

**PLANNING BOARD MINUTES**

**WEDNESDAY, JUNE 17, 2020**

**REMOTE MEETING – 6:30 P.M.**

**Present:** Christa Schwintzer, Joe Sprecher, Michael Costello, Jud McIntosh, John Beckett, Dave Thompson, Phil Ruck

**Absent:** Lisa Buck

**Town Staff:** Kyle Drexler, Jessica Chadbourne

**Acceptance of the Agenda**

Mr. Ruck asked for a motion to accept the agenda.

Motion: John Beckett

Second: Michael Costello

Mr. Ruck made a note that one of the four items, the approval of the new land use ordinance, may be put off until a later date depending on the length of time needed to deal with the other three items. He asked if there was any opposition to delaying approval if necessary.

There was no opposition, and the agenda for the meeting was accepted.

**Approval of the Minutes of the May 20, 2020 Meeting**

Mr. Ruck moved on to the approval of the minutes. He asked the board for any corrections to the minutes of May 20th, and pointed out a correction to the roll call from the previous month. Ms. Schwintzer made note of an incomplete sentence, and asked that the phrasing around vote results be changed to reflect that fact that the votes were unanimous in favor of approval, so there would be no confusion on the record about the result of a vote.

Mr. Ruck asked for a motion to approve the minutes with the above changes.

Motion: Jud McIntosh

Second: John Beckett

Mr. Ruck asked Ms. Chadbourne to take a vote by roll call. The vote passed unanimously.

**Old Business**

**Item A: A continuation of a minor site plan review application for an accessory use at 36 Oak St that would allow Verizon Wireless to place equipment within the steeple of the structure.**

Mr. Ruck introduced the first item of the night, the continued discussion of the Verizon Wireless antenna installation at 36 Oak st. He then called on the applicant to describe the project to the board.

Scott Anderson with Verizon Wireless began by introducing himself to the board, then jumped into providing the board with an overview of the proposed antenna project. He outlined his presentation in four steps:

1. Briefly go through the project components for the site.
2. Provide information on the anticipated coverage from the site along with RF emissions

data.

3. Discuss the location of the equipment installation.
4. Answer any questions the board has with regard to the project.

According to Mr. Anderson, Verizon is proposing what they call a “stealth installation” at the United Methodist Church, 36 Oak St. The installation will be in the church steeple. There will be two main areas associated with the project: the steeple itself where the antenna will be located, and the equipment installation at the back of the church. The equipment installation contains a backup battery for the antenna as well as a cabinet that contains the actual telecommunications equipment that makes the antenna work. It will be located on a small concrete pad and fenced in to conceal the mechanics from view. The cables from the steeple will run down the side of the building and then underground out to the equipment installation. There is a fan that will help cool one of the cabinets, but other than that the new installation is expected to be much smaller and quieter than older models. The goal with these types of facilities is for them to be completely concealed from passersby.

He moved on to the radio frequency report provided to the Planning Board about the improvement of cell phone coverage from the site. Mr. Anderson directed the board to the back of the packet, to a series of coverage maps for the immediate area. Areas in yellow and green represent coverage. Maps were included for coverage ranges both before and after installation. The new antenna should eliminate most current areas of insufficient coverage, particular in the downtown and immediate surrounding neighborhoods of Orono. But also, adding the downtown site will take some of the load of extant towers that are currently struggling to provide sufficient coverage to the downtown.

The Verizon team also provided a calculated frequency emissions report to address concerns expressed about the health effects of placing a cell antenna in the middle of such a populated area. He again directed the board’s attention to the back of the packet to a chart of inspected readings from a number of different locations, and those locations are marked with green dots on the site plan. The Oak St site will be generating emissions that range from 9.8% to below 2% depending on proximity to the antenna. So the max emissions at this site, which he believes to be about 250 ft away, are less than 10% of the allowable emissions for a wireless facility. At around 300 or 400 ft away the emissions drop significantly to 2-3%. The emissions from the proposed facility are extremely low, particularly compared to the installation of a full tower.

Mr. Anderson then addressed concerns about the placement of the equipment installation outside the church, given that the entire lot is in the shoreland zone. Because the installation will be placed on top of an existing parking lot, it will not negatively impact the 20% maximum for impervious surfaces in that shoreland zone. He acknowledged that the current plans provided did not reflect this change of location for the equipment installation, and that the team would have to go back to their engineers, sort out the details, and provide new plans to the Planning Board before a final decision on the project could be reached.

The last item Mr. Anderson touched on was the accessory use as a new provision of the wireless ordinance. He explained that the installation of concealed antennas as an accessory use is a common where the installation of wireless communications equipment is prohibited in a downtown area. Many towns have adopted a similar provision. Because people object to towers and visible antenna installations in populated areas, the provision allows for the installation of hidden antennas and removes the necessity of visible equipment. Once out of sight, the visual impact negated, the primary objection to the installation of wireless communications equipment in a downtown area is removed.

This proposed antenna is clearly accessory to the primary use of the Oak St facility as a church. The

question has been raised as to whether all of the equipment must be hidden as well as the antenna, but Mr. Anderson suggested that was not the case. The purpose of the provision is to hide the most offensive aspects of a wireless installation - the tower or antenna - which is accomplished in this case by concealing it in the church steeple. As long as the antenna is concealed, the project meets the requirements of the ordinance provision.

