



## TOWN OF WAKEFIELD, NEW HAMPSHIRE

Held in the Meeting Room

Planning Board Minutes

October 6, 2022

Approved

MEMBERS		ALTERNATES		OTHERS	
Tom Dube Chairman		Johnny Blackwood		Victor Vinagro, Building Inspector/Code Enforcement Officer Shoreland Officer	✓
Doug Stewart Vice Chairman	✓	Stephen Leroux	✓	Peter Gosselin, Building Inspector	
Ken Fifield Selectmen's Representative (via Zoom)	✓				
David Silcocks, Member	✓			Steven Whitley, Town Counsel	✓
Dick DesRoches, Member	✓			Public Hearing	✓

### **Others present**

John Kenney, Dave Stewart, Dino Scala, Matt Peterson KNA, Bryan Berlind, David Stewart, John Sprague and Michelle Keating from Clearview Community TV.

Via Zoom: Ivan Pagicik, Erik Eveleth, and Bob Benson

### **Pledge of Allegiance & Call to Order**

Mr. Stewart called the meeting to order at 7:40 and those present joined him in the flag salute.

### **Seat Alternates**

Mr. Leroux was seated for Mr. Dube

### **Public Comment**

None

### **Public Hearings**

#### **Major Subdivision Plan Application and Conditional Use Permit Application**

Submitted by Barry Gier, P.E., Jones & Beach Engineers, Inc., Stratham, NH, for property owned by Linda Wickers Williamson, of 47 School St., Charlestown, MA, on Donahue Road, Tax Map 171, Lot 12, total acreage 38.825-acre. The applicant is seeking approval of a Major Subdivision Plan to create 11 residential lots in the Residential 2 Zone.

The applicant withdrew this application without prejudice.

**Mr. Silcocks made a motion, seconded by Mr. DesRoches, to accept their request to withdraw the application. (Vote 5-0)**

### **Continuance of the Major Site Plan Application**

Submitted by Francis D. Parisi, Vertex Tower Assets, LLC for property owned by Savannahwood, LLC; located on Province Lake Road, Tax Map 92-34. The Applicant is seeking an approval for a Major Site Plan Application in order to construct a personal Wireless Service facility consisting of a 120' tall monopole tower (126' to top of highest appurtenance.)

Mr. Stewart asked Mr. Parisi if he had anything to present to the Board and if he will have any discussion at all with the Board. Mr. Parisi said he has nothing to present and that he would answer questions. Mr. Stewart asked if the applicant had requested any waivers. Mr. Parisi said they didn't request any waivers. There was a discussion amongst the Board as to whether Mr. Paris should request waivers to be compliant with the town's Site Plan Regulations. Mr. Parisi stated that there were no issues on this site concerning wetland or drainage. Mr. DesRoches asked if there would be no wetlands delineation would the applicant need a waiver. Mr. Fifield said this isn't a question of buildable land as it is such a large lot that this won't be an issue.

Mr. DesRoches said the applicant has to meet all the requirements of the Site Plan Application. Mr. Stewart said there are general development standards, conformity around whether it meets the town's masterplan, zoning ordinance etc. He said he believes that what this comes down to is if someone wants to build on a piece of land. He doesn't believe this is a site plan issue. He doesn't see anything that they're doing wrong on the ground as far as our Site Plan Regulations go. Mr. DesRoches asked, procedurally, he doesn't recall having a discussion about things like delineating the wetlands, topography, and if these things are not going to be on the plan, then waivers are required.

This site is 136 acres. Mr. Fifield felt because this isn't like building a house on a much smaller lot and we were concerned with buildable land then you would be required to delineate the wetlands and steep slopes. Because this lot is so large there's not a question about if there's enough buildable land. Mr. Silcocks said this is 136 acres and if he doesn't ask for a waiver than it's supposed to be surveyed. Mr. Parisi said if you look at the site plan the engineer confirmed that there were no wetlands. He said the surveyor notes that they didn't do a complete metes and bounds survey they did a record survey from documents. They aren't doing a subdivision so there is no need to do one. Mr. DesRoches feels that there isn't a need to do one but waivers have to be requested as the regulations require you to do a full survey. We need to determine if there are any waivers required so we can follow the site plan.

