

## **Verizon faces a barrage of questions at the joint ZBA/Planning Boards meeting**

At the June 21, 2018 meeting on the proposed cell tower at 120 Brackett Road, both boards posed many probing questions to Verizon and their representatives. The public and Boards largely focused on whether Verizon had provided all the documentation required by the application process and as requested by the boards in their prior meetings.

### **Balloon test results lacking:**

The meeting began with the boards asking why Verizon had not provided more pictures and photo simulations of their balloon test on May 6th which was intended to simulate the height of the proposed Tower. Verizon provided 6 locations with a photoshop version of a monopine tower. Verizon had been requested to provide views from all of the abutters (not included) and from everywhere it was visible. Moreover, Verizon did not provide any simulated (photoshopped) views, as requested, that demonstrated the look of the industrial/equipment compound that would surround the tower.

Also during the site walk on May 2nd, the boards had requested that Verizon raise the balloon to the tallest possible height of the tower given the level and grade of the ground and the platform upon which the tower would be built. Since Verizon admitted they had not done any detailed analyses on either the soil/land, the grading, or the manner and materials upon which the tower would be supported, the board requested and Verizon agreed to float the balloon at 140 feet.

The attorney for Verizon indicated that the balloon was floated at 126 ft and that it stopped at 130 ft, 10 ft less than requested at the site walk. It is also noted that the height of the balloon was measured solely by the person who floated it and that was never able to be independently verified when requested by a Rye citizen.

### **Concerns re: Verizon report/site plan content**

Verizon's engineer reviewed the 4 latest revisions to their site plans that had been submitted since the previous meeting. Verizon has submitted 9 site plan revisions as of June 5th, however the boards noted, even this 9th revision does not include necessary details such as: the site grading, the manner of attachment of the tower, the pad size, the size of the "open-pit", how many trees will be cut down, whether there would be blasting, or the final elevation.

The boards questioned the reliability of Verizon's recent submission of a drainage study (May 8th) and whether a grading plan had been contemplated. It was pointed out that Verizon's current plans show an infiltration trench that is actually above ground level.

The plans also generated many questions regarding the number of trees to be cut down. While they admitted that no real inventory has been taken and that this was their best guess estimate, the number of trees designated as being cut vary significantly between each plan revision. It is also important to note that Verizon did not request a variance to allow the cutting of trees with their application as required by Wetland Buffer Restrictions 301.8 b 5 b.

The ultimate size of the compound was also called into question. A resident that had been in extensive negotiations with Verizon was told that Verizon required a much larger footprint than has been proposed by the current 120 Brackett site plan.

There were questions raised regarding how large the space would encroach, once all the co-locators were placed. Each co-locator requires its own equipment and potentially its own generators. Verizon has provided contradicting information regarding co-locators and the amount of equipment and space for additional land they would require.

The question was raised by the boards and subsequently by residents as to how the board could be expected to vote on a proposal that per Verizon's own admissions was based on document submissions with incomplete and not customized information.

In light of this conversation Verizon agreed that a new site visit would be necessary once site specific information was provided by Verizon.

### **Wireless Overlay District (WOD): Chicken or egg**

In light of these persistent unknowns regarding this proposed plan one board member asked why the focus was on Verizon's many missing details of the plan. He suggested that first there was a need to decide whether the town would allow placement of any Tower outside of the already researched and defined Wireless Overlay District. Discussion persisted but was not resolved during the meeting.

### **New Variances needed**

It was noted by the boards that Verizon had defined space for only two additional co-locators on their latest site plan, while the town ordinance requires three. Verizon explained that they should have realized sooner that the height of the tower would not allow for the bottom array of antennae to support another carrier. However Verizon offered conflicting heights for this antenna array. It was pointed out that three co-locators were required for any tower and that Verizon's failure to plan for a fourth co-locator would require another variance request to be submitted.

During the public hearing session a Rye citizen submitted over 20 additional ordinances that residents believe Verizon has ignored or overlooked in their application process. They believe these variances should be required as they are applicable. It was suggested that both the boards and the public need to appreciate the full breadth of variances that would need approval, and that breadth is critical information for the boards to consider.

A list of those ordinances was provided to the boards for review. These include variances for: additional noise, single residency districts, several for Wetlands requirements, and for information that is required but refused to be submitted by Verizon as being proprietary. In addition Verizon incorrectly applied for major *subdivision* variances instead of applying for site development variances as required. Therefore these variance requests are missing from Verizon's application.

### **Alternate Sites – where's the gap?**

The boards shared their efforts to find alternative sites for the placement of the tower that would provide greater compliance with town ordinances, and meet Federal Telecommunications Act requirements. They proposed hiring an expert to review these alternate sites that are within the area of coverage gap as defined by Verizon's radio frequency engineer.

Verizon dismissed these locations as not plausible to meet their intentions. It was pointed out that one of the alternate sites being proposed was a site that Verizon had previously explored to meet the same gap. Verizon did not explain why the same site no longer will meet their requirements.

Verizon provided an updated document stating the proposed tower may impact up to 894 people. That number is drawn from census statistics for that area, but is not an actual count. That number was challenged for its direct relevance and was generally perceived as being overstated. It also did not take into account the

percentage of that population that are actually Verizon customers. It was pointed out by the public that Verizon serves ~33% of the market on a national average basis. Consequently the proposed tower on Brackett Road might impact only 300 people with many of those strongly opposing its placement. The public questioned whether this represents a “significant gap” and whether alternate sites would provide coverage to areas that are far more populated and in need.

The Town Attorney, Planning and Zoning Administrator and Planning Board Chairman sowed confusion by incorrectly asserting that a resident was wrong when he referred to tax map 23 lots 1 and 4 as being town- and state-owned. Previously, the Town Attorney has asserted that the Condon property near there was unsuitable for a cell tower. However, that property is lots 2 and 3 and was not one of the two properties even suggested as an alternative cell tower site. Indeed, the Town Attorney’s own letter of May 10, 2018 correctly refers to lots 1 and 4 as town- and state-owned and suggests both as candidates for review by the town’s consultant as possible alternative locations. These parcels are located off of Port Way and Holland Dr. near the intersection of Parsons and Marsh Roads (185:19 elapsed).

### **The shot clock is ticking...**

The public raised the question of whether Verizon’s failure to provide accurate and timely information would toll the 150 day shot clock for decision-making by the Planning Board. The status of our current shot clock and whether there was tolling was not answered full. However the town attorney asked Verizon to reiterate a statement they had made at a previous meeting indicating that they would agree to any extension requested by the town. The lawyer for Verizon agreed.

Upon questioning by the public as to who from the town will “quarterback” this large, time dependent, and federally directed initiative, Mr. Donovan as Town attorney responded it was he.

### **Next Meeting**

The next meeting will be a working joint session on Tuesday July 31st 2018. Although the public is welcome to attend it is not a public hearing and they cannot speak. The boards will accept written comments and questions from the public if received by July 26.