

8/7/2022

Buckland Zoning Board of Appeals cell tower decision

July 26 2022

Vertex Towers Application for Personal Wireless Service Facility at 26 Martin Rd., Buckland

In the following Variances, the Zoning Board of Appeals is acting within a Planning Board Special Permit process, although its actions and process are clearly separated. The cell tower bylaw designates the Planning Board as the Special Permit Granting Authority, but through an oversight its language does not grant the Planning Board the usual authority to act in that capacity, in entertaining a request to modify any particulars. That means a variance is required in any instance where there is a need to depart from or modify the strict terms of the bylaw; and only the ZBA can grant variances. The ZBA's role, however, is to break the logjam and enable the Planning Board to move forward with its proper process.

This is an unusual dynamic for another reason. In addition to the State and locally defined criteria for variance (or special permit) decisions, there is an overarching Federal standard under the Telecommunications Act of 1996. While the language of the Act encourages the local process, it is made clear that boards and towns may not prevent or substantially obstruct the establishment of wireless communication facilities without compelling and supported reasons and evidence, presented at

public hearings. Nor may boards entertain objections or discussion based on health objections to radiation .

Therefore the Boards have laid out the process below, where the ZBA may first perform its local duties according to its established criteria, before then considering the applications in the broader Federal framework. By that method proposals which may be found to fall short of strict local standards may nonetheless reach approval in view of FCC regulations.

Specific variance requests were for relief from requirements of height, 150' setback from slopes greater than 5%, and 150' setback from wetlands. These were granted pursuant to the FCC regulations. A further variance request, for relief from requirement that applicant be a licensed carrier, was withdrawn by applicant, as the matter was acted on by the Planning Board in the waiver process, below.

The bylaw does not allow barbed wire. However because applicant initially proposed it as normal practice, they requested that the order of conditions reinforce that prohibition. That has been done.

Further details on these matters are found in the following narrative and in attached documents.

Record of Proceedings

See at bottom for Document List included in file

Note: for this e-version some documents have been scanned in, please excuse differing formats.

ZBA: Application for variances pursuant to the Planning Board Special Permit application

ZBA involvement is required: No language empowering SPGA (Planning Board) to take any action to change bylaw specifications, therefore variances must be sought.

Variances requested for: Height requirement

150' Setback from slopes greater than 5%

150' Setback from wetlands

Also requested: variance for applicant's standing, not being a licensed carrier as per bylaw requirement

Page 1 of Record of Proceedings form (hard copy provided in file)_____

ZBA CASE # 202202

MAP: 8 BLOCK: LOT: 60-61

TOWN OF BUCKLAND
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

RECORD OF PROCEEDINGS

I, JOHN GOULD ^{CO-CHAIR} ~~Clerk~~ of the Buckland Zoning Board of Appeals, operating under the Buckland Zoning Bylaws, hereby certify that the following is a detailed record of all its proceedings relative to the application of VERTEX TOWERS LLC for A VARIANCES under Section of the Zoning Bylaws. PURSUANT TO PLANNING BOARD SPECIAL PERMIT APPLICATION 2022-02.

The Applicant desires to: ① CONSTRUCT A WIRELESS COMMUNICATION TOWER GREATER THAN 10' ABOVE AVERAGE TREE CANOPY (10-5(A)2); ② TO BE SETBACK LESS THAN 150' FROM SLOPES GREATER THAN 5%; AND ③ FROM WETLANDS, AS ABOVE.

The premises affected is located at 26 MARTIN RD. Buckland, Massachusetts, in the RR zone, in which zone the above-mentioned use is not allowed without relief from the Buckland Zoning Board of Appeals.

1. On 3/24/22, an application was presented to and certified by the Buckland Town Clerk, and a filing fee of ~~\$500~~ 300 was paid. A copy of the application accompanies this certificate. In the case of an appeal, the "Refusal of the Building Inspector" to issue the permit accompanies this certificate and is made part of this record.
2. A legal advertisement, a true copy of which accompanies this certificate and is made a part of this record, was published in *The Greenfield Recorder*, a newspaper published in Greenfield, Massachusetts, and was circulated in Franklin County, on JUNE 24 2022 and JULY 1 2022.
3. A copy of the advertisement in the form of a Notice was posted at the Buckland Town Hall for a period of not less than fourteen (14) days prior to the date of the public hearing, and copies of said Notice were mailed to the petitioner, abutters, owners of land directly opposite on the public or private way, owners of land within 300 feet of the property lines as appearing on the most recent applicable tax list, the Buckland Planning Board, and the Planning Board of every abutting town, the Building Inspector, and the Buckland Board of Selectmen. A copy of said Notice accompanies this certificate and is made a part of this record.
4. On 7/7, 7/12, 7/26/22 ^{JOINT HYBRID} a public hearing was held at the Buckland Town Hall, at 6:30 p.m., at which hearing opportunity was given to all those interested to be heard in favor of or in opposition to said application, and the following took place:

SUMMARY OF PROCEEDINGS

Please see minutes of July 7, 12, 26, 2022

EVIDENCE SUBMITTED

Please see minutes of above dates

Summary of Proceedings Page 2 (continued from Record of Proceedings page 1)

Prior to public hearing, site visit and balloon flights were conducted. Both boards conducted a site visit to view the location and access, on June 14, 2022, the day of the first balloon flight. **Report** is attached:

Planning Board / Zoning Board Joint Site Visit

Date: June 14, 2022 at 8:00am

Location: Martin Road, Buckland MA

Attendees: Planning Board; John Gould, Michael Hoberman, Andrea Donlon, Jon Wyman

ZBA; Jeff Rose, Robin Bestler, Randy Heminger, Justin Lively, Dennis Clark

Others; Atty .Fran Parisi, Balloon specialist, Engineering rep.

Observations;

1. Members followed a flagged path marking the proposed road to the tower location.
2. Wetland flags were identified off in a short distance from the bottom of the proposed road.
3. Questioned slopes and cut and filling road and how road location was chosen.
4. It was explained that road base material will be brought in instead of using materials on-site.
5. The topography was discussed; exposed ledge and large trees will require removal.
6. It was explained that the road to the tower will be maintained by the carrier, including plowing, but will not be used in the winter.
7. Drainage alongside the road and at the tower base was described.

8. The general area that will be cleared at the base of the tower was shown.

9. The balloon test was explained on how the height was determined by a fishing pole system with marked line.

10. From here, photo simulations will be taken showing tower heights from various Buckland locations.

End of Site Visit

Prepared by Jon Wyman, Planning Board. 7/6/22

As required, a **balloon flight** took place from the site at the requested height (150') , on Tuesday June 14 and Wednesday June 15, advertised from 8 am to 7 pm. The first flight on July 14 was terminated early for an unknown reason.

The requirement included a weekend day, but due to weather the third flight did not take place until the following weekend, July 25.

Several parties including board members observed a difference in balloon height from the weekday to the weekend flight, and took their own photographs showing height differences. Board co-chair questioned the statement by balloon technicians that the balloon could not be seen from a location (Rte 112 at Willis' farm and south field) where citizen photographs showed it visible. This was not a relative judgment of height, but a matter of visible or not visible.

