

**KENSINGTON, NEW HAMPSHIRE
KENSINGTON ZONING BOARD OF ADJUSTMENT**

TUESDAY, MAY 2, 2023, 7:30 P.M.

At Kensington Town Hall 95 Amesbury Road, Kensington, NH

Meeting – Minutes-DRAFT

In Attendance: Michael Schwotzer, Chair, Bill Ford, Mark Craig, Janet Bunnell, Aaron Fenton, Alternate sitting for Joan Skewes

M. Schwotzer opened the meeting at 7:30 pm.

All board members introduced themselves. M. Schwotzer explained that one of the full board members was absent. **B. Ford moved the motion for Aaron Fenton to sit as a full member in place of Joan Skewes. M. Craig seconded all in favor.** M. Schwotzer explained that gave A. Fenton the right to sit as a full board member and the right to question and vote in the meeting tonight. They have a full board for this meeting as they are a five-member board.

M. Schwotzer explained that he will work off of the procedure document in the back of the room. He read the following into the notes.

91-A:2 Meetings Open to Public. – II. Subject to the provisions of RSA 91-A:3, all meetings, ... shall be open to the public. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings.

M. Schwotzer explained that this is not a public hearing, so the board was not going to accept public comment except if needed by the ZBA from an applicant.

The board received a request:

“Will those filing the appeal be able to make a brief statement at the opening of the hearing to summarize the reasons for our request framing the issues before the zoning board as succinctly as possible?” M. Schwotzer opened the question up to the board members.

B. Ford asked if there would be one specific spokesperson to speak on behalf of a group or would each one of them have something to say. M. Schwotzer explained that it was written for each person but the board can restrict that. J. Bunnell is in agreement with people speaking as well as M. Craig.

J. Bunnell made a motion to have public comment, seconded by M. Craig, all in favor.

The board is hoping to keep the comments down to 2-3 minutes for each commenter.

The public was having difficulty hearing the board members unless they were speaking through microphones.

M. Schwotzer will go through the agenda and ask each person if they would like to speak.

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40 **Ami Delgado spoke to her application.**

41 Ami Delgado gave testimony that she lived at 5 Hoosac Road for 18 years and that when she
42 walked up Moulton Ridge Road recently, she noticed that there were a lot of watersheds to the south
43 side of Moulton Ridge Road. She believes that if the multiple arrays go up it will change the
44 frequencies in all the areas, she believes that it will be artificial frequency. That can disturb human
45 health and disturb the habitat and the watershed. She believes that this will affect pollinators and
46 wildlife and it is not something that you can turn off, she believes that it will be compounded with each
47 array, and it is not like you can turn it off like the WI-FI. She is concerned about this and she hopes that
48 the board will take into consideration that they will not put it into a residential zone where
49 conservation land exists.

50

51 **William or Dale King-** were not present at the meeting.

52

53 **Sarah Batterson-**

54 She lives at 268 N Haverhill Road. She has an appeal, and she feels as though the process has
55 been rushed. She understands that the board has to go by law and the Telecommunications Act of
56 1996 and feels that the process has been pushed. She is concerned with the process and says that it
57 needs more deliberation. She would like to see Rosencrantz's tower up and running before putting
58 this tower in. This needs more time to research.
59 She thanked the board for hearing their appeals.

60

61 **Mike DeCaprio**

62 31 Osgood Road- he thinks that the process has been rushed, it was said somewhere that
63 Vertex has had 10 years to prepare for this and he feels that the process has been rushed. He asked
64 the board to allow more time for the abutters to get appraisals, he continued that people have not had
65 enough time to get the appraisals and that people are still working on it. A survey was done by the
66 National Institute of Science and Public Health found that 94% of home buyers we're less interested in
67 and would pay less for property located near a cell tower and he thinks that should be taken into
68 account.

69 He would like to see what the cell service is with 184 South Road first. There are towns around the
70 country that have voted to stop 5G from coming into their town and there is a lot of research out there
71 that he thinks the board should take a look at.

