is actually higher, so you're kind of looking down onto the building. So you put a six (6) foot berm plus trees, that will be at least another six (6) feet in height. You know, there's no way you, you know...

MATT NEUMAN: But it does look down? The residences look down onto Comcast?

JACK SZEMPLINSKI: Correct. Correct.

MATT NEUMAN: Okay. Well that's good to know, too. Anything else before we open it up to the public? No? Okay, if there's anyone in the audience who'd like to come and speak in favor of the applicant's request, please feel free to do so at this time. Okay.

LARRY O'SULLIVAN: Opposed or questions?

MATT NEUMAN: That was my next [indistinct].

LARRY O'SULLIVAN: Oh, sorry.

MATT NEUMAN: I was getting them one last chance.

NEIL DUNN: The pause.

LARRY O'SULLIVAN: If somebody wanted to jump up out of this huge crowd...

MATT NEUMAN: Well, you never know. Anyone in opposition who would like to come forward?

LARRY O'SULLIVAN: How about any questions?

MATT NEUMAN: Or if anyone has any questions, general questions for the applicant. Come forward, please. If you could just state your name and address for the record, please.

CHARLES JOHNSON: Yeah, my name is Charles Johnson. I live at 8 Priscilla Lane. And so just by...you were talking about the routing of the road and access, that there wouldn't be a shortcut to West Road?

JACK SZEMPLINSKI: Right.

CHARLES JOHNSON: How is, like what is this lane, that Quarry Lane there?

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JACK SZEMPLINSKI: Mm-hmm.

CHARLES JOHNSON: That comes off of Pepper Hill Road off of your circle, there, wouldn't that still provide access to West Hill Road? To West Road, I mean?

JACK SZEMPLINSKI: I didn't say that we will not provide access, but we'll make the access road as difficult to travel. That means they are gonna be stop signs and ways people don't like to travel. You know, if they're moving fifty (50) miles an hour on 102 versus coming here, twenty (20) miles an hour with all the housing and circles and stop signs, that will kind of discourage them from taking this road and stick to 102 and West Road.

CHARLES JOHNSON: Okay. Thank you. That was my question. Okay, so the question is...so the entrance to the development...there'll be an entrance from West Road, from your diagram there, there'll be an entrance from West Road, from 102 and then that Pepper Hill Road, where is that coming out?

JACK SZEMPLINSKI: There is another parcel of land that is owned, actually, by the State of New Hampshire, that Mesiti Development was looking to maybe purchase. That's why the right of way is left into it. That only would provide maybe an additional five (5) or six (6) units, tops. I mean, you're gonna have plenty [indistinct] is Planning Board because this is gonna to the Planning Board. It's gonna be reviewed in great detail.

MATT NEUMAN: Yeah, the variance there he's here seeking tonight has really nothing to do with the access through it. It's for that buffer and whether we grant that variance or not, you'd still have access through into the West Road.

CHARLES JOHNSON: Right, [indistinct]. Yup. Okay, thank you.

MATT NEUMAN: No problem. Any other questions or...? Comments?

MARY ELLEN SZUKSTA: Can I just ask one questions?

MATT NEUMAN: Sure, come on down.

MARY ELLEN SZUKSTA: Mary Ellen Szuksta from 8 Priscilla Lane. So I guess my question is, we were notified that it would impact us, being within two hundred (200) feet of what his proposition is, being on Priscilla, so how does...I just wanted to understand that. In what way will it impact us?

JACK SZEMPLINSKI: It's not gonna be...

NEIL DUNN: It's because you're an abutter. You're an abutter to the...within two hundred (200) feet from any border of their property.

MARY ELLEN SZUKSTA: Just from the property itself?

MATT NEUMAN: Right.

315 MARY ELLEN SZUKSTA: Okay. And not anything to do with entrances and things like that?
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317 JIM SMITH: No.
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319 MARY ELLEN SZUKSTA: Okay. I just wanted to understand that.
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321 JACK SZEMPLINSKI: Yeah.
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323 MARY ELLEN SZUKSTA: Okay. Thank you.
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325 MATT NEUMAN: No problem. Okay, well, any further questions from the Board? Did you have any last final
326 comments you wanted to make before we deliberate?
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328 JACK SZEMPLINSKI: Yeah, just only one other comment. One other observation I'd like to make. If you look at
329 this plan, traditionally, buffer areas, I mean, we've done quite a few elderly housing projects in town, but
330 traditionally, buffer areas are for buildings, not for actual road. So typically, if this road was reversed and the
331 unit was sitting here, that would make it a lot worse, but we're what we're basically doing is we're buffering a
332 road. We're not really buffering a unit. This unit will be much further, you know, it will probably be seventy
333 (70) or eighty (80) feet from the property line. That's all.
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335 LARRY O'SULLIVAN: So the effect that you're trying to do is the berm, the additional plantings, the twenty four
336 (24) feet...
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338 JACK SZEMPLINSKI: Right.
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340 LARRY O'SULLIVAN: ...and the road and then front yards or driveways or what have you...
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342 JACK SZEMPLINSKI: Right.
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344 LARRY O'SULLIVAN: ...before you actually see a home.
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346 JACK SZEMPLINSKI: Right.
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348 LARRY O'SULLIVAN: Understood.
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350 MATT NEUMAN: Okay. Alright, any last, final questions from the Board? No? Thank you. We're gonna pull
351 back into deliberation.
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353 DELIBERATIONS:
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355 MATT NEUMAN: Any thought right away from anyone?
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357 LARRY O'SULLIVAN: I think I just summed it up for me. I mean, that's...
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359 MATT NEUMAN: Well, you know, I think...

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LARRY O'SULLIVAN: It's accomplishing all the purposes that I would think we would have a buffer for.

MATT NEUMAN: Yeah, you know we definitely had issues at the meeting when it was first presented, but I think that they've done a pretty good job mitigating...

JAY HOOLEY: I think it's a good, creative solution addressing...

MATT NEUMAN: Absolutely.

JAY HOOLEY: ...the separation, which we're trying to get.

MATT NEUMAN: Yeah, and when, you know, when you look at it, you know, I mean, between the...you know, the abutter and then the...really, on the other side it's...you're talking two (2) residences that it's potentially gonna impact on that side and the fact that it is buffering a road.

NEIL DUNN: I guess I get back to the same issue I had last time, that there's nothing, you know, number 5(A) is for...unnecessary hardship means owing to special conditions of the property. Well, the only condition they're trying to get around is a cell tower that they chose to put on the property. I mean, I do like the fact that they Planning Board...the Town Planner, Cynthia, you know, spoke to the setback and the intent of the ordinance and all that, I mean, that's great and I mean, it makes sense, but I still have trouble when you say, 'well, where's the special conditions?'

LARRY O'SULLIVAN: You built that box, how come you...you can't live with that box.

NEIL DUNN: Yeah, that's the only issue. It's a great resolve, I mean, and I really am not against it except for when I look at my responsibility to the technical point here, I'm having trouble with the special conditions of the property.

MATT NEUMAN: And I guess my only argument, as far as the, you know, putting up the cell tower, is...it's...the cell tower is actually performing a service to the town.

NEIL DUNN: The townspeople.

MATT NEUMAN: The townspeople, right.

NEIL DUNN: And they probably get paid well for that.

MATT NEUMAN: I don't think it would pay...I'm not sure about 'well,' but...I think if people got paid well, we'd all have a cell tower in our backyard, but...No, but it's not like it's, you know, a movie theater they have in their backyard for themselves or, you know, something that only they are taking...you know, they are enjoying the benefit of. I think it's something that benefits the surrounding people in the town and...I can give a little leeway there as far as...but then again, that's my opinion on that. Jay.

404 JAY HOOLEY: If I could just ask Neil, just so I can get my head around how you're thinking of this, one of
405 the...the prior case, and I know they're all different, but one of the things we looked at was the location of a
406 well on the property, and therefore an inability to put a garage somewhere else. Well, just because that's
407 where you decided to sink your well, once it's in, it's in. And in that particular instance, it was 'so therefore, I
408 cannot put my garage where the well is.'

409
410 LARRY O'SULLIVAN: 'Or my driveway, or my...'

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412 JAY HOOLEY: Or...well, right. It happens over time and the property grows and you do what you do in the
413 vacuum of 'that's what I have at that moment,' then five years out when you need the garage, suddenly, I've
414 got a well where I would have otherwise put it had I known at the time that I put the well in twenty years ago,
415 that's where I would someday in the future want a garage or need to put my garage because I have a slope on
416 the opposite side. You know, if you were drawing this up from scratch with an empty piece of land, yeah, you
417 probably would have some other alternatives. Unfortunately, the cell tower is already built and that goes
418 above ground versus down into the ground like a well would, however, it's a condition of the site today if you
419 look to move forward and develop it. So, I guess my question would be, do you see that parallel or do you see
420 them as being different?
421

422 NEIL DUNN: No, I see the parallel and I would still probably have issues with, well, where's the special
423 condition of the property? The well does...you know, the tower, in my mind, does not make the property a
424 special condition. Usually it's more...the special condition of the property has to do with geography,
425 topography, you know, it was sliced and diced in order to make it an acre lot buildable and so there's no way
426 they can build on the sliver next to them. There's all kinds of things of that nature. I'm really for the project, I
427 just...
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429 JAY HOOLEY: Yeah.

