

Buckland, MA Planning Board and Zoning Board of Appeals
Joint Public Hearing Meeting Minutes

Date: July 7, 2022

Place: Town Hall and via Zoom

Meeting Agenda

1. Open the ZBA and Planning Board hearings
2. Introductions and ground rules
3. Roles and time frames of the Planning Board and Zoning Board of Appeals
 - o Planning Board is special permit granting authority for cell towers
 - o Planning Board must act on waiver requests for the following:
 - Bylaw requires applicant to be a licensed carrier
 - Bylaw requires background acoustical study compared with project noise, certified by acoustical engineer
 - o ZBA must act on variance requests for the following:
 - Height of cell tower
 - Slope of land
 - Proximity to wetlands
4. Process plan for the hearing
5. Presentation by the applicant
6. Town consultant report
7. Board questions/comments – 20 minutes
8. Public questions/comments – 20 minutes
9. Additional time as necessary for board and public questions/comments
10. If time allows, Planning Board will address waiver requests
11. Continue process or adjourn meeting with hearing continuation date

Attendees, Town Hall:

John Gould, Planning Board and Zoning Board of Appeals Co-chair

Andrea Donlon, Planning Board member

Jon Wyman, Planning Board member

Jeff Rose, Zoning Board of Appeals Co-chair

Martha Thurber, public, Buckland

Francis Parisi, Esq., applicant's representative

Kay Cafasso, public, Buckland

Michael Parker, public, Buckland

Janet Sinclair, public, Buckland

Bella Levavi, press, Greenfield Recorder

Tom Johnson, Vertex

James Rae, Zoning Board of Appeals member

Dennis Clark, Zoning Board of Appeals member

Robin Bestler, Zoning Board of Appeals member

John Holden, public, Buckland

Dawn Grignaffin, public, Buckland

Janice Fleuriel, public, Buckland

Ed Schlieben, public, Buckland

Lida Shippee, public, Phillipson

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Muriel Shippee, public, Buckland
Polly Anderson, public, Buckland
Michael McCusker, public, Buckland
Justin Lively, Zoning Board of Appeals member
Alice Garoky, public, Buckland
David Furer, public, Buckland
Jonathan Mirin, public, Charlemont
Janet Sinclair, public, Buckland (also on Zoom)

Attendees, Zoom:

Fred Goldstein, consultant
Barry Del Castillio, select board (also in Town Hall)
Christopher Lenaerts
Cynthia Caporaso
David Archambault
Dena Willmore, Buckland
Jeff Gang, Buckland
Jonathan Eichman, town counsel
Laura Cunningham
Margaret Olin, Buckland
Melinda Cross
Michael Hoberman, Planning Board Co-chair
Randy Heminger, member, Zoning Board of Appeals
Rick Leskowitz
S. Doherty

1. Opening the Hearing

Planning Board Co-Chair John Gould opened the Public Hearing at 6:37 pm: under the Buckland Zoning Bylaws, Section 9, Special Permits, and Section 10, Bylaw for Personal Wireless Service Facilities, to hear the Special Permit application 2022-02: To construct a Personal Wireless Service Facility at 28 Martin Road, Buckland, Map 8-0-60 and 8-0-61, Amos and Christopher Franceschelli, owners.

Zoning Board of Appeals Co-chair Jeff Rose opened the Public Hearing at 6:39 pm: to hear the application ZBA 2022-02, pursuant to the aforementioned Planning Board Special Permit application; Request for Variances under Section 11-2 (c) of the Buckland Zoning Bylaws, Section 10-5 (a) 2, to permit a Personal Wireless Service Facility higher than ten feet above average tree canopy height; Section 10-5 (b)5, to permit a PWSF which will be setback from wetlands and areas with slopes in excess of five (5) percent at a distance of less than 150'; and Section 10-15.1, to permit a PWSF in which a licensed carrier is not either an applicant or co-applicant; at the address mentioned, 28 Martin Road, Maps 8-0-60 and 8-0-61, Amos and Christopher Franceschelli, owners.

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PB Co-chair Gould noted the hearing has been published and posted as legally required, appearing physically at Town Hall, and on the website, and legal notice appearing twice in the newspaper beginning two weeks prior to the meeting. Abutters within 300 feet of the property in question have been notified by mail as required.