72

73 **Karen Parker Feld-Peter Freeman**

74 Karen Parker Feld stated that the town has been working on this for around 10 years and
75 people have only been working on this for a few months. Irene Greenburg only heard about this a little
76 while ago and submitted a letter to the board, she is not sure it was recorded in the record. She does
77 not believe that the abutters have had appropriate time to get their appraisals because they take 6-8
78 weeks. They would have had to receive the notice in early January. On that ground alone she believes
79 that they need to slow down the process. To allow time for people to get their appraisals. Those

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80 appraisals were supposed to be submitted a week before the March meeting and the abutters would
81 have had to started the appraisal process around January to have it in for that time. She doesn't like to
82 think of this as for this or against this, she would like people to think of it for the Town or against
83 industry. She believes that this is not just a routine procedural matter, it is something that should take
84 some time because it is important. She believes that everyone that has been involved in the process
85 and has taken the time to come out today does not need to be reminded of the telecommunications
86 act of 1996, she believes that they have all schooled themselves in that.
87 Kensington zoning ordinance which says that before the tower is approved in a residential agricultural
88 zone all reasonable alternatives should have been exhausted.
89 This means to her to see how cell coverage is improved with the addition of the cell tower at 184 South
90 Road. She continued that she is not here to have conversations with lawyers, they are there to have
91 conversations with the town. She expressed to the board to ask themselves about the limitation on
92 the conversation is that the town can't even talk about issues with its residents. She wants them to ask
93 themselves why there is that limitation and why they would consider that to be valid. She is concerned
94 with the board not being able to review the science or additional research provided stating that
95 limitation would make her want to review all of that information. She stated that if everyone in
96 Kensington had done their own evaluations and came to their own conclusions and said yes, we want
97 this in an agricultural zone we can't wait and we know we need it and if everyone in town agreed to
98 that then she would be fine with that because that would be democracy. She does not believe that
99 that is the way that this has happened, and she is not fine with that. She believes that the board needs
100 to allow time to see if the tower addresses the coverage issues with real coverage maps, not
101 projections. She wants to let everyone in town have the experience of seeing the tower in place and
102 then if it is still a problem and everyone agrees to this then that is what we should do.

103
104 **Mary Rezendes Brown**

105 She thanked the board for allowing her to have this time to address them. She owns 66
106 Moulton Ridge Road and she has received this property from her brother who put 2/3rds of the
107 property into conservation so this property means a lot to her. She received a letter in February to
108 come to a meeting and she came not knowing what she was going to be dealing with. At that time, she
109 learned about telecommunications and tower and proposal and believes that it is an impact for all of
110 us, but especially for her property. Her property will be 1250 feet from the base of the tower, not the
111 1640 feet which she stated is recommended. She learned that Mr. Parisi had been working for over 10
112 years on this and they learned that last week at the planning board. She thought about it and 10 years
113 he has been working on this and she doesn't know if he was working with the zoning board or with
114 what committees, but she has only had 2 months to learn and understand the proposal. I ask you is
115 that fair? She stated that we feel rushed and that she was the only one that could see the balloon.
116 She continued that Lynne Monroe reported from the Heritage Committee that she evaluated and she
117 could see the balloon and it was really visible. She has that to claim that she will have the vision of it.
118 She is not excited about it because the property owner that is going to have the tower will not have
119 any vision of it, but will be compensated to have the tower. She would like the board to think about 2

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120 months vs 10 years, 1250 feet and 1640, a view and no view, is that really in the best interest of all
121 residents?

122

123 **Peter Sawyer**

124 He had nothing to add.

125

126 **Ann Smith**

127 When she got the registered letter and she explained that at 83 she would now have to deal
128 with a cell tower. She is very unhappy with what is happening. She explained that there are 3 of them
129 that are going to get appraisals. She has something set up by someone in Concord to do all three of
130 them at the same time. She stated that it will take 6-8 weeks for them to complete the appraisal, and
131 she is unsure of what the outcome will be, but she does know that Mary Brown has the most physical
132 aspect of the cell tower. She was on her porch, and she took four pictures with her cell phone and it
133 was very visible. And someone the other night said that there are branches and the trees have foliage
134 and she continued that there is not foliage all year long. She offered a copy of the contract with the
135 appraiser to the board. They did not take it, there was no comment from the board.

136

137 **Peter Merrill** asked to have time to address the board. He stated that it was a procedural question.

