

ZONING BOARD MINUTES

Benjamin Eddy Building, 6 South Killingly Road
Wednesday June 14, 2023 at 7:00 p.m.

A. Call to Order at 7:02 p.m.

B. Roll Call

Board Members: Manny Linhares, Timothy Dannenfelser,
Jason Simmons, Barbara Fell, Manny Timoteo,
Rudolph DiCenzo, and Robert Moreau

Staff: Grant McGregor

Applicants: Atty. Chris O'Connor, Robert Burns

Townpeople: Abutters: Robert Schultz, Joseph Principe,
William Lewis Paul, Fire Chief of Foster Center Fire
Volunteer Fire Company, Atty. Jason Preciphs for
FCFVFC

C. Public Hearing – Special-Use Permit – *Discussion/Action*

Address: 86 Foster Center Road/181 Howard Hill Road;
Plat 20 Lots 2 & 5

Applicant: MCM Holdings, LLC; Owner: Town of Foster/
Foster Center Vol. Fire Co.;

Application: Special-use permit; application for Sec. 38-191 –
Table of Uses (Foster Code of Ordinances) Business Use #20,
Communications Towers and Antennas.

Applicant proposes to construct a 150' monopole communication tower and related accessory equipment at 86 Foster Center Road Plat 20, Lot 2 & 181 Howard Hill Road Plat 20 Lot 5. Property at 86 Foster Center Road is zoned A/R (Agricultural/Residential). Property at 181 Howard Hill Road is zoned M (Municipal).

Chair Manny Linhares reviewed the procedure for the public hearing.

Chris O'Connor, attorney for a law firm in Providence on behalf of MCM Holdings' application for the construction of a replacement tower on the town's property and which will also involve the fire station's property as well reviewed the stages of the application process beginning with a presentation on March 30.

The Town property 181 Howard Hill is approx. 20 acres. The fire company is about .14 acres. The fire district leases the rear from the town. He said there is an agreement with the fire district that will benefit the fire district and the town. The new tower will be 150' whereas the old tower is 100'. He discussed the ordinance regarding telecommunications tower, which encourages co-locations. He explained that the tower could have up to four providers.

We have a Commercial Site Review. The Planning Board elected to waive a recommendation to move forward as quickly as possible.

Mr. McGregor said the Planning Board gave a formal recommendation at the following meeting.

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Atty. O'Connor said the plans are in their packets. When the monopole is erected, the lattice pole will be removed. If the monopole is no longer needed, it will be taken down. There will be 4G and 5G on the tower.

Someone asked what the actual height of the pole was.

Robert Burns was sworn in who works for the firm of All Points Technology in Waterford, CT. He said the pole is a 150' monopole with antennas for the town at the top.

Someone noted the plans say 140' on them.

Mr. Burns said that is where the providers could be located. That will allow us to put a collar on the top.

Question: From the center of the pole, is there a place that shows how far the center of the pole is from all the boundaries that it's on. It does but to the lease lines of the fire department.

Question: the size of the pad?

Answer: 11' x 17' concrete pad.

Question: will there be equipment on the ground?

Answer: Yes. Verizon. Initially they are looking at two equipment cabinets about the size of a small refrigerator and there will be a steel canopy over them to protect from any ice falling; and a cable bridge running from the equipment to the tower ports.

Question: Will there be fencing around the pad?

Answer: there will be an 8' chain link fence. A 12 foot wide fence on the east side, and on the west will be a 6' man gate. Outside will be a backboard, a small transformer, and a small telephone cabinet.

Question: Will the fence be locked?

Answer: Yes.

Question: Will there be lighting on the tower?

Answer: There will be a light under the canopy if a Verizon operations guard has to come out.

Question: There is no signage?

Answer: they are really small 2 -4 square feet.

Question: The fire department will have access?

Answer: Typically, they have chain locks and they will have their own. From the street, you won't be able to see the equipment.

Question: How long will it take?

Answer: We usually say 12 weeks construction. Out here that's probably too long because there's limited grading. We have to build a very small retaining wall. 12 weeks to put the pole up and then Verizon comes in and does their thing.

Question: Is the cleanup the responsibility of the team.

Answer: Yes, we have to do a punch list inspection.

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Question: Is the access road going to be on the fire department's property?

Answer: It will be off the parking area adjacent to the garage.

