

**Approved 1/24 subject to revisions**

**Town of Lenox**

**Planning Board**

**Meeting Minutes**

**December 5, 2022**

**Hybrid**

**Documents provided in advance:**

- Proposed wireless bylaw amendment subject to 11/29 revisions

**In attendance, in person:** Planning Board members Tom Delasco, Kate McNulty-Vaughn, Gwen Miller (Staff), Jason Berger (HDC Chair), Susan May, Amy Judd

**Via Zoom:** Planning Board members Pam Kueber, Susan Lyman; Town Counsel Joel Bard, David Maxson, Sandy Panzella, Karen Beckwith, Scott Barrow

- 1. Discuss and decide upon potential amendments to proposed new Section 8.18 of the Lenox Zoning Bylaw, Wireless Communications Facilities that has been recommended to the Special Town Meeting on December 8, 2022.**

The Planning Board convened to discuss amendments made at the November 29 meeting subject to additional review by Town Counsel, Joel Bard of KPLaw. The meeting began shortly after 6 p.m.

There was continued discussion on the setbacks adopted at the November 29<sup>th</sup> meeting. Jason Berger advocated for maintaining a setback between antennae collocation and residential buildings.

Joel Bard advised that the perception of unsightly infrastructure was the justification in the past for wide setbacks, not perceived health impacts. He thought that if the Board used aesthetic justification for a setback, that would be defensible.

Jason Berger had a picture of antennae in an urban setting. He worried they would be unsightly for residents in the village and visitors. He also had concerns about safety.

David Maxson and Joel Bard cautioned that antennae could be compact and well concealed, and the new setback will greatly restrict collocation in places such as the village or Lenox Dale. David also suggested the language in the zoning bylaw as is, without the residential building setback, would give the Town the discretion to say no. He also suggested the Board had not done a careful analysis to study the impacts of adopting a 100' setback between antennae and residential buildings.

Pam agreed that they were opening the Town up to a claim that they were prohibiting wireless facilities in the village and Lenox Dale with these setbacks. Jason Berger continued to support a setback. The group looked at some of the setback maps prepared earlier in the zoning bylaw development. There was discussion about the on-the-ground implication of some of the setback language.

Pam described the setback language included at the 11/29 meeting as a "sweetener". Susan Lyman agreed with this characterization. Sue asked if other communities with greater setbacks like Stockbridge

and Great Barrington have been challenged because of their setbacks. Tom pointed out that in certain places—rural, open places—you can have a large setback and still have available area for location of wireless facilities.

Joel Bard suggested the perceived safety concern would make the residential dwelling setback open to challenge. Sue Lyman pointed out that the wireless facilities on a roof would have intrusions to somebody's residence—generators, construction, maintenance. Joel said the intrusions would be the same as an air conditioning unit.

Pam pointed out that one reason behind making the exclusion on subsidized multi-family buildings was the difficulty residents would have in relocating or protest the installation. Sue and Joel Bard agreed that often court cases were the milieu of the wealthy, and the appeals process is easier between affluent neighborhoods and neighbors than those with limited resources.

The Planning Board revisited the school setback. Joel Bard strongly suggested this would be open to challenge since the reasoning behind such a setback is health based.

David suggested they include language that highlights characteristics specific to the village—its historic and aesthetic character, that could be used to help weigh applications and their merits or impacts.

There were some minor revisions Jason Berger and the Board highlighted throughout the text.

They discussed some of the definitions language.

While no public comment was on the agenda, there were some community members on the Zoom so Tom entertained their comments.

Ellen Jacobson of 6 Main Street asked them to clarify the exclusion language for residential buildings (like the Curtis). Tom confirmed the language maintained an exclusion on subsidized residential buildings of twenty units or more.

Sandy Panzella of 6 Main Street asked if they had changed the 1,000 setback from schools. Tom said they did. They pulled the setback from schools into the universal setback of 250' feet. Sandy was concerned by this and said that children are very vulnerable to the health hazards of wireless towers. She said science will prove this in 5-10 years. She had a question about the definitions and terms used for Wireless Communications Facilities. Sandy said do not give the wireless companies more than they need, she thought the 250' setback was ridiculous.

David Maxson suggested that the 250' setback was more protective than the 1,000 foot setback, explaining the language's impact on the ground.

Scott Barrow asked for clarification on the Wireless Communications Facilities term versus Wireless Telecommunications Facilities and Personal Wireless Services. Pam explained she understood their concern, and that Town Counsel Joel Bard had reviewed the language and said it was good.

Karen Beckwith asked how large the Lenox high school, elementary school and Children's Center parcels were—and if the 250' setback would protect the very young brains in those buildings. Tom Delasco said the mapping would exclude the Community Center. Karen asked what would preclude a wireless event from happening on Town Hall or the library. David said Town Meeting would be required for any municipal property; and Pam said that the setback would preclude it as well.

Pam moved to close comments. Tom moved to adjourn. PK seconded. All approved.

The meeting adjourned at 7:51 p.m.

Submitted by Gwen Miller

1/23/23