

**KENSINGTON, NEW HAMPSHIRE
KENSINGTON ZONING BOARD OF ADJUSTMENT**

TUESDAY, MAY 2, 2023, 7:30 P.M.

At Kensington Town Hall 95 Amesbury Road, Kensington, NH

Meeting Minutes

In Attendance: Michael Schwotzer, Chair, Bill Ford, Mark Craig, Janet Bunnell, Aaron Fenton, Alternate sitting for Joan Skewes

M. Schwotzer opened the meeting at 7:30 pm.

All board members introduced themselves. M. Schwotzer explained that one of the full board members was absent. **B. Ford moved the motion for Aaron Fenton to sit as a full member in place of Joan Skewes. M. Craig seconded all in favor.** M. Schwotzer explained that gave A. Fenton the right to sit as a full board member and the right to question and vote in the meeting tonight. They have a full board for this meeting as they are a five-member board.

M. Schwotzer explained that he will work off of the procedure document in the back of the room. He read the following into the notes.

91-A:2 Meetings Open to Public. – II. Subject to the provisions of RSA 91-A:3, all meetings, ... shall be open to the public. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings.

M. Schwotzer explained that this is not a public hearing, so the board was not going to accept public comment except if needed by the ZBA from an applicant.

The board received a request:

“Will those filing the appeal be able to make a brief statement at the opening of the hearing to summarize the reasons for our request framing the issues before the zoning board as succinctly as possible?” M. Schwotzer opened the question up to the board members.

B. Ford asked if there would be one specific spokesperson to speak on behalf of a group or would each one of them have something to say. M. Schwotzer explained that it was written for each person but the board can restrict that. J. Bunnell is in agreement with people speaking as well as M. Craig.

J. Bunnell made a motion to have public comment, seconded by M. Craig, all in favor.

The board is hoping to keep the comments down to 2-3 minutes for each commenter.

The public was having difficulty hearing the board members unless they were speaking through microphones.

M. Schwotzer will go through the agenda and ask each person if they would like to speak.

ZBA 5-2-2023 REHEARING REQUESTS

Ami Delgado spoke to her application.

Ami Delgado gave testimony that she lived at 5 Hoosac Road for 18 years and that when she walked up Moulton Ridge Road recently, she noticed that there were a lot of watersheds to the south side of Moulton Ridge Road. She believes that if the multiple arrays go up it will change the frequencies in all the areas, she believes that it will be artificial frequency. That can disturb human health and disturb the habitat and the watershed. She believes that this will affect pollinators and wildlife and it is not something that you can turn off, she believes that it will be compounded with each array, and it is not like you can turn it off like the WI-FI. She is concerned about this and she hopes that the board will take into consideration that they will not put it into a residential zone where conservation land exists.

William or Dale King- were not present at the meeting.

Sarah Batterson-

She lives at 268 N Haverhill Road. She has an appeal, and she feels as though the process has been rushed. She understands that the board has to go by law and the Telecommunications Act of 1996 and feels that the process has been pushed. She is concerned with the process and says that it needs more deliberation. She would like to see Rosencrantz's tower up and running before putting this tower in. This needs more time to research. She thanked the board for hearing their appeals.

Mike DeCaprio

31 Osgood Road- he thinks that the process has been rushed, it was said somewhere that Vertex has had 10 years to prepare for this and he feels that the process has been rushed. He asked the board to allow more time for the abutters to get appraisals, he continued that people have not had enough time to get the appraisals and that people are still working on it. A survey was done by the National Institute of Science and Public Health found that 94% of home buyers we're less interested in and would pay less for property located near a cell tower and he thinks that should be taken into account. He would like to see what the cell service is with 184 South Road first. There are towns around the country that have voted to stop 5G from coming into their town and there is a lot of research out there that he thinks the board should take a look at.

