

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

May 17th, 2022

Present: Chairman Michael Dudick, Randy Gifford, Lisa McCoy, Scott Styles (alternate)

Absent: Jerry Cifor, Christopher Lemire, Mario Fantini, John Klimes

Also Present: Wade Schoenborn, Chief of the Bureau of Fire Prevention
Paula Cooper, Secretary
Neil Weiner Esq., Attorney

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

In the absence of Mr. Fantini, Mr. Dudick stated Mr. Styles would be a voting member tonight.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 4 voting members of the Board here tonight, so that 4 members need to vote in favor tonight to grant the variances. He asked the applicant if they would like to come back at a later date or if

they would like to proceed knowing the Board tonight needs to vote in favor of the application with at least 4 votes.

The applicants stated they would like to continue tonight knowing 4 votes need to be in favor of the application tonight.

New Business:

*An application from **John Adams** requests variance from Section 208-12A, setback for accessory structure, 80' required, 60' proposed, 20' variance required. Property is located at 11 Teakwood Drive, Clifton Park, NY 12065 (Permit #81328)*

Applicant:

John Adams – owner- Mr. Adams stated that he was here tonight for a variance for his small in ground pool. Mr. Adams gave a visual to the meeting with and without the variance granted. He stated that his side yard was bigger than his rear and that is why he would like to out his pool there. He stated that there would be a privacy fence around the pool for screening. He stated that the location would help block the pool from one of the two road fronts.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Gifford to close the public hearing at 7:09 p.m.

Board:

Ms. McCoy asked if the neighbors are aware of the application and if they have been properly notified. Mr. Adams stated that they have been.

Mr. Schoenborn stated that this is a Type II action and no further SEQR is required. He stated that he sees no concerns with this application.

Mr. Dudick asked if this property is a corner lot. Mr. Adams stated that it is a corner lot without a traditional back yard and that is why he has setback issues. Mr. Dudick stated that with corner lots this is common. He stated that he feels that 20' is not excessive and the pool would be in an ideal location.

Ms. McCoy moved, second by Mr. Styles, to approve the variance as requested. The property is located at 11 Teakwood Drive, Clifton Park, NY 12065.

Ms. McCoy read the Variance Criteria, Ms. McCoy answered in favor to all 5 criteria.

The Secretary called the Vote:

Ayes: 4

Noes: 0

Old Business:

An application from Cellco Partnership DBA Verizon Wireless has proposed a new cell tower on the Clifton Park Water Authority property at 36 Boyack Road. As a result of this three (3) variances are required. 1. Section 208-95A.(8)-A 500' buffer is required between any new cell tower and an adjacent residential property. The cell tower is proposed within 26' of a residential property. Although the property is owned by Clifton Park Water Authority, it is still the closest residential property. (Area Variance) 2. Section 208-95B- this section requires a 110% clear zone for the tower height. Tower is 114' tall which requires a clear zone of 125.4'. This results in a variance of 99.4' (Area Variance). 3. Section 208-95D- this section does not allow cell towers in a residential zone. The property the new tower is sited on zoned residential as are all the neighboring properties. Property is located at 36 Boyack Road, Clifton Park, NY 12065 (Permit #81320 & #81321)

Applicant:

Dave Brennan – Verizon Representative – Mr. Brennan stated that they are here tonight for a proposed 110' tall telecommunication facility located at 36 Boyack Road, on the Clifton Park Water Authority's property. He stated that this was originally seen on April 19th, 2022 with the Zoning Board of Appeals, and then seen by the Planning Board on April 26th, 2022. He stated that the Planning Board received comments from consultants as well as awaiting comments from an outside consultant, Professor Bill Johnson of RIT to review the technical radio frequency aspect. Mr. Brennan stated that at the Planning Board meeting the Planning Board declared lead agency for SERQA and he is now back before the Zoning Board to see if they would agree with this and allow the Planning Board to take over the SEQR process for a negative declaration. He stated that if a negative declaration is made then he would then again return for variances needed for the proposed project, and go back to the Planning Board if the variances are granted for a Special Use Permit. Mr. Brennan stated that there was a balloon flown to get visuals and later found that the balloon was too low by 20'. He stated that the balloon was flown at the proper height and he has the results. Mr. Brennan apologized for the error, and stated that MJE that works with the Planning Board found this error and handed out the appropriate pictures to the Board members and showed them on the meeting screen as well. Mr. Brennan stated that the tower for Verizon would be on the water tank in the tree line. He stated that the water tank is 56' tall and the trees are 80' so the proposal is for 110' to be above the tree line for better coverage. Mr. Brennan stated that there is a chain link fence with barbed wire is around the tank with a lightning rod at the top of the tower and that no generator for the tower is being proposed. Mr. Brennan stated that no light is required for the top of the tower and small additional lighting will be added at the base of the tower. He stated that they would be using the existing AT&T electric lines to run electric, similar to the towers off of exit 8 of I87 to the west and exits 8 and 9 to the

east. Mr. Brennan stated that Verizon will provide 4G and 5G service if this approved and there would be room on the tower for 2 additional carriers per the Town Code.

