

MINUTES

**Town of Wappinger
Zoning Board of Appeals
January 8, 2013**

**Town Hall
20 Middlebush Road
Wappinger Falls, NY**

Summarized Minutes

Members:

Mr. Howard Prager	Absent
Mr. Della Corte	Member
Mr. Casella	Member
Mr. Johnston	Member
Mr. Galotti	Member

Others Present:

Mrs. Roberti	Zoning Administrator
Mrs. Rose	Secretary
Mr. Horan	Attorney

Summary

Verizon Wireless

Further Discussion on February 12th

Mr. Della Corte: The first item on the agenda is to approve the minutes from December 11, 2012.

Mr. Casella: I make a motion to accept the minutes of December 11, 2012.

Mr. Johnston: Second.

Mr. Della Corte: All in favor?

Board: Aye.

Mr. Della Corte: The next item on the agenda is:

Appeal No. 12-7477

Verizon Wireless- Is seeking an area variance of Section 240-81 (G)(3)(c)[1] of District Zoning Regulations in a COP Zoning District.

-Where 1,500 feet on a horizontal plane to any structure which is to be occupied by a public or private school, the applicant can only provide -0- feet.

-Where a minimum distance of 750 feet on a horizontal plane from any daycare center, church or place of worship, the applicant can only provide -0- feet.

The property is located at **155-179 Myers Corners Road** and is identified by **Tax Grid No. 6258-03-350303.**

Mr. Olsen: My name is Scott Olsen, I represent Verizon Wireless. Here with me is Jonathan Edward; he is an engineer with Verizon Wireless and Mike Orchard who is with Techtomic Engineering. These gentlemen may be able to answer the more technical questions that I cannot. We are looking to install a new wireless communication facility. It is not a tower. We are looking to put antennas on an existing office building. This would be at 155 Myers Corners Road. (Pointing to the Map) this is Rt. 93 and here is the building we are talking about. In the east portion of the center of the building is where we are talking about installing two antennas. The antennas are anywhere from six to eight feet tall. On the back of the building there will be a third antenna. The purposes of these are they will be facing different ways so we can get a 360 degree turn. The facility also includes a 12 x 30 equipment shelter. This will be on the western side of the building and behind the building. We are proposing that the façade of the equipment shelter match the building. In the proposal in front of you are colored maps. There are a lot of residences in the area and a church across the street and a day care center. What we did was draw a line from

the residence, school or church and drew a line from there to where the antennas will be. This was done because there were a lot of them. We went before the Planning Board for conceptual approval in September and they suggested we come to this board first for the variance. If we receive the variance we need, then we can go to the Planning Board for the SUP.

Mr. Casella: Is this in the old Laerdol complex?

Mrs. Roberti: Yes.

Mr. Casella: Isn't there a school across the street.

Mrs. Roberti: There are two in the building.

Mr. Casella: Are you the owner of the building?

Mr. Olsen: No we lease space.

Mr. Della Corte: These are not in the rear of the building they're on the side of the building?

Mr. Olsen: Two of the three antennas will be facing Rt. 93. The third one will be facing the back.

Mr. Della Corte: Where is the day care in the building?

Ms. Roberti: On the ground floor and Orchard View High School which is part of the Wappinger School District.

Mr. Olsen: Knowing this, we designed it not to face over the play ground. Not there were any safety concerns. Some may see a safety concern so not having it over the play ground elevates the concerns.

Mr. Johnston: Are there preexisting antennas on the roof already?

Mr. Olsen: I believe they are already and the town does not have any permits for them.

Mrs. Roberti: I don't want to cut you off but last night I was told they were taken off. I don't know if that is true.

Mr. Olsen: After we got the letter from David, we had our people check into it and the antennas are there.

