

# Town of Harpersfield Planning Board

**Minutes: December 18, 2024**

Present: D. Darling, D. King, W. Keller, F. Ciulla, A. Gallagher and D. Cole

Also present: L. Page, N. Brower, R. McKertich, Jared Lusk (Nixon Peabody LLC), Nora Lisanti, Carrie Sloan, Santiago de Paoli, Andrew Campanella, Bruce VanDuser, Andrew Shaffer, Amanda Shaffer, Russell Kassinler, Ted Dziewit, Len Marigliano, Rich Bellinger, Christine Bellinger, Betty Jones, Luis Lenex, Lawren Knox, Luis Ortiz, Andrew Frisch-Harz, Gary Hara, Sal Fabella and Deb Rybicky

D. Darling called the meeting to order at 7 p.m.. Minutes of the Nov. 20, 2024 meeting minutes were approved with the following correction. The attorney for Verizon should be Jared Lusk and not Jack Redmund. See pg. 2 paragraph 2. Motion to approve the minutes with the correction was made by D. King with a second by W. Keller. Motion carried 5-0.

D. Darling read the public hearing notice published in the Daily Star and the hearing was opened at 7:15 p.m.. He said there were two things that needed to be stated. The planning board has no say in the health concerns related to cell towers and there is no proof cell towers have any effect on property values.

Andrew Campanella said he is representing a number of residents in a Memorandum of Opposition to the proposed Verizon cell tower application before the planning board. There are 22 property owners listed on the memorandum, which he presented for the record. (On file with the town clerk) The memorandum asks the planning board to deny the application. He said he is not here to stop cell towers, but to stop their irresponsible placement and to request that Verizon provide the data for what he called smart planning. He said there are no gaps in cell service in this area.

D. King said there are numerous dead areas. Campanella said they (Verizon) have not provided the data from a drive test. He said there is no evidence on the record for the planning board to grant the application. There is no evidence the towers will saturate coverage. He referred to the visual impact analysis and said they have not produced aesthetics from the closest homes. He contends the 15-story tower will have a significant aesthetic impact.

He said the applicant is looking for a waiver from the setback. He said ice falls are a danger. Waiving the setback is a violation of Article 1, section 501.

He indicated T. Dziewit would suffer a decrease in property value based on the waiver of 180 feet. He went on to say that Verizon could raise the height of the tower, without seeking permission, by another 20-feet.

W. Keller asked what percentage of cases Mr. Campanella has won. He replied that most of his cases never go to the litigation phase.

At this point, R. McKertich said they were getting outside the context of this application.

Russell Kassinler said the tower being located here or there has not shown any proof that it is benefiting anyone except a few board members. Does it justify putting it up if it doesn't help other residents further down the valley. D. Darling said someone would respond to that.

Amanda Shaffer (who did not identify herself) asked who owned the land where the tower will be located. It will go on town property and will be leased from the town. She suggested the town is getting the bang for the buck, she was told the town board will receive the lease money, not the planning board. They did not negotiate the lease, the town board negotiated the lease.

Andrew Shaffer then said the address of the town hall indicates there are two parcels on the town tax map. He questioned the address where it will be erected, due to two different tax parcels on the tax map. He was told it is all one piece of property. R. McKertich said there is a site plan in the record that shows exactly where the tower will be placed.

The next speaker was not understandable.

Ted Dziewit asked the planning board members if they had a chance to read the letters from other people. This tower is going to impact 350 acres of his property. D. Darling said the planning board has seen all of this and responded "we are aware of it".

Andrea Frisch-Harz thanked the planning board. She said Verizon is a large wealthy corporation. She asked what they have offered to motivate the town do this with hardly a reason to affect 2000 people in Harpers field. Do they have greater aspirations of profit. What have they offered our town to do this. D. Darling answered a lease agreement with the town for \$10,000 per year.

R. McKertich again clarified that the planning board is a land use board and can not base its decision on how much money the town is going to make on leasing the property. That is a town board issue. The planning board not base its decision on how much the town is going to make.

Harz said it does not come close to making up for the aesthetic impact. He stated he is not against cell phone service.

Crystal Celner (?) said the burden of proof is with Verizon to provide service without infringing on the aesthetic impacts. She described the town as a stunning area with its sights, sounds and smells. It's a huge asset and is why we are here. For that to be slaughtered... and she is concerned there are hundreds of people who may not know about the cell tower. She finds it heart-wrenching and heart-breaking. There are other sites that would not make them so freaked out. I implore you to take everything into consideration.

Deb Rybicky asked how far the tower will be from the transfer station. D. Darling had no map to answer the question.

Unable to understand his comments.

Russell Kessinler said if you can build a 170-foot tower the transfer station and the post office are in danger from the falling ice. Is the board prepared for legal action for violating your own planning regulations. Are you ready to face a legal challenge.

R. McKertich said the point of this is to determine if the application satisfies the requirements of the local law.

Carrie Sloan said she did not receive a response from the planning board regarding her concerns, which she submitted last month. She asked if she was going to receive a response, or was it going to take some time for her questions to be answered. D. Darling said it is part of our record. No, we are not going to specifically respond to that.

Amanda Shaffer said the board could go without specifically addressing Sloan's questions, yet they can take three months to decide to let someone put up a business sign in his yard so that he can make a living - but you don't answer her questions.

Bruce VanDuser spoke to say he would like some sort of a tower go in because he has a heart monitor that depends on it. I definitely need the cell tower. The monitor sits in my house, unusable.

Jared Lusk, the attorney for Verizon, then took the floor to again reiterate their application for the permit to erect a cell tower on town property. It is in the law they must site on municipal property if at all possible and that he has addressed the issues several times.

He is familiar with Mr. Campanella and said there is a process they (Verizon) use to determine coverage and tower location.

He reiterated they have followed the law in making their application. Due to the fact the notice was not mailed, they have come back to the process. He said the determination was made in August and most people attended the same meeting. They (Verizon) sought the required waiver and demonstrated we could do it. He indicated the drive test Mr. Campanella referred to is outdated and the use of propagation modeling is an accepted method.

He submitted his own testimony, which is on file with the town clerk.

Letters from residents have been submitted and are on file with the town clerk.

R. McKertich indicated everyone had had a chance to speak. There is a ton of information and a lot of documentation from the past several months. He asked the planning board if they were comfortable enough to close the hearing or if they wanted to take more time.

Mr. Campanella wanted to be given the opportunity to respond to Mr. Lusk's comments. He said the previous approval is null. He said the FCC drive testing is found to be more accurate than the computer-generated propagation maps which can vary from a high of 67 percent to a low of 16 percent. He contends they should have the drive test data. The FCC does not accept the maps.

He alleges there are no gaps and there is no record in the data of where to place the tower strategically. They could apply for waivers to locate the tower off town property.

T. Dziewit said the planning board should ask the people about their views.

A. Gallagher asked that if the hearing were to be closed if it would prevent the submission of the information from Mr. Campanella. The hearing could be closed with a time limit for additional submissions. He then asked about the setback waiver and if it is null and void.

R. McKertich said the planning board was going to have to address whether or not to grant the waiver. They should also review the SEQRA forms again and answer the questions with the new information received. He said they need to review the questions and requested waiver to determine whether to grant or deny the application.

The planning board could close the hearing now and review the questions or close the hearing and meet again next month or they could close the hearing and allow 24 hours for additional submissions, then meeting next month to tackle SEQRA.

On a motion by A. Gallagher, with a second by Submissions would be allowed until the close of the day on Dec. 20 (Friday) 5-0.

R. McKertich said the public has the right to respond. The motion was not seconded.

Adam Gallagher said he wanted time to look at the submission that had been received over the past couple of days.

On a motion by W. Keller, with a second by F. Ciulla, the public hearing was closed. Motion carried 5-0

F. Ciulla indicated he is not ready to move on the application and D. King agreed there was a lot of material received over the past couple of days.

They will review the application again at the next meeting of the planning board at 7 p.m. on Jan.. 29, 2025.

On a motion by A. Gallagher, with a second by W. Keller, the meeting was adjourned at 8:38 p.m..

Respectfully submitted,

Liz Page,  
Recording secretary