

# Buckland, MA Planning Board Meeting Minutes

August 17, 2022

Town Hall, 17 State St., Buckland and via Zoom

## Meeting Agenda

1. In person only:Approval Not Required (ANR) for Scott Gagnon, Conway Road
2. In person only:Approval Not Required (ANR) for Elizabeth (Dede) Heck, Nilman Road
3. If time allows, review of previous meeting minutes
4. Beginning of hybrid in person and Zoom meeting at 6:30:Continue the Planning Board special permit process for proposed cell tower

Vertex Towers, LLC, as represented by Parisi Law Associates, P.C., has applied to the ZBA for **Variances** (ZBA 2022-02) under Section 11-2 (c) of the Buckland Zoning Bylaws and to the Planning Board for a **Special Permit** (PB 2022-02) under **Section 10, Bylaw for Personal Wireless Service Facilities in Buckland, MA**. Proposal is to construct a 150' monopole wireless communication tower, at 28 Martin Rd., Buckland, Map 8, Lot 60 and 61, owned by Amos and Christopher Franceschelli.

5. Schedule next meeting

6. Adjourn meeting

## Attendees: Town Hall

John Gould, Co-chair  
Michael Hoberman, Co-chair  
Andrea Donlon, member  
Jon Wyman, member  
Scott Gagnon, applicant  
Elizabeth Heck, applicant  
Francis Parisi, Esq., Vertex Towers, applicant's representative  
Muriel Shippee, public  
Linda Shippee, public

## Attendees: Zoom

Fred Goldstein, Town consultant  
Jonathan Eichman, Town counsel  
Christopher Franceschelli, Property owner  
Linda Shippee, public  
Muriel Shippee, public  
Ho and Marti Taft-ferguson, public

Co-chair Gould opened the meeting at 5:59 pm

Items:

- A. Approval Not Required (ANR) for Elizabeth (Dede) Heck,  
Nilman Road, Buckland, Map 8 lot 1-1  
  
Parcel A, not a building lot, to be transferred to abutter  
ANR signed by all PB members
- B. Approval Not Required (ANR) for Scott Gagnon, Conway Road, Buckland  
Lots 3 & 4 are being formed out of parcel 9-35, Book 5756, p. 205  
New lot 3 to be added to existing lot 1, Book 7446 9-35-2  
New lot 4 to be added to existing lot 2, Book 7827, p. 176  
Lots 1, 2, 3 and 4 are all legal lots  
ANR signed by all PB members
- C. Minutes of previous meetings  
Member Donlon made a motion to approve minutes of the June 28, 2022 and  
July 7, 2022 meetings; member Wyman seconded; all in favor; the minutes were  
approved.
- D. Vertex Towers  
(please see attached document "Possible Order of Conditions Vertex 8\_17" for  
draft language for conditions as proposed during the meeting)
  1. Discussion of antenna space required for emergency services.
    - PB contacted state authorities, who offered language for the special permit condition
    - Mr. Parisi commented on the suggested language: "or any other government ..." too broad; "one or more antennas ..." too open-ended; while the needs of the local fire department can be predictable, the applicant is not open to other possible users
    - Form of antenna: likely to be a 10' - 17' whip antenna, mounted at the top of the tower with a stand-off bracket
    - Member Wyman asked whether there would also be a lightning rod at the top of the tower; Mr. Parisi replied there would be
    - Member Donlon showed a photograph of the Goshen Fire Department tower and antennas; Mr. Parisi pointed out that the whip antennas in that instance were "taking up" commercial space on the tower
    - Mr. Goldstein asked for clarification of whether microwave (dish) "point-to-point" antennas would be acceptable on the tower; Mr. Parisi replied in the affirmative.

Co-chair Hoberman moved, and member Donlon seconded, the following condition:

The Permittee, and/or owner(s) of the tower shall, and at no cost to the Town of Buckland, permit and accommodate the reasonable use of the tower facility, as may be determined from time to time, by said Town, for the purpose of attaching to the tower and operating one or more antennas, with space for necessary equipment shelter and related facilities on the ground, at such governmental entities' effort and expense, sufficient to accommodate the requirements of public emergency services, which use the applicant has represented can be conducted consistent with the location and operation of antennas for the number of mobile carriers permitted.

All in favor; the condition was approved.