He ended with an invitation for questions from the board and the public. Mr. Ruck called for initial questions from the board.

Joe Sprecher pointed out that if the equipment could be completely hidden inside the church building it would automatically remove some objections to the project. Mr. Anderson addressed the suggestion, pointing out that when Verizon is considering potential sites they do a fairly comprehensive investigation into the environmental impacts. So to move the equipment inside for this project would send the whole thing back to the beginning of the 18 month process of investigating and approving the new location. Mr. Anderson pointed out that this would delay not only the project itself but the benefits of the project for the community. Instead they have relocated the equipment installation to a space on the existing parking lot to avoid conflict with the shoreland zoning. He also said that they would be putting up not just fencing but also possible plants, etc. - whatever is necessary to make sure the installation is hidden from view.

John Beckett asked whether when 5G became the norm this would turn into a 5G location. Mr. Anderson responded that there were no plans to institute 5G in Orono. The installation in place is, and the new installation will be, a 4G location. Updating to 5G in the future would require Verizon to replace all its current antennas and equipment, necessitating them to come back to the Planning Board once again for permission. If that were the case, the hearing at the time would give the board and the public the chance to express any concerns about 5G.

When no further questions from the board were forthcoming, Mr. Ruck asked Kyle Drexler to present his report to the Planning Board. Mr. Drexler opened with an overview of the basic site plan criteria: the Oak St lot is located in the village commercial district, it is also in the limited commercial shoreland zoning district. The lot is considered to be a legal lot. This is a use that would not create any new need for utility capacity, nor would there be an increased traffic or parking need. As Mr. Anderson alluded to, three issues emerged during the process of developing the project.

Issue One: With regards to the public's concern about perceived health issues, the Telecommunications Act of 1996 has a section that states "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." Mr. Drexler reached out to the town attorney to verify the meaning of that section and in short, so long as the antenna is not generating emissions beyond those guidelines set by the FCC then the town cannot deny a project like this based on any perceived health or environmental impacts from those emissions.

Issue Two: The project is in the shoreland zone, which requires that not more than 20% of the lot be impervious cover. Mr Anderson mentioned that one of the possibilities is to move the external equipment installation to an already paved area as it would not then count towards creating new impervious cover. That would resolve the shoreland issue if you were only considering that area.

Issue Three: The remaining issue pertained to the exemption to the ordinance that was created for telecommunications projects like this. In general, wireless telecommunications facilities are not an allowable use in the village commercial district. However the exemption was created for, according to

the wording of said exemption, “Antennas as accessory uses. An antenna licensed by the FCC that is an accessory use to a commercial or institutional use and located entirely within an existing, enclosed structure.” Which raises the question, what do you call that equipment area located outside the church. The antenna is exempt from being considered a telecommunications facility because it’s located inside. But the equipment area that directly is connected to the antenna, and necessary for the entire thing to operate, is located outside the structure. Mr. Drexler used the example of a single family home that wants to start operating a restaurant as an accessory use. That, he pointed out, would not be permitted as restaurants are not allowed in the residential districts. So even though it would be an accessory use, it would still not be allowed because the accessory use is a restaurant. On The other hand, if someone just has some equipment outside their house for a commercial business, like a dumpster or some other small piece of equipment that aids in the function of the business or the house, it may be allowed because that thing might not be considered an actual land use. This matter boils down to what you considered that equipment installation outside the church. Is it just a piece of equipment without its own use, or is it a part of a telecommunications facility in which case it is not permitted in the village commercial unless concealed inside the structure.

Mr. Drexler asked for the board to have a conversation on the matter as this exemption is fairly new for the town and there is no set precedent. As Mr. Anderson pointed out, the intent of the ordinance pertained to the visual impact of telecommunication installations in the downtown. When you read the town’s telecommunications ordinance, it’s clear that most of the standards in that section relate to visual concerns. When the exemption was created to allow these types of accessory uses, the point of having them have to be placed inside a structure was for there not to be any sort of visual impact in a highly populated area. The fact that the equipment installation would be concealed in a fenced area behind the church does somewhat succeed in the intent of the ordinance. But in the end it is a matter of the specific wording of the ordinance and how that language is interpreted by the board members.

Mr. Ruck thanked Mr. Drexler for his report, and asked for further thoughts from the board ahead of the public hearing and comments. Mr. Sprecher pointed out that part of the issue or lack thereof with placing the equipment outside would depend on the size of the installation. He suggested that the board set some standard as to the allowable size. He suggested perhaps a 20’x20’ installation, no bigger than about two parking spaces. He acknowledged the significance of the delay necessary to redo the plans and place the equipment inside the church, and stressed the need to, instead, make the exterior installation as “stealth” as possible.

Mr. Costello pointed out the uniqueness of the site, and the fact that if concealed behind the church it might not be much of an issue. But he raised concerns about the standard this could set for similar future projects. Mr. Drexler pointed out that if a different project did come forward with a different equipment area footprint, and a decision was made one way in this instance, it would make sense to apply that same logic for the next project to come along.

