

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
September 10, 2018

The Chairman Bill Kearney called the meeting to order at approximately 7:00 pm.

The Secretary Diane Chubb called roll:

PRESENT: Bill Kearney, Svetlana Paliy, Diane Chubb, David Hennessey, Alternate Heather Patterson, Alternate Deb Ryan, Planner/Zoning Administrator Jennifer Beauregard

ABSENT: Peter McNamara, Alternate Darlene Culbert, Alternate Thomas Kenney, Alternate Lance Ouellette

PLEDGE OF ALLEGIANCE

HEARING(S)

CONTINUED

Case #ZO2017-00029

Map 31 Lot 11-33

KLECZKOWSKI, Charles Jr. - Spring Street Off - Seeking a Variance concerning Articles X, XIII, III & XV Sections 307-58 (B) (3), 307-83 (C), 307-84, 307-86, 307-87 (C), 307-88 (A) (2a), 307-12, Table 1, 307-14 & 307-100 to permit the construction, operation and maintenance of a Wireless Communication Facility

AND

Case #ZO2018-00015

Map 31 Lot 11-33 (site) and Map 31 Lot 11-37 (access)

KLECZKOWSKI, Charles Jr. (site owner) & American Towers, LLC (applicant) - Spring Street Off (site) and 64 Blueberry Circle (access) - Seeking a Variance concerning Section 307-58(B)(3) of the Town of Pelham Zoning Ordinance (hereinafter, the "Ordinance" for a Wireless Communications Facility pursuant to: Sections 307-83(C) and 307-88(A); a dimensional variance from the minimum frontage requirements of Section 307-12, Table 1 and 307-14; dimensional variances from the terms of Sections 307-58(C)(2) (175' setback) and 307-58(C)(3) (fall zone) of the Ordinance; and to the extent necessary, all rights reserved, a variance from the frontage and access requirements of Section 307-100 of the Ordinance; NH Revised Statutes, Annotated Chapters 12-K and 674:33; and the Federal Telecommunications Act of 1996 (the "TCA") for the construction, operation and maintenance of a Wireless Communications Facility, and such other relief as deemed necessary, all right reserved.

Ms. Ryan was appointed to vote.

Representing American Towers, LLC and TMobile was Attorney Ed Pare of Brown Rudnick. He noted that the last time they met with the Board they had finished the site visit. He provided the Board with photo

simulations and result of the balloon test. He pointed out an error that occurred during the site walk of the colored flagging on the access drive and location of the facility. During the site walk he mentioned that the blue and white ribbons (tied to the tree line) were the centerline of the access drive, which in fact they were actually marking the eastern edge of the access drive. He displayed a photograph showing the tree with the ribbon. Mr. Marty Cohen of Network Building and Consulting distributed copies of the (balloon test) photo simulations to the Board. Attorney Pare reviewed the information contained. The cover sheet showed the proposed location of the tower and pin pointed locations where photos were taken. The attached sheets were the photographs from the (15) pin point locations facing toward the test balloon with the proposed monopole digitized into them. He mentioned that the tower was proposed at 150ft. in height; T-Mobile only needed 125ft, the additional 25ft was added for public safety (communications). Attorney Pare told the Board he had a conversation with the Pelham Fire Chief, who sent a letter of support, and who indicated they had a need for public service at the location. He also received a letter from the Dracut Fire Chief supporting the tower; they will use it for public safety purposes. Copies of the letters received were provided to the Board (although they had been emailed prior to the meeting).

Attorney Pare felt opening both hearings together would make sense, although he would be speaking mainly about the Blueberry Circle location. Mr. Kearney expected the discussion to encompass both locations. There was no objection voiced to proceeding. Attorney Pare noted that a letter from Advanced Engineering, who conducted the balloon test, was included in the information submitted to the Board. He then read aloud the letters submitted by Pelham Fire Chief James Midgley (dated August 3, 2018) and Dracut, MA Fire Chief David Brouillette (dated September 6, 2018). He then submitted coverage maps to the Board for: 1) candidate site off Blueberry Circle, 2) 18 Atwood Road, Pelham, NH (to the west and beyond an existing tower), and 3) 99 Lawrence Road (T-Mobile currently using the tower). Attorney Pare told the Board they felt they had identified the best location and ended with a facility that was both feasible and would provide coverage to the gap in question.

PUBLIC INPUT

Mr. Kearney invited the public to speak, he asked that people keep in mind that the Board had heard several testimonies from several abutters and others throughout the process. He and the Board members have reviewed past meeting minutes (and materials) and asked that those coming forward to speak present new information, questions and/or concerns.

Ms. Ada Peters, 167 Ruby Road, Dracut, MA came forward and asked the Board if the hearing was combined for both applications. Mr. Kearney replied they were addressing the Blueberry Circle application. He explained that the second application (Spring Street off) was in a state of suspension until the current application (Blueberry Circle) was either accepted or rejected. Ms. Peters heard that Attorney Pare was combining the two applications. For the sake of timesaving, Mr. Kearney allowed discussion for both, but the Board was considering the Blueberry Circle location.

Ms. Michelle Green, 13 Coral Drive, Dracut, MA appreciated the comments about keeping discussion brief, but out of respect and the fact that there was an open forum wanted to be heard. She spoke of her roles within her community, and informed she was currently the Chair of the Capital Planning Committee. She appreciated the time the Board members gave to the process. She began by speaking about the Federal Communication Commission Act, which specifically reserves the rights for local governments to make decisions regarding the placement and construction of cell towers. She said it was vitally important for community members to let their voice be heard to their local elected representatives. She said the ordinances protecting local neighborhoods were established with good reason; the communities (Pelham and Dracut) have deemed it inappropriate for such installations in residential communities, unless there is real specific need. She said the Board had the obligation and power to enact local zoning laws in such a manner as to protect its citizens and community from potential adverse impacts which the installation of cell towers could create. Ms. Green then discussed some of the negative impacts such as: 1) with regard to

safety, 2) in relation to residents, 3) property values, and 4) community at large. In summary, Ms. Green felt T-Mobile had not proven the need for the location. She noticed that the Dracut Fire Chief's letter didn't say specifically that Dracut needed the tower; he supported the Blueberry Circle access and added that Pelham's communication would be improved. Having conversations with the Dracut Town Manager, she commented that they hadn't expressed a need. She felt it was not relevant to say that the Fire Chiefs have a need for more communication equipment because they always need more communication. She didn't feel that should weigh into the Board's decision because American Tower and T-Mobile had to prove the need, not the towns.

In reviewing the map and photos submitted by the applicant, Ms. Green pointed out that the tower site was surrounded by dense forest and rural roads that cover a small amount of homes. She said at their own admission, the applicant stated they needed the site over alternatives because the signal wouldn't reach the location. However, she said there wasn't a big enough customer base within the tower's reach based on the previous statement, nor would it impact a major thoroughfare. She stated the evidence didn't support the proposal and pointed out that the coverage maps provided to the Board were contrary to the maps shown on the T-Mobile website; the website shows no gap for coverage in the area. This point has been substantiated during a previous meeting by a resident of Blueberry Circle who said they had T-Mobile coverage even in their own basement. She stated there was a big difference between a 'need' and a 'want'; the applicant had not given appropriate evidence to support a 'need', therefore the request is a 'want'. Ms. Green stated communication companies were on a campaign to blanket communities with cell towers in the hope they will eventually stream t.v. services on a large scale. She also stated that the application was not a necessity for today, but a hedged attempt to be ahead of a tomorrow that might come to be. She cautioned the Board that the neighborhoods must be protected from baseless attempts that would forever alter the resident's way of life. She asked the Board to think of the neighborhood impact and the negative impacts on residents versus the lack of evidence for 'need' along with the lack of thorough investigation for more appropriate sites.

