

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 05/26/2020

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, May 26, 2020)

Generated by Norinne McSweeney

Members present Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Members absent

Aaron Fried

Consultant:

David MacCartney. Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

Procedural: 1.03 Point out All Fire Exits

2. New Public Hearing

Action, Discussion: 2.01 Verizon Cell Tower (Z045-2020) SBL # 2-1-36

Motion to open Public Hearing

BE IT RESOLVED, that the Zoning Board of Appeals hereby opens the public hearing for Verizon Wireless

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried

Scott Olson - Legal Counsel Kathy Pomponio - Project Manager Mike Crosby - RF Engineer Steve Matthews - Engineer Sara Coleman - Site Acquisition Specialist Mr. Olson did a powerpoint presentation (see attached) looking to install a new wireless facility at 40 1/2 Barr Lane Property owned by the Village of Harriman 67 foot wooden utility pole structure, 2 antennas at the top of that pole face east and south east, cell tower will be placed in front of the water tower 48 sq ft lease area 1) current 3 towers are overloaded need a new site at this location to assist with the overload 2) coverage finish build out of 2100 megahertz coverage gaps Mr. MacCartney jumped in to explain procedures of a Public Hearing 1) applicant present their project 2) board members ask questions of applicant 3) will hear testimony from its own expert 4) when appropriate it will be opened up to public comment 5) the public will be called

on individually - there is a lot of residentsMr. Olsen explained why currently before the boardA use and area variance is needed in order to install this towerreason for use variance is the property is located in the LI (Light Industry) only permitted by town code in the Utility Tower Overlay Districtspoke on the 1996 Telecommunications ActMr. Crosby RF Engineer for Orange County with Verizon spoke on the technical end of the projectMr. Lepore - CityScapes Consultant (representing Town of Monroe ZBA) reviewed his report submitted to the ZBA (see attached)agreed need for additional towermentioned alternate site locationsMr. Olson spoke to Mr. Lepore comment on alternate site locations that could be used, but there are not any locations within the approved zoning districtChairman Murphy agrees that the approved districts are sparse, but the parcel chosen is owned by the Village of Harriman and has a Harriman water tower on site, surrounded by residential dwellings, private roads and has Verizon been granted an easement to this parcelMr. Olson the condo association granted us and easement for utilities and accessthis site is great as it is a high point versus a low pointMr. Crosby - other sites were researched and this still is the most viable locationdiscussion on varies alternate locationsMember Lewis to Mr. Lepore what is it that you would need to review for the various locationsMr. Lepore looking for information on the research done for various locations where they are, what they found and why viable or notMr. MacCartney - Counsel for the ZBA - I would like to review what the purpose of the ZBA isthe ZBA is being asked to grant a variance for a cell tower in a LI area where it is not permitted with relief sought by the ZBA to install it therewhere it goes and what it looks like is not for the ZBA to determine that is for the Planning Board to determinescope of review by the ZBA to determine whether the applicant is entitled to the relief1) did applicant demonstrate the need2) will this satisfy the need3) were alternate sitesThe Law NY Zoning Law & Practice section 11 - 22 "It must be demonstrated that the proposed site is necessary to enable the company to render safe and adequate service in that no alternative sites are available which could be used with less disruption of the communities zoning plan".Chairman Murphy so the applicant needs to provide a follow up written narrative describing the alternate sites proposed and reasons why not applicableMr. Lepore yesBoard members do you need anything further before I open the floor to the public.Member Lewis noMember Scully noMember Seid no but would like something said again about what the ZBA scope of review here isMr. MacCartney the scope of this ZBA review is very limited in the process of any approvals that are necessary herelimited to the use variance issue the 3 issues i previously mentionedthe scope of the Federal Communications actthe issue of safety, health and welfare is not among the thing this board can approve indirectly or directlyChairman Murphy wanted to state into record that today the board has received numerous emails regarding this issue including one from Senator SkoufisOpen to the members of the publicplease provide your name and addressOver 30 residents spoke against this project (in a 2 1/2 hour period) and their major concerns were as follows:Property valuefamily community don't want outside vehicles - heavy trafficopen doors for other cell phone companies to put up additional towershealth concern (not allowable for the board to consider)unaware of easement between Meadow Glen and VerizonDidn't receive registered letterverizon needs to look for or justify locationpetition against tower with over 100

signature eye sore to look at letters written to Senator Skoufis Chairman Murphy question asked about ZBA going to V/Harriman and the Meadow Glen association answered that the ZBA didn't have anything to do with the arrangement made between the Village of Harriman and Verizon nor did it or does it have any involvement with the Meadow Glen association in regards with the granting of an easement to Verizon Verizon came to the ZBA in January of 2020 and is currently before us for a Use Variance if this board grants the variance then the applicant would have to go to the Planning Board for Site Plan approval Mr. Olson will provide further information regarding alternate sites won't create further traffic after facility built a van or service pick up truck would come in once a year for service unless there were issues and needed to go in more often regarding the mailings understand the frustration, but we followed the law and did all the mailings would ask the board to close the Public hearing Chairman Murphy 3 hrs session, 32-33 community members, repeated concerns, and we hear them, application is fairly complete, review from Cityscape, Verizon will provide additional analysis, Member Lewis thank the public for coming out and making their voices heard Mr. MacCartney legal point procedurally the board has asked for additional narrative from the applicant identifying the additional sites looked at, if you close the hearing that data will not be part of the record couple of alternatives: 1) can close it to public comment and leave it open for 10 days for receipt of that information then Cityscape will not be able to comment 2) leave the public hearing open Mr. Crosby items will be to memorialize what we have provided Mr. Olson site analysis is in original packet, supplement sent in March Chairman Murphy if you need a copy of the easement County deed office or ask your homeowners association Senator Skoufis letter was read into record Public Hearing will remain open and continue on June 23, 2020 Mr. Olson mentioned the Shot clock

