

Franklin Zoning Board of Appeals  
For Meeting Held On  
Thursday, January 8, 2008  
355 East Central Street  
Franklin, MA 02038

Members Present  
Bruce Hunchard  
Bernard Mullaney  
Robert Acevedo  
Todd Alexander  
Seth Jackson

**7:30PM — 160 East Central St, 8 Cross St, 24 Cross St Arista Development, LLC**  
**Applicant is seeking a building permit to construct a commercial project with up to 60% impervious coverage in a water resource district. This building permit is denied without a special permit/variance for impervious coverage up to 60% from the ZBA.**

**Abutters Present** - Appearing before the board is Attorney Richard Cornetta representing the developer, Doug Benoit from Arista Developer LLC that is the applicant and developer in this matter and John Kucich and Matt Smith from Bohler Engineering our consulting engineer firm. Back before you on our request for a special permit for impervious coverage within a water resource district. During our last meeting we did a formal presentation of the site and at the close of that meeting it was suggested that an independent consultant be sought in regards to the impervious coverage within the water resource district. Attorney Cornetta reviews the special permit criteria. The Board read into the minutes a memo dated December 11, 2008 from the Town of Franklin Board of Health, a letter dated November 18, 2008 from the Planning Board and a letter dated November 19, 2008 from Department of Public Works. The board is in receipt of a letter from Boart Longyear dated December 3, 2008. Abutters had no comment. The Board reviews the conditions for impervious coverage. Motion by Bernard Mullaney to close the public hearing for a Special Permit for impervious coverage up to 60%. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the draft decision for the application for a "Special Permit" pursuant to 185-40 for the allowance of impervious coverage not to exceed 60% for the property located at 160 East Central St, 8 Cross St, 24 Cross St. Seconded by Robert Acevedo. Unanimous by the board.

**7:31pm - 160 East Central St, 8 Cross St, 24 Cross St Arista Development, LLC**  
**Applicant seeking a special permit/variance to remove earth in excess of 1,000 yards.**  
**Abutters Present** - The Board reviews the conditions of the earth removal along with the cash bond amount of \$10,000.00. Motion by Bernard Mullaney to close the public hearing for earth removal. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the application for a "Special Permit" to allow the earth removal not to exceed 8500 yards of the site listed as presented in the draft proposal for the property located at 160 East Central St, 8 Cross St, 24 Cross St. Seconded by Robert Acevedo. Unanimous by the board.

**7:40 - Upper Union St (Town Water Tank) MetroPCS Massachusetts, LLC**  
**Applicant is seeking a building permit to install wireless communication equipment on the town water tower. This building permit is denied without variance/special permit from the ZBA under Section 185-44.**

**No Abutters Present** - Appearing before the board is Attorney Joe Giamarco attorney with Prince, Lobel, Glovsky & Tye LLP representing the applicant MetroPCS Massachusetts along with Mr. Mark Cook a representative of MetroPCS. At the previous hearing there was a question on the structural on the catwalk. That structural has been performed and reviewed by an engineer. Board refers to CDM report dated January 6, 2009 and reviews Page 2 #4. The Board discusses insurance. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the Special Permit application and the dimensional variances needed to collocate on the Town of Franklin's

water tank for MetroPCS Massachusetts as outlined in the draft decision and shown on the plans. Seconded by Robert Acevedo. Unanimous by the board.

**7:50pm - 121 Longhill Rd - MetroPCS Massachusetts LLC**

**Applicant is seeking a special permit/variance to install cellular communication equipment on an existing tower with accessory ground equipment.**

**Abutter Present** - Appearing before the board is Joe Giamarco attorney with Prince, Lobel, Glovsky & Tye LLP and RF and Mark Cook also representing MetroPCS Massachusetts. Jerry Squires was the representative of MetroPCS at the last hearing but was not able to be with us this evening. The issue from the previous hearing was that we were having an independent review of the Structural Report for the proposed modifications to the foundation. I believe the report just came in today. In regards to the Dempsey Group, Inc. report dated January 8, 2009 that yes the modifications would be sufficient and they even suggested a one-foot thick concrete slab than the four-foot proposed. I did submit a draft decision based upon the four-foot rather than the one-foot, we would rather be safe than sorry. No comment from abutter Jeff Gabriel of 16 Ridgeview Road. The applicant has agreed to put up soundboard fence to mitigate the sound. Board-How high is it? Response: Six or eight feet to match the height of the existing fence. Maintenance to be conducted during daylight hours will be added into the rough draft decision. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the draft decision to install cellular communication equipment on an existing tower with accessory ground equipment with the addition Conditions: #6 The applicant shall perform general maintenance only during daylight hours for the property located at 121 Longhill Road. Seconded by Robert Acevedo. Unanimous by the board.

