

Town of Clifton Park Zoning Board of Appeals
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CLIFTON PARK
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Zoning Board of Appeals

October 4th, 2022

Present: Christopher Lemire, John Klimes, Lisa McCoy, Scott Styles (alternate)

Absent: Chairman Michael Dudick, Randy Gifford, Jerry Cifor, Mario Fantini

Also Present: Scott Reese, Zoning Officer
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.

Mr. Klimes stated that Mr. Styles would be a voting member tonight in the absence of Mr. Cifor.

Mr. Klimes 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 applicant stated they would like to continue tonight knowing 4 votes need to be in favor of the application tonight.

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 required of 99.4' (Area Variance). 3. Section 208-95D this section does not allowed 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 – Mr. Brennan stated that he is here tonight as a follow up to questions brought up at the last meeting. He stated that it had been suggested locating the tower either at the gun club or at the transfer station. Mr. Brennan showed a coverage map and stated that it indicated that there was not sufficient coverage with these alternate placements. He stated that a line of site was run with a drone at 90' facing south and showed the pictures. He showed footage of the drone flying and stated that it had foliage impeding the proposal. Mr. Brennan stated that he has submitted visual resources with a stealth tree as requested and that a supplemental radio frequency report was done as well as a drive test around the community that showed the coverage was not sufficient. Mr. Brennan stated that he looked into the concern that the home values would decrease due to the visual of the tower and she stated that prior homes were looked at around cell towers, before and 2 years after and they showed no decrease or increase and stated that this was also provided to the Board. Mr. Brennan stated that 3 variances are needed but to property line he feels one is not, he stated that one of the variances is less than what Mr. Myers had previously stated due to the distance from the right of way and not the property line. He stated that he feels that the Water Authority should not be considered residential as it is not being utilized as such but is zoned residential. He stated that the nearest residence as he interprets the code is 260' to the nearest residence. Mr. Brennan showed the profile of the tower at 114' with a lightening rod and showed a map of the insufficient coverage area. Mr. Brennan also showed coverage with the Niskayuna tower turned on and off and stated that it is still insufficient. He stated that he has confirmed that State Troopers and Sheriffs use Verizon in their cars and stated that the ambulances used to, recognized a lack of coverage but have recently changed to another provider. Mr. Brennan showed a graph for what Verizon's goal is and stated that a baby monitor or cell phone created more DBM's than the cell tower. Mr. Brennan showed a simulation for the tower with 120' tower with camouflage and stated that 114' would be for the antenna and then another 6' would be added for the cone of the camouflage. He stated that the antenna could be dropped but this was not requested. He stated that certain residences can see this such as 37 Boyack Road, Archer Drive, and a couple of homes on Oakwood. He stated that an example of the cone tower can be seen on Moe and Grooms Roads. Mr. Brennan showed

drone videos for all in attendance and stated that the height requested is what works best for Verizon.

Public:

Lee Coleznychoff – Mr. Coleznychoff asked if FAA lighting would be needed for this application. Mr. Brennan stated that it would not as it is less than 200'. He asked if Verizon would allow add ons for other companies. Mr. Brennan stated that there would be room for additional carriers, but the tower would not be any taller if they were added. Mr. Coleznychoff stated that the CPWA is getting something for having them there and stated that he is unsure of they would get more if other carriers went on the tower.

Eric Wade – Mr. Wade stated that he worked for DEC and lives at 36 Jameson. He stated that he would not see the tower from his home but every time he drives in or out of his neighborhood he would see it and he has concerns for his neighbors on Trevor Court. Mr. Wade stated that trees to the south are smaller than to the north and he is still concerned about health effects. He stated that the visuals from the top of the tower simulation is not helpful and they should be taken from the roadway looking up at the tower proposal. Mr. Wade asked who came up with the 85 DBMs. Mr. Brennan stated that the DBMs need to be not too high or the towers would shoot into one another or surrounding sites. Mr. Brennan stated that Verizon would not spend money and build something that was not necessary.

Mark Stanton - 31 Dorsman Drive – Mr. Stanton showed a picture to the Board to show how the service area and beams of service from the tower to homes. He state that page one of the application stated that there is lack of coverage but what about the people to the southwest since there seems to be a lack of service there as well .He stated that the tower is proposed to be above the trees and that they are around his home and his trees would not be getting cut so the trees would still be impeding so he questions the need. Mr. Stanton referred to paragraph 5 and paragraph 6 stating conversions are different and that trees would still be a problem and he would not be willing to cut his. Mr. Brennan stated that he is not asking to cut down residential trees only that he was asked to look into this as an option so he did.