Ms. Karen MacKay, 31 Blueberry Circle inquired if the Board was voting on a variance request for the fall zone of the tower. Mr. Hennessey replied the fall zone was part of the variance request. Attorney Pare explained that the rules require a fall zone for the height of a tower (approximately 175ft). He noted there were no houses within hundreds of feet within the new location on Blueberry Circle; there was no request for fall zone relief for the Dracut request because it satisfied all the setback requirements. Because they recognized there was significant visibility from the Dracut site, they tried to move the site back, however there were a lot of wetlands. He said the only place they could put the tower to not impact the wetland's buffer was within 56ft-60ft. of the property line. One of the property lines impacted was either the same property owner or a relation thereof. The other area impacted was Town-owned (Pelham) open space. Attorney Pare reiterated that the Dracut location fully satisfied all setback requirements, the new location off Blueberry Circle required variance relief. He noted they would need to comply with Building Code. Ms. MacKay asked for confirmation that the tower wouldn't land on someone's house if were to fail at either location. Attorney Pare explained that towers were designed not to fail; the loading was at the top of the antennae and would bend the monopole. At Blueberry Circle the tower would be close to the property line, not any structures. Ms. MacKay questioned what would happen if in the future there was no need for cell phone towers. She wanted to know if there was any plan to remove the structure if there were to be a new way of communication. Ms. Beauregard stated the Planning Board required bonding for any abandoned cell tower. Attorney Pare referenced Section 307-62 (of the ordinance) that required removing abandoned structures (not used in a 12month period) within 90-days.

Ms. Michelle Johnson, 6 Partridge Lane spoke about her concerns beginning with the value of the property in the area, and increased traffic on a dead-end road. She didn't feel the application was truthful about there being minimal traffic coming in to maintain the tower. She asked the Board how the deed restriction for access (from Blueberry Circle) was being dealt with. She stated there was a very specific deed restriction on the proposed property as well as the property across the street that the Board should have been notified

about or made aware of; the restriction has been in place since the time the subdivision was approved in the early 1970s. She said the deed restriction took precedence over anything the applicant should be doing at this time. Ms. Johnson asked the applicant about the status of the deed restriction and wanted additional information regarding the completeness of the file pertaining to the site analysis, the tower inventory and other missing items from the application.

Attorney Pare responded to the questions and replied the deed restriction was actually a subdivision restriction on a file plan approved by the Planning Board. They were aware of the restriction and understood they needed to go to the Planning Board and see if they'll remove the condition. He noted if the Planning Board didn't approve, the Zoning Board may gain jurisdiction to do so. Ms. Johnson wanted confirmation that because the deed restriction was on a subdivision plan it was not necessarily an impediment to accessing the property through the proposed location. Attorney Pare replied it may be an impediment, but the Zoning Board didn't have the jurisdiction over such, it would need to go through the Planning Board. Ms. Johnson understood then that the deed restriction was not part of the variance approval. Mr. Kearney replied the applicant had a pathway to follow and coming in front of the Zoning Board was the first step.

Ms. Johnson referenced the 99 Lawrence Road location and wanted to know if the existing equipment was deficient being that it was less than one mile away from the current proposal. She wanted to know the radius and height requirement the applicant was looking for because the site analysis information was very general. Attorney Pare replied there was no set footprint and, in this instance, they were dealing with terrain and foliage. He referenced the coverage map for 99 Lawrence Road showing the current coverage from that location. He said the coverage footprint from that location had nothing to do with the coverage needed at the proposed location. He stated they went through all existing facilities within the search ring and noted there were none. They tried to contact owners at the other locations and listed reasons within the information submitted with their application why they weren't being proposed. Attorney Pare believed the Blueberry Circle location was ideal and commented if they were to build it to T-Mobile's need of 125ft it wouldn't be seen above the trees, but because it was necessary infrastructure for other wireless carriers and for public safety purposes they've dedicated (an additional) 25ft for public safety. Ms. Johnson inquired how many people the tower would service and the number of vehicles per day would access the site. Attorney Pare took exception to the earlier comment about their application being untruthful with respect to the site visits. In his experience there are one or two visits in the beginning after which there won't be many at all because the site would be monitored 24/7. He said there wouldn't be a traffic rush and they stood by their application. American Tower will market the tower and try to have the carrier attach at once since it was a cost savings to do so when the equipment is on site. There won't be much to do with the antennas once the construction period has ended. Ms. Johnson had a conversation with a worker (mechanic) at the Lawrence Road property who indicated they were on-site at least once a week for one or both of the carriers (T-Mobile and Verizon). Attorney Pare replied they may have issues at the site; however, he didn't know the circumstances. He'd never heard a complaint about traffic, visits at night, or maintenance issues.

Ms. Johnson wanted to know why at this point in time she was hearing there was an issue with safety and response. She questioned why the Town wasn't pro-active and making sure they had an opportunity on any/all available cell towers. She inquired why they were now able to make a judgement call on safety issues when the Town should be doing so on behalf of the residents. As a tax payer she found it insulting to find out at this time that the Town (emergency responders) didn't have adequate coverage in an area that she'd lived in and relied on for thirty plus years. Ms. Johnson ended by saying she didn't think they needed the tower and that American Tower had set the agenda and didn't really care about anything other than constructing a tower. She said there was already coverage and the tower would affect (property) values. She added that she'd been in real estate for twenty-five years.

Mr. Brian Carton, 7 Falcon Drive told he lived across from the property at Blueberry Circle. He informed that his deed, and three of the five historic deeds, mentioned a restriction on putting a driveway in. As a member of the Budget Committee last year, he said the Fire Chief spoke about issues with deploying a new

system with dispatch being out of Londonderry. The Chief also discussed a problem with another wireless carrier, with whom the Town had an agreement (negotiated by the Selectmen) for space on a tower; however, for some reason the Town was having difficulty executing on the tower. He didn't see why the Town hadn't taken its own resources and pursued the people they already had an agreement in place with to solve the Fire and Police situation. Mr. Carton pointed out in the Planning Board Subdivision Regulations, Section 11.05 – driveway access and road designs, it speaks to the number of accesses per lot and the fact that driveways shall not have a slope of more than 10% (plan shows 11.9% for approximately 600ft). He also noted there may be a possible washout of the roads because of the wetlands. He submitted his letter of concerns to the Board for the record.

In looking at the agenda, Ms. Peters saw that the Ruby Road access was going to be the first hearing, and therefore prepared her comments based on that fact. She noted that much of what she had to say was relevant to the application currently being discussed. She wanted to know if she made a presentation now if it would be accepted for both applications. Mr. Kearney answered yes. Ms. Peters provided the Board with a prepared statement (see 'Attachment – Submission from Ada Peters') along with corresponding backup evidence and information. She wanted it on the record for the Ruby Road access.

