TOWN OF RYE
PLANNING BOARD and ZONING BOARD OF ADJUSTMENT
SITE WALK & BALLOON TEST
Cellco Partnership d/b/a Verizon Wireless
68 Port Way (Map 023, Lot 001)
Saturday, January 4, 2020 – 9:00 a.m.

Planning Board Members Present: Chair Patricia Losik, Vice-Chair JM Lord, Jeffrey Quinn, Jim Finn and Selectmen's Rep Bill Epperson.

Board of Adjustment Members Present: Acting Chair Shawn Crapo, Burt Dibble, Rob Patten, Charles Hoyt, Patrick Driscoll and Gregg Mikolaities.

Others Present on behalf of the Town: Attorney Michael Donovan, and Planning/Zoning Administrator Kimberly Reed
Conservation Commission: Chair Sally King and Member Mike Garvan
Telecommunications Infrastructure Committee: Chair Howard Kalet

Abutters & Residents Present: Joanne Hardin, Lew Karabatsos, Michelle Tyminski, Gail Finn, Cindy Knapp, Jeff Knapp, Samantha Panek, Ray Panek, Stephanie Knapp, Kevin Knapp, Hugh Lee, Arik Jones, Lori Ramsay, Kathleen McCabe, Tom Pfau, Wes Pike, Paula Mahoney, Charles Moore, Otto Knapp and Heidi Cady

Present on behalf of Verizon: Attorney John Weaver, Site Acquisition Specialists Chip Fredette and Eric Campbell

Note: *BOA Vice-Chair Shawn Crapo is acting chair for the application, as Patricia Weathersby has recused herself from the application.*
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A moment of silence was held in memory of Attorney Victor Manougian who passed away unexpectedly on December 18th.

Planning Board Chair Patricia Losik called the site walk to order at 9:00 a.m. for the following applications currently before the Boards.

Conditional Use Permit and Major Site Development Application by Cellco Partnership d/b/a Verizon Wireless, with AT&T for property owned by the Town of Rye and located at 68 Port Way, Tax Map 23, Lot 1, to install a wireless telecommunications facility in the form of a 126' monopole at the property, which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box at a centerline 121' and nine (9) panel antennas, fifteen (15) remote radio heads, six (6) surge arrestors at a centerline of 109' and ground based equipment to be housed within 50'x50' fenced enclosure. **Property is in the Single Residence District. Case #20-2019.**

Variances from Section 505.6 A(4) for construction of a wireless telecommunications facility within 100' wetlands buffer 301.8 B(1) and 301.8 B(7) to construct a driveway within the 75' buffer to access wireless telecommunications facility. **Property is in the Single Residence District. Case #47a-2019.**

Special Exception from Sections 301.8 B(1) and 301.8 B(7) to construct a driveway within the 75' buffer to access wireless telecommunications facility. **Property is in the Single Residence District. Case #47b-2019.**

The site walk opened and the group gathered at 10 Port Way to access the proposed site at 68 Port Way. The proposal uses the road (driveway) at Port Way as a possible access road into the site.

Chip Fredette, Acquisition Specialist for Verizon, led the site walk. He pointed out that he will clearly note the area as the group enters onto the proposed site. James Verra, Verra & Associates Survey, has marked off the back corners of the private lots on the right. The State boundary has been repainted recently and the Town's line is marked notably by a stonewall.

Referencing the easement, Attorney Donovan stated there is a second driveway at the Kornechuk's house. Under the easement, the Town's responsibility is to maintain the plowing in the winter up to the second driveway. It is Verizon's responsibility to maintain it from that point up to the site for their purposes.

Mr. Fredette led the group towards the proposed site. He pointed out the location where the Town's responsibility for plowing would stop. He noted that Verizon does not need winter access to the site so they do not plan on plowing. If Verizon needed to access the site in an emergency during the winter, they would go in by snowmobile or bring in a machine to move snow. This is the same as the other Verizon sites throughout New England.

Hugh Lee, 220 Pioneer Road, asked about the public right of access to get through to the State or town owned land.

Attorney Donovan replied there is none. The access is a limited easement access granted to the Town for the sole purpose of accessing the cell tower site. Also, the Conservation Commission owns the 14-acre parcel. The access is for forestry and open space management of the 14-acres. The access over Port Way is limited to those three things; forestry management, open space use of this lot by the Conservation Commission and the cell tower site.