Given the concerns, applicant suggested following the meeting, he would undertake a second flight to verify; it was agreed board members would be present to witness and confirm measurements. This second instance took place Saturday July 16 from 8 am to 12 noon.

Report is attached:

Memo to the File

Supplemental balloon test site visit report

July 16, 2022

John Gould (PB and ZBA co-chair) and Andrea Donlon (PB) met at 26 Martin Road on July 16, 2022 at 7:15 AM. We met two representatives from Vertex and walked up the proposed access road route to the site of the cell tower. The Vertex representatives explained how the line was marked every 5 feet and was color coded every 25 feet. They inflated the balloon to a diameter of 3 ft and fastened the balloon to the line. They counted out the feet and fastened fabric flagging at 145, 135, 125, 115 and 90 ft height increments. Because of the flagging, the balloon did not have enough buoyancy to get far above the trees. They reeled the balloon back in and added more helium. The balloon was elevated to the appropriate height. Andrea measured a few 5-ft increments with a tape measure. Both board members confirmed by count of marked increments the balloon height was set at 150'.

The balloon technicians and board members walked back down the trail and drove around Buckland to observe the balloon and take pictures. Balloon was scheduled to fly from 8 am to 12 noon.

Andrea Donlon, Planning Board

John Gould, Planning Board, ZBA

Applicant provided photographs of balloon from specific locations, followed by simulations of the tower based on balloon height as of first day's flight. Application Supplement 2

Subsequently, additional photographs and documentation were supplied by applicant in application supplement 3 and 4.

The Willis farm view question of visible/ not visible was not addressed.

A joint public hearing was opened July 7, and continued July 12, and once again July 26.

Please see attached minutes for those dates, including attendance and public comment. Written comments separate, posted on Town of Buckland website under Planning Board.

Evidence submitted: Applicant presentation, application; town consultant's report; see document list attached.

Discussion

Although ZBA heard entire presentation and comment, it was determined that its role in this process was strictly limited. While the board observed wetlands markers, location, balloon flights and topography, as pertinent to the matters for which variances were sought, and heard public comment as to height, in effect the ZBA's role was to remove barriers to action or "break" the rule of the bylaw, where the height could thereupon be acted on by the Planning Board; the wetlands could be addressed by the proper authority, the Conservation Commission; and the slopes requirement could be addressed under FCC guidelines. While the bylaw did not enable the SPGA (Planning board) to take action on these items without the variance actions by the ZBA, none of these were ultimately understood to require the ZBA to produce a specific determination. Therefore the process as follows was developed to enable the boards to move forward.

Due to complexities of the process and scheduling, statutory time frame for ZBA action was extended by agreement with applicant on

two occasions, until next meeting dates. Applicant provided written letters of agreement.

ZBA Variances- Process and discussion

Below is reproduced in pertinent part the guiding narrative and considerations for the ZBA process as conducted at the Joint Public Hearing of July 25 2022.

The ZBA heard the presentation, by the applicant and with commentary by town's consultant, regarding the necessity of the tower, the necessity for the height proposed, and the lack of equally suitable alternative facilities or locations. To be clear, the question before the ZBA is not whether any other location would be more suitable. Any variance application addresses itself to a particular site.

Therefore if the ZBA entertains the requests for relief from the height, slopes and wetlands requirements of the bylaw, and the need for this particular location as represented, it must then address directly the questions of the variance. Discussion Point: In this Planning Board Special Permit process the ZBA has a strictly limited

*purpose: to enable and empower the Special Permit Granting Authority which is actually designated by the Bylaw to hear this application- that SPGA is the Planning Board- to perform their duties. An oversight in this bylaw denies them the authority to act with regard to these items deferred to the ZBA. Therefore the ZBA's actions in these variances potentially both grant relief to the applicant in the matter of prohibitive requirements, and return discretion to the Planning Board in establishing parameters. This is not a typical variance process. In the following variance decisions the ZBA must apply two standards: first, **state standards for variances** as in Section 11-2 of the Bylaws, and second, if those are not met, the board must consider the requests under the Federal Telecommunications Act. The board began with local regulations, as supported by the language of the Federal law.*

“VARIANCES: The Zoning Board of Appeals shall hear and decide appeals or petitions for dimensional variances from the terms of this Bylaw, with respect to particular land or

structures pursuant to MGL Chapter 40A, Section 10, as may be amended from time to time, **only in cases where the Board finds *all* of the following:**

1. a literal enforcement of the provisions of this Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or applicant;
2. the hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
3. desirable relief may be granted without either:
4. substantial detriment to the public good; or
5. nullifying or substantially derogating from the intent or purpose of this Bylaw.
6. the Zoning Board of Appeals does not have the authority to grant use variances in any district in Town.”

The ZBA will first determine whether the applications can meet those standards as set forth. If so, the board may act to grant.

If not, the Board will produce a Finding stating the reasons standards were not met, and proceed to the next, before considering Federal law, and taking votes whether to grant.

The Board proceeded as follows. Having made its observations during the site visit, reference was made to applicant's characterization of the site, below:

**COMPLIANCE WITH CRITERIA
FOR VARIANCES**

) VARIANCES: The Zoning Board of Appeals shall hear and decide appeals or petitions for dimensional variances from the terms of this Bylaw, with respect to particular land or structures pursuant to M.G.L. Chapter 40A, Section 10, as may be amended from time to time, only in cases where the Board finds all of the following:

- l. a literal enforcement of the provisions of this Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or applicant;**
- l. the hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located;**
- l. desirable relief may be granted without either:**
 - l. substantial detriment to the public good; or**
 - i. nullifying or substantially derogating from the intent or purpose of this Bylaw.**

Given technical limitations with respect to:

- the location of the Facility relative to the surrounding neighborhoods and other existing telecommunication sites in and around the Town;
 - the topography of the surrounding area;
-

Moreover, this hardship is owing to the circumstances relating to topography of the surrounding area. The property is a large, substantially undeveloped property surrounded by dramatic terrain differences and dense foliage. The surrounding area is provides no other feasible location in which to install and operate a wireless telecommunications facility. Existing structures and buildings in the area are insufficient

Page 33:

Page 36:

- The proposed Facility will be an appropriate use of land within the Town.
- Due to the unique size, shape, location and elevation of the subject Property and the topography of the surrounding area as well as the existing zoning of the property and surrounding area, unique circumstances exist to justify the granting of the requested Variances. Moreover, Applicant's proposed Facility will have no impact on adjoining properties and the surrounding area.

In these references the applicant himself attributes hardship to the *topography of the surrounding area*, and not uniquely to the subject property. This conforms with the Board's personal observations and must be viewed in the context of the explicit requirements of the variance in deliberation.

1) Regarding Height requirement of bylaw at 10' above average tree canopy; 10-5 (2)
See Page 9 of Supplement narrative for applicant's points:

2. Ground Mounted Facilities. Ground mounted personal wireless service facilities shall not project higher than ten feet above the average height of buildings within 300 feet of the proposed facility, or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may exist on the subject property or planted on site. Monopoles are the preferred type of mount for taller personal wireless service facilities.

