

*Minutes of the  
Zoning Board of Adjustment  
Monday, October 03, 2022  
The Great Hall, 84 south Main Street  
7:00 PM*

**1. Roll Call:**

**Members Present:** Chairman Audrey Cline, Suzanne Ryan, Sarah Silk, Tim Cronin, Luke Freudenberg, Cate McMahon, Alternate, Chuck Sumner, Alternate

**Members Excused:** Nancy Stroman Alternate

**Staff Present:** Tavis Austin, Director of Planning and Development

**1. Continued Public Hearing(s):**

GMR Holdings of NH, LLC & Wagon Wheel Trust – 1642 Center Street – Tax Map #009-001–Public Hearing Zoning Board of Adjustment applications for  
i. **Special Exception-** Case #13-SE-22 175-161- Personal Wireless Facility  
ii. **Variance** –Case #14-V-22 -175-164-(A) (2) –Height Variance for Personal Wireless Facility

T. Cronin read to two cases for continued hearing into the record.

S. Silk read the minutes of the September 25, 2022 Site Walk into the record as follows:

***9-25-22 Sunday, ZBA Site Viewing, 9 AM***

***GMR Holdings of NH, LLC & Wagon Wheel Trust***

*SPECIAL EXCEPTION: #13-SE-22 175-161 Personal Wireless Facility*

*VARIANCE #14-V-22 175-164-(A) (2) Height Variance*

*NOTE: Balloon test was delayed to backup date due to heavy winds on Saturday.*

***ZBA MEMBERS PRESENT:*** Audrey Cline, Chair, Suzanne Ryan, Vice-Chair, Tim Cronin. Clerk, Sarah M Silk, Luke Freudenberg

*(Note 1: Cate McMahon arrived later and viewed vicinity, but did not locate the group)*

***OTHERS PRESENT:*** Attn. Jonathan Springer, Victor Drouin, GMR Holdings, Audra L Klumb, A&D Klumb Environmental, LLC

*The group assembled by the Evans residence and was shown by Victor Drouin the approximate location of the access road where currently there were several pieces of heavy equipment parked.*

*It was explained the road would be around the edge of the orchard, not thru the middle of it.*

*Audra Klumb had erected the balloon earlier, which could be seen from the residence. She explained it would be air-borne until noon.*

*The group then walked to the base area of the proposed tower.*

*Please note: at this point Sarah Silk was excused due to a work obligation. She met a vehicle on the way down the drive and was later advised by the Chair that it was Doug Breskin, a member of the Planning Board.*

*Respectfully submitted,*

*Sarah M Silk, ZBA Member*

Jon Springer, Counsel for the applicant introduced all present representing the project: Victor Drouin, Peter Cooke, Audra Klum, Sohail Usmani. He then provided the Board, and file, with a hardcopy of the Viewshed Survey Report completed by A&D Klumb Environmental, LLC., and a letter from A&D Klumb Environmental, LLC. Verifying no wetland or other environmental impact within 75' of the proposed monopole and compound site.

J. Springer then presented facts of the case in summary form as to provide background to both the Special Exception and Variance cases stating that the findings for each application would be addressed following the summary of facts. He began with an overview of the project site and supplication materials submitted. He spoke specifically to Sheet Z-1 then Sheet Z-5 highlighting elements of each. His presentation included discussion of exceeding required setbacks, lack of environmental impacts, limited noise, lack of traffic, lack of visibility of base compound and general lack of visibility of the monopole itself. Springer also outlined operational characteristics of the site, including discussion of the required spaces allocated for colocation and emergency services equipment on the monopole. For each element he cited or referenced supporting materials as submitted documentation.

S. Ryan stated concern for the height noting that without the emergency services equipment a shorter pole could be utilized.

P. Cooke explained why two (2) antennae were shown for emergency services noting that one was for transmission, the other for reception.

J. Springer directed the Board to the two letters of support, one from each the Town Police and Fire Departments. He then turned to the Radio Frequency (RF) report and explained line of sight and the physics thereof which necessitated the proposed monopole height.

Attention then turned to the last page of the RF report which shows those towers surrounding the project area. J. Springer discussed the significant gap in coverage area and the inability to collocate on any existing towers or other structures to fill the gap. He stated that 'new tower construction' is the last resort to address a coverage gap.

A. Cline if there was other tower information, for non-Verizon towers.

J. Springer noted that all towers and structures (steeple, etc.) were investigated for collocation. He pointed the Board back to Attachment A of the RF report which detailed the green (coverage) and white (coverage gap) areas and the towers and sites investigated.

