

Town of Buckland Planning Board
Meeting May 19, 2022
Town Hall and via Zoom
Minutes


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Meeting Agenda

1. Open meeting
2. Review supplemental Vertex cell tower application for 26 Martin Road
3. Requested cell tower application waivers and advice received from town counsel
4. Scheduling and sequencing of cell tower public hearing with ZBA – waivers, findings, variance, and special permit
5. Schedule public hearing and balloon flights for cell tower
6. Public comments
7. Other items unanticipated by chair 48 hours in advance
8. Review minutes of previous meeting, if available
9. Adjourn meeting

Attendees:

John Gould, Co-chair
Michael Hoberman, Co-chair
Andrea Donlon, Planning Board member
Jon Wyman, Planning Board member
Michael McCusker, 32 Upper St., Buckland, public
John Holden, 27 Orcutt Hill Rd., Buckland, public
Francis Parisi, Esq, applicant representative, Vertex Towers LLC (online)
Barry Del Castillio, 68 Upper St., Buckland, public (online)
D. Christopher Lenaerts, 49 Upper St., Buckland, public (online)
Susan Samoriski, public (online)

Minutes

Item 1. Open meeting

Co-chair Hoberman opened the meeting at 6:37 pm

Item 2. Review supplemental Vertex cell tower application for 26 Martin Road

Vertex Towers LLC submitted supplementary information to their application on May 13th in the form of a response to questions from the Planning Board (April 21, 2022 letter from Town of Buckland Planning Board to Francis D. Parisi, Esq., Parisi Law Associates, P.C., 225 Dyer Street, Providence, RI 02903. Re: Application for Special Permit and Site Plan Approval (Planning Board) and Variances (Zoning Board) for Personal Wireless Service Facility, Vertex Towers

LLC, VT-MA-0019F at 26 Martin Road, Buckland MA 01338.) The public has access to those questions; the Planning Board's task is to determine if the application is now complete.

- A. Q1: Section 10-4 of the bylaw states, in part, "If feasible, personal wireless service facilities shall be located on pre-existing structures unless the applicant demonstrates that there are no feasible existing structures. ... The applicant shall have the burden of proving that there are no existing structures."

The application at page 8 refers to an affidavit from a radio frequency engineer and a site acquisition specialist. In Section 8, the statement of Stephen Kelleher of Vertex, Kelleher does not address existing structures, it states that of other candidates for cell towers, no other location is "superior." The affidavit of Jose Hernandez, a radio frequency engineer, states that a wireless transmission facility in the proposed area would help eliminate a gap in coverage and the proposed facility is the height necessary. Neither affidavit demonstrates or proves, or even indicate there was a thought about, installing a structure on a potential existing structure. Please provide the demonstration or proof that there are not feasible existing structures on which to put a cell tower.

In response, the applicant submitted additional information with the conclusion that no existing wireless transmission facility is available.

- B. Q2: Section 10-4 of the bylaw states that, "If the applicant has demonstrated that there are no feasible pre-existing structures to support personal wireless service facilities for the intended use, then all facilities shall be designed so as to be camouflaged to the greatest extent possible..."

The application at page 8 and elsewhere states that there will be "only a minimal amount" of clearing, and vegetation will be preserved as much as possible. The proposed facility will be of non-reflective galvanized steel with internal cabling. Please define "only a minimal amount" and describe any other camouflaging that has been considered or planned, other than the non-reflective steel.

The supplemental information concludes that a monopole style tower of galvanized steel would be the least obtrusive tower.

Question from the Planning Board to Vertex: when the photo simulations are created from the balloon flights, can various styles of poles be included? Response: yes.

- C. Q3: Section 10-5(a) states that, "The Applicant shall demonstrate that the proposed personal wireless service facility is the minimum height necessary to accommodate the transmitter receiver."

The application and affidavits repeatedly state that the tower has been designed to be the minimum height necessary to satisfy the coverage needs of multiple wireless carriers. While the Planning Board understands that the facility is designed to accommodate multiple carriers, the application does not demonstrate that the facility is the minimum height necessary. For example, Vertex provided the Ashfield Planning Board with maps showing potential coverage of the proposed tower at different heights. Buckland Planning Board would like to see similar maps provided for the proposed facility in Buckland, or other means to demonstrate that reduced heights would not fill the coverage gap.

The supplemental information provides different heights on a combined view map.

- D. Q4: The applicant has requested a variance to allow a height to exceed 10 ft above the tree canopy as described in Section 10-5(a)2 of the bylaw. We expect the Zoning Board of Appeals would appreciate knowing the average tree canopy height in the direct vicinity of where the cell tower and access road will be placed as they evaluate this variance request.

The supplemental information indicates that the average tree height is 80', and includes additional information. Question from the Planning Board: can maps be provided at a larger size, as the numbers are persuasive, but a larger scale would be visually helpful.

