

Hilltown Health Comments updated 5/6/22.

ARTICLE 8: WIRELESS COMMUNICATION FACILITIES *(added 23 October 2000)*

Purpose. The purpose of this Wireless Communications Facilities Bylaw is to protect the scenic, historic and natural resources of the Town of Conway while accommodating the wireless telecommunications needs of town residents and businesses. *(Amended 11 April 2005)*

Hilltown Health (HH) Comment: *The proposal does not protect the scenic and natural resources of the Town of Conway. The driveway up to the site goes through sensitive habitat area and the tower is across the street from a rehabilitation center for injured birds. The 150 foot tower will project above the ridgeline. Cell towers have a long track record of catching fire. The wooded hillside and extremely steep access road are a recipe for disaster (see sample memorandum of opposition from Ashfield).*

Re: proving that this tower addresses wireless needs, the "propagation maps" provided by the applicant do not prove gaps in coverage. From a legal point of view (and even from the FCC's point of view) only dropped call data, ie, real data about real dropped calls proves gaps in coverage. Vertex should be required to provide actual data. Note: no carrier has ever provided actual dropped call data in a hearing context because carriers rely on propagation maps to "prove" the need for their services

Note (not recommended as an argument at the hearing): *Now that the town is fully wired, residents are actually able to use their phones for free with wifi which they have the choice of turning off at night or if they get sick. Wifi boosters allow extension into the forest, outbuildings, etc.*

This Bylaw does not apply to satellite dishes and antennas for residential use. *(Amended 11 April 2005)*

The Conway Planning Board shall issue Special Permit to duly licensed wireless carriers, as defined in the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7)(ii), in Conway, providing the following:

HH Comment: **The applicant is not a licensed carrier and therefore does not have "standing" from a legal point of view. In order to have a reasonable chance of defeating this application, most people would agree that hiring a lawyer specialized in fighting cell towers would be necessary. Cell tower placement is an environmental justice issue. If local residents have the financial resources to hire a lawyer or move they will not be harmed. Those without sufficient resources are usually out of luck. Property value loss of homes near towers following cell tower placement ranges from 5% to 20%: <https://ehtrust.org/cell-phone-towers-lower-property-values-documentation-research/>**

This is why it is important that if residents are forced to scramble to fight an application, that the applicant be actually capable of providing service. Vertex can not provide service. Therefore they should at the least be required to partner with a carrier before the Planning Board renders a decision rather than waiting to see if "maybe" they can sell space on the tower.

Applicants shall:

- (a) Recognize the Conway Planning Board as the sole permit authority, for the town of Conway.
- (b) Demonstrate that existing facilities cannot accommodate applicant's needs.
- (c) Be responsible for the cost of designing the entire wireless communication infrastructure for the entire Town of Conway.

HH Comment: Vertex is applying to build a single tower and is not a licensed carrier.

- (d) Contact all other wireless carriers, currently licensed in Massachusetts, and demonstrate having made sufficient provisions for their shared and cooperative use of facilities.

HH Comment: To our knowledge this has not happened.

- (e) Demonstrate that proposed new facilities will:
 - (1) maximize use for all currently licensed carriers,
 - (2) protect the town's esthetic concerns by addressing color or camouflage, backdrop to protect ridge line, preservation of on site vegetation, and illumination, to minimize visual impact, *(Amended 11 April 2005)*
 - (3) use existing structures where possible. (i.e., high tension tower, inside steeples, disguised on water towers, on public buildings), and where free-standing antenna are proposed, that only monopoles shall be used.
 - (4) yield to the Conway Planning Board concerns of monopole height and number of monopoles. New towers shall be the minimum height necessary to comply with the purpose of this Bylaw, and not exceed 120 feet. *(Amended 11 April 2005)***HH Comment: Vertex is applying for a variance to build the tower at 150 feet. Variances are supposed to require a much higher degree of scrutiny.**

- (5) comply with existing building codes and the Conway Protective Bylaws.
- (f) Meet requests by the Town for access and antenna space to serve the needs of the Town's emergency service providers. *(Amended 11 April 2005)*
 - (g) Comply with requirements set forth by the Planning Board to demonstrate the visibility of any proposed new tower(s), e.g., by a balloon or mast raised at the location of the proposed Wireless Communication Facility. *(Amended 11 April 2005)*
 - (h) Not post any advertising on proposed facilities.
 - (i) Pay for the cost of the Planning Board's communications consultants and attorneys to evaluate the application and provide any information requested by these agents.
 - (j) Post bond sufficient to cover the cost of seizing and dismantling the proposed facilities, if not in continuous active use, for said purpose, for a period of six months and recognize the Conway Planning Board's authority to order such.
 - (k) Provide, if applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
 - (l) Provide annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Department of Public Health and the National Standards Institute and required maintenance shall be filed with the Building Inspector by the Special Permit Holder.
 - (m) Severability – if any portion of this Bylaw is determined to be invalid, it shall not render the rest of the bylaw invalid.

*Original adopted 23 October 2000; Approved by Attorney General 26 February 2001
Amended 11 April 2005*