Karen Parker Feld-Peter Freeman

Karen Parker Feld stated that the town has been working on this for around 10 years and people have only been working on this for a few months. Irene Greenburg only heard about this a little while ago and submitted a letter to the board, she is not sure it was recorded in the record. She does not believe that the abutters have had appropriate time to get their appraisals because they take 6-8 weeks. They would have had to receive the notice in early January. On that ground alone she believes that they need to slow down the process. To allow time for people to get their appraisals. Those

ZBA 5-2-2023 REHEARING REQUESTS

appraisals were supposed to be submitted a week before the March meeting and the abutters would have had to started the appraisal process around January to have it in for that time. She doesn't like to think of this as for this or against this, she would like people to think of it for the Town or against industry. She believes that this is not just a routine procedural matter, it is something that should take some time because it is important. She believes that everyone that has been involved in the process and has taken the time to come out today does not need to be reminded of the telecommunications act of 1996, she believes that they have all schooled themselves in that. Kensington zoning ordinance which says that before the tower is approved in a residential agricultural zone all reasonable alternatives should have been exhausted. This means to her to see how cell coverage is improved with the addition of the cell tower at 184 South Road. She continued that she is not here to have conversations with lawyers, they are there to have conversations with the town. She expressed to the board to ask themselves about the limitation on the conversation is that the town can't even talk about issues with its residents. She wants them to ask themselves why there is that limitation and why they would consider that to be valid. She is concerned with the board not being able to review the science or additional research provided stating that limitation would make her want to review all of that information. She stated that if everyone in Kensington had done their own evaluations and came to their own conclusions and said yes, we want this in an agricultural zone we can't wait and we know we need it and if everyone in town agreed to that then she would be fine with that because that would be democracy. She does not believe that that is the way that this has happened, and she is not fine with that. She believes that the board needs to allow time to see if the tower addresses the coverage issues with real coverage maps, not projections. She wants to let everyone in town have the experience of seeing the tower in place and then if it is still a problem and everyone agrees to this then that is what we should do.

Mary Rezendes Brown

She thanked the board for allowing her to have this time to address them. She owns 66 Moulton Ridge Road and she has received this property from her brother who put 2/3rds of the property into conservation so this property means a lot to her. She received a letter in February to come to a meeting and she came not knowing what she was going to be dealing with. At that time, she learned about telecommunications and tower and proposal and believes that it is an impact for all of us, but especially for her property. Her property will be 1250 feet from the base of the tower, not the 1640 feet which she stated is recommended. She learned that Mr. Parisi had been working for over 10 years on this and they learned that last week at the planning board. She thought about it and 10 years he has been working on this and she doesn't know if he was working with the zoning board or with what committees, but she has only had 2 months to learn and understand the proposal. I ask you is that fair? She stated that we feel rushed and that she was the only one that could see the balloon. She continued that Lynne Monroe reported from the Heritage Committee that she evaluated and she could see the balloon and it was really visible. She has that to claim that she will have the vision of it. She is not excited about it because the property owner that is going to have the tower will not have any vision of it, but will be compensated to have the tower. She would like the board to think about 2

ZBA 5-2-2023 REHEARING REQUESTS

months vs 10 years, 1250 feet and 1640, a view and no view, is that really in the best interest of all residents?

Peter Sawyer

He had nothing to add.

Ann Smith

When she got the registered letter and she explained that at 83 she would now have to deal with a cell tower. She is very unhappy with what is happening. She explained that there are 3 of them that are going to get appraisals. She has something set up by someone in Concord to do all three of them at the same time. She stated that it will take 6-8 weeks for them to complete the appraisal, and she is unsure of what the outcome will be, but she does know that Mary Brown has the most physical aspect of the cell tower. She was on her porch, and she took four pictures with her cell phone and it was very visible. And someone the other night said that there are branches and the trees have foliage and she continued that there is not foliage all year long. She offered a copy of the contract with the appraiser to the board. They did not take it, there was no comment from the board.

Peter Merrill asked to have time to address the board. He stated that it was a procedural question.

