

**Franklin Zoning Board of Appeals
For Meeting Held On
Thursday, April 19, 2012
355 East Central Street
Franklin, MA 02038**

Members Present

**Bruce Hunchard
Robert Acevedo
Timothy Twardowski
Philip Brunelli**

855 Upper Union St – Sprint Spectrum L.P.

Applicant is seeking a building permit to remove, replace and modify cellular equipment. This building permit is denied without a modification of the special permit from the ZBA. No Abutters Present

Appearing before the board is John Lawrence with Centerline Communications who is the site acquisition for Sprint on this project. I do have copies of the structural analysis tonight that were not included in the original application. Sprint Spectrum is in the process of upgrading their network across Massachusetts and across the country. As part of that with the 3G and 4G upgrade they are proposing the modifications in this application to the current installation they have at the water tower. The water tower is in an Industrial Zone and is also part of the wireless communication service district and pursuant to your by-law any modification or alteration of the existing site requires a modification of a special permit and that's what Sprint is seeking tonight. As part of their current installation at the site at 855 Upper Union Street they have three antennas up on top of the water tank and the proposal is to remove those three antennas and replace them with three new antennas along with six remote radio heads that are mounted behind the antennas. The equipment on the ground they are replacing two existing cabinets with two new cabinets. Board-same size cabinets? Response: Yes. Board-same size antennas? Response: Yes. Board-The existing antennas won't be removed until the new ones are installed and operating? Yes, they are not going to take down what they have and lose coverage until the new ones are in place. Board-Does the structural account for both sets of antennas? Response: Yes, the structural accounts for that. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to take under advisement. Seconded by Robert Acevedo. Unanimous by the board.

General Discussion: Motion by Timothy Twardowski to approve the application for Sprint Spectrum Limited of 855 Union Street subject to an acceptable decision. Seconded by Robert Acevedo. Unanimous by the board.

656 King Street - Wegman Companies, Inc.

Applicant is seeking a modification of the original use variance to allow a combination of fence and landscape screening instead of all fence screening.

Abutters Present

Appearing before the board is Don Nielsen representing Guerrieri & Halnon and Joe McEntee with Wegman Companies, Inc. We are here to modify the use variance relevant to the screening that was initially approved by the Zoning Board of Appeals. That was on a decision rendered November 3, 2011 and in that decision it stated that the screening shall be six foot high vinyl fencing. We did not take an appeal to that. We did go before Planning and Conservation and in those meetings I think we had four or five with each and discussions. The neighbors had concern or alterations to that screening. The later group and thru Conservation and Planning they have requested we provide natural screening. In this case it is a juniper or slang word for it is the green giant. It's a juniper that can grow up to 20 feet tall and has the ability to grow between one and two feet a year. We are also going to plant and start at six foot height. Regulations for screening three feet in

beginning, five feet in three years, so we are way ahead of that planting program from the standpoint of type of shrub we are using. We came before this board for general discussion to see what our recourse would be to modify the plan and we did submit a modification along with the plan dated March 29, 2012 which again shows the fencing and the shrubs. We have a specific detail for the fencing to overlap if we come in a position that the fence is restricted by a tree or other object we then have the ability to stagger the fence back and forth with a complete overlap of six feet and allow three feet between the fence so that any animal or wild life can pass between the fences and not be blocked.

