

Town of Bristol  
Zoning Board of Appeals  
November 11, 2014  
Minutes

**Members Present:** Marty Snyder, Jen Sanford, Donna Beretta, Mary Costa and Sandra Riker, Secretary

**Members Absent:** Steve Smiley

**Others Present:** Mike Bieniek, Fay and Deborah Caskey, Pat Ferguson, Carol Hacenbauer, John Campbell, Mr. & Mrs. Mossbrook

**Minutes:** The minutes of October 15<sup>th</sup> were reviewed and accepted with a motion by Jen Sanford and a second by Donna Beretta.

**Aviat Network Special Use Permit:**

The Chairman advised that the public hearing from October 15<sup>th</sup> is still open for input from the public. There were many questions raised with regard to health, property values, the dishes effect on other communication devices, etc. Many of these have been addressed at the October 15<sup>th</sup> meeting of the ZBA, see those minutes. It was noted that the FCC permits and contract between American Tower and Aviat have been provided for the Planning Board at their meeting of December 1<sup>st</sup>, along with the directive from Bob Raeman (Planning Board Member) saying he had reviewed the American Tower file and this application is in accord with past agreements with American Tower and other co-locators.

Mike Bieniek cited the 1996 telecommunications Act § 704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context: See below-

***Sec. 704 (a) (7) (B) (iv)***

***No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.***

The Chairman suggested if the audience present had complaints with regard to issues involving towers, and dishes being placed on the tower that they be directed to the FCC as it is obvious that the FCC is the regulating body with regard to telecommunications.

The public hearing was then closed. The next meeting involving this application will be the Site Plan review with the Planning Board on December 1<sup>st</sup> and then back to the ZBA for Special Use Permit and SEQRA completion on December 9<sup>th</sup>.

**Mossbrook Informational:**

Mr. Mossbrook said they will be leaving their location at Eagle Mountain and would like to resume doing business at 4353 State Route 64. A Use Variance was granted to him to conduct his business at 4353 State Route 64 by the ZBA in 1998 but included a stipulation that loading and unloading of tractor trailers is prohibited at that site. Mr. Mossbrook was asking if this Board could rescind that stipulation for a period of one year so the tractor trailers could be allowed. This Board cannot change those stipulations but suggested that Mossbrook contact Greg Trost at the State Dept. of Transportation for help with this issue. He will keep the Board advised to the outcome of that discussion.

A motion was made by Donna with a second by Jen to adjourn the meeting.

Respectfully submitted,

*Sandra Riker*

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Addendum: Mr. Bieniek also provided the Board with TRA House Rule 3630-79 from 2012 and asked that special attention be given to section 6409. See Below:

SECTION 6409. WIRELESS FACILITIES DEPLOYMENT

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(2) APPLICABILITY.—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service

antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.