



**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE  
NORTH HAMPTON SELECT BOARD MEETING  
CONTINUATION OF PUBLIC HEARING**

**FEBRUARY 2, 2023 7:00 PM**

**NORTH HAMPTON TOWN HALL**

***Approved February 13, 2023***

SELECT BOARD MEMBERS PRESENT: Vice-Chairman James Maggiore, Selectman Jonathan Pinette

EXCUSED: Chairman James Sununu

ALSO PRESENT: Town Administrator Michael Tully, Municipal Wireless Consultant David Maxson of Isotrope, School Business Administrator Matt Ferreira, Town Attorney Stephen Bennett

Vice-Chairman James Maggiore welcomed everyone to the Select Board Special Meeting of February 2, 2023 for continuation of the Public Hearing for Petition on Eminent Domain and called the meeting to order at 7:17 pm.

Vice-Chair Maggiore said the Board is coming out of recess from the original posted meeting to allow the Cotters, whose property is affected, to speak as they were unable to attend the last meeting. He said the Town has a legal petition which subjects the Select Board to give notice and conduct a Public Hearing pursuant to RSA 498-A and RSA 231 for purpose of determining if there is a public need for an easement over the affected property; followed by the Pledge of Allegiance.

Vice Chair Maggiore read the petition in full, and said the process is: the Public Hearing is open, he will turn the meeting over to David Maxson to present information, then another presentation by Business Administrator Matt Ferreira of SAU 21. He said the Board is here to listen, no final decision has been made, and asked that questions be held until after the presentations.

Municipal Wireless Consultant David Maxson of Isotrope said he would provide answers to public questions regarding Parcel 12-62 and reviewed what he presented at the January 23, 2023 Select Board Meeting. He started with historical background and said this is not an idea that just popped up but has been simmering for close to 20 years.

***Disclaimer –These minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91-A:2, II. They will not be finalized until approved by majority vote of the Select Board.***

***A recording of the meeting can be found at: [http://www.townhallstreams.com/towns/north\\_hampton\\_nh](http://www.townhallstreams.com/towns/north_hampton_nh), and a DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North Hampton, New Hampshire 03862.***

Mr. Maxson said four tower projects in the eastern part of North Hampton have been submitted and rejected; the ordinance was reaffirmed and reinforced during that time and was adopted by Town Meeting stating that using Town property is the approach of choice. He reviewed each application for a tower project individually and the reasons for rejection: applications for Chapel Road, 22 Woodland Road, 63 Atlantic Avenue (Lamprey Homestead), and one on a conservation parcel at 57 Woodland Road for which a special election was held in December 2006 with public voting to protect the land by a 2:1 margin.

Mr. Maxson said there is very strong sentiment in the community to protect conservation land and scenic views, and said people have been doing due diligence for options on other sites since 2004. He showed a map of current conservation land in North Hampton and said a fair amount of land in eastern part of town is protected. He showed a map of Town properties and said most are conservation; unencumbered are parcel 11-13 on the Rye border which is landlocked and near residences with low elevation, parcel 12-62, and School Property.

Mr. Maxson said AT&T has a coverage gap at existing macro cell sites; -95 dBm RSRP is typical signal level for wireless services; a cell tower application in Hampton for Barbour Road is pending soon; a tower at parcel 12-62 in North Hampton would be a good complement. A tower on School property from behind the School on Atlantic Avenue would have a 75-ft antenna height which is the maximum height without FAA oversight (without lights due to airport) may be hazard to air navigation. Also School site indicates it is "unofficial conservation land"; parcel 12-62 is on the outer edge of that and can have a full-sized tower for better coverage, the site is fully wooded, and access would be a dedicated driveway.

Mr. Maxson said his first conclusion is that the Hampton Tower is likely to be approved and the Town now has an area where they are looking to allow a tower to go, north of Atlantic Avenue straddling Woodland Road and Mill Road. The other Town property at 11-13 on Rye Border has residences along South Road and Woodland Road, is also landlocked and would need an access easement, and is lower in elevation.

Mr. Maxson said there have been 3 applications for cell towers on private property, all soundly rejected by Land Use Boards under terms of Ordinance; to open an Ordinance change would take at least one year. Question of adding to existing structures is no, as the tallest structure is the United Church of Christ which is not much higher than a utility pole, and both not higher than the surrounding tree line. Other possible structures are small-cell towers added to utility poles; proposal made and accepted by Planning Board but no interest from wireless companies.