Mr. Silcocks said he sees they surveyed the impacted area based on previous maps. Mr. DesRoches said we need to make sure we follow our own regulations. There were more discussions on waivers and which waivers needed to be requested. Mr. Parisi said he believes the Board can approve the Site Plan as submitted. Mr. Whitley said the Board can vote to waive any information not on the plan. Mr. Parisi said he saw on the website a checklist of about 100 items. He said if you'd like we can go through all of them and I can tell you where they are on the site plan or which ones aren't applicable like septic and sewage. He said the Board has approved site plans based on the totality of the plan. Mr. DesRoches felt the Board shouldn't make him go through all of the listed items. Mr. Whitley said the Board could waive any information that wasn't presented in the plan they have so you have that on record if the Board feels they have enough information.

**Mr. Fifield made a motion, seconded by Mr. DesRoches, that after a review of the Site Plan that we will waive any information that's missing specific to our Site Plan Regulations and that are not relevant to the project. (Vote 5-0)**

Mr. Stewart opened the Public Hearing at 8:07 for questions or comments relative to the site plan only. Mr. Stewart closed the Public Hearing at 8:07.

Mr. Stewart opened a discussion about zoning aspect. Looking at the site and how it compares to the site north of it, the coverage that it would provide versus the coverage that the Kenney site is proposed to provide, He would personally make the argument that it is not providing a substantial amount of new coverage. The Telecommunications Act specifically talks about when municipalities look at new sites, they need to consider the amount of new coverage that would be provided. It is vague. It talks about substantial new coverage. Mr. Stewart asked what the other members think. Mr. DesRoches said there is additional coverage but it depends on what you consider substantial. He agreed that it doesn't provide significant additional coverage.

Mr. Leroux suggested we ask what our consultant considered substantial coverage. Mr. Pagicik answered that he does not have a definition. Mr. Stewart asked, in Mr. Pagicik's opinion, is there was a lot of new coverage or a minimal amount of new coverage? Mr. Pagicik said there is a little bit of additional new coverage. Mr. Whitley stated you have testimony from your consultant and the applicant has provided their opinion about the amount of coverage they are aiming to provide. He said it comes down to weighing the evidence and making a decision on whether you agree that there is additional coverage that would be provided by the Perkins Hill location.

Mr. Fifield said our ordinance references the Telecommunications Act. We're taking about substantial and he doesn't believe it meets substantial but our ordinance doesn't have specific language that says substantial and that's the issue we're wrestling with. Mr. Whitley replied, that's correct your ordinance speaks about a demonstrated need and Vertex believes they have satisfied that standard. They presented the maps and information to Mr. Pagicik and Mr. Pagicik did say there is some additional coverage provided at this location.

Mr. Whitley said it's the Boards task to decide whether or not, based on opinions from experts, if the language in your ordinance has been satisfied. Will new coverage be provided when the tower exists even if you include the Whittier Tower? Mr. DesRoches says our ordinance does say permit carriers to locate personal wireless service facilities in Wakefield, in compliance with the Telecommunications Act of 1996. He said it doesn't just reference it in some vague way. Mr. DesRoches asked, doesn't that incorporate those standards in some way into our zoning? Mr. Whitley replied said that is one possible interpretation. He said you have more clearly stated standards elsewhere in your zoning ordinance. Is there a demonstrated need for the service and is the location appropriate? You have already addressed this by going over the Site Plan Application.

Mr. Parisi said he is here for site plan approval and this is a permitted use in compliance with the Zoning Bylaws. We have provided evidence that there is a gap notwithstanding the Whittier Tower which is really all we have to provide. He said the federal standard does have a different standard but we complied with the Wakefield Zoning Ordinance. We also provided substantial evidence that there is no alternative because to move it further south would conflict with other existing towers. There will always be some overlap. By approving the Whittier Tower gaps were created to the north and south. There is a lot of topographical evidence to support this given the hills. Mr. Stewart said where we disagree is the amount of coverage, He doesn't think it's substantial. Mr. Parisi said the ZBA gave them a height variance based on that. Mr. Whitley does not believe that ties this Boards hands in regards to what they need to issue an approval. Mr. Stewart said in his opinion he agrees with Mr. DesRoches, the Ordinance does reference the Telecommunications Act and we need to follow that Act.

Mr. Stewart opened the Public Hearing at 8:20.

