

**TOWN OF POMPEY ZONING BOARD OF APPEALS MINUTES
OCTOBER 27, 2014**

The Town of Pompey Zoning Board of Appeals meeting was held on Monday, September 29, 2014 at 7:00 pm at the Town Hall. Present were: Chairman David Tessier and members Kevin Sharpe, Dave Hale and Pat Frazee. Also Code Enforcement Officer Rick Penhall and Town Attorney Jeff Brown.

Chairman Tessier opened the meeting at 7:10 pm and introduced the Board. This meeting is a continuation of last month's meeting on the application for Verizon Wireless for a height variance for the cell tower.

Members of the Town Board and Planning Board are also here at the meeting. Also, Dan Maffei and Jeremy Bennett (from his office) are here. Member of Al Stripe's office staff is also attending the meeting.

The twenty or so letters received by the Zoning Board will be on file with the Secretary for the record.

Does applicant have anything new to present? We will open the hearing at this time. There will be a time limit on the meeting of 9:30 pm. No decision will be made tonight. Please state your name and address.

Applicant has provided a court stenographer. More accurate record than ours. We don't write everything down.

The environmental quality review must be completed by every Board – SEQR. The Zoning Board of Appeals is the lead agency on this application. There is a variance request and site plan review. The site plan review is completed by the Planning Board.

SYRACUSE SMSA LIMITED PARTNERSHIP, d/b/a VERIZON WIRELESS:

Public hearing on an area variance to construct and operate a 150' wireless telecommunications tower (with 4' lightning rod) on property owned by Trudy Falcone, located near 8144 Indian Hill Road.

Jared Lusk, of Nixon, Peabody LLP was present. Also, Jim Hodgeson, Rob Brenner, Kathy Pomponio, Erin Kansy and Jean Genedidomenico, radio frequency engineer were present.

Last month the Board requested three items for Verizon Wireless to provide to the Board. 1. Proof of communication between Verizon Wireless and OCWA regarding the water tower. No interest in leasing to Verizon Wireless. 2. Height of OCWA water tower if 132 feet. 3. The Board requested the heights and locations of other towers in the area: Manlius – 160 feet is co-located at Arkie Albanse Rd, Pompey is at 7245 Sevier Road – 180 feet at the top and Cazenovia is on Woodfield Road – 185 feet at the top.

Surrounding the towers within ½ mile of site: Manlius is residence, much more densely populated; Pompey is a mixture of agri/residential. Those three towers provide service in the area. There has been no objections in the area over the years and in Cazenovia it is residential and a golf course.

Wetlands, Ex. B – investigated site and verified wetlands were no where near the parcel.

Ex. X – questions on noise created by project. Demonstrate how low noise would be. Generator on 9-10 and only other time would be when there is no power.

Next question, Ex. Y – project engineer conducted balloon test, provided information/analysis.

Question concerning property values – Ex. Z – four appraisals, most recent 2011 based on their knowledge, urge you to review. To their knowledge no evidence to show less property value.

Medical – Ex. AA – helicopter crash concern. No further reporting is necessary. Haven't heard of any crashes.

Regarding the park, over ½ mile away. Not on National Register.

Board has copies of all comments requested at the last meeting.

Jared Lusk then asked the Board to close the public hearing and move forward. The FCC in 1996 passed the Wireless Communication Act. Health concerns beyond scope of Board. There cannot be an unreasonable delay, must be within 150 days of application. We applied on August 20th. Needs to be completed by January 17th. Need to make sure the process if followed.

Chairman Tessier asked about the baseline map, Section G, Ex. 1 – coverage is purple, white area short G coverage or any coverage?

Answer is 4G coverage.

Jared Lusk stated that the Federal Government has strict guidelines for 4G coverage in an area.

Chairman Tessier stated that before opening the hearing would like to state that we consider 1. aesthetics, 2. need for coverage and 3. main affect on area or health affects. Application is for height variance. Ordinance is 75 feet, requesting 150 feet, plus 4 feet for lightning rod to 154 feet.

The Zoning Board of Appeals approves the variance, then goes to the Planning Board for Site Plan Review.

Pat Frazee stated that we are only here because of tower being 150 feet.

Chairman Tessier stated that if the tower were 75 feet, then applicant would go straight to the Planning Board for Site Plan Review.

Pat Frazee asked how Verizon determined the height of tower should be 150 feet?

Jared Lusk stated the information was provided at the last meeting. Had maps showing 100 foot and 125 foot towers.

Chairman Tessier stated that attending are a group of residents, a technical representative and an attorney.

Will now open the public hearing. Please state your name and address.

Ken Freer of 4111 Pompey Center Road. Last week he sent a seven page document to Board members. Has lived here 33 years, love it here. Was going to have a \$200,000 investment added to house, but it has come to a complete halt.

Have concerns about the tower falling. The site is 18 feet from their property. There are other areas better suited for the tower. He has letter from real estate agent, Thalia Collis. She couldn't be here tonight.

Also went through the Environmental Assessment Form. Disagree with the answers.

Have eleven more letters sent from residents of the Town. Refers to Pompey Telecommunications Law 165, contend there are 14 violations to Pompey law.