Speaking to Mr. Fredette, Attorney Donovan pointed out there is about 140' that the Building Inspector has identified as being in 100-year flood zone.

Mr. Fredette clarified 140 linear feet of the proposed roadway is within the flood zone.

Attorney Donovan stated he would like to have that pointed out when the group gets to that point.

Referring to the plan, PB Chair Losik pointed out the 100' wetland buffer and the flood zone.

Mr. Fredette noted it is approximately in the area of A-39 and A-40 to about A-32 (flags shown on the plan).

Attorney Donovan stated the ordinances do not require that the driveway be raised above the flood zone; however, the Building Inspector has suggested it should be.

PB Chair Losik noted the group is still located outside against the Town property for the gravel road. The yellow shown on the plan is for the 30' wide utility easement, which is on both sides of the 12' wide driveway.

Mr. Lee commented the flood zone is the existing flood zone. He asked how this compares to the new proposed FEMA flood zone.

Planning/Zoning Administrator Reed explained that it has to be on the existing because that is what is in the records. She has not looked at the flood zone as the Building Inspector has, so she does not know the difference at this time.

The group moved towards the site along the proposed access road. Chair Losik pointed out the stake marking the center line of the gravel road. It was noted the gravel road is 12' wide.

Mr. Fredette pointed out the second stake marking the center line of the gravel road. He pointed out that this is the path the road will take in order to avoid the corner of the State land on the right. He also pointed out the approximate location of the flood line across the proposed roadway (wetland flag A-39).

Attorney Donovan asked if there is an issue with the flood coming over the stonewall. He wonders if the maps even take into account the stonewall. He asked if this would essentially be a dike. That raises a question as to whether it would ever flood or not.

Acting Chair Crapo commented it is probably not sound enough to hold the water. From this side to the other side of the stone wall looks like a 1' to 2' drop.

Mr. Fredette stated if it flooded enough to be a problem for access, there might have been more signs of an actual wetland. His guess is if it does flood, it drains well enough so it was not identified as the edge of the wetland itself. The flag is just on the other side of the stone wall.

Referring to the minutes of the meeting on December 18th, PB Chair Losik stated that during a discussion with Ms. Klumb there was a question about impact to wetlands during construction. Ms. Klumb opined; "The design is not to cause wetland impacts. The plan is to keep out of the wetlands and keep them intact as they are. Erosion control will be installed and act as a construction barrier". She asked Sally King, Conservation Commission Chair, if she wanted to weigh-in.

Sally King replied that it sounds like best management practice.

Michelle Tyminski, 121 Parsons Road, asked if this is taking into account future sea-level rise.

PB Chair Losik explained this includes the current FEMA maps.

Planning/Zoning Administrator Reed explained sea-level rise is different than FEMA. FEMA is based on history and time. Sea-level rise is the future. She reiterated that she has not looked into that at this point in time.

PB Chair Losik noted the plans only contemplate the current flood maps, which are 2005.

RCC Chair Sally King stated that in looking at the maps and thinking about buffers and water protection, it was determined that this land is in the priority protection area.

PB Chair Losik presented printouts of maps from the Geographical Information Systems (GIS) taken from the Town's website. The first map she presented showed the conservation land. The next map presented showed the water resources. She pointed out the group's current location on the map. She also pointed out the freshwater wetlands, riparian buffers and saltmarsh wetlands. The maps were submitted to Planning/Zoning Administrator Reed and are available for anyone who is interested.

Regarding the maintenance of the site, Mr. Fredette explained that the site is accessed once a month during good weather. The site would be accessed with an SUV or pickup truck with hand tools being used, not heavy equipment or machinery. The maintenance is for radio maintenance, not for road maintenance.

Mr. Fredette continued moving the group forward and pointing out the location of the markings for the proposed access road. It was noted that flag A-37 is at the point where the road is crossing onto the town owned land. The corner of the State property and the markings of the boundary were pointed out to the group. Mr. Fredette also pointed out the center of the access road and the distance to wetland flag A-36.

Referring to access to the State land, Attorney Donovan pointed out the old woods road that leads to a gate just off the end of Holland Drive onto the State land.

BOA Member Driscoll asked how Verizon will be sure the service techs use the proposed road versus walking on State land.

Mr. Fredette explained the techs are going to drive to the site. They cannot drive on the State land because of the rocks. They'll drive along the non-exclusive access easement.

The group continued the site walk. Mr. Fredette pointed out the location of the start of the proposed drainage swale; wetland flag A-33 is used as the marker on the plan for reference. He noted the 2' drainage swale runs along the right of the lease area.

BOA Acting Chair Crapo asked why the swale is needed. He asked what is "tripping" the need to disturb the land for the swale.

Mr. Fredette explained when the stormwater runoff calculations were run in done, this is what was suggested for the design to deal with runoff from the proposed access road. Referring to the ground, he does not know they consider it a permeable surface. Certainly, when gravel is added it then becomes impervious. The intent is for the runoff to go into the swale and down. It is meant to allow water to infiltrate, as opposed to sheet flow.

PB Vice-Chair Lord suggested that Verizon's engineer may want to come back to take a second look. They may be standing on ledge. There are a lot of trees and root structures that need to come out. There may be drilling and blasting needed to put in what is proposed. It makes absolute no logical sense to him. There has to be a better solution to the roadway than what is being proposed, in terms of stormwater management.

Mr. Fredette suggested that they discuss this with Sebago.

Speaking to Vice-Chair Lord, Selectman Epperson asked if his opinion is that it is over engineered.

Vice-Chair Lord stated that in standing and looking at it, he does not think it is a practical solution. There is probably a better way of doing it. The question is about the cost of doing it versus the cost of the impact that might not be exactly what is wanted.

Mr. Lee stated a simple solution is to have an 1" or 1.5" of crushed stone. The water will come down, some of it will go into the crushed stone and the rest to the other side.

Conservation Commission Chair Sally King agreed with JM Lord's comments.

RCC Member Mike Garvan agreed. To him the problem is the water coming off the upland area, not so much the water coming off the road.

Mr. Fredette led the site walk to the compound site. He pointed out the four markings showing the corners of the proposed 50'x50' compound (marked with pink flagging). He also walked to the tower center location. He noted the tower center is centered on the 50'x50' compound. The compound is centered on the 100'x100' lease area. He also noted the group is standing approximately at the foot of the vehicle turnaround.

Attorney Donovan asked how much tree cutting will be done beyond the 50'x50' compound.

Mr. Fredette explained it will be approximately 25' beyond the 50'x50' in order to clear any trees that could fall and damage the compound. If there is a tree that is precarious beyond that distance, they will cut that down as well. They do not necessarily need to cut down the entire lease area. They have rights to do it but will not do it if it is not needed.

Kevin Knapp, 1 Port Way, asked if they are talking about a 100'x100' clear cut. He noted that 25' on each side is 100'.

Mr. Fredette confirmed. He commented it is essentially the lease area.

Mr. Knapp asked what width they will cut on either side of the center right-of-way.

Mr. Fredette explained they have a right to cut up to 15' on either side from center. It is a 30' wide non-exclusive access easement. He noted they will not clear that which is in the wetlands.

RCC Member Mike Garvan commented the clearing along the access road is 30' wide. The access road is in the buffer the entire time. He asked if they have a count on the trees that are 4" in diameter or greater. A special exception is normally needed to clear those trees.

Mr. Fredette replied that he does not know exactly which trees will be removed to build the access road.

Mr. Garvan asked if Verizon has the authority to cut without a special exception.

Mr. Fredette explained they have the right to do it with the easement right. They do not necessarily have the permit yet to do it, much like the site itself. There are rights to build it but no permits yet to do so.

There was some review of the plans with regards to the cutting of trees. Mr. Fredette stated the engineer shows the proposed tree line at approximately 7' from the edge of the compound. It will be more like 20' or 25'. They will clear what is needed to actually building the compound and whatever might be at risk of falling on the compound. It cannot be any worse than clearing the full 100'x100' because Verizon does not have rights to clear beyond that.

RCC Member Mike Garvan asked if they will be doing a lot of regrading for the site.

Mr. Fredette confirmed. He noted that the stormwater management plan that was prepared took the site into account. The surface of the 50'x50' compound will be crushed stone, so it will infiltrate.

Ms. Tyminski stated that when the trees come down there will be direct views across to Marsh Pond. She asked if they are going to be doing anything to protect those views so people are not looking at the cell tower.

Mr. Fredette stated he is not sure what the views might be. The balloon test will certainly show that. It might be visible from the intersection of Brackett and Parsons, across Marsh Pond. In his professional opinion, clearing the trees will not make the tower more visible. Clearing the trees that are 40' or 50' tall are not going to impact the view from a quarter of a mile away. What will change is the vantage point from which someone is looking at the site. Trees planted in the near ground along Brackett Road and Parsons Road will impede the view. There is nothing that can be done near the compound, i.e. landscaping, to make it less visible. He thinks someone will be hard-pressed to see the compound from that distance. He commented if the compound can be seen across the marsh, he is sure they would be willing to plant some landscaping.

There was some discussion on planting arborvitaes or something tall enough to screen the view of the compound. There was also some discussion on changing the fence type.

Ray Panek, 9 Manor Drive, showed the group a picture on his cell phone of the balloon test done by Michelle Tyminski. He agreed to forward the photo to the Planning Administrator.

It was noted during discussion that the trees in that area are about 70' and the tower is going to be at 126'.

BOA Member Mikolaities asked the height of the equipment that is going to be inside the compound.

Mr. Fredette replied the cabinets are about 5' tall with a cable bridge above from the radio to the tower itself. The site is at elevation 14.

PB Vice-Chair Lord asked the liability of the Town if a tree from outside the 100'x100' leased area falls onto Verizon's compound. He asked if the Town should work with Verizon to eliminate some of the "vulnerable" trees that could impact the property.

PB Chair Losik stated that she thinks this is a great idea because of the recent issue at 421 South Road and the windstorms.

Attorney Donovan stated that he does not think the Town would be in a position that it would be liable if that happened. In terms of whether it would be a good practice or not is another thing. There could be a condition subsequent that after the compound is established the Town could have a forester consultant work with Verizon and identify trees that should come down. Notwithstanding the lease, the land use boards have the authority to restrict the clear cutting. The lease may give them the right to clear cut but if the Board wanted to cut back on some of the clear cutting, they would have that authority. Speaking to Mr. Fredette, he asked why there is a stake only 10' beyond the corners. He asked if this is supposed to be the clearing limit.

Mr. Fredette replied the idea was to map out the proposed tree line. He noted that he spoke with the structural engineer and that is not what he asked for. The proposed tree line will be changed.

Attorney Donovan pointed out there are some areas that would not need to be cleared to 25' because of the drop-off in the land.

Mr. Fredette pointed out the existing grade is 15' and the finished grade is 14'. The finished grade of the site will drop a foot from where the stakes are that mark the tower center.

Attorney Donovan commented there will be quite a bit of excavation for the chunk of ledge.

Mr. Fredette explained that all the ledge will be taken out in order to pour the foundation.

Attorney Donovan noted there would be no blasting allowed.

PB Vice-Chair Lord stated if there is a lot of ledge there needs to be a geo-tech done to see if all the ledge needs to be taken out.

Mr. Fredette confirmed a geo-tech will be done. This is done in every case. The tower and foundation designs are site specific. Two or three core drills will be done. If a geo-tech engineer feels there is ample ledge to pin to they will do that.

RCC Chair Sally King pointed out that it is a fact that trees protect the resource and the wetland buffer. This should be kept in mind when thinking about cutting.

PB Vice-Chair Lord asked that the actual tree boundary be reflected on the plan.

BOA Member Mikolaities commented if they are going to clear 20' on either side of the fence, a 6' high berm, 10' wide, could be planted with 6' high arborvitaes on top. That could provide a 10' to 12' natural berm for some of the abutters. It could certainly hide some of the equipment. The berm could be planted no problem and would turn natural over the years.

Stephanie Knapp, 1 Port Way, noted this is an area that is very highly populated with deer. That is something to think about when thinking about landscaping.

Lori Ramsay, Sagamore Road, asked if the tower will become obsolete once 5G Technology is introduced.

Mr. Fredette replied "absolutely not".

- **Balloon Test scheduled for Saturday, January 11th or Sunday, January 12th weather permitting.**
- **Next Joint Planning Board/Board of Adjustment Meeting with Verizon scheduled for February 18th, 6:30 p.m., Rye Public Library.**

Adjournment

Motion by Bill Epperson to adjourn at 10:25 a.m. Seconded by JM Lord. All in favor.

**All corresponding documents and files may be viewed in the Building Department, Rye Town Hall.*

Respectfully Submitted,
Dyana F. Ledger