

TO: Ed Pare (ATT), Mary Sumner (Heath Town Clerk), Hilma Sumner (for the Select Board).

CC: Heath Planning Board

FROM: Heath Planning Board

RE: Planning Board Decision on Application from AT&T for a Special Permit to Build a 180-foot Tower at 0 Rowe Road in Heath, MA.

Decision: The Heath Planning Board denies the application from AT&T to build a 180 ft tower at 0 Rowe Road in Heath.

Summary Justification:

The Board could not understand why AT&T chose to put the tower in a valley which necessitated a much taller tower (180 feet) than our bylaws allow (110 feet). Typically, a special permit only permits towers up to 110 ft. As a result of the applicant seeking to place it in a valley, the applicant claims it now must be 180 ft. This is exacerbated by the fact that they did not provide any data to show that it needs to go at this specific location, nor that there were no possible, less intrusive, alternative locations.

The Heath Planning Board lists the following reasons for our decision.

- 1. Adverse aesthetic impact.** The Board finds that the proposed nearly 18-story tower would have a dramatic adverse aesthetic impact, especially on the homes in closest proximity. The Board finds acceptable as evidence of adverse aesthetic impact, testimony by the abutting property owners. Abutters and others living in this rural area voiced strong opposition to the tower, specifically because it would destroy the view of the pristine scenic ridgeline which would be interrupted by this tower. We find this testimony to be extremely compelling. We find that from an aesthetic perspective the tower will be inconsistent with the rural character of the area and that it would severely adversely impact the currently pristine ridgeline. There is no apparent justification to seeking to place the tower at a location where it would have such a significant and dramatic adverse aesthetic impact.
- 2. Out of character with the neighborhood.** The Board finds that the proposed tower is out of character with the neighborhood and will destroy the ridgeline, a valuable aesthetic resource of the town.
- 3. Reduction in property values.** The Board cites a letter received from a Heath-based realtor, which indicates that property values could be lower, with the presence of a 180 ft tower. The letter was received after the public hearing but is accepted for the following reason. Due to an error by the Board, the beginning of the public hearing was not recorded, and therefore the Board said that they would allow individuals to submit letters to reiterate what they had previously discussed but that had not been recorded. Wanda Mooney's letter was received with a submission from Tara Mason and is accepted into the record.
- 4. No evidence of gap in service.** AT&T did not prove the existence, location, or boundaries of any significant gaps in service. To the contrary, they simply claim that there is no service, which we know to be untrue. The Board made a deliberate effort to try to ascertain if this is the least intrusive means to remedy the gap that they claim exists, however, it was difficult for the Board to even begin the analysis because the applicant refused to provide the data that would enable us to determine if there was a

potential less intrusive alternative location. We asked for probative evidence in the form of drive test data and dropped call data, and the applicant refused to provide it, simply claiming in a blanket form that there is no coverage. We were only given computer modeled data, which was in severe conflict with ATT's own, published, live coverage maps of the same area, showing no gap in coverage whatsoever. These software models have been deemed by the FCC to be unreliable without supporting physical data. Had the applicant provided us with probative evidence, and actual data, we may have been able to accept their proposition that this is the only possible means of remedying whatever gaps they claim to exist. But again, with the applicant adamantly refusing to provide us with any probative evidence, which could be weighed against that claim, we have no choice but to deny the application, because we cannot imagine that there is no possible less intrusive remedy or alternative location, than putting it in a valley creating the need for a taller tower, which exceeds our current bylaw height by 70 feet, in a place where it will tower above and destroy a pristine ridgeline. ATT did not prove to us that this tower would make a substantial difference in coverage, or that it would not need more towers, in the future to complete the coverage.

6. No alternative sites. There was no significant effort on ATT's part to identify or evaluate other sites that might have had better, more complete, coverage. Consistent with the foregoing the applicant refused to provide any data or evaluate any potential alternative sites which may have provided even better coverage. The Board does not maintain the position that there is perfect coverage in the town, however, the Board determines that we are obligated to apply our zoning code in a manner consistent with smart planning. This requires us to elicit from applicants' probative evidence of actual coverage to enable us to determine whether the proposed location is smart from a planning perspective and in that to the extent that there are gaps in service, the site makes sense and would eliminate whatever gaps may exist. By adamantly refusing to provide us with any probative evidence much less any analysis of potential alternative sites, we are constrained to determine that the applicant has not established the existence, location, and geographic boundaries of any significant gaps in personal wireless service and of even greater import that the proposed installation is the only viable means of remedying whatever gaps exist.

Even if we could, putting aside for the moment that there are gaps and its in a valley, they've clearly failed to provide probative evidence that an 18-story tower is the absolute minimum height necessary to remedy the unspecified gaps. Even if we could justify putting a tower at this location, they've provided no probative evidence that it needs to be this massive. This would tower above anything else in town; there is nothing else even remotely close.

7. No consideration of alternative for co-location.

The applicant has affirmatively indicated that the tower height does not actually need to be 180 ft but the reason they are seeking 180 ft is for future co-location. While generally the Board would find that to be an admirable goal, we believe that the dramatic adverse aesthetic impact that such a massive tower would inflict on the nearby properties, is not sufficient to justify the dramatic adverse impacts especially upon the closest residential homes. The applicant made no effort to show that they considered alternatives such as multiple smaller towers, for co-location or for other providers. The applicant simply came in and said they want this massive tower which dramatically exceeds the maximum height specified under our code by 70 ft, and utterly failed to provide any probative evidence to justify that

granting the application would be consistent with our code and be consistent with smart planning and in fact would be required under the telecommunications act.

It is impossible for us to say they have met their burden of proof establishing least intrusive means because they haven't given us the evidence to prove that. We asked them, we did not demand it, and they simply refused to provide it.

Respectfully Submitted,

Douglas Mason for the Heath Planning Board

Heath Planning Board Chair