

**TOWN OF RYE – BOARD OF SELECTMEN  
MEETING**

**Monday, February 12, 2018**

**5:45 p.m. – Rye Town Hall**

***Members Present:* Chairman Craig Musselman, Vice-Chair Priscilla Jenness and Selectman Phil Winslow**

***Others Present:* Town Administrator Michael Magnant**

**5:45 p.m.**

**I. CALL TO ORDER**

Chairman Musselman called the meeting to order at 5:45 p.m.

**II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (a) Personnel  
(2) per RSA 91-A:3, II (c) Reputation**

**At 5:45 p.m., Priscilla Jenness made a motion to go into Non-Public Session per RSA 91-A: 3, II (a) Personnel and (c) Reputation. Seconded by Phil Winslow. Roll Call: Musselman – Yes, Jenness – Yes, Winslow – Yes.**

**At 6:30 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Priscilla Jenness. Roll Call: Musselman – Yes, Jenness – Yes, Winslow – Yes.**

**6:30 p.m. RECONVENE PUBLIC MEETING**

**III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairman Musselman reconvened the public meeting at 6:32 p.m. and led the Pledge of Allegiance.

**IV. PUBLIC COMMENT – (at the beginning of the meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 5 minutes each person.)**

**Peter Crawford, 171 Brackett Road**, expressed his disappointment that the details of the purchase and sale agreement for the TD Bank building were not available prior to the Budget Committee meeting on January 11<sup>th</sup>.

**Motion by Priscilla Jenness to seal the minutes of the Non-Public Session just completed. Seconded by Phil Winslow. All in favor.**

**V. CONSENT AGENDA ITEMS** – (to be discussed at the meeting only if pulled off the consent agenda by one of the three Selectmen.)

- A.** Joint Loss Committee – request to accept and expend funds received in the amount of \$500 from Healthtrust, LLC.
- B.** Letter rec'd 2/2/18 from Robert Gemmett re: The Verizon Cell Tower Proposal on Brackett Road.
- C.** Event Application: Kate Creighton is requesting to hold a bake sale at the Recycling Center on Saturday, 4/14/18 from 8:00 a.m. – 2:45 p.m. to benefit the Rye Jr. High 8<sup>th</sup> Grade Montreal trip.
- D.** Letter rec'd 2/9/18 from Peter Crawford requesting permission to hold signs & distribute flyers at the Transfer Station Saturday, February 24<sup>th</sup>, March 3<sup>rd</sup> & 10<sup>th</sup>.

- Chairman Musselman requested to take Item D off the Consent Agenda for discussion.

**Motion by Phil Winslow to approve Consent Agenda Items A, B and C as presented. Seconded by Priscilla Jenness. All in favor.**

- Letter rec'd 2/9/18 from Peter Crawford requesting permission to hold signs & distribute flyers at the Transfer Station Saturday, February 24<sup>th</sup>, March 3<sup>rd</sup> & 10<sup>th</sup>.

Chairman Musselman stated there is some precedence to allowing all who are running for office to hold signs and to distribute flyers at the Transfer Station on February 24<sup>th</sup>, March 3<sup>rd</sup> and 10<sup>th</sup>.

**Motion by Phil Winslow to allow all who are running for office or supporting a warrant article to hold signs and distribute flyers at the Transfer Station on February 24<sup>th</sup>, March 3<sup>rd</sup> and 10<sup>th</sup>. Seconded by Priscilla Jenness. All in favor.**

## VI. DISCUSSION ITEMS

### A. Meeting Minutes

#### 1. Meeting, Tuesday, January 16, 2018, 6:30 p.m., Town Hall

The following corrections were noted:

- Page 5, under Article 25, 1<sup>st</sup> sentence should read: **To see if the town will vote to amend Section 1 of Ordinance #7, the Dog Ordinance as follows.**
- Page 5, under II, last sentence should read: **~~premises of the owner or keeper and not under the control of any persons by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner of custodian.~~**
- Page 5, last paragraph should read: **In addition to impounding a dog found at large or in violation of this section, any local law enforcement officer may issue, in name of the owner and keeper of such dog, a notice of violation for a nuisance dog pursuant to RSA 466:31, II(a).**
- Page 6, under Article 30, 1<sup>st</sup> sentence should read: **To see whether the Town will vote to require that the Board of Selectmen engage an outside organization to conduct visioning sessions and make recommendations for the Rye Town Center, as recommended by the Parsonage Apartments Long-Range Planning Committee in 2016 and by the Master Plan.**
- Page 8, under Article 32, 1<sup>st</sup> sentence should read: **To see if the Town will vote, pursuant to RSA 41:14-c, to restore to the voters the exclusive authority to acquire or sell land, buildings or both, by rescinding Article 12 of the 2002 Town Meeting, which has given the Board of Selectmen that authority without any obligation to obtain voter approval.**
- Page 8, under Article 33, 1<sup>st</sup> sentence should read: **To see if the Town will vote to emphasize that any attorney paid from funds appropriated by Rye voters represents the Town and not the Board of Selectmen or any other Town Board, Committee, Commission or any individual if the interests of any of these diverge from those of the Town (Sanders Poynt litigation, for example).**
- Page 8, under Article 33, 3<sup>rd</sup> sentence should read: **No town attorney shall agree to disburse any Town funds without any appropriation by voters.**
- Page 8, under Article 33, 3<sup>rd</sup> sentence from bottom should read: **(South Rd. subdivision settlement which presupposes Planning Board and Conservation Commission approval after statutorily required public hearings, for example)**
- Page 8, under Article 33, last sentence should read: **At such hearing, they shall describe the terms of the settlement, the reasons why it is in the best interests of the Town, and the steps taken, or proposed to be taken, to lessen the future burden on taxpayers of settlements. Members of the public shall, at the public hearing, be permitted to ask questions and voice their views regarding the settlement.**
- Page 9, 3<sup>rd</sup> paragraph, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> to last sentence should read: **The decision was made by that group as a result of three lawsuits being placed against the town.**

- Page 9, under small “b”, 1<sup>st</sup> sentence should read: **Notwithstanding whether or not any person is reviewing the draft minutes prior to them being made available, make publicly available all minutes on the Town website on or before the Due Date,**

**Motion by Phil Winslow to approve the minutes of January 16, 2018 as amended.  
Seconded by Priscilla Jenness. All in favor.**

2. Meeting, Monday, January 22, 2018, 6:00 p.m., Town Hall

The following corrections were noted:

- Page 8, 5<sup>th</sup> paragraph, last sentence should read: **It must be frustrating to the police force given the amount of time that each complaint takes.**

**Motion by Phil Winslow to approve the minutes of January 22, 2018 as amended.  
Seconded by Priscilla Jenness. All in favor.**

3. Non-Public Session, Monday, January 22, 2018

(1) per RSA 91-A:3, II (d) Acquisition

(2) per RSA 91-A:3, II (c) Reputation

**Motion by Priscilla Jenness to approve the minutes of the Non-Public Session, per RSA 91-A:3, II (d) Acquisition, of January 22, 2018 as presented. Seconded by Phil Winslow. All in favor.**

**Motion by Priscilla Jenness to approve the minutes of the Non-Public Session, per RSA 91-A:3, II (c) Reputation, of January 22, 2018 as presented. Seconded by Phil Winslow. All in favor.**

4. Meeting, Saturday, February 3, 2018, 5:12 p.m., Rye Junior High School

**Motion by Phil Winslow to approve the minutes of February 3, 2018 as presented.  
Seconded by Priscilla Jenness. All in favor.**

## **B. TD Bank Inspection Report**

**Building Inspector, Peter Rowell, and Deputy Building Inspector, Chuck Marsden,** gave a report to the Selectmen regarding the TD Bank inspection that was conducted on January 25<sup>th</sup>.

### **Exterior:**

- New pavement on parking lot – (hole in concrete pad where the ATM was previously located)
- Ponding was observed on the east side of the lot – (due to melting of snow) - Drainage swale running along the back side of parking lot to the ponding area.

- The existing septic system was approved by the State and was installed 20 years ago. There is a 1250 gallon septic tank located behind the building, which goes into a 350 gallon pump chamber that pumps up to the back field (approximately 400ft behind the building to a higher spot). The field is a small mounded field. No sign of flooding in the field. Septic system appears to be in working order.

**Interior:**

- Front Entry – crack in the sheetrock along the door jamb continuing up to the ceiling. Does not appear to be an issue.
- Miscellaneous wiring above the ceiling (not dangerous just needs to be cleaned up).
- Conference Room (left) – some electrical outlets may need to be replaced (lose & outdated). Windows difficult to open because they are painted shut.
- Conference Room (right) – some electrical outlets may need to be replaced. Air filter in room (no signs of mold, mildew or moisture.)
- Utility Closet – grounding missing from the water service. Hot water tank is dated 2011. Unsupported wiring above the ceiling.
- No issues were found with the back offices, kitchen area or bathrooms.
- No signs of rot inside or outside. All emergency lighting works. Building is in good condition with just a few minor repairs.

**Town Administrator Michael Magnant** noted that there is a provision in the purchase and sale agreement that allows the Selectmen to back out of the agreement if they are not satisfied with the inspection report.

Vice-Chair Jenness asked if the items noted in the report for repairs would be covered with the warrant article budget.

Town Administrator Magnant commented that he believes it would be covered. There was money included in the article for a possible replacement of the leachfield. It appears that it may not need to be replaced. He also noted that the bank has removed the security system that was in the building. The Town will need to put in a system, which was included in the figures set in the warrant article.

Mr. Rowell stated that the building had been updated heavily about 20 years ago. The building is very much in serviceable condition.

Selectman Winslow commented the property is a bargain for the Town. It would be a shame if this gets voted down.

**C. Dennis McCarthy, Public Works Director – Salt Storage Facility Engineer's Award Recommendation**

- Chairman Musselman noted that the project does not get authorized until the voting on March 12<sup>th</sup>. There is time to still work on the details.

**Motion by Craig Musselman to table to a future Selectmen's meeting. Seconded by Phil Winslow. All in favor.**

- D.** Dennis McCarthy, Public Works Director – Northeast Resource Recovery Association (NRRA) Invoice/Revenue Receipt

**Dennis McCarthy, Public Works Director**, spoke to the Selectmen in regards to the invoicing and revenue receipts from NRRA, which is currently net invoicing. He is recommending that they change the current method to separate the invoices and revenues to help with future budgeting.

**Motion by Priscilla Jenness to request that Northeast Resource Recovery Association bill the Town non-net invoicing. Seconded by Phil Winslow. All in favor.**

- E.** Historic Structure Report RFP

The Selectmen reviewed the draft RFP for the Historic Structure Report submitted by Town Administrator Magnant. After some brief comments, the Selectmen agreed to move forward with the RFP.

- F.** COLA for Non-Union Employees

**Motion by Phil Winslow to provide a two percent (2.00%) COLA for non-union employees pending adoption of the full budget on March 12<sup>th</sup>. Seconded by Priscilla Jenness. All in favor.**

## **VII. CORRESPONDENCE**

- Email rec'd 2/12/18 from Rob Werner, League of Conservation Voters Director, asking if any town official would like to speak at their presentation on the proposed federal offshore well drilling. Presentation is being held on Wednesday, February 21<sup>st</sup>, 6:00 p.m., at the Rye Public Library.

The Selectmen agreed that they are not in support of offshore well drilling off the coast of Rye and requested that a letter be drafted to Mr. Werner.

## **VIII. NEW BUSINESS**

- None

**IX. OLD BUSINESS**

- **None**

**X. OTHER BUSINESS**

Police Chief Kevin Walsh spoke to the Selectmen regarding the issues with parking at St. Theresa's Church.

**ADJOURNMENT**

**Motion by Phil Winslow to adjourn at 7:15 p.m. Seconded by Priscilla Jenness. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger

2-12-18 Consent  
Item B

Rec'd  
2/12/18

Michael Magnant  
Town Administrator  
Rye, N. H. 03870

Dear Mr. Magnant,

Enclosed please find two documents we felt you should receive regarding the current Verizon Cell Tower proposal since it is a complicated matter and involves some serious legal issues. Both documents have been presented to the Planning Board and the Zoning Board of Adjustment for their consideration.

As you will see, these documents provide our objections to the proposed construction of a cell tower in the single residential district of Brackett Road and set forth alternative options that can and should be pursued.

We are hopeful that you are supportive of our position.



Robert J. Gemmett

150 Brackett Road  
Rye, N.H. 03870



I am Wesley Pike Jr of 190 Brackett road, Rye, NH 03870. I have been a property owner and resident of Brackett road since 1988. I wish that I could personally attend the planning board meeting but open heart surgery in Florida 7 weeks ago does not allow me the opportunity.

I would like to go on record that I strongly oppose the installation of a cell tower on Brackett road.

Below is a list of concerns and objections.

1 Brackett rd being one of the oldest roads in Rye is a residential road. Since 1988 I have never been aware of any proposed or approved application for commercial development by the town of Rye.

2 Brackett road is one of the more rural/agrarian areas of Rye. Much of the road abuts conservation land . Just across the street from my house is a small cemetery commemorating residents prior to the American Revolution.

3 What gives any owner of property in a residential area the legal right to lease or sell their property for commercial purposes?

4 What legal right does the town have to approve a commercial developed property in a residential area and road dating back to prior American Revolution days?

5 If a precedent is set on Brackett Road to allow the building of a cell tower in a residential area then can the assumption be made that this would be permissible in the village area or beach precinct area of Rye?

6 Cell towers are unsightly. Property values would be reduced in the immediate area with the installation of a cell tower. This hardly seems fair to negatively effect hard working people who have built equity and value in their home for the purpose of accomadating cellular communications by corporate giants.

7 As I have clearly stated with great redundancy...the last thing Rye,NH needs is a cell Tower on Brackett road. Please consider very carefully the negative repercussions that would ensue with a favorable acceptance of this application. The negative repercussions are many and possibly open up a Pandora's box of litigation.

Wishing the entire board a Happy New Year!

Wesley C Pike Jr  
190 Brackett Road po box 518  
Rye, NH 03870  
Tel 6032348962

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**OBJECTONS TO THE PLACEMENT OF THE VERIZON CELL TOWER IN THE BRACKETT ROAD RESIDENTIAL DISTRICT OF RYE, N. H.**

Submitted Document of 11pp. to the Town of Rye Planning Office and Zoning Board of Adjustment Members on Jan. 29, 2018 Re: Case #49-2017

We wish to make it clear that we are **not** opposed to enhanced cell phone service in the Rye community.

However, we should not be required to risk our property values, aesthetic and health concerns in our residential district just so a cell phone tower can be installed when there are alternative sites available for such construction

We urge Verizon to refrain forthwith from its continuing effort to placing a cell tower in a Rye residential district and to consider the alternatives within this document.

We therefore respectfully submit the following document for consideration in which our objections are set forth for opposing the proposed construction of a cell tower in our residential district and for providing existing options that can and should be pursued.

Robert and Kendra Gemmett  
150 Brackett Road  
Rye, NH 03870

**I. VERIZON IS REQUESTING TWO VARIANCES SIMULTANEOUSLY TO BUILD A CELL TOWER IN A SINGLE RESIDENTIAL DISTRICT WHICH SHOULD NOT BE PERMITTED**

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Verizon is requiring two variances at the same time to construct a cell tower in a residential district. The first is a use variance to in effect lease privately-owned land in a single residential district and the second is a variance to avoid the current Town of Rye requirement to locate any new cell towers in the Overlay District. **Both variances should be denied for reasons outlined in this document.**

We bought or built our homes in a district designated by the Town of Rye as residential. We believed and trusted that it would remain residential. Insertion of a commercial venture by Verizon, designed to profit from cell-phone use, dramatically alters that designation and violates the trust we believed protected us from a fundamental change in the characterization of our district. Approval of these variances would constitute a **betrayal of that trust.**

**II. THE ERECTION OF A 125 FT. TOWER IS ANTI-ETHICAL TO THE ENVIRONMENT, AN INTRUSIVE EYESORE THAT DOES NOT BELONG IN THIS SETTING.**

We note that this is an important issue for consideration in the approved zoning ordinances of the Town of Rye regarding Wireless Telecommunications Facilities, as stated: to "reduce adverse impacts on aesthetics [and] environmentally sensitive areas". See *Town of Rye Zoning Ordinance*, Sect. 505, p. 68.

A major reason for living in the Brackett Road area has to do with the natural environment of woods, marshes, creeks and the ocean. Masking the tower as a monopine does not alleviate the situation. No matter how much you try to mask a 125 foot tower, it is still a cell tower -- basically a massive artificial and ugly intrusion on the landscape.

**III. THESE VARIANCES WOULD BE INJURIOUS TO THE NEIGHBOURHOOD AND ALTER ITS CHARACTER.**

The presence of a 125 foot tower extending approximately 50 feet above the existing tree line would benefit Verizon financially and the

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resident who will receive lease payments from this company at the expense of all of the other home and property owners in the area.

**There is no justification for erecting a tower in the midst of a single residence community when it could be placed on other sites in Rye classified as non-residential.**

We note in Verizon's application that **no balloon test** has been conducted which would demonstrate how visible their cell tower would be on the north side of Rye.

What Verizon is proposing is that this giant tower **would be placed only 50 feet or less from the road** between two houses and exposed to houses across the road all within close proximity of each other. Is Verizon really concerned about aesthetics when it intends to denude the landscape by clearing 23 mature trees 6 feet in circumference in proximity of a wetland, installing a gravel road to a 30 x 40 foot area, enclosed by a 8 foot fence, a 12 x 17 a concrete pad, a 125 foot tower with 12 panels, 6 remote radio heads, a fiber junction box at the top, 2 equipment cabinets, a propane generator, overhead metal canopy, a 500 gallon propane tank on another concrete pad along with utility runs to a utility pole? All of this will be quite visible and imposing as people drive or walk on Brackett Road **and the tower will be seen from many points in the surrounding area well exposed above the tree line.**

**In short, this is a plan that will dramatically diminish and insult the aesthetics of the neighbourhood.**

**IV. THESE VARIANCES WOULD ALSO ESTABLISH AN UNWELCOMED PRECEDENT FOR OUR NEIGHBORHOODS IN RYE.**

This variance request seeks to overturn established zoning designations in the Town of Rye through a variance procedure that allows a single property owner to benefit financially by allowing residential property to be used for a commercial purpose from which other property owners in

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the area are excluded. It sets a legal precedent for it to happen elsewhere in the town.

**V. THE TOWN OF RYE SHOULD NOT TOLERATE EXCLUSIVE FINANCIAL ARRANGEMENTS BETWEEN A COMMERCIAL ENTITY AND A SINGLE RESIDENT THAT UNDERMINES SINGLE RESIDENT ZONING**

If property located on Town property, the Town of Rye would receive payments to the benefit of all tax-payers in the community. The Verizon application excludes this arrangement and benefits one resident to the detriment of other citizens of this community.

**VI. A CELL TOWER WILL NEGATIVELY AFFECT THE NEIGHBORHOOD'S PROPERTY VALUES**

In the *Rye Citizens Handbook* (2016) the section on the Zoning Board of Adjustment makes it clear that a petitioner for a variance must show that "no diminution in the value of surrounding properties would be suffered". (p. 100). See also *Town of Rye Zoning Ordinance*, item C., p. 68 which refers to reduction of adverse impacts on "property and property values" as a goal of their guidelines.

**IN THE ATTACHED REPORT, WE HAVE COMPILED RESEARCH** which demonstrates that media attention to the potential health hazards of cell towers has spread concerns among the public about living near the cell towers and resistance to buying property in these areas.

One of these studies by Dr. Sandy Bond "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods," *The Appraisal Journal*, Summer 2005 concluded the following:

**"that homebuyers would pay from 10%–19% less to over 20% less for a property if it were in close proximity to a cell phone base**

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station. The 'opinion' survey results were then confirmed by a market sales analysis. **The results of the sales analysis showed prices of properties were reduced by around 21 % after a cell phone base station was built in the neighborhood.** [italics ours]

Another study conducted by The National Institute for Science, Law and Public Policy's survey "Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?" initiated June 2, 2014, was completed by 1,000 respondents as of June 28, 2014.

The overwhelming majority of respondents (94%) reported that cell towers and antennas in a neighborhood or on a building would impact interest in a property and the price they would be willing to pay for it. **And 79 % said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antenna.**

#### **VII. A CELL TOWER POSES A THREAT TO THE HEALTH AND SAFETY OF THE NEIGHBORHOOD**

A paramount consideration is the potential adverse health impacts of constant RF radiation and noise from Cell Towers and Cell Antennas, when a wireless company files any type of zoning application seeking to install them.

National studies show that sound engineers have found measurements of high ambient noise that a proposed tower site would cause. The engineers determined that the tower facilities need cooling by fans, and that the fan noise would be audible to nearby residents, especially on summer nights with open windows.

**Citizens of the community and the officials of the Town of Rye should be mindful of this issue as a major reason why there is increased concern about what the health impact would be and why it affects personal and family concern as well as property values.**

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The Telecommunications Act of 1996 is a law which stripped all States and local governments of their power to consider the potential adverse health impacts of RF radiation from Cell Towers and Cell Antennas, when a wireless company files any type of zoning application seeking to install them. **However, this does not mean that negative effects of electromagnetic radiation do not exist and have an impact.**

The health risks associated with living near cell phone tower/antennas are something we cannot risk. The adverse health effects documented at levels below FCC guidelines, include altered white blood cells in schoolchildren; childhood leukemia; impaired motor function, reaction time and memory; headaches; dizziness; fatigue; weakness; and insomnia. These results are based on epidemiological studies of people living near cell-phone antennas in Spain, the Netherlands, Germany, Austria and Israel.

The European Parliament, representing all the member nations of the European Union, "concerned about the continuing uncertainties about possible health risks concerning magnetic radiation," adopted a report recently by a vote of 559 to 22 providing that "the placement of antennas, mobile phone masts and high-voltage power lines be negotiated between industry actors, public authorities and residents' associations in order to minimize health risks and legal-action cases".

**PLEASE SEE ATTACHED COMPILED RESEARCH** which demonstrates that media attention to the potential health hazards of cell towers has spread concerns among the public about living near the cell towers and resistance to buying property in these areas.

#### **VIII. THE ZONING BOARD DOES NOT CONSIDER WIRELESS TELECOMMUNICATIONS FACILITIES AN ESSENTIAL INFRASTRUCTURE SERVICE AND THEREFORE SHOULD NOT IMPOSE ARBITRARILY A CELL TOWER ON A RESIDENTIAL DISTRICT.**

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We draw attention to the Zoning Board's own words: that "Wireless telecommunications facilities shall not be considered infrastructure essential services, public utilities or public utilities buildings. . . . Siting for telecommunications facilities is a use of land." *Town of Rye Zoning Ordinance* 505.4 item D and that they would "permit the construction of new towers only when all other reasonable opportunities have been exhausted. . . ." See *Town of Rye Zoning Ordinance*, item E., p. 68.

**IX. THERE IS NO NEED FOR VERIZON TO BUILD A CELL TOWER IN A SINGLE RESIDENTIAL DISTRICT OF RYE.**

We believe that if the Town of Rye wishes to support the inclusion of a new cell tower in Rye that it locate it in a **commercial or industrial site or on town-owned property** removed from residential areas entirely, which is in keeping with what is happening elsewhere in this country.

The December 2017 edition of the Town of Rye newsletter has also noted that Senator Innis was advised that there **are areas of land in Rye which are owned by the State** that might provide a solution to this problem.

**X. THE TOWN OF RYE HAS ESTABLISHED A TELECOMMUNICATIONS FACILITIES DISTRICT FOR CELL TOWERS. VERIZON IS REQUIRED TO USE THE OVERLAY DISTRICT BUT THEY ARE REQUESTING A SECOND VARIANCE INSTEAD**

Placement of a tower in this overlay is in accordance with the Zoning Board's original plan and current requirement. Verizon is requesting a variance from this requirement that wireless facilities should be limited to the Overlay District. **This second variance should be denied for all of the reasons set forth in this document.**

Verizon has been consistently avoiding use of the Overlay District. They have tried instead to obtain consideration from other sites, such as Pulpit Rock Lookout Tower, the Rye Elementary School, Odiome State Park,

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and two other residential properties. Site selection cannot be the exclusive choice of Verizon yet they persist in trying to locate a tower in residential areas of Rye.

**XI. THERE IS NO PROVISION BY THE PLANNING BOARD OF TOWN OF RYE FOR A DIFFERENT OVERLAY DISTRICT SITE AT THE PRESENT TIME**

Should there be a need for a new district other than the Overlay District prescribed by the Town of Rye, then the planning board should find locations and submit a new plan and ordinance to the electorate as indicated by the following zoning guideline:

*Town of Rye Zoning Ordinance*, Item D, p. 68 of their own current ordinance says: "Provide for co-location and minimal impact siting options through an assessment of technology, electronic compatibility, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the town."

To our knowledge no process of this kind has been initiated to date by the Planning Board

**XII. A CENTRAL FLAW WITH THE VERIZON REQUEST IS THAT "ALL OTHER REASONABLE OPPORTUNITIES" FOR CELL TOWER LOCATION HAVE NOT BEEN EXHAUSTED AS REQUIRED BY THE ZONING BOARD.**

In addition to the established telecommunications overlay in Rye, the consideration of alternate town-owned property, commercial or industrial sites, or state property, there is also newer technology that could be considered: what is called the "small cell" or "distributed antenna system". Cellular arrays can be installed on high voltage utility power poles at a much lower cost in Rye. They can place the cells on utility poles that allow it to improve service in hard-to-reach

area in a short period of time. **These small power units have been designed to make the single tower obsolete making the currently proposal for a tall tower unnecessary.**

Joseph Stephenson in a letter to the Portsmouth Herald on Dec. 28, 2017 believes that there is a reluctance to move to this newer technology that makes the cell tower obsolete: "Verizon and the tower developers do not want to talk about DAS [distributive antenna system] because a tall tower would be much more profitable. . . . you can rent space on the tower to other companies that want to add antennas. If Verizon is really concerned about customer service and public safety, they could have a DAS system up and operating in a few months. But in this case, concerns about "service" and "safety" seem to be less important that "Return on Investment".

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#### **I. SUPPORTING DOCUMENTATION FOR THE NEGATIVE IMPACT OF CELL TOWERS ON PROPERTY VALUES.**

##### **Actual reports on property value decrease:**

A. The definitive work on this subject was done by Dr. Sandy Bond, who concluded that "media attention to the potential health hazards of [cellular phone towers and antennas] has spread concerns among the public, resulting in increased resistance" to sites near those towers. Percentage decreases mentioned in the study range up to 20%.

Here are two of her studies:

Sandy Bond, Ph.D., Ko-Kang Wang, "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods," The Appraisal Journal, Summer 2005.

This study indicated that **homebuyers would pay from 10%-19% less to over 20% less for a property if it were in close proximity to a cell phone base station.** The 'opinion' survey results were then confirmed by a market sales analysis. **The results of the sales analysis showed prices of properties were reduced by around 21% after a cell phone base station was built in the neighborhood."**

"The effect of distance to cell phone towers on house prices" by Sandy Bond, Appraisal Journal, Fall 2007, see attached. Source, Appraisal

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DRAFT MINUTES of the Board of Selectmen's Meeting 2/12/18  
See minutes of 2/26/18 for approvals/corrections

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Journal, found on the Entrepreneur website,  
[http://www.pries.net/papers/Bond\\_Squires\\_Using\\_GIS\\_to\\_Measure.pdf](http://www.pries.net/papers/Bond_Squires_Using_GIS_to_Measure.pdf)

**In addition, click on Internet Links to see the following articles:**

Get the Cell Out - ATL: Yes, a Cell Tower Will Lower Property Values

...

Real Estate Devalued When Cell Towers Are Erected

**B. The Appraisal Institute** is the largest global professional membership organization for appraisers with 91 chapters throughout the world. The Institute spotlighted the issue of cell towers and the fair market value of a home and educated its members that a cell tower should, in fact, cause a decrease in home value.  
([www.appraisalinstitute.org](http://www.appraisalinstitute.org))

**“Even buyers who believe that there are no adverse health effects from cell phone base stations, knowing that other potential buyers might think the reverse, will probably seek a price discount for a property located near a cell phone base station.”**

**C. The National Institute for Science, Law and Public Policy's** survey “**Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?**” initiated June 2, 2014, has now been completed by 1,000 respondents as of June 28, 2014. The survey, which circulated online through email and social networking sites, in both the U.S. and abroad, sought to determine if nearby cell towers and antennas, or wireless antennas placed on top of or on the side of a building, would impact a home buyer's or renter's interest in a real estate property.

**The overwhelming majority of respondents (94%) reported that cell towers and antennas in a neighborhood or on a building would impact interest in a property and the price they would be willing to pay for it. And 79% said under no circumstances would they ever**

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purchase or rent a property within a few blocks of a cell tower or antenna.

**D. James S. Turner, Esq., Chairman of the National Institute for Science, Law & Public Policy** and Partner, Swankin & Turner in Washington, D.C., says,

**“The recent NISLAPP survey suggests there is now a high level of awareness about potential risks from cell towers and antennas. In addition, the survey indicates respondents believe they have personally experienced cognitive (57%) or physical (63%) effects from radiofrequency radiation from towers, antennas or other radiating devices, such as cell phones, routers, smart meters and other consumer electronics. Almost 90% are concerned about the increasing number of cell towers and antennas generally.**

**E. See also an article from the New York Times on cell towers and property values:**

[http://www.nytimes.com/2010/08/29/realestate/29Lizo.html?\\_r=2&ref=estate](http://www.nytimes.com/2010/08/29/realestate/29Lizo.html?_r=2&ref=estate)



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## II. SUPPORTING DOCUMENTATION FOR THE NEGATIVE IMPACT OF CELL TOWERS ON HEALTH

In a recent article on "The Hidden Health Effects of Cell Towers,"  
Andrea Fabry presents the following:

The Federal Communications Commission, our government's  
regulating agency, has made sure health concerns *aren't addressed* when  
cell tower applications are considered. According to the  
Telecommunications Act of 1996,

How well is the FCC monitoring these levels [of electromagnetic  
radiation]?

**Sen. Richard Blumenthal of Connecticut and Rep. Anna Eschoo of  
California** believe the FCC has dropped the ball when it comes to  
monitoring and regulating the safety of cell towers, especially when it  
comes to cell site workers. The lawmakers issued a challenge to the FCC  
on September 17, 2015. Here's what they had to say:

Excessive exposure to RF radiation leads to well-documented potential  
harms, especially to workers who spend time near the antenna and in the  
line of the antenna's beam. At sufficient power levels and exposure

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durations, RF radiation has the ability to heat biological tissue. Thermal  
effects can include eye damage, sterility, and cognitive impairments.

We urge the FCC and the Occupational Safety and Health  
Administration (OSHA) to work together to enforce exposure limits and  
ensure wireless carriers are taking the required precautions to **protect**  
**the safety of all persons who may be exposed to dangerous levels of**  
**RF radiation near wireless towers.**

**IF THE FCC AGREES THAT CELL TOWER WORKERS ARE  
AT RISK, AND TWO MEMBERS OF CONGRESS ARE  
CONCERNED ENOUGH TO ISSUE A REPRIMAND, WHAT  
DOES THIS SAY ABOUT THE OVERALL SAFETY OF CELL  
SITES?**

Fabry provides the following further studies that demonstrate a health  
risk:

The World Health Organization officially classifies electromagnetic  
radiation a possible 2B carcinogen. (The same category as lead, DDT,  
and styrene.)

The following studies suggest short-term and long-term health risks  
within 1,000-1,400 feet of a cell tower.

- Kempton West Study (2007)

Researchers measured blood levels of serotonin and melatonin in 25  
participants before and after the activation of a new cell site. There were  
unfavorable changes in almost all participants.

- Naita Study (2004)

Researchers discovered a threefold increase in cancers after five years  
exposure to microwave radiation from a nearby mobile phone mast  
transmitter compared to those patients living further away.

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• France Questionnaire (2003)

Researchers in France found significant health effects on people living within 300 meters of mobile phone base stations. Fatigue, sleep disturbance, headaches, concentration problems, depression, memory problems, irritability, cardiovascular problems, hearing disruption, skin problems, dizziness, etc.

(For a comprehensive list of studies linking cell towers to adverse health effects, see Electromagnetic Health.)

As noted above current FCC regulations are based on thermal effects. Thanks to the BioInitiative Report 2012 we now have a compilation of more than 1800 studies showing biological effects from non-ionizing radiation.

In May 2016, the U.S. government released preliminary findings for a \$25 million rat study linking cell phone radiation to cancer. See NTP Study: Cell Phones and Cancer.

A most recent and helpful group of health studies on this matter has been compiled and provided online by a group of 47 citizens of Atherton, California who petitioned the town authorities to stop putting cell towers in the residential community. They cite health concerns as one of their major issues. Here is the evidence they supplied in their petition worthy of review and consideration:

A. Radiofrequency radiation emitted from these antennas 24 hours a day every day. We can turn off our cell phones, but we cannot turn off the signal from these antennas which are affecting us while we sleep.

B. The health risks associated with living near cell phone tower antennas are something we cannot risk. The adverse health effects documented at levels below FCC guidelines, include altered white blood cells in schoolchildren; childhood leukemia; impaired motor function, reaction time and memory; headaches; dizziness; fatigue; weakness; and

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insomnia. These results are based on epidemiological studies of people living near cell-phone antennas in Spain, the Netherlands, Germany, Austria and Israel.

C. The European Parliament, representing all the member nations of the European Union, "concerned about the continuing uncertainties about possible health risks concerning magnetic radiation," adopted a report on April 2, by a vote of 559 to 22 providing that "the placement of antennas, mobile phone masts and high-voltage power lines be negotiated between industry actors, public authorities and residents' associations in order to minimize health risks and legal-action cases. This will also ensure that EMF-transmitting devices are kept clear of schools, crèches, retirement homes and health-care institutions."

D. Study which verifies the existence of a spatial correlation between base station (BS) clusters and cases of deaths by neoplasia in the Belo Horizonte municipality, Minas Gerais state, Brazil, from 1996 to 2006 and to measure the human exposure levels to EMF where there is a major concentration of cellular telephone transmitter antennas.

<http://www.ncbi.nlm.nih.gov/pubmed/21741680>

E. Increased incidence of cancer near a cell phone transmitter station:

[http://www.powerwatch.org.uk/news/20050207\\_israel.pdf](http://www.powerwatch.org.uk/news/20050207_israel.pdf)

F. How does long term exposure to base stations and mobile phones affect human hormone profiles? "In conclusion, the present study revealed that high radio frequency radiation effects on pituitary adrenal axis represented in the reduction of ACTH, cortisol, thyroid hormones, prolactin in young females, and testosterone levels."

<http://www.sciencedirect.com/science/article/pii/S000912011027330>

G. More evidence that RF fields impact thyroid hormone:

Results: Morphological analyses revealed hypothyrophy of the gland in the 900 MHz RF exposure group. The results indicated that thyroid hormone secretion was inhibited by the RF radiation. In addition, we also observed formation of apoptotic bodies and increased caspase-3 and caspase-9 activities in thyroid cells of the rats that were exposed to modulated RF fields.

Conclusion: The overall findings indicated that whole body exposure to pulse-modulated RF radiation that is similar to that emitted by global system for mobile communications (GSM) mobile phones can cause pathological changes in the thyroid gland by altering the gland structure and enhancing caspase-dependent pathways of apoptosis

<http://www.ncbi.nlm.nih.gov/pubmed/20807179>