

TOWN OF NEWSTEAD - ZONING BOARD MINUTES

Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY

August 21, 2025

MEMBERS

PRESENT: Bill Kaufman (WK) Chairperson
Adam Burg (AB)
Vickie Lombard (VL)
Fred Pask (FP)
Rebecca Baker (CF), Alternate

OTHER: David Miller, Code Enforcement Officer
Katie Bird, Clerk
Julie Brady, Senior Clerk
Emily Janicz, Town of Newstead Attorney
Justine Seefeldt, Town Engineer
Nina Zesky, Wendel

ABSENT: Joshua Kraft (JK) Alternate

UN-APPROVED

08/21/2025

The meeting was called to order at 7:01pm with the pledge to the flag.
Bill K. reviewed the house rules and asked if there was any written correspondence. Katie B. answered yes. Bill K. confirmed the written correspondence residents were in attendance.

Katie B. read the legal notice as follows:

Request for 248’ variance to 500’ minimum setback from residential dwellings right of way for a telecommunications tower facility.

Town Code varied: Chapter 373-3(B)(2)(a)(1)
Location: V/L Maple Road, Akron NY 14001
Owner/Applicant: Fix Management, LLC/Bell Atlantic Mobile LLC d/b/a Verizon

Bill K. opened for public comment.

Laura Smith from Nixon Peabody LLP, representative of Verizon Wireless, explained that Verizon is a public utility and treated as one in the State of New York. She explained that being a public utility there is a lower threshold for this variance application and the reason for this location of the wireless tower is there is a gap in coverage, and this facility will remedy the gap in coverage for this specific area, while providing minimum intrusion on the community. Laura explains three main tests that were concluded for this wireless tower. She started first by explaining the gap in service. She explains that the tower would provide service to a very specific area. The tower located in Akron is the only tower servicing all of Newstead. The distance of the existing tower in Akron is overloaded and showing a need for additional coverage. She further explained that the 700 Mega Hertz capacity of the existing tower does not reach all areas. Verizon has been trying to fill the gap for 5 years. The second point she proposed was the remedy to those gaps showing additional coverage in the area compared to the analysis of coverage displayed in their gap models. The third point she proposed was a description into the site selection analysis and explained how this located property was chosen. She explained co-locations to existing towers were previewed and none were in our area. Scrubbing a new build site was the only available option. The ideal site location was chosen based on the coverage goals and gaps, with considerations in the parcel wetlands, road access, and barrier to construction. She explained there are several sites that are available but have considerable factors that impede construction of a tower. The visual EAF addendum shows there are no recognizable state or local natural resources within a 5-mile radius of this location. The area considered is also chosen for the high traffic Route 93 access.

Dave M. provided overhead shots of all the sites that Verizon presented for consideration on the site application.

Laura S. explained this location has room for 2 other carriers for co-carrier operation. There is a fall zone in the tower engineered for safety in case of a failed structure. She explained that Verizon is regulated by the Telecommunications Act of 1996. Under the act they are regulated. RF emissions are in line with the FCC guidelines with acceptable RF emission rates. She stated a municipality having a land use decision based on concerns about health or radio frequency should not come up during public hearing and is regulated by the Telecommunications Act of 1996.

Rebecca B. asked if the Telecommunications Act of 1996 mentioned, stated we cannot speak about concerns with health issues?

Laura S. explained, yes that is correct. The RF emissions cannot be included in the Towns' decision because they are within the FCC Regulations. That the emissions on the radio frequency, and testimony on health concerns cannot be considered because they have been pre-empted by the Federal Government in accordance with the Telecommunications Act of 1996.

Matthew Fallon, a consultant for In Range Solutions, working for Verizon for 29 years has been working to help facilitate a location for the wireless carrier. He explained the different band widths in conjunction with data packages. He further explained the process of "Densification" a term that is used to place a tower in place of three other towers for the cell site to function properly. Matthew mentioned 15 different site locations were selected and considered. Engineering, lease availability, size and zoning related to the property were factors in determining site selection. He further explained that all 15 leasable sites were viewed for their wetlands, but additional research was not conducted for their construction evaluation. The lower cost of construction on this site selected was much lower than construction on any of the other 15 sites in question.

Bill K. asked if the tower would be able to admit wireless internet into homes and might be a need for the community to have alternative options?

Matthew F. confirmed that it would provide internet access as well.

Laura S. explained that all the sites selected were in the R-A Zoning District and they are trying to be mindful of the community and the right use for its zoning.

Matt F. explained that topography and geography have an active role in determination considering the west side of Route 93 to Murder Creek has water and is not a viable location for a cell tower. He explained this is a smaller tower in consideration to size to ensure it fits in the community's aesthetics.

Bill K. asked if there were options for additional aesthetics.

Matt F. explained there are silo and pine tree options, but they expand the dollars for the site, and they look out of place unless existing infrastructure is located on site as well. Additionally, there is routine repair and maintenance consideration with these options. He explained this site was considered with the aesthetic of galvanized grey and does blend into the area.

Stephen Daly, Esq. with Citizen Environmental Law PLLC, representing resident Linda Gregori at 8151 Maple Road addressed Verizon's proposal, he informed the board he has submitted some correspondence for consideration that he encouraged be reviewed. He proceeded with discussing the zoning setback requirements and how the setbacks are enforced to protect the residents from intrusive projects such as the proposed tower. He informed the board that this project would be seeking exemption from at least 7 setback requirements from neighboring properties enforced by the Town. He recognized the use need for public utility, but the guideline should provide minimal intrusion. He explained that a 140' metal structure would obstruct views, with minimal foliage for screening and is a very busy State Route. He encouraged the board to consider its obligations with SEQR. If the board agrees this project is intrusive on the community that the SEQR findings also support that determination. He requested that the board issue a positive declaration under SEQR and once completed a decision denying the variance. Additionally, he requested that the public hearing remain open.