When going through her submission, Ms. Peters referenced an attachment titled "EMF Real Estate Survey Results: Neighborhood Cell Towers & Antennas – Do They Impact a Property's Desirability", which was previously brought to the Board and not accepted. Ms. Peters noted that the survey didn't say anything about EMFs. Mr. Hennessey felt Board member McNamara had previously ruled correctly that the Board couldn't consider electromagnetic radiation studies, as they had received advisories from the Local Government Center and learned through classes attended over the last five years. He said they couldn't take the evidence. Ms. Peters reiterated it was a study on whether people would buy a home near a cell phone tower, it wasn't a study on radio frequency emissions. She said 94% of people (in the study) said a nearby cell tower or group of antennas would negatively impact interest. Mr. Hennessey asked if there was any local/recent statement in relation to property values, other than the letter from Mr. Ed Bisson (ReMax). He spoke about a case from 15 years ago during which he argued against a proposal and the Town won; it was the only case in New England that cell towers were defeated because the applicant didn't prove that property values wouldn't be affected. The applicant in that case had a flawed study. He noted in the present case the applicant submitted a very thorough and recent property valuation from a respected assessor company. He stated he had respect for Mr. Bisson; however, the one paragraph statement didn't match up to what the Board had in front of them regarding property values. Ms. Peters replied she didn't solicit information from local realtors because she didn't think the proposal would be allowed.

Ms. Chubb asked Ms. Peters to address issues that the Board hadn't already heard. She said they had previously heard her speak extensively on a lot of the topics. Ms. Peters didn't believe it was extensive, as she was trying to provide a more extensive packet at this time. Ms. Chubb respectfully asked that the information relate to new information, questions or substantive items she would like the Board to consider. Ms. Peters said the information submitted related to articles that had been published, articles on how towers affect property values or utilities in general. She explained that she took a world-wide view on the topic because it was a global issue that was becoming more predominant. She spoke to realtors and was told by one that if the tower was allowed it would render her home unsellable. Ms. Paliy asked which tower she was referencing. Ms. Peters replied the Ruby Road tower. Ms. Paliy replied the conversation was becoming convoluted because there was so much information. Mr. Kearney asked that Ms. Peters speak about the Blueberry Circle location. Ms. Peters replied she had mixed the two locations together, as she understood the Board was considering both. Mr. Kearney said his initial thought was they could do so, because he didn't realize the magnitude of her submission, which was becoming confusing. Ms. Peters didn't feel it boded well that the Board wasn't accepting her presentation. Mr. Kearney said they did want to accept the presentation and hear everything she has to say and asked that she speak to the Blueberry Circle site. Ms. Peters skipped over some of the articles and resumed her presentation on page 5 of the attachment (to these meeting minutes).

Ms. Paliy stated she resided on Mammoth Road and had no cell coverage. She said the Board was currently dealing with Federal Regulations for which they had very little leeway. She respected the information submitted by Ms. Peters and noted the two locations being discussed were very different. She informed that the Board had met with their attorney prior to the meeting and reiterated that the Board had little leeway with Federal Regulations. She asked that her discussion address the Blueberry Circle location and Federal Regulations. Ms. Peters stated that the real estate examples included in the appraiser's report from the applicant were nothing close to what they were looking at, at either location. There were several homes in the Blueberry Circle area that would be 400ft-500ft. from the tower. She noted that the photographs of the site were taken in the middle of summer and pointed out that the leaves would be off the trees for more months during the year. She said in the fall and winter the surrounding areas would be able to see the tower; she could see the balloon from her property. From what she understood the Board could consider harm to the neighbors and property values. Ms. Peters was concerned with the safety risks in the event the tower burned given that there were no hydrants. She felt as if she was being attacked for defending the residents of the neighborhoods. Mr. Kearney didn't want Ms. Peters to feel like she was being attacked. He wanted to make sure that the Board heard new information, so they could process everything. Ms. Peters replied she was trying to provide new information and wanted to know if her submission meant anything to the Board. Mr. Kearney replied every testimony meant something to the Board. Ms. Peters finished speaking about the comparable properties submitted in the applicant's report, which she felt weren't qualified (as outlined in her attachment to the minutes). She said she would like to discuss what they were being faced with at the Ruby Road location but held the comments for the next hearing.

Mr. Larry Horgan, 32 Blueberry Circle heard about deed restrictions earlier in the meeting and felt the applicant's attorney was being vague in the way he was presenting information. He understood if the variance was approved the tower request would go to the Planning Board. He wanted to know if it would be bounced back to the Zoning Board because of waivers. Ms. Beauregard explained the only way the Planning Board would send the request back to the Zoning Board was if they denied it on some sort of zoning requirement. She said the Planning Board must consider the request and granting waivers because it was under an Innovative Land Use they had jurisdiction over. Mr. Horgan asked if the Zoning Board was the only board that could enforce such. Mr. Kearney said the applicant was looking for dimensional relief from the Zoning Board, because it was the first step in the process. Mr. Horgan asked the Board to consider all the waivers, the fall zone and driveway access. He didn't want the applicant to take advantage of the process and go against the intent of conservation development. He said they wanted to put a tower in a residential zone and was concerned they would continue coming in with requests for additional towers making Pelham become known as the 'tower town'. Mr. Kearney noted the Board could only consider the request currently in front of them. Mr. Horgan believed that all five variance criteria were being contradicted by the request. He also believed there was no hardship, which he said the applicant admitted. Mr. Hennessey stated he would be asking the applicant to read the criteria back into the record and noted that the hardship criteria in this case was out of the Board's control.

Ms. Green came forward once again and addressed Ms. Paliy's earlier comments. She said the request was absolutely within the Board's power; a negative impact to the community was in the Board's purview. She reiterated that the applicant hadn't established a need and it was shown that the area had coverage. She said they didn't have to get coverage for the 25-30 homes in the area; the FCC ruling doesn't cover for every single individual to have perfect coverage. In summary, Ms. Green stated the applicant hadn't proven the need or given enough information/evidence about alternative sites other than contacting another residential neighborhood to see if they wanted to make money. She asked the Board to not let the applicant's bullying tactics get to them; it was a playbook they used in every town they went to. She noted there were many articles about the playbook. She felt the applicant was bullying the Board with the regulations. She said the case was within the Board's purview, power and discretion.

Ms. Chubb referenced the photographs provided the Board from the last balloon test which showed the tower superimposed into them. She saw in the latest photographs the same lush green areas and wanted to know if that meant no trees were going to be removed. Attorney Pare replied they did the same exact operation. With regard to the Dracut location the trees being removed were visible from the cul-de-sac, but in the Blueberry Circle location the trees in the line of sight (within the photographs) were not being removed; however, the trees around the compound area would be removed and not visible to the public ways. He noted there would be tree removal along the driveway area. Ms. Chubb questioned if the road would be impervious. Attorney Pare replied it would be gravel/crushed stone to the extent it had to be improved; it would not be impervious. Ms. Chubb assumed if the variance was granted the applicant would work with the Planning Board to make sure there wouldn't be impacts from runoff etc. Attorney Pare commented when they applied to the Board for the Dracut location they also applied to the Planning Board at the same time. The Planning Board didn't want to hear the application until/unless they received variance relief; therefore, the application was withdrawn.