Mr. Kenney said there was a large group of people who came to the first meeting and they were adamant that they did not want to see towers across the horizon. They wanted to let Mr. Kenney get the first tower up, see what the coverage is, and if we need more coverage come on back. He stressed that no carrier is going to locate on all three towers. He believes a carrier will locate on his tower because of population. There are 425 homes in that area. Mr. Parisi said the Whittier Tower has been proposed for fifteen years and there is still no committed carrier. He said we have agreed not to build a tower until we get a committed carrier so he doesn't understand what the risk is to the Town. What we ask is that the Town approve the tower with the conditions from the Zoning Board of Adjustment.

Mr. Stewart said what we are grappling with here is our zoning. We have potential litigation and we need to consider that as part of this decision. Mr. Whitley said the standard for the Board here is what is clearly stated in the Zoning Ordinance not what is in the Telecommunications Act. Mr. Fifield believes what the Board is wrestling with is not what necessarily is the right decision but what is in the ordinance and the reasonable definition. He does agree that the vast majority who came to the hearing felt we should allow Mr. Kenney to put the first tower up and if additional coverage is needed then move forward with that. He doesn't think Vertex met substantial need but that may not be our standard.

Mr. Kenny said when he made an application for his tower, he saw that the ordinance said no towers within four miles of one another and one of the Vertex towers is 1.3 miles away. Mr. Stewart said it also says if there is a need it's allowed within the four mile radius. Mr. David Stewart talked about aesthetics and using camouflage on the tower. Mr. Benson who owns the land where the tower will be located said Mr. Kenney agreed that the Vertex tower would provide additional coverage. He believes everyone needs cell coverage. Mr. Stewart said there is a big concern that even if three towers go up carriers won't locate on all three therefore gaps will exist.

Mr. Stewart closed the Public Hearing at 8:40

Mr. Stewart asked Mr. Parisi what his thoughts were on the Board adding a condition of camouflaging the tower. Mr. Parisi answered the downside of camouflage is that it looks like you're trying to put camouflage on a cell tower. He said we could put pine branches on it but it will look like a cell tower with pine branches on it. He said galvanized steel, like all the other towers in town looks less intrusive. He said we could use Corten weathered steel, one that's brown in color but it won't blend in with the sky as well but they are willing to use that to address the town's concerns. Mr. Stewart said we did not require Mr. Kenney to camouflage his tower, which was over two years ago and a different Board. Mr. Stewart said he has seen some camouflaged towers in New York state and western Massachusetts that looked like bark and branches. They look very much like a tree. In Wakefield there are five lakes that will have a direct view of this tower. In our zoning we have wording about camouflaging. If this gets approved, he said he would ask the Board to vote to camouflage this tower. Mr. Parisi said we have offered this weathered steel as a way to address your camouflage requirement. Mr. Fifield asked if the branches used to camouflage cut down on the coverage? Mr. Parisi replied, not really but some branches will be removed for more antennas and some of the fiberglass branches fall off with age. He said if you impose it, I'm not going to fight it, however he'd be very conscious of imposing this because they usually just look silly. Mr. Stewart told the Board that camouflage

has come a long way and he believes this would blend in with the surrounding area better than a silver or rust colored pole.

**Mr. DesRoches made a motion, seconded by Mr. Leroux, that we approve the application with the conditions that the Zoning Board imposed and an additional condition that the tower be camouflaged in a way that is substantially similar or as near as possible to what is represented on the Valmont handout included in this record.**

Mr. Fifield said that under the definition of substantial he feels clearly that the applicant did not meet that. But looking at the definition more closely and as we vote we have to consider only what the ordinance says. Mr. Silcocks feels it meets the ordinance. We struggle with the carriers being on all towers but we can't speak for private companies and what they will or will not do. It will help with emergency services and supports surrounding towns also. Mr. Stewart said our zoning does reference the Telecommunications Act and we could hold them to a ruling not providing substantial new coverage but that's not what he's hearing from the rest of the Board. Mr. Stewart called for a vote. **(Vote 3-2)**

Mr. Stewart told Mr. Parisi that he had his approval. Mr. Stewart reiterated that one condition is prior to getting a building permit that they present a commitment from a carrier to the town and they camouflage the tower to an extent that the Board would approve. At some point you would need to come back to the Board and provide your proposal for camouflage.

Mr. Stewart closed this hearing and opened up the following hearing.