2. Introductions and Ground Rules

PB Co-chair Gould introduced members of the Planning Board and Zoning Board of Appeals; applicant Francis Parisi, representing Vertex Towers and landowners Amos and Christopher Franceschelli; town counsel Jonathan Eichman; radio communications consultant for the town Fred Goldstein of Interisle Consulting Group; and boards clerk Alison Cornish. [note: Amos and Christopher Franceschelli were not present at the meeting; town counsel Eichman and radio communications consultant Goldstein attended the meeting via Zoom]

PB Co-chair Gould noted that the Public Hearing will be conducted in accordance with the Town of Buckland's Code of Civil Conduct (available on the town website), and that civility and respect for all points of view were expected and required. Members of the public wishing to speak must identify themselves and state their address. Comments will be limited to three minutes, with Buckland citizens allowed to speak first. Speakers may speak twice to a subject, but not a third time if others are waiting.

3. Roles and time frames of the Planning Board and Zoning Board of Appeals

PB Co-chair Gould detailed the relevant actions and roles of each of the two boards.

- A. The Planning Board is the special permit granting authority for cell towers. Section 10 of the Buckland Zoning Bylaws designates the Planning Board as Special Permit Granting Authority for Personal Wireless Service Facilities. In addition to the specific requirements of Section 10, the board will be reviewing the application under the guidelines of Section 9, Special Permits.
- B. The Planning Board must act on waiver requests for the following:
 - a. Bylaw requires applicant to be a licensed carrier
 - b. Bylaw requires background acoustical study compared with project noise, certified by acoustical engineer
- C. The ZBA must act on variance requests for the following:
 - a. Height of cell tower
 - b. Slope of land
 - c. Proximity to wetlands
- D. The ZBA is tasked with considering any changes to physical or topographical requirements the applicant requests as variances, while the PB is tasked with considering waivers and special permits.
- E. The timeline for this hearing differs from the typical: two separate boards

involved, each with a different process and timelines, and different clocks running simultaneously. The state clock is for a special permit and variances, and the Federal clock of 150 days (from the date of the application's submission) is for the completion of the process per the Federal Communications Commission.

- F. A factor which can affect the timeline is whether the Planning Board determines within 30 days of receiving the application that it was incomplete as submitted. The Planning Board found, within that time, several questions and points of information required in the bylaw had not been sufficiently addressed, or required correction. This was communicated in an April 21, 2022 letter to the applicant. The Planning Board received a response by letter dated May 13, 2022. According to FCC regulations, the clock is paused during the period when an application is deemed incomplete and when the relevant board finds the additional material submitted completes the application, in this case a matter of 22 days by the letters' dates. Although the applicant disagreed that the application was incomplete, nevertheless additional information was provided. Neither board is requesting an agreement to extend the Federal clock at this time.
- G. These time-frames may be extended by written agreement between the applicant and the boards. According to town counsel, although the applicant agreed to extend the clock for the ZBA to consider variances for two days to today's hearing date, the clock for ZBA to hear and decide expires today. Because we expect this process will take more than one meeting, we had previously agreed on a continuance date of Tuesday July 12, and the applicant has agreed to extend the ZBA clock to that time. Once we have that written agreement, we will proceed according to counsel's recommendation with the Planning Board Special Permit process.
- H. When the presentation and public comment are completed, one or both boards will close the public hearing for that board. At that point - and it may be in a separate meeting - the public meeting begins, in which there will be no further public comment or information, and the board will deliberate and reach a vote.

4. Process for hearing

- Presentation by the applicant presentation
- Town' consultant report, review of proposal- coverage, map, site analysis, evaluation of projected/claimed RFR
- Board questions - 20 minutes
- Public comment - 20 minutes

5. Presentation by the Francis Parisi, representative to the applicant

- A. Mr. Parisi introduced Tom Johnson, civil engineer and David Archanbault, environmental engineer, both of whom worked on the project

