

**TOWN OF PITTSFORD
ZONING BOARD OF APPEALS
MINUTES
February 19, 2018**

PRESENT

George Dounce, Chairperson; Jaime Waldman, Mary Ellen Spennacchio-Wagner, Barb Collins, Barbara Servé

ALSO PRESENT

Robert Koegel, Town Attorney; Doug DeRue, Director of Planning, Zoning and Development; Mark Lenzi, Building Inspector

ABSENT

David Rowe, Mike Rose, Susan Donnelly, Secretary to the Board

George Dounce, Chairperson, called the regularly scheduled meeting of the Zoning Board of Appeals to order at 7:00 pm.

Chairman Dounce noted the locations of the exits.

RETURNING PUBLIC HEARING FOR AN AREA VARIANCE

- 23 French Road, Tax # 151.14-1-62. Applicant is requesting relief from Town Code §185-18 B (1) to subdivide a lot creating a lot of insufficient size. The proposed area is 0.53 acres and the required area is 0.72 acres. Property zoned RN – Residential Neighborhood District

George Dounce noted that Mr. Imburgia was in the audience to represent the application and opened the Public Hearing.

Staff member Mark Lenzi read the Legal Notice for 23 French Road that appeared in the Brighton Pittsford Post.

Mark Lenzi also noted that the Planning Board as “Lead Agency” granted a Negative SEQRA Determination at the Planning Board meeting that occurred on February 12, 2018.

James Hunt, of 25 French Road indicated that they were having an independent survey completed of their property in hopes of resolving the difference between the original survey of their property and the new subdivision map that was prepared for the proposed re-subdivision of the High Street properties.

Mr. Hunt also said they were concerned with the size of the homes that may be built and the density created with the new homes.

Chairman Dounce asked if there was a motion to close the hearing: Member Barbara Servé motioned Member Jamie Waldman seconded, the Board voted all ayes, hearing was closed.

PUBLIC HEARINGS FOR AREA VARIANCES

- 3690 East Avenue, Tax # 138.19-1-1.11, St. John Fisher College is requesting relief from Town Code §185-39 and §185-133 F to construct a 3-story +- 58' high dormitory addition exceeding the maximum height of 30' for a structure. This Property is zoned SRAA- Suburban Residential District.

George Dounce opened the Public Hearing.

Robert Burgdorf attorney with Nixon Peabody representing St. John Fisher College provided an overview of the application.

Chairman Dounce asked if the Board had any questions.

Member Jamie Waldman asked about the Part I SEQRA form question #15 regarding endangered species being checked yes.

Mr. Burgdorf explained that check box was an error and no endangered species were on site.

Chairman Dounce asked if the project was going to affect current parking on campus.

Mr. Burgdorf explained that although some parking was being lost the campus currently has “extra” parking as evidenced in recent parking survey done during peak parking demand, which showed about 145 empty spaces. He stated that there is not a parking problem it is a walking problem.

Chairman Dounce, read a letter in opposition to granting the Area Variance from Harwood Lane residents.

Member Mary Ellen Spennacchio-Wagner, motioned to close the hearing and Barbra Serve seconded, Members voted all, ayes, the hearing was closed.

- 123 South Main St., Tax # 164.10-4-25, the applicant is requesting relief from Town Code §185-17 B (1); 185-17 A; 185-113 B (3) to construct a structure (4-legged bell tower) to conceal antennas for the proposed new cell tower. The proposed structure will be located forward of the rear wall of the structure, forward of the front wall of the structure and forward of the building line. This property is zoned RN-Residential.

Chairman George Dounce opened the Public Hearing.

Staff member Mark Lenzi read the Legal Notice for 123 S. Main Street that appeared in the Brighton Pittsford Post.

Mark Lenzi also noted that the Planning Board as “Lead Agency” granted a Negative SEQRA Determination at the Planning Board meeting that occurred on February 12, 2018.

Robert Koegel Town Attorney explained the scope of the Zoning Board of Appeals review specifically that the Zoning Board is considering the “area variance” which has a narrow scope as compared to the Planning Board’s review. Mr. Koegel also noted that the Town must adhere to the applicable Federal Regulations throughout the review process, which includes a “timeline” in which the Town must complete its’ process.

Thomas Greiner Attorney with Nixon Peabody representing Verizon Wireless reviewed the overall application’s history back to the first Planning Board public hearing on June 12, 2017. Mr. Greiner explained the evolution of the application from the original “monopine” to the request to consider a “bell tower” that lead to the need to request the Area Variance currently under consideration.

David Weisenreder P.E. with Costich Engineering reviewed the height of the structure as well as the details associated with the landscaping, the enclosure, and the equipment within the enclosure. Mr. Weisenreder noted that with the bell tower location there would be no permanent generator and reviewed the engineering requirements (wind load design) of the new structure. Mr. Weisenreder discussed the need for a “cable bridge” to support the antenna wiring above the base equipment, he explained that the currently proposed 8-foot high enclosure might need be raised to 10 feet, to hide the cable bridge.

Doug DeRue, Town of Pittsford Director of Planning and Zoning, clarified with the Board and Public that the details associated with the enclosure and landscape screening are Planning and Design Review Board issues that will be addressed as part of the Final Site Plan review by the Planning Board.

Chairman George Dounce, asked about the timing of construction for the facility.

Mr. Greiner indicated that Verizon would likely want to begin as soon as practical. Mr. Greiner also agreed that the Planning Board would review the fence/enclosure at the base of the structure.

Member Barbara Serve asked if the Design Review and Historic Preservation Board (DRB) would review the structure. Town staff confirmed that this would happen.

Mr. Greiner reviewed (although not part of the Zoning Board of Appeals purview) the Verizon Wireless existing coverage capacity issues in the area.