There are no buildings within 300 of the proposed Facility. However, in order to construct a Facility at the Property that gets above area topography and terrain to provide the requisite telecommunications coverage and also be the minimum height necessary to accommodate multiple wireless carriers to meet other requirements of the Bylaw, the Facility must be 150' in height. The Facility will be sited to minimize the visibility of the Facility as much as possible from adjacent properties and shall be suitably screened from abutters and public rights of way. The Facility will be amply set back from abutting properties and buffered by a dense stand of

Page 10

existing trees. Accordingly, the Applicant respectfully requests that the Zoning Board grant a VARIANCE from the requirement that the Facility not project higher than ten feet above the average tree canopy height.

The proposed facility will be a Monopole-style tower.

In strict consideration of variance requirements, the bylaw requirements 10-5 (2) and the applicant's representations, the board after discussion concluded that a vote to grant could not be taken, as all variance requirements could not be satisfied; therefore a finding motion was proposed in order to defer the vote until consideration of Federal requirements:

With regard to variance requirements

a-Literal enforcement would create a hardship

b-Hardship is physical/topographical, which especially affects the property in question but NOT surrounding area

c-Relief can be granted without detriment to public good

d-Or without nullifying or derogating from

Purpose of Bylaw-

the Zoning Board finds that the variance request can be supported for requirements (a, c, and d), however the proposal cannot meet requirement (b) for the following reasons:

In its review of site visit and maps and

statements of applicant, the topography hardship exists in the surrounding area and does not

uniquely affect the lot in question. Therefore as all requirements must be answered the Board finds the request as presented does not meet local standards for a variance.*

**(Tree canopy height is similar in the surrounding area.)*

All voted in favor of the finding.

2) Regarding the 150' setback from slopes >5% bylaw requirement: 10-5 (b) (5)

5. Setback from designated wetlands, water bodies and areas with a slope in excess of five (5) percent shall be at least one hundred and fifty (150) feet, unless the personal wireless service facility is located on a pre existing structure.

The Facility as designed will be more than 150' from designated wetlands and water bodies; however, the access driveway and utilities will be within 150' from designated wetlands, for which the Applicant intends to file a Notice of Intent with the Conservation. In addition, in order to construct a Facility at the Property that gets above area topography and terrain to provide the requisite telecommunications coverage, the facility and access driveway will be less than 150' from a slope in excess of five (5) percent.

Accordingly, given the gap in wireless telecommunications coverage and the lack of viable alternatives, the Applicant respectfully requests that the Zoning Board grant a VARIANCE from the requirement that the setback from wetlands and areas with a slope in excess of five (5) percent shall be at least one hundred and fifty (150) feet as set forth in Section 10-5(b)5.

See Page 11 of Supplement Narrative for applicant's points (above)

In a strict consideration of variance requirements above, the bylaw requirements 10-5 (2) and the applicant's representations, the board after discussion concluded that a vote to grant could not be taken, as all variance requirements could not be satisfied, therefore a finding motion was proposed in order to defer the vote until consideration of Federal requirements:

With regard to variance requirements

a-Literal enforcement would create a hardship

b-Hardship is physical/topographical, which especially affects the property in question but NOT surrounding area

c-Relief can be granted without detriment to public good

d-Or without nullifying or derogating from Purpose of Bylaw

the Zoning Board finds that the variance request can be supported for requirements (a, c, and d), however the proposal cannot meet requirement (b) for the following reasons:

In its review of site visit and maps and statements of applicant, the topography hardship exists in the surrounding area and does not uniquely affect the lot in question. Therefore as all requirements must be answered the Board finds the request as presented does not meet local standards for a variance.*

**(The site is on a slope and surrounded by slopes.)*

All voted in favor of the finding.

3) Regarding the 150' setback from wetlands bylaw requirement: 10-5 (b) (5)

See Page 11 of Supplement Narrative for applicant's points (see above, 2))

This and the slopes setback requirement were bundled together in both the bylaw and the application, however the nature of the physical factors are entirely different, therefore the board elected to consider them separately; nevertheless the conclusion is unaffected as the same circumstances apply to both.

As above, In a strict consideration of variance requirements above, the bylaw requirements 10-5 (2) and the applicant's representations, the board after discussion concluded that a vote to grant could not be taken, as all variance requirements could not be satisfied, therefore a finding motion was proposed in order to defer the vote until consideration of Federal requirements:

With regard to variance requirements

a-Literal enforcement would create a hardship

b-Hardship is physical/topographical, which especially affects the property in question but NOT surrounding area

c-Relief can be granted without detriment to public good

d-Or without nullifying or derogating from Purpose of Bylaw

the Zoning Board finds that the variance request can be supported for requirements (a, c, and d), however the proposal cannot meet requirement (b) for the following reasons:

In its review of site visit and maps and statements of applicant, the topography hardship

exists in the surrounding area and does not uniquely affect the lot in question. Therefore as all requirements must be answered the Board finds the request as presented does not meet local standards for a variance.*

**(Wetlands are shown to exist, and to a greater extent, in adjoining lots, on applicant's maps)
All voted in favor of the finding.*

AFTER Findings, further discussion of variance requests:

Previous discussion was strictly related to the variance questions. In this matter because a second Federal standard applies, further perspective and discussion is called for.

The second standard the ZBA must consider is:

Federal Law standard, specifically set forth in the Telecommunications Act of 1996 ([47 U.S.C. § 332\(c\)\(7\)\(B\)\(i\),\(iii\)](#)). That standard provides as follows:

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--
(I) shall not unreasonably discriminate among providers of functionally equivalent services; and
(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

FURTHER DISCUSSION with regard to Federal standards:

1) height requirement of bylaw at 10' above average tree canopy; 10-5 (2)

See page 9 of Supplement narrative for applicant's points

Chair comment: Board heard affidavits from site engineer and RF engineer, and the report from Mr Goldstein establishing that the height requested greater than bylaw requirement of 10' above average tree canopy is necessary for the

purpose of the facility; ZBA to consider whether it is also appropriate for the purpose of the bylaw. The board may find useful an additional remark from Fred Goldstein:

“The existing bylaw's rule about not going more than 10 feet above the tree canopy does not, frankly, seem reasonable, for two reasons. One is that the minimum height is usually taken to be 15 feet, both to let the antennas adequately clear the trees and to allow for a few years' tree growth. The other is to allow for collocators. “

It was reiterated that the ZBA role was to “unlock” the bylaw restrictions that the SPGA, the Planning Board, was unable to do because bylaw language failed to empower them to do so. Given that understanding it would suffice for the ZBA to allow an increase in height up to the bylaw limit but to allow specifics to be determined by the SPGA. Thus, passage of the motion would enable the Planning Board to act.

Motion: I move that the board, in consideration of the applicant's representation, and corroboration by the

town's consultant, finds that the request to exceed the bylaw height requirement of 10' above average tree canopy height, is appropriate and necessary to fulfill the multiple carrier requirements of the bylaw, and to reduce the necessity for additional towers, and further finds that strict compliance will create conflict with the Telecommunications Act, and therefore votes to grant the variance request, for a height greater than 10' above average tree canopy height, up to and not to exceed the bylaw maximum of 150'.

All voted in favor of motion to grant.

Further discussion- 150' setback from slopes >5% bylaw requirement:

See Page 11 of Supplement Narrative for applicant's points

Chair comment: The ZBA must take into account what, in these circumstances, would be workable and effective, and what might be an unreasonable and impractical requirement- 150' setback from slopes > 5%, a) because this is a

hilltown, and b) because almost by definition a cell tower will most practically be located on a slope, for both cost and function. The best choice would be one that best serves the purposes of the bylaw, to minimize the number of towers needed.

Discussion supported these considerations.

Motion: I move that the Board find that , given the nature of the project being regulated, this provision of the bylaw may create the effect of a prohibition, such that strict compliance will create a conflict with the Telecommunications Act, and therefore votes to grant the request for a variance to the requirement of 150' setback from slopes greater than 5%.

All voted in favor of motion to grant.

Further discussion-150' setback from wetlands bylaw requirement:

- Chair referred to Counsel's remarks: Per the variance application, the proposed access road will be within the 150 foot wetlands buffer required by the Zoning Bylaws, and the applicant indicates it will file a notice of

intent with the Conservation Commission to allow for this placement. As pointed out below, however, the 150 foot requirement covers an area greater than the Commission's jurisdiction under the State Wetlands Act, and the Town has no local wetlands bylaw. I agree that the applicant must comply with applicable wetlands regulations (State Wetlands Act) and obtain approvals under those regulations as necessary, and that the Planning Board and ZBA cannot grant such approvals. Nonetheless, the applicant requires a variance from the requirements of Section 10-5(b)5, which requires application of the variance standard to the 150 foot requirement.

Unless the ZBA has good evidence of substantial detriment to portions of the 150 foot area outside of Conservation Commission jurisdiction and If the applicant can show a hardship related to the location of wetlands on the site (soil conditions), to deny the variance the ZBA would need to be prepared to demonstrate (and point to such evidence in the written record) that granting the variance would be substantially detrimental to the public good or will nullify or substantially derogate from the intent or purpose of the Bylaws.

Chair comment: the ZBA has consulted counsel, the Conservation Commission and DEP. The board has looked at maps of site provided by applicant showing location of wetlands and proposed location of access road and compound,

and the board has conducted site visit in company of Planning Board and applicant.

The ZBA does not as this point observe, either at the site visit or during the hearing, and does not produce compelling evidence of negative effect to the portions of the 150' setback outside the Conservation Commission's jurisdiction.

Board discussion indicated no disagreement, and members were satisfied with applicant's explanation at site visit.

Motion- *Given that protection of wetlands generally lies within the jurisdiction of the Conservation Commission, in considering a request to vary the 150 foot requirement as to wetlands, I move that, per recommendation of counsel, the ZBA grant the request for a variance to the 150' setback to wetlands requirement, conditional upon Conservation Commission approval of the project as it falls within the Commission's jurisdiction, and further, that the board find that strict compliance will cause a conflict with the*

Telecommunications Act, and vote to grant the variance request.

All voted in favor of motion to grant.

Order of Conditions:

Height up to and not to exceed 150'.

Approval of wetlands setback variance request, is granted conditional upon Conservation Commission's approval of this project within its jurisdiction

*Other: Per request of applicant, bylaw prohibition on use of barbed wire is upheld here as a condition: No barbed wire to be used
Request for variance to requirement for applicant to be a licensed carrier: **withdrawn** by applicant, as applicant status was granted by the Planning Board through a waiver of this filing requirement.*

Submitted by JG

Below are DRAFT minutes for each hearing date, which include attendance and public comment. Written public comment is posted on the Town of Buckland website, under Planning Board.

DRAFT July 7 Hearing

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

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
 - Planning Board is special permit granting authority for cell towers
 - 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
 - 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

Jame 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

#1

Buckland, MA Planning Board and Zoning Board of Appeals

Joint Public Hearing Meeting Minutes

Lida Shippee, public, Phillipson

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.

#2

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

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

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Buckland, MA Planning Board and Zoning Board of Appeals

Joint Public Hearing Meeting Minutes

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

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- 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

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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

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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, 73. 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"

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- 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?

(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

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Buckland, MA Planning Board and Zoning Board of Appeals

Joint Public Hearing Meeting Minutes

Variations (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

Variations (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

Variations (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
#9

DRAFT July 12 Hearing

Meeting Minutes , Joint Public Hearing, Buckland Planning Board and
Zoning Board of Appeals
July 12, 2022, 6:30

Buckland Town Hall and Zoom

Agenda

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.

Meeting Agenda (time may not allow for completion of full agenda)

Continue the ZBA and Planning Board hearings
Re-introductions and ground rules
Additional board questions/comments
Additional public questions/comments
Planning board:waivers
Boards discuss order of next phases of review
Balloon flight representations
Planning board: Special permit review
ZBA: Variances
PB review application and bylaw
PB deliberate and vote
PB close PB public hearing
Boards may reschedule public meeting separately after close of hearing

ZBA review application and bylaw
ZBA close public hearing
ZBA deliberate and vote

Attendees (Town Hall)

Jeff Rose, Zoning Board of Appeals, Co-chair
James Rae, Zoning Board of Appeals, member
Dennis Clark, Zoning Board of Appeals, member
Michael Hoberman, Planning Board, Co-chair
Andrea Donlon, Planning Board, member
Jon Wyman, Planning Board, member
Barry Del Castillio, select board
Christopher Lenaerts, public, Buckland
Janet Sinclair, public, Buckland
Madeline Liebling, public, Buckland
Tom Johnson, Vertex
Francis Parisi, applicant's representative
Justin Lively, Zoning Board of Appeals, member
Randall Heminger, Zoning Board of Appeals, member
Kay Cafasso, public, Buckland

Robin Bestler, Zoning Board of Appeals, member
Dale Moss
Bella Levavi, press, Greenfield Recorder

Attendees (Zoom):

Cie Simurro
Fred Goldstein, consultant
Jonathan Eichman, town counsel
Greg Bardwell
Christopher Franceschelli, property owner

Meeting Agenda (time may not allow for completion of full agenda)

1. Continue the ZBA and Planning Board hearings
2. Re-introductions and ground rules
3. Additional board questions/comments
4. Additional public questions/comments
5. Planning board:waivers
6. Boards discuss order of next phases of review
7. Balloon flight representations
8. Planning board: Special permit review
9. ZBA: Variances
10. PB review application and bylaw
11. PB deliberate and vote
12. PB close PB public hearing
13. Boards may reschedule public meeting separately after close of hearing
14. ZBA review application and bylaw
15. ZBA close public hearing
16. ZBA deliberate and vote

1.