Mr. McIntosh asked Mr. Drexler to confirm that the exemption being discussed was only applicable to the village commercial district. Mr. Drexler returned that no, the exemption to the ordinance applies townwide, across districts, but the ability to establish the accessory use is specific to commercial or institutional primary uses. Mr. McIntosh then raised the concern that someone in a residential neighborhood with a large house might then want to place an antenna in their home, as they would be permitted, by the precedent potentially set by this project, to place an equipment installation on their property so long as the antenna were concealed inside the dwelling. Mr. Drexler pointed out that the exemption only applies to commercial and institutional primary uses, and could never be applied to a home where the primary use was residential.

Mr. Sprecher raised again the possibility of placing restrictions on the size of the equipment installation in order to curtail future issues with massive equipment installations being permitted simply because the antenna is successfully concealed in an adjacent building.

Mr. Ruck suggested that they take some comments from the public before beginning to address some of the larger issues at hand. He opened the public hearing, and did ask the public to listen to the ongoing discussion and, if possible, avoid repetition in the questions and statements. Mr. Ruck asked if the board wanted to hear all comments first and then address the questions at hand, or address comments individually as they were read into the record. Jessica Chadbourne informed Mr. Ruck that there were at present no comments in the Zoom chat, but added that Mr. Drexler had a number of comments previously submitted by email that needed to be read.

Mr. Drexler read the following comment into the record:

I am writing to you as a resident of Orono. I live really close to 36 Oak Street and do not want a cell phone tower that close to my residence. The complications that it can cause to people in general are not good. I will also be having a baby soon and do not want her to have to grow up near a cellphone tower that can cause brain cancer. I oppose the installation of a new cell phone tower at 36 Oak Street in downtown Orono. - Madison Eaton

Mr. Drexler paused to ask Mr. Ruck if he had a preference with regards to reading all the comments at once or breaking to let the applicants respond or the board discuss after each one. Mr. Ruck asked how many comments there were. Mr. Drexler replied that there were maybe 13 or so. Mr. Ruck once again asked the board if they had a preference, and whether they wanted to hear all the comments, or just those that stuck out. Mr. Ruck read in a request from the public, submitted to the Zoom chat, that the board address each question one at a time.

Re: Ms. Eaton's concerns about the health effects of the tower, Mr. Ruck pointed out that the board had been presented with a report about the low level of RF emissions from the proposed antenna, far below FCC standards. He also reminded the board that they had been told they could not deny the project on the basis of health concerns so long as the antenna did meet FCC regulations. He asked for feedback from the board.

Mr. Sprecher did acknowledge the concern of the residents, but agreed with Mr. Ruck that the board could not use those concerns as a basis for a final decision having been presented with the RF emissions report which clearly demonstrates that the project would be in compliance with FCC regulations.

Ms. Schwintzer stated that she had great sympathy for the commenter and that she herself had had that same concern, but agreed also that, under the circumstances they could not use it as a criterion for making a decision on the project.

Mr. Anderson added that he appreciated that no one likes to hear their planning board cannot deal with an issue of concern. What Verizon likes to do is provide information so that people know they should feel comfortable with something like this project. He pointed out that not only are these emission levels very very low, as seen in the coverage report there is already a tremendous amount of wireless signal in the downtown area right now. And those maps are only for Verizon. There is also overlap coverage from many carriers. In the world we live in today, these signals already exist everywhere. This installation will not significantly increase the levels of what already exists. He acknowledged that the health concerns are very common, and assured the board and the public that Verizon does not like to lean on the fact that the FCC prohibits using those concerns as a basis for denying a project.

Mr. Ruck asked for additional comments from the board. With no comments forthcoming he asked Mr. Drexler to read the next comment into the record. Mr. Drexler read:

My family has lived in Orono for 3 generations, and we plan to keep the tradition going. Please reconsider the initiative to place the 5G cell tower in the center of Orono. The possible risks to health are just not worth it. - Valerie Wallace

Mr. Drexler pointed out that, as already discussed, this would not be a 5G antenna, and any future attempts to convert it to 5G would require another visit to the planning board.

Mr. Ruck addressed a comment that came across the chat. Ms. Chadbourne read it into the record:

Sarah Kenney commented that in her understanding, 4G and 5G are very different. 5G is RF microwave radiation. If we approve this plan it is hard to turn back.

Mr. Ruck reminded the public that the board was voting on the matter in front of them. The study was done on 4G, and the applicant did address that in order to transition to 5G the applicant would have to return to the planning board. The board was voting on a 4G antenna.

I just learned of the proposed installation of a Verizon Wireless cellular tower in the church steeple at 36 Oak st in Orono. As a former engineer at Verizon, and former director of Otelco (an Alabama based phone company), I can say with full confidence that equipment like that absolutely should not be placed in high population areas like downtown Orono. The long term health effects of having a powerful microwave transceiver like that on Oak St would potentially affect my family and dozens of my tenants. If your committee has the authority to stop this project then I would urge you to please do so. Otherwise I will need to engage my corporate attorneys to determine the appropriate means by which to oppose the project through the legal system. I am happy to discuss this issue with the committee at greater length. I would like this email opinion from my real estate broker [JC: The letter is attached to the end of the minutes.] added to the public discussion about the cell antennas next week. As you can see below, he believes it will have an adverse effect on property values and rents. I think our friends and neighbors in the downtown area be exposed to that opinion. - Matt Acheson

Mr. Drexler also read the letter supplied by Mr. Acheson's attorney, which is presented as an attachment at the end of the minutes (Attachment #1).

