

**APPROVED**  
**Zoning Board of Adjustment**  
**Meeting Minutes**  
**February 23, 2016**

**Members:** Gretchen Wittenborg, Acting Chairman, Bob Handy, Jack Ernst, Carmen Yon seated for Davis, and David Maxson, Isotrope, LLC, consultant to the Board, was also seated at the table.

**Others Present:** Susan Silverman, selectmen's representative, Blue Sky Tower representatives, Earl Duval, Attorney, Jim George, Site Acquisition, and Ryan Monte De Ramos, radio frequency engineer; and abutter Mrs. Lynn Hay.

**CTO:** 7:00 PM.

Wittenborg noted that Steve Filipi recused himself from this hearing and Carmen Yon was seated for Davis.

**7:00 PM Public hearing continued. Blue Sky Towers, LLC** application for a variance to install a multi-user Wireless Communications Facility outside of the Town's Wireless Facility Communications Overlay District, consisting of a 140 foot monopole tower within a fenced compound located on the 20 acre parcel known as 36 Webber Lane, Map 11, Lot 30-1, Rural District.

Wittenborg called the meeting to order and read the public notice for the case number 06-15. She noted that Jack Ernst would take over so she could make a brief call at 8:15 PM, adding that the Blue Sky Towers hearing would be continued at 7:30 PM so the next case could be heard at 7:30. The Blue Sky Towers hearing would resume as soon as the other case was completed.

Wittenborg reminded the Board she had contacted consultant David Maxson about concerns regarding evidentiary findings. The Board received copies of the email correspondence regarding this discussion. She added that it would be hard to determine the threshold for defining 'a significant gap in coverage' because so few Fitzwilliam residents actually have reliable cellular service, making it hard to argue that there is not a significant gap in coverage.

Wittenborg asked Mr. Maxson to update the Board on the new data provided by the applicant regarding alternate sites. He noted that the applicant provided information quantifying coverage for all alternate sites under consideration, including sites inside and outside of the wireless overlay district (WOD). Bar graphs provided comparison data of coverages for all sites, both in-vehicle and in-building coverage. A single bar showed the combined coverage using two towers within the WOD. Maxson noted the difference in coverage between the two towers in the WOD compared to several sites under consideration outside the WOD. He asked if it was enough to justify locating outside the WOD. He asked if the impact of two towers within the WOD was better than or equivalent to the impact of other sites. He noted that use of property and visual impacts might be the purview of another permitting process.

Yon asked Mr. Maxson if he had ever worked for T-Mobile. Mr. Maxson said he was asked to speak to them in conference at one time, noting that they had not yet paid his fee to the charity he had chosen. Mr. Maxson said he has been a consultant to municipalities, private groups and competing towers.

Wittenborg asked the applicant to update the Board. Mr. Duval reviewed the assignments they had taken away from the last meeting. They have checked out both Webb Hill sites as suggested by the Board, for feasibility and constructability. He presented an affidavit stating that he had discussed the project with Aaron Olson and his attorney. Mr. Olson was not interested in leasing any of his property on Webb Hill for the construction of a wireless communications facility.

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Mr. Duval provided coverage data from the Roy property on Webb Hill for both 80' and 140' towers. It was noted that this location provided coverage around Laurel Lake but left a significant coverage gap along Route 12 south. Mr. Duval distributed a composite of the maps showing comparative coverages for sites now under consideration, including the Roy property on Webb Hill, the Pinnacle site, the Route 12 and 119 sites, and the applicant's proposed site at 36 Webber Lane. The Board reviewed the maps and graphs depicting coverages both in-vehicle and in-building.

