

DRAFT—NO LEGAL VALUE

Minutes

Joint Meeting Planning Board and Board of Adjustment

February 6, 2020

Members of the Planning Board in attendance were Charles Moreno, Chairman, Phil Auger, Terry Hyland, and Scott Young, ex-officio member.

Members of the Board of Adjustment in attendance were Rick Ferreira, Chairman, Susan Arnold, Charles Burnham, Scott Hodgdon and Ashley Rowe, Alternate members.

The Planning Board Chairman called the combined session to order at 7:35 PM and announced the members present. Rick Ferreira began introductions of members of the Board of Adjustment and, noting two absences, designated Scott Hodgdon and Ashley Rowe as voting members for this meeting.

The closing date for applications to appear on the agenda for the March 2020 regular Planning Board meeting will be 5 P.M. Tuesday, February 11, 2020; revised materials for continuing applications must be submitted by Tuesday, February 25th. The Planning Board Chairman advised that the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 PM and that the meeting will adjourn by 11:00 PM. Board members agreed to postpone consideration of the minutes until after formal business.

There were no items of new business for either Board. The first item of continuing business before the Planning Board was the application of MANDY YOUNG for two-lot subdivision of her property located at 633 First Crown Point Road (Tax Map 19, Lot 70). Rick Turner, the surveyor for the project, has requested that further discussion be postponed to the next regular Planning Board meeting.

The second item of business before the Planning Board was to call on Francis Parisi, Esq. representing VERTEX TOWER ASSETS LLC for Non-Residential Site Plan Review for the construction of a telecommunications tower to be located on the land of the Bertha Huckins Revocable Trust, 22 Hillside Drive, off Huckins Road (Tax Map 11, Lot 4). VERTEX TOWER ASSETS LLC has also applied for Variances to Article 1.4.2 H (b) from the Board of Adjustment regarding the proposed height of the tower and the requirement for disguise. Tonight's joint meeting is a continuation of Case Number #418 before the Board of Adjustment, carried forward from the January 8, 2020 meeting of the Zoning Board of Adjustment.

Atty. Francis Parisi addressed the Boards on behalf of the applicants and expressed his thanks to the Zoning Board for joining in tonight's meeting. He said that he feels that the joint meeting is more efficient at this stage because of overlapping information and jurisdiction in the consideration of this project. He noted that the site plans have been revised in accordance with Planning Board requests and that they have applied for variances. This is the third Planning Board meeting and second Zoning Board meeting on the project. He said that it would be appropriate for the consultant to present his report at this time, and Mr. Parisi said that he did not feel that the questions from the consultant had required additional data, etc.

Board members then turned their attention to David Maxson of Isotrope LLC who was retained by the Boards as a technical consultant to review the plans on behalf of the Boards. Atty. Keriann Roman was also present on behalf of the Boards. Mr. Maxson explained that he has peer reviewed over 500 applications over the past 25 years and has worked with Fran Parisi in the past, and he thanked Atty. Parisi for his responsiveness to his questions. Mr. Maxson said that Strafford's ordinances are slim but straightforward in comparison with towns that have more complex performance criteria. One of the few performance criteria for Strafford is the requirement that the tower be disguised. Mr. Maxson noted the various strategies for disguising a tower, including camouflage, which has been mentioned here. He noted that the monopole-style tower is felt by some to look less industrial. He noted that the minutes discuss the question of whether paint is a disguise, and the background of trees.

Moving forward, he noted that the town zoning restricts towers to 20 feet above the tree canopy. The applicants have calculated the tree canopy at 81 feet, rounded to 80 feet, so for 20 feet above the canopy, the applicants have done some comparative modeling, looking at the height analysis starting with 75 feet up to 135 feet.

He noted that many ordinances want both collocation and a height limit, but that Strafford's ordinance just addresses height. Mr. Maxson then displayed a map showing the coverage footprint for the proposed tower with a height cap of 100 feet, noting that there is not a huge difference between 100 feet and 135 feet. He said that a cell company could come in and be successful using a 100 foot tower. Mr. Maxson noted that the applicant is a tower company, not a cell phone company, so they are encouraging a higher tower to accommodate collocation because of their business model, which is to lease space on the tower to cell companies. The point of a height restriction is that it provides one way to minimize visual intrusiveness. Mr. Maxson then turned to the photosimulations and noted that the results depend on the field of view of the camera. He said that he has asked the applicants for information on the focal length of the camera used, but he does not have the data at this time to know if a normal or wide field of view was used.

