

July 25, 2018

To: Bill Epperson  
Chair, Planning Board  
Town of Rye, NH

Shawn Crapo  
Acting Chair, Zoning Board of Adjustment  
Town of Rye, NH

**Subject:** Town of North Hampton, NH Denial of Cell Tower Applications from Verizon and Gridcom

Attached please find two important documents relevant to your current deliberations regarding a proposed construction of a cell tower in a residential district of Rye. We believe this material will be both useful and instructive in your forthcoming work session on July 31, particularly since these documents were issued by the sister town of North Hampton.

The first document is North Hampton's ZBA denial letter which sets forth the major reasons for rejecting Verizon's application for a cell tower. After several months of deliberations, the Board voted unanimously against granting the variance for constructing a cell tower in a residential district. Here are the major reasons for denial:

1. The property is zoned residential
2. The variance would injure private rights, as it would interfere with the use and enjoyment of the surrounding residences given the nature of the view created by such a tall, out-of-place structure
3. The spirit of the Town's zoning ordinance is reflected in the creation of an overlay district for wireless telecommunications facilities, and protection of residential areas from commercial uses
4. The ordinance allows construction of towers "only when all other reasonable opportunities have been exhausted" This requires consideration of means such as DAS [Distributed Antenna System], or other alternatives, to meet any unmet needs.
5. Granting the variance will negatively effect the surrounding property values due to the adverse impact of a visible cellular tower in the vicinity.
6. Evidence presented to the Board reflects public safety issues caused by portions of the tower falling and hitting the neighborhood area.[in our case, this would also include passing vehicles since the tower would be so close to the road; falling trees due to the removal of other trees would also be a factor; a tower fell recently in North Adams, Mass.]
7. The denial of this variance does not have the effect of prohibiting telecommunications service within the town, as other potential sources exist, particularly the recently approved DAS system.
8. The Applicant has not exhausted all of its available alternatives, such as silos, steeples, and other alternative tower structures.

Verizon's application was for a 120 foot tower on Chapel Road. This application was followed by a similar one from Gridcom at 57 Woodland Road. Gridcom's application was also denied.

Both Verizon and Gridcom sued North Hampton after their variances were rejected, but dropped the cases because there existed viable alternatives, such as DAS.

It is important to note that service providers often down play the effectiveness of DAS as it is not as lucrative for them. They prefer the "vertical real estate" of a tower which allows them to rent space to other providers. **DAS networks have been employed locally in Lynn, Andover and Wellesley. As of 2017, officials of Peabody, Mass are working with American Tower Corporation to install DAS in their city.**

It is also important to note that service providers cannot disregard alternative solutions, such as DAS, in order to get their way with cell tower construction. This is likely the reason why both Verizon and Gridcom dropped their suits.

The second document is North Hampton's Master Plan for Broadband policies adopted in 2011 and still in force. Among their policies is the following statement:

An alternative to further construction of cell towers to improve coverage is a Distributed Antenna System, also known as "DAS." DAS is a network of antenna nodes, typically mounted on utility poles, connected to a common source, typically by way of fiber optic cable. The antennas extend wireless service into areas not reached by conventional cell tower. The "common source" is typically a hub building that houses the provider's specific technologies. **In October 2011, the Planning Board voted unanimously to extend the approval of a Conditional Use Permit for a DAS hub building on Atlantic Avenue.** A network of antenna nodes would not be built until one or more service providers commit to using the facility. DAS systems are an efficient solution to filling in coverage gaps without constructing additional cell towers.

We hope you find these documents informative as you look at Verizon's current application with its myriad of variances to construct a cell tower with its accompanying industrial park on Brackett Road, an area which has been designated by your own zoning regulations as a single residential district free from commercial intrusion.

Yours sincerely

Robert and Kendra Gemmett  
150 Brackett Road, Rye (abutters to the proposed site)

Cc:  
Michael Magnant, Town Administrator  
Michael Donovan, Town Attorney