#### **Continuance of the Major Site Plan Application**

Submitted by Francis D. Parisi, Vertex Tower Assets, LLC for property owned by Province Line Associates Trust, Adam & Christiane Benzing co-trustees, located on 4870 Province Lake Road, Tax Map 9-113. The Applicant is seeking an approval for a Major Site Plan Application in order to construction a personal Wireless Service facility consisting of a monopole tower (126' to top of highest appurtenance.)

Mr. Stewart said from a Site Plan prospective he believes they meet all the Site Plan criteria.

**Mr. Fifield made a motion, seconded by Mr. DesRoches, that the applicant has provided enough information in the application to meet the site plan requirements and any missing requirements are not pertinent and we waive whatever requirements might be missing from the plan. (Vote 5-0)**

Mr. Stewart opened the public hearing at 9:02 and asked if anyone would like to speak about the Site Plan?

Mr. Stewart closed the public hearing at 9:02.

Speaking on the zoning portion, Mr. DesRoches said looking at the maps, there doesn't appear to be substantial overlap with this site and the coverage is substantially increased. He said it looks like this tower will be quite visible particularly from Province Lake so he would like to see the same camouflage condition added to this approval as part of the project. Mr. Stewart agrees. Mr. Parisi said the Zoning Board was very conscience of that. They did not recommend it here because of the visibility. He said there were people who expressed concern with the Province Lake site but no one expressed concern with this one. Mr. Stewart disagreed. He said there were several areas where the balloon was visible. Mr. Parisi said the Valmont concealment trees don't

look like Christmas trees, they look like pipe cleaners. He cautioned about requiring a concealment on this tower. He said the Zoning Board did not require any concealment given the visibility.

Mr. Stewart opened the public hearing at 9:10.

Mr. Stewart closed the Public Hearing at 9:11.

Mr. Fifield believes camouflage will become the norm. He said this is the first thing people will see coming into Wakefield from that area. As we look into our ordinance and make changes, we should take into consideration the people who are going to have to look at these.

**Mr. DesRoches made a motion, seconded by Mr. Silcocks, to approve the application with all of the conditions imposed by the Zoning Board, and concealment be provided substantially similar to that shown on the handout from Valmont, Larson Concealment Solutions for Any Environment and that the sheet be put into the record. (Vote 5-0)**

### **Continuance of the Minor Subdivision Plan Application**

Submitted by Chris Hickey of Keach Nordstrom Associates, for property owned by Georges Realty, LLC, of 672 Rimmon Street Rear, Manchester, NH for property location Map 207, Lot 27, [6.77 acre] 1622 Lovell Lake Road, Wakefield. The applicant is seeking approval of a Minor Subdivision Plan, creating one 3.6-acre and one 3.13-acre lot.

Mr. Vinagro said the fees have been paid, abutters notified, the notice has run and the application is administratively correct, they have received state approval for the permits requested.

**Mr. Silcocks made a motion, seconded by Mr. DesRoches, to accept the application. (Vote 5-0)**

Mr. Mathew Peterson said there is currently an existing house on site built in the 1840's that sits on 6.77 acres on the south side of Lovell Lake Road. They have delineated the wetlands and have completed the topography. They are looking to put a lot line down the center of the property. They have taken out the wetlands on both lots and there are no steep slopes. He said he worked with Mr. Vinagro to meet all the zoning requirements. Both lots meet the road frontage requirements.

Mr. Stewart said that there were some earlier conversations about buildable area and whether setbacks should be included. He believes our zoning does say that setbacks shouldn't be included. He believes zoning should be revised a bit make that clearer.

Mr. Stewart opened the Public Hearing at 9:24. No comments. Mr. Stewart closed the Public Hearing at 9:24.

Mr. Silcocks asked if the pins had been set and Mr. Peterson replied not yet. There are no requests for waivers. Mr. Vinagro said that the pins needed to be set and marked on the plan and five blocks for Board signatures.

**Mr. Silcocks made a motion, seconded by Mr. DesRoches, to approve the plan with the conditions that the pins be set and written on the plan. (Vote 5-0)**

### **Minor Subdivision Plan Application**

Submitted by Bryan Berlind of Land Technical Service Corp., of Ossipee, NH, for property owned by Justin Worthley & Alfred Lavalley, TM 147-3, [total 70.43 acre] at 22 Garney Road, Wakefield. The applicant is seeking approval of a Minor Subdivision Plan, creating one 5.821-acre lot and one 64.608-acre lot.

