

Sept. 21, 2018

To: Shawn Crapo
Acting Chair, ZBA
Town of Rye

Subject: Granting Verizon a Continuance after a Notice of Decision and before the Final Deliberative Meeting

I have some concerns about the process that was followed leading up to the announced cancellation of the ZBA meeting on Sept. 18, which was set to make a final decision about the cell tower. First, the timeline:

1. Kim Reed confirmed in an email to me on the 18th at 1:21 p.m. that ZBA would be holding a public meeting at 7:00, p.m. to make a final decision about the Verizon application and, furthermore, **there could be no more comment or materials received from either the public or the applicant since the record had already been closed on this matter as of the ZBA meeting on Sept. 4.** A Notice of Decision was issued by the ZBA confirming that this final meeting would be held for “deliberation purposes” only.
2. Then suddenly I received an email from Reed at 2:57 p.m. that the “Zoning Board will not be hearing the application tonight, it will be continued.”
3. I then learned that at 1:33 p.m. the Verizon attorney, Victor Manougian, had requested by email a continuance of 90 days.

I believe the citizens of Rye, particularly the citizens directly affected by this process, are owed a full explanation of why such a dramatic concession was allowed to occur. So, therefore, I would appreciate receiving answers to the following questions:

1. Why would Verizon be permitted to request a continuance of their application since the record was already closed on this matter and a ZBA meeting was scheduled for the exclusive purpose of approving or denying the application?
2. What happened during the hour and half time period of time that led to the decision to grant a continuance announced at 2:57 p.m. and before the ZBA meeting? **Obviously, someone made this decision.**
3. How could issuance of a continuance have been possible at that time when the members of the ZBA committee hadn't met yet?

4. I have since learned that three members of the ZBA committee did meet at 7:00 p.m. without the public present and voted for continuance, but two other members were not present. It is my understanding that a grant of continuance requires full approval of the board members, so how could a continuance about such a serious matter be granted with only three members voting?

5. To make matters worse, the video of the ZBA meeting reveals that there was no discussion of the request for continuance. It was granted without comment. Why is it that such an important issue affecting this community, which has dragged on for months, was not deemed worthy of thoughtful discussion?

Manougian stated in an email that the reason for the request for continuance was to allow time to consider alternate sites for the cell tower. Yet, this was a matter he resisted doing throughout the previous months while insisting that they wanted a decision on the 120 Brackett Road site. The fact is that their renewed interest in alternate sites should have nothing to do with the case at hand; nor does it provide justification for overriding the decision to close the record on this matter.

What is preventing Verizon from arguing later that they have looked at other sites and found none to be satisfactory? It is obvious they want to continue to hold all of the cards in the deck while keeping the option of returning to the 120 Brackett Road site. What's worse is that town officials are going along with it.

Any reasonable person will recognize what has happened here. Verizon appears to be employing a delaying tactic because they saw the writing on the wall and realized their case for the 120 site was exceedingly weak and about to fail.

It appears that the town officials continue to bend over backwards to accommodate Verizon by keeping open the 120 Brackett Road option for future consideration. In the meantime, the residents of the Brackett road area are being held hostage and to a certain extent so is the Town of Rye.

Robert J. Gemmett
150 Brackett Road, Rye

Cc: Kim Reed (for distribution to ZBA Board Members, Bill Epperson and Planning Board Members).
Michael Magnant, Michael Donovan, Selectmen Board