Attorney Pare stated they weren't requesting all sorts of waivers, there were two issues: 1) setback and 2) the use. As he stated during the first hearings, if there was a commercial/industrial lot that fit within the overlay district they would have sought a special use permit. He commented that the Pelham Zoning Ordinance didn't provide for enough locations for towers and the Dracut Zoning ByLaw was even worse. He told the Board that consumers were driving the need for towers. He said they had done all the coverage for places they are allowed; they weren't interested in providing cell towers, they were interested in providing service. The Federal Law makes it, so towns can't prohibit them from providing service. Attorney Pare stated the hardship was T-Mobile's and the Board would be hard pressed to find a hardship to the landowner. He said the Federal Law had generated the results that Congress intended; the FCC had recently issued new regulations to densify the networks even more. Attorney Pare believed they had provided ample evidence that they had a 'need'. He said if the Board had any questions about the presentation, information, reports there were representatives present that could speak to such.

Attorney Pare then read aloud the responses to the five variance criteria as submitted with their original application package. He then went through justifications for the site. He said they proposed a location that satisfied the purpose and intent of the Zoning Ordinance (Section 307:56); to avoid and mitigate adverse impacts both visual and environmental. From a visibility perspective, he said the Blueberry Circle site addressed the concern and believed without the additional height (up to 150ft, based on the balloon test) the tower wouldn't be visible. With regard to the environmental aspect, they are required to go through an analysis based on the National Environmental Policy Act, and the applicant will go in front of the Planning Board to justify the need to use portions of the wetland buffer zone. The tower is in the proposed location because of the land's natural features and the wetlands. Attorney Pare stated the second purpose and intent of Zoning is to promote co-location. He didn't feel Pelham would become the 'tower capital' because Zoning prohibits new towers if there are available structures. The purpose and intent also speak to minimizing adverse impacts, which he felt was addressed through the Blueberry Circle location. For the safety aspects, both the Blueberry Circle and Ruby Road sites work. In general, Attorney Pare felt the Blueberry Circle location was superior to the Ruby Road location. The tower is required to be constructed and maintained safely; the applicant has stated they will comply with all applicable requirements and provide for removal. In summary Attorney Pare believed they had found a location that worked and was more favorable from a site perspective. He appreciated the input from the public and the Board and felt the process worked well.

Ms. Chubb commented there was a lot of emotion from the residents who had followed the case and attended the meetings; she applauded their involvement. She said the Board had received much information and volumes of paper over the last few months (since November 2017) and didn't want anyone to feel that they were simply glancing at a piece of paper or just listen. She's personally gone through the information (including meeting minutes and testimony) several times and commented that her colleagues on the Board had done the same, except for the material submitted during the present meeting. She said they were paying

attention to what neighbors have said as well as what the carrier is saying to weigh the evidence they best they could.

Mr. Kearney asked the Board members to review and speak to each of the variance criteria.

1) Not contrary to the public interest:

Ms. Chubb – She said a lot of it weighed on safety; letters were received from the Dracut and Pelham Fire Chiefs saying there is an issue with receiving a call and contacting personnel. She noted when the hearings began in November 2017 she didn't have cell coverage at her house; however, she now had coverage.

Ms. Paliy – Agreed with Ms. Chubb. She felt there was a huge difference between Dracut and Pelham, and without cell reception had to contact the Police (from her house) on more than one occasion due to car accidents. She said it's a serious problem when someone is hurt, and she had to use a secondary phone line. She was thankful for the input from the Fire Chiefs. She said she very much relied on the testimony of Karen MacKay and others living in the Blueberry Circle area who brought up very good issues. She felt the spirit was clouded (during the meeting) because they needed to focus on real issues that were brought up. In terms of legal documents, Ms. Paliy said they've received them from professionals and believed communication was vital. The Board has spoken to their attorney and understood that the applicant had certain rights based on a Federal level. She said they took their role extremely seriously and looked at all information presented. Ms. Paliy explained it was important for people to stay on what was in front of the Board when they testify. Sometimes when a person speaks about things that are very relevant, it starts disappearing when someone else talks and talks about things that aren't in front of the Board. She reiterated that the Board was taking the process seriously and thought it was unfortunate that certain testimony became clouded.

Mr. Hennessey – He felt public interest, as expressed by people present, was that they didn't want the tower; however, 'public interest' has been defined by the Federal Telecommunications Act as benefitting cell providers through providing service to cell users. He took seriously the idea that there was coverage to be had, despite the information provided to the Board. He said the Board was restricted and couldn't hire engineers on their behalf. He discussed the other proposed sites and said they could do was use knowledge of the area. Mr. Hennessey stated that 'public interest' was not defined by a local impact or the local people, but rather by the telecommunication providers. He didn't see relief from saying no to the request and thought the applicant had demonstrated (with the submitted chart) that there was a need.

Ms. Ryan - She agreed with the statements of the Board members in addition to her own understanding from the site walk. She said the natural buffer argument came into play with her decision and didn't feel the proposal was contrary.

Mr. Hennessey – reiterated his feeling that public interest was being served, if it was defined by the telecommunications providers. He noted it also provided needed emergency services, although his phone picked up coverage very well.

Ms. Chubb – added that she felt the engineering reports (about the lack of coverage) were critical, although they heard testimony from neighbors talking about having coverage.

Mr. Kearney – believed that the public interest as a whole for the Town of Pelham needed to be weighed with the public interest of the immediate area. He heard all the testimony and did not think there was an issue with the ability of putting a monopoly in the proposed location. He felt the criteria had been met.

2) Spirit of the Ordinance:

Mr. Hennessey – He said the visual aspect and effect of the property would be minimal. He said the Board often weighed alternatives going forward and said he would have

expected the property to be developed at one point and believed a tower would have less impact than a (30+ lot subdivision) development that could go on the site. With regard to maintaining the general look and feel of the neighborhood, he felt the proposal was minimally invasive. He felt the applicant satisfied the criteria.

Ms. Chubb – said she looked to see how hard the applicant worked to find something that would comply with zoning. In reviewing what American Tower had done, she felt they had gone above and beyond to answer the question of locating elsewhere and providing evidence of other locations not meeting the gap that was shown/proved to exist. She agreed with Mr. Hennessey that the property would be (at some point) and a tower was probably the least offensive thing that could be put there. In terms of what the applicant was proposing and the fact that the alternatives were shown to not meet the applicant's needs, she agreed with Mr. Hennessey (criteria had been met).

Ms. Paliy – understood at one point towers were considered 'commercial', but now they had become used in daily life. She felt the spirit was observed because there were so many spots around the area that didn't have cell service. She didn't think they could view towers as belonging in commercial areas because towers had to be placed where they could provide coverage. Because of this, and the fact that the applicant had shown professional proof why they needed the tower, she felt the spirit was observed.

Ms. Ryan – Concurred with her colleagues.

Mr. Kearney – felt the spirit was observed through evidence provided, by maintaining the buffer zone and the proposed position.

3) Substantial Justice:

Ms. Chubb – stated she had concerns about substantial justice when looking at what kind of impact the tower would have on the environment; however, she understood some of those concerns would be answered by the Planning Board. It didn't make those items less of a concern, but they weren't the issues right in front of the Zoning Board. She knew she had to look at the requested variances and in doing so knew the applicant had to follow the communications act, go forward to the Planning Board on some environmental reviews and discuss minimal impervious surfaces. She felt substantial justice would be done because of the way the rules were written and impacts would be minimized.