- E. Q5: Section 10-6 covers Design Standards and states, "The installation of a personal wireless service facility shall be designed to minimize visual impact, the maximum amount of natural vegetation shall be preserved; details of construction and finish shall blend with the surroundings; additional vegetative screening shall be employed where practical and particularly to screen abutting residential property whether developed or not. Siting shall be such that the view of the personal wireless service facility from other areas of Town shall be as minimal as possible."

Please describe further how the construction and finish will blend with the surroundings, and how the view from other areas of town is as minimal as possible.

Additional information restates information from the original application. Mr. Parisi suggested that a site visit to see the area where the 60' x 60' compound will be located would be the most useful to confirm information in the application. Question from the Planning Board: in regard to the

number of trees to be removed, and whether the access road and compound have been staked out? Response: the area has been flagged.

- F Q6: 10-8 states that, "Lighting should be limited to that needed for emergencies and/or as required by the FAA (Federal Aviation Administration.)"

The application at page 14 states that the proposed Facility will not require FAA lighting or marking under current FAA regulations. Please clarify if any other lighting, such as that needed for emergencies, will be installed along the access road or at the base of the facility.

The supplemental information indicates that no permanent lighting will be installed.

- G. Q7: Section 10-12 in the bylaw covers Environmental Standards. It states that excavation and clearing shall be performed in a manner that will maximize the preservation of natural beauty and conservation of natural resources.

Though the application includes assurances to this effect, please describe excavation and clearing methods that are planned, soils on site, and how the methods are consistent with the bylaw . Plan EC-1 shows that total earth disturbance is 55,550 square ft, which is 1.25 acres. Tree clearing is 52,030 square ft, which is 1.2 acres.

The supplemental information indicates that the general permit application to the EPA will contain all the information the Planning Board is seeking, and that the applicant will have a civil engineer at the Public Hearing to answer questions. 1.2 acres will be cleared/disturbed, which includes the utility easement, 40' wide road and building areas. The applicant noted that some clearing has already been done by previous users/for previous uses.

- H. Q8: 10-15.2 (b) states that the applicant should submit, "A Survey of any and all sites for the installation of personal wire service facilities that are feasible for providing the intended services."

Section 8 of the application provides a list of 6 alternative sites. The statement from Stephen Kelleher in Section 8 says that no other site would be "superior." Are there any other sites that would be sufficient to fill the gap in service? Is the list of 6 sites "any and all" potential sites? Were any town-owned sites considered? What facility heights and elevations were evaluated at these locations?

The applicant stated that "there is no second choice," and that the application's information, resulting from "exhaustive research," satisfies the standard of the bylaw.

Question from the Planning Board: still seeking a map, with details and information, about what sites were eliminated, and how they were determined to be not feasible.

Response from applicant: will be prepared to answer questions at the public hearing, and maintains that there is enough information provided to consider the application complete.

Question from the Planning Board: is this information that could be requested from consultant, Fred Goldstein?

- I. Q9: 10-15.2(b) lists Filing Requirements. "(3) A line map to scale showing the lot lines of the subject property and all properties within 1000 feet and the location of all buildings, accessory structures identified by their proper location and use. This may be done on a reproduced copy of the appropriate Town Assessor's Maps. (5) The proposed locations of all existing and future personal wireless service facilities in Buckland on a town wide map for this carrier. (6) A locus map, utilizing the most recent U.S.G.S. topographic maps of the area, which shall show all streets, bodies of water, historic sites, habitats for endangered species within 1000 feet, and all buildings within 1000 feet."

Please provide items (3) and (6) or provide statements as to why they are not necessary or applicable. For item (5) please provide any information that may be available currently about "future" facilities in Buckland.

The supplemental information includes both the original and additional maps; there are no future facilities anticipated. The Planning Board again requested a larger version of the map with larger text.

- J. Q10: Section 10-15.3 lists Siting Filing Requirements. "(8) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet. (9) Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source. (10) All proposed changes to the existing property, including excavating, grading vegetation removal and temporary or permanent roads and driveways."

Please provide items (8), (9), and (10). In particular, the Planning Board needs additional detail on existing vegetation (measured by or available from a verifiable source) and proposed vegetation removal.

Information provided on the same map as in response to Q9 above, as well as on the original maps. The Planning Board stated that they are looking for a cross-section view in order to see the cut and fill needed for road construction. P1, P2 and P3 indicate that fill will be brought in to level the road and allow for drainage, following the slope. The applicant indicated that the site visit will be helpful in envisioning the details, and a civil engineer will be present at the Public Hearing.

- K. Q11: 10-15.3(a) and (b) address Site Lines and photographs. The planning board is assuming that these or equivalent site lines and photographs will be provided after the balloon test is completed. If not, please provide these items.

