

Wolfeboro Zoning Board of Adjustment  
Public Hearing  
Monday, 24 May 2010  
Minutes

**Members Present:** Alan Harding, Chairman, Suzanne Ryan, Vice Chairman, Steve McGuire, Clerk, Kathy Barnard, Member, David Booth, Member and Geordy Hutchinson, Alternate

**Members Absent:** Charlene Seibel, Alternate

**Staff Present:** Rob Houseman, Director of Planning & Zoning and Robin Kingston, Administrative Assistant

Alan Harding called this meeting to order at 7:00 PM in the Wolfeboro Public Library Meeting Room. A quorum was present.

**Appointments:**

Suzanne Ryan  
Appeal of Administrative Decision  
16 McManus Road  
TM# 244-63  
Case # 03-AAD-10

Steve McGuire read the Public and Abutter notice for the record.

Kathy Barnard stepped down as she is the Chairman of the Planning Board. David Senecal and Mike Hodder were seated.

The applicant is seeking an Appeal from the Administrative Decision made by the Planning Board, dated April 6, 2010 approving New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, Tax Map 244-63.

A site visit was scheduled for 6:15 PM at the Ryan property. Through emails last Friday Suzanne Ryan did not want a site visit held at her property. The

Chairman requested the Board make their own site visit of the water tower. The matter of standing of the appellant must be addressed before the board discusses the merits of the appeal. NH RSA 676:5 states appeals to the ZBA must be taken by any person aggrieved. The legal definition defined by the American Heritage Dictionary states a person is aggrieved if they are treated unjustly by a decision of the court or other legal authority. Suzanne Ryan was asked to address the issue of standing and standing only. If the Board decides the applicant has standing then the board will hear the case.

Suzanne Ryan addressed the Board. A handout was distributed to the board and is attached to these minutes citing reasons why she is aggrieved. As for the site visit, she did not receive legal notice it was to occur until 3:00 PM today. A photo and enlarged photo was distributed showing the water tower from the Ryan property. Also submitted was an email from Rob Houseman requesting a completed application.

The Board discussed the photograph.

David Booth asked if Ms Ryan just found out about the site visit, would she agree to a one week notice so the Board could go and view this site. A site visit is needed so the board could view it for themselves.

Alan Harding said Ms Ryan was well aware of the site visit before today (as noted in the email text below) although she had stated she had not seen any notice.

**From:** Suzanne Ryan  
**Friday,** May 21, 2010 3:55 PM  
**To:** W. Alan Harding  
**Cc:** Robert T. Houseman  
**Subject:** site visit May 24, 10  
**Importance:** High

**Sent:**

Hello A. Harding, Chair ZBA:

Please let this email serve as a courtesy that I will not be having the ZBA on our property for a site visit...Please notify all ZBA members and staff that they (as nice as they all are) are not welcome to the property and in fact can not see from the road so it will do no good to drive up here. This is to preserve our privacy. The ZBA does not have in the application or by law any requirement that such is mandatory. Further, I have no problem with the Chairman as a representative of the ZBA coming to observe and take a photo..if you choose or not to handle this in this fashion...so be it. I will as planned bring photos of the view from our back yard and

submit such. **Also, the site visit was not Noticed in the Public Notice...** when is it that staff gives the courtesy of notifying property owners of such and when one will take place..? I have no notice from the town for such, only found out by the packet...with the Bus leaving info.... Also if you and any members would like to see the tower from Stoneham road, you need only go up just past the corner of Stoneham heading toward the Cotton Mt Church and you can see from there as well as across the way from Roessigers...

Thank you, Suzanne Ryan

**From:** Suzanne Ryan  
**Sent:** Friday, May 21, 2010 5:31 PM  
**To:** W. Alan Harding  
**Cc:** Robert T. Houseman  
**Subject:** site visit notice  
**Importance:** High

Hello Alan Harding:

Sorry.....I found in my packet a copy of a seperate legal notice for site visit.However, I did not find or see any authorization form or box to check off with in the towns paper work to authorize entry onto private property. So, if I had not been given a packet as all other members,,,I would not have know that the zba and other interested parties would be entering my land. However, I still do not want entry, except the Chairman of the ZBA as representative of the board. Please notify all other zba members not to come.