Mr. Maxson noted that generally, applicants have data on at least one wireless service that has identified a specific search ring that they want covered, but it appears in this case that they have populated the maps using generic data. Based on this, it is easy to conclude that there is a deficit in a general sense, he said, but you cannot know where any specific carrier would actually put a search ring if they came to town. It seems that the applicants are trying to anticipate what the carriers might want, so they have picked a spot near the center of town near a numbered state road, but you do not know if carriers would pick that same spot for a search ring. He said that the applicant is also making inferences about carriers handing off signal—for example so that you can keep signal as you drive through town. However, since the applicants are not working with any particular cell company, they are not privy to that data. What is known, Mr. Maxson noted, is that the area identified on these propagation maps includes a lot of undeveloped land, and he noted that hikers on Parker Mountain are probably on high ground and can hit a cell site, so there is probably not a critical need for service in some of the area that would be served. He noted that there may be alternative locations that would double the number of residences served, or locations that might not be available to this applicant, although other cell companies might have access. If the Boards are asking if a denial of this application would be an effective prohibition of service, the question is not the tower but the cell services. You need to determine what is in the best interest of the cell services. He said that you can look into alternative locations, but there are no guarantees.

Ashley Rowe asked about the height analysis maps submitted by the applicant. Mr. Maxson explained the map based on -113 dBm, which is the weakest signal (outdoor coverage, etc.), showing the signal strength for low frequency (700 mhz) transmissions (capable of getting through vegetation) at various heights. Maps are also provided for -105 dBm and -95 dBm; the latter is a strong signal that can penetrate commercial buildings, etc. He explained how using phones when signal strength is low 'wastes' resources by capturing signal from those who might be closer. He said that wireless companies have this data. Without the actual data, you can only make inferences. Charles Moreno asked what drives cell companies—public buildings or homes. Mr. Maxson said all of the above. Mr. Moreno asked if the tower is built, if cell companies would change their search rings accordingly. Mr. Maxson said that they may or may not have sites chosen, and that the large amount of undeveloped land would be a waste of some of the cell site, so he wonders if there is a more strategic location. He said that cell carriers do not know what they will need in another 12 or 18 months, and without a particular carrier's data, it would be guesswork to try to identify locations. Susan Arnold asked how common it is for a tower company not to be working with a carrier. Mr. Maxson said that it is not common; usually there is at least one carrier. Charles Moreno asked if Mr. Maxson had seen communities where construction approval was conditional upon getting a carrier. Mr. Maxson said that this would be a question for counsel. He said that companies identify search rings based on internally documented needs, loading on the cell sites, customer density, etc. They might look at 10 or 15 sites and prioritize based on other factors as well, such as access to fiber, etc. Susan Arnold noted that decommissioning had been mentioned, and asked about plans for decommissioning for this project. Mr. Maxson said that there is no indication that cell towers are going away; he believes that the towers will be needed for the next 20 to 40 years. He said that some communities are requiring bonds, but that he has never seen a cell company go bust, creating the need to invoke a bond. He said that bonds are burden for the town to maintain and a regulatory burden, and that he sees no need for a bond. Atty. Roman said that regulations require a removal agreement and that she would deal with that.

Terry Hyland asked if high ground is better for locating towers. Mr. Maxson said that this is not always the case, as bowl-shaped terrain can also be good. It depends on the terrain, he said. Charles Moreno asked if some towns have multiple towers to handle multiple carriers. Mr. Maxson said that it does not happen often, but it does happen. It goes back to the search rings, he said. If the tower is built, they would have the option to apply to increase the height, or to build nearby or to go to a completely different site. It is incremental he noted; you start out with what you need. All the carriers do not come at once. If there is only space for one or two carriers on the tower, then a third carrier would deal with the situation. Charles Moreno asked if the tower could be heightened. Mr. Maxson said that it depends on the ordinance and that they would need to demonstrate that additional height was needed.

Rick Ferreira asked about the best means of disguise. It was agreed that it makes a difference if the tower is against the skyline or the hill is a backdrop. Discussion returned to the photosimulations and the questions about the camera angles. Susan Arnold asked if the Board could request more photosimulations, and Atty. Roman said that this should be clarified. Ashley Rowe then asked about the First Net program. David Maxson explained the program, which involves AT&T. For a town like this, he said, calls on the e-911 network are probably more of a concern. Michael Richard, the Police Chief, noted that Verizon has better coverage around here than AT&T and that Verizon is offering first responders access for emergencies.

