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3 **KENSINGTON, NEW HAMPSHIRE**  
4 **KENSINGTON PLANNING BOARD**  
5 **WEDNESDAY, May17, 2023, 6:30 P.M.**

6 **At Kensington Town Hall 95 Amesbury Road, Kensington, NH**  
7 **Meeting Minutes**  
8

12  
13 **In Attendance: Vanessa Rozier, Chairwoman, Justin McLane Vice Chairman, Mary Smith, Carly**  
14 **Fenton, Marty Silvia, Robert Solomon, ex officio member, Glenn Greenwood, Town Planner**  
15

16 V. Rozier opened the meeting at 6:30 pm.  
17

18 **Introduction of Planning Board Members and other meeting Participants**  
19

20 **PUBLIC HEARING**

21 **Continued Public hearing from April 19, 2023.**  
22

23 **PUBLIC HEARINGS:**  
24

- 25 • V. Rozier stated that the Planning Board (PB, or the board) would be holding a continued public  
26 hearing for the conditional use permit and site plan review for the construction of a cell phone  
27 tower on Moulton ridge. Also on the agenda were checklist and master plan survey update,  
28 which she stated the PB might not get to at the meeting.  
29
- 30 • V. Rozier reviewed the process for the public hearing. She stated that the PB would be  
31 reviewing, discussing, deliberating, and potentially making a decision on the application. She  
32 stated that the PB would be applying Article 5 of the PB regulations. The PB would deliberate on  
33 how the Telecommunications Act of 1996 applies to the application decision. V. Rozier stated  
34 that the public comment portion of hearing is closed. V. Rozier reminded those present of the  
35 rules of decorum.  
36
- 37 • V. Rozier stated that the PB would be holding a continued public hearing for the  
38 telecommunications tower by Vertex towers tax map 10 lot 1 and entertained a motion to open  
39 the hearing.  
40  
41

42 **MOTION:** M. Smith motioned to open public hearing. C. Fenton seconded. All in favor, none  
43 opposed, no abstentions.  
44

- 45 • V. Rozier stated that they are on day 63 into taking jurisdiction of the application and said that  
46 NH RSA requires a decision be made within 65 days to make a decision from receipt of  
47 application, unless there is a mutual agreement between the applicant and the PB to extend that  
48 time.  
49
- 50 • V. Rozier stated it has been brought to her attention that there is a so-called “shot clock”, which  
51 requires a decision be made within 150 days from submission of application. V. Rozier  
52 confirmed the date of application submission to determine 150 days. J. McClane stated it should  
53 be around mid-May. V. Rozier stated that the PB is running into the shot clock timeline.  
54
- 55 • V. Rozier asked G. Greenwood to address questions submitted by P. Decaprio. The questions  
56 were submitted to the PB at the last meeting (Addendum 1).  
57
- 58 • V. Rozier interjected and stated that municipalities do not have jurisdiction or the means to apply  
59 jurisdiction to address potential health concerns. She stated that the PB should not be  
60 commenting on any health-related studies, as PB members are not public health professionals.  
61
- 62 • V. Rozier asked if there are any further questions regarding the application before the meeting  
63 goes further. J. McClane asked if in accordance with section 5.1.10 of the zoning regulations,  
64 does the PB feel that they have enough information to say that they feel in favor of the way that  
65 the applicant presented the bond. V. Rozier stated that maybe they should review the bond to  
66 ensure that there are adequate funds available for demolition in the event that the site goes vacant  
67 and wants the PB to consider if the bond is in accordance with the boilerplate agreement in the  
68 site plan regulations.  
69
- 70 • J. McClane stated this is something they can discuss going forward. V. Rozier stated that there is  
71 no other interaction with the applicant nor opportunities to ask questions once the public hearing  
72 is closed. She stated that she has a list of potential conditions that have come up in the course of  
73 previous meetings. M. Smith raised a question about conditions for the Rosencrantz tower. V.  
74 Rozier stated that as they discuss the conditions of this application, they can note whether that  
75 was a condition implemented for the Rosencrantz tower.  
76
- 77 • V. Rozier asked F. Parisi if he would be ok with proof of financial ability to pay being a  
78 condition of approval. F. Parisi stated that rather than proof of financial ability, acceptance of the  
79 bond could be what they should be considering. He stated that last time they had a formal  
80 estimate. V. Rozier asked F. Parisi if the bond matches the boilerplate template mentioned  
81 earlier. He stated that it does.  
82
- 83 • J. McClane asked if Vertex would be willing to conduct independent testing to ensure that RFR  
84 is within acceptable legal limits. He also asked how the industry stays within RFR limits. F.  
85 Parisi stated that the FCC requires them to certify compliance, not monitoring. He stated that  
86 what some towns do is to say that within 90 days of first operations, and 30 days of a building