Action, Discussion: 2.02 Kingsville Synagogue (Z046-2020) SBL # 1-1-4.32

opened the Public Hearing

BE IT RESOLVED, that the Zoning Board of Appeals hereby opens the Public Hearing for Kingsville Synagogue.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried

David Niemotko Joe Churgin Sol Ezra project review here for an area variance for parking in the front yard 10 Kingsville Dr a gathering place in the basement required to have parking for those in attendance currently have 4 parking spaces looking to increase by 6 for a total of 10 spaces which is actually 2 more than needed for the gathering place Gathering place to include 18 members of family and surrounding community that would walk to the Gathering Center to participate in the services Zoning law requires parking been before the Planning Board who has asked for screening of the parking from the neighbors which is shown on the

plans current parking already exist in the front yard area will be finished with pavers vs blacktop bulk requirements all met Meeting opened to the Public - no public comment Mr. MacCartney reviewed options: 1) Close the public hearing 2) discuss the matter with the 5 factors and make a decision 3) or hold over until next month Motion to close the public hearing BE IT RESOLVED, that the Zoning Board of Appeals hereby closes the public hearing.

Motion by Kevin Scully, second by Austin Seid.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

absent: Aaron Fried

Review the 5 factors Mr. MacCartney options: 1) table to next meeting for a decision 2) entertain motion to approve with conditions 3) entertain motion to deny Member Lewis parking in front yard increasing it is not pursuant to our current code Member Seid increasing the non conformity Mr. Erza but it wasn't non conforming originally it was approved parking Mr. Niemotko increasing parking by 30% Mr. Ezra would it be better to change to 8 spaces Mr. Niemotko this is the scenario that evolved from 18 months in front of the Planning Board who also held a public hearing continued discussion regarding parking Reopened public hearing for applicant to submit plans with alternatives

BE IT RESOLVED, that the Zoning Board of Appeals hereby reopens the Public Hearing.

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried

Per Mr. Churgin we will not meet deadline by June 2. Extend out until the July meeting.

3. Second Night of Public Hearing

Action, Discussion: 3.01 Eagleview Estates (Z044-2020) SBL # 18-4-60, 18-4-61

Neal Frishberg Glenn Schaefer Mike Zengen David Niemotko Sol Ezra Public hearing continues Mr. Frishberg I would like the letter I sent to Mr. MacCartney on May 5, 2020 be entered into record Mr. Frishberg states that while interpreting the code if there is an ambiguity in the code you have to give the applicant the benefit of the doubt ambiguity in the code to the adjunctive and conjunctive use of the code to what constitutes lot coverage continued to dispute the interpretation of the code accused Chairman Murphy of disliking the project issue before you if lot coverage should include permeable pavers under your own code it should not (pending interpreting) and the second issue whether or not we are entitled to an area variance we want the public hearing closed and we want you to vote Mr. MacCartney any members have any questions legal, interpretation of the code, five factors, on variance

applicationMember Lewis increase lot coverage from 15% to 35% with storm water quality controlsMs. Francis 402 Lakes Road not in favor of the projectMember Seid questioning the ambiguity to the adjunctive and conjunctive wordingChairman Murphy any additional questions by the board membersno additional comments or questions from the board membersmotion to close the Public hearingBE IT RESOLVED, that the Zoning Board of Appeals for the Town of Monroe hereby closes the Public hearing

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried

Mr. MacCartney then reviewed what the boards options are at this pointboard members discussed interpretation of the codeMr. MacCartney will prepare resolution to be voted on next monthboard discussed 5 factorsMr. Niemotko spoke and asked the board to consider the 46% lot coverage for lot 61Mr. Frishberg to consider lot 61 as independent 4. New Project

Action, Discussion: 4.01 285 Seven Springs Mountain Rd (Z048-2020) SBL # 1-1-31

Joel Mann - project representativevariance was granted end 2015decision Jan 2016building is up waiting on framing inspectionoriginal owner sold property in middle of constructionnew owner not aware of variance expiringseptic is inzoning has changed5 variances neededlot area - pre existing non conforming (PENC)lot coverage (PENC)rear yard (PENC)front yard (PENC)front yard parkingcircle drive in the front would like to keep that approved by OCDPW in 2016property line county right away not dedicatedboard requesting signed & seal mapas built plansschedule Public hearing for June 23 if required plans submittedMotion to set public hearing BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby schedules a Public Hearing for June 23, 2020.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried

5. Adjournment of Meeting

Action: 5.01 Adjournment of Meeting

BE IR RESOLVED, the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting at 1:50 am.

Motion by Kevin Scully, second by Austin Seid.

Final Resolution: Motion Carries

Yea: Chairman - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid

Absent: Aaron Fried