



TOWN OF WAKEFIELD NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT

NOVEMBER 9, 2023

Approved

Don Stewart Chairman via Zoom	✓	Annie Robbins Alternate		
George Frothingham, Vice Chairman		Graham Baker Alternate	Town Counsel Tim Sullivan	
John Crowell	✓	Tristen Plummer Alternate	Site Walk	
Judi DesRoches Acting Chair pro tem	✓		Public Hearing	
Robert Baxter	✓			

**Others present:** John Kenney, and Michelle Keating from Clearview TV.

**Pledge of Allegiance & Call the meeting to order**

Mrs. DesRoches, Acting Chair pro tem, as Mr. Stewart wasn't physically in attendance, called the meeting to order at 7:00

**Seat Alternates as necessary**

None.

**1. Motion for Rehearing:**

Submitted by Whittier Communications, Inc. for property owned by Province Line Associates, LLC located at Tax Map 9-113, 4870 Province Lake Road. The applicant is seeking that the ZBA grant the Motion for Rehearing of the Town of Wakefield Zoning Board of Adjustment's decision dated September 14, 2023 in which it denied Whittier's appeals of the Planning Board's decisions of October 6, 2022 approving Vertex Tower Assets, LLC's ("Vertex") site plan application to construct a personal wireless cell tower within four miles of an existing tower owned by Whittier

**2. Motion for Rehearing:**

Submitted by Whittier Communications, Inc. for property owned by Savannahwood LLC located at Tax Map 92-34 on Province Lake Road. The applicant is seeking that the ZBA grant the Motion for Rehearing of the Town of Wakefield Zoning Board of Adjustment's decision dated September 14, 2023 in which it denied Whittier's appeals of the Planning Board's decisions of October 6, 2022 approving Vertex Tower Assets, LLC's ("Vertex") site plan application to construct a personal wireless cell tower within four miles of an existing tower owned by Whittier.

Mr. Stewart stated that tonight there are only 4 members of the ZBA present, any vote will require the concurrence of 3 members of the board. He asked if the applicant wish to proceed with only 4 members of the board present? Mr. John Kenney replied Yes, as the applicant, he is willing to move forward with only 4 members of the board present.

Mr. Stewart said the other consideration, is the applicant willing for both items to be heard together as they are essentially the same other than location. Mr. John Kenney Replied yes, he is willing for both items to be heard together. Mr. Stewart said any action will be taken individually at the end.

Mr. Stewart described the request before the board tonight, in that, the application for rehearing asserts that the Planning Board was incorrect. The motion asks us to grant a rehearing saying the Planning Board granted this absent of sufficient evidence of the need for the two additional towers. That Vertex didn't satisfy the burden of proof of locating the towers within four miles of the Whittier Tower. He also asserts that Vertex radio frequency was inaccurate and the Planning Boards radio frequency consultant testified that the new towers would only create a slight increase in coverage and it would be unlikely that carriers would locate on all three towers in a four mile radius.

The applicant suggested that it was unreasonable for the Planning Board to disregard this information when making its determination. Article 24, Section F of the zoning rules and regs that the Planning board did not have Vertex present evidence about locating its towers on Whittier and the Planning Board failed to analyze whether Whittier's tower would have been a substantial structure pursuant to Article 24, Section F. He feels the Planning Board did not consider the detriment to the rural character of Wakefield. Whittier is asking the ZBA to grant the motion for rehearing

Mrs. DesRoches said if we had a rehearing, perhaps we as members of the board would be clearer on what the coverage is. She feels the zoning board did not receive adequate information. Mr. Crowell agrees with Mrs. DesRoches that it does make sense. Mr. Baxter said maybe it is worth sending it back to the planning board.

Mr. Stewart said he was frustrated that they did not hear from the Planning Board in defense of their decision, he would be inclined to grant the rehearing, and reach out to the Planning Board to request that the Chair or designee attend the December 14<sup>th</sup> hearing to explain why they made the decision that they did.

**Mr. Stewart made a motion, seconded by Mr. Crowell, that the ZBA consider the applications to rehear the application in December. Roll call: DesRoches yes, Crowell yes, Baxter abstain, Stewart yes. (3-0-1)**

The hearing to be set for December 14<sup>th</sup>.

**Mr. Stewart made a motion, seconded by Mr. Crowell, to grant the motion to rehear the Savannahwood case. Roll call: DesRoches yes, Crowell yes, Baxter abstain, Stewart yes. (3-0-1)**

**Mr. Stewart made a motion, seconded by Mr. Crowell, to grant the motion to rehear the Province Line Associates case. Roll call: DesRoches yes, Crowell yes, Baxter abstain, Stewart yes. (3-0-1)**

**Mr. Stewart made a motion, seconded by Mr. Crowell, for the chair to draft a letter to the planning board requesting he or his designee attend the December rehearing. Roll call: DesRoches yes, Crowell yes, Baxter yes, Stewart yes. (4-0)**

Ms. Czysz will draft a decision from tonight's meeting for Judi to review and sign. She plans to send that out on Monday.

Mr. Kenney requested to make a statement. He said that Verizon is going onto his cell tower, they pulled a building permit in June. Construction is currently scheduled for service to be operational in April 2024.

#### **Correspondence**

None

#### **Approval of Minutes**

**Mr. Stewart made a motion, seconded by Mrs. DesRoches, to approve the minutes of September 14, 2023. (Vote 4-0)**

#### **Set Next Meeting Date**

Second Thursday in December. In addition to the 2 rehearing's there are 2 variance applications for December 14<sup>th</sup>

#### **Adjournment**

**Mr. Stewart made a motion, seconded by Mrs. DesRoches, to adjourn the meeting at 7:22. (Vote 4-0)**

Respectfully submitted for approval at the next ZBA meeting,

Priscilla Colbath, ZBA Secretary