Discussion returned to the painting/color question and disguising the tower. Mr. Maxson said that the reason they give for the silver poles is the sky, and agreed that color is one aspect of visibility. Susan Arnold asked to go back to the question of alternative locations. She asked how the Board could go about getting a better sense of whether there are other alternatives. Mr. Maxson said that he could check the parcels database and/or the Board may have local knowledge of locations that they would like to have people consider. He said that you are back to the search ring question, because normally you would be looking for alternatives that serve the search ring objective, while here you are looking at a gap. The applicant has put the proposed tower roughly in the center of the gap. Charles Moreno asked if the tower would need to be above the tree canopy if the land around the tower was cleared, and David Maxson advised that the issue is topography as well as trees. It is case by case, he said. Susan Arnold said that the applicants have presented the Boards with the proposal and information on sites that do not work but maybe we need to look more broadly to find a site that is reasonable.

There being no further questions from Board members, the Planning Board Chair opened the public hearing to public comment. Atty. Parisi asked to speak first. He said that he has been working in Strafford for two years and that you need a willing landowner. The proposed site will be expensive, he said, as they will need to build almost a ¾ mile access road. Vertex builds outside of the main infrastructure areas, he said. He advised that he would agree to a condition that the tower would not be built until they have a carrier. Strafford is challenging because of the terrain, he said. The different cell companies use different criteria to determine their needs, he said, but he reiterated his statements that they believe that the proposed site is the best location, as visibility is limited and the location would fill the identified gap in service based on the cell coverage maps. He said that nobody has said anything negative about this site, and there has only been one place identified that would have a good view of the tower. We are only seeking site plan approval and a couple of variances, he said. A shorter tower would be beneficial for one carrier, but his company looks at economics and pulls it all together, so they are asking for the taller tower. He said that he thinks that the trees around the tower will continue to grow, so the canopy height will increase, and they will need the extra height. He said that they always have to get variances, and that the towers are not economically feasible otherwise. Having the tower will be a great benefit to the town, he argued. This tower is for Parker Mountain Road he said, and some benefit for Roller Coaster Road. For a future tower that will benefit Bow Lake, it will have to be visible, he said. They are also targeting another area here that will help the western part of town, he said, and another site in Barrington. He said that companies do not want islands of coverage that do not connect. As for the variances, he said that the variances they have requested do not have any impact because they did not have visibility. For visibility, they can paint the tower any color. They think that painting makes it more visible, but they will agree to whatever is requested. Charles Moreno noted that Eversource is using burnished brown steel towers for replacement poles on the interstate power lines, and Susan Arnold noted that dull brown has been used successfully in Franconia Notch. Terry Hyland said that the color is known as flash rust. Discussion continued about the visibility question. Rick Ferreira asked how many carriers they are hoping to attract, and Mr. Parisi said that there are four carriers in the market, so they anticipate four. He said that Vertex has been successful with their strategy and that they had twelve towers approved last year without carriers. Finally, he said that some information, such as soils analysis, would not be completed until they have an approval and begin site specific work for the building permit application. He then recapped his overall presentation. Scott Hodgdon asked if he they had contacted other landowners.

Chairman Moreno then again opened the hearing to comment from the public. Lester Huckins addressed the group and noted that the tower would bring in tax revenue, so would be a benefit to everyone. Michael Richard asked Mr. Parisi if the tower would have room to mount a local repeater for Strafford County. Mr. Parisi said that they get that request all the time and that the answer would be unequivocally yes. He said the repeater could go at the top of the tower and would not be invisible because of its size. Eric Almanzan said that the proposed location looks good. Scott Schroeder complimented David Maxson on his presentation of the current state of the cell industry, and said that the group should be aware that some people are against this. He said that he feels that the process should be similar to the process for drafting a Master Plan—get citizens together and determine the best locations. He said that he respects

that they have spent the time, but that he feels that the town could put together a master plan for cell coverage that would serve the town as a whole. He said that although he would love to get improved signal, this proposal does not cover enough, and that he thinks that the town can do better. Charles Burnham asked if there were any towns that approached this question by going to the carriers and asking for the location of their search rings. Mr. Maxson said that trying to contact the carriers on this issue would be difficult. There was some discussion of the process used in some other communities such as Rye, where the town identified areas for tower development. Mr. Maxson again noted the limitations when the proposal is based on a generic map rather than specific coverage needs for an individual carrier. It was noted that for the future, Strafford could work toward identifying a wireless overlay district that specifies locations for potential cell tower locations. There were no additional comments and the Chairman closed the public hearing.