M. Schwotzer allowed the comment on a procedural issue.

P. Merrill continued that there was at least one name that he is aware of that is an abutter that was not notified, and they are not on the abutter's list. So procedurally you have not sought to notify all the people that you should have notified. M. Schwotzer stated that he is not going to approach that question because he has received the abutters list multiple times and that was covered by the letters of notification. P. Merrill stated that if an abutter is not on the list, then it is tough luck. M. Schwotzer commented to P. Merrill that he has no control over that and that he was sorry. He appreciated the comment but if the abutter has a legitimate issue, then they have other avenues. P. Merrill responded that you can't object to what you don't know. M. Schwotzer stated that was a very good point.

M. Schwotzer read a note into the record.

The applications being submitted by members of the public are not, technically, requests for rehearing under RSA 677:2. Instead, they are appeals of an administrative decision under RSA 676:5. Here, there was no administrative decision. As such, the "Application for Appeal from an Administrative Decision" is not the correct form to use in this case. Instead, the applicants should have simply written to the ZBA, pursuant to RSA 677:2, requesting a rehearing, and explaining the grounds for the request.

Our understanding, however, is that the individuals utilizing these appeal forms are, in fact, requesting a rehearing pursuant to RSA 677:2. As such, the Town will accept these applications and process them as requests for a rehearing.

ZBA 5-2-2023 REHEARING REQUESTS

M. Schwotzer explained that there was a technical error, but the town accepts that the wrong form was given out and that the people in good faith had filed for a rehearing. These forms are now being accepted as being filed in the correct format and stated that the board would proceed.

M. Schwotzer continued to read the below from the agenda.

This meeting is to determine whether to approve or deny the application(s) for a rehearing of the Zoning Board of Adjustment's approval of a variance to Article V Section 5.1.5.2 to allow for the construction of a Telecommunications Facility in the Residential/Agricultural zone on the property owned by Marybeth Dinicola at 70 Moulton Ridge Road Kensington, NH 03833 known as Map 10 Lot 1. If one or more applications are approved, a rehearing OR a partial rehearing of the Variance Application will be held at a future date.

A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. Noting that Section 332 C (7) of the Telecommunications Act of 1966 preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions.

The Requests for Rehearing will be considered individually on 1) Standing and 2) Merits. A written decision will be made for each Request.

Amy and Manual Delgado of 5 Hoosac Road

M. Schwotzer went through the criteria to see if the request met the criteria for standing and merit. B. Ford stated that based on the criteria he does not feel that this request has standing.

M. Schwotzer stated that RSA 677:2 provides that "a person who is entitled to apply for rehearing includes any party to the action or proceedings or any person directly affected thereby." He continued to explain that directly affected has been interpreted by the New Hampshire Supreme Court to mean showing some direct, definite interest in the outcome of the action and proceedings, so the determination is going to be based to a certain extent on whether they have standing or not, the Court considers four factors when making a determination as to whether the person has standing 1- the proximity of the challenging parties property to the subject site 2- the type of change proposed 3 the immediacy of the injury claims and 4 the challenging parties' participation in the administrative hearing.

He broke it down further to state the immediacy of the property to the cell tower, the type of change being proposed (cell tower), the immediacy of the injury claim, and the challenging parties' participation. M. Craig asked if all the applicants will go through the same criteria. M. Schwotzer explained that they will, and the board will go through this 8 times for the 8 requests.

Al Brandano- questioned the board and how the RSA is written and if they have semicolons or commas. That would make a difference in how it is interpreted.

J. Bunnell had another question and asked if it is appropriate for the board to decide if they will require all four criteria or do they just have to meet one. M. Schwotzer read a court decision that stated the following. "They consider four factors when making a determination of whether this has standing or not, proximity, type of change, the immediacy of the injury claim, and the participation in the

ZBA 5-2-2023 REHEARING REQUESTS

administrative hearing.” He read the following, “They must specify in the motion for rehearing the grounds thereof”, so therefore you, you have to have grounds listed on your application.