Mr. Maxson said his second conclusion is that there are no other options in North Hampton and a Town parcel is available that is workable. He said a driveway access of 25 ft is rule of thumb in the industry, with a narrower dimension for construction and utilities. He said there is another improved gravel driveway 10-12 ft wide further up Mill Road from the current Aquarion easement that tapers off. During construction traffic would be coming and going on the driveway; when done, wireless companies for all applications for a new cell site average one visit per month; assuming 4 wireless companies would mean one vehicle per week on average.

Mr. Maxson said cell towers are set up to be safe and meet FCC safety regulations, and he has been working with FCC standards since 1985 and is comfortable with them. He said applications for cell towers

from wireless companies are reviewed by the Planning Board which requires the companies to demonstrate that safety standards are met. He said Public Safety uses cell services, and a study was done in 2008 showing gaps in dispatch coverage for 2-way radios, revealing the seriousness of this issue.

Mr. Maxson said it will cost the Town something to do this, with Tower companies typically reimbursing with a lump sum; can put in the deal to take the money they would have spent on building the road and buying the easements and provide it back to the Town as a Capital contribution. He said Public Safety has communication issues with dispatch and use of cellular which are issues with a governmental agency, and public safety is part of the definition of Public Use. Cell Services are considered to be common carrier services like telephones.

Mr. Maxson said regarding alternate access, there are no offers on the table of an easement and it comes down to an Eminent Domain option, unless someone agrees voluntarily. Other options: (1) subdivision plan from 2009 showing old wood roads that might be considered, partly in Rye; (2) easement over the driveway to 142 Mill Road residence and continue to Town parcel; (3) approximate location of Aquarion easement at one edge of parcel at 168 Mill Road; other edge of frontage at parcel on Mill Road is an "ancient way" laid in 1836, but house foundation is right next to the edge; (4) Last possibility would be to take an easement on another parcel at 176 Mill Road and run straight back to Town parcel.

Mr. Maxson reiterated that Parcel 12-62 is the best option, area is wooded and well-hidden, it is in compliance with the Town Ordinance, and a tower can be set in its place. As far as emissions the tower will be as far away from people as possible, minimizes impact to residents, and is the most protective. He said there would be a place on the parcel for a cell tower if access can be achieved. As to whether or not a wireless company will be interested, he said he is usually reviewing the applications and spoke with a tower company in this region who would absolutely be interested as this area needs service.

Mr. Maxson said his final conclusion is that he has been involved with almost 20 years of this history, involved in reviewing easements, and involved in Federal Court cases, and said any attempt to come up with another solution would likely face a similar amount of opposition.

## **PUBLIC HEARING**

**Jennifer Bergeson** of 144 Mill Road said she is interested to know why carriers dropped and were not interested in the small cell option that was approved by the Planning Board and asked who is responsible for keeping in touch with the carriers.

Mr. Maxson said microcells or distributed antenna systems were not successful because wireless carriers plan their network development in 12- or 18-month windows and prioritize their development plans yearly; the area being proposed was of relatively low density and carriers were doing them in urban areas and never made it into this kind of territory.

**Amy Margolis** of 130 Woodland Road said she agreed the Town needs cell coverage and that it has to be as far away from people as possible. She said I have suggested, because I have 50 acres of land on 130 Woodland Road, which is right where it needs to be for a radius and has no trees, that my property be put forth as an alternate possibility. She said her neighbors are excited, the Ordinance would need to be changed, but said it could be opened up if everything fits into place.

Vice-Chair Maggiore asked Ms. Margolis if she would be willing to enter into a discussion about the possibility of erecting a wireless communication tower on her property at 130 Woodland Road, and asked Town Administrator Tully to get in touch with her. Mr. Tully said if Ms. Margolis wished to donate the property to the Town we could do it quickly. Ms. Margolis said her recently deceased mother did not want an eyesore with a roadway to the cell phone area and wanted it to be beautiful, and if I keep the land I can make it beautiful. She said the cell tower would be a tree, the driveway would not be a scar, and she would have control over it.