Lori Gold – 24Jameson Drive – Ms. Gold asked about the slides and asked to verify the towers of ATT and the proposal. Mr. Brennan stated that 60' is ATT and they are proposing 106'. Ms. Gold asked what the difference in range and coverage would be. Mr. Brennan stated that they stated, and Professor Johnson agreed that the RF need to be that high due to foliage. Mr. Brennan stated that if on top of the water tower worked than they would not be in front of the ZBA but the height does not and that's why they are here. He stated that revenue is not an issue and that they are not looking to rent out space but stated that can at this height that is optimum for them and at 96' they could rent out but do not have to.

Mike Dynysiuk – 11 Jameson Drive – Mr. Dynysiuk asked the applicant to explain what will be done to the site. Mr. Brennan explained that the tower would go to the left of the tank but stay within the fence of CPWA. He stated that a foundation would be poured with a case on a 5' diameter and 30' deep into the ground. He stated that power and fiber optics are already there so they will tie into this. Mr. Dynysiuk stated that he would like to know that this is safe for his children as he has a 5 and 9 year old. Mr. Brennan stated that he has an 8 and 6 year old as well and his neighbor has 5 acres of land and he has suggested a tower on their property. Mr. Brennan

stated that the FCC has regulations and that they are within them, and is at less than 1% of what is considered safe even at full capacity. He stated that if the FCC changes regulations, they would change as well to comply.

Maryanne Stanton – 31 Dorsman Drive – Ms. Stanton asked why the water authority is residential. Ms. Stanton stated that she has concerns about the Law 64-09 and stated that the tower can go up 20' without input. She asked how ATT explains their lack of coverage. She also read from the US Dept. of housing and asked the applicant look into other locations as suggested by the Town Engineer. Mr. Brennan stated that he is appealing with the Board, Mr. Myers classification and stated that the CPWA is a municipality not a residential site. He stated that Code 64-09 does not apply to stealth facilities and that the lease with CPWA will keep the tower from going any higher. Mr. Weiner stated that a condition can be made to make Code 64-09 from being applied and asked Mr. Brennan to look into. Mr. Lemire stated that CPWA can amend the lease to make the tower higher. Mr. Brennan stated that other sites have been looked at and that this is the best for coverage.

Robert Melia – 34 Dorsman Drive – Mr. Melia stated that there is a tower at exit 8 and is 1.8 drivable miles and the Grooms Road tower is 3 miles from this site as well. He stated that he cannot understand why cell towers are being installed every 2 miles and does not see this throughout the country. He stated that there was a dead zone in 1940 during WWII and stated that by 1943 it was resolved so time and technology can fix some of the problems. He stated that he knows of law enforcement officers that live in the area and they have not complained of poor service. Mr. Melia asked what Verizon would get for another carrier on their tower. Mr. Brennan stated he is unsure, but it would be rented if needed, and that they are now using towers for service not satellites like in 1943.

Eugene Nicholas – Ms. Nicholas stated that she has lived in a small community for 25 years and there are less problematic sites than this one.

Linda McNab – 29 Boyack – Ms. McNab stated that she lives across the street from the park. She asked if the cell companies have insurance policies that would provide for future health effects. Mr. Brennan stated they have policies as any business but not sure about this specifically or what they cover. Ms. McNab asked if the Town would be responsible if they approve the location. Mr. Weiner stated no, but that the Town does not provide insurance for private entities. Mr. Weiner stated that there are Blue Sky Laws for business in NY but not all states have them.

Mr. Klimes moved, second by Mr. Styles to close the public hearing for the night at 9:07 p.m.

Board:

Mr. Lemire asked if there was an estimate on how many trees would need to be cut to allow for the tower to work properly. Mr. Brennan stated that only trees on the CPWA property or Clifton Park property. Mr. Lemire asked if a variance would be needed if they agreed to cut the tree tops on their own property. Mr. Brennan stated that there would be no variance if they agreed to cut the trees. Mr. Lemire asked if the tops were cut if the tower would be more visible. Mr. Brennan stated he feels it would be. Mr. Lemire asked if the neighborhood petition was given to the land owner. Mr. Reese stated that it has not to his knowledge.

Mr. Lemire explained laws and codes and how they pertain to what they are evaluating.

Mr. Weiner further explained CPWA is separate from this Board and would be a lease holder. He stated that this would be a public utility and is under federal control.

Mr. Weiner stated that he would like to applicant to further clarify Law 64-09 and how it pertains to the application for the next meeting.

Mr. Weiner asked the public to try to think about whether they would prefer to see 2 smaller poles or 1 larger one for the next meeting.

New Business:

None

Ms. McCoy made a motion to approve the minutes from the September 6th, 2022, meeting. All who were present at the September 6th, 2022 meeting voted in favor and the meeting minutes were approved.

Mr. Klimes made a motion to adjourn the meeting, Mr. Lemire second, all voted in favor and approval was unanimous. The meeting was adjourned at 9:14 p.m.

The next scheduled ZBA meeting will be held on October 18th, 2022.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals