

TOWN OF LINCOLN, NH
Planning & Zoning Department
PO Box 25
Lincoln, NH 03251-0025

Phone: 603-745-2757
Fax: 603-745-6743
Email: planning@lincolnnh.org
Web: www.lincolnnh.org

Date Approved: August 13, 2014
Date of Notice of Decision: August 18, 2014

NOTICE OF DECISION

RE: Site Plan Approval for Telecommunications Facility

Property Location: Tax Map 126, Lot 20 (60 Loon Mountain Road)

Applicant's Agent: Thomas W. Hildreth, Esq.
McLane, Graf, Raulerson & Middleton, PA
900 Elm Street
Manchester, NH 03101

Applicant: Cellco Partnership d/b/a Verizon Wireless ("VzW") or ("Verizon Wireless")
400 Friberg Parkway
Westborough, MA 01581

Property Owner: CLP Loon Mountain, LLC
(formerly known as CNL Income Loon Mountain, LLC)
60 Loon Mountain Road
Lincoln, NH 03251

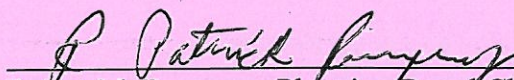
Project: On March 12, 2014, Applicant submitted an Application for a Site Plan Review for a proposed Telecommunications Facility under Land Use Plan Ordinance Article VI-A, "Telecommunications Equipment and Facilities." The application proposed the construction of a 100 foot monopole within a 40' x 40' fenced-in compound at 60 Loon Mountain Road (Tax Map 126 Lot 020), in the Town's General Use (G.U.) District. The location of the tower eventually approved by the Planning Board on August 13, 2014 (after several public hearings) was not in the location originally proposed by the applicant on March 12, 2014 (although it was located on the same map and lot number).

On August 13, 2014, after duly noticed public hearings, the Planning Board voted to **CONDITIONALLY APPROVE** the Verizon Wireless plan for a telecommunications facility originally submitted to the Town on March 12, 2014, for property located at 60 Loon Mountain Road, (Tax Map 126, Lot 20, in the Town's General Use (G.U.) District. **The plans that were eventually approved are dated August 12, 2014.** Any conditions to which the plan is subject are listed below:

- 1) **Maximum tower height of 100' which will not be increased in the future.**
- 2) **Ground-based compound not to be expanded in the future. The property owner has expressly agreed that it will not lease additional land in the vicinity of the Verizon Compound to other wireless carriers.**

- 3) Monopole, antennas, and stockade fence all to be painted/stained green. It is unlikely that equipment would ever be proposed to be installed at a center line of the pole in addition to the equipment depicted on the presently mutually agreeable plan. However, if that were to be proposed, the camouflaging described here may be impacted by such addition. The parties expect that any such change will require an amendment to the approved site plan, triggering new notice to the abutters and an opportunity to engage in further dialog about whether additional or alternative camouflaging, including the possible conversion of the pole to a monopine, might be in order at that time.
- 4) Written poof that an evaluation has taken place which demonstrates that the use/facility satisfies the requirements of the National Environmental Policy Act ("NEPA") per Section I92)(ii)(b) of Article VI-A of the Land Use Ordinance.
- 5) Applicant to post adequate surety per Section J of Article VI-A of the Land Use Ordinance.
- 6) Subject to engineering approval by HEB Engineers, Inc. to be determined by the Planning Board at a future public hearing, scheduled for Wednesday, September 24, 2014, at 6:00 pm.

Dated: August 18, 2014


R. Patrick Romprey, Planning Board Chair

Note: Site plan approval was granted for twenty-four (24) months from the date of approval, August 13, 2014. If construction has not commenced twelve (12) months from this date the applicant must re-file for an extension prior to expiration date of August 12, 2016.

Notice: This Notice of Decision has been placed on file and made available for public inspection in the records of the Planning Office on August 18, 2014. Any persons aggrieved by this decision of the Planning Board is referred to NH RSA 677:15, which sets forth the appeal procedure. Copies of this notice have been distributed on August 18, 2014 to:

- Tax Assessor
- Public Works
- Fire Department
- Board of Selectmen
- Applicant: Cellco Partnership d/b/a Verizon Wireless
- Applicant's Agent: Thomas W. Hildreth, Esq., McLane, Graf, Raulerson & Middleton, PA
- Property Owner: CLP Loon Mountain, LLC
- ~~Abutters—See Attached List~~
- Posted at Town Offices on August 18, 2014
- Posted at Post Office on August 18, 2014

677:15 Court Review

Last revised 1983

I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the petitioner shall have the right to amend the petition within 30 days after the date on which the written decision was actually filed. This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III. The 30-day time period shall be counted in calendar days beginning with the date following the date upon which the planning board voted to approve or disapprove the application, in accordance with RSA 21:35.

II. Upon presentation of such petition, the court may allow a certiorari order directed to the planning board to review such decision and shall prescribe therein the time within which return thereto shall be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the order shall stay proceedings upon the decision appealed from. The planning board shall not be required to return the original papers acted upon by it; but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such order. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

III. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

IV. The court shall give any hearing under this section priority on the court calendar.

V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

Revisions

1983, 447:1. 1991, 231:14. 1995, 243:7, 8. 2000, 144:4. 2005, 105:2, eff. Aug. 14, 2005. 2009, 266:4, eff. Sept. 14, 2009.

