

Town of Southeast
Zoning Board of Appeals
Minutes of June 15, 2009

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| Edward Colello, Chairman | Present |
| Thomas Costello, Vice Chairman | Present |
| Timothy Froessel | Present |
| Joseph Castellano | Present |
| Kevin Sheil | Present |
| Paul Vink | Present |
| Roderick Cassidy | Absent |
| Willis Stephens, Town Attorney | Present |
| Mary Rhuda, Admin Assistant | Present |

Regular Meeting:

Verizon Wireless, 3925 Danbury Road – Keith Betensky of Synder & Snyder, LLP, and John Watson, of Insite Engineering were reminded that they are still under oath. Leslie Synder, of Synder & Synder and Anthony Wells were sworn in. This application is for the construction of a public utility wireless telecommunication facility. The applicant has agreed to lower the pole to 100ft vs. 120ft. The pole will be a stealth pole, with the antenna's inside. The dimensions of the pole will be 38" at the bottom and will taper down to be 26" at the top. The pole will be painted the color this Board chooses.

The purpose of this pole is to enable the use of wireless data. Data transmissions are becoming more widely used. An example given was; if an ambulance wanted or had to transmit data to a hospital about a patient, they would be able to with the availability of this type of cell tower.

Anthony Wells, a Radio Frequency Engineer, explained the need for this pole for the use of data. He was asked why from Nichols Road, you can see the Joes Hill Road pole, have cell service, so what was the need for this pole. Again, is reiterated that this pole was mainly for data use, not cellular coverage.

The Board reviewed what variances were being requested. They need: 22ft front yard; 110ft side yard; 14ft total side yard and a 135ft rear yard variance. The lot size is 1.74 acres. The Town Attorney advised that the requirement per Town Code is a minimum 5-acre site for a tower. Therefore, the applicant must re-notice the public hearing to include a variance for lot size and lot width.

Neighbor, Anthony Corigliano, once again stated he still did not receive the mailing. The applicant did have the correct address and the mailing slip. Mr. Corigliano was advised that if he is not home to sign for mailing, he must go to the post office to pick it up.

The application will be on the July 20th agenda.

Robin & Terrence Molloy, 189 Peach Lake Road – Mr. & Mrs. Molly was sworn, in and the mailings were checked and are in order. The applicants wish to construct an in ground pool, to replace the above ground pool that was damaged and has already been torn down. The new pool will be 10ft longer. Their lot size is 1.78 acres. Pictures of the area were shown. The septic tank is located between the pool and shed, no relocation will be necessary. The Molloy's have owned this property for 10 years. There were no neighbor comments. Public hearing closed.

Motion introduced by T. Costello to grant a 30ft north side and a 53ft south side variance.

Seconded by T. Froessel

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No. Had a pool in this general location.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No.
3. Where the requested variance is substantial.
Yes. 30% & 50% requirement due to upzoning.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
Partly, but wants pool and this area was upzoned.

Roll Call Vote:

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| J. Castellano - | In favor |
| T. Froessel - | In favor |

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| T. Costello - | In favor |
| P. Vink | In favor |
| K. Sheil | In favor |
| E. Colello | In favor |

Variance granted by a vote of 6-0.

John & Joanne Kunkle, 195 Peach Lake Road – Mr. & Mrs. Kunkle were sworn in. Mailings are in order. They are requesting a variance for an existing deck. The home is for sale and they are trying to get everything in order for a possible closing. They deck was built 28 years ago, they have owned home for 30 years. Pictures were shown of the deck. No neighbor comments. Public hearing closed.

Motion introduced by T. Froessel to grant the following variances:

- 43ft Front (east)
- 48ft Side (north)
- 58ft Side (south)
- 106ft Total

Seconded by P. Vink

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No.
3. Where the requested variance is substantial.
Yes. Upzoned
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
No.

Roll Call Vote:

K. Sheil - In favor
P. Vink - In favor
T. Froessel - In favor
J. Castellano - In favor
T. Costello - In favor
E. Colello - In favor

Variances granted by a vote of 6-0.