- B. Introduced Vertex Towers, and review of work in other nearby localities
 - C. Reviewed the submitted package and supplemental material, highlighting certain aspects of the application
 - D. Articulated the need for additional telecommunications service in the area, including the increased practice of resident "cutting the landline," and mandates for public safety. Mr. Parisi maintained that it is in the public interest to improve telecommunications in the area.
 - E. Reviewed the choice of 28 Martin Rd. location as the best location for a new tower, including providing increased coverage for the Rts. 112 and 116 corridors and addressing limitations of existing coverage. The identified site has sufficient elevation to account for the area's topography; there's an existing driveway; and the development of a 50' x 62' area is feasible, taking into account site characteristics. Mr. Parisi noted that if there were tall and accessible structures (i.e., a church steeple) available which could have been utilized, they would have been proposed.
 - F. The proposed tower is a monopole style
 - G. The tower's proposed height is a function of the minimum height necessary to provide projected coverage, and the separation required between carriers' antennas
 - H. Mr. Parisi noted it was a "technical impossibility" to provide an adequate tower complying with the limitation of 10' above the tree canopy
 - I. This is a low-power facility, well within the limits designated by the FCC
 - J. The tower is not designed to cover a wide area, which would be difficult to achieve given the local topography and terrain
 - K. The bylaw requirements concerning 150' of 5° slope and 100' of wetland means the Conservation Commission must be involved
 - L. Concerning the bylaw requirement that the applicant be an FCC licensed carrier, Mr. Parisi suggested the board might consider following the example of the Town of Conway, which included a condition that no building take place until a carrier has made a commitment.
 - M. Mr. Parisi reviewed the criteria for a variance, and noted "hardship" in this case is defined by the lack of alternatives available, and that the Federal government adopted regulations that encourage infrastructure. Mr. Parisi conceded that "it's a challenge to put it anywhere," but believes that Vertex has picked the only place that's viable to satisfy coverage needs.
 - N. The balloon tests, and questions about their veracity, were reviewed. Photographs were taken by the consultants at vantage points requested by the boards to project the tower simulations on the photographs.
6. Town consultant report
- A. Mr. Goldstein reviewed his work for the town, including reviewing existing coverage maps with the goal of filling in the Rt. 112 corridor
 - B. The review also looked at alternative sites
 - C. Mr. Goldstein provided to the boards a checklist of what has to be proved in this case, including necessary overall height of the tower, and the antennas on the tower. In terms of height, there is some room for a

slightly shorter tower. In terms of the need for an additional tower, there are no existing facilities which could provide this coverage. In terms of lighting and wattage, the proposal is well within the Federal limits.

7. Board questions/comments

Q: (PB) Why doesn't East Buckland get increased coverage?

A: (Goldstein) Because of the height of Mary Lyon Hill, the proposed tower doesn't clear the hill, and so there isn't coverage east of the hill

Q: (PB) A significant portion of the town residents won't benefit from the proposed tower. Understanding the limitations of topography, is the benefit limited to the Rt. 112 corridor?

A: (Goldstein) Possibilities include another tower, or a higher tower than that proposed in this application. .

Q: (ZBA) Where can we find information on the percentage of households of Buckland residents that will benefit from the proposed tower?

A: (Goldstein) Noted a list that was generated which identifies who would benefit from the proposed tower, though also noted there are likely some inaccuracies due to the incomplete nature of the database

Q: (ZBA) Are there only three carriers currently providing coverage in this area?

A: (Parisi) As of now there are three carriers - Verizon, ATT and TMobile - but the situation is fluid, and there will likely be more in the future. The proposed tower is designed for four carriers, to not be short-sighted.

Q: (PB) What other towns have been approached by Vertex?

A: (Parisi) Colrain - tower built, 2 carriers; Ashfield - permitted; Shutesbury - built; Conway - 2 towers, conditional.

Q: (PB) Are towers ever built in conjunction with high tension towers?

A: (Parisi) Yes, though there's a problem with maintenance, as that requires shutting off the power. There is a site in Ashfield, with access on Baptist Corner Rd., where the power line and road were already there. This tower gives some benefit to Buckland, but not the Rt. 112 corridor.

Q: (PB) Concerning the balloon test, the balloon appeared much higher on the Saturday flight, and would like to have revised photographs

A: (Parisi) Wind speeds were different on the 3 days of tests, and Saturday's wind speed was lower. The consultant only photographed from publically accessible properties, one mile out from the site.

Q: (PB) Viewed the test on all 3 days, and the wind was not appreciably different on Tuesday/Saturday.

A: (Parisi) Consultant certified results at 150'

Q: (PB) If the balloons represented different heights, which heights were chosen for the photograph simulations?

A: (Parisi) Photos were taken the 1st day; then received the boards' list of locations and took pictures on the 2nd day; no pictures were taken on the 3rd day

Q: (PB) Concerning the alternative site analysis - were all potential sites investigated? All landowners contacted?