Dr. Philip Kaplane, family doctor. Has lived here about forty years. This is a private benefit public risk. Need to focus on perception. Might not be healthy. Owner has other options for tower.

Kathy Freer of 4111 Pompey Center Road. Has some questions for Board and Verizon. Would request documentation that three other towers were tested. Pompey height limitation is 75 feet. What proof is there that it doesn't work at lower levels? Been reading Pompey law, how will be benefit them, us, etc.

Dr. Lee McKnight, Syracuse University faculty member. Small cells and Distributed Antenna Systems is a rapid developing technology. He suggested that the document be reviewed carefully before proceeding. Would raise revenue for Pompey, not raise taxes.

He spoke at an FCC workshop in July. There are different types of small cells. Little small cells will come to Pompey anyway. Report & Order released by FCC on 10/21/14.

Need to pause and reflect on small cell, system would be better. He would suggest a delay to consider options.

Chairman Tessier wanted to comment on the last two speakers. Ken, comments on ECC form – the Board reviews point by point. Each item is taken into consideration.

As for acting on the variance request, consider five points, benefits to applicant and detriment to the Town.

Douglas Zanelis, attorney of 7629A St. Rt. Highway, Cooperstown. The bottom line is Verizon hasn't demonstrated a need for the tower. Would ask that the Board consider this. They haven't demonstrated that they couldn't upgrade existing towers or get by with the 75 foot tower. Feels five of the criteria is against Verizon. Urge the Board to deny the application.

Chairman Tessier thanked all for their reports and concerns. We can hear from anyone new to add their comments.

Doug Fetterman of 4282 Trout Lily Lane. Government is elected to protect us. Board is appointed. We are asking you to protect us. We have hired legal counsel, formed a group of concerned citizens.

Richard Moseson of 8202 Indian Hill Road. Gave the Board a handout. He spoke last month about the terrible impact of a cell tower 100 feet from their property.

Jeff Carmen of Henneberry Road. He was on the original Tower Commission. They provided the first Town Ordinance. Nothing has changed. Needs to be farther away. Lower the density. Asking the Board to think about it.

Dr. Heidi Puc of 8102 Wilbarhan Run. She is worried about the health affects. Had a handout for the Board.

Kristen Sweetser of 8071 Indian Hill Road. Just wants to go on record that she agrees with everyone that has spoken and especially the attorney.

Chris Moseson of 8202 Indian Hill Road. Had handouts for the Board regarding the impact of the balloon test. Took pictures from backyard to show impact. Important in the handout are pictures of balloons. Many people on Gates Road, Broadfield Road view shed would be marred. Real estate is their home, putting up the tower would decrease property value.

Mark Underwood of 4113 Pompey Center Road. They bought their land in 1981, 33 years ago. It is their camp away from home. To see the tower would be devastating.

In their application, Verizon stated that they need the tower. The Board needs to ask what that really means. Already have 3G, don't need 4G.

Lon Litchison of 8071 Indian Hill Road. Just a generic comment. Have always enjoyed coming to hearings. He is impressed with dedication and hard work of the neighbors.

His impression is that the Board's job is cut/dry and black/white. Approve or not. Seems now that there is a whole range of options. Alternatives have been presented.

Jessica Fetterman of 4282 Trout Lily Lane. Agree with points made in opposition. On the Verizon drive test there were no pictures for Trout Lily Lane. If the tower is approved at 150 feet, then Verizon could increase the tower to 200 feet. This needs to be considered.

Chairman Tessier stated that if the variance was issued for 150 feet, they can't just increase the height. Whatever the height.

Sharon Hochstein of 8194 Indian Hill Road. At the last meeting she asked the Board to protect them. Brought up points that Verizon kept secret for 5 years. Went from neighbor to neighbor until they found someone who would lease the land. Protect them.

Richard Moseson of 8202 Indian Hill Road. Has a comment. Verizon went to them 4 years ago and they said no! Allowing this would set a precedent.

Otis DeLuca of 7676 Brown Gulf Road. This doesn't affect him. Wouldn't like it if something obstructed his view, so he agrees, don't approve.

Pete Schwarze of No. 2 Road. Three points – 1. no demonstrated need, 2. mars the landscape, ruins view and 3. there are other technologies, choices.

Chairman Tessier stated that it is getting on toward 9:30 pm. Thank you all for coming. The next meeting will be Monday, November 24th at 7 pm. We need to vote to continue and need to go over the ECC form. This will take a lot of time. So we need to get some work done.

Questions for the applicant. Make a comment on the small cell, can you meet need with existing towers? Heard about alternate sites. It would be helpful if we had other potential sites. You've been working on for five years. It was laid out in application.

Water tower was never analyzed. If other sites need to be checked, has to be in neighborhood.

Asking the Board to continue next meeting on November 24th at 7 pm.

Motion by P. Frazee, seconded by D. Hale to continue the hearing for Verizon Wireless until the November 24th meeting at 7 pm. All in favor.

Motion by D. Hale, seconded by P. Frazee to adjourn the meeting at 9:25 pm.

Respectfully Submitted,

Darla M. Mawson, Secretary
Town of Pompey Planning Board