

EMAIL FROM WESTON, MA

I just spoke with a lawyer who specializes in helping communities navigate wireless zoning issues, and learned something that you may want to share with your respective (US) networks. It could help prevent others from ending up in a situation like mine.

Many, if not most, communities have zoning bylaws or ordinances that were designed for the era when cell towers were the big threat. Not that towers aren't still a big problem(!), but the newer (smaller) technologies often slip through the cracks of these ordinances. There have also been two big changes at the Federal level in recent years that effectively undermine local regs that haven't been updated. (These are the "shot clock" rule, that provides a time limit within which a town must respond to a carrier application, and a 2014 FCC report which makes a number of changes related to more current technologies (such as small cell antennas).)

My town is currently finding itself between a rock and a hard place, so to speak, since we have outdated regulations (which are "too prohibitive" for current technologies, and so not in line with the 2014 FCC changes.) If we take the time to change our regulations, we will (most likely) run afoul of the "shot clock" time limitation. But if we grant Verizon their permits, then any regs we develop later will be "toothless," because any carrier that is denied a permit later on can claim "discrimination," since Verizon will have been treated differently. (One of the federal laws explicitly prohibits towns from treating providers differently.)

So, my recommendation to anyone who cares about this stuff is to encourage your town to be pro-active and get some current regulations in place BEFORE a carrier applies to site a cell antenna, DAS, or other non-tower technology in your town. There are tons of examples of town ordinances (MA and elsewhere) on the web- look for one that incorporates the recent legal changes- ie, written in 2015 or later. (The one I downloaded from Randolph, MA looks promising.) Or, the town can hire a consultant or lawyer to help.