Thank you, Suzanne Ryan

**From:** W. Alan Harding  
**Sent:** Saturday, May 22, 2010 10:46 AM  
**To:** 'Suzanne Ryan'  
**Cc:** 'Robert Houseman'  
**Subject:** RE: site visit notice

Good morning,

Suzanne, I think it best that you, as an appellant of a case (03-AAD-10) pending before the ZBA this coming Monday, May 24, direct all communications to me through Mr. Houseman.

Thanks, Alan

Suzanne Ryan responded that she saw in the packet (which she probably should not have gotten) there was to be a site . Had she not seen it in the packet she would not have known that a site visit was scheduled. Today at 3:00 PM she received legal notice. This was sent regular mail along with a copy of the Planner Review. She has offered to have the Chairman do a site visit and review his findings with the Board.

Alan Harding said it would be unfair to the Board relying on his two eyes as opposed to everyone else's and it could be construed as a favoritism or any number of ways.

Mike Hodder noted that he could not possibly vote having not seen the site. He could not rely on the Chairman's eyes no matter how good.

Rob Houseman addressed the Board. The hearing was scheduled in an attempt before the Chairman goes on vacation for fear there would be difficulty seating a full Board. The Chairman would be away, Kathy Barnard, Chairman of the Planning Board would not be able to sit and Suzanne Ryan being the applicant would also not be sitting. After speaking with the Chairman he asked that the meeting be scheduled in as timely a fashion as we could. Early last week the Chairman instructed him to schedule a site visit. Notice was sent not by certified mail primarily because staff feared it would take too long to get there. Ms Ryan, as a Board member was given all of the public information in her packet which is in her file as well. Before the Board is a legal opinion discussing the site visit to some degree. This came up previously with the Ginter property. Counsel has provided some guidance on this issue noting you cannot fairly judge the appeal without visiting the site.

Suzanne Ryan responded a site visit as posted is a public meeting. If she allows one person to come she would have to allow the entire town to come. If she allows herself to open it up to a public meeting she cannot say as a landowner someone cannot come on her property.

Mike Hodder asked if she was sitting in his seat and an applicant came before the board telling them what she is now what would you say to that person. As a ZBA member will you allow every applicant to deny a site visit?

Suzanne Ryan responded that she would have to weigh the reason the person said they do not want the site visit. It is private in her back yard and she would have to allow anyone on her property. You have to make a decision on a case by case basis.

Mike Hodder noted in the Felder case the entire board traipsed through their living room and bedroom. The Board cannot have special rules for Ms Ryan and other rules for all other applicants in town.

Suzanne Ryan noted there are no rules for site visits in their procedures.

David Senecal asked when the property was purchased.

Suzanne Ryan responded it was purchased in 2002

David Senecal noted before this carrier was on the tower, there were other carriers. In the application the tank is in between her and Mt. Major which is 19 miles away.

Suzanne Ryan responded the tank is about 4.5 - 4.75 miles as the crow flies.

Dave Senecal stated that it is his recollection the water tank (the size it is today) was built in 1950. It was there when the property was purchased and she could see it.

Suzanne Ryan noted it was painted another color.

David Senecal asked how recent the pictures were.

Suzanne Ryan stated they were taken in the fall of 2009.

David Senecal noted two things stand out to him. The Tank was built in 1950 and she purchased the property in 2002. There were at least two antennas on the tower previously and her property is almost 5 miles away.

Steve McGuire asked her to point to any case law where someone that far away has established standing. Standing on a visual thing could open Zoning Boards and Planning Boards to a wide range of issues from someone with view claiming standing.

Suzanne Ryan responded that you have to take each on its merits. This is based on NH RSA 676:5. This is a special situation. They enjoy their patio

which is off their kitchen and like to enjoy the view. She knows of no one with a similar view.

Steve McGuire noted a site visit in this case would be necessary as she is trying to establish standing to bring this action forward.

Mike Hodder noted the Case of Nautilus of Exeter vs. Town of Exeter and the Exeter Hospital in which Nautilus of Exeter sued Exeter Hospital who was setting up a health facility in the hospital claiming it was going to hurt their business. The court found that being 1.7 miles away from the hospital could not be considered a person aggrieved and their case was thrown out. In the photo shown, the tower appears to be a small, tiny, light colored thing on the horizon. Is the objection to the tower or the addition of 4' or 8' of additional stuff on it?

Suzanne Ryan stated her objection is to the mast increase of 8' and a fiberglass wall around the area.

Mike Hodder asked if she thinks she can see an 8 foot height distance on the horizon with the naked eye or would you need binoculars?

Suzanne Ryan stated it is possible and if the Board had the opportunity to review a height variance application this could have been determined. The applicant would have had the burden of bringing in some sort of engineered drawing or something of what it would do.

Mike Hodder asked she thinks she will see an 8' height distance on that smudge on the horizon? The tower looks to be 1/32 of an inch on the horizon.

Suzanne Ryan noted it is possible but she is not an engineer.

Mike Hodder responded she could use her commonsense as well as he can.

Suzanne Ryan responded her answer is it is possible.

Mike Hodder asked if it was really going to bug her.

Suzanne Ryan responded it is possible.

David Booth noted if he were a judge based on that photo, he knows how he would vote immediately and will not vote without a site visit. If this is allowed, anyone can consider themselves an aggrieved person if they can see something as much as 4.7 miles away. This stretches his imagination.

Mike Hodder noted a 1979 Article "View it Uses on the Wild and Scenic Upper Missouri River" by Dwight K. Araki. A paper submitted to the National Conference on Applied Techniques for Analysis and Management of the Visual Resources held at Incline Village, Nevada April 23 - 25, 1979. Page 618: "The total area which can actually be seen from this 149-mile stretch of the River is called the view shed of the River. This view shed thus includes all the land which must be carefully managed to protect the scenic quality of the River [under the National Wild and Scenic Rivers Act]." If the Board allows her to object simply because it can be seen she is creating a situation in where any person with any view has standing.

Suzanne Ryan noted she is trying to point out that it is a unique situation as it is not 1,000 miles away and you have to weigh standing on each individual situation. Her situation is slider, patio, water tank with no other structures in her view.

Mike Hodder commented that if she had a line of abutters behind her demanding to be heard noting they could see the structure and this was going to bug them, he would feel a little more strongly but there is no one but her.

Suzanne Ryan responded there is no one with her view.

Mike Hodder noted that she is asking the Board to weigh her interest as a single sole citizen, Wolfeboro taxpayer against however many people who live in town now that will benefit from this.

Suzanne Ryan noted she is not trying to stop it.

Mike Hodder noted that she is asking to Board to stop it too benefit her own particular view shed.

Suzanne Ryan stated it is about the administration of the application which she could explain in the next step.

Alan Harding noted he and his wife live at 323 Haines Hill Road. This is at an elevation of 278 meters (912') and Ms Ryan is at 284 meters (936') He is 5.6 miles from the tank and she is 4.9 miles away. To put this in prospective, if he holds his little fingernail up at arms length he has covered the visual appearance of the tank, 4-5 times from,. He could be an aggrieved person but is not. This is a much minor than minor dot on the horizon and to him it is not noticeable. If anything it completes with the All Saint's Episcopal Church spire just 7/10<sup>th</sup> down the road.

Steve McGuire commented he understands she is trying to establish standing so she can look at the procedural aspects of the case and whether or not the true letter of the law was followed in approving by the Planning Board or by the Zoning Board. He cannot get over the fact of standing unless there is a site visit.

Will Dodge Esq., representing New Cingular Wireless PCS, LLC d/b/a AT&T Mobility noted a brief was sent last week and referenced page 3 and 4 the test for standing. The first prong is you have to look to the proximity not visibility of the petitioning parties' property. The second prong is the type of change proposed and the third prong is the immediacy of claimed injury. The case law is clear where someone who lives in a town and does not like a particular project does not have standing. There is no proof otherwise. There is no automatic responsibility to conduct a site visit every time someone comes in and claims they have standing. The Board is weighing these three prongs with respect to the petition for appeal as well as other evidence (photograph). This is not just leaving aside the procedural harm. At the end of the day Ms Ryan noted part of her harm is procedural. There was Public Notice for this project through TRC and Site Plan with the Planning Board. Leaving aside the whole question of visibility etc, where is the procedural harm, as the public was notified and there were 3 hearings, 1 informal TRC, 1 formal TRC and 1 with the Planning Board. Leaving aside the procedural and substantive harm concerning height, further she is concerned with a change in the terms of the lease. She is a not a party to the lease between the Town and Green Mountain Realty and does not fall within the