B. Ford stated that he is trying to listen to the law. If they agree or disagree, they need to follow the law the way it is written. He is trying to listen to the facts and the law. The board is trying to define the definition. A. Fenton asked if the form that they should have filed has the standing listed on it. M. Schwotzer replied “no”. He stated just because you don’t like the decision does not give you standing to file an appeal. Karen Parker Feld asked the board to list the four criteria and the merits. Al Brandano asked if maybe they could make a copy. M. Schwotzer explained that the people are asking how the board is determining the standing and want to see the criteria. P. Merrill stated that for them to see it vs just the board reading it. J. Bunnell wants to understand what the board is finding and do they need to require something, and she knows that there is a law.

A. Fenton explained that is the person directly affected and these factors help them to decide that question. M. Schwotzer stated that if you are 1.5 miles away, he does not see how you would have an immediate effect on putting the tower up. Distance to him is a strong criterion. Being an abutter is usually the answer to whether they are close to the property. His answer to that would be yes because they are within 200 feet. B. Ford feels the same way about that.

M. Schwotzer explained that in the application you have to show the injury and if you put down nothing, then he could not rule that the requester would have an injury. He went through the minutes of the meetings and listed if the applicants were at the meeting and if they had comments. You must list the grounds and without that, it is a failure of that criteria. J. Bunnell, how would people know that if it was not on the form? M. Schwotzer explained that they didn’t need a form they just needed to write a letter, and if they didn’t put anything with the application, he has to go by the law.

A comment from the attendees stated that if you were never told the criteria, it is an unbalanced unfair system. If people knew that they had to put those criteria down, he was pretty sure they would have.

M. Schwotzer explained that he has to deal with the law and what they have in front of them. Further comments were made and were unclear.

K. Parker Feld stated that she would have written her appeal differently if she had known the criteria. There was a comment made by the crowd that was inappropriate.

M. Schwotzer stated that this application has failed on two of the four criteria on standing alone. B. Ford asked how they can go to merit when they don’t qualify under standing.

The process of the board is to finish one application and then go to another.

B. Ford made a motion that the Delgado application failed to have standing that there was no proximity which was 1.5 miles and that there was no injury claim. M. Craig stated that he believes that they have some standing.

A. Fenton questioned the form that the board was looking at, and if it was part of the application. M. Schwotzer stated that he had made this up for the board to have some idea of what the questions to keep them from having to dig through the applications individually. A. Fenton clarified that the application that was submitted was just the second part of the packet and did not include the cover

ZBA 5-2-2023 REHEARING REQUESTS

page. With that clarification, A. Fenton seconded the motion. The vote was 4 in favor and one opposed.

M. Schwotzer asked the following questions, did the applicant specify in the motion the grounds for rehearing?

B. Ford made the motion to deny the application of the Delgado's they did not have merit on question one and question two, seconded by J. Bunnell. 4 in favor one opposed.

M. Schwotzer stated that the application was denied due to lack of standing and lack of merit.

William and Dale King- 9 Hoosac Road

M. Schwotzer used the same format, and the proximity is 1.4 miles, and no immediacy of claim, none was listed and in the 2/15/23 minutes he could not find that they made any comments, so he is unsure if they participated. **B. Ford made the motion to deny standing for the application of the King's based on the two criteria not being met based on the law. A. Fenton seconded, all in favor.**

M. Schwotzer moved on to the question of merit and both answers to the questions were no.

B. Ford made a motion to deny the application of the Kings on the basis of the merit being no on question one and no on question two. A. Fenton seconded. 4 in favor one opposed.

