

**TOWN OF POMPEY ZONING BOARD OF APPEALS MINUTES
JUNE 29, 2015**

The Town of Pompey Zoning Board of Appeals meeting was held on Monday, June 29, 2015 at 7:00 pm at the Town Hall. Present were: Chairman David Tessier, Kevin Sharpe, Dave Hale, Don Neugebauer, Pat Frazee; Town Attorney Jeff Brown and Code Enforcement Officer Richard Penhall.

Chairman Tessier opened the meeting at 7:00 pm.

Application for cell tower is at 8144 Indian Hill Road on the Falcone property. Height variance from 75 feet to 124 feet.

Guest tonight is consultant hired by Town from CityScape, Inc, Rick Edwards.

Chairman Tessier then went over what he would be going over during the meeting tonight. There would be a report from the consultant, direction from the attorney, and the Board will ask questions of the consultant, and also ask the applicant questions.

The next meeting will be on Monday, August 3, 2015 at 7:30 pm because of issues he will go into later.

Chairman Tessier then stated that ZBA cannot effectively deny Verizon the ability to build a cell tower in the Town. The Town regulations allow 75 feet, Verizon has requested 124 feet.

The initial request was for 154 feet, 90 feet from the property line. The applicant then submitted an amended application for a height of 124 feet (120 foot tower and 4 foot lightning rod) which was called Alternate Site One, 70 feet from the property line. Applicant then submitted a third location, Alternate Site Two, approximately 80 feet west of Alternate Site One.

The ZBA made a site visit to see the two alternate sites which was properly noticed.

The applicant will be submitting an application for a Simple Subdivision to the Town Code Enforcement Officer to adjust the lot line between the two adjoining parcels. This will be referred to SOCPA, because it is within 500 feet of an Ag. District, for their meeting on July 29th.

Since September 24, 2014, the ZBA has held 10 meetings, including 5 public hearings.

The Board will continue to receive documents until July 15th. They must be delivered to the Town Hall.

The public hearing will be re-opened at the next meeting to be held at 7:30 pm at the Town Hall. The August 31st date will ensure that we have a response from SOCPA.

After the hearing the ZBA will be able to make a decision on the application. We can approve, deny, or approve with conditions.

ZBA member Pat Frazee stated that if the public hearing is extended beyond tonight, it should be only new information, needs to be relevant. Hate to open up beyond tonight for old information.

Chairman Tessier stated that if this Board feels we have enough information, we don't need to re-open the public hearing. But he feels the Board does have new information.

Any other comments on receiving new documents?

ZBA member Don Neugebauer feels that we do need to open the public hearing again and that the July 15th date for new written information is good.

Pat Frazee stated it should only be new information that the Board can receive.

Motion by D. Neugebauer, seconded by D. Hale to accept written new information until Wednesday, July 15^h. Unanimous.

Attorney Jeff Brown stated that any documents received by the Town since the last meeting should be included.

Chairman Tessier stated that both the residents and the applicant have asked that the public hearing be re-opened. Our next regular meeting would have been on Monday, July 27th, but SOCPA meeting is on July 29th. He is proposing that the ZBA meeting be moved to Monday, August 3rd at 7:30 pm. The Board could make a decision that night.

Motion by D. Hale, seconded by P. Frazee to hold the public hearing at the next meeting on Monday, August 3rd at 7:30 pm at the Town Hall with new information presented from the public.

Pat Frazee still questions need for 120 foot cell tower. His cell phone works in his basement. It doesn't have to be in line of sight to be able to receive a signal.

Gene DiDimenico, Verizon Engineer, responded that the signal will get through, but quality will be low.

Pat Frazee wondered what if they decide to live with what it is? He is not concerned about three lines on the graph.

Gene DiMimenico, shows on graphs, coverage will be lost. Driving faster beyond hill signal will be diminished. Beyond hill won't be a good signal. Topography is how signal would be affected in target area.

Don Neugebauer said when he did the site visit, height of trees has little to do with tower.

Verizon Attorney Jared Lusk said if tower is below the trees, it would create a problem. Alternate Site #1 trees are about 70 feet. If ground was flat, could do shorter tower.

Gene DiDimenico stated that when driving the terrain is a factor.

Don Neugebauer stated it needs to be higher than the trees because of the terrain.

Jared Lusk stated has had several submissions in response to questions. Simple subdivision application has been submitted.

Question for the record, an e-mail was sent saying a private video was attached. Has the Board seen it? The Town should make the link available to the public. Are there any others? If so, they need to be made available.

Pat Frazee wanted to go back to the topography. He had a map from Verizon. He then asked the Verizon Engineer some questions regarding the map.