87 permit for any additions, they submit a new certification to show that they are still within FCC  
88 RFR limits. V. Rozier asked about the difference between a certification and an actual test in the  
89 field. F. Parisi that they can conduct actual testing if the board prefers, and that a certification is  
90 based on scientific calculations based on the RF engineering. He stated that the engineers can  
91 certify based on power output and. F. Parisi stated that method is better because they can test at  
92 different times. For example, they can test on a Sunday when there is less output than on a work  
93 day. He stated that it is difficult to test because it is based on usage, but that engineers can certify  
94 based on FCC regulations.  
95

- 96 • J. McClane asked if testing is done routinely. F. Parisi said that it is not done routinely, but it is  
97 not an elaborate process. He stated that even with heavy usage, the tower would be well below  
98 FCC regulations.  
99
- 100 • V. Rozier asked if there were any other questions regarding testing, or the town's ability to  
101 ensure that the applicant and the tower are meeting the FCC guidelines. She stated that one of the  
102 biggest concerns that she has heard from the public has been concerns regarding RFR. There are  
103 certain federal laws in place that guide what the board can and cannot do, but in the interest of  
104 validating that the facts in the application are true about the tower being two tenths of a percent  
105 of the maximum, she wanted F. Parisi to confirm. He stated that it's usually routinely under one  
106 percent of the maximum RFR exposure limits. V. Rozier stated that they could validate that at  
107 certain points with recertification. She didn't want to get too much into deliberating, but she  
108 wanted to know if that prompted any other questions for the applicant from other board  
109 members.  
110
- 111 • M. Smith stated that she wanted to know about how they do the testing based on the radio waves.  
112 F. Parisi stated it's based on exposure standards. He said that they calculate where the highest  
113 exposure would be based on benchmarks.  
114
- 115 • C. Fenton stated that F. Parisi had stated that the testing is a snapshot in time. Would they be  
116 willing to conduct testing at multiple times. F. Parisi stated that they would.  
117
- 118 • V. Rozier stated that the thinks F. Parisi had mentioned the possibility of adjusting the tilt of the  
119 antenna to ensure greater coverage. F. Parisi stated that they are going down a slippery slope  
120 with that issue because he is the owner of the tower, not the antennas. What they predicted based  
121 on software, the town would be on the edge of really good coverage at the school. There will be  
122 good coverage at the playground, and outside the school, but inside the school they would have  
123 less than perfect coverage. They can remedy that inside the school with Wi-Fi, etc. He stated that  
124 he had not seen the letter G. Greenwood read into the record, but that it's plainly obvious to him  
125 that people are concerned based on the proximity of the school. He stated that it's a common  
126 dilemma, and that is why they take a holistic approach to this. He said it's not perfect, but it's the  
127 best they can do with everything they have to consider.  
128
- 129 • V. Rozier raised concerns about tower maintenance. She stated that she knows they will have the  
130 bond in place in the event the site goes vacant. She asked F. Parisi if he could share a bit about  
131 the maintenance of the tower. F. Parisi stated that the tower itself is galvanized steel, and that it  
132

133 really doesn't weather over time. He stated that the biggest issue is maintaining the fence. From  
134 the town perspective, maintaining the integrity of the fence as a safety issue is important. The  
135 tower is designed to be maintenance free. J. McClane asked if there are any requirements within  
136 the telecommunications industry required to conduct structural inspections. F. Parisi stated that  
137 they provide a structural analysis to the building inspector at the time of construction, and when  
138 anything is added on. This is going to be built with Verizon, and as AT&T adds antennas, they  
139 will provide the building inspector with proof that the tower is capable of handling additional  
140 requirements. J. McClane stated that it's just based on design, not a field inspection, and asked  
141 again if there are field inspection requirements within the industry. F. Parisi stated no, but that if  
142 something was noticeably wrong, they could conduct an inspection. V. Rozier stated that it's  
143 important to note that there is a building permit associated with the construction. If approved,  
144 there would be a certificate of occupancy that it was constructed per plan. The initial inspection  
145 would be conducted by the building inspector. J. McClane asked that if new carrier comes on or  
146 equipment is changed out, is a building permit required at that time. F. Parisi confirmed. F. Parisi  
147 stated that to be fair to the building inspector, he is not doing inspections. He is taking  
148 certifications from engineers.

