

**Tyringham Planning Board**  
**Meeting Minutes – September 12, 2011**  
(Approved 9/26/11)

**Board Members Present:** Jerry Miller, Barbara Palmer, Carey McIntosh, Robin Almgren, Rich Biasin, Ed Nardi

**Others Present:** Al Wilcox, Tim Taylor, Steve Cohen, Holly Ketron, Molly Curtin-Schaefer, Mary Garner, Lois Jensen, Penny Borax, John Donald.

**(1) Minutes** for 7/25/11 approved as circulated.

**(2) ANR** -- Michael Therien of Foresight Engineering presented a revised plan for the new lot on Jerusalem Road being created by Maggie Howard; the revision adds a strip of land 30' wide to the north border, and does not affect setbacks or frontage. We signed.

**(3) Public Comment**

Al as Chair of the Selectboard asked if the new wireless bylaw 6.7 is workable? is it being revised?

Molly asked if that bylaw can be repealed or amended?

Mary feels that it should be changed.

Lois pointed out that the new bylaw protects the town in several ways; its safeguards should not be abandoned; the Board should get expert advice before changing it.

**(4) Town Assessor feedback** – Tim Taylor has written a letter to the Planning Board on weaknesses and defects of the new bylaw 6.7:

1. The 1500' setback in VIII P. 3. i. makes it impossible to locate a tower anywhere in town, because no single place is 1500' from any border. [The original map provided to the Planning Board had an inaccurate illustration of the 1500 foot radius circle. An updated and accurate map was provided at the meeting.]
2. The 300' setback from wetlands and outer riparian zones also makes it impossible to locate a tower, because Tyringham has so many small perennial streams and wetlands of various sizes.
3. Some of the definitions are out of date or in error. "Adequate Capacity," for example is given in Erlang B, which was invented for copper or optical lines not for wireless.
4. Some of the citations of FCC regulations are out of date.
5. The fee of \$3500 is out of proportion with all other town fees.

Therefore if an applicant challenged this bylaw, it would be struck down by the courts. [However, the bylaw includes a "severability" clause, which leaves intact any part not specifically overruled.]

Tim recommended that we compare this bylaw to the Barnstable one, which focuses on aesthetics and physical safety. He urged us to adopt a bylaw that simply requires that any

applicant have up-to-date FCC licensing and monitoring and paperwork (maps, radiations patterns, proof of need, etc.): the FCC has to keep up with technological change, whereas this bylaw and many others have not. The average lease of towers nowadays is only five years because technology is changing so fast, towards smaller distributed systems and repeaters, away from tall towers by themselves. Other recommendations are detailed in Tim's letter of 8/16/11 to the PB.

Jerry reminded us: Zoning Bylaw 7.3.3 lays out guidelines for granting a Special Permit that give the PB broad powers to protect the town, its physical safety, aesthetics, and rural character. This means that a wireless bylaw can be simpler.

**Moved:** *that we ask the Selectboard to call a Special Town Meeting to rescind the new 6.7 because it will not hold up in court, and to replace it with the old 6.7.* Passed 4-1. Rich cast the negative vote because he thinks we should take more time to consider this complex issue.

**(5) PB Schedule** through June 2012 -- 9/26, 10/24, 11/14, 11/28, 12/12; 1/9, 2/13, 3/12, 3/26, 4/9, 4/23, 5/14, 6/11, 6/25, 7/9, 7/23.

**(6) Mail** -- a letter from the Becket PB asking us to sign a waiver from the required notice of a hearing on an additional bylaw on Large-Scale Wind Turbines which took place in April, 2011. Jerry signed.

**(7) Annual Report** – The draft of an Annual Report was read and approved.

**(8) PB Rules and Regulations** – Final changes to PB Rules and Regulations was postponed to our next meeting.