Mr. Greiner referenced the Planning Board's numerous findings in reaching their SEQRA Negative Declaration and Preliminary Site Plan and Special Use Permit approval at the February 12, 2018 Planning Board meeting. Mr. Greiner also reviewed the alternate locations that were evaluated as part of the Planning Board's review.

Mr. Greiner reviewed the legal standard specifically Cellular Tel. Co. v. Rosenberg, which determined that cellular telephone companies are public utilities by which they receive "special treatment" by Zoning Boards stemming from the "essential nature of its service".

Mr. Greiner reviewed Exhibit D of the area variance application, the "tests for granting area variances".

Member, Mary Ellen Spennacchio-Wagner asked if Verizon had constructed other bell towers in the area?

Mr. Greiner responded that yes, Calkins Road across from Tinker Nature Park, one in Irondequoit and the Mendon Fire Hall has a bell tower but its triangular in shape.

Chairman George Dounce, asked if anyone from the public wished to comment.

Patti Robben, 133 S. Main Street, noted that the picture used in the photo simulation that was being displayed was taken by her from her driveway. (photo was supplied to the Town by Mrs. Robben and the Town supplied it to Verizon for the purpose of creating a photo simulation from the resident's view) Mrs. Robben provided the Board with documentation of case law supporting various reasons and methodologies to deny the proposed cellular facility. Mrs. Robben continued and noted the threat to public safety including, lighting and nuisance victimization.

Mr. Koegel Town Attorney clarified the Zoning Board's scope of review in regards to the area variance. Mr. Koegel also re-stated that a denial without legal basis or failure to reach a decision before time runs out would likely result in litigation in which the Town would most likely not prevail.

Mary Carafos, 116 S. Main Street, said she had safety concerns for the pre-school children and pedestrians on the nearby sidewalk. Mary Carafos also noted maintenance and safety concerns regarding the enclosures after visiting other sites and providing pictures to the Planning Board of the poorly maintained facilities in the area.

Ann Passmore, of 26 Highview Tr. Chairman of the Board of Church Trustees indicated they are working with Verizon in regards to the appearance of the structure.

Mr. Greiner restated that Verizon does need the site and has compromised and worked with the Town and Church agreeing to a different location, a different type of structure and a lower height. Mr. Greiner also stated that the facility will be equipped with a lightning protection.

Matt Robben of 133 S. Main Street, commented that a denial of one location on a site does not equate to the automatic approval of the alternate location on a site.

Mr. Koegel Town Attorney clarified that if the application went to court and the Town lost the court would allow Verizon to build the original application resulting in the 99 foot monopine.

Chairman Dounce asked if there was any additional public comment being none asked if there was a motion to close the hearing, Mary Ellen Spennacchio-Wagner motioned, Jamie Waldman seconded, the hearing was closed.

DECISION FOR 23 FRENCH ROAD - AREA VARIANCE

A written Resolution to grant the area variance for 23 French Road was moved by Chairman Dounce and seconded by Mary Ellen Spennacchio-Wagner.

Chairman George Dounce called for a roll call vote.

Barb Collins voted	aye
Michael Rose voted	absent
Barbara Servé voted	aye
Jaime Waldman voted	aye
David Rowe voted	absent
Mary Ellen Spennacchio-Wagner voted	aye
George Dounce voted	aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated December 15, 2017.
2. This application is not subject to the approval of the Design Review & Historic Preservation Board.

DECISION FOR 3690 EAST AVENUE - AREA VARIANCE

A written Resolution to grant the area variance for 3690 East Avenue was moved by Barb Collins and seconded by Chairman Dounce.

Chairman George Dounce called for a roll call vote.

Barb Collins voted	aye
Michael Rose voted	absent
Barbara Servé was	aye
Jaime Waldman voted	aye
David Rowe voted	absent
Mary Ellen Spennacchio-Wagner voted	aye
George Dounce voted	aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted for the Applicant for the plans dated October 31, 2017.
2. All construction will be completed by December 30, 2023.
3. The proposed dormitory is subject to review and approval of Design Review and Historic Preservation Board.

DECISION FOR 123 SOUTH MAIN STREET - AREA VARIANCE

A written Resolution to grant the area variance for 123 South Main Street was moved by Barbra Serve and seconded by Mary Ellen Spennacchio-Wagner.

Chairman George Dounce called for a roll call vote.

Barb Collins voted	aye
Michael Rose voted	absent
Barbara Servé voted	aye
Jaime Waldman voted	aye
David Rowe voted	absent
Mary Ellen Spennacchio-Wagner voted	aye
George Dounce voted	aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated January 10, 2018. The Planning Board and the Applicant have agreed to lower the top panel height to 80'.
2. All construction is to be completed by December 31, 2020.
3. This application (is) subject to the approval of the Design Review & Historic Preservation Board as it related to the appearance of the structure and base enclosure.
4. Adjustments, and or substitutions to landscaping are subject to Department of Public Works approval.
5. Detailed adjustments to the base of the structure will be finalized by the Design Review and Historic Preservation Board as well as by Planning Board during the Final Site Plan review process.

POINT PERSON ASSIGNMENTS FOR MARCH 19, 2018

3660 Monroe Avenue	Mike Rose
38 Farm Field Lane	Mary Ellen Spennacchio-Wagner
89 Country Club	Jamie Waldman
15 Auburndale	Barbara Serve

APPROVAL OF THE MEETING MINUTES OF JANUARY 19, 2018

George Dounce moved to accept the minutes of January 19, 2018

VOICE VOTE: Ayes – All

MEETING ADJOURNMENT

The meeting was adjourned at 9:00 pm.

VOICE VOTE: Ayes – All

Respectfully submitted,

Doug DeRue
Director of Planning, Zoning and Development