
Town of Lansing

Zoning Board of Appeals Meeting
Tuesday, November 21, 2017 6:30 PM

ZONING BOARD OF APPEALS MEMBERS

(*Denotes present)

Linda Hirvonen	*	Dan Konowalow
* Henry (Hurf) Sheldon, Chairman	*	Judy Drake
Maureen Cowen		
* Chris Williams, Alternate		
<u>Other Staff</u>		
* Lynn Day, Zoning Officer	*	Sue Munson, Code Office
Robert Cree, TB Liaison	*	Guy Krogh, Town Attorney

PUBLIC PRESENT

Karlane Smith Pete Larson Lin Davidson Matthew Kerwin

GENERAL BUSINESS

Chairman Henry (Hurf) Sheldon called The Town of Lansing Zoning Board of Appeals Meeting to order at 6:35 PM.

Chairman Henry (Hurf) Sheldon enacted Alternate Member Chris Williams as a voting Member this evening as Members Maureen Cowen and Linda Hirvonen are not present.

Chairman Henry (Hurf) Sheldon acknowledged that the Legal Notice was previously published in the Ithaca Journal as required by Law on November 7, 2017.

MOTION TO APPROVE THE PLANNING BOARD MINUTES FOR OCTOBER 30, 2017 MEETING

Judy Drake made a motion to APPROVE THE MAY 16, 2017 MINUTES. Chris Williams seconded the motion:

All in Favor - 4

Opposed - 0

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**AREA VARIANCE APPLICATION FROM LIN
DAVIDSON, 1187 RIDGE ROAD TO REPLACE TREE
DAMAGED BUILDING WITH SLIGHTLY LARGER OUT
BUILDING - TAX PARCEL #15.-1-17.2 (RA) RURAL
AGRICULTURAL**

Summary of Board discussion with Lin Davidson:

- All parcels boarding the setback area are owned by Lin Davidson.
- Tree damaged building was already non-conforming with the current zoning setbacks.
- No other options available at this time for location. Adjusting the new building in any direction seems to create a new issue.

**FLOOR OPEN FOR COMMENTS/CONCERNS ON
LIN DAVIDSON - AREA VARIANCE**

No Comments from the public

**AREA VARIANCE FINDINGS AND DECISION
TOWN OF LANSING ZONING BOARD OF APPEALS**

BACKGROUND INFORMATION

Applicant: Norman "Lin" Davidson
1187 Ridge Road
Lansing, NY 14882

Variance No: 17- 05
Zoning District: RA
Mailing Notices on: 11/06/2017
Notice to County Sent on: N/A
SEQRA Hearing Held On: N/A

Property Location: 1187 Ridge Road
Tax Parcel #: 15.-1-17.2

Requirement for which Variance is Requested: Side Yard Set Back

Applicable Section of Town Land Use Ordinance (the "Zoning Ordinance"): Sec. 504, Schedule II Area, Frontage, Yard, Heights and Coverage Requirements.

RESOLUTION AND FINDINGS

WHEREAS, Norman "Lin" Davidson has applied for an Area Variance to replace a non-conforming 20' x 16' building that exists within the 15' side yard setback of the RA Zone, and while such buildings and sheds may be replaced as of right, applicant wishes to replace the same with a 24' x 24' building thus requiring an Area Variance per Section 1001.2 of the Zoning Ordinance due to the expansion of the non-conforming use; and

WHEREAS, on November 21, 2017 the Town of Lansing Zoning Board of Appeals (the "ZBA") thoroughly reviewed and analyzed: (i) the information and evidence submitted by the applicant in support of the requested area variance; (ii) all other information and materials properly before the ZBA; and (iii) the issues and impacts raised for consideration by neighbors, the public, and the ZBA; and

WHEREAS, this application is classified as a Type II Action (such that no further environmental review is required) and this matter also does not require a Section 239 review; so, upon due deliberation upon the foregoing, the application, and all evidence and testimony presented to the ZBA,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Lansing Zoning Board of Appeals ("ZBA") hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Zoning Ordinance:

a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Yes ___ No **X**

Findings: This is an improvement.

b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Yes ___ No **X**

Findings: Already non-conforming so any action to improve would require a variance.

c. Whether the requested area variance is substantial?