**Matt Ferreira**, Business Administrator for SAU21, said the School brings in Homeland Security every 3 years to look at the facility and grounds, look at surveillance, access control, and emergency alerts. Homeland Security indicates that schools need the ability to use independent systems and must have redundant capabilities to have emergency help offsite and inform the public; also ability to communicate rapidly to the whole school. He said the School would really appreciate better cellphone coverage.

**Maurice Vincent** of 61 Exeter Road said he lives on the other side of Town and has good cell service. He said his issue is with the way the Town would acquire access to the proposed cell tower site. He said where the existing easement is would need widening as it is a fairly narrow area between the 2 houses; farther up Mill Road there are much wider gaps between homes which would be less intrusive. He said the easement may be the easy way out but it is not the right way.

**Lori Cotter** of 168 Mill Road said according to the Town's letter she can only give evidence on issues of public need and value of property taken, and they were only told it was a public need. She said when the Town wants to spend taxpayer money on building a road and taking land by eminent domain they should know what is happening, and asked why a committee was not formed or a study group to look into DAS systems. She said there are 45 acres with road frontage on Woodland Road. She said the petition suddenly appeared with 11 signatures mostly by Town employees.

Ms. Cotter said the facts are that the Town is changing an existing easement for condition of building this road; the original Aquarion Water easement is 15.11 ft wide but would be 30 ft wide where it exits our property; the 25-ft easement would take the road right up to our pool fence; the retaining wall would have to be removed and the electricity to our pool; cannot take something if you do not know what you are taking. She said the Town needs to complete an accurate survey we agree to during a walk with your assessor; with the information we have this provides a hardship and disruption to private life.

Ms. Cotter asked the Selectmen if they had walked the site and they said they had not. She said Mr. Sununu did and he saw a lot of wetlands and ledge. Lamprey Brothers also included in the deed that they would be allowed to come in and put up another tower for their own service. She referenced North Hampton Zoning Ordinance 605.4e and said one has to question why eminent domain is being used against us and said that easement is for underground pipes only. She said we need to step back and look at what we are doing as far as eminent domain and think about the people involved.

**Amy Bucklin Faley** from 3 North Road said she takes care of children and elderly and takes it seriously. She said she is passionate and protective of these people and their land and wishes. She said land comes with very strong protections and did not feel that it was being respected; the land is wetland and should be protected. She said she is thankful for cell service and struggling to be part of this community, but this taking of property is not the right way.

**Kirsten Larsen Schultz** raised Point of Order, and said if you are going to vote tonight it is disrespectful to property owners to vote without the Chair of the Select Board present, and said she wanted them all on the record.

Vice-Chair Maggiore said the full intent of the Board is to continue to deliberate this at a date certain February 27, 2023; there is no vote tonight. Ms. Schultz asked who wrote the petition and Vice-Chair Maggiore said he was not part of the petition, and not soliciting the petition.

Ms. Schultz said she would be filing a 91-A as she heard the petition had been worked on and a separate 91-A to determine how much was paid to Mr. Maxson. She presented a petition to Mr. Tully, signed by 80 people, to NOT support eminent domain for this easement.

**Frank Ferraro** of Post Road said the reasoning was this property already had an easement versus the adjacent property. Vice-Chair Maggiore said the other property would require an original easement and another easement in the back across Cotter property; 2 original easements with no support from landowner. Mr. Ferraro said Aquarion could come in at any time and put in a water pipe and maintenance driveway. He asked how much area a wireless company would need for a tower of this height and Mr. Maxson said typically 50x50 ft or 100x100 ft; Mr. Ferraro said less than a quarter of an acre.

Mr. Ferraro said we are all amazed by the offer of Ms. Margolis which would trigger the Ordinance. But there is a way to do this immediately: negotiate an easement for the right-of-way to a ¼-acre plot that Ms. Margolis would deed to the Town making it a Town property. The Board can vote to accept a piece of property and negotiate where it will be and how to access the plot. He suggested that if the Board decides to use the existing Aquarion easement, they offer to lease the land for the access and temporary construction road at the cost of half of what the cell company would pay the Town on a monthly basis.

**David McCarthy** of 2 North Road asked why the Select Board did not provide a list of properties at the last meeting and why, against a list of criteria, they were discounted. He said he came up with 25 town-owned properties that fit the property off Woodland Road owned by the Conservation Commission. He said he is concerned about the deed given to the Town giving potential companies additional rights to have their own facilities and said he was not sure that met eminent domain criteria.