Board - the name of the trees are Arborvitae? Don Nielsen-correct. Don Nielsen states that there is other landscaping beyond the screening that is shown on this plan relative to embankment screening, shrubbery, and also there is shrubbery along the top of the slope along the access drive that comes around the building. That's all something that's being proposed through the Conservation Commission and the Planning Board. So, what we are asking for Mr. Chairman is if you would look at this project favorable to make the recommendation, approve the two types of screening as proposed. I know that there has been a letter sent by the Conservation and Planning Board in support of the proposed fencing and vegetation layout. On Note 7 screening shall be a 6 ft high solid vinyl fence and 6ft high shrubs staggered to form a screen. Board-if they read that I would think you were going to put a six foot vinyl fence and six foot shrubs all the way around the whole thing. That's how on the last approval because you showed screening around the whole place and we did not intend for you to screen the industrial park, so I can understand why your back here as far as that goes. As far as everything goes that all happened above and beyond after. Abutter Deborah Murphy would like the vegetated buffer. Appearing before the board is Nick Alfieri Conservation Agent here to answer any questions. Board-How did the Conservation Commission come up with this plan for shrubs as opposed to the fence? Nick-The abutters came in and one spoke for the fence and two or three who spoke for the vegetated swale. What we did was we made a straight entrance so it doesn't affect the abutter with a fence and pool in his backyard nearly as much. We requested Don to put arborvitae along the other boundaries to meet with what the abutters wanted. The other thing is we had a meeting out at the site so abutters were at the meeting and that's what they talked about there as well. This reflects Conservation Commissions response to the abutters. Board-was there an attendance sheet of who was actually there? Response: I'll check. Don Nielsen-For a comment, the meeting that Nick was referring to was a meeting that was actually called by Deborah Murphy and she requested Mr. Yadisernia, the engineer, and others. It was not an official meeting; it was a discussion, meeting for Deborah Murphy to provide her comments to town officials, concerned about the vegetation, water flow and those types of things. I did not go because I did not want any part of the discussion to influence or alter anything. Board-Donald talked about swales but I don't see any swales, somebody talked about vegetated swales, I don't see any swales down there. Donald-He meant to say vegetated screening. Board- Because this is the third variation we've seen, the first one didn't have anything, it just showed a line going around saying screening, it was going to be one thing or the other. Then when we had a meeting after the vote was done and they had a meeting or two with Conservation and the Planning Board then Donald came back with another plan and this is the plan that we indicated that we didn't have any problem with. Now when he actually filed and he has a different plan here now. So I'm just curious as to what's the matter with this plan, if this plan was ever proposed and what were the negative aspects of this plan as opposed to this plan. Board-Nick in your opinion is it a deal killer if we put the fence in there considering the Conservation Commission hasn't even approved the plan yet? Nick-It's not for me to say if it's a deal killer or not, I have no vote on it, it's Conservation's vote but my understanding is this is the plan that they want to vote on, this matches what their expectations are for the building and based on the abutters comments this is what they want to vote on. Mr. Davis 670 King Street ask that there are some trees that are smaller than just small saplings in the back there, so I don't know how that is going to be determined where the fence is going to go, who determines where exactly what is going back there, I would like it pushed back as far as possible. There is wetlands

right there and I think if it was on the other side of the wetlands that fence is going to have more chance of staying up because the ground is always saturated in that area, that it's a good chance if it's not attached that it's going to blow down. I would prefer the fence there. Board-There are wetlands right behind your property? Yes, pretty much. Nick-There are no wetlands behind his house, they hit the very corner of his house where the vegetation starts but what is behind his house is the buffer zone. Now the commission would prefer everything in the wetlands or buffer zone plants but because of the comments we agreed to leave that section in fence as opposed to shrubs. Deborah Murphy from 17 Forest Street states there have been too many meetings and think these people have spent a great deal of time, a lot of effort to make this right for the town and the people around it. I think they are making a nice project and we would appreciate it if you would put the vegetated buffer all along that south side. Also, for the record we did not receive a certified notice. The town has proof of certified mailings being sent to all abutters. Board-I'm glad you stated for the record that you did not get notice yet, you're here. Board member ask how far towards the property lines to the abutting properties are you clearing for this project-are you clearing all the way to the property line or how much existing space will be saved? Don-There is a tree line, we are leaving 75 to 100 feet where the fence is going to go and where we are going to cut trees on the other side of the wetlands. Please describe the vegetation and are these mature trees? Don- Mature trees along the back area, that's a forest back there. We are putting the vegetation right on the toll of the slope. Board-Why don't you put it on the top of the slope? Response: We have that also; we have that on another plan as well. We have two lines of vegetation. We are on the edge of commercial to residential; it's a gray area for the exact definition. So what we did was provide screening along the property line, then as people can look above those shrubs along the property line and now going to be able to see the building so the intent is to screen off the building at the edge of the access road that goes around the site. So we are proposing screening on two levels in the rear of the building both at the property line and up at the access drive. Board-Have you been approved by anyone yet? Response: We are waiting on this issue to be resolved before anyone moves forward. We are cutting down trees to build a retention basin. Board-This configuration that's shown on the plan dated March 29, 2012 has this been before both the Planning Board and Conservation Commission, are they both in agreement on this? Don-Yes. Board-Then why didn't they vote on it? Board-This is the third different variation of this we saw. Motion by Robert Acevedo to close the public hearing. Seconded by Timothy Twardowski. Unanimous by the board. Motion by Robert Acevedo to "Take Under Advisement". Seconded by Timothy Twardowski. Unanimous by the board.

General Discussion: Under conditions in Paragraph #4 we have it listed as reference to plan dated September 1, 2011 so all we have to do is change the date from September 1, 2011 to March 29, 2012 and strike the language that says with amendment to Notice #7 concerning vinyl fence as shown on the plan dated March 29, 2012. Motion by Timothy Twardowski to approve application for 656 King Street applicant Wegman Companies, Inc. to modify the original use variance decision dated November 3, 2011 specifically Paragraph #4 labeled conditions revising the 3rd sentence Paragraph #4 to read Reference Plan Assisted Living at 656 King Street in Franklin Massachusetts dated March 29, 2012 sheet one by Guerrieri and Halnon Inc and striking the language with amendment to Notes #7 that the six foot high solid fence be white vinyl. Seconded by Robert Acevedo. Unanimous by the board.

