

**Town of Milford
Zoning Board of Adjustment
JULY 15, 2021
Public Hearings**

**CASE #2021-10 Duane S. Myers Revocable Trust, Duane S. Myers Trustee, SPECIAL EXCEPTION
CASE #2021-14 John and Penny Webster, SPECIAL EXCEPTION
CASE #2021-15 Ryan and Abby Farnsworth, SPECIAL EXCEPTION
CASE #2021-16 Gretchen Davidson, VARIANCE**

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Karin Lagro, Member
Michael Thornton, Member
Tracy Steele, Member
Paul Dargie, BOS Representative
Lincoln Daley, Director of Community Development

Not Present: J. Dargie, Alternate
J. Hesketh, Recording Clerk

Meeting Agenda

1. Call to Order
 2. Public Hearing(s):
 - a. **CASE #2021-10** Duane S. Myers Revocable Trust, Duane S. Myers Trustee, for the property located at 4 Fernwood Drive, Tax Map 48, Lot 55 is seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.04.2.7 to allow the construction of a 24' x 28' accessory structure (detached garage) within the 30 foot and 15 foot side dimensional setbacks in the Residential 'R' Zoning District.
 - b. **CASE #2021-14** John and Penny Webster for the property located 172 Federal Hill Road, Tax Map 53, Lot 16 is seeking a Special Exception from the Milford Zoning Ordinance, Article V, Sections 5.04.7.C to allow the construction of two 90 foot tall amateur radio station antenna structures (with antennas) in the rear portion of the single family residential property where a 35 foot maximum height is permitted in the Residential 'R' Zoning District. (Continued from July 1, 2021)
 - c. **CASE #2021-15** Ryan and Abby Farnsworth for the property located at 53 Valhalla Drive, Tax Map 36, Lot 74 is seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.02.2.A.8 to allow the construction of accessory structure (shed) within the 15 foot side dimensional setback in the Residential 'A' Zoning District.
 - d. **CASE #2021-16** Gretchen Davidson for the property located at 64 Federal Hill Road, Tax Map 48, Lot 43 is seeking a Variance from Milford Zoning Ordinance, Article V, Section 5.02.4 to allow the creation/subdivision of a lot with less than the minimum required frontage (150') on a principle route of access on a Class V road or better in the Residential 'A' Zoning District.
 3. Meeting Minutes: 6/17/21, 7/1/21
 4. Other Business: TBD
 5. Next Meeting: a. August 5, 2021 b. August 19, 2021
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MINUTES OF THE ZBA MEETING JULY 15, 2021

1. CALL TO ORDER

Chair Plourde opened the meeting by welcoming everyone and introducing himself. He welcomed those attending in person and electronically since this meeting is being conducted in a unique manner.

He stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen's Meeting Room with all Covid protocols in place.

If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and enter the Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID and Password previously stated.

A digital copy of the meeting materials can be found on the Town website at: <https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda-01july2021>. We will also be live streaming the meeting on Granite Town Media, Government Channel 21: <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>

He then went on to inform everyone about the procedures of the Board.

Chair Plourde stated all votes taken during the meeting must be done by Roll Call vote. He started the meeting with a roll call attendance by asking each member to state their name, where they are located (for those attending remotely) and if there was anyone in the room with them. This is required under the Right-to-Know Law. Roll Call Attendance: Jason Plourde present; K. Lagro present; M. Thornton present; R. Costantino present; T. Steele present.

Chair Plourde stated there are 5 board members present, therefore, no need for an alternate. He then stated there are 4 cases with one being a continuance and 3 being new cases.

He then explained the process of the case hearings for the applicants and the public. He said a full agenda may not allow all cases to be heard and that at 10:00 p.m. the meeting will end. He explained how the meeting would proceed for the cases that may not be heard in that they would be continued to the next meeting or another agreed upon meeting. He also explained the notification process for continued cases.

Chair Plourde then said of the 4 cases to be heard, 1 has requested a continuance and 2 have requested postponements which means there will be only 1 case heard at this meeting.

J. Plourde requested a motion to hear the cases out of order by moving Case #2021-14 to the end of the meeting, and then start with motions for the continuance of 1 case and the postponement of the 2 cases.

R. Costantino made a motion to move Case #2021-14 to the last case heard and to move the other cases (#2021-10, #2021-15 and #2021-16) to the beginning of the meeting; T. Steele seconded the motion.