Yes ___ No **X**

Findings: No substantial change from existing non-conforming building.

d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Yes ___ No **X**

Findings: None.

e. Whether the alleged difficulty was self-created?

Yes ___ No **X**

Findings: Applicant wants to expand building.

2. DETERMINATION BASED ON THE ABOVE FACTORS (choose one):

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following area variance is **GRANTED/DENIED**, with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such area variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

DESCRIPTION OF SPECIFIC VARIANCE GRANTED: Continuation of legal non-conforming shed to allow enlargement to 24' x 24' while remaining within 15' side yard requirement.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED?

Yes **X** No ___

STATEMENT OF CONDITIONS:

1. As Variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described Area Variance within one year from the date hereof, this approval and such Area Variance shall expire. In cases where construction may be applicable, "avail itself of the benefits" shall mean a Building Permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the

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ZBA if Application for an extension is submitted before the expiration of the then applicable Variance sunset period.

2. Whereas the new building to be no closer to corrected survey line than the old building

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

Motion by: Dan Konowalow

Seconded by: Judy Drake

Member: Judy Drake - Aye

Member: Daniel Konowalow - Aye

Alternate Member: Chris Williams - Aye

Chair: Henry (Hurf) Sheldon - Aye

Dated: November 21, 2017

OPEN PUBLIC HEARING - AREA VARIANCE
APPLICATION FROM CROWN CASTLE TO CONSTRUCT
A MONOPOLE TELECOMMUNICATIONS FACILITY
(VERIZON CELL TOWER) LOCATED AT 1901 EAST
SHORE DRIVE - TAX PARCEL#37.-1-8-4.1, (B2)
COMMERCIAL ZONING DISTRICT at 7:07 PM.

Judy Drake motioned to OPEN THE PUBLIC HEARING. Dan Konowalow seconded the motion.

All in Favor - 4

Opposed - 0

Summary of Board discussion with Matthew Kerwin, Attorney for Crown Castle:

- Fall Zone Variance for two setback issues.
 - Car Wash Building within current zoning setbacks for fall zone area.
 - The proposed structural design will have a break point in the tower at 50' reducing the fall zone significantly and would not reach the car wash building.
 - NYSEG electric utility lines that run north also within the current zoning setbacks for fall zone area.

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- Even with the reduced fall zone, the electric utility lines to the North of the tower could be impacted. However, the trees in the area would probably take the lines out before the tower.
- Crown Castle has made significant effort to find a location for the proposed tower. After contacting many property owners in the designated area, they were only left with one viable property owner that would agree to have the tower on their property.
- The Planning Board has reviewed and approved the SEQRA.
- The 239 response from Tompkins County does not pertain to the role of the ZBA or the issuance of an area.
- The Planning Board will review the Site-Plan on December 11, 2017.

FLOOR OPEN FOR PUBLIC COMMENTS/CONCERNS ON CROWN CASTLE PUBLIC HEARING - AREA VARIANCE

No Public Comments

CLOSED CROWN CASTLE'S PUBLIC HEARING
AT 7:37 PM

Judy Drake moved to CLOSE CROWN CASTLE'S PUBLIC HEARING. Dan Konowalow seconded.

All in Favor - 4

Opposed - 0

AREA VARIANCE FINDINGS AND DECISION
TOWN OF LANSING ZONING BOARD OF APPEALS

BACKGROUND INFORMATION

Applicant: Crown Castle, Verizon
Telecommunications Tower

Variance No: 17- 06
Zoning District: B2
Published Notice on: Nov 7, 2017
Notice to County Sent: Oct 17, 2017
SEQRA Determination: Nov 13, 2017
Hearing Held On: Nov 21, 2017

Property Location: 1901 East Shore Drive (Rendano & Bianchi, Owners)
Tax Parcel #: 37.1-8-4.1

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Requirement for which Variance is Requested: Fall Zone Variance, setbacks.

