

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, March 22, 2012
355 East Central Street
Franklin, MA 02038**

**Members Present
Bruce Hunchard
Robert Acevedo
Timothy Twardowski**

7:30pm 60 Earl's Way – Sprint Spectrum L.P.

Applicant is seeking a building permit to remove and replace antennas on existing tower. This building permit is denied without a modification of the special permit from the ZBA.

No Abutters Present

Applicant is not present – Motion by Timothy Twardowski to continue the public hearing till the end of the agenda. Seconded by Robert Acevedo. Unanimous by the board.

General Business:

Appearing before the board is Don Nielsen from Guerrieri and Halnon representing Wegman Companies. Here on behalf of the applicant to possibly get a clarification on one of the conditions that was issued by the Zoning Board of Appeals in a decision dated November 3, 2011 and recorded. The comment has come up thru the Planning Office under Condition 4 that talk about amendment to notes No. 7 that the six foot vinyl solid fence be white vinyl. The interpretation by the Planning Department is that as I understand it that this refers that all screening is to the fence. In my discussions with the board we talked about vegetation, plantings, issues with wetlands and it's been interpreted by the planners that this statement reflects that all screening is to be six foot vinyl fence. That was not the intent of the applicant and in part what's happening actually go thru Planning Board and Conservation is that there are certain parties that would like vinyl fence and there are certain parties that would like vegetation to be planted along the property line. I was hoping there could be some sort of administrative clarification to this item or comment on No. 7 that would facilitate the direction in which the board intended to include all fencing or all screening to be six foot high fence or variation to use vegetation? One board member states his vote was a six foot high white vinyl fence from where ever the property line begins on King Street all around to the property on the back of Rachel Circle, any properties that where on Rachel Circle that abutted this project and I really didn't particularly care about EMC building or the industrial side. So in my opinion if you are looking to how I voted that's how I voted. During our hearings and you were here, the only time that we ever had anybody discuss anything about the fence we did have a request from one of the residential abutters that they would suggest if the project went forward that we use a six foot white vinyl fence. Now, without that withstanding here I am aware that we got another letter from an abutter now all of a sudden and we went thru two public hearings that never mentioned a fence, never said that they didn't want a fence, all they were concerned about was that they were losing some property and you were stealing their land and you were going to meet with them. Nobody else ever mentioned anything about a fence, now you mentioned the Planning Board and we actually got a letter from the Conservation Committee, you must have represented Wegman there?

Response: Yes. The way I take it is that we advertise a public hearing and departments are notified, if we don't hear from anybody we have to assume that they don't have any problems. I understand they may not understand how we voted and maybe they could take under the context number 6 states a couple of different variations about what you were going to do with screening. We just made that decision for you, if you want to put trees or vegetation beyond the scope of what we said that's fine with me but as far as it stands right now that's the way I voted. I don't believe we have the ability to have an administrative change here because there was a vote and a couple of public hearings.

We had a decision; the decision has been filed and recorded, so the only way you can change that is to advertise for a new public hearing. Response: When I made my presentation that we were going thru buffer zones and wetlands and I needed relief for the variations of that, that's why I put the fence, the screening, and the vegetation. Board we can play the tape but I don't think that you ever said that you needed variations for anything. Response: I did, absolutely. The decision was made and filed with the town clerk, the applicant or people had 20 days to appeal that if they didn't like the decision. Also, we received a letter from the Planning Board and an abutter. Everyone is trying to come in after the fact. The abutters took their time out of their busy day to go to the public meeting, they voiced their concerns and we listened to them, we put a fence in. The other departments had time to look this over and to agree or disagree with this and until their public hearings issues arose. Board member states his interpretation and how I voted was with the understanding that the screening would be accomplished by six foot white vinyl fence. The letters we received from the Planning Board and Conservation Commission I don't see either one of them considering this as an issue of interpretation as much as they want us to change the condition which that's fine if the applicant is requesting that then file an application and we will consider that at an open public hearing. But that's not something we can accomplish administratively. Our authority to go ahead and modify a decision that's already been made and in this case actually been recorded is limited to essentially correcting an error. There is no error in the decision that I'm aware of, that reflects what we voted on and we don't have the authority to go ahead and make an administrative call or however you want to term it. We don't have a choice but to reopen the public hearing and go thru the same noticing that was accomplished when the initial application was heard. If you want to come back and ask to modify the original conditions we don't have a problem with that. This plan is one that has evolved from meeting with Conservation and thru Planning and the two Murphy's down in the southwest corner would prefer vegetation as opposed to the fence. Now the Davis's would like the fence. Board suggests they reapply to ZBA. Don Nielsen appreciates that and thanks the board for their time. Abutter speaks – the way the Conservation Committee spoke they didn't care about the fence but they wanted it broken up so the animals could pass thru. Board-like an overlap section? Don Nielsen states he thinks they would end up staggering because the intent is not to go in and really cut thru the woods to put the fence in but to do some stopping and starting. Board suggest not stopping and starting but overlap with enough room so they can get thru.

7:30pm 60 Earl's Way – Sprint Spectrum L.P.

Applicant is seeking a building permit to remove and replace antennas on existing tower. This building permit is denied without a modification of the special permit from the ZBA. No Abutters Present

Representative is present - For the record its Peter LaMontagen Centerline Communications LLC, 960 Turnpike Street, Canton, MA representing the applicant Sprint, sorry for the tardiness. So Sprint is here before you requesting a site modification variance. Initially had an original permit issued in February 2003, this is existing Sprint facility; the existing installation includes three antennas flush mounted to the tower at the 123 foot centerline. One GPS antenna and two equipment cabinets on the concrete slab within the fenced in compound. The new proposed installation is three antennas measured at 72 inch in length, 11 by 8 inch width and 7 inch in depth. Board-As opposed to what's there now? Response: I believe it is around 60 inches, I don't have that information. It is similar antennas, just swapping out. They are also including nine remote radio heads which are similar to amplifiers that will be installed on the tower. They will be replacing one cabinet with a new cabinet and adding one additional cabinet within the concrete slab inside the fenced in compound and replacing the GPS antenna which is five inches in height. The reason they are upgrading is there equipment is ending its life and adding new long term Four G antennas to increase their network. Board-Are you going higher than the existing antennas that are there now? Response: No, it's on the same mount. The structural analysis is underway and we would be happy to submit that with our building permit. Board-Does all the cable runs for these antennas fit inside the monopole? Response: That's correct, yes. Motion by Timothy Twardowski to continue

the public hearing to allow the applicant time to provide the structural analysis till April 5, 2012 at 7:40pm. Seconded by Robert Acevedo. Unanimous by the board.

Motion by Robert Acevedo to approve the minutes of February 9, 2012. Seconded by Timothy Twardowski. Unanimous by the board.

Motion by Timothy Twardowski to adjourn. Seconded by Robert Acevedo. Unanimous by the board

Signature _____

Date_____