J. Plourde stated there is a motion on the table to change the sequence of the cases on the agenda as stated by R. Costantino; he asked for a vote: M. Thornton yes; R. Costantino yes; T. Steele yes; K. Lagro yes; Chair votes yes.

He then moved onto the first case.

2. PUBLIC HEARINGS

a. **CASE #2021-10 Duane S. Myers Revocable Trust, Duane S. Myers Trustee**

For the property located at 4 Fernwood Drive, Tax Map 48, Lot 55 is seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.04.2.7 to allow the construction of a 24' x 28' accessory structure (detached garage) within the 30 foot and 15 foot side dimensional setbacks in the Residential 'R' Zoning District. (Request to continue to 7/1/21).

J. Plourde read an email into the record to Lincoln Daley from Duane Myers dated July 12, 2021 stating a request for a postponement until the August 5, 2021 meeting. Chair asked for a motion to continue this case. R. Costantino presented a motion to continue case #2021-10 to August 5, 2021 at 7:00 p.m.; K. Lagro seconded the motion. Chair asked for a vote on the motion presented: M. Thornton yes; R. Costantino yes; T. Steele yes; K. Lagro yes; Chair yes.

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1 **Case #2021-10** will be continued to August 5, 2021 at 7:00 p.m.

2
3 Chair Plourde moved on to the next case.

4 5 6 **b. CASE #2021-15 Ryan and Abby Farnsworth**

7 For the property located at 53 Valhalla Drive, Tax Map 36, Lot 74 is seeking a Special Exception from the Milford Zoning
8 Ordinance, Article V, Section 5.02.2.A.8 to allow the construction of accessory structure (shed) within the 15 foot side
9 dimensional setback in the Residential 'A' Zoning District.

10
11 Chair Plourde stated since the case had not been opened he is requesting a motion to postpone. R. Costantino made a
12 motion to postpone Case #2021-15 to August 5, 2021 at 7:00 p.m.; K. Lagro seconded the motion. Chair Plourde asked for a
13 vote on the motion: T. Steele yes; K. Lagro yes; R. Costantino yes; M. Thornton yes; Chair yes.

14
15 **Case #2021-15** will be postponed to August 5, 2021 at 7:00 p.m.

16
17 Chair Plourde then presented the next case.

18 19 20 **c. CASE #2021-16 Gretchen Davidson**

21 For the property located at 64 Federal Hill Road, Tax Map 48, Lot 43 is seeking a Variance from Milford Zoning
22 Ordinance, Article V, Section 5.02.4 to allow the creation/subdivision of a lot with less than the minimum required frontage
23 (150') on a principle route of access on a Class V road or better in the Residential 'A' Zoning District.

24
25 Chair Plourde said since this case has not been opened he is asking for a motion to postpone.

26
27 L. Daley asked if he could read an email from the consulting engineer. He then read the email dated July 15, 2021 from
28 Carl Foley from Fieldstone Consultants representing the applicant which requests a postponement to August 5, 2021.

29
30 Chair Plourde requested a motion to postpone. R. Costantino made a motion to postpone Case #2021-16 to
31 August 5, 2021 at 7:00 p.m.; T. Steele seconded the motion. Chair Plourde asked for a vote on the motion: R. Costantino
32 yes; K. Lagro yes; T. Steele yes; M. Thornton yes; Chair yes.

33
34 **Case #2021-16** will be postponed to August 5, 2021 at 7:00 p.m.

35
36 Chair Plourde stated that if there is anyone present regarding these previously heard cases, they are free to leave if they
37 choose to since these cases will be heard on August 5, 2021 at 7:00 p.m.

38
39 Case 2021-16 applicant Mr. Davidson stepped forward to request a postponement to September due to conflicts with his
40 schedule and his wife's schedule. Lincoln Daley stated the applicant should contact him to make arrangements for another
41 postponement.

42
43 Chair Plourde presented the next case.

44 45 46 **d. CASE #2021-14 John and Penny Webster**

47 For the property located 172 Federal Hill Road, Tax Map 53, Lot 16 is seeking a Special Exception from the Milford
48 Zoning Ordinance, Article V, Sections 5.04.7.C to allow the construction of two 90 foot tall amateur radio station antenna
49 structures (with antennas) in the rear portion of the single family residential property where a 35 foot maximum height is
50 permitted in the Residential 'R' Zoning District. (Continued from July 1, 2021).