Applicable Section of Town of Lansing Communications Tower Local Law (Local Law #7 of 2015): Article III, Section F(6).

RESOLUTION AND FINDINGS

WHEREAS, Crown Castle (“Applicant”) proposes to construct a telecommunications tower for Verizon upon leased land and, in connection therewith, Applicant is required to demonstrate and provide information pertaining to a number of planning, environmental, and scientific issues, including proof of need and proper scaling of the site chosen in relation to other viable sites; and

WHEREAS, applicant filed for site planning and special permit reviews before the Planning Board, and the Planning Board duly referred this matter to the ZBA due to the need for an area variance for the required fall zone pursuant to Town Law Section 274-a; and

WHEREAS, the owners of buildings within the fall zone are the proposed landlords and support the project, which is an allowed use in the B2 zone; and

WHEREAS, the Planning Board, as lead agency, undertook a coordinated environmental review and, due to the reduction of the tower from approximately 160’ to 95’, and due to a demonstrated coverage need in the area, site and visual impact studies, and the fact that telecommunications coverage and infrastructure are imbued with a public interest akin to a utility, a negative declaration was duly issued; and

WHEREAS, County Planning has conducted a Section 239 review and no comments therein pertain to the role of the ZBA or the issuance of an area variance, and it is further duly noted that the Planning Board, if an approval is duly issued, has or will consider and respond as required by law; and

WHEREAS, based upon the evidence and testimony taken at a public hearing held before the ZBA upon November 21, 2017, and due deliberation upon all of the foregoing and the application as submitted to the ZBA, so

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Lansing Zoning Board of Appeals (“ZBA”) hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Town’s Telecommunications Tower Local Law:

- a. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?**

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Yes ___ No **X**

Findings: Neighborhood impact already addressed by Site Plan Review and Variance does not add or subtract form site plan.

b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Yes ___ No **X**

Findings: No Other Properties Available after an extensive search.

c. Whether the requested area variance is substantial?

Yes **X** No ___

Findings: Engineering design has addressed the safety and visual concerns.

d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Yes ___ No **X**

Findings: Current commercial area in keeping with tower presence.

e. Whether the alleged difficulty was self-created?

Yes ___ No **X**

Findings: Applicant was constrained by physical attributes of property.

2. DETERMINATION BASED ON THE ABOVE FACTORS (choose one):

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following area variance is **GRANTED/DENIED**, with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such area variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

DESCRIPTION OF SPECIFIC VARIANCE GRANTED: Reduction of required 135' fall zone, as calculated based upon a 95' tower height, to approximately 115' West and 62' North.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED?

Yes No

STATEMENT OF CONDITIONS:

1. As Variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described Area Variance within one year from the date hereof, this approval and such Area Variance shall expire. In cases where construction may be applicable, “avail itself of the benefits” shall mean a Building Permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if Application for an extension is submitted before the expiration of the then applicable Variance sunset period.
2. The obtaining of a building permit issued after the structural engineering reviews and opinions referenced in condition #3, below.
3. Prior to the issuance of any building permit, a review to be undertaken by an independent structural engineer selected by the Town that verifies: (i) the proper design of the Tower and its supporting structures; and (ii) that the material and structural designs proposed for a break-point in the tower at 50’ are properly designed and have the potential to reduce the risks that potentially arise upon tower failure within a reduced fall zone.

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

Motion By: Judy Drake

Seconded By: Chris Williams

Member: Judy Drake - Aye

Member: Daniel Konowalow - Aye

Alternate Member: Chris Williams - Aye

Chair: Henry (Hurf) Sheldon - Aye

Dated: November 21, 2017

Chairman Henry (Hurf) Sheldon, before we close the meeting I would like to officially Thank Dan Konowalow for his outstanding service. Dan is retiring at the end of this year and this may be the last ZBA meeting of 2017.

Hurf Sheldon moved to adjourn the Meeting at 8:00 PM.