Planning Board Co-chair John Gould and [Zoning Board of Appeals](#) Co-chair Jeff

Rose opened the continuation of the Public Hearing from July 7, 2022 at 6:32 pm.

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.

2.

Mr. Parisi, representing the applicant, asked for an opportunity to respond to comments made by the public at the previous meeting, and further requested that the option for the public to make comments in the Zoom chat be disabled. In consultation with town counsel, it was agreed that chat comments related to issues of the hearing itself (ability to see and hear adequately) would be allowed, but all comments on the merits of the application would need to be made orally after the raising of a hand.

- In regard to the balloon tests and photographs, Mr. Parisi spoke of a miscommunication with the visibility consultant concerning the times of the balloon test, and offered to redo the test with the balloon at the right height on the following Saturday (July 18) with appropriate notice in the paper and to abutters. If pictures presented with the application are deemed inaccurate, they will be retaken. A member of one

of the boards will attend the test to confirm the height of the balloon.

- Mr. Parisi maintained that the height of the tower is a Planning Board issue; Co-chair Gould countered that the height of the tower is a Zoning Board of Appeals issue. Town counsel Jonathan Eichman affirmed that the standard to be applied according to the bylaw, and the criteria for the variance, means that the ZBA needs to know what the tower will look like.
- Herb Guyette, Buckland Fire Chief presented a series of maps indicating the dead area for radio signals, and how an added cell tower would greatly improve signals for emergency services. Typically, a request is made to the owner of the tower for space for an antenna at no charge to the community; Mr. Parisi indicated that he was familiar with such requests, and that tower owners typically grant the request as long as the request is reasonable.

3.

Additional Board Questions/Comments

- ZBA Co-chair Rose asked if adding emergency services meant that there would be space for 3 carriers rather than 4 carriers on the tower? Mr. Parisi said there would still be space for 4 carriers.
- Discussion regarding alternative sites proposed by Mr. Holden in his letter to the boards, and reviewed by Fred Goldstein, consultant. According to Mr. Goldstein, the Purington site, which is not far from Alternative C, has similar weakness to Alternative C, and neither would offer coverage to Upper St. Another site, Collier Rd., would not offer

coverage to the Rt. 112 corridor, and does not solve the problem the proposed tower addresses.

- ZBA member Robin Bestler asked if additional towers are anticipated for Buckland. Mr. Parisi indicated none are anticipated in the foreseeable or near future.
- PB member [Andrea Donlon](#) asked Mr. Goldstein if he has access to information about how other towers close to Buckland that have 2, 3 or 4 carriers. Mr. Goldstein responded that information is not available to the public.

4.

Additional Public Questions/Comments

- David Christopher Lenaerts (town hall), 49 Upper St., Buckland presented a scale construction/drawing showing the average tree canopy height of 70'; the steeple of Mary Lyon Church of 75', and a 150' tower. Mr. Lenaerts asked the boards to consider a more modest proposal: 3 carriers rather than 4, and a tower height of 110'. He also asked for three new balloon flights rather than one.
- Dale Moss (town hall), Ashfield Rd., Buckland asked the boards to consider the health effects of cell towers, which are concerning to her, particularly 5G service and the potential impact on the health of individuals and the environment.
- Christopher Franceschelli (Zoom), property owner, spoke about the three years he and his family have deliberated the idea of having a tower built on their property, pointing out that he himself is a father, and has a long family history on the site and in the community, and that the potential health effects were of particular interest and concern to him. Mr. Franceschelli expressed support for the proposed tower as a "reasonable solution" to the need, and while appreciating the difficulties of having the tower be seen in the environment, asked that the town not be "frozen in time."

- John Holden (town hall), 27 Orcutt Hill Rd., Buckland offered his gratitude for the investigation of alternative sites. Mr. Holden asked if, when the balloon test was redone, if there could be a representation at various heights where the antennas would be located, as well as 10' above the tree canopy and the top of the tower. Mr. Parisi responded that ribbons could be attached to the balloon's tether at the following heights: 90' "in compliance," 115', 125', 135' and 145' (these would represent the middle of each possible antenna) and 150' as the top of the tower. Cie Simurro, Buckland, asked how the public could attend the balloon event; the PB replied that the balloon tests were meant to be viewed from a distance.
- Kay Cafasso (town hall), 6 Orcutt Hill Rd., Buckland questioned whether valid alternatives had been adequately investigated, noting that there seem to be a lot of unanswered questions. Ms. Cafasso noted that this decision would likely set a precedent for future proposals, and called the board's attention to the gift of the natural landscape of the community. She asked if there are overlays available for coverage with the Ashfield tower in place. PB Co-chair Gould noted overlay maps are available on the town website with the application, and also noted the purpose of the bylaw is to keep the number of cell towers to a minimum.
- Janet Sinclair (town hall), 7 Ashfield St., Buckland noted that she had sent comments to the ZBA calling attention to the criteria for variances, the high standard to be met by property owners, and a reminder that the bylaws were passed by the town's residents. Ms. Sinclair said she found the applicant's proposal to be "heavy handed," and questioned if the ZBA had an obligation to grant a variance in this case. PB Co-chair Gould clarified that once an application has been submitted, it's not possible to go back to town meeting and change the bylaw.
- PB member Jon Wyman asked if a cell tower is ever painted green to help make it "disappear." Mr. Parisi responded that

yes, they have, though that only works when the tower is viewed from certain perspectives. Sometimes a cortan finish of brown, rather than galvanized silver, is used. Mr. Wyman wondered if that would make the tower show up even more in the wintertime. Mr. Parisi indicated that would not necessarily be the case.

- David Christopher Lenaerts, 49 Upper St., Buckland, suggested considering the “tree” model of a tower, and also noted the cortan finish to be an interesting idea.
- PB member Andrea Donlon asked Mr. Goldstein to return to Mr. Holden’s comments regarding the coverage from the proposed Ashfield tower, and how that relates to the gap area in Buckland. Mr. Goldstein responded that the signal from the tower goes from very strong to very weak very quickly, especially due to the steep terrain in Buckland. In fact, the coverage anticipated from the Ashfield and Buckland towers will “dovetail.” Mr. Parisi added that the different frequency maps are different from the Vertex maps: the quality of the signal vs. the coverage of the signal.
- David Christopher Lenaerts, 49 Upper St., Buckland asked who verifies the height of the tree canopy, and noted that using 70’ as “generous,” and 80’ as “unrealistic.” Tom Johnson, Vertex, noted information in the supplement to the application indicated that 80’ is the average, which is not constant. PB Co-chair Gould noted the average was taken by the access road, not at the proposed compound. Mr. Parisi noted that the tree canopy provision appears in many bylaws, but that the canopy changes over time, and that there is no definition in the bylaw for figuring the average.

5.

Next Steps

- The date and time of July 26, 2022, 6:30 pm were proposed for the

continuation of the public hearing. Mr. Parisi agreed to extend the process to July 26, and noted that the public comments are “all of the same nature;” maintained “all of the requirements of the bylaw have been met,” and “all of the alternatives have been explored.” He asked that the boards focus on this particular application; recognize the “years of due diligence” on the part of the property owners; stated that the application satisfies the requirements for the requested variances; and requested both boards to make approvals.