Question: Will you be planting any shrubs to make it halfway decent.

Answer: Something to look into. We can certainly work with the fire district.

Manny Linhares asked that one of the packets be entered as Exhibit 1.

Question: Asked whether the board needed a four to one vote but three would be a majority.

Mr. Linhares asked for abutters in favor three times.

There were none.

Mr. Linhares asked if there were any abutters opposed three times.

Robert Schultz was sworn in. Mr. Schultz said he lived across the road and owned additional abutting properties on 8 3 3A 3BEast Killingly Road and he also owns property on 3, 3-A and 3-B South Killingly Road. He said this is the first time he has heard anything about the application. He asked if the Planning Board had a meeting to review this and approved it for height and use?

Grant McGregor said they approved the Commercial Site Plan on April 19.

Mr. Schultz asked if this was with input from Historic Preservation. Mr. McGregor said he didn't think Historic Preservation weighed in. Mr. Schultz asked if they were invited to or notified. Mr. McGregor said he would have to check with the chair. Mr. Schultz said no abutters were notified. Mr. McGregor said they weren't required to be at that meeting. Mr. Schultz said he thought it serves the community poorly when you're talking about a change of use to commercial use in an abutting residential district and you don't notify the abutters. Mr. Schultz said that's not the way you do things, particularly in this town. The concrete pad is 17 feet wide; about the width of this room, so all this area is going to be a concrete pad for just Verizon. What other companies in the future might be enticed to put their equipment on this monopole and want additional concrete pads to put in place. If you allow this monopole in here with a commercial use in a municipal district, you're going to invite future expansion.

The applicant asked if they should answer that. Mr. Schultz said he was asking the board.

Answer: They said there were only four positions available on the poles.

Mr. Schultz said so you will have four concrete pads over there.

Answer: No, they are all on one pole on one concrete pad. That's it.

Mr. Schultz said he wouldn't know because he hasn't been informed. In his experience, in carriers, they want their own concrete pads. The

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presentation is that the 17-foot which he thinks is still a dramatic area for one vendor, he doesn't like.

Joseph Principe was sworn in. He said he lives at 178 Howard Hill Road. He says he will be living in the shadow of this tower. He has lived in Foster for almost 10 years and is proud of the town. There's no place in Rhode Island like it and they should carefully consider what they are going to put over here because you could really do damage to the historic nature of the town. He understands that this is a lucrative and easy source of revenue for the town, but you have to consider what you are going to be doing to the quality of life around here. The electro-magnetic field this town is going to put off. There's a lot of questions.

Mr. Linhares asked if there was anyone else who would like to oppose the application who would like to speak.

Mr. Linhares asked if there were any other members of the audience who would like to speak.

Jason Preciphs was sworn in. He said he is an associate member of the Foster Center Volunteer Fire Company and also legal counsel for the fire company and resides at 94 Foster Center Road within sight line of this building. He is in favor and would welcome the chief to speak and answer any questions as to the benefit of the fire company and the residents of the town given that Station 3, Foster Center Volunteer Fire Company hosts the current tower and radio communication devices that service all of the fire and EMS for the town of foster which on this application would be transferred to the monopole.

Answer in response. With respect to planning and commercial site review, we complied with the local ordinances and rules and regulations as well as State. We gave proper notice of the meeting. It is not required to send out individual mailings to abutters at the planning level and it's not done as part of Commercial Site Plan Review. So we have complied 100 percent with town and State ordinances. As far as the concrete pad is concerned, the plans you have is what we will be held to and what we are asking you to approve. To the extent that there are co-locators—which again, the reason why this tower is 150 feet in part is to accommodate other providers because that's the way your ordinance is written and that's the way most city and town ordinances are written—one pole instead of many poles, and they encourage them on town property as opposed to private property. So that's why this site I ideal because there's already a tower there. This will be an improvement to what is there. It will not be located at the side or the front, it will be in the rear. It will be one concrete pad with four co-locaters including Verizon. Their equipment will not be located on the concrete pad that is already there.

Additional response: So the compound is designed for four carriers. Right now, the only interested party is the anchor and that is Verizon. They're going on an 11 x 17 pad and their equipment will be the only equipment on that pad. If a co-locator comes in, they are going have to go before the town to get approval. They will have to build

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whatever they need within the compound. The ideal is to size the compound so when they come in the future, they have room within the compound so there will be no expansion needed.