Helen Vail, 87 Vails Lakeshore Drive – Mrs. Vail was sworn and all the mailings were checked and are in order. The application is to build a new deck on her home. There is a patio underneath the proposed construction. The deck is off the first floor of home, but the home is on a hill, so the deck will be high enough off the ground to walk under it. Mrs. Vail has Vails Grove approval. She needs 4 variances, but the only change is the rear. The deck size will be 14ft x 34ft. No neighbor comments. Public hearing closed.

Motion introduced by P. Vink to grant the following variances:

10ft Rear (west) – no change
6ft Side (north) – no change
7ft Side (south) – no change
26ft Total

Seconded by K. Sheil

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
None.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No.
3. Where the requested variance is substantial.
No.
4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.
No.
5. Whether the alleged difficulty was self-created.
Yes, applicant wants deck.

Roll Call Vote:

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|-----------------|----------|
| J. Castellano - | In favor |
| T. Froessel - | In favor |
| T. Costello - | In favor |
| P. Vink - | In favor |
| K. Sheil - | In favor |
| E. Colello - | In favor |

Variances granted by a vote of 6-0.

Frank & Moira Tolan, 35 Vails Lakeshore Drive - Mr. & Mrs. Tolan were both sworn in and the mailings were checked and are in order. This application is for the construction of a second story on one side of their home, they need 3 variances. Their roof needs to be replaced due to a poor pitch that has caused leaking, so they have decided, at this time, to match the roof lines and give them more room. They are combining two downstairs rooms, and adding one room upstairs with storage. They will now have storage in the attic space. They have Board of Health approval and Vails Grove approval. Pictures from all surrounding properties were shown and they will not be interfering with any lake views. Letters from owners of 36, 37, and 33 Vails Lakeshore were read. There are no negative comments from any neighbors. Dave Bruen of Vails stated that the Vails Grove Board does a lot of research before approving any new construction. Public hearing closed.

Motion introduced by T. Froessel to grant the following:

- 30ft Front (east) – no change
- 14ft South – no change
- 31ft Total – no change

Seconded by P. Vink

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No.
3. Where the requested variance is substantial.

Yes, but no change.

4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.

No evidence.

5. Whether the alleged difficulty was self-created.

No.

Roll Call Vote:

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|-----------------|----------|
| K. Sheil - | In favor |
| P. Vink - | In favor |
| T. Costello - | In favor |
| J. Castellano - | In favor |
| T. Froessel - | In favor |
| E. Colello - | In favor |

Variances granted by a vote of 6-0.

Janice Dudeck O'Connor, 24 Crosby Avenue – The applicant was sworn in and the mailings were checked and are in order. This application is to construct a new larger deck as a replacement for existing structure. The applicant needs 3 variances, including one for building separation. The deck will be 14ft x 24ft. There will still be access to the backyard. Public hearing closed.

Motion introduced by E. Colello to grant the following variances:

6ft West Side – no change
14ft North Side – no change
5ft building separation

Seconded by T. Costello

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
None.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No. side and front no change.
3. Where the requested variance is substantial.
No.

4. Whether the proposed variance will have an adverse effect of impact on the environmental conditions in the neighborhood or district.

None.

5. Whether the alleged difficulty was self-created.

No. Upzoning, preexisting non-conforming

Roll Call Vote:

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|-----------------|----------|
| J. Castellano - | In favor |
| T. Froessel - | In favor |
| T. Costello - | In favor |
| P. Vink - | In favor |
| K. Sheil - | In favor |
| E. Colello - | In favor |

Variance granted by a vote of 6-0.

Motion introduced by T. Costello to accept the minutes of May 18, 2009 with the following changes:

The roll call vote for the application of Kenneth Sullivan was transposed and should read:

The motion to deny variance: T. Froessel – Opposed
T. Costello – In Favor

The motion to grant variance: T. Froessel – In favor
T. Costello - Opposed