7:50pm – 11 Brookfield Road – Matthew & Leanne Reardon

Applicant is seeking a building permit to construct an addition 30' from the front setback where 40' is required. This building permit is denied without a variance/special permit from the ZBA

No Abutters Present

Appearing before the board is Matthew and Leanne Reardon who was here two weeks ago when the board questioned the right side of the house and discussed wetlands and a

buffer zone which was not shown on the plot plan initially submitted. We have since had the engineer back and he flagged the wetlands and showed topography on that right side. The board also asked for some pictures of the property which we have with us tonight. Been to Conservation and they had us do a minor buffer zone activity since the plan only called for sona tubes footings so we didn't have to go through the larger process. Board states the applicant came back with topo, wetlands identified, certainly have shape of the lot is there, the topography issues and soil conditions due to the wetlands. I feel you have met the burden. Motion by Timothy Twardowski to close the public hearing. Seconded by Robert Acevedo. Unanimous by the board. Motion by Robert Acevedo to grant a 9 foot sideline setback "Variance" down to 21 feet where 30 feet is required and a 10 foot front yard "Variance" down to 30 feet where 40 feet is required for the proposed addition as shown on a plan entitled Certified Plot Plan 11 Brookfield Road, Franklin, MA dated February 7, 2012 and Revised April 18, 2012 by O'Driscoll Land Surveying Co. Seconded by Timothy Twardowski. Unanimous by the board.

General Discussion:

- Appearing before the board is David and Barbara Nichols from 46 Partridge Street to discuss a variance to build a two car garage. This area was rezoned a few years ago. The board suggest modify the plan or move the garage to keep it off the street. The homeowner will change the garage location.
- Appearing before the board is Rick Goodreau with United Consultants here this evening on behalf of Scituate Federal Savings Bank owners of the remaining lots at the Woodlands as well as the Woodlands Homeowners Association. As the board may know this project was a comprehensive permit approved back in 2000. Construction has been on going and the Scituate Federal Savings Bank has taken ownership of eight of the remaining unsold lots. We have been working with the Franklin Board of Health as well as the Mass DEP to address the change in ownership of the property from a condominium to individual lots which are utilizing a common septic system. Common septic system by definition of the conveyances of the lots has now been classified as what is called a shared septic system which has triggered the permitting thru the Board of Health and DEP. DEP has required us to create easements on the sixteen lots around the septic tanks and then working outward towards the street area. Before you are the sixteen plans of each of these lots that have septic easements on them. There were also property line discrepancies and there was a land court title line of approximately 1700 feet that was shown along a wall as a straight line. The property boundary issues are also addressed with this proposal we have before you. What we are hoping to do is have the board endorse these plans so they can be recorded at the Registry of Deeds and satisfy the correction of the property boundaries as well as the easement requirements for Mass DEP. Board-Number of lots hasn't changed and number of homes hasn't changed? Response: No. Board-Is it still a condo association or are they all individual lots? Response-Correct, it went from a condo association to a simple lot situation where the lots were actually conveyed. Ownership was conveyed to the individual homeowners. However, the roadway will remain private and will be maintained by homeowners association as opposed to a condominium association. We can't get any building permits until we get this issue addressed with DEP. Motion by Timothy Twardowski to consider this a minor modification of the Comprehensive Permit issued for the Woodlands. Seconded by Robert Acevedo. Unanimous by the board. Motion by Timothy Twardowski to approve Lots 1 thru 16 as designated on the plans entitled Septic Easement Plan Stonehedge Road Bellingham & Franklin, MA dated January 26, 2012 by United Consultants Inc. and the reflected changes are consistent with DEP mandate. Seconded by Robert Acevedo. Unanimous by board.

Appearing before the board is Joseph McGann. The board is in receipt of a letter (see attached) and read into the minutes from Lawrence Benedetto and Joseph McGann in regards to 122 Chestnut Street requesting an extension on a previous variance. Board

states they were granted an automatic two year extension by the state. We asked the town attorney if the board would be able to extend after that two year period. Town attorney stated yes. So we are allowed to extend six months. Motion by Timothy Twardowski to grant an extension to Lajero LLC for the Variance dated May 14, 2009 for a 9 foot sideline setback variance down to 21 feet where 30 feet is required to construct a commercial building located at 122 Chestnut Street for six months commencing May 14, 2012. The Zoning Board of Appeals voted unanimously to grant a six-month extension commencing May 14, 2012. In accordance with the Statute, the Variance will now expire on November 14, 2012. Seconded by Robert Acevedo. Unanimous by the board.

- Appearing before the board is Joe Hosford who built a deck prior to pulling a permit. Once a building permit was applied for it was noticed the corner of the deck was outside the setback. Did you replace a deck or add a new deck? Replaced an existing deck. How much bigger did you make it? Response-Two feet. Board suggest you apply to ZBA for relief.

Motion by Timothy Twardowski to approve the minutes of April 5, 2012. Seconded by Robert Acevedo. Unanimous by the board.

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

Signature _____

Date _____