Mr. Ruck asked Mr. Anderson if he would like to address any of the concerns expressed by Mr. Acheson or his lawyer, given Verizon's submission of the RF report to the board. Mr. Anderson suggested that the lawyer's letter likely preceded receipt by Mr. Drexler of the RF report, as it seemed to express health concerns contradicted by the contents of the report. He also addressed the concerns expressed in the lawyer's letter with regards to property values, pointing out that one of the reasons a tower would not be allowed in the downtown would be out of genuine concern for property values. As this is going to be a stealth site, the only impact it could have on values would be to increase them. The public is increasingly reliant on their cell phones, and a strong signal can be a selling point for a property as well as a draw for new businesses and residents. At worst it will have no effect on the values at all.

Mr. Ruck followed up with the fact that property value is not one of the boards review criteria, so it cannot be considered when deciding on the approval of a project. He asked Mr. Drexler to read in the next comments:

I recently learned that Verizon Wireless is making efforts to place a cell tower at 36 Oak St in Orono. I was horrified to think that my community could be subjected to the dangerous waves

of the tower. Having been exposed to carcinogens in Ohio in 2010, I know firsthand the long term consequences carcinogens can have on an individual, even if exposure is brief and/or does not result in immediate cancer. However this plan is not going to give off brief exposure; it will be a constant presence next door or across the street. I strongly believe that, if approved, this plan would be disastrous for the health and wellbeing of Orono residents and University of Maine students. Additionally, allowing this to happen would damage the reputation of our great community and its representatives. I would like to encourage you to consider the impact your choice will have on the people of Orono. Please also reference these few sources on the danger of radiation and cell towers in residential areas; other sources are embedded as well. These by no means are the best resources nor do they include the maximum amount of information, but I thought you might find them valuable:

<https://www.epa.gov/radiation/radiation-health-effects> ,

<https://www.radiationhealthrisks.com/cell-phone-tower-radiation-harmful/> . I have

confidence that you will make the right decision. Thank you for your time. - Willow

My family is opposed to the new cell tower at 32 Oak St. We live and work (spend 99.9% of our time) in VERY close proximity to this tower. I need more information about the health implications from sources that are not affiliated with Verizon. Thank You. - Roberta Bradson.

I am writing to implore you to reconsider the potential cell tower to be placed in our lovely Orono village. The density of population leaves so many residents exposed to many negative health effects from these towers. As a resident and landlord in town I would have a very hard time justifying this health risk to my family and renters. Orono is better than this; we know the health risks and we do not need any financial kickbacks from this; it's just not worth the risk. Please reconsider. Many Thanks - Kerri Dexter

I have heard about Verizon's plan to install a cell phone tower at 36 Oak St in Orono Maine. As a resident of Orono I oppose this plan. I do not agree with this plan due to the long term health effects this may cause for the residents and workers. Thank you - Sarah Dyer

I am currently an orono resident and am emailing you to oppose the cellphone towers that are planned to be installed in Orono, especially at 36 Oak Street. I do not agree with the installation of these towers as they can cause health concerns for the residents and workers of Orono. Please do not continue this project as it will negatively affect those within this area more than it will help them. Thank you - Jacqueline Gaudet.

My name is Valerie Acheson and I am a resident of Orono. I am extremely upset and disgusted that you would have this installed knowingly that this would be EXTREMELY harmful to people including children!! I am a breast cancer survivor and my husband and I have a 4 year old daughter. I do NOT want that antenna installed as it is very close to where we live and quite frankly I don't want my daughter to get Brain cancer or my family to for that matter All because you want a faster cell phone service. I've heard that the residents of Orono do not have a say in this and that the decision will be made virtually which is ridiculous and goes to show you do not really care about us as residents and that all you care about is a faste cell phone service and money!!!! PLEASE PLEASE don't have this installed!!!!!! - Valerie Acheson

My name is Will Melbourne and I am a student at the University of Maine. I oppose the installation of the tower in downtown Orono, as it will pose a health risk for all of us. Please consider the impact this will have on the inhabitants of Orono. Very Respectfully - Will

Melbourne

After receiving Mr. Acheson's email I did a quick look online at the science on health and cell phone use and towers. I am forwarding a recent slide show from the University of California Berkeley School of Public Health that seems quite relevant. Applying the precautionary principle, I would not want these towers downtown, based on the significance of the potential risk and the lack of sufficient research to allow us to conclude that these towers would not enhance that risk. And I would like to know whether this installation will be used for 5G transmissions. At a minimum, I suggest the planning board enlist a committee of experts including a representative of the Maine Chapter of Physicians for Social Responsibility to provide it with a summary of the current state of the science on this issue. <https://psrmaine.org/> - Sharon S Tisher J.D.