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431 NEIL DUNN: ...when you look at the technical, how do you get by the special conditions?
432

433 LARRY O'SULLIVAN: You don't see anything exceptional about the lot?
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435 NEIL DUNN: Nope. Not in this case, because they...I mean, you know, it gets back to what are you trying to
436 put on there and they're trying to maximize their value. I understand all that. I'm good with all that, but that's
437 just my point, that 5, I mean, the fact that Cynthia did write to the intent, I mean, you know, if we can get by
438 the intent because they're not, you know, it was set up for different uses, commercial...or resi from
439 commercial and they're going in as the resi where the commercial is there next to them, I mean, it kind of
440 takes away some of that intent thing, which lessens maybe the hardship or the special conditions, because I
441 mean, again, I'm just...
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443 LARRY O'SULLIVAN: You mean, to be [indistinct]. Is that what you're saying?
444

445 NEIL DUNN: I dunno. I'm just bringing it up because that's where it was last time and, you know, to me, there
446 was no special conditions other than, you know, we put twenty pounds of buildings in a fifteen pound lot.
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448 JIM SMITH: Well, I think the way I would look at it, the cell tower, because of the regulations that goes around

449 it, requires a certain fall zone, which eats up an awful lot of the property. So, in my mind, that makes it a
450 unique piece of property and so much of that property is useless for any other use. So that makes it distinct
451 from another piece of property of a similar size. So that's the way I would look at it.

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453 MATT NEUMAN: And the one thing I don't think we ever asked was how long the cell tower's been on the
454 property.

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456 LARRY O'SULLIVAN: You can open it up again, make a direct question. Maybe our Building Inspector/...

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458 MATT NEUMAN: Richard, do you know? Do you have any idea how long the cell tower's been there?

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460 RICHARD CANUEL: About ten (10) years, maybe?

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462 JIM SMITH: At least.

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464 JACK SZEMPLINSKI: At least. More like fifteen (15).

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466 JIM SMITH: If not more.

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468 MATT NEUMAN: And you can go back to, you know, intent on that as well with...I mean, ten (10) years ago,
469 putting up a cell tower, maybe they didn't...I mean, who thinks ten (10) years down...I mean, was this the
470 owner at the time? Rich, do you know if this was the owner who...the current owner?

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472 LARRY O'SULLIVAN: It doesn't really matter.

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474 RICHARD CANUEL: I wouldn't know. Yeah.

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476 MATT NEUMAN: Yeah.

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478 JIM SMITH: Well, the other thing...

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480 RICHARD CANUEL: [indistinct] off the top of my head.

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482 JIM SMITH: ...if you go back to that era, part of the reason the cell tower ended up way back there was an
483 existing mobile home park that they had to go behind and around to get to. And I think that's what forced
484 that thing back into that location.

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486 MATT NEUMAN: Mm-hmm.

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488 JIM SMITH: Which now no longer exists.

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490 MATT NEUMAN: Right.

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492 JIM SMITH: So as you see, over time, these properties change and what's on the property changes and what
493 drove one situation is, you know, is affecting the present situation.

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MATT NEUMAN: Yeah, but I think that lends to the special conditions of the property.

JIM SMITH: Yeah.

MATT NEUMAN: Any further discussion or are we ready for a motion?

LARRY O'SULLIVAN: And I don't think there'll be any more discussion, then I'll make the motion. I make a motion to approve case 1/18/2012-1 as presented, with the criteria regarding the six (6) foot berm, be a minimum of a six (6) foot berm to shield the Comcast building/roadway from the adjoining lot.

MATT NEUMAN: We have a motion. Do I have a second?

JIM SMITH: Second.

MATT NEUMAN: We have a second. All those in favor, signify by saying 'aye.'

JIM SMITH: Aye.

JAY HOOLEY: Aye.

NEIL DUNN: Aye.

MATT NEUMAN: Aye.

LARRY O'SULLIVAN: Aye.

MATT NEUMAN: Those opposed?

JACK SZEMPLINSKI: Thank you very much.

MATT NEUMAN: Thank you.

RESULT: THE MOTION TO GRANT CASE NO. 1/18/2012-1 WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,



NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED FEBRUARY 15, 2011 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY NEIL DUNN AND APPROVED 4-0-0.