The applicant is seeking a waiver to the following subdivision regulation: **4.06 11 Delineation of all Wetlands and Buffers.** The waiver is requested only for the 65.6 acres remaining land. Said remaining land is already developed with a residence thereon. USDA NRCS shows the remaining land as being a Woodbridge fine sandy loam, which is not a wetlands soil. Note that the proposed 5.82-acre lot does have all wetlands and buffers delineated. Requiring the landowner to delineate wetlands on an already developed, 64.6-acre remaining land places an undue burden, expense and hardship upon the landowners.

Mr. Vinagro said that the fees have been paid, abutters notified, the notice has run and the application is administratively correct.

**Mr. Silcocks made a motion, seconded by Mr. DesRoches, to accept the application. (Vote 5-0)**

Mr. Berlind said this is what was formally known as the Blair Estate. It has three locations of road frontage. One is 230 feet; one is 277 feet and the last one is 700 feet. There is some slope in the back of the larger lot. He requested a waiver from mapping the entire wetlands. The smaller lots has been mapped in its entirety by a wetlands scientist. The smaller lot has 230 feet of road frontage. There is no driveway yet but he pointed out the best access point.

Mr. Stewart opened the Public Hearing at 9:33.

Mr. George ? doesn't see a house location and questions the slopes on the smaller lot. He also said the applicant doesn't have the 200 feet to locate the driveway on that lot. He thinks it would be better if he established where the driveway will be located. Mary ? wanted to know where a suitable location would be for a house. Mr. Berlind said in New Hampshire we have to show a suitable septic location. Mr. Vinagro pointed out the area where the house would be located.

Mr. Stewart closed the Public Hearing at 9:40.

**Mr. Silcocks made a motion, seconded by Mr. Leroux, to approve the plan with a mylar included and to also approve the waiver: 4.06 11 Delineation of all Wetlands and Buffers for the 65.6 lot. (Vote 5-0)**

### **Conceptual Review**

Orin Rogers for property at 2812 Province Lake Road, TM 77-41, discussion of options for property

Mr. Vinagro said Mr. Rogers wants some ideas on how to make the lot more desirable for sale which would involve variances because the shoreline is 100 feet, not 150 feet. If he wants to add a home, he needs 150 feet of shoreline for each home. Mr. Stewart said this is a conceptual review and nothing said tonight is binding on either party. He doesn't yet own lot 77 but is said about buying it and joining the two lots and make a family compound. Mr. Stewart asked about a lot line adjustment. Mr. Vinagro said the other lot would only have 100 feet of frontage on the back lot. Mr. DesRoches talked about merging the lots then do a lot line adjustment. Mr. Stewart said we would need to check with the Planning Consultant to see if what he's thinking has any merit. He said if you add an ADU there are restrictions like living in the ADU four months a

year. They suggested that Mr. Rogers speak with a realtor. They told him he would need a survey for a lot line adjustment. They discussed water rights for each lot on Sandy Pond. Mr. Stewart said whatever he decides to do it has to fit into our regs.

### **Board Business**

Mr. Vinagro said the October 20<sup>th</sup> meeting is very light right now. He suggested that the Board meet with Ms. Czysz about the Aquifer Protection District plan. He said we have a lot of things to address in our ordinances and is asking the Board if we can get started on those also. Mr. Stewart said we don't have anything in our zoning about how many campsites would be allowed for any potential water access. The zoning that he has seen is 12-20 feet per campsite and a minimum amount of land on the lake. He feels this is something the Board should discuss.

### **Campsites and Shore Frontage**

This will be continued until the next meeting.

### **Approval of minutes**

**Mr. Silcocks made a motion, seconded by Mr. Leroux, to approve the minutes of September 15, 2022. (Vote 5-0)**

### **Correspondence**

### **Public comment**

None

### **Set next meeting date**

October 20, 2022

The Board signed the Mylars for Zolt, Major Subdivision, TM 28-2, and Krasowski, Boundary Line Adjustment, TM 117-4 & 5.

### **Adjournment**

**Mr. Silcocks made a motion, seconded by Mr. DesRoches, to adjourn the meeting at 10:08. (Vote 5-0)**

Respectfully submitted for approval at the next Planning Board meeting

Priscilla Colbath  
Planning Board Secretary





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Comparison of foliage colors and diameters.

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