

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE PLANNING COMMISSION. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE COMMISSION.

**TOWN OF SHELBURNE  
TELECOMMUNICATIONS REVIEW BOARD  
MINUTES OF MEETING  
August 13, 2020**

**\*Meeting held via teleconference.**

**MEMBERS PRESENT:** Jason Grignon (Chair); Steve Kendall, Jean Sirois, Megan McBride, Stephen Selin, Neil Curtis, Deb Estabrook.  
**STAFF PRESENT:** Dean Pierce, Planning Director.  
**OTHERS PRESENT:** Dan York, Joyce George, Zach Manganello, Brian Sullivan, Louis Hodgetts, Michael Buscher, Kevin and Nicki Hawko, David and Becky Hedden, Maureen O'Brien, Brian Irwin, Peter Raymond, Kathy O'Brien.

**AGENDA:**

1. Call to Order
2. Approval of Minutes (2/13/20)
3. Application(s):
  - Telecommunication Application, Two Antenna Support Structures, Masts, "Ham" Radio Antenna Pairs, 4450 Dorset Street, Manganello (TEL20-01)
4. Adjournment

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**1. CALL TO ORDER**

Chair Jason Grignon called the teleconference TRB meeting to order at 7:05 PM.

**2. MINUTES**

*February 13, 2020*

**MOTION by Stephen Selin, SECOND by Jean Sirois, to approve the TRB minutes from the 2/13/20 meeting with the clarification of the last bullet on Page 3 regarding the existing tower and that the applicant has no plans for the existing tower.**

**DISCUSSION:**

- Neil Curtis noted he was not in attendance at the 2/13/20 meeting, but watched the video of the meeting.

**VOTING: 6 ayes, one abstention (Deb Estabrook); motion carried.**

**3. APPLICATION(S)**

**TEL20-01: Telecommunication application for two guy-supported antenna support structures 70' tall capped with 14' masts and horizontally mounted "ham" radio antenna pairs at 4450 Dorset Street by Zachary Manganello**

The warning was read, the procedure to be followed was explained, and individuals to provide testimony on the application were sworn in.

Zachary Manganello, applicant, Brian Sullivan, attorney for the applicant, and consultant, Louis Hodgetts with Dubois & King, appeared on behalf of the application.

Submittals:

- As listed in the Staff Report, dated 8/13/20

- Town of Shelburne Staff Report, dated 8/13/20

#### STAFF REPORT

The TRB received a written staff report on the application, dated 8/13/20. Dean Pierce stated questions/comments on Recess Order #3 have been forwarded to the TRB.

#### APPLICANT COMMENTS

Attorney Brian Sullivan said given the changes to be submitted by the applicant there should be another balloon test. The project is different with regards to location of the towers, height of the towers, change in the model and configuration.

There was discussion of doing the balloon float with 24-hour to 48-hour notice via email versus a seven to 14-day notice which is subject to the random chance the winds will cooperate on the date chosen.

Zach Manganello said he is contemplating changing the scope of the proposal after consideration of the comments and concerns from the neighbors and to be a good neighbor in the community. The focus of the current hearing is the balloon float. The intention was to comply with the balloon float order, but the wind did not cooperate. Consultant Louis Hodgetts explained the winds were variable throughout the balloon float. Generally, balloon floats are done in early morning or dusk hour when the winds are the calmest.

Neil Curtis asked how often balloons malfunction in a float. Louis Hodgetts said the balloons tend to last about three hours. The area was clear of trees so it was hoped the balloon would last longer, but the heat of the day and the pressure in the balloon caused the balloon to fail. After learning the balloon was grounded new balloons were launched as soon as possible. About a half hour passed without a balloon in the air. The evening float (6 PM to 8 PM) was done without incident.

Stephen Selin asked for a quick review of the proposed changes to the application. Attorney Sullivan said the significant changes are the location of the towers (Tower #1 to be attached to the north side of the house) and the height of the towers (Tower #1 will be 36' in height with a 4' mast for a total height of 40' and Tower 2 will be 60.5' in height). There is question whether Tower 1 needs a local permit per state statute (24VSA4412.8.A).

#### PUBLIC COMMENT

Peter Raymond, attorney representing the neighbors, said the changes to the application will be reviewed to see if a permit is needed. Regarding the balloon test, the neighbors are not opposed to the seven day notice and suggest scheduling an alternate day for the test as a precaution. Also, the test should be done during the morning and evening hours since the purpose of the balloon test is so as many people as possible can observe. Louis Hodgetts suggested the timeframe of 6 AM to 10 AM would not be an unreasonable time period for the float though sunrise continues to occur later each day.