Sarah Batterson- 268 North Haverhill Road

M. Schwotzer stated that she is an abutter, so she passed the first criteria for standing, and is listed throughout the minutes for participation. M. Schwotzer brought the board's attention to the letter supplied by the applicant. He stated that one item that was incorrect in that the board of adjustment grants variances and not waivers. The second point was that the applicant mentioned that there was no public comment allowed in the March meeting. He continued that the board worked through the criteria in the February meeting they heard enough information from the people and due to the fourth criterion, they stopped the meeting and continued until March 15th for the people in the area to be able to submit information on the diminishment of property values only. On the 15th there was nothing received regarding valuations. That was the point where they were in the deliberations, so they moved on. B. Ford stated that he believed that they allowed additional time for anyone to come with a bonified written appraisal of their property. That is why they put it off for a month. She would like reconsideration due to the zoning stating that telecommunications towers are not allowed in the residential/agricultural zone. That is correct but that is why the variance exists because if you say you can't do something to a person's property, they have to have some avenue of relief. Ms. Batterson also claimed in her letter that the waiver would set precedence. M. Schwotzer explained that since they believe that variances are a unique decision on a specific property for a very specific reason, therefore he does not believe that variances create precedence. She referenced another section of the tower and "telecommunication facilities will not be considered essential services" and then used the quote but actually, that section is the reasoning behind having to go to the planning board. She continued in her letter that the zoning board had refused to hear any health concerns despite the fact that the telecommunications act does not apply but the town council states that it does apply. M. Schwotzer asked the board their thoughts. B. Ford read through to see if there

ZBA 5-2-2023 REHEARING REQUESTS

278 was a comment to give her standing and he couldn't see one. J. Bunnell does not see that it was
279 supplied but sees that she is going for an appraisal. She does not see that the criteria were listed but
280 she believes there is standing due to the fact that there was not enough time for her to get an
281 appraisal. M. Schwotzer asked if she sees where she is talking about property values, he is looking for
282 help with finding the immediacy of a claim. J. Bunnell understands the law and what they are doing
283 here tonight, and it seems to her that there is only one that is going to pass because they wrote the
284 information in a letter attached to an application, depending upon whether or not they were at the
285 meeting, she believes that is what the struggle is here. M. Craig thinks that she has merit and standing.
286 M. Schwotzer stated that there is nothing in the application that states anything about property values
287 or an appraisal. He stated that you have to take each application with the criteria and work it out.
288 Even if you give them standing what are the grounds and where did they say that the board was
289 unlawful and unreasonable?

290 B. Ford explained that the board has to be very careful because he specifically remembers that the
291 board felt that they needed to extend to get the appraisals and they have to be careful and we need to
292 do it by the law.

293 Someone stated that if it had been on the form, it would have been in there.

294 Al Brandano rose for a point of order and continued that they applied for the wrong appeal process
295 and the board is knowingly moving forward, he would respectfully ask that the board review the
296 process give them the correct form and let them do it in another meeting. He is concerned that the
297 way that they are going is going to be a reason for an appeal. They told you they had the wrong form
298 and you agreed it was the wrong form. M. Schwotzer stated that they are allowing this to go forward
299 with the wrong form. A. Brandano continued that they didn't know how to apply and didn't know
300 what the criteria were. He believes that they are opening the town to a liability. He asked that the
301 board reconsider another meeting and let the people do their duty with the proper form.

302 M. Schwotzer stated that they are a legal board, and he will continue to read the public the law.

303 The person applying for a rehearing shall have the right to amend the motion for rehearing including
304 the grounds thereof within 30 days of when the written decision was actually filed. The written
305 decision was filed on March 16, 2023. The law states that you had within the appeal period the right to
306 adjust. He does not think that this board has the right to allow anything to be resubmitted at this time
307 due to the 30-day appeal period lapsing. A. Brandano stated that you knew that it was the wrong
308 form.

309 M. Schwotzer continued that they did not know at the time that it was the wrong form. A. Brandano
310 continued that they couldn't meet the statute of the law because they didn't know. Part of the law
311 means that you have to be made aware. They were using the wrong form and doing what they
312 believed to be correct, and they got that form from the board. He believes that the chair needs to give
313 the people the opportunity and if the time goes by but at least give everyone here a chance to do this.

