

TOWN OF POMPEY ZONING BOARD OF APPEALS MINUTES
APRIL 2, 2015

The Town of Pompey Zoning Board of Appeals meeting was held on Thursday, April 2, 2015 at 7:00 pm at the Town Hall. Present were: Chairman David Tessier, Kevin Sharpe and Dave Hale, Town Attorney Jeff Brown and Code Enforcement Officer Richard Penhall.

Chairman Tessier opened the meeting at 7:05 pm. This is not our normal meeting night. Other meetings will be held on Monday nights.

This will be a new hearing with an alternate site presented by Verizon Wireless. Tonight there will be a brief presentation by the applicant. Advertisement has been sent out, as well as continuation of existing public hearing on original site. Tonight the Board will review the Environmental Assessment Form Part 2 and Part 3. We need to complete for unlisted action before the public hearing. The Board doesn't usually get into the long form, usually we just have the short form. All are welcome to speak. Please keep comments to new information.

Jared Lusk, Esq., from Nixon Peabody on behalf of Verizon was present.

He mentioned that on March 9th Robert Brenner, Esq. provided additional information, including revised site plan. Visual analysis report (balloon test), visibility of tower, proof of mailing for the public hearing. Mr. Lusk then gave the Board a letter dated 4/2/15, requesting on behalf of Verizon a code interpretation determination in writing.

Completed analysis of alternate sites. Falcone site is the only reliable site. By 2015-16, there will not be sufficient existing tower capacity to handle calls. Verizon would not be applying for the tower if it wasn't necessary.

The area is being served by three tower sites at this time. People have lived by these towers for the last 20 years. We are reaching capacity. The network is reaching capacity.

Chairman Tessier stated that Part 1 of the Long Environmental Assessment form has been received by the Board. Task is to review tonight. We have a blank Part 2 form to start with bringing up all issues that affect environment. It is 10 pages, 18 main questions. Most are yes or no, some go into more detail.

Attorney Jeff Brown stated that the Board goes through analysis, determine if there is small or no impact, or moderate to large input. Making a negative declaration does not impact Board's authority to grant or deny variance. Don't have to have a positive declaration in order to deny application.

Chairman Tessier stated we have to go through this process. Zoning Board area variances are usually Type 2, no further environmental review is needed. This specific location is in the primary area for cell towers.

Primary, under the Town Code, applications involving sites are considered unlisted actions. The 1st site was not primary, so Type 1 action was required. Using the long form for unlisted actions is optional. The Board sees a lot more information.

Part 2 will read the first of the 18 questions.

The Board needs to make a determination:

1. no or small impact may occur
2. moderate to large impact may occur

The Board proceeded to discuss and answer all questions on Part 2 of the Long Environmental Assessment Form. The clerk kept an official copy of the responses. All answers were unanimous by three ZBA members present.

At the end, Chairman Tessier explained that the Board may make a positive declaration, a conditional negative declaration or a negative declaration. Does not tell us how to vote on application.

If we declare a positive declaration, applicant has to file Environmental Impact Statement.

Attorney Jeff Brown stated that one option with conditioned negative declaration is to require some form of screening at Planning Board site plan review to mitigate issues ZBA brought up. Camouflage as a farm silo or screen to look like a tree.

Chairman Tessier stated that lights could be conditioned as part of site plan process.

We have to vote on height variance, 120 feet plus 4 feet, 34 feet above the tree line. Could be possibility of camouflaging structure as evergreen tree. It has been done in Clay, at 125 feet. It is not noticeable. It looks like a white pine. He doesn't like big steel structure. That is something that could be conditioned by the Planning Board.

Negative declaration allows application to continue with the project and the hearing. Does not mean we have to vote for or against the application, just that it has been reviewed environmentally.

Jared Lusk stated that if cone is constructed at the top of tower, it adds about 10 feet to the top of the tower to make it look like a tree. We would need additional 10 feet to add cone, otherwise it would be flat on top. Can design however the Planning Board would want it designed.

Attorney Jeff Brown asked what if it was designed to look like a silo?

Jared Lusk stated would be dome on top, some additional height to enclose the antennas. The tree is much more acceptable.

Chairman Tessier stated it can be a condition. Part 3, 2 pages ZBA can issue conditional negative declaration that applicant use a pine tree for camouflage.

Based on the Board's discussion about a conditional negative declaration, Attorney Jeff Brown suggested possible wording.

Chairman Tessier stated that the issue might be mitigated. Need a motion to vote on the Environmental Significance in the form of a conditioned negative declaration.

Motion by D. Tessier, seconded by K. Sharpe that although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because the applicant will be required to install camouflage or screening of the tower (such as a tree canopy or silo) as determined by the Planning Board during the site plan review. There will, therefore, be no significant adverse impacts from the project as conditioned and, therefore, this conditioned negative declaration is issued.. Passed 3-0.

Chairman Tessier stated we can now open the Public Hearing on new site and resume the hearing on the old site. Again, stenographer taking notes, sign in sheet on corner of table. Keep comments addressed to the Chair. May or may not answer questions tonight.

We meet on Mondays, next meeting is on Monday, April 27th. May 25th is a holiday, proposed meeting be moved to June 1st and June and 29th.

Ken Freer – 4111 Pompey Center Road. He has a video showing driving 4 miles around the area regarding coverage in the area. In different areas would tell how many bars they were showing with the call. No gaps in span of 47 minutes. Drove around without dropped call.

His second video was Dr. McKnight who gave a presentation at the first meeting. It was a short video on Telecom Regulations.

There was then a slide show. No cell towers near homes.

Mr. Freer also stated there should be shot clock for the alternate location. Requested Verizon to address small cell towers. Would Verizon consider using neutral host?

Kathleen Freer -4111 Pompey Center Road - we are anxious to get this resolved. Question, where would Verizon put tower if no one said they could use their land?

If you grant variance, does this action mean multiple towers? What is Verizon's long range plans for Pompey towers? What is contingency plan? Read comments from another SU professor.

Have propagation map for existing coverage, then showed a map with new cell towers.

Also one showing two 75 foot towers. There are other alternatives, with far less impact.

Chris Moseson – 8202 Indian Hill Road – City Scape is a 3rd party independent local firm. Does work for governments, not for any cell service. Will devise a plan for you. They will determine where all sites are, take account of future work with leasing/revenue. Will review wireless applications, show you what coverage you need. They are neutral. Don't feel Verizon is credible with what is best for the Town. They have expertise the Board doesn't have. Urge the Board to take a look at this. Who's going to want to be next to want a tower?

Jared Lusk stated small cell towers are not feasible, will not work. Used in densely populated areas, inner city areas. Verizon Wireless takes top spot on tower. Verizon Wireless is building this tower to serve it's network only.

Chairman Tessier asks about March 12, 2015 FCC order raised by Dr. McKnight.

Jared Lusk is not familiar with that at all.

Chairman Tessier stated perhaps Town needs to restudy, redo ordinance. Board would have to work with time schedule and ordinance. Shot clock deadline is March 30th.

Jared Lusk stated that shot clock needs to be extended from today until after the next meeting, April 27th. Ensure application is processed in a reasonable time. Verizon has answered questions that have been asked.

Attorney Jeff Brown stated that he has had discussions with Mr. Lusk. He agreed to give reasonable amount of time for the Planning Board to do site plan review.

Jared Lusk would ask the Board that the Public Hearing be closed so Board can move in a reasonable amount of time.

Chairman Tessier stated that we need to hear everyone. Wants to continue the hearing to the next meeting.

Hans Fuller - 4248 Trout Lily Lane. We have other carrier choices in the area. Keeper/stewards of community.

Bill DeBlaay - 7990 Indian Hill Road. He has 68 acres. Just recently learned about the tower. Will be 600-700 feet from the tower. Doesn't know why he didn't get the information. He will see the tower from anywhere on his property. Who is going to compensate them for the devaluation of their property?

Richard Moseson – 8202 Indian Hill Road. Many people could not come tonight. It is a terrible night for a meeting. He had a handout from Mark Underwood of Pompey Center Road which he gave to the Board. The Board should have more time to consider this site.

First, he felt all items were moderate/large impacts, not small on SEQR form.

124-135 ft. camouflaged tree would be taller than real trees. Wasn't happy when water tower went in. Cell towers are ugly. Town should hire a firm to review. Doesn't trust Verizon. Town has regulations on tower height, etc.

Chairman Tessier stated that the Town is continuing to work on hiring someone.

David Peckham – Gibbs Road – Tower rent paid, does it make property more valuable?

Chairman Tessier – it is up to the assessor.

Chris Moseson – 8202 Indian Hill Road - as far as the real estate, it does affect property values. She has provided statements from local realtors as for the impact of cell towers on residents. Our Town assessor reduced value on twelve homes after cell towers were built near them.

One more point, most appraisers looking at developments, cell towers not in neighborhood.

Matthew Krukin – 4273 Trout Lily Lane. If anybody had to choose, would not want to live near a cell tower. Question for Verizon, will tower be Verizon FIOS?

Jared Lusk – no.

Matthew Krukin asked about the Master Plan of 2013. Does cell tower go against the Master Plan?

Chairman Tessier stated ZBA must work with cell tower portion of Town Zoning Code.

Matt Krukin asked about the spirit of compromise, have seen the trees (camouflaged). Didn't like them. Encourage the Board not to look into a tree to mask the tower.

Eric Austin – 8002 Indian Hill Road. The only ones that want the cell tower are the owner and Verizon. He is not going to live near a cell tower. He has had a realtor at his home and the tower will cost him.

Scott Hommel - 7901 Indian Hill Road. Has lived here all her life, has bought a home and is not happy.

Jessica Fetterman – There are three cell towers in the area. How many have bought homes with cell towers there? If they knew there would be a cell tower, would not have bought or made improvements. Preserve scenic view, quality of life.

Kimberlee Freson - 4505 Winding Creek Road. Just moved here a few months ago. Colorado is brown and dry. Just bought nine months ago. Would not have bought their house if she knew she would have to see a tower. Don't get clouded by technology.

Sharon Holstein – 8194 Indian Hill Road. Moved here to be in the country, not going to live under a cell tower. Don't like Verizon's way of doing business. Five years of Sneaking around, sleazy at best. Need to work with us and show respect. Don't bulldoze your way into Town.

Chairman Tessier then stated that the Public Hearing will be adjourned to April 27, 2015 at 7:00 pm. The shot clock will be extended to the day after the meeting.

Meeting adjourned at 10:00 pm

Respectfully Submitted,

Darla M. Mawson, Secretary
Town of Pompey Zoning Board of Appeals