ZBA's or Planning Board's purview. If she dislikes the lease her remedy is to go out on and before town meeting day encouraging the voters to deny the lease. Common sense dictates that someone who is that far away from the tank and given the change to the tank, which is not a grand extension into the air of a protected identified view shed district, but rather it is doing exactly what the ordinance is telling them to do which is to create a camouflaged facility that to the naked eye of a person walking near to the site or even across the lake, you cannot see the antennas. That Ms Ryan will know there are antennas behind the wall painted blue to match is irrelevant. The point is the applicant has done what the Zoning Ordinance encourages them to do and the reason there was so much public notice prior to the Planning Board looking at the application was precisely the nature of the tank itself would not be jeopardized.

Steve McGuire noted in *Nautilus of Exeter vs. Town of Exeter* this was basically economic, he asked what *Goldstein's* standing was.

Attorney Dodge responded he was not alleging visibility.

Steve McGuire asked what constitutes a scenic view shed area?

Attorney Dodge responded that a view shed area needs to be identified in the Zoning Ordinance. This is located in the GR 1 District and that in turn has a rule against non camouflaged facilities.

Steve McGuire asked if he knew of any other cases in regards to standing outside of the normal status to be a petitioner.

Attorney Dodge responded the cases cited are the most relevant they could find.

Mike Hodder noted in *Hookset Conservation Commission vs. Hookset ZBA Case*; 149 NH 63 2003, the Court found that " The prompt and orderly review of land use applications would essentially grind to a halt particularly when no party directly affected by the actions such as abutters see fit to challenge the application". It seems to him if everybody in a view shed had the right simply because they lived in a view shed to challenge a land use

boards decision the court is saying actions would grind to a halt because you would be continually hearing people.

Attorney Dodge noted that is why it would be so important that a view shed be particularly delineated because the applicants need to be put on notice as to what challenges they are going to face and in that case they could decide to place the site elsewhere.

Mike Hodder noted the town's definition of view shed in 175:160 is an area with significant or special views of the surrounding countryside. Ms Ryan's view shed is TM# 174 - Cotton Mountain having a view to the west which is an enormous territory. Clearly we need to be doing some thinking about the definition of view shed.

Victor Drouin, Green Mountain Communication addressed the Board and cited The Fifth Estate vs. Town of Wolfeboro Planning Board and The Fifth Estate vs. Town of Wolfeboro ZBA in 2006 - There were 2 Filings against the Town, consolidated into one case and both dismissed for lack of standing. He defended the cases as the Town did not. These were economic situations and Nautilus was cited.

Rob Houseman addressed the Board and noted the case was whether or not a competitor would have standing. This was the Bennett Hill vs. Poor Farm Hill tower in Superior Court and was dismissed for lack of standing on an economic basis.

Alan Harding closed the public comment.

David Booth noted after hearing additional information and viewing the picture on the issue of standing, he is prepared to vote.

The Board deliberated on the issue of standing.

Alan Harding made the following comments:

The applicant makes the statement on the May 5, 2010 attachment - Standing - She is a resident in a scenic view shed area as defined by the Zoning Ordinance with a special and significant vista over the countryside to