314 M. Schwotzer asked the board if there was any comment to A. Brandano's statements.

315 J. Bunnell asked if the planning board can go forward if the zoning board extended the 30-day period
316 could they make that decision by law? She heard that the zoning board has the ability to extend that
317 30-day window. M. Schwotzer clarified that he does not believe so, not according to what this law

ZBA 5-2-2023 REHEARING REQUESTS

reads. If the board wanted to continue the meeting because they had too much work to get through, he believes that they could do that, but they still could not accept anything coming off of the floor.

A. Fenton added that he does not believe that the form matters much, at least on this application due to the fact that it states that she is looking to appeal the decision for the following reasons. It looks like she was asking for reconsideration, and he believes that they have enough information to make a decision on this now. B. Ford agrees with that statement based on the law and does not see the board having the ability to change the law in 30 days and for the board to continue to do what they are doing whatever the outcome. M. Schwotzer stated that the applicant stated multiple issues, and value is not one of them that he can find. The applicant did mention the discussion on property values not the value of her property. She is an abutter and there are multiple issues but does one show an immediate threat? Immediate threat means what is the tower going to do to me? M. Craig believes that she has standing and then talking about merit she has things listed that he thinks they should take into consideration. He thinks that there are health concerns, environmental concerns, and value concerns that she has listed and there are property value concerns. M. Schwotzer stated that is not the way that he is reading #6 on the submitted letter, which states that the public should have been allowed time for comment and discussion and those comments should not have been limited to the effect on the property. M. Schwotzer stated that was at the second meeting. M. Craig stated that he was not at the second meeting, and he will abstain if needed for any of this if needed.

A. Fenton isn't the immediate threat seeing the tower? This was not the one with the tower. M. Craig asked if they give the last one merit or standing what does that mean? M. Schwotzer stated that they should finish with this one and then move on to the next one. Do you want to give them standing since they were at the meeting? **J. Bunnell made a motion that they have standing. M. Craig seconded. 3 for standing 2 opposed.**

M. Schwotzer continued and asked if the applicant specified grounds for rehearing. He is looking for immediate injury if you say that they have given grounds, but do they state it was unlawful and unreasonable? J. Bunnell asked for clarification. M. Schwotzer stated that there are two questions for merit, the first question is did they specify any grounds for a rehearing, for which they listed 10 things. The second question in merit does the applicant list grounds why the variance was unlawful and unreasonable. Was there a point made that states that what the board did was unlawful or unreasonable, with the decision to put a tower in a residential zone? M. Craig said that they stated that they needed more time to get their appraisal. M. Schwotzer clarified that that was not there they wanted more time to talk during the time of the second meeting which was dedicated to the discussion of value. B. Ford gave a little clarification under number two, did this board grant this variance that was unlawful or unreasonable that they made one of two of those things incorrectly when we did our finding? M. Schwotzer agreed with that statement. M. Craig stated that he would need to abstain due to not being at the last meeting, J. Bunnell stated that she would also have to abstain. A. Fenton asked where that line that states unlawful or unreasonable was from, was that from case law? M. Schwotzer confirmed that it was. B. Ford commented that he was at that meeting, and he does not believe that we as a board did any one of those things incorrectly. J. Bunnell wanted to go back to the point that was made tonight about the abutters that were not notified. I know that we

ZBA 5-2-2023 REHEARING REQUESTS

don't have control over that, but should that be considered? An opportunity for a rehearing because there were abutters that were not notified. M. Schwotzer stated that they had no one to come forward in the correct time frame to raise that issue, the question of what the correct time frame was asked and he answered 30 days. B. Ford continued that there is state law that if someone did get passed over there is a process that can be brought forward. But right now, we do not know so we have to proceed as though everything was done. **M. Schwotzer made a motion in regard to merit, that they did state grounds but that there was no proof of unlawful or unreasonable, so he is saying that they do not have merit. B. Ford seconded. 3 in favor and 2 abstentions.**

J. Bunnell asked if Aaron was at the meetings and if he was not sitting on the board, does he have to abstain from voting? M. Schwotzer said no. **M. Schwotzer stated that the request is denied.**

There is a question on the floor as to if the board would like to change the order of the applications. He asked if someone wanted to make a suggestion. J. Bunnell wanted to go with M. Craig's statement to go ahead with the direct abutters. M. Craig stated that he would like to start with the person most affected. M. Schwotzer stated that the board has the right to change the order. The board skipped to the last name on the list, Ann Smith.

