Town of Rowe

Zoning Board of Appeal Minutes

Monday, January 3, 2022 – 10:00 a.m.

Rowe Town Hall – Hearing Room 1

Zoning Board of Appeals: Henry Dandeneau, Chair, Kim Gabert, Clerk (participating via remote, Ellynn Packard (participating via remote), Michael Bradley, Gail May

Present: Executive Secretary Janice Boudreau, Fran Parisi, Rachel Holbrook, Chuck Sokol

Participating via Remote: Paul Miles, Jack Hayden, Ruth Loomis, John Bandoni, Fire Chief Dennis Annear, Ed Silva, Joanne Semanie, Rick Williams, Rosie Gordon, Donna Haynes, John Hillier, J. Poir, Bob Clancy, Terry Green, David Dvore, Susan Tomlinson, Doug Acuff, Jean Bernhardt (10:20am), Jennifer Morse (10:44am), Domenic Poli

1. Call to Order: The meeting was called to order at 10:06 a.m.

Roll Call Vote: Gail May – yes; Kim Gabert – yes; Henry Dandeneau – yes; Ellynn Packard – yes; Michael Bradley – yes

2. Introduction to Board Members:

Members were introduced: Henry Dandeneau, Kim Gabert, Ellynn Packard, Michael Bradley and Gail May.

3. Nominations for and election of Chair and Clerk:

MOTION: Gail May made a motion to nominate Henry Dandeneau as Chair. The motion was seconded by Ellynn Packard.

Roll Call Vote: Gail May – yes; Kim Gabert – yes; Henry Dandeneau – yes; Ellynn Packard – yes; Michael Bradley – yes

MOTION: Henry Dandeneau made a motion to nominate Kim Gabert as Clerk. The motion was seconded by Gail May.

Roll Call Vote: Gail May – yes; Kim Gabert – yes; Henry Dandeneau – yes; Ellynn Packard – yes; Michael Bradley – yes

4. Chair to introduce representatives for petitioner and ask for their presentation:

Chair Dandeneau described the size, location and proposed coverage of the project. He then cited the criteria for Use Variance:

1- Topography
2- Substantial Hardship

3- Cannot have detrimental effect to the Public Good

Chair Dandeneau gave Attorney Fran Parisi, representing Vertex Towers LLC the opportunity to present additional information to attendees.
Mr. Parisi showed estimated coverage maps and said coverage would most likely include the center of town. He said the setbacks and height fall within the town bylaws. Vertex would start construction after establishing committed carriers. He explained that the Federal Communications Commission would review and perform their due diligence prior to their approval of the project which, if went according to plan, would mean construction at the end of 2022.
Mr. Parisi explained that the tower was designed so that the height of the tower would never require lighting devices be added and had lightning protection and a backup battery system which did not produce any noise.
Questions to Mr. Parisi:

-Q: When would construction begin?
-A: No construction would begin until such time as carriers made commitments
-Q: Would company pay for damage to town roads?
-A: Mr. Parisi offered that a company representative would review the road with Highway Superintendent before and after the project was completed and pay for any damage that construction caused.
-Q: Insurance Liability to the town?
-A: Facility was built with fencing and barbed wires and anti-climbing mechanisms
-Q: Discuss the affect on Animals and wildlife?
-A: Mr. Parisi said there was no odor, no noise basically passive. There was an extensive application process involved with the Federal Government with regards to avian flight paths and endangered species that had to be undergone prior to construction and the project would be subject to many regulations.
-Q: Can the height be added to at a later time and could this be limited so as to keep the lighting off?
-A: It could be added to the stipulations or acceptance with conditions.
-Q: Not all households will benefit from the tower what percentage of town?
-A: A substantial percentage of the town will benefit from the service and more will be added at other area towers are built which will expand coverage.

Letters from the following parties were read:
- Rachel Holbrook
- Jack & Ciara Hayden
- Charles Sokol
- David Roberson
- Dennis Humbert

Chair Dandeneau closed the question and comment period. He thanked members for their willingness to serve the town. He said it was their job to protect the bylaws and decisions need to be based on the following:
1) Dimensions conform to bylaw requirements
2) Determine hardship
3) Cannot have detrimental effect to the public good

Member Kim Gabert said the application relates to this specific property and that it would not set a precedent. It would then go the federal court if the Board denied the application.

It was noted the topography of the town creates hardship and that it was difficult to locate a potential site. It was noted that the owner of the property had a long-term lease agreement and that there was no further cost to the town. The town would benefit from the taxation of the tower through Personal Property taxation.

Attorney Fran Parisi said the company, Vertex Towers, were from Wrentham, MA and that the tower would not disturb wildlife and had no noise. The application was under review by the The Federal Communications Commission (FCC) who had criteria regarding the impact on wildlife and such.

Following discussion and listening to citizens comments the Board closed the Hearing portion of the meeting to deliberate. Following deliberations and discussion a motion was made:

MOTION:

Chair Dandeneau made a motion to accept the application for a variance requested by Vertex be approved because of the following three conditions: owing to topography of the area, there is a substantial hardship, and there is minimal detriment to the public, with the following conditions:

1) The Tower may not be lit
2) The Tower may not exceed 200 feet
3) In case of power outage back-up batteries and emergency generator only be used for the duration of the power outage.
4) Facility only be used for communications purposes using the single tower to be built.
5) Prior to construction Vertex representatives will walk the portions of County Road to be used during construction with the Rowe highway superintendent and determine the suitability of the road for construction, and will walk the road again after construction and repair any damage caused by construction.

This approval is contingent upon review of Town Counsel.

The motion was seconded by Ellynn Packard.

Roll Call Vote: Gail May – yes
Kim Gabert – yes
Henry Dandeneau – yes
Ellynn Packard – yes
Michael Bradley – yes

It was agreed that the determination would be sent to Town Counsel for review and comment and to reconvene on February 7, 2022 at 10:00 am to finalize determination.

Adjournment:

MOTION TO ADJOURN:
Ellynn Packard made a motion to adjourn the meeting at 1:24 p.m. The motion was seconded by Kim Gabert.

Roll Call Vote: Gail May – yes
Kim Gabert – yes
Henry Dandeneau – yes
Ellynn Packard – yes
Michael Bradley – yes

Respectfully Submitted,

Janice Boudreau, Executive Secretary

Approval Date:

Approved:

Henry Dandeneau, Chair

Kim Gabert

Michael Bradley

Gail May

Ellynn Packard

Documents:

1. Agenda January 3, 2022
2. Application for Variance Vertex Towers
3. Letter to ZBA: Jack & Ciara Hayden
4. Letter to ZBA: David Roberson
5. Letter to ZBA: Charles Sokol
6. Letter to ZBA: Rachel Holbrook
7. Letter to ZBA: Dennis Humbert