A: (Parisi) Other conditions come into play: zoning bylaws as well as contact with property owners. All of this was analyzed in great detail. Looked at many properties before getting to this proposal.

8. Public questions/comments

A. John Holden, 27 Orcutt Hill Rd., Buckland - submitted letter to both boards and reviewed several points of the letter:

- Proposed tower fills a gap in coverage
- Most people support increased cell coverage
- This proposal requires too many compromises
 - Tower height
 - Road construction
 - Effect on a pastoral site and view
 - Visible from too many locations
- Town's bylaws are thoughtful, and the height variance is a serious decision
- This application doesn't meet the guidelines
- Would have been good to canvass residents who don't have coverage

B. Christopher Lenaerts, 40 Upper St., Buckland

- Has a direct view of the site from property
- Reminder to the boards of all the work that's gone into the bylaw - passed by town meeting
- Questions whether the applicant is serious about abiding by the bylaw
- Questions the veracity of the balloon test which appeared to show different heights on different days not "due to the wind," and asks that the variance not be considered without accuracy in this

C. Kay Cafasso, 73½ State St., Buckland

- Asks that sufficient alternatives be provided as per the bylaws
- Notes a 150' tower becomes a focal viewpoint, especially in the winter
- Given how long it has been for a proposal to come forward, give it time to "get it right"
- Are there other options which could be good for both Vertex and town residents? Invite Vertex to return with more alternatives
- Can a decision wait until Ashfield's tower comes online to see what coverage it offers?

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- (PB noted Vertex has provided some alternative tower designs including “camouflage” designs)
(Mr. Parisi noted cell towers are difficult to camouflage, as it might look good from some areas, but not others. Particularly difficult to disguise that part of a tower above the tree canopy)
- D. Rick Leskowitz, via Zoom
- Took photos of the balloons, showing them higher than the mock-up pictures
 - Noted that pictures are not “opinions”
 - Asked exactly how many households will get additional coverage? And how many would get additional coverage if the tower were 115' high?
- E. Martha Thurber, 7 Charlemont Rd.
- Commented that the bylaws are not absolute, and the town’s consultant explained how to meet their requirements
 - Mr. Guyette has spoken about safety issues
 - While not disagreeing with the concerns that have been raised, there have been prior attempts to get a cell tower to improve coverage, which didn’t work. While this isn’t a perfect application, should that stand in the way of getting what the town needs?
- F. Jeff Gang, Upper St., Buckland (via Zoom)
- Noted the historical value of the area
 - Balloon test confusing, misleading
 - Noted there are communities with smaller (shorter) towers, and asked that all alternatives for the tower design be considered - shorter? Fake pine tree?
 - Questioned the profit motive behind having four carriers on one tower

9. Continuation of the Public Hearing

With a reminder that comments received by the boards are posted on the town website and are available to the public, the continuance date for the Planning Board and Zoning Board of Appeals Joint Public Hearing was set for Tuesday, July 12th at 6:30 pm.

The meeting concluded at 8:57 pm

Documents referenced:

- Application for Special Permit and Site Plan Approval (Planning Board) and Variances (Zoning Board) for Personal Wireless Service Facility; Applicant Vertex Towers, LLC, 28 Martin Road, Buckland, MA, Property Owner Amos M. Franceschelli and Christopher Franceschelli, March 24, 2022
- Application for Special Permit and Site Plan Approval (Planning Board) and

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Variances (Zoning Board) for Personal Wireless Service Facility; Applicant Vertex Towers, LLC, 28 Martin Road, Buckland, MA, Property Owner Amos M. Franceschelli and Christopher Franceschelli, Supplement No. 1, May 13, 2022

- Application for Special Permit and Site Plan Approval (Planning Board) and Variances (Zoning Board) for Personal Wireless Service Facility; Applicant Vertex Towers, LLC, 28 Martin Road, Buckland, MA, Property Owner Amos M. Franceschelli and Christopher Franceschelli, Supplement No. 2, June 28, 2022
- Application for Special Permit and Site Plan Approval (Planning Board) and Variances (Zoning Board) for Personal Wireless Service Facility; Applicant Vertex Towers, LLC, 28 Martin Road, Buckland, MA, Property Owner Amos M. Franceschelli and Christopher Franceschelli, Supplement No. 3, July 7, 2022

Respectfully submitted, Alison Cornish , Boards Clerk