Atty. Roman noted some concerns about the site plan, and asked Mr. Parisi about the 12-K notices. She noted the following items:

- NEPA/NHPK approvals for wireless carriers are a federal condition of approval, she noted, and would be the responsibility of the tower company as landlord.
- Concern about the length and engineering of the driveway, and suggested that a condition of approval would be to meet the driveway regulations in the subdivision regulations.
- A performance agreement for removal at the time of decommissioning.
- Finally, Atty. Roman said that she would like to review the easement for access, and she advised that the access easement will need to be recorded. Atty. Parisi said that they are working on a lease, not a real easement; Atty. Roman indicated that she still wants to review the documents for recording.

Finally, Atty. Roman asked the Boards if they wished to have a statement from the applicants regarding the other landowners contacted for this project.

Chairman Moreno advised that the next Planning Board meeting will be on Thursday, March 5<sup>th</sup>. Mr. Moreno clarified that the plans have been accepted as complete, but that acceptance does not indicate that Board members have completed a thorough review or had time to thoroughly read the consultant's report. Atty. Roman asked that Board members look over the plans and communicate any concerns to her in advance of the next meeting. Atty. Roman noted that the Boards will need to deliberate separately from here forward. Mr. Parisi said that he needs to know if there are any additional questions. Atty. Roman said that as the Board's attorney, she can communicate with the Chair. Atty. Roman then said that she would like to see the applicant and the Board agree to continue the site plan application forward to the next regular meeting, which would fall a day past the statutory deadline for action unless the review has been continued forward by agreement with the applicant. Francis Parisi agreed to extend the deadline for review one day to the March 5<sup>th</sup> meeting. Phil Auger then made a motion to continue discussion and review of the Vertex Tower application to the March 5<sup>th</sup> meeting. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. Further Planning Board review will take place at the regular meeting on March 5<sup>th</sup>. Rick Ferreira then moved to continue discussion and review by the Zoning Board of Adjustment to March 11<sup>th</sup>. Susan Arnold seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. A scheduling conflict was noted immediately, and the Board of Adjustment reconvened. Ashley Rowe then made a motion to schedule the follow-up Zoning Board of Adjustment meeting on this case to Friday, March 6<sup>th</sup> at 5:30 PM. The Zoning Board Chairman advised that he can also send questions and concerns to Atty. Roman, and advised Board members that they should let him know if they have any additional questions as they review the plans and the consultant's report. Rick Ferreira then moved to adjourn the Board of Adjustment part of the joint meeting. Ashley Rowe seconded the motion, there was no further discussion, and the Board of Adjustment adjourned.

Planning Board members then turned to several items of informal business. John Peacock was present to consult with the Board regarding possible subdivision of a small lot near his home under the conservation development regulations as a possible trade for the lot subdivided out of his farm by the previous owners. Board members noted concern with the small size of the proposed lot and with meeting the setback requirements if siting a new home in the field area. Cecil Abels III then approached the Board regarding his proposal to start a food truck business if the truck was parked at his residence on Sloper Road when not in use. It was noted that the state has health and safety regulations and licensing for food trucks. Mr. Abels has already met with the Fire Chief. Board members asked if the truck would be open for business on Sloper Road, and Mr. Abels indicated that it would not. Phil Auger asked if the business would be wholly contained the truck or whether the home would be used for food preparation or storage. Mr. Abels said that he has a smoker on a trailer, but otherwise everything is contained in the truck. He would like to use

the Sloper Road address to register for the business, he said. Phil Auger said that if there is no cooking or processing at the Sloper Road address, if the truck is not operating as a restaurant at that address, and if there is no extra vehicle traffic, no deliveries, there should be no problem, and Board members noted the similarities with a recent request for a home office on Ricky Nelson Road. Phil Auger advised that it would become a zoning issue when/if the business grows and Mr. Abels needs a building. He will need to come back to the Planning Board if he needs a structure, they said. Mr. Abels asked if there would be any issue with catering events out of his truck. Board members agreed that catering would be okay. Scott Young noted that the Selectmen are developing a hawkers and peddlers ordinance for Strafford, which would apply if he sets up the truck locally.

There being no further business before the Board, Scott Young then made a motion to adjourn the meeting. Terry Hyland seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 10:45 PM.

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