Mr. Hennessey – said he wrestled with this criteria, but felt the current proposal was the better proposal because it was less onerous and less obvious impact. He felt substantial justice was done over the course of the application by putting the Dracut approach in abeyance. He didn't believe the tower would be as onerous as some people think and reiterated his belief that it was a better proposal.

Ms. Paliy and Ms. Ryan – agreed with the other Board members comments that substantial justice had been done.

Mr. Kearney – felt the first application was challenging from several different standpoints. He gave the applicants credit for going back to the drawing board and looking for a better option. He believed the second option was a much better option than the first from visual and ecological impacts. He felt substantial justice had been done.

4) Value of Surrounding Properties are Not Diminished:

Mr. Hennessey – spoke about a case that came forward fifteen years ago (Second Generation Tower) that he opposed. That case was appealed by the applicant and the Town was upheld in the courts. He believed it was the only case in New Hampshire that a town won over a cell tower company. He commented that his expertise was not in question; the Board was supposed to take the evidence in front of them. He appreciated the information provided to the Board by the public. He stated that the appraisal provided to the Board was a valid, professional study. With respect to the witnesses and people who spoke, he didn't see that the public submission as valid; it didn't compare to the professional work that was

done by the applicant. He accepted the evidence showing that the tower wouldn't have an affect property values.

Ms. Chubb – stated this criteria was the hardest for her because she was thinking about the neighbors and all the things that went into what value is placed on property. She's resided in Town for thirteen years and been involved and volunteered on many committees. She knew that people wanted a safe place to raise children, walk, etc. She understood privacy issues and concerns over construction vehicles using neighborhood streets. Ms. Chubb appreciated the presentations given by the residents and the reasons why they opposed the proposal. She wished the 'attractive nuisance' concern was explored more thoroughly and understood the concern as she resided on a cul-de-sac and experienced problems when she first moved to Town. She stated the Board could only consider the evidence in front of them or their own experience; however, she didn't have experience in the proposed neighborhood. Being an attorney, she reviews information and weighs reports that are professionally done against information brought in from the other side. When there isn't comparable evidence from the other side it makes it difficult. She appreciated Ms. Peters' presentation of going through the applicant's reports and picked apart their evidence. She believed the tower location in Dracut had a huge impact and couldn't imagine the abutters having to see a tower every day. When looking at the realistic impact on property values, Ms. Chubb didn't see the evidence on the other side. In looking at the volume of reports submitted by the applicant and how in depth they went, she didn't see evidence to refute their information or that there would be a decrease in property values.

Ms. Paliy – stated she agreed with Mr. Hennessey.

Ms. Ryan – said she struggled with this criteria because for many their home is their single biggest investment. She said it was difficult to weigh property values; however, based on the evidence she didn't feel values would be diminished. She noted if she were to move she would check to ensure there was coverage.

Mr. Kearney – stated he yielded to the evidence that was provided. From a personal standpoint he felt the availability of cell coverage and abilities would grow. He believed the closer a house was to a tower, the more benefit the house had. He noted there was a substantial amount of evidence provided that made him believe values would not be diminished.

5) Hardship:

Mr. Hennessey – explained that the items the Board usually considered for hardship couldn't be in this case because it had been preempted. The hardship was all on T-Mobile's coverage based on the telecommunications act.

Ms. Chubb – agreed with Mr. Hennessey about the hardship being the gap in coverage. She also felt the argument was made that the hardship came with the topography of the Town and ran with the land to some extent. Ms. Chubb believed the applicant had proven the gap in coverage through reports and the testimony of the engineer. She said there was nothing else to show that there was coverage, other than a couple of neighbors indicating they had coverage. She felt the hardship criteria had been met.

Ms. Paliy – stated in this case hardship was covered by the Federal Telecommunications Act. The applicant had proven hardship exists for T-Mobile.

Ms. Ryan – agreed that the hardship was the gap in coverage and the proposed location solved it.

Mr. Kearney – concurred with everything that had been said and believed the hardship had been met and was proven. He said of the two locations, the Blueberry Circle location was far superior (to Ruby Road) in its impact to residents and the environment.

Mr. Hennessey added that the evidence in front of the Board indicated that values wouldn't decline. He felt the comment that someone wouldn't be able to sell their house was wrong. He said the office he ran sold

a lot of houses and in his opinion enhanced cell coverage would benefit (marginally). He didn't believe values would go down or (the tower would) make houses unsellable. Although it was outside the Board's purview, Mr. Hennessey commented that he carefully reviewed the deed restriction and believed the applicant had a problem.

BALLOT VOTE

#ZO2018-00015:

Mr. Kearney – Yes to all criteria
 Ms. Paliy – Yes to all criteria
 Ms. Chubb – Yes to all criteria
 Mr. Hennessey – Yes to all criteria
 Ms. Ryan – Yes to all criteria

(5-0-0) The Variances were Granted

VARIANCES GRANTED

(There is a 30-day right of appeal)

Case #ZO2017-00029

Map 31 Lot 11-33

KLECZKOWSKI, Charles Jr. - Spring Street Off

Representing American Towers, LLC and T-Mobile was Attorney Ed Pare of Brown Rudnick. He requested to withdraw the case without prejudice. The Board unanimously granted the request by consensus vote.

Case #ZO2018-00027

Map 30 Lot 11-196

MCWANE, John - 16 Grace Road - Seeking a Variance concerning Article III Section 307-12, Table I of the Pelham Zoning Ordinance to permit the construction of a 24ft. x 26ft. garage on a lot that is less than one (1) acre in size and does not have frontage on a public right-of-way.

Ms. Patterson was appointed to vote.

Ms. Chubb read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

The applicant John McWane came forward to discuss the variance request. He explained he was seeking a variance to permit the construction of a 24ftx26ft. garage on a lot that is less than one acre in size and doesn't have frontage on a public right-of-way. He read aloud the responses to the variance criteria as submitted with the application.

Mr. Hennessey asked where the pond was located. Mr. McWane explained where his lot was situated and said the pond was across the street.

PUBLIC INPUT

Mr. Larry Gibbons 21 & 23 Grace Road told the Board he hadn't had a lot of time to review the request. He understood that the parcel in question was originally two separate lots that had been joined together; one being on Grace Road the other being on Jones Road. He didn't want the applicant not to be able to build a garage. He had questions about the placement of such. The diagram shows a sideline of 15ft. coming down Grace Road for the lot that was originally 60ft.x90ft. In the past Lewis Road became Grace

Road. He asked for an interpretation of the required setback and questioned if it was 15ft. or 30ft. and if coming in front of the Board was the venue to address the question.

Mr. McWane told the Board there were three lots; it was an 'L' shaped lot with one part on Grace Road and the other portion was also on Grace Road (in the area that was formerly Jones Road). The entrance to the property has always been from the Grace Road (Jones Road) side. The request was to have the entrance to the lot be from the side of the lot completely on Grace Road. He understood that a side setback could be 15ft. and a front setback could be 30ft. Ms. Beauregard pointed out setbacks were intended for 'public rights-of-way'. The roads in question were private roads.

