

TOWN OF MEREDITH
PUBLIC HEARING

Proposed Local Law #3 – 2008 “Telecommunication Tower and Facilities Law”
October 14, 2008

The Town of Meredith Town Board Public Hearing was held on October 14, 2008 at the Meredith Town Hall. The following were in attendance:

Supervisor: Keitha Capouya

Council Members: Ronald Bailey
Daniel Birnbaum
Roger Hamilton

Absent: Paul Menke

Clerk: Betsy Clark

Townspople: 1

The supervisor called the meeting to order at 7:45 p.m. She announced this was a Public Hearing for public comment on the proposed Town of Meredith Telecommunication Tower and Facilities Law.

The Town Clerk read the public notice for the Public Hearing.

The Supervisor explained the Public Hearing was for public comment on the proposed “Town of Meredith Telecommunication and Facilities law.” She went over the changes over the months. She said the time for each speaker would be 3 minutes. She then asked if anyone would like to make any comments.

Attorney Marc Goldberg:

“I’ll go quickly most of the issues were addressed in the June 2, 2008 letter. Despite the Board making some good changes to the law there are some provisions that remain concerning and as we’ve discussed over the past few months still violate or perhaps in potential violation of the Telecommunications Act. I will address very briefly the issues, at least highlight, but by my discussion I don’t in any means waive any of the other provisions that are addressed in our letter that are obviously have not been modified.

Article II definition of modification remains broad, I do point out that even the simplest of change such as an antenna cable or equipment change would require under the current modification language the filling or processing of a special permit which obviously is cumbersome and expensive. As in the letter which suggests the word modification be modified.

Article IV there is still references to change in the effect of radiated power due to frequency emissions, as indicated in the letter that too is violative of the Communications Act.

The word speculative remains a definition, it doesn't appear any where in the law and as indicated in the letter still should be removed.

502 J deals with telecommunications carriers providing long term plans as indicated in the letter typically carriers do not have long term plans and it's an unreasonable request that they do so in this law.

Section 601 A2C is still not deleted. That requires one of the priorities of locating a tower, that it be placed on a municipality property. Under both New York and Federal Law municipalities shouldn't require or effectively require as indicated in an applicant to locate on municipal property. That provision remains violative of the law, as is Section 601 A3 mandating it to space the government entities is improper as indicated in the letter. Generally telecommunication carriers do provide space but to mandate it is in our opinion violative of both New York and Federal Law.

We've discussed at great length height limitation, I do point out that although there is a variance provision, the variance provision really only addresses the height not other concerns that may be present in the law. For the reasons discussed both by the County and our letter we believe putting an absolute limit of any amount is concerning. We do welcome the fact that there is this appeals process to at least address this concern.

In Section 701 we've addressed the issue that escrow amounts still remain to be excessive. We've discussed the concerns we have that consultants can use the amount placed in escrow to set their fees based on that amount that's in there. We submit that the \$8,500 is an excessive amount and should be reduced.

Sections 801 and 804 naming Town or related parties as additional insured, again we submit are improper, likewise are the performance bonds under 802 as inappropriate zoning requirements.

Section 803 was not modified to address the issue that existing structures and towers are not subject to the proposed law, so there is a concern that the existing towers in the town may now have to comply and do certain things that they would not otherwise had to have done.

Section 902 remains burdensome for carriers that involve in transfers, the provision deals with the transfer and it requires that the carrier notify the town in advance. Typically carriers wouldn't until its final decision, to notify. To require it obviously could jeopardize some serious discussions.

Section 1001 inspections, requires that the Planning Board perform inspections. We submit the Town already has the right to inspect and obviously you have building inspectors so it's an unnecessary provision.

Section 1002 is not revised to reflect that the Building Inspector or Code Enforcement Officer has the right to address the faults. I believe the way the current law is written it's the Planning Board, placing an unnecessary provision.

Finally on the issue of appeals we did discuss this at great lengths we are concerned that the word conclusive is an undefined term."

Keitha informed Marc that the word conclusive had been changed to clear and convincing.

Marc: "I was not aware and I appreciate that." "The appeals provision also only addresses the issue that can only be provided in the area by a modification. It really only addresses the issue as a general rule that a tower cannot be placed somewhere. There are specific provisions that would preclude the placement of a tower. And that addresses in my conclusion the August 29th 2008 request for waivers. There was additional preapplication tasks that were not preformed in the original application, that letter remains outstanding. There are five requests for waivers that I asked that the Board respond to and the letter is obviously out there. Additional preapplication tasks, preapplication meaning the balloon test would not be in current compliance with the current provision. Section 501 requires the landowner to sign the application different from the applicant we indicated that the landowner had not signed but there was a lease, that's not addressed in the statute. Additional performance bond in section 802 as we addressed we asked for a waiver of that. The deposit issue, I understand we've deposited 6,500 dollars we submit an addition to that would be excessive and to increase it to 85 should be waived, and finally waiving the Town as an additional insured under Section 800, 801 thru 804 thank you.

Keitha asked if there was anyone else and if there is no more comment they will close the Public Hearing.

Daniel Birnbaum made a motion to close the Public Hearing. Paul Menke seconded the motion and it was passed. The Public Hearing was closed at 8:59 p.m.

Respectfully submitted:

Betsy Clark
Meredith Town Clerk

