

Town of Milford
Zoning Board of Adjustment Minutes
September 16, 2010
Case #26-10
Kevin & Jean Johnson
Special Exception

Present: Fletcher Seagroves – Acting Chairman
Laura Horning
Steve Winder
Zach Tripp – Alternate
Michael Unsworth - Alternate

Katherine Bauer – Board of Selectmen representative

Absent: Steve Bonczar – Chairman

Secretary: Kathryn Parenti

The applicants, Kevin & Jean Johnson, owners of 60 Brookview Drive, Map 38, Lot 18 in the Residential “R” district, are requesting a Special Exception from Article V, Section 5.04.7.C for the construction of an antenna support structure and associated antennas that exceed the maximum height allowed in the district.

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

Fletcher Seagroves, Acting Chairman, read the notice of hearing into the record. K. Parenti read the list of abutters into the record: Kevin Johnson, applicant and owner of 60 Brookview Drive and Robert and Diane Quirbach of 63 Brookview Drive were present. F. Seagroves then invited the applicant forward to present his case.

K. Johnson began by noting he and his wife are amateur ham radio operators. They are licensed by the FCC and have station at their home and operate on a wide number of stations. They currently have two (2) antennas – one (1) is on the roof and one (1) is on the ground and these are limiting factors in their ability to communicate with amateur radio. He is requesting a seventy (70) foot tall structure with four (4) antennas mounted on the top for the various frequencies they are allowed to operate on. He referred to the graphs enclosed in the packets distributed to the board that show the increased ability to communicate at greater tower heights; at each height, the antennas become more effective. The surrounding trees are between sixty (60) and sixty five (65) feet tall and there is one tree that is seventy (70) feet tall. This tower would allow effective communication without going to the next level. The next level of tower heights is the 120 foot height range but that would stand out much more and is currently beyond his budget. He noted very few people have high towers but it is the aspiration of many ham radio operators to have one.

F. Seagroves stated he was also a ham operator and he understands the need for a taller tower. He asked if the board had any questions.

L. Horning asked if he would be doing anything to disguise the tower.

K. Johnson stated the only logical placement of the tower is behind the house so the house blocks the first thirty (30) feet of it. The trees surrounding the lot on three (3) sides are approximately sixty five (65) feet tall.

L. Horning asked if he can screen the tower.

K. Johnson replied the tower is made of grey galvanized metal and it somewhat resembles tree bark; in winter it will look like another empty tree.

M. Unsworth asked if he would be removing the existing towers.

K. Johnson replied he will be taking down one (1) antenna and mounting the second one on the new tower.

Z. Tripp asked what the width of the tower was above the house.

K. Johnson replied it was almost three and a half (3.5) feet wide.

S. Winder asked if there was any danger of trees falling on the tower.

K. Johnson replied it would not be near any trees.

S. Winder asked if there would be any interference with cable or phone signals.

K. Johnson replied it would not.

Z. Tripp asked if the base would be engineered.

K. Johnson replied the footing of the base is engineered and the tower would be installed by XX Towers of New Hampshire.

L. Horning asked about interference by the tower.

F. Seagroves noted in the material presented, it shows the higher the tower is, the less it affects the cable, etc. and if cable is affected, there is a problem not with the antenna but with a cable.

K. Johnson stated he has been operating his radio for over ten (10) years from the antenna mounted on the ground and has received no complaints from any of his neighbors.

F. Seagroves asked the board if they had any questions; they did not so he opened the meeting for public comment.

R. Quirbach stated he lives across the street from the applicant. He asked how tall the tower would be with the antenna mounted on it.

K. Johnson replied it would be ninety nine (99) feet tall.

R. Quirbach asked if any lights would be mounted on the tower.

K. Johnson replied no.

F. Seagroves stated the only time lights are required is if the tower is over two hundred (200) feet or is in the flight path of an airport.

R. Quirbach asked if the antennas are high up, if the emissions are less than those on the ground.

K. Johnson replied yes; the higher towers, the less exposure and the emissions given off and is dispersed into the atmosphere. If he operated at maximum power, he would be operating at only thirty (30) percent of the allowed safe transmission levels; he currently runs at fifteen (15) percent.

R. Quirbach asked if the antenna would be mounted behind the house.

K. Johnson replied it would be.

D. Quirbach noted when K. Johnson does a job, he does it thoroughly. She referred to a publication from the FCC that refers to RF exposure. She wondered how much power he would be operating at and what the RF exposure would be to her children.

K. Johnson replied the documentation is enclosed in the packet sent to the board members. The maximum legal power is 1500 watts. His current station operates at a maximum of 800 watts, nearly half of the legal limit. If he added an amplifier to this project, at an additional expense, he would still be operating at thirty nine (39) percent of the legal limit at the maximum power.