Yes, after the balloon test is completed.

- L. Q12: Section 10-15.4 of the bylaw lists design filing requirements. "a) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any. b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g. anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any. c) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any. d) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters, and security barrier, if any. e) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width, and breadth. f) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species. g) If lighting of the site is proposed, the applicant shall submit a manufacturers computer generated point to point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed."

Please provide the information requested above. Items b) and d) have been only partially provided. For f), the Planning Board notes that the application at page 24 states that there is no landscape plan, however we

still require a plan showing existing trees and shrubs. For item g), the Planning Board is requesting information on any other lighting than a light at the top, if planned.

The equipment brochures have been provided, and overlapping maps have been provided.

Item 3. Requested cell tower application waivers and advice received from town counsel

Item 4. Scheduling and sequencing of cell tower public hearing with ZBA – waivers, findings, variance, and special permit

Item 5. Schedule public hearing and balloon flights for cell tower

Items 3, 4. And 5 were discussed collectively

- A. Town Counsel has advised that the waiver request can be handled at the Public Hearing.
- B. Based on the need for a variance (ZBA) and special permit (Planning Board) and their respective “clocks,” (the application for a variance requires a hearing within 100 days of the application) the following dates were proposed:
 - Balloon test: June 14, 15 and 18; alternatively June 16, 17 and 19, which would allow for public notification
 - Site visit for members of the Planning Board, Conservation Commission and Zoning Board of Appeals June 14, late afternoon
 - Joint Public Hearing July 7th, offered as a hybrid meeting to allow Co-chair Hoberman (and others) to participate remotely
 - Question from the public: can the public attend the site visit?
Response: no, not without permission of the owner of the property
- C. This proposed schedule of dates would require the applicant to agree to extend the variance “clock” in order to get the balloon flight within the time for both the ZBA and Planning Board, and enable a joint Public Hearing as requested by the applicant. A joint Public Hearing would also serve to have both Boards hear the same information at the same time. Mr. Parisi, representing the applicant, agreed to extend the time to enable the joint public hearing.

6. Public comments

- Question re: Site visit - request to add the Historic Commission to the list of those invited to attend. Yes, if the Planning Board can identify invitees
- Question re: Site visit - request to add the Agricultural Commission to the list of those invited to attend.

- Question re: the waivers - does this need to be understood and/or decided before the application is deemed complete? Response: the Planning Board can put conditions on a special permit.
- Question re: applicant not being a carrier, and that responsibilities which would fall to a carrier are being carried by a non-carrier applicant. If a waiver is granted to a non-carrier, are the rules being changed to favor this application? Should it instead be addressed by a change to the bylaw? Response: the carrier requirement is in the filing requirements; the Planning Board has authority over filing requirements and so can issue a waiver.

Co-chair Hoberman moved to accept the application from Vertex Towers LLC as complete on the basis of additional documentation submitted by, and conversation with, the applicant. Co-chair Gould seconded the motion. All members voted in favor; motion passed.

Co-chair Hoberman moved, if amenable to all parties, the Public Hearing will be held on July 7th. Co-chair Gould seconded the motion. All members voted in favor; motion passed.

Co-chair Hoberman moved that it is the intention to hold the balloon tests on June 14, 15 and 18; rain dates of June 16, 17 and 19; and with the flexibility to move the tests to the following week if needed; the test to be held for a minimum of 3 days, including a weekend day; and with the provision that the public be duly notified of the plan, including any changes. Co-chair Gould seconded the motion. All members voted in favor; motion passed.

Follow-up in regard to other variable sites, and additional information from consultant Fred Goldstein. Can Fred Goldstein provide an overview map showing (proactively) approximate areas where target cell coverage would be possible? Member Andrea Donlon will phrase this question and forward to Co-chair Gould for submission to Mr. Goldstein.

Public comments:

- Question re: relationship between Fred Goldstein and Francis Parisi, and whether the consultant is offering neutral advice.
- Comment on the restriction of public comment once the application is available to the public, and the practice of comments from the public being posted but not discussed

7. Other items unanticipated by chair 48 hours in advance
There were no other items.

8. Review minutes of previous meeting, if available
Request that outline form be used for minutes, including numbers and letters

Minutes of April 18, 2022 - Member Jon Wyman moved to approve; Co-chair

Gould seconded; all members voted in favor; motion passed.

Minutes of April 21, 2022 - Co-chair Hoberman moved to approve; Member Andrea Donlon seconded; all members voted in favor; motion passed.

9. Adjourn meeting

Co-chair Gould moved to close the meeting at 9:02 pm; Co-chair Hoberman seconded; all members voted in favor; motion passed.

Respectfully submitted, Alison Cornish, Boards Clerk