B. PB Co-chair Gould returned to the question of investigation of alternative

sites. Mr. Parisi stated that lots of sites were considered, and all of them had challenges. PB Co-chair Hoberman noted that the least common denominator led to the Rt. 112 option to be the best. Co-chair Gould asked to hear more about the process of site selection. Mr. Parisi said the process begins with identifying the gaps in coverage. Radio frequency engineers look at the topography, and contact is made with property owners with possible sites. PB member Jon Wyman asked if Vertex representatives knew the height and type of tower in Shelburne. Mr. Johnson responded that it was probably higher than 150’.

6.

PB Co-chair Gould addressed the waivers requested from the filing requirements, noting the Planning Board must begin with waivers in order to qualify Vertex Towers as an applicant so the application can proceed.

- Waiver request, 10-15.1 c “A licensed carrier shall either be an applicant or a co applicant.

PB Co-chair Gould noted that town counsel has advised granting this waiver with the following conditions, as offered by applicant, and suggested by counsel.

PB Co-chair Gould proposed waiver condition language: Because the board has not received notice of any wireless carrier intending to locate on this proposed facility, the board will adopt the condition proposed by the applicant, page 20 of the Supplement Project Narrative: "As an infrastructure developer, Applicant shall provide evidence of an executed lease for antenna space with at least one (1) duly licensed wireless carrier to the Buckland Planning Board and the regional Building Commissioner, prior to issuance of a Building Permit to construct the wireless service facility." Further, as this is a request that Vertex Towers, the applicant and an infrastructure developer, should be accorded the same standing as "licensed carrier" in the bylaw, that substitution shall hold and carry throughout the bylaw, to the effect that wherever "licensed carrier" or "applicant" are named, or have expenses or responsibilities under the bylaw, there shall be substituted "applicant and landowner", as advised by counsel. **(See 10-15 (1) (b) Co-applicants may include the landowner of the subject property.)**

PB Co-chair Gould moved, and PB Co-chair Hoberman seconded, the waiver be granted, with the above conditions. All in favor; motion carried.

- Waiver request, 10-15.5 "the applicant shall provide a statement listing the existing ... measurements of noise, measured in decibels Ldn ... for the following: existing, or ambient: the measurements of existing noise ... such statement shall be certified and signed by an acoustical engineer ..."

Discussion: given that bylaw requires measurements at 90 days from

operation and annually thereafter, and no variance or other relief from these requirements was requested by applicant, PB Co-chair Gould moved, and PB Co-chair Hoberman seconded, the waiver be granted. All in favor; motion carried.

- Waiver request, 10-15.6 “the applicant shall provide a statement listing the existing... of RFR ... a) existing, or ambient: the measurements of existing RFR ... b) ... the existing RFR environment.”

Discussion: same measurement requirements as for sound apply; therefore PB Co-chair Gould moved, and PB Co-chair Hoberman seconded, the waiver be granted. All in favor; motion carried.

- Waiver request re: no barbed wire be employed at the site, requires a variance. This can be added to a future order of conditions.

7.

Further Board Questions/Comments

- PB member Donlon will attend meet the visibility consultant for the balloon test on July 18, app. 7:30 am. Any changes to the scheduled test will appear on Mr. Parisi’s website.
- ZBA member Bestler asked if there are 4 carriers on the tower, will all have the same access to coverage? Mr. Parisi responded they will not be all the same, but “good enough.” Ms. Bestler asked if height can be added to the tower at a later date. Mr. Parisi responded that it’s not easy to do as the tower is not engineered for that type of addition.
- PB Co-chair Hoberman asked if the carrier at 115’ pays less for access. Mr. Parisi said no, the cost was a function of time - when a carrier decides to come to Buckland
- PB member Donlon asked if there are restrictions that prevent more than one carrier at the same tier location. Mr.

Parisi replied that the antennas cannot be at the same height, that there needs to be space for separation between antennas.

PB Co-chair Gould, confirming that town counsel Mr. Eichman and consultant Mr. Goldstein are available on July 26, moved to continue the public hearing to July 26, 2022, 6:30 pm; PB Co-chair Hoberman seconded; all voted in favor. ZBA Co-chair Rose moved to continue the public hearing to July 26, 2022, 6:30 pm; ZBA member Dennis Clark seconded; all voted in favor.

Meeting concluded at 8:54 pm

Respectfully submitted, Alison Cornish, boards clerk

DRAFT July 26 Hearing Meeting Minutes

Buckland, MA Zoning Board of Appeals and Planning Board

Joint Public Hearing Minutes

Date: July 26, 2022

Place: Town Hall and Zoom

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.

Meeting Agenda

1. Continue the ZBA and Planning Board hearings
2. Re-introductions and ground rules
3. Balloon flight conducted on July 16 and visual representations
4. Determine order of next phase of hearing
5. One board will proceed as determined in #4.
6. Schedule next hearing
7. Adjourn meeting

Attendees

Town Hall:

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

Jeff Rose, Co-chair, Zoning Board of Appeals

Jon Wyman, member, Planning Board

Francis Parisi, applicant's representative, Vertex

Andrea Donlon, member, Planning Board

Tom Johnson, engineer, applicant

Janet Sinclair, Buckland, public

Jonathan Mirin, Charlemont, public

Justin Lively, member, Zoning Board of Appeals

Randall Heminger, member, Zoning Board of Appeals

Dennis Clark, member, Zoning Board of Appeals

Christopher Lenaerts, Buckland, public

John Holden, Buckland, public

Laura Cunningham, Buckland, public

Kay Cafasso, Buckland, public

Bella Levavi, press, Greenfield Recorder

On Zoom

Justin Perotta, Town Counsel

Jim Rae, member, Zoning Board of Appeals

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Fred Goldstein, consultant
Michael Hoberman , Co-chair, Planning Board
Ho and Marti Taft-Ferguson
Christopher Franceschelli, property owner
Linda Shippee
Rick Leskowitz
Herb Guyette

1. Co-chair John Gould opened the public hearing at 6:31 pm on behalf of the Planning Board. Co-chair Jeff Rose opened the public hearing at 6:32 pm on behalf of the Zoning Board of Appeals.

2. Co-chair Gould noted a letter dated July 13th, 2022 that extends the time frame for the ZBA to consider the application to July 26, 2022.

3. Co-chair Gould re-introduced members of the ZBA and PB; Town Counsel Mr.

Perotta; and consultant Mr. Goldstein. Co-chair Gould reminded those attending the hearing via Zoom that the chat function is to be used only for issues of technology (trouble hearing or seeing), and not editorial comments.

4. Balloon test. An additional balloon flight took place on July 16, 2022. PB

members Andrea Donlon and John Gould met the vision consultants on site, and confirmed the intervals and overall height of the tethered balloon. The results,

including 2 pictures, are included in Supplement 4 of the application. Mr. Parisi commented that he had reviewed the process as agreed; reviewed the pictures

relative to the previous flights; confirmed internally the pictures were the same; and believes that Vertex has complied fully with the requirements of the bylaw.

