

MINUTES

**Town of Wappinger
Zoning Board of Appeals
September 11, 2018
Time: 7:00PM**

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

Summarized Minutes

Members:

Mr. Prager	Chairman	Absent
Mr. Casella	Co-Chair	Present
Tom DellaCorte	Member	Present
Mr. Bob Haas	Member	Present
Mr. Galotti	Member	Present

Others Present:

Mr. Horan	Town Attorney
Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

SUMMARY

Public Hearing:

Anthony & Angela Ferreira	Variance granted
Toll Brothers Town Homes	Variance granted
Jeffrey & Tara Davis	Variance granted
Roger Clark	Public Hearing adjourned to October 23, 2018

Discussion:

Jose Maldonado	Public Hearing on September 25, 2018 Site visit on September 15, 2018
Wireless Edge Towers, LLC	Public Hearing on September 25, 2018 Site visit on September 15, 2018

Mr. Haas: Motion to accept the Minutes from August 14, 2018.
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

Adjourned Public Hearing:

Appeal No. 18-7649 (Area Variance)

Anthony & Angela Ferreira: Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **40 feet** to the rear yard property is required, the applicant can only provide **20 feet** for the installation of an above ground 30' round pool, thus requesting a variance of **20 feet**.

The property is located at **26 Carroll Drive** and is identified as **Tax Grid No. 6257-02-905503** in the Town of Wappinger.

Mr. Galotti: Motion to open the Adjourned Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. Casella: Please come up and tell us what you want and why you want it. We did get the survey.

Mr. Ferreira: I am requesting a variance of 20 feet to allow for the pool to the property line. I had the survey done and I believe the survey shows 21.1 feet.

Mr. Casella: Does anybody on the board have any questions for Mr. Ferreira? Is there anyone in the audience who would like to speak for or against this variance? If not, I would like to entertain a motion to close the public hearing.

Mr. Galotti: Motion to close the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. Galotti: Motion to grant the applicant the variance. I don't believe the benefit can be achieved by any other feasible means. It is not an undesirable effect to the neighborhood. The request is substantial but will cause no adverse physical or environments impact to the character of the neighborhood.

Mr. Haas: Second the Motion.

Roll Call Vote:	Mr. Galotti	YES
	Mr. DellaCorte	YES
	Mr. Haas	YES
	Mr. Casella	YES

Public Hearing:

Appeal No. 18-7652 (Area Variance)

Toll Brothers Town Homes: Seeking an area variance Section 240-37 of District Regulations in an R-MF5 Zoning District.

-Where **75 feet** to a county road is required, the applicant can only provide **55 feet** for the construction of town homes, thus requesting a variance of **20 feet**.

The property is located at **41 Stratford Lane** and is identified as **Tax Grid No. 6257-02-842904** in the Town of Wappinger.

Mr. Galotti: Mr. Chairman I am going to officially recuse myself.

Mr. Casella: I am going to make a statement to let you know that we have three board members here tonight so you need all three board members to be approved. You are more than welcome to go through the public hearing. At any point and time you can ask for the variance tonight or wait for a full board.

Mr. Horan: You are not going to get a full board.

Mr. Haas: **Motion to open the Public Hearing.**

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: Bea, are all of the mailings in order.

Mrs. Ogunti: Yes, they are.

Mr. Casella: I just want you to be fully aware of that. Tell us what you are looking for. We did do the site visit about two weeks ago. For purposes of the audience, please tell us what you want and why you want it.

Mr. Otis: Mr. Chairman and members of the board, I'm Greg Otis representing the applicant Toll Brothers. We are here seeking an area variance in the MF5 Zoning District. Where 75 feet offset to the county road is required, we have 55 feet and we are requesting a variance of 25 feet. It's limited to Lot Nos. 155 and 201 along All Angels Hills Road.