51
52 Fred Hopengarten, Esq. stepped forward to speak as the representative for the applicants.

53
54 He stated he wanted to note for the record, responses to the criteria for the Special Exception in section 10.02.1 have been
55 provided beginning on page 8 of the presentation packet submitted with the application. He then added that instead of
56 reading each response into the record, he is bringing it to the attention of the board. He stated there were many items
57 covered at the last meeting, but the Special Exception criteria were not fully covered. He offered to answer all questions in
58 regards to the criteria.

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J. Plourde: at the last hearing it was decided to walk the site and see the location of the towers as well as the view from Federal Hill Road adjacent to the abutters' properties. J. Plourde and R. Costantino, and K. Lagro and M. Thornton walked the property in groups of 2 board members thus not constituting a public meeting. He added that T. Steele will be present until the deliberations start; therefore, he explained that she may ask questions during the discussion but not be part of the deliberations or vote.

J. Plourde asked L. Daley to show a video taken from a drone at the 90 ft. height of the proposed towers that was videoed during one of the site walks. L. Daley pointed out the location of the applicant's home, Federal Road and noted there is substantial tree coverage during the summer season. He continued to show how the view will be from the top of the towers at different angles from Federal Hill Rd. and he stated the tree coverage will lessen the view of the towers but the top of the towers will be seen.

K. Lagro asked about the antenna structure at the top of the lattice structure.

L. Daley felt the lattice structure will be 90 ft. and the antenna may exceed the 90 ft.

J. Plourde then asked the applicant to explain the structure. J. Webster stepped forward and explained the lattice structure will be 88 ft. with a mast at the top to a maximum height of 90 ft.

J. Plourde stated the view from the neighbor's house from across the street suggests there is sufficient vegetation from their front porch. He explained the guy wires from the tower would likely be hidden by the trees.

R. Costantino stated the trees appear to be about 60 ft. There will be some spots the towers will be seen from across the street. For the neighbors to the side, the tower will be a bit more visible.

M. Thornton stated his concerns were mostly technical. New Hampshire is fortunate to have the tree coverage. He emphasized the benefits to a community of Ham Radio Operators.

J. Plourde said to M. Thornton, as a Ham Radio Operator yourself, can you explain to the board the benefit to the community of Ham Operators.

M. Thornton talked about Amateur Radio Relief (ARL); He explained that in emergencies, when there is no other form of communication available, Ham Radio Operators are the only means of communication within a community. They work with Community Emergency Response Team (CERT) to assist first responders in an emergency.

K. Lagro noted she lives in the neighborhood of another Ham Radio Operator and she said she was never aware of their tower.

J. Plourde referred to the aerial drone picture. He said when he could view the tower location on the side with the pool (to the right of J. Webster's driveway); but he was unable to see the location of the tower from the neighbor's screen porch (to the left of J. Webster's home). He said you may see the top a bit and that would be all.

M. Thornton asked about the height of the trees.

L. Daley estimated the tree height is approximately 70-80 ft. He also stated there will be minimal tree clearing needed to accommodate the guy wires. He emphasized the maintenance of the trees will be needed over time to allow for the continued proper communication from the towers.

J. Plourde stated it was a great idea to do a site visit. Four members were able to visit the property. A quorum would be 3 members together to discuss a case, so having 2 members together was beneficial. During the site visit, K. Lagro and M. Thornton visited on one day, and J. Plourde and R. Costantino visited on another. Therefore, a quorum was never present at these site visits.

L. Daley pointed out that Federal Hill Rd. is considered a scenic road with certain characteristics. Because these towers will be located at a home on Federal Hill Rd., he feels the board should consider this in the discussions/deliberations.

J. Plourde stated he would now open the meeting to the public.

Michael Salzman 165 Federal Hill Rd. stepped forward to speak. Stated he has lived on Federal Hill Rd. for 20 years and moved there for the scenery and characteristics of the area. He feels the towers will be very visible because the road elevates. He disagrees with the height of the trees. He pointed out the trees are deciduous and the evergreen trees are on the

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1 south side. Once the tree cover is gone, the towers will be very visible. He is concerned about the decrease to his property
2 value. He pointed out that most people do not know the difference between a cell tower (usually shorter) and a radio tower,
3 but properties near cell towers decreased in value from 15-20%. He also stated the Special Exception is 3 times the height
4 of the ordinance for that area and 2 towers.