138 M. Schwotzer allowed the comment on a procedural issue.

139 P. Merrill continued that there was at least one name that he is aware of that is an abutter that was
140 not notified, and they are not on the abutter's list. So procedurally you have not sought to notify all
141 the people that you should have notified. M. Schwotzer stated that he is not going to approach that
142 question because he has received the abutters list multiple times and that was covered by the letters
143 of notification. P. Merrill stated that if an abutter is not on the list, then it is tough luck. M. Schwotzer
144 commented to P. Merrill that he has no control over that and that he was sorry. He appreciated the
145 comment but if the abutter has a legitimate issue, then they have other avenues. P. Merrill responded
146 that you can't object to what you don't know. M. Schwotzer stated that was a very good point.

147

148 M. Schwotzer read a note into the record.

149 The applications being submitted by members of the public are not, technically, requests for rehearing
150 under RSA 677:2. Instead, they are appeals of an administrative decision under RSA 676:5. Here, there
151 was no administrative decision. As such, the "Application for Appeal from an Administrative Decision"
152 is not the correct form to use in this case. Instead, the applicants should have simply written to the
153 ZBA, pursuant to RSA 677:2, requesting a rehearing, and explaining the grounds for the request.

154

155 Our understanding, however, is that the individuals utilizing these appeal forms are, in fact, requesting
156 a rehearing pursuant to RSA 677:2. As such, the Town will accept these applications and process them
157 as requests for a rehearing.

158

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159 M. Schwotzer explained that there was a technical error, but the town accepts that the wrong form
160 was given out and that the people in good faith had filed for a rehearing. These forms are now being
161 accepted as being filed in the correct format and stated that the board would proceed.

162
163 M. Schwotzer continued to read the below from the agenda.
164 This meeting is to determine whether to approve or deny the application(s) for a rehearing of the
165 Zoning Board of Adjustment's approval of a variance to Article V Section 5.1.5.2 to allow for the
166 construction of a Telecommunications Facility in the Residential/Agricultural zone on the property
167 owned by Marybeth Dinicola at 70 Moulton Ridge Road Kensington, NH 03833 known as Map 10 Lot 1.
168 If one or more applications are approved, a rehearing OR a partial rehearing of the Variance
169 Application will be held at a future date.

170 A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is
171 claimed that the decision or order complained of is unlawful or unreasonable. Noting that Section 332
172 C (7) of the Telecommunications Act of 1966 preempts local decisions premised directly or indirectly
173 on the environmental effects of radio frequency (RF) emissions.

174 The Requests for Rehearing will be considered individually on 1) Standing and 2) Merits. A written
175 decision will be made for each Request.

176

177 **Amy and Manual Delgado of 5 Hoosac Road**

178 M. Schwotzer went through the criteria to see if the request met the criteria for standing and
179 merit. B. Ford stated that based on the criteria he does not feel that this request has standing.

180 M. Schwotzer stated that RSA 677:2 provides that "a person who is entitled to apply for rehearing
181 includes any party to the action or proceedings or any person directly affected thereby." He continued
182 to explain that directly affected has been interpreted by the New Hampshire Supreme Court to mean
183 showing some direct, definite interest in the outcome of the action and proceedings, so the
184 determination is going to be based to a certain extent on whether they have standing or not, the Court
185 considers four factors when making a determination as to whether the person has standing 1- the
186 proximity of the challenging parties property to the subject site 2- the type of change proposed 3 the
187 immediacy of the injury claims and 4 the challenging parties' participation in the administrative
188 hearing.

189 He broke it down further to state the immediacy of the property to the cell tower, the type of change
190 being proposed (cell tower), the immediacy of the injury claim, and the challenging parties'
191 participation. M. Craig asked if all the applicants will go through the same criteria. M. Schwotzer
192 explained that they will, and the board will go through this 8 times for the 8 requests.

193 Al Brandano- questioned the board and how the RSA is written and if they have semicolons or
194 commas. That would make a difference in how it is interpreted.

195 J. Bunnell had another question and asked if it is appropriate for the board to decide if they will require
196 all four criteria or do they just have to meet one. M. Schwotzer read a court decision that stated the
197 following. "They consider four factors when making a determination of whether this has standing or
198 not, proximity, type of change, the immediacy of the injury claim, and the participation in the

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199 administrative hearing.” He read the following, “They must specify in the motion for rehearing the
200 grounds thereof”, so therefore you, you have to have grounds listed on your application.