Gene DiDimenico, Verizon Engineer stated that if tower is lower, there will be more and more missed calls. He then explained the graphs to Pat.

Kevin Sharpe asked regarding the three other towers that have been upgraded to 4G, why is a fourth tower needed for 4G? What is the fourth tower for?

Gene DiDimenico stated that three other towers have been upgraded to 4G. They cover several miles, but coverage is not ideal. It is best to place another tower to take some capacity.

Dave Hale asked – does Verizon 4G service include voice and wireless broadband internet service? Verizon answered yes.

Jared Lusk stated he received a letter that entire network is going to 4G, by 2021 or earlier. 3G is going away. Starting to take off-line and use 4G.

Attorney Jeff Brown asked if they are familiar with what other carriers have? Are they using 4G LTE exclusively for non-voice services?

Gene DiDimenico said most use for voice and data.

Pat Frazee said to fast forward five years, if denied, is he going to be saying “what are you going to do?”

Jared Lusk – you wouldn't be able to make a phone call.

Kevin Sharpe asked at what point are telephones going to satellite?

Rick Edwards, consultant for CityScape stated that the satellite service feeds cars, also rooftops, etc. If there is any cover, the signal is lost, or there is too much delay. So, satellite is not a viable option.

He stated that he normally gets involved early on, requests data. Came in late after two or three hearings. All sides have provided a lot of information. Looked at FCC Act of 1996. Board has control of location, safety, but you cannot deny Verizon from building a network.

Citizens drive video showed gaps, even though there were no dropped calls. They could get a streaming signal, probably down to 2G at times.

This is a reasonable request. Originally asked for 150 feet, has dropped to 120 feet.

Ordinance question, there is a gap in 4G service. The whole nation is going to 4G. Already have lost TV channels. There is a great demand for more and more service, and for more speed. By 2017 the internet will make more revenue than TV. First run movies, will not be going to the theater. LTE, long term evolution is 8-9 years away.

Wireless Broadband needs more speed to work. Verizon did prove their point about gaps in service. As far as does it fit in the community, the Board will decide that.

He doesn't like variances. What you do for one, you have to do for all. Rule of thumb, cell towers need to be 20 feet above height of trees. Needs to be above the trees. Issue about variances needs to be studied carefully.

Camouflage is effective, not something noticed.

Health issues, 16 years of study. Not one lawsuit regarding health issues from cell towers. The American Cancer Society, World Health Organization have no issues. If lawyers can't find something to sue over, that tells you there is no issue.

Rarely does everyone get what they want.

Mr. Edwards is not a resident of the area, but would be happy to talk to anyone. Verizon has met their obligations.

Pat Frazee asked about specifics for the Town. How many towers for entire Town to be 4G? Are we going to be dealing with more towers? How many more towers will it take?

Rick Edwards stated 4G is aiming at local homes. Needs to be in neighborhoods.

Chairman Tessier stated the Town cell tower law was written 15 years ago. Needs to be looked at.

Pat Frazee stated maybe lower tower would work. Decision we will have to make.

Don Neugebauer said 20 feet about the tree line. Can you talk about 20 feet?

Rick Edwards, Consultant, Verizon is trying to get signal with 120 feet. It's a trade off so they can get an approval. Know something will be needed over the ridge.

20 feet above tree height, the signal only gets out of the trees. With moisture in the leaves, the signal never gets the strength to get out of the site. Above trees is crucial.

Attorney Jeff Brown stated it is a fine point. Expert opinion 103 feet appropriate (20 feet above trees), or 120 feet?

Rick Edwards stated he would like to see why it won't work. He will investigate that question.

Jared Lusk stated that Verizon has already provided data comparing 100 feet versus 120 feet, Ex. KK, March 3, 2015, Height Study.

Chairman Tessier stated discussion with Rick Edwards has been very helpful. Are there any other questions for the consultant?

Don Neugebauer asked if the tower is allowed, would the height determine where the next tower would be?

Rick Edwards said the next tower is based on proximity.

Richard Moseson stated he would like the report provided by Verizon on June 1st. He wants a copy for the citizen's attorney.

Attorney Jeff Brown – have attorney contact him.

Pat Frazee asked what is obligation for 4G to entire Town?

Jared Lusk stated that Verizon was granted license to provide service for licensed area. Want people to buy phones. Need the coverage. Building 120 sites a year to keep up with demand. He is not aware of any other sites planned for Town of Pompey. They just put an application in to the Town of Onondaga.

Rick Edwards said that all carriers are building rapidly.

Chairman Tessier said the Board could make a decision on August 3rd.

Motion by D. Hale, seconded by K. Sharpe to adjourn at 8:30 pm.

Respectfully Submitted,

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