5
6 J. Plourde asked Fred Hopengarten, Esq. if he would like to respond to M. Salzman's comments.

7
8 F. Hopengarten stepped forward and said during his work with Cell Tower users, his experience has been that Cell Towers
9 are typically between 100-125 ft. and shorter than the towers being proposed.

10
11 K. Lagro asked about the width being 18"

12
13 F. Hopengarten confirmed the entire tower (base to top) will be 18" and a lattice structure that is see through.

14
15 M. Thornton pointed out most cell towers are of a greater diameter and solid as well as more visible. F. Hopengarten agreed
16 with this and used as an example a client he represented in Wolfeboro, NH. The cell tower there is 32 ft. wide at the base
17 and 5 ft. wide at the top. He explained why Cell Towers need to be wider than a Ham Radio Operator tower.

18
19 J. Plourde asked why 2 smaller towers could not be used instead of the two 90 ft. towers.

20
21 F. Hopengarten: trees grow and propagate and that for a minimum amount of communication, 75 ft. towers are the smallest.
22 The applicant is seeking for a more extensive range of communication than the minimum.

23
24 R. Costantino stated he appreciated the neighbor's comments. He explained how he went to see another Ham Tower at
25 another location in Milford on Coburn Rd. that is quite visible, but he feels after his site visit to Federal Hill Rd. this will
26 not be the case of these 2 towers.

27
28 M. Salzman was quite intent on stating the towers will be seen because it is not based on an elevated view but a flat view.

29
30 M. Thornton stated that looking up the hill at a 90 degree angle the towers will not be visible, but when coming back down
31 the hill you will see the towers. He has driven the road both ways. There is a small spot at the top of Federal Hill Road the
32 tops will probably be seen.

33
34 L. Daley asked for the picture to be shown. M. Salzman agrees the picture shows how full the trees are now, but if the
35 board had done their walk through during the winter the perspective would be very different.

36
37 M. Salzman stated there are evergreens but going all the way up the hill there only a few evergreens lining the area and
38 most of the trees are deciduous.

39
40 M. Thornton agrees that coming back down the hill, the towers will be seen but emphasized these towers are nothing like
41 cell towers. The towers will only be 18" wide.

42
43 M. Salzman said he understands the size will be smaller than a cell tower but coming back down the hill the towers will be
44 visible. Since the towers have to be above the trees for proper reception, coming down the hill they will just look out of
45 place in that area and that is his biggest concern.

46
47 J. Plourde asked how far away from the road is the current Ham Radio Tower on Colburn Rd. in Milford in comparison to
48 how far the proposed 2 towers will be from Federal Hill Rd.

49
50 L. Daley said he will look into that while he asked if F. Hopengarten would be able to address the comment raised about
51 property values.

52
53 F. Hopengarten stepped forward. He stated he had heard claims before about studies done on loss in property values but he
54 has never been able to find the studies with respect to a Ham Radio Tower. He does have a way, however, of testing this.
55 He looks at the Assessors Cards for neighbors to Ham Radio Towers if there is any decrease in the assessed value and he
56 has never seen any decrease.

57
58 M. Thornton asked about the Market Values regarding a decrease in value (comps).

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F. Hopengarten noted the house next to his home sold for a substantial amount of money. He has never seen a study that property values raise at a slower rate when next door to a property with a Ham Radio Tower. The question is, do neighboring property values rise at the same rate as other properties in the town, and he has never seen a study that states the value of properties next to a home with a Ham Radio Tower raise at a slower rate.

M. Thornton asked if there is a way to address this for the abutter and the character of Federal Hill Rd.

L. Daley stated the burden is on the applicant and he has no expertise to determine this or make any comment on it.

F. Hopengarten stated with respect to the burden, it is difficult for an applicant to prove the absence of a fact, and their position is that there is no fact.

M. Salzman stepped forward and argued his opinion on property values in regard to Cell Towers vs Ham Radio Towers. He stated the towers will be an eye sore and just not fit in with the character of Federal Hill Rd. The values of the homes in his neighborhood will be decreased with these towers because they will disturb the scenery/views which are an integral part of the homes in that area.