Mr. Maxson noted that the greatest in-building coverage was the Pinnacle site, with a 100 foot tower providing coverage of 35.28 square miles (the town is 36 square miles). Further, the site provides coverage for 875 virtual residences. The applicant's proposed site at 36 Webber Lane provides coverage for 31.38 square miles and for 512 virtual residences with a 140 foot tower. The Roy property on Webb Hill produces coverages that are significantly lower, both in-building and in-vehicle. The two towers on Routes 12 and 119 together produce coverage of 33.62 square miles and 545 virtual residences with two 140 foot towers.

Mr. Maxson said that communications companies are trying to deliver both in-vehicle and in-building coverages now, making the Pinnacle a strong candidate for this project. This site does not deliver significant coverage for residences around Laurel Lake, however, it does provide in-vehicle coverage there and in most of the town, with some in-building coverage at the Lake.

Mr. George said they had hoped to narrow the field of options down to 1-2 sites, as well as trying to reach an understanding of the coverage gap and the best alternatives for filling that gap. He said the Roy property did not propagate well, and felt that the applicant's proposed site was better.

**It being 7:30 PM, Wittenborg continued the Blue Sky Tower hearing to after the scheduled hearing with Kelly Ventures.**

**7:30 PM Public hearing continued. Kelly Ventures, State Line Truck Service, Inc.** appeal for a Special Exception under Article VII, Section 127-31.1 to mount a mobile State Line Truck Service sign on their antique truck on property located at 1005 NH Route 12 S, Map 4, Lot 67, Rural District.

Ms. Record presented her application, under Article VII, Section 127-31.1, for a special exception to place a new State Line Truck Service sign on an antique truck on the State Line Truck Service property. The company has been in business for 40 years and a Mack Truck dealer that long, as well. She explained that following the transition to the new Mack Truck corporate signage in 2014, her customers have had trouble finding the business because there is no signage stating the name of the business as State Line Truck Service. For their 40<sup>th</sup> anniversary celebration, the company made a new State Line Truck Service sign (8 feet by 4 feet) and placed it on their antique truck, which has helped customers find the business.

Yon asked about a business in the rural district. Wittenborg noted that this property is grandfathered as a general business; it was located there prior to legislation that designated the district as rural. Susan Silverman noted that it will be a secondary sign, adding that there are two Mack Truck signs on the property now, one on the building and one stand alone at the front of the property, both of which were approved by the ZBA in 2014. At that time a third sign was also approved but never installed.

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Wittenborg asked Ms. Record if she thought the new sign was necessary and she immediately said yes, very necessary. They have been in business for 4 generations and now customers cannot find them. Handy asked if the new sign could be combined with the Mack Truck corporate sign in front. Ms. Record said no, the Mack Truck Corporation will not allow it. She added that the new sign on the truck will look good and will be about 8 feet from the Mack sign, either in front or at the landing. It will be placed on the antique truck, allow them to move the sign to the best site for the public. The antique truck is fully mobile and running, but not registered for on-road use.

Handy moved, Ernst seconded and the Board voted unanimously to approve the Special Exception, finding the conditions for a special exception were met.

**Blue Sky Tower hearing resumed at 7:40 PM.**

Mr. Maxson responded to Mr. George's previous comments. Maxson noted that the considerable disadvantage of the Roy site was the coverage gap on Route 12. He added that he sees advantages for both the proposed site and the Pinnacle site.

Attorney Duval said the applicant's proposed site is good, but the Pinnacle site is even better. They have determined that the site is leasable and constructible. They have discussed co-location opportunities and WiValley is interested in moving onto the new tower if it is constructed.

Yon asked why they propagated at 100 feet, and not 80 feet. Maxson said the WiValley tower is 80 feet and he suggested a Blue Sky Tower at 80 feet might interfere with their signal. Yon asked about the maximum number of buildings in town. Wittenborg said there are about 1200 residences, but the number of virtual residences is not accurate since some of the buildings are abandoned or vacant. Ryan, the RF engineer, said the plots show the number of parcels with at least one structure on it, which may or may not be a residence.