Mr. Kearney asked if the address of the parcel was from Grace Road. Mr. McWane stated according to the Town Jones Road doesn't exist, it is now considered Grace Road; his house faces the Grace Road that was formerly Jones Road.

Mr. Hennessey knew the road was private but asked if it was considered a public right-of-way. Ms. Beauregard said a public right-of-way was typically a Class V or better road. She explained the frontage question and stated the rules had recently changed to have 'frontage' be considered from where a lot is accessed. It was noted that the road was private with access only being for residents. Mr. Hennessey said that point made it not a public right-of-way. Mr. McWane told the Board he wasn't requesting relief from the lot's access. He was requesting relief from the lot size. Mr. Gibbons stated his question about setback was his point of negotiating where the garage would be located.

Mr. Kearney asked where the lot would be entered if the garage was constructed. Mr. McWane replied from the right-hand side of the lot where an existing parking area is located. He considered this area his side lot, which was why he showed a 15ft setback. He said it didn't have to be exactly 15ft but felt 30ft. would be a little far.

Ms. Ellen Gibbons told the Board she had been a resident of the area for over sixty years. The area has very tight boundaries, boundary disputes and roads being in the wrong places. She said she would like the applicant and his family to have the garage but wanted to keep as many trees as possible and not be clear cut. Ms. Gibbons noted that her father had built a garage on lot 11 and maintained a 30ft. front setback and 15ft. side setbacks. She believed the applicant had the opportunity to be able to push the garage location away from the street. She said if the location of the lot entrance was considered frontage, the setback for the garage should be 30ft. She noted that the Grace Road side of the lot contained 90ft. of frontage, versus the other Grace Road (Jones Road) side which contained 70ft. of frontage.

Ms. Paliy asked if there was a dispute in the past about the road curve of Grace Road. Ms. Gibbons replied that was at her father's lot. The curve in the road around lot 11, where Grace Road joins Jones Road, caused her father to lose a significant portion of his land. She said at present they were trying to maintain the natural environment.

Mr. Hennessey questioned if two variances were needed: 1) size of lot, and 2) lack of setback. Mr. McWane said that would be true if the Board deemed the front of the lot at the location of the proposed garage. He considered the garage portion of his lot the 'side', which only required a 15ft. setback because the front faced the pond. Ms. Beauregard believed the new regulation came into effect in 2006, so anything in place prior to that time wouldn't be bound by that regulation. She said the determination regarding frontage was up to the Board. She believed if the front of the house faced Grace Road (Jones Road), that would be the front property line.

Ms. Gibbons told the Board that the applicant had the room to push the garage back 30ft. Ms. Beauregard didn't believe the applicant needed a variance for the proposed garage placement of 15ft. setback.

Ms. Paliy felt the Board should conduct a site walk. Mr. Hennessey felt the Board should conduct a site walk if the garage wasn't moved back to 30ft. Ms. Paliy said there was also a discrepancy about where the road was located.

Ms. Gibbons would like something certified from an engineer that cited exactly where the garage would be located because there was a question about the road location. Mr. Hennessey believed a certified plot plan in that location may cost the applicant as much as the garage. Mr. McWane said he could line up the right side of the garage with the right side of the Gibbons' garage to be the same distance from Grace Road. Ms. Gibbons believed Mr. McWane had the space and land to meet the space requirements.

Mr. Kearney wanted to know which portion of the applicant's lot was considered the front. Mr. McWane replied 16 Grace Road applied to Jones Road now known as Grace Road. Ms. Gibbons noted that the address sign was closer to the other Grace Road. Mr. McWane replied the sign location was for the convenience of the post man, and not a description of the lot.

Ms. Chubb wasn't familiar with the area and had many questions. She wanted to give the applicant and his neighbors an opportunity to discuss the placement of the garage. Based on the information, Ms. Paliy couldn't see granting a variance for 15ft. because nothing showed why it would be needed as opposed to the 30ft. She didn't see the hardship. Ms. Beauregard told the Board she could ask for legal opinion; although as Zoning Administrator she believed 15ft. was all that was required in that area. Mr. Hennessey felt the Board should schedule a site walk.

MOTION: (Hennessey/Chubb) To conduct a site walk.

VOTE: (5-0-0) The motion carried.

A site walk was scheduled for October 6, 2018 beginning at 8am. The case was date specified to October 11, 2018.

MINUTES REVIEW

July 9, 2018

MOTION: (Hennessey/Ryan) To approve the July 9, 2018 meeting minutes as amended.

VOTE: (5-0-0) The motion carried.

August 13, 2018

MOTION: (Hennessey/Paliy) To approve the August 13, 2018 meeting minutes as amended.

VOTE: (5-0-0) The motion carried.

SITE WALK – October 6, 2018 8am

Case #ZO2018-00027 - Map 30 Lot 11-196 - MCWANE, John - 16 Grace Road

DATE SPECIFIED CASES - October 11, 2018

Case #ZO2018-00027 - Map 30 Lot 11-196 - MCWANE, John - 16 Grace Road

ADJOURNMENT

MOTION: (Ryan/Paliy) To adjourn the meeting.

VOTE: (5-0-0) The motion carried.

The meeting was adjourned at approximately 10:28pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary

ATTACHMENT – Submission from Ada Peters (pdf file converted to Word document)

Hello, my name is Ada Peters. I am speaking on behalf of Mark Peters and myself, owner and occupants of 167 Ruby Road in Dracut.

- You heard me say some of the things I am about to say at the June 11 hearing for access through Blueberry Circle. I apologize for the repetition, but I want these statements on the record for Ruby Road access.
- Our property directly abuts the lot where the proposed 150 foot wireless communications tower would be located.
- Article X of Pelham's Zoning Ordinance provides plenty of opportunity for wireless communications towers in the Telecom Overlay District in "certain designated commercial or industrial areas."
- A resident from the Blueberry Circle neighborhood testified at the June 11 hearing that he uses T-Mobile and has no issues with his service. T-Mobile's own website shows 100% coverage. These facts contradict the engineer's report of a lack of coverage.
- Not one person testified before you that they could not use their mobile phones. In fact, quite the opposite. You heard several residents from both neighborhoods testify that they have no issues with their mobile phone service. We use Verizon for our wireless carrier and have no issues using our mobile phones. The fact that Verizon Wireless and other carriers have found ways to service the area proves that American Tower's client, T-Mobile, has alternatives. The Town of Pelham does not have an obligation to provide for the least costly alternative to provide personal wireless services. Co-location is available for carriers. The applicant has not shown that there are no other sites or facilities available for its tower, or the carrier who will lease space on it, which will not adversely affect residential properties. In addition, the FCC does not mandate 100% cell phone coverage.
- There is no hardship to the land. The land owner is only landlocked to the extent his father's lot at 64 Blueberry Circle blocks access. And the land owner himself created this "hardship". Mr. Kleczkowski, Sr., owned all of this land and the lot at 64 Blueberry until 2016 when he sold some of the land to his son for \$1, thereby creating a so called "hardship." This is shown on the first document in the packet I gave you. In the Blueberry Circle Tower access application, the Kleczkowskis are seeking to use 64 Blueberry as access to a cell phone tower; if that is the case, such access could be used to build residential homes, which is the intended use of this land. Charlie Kleczkowski, Jr., told me, on at least two occasions, that houses would be built there but probably not for about 20 years, which we can assume is the term of this lease with American Tower. He said his kids would likely be the ones to build houses there and not himself. So clearly he knows he has no hardship and that he will be able to build houses on this land.
- This land owner is seeking to become a commercial landlord in a residential zoning district which is inconsistent with Article X of the Town of Pelham Zoning Ordinance.
- There will be noise. Cell towers emit a hum. This area also has many power outages which would require the use of a generator to provide power to the site, which is also very noisy.
- The tower and access road will create an attractive nuisance for curious children and teens looking for a place to hang out, which is a safety issue.
- Cell towers are known to collapse and/or catch on fire. There are no working fire hydrants in the Coral, Ruby, Blueberry, Falcon and Partridge neighborhoods. This would put the safety of people and property at risk as there would be little hope of extinguishing a fire from a collapsed burning cell phone tower in a timely manner, especially if it falls in the direction of a home that is less than 400' away, as several of our homes would be.

