April 28, 2023

Dear Planning Board Members,

We thank you for the generous public comment period that you offered at the April 19 planning board meeting. Your willingness to bring townspeople into this very important discussion is greatly appreciated. We trust you are taking seriously the many concerns residents raised, as you continue your deliberations on the proposed cell tower facility on Moulton Ridge Road.

Through the open sharing of perspectives at the Planning Board meeting, a few questions were answered, yet many remain unaddressed. There are numerous facets to this ongoing discussion, given the many unknows that are associated with the further expansion of telecommunication networks into Kensington's residential & agricultural zones.

A major concern is how rushed this process has been for the abutters and townspeople – yet how very long town officials have been aware of this project. "For 10 years" the Vertex representative said he has been working with the Town of Kensington to site these cell towers. "You've known this was coming" he said, and commented that "I would take offense if the project is denied." Vertex is seeking to enforce an artificial "shot clock" that denies Kensington's abutters and other residents the requisite time for deliberation – when we are most affected by these plans. Several townspeople attended the two prior Board meetings, but for many others it was the first time they had heard of the town's plan to allow a second tower, amidst conservation land.

We perceive a sharp disconnect between members of the Planning & Zoning Boards vs. the concerned citizens of Kensington. The "official" perspective relies on FCC rules and regulations established in 1996 – representing three decades of outdated facts. By contrast, the citizens are relying on a wide array of more recent, peer-reviewed studies that suggest potentially serious health and environmental impacts of high-frequency radiation. Given conflicting research findings, it's not surprising that there are good faith disagreements as to how risky these exposures might be – either to the general population or to some individuals who are more susceptible to adverse effects. Nevertheless, complacency seems unwarranted, given that radio wave technology, and the way people use it, has changed dramatically over these decades.

The assertion by the Vertex representative is that the TCA of 1996 limits municipalities' ability to consider these factors if a tower adheres to the FCC exposure limits. However, a Federal appeals court for the DC Circuit has *already rejected* the FCC's rationale for those outdated standards. Indeed, the Commission's failure to provide a reasoned justification for maintaining standards that are three decades old was described by the Court as "arbitrary and capricious" given the ample evidence in research & public record of harm (apart than cancer) from non-ionizing radiation.

In other words, over the past 10 years the Vertex representative has been guided by – and sharing with Kensington town officers – outdated, industry-backed, research & data. This information misrepresents the potential harms from cellular radiation to residents of this town. The claim that "the technology has not changed" is disingenuous, and is typical of a sales representative who only provides best case scenarios for the risks associated with their product or service.

It's clear to many that Americans are exposed to increasing amounts of radiation due to: (1) the increased number and proximity of cell towers, which often results in overlapping radio waves; (2) the rising use of personal wireless devices of all kinds, which increases the frequency and duration of exposures; (3) the trend toward using these devices in closer proximity to the body, including wearables and soon implantables; and (4) the greater intensity of radio waves, as carriers make use of higher-frequency portions of the electromagnetic spectrum to facilitate high-speed data transfer. The latter is also associated with a new risk from the pulsation or modulation of data transmissions, which are thought to increase the adverse impact of radiation on humans and animals. We may not know the combined effects of these many changes on human and environmental health for many years to come.

The Vertex representative's assertions with regard to the accuracy of propagation maps can easily be challenged, given the wide variation in signal quality among physical phones, and across carriers. The position of antennas on towers can also have a material effect. The combination of these influences cannot easily be modeled, given the uncertain distribution of phone types and carriers among Kensington residents. That is one reason (among many) that certified drive and dropped-call tests should be conducted by an independent authority once the tower at 184 South Road is erected – before rushing to build a new one.

The Vertex representative acknowledged that the wireless carriers are no longer satisfied with providing *mobile* telecommunications services; rather, they want their signals to penetrate into homes and businesses to provide static communications, in competition with established (and safer) alternatives, such as cable, fiber optic, and traditional landlines. The implications of these plans are clear: if Kensington does not say no, there eventually will be a proliferation of small-cell antennas throughout our town. Natural structures – trees and bushes – which he called "clutter" might interfere with the effectiveness of those signals; will the "clutter" be removed?

We are surprised that, after all the information we shared about the potential risks of continuous, close-proximity, high-frequency radiation, especially for children (!) that the Board would even contemplate installing an antenna on top of the school. If the proposed tower does not achieve the anticipated reach to the town center, the utility of the proposed site is doubtful.

One resident at the April 19 meeting commented that information on our flyer is incorrect. We are not aware of any factual error and would greatly appreciate anyone sharing appropriate corrections.

This is not about being on one side or the other of wanting or not wanting a cell tower. Rather, we want to underscore the *necessity* of the town's relying upon the most up to date, credible and impartial research, to make the best and safest decision for all residents. The Boards' duty is to represent the citizens of Kensington, not the interests of tower operators. These responsibilities encompass both the prudent development of Kensington and the safety of its citizens. If town officials do not perform their due diligence based on a thorough risk/benefit analysis, they can be held personally liable. A good start is to review the attached checklist for municipal codes addressing small cell installations, which represents a minimum standard of prudence for all municipalities.