I am writing today to send my concerns about the new cell phone tower being proposed at 36 Oak St. I currently live on Middle St and am significantly concerned with the health risks that the tower can cost. My fiancée is currently seven and a half months pregnant and with a new tower I wonder how it will affect my infant. With the research that I have done on cell phone towers and the health of citizens around them I would like to inform you that I oppose the permission of this tower. I hope that you take this email into consideration when deciding on the issue. Thank you for taking the time to hear my concerns. - Silas Bates

Mr. Ruck noted that some new comments had arrived via the Zoom chat, and asked Ms. Chadbourne to read them in for the board. Dave Milan stepped in to read the comments for board as Ms. Chadbourne's computer had crashed and she was in the process of rebooting it. He began with a statement from Richard H. Shepard that was posted to the live stream Facebook post:

They need to find a tower that's OK to put in town areas not that type a tower they want to put up they need to make a different type of tower that will be OK in that town for cell phones that's my suggestion one that won't hurt anybody and I'll be OK all across-the-board

Mr. Ruck asked if there were any other comments. Mr. Costello replied that there was one in the Zoom chat from Jamie Comstock. Mr. Drexler read it for the board:

If the planning board does not consider health risks in its decision making does the city council have any ability to do so. I am assuming that the full council is the final decision making party.

Mr. Ruck responded that it is incorrect that the board does not consider health risks in its decision making. Public health is a key component of how the land use ordinance is developed, and how the comprehensive plan is developed as well. He acknowledged that all the rules on the books might not be perfect, but they are rules that were developed by committees and approved by council, and they are the rules that the board has to act by. He asked that the public hold off on that sort of criticism for the board, as the board members are Orono citizens as well and they do the best job that they can to make decisions on projects based both on the town ordinances and public opinion.

Mr. Ruck then asked if there were additional comments from the board. Mr. Costello suggested that there might be a need for clarification as many of the public comments were referencing the building of an actual cell tower, whereas the project is calling for a concealed antenna inside an existing structure.

Mr. Ruck added that this was part of the comp plan discussion. One of the things it was intended to accomplish was to open up opportunities in town that might have been limited in the past but which

minimize the impacts on the neighborhood. Trying to open things up to business.

Mr. Drexler read a follow-up comment from Jamie Comstock:

I simply wanted to know if the city council has the final authority.

Mr. Drexler added that the planning board looks at the application in front of them and makes a decision based on the ordinance. Whereas any larger scale policy decision or change to the ordinance would be made by the town council.

Mr. Ruck asked again for additional comments from the board. John Beckett stressed the importance of making sure that the concerned public had access to the reports provided by Verizon about the RF emissions and coverage ranges. Mr. Ruck pointed out that all the materials for the board are available to the public through town staff.

Judson McIntosh asked whether, given that the equipment installation would have to be moved and the exact new location was still unknown, the board would be voting to approve the project that night. Mr. Ruck replied that it did not seem the board could vote yet as Mr. Anderson indicated that Verizon would be returning with revised plans at a future date. Mr. Anderson confirmed that they were not expecting the board to make a decision yet given the need to relocate the installment. Stephen Delsonno - also from Verizon - added that, with regards to Mr. Sprecher's concerns about the size of the equipment installment, the size of the installment as it currently is can be revised as well to a smaller footprint. As a result it would be even less of an impact on the location.

Mr. Ruck asked Mr. Delsonno if, in his discussions with the church, they had expressed any concerns about the project or if they were aware of the concerns being expressed by the public. Mr. Delsonno confirmed that he had been in touch with Tom Moylan at the church throughout the process, including the discussion to relocate the equipment to the exterior of the building.

With no other questions forthcoming about the RF emissions and health concerns, Mr. Ruck asked Mr. Drexler to summarize again the discussion of the definition of an accessory use as it pertains to the equipment installation. Mr. Drexler explained to the board that normally this project would be labeled a wireless communication facility. But the exemption in the telecommunications ordinance states that "Antennas as accessory uses. An antenna licensed by the FCC that is an accessory use to a commercial or institutional use and located entirely within an existing, enclosed structure." The issue here is one of the language used when creating the exemption, which specifies antennas, specifically, as accessory uses, but does not take into account the equipment needed to make the antenna function. It doesn't say that every piece of it counts as an accessory use, it doesn't say the whole thing has to be concealed inside an existing structure, but it comes down to what you consider the equipment. Here Mr. Drexler revisited his examples from earlier in the evening during his original presentation.

Mr. Ruck then asked the board their opinions on defining accessory use in this situation.

While board members were formulating their answers, Miss. Chadbourne announced that another comment had been sent to the meeting's Facebook post by Katherine Bagley:

Towns hands are tied. Big business rules big government.

Mr. Sprecher asked the applicant if the 10' proposed height of the equipment installation was correct. Mr. Anderson confirmed that was the case. Mr. Sprecher noted that since height and footprint are the biggest factors on visual impact, the proposed 10' height is about as high as they'd like to see it reach.

Mr. Ruck asked the board if they believed it was necessary for the equipment installation to be inside the building. Mr. Costello pointed out that Verizon would want easy access to their equipment, and

would find it a nuisance to reach out to the church for access to the building every time they need to service the installation. He also pointed out that the proposed fence surrounding the installation was only 8' high.

Mr. Anderson agreed that there was a need to make the installation smaller and give further thought to how to shield it from view as much as possible.

Mr. Thompson stated that he had visited the site earlier in the day, and that as the installation would be between the church and the river it would not be visible to the public unless they were parking their vehicle in the vicinity. He did not believe that visually it would be an issue.