201 B. Ford stated that he is trying to listen to the law. If they agree or disagree, they need to follow the
202 law the way it is written. He is trying to listen to the facts and the law. The board is trying to define
203 the definition. A. Fenton asked if the form that they should have filed has the standing listed on it.
204 M. Schwotzer replied “no”. He stated just because you don’t like the decision does not give you
205 standing to file an appeal. Karen Parker Feld asked the board to list the four criteria and the merits. Al
206 Brandano asked if maybe they could make a copy. M. Schwotzer explained that the people are asking
207 how the board is determining the standing and want to see the criteria. P. Merrill stated that for them
208 to see it vs just the board reading it. J. Bunnell wants to understand what the board is finding and do
209 they need to require something, and she knows that there is a law.

210 A. Fenton explained that is the person directly affected and these factors help them to decide that
211 question. M. Schwotzer stated that if you are 1.5 miles away, he does not see how you would have an
212 immediate effect on putting the tower up. Distance to him is a strong criterion. Being an abutter is
213 usually the answer to whether they are close to the property. His answer to that would be yes because
214 they are within 200 feet. B. Ford feels the same way about that.

215 M. Schwotzer explained that in the application you have to show the injury and if you put down
216 nothing, then he could not rule that the requester would have an injury. He went through the minutes
217 of the meetings and listed if the applicants were at the meeting and if they had comments. You must
218 list the grounds and without that, it is a failure of that criteria. J. Bunnell, how would people know that
219 if it was not on the form? M. Schwotzer explained that they didn’t need a form they just needed to
220 write a letter, and if they didn’t put anything with the application, he has to go by the law.

221 A comment from the attendees stated that if you were never told the criteria, it is an unbalanced
222 unfair system. If people knew that they had to put those criteria down, he was pretty sure they would
223 have.

224 M. Schwotzer explained that he has to deal with the law and what they have in front of them.
225 Further comments were made and were unclear.

226 K. Parker Feld stated that she would have written her appeal differently if she had known the criteria.
227 There was a comment made by the crowd that was inappropriate.

228 M. Schwotzer stated that this application has failed on two of the four criteria on standing alone. B.
229 Ford asked how they can go to merit when they don’t qualify under standing.

230 The process of the board is to finish one application and then go to another.

231 **B. Ford made a motion that the Delgado application failed to have standing that there was no**
232 **proximity which was 1.5 miles and that there was no injury claim.** M. Craig stated that he believes
233 that they have some standing.

234 A. Fenton questioned the form that the board was looking at, and if it was part of the application. M.
235 Schwotzer stated that he had made this up for the board to have some idea of what the questions to
236 keep them from having to dig through the applications individually. A. Fenton clarified that the
237 application that was submitted was just the second part of the packet and did not include the cover

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238 page. With that clarification, **A. Fenton seconded the motion. The vote was 4 in favor and one**
239 **opposed.**

240 M. Schwotzer asked the following questions, did the applicant specify in the motion the grounds for
241 rehearing?

242 **B. Ford made the motion to deny the application of the Delgado's they did not have merit on**
243 **question one and question two, seconded by J. Bunnell. 4 in favor one opposed.**

244 **M. Schwotzer stated that the application was denied due to lack of standing and lack of merit.**
245

246 **William and Dale King- 9 Hoosac Road**

247 M. Schwotzer used the same format, and the proximity is 1.4 miles, and no immediacy of claim,
248 none was listed and in the 2/15/23 minutes he could not find that they made any comments, so he is
249 unsure if they participated. **B. Ford made the motion to deny standing for the application of the**
250 **King's based on the two criteria not being met based on the law. A. Fenton seconded, all in favor.**

251 M. Schwotzer moved on to the question of merit and both answers to the questions were no.

252 **B. Ford made a motion to deny the application of the Kings on the basis of the merit being no on**
253 **question one and no on question two. A. Fenton seconded. 4 in favor one opposed.**
254