**Harry Marsh** of 101 Mill Road said he has lived here longer than anyone and said we grew up running through the woods all over the place and know what the Town is doing, and said he found it disturbing that selectmen had not yet walked the property. He said you are all great people who work hard and have the Town in mind but said he really felt for the Cotters and a line through their property would drop ¾ of the property value.

Vice-Chair Maggiore explained why only 1 Select Board Member walked the property: He said two members together constitutes a Public Meeting and they did not want to run the risk of allowing the entire public to be on this property, and designated Mr. Tully and Mr. Sununu to walk the property.

**Kathleen Kilgore** of 220 Atlantic Avenue said Board members could have walked the property separately, and as representatives of all town residents it is important they all walk the property and make their own decisions. She said Wally and I are expecting our first grandchild and I wanted to bring this down to being a parent, someone's daughter, and somebody's grandmother: talking here about life-altering changes to those peoples' property and their mother's property and you cannot put a price on that.

**Donna Miller** of 45 Oak Drive said trucks going in and out will use both sides of that road, and said the road would also be hazardous in the summer due to traffic as it is a very blind area.

**Ann Marie Banfield** of 7 Highlander Drive said she and her husband have owned 8 homes in 4 states. In Kentucky they sold a portion of their property to the City of Lexington to widen the road and got a fair price and did not have to worry about resale. She said if the Cotters do not want to give this land you need to negotiate for an acceptable deal; they will be losing a portion of the value of their home. She suggested the Board speak to Senator Denise Ricciardi in Bedford who just went through this and supports fiber optics as a better solution.

**George Ronney** of 116 Mill Road said he was shocked to be talking about eminent domain in North Hampton. He said the Town now has an offer on the table and asked what the process would be and if the public would have access as it takes place. He also asked if the offer from the Town for compensation under eminent domain would allow the public have a say. He said he would love to have a cell signal but not at the expense of his neighbor giving up their property.

Vice-Chair Maggiore made a general statement that conversations at times are privileged and some conversations may have to be privileged and some may not, and any minutes may need to be sealed to protect the parties involved. He said the rules for eminent domain are spelled out and those negotiations are covered. Attorney Stephen Bennett said it goes to the Board of Tax & Land Appeals (BTLA) and the Superior Court; if contested it goes to the BTLA and there is no debate.

Town Administrator Tully said we want peoples' opinions and about whether they think the offer should be higher; the Board has NOT made up their mind already but are having a Public Hearing to listen to public opinion and see what direction the public thinks they should go. If you feel the offer is not enough now is the time to let the Board know.

**Rich Sceronti** of 142 Mill Road asked what the expected revenue of rent on a tower with 4 carriers would be. Mr. Maxson said it varies by region, site value, and whether it is competitive, and said he has seen figures for \$36,000/yr to areas outside of Boston suburbs where town-owned water towers are getting \$50,000-\$80,000/yr per wireless carrier and estimated about \$30,000-\$60,000 for a land lease for a tower with the owner receiving revenues from the carriers.

**Wally Kilgore** of 220 Atlantic Avenue expressed sympathy for the Cotters and apologized for the town for what you have to go through. He said the town is spending a lot of money tonight paying for Attorney services and consultant services and this has been ongoing at the Cotters' expense. He said this should have ended at the last meeting and said too much is happening in non-public. He said the people who stayed and did not leave are the ones that matter.

**Kirsten Larsen Schultz** said there is an item on Warrant Article that addresses taxpayer funds towards eminent domain: that the Town not spend a single dollar of taxpayer money towards eminent domain, and asked people to come to Deliberative.

Vice-Chair Maggiore closed the Public Hearing at 9:25 pm and looks to adjourn this meeting and repost a meeting for February 27, 2023 for the Board to discuss this at 7:00 pm.

**Any Other Item that may legally come before the Board**

Select Board Continuation of Public Hearing  
February 2, 2023

**Second Public Comment Session**

Call 603-758-1447 or email: [jsununu@northhampton-nh.gov](mailto:jsununu@northhampton-nh.gov)

**Next Regular Meeting:** February 13, 2023.

**Adjournment**

Vice-Chair Maggiore made a motion to adjourn the meeting, seconded by Selectman Pinette. Vice-Chair Maggiore adjourned the meeting at 9:27 pm.

Respectfully submitted,  
Patricia Denmark, Recording Secretary