- Mr. Haas: Is it also limited to decks only?
- Mr. Galotti: Any additions to the back and the only additions that we do are screened in porches.
- Mr. Haas: So they couldn't put a garage or a pool.
- Mr. Galotti: No pools are permitted.
- Mr. Horan: Is this a condominium?
- Mr. Galotti: Yes.
- Mr. Horan: That would be in the condominium declaration.
- Mr. Haas: Is the size of the deck limited?
- Mr. Galotti: It will be limited to the setback.
- Mr. DellaCorte: It's a good point about the deck versus enclosed screened porch only?
- Mr. Galotti: Yes, screened porch.
- Mr. DellaCorte: No building additions like enclosed rooms?
- Mr. Galotti: No and the existing berm will stay in place and not be impeded upon at all. Again, these additions are optional and they may not even be there.
- Mr. Haas: I had another question the last time about how this happened because you guys should have enough experience to what setbacks are. We didn't have an answer at the last meeting and we discussed it at the site visit. We came to the conclusion that there were wetlands on the other side that pushed everything to this point.
- Mr. Galotti: Correct.
- Mr. Casella: The point was we saw the trees on the other side and you could only go so far back there.
- Mr. DellaCorte: What are you talking about? I wasn't there for that.

Mr. Casella: If you are in the front and you look all the way in the back there are a bunch of trees in the back and wetlands behind that. So they are forced to build to a certain point.

Mr. Otis: We preserved that area and everything was shifted.

Mr. DellaCorte: Okay.

Mr. Casella: Is there anyone in the audience who would like to speak for or against this variance? If not, may I have a motion to close the public hearing?

Mr. Haas: Motion to close the Public Hearing.

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: Again, we only have three board members and all three have to say yes. Do you want to proceed?

Mr. Galotti: Mr. Chairman, I would like to proceed because I am on a tight timeframe to get the building permit.

Mr. Casella: Now could I get a motion to close the public hearing.

Mr. Haas: Motion to close the Public Hearing.

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: Now, could I have a motion to either approve or deny this variance.

Mr. Horan: You want to limit the motion to the erection of decks and porches. Is that acceptable?

Mr. Galotti: I'd rather not if we don't have to only if in the future somebody wants to enclose their screened in porch they would have to come before the board again to get another variance. The variance is for the 20 feet so it shouldn't be a problem.

Mr. Casella: Jim, is there a reason why you are making this a condition?

Mr. Horan: It's not me there was a discussion regarding that. This is an issue where the abutting road is a county road so

it's 75 feet which is an increased variance. Typically, it would only be 50 feet if it was not a county road.

Mr. DellaCorte: Where is the berm located within that setback?

Mr. Galotti: The 55 feet stick is inside the toe of the berm so the berm stays exactly where it is.

Mr. Haas: So what does your HOA agreement allow? We are running around restrictions of what can be done here.

Mr. Galotti: Any homeowner who would like to add or expand on what we already do they would have to apply for building permit. The building permit application will include a review of the HOA board prior to them submitting to the Town. The HOA board has to approve any additions.

Mr. Horan: That's another layer of review.

Mr. Haas: Motion to amend the application to grant the variance with the condition that any building permits are subject to HOA review and approval.

Mr. DellaCorte: Second the Motion.

Roll Call Vote:

Mr. DellaCorte	YES
Mr. Haas	YES
Mr. Casella	YES

Appeal No. 18-7653 (Area Variance)

Jeffrey & Tara Davis: Seeking an area variance Section 240-37 of District Regulations in an R40/80 Zoning District.

-Where **50 feet** to the rear yard property is required, the applicant can only provide **26 feet**, thus requesting a variance of **24 feet** for the installation of an in-ground pool.

The property is located at **35 Red Hawk Hollow Road** and is identified as **Tax Grid No. 6359-02-813563** in the Town of Wappinger.

Mr. Galotti: Motion to open the Public Hearing.

Mr. Haas: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. Casella: Good evening Al.

Mr. Cappelli: Good evening, Alfred Cappelli representing Jeffrey and Tara Davis. We discussed at the last meeting the difficulty of the lot with new super fill septic system determining the location of the house and subsequently the swimming pool location behind the house. Given those restrictions the homeowner would like to install an in ground pool. There are no visual impacts.

Mr. Casella: We all have seen the property. Does anybody have any questions? Al has been very good taking us through what he wants to do out there.

Mr. Galotti: The area is very difficult.

Mr. Casella: How many feet of fill do you have?

Mr. Cappelli: Yes, 6 feet of fill where the septic is going to be determined by the Health Department by a previous engineer and that's all that's required.

Mr. Casella: Anybody on the board has questions for Al? Is there anyone in the audience who would like to speak for or against this variance?

Mr. Galotti: Motion to close the Public Hearing.

Mr. Haas: Second the Motion.

Vote: All present voted Aye.

Mr. Haas: Motion to grant the applicant the variance. The benefit cannot be achieved by any other feasible means. It is not an undesirable change to the character of the neighborhood or a detriment to any nearby properties. The request is substantial at 50 percent but it is what it is. It will not have any adverse physical or environmental effect to the neighborhood. The difficulty is not self-created.

Mr. Galotti: Second the Motion.

Roll Call Vote:

Mr. Galotti	YES
Mr. DellaCorte	YES
Mr. Haas	YES
Mr. Casella	YES

Appeal No. 18-7654 (Area Variance)

Roger Clark: Seeking an area variance Section 240-37 and 240-30(B) of District Regulations in an R20 Zoning District.

-Where **20 feet** to the side yard property is required, the applicant can only provide **18' 6"**, thus requesting a variance of **1' 4"** for an 896 square feet garage.

-Where **35 feet** to the front yard property is required, the applicant can only provide **10 feet**, thus requesting a variance of **25 feet** for an 896 square feet garage.

-Where **no more than two accessory buildings shall be permitted in any 1-Family Residence District. No such accessory building shall have a footprint greater than 600 square feet nor a height in excess of 20 feet.** The applicant is proposing a **32' x 28' (896 sf.)** garage, thus requesting a variance of **296 square feet**.

-Where **no more than two accessory buildings shall be permitted in any 1-Family Residence District, no such accessory building shall be placed in a front yard.** The applicant is proposing a **32' x 28' (896 sf.)** garage, thus requesting a variance of **296 square feet**.

The property is location at **1 Sky Top Drive** and is identified as **Tax Grid No. 6056-01-259875** in the Town of Wappinger.

Mr. DellaCorte:

Motion to open the Public Hearing.

Mr. Haas:

Second the Motion.

Vote:

All present voted Aye.

Mr. Casella:

Bea, are all of the mailings in order.

Mrs. Ogunti:

Yes, they are.

Mr. Casella:

Good evening Mr. Clark. We are looking for a survey for your property. We really need that in order to figure out a couple of things. We need to know what the front yard is and when we were there we could not tell where the 10 feet was as far as the variance goes.

Mr. Haas:

You need to have a survey because you need to know where the building is and we also need to know where the front lot line is. It doesn't show on the survey from 1981. I would like to make a suggestion that you move it out of the front yard. You should look seriously into moving the building to the 35 feet line then you will be out of the front yard.

Mr. Clark:

I was proposing to put the new structure exactly where the existing structure is.

Mr. Haas:

I'm asking you seriously consider moving it out of the front yard.

- Mr. Casella: That would mean cutting down trees.
- Mr. Galotti: First we need to identify the front yard.
- Mr. Casella: You will need to hire a surveyor. I would like to adjourn the public hearing for now and come back in two weeks.
- Mrs. Roberti: Two weeks is not enough time.
- Mr. Horan: You will need the survey to do the building permit anyway.
- Mrs. Roberti: He will need at least a month. I'm hearing from a lot of people needing to close in ground pools and they are having a really hard time.
- Mr. Casella: Would you be able to get us a survey in a month?
- Mr. Clark: I've already put almost \$700 into this procedure. If you are going to push this off until next year, will we have to start all over again?
- Mr. Horan: It's a public hearing so we can adjourn it out as long as you need. However, you are going to need a survey and in order to get a building permit the footings would have to be shown. If you are going to go forward with construction you are going to need a survey.
- Mr. Clark: I don't see the need for a survey when I'm putting the new building on top of the new one.
- Mr. Haas: You understand that the variance in the front yard is very substantial.
- Mr. Galotti: You are going to benefit from that as well.
- Mr. DellaCorte: I went out by myself and I couldn't tell where the lines were. I know where your garage is but I couldn't tell where your land ended and where the edge of the property was.
- Mr. Clark: It is what it is. The building is there.
- Mr. Horan: Are you talking about renovating this building or putting up a new building?

- Mr. Clark: Taking the existing building down and putting a new building exactly where it is.
- Mr. Horan: To put up a new building you are going to need a survey in order to get a building permit. You cannot get a building permit without a survey. You can renovate the existing building and you won't need a variance or building permit. Depending on the renovation you may or may not need a building permit.
- Mr. Clark: It would have been nice if someone told me this back in July.
- Mr. DellaCorte: You weren't informed about that?
- Mrs. Roberti: He had a survey.
- Mr. Clark: I was putting the new building on top of the existing building.
- Mr. Horan: The building is not shown on the survey. This survey that we have doesn't show a building and location.
- Mr. Clark: That used to be a single car garage that got converted into a three car garage and they put an addition in the back.
- Mr. Horan: Again, it's not shown on the survey.
- Mrs. Roberti: Unfortunately, for the record each time additions were put on no one requested a survey. The building department had a habit of just taking the word of whoever was taking on. Unfortunately, we found over and over again they were not always accurate.
- Mr. DellaCorte: I could be wrong but I didn't see a picket fence by the garage. I saw one in the front yard.
- Mr. Clark: It's a cyclone fence and 30-40 feet are lying on the ground under that brush. I just haven't gotten to clean it up.
- Mr. Casella: I know it's going to cost you more money we need the survey so we are going to adjourn the public hearing for a month until you have the survey and get this thing moving forward for you.

- Mr. Haas: What date will that be?
- Mrs. Roberti: Mr. Clark do you want more time than a month?
- Mr. Clark: I don't have any idea. I don't even know a surveyor.
- Mrs. Ogunti: We have a list of surveyors but we don't recommend anyone.
- Mr. Casella: We are suggesting two months to survey the property.
- Mrs. Roberti: Is that okay with you Mr. Clark?
- Mr. Clark: A month will be fine because it's getting darker and darker.
- Mrs. Roberti: So we will adjourn to October 23rd.
- Mr. Haas: What was the change to the zoning request?
- Mrs. Ogunti: I believe we added a fourth variance.
- Mr. Horan: Just make an announcement if anyone from the public has any comments.
- Mr. Casella: Is there anyone in the audience who would like to speak for or against this variance?
- Mr. Galotti: Motion to adjourn the Public Hearing to October 23, 2018.**
- Mr. Haas: Second the Motion.
- Vote: All present voted Aye.

Discussion:

Appeal No. 18-7655 (Area Variance)

Jose Maldonado: Seeking an area variance Section 240-37 of District Regulations in an R40 Zoning District.

-Where **25 feet** to the side yard property is required, the applicant can only provide **15 feet**, thus requesting a variance of **10 feet** for the installation of a 12' x 20' shed.

The property is located at **62 Pye Lane** and is identified as **Tax Grid No. 6358-03-148074** in the Town of Wappinger.

- Mr. Casella: Good evening Mr. Maldonado. We have your application here so please tell us what you need and why you need it.
- Mr. Maldonado: It's an 11' x 12' shed and I am moving it to the other side of the property. Where the old shed is I am putting a new one in. The shed will be better there with the shade. Between the shed and the pool is the septic tank and my drain fields. To put the shed there I will need 25 feet that's why I'm asking for the variance for 10 feet. I don't want it on top of the pool.
- Mr. Casella: On your application you say you are going to remove the old one and replace it?
- Mr. Maldonado: Yes, it will be demolished. If you want me to make it on the property I will mark it.
- Mr. Galotti: You can mark it from the property line.
- Mr. Maldonado: The metal fence is actually on the property line. The wooden fence is in the rear and when they put it in I lost about 5 feet.
- Mr. Galotti: Maybe you can give us the four corners where the shed is going to be.
- Mr. Casella: Do you have sticks on it?
- Mr. Maldonado: The shed is 12' x 20' and not 20' x 20'.
- Mrs. Roberti: Sir, what is this in the corner of your survey?
- Mr. Maldonado: That was the concrete slab that I got rid of. I used it for storage.
- Mr. Casella: Does anybody have any questions for Mr. Maldonado?
- Mr. Maldonado: Why is it 25 feet?
- Mrs. Roberti: Because you are in the one acre zoning district.
- Mr. Maldonado: I have 1.89 acres.
- Mrs. Roberti: Each zoning district has setbacks that are the requirements for that zone. You are in R40 zoning

district which equals one acre and in that zone you need 25 feet from the side and rear.

Mr. Maldonado:

If I had more than an acre it would be less feet?

Mrs. Roberti:

If you were in a different zone and have less property but whatever zone you are in that's what you need.

Mr. Casella:

That's what determines the setback?

Mr. Maldonado:

No, the rear my property goes to the middle of the street. I didn't have the square footage so I changed my mind. I didn't realize my property went all the way to the creek. It's not leveled back there and you need leveled area to put the shed there. If you say I can't do 25 feet then I'll put it in the rear further away from the pool.

Mr. Haas:

We will see it when we do the site visit.

Mr. Maldonado:

I will mark it so you can see where I am putting it. My neighbors don't have a problem with it.

Mr. Casella:

We have paperwork for you to make sure your neighbors are okay with it.

Mr. Maldonado:

Yes, Bea told me about it.

Mr. DellaCorte:

Mr. Maldonado, you are not going to the back and you are going to stay to the side, right?

Mr. Maldonado:

Yes.

Mr. DellaCorte:

Then you don't have to be concerned with the back.

Mr. Maldonado:

With the 25 feet it's going to be in the middle of my property. My other shed is 12 feet but that's a small shed.

Mr. DellaCorte:

As long as you are going to stay to the left.

Mr. Casella:

When do you guys want to do the site visit?

Mr. Maldonado:

Do I need to be there?

Mr. Casella:

It would be nice if you would be there. You don't have to be as long as it's staked.

- Mr. Maldonado: I'm going to stake it.
- Mr. Casella: If we have any question we will ask them at the next meeting. Bea, when is the next meeting?
- Mrs. Ogunti: The next meeting is September 25th.
- Mr. Casella: We will schedule the site visit for Saturday, September 15th and the public hearing on September 25, 2018.

Appeal No. 18-7656 (Area Variance)

Wireless Edge Towers, LLC: Seeking an area variance Section 240-37 and 240-81(G) (4) (c)(2) of the District Regulations in an R40 Zoning District.

-Where **750 feet** is required to the nearest dwelling unit, the applicant can provide **531 feet** for the installation of the facility, thus requesting a variance of **219 feet**.

-Where **750 feet** is required to the nearest dwelling unit, the applicant can provide **566 feet** to the tower, thus requesting a variance of **184 feet**.

The property is located at **30 Soccerfield Drive** and is identified as **Tax Grid No. 6357-01-114590** in the Town of Wappinger.

- Present: Robert Gaudioso – Snyder & Snyder
John Arthur – Wireless Edge
- Mr. Casella: Good evening.
- Mr. Gaudioso: Good evening Mr. Chairman and members of the board. My name is Robert Gaudioso with the law firm Snyder and Snyder.
- Mr. Casella: Tell us what you want to do here and why you need such a big variance.
- Mr. Gaudioso: Wireless Edge has a lease agreement with the Town of Wappinger to place a wireless telecommunication facility on a particular property. We've been working with the Planning Board and in fact they held their public hearing and closed it. They directed the town planner to draft an approval resolution contingent on us getting a variance from the ZBA. The property is located in a unique situation where it's used for utility purposes, town own property and surrounded with a heavy vegetated screening. We tried to place this in the back on the other side of the soccer field. The closest residence on that side is 531 feet from the fence and we also measured out to the tower which is 566 feet. Therefore the variance would be 219 feet where 750 feet is required.

Mr. Gaudioso continues his overview of the project.

Mr. Gaudioso: We did have the public hearing and no one showed up. The trees give us a lot of buffering.

Mr. Haas: The leaves are out now.

Mr. Gaudioso: I think when you look at the visuals you will see but you definitely have to see the facility. We tried to get a height that would actually work.

Mr. Casella: How much taller is it from the existing trees? Does it stand out?

Mr. Gaudioso: I think if you look at the resource evaluation table you will see. One of the nice things is that those trees give it a lot of buffer. We did a balloon test and a visual rendering of it.

Mr. Haas: I notice that there are a lot of these towers out and obviously there's a need for towers and there's no question about it. Can you put them anywhere or they have to be in certain places? This is more curiosity on my part and has nothing to with the request. How many of these towers that require more than one variance?

Mr. Gaudioso: I've been doing this for 25 years and we have a robust wireless code.

Mr. Horan: Which we don't?

Mr. Gaudioso: No, your town has a lot of requirements but the setback requirements for your town is significant. They are significant for two reasons one is the setback from the property line which is necessary. In this case it's one and a half times the height and the Planning Board has the opportunity to waive that. The 750 feet requirement is somewhat unique.

Mr. Haas: This thing has no guard wires, right?

Mr. Gaudioso: No guard wires. It's designed to look like a tree.

Mr. Haas: This is an 80' x 80' footprint?

Mr. Gaudioso: I believe that's right.

- Mr. Haas: Your paperwork says the proposed 16 feet 6' x 24' Verizon leased area and that's within the footprint. Is there a lease?
- Mr. Gaudio: Wireless has a lease with the town and they lease space within the compound around the tower to the carriers. In this case there's one company which is Wireless Edge but we did add Verizonwireless as a co-applicant to the application.
- Mr. Casella: So the town gets revenue from you for Verizonwireless to use your towers?
- Mr. Gaudio: We actually submitted a copy of the lease agreement as part of the application.
- Mr. Horan: I participated in drafting the lease agreement. I believe this agreement calls for the town to get a percentage of the sublease.
- Mr. Casella: So in addition to the base lease they get a fee and then the town gets some type of revenue and if there's a sublease like Verizon they get a percentage.
- Mr. Horan: There's a cell tower behind the State Police. Right now I believe we have 3 or 4 carriers on that tower and that was erected in 2003. There were a number of colocations and in recent years the antenna array had gotten smaller. As technology has changed and there's a need for more towers because the signal doesn't transfer and transmit as far.
- Mr. Casella: Those were only antennas and not actual structures.
- Mr. Horan: Right.
- Mr. Gaudio: Your code requires both towers plus the facility. That's why I wrote it the way I wrote it for the tower setback.
- Mr. Horan: In essence it's the same type of variance as the police. All they need to show is that it is needed and it won't affect the public health safety and welfare. That's basically all they have to show.
- Mr. Haas: I notice that the original lease was signed in 2014?
- Mr. Gaudio: I believe that's correct.
- Mr. Haas: It's taken you guys this long to put this together?

- Mr. Gaudio: It's one of those things where you won't be happy with us if we came in and didn't have a carrier.
- Mr. Horan: Right.
- Mr. Gaudio: You wouldn't want us to build a tower if we didn't so we really had to lock up Verizon. They have budget and budget cycles and we had gotten at the stage where we convinced them that Wappinger was an important place to spend their money.
- Mr. Horan: The cell tower market is evolving because of the changes in technology with the 5G installation and also smaller scale transmittals that are going out that are being installed on telephone poles. Right now there's a hybrid between the two types of systems.
- Mr. Casella: There's one on I-684 that stands above all of the trees.
- Mr. Gaudio: It is 180 feet. Is it I-684 or the Hutch? The Hutch is 180 feet near the gas station. The funny thing about that everyone has a problem because of the view from the Hutch. From the view from the Hutch they didn't make it look like a tree.
- Mr. Horan: One of the other issues is because of the public utility doctrine it says most carriers look to locate the antenna on property owned by municipalities or by the states because it allows for some flexibility with respect to zoning restrictions. One of the requirements here is some soil testing. It's pretty broad and we are talking about 750 feet.
- Mr. Casella: What are the other towns that have the 750 foot restriction?
- Mr. Horan: There are some questions about whether or not it's actually applicable.
- Mr. Casella: I just want to make sure that we are not over restrictive.
- Mr. Horan: If you look at it under the Telecommunications Act whether or not it is an appropriate restriction, the applicant is not challenging that restriction. The applicant is here requesting a variance.
- Mr. Casella: Are there any number of cell towers you are restricted to in the town? As an example if we grant the variance you now set a precedent that says I only need 566 feet instead of 750 feet. Now everybody else come back and does the same thing.

- Mr. Horan: Under the Federal Telecommunications Act, one of the requirements that they have to establish the need for cell tower in that location. That's one of the reasons why that particular site was selected so they'll have coverage maps that all of the carriers will look at. People like Verizonwireless and Wireless Edge will have maps and say here are the gaps and here is a good place to fill in those gaps. It's a threshold issue for the Planning Board but as far as demonstrating the need they demonstrated the need to have a cell tower. If there's no need to have a cell tower to fill a gap, arguably they can't come in for an application. The precedent setting of this variance is somewhat limited because the applicant has to demonstrate there's a need to put a cell tower in a particular space.
- Mr. Casella: I got it. Thank you.
- Mr. DellaCorte: I like this pictorial of before and after and some are before only that means we won't see until it's done?
- Mr. Gaudio: Correct, we didn't render it.
- Mr. DellaCorte: The other thing is the soccer field you said you didn't get any negative feedback from having a cell tower next to a soccer field?
- Mr. Gaudio: We had the public hearing Monday and there were no objections.
- Mr. DellaCorte: I know you put an extensive study together about the amount of radiation. On the back you put access road will be built and also 20 kilowatt propane generator installed. Is that all part of the package? Thank you.
- Mr. Gaudio: Thank you.
- Mrs. Roberti: The public hearing at the Planning Board when it was advertised there was an error and it was only the Town of Wappinger that was notified. The applicant will see tonight when you set his public hearing all the residents that circle this will be notified. We will actually find out at the meeting here if there's opposition.
- Mr. DellaCorte: More opposition.
- Mr. Casella: Some opposition because they weren't at the Planning Board.

- Mr. Gaudioso: I think there was one other property on the list that we didn't notify.
- Mr. Casella: So when you get your paperwork and send it to the residents then we will see who shows up.
- Mrs. Roberti: That's when we will really see. No one shows up at this public hearing we will move forward.
- Mr. Horan: For the record, this is called an uncoordinated review according to SEQRA. We have to prepare independently a separate Negative Declaration. Is this a type one action?
- Mr. Gaudioso: No, it's an unlisted action.
- Mr. Horan: They did a full EAF so in order to issue a decision in this matter we are going to have to prepare a Negative Declaration. We are the only agency that's involved.
- Mr. Galotti: Did the Planning Board do there's?
- Mr. Gaudioso: They are going to do their own.
- Mr. Horan: No, they are doing there's separate and everything was signed off including the FAA. The only other agency that has to act is the Planning Board. Technically the Town Board already acted because we did the lease and it was already acted upon.
- Mr. Casella: I think it will be cool. How long does it take to install this thing?
- Mr. Gaudioso: We need a building permit and we have to do the GA technical support to make sure the soil is packed with a sound foundation around that. We have to order the tower and the tower has to be manufactured specifically in this case is a tree.
- Mr. Casella: So you are looking at the spring of next year sometime?
- Mr. Gaudioso: Possibly sooner if everything happens quickly but with the weather and everything.
- Mr. Casella: So we are going to do the site visit this Saturday and the public hearing on September 25th.
- Mr. Gaudioso: John Arthur who is the president of Verizonwireless Edge will be there on Saturday morning.

Mr. Haas:
Mr. Galotti:
Vote:

Motion to adjourn.
Second the Motion.
All present voted Aye.

Respectfully Submitted,

Adjourned: 8:05 pm

Bea Ogunti
Secretary
Zoning Board of Appeals