Question: So the plans and the application have been submitted to accommodate that, correct?

Answer: Yes.

Question: What is the material of the ground outside of the single pad.

Answer: Gravel. ¾ inch crushed stone.

Question: The fenced in secure area, it entirely houses all four of the potential expansions?

Answer: Correct, there's room there for four carriers.

Question continued: So all types of expansion will exist already in the secured area.

Answer: Correct, with the exemption of their electric meter board, which goes outside. All their equipment will be within the fenced in area.

Question continued: The fenced-in security will not get larger than it is upon the day of commissioning?

Answer: Unless a fifth carrier shows up somewhere, but it won't get bigger for those four carriers.

Answer from someone else: A fifth carrier doesn't exist but if it did, they would be required to come back of the Special Use Permit and may even require us to go back to the Planning Board.

Answer from previous person: There are only four in the market. Verizon is coming on board day one.

Question: The current tower is how tall.

Answer: 100 feet.

Question: And this one is 50 feet taller?

Answer: Yes.

Question: There were a couple questions from the public asking about 4G and 5G. Is that a carrier specific request?

Answer: Yes, I guess it could be used for 5G.

Question: Is this the same 4G and 5G that is already covered by the FCC for traditional communication?

Answer: Yes.

Answer from someone else: There is no requirement at this level from Historic Preservation, however, MCM has the applicant comply with the State and local regulations but a review process that has to be gone through with Federal people under the Federal Telecommunications Act. In 2001 there was a State Historic Preservation officer who's located in Providence and at the time we spent a lot of time satisfying the State Historic Preservation officer, not only that it be approved but that there's a need for it, that it

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would be the least intrusive proposal. So there are those types of things we were required to satisfy. From 2001 to now, the statute has been broadened taking in consideration Native American sites and wildlife, and all those sort of things could be impacted; but the big one is Historic Preservation.

Question: So this was done back 20 years ago?

Answer: Yes, this came up when we were before Planning and we supplied some information to the Planning Board and we can enter this as an exhibit.

Question: Why don't we do that, add it as an Exhibit. He noted that the mailer cards have all been received and can we add that into the Exhibit as well?

Planner: We can and I have copies that the applicant provided of those cards.

Questioner: So we'll do the cards as Exhibit 2 and we'll see what this is and add it.

Questioner two: The pad in the plans seem to be 11' x 17' but the space is much larger, and they testified that there would be gravel everywhere else.

Answer: the area is approximately 60' x 35' but not a true rectangle. That whole area will be fenced. 1,950 square feet. Here is a letter dated April 11, 2003, addressed to Maria Scotti who at the time was the director of MCM, and it's from the State Historic Preservation Office which concludes with "based upon our prior consultation with you and the town, in our consideration of the current proposal, we concur that the installation for the proposed tower will have no adverse effect on the Foster Center National Register Historic District with the condition that these eight provisions are implemented" and he lays out eight conditions, many of which are addressed here tonight: no signage, no lighting, minimizing the visual impact of the antenna. It's limited to 150 feet not to exceed 165 feet with a mounted antenna. We addressed the same issues back then that we have tonight which is at the top will be the fire district's equipment... so this process we will have to go through again.

Question: What is wrong with the current system? Why do we have to get rid of it and what is the benefit of this new system?

Answer: The tower itself is different. The only thing located on the tower is fire district and municipal equipment and is capped at 100 feet and it has its limitations.

William Lewis Paul was sworn in. Mr. Paul said he was the fire chief of the Foster Center Volunteer Fire Company and has been chief for 2 years and connected to the fire company for 22 years. Mr. Paul explained that the tower would provide a longer range for radio communications. There are some spots in the town that they have had trouble with, so basically the extra height will enhance communications better than what we have now. This includes fire, EMS, and police.

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Answer: In addition, there is some revenue that will go to the fire department. So there's additional height and there's also the need as well for cellular service in the area. So Historic Preservation gave this letter and it took so much time that at the time we enlisted the town's help addressing concerns. So on September 12, 2001, the town planner at the urging of the town council provided a letter to the regulatory coordinator in Hartford speaking to the need of improving this. The town didn't feel there were any issues with Historic Preservation. I can supply this letter.

Questioner: I can mark it as a new Exhibit; these two together. A letter from the town dated September 12, 2001, as well as the letter from the RI Historical Preservation Heritage Commission dated April 11, 2003. I'd like these both to be added as Exhibit 3.