J. Plourde again brought up the Coburn Rd. tower and asked how that tower is in comparison to the proposed towers, and since the applicant used the Coburn Rd. tower in his submittal packet does he have the distance of that tower from the road. Trying to gain a perspective; will the proposed towers be further away from the road than the one on Coburn Rd.

F. Hopengarten stated the vertical members are the same size but the width on Coburn is 12" and the proposed towers will be 18".

J. Plourde asked about the distance from the road for Coburn vs Federal Hill. Will the view of the tower on Coburn Rd. be similar to what will be seen on Federal Hill Rd.?

F. Hopengarten said the distance is in the packet and is 420 ft. He then wanted to comment on the Assessors' Value vs. Market Value; the Assessors' Value is based on the Fair Market Value. The price a buyer offers a seller. He has never seen an Assessors value decrease because of a Ham Radio Tower.

M. Thornton during the winter the towers will be more visible coming down the hill but went on to explain that it will be more difficult because of the background of trees. It really will be minimally visible. When looking at the tower on Coburn Rd. it is more visible and does not have the trees like on Federal Hill Rd.

Further discussions continued about the visibility of the proposed towers vs. current towers in Milford in regards to tree coverage and sizes, and the concern about the perspective from each location vs. what is being proposed for Federal Hill Rd. The idea of a balloon test was discussed. Color was also discussed.

J. Plourde wanted to understand why the color is gray and addressed that to M. Thornton due to his familiarity of these towers who stated it is a color that blends in with the surroundings.

L. Daley stated the balloon test was brought up at the previous meeting but did say that the visual may assist the board

There was more discussion about the visibility of the towers from different angles on Federal Hill Rd.

J. Plourde if the towers are going to be 100 ft. further away from the road than the Coburn Rd. area, how visible will the towers actually be?

K. Lagro the structure is not solid and J. Plourde agreed.

K. Lagro pointed out the towers will not be permanent structures.

J. Plourde wanted to clarify if the board is looking not only at the height but also the location since they are temporary structures. Could those towers be located elsewhere if he chose to move them?

L. Daley stated the application is as such and given this scenario a new application would have to be submitted.

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1
2 There was more discussion about the structures being temporary and the visibility.

3
4 M. Thornton stated he can see both sides; the applicant and the abutter. Also, there are public interests for the community in
5 that the availability of emergency communication is crucial.

6
7 J. Plourde stated he feels the balloon test would not be a valid test for this situation because of the wind and the different
8 color of the balloon from the towers.

9 M. Thornton said perhaps use a different color balloon and use fishing line; then the board could actually see the visibility.

10 J. Plourde suggested a possible drone similar to what L. Daley used with a string or tape tied to the ground would be a
11 better test.

12
13 L. Daley: it would be less costly for the applicant by using larger drone on a line. It may be a possibility for a robust drone.
14 A balloon or simulation test would be costly.

15
16 There was further discussion about the visibility at various heights and at different angles.

17
18 F. Hopengarten reminded the board there are photographs provided during the winter months.

19
20 L. Daley confirmed the robust drone can be used for a simulation test if the ZBA chooses to do so.

21
22 M. Thornton: what would the cost be to the applicant or would the cost be to the town?

23
24 L. Daley feels it is part of the staff's responsibility to assist in this.

25
26 M. Thornton: so, there will be no charge to the applicant?

27
28 L. Daley: I would not charge the applicant for that test.

29
30 M. Thornton: could the abutter or other abutters be invited to view the test along with a sub quorum of the ZBA and, if so,
31 would that satisfy the due diligence?

32
33 J. Plourde stated he feels it could. On page 61 of the packet there is a winter picture of a location at 19 Hardwood Rd. in
34 Mont Vernon that shows how a Ham Operator Tower would be viewed with sparse vegetation to cover the antenna.

35
36 M. Thornton pointed out this tower would be even more visible due to the type of antenna at the top of the tower vs. the
37 proposed towers will not have this at the top.

38
39 F. Hopengarten stepped forward to state in regard to procedure, could the Chair close out the public portion of the meeting
40 and go into deliberations.

41
42 J. Plourde stated his concern about closing the public portion of the meeting is that if the board is going to receive new
43 information, specifically about using the drone for a simulation, the public should be allowed to comment on that because
44 once the public portion is closed no further questions, comments, or information can be presented to the ZBA.

45
46 F. Hopengarten to J. Plourde: To respond to a question that you had, you should have the ability to respond to that with the
47 subsequent information from the staff.