D. Quirbach asked about the four watts per kilogram figure.

K. Johnson replied that is the American National Standard for radiation generated by antennas. He calculated from his property line to the tower is twenty nine (29) feet.

D. Quirbach asked if there was any danger to children playing in the yard or in the street.

K. Johnson replied there was none, even if they played at the base of the tower. The vast majority of the radiation goes into space; very little of it goes down to the ground.

D. Quirbach asked if storms would affect the output.

K. Johnson replied antennas fail in storms and if it points down, it will not operate and the equipment in his station will tell him instantly if there is a problem.

D. Quirbach asked if this was for commercial use.

K. Johnson replied he was not and it was prohibited by law.

D. Quirbach asked if there would be lights on the tower.

K. Johnson replied his wife would like to put lights on the tower at Christmas.

D. Quirbach asked if there would be any impact to the environment or wetlands.

K. Johnson replied there would be none at all.

R. Quirbach asked the board, if he wanted a higher tower, would he have to come back to the board.

F. Seagroves replied that was correct.

D. Quirbach asked if this would have any affect on their ability to sell their property or the value of their property. She saw on a television show the impact of a tower in a neighboring yard had on the sale of a home nearby.

K. Johnson stated he had attempted to address that but it was difficult. He went to the FCC website to find the other ham radio towers in town to do a comparison. He found two (2); one was on Jennison Road and one was at F. Seagroves' house. The sample is too small for a comparison but from his analysis of other towns, he didn't feel there would be any discernable impact on abutting properties.

F. Seagroves noted this is a Special Exception and if K. Johnson wanted to expand, he would have to come back and if he moved, the Special Exception goes away.

Z. Tripp asked if the tower was removable.

K. Johnson replied it was not easily done, but it could be.

Z. Tripp asked if there would be anything to prevent the nesting of birds on the tower.

K. Johnson stated the tower is made of triangular legs and there is not sufficient branching on it.

M. Unsworth asked if children can climb the tower.

K. Johnson replied anti-climb panels will be installed to enclose the bottom eight (8) or ten (10) feet; a ladder would be required to climb up over the panels.

F. Seagroves asked if there were any additional comments from the public. He read a letter from an abutter into the record that supported the project. There were no additional comments so he closed the public portion of the meeting. He asked the board if they had any additional questions or comments; they did not so he asked the applicant to go over the criteria for a special exception.

1. The proposed use shall be similar to those permitted in the district:

K. Johnson stated antenna support structures are considered an accessory use customarily incidental to the enjoyment of a residential property.

2. The specific site is an appropriate location for the proposed use because:

K. Johnson replied the antenna support structure will be screened on three (3) sides by trees averaging sixty five (65) and seventy five (75) feet. The base of the tower will be visible through the windows in the radio operating room.

3. The use as developed will not adversely affect the adjacent area because:

K. Johnson stated an analysis of the existing support structures in other areas shows no impact on property values. In addition, power transmission lines on fifty (50) foot support structures exist less than 550 feet from the proposed site.

4. There will be no nuisance or serious hazard to vehicles or pedestrians.

K. Johnson stated the installed tower will be equipped with anti-climb panels and will be set back eight two (82) feet from the nearest roadway. Radiofrequency Electromagnetic Field strength levels are well under those established by the National Environmental Protection Act.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

K. Johnson replied both residents are licensed Amateur Radio operators. The equipment being used is located in the room closest to the proposed site.

F. Seagroves asked the board to discuss the criteria for a special exception.

1. Is the exception allowed by the Ordinance?

S. Winder replied the special exception was allowed by the Ordinance and it meets all the criteria.

Z. Tripp replied the exception is allowed by the ordinance and the applicant has satisfied the requirements of Article V, Section 5.04.7:A, B and C.

L. Horning, M. Unsworth, F. Seagroves agreed.

2. Are the specified conditions present under which the exception may be granted?

L. Horning stated yes, the conditions as present and the exception may be granted.

S. Winder, M. Unsworth, Z. Tripp and F. Seagroves agreed.

F. Seagroves stated that after reviewing the petition and after hearing all the evidence by taking into consideration the personal knowledge of the property in question, this Board of Adjustment member has determined the following findings of fact.

1. Is the exception allowed by the Ordinance?

Z. Tripp – yes M. Unsworth – yes S. Winder – yes L. Horning – yes

F. Seagroves -yes

2. Are the specified conditions present under which the exception may be granted?

M. Unsworth – yes S. Winder – yes L. Horning - yes Z. Tripp – yes

F. Seagroves - yes

F. Seagroves asked if there was a motion to approve Case #26-10.

L. Horning made the motion to approve Case #26-10.

S. Winder seconded the motion.

Final Vote

S. Winder – yes L. Horning – yes Z. Tripp – yes M. Unsworth - yes
F. Seagroves – yes
F. Seagroves reminded the applicant of the thirty day appeal period.