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The Question of APA Cell Tower Jurisdiction

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What were you doing as the year 1973 began? I was trying to figure what was coming into play with the Adirondack Park Agency Law being passed. A massive new system of law covering six million acres of government-owned and private land in the Adirondack Mountains in Northeastern New York was about to have a special Governor-appointed commission be given jurisdiction over the privately owned land.

The acreage of privately owned land was being diminished, and converted to government-owned, which was therefore constantly growing and I could see that it was inching fast toward the three million acre mark.

But the government land at the time was Forest Preserve, and the new Adirondack Park Commission had been intended to be a Forestry Commission. However, the influence of particular players led Governor Nelson Rockefeller to change the direction radically – to an environmental commission. So what I was looking at was a radically conceived Adirondack Park Agency law and a huge and growing area of state-owned land.

And, it has become more severe, as I wrote a number of years ago:

We not only have reached a negative milestone of nearly half the land in government ownership, but, as I graphically predicted, almost one million additional acres of privately owned land have succumbed to having the title split between government and private ownership, through conservation easements valued at about 60 % of the land, acquired by the state Department of Environmental Conservation.

So, Peter and I, both engineers, lived in a village-like area on the shore in Queens in New York City where my forebears had become established after arriving from Germany about a hundred years earlier. But we wanted to move to the countryside and live a different sort of existence.

However, we were a little concerned with the reports on upcoming regulation. So, at the opening of 1973, I was trying to find out what the new Adirondack Park Agency legislation could bring.

We were in a good spot. There was more information in New York City, where we still lived, than up in the Adirondacks. I managed to locate the brand-new Sierra Club office in Manhattan and

spread out on the polished hardwood floor in the vacant, sparkling new office to study the proposed zoning illustrated on a glossy full-color map for those six million acres.

The vividly clear map was unavailable upstate, where only cheaply printed, hard-to-read maps could be found. A well-groomed, youngish man came and asked why I was interested in the map.

“Because we’re going to move there,” I said.

He replied adamantly, “But you’re not supposed to *live* there.”

A hearing was held around then at the New York City chamber of commerce about that same zoning map. The points made by most of the speakers demonstrated that they were allies of the Adirondack Mountain Club, which had prepared a statement that they all mimicked.

There were also a man from up north who was interested in preserving railroads and a young woman who came down from Blue Mountain Lake, I recall, and tried to stop crying while delivering her heartbroken speech. No matter.

At the beginning of the hearing, the presiding officer Richard W. Lawrence, who became the founding chairman of the Adirondack Park Agency, noted that he felt comfortable with his “grand-daddy” behind him. This was a prosperous figure in a portrait painting in a very large gilded frame, one of many covering the walls of the nineteenth century gilded and purple velvet room.

As the hearing drew to a close, he asked a relaxed group of middle-aged men in the audience to his left. “Did any of you have something to add?” They he called them by name. The first man named, I later read, happened to be the person who was said to have funded the Sierra Club’s brand-new Manhattan office, and another name was David Rockefeller. No, nothing to add.

The scene was clearly set, even to a novice, someone like myself who was interested in the environmental movement, in spite of an insipient uneasiness that there could be an elitist trend there.

But, Assemblyman Glenn Harris, the Majority Leader, who represented the Adirondack region, was analyzing Gov. Rockefeller’s proposed APA law, which set out the agency’s powers.

The Assemblyman accomplished a book-length tabulation of revisions, including, as some people interested in the regional government still recall, the addition of the Adirondack Park Agency Local Government Review board, an entirely local body of elected officials.

He gave me his Assembly archives after he retired.

One of the most harmful details of the law, which he made sure was deleted, was a setback requirement of hundreds of feet from county highways for all buildings. Interestingly, after the Twenty-First Commission report came out in 1990, the APA began illegally requiring set-backs of one to two hundred feet from town highways.

The bill implementing 1990 report’s recommendations was killed, but the imposition of the setbacks continues.

This year I was studying those county highway setback requirements that were all reduced during the Glenn Harris negotiations. The system worked by imposing them under each of the zoning categories for the private land, from the strictest, which is the 42.7 acres minimum lot size in “Resource Management” zones (almost half the privately owned land) down to 1.3 acres in “Moderate Intensity” zones.

The assemblyman got the rules changed to reduce the extreme setbacks that the framers of the law envisioned so that the amount of setback related reasonably to safety, rather than adhering to extreme scenic concerns that the environmentalists wanted, with buildings unseen from the county highways.

Then, I noticed something that was not of interest to me back in 1990 when the North Country people united to defeat the Twenty-First Century Commission legislation:

Under rules for APA jurisdiction in each land use category, there were consistent exclusions of residential radio and television antennas from the APA jurisdiction of structures over 40 ft. high. This meant that getting approval for these towers was exempted from APA jurisdiction.

This exclusion appeared in both the pre-passage of the bill to pass the 99-page, complicated APA law and in the final law after it was passed to include the 21 legal size pages crammed with Assemblyman Harris’s deletions, revisions, and additions to protect his people.

The APA law afterwards lumped what the exemption of the radio and television antennas over 40 height with the agricultural exemption over the years, referring their exemption from the category of “all structures in excess of forty feet in height.

In spite law’s direction that radio and television antennas over 40 ft in height are a fitting land use in the region in all the zoning categories, the extreme APA regulation of cell towers had made much of the Adirondack region a dead zone for cell service. This is a perfect example of a future arriving where people could enjoy the benefit with advanced technology but the environmental law blocking them from benefiting.

Thus a Brooklyn couple who were along in years were trapped during a snow storm when their car slid off the Northway a few years ago, but they could not call for help because no cell service was not available. Finally their car as spotted a day and a half later, but the husband had died of exposure.

These remarks are being drafted in a house with high-speed internet service, but no cell service. Much of the town of Stony Creek, where we live on the south border of Warren County has no cell service.

Someone driving up the road past our land could not use his or her cell phone, but would be driving alongside a fiberoptic trunk line carrying electronic information from areas to the south to much of the northern central Adirondacks.

Local people chuckle at the ludicrous situation of Adirondack Park Agency technicians doing field work with red balloons to see how visible a cell tower would be from all directions, as though this related to environmental concerns.

The field photos of the balloons are later projected in a report presented to the entire board of APA commissioners as they actually *deliberate* about how much so-called environmental impact the visibility the cell towers will have by causing a possible viewer to experience such a view.

I have never witnessed the reverse, a debate over the future ability of a person to dial for help or to use a low-cost form of communication with friends, family, friends, or business.

This is an otherwise widely available benefit of modern technology that Assemblyman Glenn Harris could not have imagined. I'd like to think that he would have held up passage of the APA law just to prevent the bureaucratic APA commissioners and staff members from getting their stranglehold on this fine benefit of modern technology.

The next time you happen to see a newspaper photo of some thin, struggling person in a very warm poor country, don't feel too jealous if he or she is taking a break from hoeing his pitifully dry field to make a quick cell phone call. Instead think of the good life that the APA has brought the local people.

Thank you.