A neighbor suggested the test be conducted when the leaves are off the trees so the view of the balloon is better and the representation is more realistic of what the neighbors will be seeing the majority of the year. Attorney Sullivan said the applicant would like to establish a radio station as soon as possible so the test should be done soon after the leaves are off. Also, the applicant would like a resolution on the need for a local permit.

Kevin and Nicki Hawko, neighbors, suggested the balloon float should coincide with the morning and evening commute in consideration of the intent and timing of the test. Also, the area is windy so there should be another design to hold the balloon in place. Louis Hodgetts said balloon floats are the industry standard. There are other options, such as mock tower simulations, but these are very expensive to build. Balloon floats in high wind areas (mountain tops) have been done. Early morning and dusk floats address the wind issue (winds are calmer). The project was restricted by the Shelburne zoning bylaws as to when the balloon float could be done.

David and Becky Hedden, neighbors, spoke in support of doing the test when the leaves are off the trees to be better able to visualize the tower. Also, the test could be supplemented with a drone visualization.

Maureen O'Brien, neighbor, spoke in support of another balloon test with the leaves off the trees, and questioned the accuracy of the visibility map.

Brian Irwin, neighbor, asked if an application had been submitted for the current project (i.e. with the revisions) because the distance and height of the tower have been changed (moved closer to houses) and there is concern with exposure rates. Attorney Sullivan said in his experience generally an application can be amended when the changes are asking for less, not more. In this case the towers are decreasing in height. The leaf float would be for the new proposal, and the exposure calculations will be redone.

Kathy O'Brien, 4358 Dorset Street, said their property and the public right-of-way are visually impacted by the project. The applicant has made no effort to observe this. There should be a new application and balloon test with the leaves off the trees, and pictures taken from the public right-of-way and from the O'Brien property.

There was continued discussion of the balloon float. Attorney Sullivan asked about the seven day notice. Louis Hodgetts said seven day notice is beyond the typical maximum wind forecast of five days out. Attorney Raymond said there are application specific questions for the applicant to address so a revised application is needed before scheduling a balloon test. Consultant, Michael Buscher with T.J. Boyle Associates, said balloon tests are difficult. Typically, 4' to 6' diameter weather balloons are used and one person needs to be at the balloon to assure the balloon is floating properly. Simulations are often used. Attorney Sullivan said the applicant wants the most accurate balloon test possible so the results are not questioned and the TRB can make a decision. Megan McBride asked about doing the balloon test in the evening. Louis Hodgetts said this is rare. An hour before sunset is a reasonable time. Balloon floats help site the tower in the horizon. The bottom of the balloon or the top of the string is the height of the tower. Three foot diameter

weather balloons are used for the float. Balloons are not used for photo simulation; 3-D models are used for this.

Michael Buscher said the revisions to the application that were submitted are significant, but help the project blend better with the landscape.

Kevin Hawko, neighbor, said the neighbors have not had time to assess the changes to the project because the information was not provided.

There were no further comments.

#### DELIBERATION/DECISION

Telecommunications Application, Two Antenna Support Structures, 4450 Dorset Street, Manganello (TEL20-01)

**MOTION by Deb Estabrook, SECOND by Steve Kendall, to recess the TRB meeting to enter deliberative session. VOTING: unanimous (7-0); motion carried.**

#### *ACTION FOLLOWING DELIBERATIVE SESSION*

Jason Grignon reported the results of deliberations as follows:

- Seek a legal opinion from the Town Attorney on the implications of the new design.
- Once the opinion is received a new Recess Order will be issued for further action.
- The balloon test is on hold at this time.
- Another deliberative session can be held following the next Planning Commission meeting in two weeks. Briefs on the legal questions from the attorneys (applicant's counsel and neighbors' counsel) can be submitted to staff within the next week or so to be forwarded to the Town Attorney.

**MOTION by Neil Curtis, SECOND by Jean Sirois, to continue the TRB hearing on TEL20-01 for two antenna support structures at 4450 Dorset Street by Zach Manganello until September 10, 2020. VOTING: unanimous (7-0); motion carried.**

#### **4. ADJOURNMENT**

Without objection the TRB meeting was adjourned at 8:30 PM.

*RScty: MERiordan*