Telecommunications facilities entail a special duty of care on the part of the town's Boards, insofar as these exposures cannot be turned off; residents in proximity to the towers (or, in future, small-cell antennas) cannot "opt out" of the exposures. Responsibility for damage to health and the environment will therefore fall squarely on the shoulders of Board members, not the tower operator or wireless carriers. Notwithstanding the legal threats from the Vertex representative, many towns have successfully regulated the placement of cell towers and antennas, or litigated to have them removed.

Kensington cannot properly evaluate the safety of cell tower facilities, re-rads, booster cells, cantennas, grid networks, etc. (or emerging technologies that will most likely soon make these facilities obsolete) without access to timely and unbiased scientific research. The assertions of the cell operator, who stands to gain financially from this transaction, cannot be relied upon for an impartial assessment. Therefore, we urge the Board to engage the services of a credible, independent expert as a consultant to this project. We are willing to raise funds to cover the expense of hiring a consultant, if the town's budget cannot accommodate that cost.

In addition, we would like to sponsor a public learning session to educate town residents on the safe use of wireless technology, both inside and outside the home. Cece Doucette, founder of MA/NH for Safe Technology, has offered her information/educational seminar complementary to Kensington officials. We will fundraise to allow townspeople to attend as well.

At their April 17 meeting, the Selectmen discussed ways of honoring our senior townspeople – especially the centenarians among us. They have invested in this town the longest, paying a substantial portion of their income in taxes, with many selflessly contributing to preserve historic town buildings and hundreds of acres of conservation land. And yet, one of the abutters testified that her daughter is reluctant to move to Kensington to care for her mother, given the proximity of this cell tower. Let us not drive out these valuable, yet vulnerable members of our community, without due diligence to ensure their health safety and property values are protected.

Regardless of the Boards' decisions in this matter, we ask that the many questions we raised in our appeal be addressed, one by one. Additionally, it is incumbent on the Boards to establish monitoring and regulatory procedures to ensure that adequate safety standards are met.

Among other things, these steps would help to reassure concerned residents, especially those closest to the tower, that their health is not in jeopardy.

This is a pivotal moment in Kensington's history. All of us care a great deal for this wonderful town and want to see a more effective telecommunications network. Let us work together to make a prudent decision in the best interests of everyone.

Yours sincerely,

The concerned citizens of Kensington

Americans for Responsible Technology

www.AmericansForResponsibleTech.org

Checklist for Municipal Codes Addressing Small Cell Installations

1. The code requires applicants to document the specific personal wireless communication problem being addressed by the antenna installation and why the selected location is the least intrusive means of solving the problem. The code clearly defines "adequate coverage" as occurring when a wireless carrier's coverage is such that most customers can successfully use the carrier's service most the time in most locations within the municipality.

2. The code requires the submission, under penalty of perjury, of certified "drive test" results (for inadequate coverage) and dropped call reports (for lack of capacity) that document gaps in coverage that will be remedied by the proposed antenna(s), and evidence that the proposed location is the least intrusive means to ensure adequate coverage.

3. The code specifies tiered preference areas for installation of antennas (industrial, then commercial, and then residential). The applicant must provide written documentation of significant effort to place antennas in non-residential areas, away from schools and daycare centers (due to fire or pole failure), and proof that such alternate sites will not result in adequate coverage before a permit is issued.

4. The code requires applicants to document possession of liability insurance which **does not** exclude coverage for health claims due to radiofrequency (RF) radiation exposure (in insurance parlance, a "pollution exclusion"). Self insurance may be acceptable if the insurance is issued to the parent company (e.g., Verizon), not the contractor, agent or a company subdivision.

5. The code requires applicant to post conspicuous signs of pending applications at proposed sites (where permitted) and provide proof that all property owners within 500 feet of the proposed antenna installation have been notified of the application by certified mail.

6. The code requires applications and permits for all types of RF antennas, including free-standing, pole mounted, structure-mounted and strand-mounted antennas.

7. The code requires a certified engineer to attest, under penalty of perjury, that the operational antenna will meet current government radiation exposure limits for the general public, not occupational limits, which are substantially higher.

8. The code requires that FCC safety limits apply to the ***aggregate*** emissions of all co-located equipment, not just emissions of single antennas. In the event such aggregate emissions exceed FCC guidelines, all antennas must be turned off until the emissions are lowered to acceptable limits.

9. The code permits the municipality to hire an independent RF engineer to conduct random, unannounced RFR emission testing of any or all antenna installation(s) at the expense of the operator and provides for substantial penalties for violations of FCC safety limits.

10. The code requires applicants to certify that the company is subject to all local state and federal laws, including the Americans with Disabilities Act, and that the operation of the antennas will not jeopardize the health and well-being of any citizens.

This information is intended for educational purposes only. It is not intended to offer and should not be construed as legal advice. Please consult with qualified legal experts for applications and restrictions in your state.

Revised 10-22