Co-chair Gould commented that he is still concerned about the question of the tower being visible or not visible from certain locations. Mr. Parisi replied that judgment needs to be made by each individual.

5. Next steps.

A. Co-chair Rose stated that the ZBA is prepared to move forward in considering the requested variances: relief from the height, slopes and

wetlands requirements of the bylaw for the particular location reflected in

the application: 10-5 DIMENSIONAL REQUIREMENTS a) Height 2,

Ground mounted Facilities and b) setbacks, Setback from designated

wetlands; and 10-15 APPLICATION FILING REQUIREMENTS 1 GENERAL FILING REQUIREMENTS, c) A licensed carrier ...

B. Co-chair Rose noted that the abutters to the property have been duly

notified of this hearing.

C. Co-chair Rose then reviewed the authority and tasks of the ZBA for this

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application:

- In its consideration of the requested variances, to enable and empower the PB to be the Special Permit Granting Authority; and
- In its consideration of the requested variances, to apply two

standards: state (of Massachusetts) standards for variances as found in Section 11-2 of the local (Town of Buckland) bylaws; and, if those are not met; to consider the same requests under the Federal Telecommunications Act.

D. Co-chair Rose then reviewed the criteria for variances, found in SECTION

XI: ADMINISTRATION of the Town of Buckland Zoning Bylaws:

The ZBA shall hear and decide appeals or petitions for dimensional

variances from the terms of this bylaw, with respect to particular land or

structures pursuant to MGL Chapter 40A, Section 10, as may be amended

from time to time, only in cases where the Board finds all (all emphasized)

of the following:

1. a literal enforcement of the provisions of this bylaw would involve a

substantial hardship, financial or otherwise, to the petitioner or applicant;

2. the hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located;

3. desirable relief may be granted without either:

4. substantial detriment to the public good; or

5. nullifying or substantially derogating from the intent or purpose of

this Bylaw.

6. the ZBA does not have authority to grant use variances in any district in Town.

E. Co-chair Rose reviewed the process the ZBA will now embark upon:

1. Determine whether the application can meet the standards as set

forth in the bylaw; if so, the ZBA will act to grant the variance; if not,

the ZBA will produce a finding stating the reasons the standards were not met.

2. If the finding reasons the standards were not met, the ZBA will consider the same request under the Federal law.

3. Each variance request will be taken in turn.

F. Bylaw 10-5 a) 2 - height, that the tower height be no more than 10' above

the average tree canopy. The applicant has addressed the issue on page

9 of the supplement narrative of the application, and seeks relief.

ZBA

member Lively noted that the applicant has stated that the tower will not

perform as well at a lower height. Co-chair Gould stated that he does not

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see proof of hardship due to "circumstances relating to the soil conditions,

shape, or topography of such land or structures, and especially affecting

such land or structures but not affecting generally the zoning district in

which it is located." In other words, there is no hardship which particularly

affects the applicant's property but not the surrounding areas.

Co-chair Gould made a motion, with regard to variance requirements

1) literal enforcement would create a hardship; 2) hardship is physical/topographical, which especially affects the property in question

but NOT the surrounding area, 3:4) Relief can be granted without detriment to public good, 3:5) or without nullifying or derogating from

Purpose of Bylaw, the Zoning Board finds that the variance request can be

supported for requirements 1, 3:4 and 3:5. However, the proposal cannot

meet requirement 2) for the following reasons: in review of site visit and

maps and statements of applicant, topography hardship exists in the

surrounding area and does not uniquely affect the lot in question.

Therefore, as all requirements must be answered, the Board finds the

request as presented does not meet local standards for a variance.

Member Lively seconded the motion; all voted in favor.

G. Bylaw 10-5 b) 5, regarding the 150' setback from slopes >5%.

The

applicant has addressed the issue on page 11 of the supplement narrative

of the application, and seeks relief. Co-chair Rose noted that he has the

same view of this request as the previous request: there is no hardship

which particularly affects the applicant's property but not the surrounding

area.

Co-chair Gould made a motion, with regard to variance requirements

1) literal enforcement would create a hardship, 2) hardship is physical/topographical, which especially affects the property in question

but NOT the surrounding area, 3:4) relief can be granted without detriment

to public good, 3:5) or without nullifying or derogating from Purpose of

Bylaw, the Zoning Board finds that the variance request can be supported

for requirements 1, 3:4 and 3:5. However, the proposal cannot meet

requirement 2) for the following reasons: in review of site visit and maps

and statements of applicant, topography hardship exists in the surrounding area and does not uniquely affect the lot in question.

Similar

topography and wetlands exist in other nearby locations.

Therefore as all

requirements must be answered the Board finds the request as presented

does not meet local standards for a variance. Co-chair Rose seconded

the motion; all voted in favor.

H. Bylaw 10-5 b) 5, regarding the 150' setback from wetlands.

The applicant

has addressed the issue on page 11 of the supplement narrative of the

application, as above, and seeks relief. Co-chair Rose noted that these

two requests were bundled together in the application, but need to be

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considered separately, and that the same determination - there is no hardship which particularly affects the applicant's property but not the surrounding area - applies.

Co-chair Gould made a motion: with regard to variance requirements

1) literal enforcement would create a hardship, 2) hardship is physical/topographical, which especially affects the property in question

but NOT the surrounding area, 3:4) relief can be granted without detriment

to public good, 3:5) or without nullifying or derogating from Purpose of

Bylaw, the Zoning Board finds that the variance request can be supported

from requirements 1, 3:4 and 3:5. However, the proposal cannot meet

requirement 2) for the following reasons: in review of site visit and maps

and statements of applicant, topography hardship exists in the surrounding area and does not uniquely affect the lot in question.

Similar

topography and wetlands exist in other nearby locations.

Therefore as all

requirements must be answered the Board finds the request as presented

does not meet local standards for a variance. Co-chair Rose seconded the

motion; all voted in favor.

I. Co-chair Rose stated that the previous discussion and findings were

related to requests for variances. In this matter, as stated previously, a second, Federal standard applies, stemming from the Telecommunications Act of 1996 (47 U.S.C. 332 (c) (7) (B) (i), (iii)). That standard provides as follows:

(i) The regulation of the placement, construction, and modification of

personal wireless service facilities by any State or local government or instrumentality thereof -

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of

personal wireless services.

(iii) Any decision by a State or local government or instrumentality thereof

to deny a request to place, construct, or modify personal wireless service

facilities shall be in writing and supported by substantial evidence contained in a written record.

J. In regard to Bylaw 10-5 a) 2 - height, Co-chair Rose noted that the ZBA

had heard affidavits from the site engineer and RF engineer, and reviewed

the report of consultant Fred Goldstein, establishing that the height

requested greater than the bylaw requirement of 10' above average tree

canopy height is necessary for the purpose of the facility, and further

noted the ZBA must consider whether it is also appropriate for the purpose of the bylaw. Co-chair Rose read the following from Mr. Goldstein's report:

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"The existing bylaw's rule about not going more than 10' above the tree

Canopy does not, frankly, seem reasonable, for two reasons. One is that

the minimum height is usually taken to be 15', both to let the antennas

adequately clear the trees and to allow for a few years' tree growth. The

other is to allow for collocators."