T. Cronin commented on the known gap of AT&T coverage at his house; suggestive that gap was really there, not just for Verizon.

J. Springer turned to Attachment B of the RF report and spoke to the coverage differences between 700 and 1900 MHz and again reiterated that tower construction is the last resort for carriers given required permitting and approval timelines.

S. Usmani provided technical comments on distinction between 700 and 1900 MHz communications and how this particular site was identified.

A. Cline suggested Town regulations may need update to better comport with current technologies. Applicant concurred.

S. Ryan stated she had not yet been convinced that collocation was not feasible.

J. Springer returned to the submitted list and exhibits which show significant gap in coverage and lack of infrastructure on which to collocate.

P. Cooke spoke to the site investigation he completed with V. Drouin in looking for roofs, steeples, other towers, etc. that could address gap; there were none. There was some general discussion of an older AT&T tower and its insufficiencies for the known coverage gap area.

C. McMahon asked about the maximum number of carriers the proposed tower could support.

S. Ryan stated 'no more than 4' as they've shown.

P. Cooke clarified the number of larger carriers in the area and therefore the requested total of 4 carrier spots on the proposed tower.

Board members commented on steeples and towers visible from the proposed compound site observed during the site walk.

J. Springer and P. Cooke detailed why those structures couldn't serve the gap area.

S. Ryan asked why Carrol County complex property couldn't work; it seemed a clear view to balloon during site walk.

V. Drouin stated the Carrol County site has a 120' tower on it and that collocation was considered but ruled out as doesn't provide coverage to target gap area.

J. Springer commented that appropriateness of a tower site can generally be gauged by the number of people that appear at a hearing to protest a project. He noted the limited attendance at both public hearings for this site. He then presented some closing remarks touching on the highlights of the application and its merits from the view of the Town Regulations, lack of environmental impacts, balloon test suggesting very limited visibility, and apparent lack of public concern.

A. Klumb, A&D Klum Environmental, LLC, spoke to her letter as well as the Nh State Historic Preservation Office (SHPO) letter declaring no impact on historic resources.

The discussion then focused on the Special Exception criteria.

J. Springer reviewed the submitted materials which addressed each of the 8 criteria. For Site Suitability he spoke to size of parcel, compliance with setbacks, lack of environmental constraints and/or impacts, excellent site elevation for such a project, existing driveway access, lack of need for additional public utilities. For neighborhood impact he noted limited noise impact from generator as documented, limited vehicle trips. He then addressed nuisance concerns being minimal as, again, only noise is from generator during limited operation, and lack of visibility of both the tower and base compound equipment. He continued that there is no increase in public utility need as the site can exist on extension of existing power and phone connections; there is no water or sewer need. He then discussed appropriateness of the site plan stating that in this case, such doesn't really apply—to a tower—as there is negligible traffic, no lighting, no signs (beyond information/safety signs), and no proposed landscaping given the establish woodlands that surround the site. He then spoke to neighborhood integrity not being impacted as evidenced by the SHPO letter, results of the balloon test, lack of negative response from abutters or community members. He concluded this point noting that the benefit to the public of increased communication coverage clearly outweighs the minimal impacts presented. As to property impacts, he stated that communication with the Town Assessor revealed that no property owners in Town had requested nor received any abatements related to tower proximity; such suggests no negative impact of tower

location. He then discussed compliance with the spirit and intent of the regulations commenting that the tower does not prevent orderly growth, has been designed to protect existing resources, promotes Fire and Police communications, and has been designed to not impact environmental resources including visual impacts. He concluded reiterating the benefit of the site with respect to coverage gap, lack of visual impacts, and ability to site additional carriers in the same area with the same minimal impacts as the proposed tower.

S. Silk spoke to §175-65 B2(b) discussing galvanized metal, painted metal etc. and questioned utilities, specifically porta-potties.

J. Springer stated there would be no porta-potties.

V. Drouin spoke to galvanized metal and its dulling over time from weather etc.

S. Ryan disagreed generally with the camouflage comments, adding such was really under the Planning Board's review.

Gordon Lang, resident, stated that he and many north Wolfeboro residents have been watching the project as it moved along. He noted that most residents were not concerned with the proposed tower. He noted one resident that could see it but who had stated the benefit outweighs the minor visibility.

