

TOWN OF EAST KINGSTON, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
APRIL 23, 2009  
7:00 PM

AGENDA

**Members Attending:** Chairman John Daly, Vice Chairman Catherine Belcher, David Ciardelli, Norm Freeman

**Alternate Members:** Paul Falman, Tim Allen

*The East Kingston Zoning Board of Adjustment met to consider and vote upon a written decision relevant to the Application of Industrial Tower and Wireless, LLC and Co-Applicant Cingular Wireless for a variance from Article XV, Section D.2. to permit the construction of a 160' monopole and equipment area in a Residential Zone, as required by the United States District Court for the District of New Hampshire pursuant to a memorandum and Order dated March 25, 2009 in the matter of Industrial Tower and Wireless, LLC v. Town of East Kingston (Case No. 07-cv-399-PB).*

Mr. Daly opened the meeting of the East Kingston Zoning Board of Adjustment (ZBA) at the Pound School, 41 Depot Road on April 23, 2009 at 7:03 PM and acknowledged that there were no members of the public in attendance.

Mr. Daly reviewed procedures for the meeting stating if any members of the public were to arrive to hear these proceedings, they would not be allowed to address the Board, as this was not a public hearing but a working meeting.

Mr. Daly noted that the members of the Board had seen the proposed written decision. He reminded the Board that only members who were present at the cell tower hearings would be voting on the decision; Mr. Daly would not be voting; he was present to facilitate the meeting only.

Mr. Daly noted if there was discussion on what had been presented at those hearings, members of the Board should bring it up at this time. If there was no discussion, he would ask for a motion to adopt the decision.

Mr. Falman thought it was unfortunate since the Acting Town Counsel had been present at the hearings, that this meeting was necessary at all. He opined that the point of having him involved in that complex issue was for the Board to be properly guided and to know that what was finally presented, given the contentiousness of the issue, was presented properly; which in his mind would include this written decision. As a taxpayer, he could argue that it was costing the Board members some money to be at this meeting, and thinks it unfortunate that the Board was represented by Counsel but did not receive proper guidance. There was no other discussion.

**MOTION:** Mr. Ciardelli MOVED to adopt the text of the document circulated as the written decision in the cell tower case. Mr. Freeman seconded. Mr. Allen, Mrs. Belcher, and Mr. Falman agreed. The motion passed.

Mrs. Belcher noted the groundwork and research in putting all the information together in chronological order with such accuracy for this decision was very well done and expressed her appreciation to the parties involved in producing it. Mr. Falman bestowed kudos to Mrs. White for putting together such excellent minutes from which this decision was crafted.

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Mr. Daly passed two copies of the decision to Mr. Ciardelli to sign as Acting Chairman. He explained he would scan the decision in electronically and send a copy to the lawyers. He would also send a copy to Mrs. White for the Town web site.

Mrs. White will distribute a copy to each of the parties (Industrial Tower and Wireless, LLC; Jeffrey and Susan Marston; and Kenridge Farm, LLC). She will also post a copy at the Town Offices and the East Kingston Post Office.

### **Minutes**

Mr. Daly asked if there were any changes to the March 26 minutes. There was a small change offered by Mrs. Belcher. Mr. Daly then asked for a motion to approve the March 26, 2009 minutes.

**MOTION:** Mr. Falman MOVED to accept the minutes of March 26 with the change noted. Mr. Ciardelli seconded, and the motion carried. Mr. Freeman abstained, as he was not present at the meeting.

The meeting was adjourned at 7:20 PM.

Respectfully submitted,

Barbara White  
Recording Secretary

John Daly  
Chairman