



Everything Jersey

Residents sue to block cell tower in Essex Fells

By Nic Corbett/For The Star-Ledger

February 18, 2010, 7:16PM

ESSEX FELLS -- Years back, Essex Fells officials anticipated phone companies would come calling to build a cellular tower in the 1.6-square-mile community.

Under federal law, the borough couldn't just keep them out. So in 2004, the council passed an ordinance that requires any tower to be built far from any houses.



David Gard/New Jersey Local News Service

Dick Chesnut is part of a group of Essex Fells residents suing the borough's planning board for approving a 115-foot-tall cell tower in the middle of a 80-acre wooded park.

Last year, the planning board approved a proposal by wireless carriers AT&T and T-Mobile to build a 115-foot tower in Trotter Tract, the borough's 83-acre wooded park. But a group of Essex Fells residents, who call themselves Friends of the Trotter Tract, alleges that the board acted improperly by ignoring municipal law. Calling it "illegal spot zoning," the group filed an appeal in state Superior Court in Essex County late last month.

"This is not a boiler plate ordinance that was copied from another municipality or borrowed from the League of Municipalities," the opposition group's lawyer, Stuart Lieberman wrote in the appeal of the board's decision. "Rather, great time and extensive care was taken by the Essex Fells governing body in drafting this regulation."

But AT&T's lawyer, Christopher Stracco, said the board didn't do anything wrong.

"Our general position is what the board did was perfectly appropriate, didn't make any errors, and that the board's decision should be affirmed," he said.

The Essex Fells ordinance, considered one of the strictest in the state, was intended to limit the impact of a
<http://blog.nj.com/ledgerlocal/print.ht...>

cellular tower on the bucolic borough, which doesn't have a business district. It mandates 500-foot setbacks around any towers, but requires communications companies to first consider other options, such as placing antennas on telephone poles.

"Towers are the least desirable of technologies out there. They're ugly. They're big," Lieberman said in an interview. "When their application went in, all they discussed was their tower and where they were going to put it."

Dick Chesnut, a founding member of the opposition group, said the tower is not expected to alleviate the entire coverage gap in Essex Fells. He believes a second tower would have to be built to cover the east side of the wealthy borough.

"It's really a benefit more for neighboring towns than it is for Essex Fells," said Chesnut, 73.

And the setback of the approved tower, which has yet to be built, is only 400 feet from a nearby ball field, according to Chesnut.

"We actually measured it," he said on a recent walk through the tract's woods.

After 10 public meetings in two years, the planning board approved the proposal in a 3 to 2 vote, with 3 abstentions. Those members abstained because of their affiliation with the Essex Fells Conservancy, which was accepting donations on behalf of Friends of the Trotter Tract, an unofficial group.

The Friends of the Trotter Tract has amassed about 200 donations totaling "well over \$20,000" to cover costs associated with opposing the tower, Chesnut said. Supporters include residents from surrounding towns who enjoy the Trotter Tract's walking trails and wildlife.

Mayor Ed Abbot, a planning board member who recused himself from the vote, said the tower could bring in about \$80,000 annually to the borough, according to the ordinance's fee structure.

The case is expected to be heard in Superior Court in Newark on March 19.

© 2010 NJ.com. All rights reserved.