Ann Smith

Ann Smith of 63 Moulton Ridge Road. She is an abutter in regard to the site she is in the vicinity of the cell tower, the immediacy of the injury claimed, future sales value, and health which is not allowable. M. Schwotzer read a small paragraph from the application.

"It is my belief that a buyer interested in buying my homestead would be concerned about a cell tower in the neighborhood." She attended the meetings, and she did talk about property values and mentioned this evening that she is getting an appraisal and it will take some time to get.

Does she have standing? She is an abutter; the cell tower is the issue, and she did talk in her letter about the sales value, and did she participate and the answer is yes. **J. Bunnell made a motion that she does have standing, seconded by M. Craig, all in favor.**

Merit is the next question. Did they specify the grounds for the rehearing? M. Schwotzer said yes, and J. Bunnell agreed. Was the variance unlawful or unreasonable? In regards, it is the process that they did to allow time to get to the second meeting for the specific question of property values. So, was the variance unreasonably given knowing that the criteria of property values are one of the four? J.

Bunnell said yes based on the time period. M. Craig agreed. **J. Bunnell made a motion that the application has merit. M. Craig seconded, any further conversation? All in favor.** Therefore, the

applicant has standing and merit and the board hear by orders either a full or a partial. M. Schwotzer believes that a partial makes sense because they were dealing with that one issue in regard to values.

J. Bunnell asked for clarification on the full or partial rehearing.

M. Schwotzer replied that if the board were to say that they wanted to have a full rehearing then everyone would be notified again and then the board would be dealing with all the criteria for the variance. In the first meeting that the board had they got through the first three criteria and the fourth was the value and they continued until the next month and did they give them enough time to come

ZBA 5-2-2023 REHEARING REQUESTS

forward with that. His feeling is that they should only open the rehearing for the value question of the five criteria. He asked if that made sense to the board. **B. Ford made a motion to grant a partial rehearing specifically for the purpose of the value criteria of the variance. M. Craig seconded.** J. Bunnell asked a clarifying question if everyone could supply information, or would there be specific applications able to supply further information? M. Schwotzer believed that it would only be the applicants that have both standing and merit. A. Fenton stated that there is still going to be a public comment so people with an appraisal could bring it to the board then. M. Schwotzer agreed that it will be a public hearing specifically on that subject and they will be able to have comments. **All in favor.** M. Schwotzer asked Mrs. Smith how long she would need, and she replied that she was told 6-8 weeks from tomorrow or today she was unsure when he started. B. Ford wanted to make a suggestion with respect to the applicant and have the meeting 10 weeks out. A. Smith stated that would make sense to her and thank you. M. Schwotzer explained that he will have to find out from the town counsel what kind of time frame we can deal with. We now have the 6-8-week issue but we also have to once again stay within the law so he will have to deal with town counsel on this. B. Ford continued based on town council's decision if 10 weeks is okay he asked the applicant if that will be okay with her. She agreed but M. Schwotzer stated he is not making any promises on this time frame.