255 **Sarah Batterson- 268 North Haverhill Road**

256 M. Schwotzer stated that she is an abutter, so she passed the first criteria for standing, and is listed
257 throughout the minutes for participation. M. Schwotzer brought the board's attention to the letter
258 supplied by the applicant. He stated that one item that was incorrect in that the board of adjustment
259 grants variances and not waivers. The second point was that the applicant mentioned that there was
260 no public comment allowed in the March meeting. He continued that the board worked through the
261 criteria in the February meeting they heard enough information from the people and due to the fourth
262 criterion, they stopped the meeting and continued until March 15th for the people in the area to be
263 able to submit information on the diminishment of property values only. On the 15th there was
264 nothing received regarding valuations. That was the point where they were in the deliberations, so
265 they moved on. B. Ford stated that he believed that they allowed additional time for anyone to come
266 with a bonified written appraisal of their property. That is why they put it off for a month.
267 She would like reconsideration due to the zoning stating that telecommunications towers are not
268 allowed in the residential/agricultural zone. That is correct but that is why the variance exists because
269 if you say you can't do something to a person's property, they have to have some avenue of relief.
270 Ms. Batterson also claimed in her letter that the waiver would set precedence. M. Schwotzer
271 explained that since they believe that variances are a unique decision on a specific property for a very
272 specific reason, therefore he does not believe that variances create precedence. She referenced
273 another section of the tower and "telecommunication facilities will not be considered essential
274 services" and then used the quote but actually, that section is the reasoning behind having to go to the
275 planning board. She continued in her letter that the zoning board had refused to hear any health
276 concerns despite the fact that the telecommunications act does not apply but the town council states
277 that it does apply. M. Schwotzer asked the board their thoughts. B. Ford read through to see if there

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278 was a comment to give her standing and he couldn't see one. J. Bunnell does not see that it was
279 supplied but sees that she is going for an appraisal. She does not see that the criteria were listed but
280 she believes there is standing due to the fact that there was not enough time for her to get an
281 appraisal. M. Schwotzer asked if she sees where she is talking about property values, he is looking for
282 help with finding the immediacy of a claim. J. Bunnell understands the law and what they are doing
283 here tonight, and it seems to her that there is only one that is going to pass because they wrote the
284 information in a letter attached to an application, depending upon whether or not they were at the
285 meeting, she believes that is what the struggle is here. M. Craig thinks that she has merit and standing.
286 M. Schwotzer stated that there is nothing in the application that states anything about property values
287 or an appraisal. He stated that you have to take each application with the criteria and work it out.
288 Even if you give them standing what are the grounds and where did they say that the board was
289 unlawful and unreasonable?

290 B. Ford explained that the board has to be very careful because he specifically remembers that the
291 board felt that they needed to extend to get the appraisals and they have to be careful and we need to
292 do it by the law.

293 Someone stated that if it had been on the form, it would have been in there.

294 Al Brandano rose for a point of order and continued that they applied for the wrong appeal process
295 and the board is knowingly moving forward, he would respectfully ask that the board review the
296 process give them the correct form and let them do it in another meeting. He is concerned that the
297 way that they are going is going to be a reason for an appeal. They told you they had the wrong form
298 and you agreed it was the wrong form. M. Schwotzer stated that they are allowing this to go forward
299 with the wrong form. A. Brandano continued that they didn't know how to apply and didn't know
300 what the criteria were. He believes that they are opening the town to a liability. He asked that the
301 board reconsider another meeting and let the people do their duty with the proper form.

302 M. Schwotzer stated that they are a legal board, and he will continue to read the public the law.
303 The person applying for a rehearing shall have the right to amend the motion for rehearing including
304 the grounds thereof within 30 days of when the written decision was actually filed. The written
305 decision was filed on March 16, 2023. The law states that you had within the appeal period the right to
306 adjust. He does not think that this board has the right to allow anything to be resubmitted at this time
307 due to the 30-day appeal period lapsing. A. Brandano stated that you knew that it was the wrong
308 form.

309 M. Schwotzer continued that they did not know at the time that it was the wrong form. A. Brandano
310 continued that they couldn't meet the statute of the law because they didn't know. Part of the law
311 means that you have to be made aware. They were using the wrong form and doing what they
312 believed to be correct, and they got that form from the board. He believes that the chair needs to give
313 the people the opportunity and if the time goes by but at least give everyone here a chance to do this.