S. Ryan went through the 6 waivers requested by the applicant noting first that many had already been addressed through the presentation. She then addressed each waiver from the application materials in order as follows:

1. S. Ryan moved to grant waiver re: 20 mi tower list. A. Cline seconded the motion which passed unanimously.
2. S. Ryan motioned that waiver of pre-application meeting was mute at this point. A. Cline seconded the motion which passed unanimously.
3. S. Ryan moved to wave straight line plans. A. Cline seconded the motion which passed unanimously.
4. S. Ryan moved to grant waiver as requested. A. Cline seconded the motion which passed unanimously.
5. S. Ryan moved to grant waiver as requested. A. Cline seconded the motion which passed unanimously.
6. S. Ryan moved to grant waiver as requested. A. Cline seconded the motion which passed unanimously.

A. Cline closed the public hearing at 8:55 PM.

S. Ryan read through the 8 Special Exception Criteria as presented on page 7 of the applicant's narrative. She noted in each case that the criterion had been met. There was no other board discussion on the satisfaction of the criteria.

The Board consented that application had met the 8 special exception criteria because each criterion was adequately presented and defended with the information provided in the application submission and as articulated during the public hearing to justify the special exception.

S. Ryan motioned to approve Case # 13-SE-22 for Personal Wireless Facility at 1642 Center Street, Tax Map 009-001 as submitted having found the criterion to have been satisfied. L. Freudenberg seconded the motion.

T. Cronin suggested adding a condition of approval related to future abandonment of the tower.

A. Cline stated such condition would be added by the Planning Board as part of the Site Plan Review and Personal Wireless Facility Regulations.

The Board voted unanimously to approve the motion. Special Exception granted.

Board discussion shifted to the variance request.

J. Springer noted difficulty with regulation related to new tower height based on average canopy height citing the need to measure height of all trees at least 20' tall, §175-164 A 2.

S. Ryan suggested using the average NH tree canopy height of 90'.

J. Springer uncertain of adopted average NH tree height, suggested Board use Regulations.

General discussion of tree height, collocation, and mid-canopy height ensued.

J. Springer turned discussion to the 5 variance criteria. With regard to #1 and #2 together, he referred to his submitted narrative and the recent findings made by the Board with respect to the Special Exception which are mimicked in the Variance finding in that there is no public health, safety, or welfare impact of the tower, the lack of impact to essential neighborhood character has been met, there is no noise, traffic, dust, glare impact etc. Moving to the 3<sup>rd</sup> criteria, Substantial Justice, he noted that the public benefit outweighs the minimal impacts proposed by the tower which addresses a significant gap in coverage as afforded under the FCC. He pointed to traffic counts along Center Street and how significant the gap becomes—even if individually short—when magnified over the population served. Moving to criterion 4, Literal Enforcement, Springer noted the Daniels' Case and how it implores Board to not use 'standard practice' on this criterion but rather to see if tower is centrally located within the coverage gap area and whether

similar properties nearby are equally effective in providing the coverage solution which, in this case, have been disproven—only the subject site addresses the gap. Moving to the 5<sup>th</sup> Criterion, values not diminished, Springer, returned again to the recent Special Exception findings. He recalled the Assessor’s statements related to no abatement request as well as the greater-than-required setbacks and lack of nuisance factors.

S. Ryan motioned to close the public hearing at 9:45 PM. A. Cline seconded the motion which passed unanimously.

S. Ryan recited the 5 criteria utilizing the applicant’s submission (page 11). There were few comments beyond the criterion justification provided by the applicant. A. Cline noted location of tower within the center of the gap coverage gap area and lack of ‘harm’ from the increased height. S. Silk noted that while neighborhood depreciation information was not directly submitted, it may be that some owners/residents may prefer to live in area with increased coverage suggesting that tower may increase property values.

The Board consented that application had met the 5 variance criteria because the supporting information for each provided in the application submission and as articulated during the public hearing established justification for the request.

S. Ryan motioned to approve Case # 14-V-22 for a 160’ monopole at 1642 Center Street, Tax Map 009-001 as submitted subject to conditions. The Board discussed several versions of conditions and voted on each, the resulting list of conditions is as follows:

1. *All the documentation submitted in the application package by the applicant on August 09, 2022 and as received at the ZBA meetings of September 6, 2022 and October 3, 2022.*
2. *The monopole shall not be lit.*
3. *The monopole shall not exceed 160’ as shown on Sheet Z-5 dated July 06, 2022.*
4. *The site shall be constructed in accordance with site plans shown on submitted sheets Z-4 and Z-5, dated July 26, 2022.*

S. Silk seconded the motion with stated conditions. The vote on the motion was unanimous. Variance granted with conditions.

T. Cronin motioned to adjourn at 10:15 PM; S. Ryan seconded the motion which passed unanimously. Meeting adjourned at 10:15 PM.