

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

BACKGROUND INFORMATION

Applicant: Crown Castle, Verizon
Telecommunications Tower

Variance No: 17-__
Zoning District: B2
Published Notice on: Nov 7, 2017
Notice to County Sent on: 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

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?

Yes ____ No ____

Findings: _____

_____.

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 ____

Findings: _____

_____.

c. Whether the requested area variance is substantial?

Yes ____ No ____

Findings: _____

_____.

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 ____

Findings: _____

_____.

e. **Whether the alleged difficulty was self-created?**

Yes ____ No ____

Findings: _____

_____.

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 ____'.

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.

4. _____

_____.

5.

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

Member: Judy Drake -

Member: Daniel Konowalow -

Alternate Member: Chris Williams -

Chair: Henry (Hurf) Sheldon -

Dated: November 21, 2017