the water tank and beyond. She participated in the April 6, 2010 meeting. This does not prove standing. It is a statement with no backing. Attorney Spector states a "A person must be aggrieved, and have a direct definite interest in the decision being challenged which is different from every other resident in town". Suzanne Ryan's recusal letter on the 6th of April this year noted "Please let it be understood that I am not in opposition to the application proposal but rather the administration of it". Then in the 6 April 2010 Planning Board Minutes Ms Ryan stated that she looks down on the tower and objects to the color of the structure. She would rather see the antenna mounted on the back side of the tank noting she is opposed to the proposed configuration and color and such will be visibly impact. Then on Friday 21 of this year he received 2 emails from the applicant with copies going to Mr. Houseman opposed to the site visit. The emails were read and text is noted on pages 2-4 of these minutes. Ms Ryan was well aware there was a scheduled site visit. He called it off although felt it absolutely necessary because he did not want to impose on a persons privacy. When asked if he would go and take a picture he refused to do that because he did not think it was fair to the Board itself nor to the process. It would put him in an untenable position and he refused to do that. As Mr. Hodder said previously, he did not want to trust his eyes and he respects his opinion and that is why he did not go. The applicant states she is not in opposition to the proposal but then proceeds to enter various procedural challenges, albeit spurs in his opinion, could torpedo the proposal - inconsistent. She states she dislikes the present color of the tank and states the configuration will be visibly impacting but fails to indicate who will be impacted. She refused to allow the ZBA a site visit, allowing the board the opportunity of seeing first hand what she alleges is visible from her property. The distances of their residences which are virtually identical and he is seeing what she is seeing. In his opinion there is no visual disturbance.

Mike Hodder commented he does not find Suzanne Ryan has standing in this case for the following reasons:

1. Her property is not proximate to the site and she is not an abutter
2. There is no injury or grievance that she suffers
3. Change in configuration to the tank is in accordance with Federal Law and results in a very minor increase in the intrusion into her view shed.
4. The few bits of case law looked at do not allow her standing.

Steve McGuire is trying to establish she does have standing because everything deserves a re-look but in this case he cannot find we can justify that she has standing with all of the case law that has been established.

Dave Senecal commented the following:

1. She purchased her home in 2002 and the tank was built in 1950 and has been visible.
2. Cell companies towers are limited to a height to tree canopy so over a period of time more than likely from where she is will not even be seen. The tank is at an elevation of 560' and at some point the tree canopy will cover the antenna.
3. he does not find she has standing.

Dave Booth commented he agrees with everything said and further the issue of giving standing to virtually anyone within site view of the tank just seems absolutely inconsistent, improbable and not in keeping within prior habits of this board. Between David Senecal and himself there is probably 25 years of Zoning Board experience and he has never run into anyone who refused to let board on their property. The Board should consider putting something in the rules of procedure relative to site visits.

*It was moved by Alan Harding to deny the appeal on the grounds the appellant has not proven she is an aggrieved person. Dave Senecal seconded the motion. All members voted in favor. The motion passed.*

#### Consideration of Minutes:

Suzanne Ryan rejoined the Board. David Senecal stepped down.

3 May 2010

Page 7 - CIP Input - change "not" to "no"

Suzanne Ryan argued that Kathy Barnard should be seated and Mike Hodder should not be sitting. It is about procedure.

Alan Harding noted Mike Hodder was part of the work session.

It was moved by Alan Harding to approve the minutes of 6 April 2010 as amended. Alan Harding, Steve McGuire, Kathy Barnard and Suzanne Ryan and Mike Hodder voted in favor of the motion. David Booth abstained. The motion passed.

6 April 2010 - Joint ZBA and Planning Board Minutes

It was moved by Steve McGuire to accept the minutes of April 6, 2010 as approved by the Planning Board for the Zoning Board's record. Mike Hodder seconded the motion. Alan Harding, Mike Hodder, David Booth and Steve McGuire voted in favor. Suzanne Ryan abstained. The motion passed.

Other Business:

Rob Houseman addressed the Board. The Amended Rules of Procedure will be on the June 7, 2010 agenda.

Staff noted there is a variance application for the June 7<sup>th</sup> meeting.

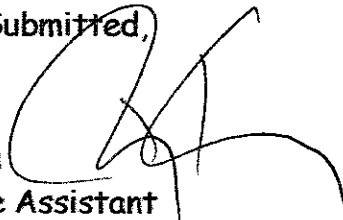
House Bill 1380 - Reimbursement

Rob Houseman noted the Board received a legal opinion from Laura Spector regarding the proposed Legislation. She believes the Board members already have that right to seek reimbursement from applicants. The legislation is pending and should be passed soon. The Board decided to wait before amending the Rules of Procedure.