Robert Lawry, resident at 12580 Brucker Road, has lived at his residence for 50 years. He informed the board that his wife and him have current health conditions that are influenced by REF and EF admissions that affect neurological and heart conditions. He was concerned with the

views this tower would obstruct from his property and how it would reduce property values. He was concerned with the refusal of the applicant to look at health concerns associated with transmissions from a wireless tower. He informed the board he farms clover on his property, and the emissions affect honeybees and European honeybees his neighbors produce in a local hive. He is concerned that it will affect additional wildlife and insect species. He stated that it would affect their normal environmental electromagnetic fields for guidance and migration, biological reproduction and overall produce radiation. 5G was noted to heat the bodies of bees, and a decline in bees and colonies has been notated in recent studies to be considered.

Henry Chimes, resident at 7985 Maple Road, submitted a letter to the board for review. He explained that he was there to raise awareness and that science only investigated heat damage in cancer. He explained there is new insight 5 years later from 2020 research suggesting neurological damage. He explained his wife suffers from neurological health issues, that cause additional problems. New suggestions, suggest a 500-meter buffer from cell towers. He submitted documentation of decreased home values reassessed in values based on a Town's decision to approve a project that decreased their home values. He concluded it was not worth the risk, based on the minimal research and uncertainty of the effects of a wireless tower close to residential properties.

Dick Campbell resident at 12725 Brucker Road, has lived in the area for 80 years. Dick explained there is multiple available locations and owns a property with 120 acres that would be a viable property for consideration. He informed the board the 500' variance in place has purpose and should not be granted.

Linda Gregori, resident at 8151 Maple Road, said the project will be right along her property line in the rear of her property. She was concerned with all the dust and noise during construction. She was concerned that the ruling of the Telecommunications Act of 1996 is outdated considering 5G was not available during the time it was enacted. She announced that she had submitted a letter prior to the meeting for review with additional research for consideration regarding neurological conditions. She explained that she suffers with pre-existing health issues and is afraid of the effects this might have. She was concerned how property values would decrease the value of your home by 2.26-9.78%. She is against the project and wants to enjoy her retirement in her back yard without obstruction of views, considering there is a lot of land available. She explained there has to be a better option available for consideration.

Kent Ranney, resident at 8155 Maple Road, read his letter submitted to the board. In the letter it stated that he was concerned the cell tower would decrease the character of the neighborhood and home values would decrease. He provided documentation supporting his findings that devaluation of properties would occur and that health concerns and safety concerns. He found the existing tower in Akron only has 1 residence near it within a 1755' proximity and the 500' is generous enough to accommodate.

Linda G. added that one concern by the applicant was that a longer road was more money, but the CEO of Verizon Wireless made 12.4 million dollars a year and can afford a bigger piece of property to accommodate a longer road for a more secluded site location.

Dave M. commented that the Federal Telecommunications Act of 1996 provides reasonable alternatives that act as a means for consideration. He reviewed items mentioned in their review of other properties. The notes included by the applicant provide review of portions of the property that have exclusions, but additional information should be provided for a full conclusion on alternative locations.

Robert L. added that Route 93 is not the only road that is in proximity to the applicant's gap location and open land is available off Cedar Street into Niagara County as well.

Becky B. asked if coverage maps were made available on alternative sites and what would the applicants' second and third choice be?

Laura S. noted they are trying to serve Route 93 specifically because of the high traffic area, she noted that they have not conducted a full review of alternative sites, but they would provide additional research on alternative sites to be presented as a second and third choice.

Bill K. asked what kind of timeline the applicant was looking for to start construction and how long would it take?

Laura S. noted that she did not want to give the impression that they had time to spare but that they have time to accommodate the Towns' requests but if approved they looked to start in early 2026 and the project would take about 6 weeks.

Robert L. noted that utilities would also need to be constructed and considered.

Laura S. noted she would provide citations for the health effects of Telecommunications Act of 1996 to the Town Attorney and would provide additional information about the feasibility of alternative sites for review for the council.

Emily J. spoke that the Town Engineer is here for review of any additional questions for review. She noted the Town will have to undertake SEQR for the project to move forward.

Matthew F. noted the Zoning Board would need to presume a type 1 action and would require a SEQR decision and may require a coordinated review with the Town Board and ultimately a SEQR decision will need to be made.

Fred Rams, resident located at 12604 Clair Drive, asked if the other sites were available for public viewing. He agreed it was a much-needed project in the wrong location.

Dave M. informed the residents they are available for public viewing at our office.

Bill K. informed the public that there will be another meeting in September to presume the public hearing for further input and review.

Fred P. motioned to adjourn the public hearing, keeping the public hearing open for future comments, seconded by Rebecca B. Hearing All Ayes, No Nays, the public hearing was adjourned.

The minutes from June 26, 2025, were not reviewed, since the public hearing is still open. Training requirements were reviewed and reminded to be completed.

Motion to continue the public hearing on September 18th, 2025, was made by Fred P. seconded by Adam B. Hearing All Ayes, No Nays the meeting was adjourned at 8:27pm.

Respectfully submitted by,

Katie Bird
Recording Secretary