- 149
- 150 • V. Rozier asked if there were any other questions from the board, and if there are no further  
151 questions, she envisioned closing the public hearing and moving on to deliberation. J. Preneta  
152 asked that for the answers that Glenn provided, are those intended to be the voice of the planning  
153 board. G. Greenwood stated no, and that it was simply his take on answering the questions.  
154
- 155 • Someone in attendance asked if there would be public comment. V. Rozier stated that there was  
156 very rigorous public comment during the last meeting for about two hours. There were a lot of  
157 questions answered, as well as letters read into the record. The public comment sign-in list was  
158 left open for the entirety of that session. At the end of the meeting, it was asked if there were  
159 further questions, and there were none. At that time, the board motioned to close public  
160 comment.  
161
- 162 • A person in attendance stated that it was said that there would be public comment. V. Rozier  
163 clarified that she said they would open the public hearing. Attorney Cory McDonald was in  
164 attendance and stated that the board may have gotten a letter from residents that had some  
165 concerns and asked for time to seek counsel to address those concerns. He stated that they  
166 approached him and asked him to represent what their concerns were tonight. C. McDonald  
167 stated that they were under the impression that they would be able to make public comments,  
168 otherwise they would not have brought him to the meeting. V. Rozier stated that the board had  
169 an extensive public comment period in the last meeting (sign in sheet, motion to close public  
170 comment, opportunity for attendees to state that they had further questions). She stated that the  
171 board cannot let public comment go on meeting after meeting. She stated she appreciates that  
172 people have questions but said that the board has done everything they can to allow for ample  
173 opportunity for public comments. C. McDonald asked if he were to avoid any public comment,  
174 could he bring to light some procedural questions. V. Rozier stated that if there are procedural  
175 concerns it should have been submitted prior, and that she has no record of anything being  
176 submitted. C. McDonald stated that he assumed the town would want to know that there are  
177 procedural concerns, and stated that he would limit himself to two minutes.  
178

- 179 • V. Rozier stated that she was going to take feedback from the board, then make decision on  
180 whether to allow it. M. Silvia stated that he was not in favor, and that the board was very open  
181 last month. J. McClane added that the same was true the month before, and that he believes they  
182 have been very fair with providing time. C. Fenton agreed. J. Prenetta stated that he doesn't see  
183 the harm. B. Solomon agreed, as it's two minutes. J. McClane asked if it had been determined  
184 that the letter had not been received in advance. K. Felch stated that a letter was received from  
185 Karen Parker Feld. C. McDonald confirmed that was the letter he was referring to. J. Preneta  
186 asked about procedural limitations for opening public comment. J. Preneta asked if the board was  
187 concerned that they would be opening public comment for two hours. B. Solomon stated he  
188 heard 2 minutes. J. McClane asked if it was possible for the board to review the letter without  
189 opening public comment. C. McDonald stated that he'd met with residents who were in  
190 attendance, and they put together a brief, and that if he wasn't going to be able to make  
191 comments, could he leave the board with the brief. C. Fenton asked if the board could ask  
192 specific questions without opening public comment. V. Rozier said no. She stated that the town  
193 has its own counsel, and that C. McDonald was representing whoever prepared this letter. V.  
194 Rozier stated that she was open to everyone's opinion, and said that she suggested the board take  
195 a copy of the brief, take two minutes to review it, and then determine whether or not the board  
196 would like to enter a non-public session to discuss it. She stated that legal counsel for the town  
197 was present. She said that might be a way to proceed, unless the board wanted to open public  
198 comment.