314 M. Schwotzer asked the board if there was any comment to A. Brandano's statements.

315 J. Bunnell asked if the planning board can go forward if the zoning board extended the 30-day period
316 could they make that decision by law? She heard that the zoning board has the ability to extend that
317 30-day window. M. Schwotzer clarified that he does not believe so, not according to what this law

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318 reads. If the board wanted to continue the meeting because they had too much work to get through,
319 he believes that they could do that, but they still could not accept anything coming off of the floor.
320 A. Fenton added that he does not believe that the form matters much, at least on this application due
321 to the fact that it states that she is looking to appeal the decision for the following reasons. It looks like
322 she was asking for reconsideration, and he believes that they have enough information to make a
323 decision on this now. B. Ford agrees with that statement based on the law and does not see the board
324 having the ability to change the law in 30 days and for the board to continue to do what they are doing
325 whatever the outcome. M. Schwotzer stated that the applicant stated multiple issues, and value is not
326 one of them that he can find. The applicant did mention the discussion on property values not the
327 value of her property. She is an abutter and there are multiple issues but does one show an immediate
328 threat? Immediate threat means what is the tower going to do to me? M. Craig believes that she has
329 standing and then talking about merit she has things listed that he thinks they should take into
330 consideration. He thinks that there are health concerns, environmental concerns, and value concerns
331 that she has listed and there are property value concerns. M. Schwotzer stated that is not the way that
332 he is reading #6 on the submitted letter, which states that the public should have been allowed time
333 for comment and discussion and those comments should not have been limited to the effect on the
334 property. M. Schwotzer stated that was at the second meeting. M. Craig stated that he was not at the
335 second meeting, and he will abstain if needed for any of this if needed.
336 A. Fenton isn't the immediate threat seeing the tower? This was not the one with the tower. M. Craig
337 asked if they give the last one merit or standing what does that mean? M. Schwotzer stated that they
338 should finish with this one and then move on to the next one. Do you want to give them standing since
339 they were at the meeting? **J. Bunnell made a motion that they have standing. M. Craig seconded.**
340 **3 for standing 2 opposed.**
341 M. Schwotzer continued and asked if the applicant specified grounds for rehearing. He is looking for
342 immediate injury if you say that they have given grounds, but do they state it was unlawful and
343 unreasonable? J. Bunnell asked for clarification. M. Schwotzer stated that there are two questions for
344 merit, the first question is did they specify any grounds for a rehearing, for which they listed 10 things.
345 The second question in merit does the applicant list grounds why the variance was unlawful and
346 unreasonable. Was there a point made that states that what the board did was unlawful or
347 unreasonable, with the decision to put a tower in a residential zone? M. Craig said that they stated
348 that they needed more time to get their appraisal. M. Schwotzer clarified that that was not there they
349 wanted more time to talk during the time of the second meeting which was dedicated to the
350 discussion of value. B. Ford gave a little clarification under number two, did this board grant this
351 variance that was unlawful or unreasonable that they made one of two of those things incorrectly
352 when we did our finding? M. Schwotzer agreed with that statement. M. Craig stated that he would
353 need to abstain due to not being at the last meeting, J. Bunnell stated that she would also have to
354 abstain. A. Fenton asked where that line that states unlawful or unreasonable was from, was that from
355 case law? M. Schwotzer confirmed that it was. B. Ford commented that he was at that meeting, and
356 he does not believe that we as a board did any one of those things incorrectly. J. Bunnell wanted to go
357 back to the point that was made tonight about the abutters that were not notified. I know that we

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358 don't have control over that, but should that be considered? An opportunity for a rehearing because
359 there were abutters that were not notified. M. Schwotzer stated that they had no one to come
360 forward in the correct time frame to raise that issue, the question of what the correct time frame was
361 asked and he answered 30 days. B. Ford continued that there is state law that if someone did get
362 passed over there is a process that can be brought forward. But right now, we do not know so we have
363 to proceed as though everything was done. **M. Schwotzer made a motion in regard to merit, that**
364 **they did state grounds but that there was no proof of unlawful or unreasonable, so he is saying that**
365 **they do not have merit. B. Ford seconded. 3 in favor and 2 abstentions.**

366 J. Bunnell asked if Aaron was at the meetings and if he was not sitting on the board, does he have to
367 abstain from voting? M. Schwotzer said no. **M. Schwotzer stated that the request is denied.**

368

369 There is a question on the floor as to if the board would like to change the order of the applications.
370 He asked if someone wanted to make a suggestion. J. Bunnell wanted to go with M. Craig's statement
371 to go ahead with the direct abutters. M. Craig stated that he would like to start with the person most
372 affected. M. Schwotzer stated that the board has the right to change the order.