There being no further business this meeting was adjourned at 8:07 PM.

Respectfully Submitted,

Robin Kingston  
Administrative Assistant



attachments

Zoning Bord of Appeals:

May 24, 2010

Standing:

(A) I am an "aggrieved person" under RSA 676:5,1:

- (1) I can see the water tower from three places on my property(direct line of sight) and the tanks large structure/color againsts the background donimates in the foreground of the view. The tank is out of the norm in the view across the two lakes to Mt Major(some approx 19 miles) the eye is drawn to the tank.
- a) my patio
  - b) my bedroom
  - c) my third floor

The Personal Wireless Bylaw's key concern is the balancing of personal wireless service with the negative effect personal wireless bylaw facilities have on the environment - visual pollution so to speak.

Properties like mine with a view of a personal wireless facilities like the water tower are supposed to be protected under the Town's bylaw because our views are affected by modifications to such facilities.

My interests are more than just the run of the mill town resident. My interests are direct due to the injury caused by my having to see the water tower and its proposed modifications directly from the house, it is not as if it were from the road.

(2) **I have provided all the evidence needed to establish my standing:**

- a) I am testifying under oath that is true;
- b) I have photographs
- c) I have invited the ZBA chairman to take a look from my property, but do not consent to the unreasonable request that the entire board traipse through my private property.
- d) The opposition regarding my standing has given mis- information to the ZBA that I did not attend the May 5, 2010 Planning Board meeting, which I did and support with said minutes on page 12 & 13 for which I gave testomoney twice.

ZBA  
File  
5/24/10  
John Hedby  
Suzanne R...

(1) **My Appeal is Timely and Should not Be Derailed By Procedural Technicalities.**

- a) I filed my objections within 30 days of the planning board's decision.

It was not clear to me who made the decision that the board did not have to act jointly with the ZBA, so I filed my objections with both boards and the town. I did not know what to call it so I called it a request for reconsideration.

- b) I was then instructed by the Town planner to refile my objections using the correct form and using the correct terms – an appeal – which I did, within the deadline provided by the planner. *(See Attached #1)*
- c) It now seems that my objections are threatened to be deep-sixed because I did not follow the correct "process" or form.

But my entire Motion was about process--and the fact that when this hearing was originally done, these details and this process was not followed, the "t's" were not crossed. Now they are supposed to be. And that's the entire problem here--we as a Town need to follow the rules. There is the PWSF regulation that calls for a joint land use board hearings for all modifications--and this is not only a modification, but a significant increase. By having these hearings, properly, we are doing more than following the regulations and ensuring that each applicant goes through the prescribed process (instead of having some go through a process while others don't), we are ensuring fairness and transparency.

But there's more. By following the regulations as they were written, we are more likely to ask ourselves other questions that an abbreviated process might avoid. We might ask ourselves about insurance, just as an example. If this 62 year old water tank has a catastrophic failure--spills water all over the school, hurts someone, etc.- (and however unlikely such an event might be, it is not impossible as the BP oil disaster in the gulf has proved)--does the Town insurance pay for that--and would the Town insurance carrier be properly notified about the changes to the water tank? That's just one question that might be properly answered when all the members of the JLUB required by the PWSF bylaw have the time and the actual opportunity to weigh in on these applications.

Section 175-168(C)(1) states that the application for a special exception and site plan review shall be filed concurrently "and the applications shall be reviewed and acted *upon using the Joint*

***Land Use Board hearing procedures.***” Whether or not one believes that the application required a special exception, this section requires a joint hearing on the site plan review application (thus the use of the plural term “applications” in the highlighted language). This was ignored and the process fatally flawed. A joint hearing is a fundamental procedural protection, as noted in Section 175:159.

**Bottom line: the PWSF bylaw requires a joint meeting of the ZBA and Planning Board to review modifications to a personal wireless facility like the water tower.**

**(C) The Planning Was Wrong in its Interpretation of the Zoning ordinance**

- 1) The new facilities with the fence increases the height of the water tower – which is a structure.**
  - a) The SCADA antenna is not a structure – but is attached to one.