Co-chair Gould reminded the board and the public that the ZBA, in its

considerations, is "unlocking" restrictions, but is not the Special Permit

Granting Authority.

Co-chair Gould moved that the ZBA, in consideration of the applicant's

representation, and corroboration by the town's consultant, finds that the

request to exceed the bylaw height requirement of 10' above average tree

canopy height, is appropriate and necessary to fulfill the multiple carrier

requirements of the bylaw, and to reduce the necessity for additional

towers, and further finds that strict compliance will create conflict with the

Telecommunications Act, and therefore votes to grant the variance request for a height greater than 10' above average tree canopy height, up to and not to exceed the bylaw maximum of 150'. Co-chair Rose seconded the motion. In discussion, it was emphasized that passage of this motion

would allow the PB to act. All voted in favor of the motion.

K. Bylaw 10-5 b) 5, regarding the 150' setback from slopes >5%. Co-chair

Gould noted that the ZBA must take into account what, in these circumstances, would be workable and effective, and what might be an

unreasonable and impractical requirement. Noting that Buckland is a

hilltown, and because a cell tower would most practically be located on a

slope, and because it is in the interest of the town to minimize the number

of cell towers needed, the best choice would be the one that best serves

the purposes of the bylaw, to minimize the number of towers needed.

Co-chair Gould moved that the ZBA find that, given the nature of the

project being regulated, this provision of the bylaw may create the effect of

a prohibition, such that strict compliance will create a conflict with the

Telecommunications Act, and therefore votes to grant the request for a

variance to the requirement of 150' setback from slopes greater than 5%.

Member Lively seconded the motion; all voted in favor.

L. Bylaw 10-5 b) 5, regarding the 150' setback from wetlands. Co-chair

Gould noted that the applicant will place a Notice of Intent (NOI) with the

Conservation Commission and the Massachusetts DEP to allow for this

placement. Member Lively noted that he was satisfied with the applicant's

explanation at the site visit. Co-chair Gould noted that, through the site

visit, submitted materials, and other evidence, the ZBA has not observed

evidence of a negative effect to the portions of the 150' setback requirement which lie outside the jurisdiction of the Conservation

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Commission.

Co-chair Gould moved that, given protection of wetlands generally lies

within the jurisdiction of the Conservation Commission, in considering a

request to vary the 150' requirement as to wetlands, and per recommendation, the ZBA grant the request for a variance to the 150'

setback to the wetlands requirement, conditional upon the Conservation

Commission approval of the project as it falls within their jurisdiction, and

further, that the board find that strict compliance will cause a conflict with

the Telecommunications Act, and vote to grant the variance request.

Co-chair Rose seconded the motion; all voted in favor.

M. In regard to 10-15-1, Co-chair Rose noted the ZBA does not need to take

action as the appropriate waiver has been granted. Mr. Parisi, representing the applicant, withdrew the request for a variance.

N. Co-chair John Gould moved to close the ZBA Public Hearing.

Co-chair

Rose seconded the motion; all voted in favor.

6. Public Comment

John Holden, 27 Orcutt Hill Rd., Buckland

- Voiced appreciation for the additional balloon test
- In regard to the style of tower - if 120', then "tree" style makes sense; if

150', it doesn't

- Believes a shorter tower would not present a hardship, as there would still

be room for 2 - 3 carriers

- Requests the Planning Board grant a height of no more than 120' and also

the most camouflaged style - this would be a good compromise

Christopher Lenaerts, 49 Upper St., Buckland

- Request there be a public comment period at the next meeting
- If the boards aren't requiring the applicant to adhere to the letter of the

bylaw - 10' above the tree canopy - then can the PB adhere to the spirit

- In this area, some towers have only one carrier, none more than two

- [Mr. Lenaerts walked the boards through the drawing he had presented

previously, showing comparative heights of the tower, the Mary Lyon

Church steeple, and the tree canopy]

- Noted the applicant has had “many years” to assemble the application,

while the public has had a limited time to review it

Janet Sinclair, 71 Ashfield St., Buckland

- Request that more time be allowed for public comment so all may fully

understand the implications of the ZBA’s actions this evening

- If not spoken comments, is it possible the period for written comments can

be extended?

Kay Caffasso, 6 Orcutt Hill Rd., Buckland

- Requests that the height of the tower be balanced with the public’s need

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to be safe and preserve the town’s rural character

- Finds the proposed height of 150’ “mind boggling”

- Asked if the town had additional consultants besides Mr.

Goldstein (no)

Laura Cunningham, 27 Orcutt Hill Rd., Buckland

- Echoes the sentiments expressed by others

- Also understands there is no such thing as an “invisible tower”

- Hasn’t heard clear justification for a 150’ tower to serve the town

- more a

case for Vertex’s purposes

- Suggested requiring the cortan finish for the tower

Jonathan Mirin, 224 Avery Brook Rd., Charlemont

- Thanked the boards for their work

- Requested the PB to reject the application, believes that everyone will

soon have cell phone coverage via satellite (Mr. Parisi noted that satellite

coverage is likely limited to text, not voice)

- Emphasized the rural character of Buckland

7. Co-chair Gould moved to close the public hearing for spoken comment, with the allowance for written comments to be submitted until 5:00 pm, Friday, August 4th.

Co-chair Hoberman seconded the motion. In discussion, Ho Taft-Ferguson (on

Zoom) said that closing the public discussion was not in the interest of the town.

Mr. Lenaerts said that useful information might still come to light. PB member

Wyman noted that although many of the same people are speaking, there was a

notable shift in position, with more acceptance of a tower, though a shorter one

than proposed. Co-chair Gould called for a vote; all voted in favor of the motion;

Co-chair Hoberman noted that the PB has the ability to re-open public comments

if so needed.

8. Member Wyman moved that consideration of the application be continued

August 11, 2022 6:30 pm as a hybrid meeting; Co-chair Gould seconded; all

voted in favor. Meeting concluded at 8:45 pm.

Respectfully submitted, Alison Cornish , Boards Clerk

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Documents list

D-1) Variance Notice of Decision-height

D-2) Variance Notice of Decision-slopes greater than 5%

D-3) Variance Notice of Decision-Wetlands

1. Application for Variance
2. Abutters' List report (with 2a)
3. Legal notices-Hearing
4. Notice to Abutters
5. Joint Public Hearing-posting (5a)
6. Legal notice- Balloon demonstration (6a- public notice) First balloon flight (6b- public notice, second balloon flight)
7. Planning Board/ ZBA joint site visit report
8. Supplemental balloon test site visit report
9. 7/12 Continued Public Hearing notice
10. 7/26 Continued Public Hearing notice
11. Notice to Abutters-Decision
12. Letters of extension