Mr. Ruck thanked Mr. Thompson, and pointed out that the footprint of the installation was already smaller than he had expected. But any effort to make it as small as possible would be welcome.

New comments arrived during the aforementioned discussion and Mr. Drexler read them out to the board:

While the church could accommodate some of the equipment being located inside, it would be good to know what the board would require in order to change from the plan submitted.

He explained that whenever a plan needs to be altered from what is originally submitted for review, the site plan would need to be amended to show the change before approval can be given for the project.

Mr. Ruck concluded that, based on what he had heard from the board, they would not be asking the applicant to move the accessory equipment installation inside the church building. Mr. McIntosh asked whether, since the applicant has to come back in July already because of the relocation of the installation to the parking lot, it would be possible for staff to consult with the town lawyer about the interpretation of the definition of "accessory use". Mr. Ruck agreed that would be a wise course of action, and asked Mr. Drexler to speak to the town lawyer and come back with more information for the board.

Ms. Schwintzer agreed that the definition would be key, and pointed out that the section of the ordinance ended with "located entirely within an existing enclosed structure". The lawyer's opinion would be necessary as, based on the definition, it sounds like every part of the antenna needs to be inside the building.

Mr. Ruck referenced Mr. Drexler's earlier point that the intent of the ordinance was to conceal the most visually unappealing aspect of the project, the antenna. And Mr. Ruck agreed with Mr. Drexler on that point, but agreed that it would be best to get an opinion from the lawyer with regards to the flexibility of the language.

Mr. McIntosh agreed that the flexibility of the language leaves room for alternate and conflicting interpretations. Which is why, Mr. Ruck agreed again, that it would be best to have Mr. Drexler consult the town lawyer.

Mr. Drexler read in a new comment for Sarah Kinney:

Can you clarify: if this doesn't meet our current ordinance this plan can be turned down?

Mr. Ruck confirmed that was the case with any proposed plan. The board relies on town staff to determine if applications meet the ordinance requirements, and if it does not a project can be turned down.

Mr. Ruck left the public hearing open, as the applicant will be back in July with more information and

corrected site plans, and asked for a motion to table the item until the next meeting.

Motion: Ms. Schwintzer motioned that the matter be tabled until the July meeting.

Second: Michael Costello

Mr. Ruck asked if there was any further discussion. When none was forthcoming he asked Ms. Chadbourne to take a roll call. The vote to table the application until July passed unanimously.

**Item B: A continuation of a discussion on a proposed land use ordinance amendment to section 18-130, Excavation, removal and filling of lands.**

The board elected to skip this item, due to time constraints. Later in the meeting, after new business was discussed, Mr. Ruck asked for a motion for the board to officially vote to once again table this meeting until the next meeting.

Motion: Mr. McIntosh motioned that the board table the discussion of a proposed land use ordinance amendment to section 18-130, Excavation, removal and filling of lands until the next meeting.

Second: Dave Thompson

Mr. Ruck asked if there was any further discussion. When none was forthcoming he asked Ms. Chadbourne to take a roll call. The vote to table the application until July passed unanimously

**New Business**

**Item A: A minor site plan review application for a home occupation at 7 Gould Rd to allow for a home office.**

Mr. Ruck asked the applicant, John Dudley, to introduce his project to the board. After some minor technical difficulties, Mr. Dudley was able to access the Zoom meeting. He described for the board his proposed home occupation: a Fedex Ground shipping business he runs out of his home at 7 Gould Rd. The only business activity taking place in his home is restricted to a laptop and cell phone at his kitchen table. All of the actual shipping activity takes place out of the Hermon Fedex Ground Terminal. All the vehicles are located there, loaded there, and dispatched from there. There will be no signage outside his house, or maintenance activity taking place at his house.

Mr. Ruck acknowledged that, under non-shoreland zoning conditions, this application would not even need to come before the board as it falls into the category of “home office”. But given that the property is located in the shoreland zone, and given the requirements of the shoreland zone ordinance, the board must hear the application and give approval. He asked Mr. Drexler to present his summation of the project to the board.

Mr. Drexler explained that in the town-wide zoning, “Home Occupation” is an umbrella use that breaks down into Home Offices, Home Workshops, and Home Businesses. Home Businesses are always required to go to the Planning Board for site plan approval. Home Offices and Workshops are usually permitted through the Code Enforcement Office and do not go to the Planning Board unless there is some construction involved for the office. This project was brought to the board simply because the property exists in the Shoreland Zone which has its own table of land uses, and it has a use called “Home Occupation” but does not differentiate between the three different types. And under the Shoreland Zone table of land uses, all home occupations must go before the planning board.

At this point Mr. Sprecher informed the board that Mr. Dudley is a friend and neighbor, and that he would be abstaining from voting on this matter.

Mr. Ruck raised the possibility of approaching DEP with regards to changing this policy at some

point. Mr. Drexler agreed that was something the town staff could definitely look into.

Mr. Ruck asked for comments from the board. There were none. He opened the public hearing and asked if any comments had been submitted for this matter. As there were none, he asked again for comments from the board and then closed the public hearing. He asked for any further comments from the board.

There were no comments from the board, but Mr. Dudley did comment, thanking the board and Mr. Drexler for all their hard work and professionalism in assisting him with this project.