**7:55pm - 887 Lincoln St–MetroPCS Massachusetts, LLC – Applicant is seeking a special permit to remove & replace an existing wireless communication tower & ground equipment in a wireless communication district. The applicant is also seeking a variance to install a 97’ tower where 90’ is permitted under the by-law.**

**No Abutters Present** – Appearing before the board is Joe Giammarco attorney with Prince, Lobel, Glovsky & Tye representing the applicant MetroPCS Massachusetts, along with Mark Cook representing MetroPCS Massachusetts. Last hearing we worked out the design so we have two replacement poles, equal heights with total height 97’. One million dollar insurance and the fence surrounding the compound area shall be chain link with privacy slats. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to approve the draft decision for the Special Permit and Dimensional Variances requested to remove & replace an existing wireless communication tower & ground equipment in a wireless communication district for the property located at 887 Lincoln Street. Seconded by Robert Acevedo. Unanimous by the board.

**8:00pm - 121 Longhill Rd – New Cingular Wireless PCS, LLC (“AT&T”)**

**Applicant is seeking a building permit to add wireless communication equipment to an existing tower. This building permit is denied without a variance/special permit for relief from the following zoning Sections 185-44D, 185-45E, 185-45D.(2)(b), 185-44.D(4), 185.44D.(5), 185-44D.(6), 185-44E.**

**Abutter Present** - Appearing before the board is Martin Cohen from Anderson and Kreiger representing AT&T. We left off with the board asking for more information in regards to the noise problem that has been now abated that the customers complained about last summer. Board-How was it abated? Response: It was a malfunction of a piece of equipment that was fixed and what we did was have a noise consultant measure sound between 10pm and midnight. It produced a study in November but it wasn't clear that air condition units were running so we went back out. Today, I just received a follow-up supplement which I will provide copies. They looked at the operation under three different conditions: one would be this time of year with the fan units running, summer time operation which was the issue with the air condition units running and then again with an emergency blower running in case the temperature got really high and the air conditioning wasn't working properly. Essentially, they calculated the levels. Motion by Bernard

Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Bernard Mullaney to "Take Under Advisement." Seconded by Robert Acevedo. Unanimous by the board. **During General Discussion:** Motion by Bernard Mullaney to approve the draft decision for the variance to add wireless communication equipment to an existing tower located at 121 Longhill Road with conditions of approval that AT&T construct a sound board fence refer to Condition #4 and Condition #5 The applicant shall perform general maintenance only during daylight hours. Seconded by Robert Acevedo. Unanimous by the board.

**8:05pm – Lot 4A Lincoln St – Michael Intoccia**

**Applicant is seeking a variance/special permit for the front yard setback at 38.3' where 40' is required on a home under construction.**

**No Abutters Present** - Appearing before the board is Don Neilson representing Guerriere and Halnon and also the applicant for the project Steve Schmall from Intoccia. Board went to the site to view the farmer's porch. Motion by Bernard Mullaney to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a 2 foot front yard setback "Variance" to be no closer than 38 feet where 40 feet is required as shown on a plan entitled Lincoln Street Lot 4A Variance Plot Plan in Franklin Massachusetts dated October 23, 2008 by Guerriere & Halnon, Inc. Seconded by Bernard Mullaney. Unanimous by the board.

**General Discussion:**

General Discussion: In regards to a previous request for a bond reduction in the earth removal permit for the property located at Eagles Nest. Board previously requested the Building Commissioner David Roche visit the site. In response to that visit a letter dated December 12, 2008 from David Roche was read into the minutes. Motion by Bernard Mullaney to release \$4,500.00 based upon a recommendation from the Building Commissioner. Seconded by Robert Acevedo. Unanimous by the board.

The Franklin Housing Authority actually put in a proposal for a 40B for a group home on Plain Street. Town Administrator Jeff Nutting sent a memorandum dated December 10, 2008 to the Board in regards to Franklin Housing Authority Comprehensive Permit on Plain Street to waive the required deposit for use of Consultants. The Board is in receipt of a memo dated December 30, 2008 from the Town Engineer Bill Yadisernia who reviewed the Plain Street application and request a full set of site plans and drainage calculations for review. The Board also is in receipt of a letter dated December 22, 2008 and read into the minutes from Franklin Housing Authority allowing a waiver of the 30-day requirement regarding the Comprehensive Permit application. Board signed the extension in time to include February 5, 2009 or February 19, 2009.

Motion by Bernard Mullaney to approve the minutes of November 20, 2008. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Bernard Mullaney to adjourn. Seconded by Robert Acevedo. Unanimous by the board.