Section 175-164(A)(4) provides:

Height of existing structures. New **antennas** located on any of the following **structures** existing on the effective date of this article shall be exempt from the height restrictions of this article, provided that there is no increase in height of the existing **structure** as a result of the installation of a personal wireless service facility: **water towers**, guyed towers, lattice towers, fire towers and monopoles.

The Planning Board erred by interpreting the “structure” as including the SCADA antennae mounted on the water tank, and, thus determining that the site plan did not contravene the height restrictions of Section 175-164(A)(4).

Structure and antennae are distinctly identified in section 175-164(A)(4). Antennae are not structures. Antennae are appurtenances to a structure, or an accessory to a structure. This is evident in Section 175-164(B)(2) where “structures” are those elements to which the antennae and other elements of the personal wireless facility are to be attached, not the antennae themselves. Indeed, in their application, the applicants conceded that the proposed modifications increased the height of the structure: “the Stealth Wall results in an increase of the existing structure[.]”

**175-175 –Definitions:**



*Attachment #1*  
**Suzanne Ryan**

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**From:** "Robert Houseman" <wolftwnplnr@metrocast.net>  
**To:** "Suzanne Ryan" <avery@worldpath.net>  
**Cc:** "Alan Harding" <aharding@metrocast.net>  
**Sent:** Wednesday, May 12, 2010 3:44 PM  
**Subject:** ATT Water Tower Appeal

Suzanne:

Can you give me a call regarding your Administrative Appeal of the Water Tower application.

I need you to complete the Administrative Appeal Application, Abutters list and Mailings and pay the fee.

I cannot schedule a hearing on this matter until this is completed.

Robert T. Houseman

Director of Planning and Development  
Town of Wolfeboro  
PO Box 629  
Wolfeboro, NH 03894

603-569-5970

wolftwnplnr@metrocast.net

*Filed 5/14/10 with Terry as requested*

5/24/2010

## **STRUCTURE**

That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include but are not limited to a building, swimming pool, billboard, pier, septic system, parking space/parking lot and deck. It shall not include a minor installation such as a fence under six feet high, a mailbox or a flagpole.

[HERE – THE PROPOSED FENCE IS 8 FEET HIGH – NOTE THAT FENCES ONLY SIX FEET HIGH ARE EXEMPTED AS “MINOR”] So an eight foot fence is a major installation.

**(2) The Board Failed to Address the Height and Structural Integrity Issues under Section 175-162.**

The Planning Board erred by approving the site plan when (a) the mass addition of the 8 foot wall on top of the water tank changes the character of the structure, and (b) the projected weight challenges the structural integrity of the 60 year old tank. The joint meeting failed to address these concerns as required by Section 175-162. No evidence was provided concerning the stability of the water tank and its ability to support the additional personal wireless facility additions. Further, the Board failed to address the visual impact of the changes on those persons in the view shed created by the additions, changing the character of the water tank. Due to these proposed changes, a special exception in addition to site plan review is required.

**(3) The Board Failed to Follow the Modification Provisions of Sections 175-170 and 175-173.**

**(4) The Planning Board Failed to Address the Code's Location and/or Collocation Requirements.**

Suzanne Ryan  
Stoneham Rd  
Wolfeboro N.H.

R/HA Submittal 5/15/10

Houseman  
Did not include in  
this report

- 175-159 (purpose & dist)
- 175-168 C-1 Joint meeting
- 175-173 near app Site prep by no experience
- 175-169 D co-location
- 175-170 modification
- 175-164 A-4 Merge & study structure
- 175-163 B-3 less waste alternative
- 175-163 A Personal alternative
- 175-165 B-6 Sewer function then 300' length
- #3 Adding to spreadsheet & purpose

The handwritten notes continue

- 175-159 pg 2
- 175-168 C-1 pg 2
- 175-173 pg 5
- 175-169 D pg 6
- 175-170 pg 5
- 175-164 A-4 pg 3
- 175-163 B-3 pg 6
- 175-162 A-4 pg 4
- 175-165 pg 4
- Does not include

- 175-168 A pre app
- 175-164 C Fall zone

Houseman did not include in his review

- 175-163
- 169
- 173
- 170
- which I did