2. Discussion regarding the tower height

- Confirmation of the diameter of a monopole tower: 7½' at the top; 15' at the base
- There was a question regarding what constitutes "ground level" - the base of the tower
- Mr. Goldstein noted that the tower can't be lower than 105' in order to provide usability
- Member Wyman proposed, for discussion purposes, a tower of 135', reserving the top 5' for public safety purposes. Mr. Parisi responded that, with the antenna centerlines at 95', 105', 115' and 125', the 95' location is "not bankable." Member Donlon quoted Mr. Goldstein as having said 95' "might be tolerable;" the question is how many carriers might really be interested in locating on the proposed tower. Co-chair Hoberman indicated that he does not have confidence in 95' as the lowest antenna location. Mr. Goldstein commented that, at the 95' level, it is difficult to know all the circumstances on the ground - for example, as trees grow, the margin of workability may be lost.
- Member Donlon indicated that, though the area does have a need for cell service, the tower itself is a commercial enterprise, and that the PB had a responsibility to balance the ultimate height with the area's rural character. Mr. Parisi agreed the challenge was to balance functionality and visibility

- Co-chair Hoberman asked if a tower 10' or 15' shorter would make a consequential difference visually, and also noted a desire to affirm those voices of the public who have called for a shorter tower
- Member Donlon showed a series of photographs from Supplement No. 2 of the application with the addition of the projected heights deduced from the balloon tests of June 25, 2022, noting the tower would be "potentially more visible than represented by the applicant"
- Co-chair Hoberman indicated that comments by those who will experience, and have commented on, the visual impact of the tower, should be taken into account
- Co-chair Gould noted that the PB cannot approve something that is unworkable; that the final product must be viable, and commented the board was honing in on a workable proposal: 3 carriers, with the lowest antenna located at 105', and the top 10' reserved for emergency services, making the tower height 135'. Mr Parisi replied that a 135' tower with the top 5' reserved for emergency services is essentially a "two carrier" tower as Vertex's engineers disagree with Mr. Goldstein's assertion that an antenna located at 105' is viable.

Member Wyman moved, and co-chair Hoberman seconded, the condition that the maximum height of the tower be 135', with the top 5' reserved for emergency services.

All in favor; the condition was approved.

3. Discussion of tower form and finish, 10-15.4

- Co-chair Gould reviewed the possible forms - "tree" or "monopole" - and finishes - galvanized or Cor-10
- Member Wyman pointed out that the "tree" model of towers stands out except when there is a forest background
- Member Donlon asked about the material of the "needles," and whether they would break down over time and become micro-plastic waste
- Co-chair Hoberman noted that "a tower is a tower, but a monopine stands out as fake"
- Mr. Parisi indicated that if the Cor-10 finish were selected, the tower itself would have baked finish, while the mounting hardware and antennas would be painted to match

Member Wyman moved, and co-chair Hoberman seconded, the following condition:

The tower shall have a Cor-10 finish, and the antenna and attached hardware shall be painted and maintained to match in a non-gloss finish to minimize visibility.

All voted in favor; the condition was approved

4. Section 10-17, Modifications
  - It was noted that the applicant would need to comply with this section of the bylaw
5. Section 10-18, Monitoring and Maintenance
  - It was noted that waivers issued for this section apply only to “ambient” and “existing” conditions at the time of application
6. Discussion of Section 10-19, Abandonment or Discontinuation of Use
  - Co-chair Gould read language proposed for a condition authored by Town Counsel
  - Mr. Parisi indicated that the owner usually gives a removal plan with a cost estimate, bonds are typically for one year, and suggested that the condition language require posting a bond and a letter including the removal cost estimate provided by a licensed engineer at the time of construction to the Planning Board and Town Building Inspector
  - Mr. Franceschelli asked if the bond would also cover the landowner
  - Mr. Eichman noted that the town’s concerns could be addressed by giving authority to the building inspector

Co-chair Hoberman moved, and member Wyman seconded, the following condition:

If a permit holder (applicant and landowner) fails to remove a personal wireless service facility in accordance with this bylaw and the terms of this permit, the Town shall have the authority to enter the subject property and physically remove the facility. The permit holder shall post a bond or other acceptable security at the time of construction along with removal cost estimate supplied by licensed engineer, provided to building inspector, in

an amount and form acceptable to the Planning Board and Town, securing the Town for the costs of removing the personal wireless service facility in the event such removal is required. The permit holder shall provide written confirmation to the Planning Board and the Building Inspector prior to January 1 of each year that the security remains in place for the following year. The Building Inspector may require an increase in the amount of required security as necessary at any time to account for inflation or other changes.

