

Town of Southeast
Zoning Board of Appeals
Minutes of July 20, 2009

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

Regular Meeting:

Verizon Wireless, 3925 Danbury Road – Leslie Synder of Synder & Snyder, LLP, and John Watson, of Insite Engineering were again representing Verizon Wireless. This applicant was re-noticed due to the concerns that the original notice was vague. All variance's requested were noticed. Ms. Synder, reminded the Board that this application is for the construction of a public utility wireless telecommunication facility. The application has been changed; the pole will be set at a the lower height of 100ft to reflect this Board's wishes. 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 Planning Board issued a negative declaration under SEQRA. There were no adverse visual impacts found.

The 10ft high building will not be seen from Rt. 84. This site was chosen on the property because it is flat and there would be less disturbance to the natural surroundings at this site. If the tower was placed closer to the middle of the property, the grade is much steeper and more cutting, filling and disturbance to the land would be necessary. Replacement trees will be planted for any trees removed during the construction process. Replacement trees will be 3" in diameter.

Mr. B. Butler, or EEC Plus, Inc., a next-door neighbor looked over the drawings that were presented. He was surprised that the tower will be very close to his vacant piece of property. The equipment will be 40ft and the monopole will be 65ft from his property line. Mr. Butler has concerns that he won't be able to sell his property in the future if the cell tower is built. He also has health concerns.

Ms. Synder advised that they will have to meet all FCC regulations. This site is commercially zone. The public hearing was closed.

The Board discussed. They feel that if this was a residential area, they would be opposed. They are not convinced that a cell tower is actually necessary, but believe that this tower has less impact in this area, than previous cell tower applications. This Board has to believe that the FCC will make sure that all requirements will regard to the health and safety standards are met. If the Board denied this request, more than likely, the Town would be sued, and the Town would loose any lawsuit at the expense of the taxpayers. Six variances are requested.

Motion Introduced by T. Costello to grant the following variances:

- 1) Lot size: 3.26 acre variance
- 2) Lot width: 45 ft. variance
- 3) Front yard: 22 ft. variance
- 4) Side yard: 110 ft. variance / Tower
35 ft. variance / Equipment
- 5) Total side yard: 14 ft variance
- 6) Rear side yard: 135 ft. variance / Tower
56 ft. variance / Equipment

Seconded by T. Froessel

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No. Thorough exploration was conducted, no evidence.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No. Location on lot needs variances.
3. Where the requested variance is substantial.
Yes. Numerous variances requested.
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.
Yes. Applicant wants cell pole, but demonstrated sufficient need.

Roll Call Vote:

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

Variances granted by a vote of 4-1.

George & Denise Trembly, 3590, 3608, 3920 Danbury Road –

Anthony Mole' was present representing his clients who did not appear in front of the Board this evening. He advised that 2 of the 3 violations the applicant has before the Town Courts have been rectified. Lot 7 has a fence on it that has to be moved. The Board reminded Mr. Mole' that his clients, 2 months ago, said they would take down the fence that is not even on their property, but on NY State property. They would like to get site plan approval from the Planning Board, for Lot 7, but want this Board to decide what type of business will be allowed on this site. The Board advised that they will be best served to see what is permitted in this area per the Zoning code. They will not give a variance for something that doesn't even exist yet.

Mr. Mole' stated that the applicant believes that the outside parking of vehicles on this property is a pre-existing, non-conforming condition dating back to when there was a restaurant/club on this site. There were no ever given on this property to believe this.

It is asked of this Board to decide whether the storage of vehicles on Lot 5 is a pre-existing use as a primary or secondary use.

This application will be carried over until next month.

Mark Marano, 230 Doansburg Road - Mr. Marano and Mr. Joe Mansfield were both sworn in and the mailings were checked, and were in order. This application is for the construction to extend an existing deck and to construct a roof over this deck. The home was constructed in 1988 and in 2004, it was up zoned. The existing residence is now pre-existing, non-conforming. Plans and photo's were shown to the Board. They have a shared driveway. The home is not seen from Doansburg Road. When the applicant went to get a building permit for this addition, they were then informed they would need 2 variances. Public hearing closed.

Motion introduced by T. Froessel to grant a 40ft front/west side variance and a 11ft north side variance.

Seconded by P. Vink

Criteria:

1. Where an undesirable change will be produced in the character of the neighborhood.
No. Can't see home from street.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No. Up zoned.
3. Where the requested variance is substantial.
Front side, yes, but up zoned.
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. Up zoned.

Roll Call Vote:

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

Variance granted by a vote of 5-0.

T. Costello made a motion to grant the minutes of June, 2009.
Seconded y T. Froessel.

All in favor.