199  
200 **MOTION:** J. Preneta made a motion to receive the briefing from counsel. J. McClane seconded.  
201 6 in favor, 1 opposed, no abstentions.  
202

- 203 • F. Parisi stated that he believed the public hearing had been closed. V. Rozier stated that the  
204 board had not closed the public hearing. The board had closed public comment. If the public  
205 hearing was closed, there would be no back and forth. She stated that the board went through  
206 what we were going to do, including the board asking further questions. V. Rozier reiterated the  
207 process for this meeting. G. Greenwood asked if the board should the board should hear from  
208 legal counsel representing the town. G. Greenwood stated that he would like to know legal  
209 counsel's perspective on opening public comment to accept testimony from the present abutters.  
210 Will Warren, town legal counsel, stated that it would be more appropriate in a nonpublic session.  
211

212 **MOTION:** J. Preneta made a motion to enter a nonpublic session to hear legal counsel. Roll call  
213 vote: J. Preneta: aye, B. Solomon: aye, V. Rozier: aye, J. McClane: aye, M. Silvia, aye, M.  
214 Smith: aye, C. Fenton: aye.  
215

- 216 • V. Rozier stated she would entertain a motion to exit the nonpublic session.  
217

218 **MOTION:** M. Smith made a motion to exit the nonpublic session. J. Preneta seconded. Roll call  
219 vote: J. Preneta: aye, B. Solomon: aye, V. Rozier: aye, J. McClane: aye, M. Silvia: aye, M.  
220 Smith: aye, C. Fenton: aye.  
221

222 **MOTION:** J. McClane motioned to rescind previous motion to review the brief from C.  
223 McDonald. J. Preneta seconded. All in favor, none opposed, no abstentions.



- 224
- 225 • V. Rozier stated that the board will not be reviewing the memo and will not be opening public
- 226 comment. J. McClane stated that despite the previous motion to accept and review the brief from
- 227 C. McDonald, the board did not receive or review any info. V. Rozier stated that the information
- 228 was not submitted in time for the meeting. She asked if there were any further questions for the
- 229 applicant. V. Rozier asked if the board felt that it would be a productive exercise to review the
- 230 site plan. She stated that she thought it would be a good idea to review the site plan so that the
- 231 board could ask questions of the applicant before the public hearing is closed.
- 232
- 233 • V. Rozier asked O. Corcoran to display the site plan on the projection screen.
- 234
- 235 • V. Rozier asked G. Greenwood if, based on his review, he had any recommendations as far as
- 236 landscaping, compliance with all setbacks, and any site plan considerations that the board should
- 237 be considering. G. Greenwood stated that the only consideration he asked for is that the applicant
- 238 met the requirements in Article 5.1.11. He stated that the applicant amended the plan to cover
- 239 that comment. G. Greenwood stated that they did ask for the waiver of the NEPA information
- 240 and stated that the board should act on that waiver. V. Rozier confirmed that Article 5.1.11
- 241 covers the removal of abandoned antennas and towers.
- 242
- 243 • V. Rozier asked the board to review the site plan and provide comments. V. Rozier read Beals
- 244 and Associates letter supporting the plan. V. Rozier did not see any concerns and went through
- 245 site plan with the PB. J. McClane mentioned the letter from the town fire chief, regarding a
- 246 request for VHF antenna space on the tower. F. Parisi stated that Vertex would agree to reserve
- 247 space for VHF antenna but will not provide the antenna itself. V. Rozier asked the board if they
- 248 felt the letter from Chief True should be read into the record. K. Felch stated that the letter is an
- 249 addendum to the previous meeting's minutes.
- 250
- 251 • V. Rozier asked if F. Parisi be willing to report tier ½ hazardous items reported annually. F.
- 252 Parisi said yes. V. Rozier stated that she would like to make it a condition that any fuel tanks, to
- 253 include generators and heaters, will require permits through fire and building inspectors. F. Parisi
- 254 stated that the company will comply with town regulations.
- 255
- 256 • V. Rozier asked G. Greenwood if there was anything he felt needed to be reviewed before the
- 257 public hearing is closed. G. Greenwood stated that he did not believe so. V. Rozier stated that
- 258 she would entertain a motion to close the public hearing.
- 259
- 260 **MOTION:** M. Smith made a motion to close the public hearing. M. Silvia seconded. All in
- 261 favor, none opposed, no abstentions. Public hearing closed at 7:53pm.
- 262
- 263 V. Rozier stated that the board would take a 5-minute recess at 7:51. The board reconvened at
- 264 7:56.
- 265
- 266 • V. Rozier stated that the board would commence deliberation. The board would be deliberating
- 267 in 3 phases: the waiver for NEPA requirement of Article 5, which requires an archeological
- 268 study. V. Rozier stated that the applicant requested a waiver of the requirement archeological

study. V. Rozier stated that the NEPA requirement requires an archeological study to be conducted before construction, and that it is not practicable to do that before approval. She stated that it would have to be a condition of approval if the board were to waive the NEPA requirement. V. Rozier stated that the board waived it for the Rosencrantz tower. She stated that this would be a condition of the building permit, and that the applicant must receive the NEPA report and submit it to the town. V. Rozier stated that first the board must approve the waiver and take note of the condition of the site plan approval. The board will issue the waiver, issue conditional use permit, and then issue site plan the site plan approval. V. Rozier stated she would entertain a motion to grant the waiver.