Mr. Ruck read in the proposed findings of fact (Attachment #2). There were no comments from the board on any of these findings, so Mr. Ruck asked for a motion.

Motion: Mr. McIntosh motioned that the board approve the application by Delivery Logistics for a home occupation at 7 Gould Rd, tax map 6-4 lot 31, with one recommendation that the applicant will register the home office with the Code Enforcement Officer as required by the town ordinance.

Second: John Beckett

Mr. Ruck asked if there was any further discussion. When none was forthcoming he asked Ms. Chadbourne to take a roll call. The vote to approve Mr. Dudley's application with the recommended condition passed with six in favor and one abstaining.

**Item B: An amended subdivision application by Forest/Orono Associates LLP for the Forest Hollow Subdivision located on Grant Rd in the Low Density Residential District.**

Mr. Ruck asked the applicant, Donald Benson, to present his project to the board. There were some technical issues and while the board waited for Mr. Benson to connect to the Zoom meeting, Mr. Drexler presented his summary to the board.

The Forest Hollow subdivision is located on Grant Rd in our low density residential zone. The original subdivision was approved on July 19, 2006 as a 21 lot subdivision. In 2018 the applicant came to the planning board to reduce the number of lots for tax purposes as some plots hadn't been built on. He reduced the lots from 21 to 10 by combining lots on either side of Grant Rd to create larger pieces of property. On the west side of the road lots 7, 9, and 13 were combined and on the east side lots 6, 8, 10, 12, 14, 16, 18, 19, and 20 were combined. The applicant has returned to the board to create two of those lots: 7 and 13 on the west side of the road. They are being recreated exactly as they were originally approved by the board in 2006, and the newly recreated lots will still meet the requirements of the subdivision ordinance. The applicant is waiting to hear back from the DEP about approval on their end. Since it has not arrived yet it will need to be a condition of approval.

Mr. Benson was unable to access the meeting by video or audio, so Mr. Drexler presented the application for him and Mr. Benson provided additional information and provided answers via the Zoom chat. Mr. Ruck opened the public hearing. There were no comments from the public on this issue.

Mr. Drexler added that all the buffers and conditions that applied to the original subdivision will still apply to the amended subdivision.

Mr. Ruck closed the public hearing and read the proposed findings of fact (Attachment #3). There were no comments from the board on any of these findings, so Mr. Ruck asked for a motion.

Motion: Mr. McIntosh motioned that the board approve the amended site plan for Donald Benson of Forest/Orono Associates, LLP on Grand Rd, tax map 17 llot 58-59 and tax map 9 lot 18, in the LDR

zone with three recommendations:

1. That all findings of the Planning Board with respect to this development at its meeting of July 19, 2006, and all conditions of approval and requirements pertaining thereto, are unchanged and remain in place.
2. That the signed, amended subdivision plan, to include conditions of approval that run with the property, be recorded at the Registry of Deeds within 90 days of approval of the amended plan.
3. That the applicant be granted an approved Site Location of Development Law land use permit for the amended plan by the Maine Department of Environmental Protection.

Second: Joe Sprecher

Mr. Ruck asked if there was any further discussion. When none was forthcoming he asked Ms. Chadbourne to take a roll call. The vote to approve Mr. Bensons's application with the recommended conditions passed unanimously.

### **Other New Business**

Mr. Ruck asked Mr. Drexler what upcoming items they could expect on the July agenda other than the return of the Verizon applicants and the discussion of the fill ordinance.

Mr. Drexler addressed a few conditional, after the fact items that need to come before the board which were approved during the lockdown when meetings were not taking place. They were mostly minor things which will come to the board whenever there is an opening. The only official items for next month as of the moment were the two tabled issues from that night.

Mr. Drexler also informed the board that all meetings through August are expected to be online.

### **Discussion**

Mr. Ruck pointed out that in the last month he had neglected to address the end of Jeremy Chubbuck's term with the Planning Board. He acknowledged Mr. Chubbuck's service and thanked him for his time on the board.

### **Adjournment**

Mr. Ruck asked for a motion to adjourn the meeting.

Motion: Michael Costello

Seconded: Dave Thompson

Ms. Chadbourne took a roll call vote. The board voted unanimously to adjourn. The meeting was adjourned at 8:40 pm on June 17, 2020.

Attachment 1

**GRAY & PALMER**  
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May 15, 2020

Kyle Drexler, Town Planner  
Office of Community Development  
Town of Orono  
59 Main Street  
Orono, ME 04473

Re: Application for "Pre-Submission Review for Site Plan Review, Approval for a  
Telecommunication Facility within the Village Commercial District"

Dear Mr. Drexler & Planning Board:

Our office has been retained by Matthew Acheson with regard to the above referenced proposed cellular antenna installation in the steeple of the United Methodist Church situated at 36 Oak Street. Mr. Acheson owns multiple businesses and 10 properties within 1,500 feet of this proposed installation and has concerns about the effect on his property valuations, and most importantly, the safety of his tenants, customers, and family. The 8 cellular antennas being proposed at 36 Oak Street are no more than 600 feet from his personal residence and within a few hundred feet of downtown Orono stand-alone residences, and businesses including their employees and customers, as well as residential apartment buildings and other commercial buildings. While Mr. Acheson and many others who will be adversely affected by this project expect to be able to comment and testify on this project, it is important to Mr. Acheson to express his vehement opposition to the project now.