Question: Is there an expiration or change perimeter that would require obtaining a new letter like this.

Answer: I only offer that for historical context. We feel that as far as historical preservation goes we would need to go back to this preservation officer. From a sequential standpoint and in an effort to move this forward, we need to show Verizon we are pushing it forward before we have that signed contract; it's like the closing on a house. Sometimes you get the zoning approvals beforehand but before even that there is going to be a stop with historic preservation and it will address issues such as this. I am unsure if there is an expiration or not, but we're going back.

Question: Then I imagine you're okay that as a stipulation of whatever motion is made.

Answer: Sure.

Mr. Linhares asked if there were any other questions from the board.

Question: Back in 2003, was it going to be the same size as you want to build it now?

Answer: It's 150 feet.

Question: I mean the area you need.

Answer: Yes. You mean the fenced area as well. Yes. Same size, same pole.

Question: Because they didn't have phone carriers back then so I wondered why you need something 160 feet back in 2003.

Answer: In 2003, the compound were larger. They were going to lease 4000 sq. ft. and they're only going to lease 2100 now. Back then everybody was putting these big shelters in, now it's all small on concrete pads.

Question: The letter dated April 11, 2003 from the Historical Preservation Heritage Commission. I didn't count eight but I think you mentioned there was eight stipulations. I am assuming all of those items contained in the letter are still within agreement you will follow as written here.

Answer: Yes. I read eight because I was reading verbatim what the latter said. Whatever is there in the letter.

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Mr. Linhares verified that there were no further questions from the board and went into recess.

Mr. Linhares re-opened session.

Bob Moreau moved to approve the application under the authority granted to the Zoning Board by RIGL 45-24-57 and by the Town of Foster Zoning Ordinances Section 38-470 specifically the following the Special Use Permit is granted. Such use permit for Business use #20 Communications Towers and Antennas. Section 38-191 of the Foster Zoning Ordinance the following standards pursuant to RIGL 45-24-42 and the Town of Foster Zoning Ordinance 38-324 (2) b has been entered into the record of proceedings, Special Use specifically authorized by this ordinance. The Special Use meets all the criteria set forth in the Sections of this ordinance authorizing such special use and granting of the Special Use permit will not alter the general character of the surrounding area or impair intent or purposes the ordinance or the Comprehensive Plan of the town.

The granting of the Special Use Permit will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance or the Comprehensive Plan of the town.

Optional conditions for the proposed the special conditions based on the competent credible evidence on the record and allow them RIGL 45-24-43 and the Foster Zoning Ordinance Article 7 Section III be applied to the decision in order to promote the intent and purposes of the Comprehensive Community Plan of the town and the zoning ordinances.

List of Proposed Conditions:

The Planning Board suggests the commission's wireless coverage map to be included as a factor in the Special Use application.

Planner suggests conditions:

All development shall match that which was proposed in the application for Commercial Site Plan approved by the Planning Board on 4/19/2023.

Comply with all Historical Preservation and Heritage Commission requirements and

Only required placards shall be permitted according to FCC regulations.

Footprint to not exceed more than 4 carriers.

Maintenance of surrounding area shall be well kept.

Removal of the tower that is obsolete.

Meet all local state and federal requirements.

Motion was seconded by Manny Timoteo.

Discussion: Request to amend the requirements of the FCC regulations to include safety requirements to the placards for electrical powers.

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Bob Moreau moved to amend that to include all health and safety required FCC placards as well.

Manny Timoteo seconded.

Discussion: None.

All in favor of the amendment:

Barbara Fell, yes;

Bob Moreau, approve;

Jason Simmons, yes;

Manny Timoteo, approve;

Amendment passed.

All in favor of the original motion:

Simmons, aye;

Barbara Fell, aye

Jay Simmons, yes

Bob Moreau, yes

Timoteo, yes

Manny Linhares, yes

Motion passed.

D. Approval of Minutes

a. May 10, 2023

Manny Linhares requested an “h” in his last name.

Bob Moreau moved to approve the minutes.

Manny Timoteo. seconded.

Barbara Fell, yes;

Jason Simmons, yes;

Manny Timoteo, yes;

Bob Moreau, yes;

E. Adjournment

Motion to adjourn passed unanimously.