48
49 J. Plourde to F. Hopengarten: Agreed, but I have this concern because an abutter brought it up and would like to provide
50 that abutter with the opportunity to ask questions or make statements regarding new information presented.

51
52 John Webster stepped forward to state he has spoken to the abutters and presented all of this information to the ZBA. He
53 feels he has done his due diligence.

54
55 M. Salzman then stepped forward to state those neighbors are not completely happy with the proposal and were reluctant to
56 say this to John Webster in order to keep peace in the neighborhood. He also said another neighbor was going to attend this
57 meeting but unable to do so. He stated he likes the proposal of doing a simulation with the drone.
58

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1 M. Thornton said that if the simulation is done, it would be important to have the abutters attend the viewing and if they
2 can't attend, provide a video. This way everyone that does about J. Webster's property can have an opportunity to ask
3 questions or make comments.
4

5 J. Plourde to M. Salzman we have no information from the other abutters; no emails, phone calls, letters. No other
6 neighbors are here tonight or calling and none attended the first meeting for this Case on July 1, 2021. In addition, he cited
7 other cases that were presented to the board that had an impact to Federal Hill Road, and there was usually standing room
8 only. He feels there is a strong group in that community.
9

10 M. Salzman stated he understands but feels that type of group is no longer part of that community; there are newer and
11 busier owners that cannot always get involved.
12

13 J. Plourde summarized where the hearing was at this point: one abutter has come forward, the site walks were done, the
14 southern tower from certain vantage points will be seen but there are numerous trees in front and behind, the northern tower
15 will be better camouflaged than the southern tower. He stated he is open to the direction the board would like to go in at
16 this point; should the board move forward or is more information needed.
17

18 M. Thornton stated he knows the applicant really wants these towers, but at the same time he does not want to become a
19 nuisance to his neighbors.

20 Is the public interest better served by going the extra step with a simulation? He really has no answer to that.
21

22 J. Plourde stated that even though there has not been large public outcry, the ZBA has a responsibility to consider all parties
23 involved even with only one abutter present.
24

25 Further discussions continued about the use of the drone for a simulation.
26

27 L. Daley stated an effort will be made to make the colors not stand out when doing a simulation.
28

29 J. Plourde asked about the procedure for the simulation with the drone.
30

31 L. Daley: this is an opportunity for the abutters to view in actuality and to make a decision one way or the other. The board
32 is evaluating this case based on 10.2.1. If a simulation is done, of the 5 criteria required of the application process which
33 one would this satisfy?
34

35 M. Thornton stated it would be item d of the 5 criteria. K. Lagro and R. Costantino expressed other criteria.
36

37 L. Daley stated he is not asserting that any of the criteria has or has not been satisfied but this information is important for
38 the board to make a decision about the need for a simulation.
39

40 J. Plourde asked M. Thornton to explain why he expressed item d and emphasized this is not part of deliberations.
41

42 M. Thornton said this is just a potential for the requested Special Exception in that it could create a nuisance because of the
43 possibility of decreased property values even though there is no direct proof of this, but he wants abutters to base this not
44 on feeling but on fact.
45

46 J. Plourde: it seems we all agree there would be at least one of the 5 criteria satisfied with a simulation.
47

48 J. Plourde reiterated the lack of public interest citing only one resident had come forward. He reminded the board this is the
49 second meeting this case has been heard and, again, while not wanting to discredit the abutter, only one abutter has come
50 forward in person, phone call, letter, email, or remotely.
51

52 L. Daley: if the board is not satisfied or comfortable to make a decision based on evidence, based on fact, to answer the
53 questions regardless of how many abutters are present (but he agrees the abutter present has raised some valid points), then
54 it is the option of the board to ask for more information in order to answer the questions for the criteria required for a
55 Special Exception. By casting a wider net, it would be beneficial but the abutters have been notified. He encourages the public
56 to be involved especially if it affects their neighborhood, but understands that not everyone is able to do that.
57

58 J. Plourde agreed.

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1 R. Costantino: I understand the issue, but I don't believe it will be a horrible eye sore. He asked the abutter M. Salzman if
2 he is able to see the tower from his home.

3
4 M. Salzman stated he cannot see it from his home but will probably see a portion of it from the right corner of his patio. He
5 then added that he may well see the tower from his second floor.