373 The board skipped to the last name on the list, Ann Smith.

374

375 **Ann Smith**

376 Ann Smith of 63 Moulton Ridge Road. She is an abutter in regard to the site she is in the vicinity
377 of the cell tower, the immediacy of the injury claimed, future sales value, and health which is not
378 allowable. M. Schwotzer read a small paragraph from the application.

379 "It is my belief that a buyer interested in buying my homestead would be concerned about a cell tower
380 in the neighborhood." She attended the meetings, and she did talk about property values and
381 mentioned this evening that she is getting an appraisal and it will take some time to get.

382 Does she have standing? She is an abutter; the cell tower is the issue, and she did talk in her letter
383 about the sales value, and did she participate and the answer is yes. **J. Bunnell made a motion that**
384 **she does have standing, seconded by M. Craig, all in favor.**

385 Merit is the next question. Did they specify the grounds for the rehearing? M. Schwotzer said yes, and
386 J. Bunnell agreed. Was the variance unlawful or unreasonable? In regards, it is the process that they
387 did to allow time to get to the second meeting for the specific question of property values. So, was the
388 variance unreasonably given knowing that the criteria of property values are one of the four? J.

389 Bunnell said yes based on the time period. M. Craig agreed. **J. Bunnell made a motion that the**
390 **application has merit. M. Craig seconded, any further conversation? All in favor.** Therefore, the

391 applicant has standing and merit and the board hear by orders either a full or a partial. M. Schwotzer
392 believes that a partial makes sense because they were dealing with that one issue in regard to values.

393 J. Bunnell asked for clarification on the full or partial rehearing.

394 M. Schwotzer replied that if the board were to say that they wanted to have a full rehearing then
395 everyone would be notified again and then the board would be dealing with all the criteria for the
396 variance. In the first meeting that the board had they got through the first three criteria and the fourth
397 was the value and they continued until the next month and did they give them enough time to come

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398 forward with that. His feeling is that they should only open the rehearing for the value question of the
399 five criteria. He asked if that made sense to the board. **B. Ford made a motion to grant a partial**
400 **rehearing specifically for the purpose of the value criteria of the variance. M. Craig seconded.** J.
401 Bunnell asked a clarifying question if everyone could supply information, or would there be specific
402 applications able to supply further information? M. Schwotzer believed that it would only be the
403 applicants that have both standing and merit. A. Fenton stated that there is still going to be a public
404 comment so people with an appraisal could bring it to the board then. M. Schwotzer agreed that it will
405 be a public hearing specifically on that subject and they will be able to have comments. **All in favor.**
406 M. Schwotzer asked Mrs. Smith how long she would need, and she replied that she was told 6-8 weeks
407 from tomorrow or today she was unsure when he started. B. Ford wanted to make a suggestion with
408 respect to the applicant and have the meeting 10 weeks out. A. Smith stated that would make sense
409 to her and thank you. M. Schwotzer explained that he will have to find out from the town counsel
410 what kind of time frame we can deal with. We now have the 6–8-week issue but we also have to once
411 again stay within the law so he will have to deal with town counsel on this. B. Ford continued based on
412 town council’s decision if 10 weeks is okay he asked the applicant if that will be okay with her. She
413 agreed but M. Schwotzer stated he is not making any promises on this time frame.

414

415 **Trish and Mike DeCaprio- 31 Osgood Road**

416 The question of standing they are 2.4 miles away and the injury of claims is specifically to
417 health. Where it says approving the variance disregards the existing ordinance, and mentioned the
418 precedence that is unique and health aspects. The board cannot deal with health. He does not think
419 that they make standing. M. Craig asked if they were an abutter. They are not abutters.
420 M. Craig stated that they are too far away to have standing. **M. Schwotzer made a motion that they**
421 **do not have standing, B. Ford seconded, all in favor.**

422 Did they specify grounds and they stated health and did not prove that the board was unlawful or
423 unreasonable? **B. Ford made a motion that due to the information stated in the comments and the**
424 **law they do not have merit. J. Bunnell seconded, all in favor. The application is denied.**