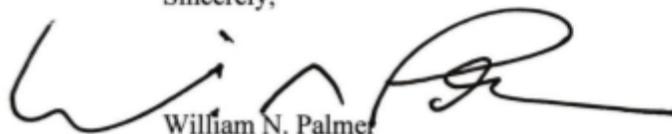
As you may be aware, these cellular arrays can produce considerable electromagnetic radiation which in turn results in serious concerns among large segments of the population. The Town of Orono needs to be aware of the RF levels at the project location, compare those with the FCC maximum permissible exposures precautionary guidelines, together with routine background levels for comparable environments. Mr. Acheson hopes that the town will protect its citizens from the long term, non-thermal exposures that this project will create and act with the public's best interest in mind.

Science in this area continues to evolve and the need for caution is paramount on this important public health issue. Cell companies argue that these antennas are not dangerous, but many studies are not conclusive. Cell companies are entitled to good coverage, not perfect coverage. Sometimes a more suitable and appropriate location may provide slightly less coverage, but nonetheless, adequate coverage.

Interestingly, the petitioner's letter of April 21, 2020 only addresses the impact on the town's infrastructure. It does not mention what is expected to be millions of dollars in lost property valuations in the downtown area nor the health risks to the community. Lower property valuations destroy equity that families have in their homes and reduce tax revenues to the town. These are not desirable outcomes for middle class families and small businesses during these economically challenging times.

Mr. Acheson, together with a group of other concerned citizens with whom he is reviewing this with can be expected to oppose this project at all levels.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. N. Palmer', with a long horizontal flourish extending to the right.

William N. Palmer

WNP/vlt

## Attachment 2

PROPOSED FINDINGS OF FACT  
7 GOULD RD - HOME OCCUPATION  
SHORELAND ZONE REVIEW

June 17, 2020

Pursuant to Article IX, Section 18-275, of the Orono Code of Ordinances, the Orono Planning Board has considered the application of Delivery Logistics, Inc. for a home occupation at 7 Gould Rd, Tax Map 6-4 Lot 31, in the Forest and Agriculture District and Limited Residential Shoreland District, and, based on all evidence presented by the applicant, reviewing agencies, town departments, and the public, found the following:

1. **Water pollution, erosion, or sedimentation:** That the project does not involve any new construction, and no negative impact will occur due to water pollution or erosion and sedimentation.
2. **Wastewater disposal:** That the project will not need any wastewater disposal capacity beyond what is currently used.
3. **Wildlife habitat and aquatic life:** That the project will have no impact on any spawning grounds, aquatic life, or wildlife habitats due to the home occupation taking place solely within the existing structure.
4. **Shore cover:** That the home occupation will not have any impact on shore cover or impact any visual points of access to inland and coastal waters.
5. **Archeological and historic resources:** That there are no known archaeological or historical resources, and as the home occupation will take place within the existing structure, no resources would be impacted due to no new construction taking place.
6. **Floodplain development:** That no new development will take place as part of the project, and the use will not generate any additional traffic to the lot.
7. **Other land use standards:** That the home occupation meets all other requirements of the Shoreland Zone land use standards.

### Attachment 3

FINDINGS OF FACT  
FOREST HOLLOW SUBDIVISION  
AMENDED SUBDIVISION REVIEW

June 17, 2020

Pursuant to Article VII, Section 18-210 (Subdivision Review) of the Orono Code of Ordinances, the Orono Planning Board has considered the application of Donald Benson to amend the Forest Hollow Subdivision, originally approved in July 2006 and amended in February 2018, by re-creating lots 7 and 13 as they were depicted on the 2006 original subdivision plan. The property is located in the Low Density Residential (LDR) District on Grant Road, and, based on all evidence presented by the applicant, reviewing agencies, and town departments, and the public, the Planning Board found the following:

1. **Lots:** That the proposed amendment will re-create lots 7 and 13, as they were approved by the Planning Board in the 2006 subdivision review, from the retained land area on the west side of Grant Rd.

Further, that lots 7 and 13 meet the minimum dimensional requirements of the Low Density Residential District.

Further, that any future division of the retained land which constitutes the creation of subdivision lots, will be subject to Land Use Ordinance standards in effect at the time of the subdivision.

2. **Drainage Improvements:** That the amended subdivision plan does not alter the previously designated and approved protected runoff drainage buffers that are part of the approved stormwater management plan.
3. **Open space, wildlife habitat, wetlands, and recreational land:** That the amended subdivision plan does not alter the previously designated and approved significant wildlife habitat buffer, vegetated buffers on lots 1 and 2, and the recreational path easement.
4. **Overall finding as to the other elements of the Forest Hollow Subdivision:** That re-creating lots 7 and 13 from the original 2006 subdivision plan will not affect any previous findings leading to the original approval of the Forest Hollow subdivision and will not adversely affect any element of the original approval, including standards for sewer and water utilities, pollution control, stormwater management and drainage improvements, the roadway and traffic circulation, or financial and technical capacity.

Further, that all other findings of the Planning Board with respect to this development at its meeting of July 19, 2006 are unchanged and remain in place.