- Studies have shown that radio frequency electromagnetic fields have a significant effect on birds, insects and other vertebrates. This will have an environmental impact in this wetland area which is also inconsistent with Article X of the Pelham Zoning Ordinance. Examples of the affects on wildlife, particularly birds, is given in the testimony of Albert M. Manville, II, Ph.D., and Principal of Wildlife and Habitat Conservation Solutions, LLC, before the City of Eugene, Oregon, City Planning Department concerning AT&T/Crossfire's Application for a "Stealth" Cellular Communications Tower in the Upper Amazon Creek Corridor. This study is the second document in your packet.
- Utility vehicles will regularly enter the residential area; and, more importantly, they will traverse a gravel roadway running across the right front side of our land a mere 70' from the front of our home. Once the maximum number of spaces on the tower are leased, this will occur several times per week. Utility vehicles will have access to this roadway 24 hours a day, 365 days per year. If there is a need, there is nothing to stop them from showing up at 2 a.m. on Christmas Eve. Our dogs would bark and bark and bark, as would other neighborhood dogs, until the disturbance was gone.
- Cell towers in residential areas are a more recent occurrence. Surveys and research now suggest that there is a high level of awareness about potential risks from cell towers. Whether these potential risks are real or not, people are receiving this information and it is having an impact on the desirability of homes near cell towers. As time goes on, the negative impact will expand as even more people become educated. Even people who don't believe there is a risk, knowing that other potential buyers might think there is, they will likely not even consider the property or seek a price reduction for a property located near a cell tower, especially during certain market conditions.
- Right now we are in a seller's market. It doesn't happen often. We all know this won't last, and we are already seeing changes. The next two articles in your packet highlight this. August 13, 2018: Redfin CEO Glenn Kelman warns of a slowing national real estate market, as frustrated buyers are sitting out. And from the National Association of Realtors, August 22, 2018, "Existing home sales subsided for the fourth straight month in July to their slowest pace in over two years." When the market becomes saturated with homes for sale and we are in a buyer's market, or even in a neutral market, the homeowners who have a cell tower in close proximity will be in a most difficult position. Who would buy a home next to a cell tower when they can buy somewhere else. Or at what price.
- The Appraisal Institute is a global professional association of real estate appraisers, with more than 18,000 professionals in nearly 50 countries throughout the world. They are also the world's largest publisher of real estate appraisal literature. They spotlighted the issue of cell towers and the fair market value of a home and educated its members that a cell tower should, in fact, cause a decrease in home value.
- The Appraisal Institute has published studies by Sandy Bond, PhD. Dr. Bond has published her research in over 30 articles for both national and international property journals and presented her research at conferences worldwide. In 2014 Dr. Bond was the President of the International Real Estate Society (IRES).
- Dr. Bond has studied the negative effects of cell towers on property values through opinion surveys and market sales analysis and concluded that "media attention to the potential health hazards of cellular phone towers and antennas has spread concerns among the public,

resulting in increased resistance to sites near those towers." Percentage decreases in property values mentioned in her studies range from 2% - 21% with the percentages moving toward the higher range the closer the property is to the cell tower or antenna.

• These are a few of her studies:

● The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods
Cellular Phone Towers: Perceived Impact on Residents and Property Values
The Effect of Distance to Cell Phone Towers on House Prices in Florida
The Impact of Cellular Phone Base Station Towers on Property Values

● I would also like to submit to the board a 2014 survey of cell towers and antennas and their impact on home values which was conducted by The National Institute for Science, Law and Public Policy. I submitted this at the June 11 hearing for Blueberry Circle access and Mr.

McNamara rejected it as not being eligible for consideration because, "we can't consider EMFs." I respectfully disagree with Mr. McNamara's assessment that this document cannot be considered, and I would like to explain why.

• Section 704(a), paragraph (iv) of the 1996 Telecommunications Act 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 the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

● The mere use of the term "EMFs" in a study or survey does not necessarily indicate that the study or survey subject is about "environmental effects of radio frequency emissions." I found nothing in the FCC 1996 Act that suggests the mere use of any terms relating to EMFs renders evidence outside of consideration. "Environmental effects of radio frequency emissions" are outside of consideration.

• This survey was first published by ElectromagneticHealth.org and they chose to use the term "EMF" in their article title. When you read further, you see the survey is titled, "Neighborhood Cell Towers & Antennas — Do They Impact a Property's Desirability?" When you read further in the actual survey results, you will see the survey results I am asking you to consider are about how respondents would feel about purchasing or renting near cell phone towers or antennas. It is not a survey about the "Environmental effects of radio frequency emissions." If you still do not like it, then I will submit it as published by Manhattan Neighbors for Safer Telecommunications which does not use the term EMF in their article title.

• The National Institute for Science, Law and Public Policy of Washington, DC, conducted a survey in 2014 to determine if nearby cell towers and antennas, would impact a home buyer's or renter's interest in a real estate property. From the first 1,000 respondents to the survey:

0 94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.

0 79% said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antennas.

This document also contained comments from real estate brokers who completed the survey. Here are two.

- "I am a real estate broker in NYC. I sold a townhouse that had a cell tower attached. Many potential buyers chose to avoid purchasing the property because of it. There was a long lease." o "I own several properties in Santa Fe, NM, and believe me, I have taken care not to buy near cell towers. Most of these are rental properties and I think I would have a harder time renting those units were a cell tower or antenna nearby."
- The New York Times published an article on August 27, 2010 entitled, "A Pushback Against Cell Towers." In this article they quote Tina Canaris, an associate broker and a co-owner of RE/MAX Hearthstone in Merrick. "Even houses where there are transformers in front make people shy away. If they have the opportunity to buy another home, they do." She said cell antennas and towers near homes affected property values adding, "You can see a buyer's dismay over the sight of a cell tower near a home just by their expression, even if they don't say anything."
- Dr. Magda Havas, PhD, published an article also on August 27, 2010 entitled, "Real Estate Devalued When Cell Towers Are Erected." She cites the New York Times article and also Andrew J. Campanelli, a civil rights lawyer in Garden City who said a group of residents hired him to oppose a cell company's application. "They were worried about the property values," Mr. Campanelli said. This is all further proof that the majority of people do not want to live near a cell tower.
- Burbank ACTION (Against Cell Towers In Our Neighborhood) published an article entitled, "Decreased Real Estate Value" in which they highlight why people don't want to live near cell phone towers. It also cites cases of residents opposing proposed towers in their neighborhoods due to concerns of decreased property values and safety risks. It cites instances of homes having sold for less due to utilities close by. It references numerous articles on how cell towers negatively affect the property values of homes near them. It cites a document 27 real estate professionals in Burbank, California, signed in December of 2009 stating that in their professional opinion, the proposed T-Mobile cell tower at Brace Canyon Park would negatively impact the surrounding homes. I've included this in your packet, along with the statement of a local real estate professional who provided his opinion to a resident in the Blueberry Circle neighborhood.
- Hometownlife.com published an article on January 8, 2016, entitled "Residents Fight Proposed Cell Tower Near Church." Because they have concerns over property values, residents of Canton, Michigan, oppose a Verizon proposal for a 120' tower behind a church.
- The Guardian published an article on May 24, 2003, entitled "Phone Masts Blight House Sales." This article highlights fear of the masts and it becoming a real issue in buying and selling houses. "Melfyn Williams, chairman of the National Association of Estate Agents, said in some cases a mast could see a home reduce in value by between 5 and 10 percent. It is not scaremongering. It is more about a growing fear of the unknown of what the health risks are, especially among those with young children, he said."
- This sentiment is repeated in articles published all over the world, all easily available online. Some local communities who have recently come out to oppose cell tower construction in their neighborhoods include Salem, Bedford, and Rye, NH; North Andover, Methuen,