Public:

Paula Daigle – 20 Jameson Drive – Ms. Daigle stated that she received a post card from the applicant and she read from it. She stated that it said that the tower is 26' from a residential area or property but the code calls for 500'. Mr. Brennan stated that the tower is 26' from the tower to the fence and the nearest home is 217' from the nearest home. Ms. Daigle asked where the tower would be on the water tank. Mr. Brannan stated that if you are looking from the north the tower would be to the front and right. Ms. Daigle asked if the tower would be made to look like a tree. Mr. Brennan stated that it has been considered in the past but is suggestively ugly. Mr. Dudick asked Ms. Daigle if she would prefer it to look like a tree. She stated she would to help with the resale value of her home. Ms. Daigle questioned the frequency dangers of having the tower near a residential area. Mr. Brennan stated that Professor Johnson would be looking at how the frequency would affect the residences including 4G and 5G and all other frequencies as well. Ms. Daigle asked if the picture shown of the balloon is at the actual height or the lower one and why the applicant cannot extend the existing tower that is on the property. Mr. Brennan stated that the balloon was flown at the proposed height in the photo and that his balloon picture is at an angle. He stated that the existing tower is at 56' and this is not high enough to allow the frequency to travel above tree level, but this will also be looked at by Professor Johnson.

Frank Rudd – 20 Jameson Drive - The resident asked how they would regulate additional carriers. Mr. Brennan stated that AT&T is already and Verizon is being added and that he has asked for them to be included in the analysis and historically it is less than 1% of the required regulations. Mr. Brennan stated that these frequencies turn on and off dependent on the amount of usage is required and is still below standards.

David Rouche – 3 Trevor Court – Mr. Rouche stated that he is a retired health teacher and has found information from the WHO which stated that children should not be within ¼ of a mile of a cell tower and that at this location there is a park nearby. He suggested moving to another portion of Clifton Park that does not encourage children such as near a park such as the transfer station. Mr. Brennan stated that they did look at other locations and they can pass on these locations to Professor Jameson to see if there would be another effective location. Mr. Rouche stated that he also received a card in the mail about this proposal and stated that the Town has codes in place for a reason and that they should be followed. Mr. Dudick asked Mr. Rouche if he could provide the Board with the statement from WHO for their review.

Sean – representing parents at 17 Jameson Drive – He stated that he would like to echo others concerns and stated that doing a quick Google will result in pros and cons about the towers and that he feels there is not enough research to prove no harm from these towers. He requested, due to lack of definitive information to have the applicant move the tower from residential areas. He stated that the Board needs to consider good vs. harm. He stated that his parents have AT&T now and their coverage in their home is good now. He asked if there are any other cell towers in residential areas. Mr. Brennan stated that some towers are in residential areas as well as in commercial. Mr. Dudick stated that when the Town originally came up with the buffer, there were a number of things used to determine this and that residential cellular service has been around since the 1980s and more information keeps coming out. Mr. Dudick stated that the intent

was not to put the towers in a residential area but realizes that putting them in remote areas would be counter efficient. Sean stated that the American Cancer Society stated that cell towers are a concern and can have an impact on health and there is little data to prove that they are not dangerous. He stated there is no date on the report he found.

Cindy Farrell – 35 Grissom Drive – Ms. Farrell stated that the water tower is on a hill and higher than other land. She asked if the tower would be built at the same level as the water tower and stated that this would be a burden to the community as the resale value of their homes would decrease as this is not esthetically pleasing as well as the unknown health effects it may have. She stated that she understands that this is an existing property that is already developed so no further disturbance will be done but asked if other locations have been looked at and can be considered and that 50' is too close and stated that she feels the applicant would not be happy if they would have to look at the tower up close like the residences. Mr. Brennan stated that he appreciates Ms. Ferrell's comments and that there is a long road ahead and that if the FCC changes any regulations that they would comply with them as well.

Board:

Mr. Dudick asked if T-Mobile and Verizon are on the same towers around the area. Mr. Brennan stated they are already in the area. Mr. Brennan showed a map of the existing facilities in the area as well as the proposal location. He stated that if this would be approved it would make 8 towers in the area and that this tower application would help increase coverage and showed a map of the coverage with and without the proposal. Mr. Brennan stated that the balloon was flown at leaf off conditions and that those photos are also being submitted to Professor Johnson. He stated that the photos that were taken were from Jameson, Orchard and Oakwood roads as well as Trevor Court, Dorsman Drive and Webster Lane.

Mr. Dudick clarified that AT&T has a frequency now and as the tower goes higher of the frequency would drop as the tower got higher. Mr. Brennan stated that this is correct and that the FCC states that 10 meters or higher would be exempt and at 100' it would be less than 1%.

Mr. Dudick moved, second by Ms. McCoy to accept the Clifton Park Planning Board as lead agency for the SEQRA determination for this application.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Gifford second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:07 p.m.

The next scheduled ZBA meeting will be held on June 7th, 2022.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals