



Town of New Paltz Zoning Board of Appeals
 Regular Meeting of Wednesday, November 10, 2021
 Live-streamed/Recorded Remotely at 7:00 PM
 Available on YouTube: <https://www.youtube.com/watch?v=U5dU3AcTBQg>
APPROVED MINUTES

Present: Leonard Loza, Chair
 Steven Esposito
 John Gotto
 Amy Donnelly
 Katherine Fuller

Absent: David Brownstein, Town Board Liaison

Also Present: Joe Moriello, Zoning Board Attorney
 Stacy Delarede, Building Inspector
 Alana Sawchuk, Planning and Zoning Secretary

Welcome

7:11

Chair Loza takes attendance and opens the regularly scheduled November 10, 2021 meeting.

Administrative Business

- *Approval of October 13, 2021 Minutes*

Chair Loza requests a motion to approve the October 13, 2021 Minutes. Mr. Esposito moves, Chair Loza seconds. 5 ayes. Motion carries.

- *Quorum Check for Wednesday, December 8, 2021 at 7 PM*

All members will be in attendance at the December 8, 2021 meeting.

Public Comment(s)

7:14

No one from the public was in attendance to speak nor were any comments submitted in writing prior to the meeting. Mr. Gotto moves to close the Public Comment period. Chair Loza seconds. 5 ayes. Motion carries.

Application Review

1. Use Variance

ZB20-50: 60 Jansen Road

211110 APPROVED ZB Minutes

Applicant: Homeland Towers

Zoning District: R-1

SBL: 86.4-2-16

7:15-9:14

Mr. Robert Gaudio (Attorney) and Mr. Vincent Xavier (Applicant) are in attendance to speak on behalf of this application. The applicant (Homeland Towers, LLC) is seeking a use variance for the installation of a communications facility in the R-1 district.

The Board will begin deliberating on the matter this evening by considering the hardships that have been presented by the applicant.

Ms. Donnelly asks about the “shot clock” and when a decision needs to be made by the Zoning Board. Attorney Moriello explains that the Public Hearing has been opened and closed and the Board has received all the evidence related to this application. The applicant has the option of allowing the Board to take more time to deliberate, but the Board has all the information it needs to make a decision.

Ms. Donnelly asks when the “shot clock” began.

Mr. Gaudio explains that the federal “shot clock” law pertains to all actions before decision-making entities. This particular “shot clock” commenced on January 31, 2020, and the applicant entered into a tolling agreement with the Town of New Paltz. Until the applicant believes there is an unnecessary delay, the agreement remains in place.

Chair Loza asks for comments from the Zoning Board.

Attorney Moriello asks if there are any questions from the Board regarding this particular use variance as requested by a public utility.

Chair Loza asks if a certain precedent is being set by granting a use variance in a residential zone; whether in New Paltz or elsewhere in the State of New York.

Mr. Gaudio explains what it means for a public utility to request a use variance as opposed to a generic applicant making the same request. Any decision by the Board in this case has to be made in writing and based on substantial evidence included in the written record.

Mr. Gotto does not agree with the “undisputed nature” of certain reports that have been submitted by the applicant and characterized by the applicant’s attorney.

Mr. Gaudio remarks that moving the tower elsewhere on the property would be moving it closer to other residences. Its current location is the least disruptive on site.

Mr. Gaudioso refers to the packet of “highlighted” material that was forwarded to members of the Zoning Board after the October 2021 meeting.

The Board needs to decide if it’s been adequately demonstrated by the applicant that there is a lack of service.

Mr. Mike Crosby (Verizon Engineer) reviews the technical details pertaining to network coverage.

Chair Loza asks about any possible service redundancies given the existing and proposed towers in Gardiner, NY.

Mr. Gotto argues that the coverage maps provided by the applicant are theoretical/predictive models, and so does not necessarily feel compelled by the submitted maps as adequate evidence.

Ms. Fuller recognizes and appreciates Mr. Gotto’s comments and concerns and addresses the previously discussed challenges associated with the drive-test data. Ms. Fuller believes that the Zoning Board should rely upon the expertise that was submitted by the Board’s Engineer (Mr. Mike Musso). The question of a “significant” gap in coverage is up for debate, but Mr. Musso’s data is not quite so divisive.

Ms. Donnelly feels that the decision at hand is not the usual responsibility for the Zoning Board. Ms. Fuller notes that she’s in agreement.

Mr. Gotto comments on the real estate evaluation study that was submitted by the applicant and found the language of that letter to be dismissive of the letters that were submitted by local real estate brokers. Mr. Gotto also finds the data in aforementioned letter to be flawed or lacking.

Mr. Gaudioso confirms that the appraiser who wrote this letter did visit this site in order to collect his data and draw his conclusions.

Mr. Esposito has no questions or comments.

Attorney Moriello notes that the Board needs to consider the feasibility of other locations to meet the need. There must be some evidence that the proposed site is more feasible than other potential sites, and the Board has not yet discussed that.

Mr. Gotto seeks confirmation that no studies were made east of the thruway. Mr. Gaudioso confirms the data in the maps that were submitted by Mr. Crosby. Mr. Gotto is skeptical of the applicant’s reasoning pertaining to the proposed location of the cell tower.

Mr. Gaudio comments that no other alternative sites have been presented by the Town. Ms. Donnelly finds that to be a burdensome request for members and Mr. Gaudio does not disagree.

Chair Loza asks about the other property owners within the overlay district who either did not want the tower on their property or did not respond to requests from the applicant.

Chair Loza finds that the overlay zone is an inappropriate choice for this facility. Mr. Musso agrees with the applicant's argument that there is a lack of other feasible sites.

Mr. Gotto comments on certain procedural matters related to the property owner and their authorization for Homeland Towers, LLC and Verizon Wireless to act on their behalf.

Chair Loza has no further comments or questions, nor do other members.

Ms. Donnelly expresses a discomfort with not being able to analyze the data as an expert, whereas the applicant would have more of an advantage in this case.

The Board discusses the next procedural steps.

Chair Loza asks if there are any reported service gaps for other wireless networks. Mr. Gaudio explains that they are reasonably sure of that.

Attorney Moriello will draft a Resolution based upon the discussion held tonight, which can be later modified by the Board at their December meeting.

Adjournment

Ms. Donnelly moves to adjourn the November 10, 2021 meeting. Mr. Gotto seconds. 5 ayes. The meeting adjourns at 9:14 PM.

Respectfully submitted by,

Alana Sawchuk
Planning and Zoning Secretary