Trish and Mike DeCaprio- 31 Osgood Road

The question of standing they are 2.4 miles away and the injury of claims is specifically to health. Where it says approving the variance disregards the existing ordinance, and mentioned the precedence that is unique and health aspects. The board cannot deal with health. He does not think that they make standing. M. Craig asked if they were an abutter. They are not abutters. M. Craig stated that they are too far away to have standing. **M. Schwotzer made a motion that they do not have standing, B. Ford seconded, all in favor.**

Did they specify grounds and they stated health and did not prove that the board was unlawful or unreasonable? **B. Ford made a motion that due to the information stated in the comments and the law they do not have merit. J. Bunnell seconded, all in favor. The application is denied.**

Karen Parker Feld and Peter Freeman-178 Drinkwater Road

They were present at a meeting, reading their letter which contained health aspects. They referenced sensitive environmental areas as it affects health and safety. They are 2.6 miles from the site and he did not see any other reference other than health and he stated that this person does not have standing. **B. Ford made a motion that based on the 2.6 miles and the other criteria submitted they do not have standing, A. Fenton seconded. All in favor.**

M. Schwotzer moved onto the question of merit. Did they give grounds that the board was unlawful or unreasonable? J. Bunnell brought the board's attention to page one of the submitting information in the last paragraph. M. Schwotzer stated that is a request not grounds for saying that the board did something illegal and unlawful. B. Ford does not believe that the board did anything that was unlawful or unreasonable based on this particular application. M. Schwotzer stated that they did give grounds in the application. J. Bunnell has to abstain due to not being at the meeting and there is a specific

ZBA 5-2-2023 REHEARING REQUESTS

sentence that she is talking about that relates to that meeting so she will abstain. M. Craig is abstaining as well. **B. Ford made a motion that they did not provide the information necessary to grant merit. A. Fenton seconded. 3 in favor 2 abstained.** Application denied.

Mary Rezendes Brown- 66 Moulton Ridge Road

She is an abutter, and this is another blank application, and he understands the issues with the forms, but she did not give any criteria for injury claims in the application. She was at the meetings, and he got testimony out of the meeting minutes, do they grant standing due to her proximity to the tower? A. Fenton asked if this is the one that can see the tower. Yes, she saw the balloon through her trees. A. Fenton continued that there is nothing in the application to review but given that she spoke earlier he believes that should be considered and that gives her standing. M. Schwotzer stated that you can't add to an application. A. Fenton asked what the purpose was of the comments at the start of the meeting if not to clarify the application. M. Schwotzer felt that at least the applicants could give the board some impression of what they were trying to do. He understands what he is saying. If you give them standing that is fine, but I can't see how they have grounds in regard to merit. There is nothing stated in the application for immediate injury. A. Fenton agrees with him that simply seeing the top of the tower is not immediate injury, but through oral testimony, she has standing. **J. Bunnell made a motion that the application has standing, seconded by A. Fenton, all in favor.** Merit- M. Schwotzer stated that he does not believe that she has merit based on the application and in the oral testimony there was nothing stating that they did anything unlawful or unreasonable. **B. Ford made a motion based on his opinion that they did not do anything unlawful or unreasonable based on this particular applicant's initial request, seconded by A. Fenton. All in favor. Application denied.**

Peter Sawyer- 50 Moulton Ridge Road

This is the same condition that there was no information supplied. J. Bunnell stated that the application has standing and merit because Peter explained that it needs to be documented and he talked about the abutters. M. Schwotzer explained that was Peter Merrill, not Peter Sawyer. **J. Bunnell made a motion that the application has standing, and M. Craig seconded. 2 in favor and 3 against.** Based on merit does the application has merit he believes that the application does not. **B. Ford made a motion that the application does not have merit, seconded by J. Bunnell, all in favor. Application denied.**

M. Schwotzer informed those in attendance that they had one applicant approved for rehearing and unfortunately, he could not set a date at this time, but he will be in contact with town counsel. You will be notified to the best of our ability for the rehearing as to the date and the time. This is a very specific rehearing, and it will be listed that way. This will be a partial rehearing for the specific conversation regarding valuations. M. Schwotzer closed that section of the meeting.

ZBA 5-2-2023 REHEARING REQUESTS

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479 The board reviewed the meeting minutes. They will postpone the approvals until a later date.

480 The next meeting is to be determined.

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482 **Motion to adjourn made by B. Ford at 9:10 pm and seconded by J. Bunnell, all in favor.**

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484 Respectfully submitted,

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486 Kathleen T Felch

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APPROVED