- Mrs. Roberti: Are they like these types of antennas or are they for ham radios?
- Mr. Olsen: It is more like a repeater to increase signal strength.
- Mr. Galotti: The elevation that you have on the last page is that what the antennas will look like.
- Mr. Olsen: Yes, the antennas will be between 6 and 8 feet.
- Mr. Horan: It looks like there are HVAC units up there too.
- Mr. Olsen: Yes.
- Mr. Casella: That would be 6 to 8 feet above the roof. You're not talking about those tall towers.
- Mr. Horan: They will look like the HVAC units.
- Mr. Olsen: Yes, they will be about a foot wide.
- Mr. Johnston: Did they get authorization for the antennas on that roof?
- Mrs. Roberti: Not to our knowledge but they are not really antennas as in cell towers but they are repeaters. I would have to ask the building department if they require a permit. I don't know if they are there and I will have to send one of the building inspectors out there to investigate to see what they really are.
- Mr. Johnston: If they are allowed to be there and stay there, will your equipment interfere with them?
- Mr. Olsen: No because they work at different frequencies and because this is a FCC operation we have to be very careful what frequencies are used. They are designed not to interfere with other frequencies. In the application before you we do have a non interference earth study which was done by a New York City Engineer he looked at all the antennas in the area and confirms this would not interfere with any of them.
- Mr. Galotti: The distances set forth, for example 700 feet or the 1500 feet, is set for a specific reason. What would the concerns with the proximity to a day care facility.

- Mr. Olsen: I wasn't here when the Town Board adopted the law but back then there was a concern about health issues. Local municipalities are trying to keep them a good distance away.
- Mr. Horan: Under the Federal Telecommunication Act of 1996 and their amendments, the Telecommunication Act was adopted to preempt local municipalities from preventing them from banning cell towers. The applicant is required to get a FCC license for the particular location to the extent the FCC is satisfied with the information that is presented. They look to make sure the frequencies do not interfere with others in the area. They also look at the health and safety issues. What are left for the municipalities are the aesthetic issues.
- Mr. Galotti: What color will they be?
- Mr. Olsen: They come in an off white but we can paint them any color to blend with the building.
- Mr. Casella: Where is the next closest panel? Is there anything like this in our area? What kind of radius does this cover?
- Mr. Edwards: With the new technology we have smaller coverage and more of them. This is so there is better coverage, better quality and more users per site. This site will cover a 2 or 2 1/2 mile radius. It will cover All Angels Hill Road and Myers Corners Road. The closest next site is the water tower in the Village. Because the power is weak in this area, we need to install one here.
- Mr. Casella: Does the airport radar affect coverage at all?
- Mr. Edwards: Not to my knowledge because we are on a licensed frequency. The FAA has their own licensed frequency.
- Mr. Olsen: Back in 2007 the FCC turned off the entire analog system which had much higher power and would go a lot further. Now you are looking at a nationwide digital phone system and it's about 1/20th the power. That is why there are a lot more sites to fill in.
- Mr. Casella: How long is the installation?
- Mr. Olsen: From start to finish about 30 days.
- Mr. Della Corte: You said the FCC supersedes the local law.

Mr. Horan: The question here is it a safety issue or an aesthetic issue? The applicant here is basically saying we will make the application and we will not take a position one way or another and we will comply with your current zoning requirements and request a variance. I'm somewhat uncomfortable with the law. I would like to put this over to a future meeting maybe the end of February so we can get some other information regarding some of the thought process behind the town's zoning law. Assuming the law is valid in light of the Telecommunication Act and recent amendments and the changes in technology would certainly apply. The board would be obligated to look at it because it has to do with the character of the neighborhood and such. One of the issues is you said you need better coverage and that is looked at in your license application.

Mr. Casella: Are we asking Barbara to research this?

Mr. Horan: No, I'll be doing the research.

Mrs. Roberti: I think you all should be aware that they have made application to the planning board and due to something unforeseen they have not been able to get on an agenda but it will be corrected. They have not gone to the planning board with their full project. They were only there with their conceptual. They would normally go to the planning board and then to you. Giving Jim a little bit of time to research our laws, because it is a little old, it will also give them time to go to the planning board.

Mr. Casella: There have been two meetings and you haven't been to the Planning Board.

Mrs. Roberti: We need certified checks for anything over \$500. The Planning Board fees were hired and the Town Clerk would not accept the checks. I think we should have another discussion with the information that Jim can find. Then we can set the public hearing.

Mr. Della Corte: We will have a discussion on the February 12th. We will have a site visit after the next meeting.

Mr. Olsen: Will you need anyone from our organization to be at the site visit.

Mr. Johnston: Yes.

Mr. Johnston: I make a motion to close this meeting.

Mr. Casella: Second.

Town of Wappinger
Zoning Board of Appeals

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Mr. Della Corte: **All in favor?**

Board: **Aye.**

Respectfully Submitted,

Sue Rose, Secretary
Zoning Board of Appeals