6
7 More discussion went on about the view from M. Salzman's home. M. Salzman stated the drone simulation would help him
8 to understand how much would be seen from his home. The aerial map was used for the discussion.

9
10 M. Thornton: stated the discussion is mostly about what could be not what actually is and he would like to see the drone
11 simulation at 90 ft. and have an opportunity to view it from many different angles. This would be for the southern tower
12 which may be more visible from any location. Therefore, allowing the abutter to determine the views from his home.

13
14 J. Plourde it would be a good idea to have 2 drones there at the same time with one drone taking videos.

15
16 More discussion continued in regard to the views of the towers and the need for a drone simulation.

17
18 R. Costantino stated if the drone simulation would assist in this, then he is in agreement.

19
20 K. Lagro has no objection to a drone simulation.

21
22 J. Plourde stated he is leaning toward having the drone used in order to eliminate any doubts.

23
24 J. Plourde said he would does not need to be present during the drone testing, but he would like to have the video available
25 to view after the simulation is done.

26
27 L. Daley stated he would coordinate this with the applicant.

28
29 The board members that will attend the simulation will be M. Thornton and R. Costantino. This will not be a public
30 meeting as only 2 members will be present. L. Daley will coordinate with the other abutters and M. Salzman.

31
32 M. Thornton stated he has never seen a decrease in property values with the installation of a Ham Radio Tower.

33
34 L. Daley stated what he understands is that the board is considering the visual test as discussed in the presence of Mr.
35 Costantino and Mr. Thornton as well as Mr. Salzman and other abutters. He also noted the time was getting late, and
36 perhaps the board may want to decide on what should be done going forward and to give the applicant some direction.

37
38 J. Plourde was concerned about the fact that at the last meeting the site walk was requested to provide additional
39 information and what should happen if more information is needed after the simulation test is done? Is this the last concern
40 of the board and abutters? Is there anything more information the board needs right now so the applicant has a clear
41 understanding as to what should be provided?

42
43 M. Thornton feels all questions have been addressed.

44 R. Costantino understands there will be differences and there should be enough information to move forward and K. Lagro
45 feels there are no additional questions.

46
47 J. Plourde/L. Daley no vote is necessary. This is just a request for additional information and the staff will work with the
48 applicant.

49
50 F. Hopengarten stepped forward to ask where things are in regard to the timing.

51
52 L. Daley responded saying he believes the applicant needs to request a continuance.

53
54 F. Hopengarten stated he would need to discuss this with his client. He then stated the zoning ordinance test is not just mere
55 visibility. He presented the science behind distance and visibility.

56
57 J. Plourde said he understands that and feels the drone test will likely put those concerns to rest.
58

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1 F. Hopengarten then went to discuss the options with his client, J. Webster. During this time, the hearing paused.

2
3 F. Hopengarten returned and stated his client, J. Webster declines the continuance.

4
5 J. Plourde stated this means that the applicant is requiring the board to move ahead with deliberations and a vote.

6
7 J. Plourde asked if there were any further comments or questions.

8
9 R. Costantino stated he just wants to confirm procedures and asked does this mean the board will not go forward with
10 getting more information?

11
12 J. Plourde, that is correct. We will deliberate and vote on the 5 Criteria and each board member can vote yes or no based on
13 the information and facts that have been presented.

14
15 M. Salzman stepped forward to say he feels J. Webster has decided to decline the continuance because he has not checked
16 with all the abutters, he did not check with him, and stated the board should take this into consideration.

17
18 J. Webster stepped forward to say he has in fact checked with the abutters and does not want to create a nuisance. This is
19 just a hobby for him, something he likes to do. He stated he has done everything that has been asked of him, and at some
20 point the board needs to make a decision.

21
22 M. Salzman stepped forward to say he is concerned about the riff that may be caused in the neighborhood and again stated
23 his case for moving ahead with the drone simulation test.

24
25 J. Plourde asked if there were any more questions or comments.

26
27 Hearing none and seeing none he stated he will move forward to the deliberations. Board Members who will participate in
28 this process will be: J. Plourde, K. Lagro, R. Costantino, M. Thornton.

29 30 **Deliberations:**

31
32 J. Plourde stated deliberations will be for the 5 Special Exception criteria under 10.2.1:

33 34 **a. Criteria: proposed use is similar to those permitted in the district**

35 K. Lagro: it will be over the ordinance height but it is permitted with special exception

36 M. Costantino: even though it will be 3 times higher than the ordinance states, there is an overriding public interest in
37 having these towers available.

38 R. Costantino: agrees with K. Lagro about being permitted with special exception

39 J. Plourde: agrees with R. Costantino
40

41 42 **b. Criteria: specific site is in an appropriate location for the proposed use**

43 M. Thornton: the ground placement is not the issue; the above ground is the issue so, therefore, the location is
44 appropriate for the use

45 R. Costantino: yes because it is in a forested area and will be well concealed in most places

46 K. Lagro: agrees every effort has been made to situate the towers on the best place to minimize visibility

47 J. Plourde: agrees that the majority of the towers will be shielded except for the very top part

48 49 **c. Criteria: the use as developed will not adversely affect the adjacent area**

50 R Costantino: feels it will not adversely affect the area even though there will be portions visible and will not be
51 enough of an eye sore to affect the area

52 K. Lagro: agrees with R. Costantino

53 M. Thornton: will not affect the adjacent area, but agrees some people will feel it does to some degree

54 J. Plourde: stated he does not know because he feels this question has not been fully answered and does not feel
55 comfortable saying yes to this criterion only because he just does not know without the requested information

56 57 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

K. Lagro: feels it will not be a nuisance because it is far back on the property

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M. Thornton: cannot see how this would be a hazard based on the fact it is far off the road; nuisance possibly because of the concern about lowering property values

R. Costantino: again it is far back on the property and the hazard of collapsing has been explained that it would not collapse in one large piece; it will collapse on itself.

J. Plourde: agrees with what has been said

e. Criteria: adequate and appropriate facilities will be provided for proper operation of the proposed use

M. Thornton: feels it is adequate and appropriate for the use it is intended for

R. Costantino: agrees with M. Thornton

K. Lagro: agrees with M. Thornton and R. Costantino

J. Plourde: also agrees with M. Thornton and R. Costantino

J. Plourde stated that there are 4 voting members present which means there will need to be at least a 3 to 1 vote to approve.

Voting:

Is the Special Exception allowed by the Ordinance? R. Costantino: yes; K. Lagro yes; M. Thornton yes; the chair votes yes.

Are all the specified conditions present under which the Special Exception may be granted? K. Lagro yes; M. Thornton yes; R. Costantino yes; the chair votes no.

The ZBA voted on the Special Exception 10.2.1.

a. M. Thornton yes; R. Costantino yes; K. Lagro yes; the chair votes yes.

b. R. Costantino yes; K. Lagro yes; M. Thornton yes; the chair votes yes.

c. K. Lagro yes; M. Thornton yes; R. Costantino yes; the chair votes no.

d. M. Thornton yes; R. Costantino yes; K. Lagro yes; the chair votes yes.

e. R. Costantino yes; K. Lagro yes; M. Thornton yes; the chair votes yes.

Chair Plourde stated the criteria for the Special Exception has been satisfied by a vote of 3 to 1.

Chair Plourde asked if there is a motion to approve **CASE #2021-14** John and Penny Webster for the property located 172 Federal Hill Road, Tax Map 53, Lot 16 is seeking a Special Exception from the Milford Zoning Ordinance, Article V, Sections 5.04.7.C to allow the construction of two 90 foot tall amateur radio station antenna structures (with antennas) in the rear portion of the single family residential property where a 35 foot maximum height is permitted in the Residential 'R' Zoning District. (Continued from July 1, 2021).

R. Costantino made a motion to approve CASE #2021-14 and K. Lagro seconded the motion.

J. Plourde: A motion has been made to approve CASE #2021-14. Those in favor: R. Costantino yes; K. Lagro yes; M. Thornton yes; chair votes no.

Chair Plourde stated the criteria for the special exception request had been satisfied and the application approved. There is a 30 day appeal process that can be filed with the Zoning Board.

3. MEETING MINUTES

L. Daley said he is in the process of reviewing the minutes.

Motion to Adjourn

Chair Plourde asked if there was anything else. R. Costantino motioned for adjournment and K. Lagro seconded. All Board Members were in agreement. Meeting adjourned.

Motion to Approve: _____

Seconded: _____

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1 **Signed** _____
2
3 **Date:** _____
4
5 **THE MINUTES OF CASE 2021-14 WERE APPROVED** _____