Lawrence, Sudbury and Wayland, MA, to name a few. This all proves that people do not want to live near cell phone towers.

I'd like to address the Real Estate Consultants of New England appraisal report dated December 14, 2017. The real estate appraiser's report is inadequate in determining lack of diminished value to adjacent properties, particularly to our property at 167 Ruby Road in that our situation is unique. In reviewing the homes used in the appraisal report, this is what we found. (Show Google search results and photo of Gumpus Hill tower)

- 114 Briarwood Road, Pelham — Tower is 850' away and not visible from the residence. The tower is constructed on commercial land.
- 10 Pondview Drive, Pelham — Gumpas Hill tower is approximately 4,000' from this home
- 438 Mammoth Road, Pelham — Gumpas Hill tower is approximately 3,500' from this home
- Rolling Ridge development, Pelham — Gumpas Hill tower is approximately 1,750' away
- Additionally, the Gumpas Hill tower is set way back into the woods as you can see in this photo. (Point out Rolling Ridge Development and tower

location) Our situation is not even close to what we see here. ○

111 Haverhill Road, Chester — Tower is 2,000' from this home

○ 9 Mountain View, Nashua — Tower is 660' from this home and constructed in a commercial area. House is adjacent to commercial area. ○ 4 Yorkshire Road, Windham — Tower is 990' from this home

○ 10 Heritage Drive, Bedford — Tower is 1,800' from this home

- Just because these are residential homes, doesn't mean they qualify for this study. There has to be a sale of a property that is comparable to what they are proposing here, and there are none. This fact holds true for most of the residents in both the Ruby Road and Blueberry Circle neighborhoods, especially for the homes that are less than 400' from this proposed tower, as several of these homes would be. There are no comparable properties in this appraisal report.

- Here is what we are faced with at 167 Ruby Road. I have taken a screen shot of the area from Google Maps. It is a current satellite image as it shows the area that was cleared by the land owner. I overlapped the satellite image and Sheet Number C-101, Revision 1 of American Tower's application in PhotoShop, scaled and lined them up to find the tower placement, and then did this mock up. As you can see from this image, 167 Ruby Road will have a clear view corridor of the entire facility which will include a gravel road that runs over our land to a locked gate and then the continuation of the roadway up to the 150 foot tall tower that would be a mere 395' from our home, a 60 x 60 platform housing all the equipment necessary to operate the tower, all enclosed by an 8 foot tall chain link fence with three rows of barbed wire above that and all the necessary signage that is required for said facility.

- In the case of 167 Ruby Road, this appraisal report does not look at a home with a clear site corridor to an entire cell tower facility only 395 feet away from the home. This appraisal report does not look at any homes with a gravel road across the right front of a property owner's yard a mere 70 feet from the front of the house which will be regularly

traversed by utility vehicles and for which the owner receives no benefit. None of the properties used in Real Estate Consultants of New England appraisal report even come close to what is being proposed at 167 Ruby Road.

- The next image is the mock up provided by American Tower and shows the clear view we would have of the tower, but it does not show the gravel roadway, the fencing, locked gates and signage. There will never be a way to diminish this site corridor. As long as the tower and roadway are there, this is what we will see every day. The final image is what we would see when we drive down the road to our house. This will not only diminish the neighborhood, but it will have a devastating impact on our property. All of this is inconsistent to the Town's Zoning Ordinance Article X.
- American Tower's proposal is incompatible with the character of our neighborhoods. Properties that are so very close to the tower will suffer substantial degradation to their value because of this unusual feature in our residential neighborhoods. Diminished character means diminished home values. Devastated character means devastated home value. The Kleckozskis and American Tower will profit at the expense of the citizens of these two neighborhoods.
- You all know this would have a devastating impact on our home at 167 Ruby Road. The Kleczkowskis know it or they would have been forthright in disclosing to us the true nature of their intent and not fabricating a story about growing hay to feed their cows. Their recklessness and total disregard for the property of others should be taken into consideration by this board. Mr. Pare knows it as well. He stated in the June 11 hearing regarding the site visit at 167 Ruby Road, "...when we went to the site visit and you saw the result of it, I think everyone sort of, you know, wow, this might be a little bit much and we flew the balloon at the other location. And I think the sense was, well, you know, not perfect, not invisible, but a whole heck of a lot better."
- You are intelligent people. You can figure out for yourselves the impact this will have on our property. Would you want to live next to all of this? Would you buy our house? If so, would you expect to pay a deeply discounted price for it
- All of the activities I mentioned are inconsistent with Article X of Pelham's Zoning Ordinance.
- As further proof, I would ask you to consider the testimony given by all the people who came before this board to oppose this project. This, and all the documents I submitted to you this evening, clearly shows that the majority of people do not want to live near a cell phone towers.
- Mark and I bought our house on Ruby Road in 2005 at the height of the market just before the crash. It has taken this long for our property to get back to the value it was in 2005. In addition, we spent a lot of money on things like a new roof, new doors and windows, three new bathrooms, a new kitchen, solar panels, central air, a farmer's porch, etc. If you approve this project, it will put us even further back than we were during the crash and into a position from which there would be no recovery. What we would have to look forward to is paying taxes on land that someone else is using and seeing an entire cell tower facility 395 feet from our house every day for, most likely, the rest of our lives. We are not a young couple who have many years ahead of us to bounce back from the financial hit we would suffer as a result of this. There would be no bouncing back. We are too old. In October Mark will be

retired five years from a job he held for over 40 years. I am hoping to retire in 2019 after my next birthday.

- 0 I would ask you to please protect us and all the Pelham and Dracut residents who would be so adversely impacted by this project. Deny American Tower's application.

Thank you.

Definition of Environmental:

Collins Dictionary: Environmental means concerned with the protection of the natural world of land, sea, air, plants, and animals.

Dictionary.com: Relating to the natural world and the impact human activity on its condition.

Cambridge Dictionary: Relating to the environment in which people, animals, and plants live.gh