All voted in favor; the condition was approved

7. 10-21 Approval
  - It was noted that this process has already happened
8. 10-22 Conditions of Use
  - Member Donlon asked about the removal of equipment if a company (carrier) ceases to function; Mr. Parisi noted that space on a tower is rented, and if the rent is not paid, the equipment must be removed.

Member Donlon moved, and member Wyman seconded, the following condition:

As a condition of approval of the application for a special permit, the building inspector may require the permit holder to provide evidence that such facilities are operational, such that within a period of six months, the location of any personal wireless service facility which has not operated four consecutive months, unless the cause is major damage which prohibits operation, shall be restored to its natural condition, except that any landscaping or grading shall remain in the after condition.

All voted in favor; the condition was approved

9. 10-23 Performance Guarantees

Co-chair Hoberman moved, and member Donlon seconded, the following Condition for 10-23 a):

Insurance in a reasonable amount determined and approved by the Planning Board or Town after consultation at the expense of the applicant with one (1) or more insurance companies shall be in force to cover damage and/or personal injury from the structure, and damage and/or personal injury from transmissions and other site liabilities. Proof of insurance as required pursuant to Section 10-23 a) shall be required at the

start of construction.

All voted in favor; the condition was approved

Discussion regarding 10-23 b)

- Mr. Parisi objected to the language of the proposed condition as “too open ended”
- Mr. Eichman noted that the language accurately reflects the bylaw
- Co-chair Gould noted that the Planning Board is not in a position to submit actual costs
- Mr. Eichman suggested the phrase “reasonable costs”
- Mr. Parisi requested language that added “reasonable costs as agreed upon,” and objected to the costs incurred for legal fees
- Mr. Eichman suggested language that included reasonable expenses as agreed to by the parties
- Co-chair Gould noted the time frame, and suggested invoices to be provided concurrent with the written decision.
- Member Donlon asked if “reviewing the installation of the applicant’s facility” would incur additional expenses

Member Donlon moved, and co-chair Hoberman seconded, the following Condition for 10-23 b):

The permit holder, which shall include the property owner, the applicant, and the owner of the facility, shall pay and reimburse the town prior to the issuance of a building permit for all reasonable costs agreed by both parties within the appeal period as incurred by the town in reviewing the application. Invoices are to be provided concurrent with the written decision. Expenses incurred by the town for reviewing the installation of the applicant’s facility shall be paid within 30 days of demand.

All voted in favor; the condition was approved

#### 10. Condition of Martin Road

Member Wyman moved, and co-chair Hoberman seconded, the following condition:

Prior to heavy vehicle traffic related to the construction process, the applicant will walk and inspect the public roadway (Martin Rd.) with the town’s highway department and/or town administrator to agree and/or record the existing road conditions. The applicant agrees to restore or repair the roadway to the extent of damage caused during construction.

All voted in favor; the condition was approved.

#### 11. Proposed security barrier

Member Wyman moved, and member Donlon seconded, the following condition:

The applicant shall install a security gate or chain to impede vehicular access to tower driveway.

All voted in favor; the condition was approved.

11. Co-chair Hoberman moved, and co-chair Gould seconded, the motion:

To grant special permit 2022-02, Vertex Towers, based on the January 13, 2022 Site Plan as submitted by applicant, and as modified by the conditions voted by the Buckland Zoning Board of Appeals and the Buckland Planning Board.

All voted in favor; the motion was passed.

12. Discussion of format and dates for written decision

- Written decision is due September 2, 2022
- Mr. Parisi requested that additional materials not be included in the written decision
- Member Donlon asked about the process of putting together the final document; co-chair Gould noted this will be a first experience of putting together documentation for a Planning Board cell tower special permit

- E. Next meeting: September 8, 2022, 6:30 pm

- F. Member Donlon made a motion to adjourn the meeting; co-chair Hoberman seconded the motion; all in favor; the meeting was adjourned at 9:57 pm.

Documents referenced: Possible Order of Conditions Vertex 8\_17