Wittenborg asked Maxson to clarify the "Delta" on the graph. Maxson said the long line is the amount of existing coverage in-vehicle and the Delta is the amount of additional coverage provided by the new tower. He added that the Pinnacle site is better than the Route 12 and 119 combined. He said the differences between other sites are not huge, but they are significant. There is a stark difference in the number of buildings covered, especially between the Pinnacle site (100 foot tower) with 875 virtual structures and the Routes 119 and 12 combination with between 370 (80 foot tower) and 545 (140 foot tower) structures covered.

Wittenborg noted that only the Olson site on Webb Hill provided more coverage and since that site is not available, Maxson said that leaves the Pinnacle as the best site.

The Board discussed procedure and concluded, with Attorney Duvall's agreement, that an amended application should be submitted. They decided that the current application will not be denied at this time, but will be dormant while the Board considers the amended application. The amended application will be noticed to abutters and surrounding towns, as was the original application, since it is a project with regional impact.

Maxson identified the location on the Pinnacle of the proposed tower. It was noted that WiValley may consider relocating its equipment to the new tower. Ernst asked if the company would lose the ability to co-locate other companies if the tower is 100 feet. Attorney Duval said they could have 100 feet, 90 feet and 80 feet available.

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However, he added that if the ZBA agreed it was better for co-location opportunities to have the tower at 120 feet, they would consider it.

Yon asked if the Board was ready to propose the Pinnacle site for a variance. Wittenborg said the company will submit an amended application for the Board to consider. All the data that is now in the record needs to be incorporated in the amended application.

At 8:15, Wittenborg left the Board for 5 minutes, with Ernst in the chair.

Yon said a balloon test was definitely needed. There was some discussion about whether that was true. Wittenborg returned to the chair. Some felt it was a different era now and people were used to cell towers and wanted cell service. Ernst said a balloon test will show how people feel. Attorney Duval said they will do a balloon test and take photos from different locations in town, but they will not do the extensive simulations they did for the balloon test at the Webber Lane site. The balloon test will fly two balloons on one tether at different heights.

Yon moved, Handy seconded and the Board voted to recommend that Blue Sky Towers conduct a balloon test at the Pinnacle site. The balloon test will be noticed at least 10 days ahead of the test itself. It will be noticed widely, including the Keene Sentinel and the Ledger Transcript, as requested by Bob Handy.

Mr. Maxson reminded the Board about the TCA "Shot Clock" deadline. Wittenborg said there are about 50 days left on this current application. Attorney Duval said the applicant will request extensions as needed. He suggested an extension of 30 days now with further extension if necessary. Wittenborg said that would give the Town 80 days from today before the current Shot Clock deadline. Attorney Duval asked if the Board could take a straw vote on the new site, since it seems the Board is leaning in that direction.

Mrs. Hay, abutter to the applicant's proposed site, asked if the original application is amended and if the Pinnacle site falls through for some reason, does the application revert to the original 36 Webber Lane site? Maxson said that in his experience it is OK to hold it in abeyance and if necessary it can be brought forward.

Wittenborg noted that the Pinnacle site will provide coverage to a large area, which is significant and impressive, enhancing coverage for the town. Attorney Duval said applicants T-Mobile and Blue Sky Towers are anxious to know the future outcome, if possible. Wittenborg said she has expressed her opinion and there is no precedent for a straw vote, adding that the elevation of this site makes it ideal for this purpose, saying cell phones are necessary and therefore it is a worthwhile pursuit. Wittenborg and Ernst agreed that it is the preferred site now.

Attorney Duval asked if the Board had exhausted the alternatives. Handy said yes, excellent job; Ernst and Yon agreed. The Board and Attorney Duval agreed to schedule the next public hearing on the amended application on Thursday, March 24<sup>th</sup> at 7:00 PM.

Filipi noted, from the audience, that he had contacted Chad Beede to see if he would be interested in serving on the ZBA.

The meeting was adjourned at 8:55 PM.