425

426 **Karen Parker Feld and Peter Freeman-178 Drinkwater Road**

427 They were present at a meeting, reading their letter which contained health aspects. They
428 referenced sensitive environmental areas as it affects health and safety. They are 2.6 miles from the
429 site and he did not see any other reference other than health and he stated that this person does not
430 have standing. **B. Ford made a motion that based on the 2.6 miles and the other criteria submitted**
431 **they do not have standing, A. Fenton seconded. All in favor.**

432 M. Schwotzer moved onto the question of merit. Did they give grounds that the board was unlawful or
433 unreasonable? J. Bunnell brought the board’s attention to page one of the submitting information in
434 the last paragraph. M. Schwotzer stated that is a request not grounds for saying that the board did
435 something illegal and unlawful. B. Ford does not believe that the board did anything that was unlawful
436 or unreasonable based on this particular application. M. Schwotzer stated that they did give grounds
437 in the application. J. Bunnell has to abstain due to not being at the meeting and there is a specific

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438 sentence that she is talking about that relates to that meeting so she will abstain. M. Craig is
439 abstaining as well. **B. Ford made a motion that they did not provide the information necessary to**
440 **grant merit. A. Fenton seconded. 3 in favor 2 abstained.** Application denied.

441

442 **Mary Rezendes Brown- 66 Moulton Ridge Road**

443 She is an abutter, and this is another blank application, and he understands the issues with the
444 forms, but she did not give any criteria for injury claims in the application. She was at the meetings,
445 and he got testimony out of the meeting minutes, do they grant standing due to her proximity to the
446 tower? A. Fenton asked if this is the one that can see the tower. Yes, she saw the balloon through her
447 trees. A. Fenton continued that there is nothing in the application to review but given that she spoke
448 earlier he believes that should be considered and that gives her standing. M. Schwotzer stated that
449 you can't add to an application. A. Fenton asked what the purpose was of the comments at the start of
450 the meeting if not to clarify the application. M. Schwotzer felt that at least the applicants could give
451 the board some impression of what they were trying to do. He understands what he is saying.
452 If you give them standing that is fine, but I can't see how they have grounds in regard to merit. There
453 is nothing stated in the application for immediate injury. A. Fenton agrees with him that simply seeing
454 the top of the tower is not immediate injury, but through oral testimony, she has standing. **J. Bunnell**
455 **made a motion that the application has standing, seconded by A. Fenton, all in favor.**

456 Merit- M. Schwotzer stated that he does not believe that she has merit based on the application and in
457 the oral testimony there was nothing stating that they did anything unlawful or unreasonable.
458 **B. Ford made a motion based on his opinion that they did not do anything unlawful or unreasonable**
459 **based on this particular applicant's initial request, seconded by A. Fenton. All in favor. Application**
460 **denied.**

461

462 **Peter Sawyer- 50 Moulton Ridge Road**

463 This is the same condition that there was no information supplied. J. Bunnell stated that the
464 application has standing and merit because Peter explained that it needs to be documented and he
465 talked about the abutters. M. Schwotzer explained that was Peter Merrill, not Peter Sawyer.
466 **J. Bunnell made a motion that the application has standing, and M. Craig seconded. 2 in favor and 3**
467 **against.**

468 Based on merit does the application has merit he believes that the application does not.
469 **B. Ford made a motion that the application does not have merit, seconded by J. Bunnell, all in favor.**
470 **Application denied.**

471

472 M. Schwotzer informed those in attendance that they had one applicant approved for rehearing and
473 unfortunately, he could not set a date at this time, but he will be in contact with town counsel.
474 You will be notified to the best of our ability for the rehearing as to the date and the time. This is a
475 very specific rehearing, and it will be listed that way. This will be a partial rehearing for the specific
476 conversation regarding valuations.

477 M. Schwotzer closed that section of the meeting.

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478

479 The board reviewed the meeting minutes. They will postpone the approvals until a later date.

480 The next meeting is to be determined.

481

482 **Motion to adjourn made by B. Ford at 9:10 pm and seconded by J. Bunnell, all in favor.**

483

484 Respectfully submitted,

485

486 Kathleen T Felch

487

488

489

490

491