**MOTION:** J. Preneta made a motion to grant the waiver to section 5.1.8.C2 of the Telecommunications Act. M. Silvia seconded. All in favor, none opposed, no abstentions.

- V. Rozier asked G. Greenwood if he saw anything in the application that did not comply with section 5 of the town zoning regulations not already discussed. G. Greenwood stated that there were two things he thought should occur in order to be in compliance that he listed in his letter on page 2. J. Preneta confirmed that the two items were colocation on the tower and proof of financial liability.
- The board discussed the condition of proof of financial liability. B. Solomon asked if it is usually reviewed by an attorney. V. Rozier stated that she would feel more comfortable with it being reviewed by an attorney and the board make it a condition that the proof of financial liability cannot be cancelled. J. McLane suggested the condition state that it must be drafted and renewed annually as required by the town. G. Greenwood stated that he feels that the language that J. McLane stated was sufficient.
- The board continued to discuss the conditions of approval. G. Greenwood stated that the board must include facts and findings for the approval or denial, and he would prefer to prepare that.

**MOTION:** J. Preneta made a motion to grant a conditional use permit for Vertex Towers LLC to construct a telecommunications tower at 70 Moulton Ridge Rd, Map 10, Lot 1, with the following conditions:

1. *Obtain all required variances from the Zoning Board of Adjustment*
2. *Allow for co-location of multiple users at a reasonable rate*
3. *Per fire department letter dated 2-15-23*
4. *Amend fence plan to include Knox box*
5. *Reserve space on the tower for a VHF receiver, to be clear not to include the receiver itself but only the space*
6. *Any tier II hazardous items shall be reported annually*

- 315  
316 7. *Complete and submit to the town a report of the findings consistent with the National*  
*Environmental Policy Act prior to submitting an application for a building permit*
- 318  
319 8. *The bond be reviewed by town counsel to confirm it is fully compliant with the town's*  
*standard*
- 320  
322 9. *Provide certification of compliance within FCC regulations within 90 days of the*  
*certificate of occupancy and within 30 days of any subsequent antenna installations*
- 324  
325 10. *At the tower owner's expense, provide to the town field test results with 90 days of*  
326 *certificate of occupancy, and within 30 days of any subsequent antenna installations and*  
327 *no more than one additional time per year, at the town's request, on dates selected by the*  
328 *town certifying that the results demonstrate compliance with all FCC regulations, This*  
329 *testing shall be completed by a qualified testing agency that the town may select at its*  
*discretion*
- 330  
332 11. *Provide insurance as required by town regulations*

333  
334 M. Smith Seconded. All in favor, none opposed, no abstentions.

- 335  
336 • V. Rozier asked G. Greenwood if he had any comments. G. Greenwood stated that it is a great  
337 site plan, and it meets all the town's requirements. V. Rozier stated that aside from the Zoning  
338 Board of Adjustment (ZBA) appeal, are there any other conditions the board should be  
339 considering. G. Greenwood stated not on the site plan side. He stated that it doesn't hurt to say  
340 that the site plan is still contingent on approval by the ZBA. V. Rozier stated that she would  
341 entertain a motion to approve the site plan submitted by Vertex Towers LLC for a property  
342 located at 70 Moulton Ridge Road, Map 10, Lot 1 with a condition of approval that it be subject  
343 the granting of the variance at the Zoning Board of Adjustment rehearing.

344  
345 **MOTION:** J. McLane made a motion as stated by the chairperson. C. Fenton seconded. All in  
favor, none opposed, no abstentions.

- 346  
347 • The board discussed the approval of minutes from previous meetings. The board will approve  
348 minutes at the next meeting to give everyone a chance to read them.

349  
350 **MOTION:** C. Fenton made a motion to close the public meeting. All in favor, none opposed, no  
351 abstentions.

352  
353 Meeting adjourned at 9:11pm.

354  
355 Next Planning Board Meeting is on June 21, 2023 at 6:30pm

356  
357  
358 Respectfully Submitted,



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360  
361  
362  
363  
364  
365

Owen M. Corcoran  
Land Use Administrative Assistant.

APPROVED