

Testimony on Wireless Communications Facilities (H. 693)

**by
Kate Lalley, Vice Chair
Shelburne Planning Commission
for
the Town of Shelburne**

**Delivered to
House Commerce and Economic Development Committee
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Dear Chairman Botzow and Member of the House Commerce and Economic Development Committee,

My name is Kate Lalley and I am Vice-Chair of the Shelburne Planning Commission. On behalf of the Town of Shelburne I respectfully offer this testimony and ask that you allow municipalities to resume their authority to reasonably regulate new telecommunications facilities after July 1, 2014. Until a few years ago, towns like Shelburne were able to regulate such facilities in accordance with duly adopted Telecommunications Ordinances and Comprehensive Town Plan Language. They lost that authority as part of a push to promote the development of telecommunications infrastructure across the state.

Shelburne's location in growing Chittenden County and its proximity to major transportation routes make it an attractive if not inevitable location for wireless service towers. The Town of Shelburne neither questions the need to locate additional wireless communications facilities within its borders nor questions the right of property owners to use suitable land for these purposes.

What the Town seeks to accomplish is placing new wireless facilities in a manner that does not result in the degradation of the Town's natural and cultural environment, nor work against goals to conserve remaining open, scenic and agricultural land.

People who live in Shelburne generally recognize that the town is an attractive location for development. Officials and volunteers in Shelburne accept this fact and work to thoughtfully guide new development, so that it proceeds in a manner that is compatible with the goals and objectives described in the duly adopted Town Plan. Protecting the visual qualities of Shelburne's rolling farms and woodlands and its breathtaking views of Lake Champlain is a top priority for Shelburne, as expressed in its town Plan. To project its pastoral legacy the Town inventories and maps its scenic resources, seventy of which are landscape views from point of elevation along public roads and significant vantage points.

In crafting regulations that implement the Town Plan, Shelburne takes pains to protect scenic vistas, lake shore, wetlands, agricultural lands, open space and historic sites and structures while at the same time providing spaces and opportunities for critical public facilities. In the case of telecommunications infrastructure, the Town has designated suitable locations and procedures for siting telecommunications facilities in its Commercial and Industrial Districts. Previously, applications for telecommunications infrastructure were reviewed under Shelburne's Telecommunications Ordinance, which was adopted in 2001. To my knowledge no application submitted under the ordinance has ever been denied.

It is with some measure of frustration that I tell you that the meaningfulness of that ordinance has been seriously reduced. As you know, in 2011, the Vermont Legislature essentially prohibited municipalities from regulating telecommunications facilities. And as you also know, this preemptive legislation is due to sunset on July 1, 2014. H.693 would repeal that date and continue that prohibition indefinitely. The Town respectfully contends that if developers of wireless facilities are permitted to locate towers with only cursory consideration of their negative impacts, including impacts on Shelburne's historic and pastoral landscape, the decision would irreversibly and irresponsibly degrade these assets and undermine many years of careful local planning and conservation efforts to preserve landscape character in the town.

As the likely recipient of a number of future wireless tower facilities, Shelburne serves as a harbinger of what towns across Vermont can expect if the authority of local governments to regulate siting of telecommunications facilities is indefinitely suspended. The Town is attempting to challenge a current tower proposal that in its view, directly violates the Town's Telecommunications Ordinance, zoning bylaws, Town Plan and the statutory ruling that a project "not have an undue adverse effect...". Shelburne resident, Hope Johnson, is here today to present testimony and visual evidence that describes the negative impact the near location of a telecommunications pole poses to her residential property.

The Town of Shelburne seeks to regain its authority to review applications like the one that brings Hope to the Committee room today. The Town believes this is a reasonable request fully compatible with the State's important goal of increasing wireless and digital connectivity in Vermont. Through its Telecommunications Ordinance the Town provides suitable locations and procedures siting for telecommunications facilities in its Commercial and Industrial Districts. These districts include areas of elevation suited to the transmission requirements for these facilities.

Allowing the town to resume playing a meaningful role in the public process to plan for and site these facilities will result in more extensive but also predictable approval process for these important projects. This will achieve good outcomes for the State of Vermont, Shelburne residents, providers of wireless telecommunications.

Please consider these final points as you make your decisions about this important legislative question:

- Restoring Municipal authority is not in conflict with state goals to promote telecommunications infrastructure; carefully prepared applications for thoughtfully designed projects will be approved
- Section 248a as currently written and administered is inadequate to serve broad public interest; it does not create anything remotely resembling a level playing field
- Take what the industry tells you about the doom that will result if sunseting is allowed to occur with a large grain of salt; our own experience is that skepticism is warranted
- Feel free to be skeptical about what we tell you; but then listen carefully to people like Hope Johnson. If towers can be approved next to homes in her neighborhood, they can be approved anywhere—and what point is there in regulating at all?

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