

The regular meeting of the Zoning Board of Appeals of the Town of LaFayette was held March 13, 2007, at 7:30 p.m. in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Members Present:	Steve Beggs	Chairperson
	Jerry Doolittle	Member
	Dan Kuhns	Member
	Jim Butkus	Alt. Member

Absent:	Robert Drumm	Member
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Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney
Ralph Lamson, CEO
Catherine Morezak, Applicant
Jared C. Lusk, Nixon Peabody, LLP
Colman Burke, Verizon

Chairman Beggs called the meeting to order at 7:35 p.m. He welcomed everyone and had everyone introduce themselves.

Chairman Beggs asked if there were any additions or corrections to the January 9, 2007 minutes. There were none.

Alt. Member Butkus moved and Member Doolittle seconded the motion to accept the January 9, 2007 Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. Motion passed unanimously.

CASE # 594

Sketch Plan Conference for application of Steven and Catherine Morezak for a Use Variance for their property located on Newell Hill Rd. approximately 1.3. miles from the Clark Hollow Rd. and Newell Rd. intersection in an Agricultural/Residential District to permit the erection and operation of a 199.6' telecommunication tower and related equipment. (Tax Map No. 010.-05-01.0).

Jared Lusk said he is acting on behalf of Verizon Wireless.

Chairman Beggs said he will have our attorney read the particulars about a use variance as it relates to cell towers.

John Langey said cell towers are clothed with special standards as opposed to your regular use variance. The Board is allowed to reasonably control the site of cell towers. The Board cannot put unreasonable restrictions on them. The applicant must show the Board a service is needed and the Board will utilize its regulations in a way that will reasonably help place this particular cell tower on site. The Board will be concerned about the particular device they will use, where it will be located on the site, the height of the tower, etc. The Board did approve a cell tower at 150' for this site in the past but the applicant did not go forward. The Board has to grant the applicant what is sufficient for their service. The Board will want to discuss a monopole instead of the lattice design. The town's regulations strongly encourage a monopole tower. This is a use variance

request but it's a whole new set of rules. The applicant will have to deal with whether there's a need for this here and whether this is the best location for it.

Jared Lusk said because the cell sources are .6 watt , the placement of these towers is in a very tight area to be able to maintain service from one tower to the next. He showed the Board the radio frequency propagation map. The map showed the existing coverage from the Verizon system. The map also showed where there isn't adequate coverage. The topography in this area is really what controls these towers. He advised a 150' tower will not provide the service needed. This tower will be built to meet Verizon's specific system. They may offer the tower to other carriers but it's being built for Verizon services. The LaFayette code says no tower can be over 200' which they haven't done. With the lightening antenna on the top of the tower, they are at 1996'. When you are using your cell phone, their goal is to be able to let you go from one towers service to another and never loose service. The tower's can't be too far apart or you have a lack in coverage and they can't be too close together or the frequencies overlap and don't work.

John Langey said the last time the Board heard one of these applications, the applicant came in with some reproductions of what this would look like from various locations.

Jared Lusk said he has this and will present them to the Board shortly. The tower itself is 195'.

Colman Burke said he spoke to several folks in the area. The Morezak's were interested in leasing the property to them. The other folks weren't. This site was pretty optimal for his board.

Jared Lusk said and this site was previously approved for a tower. The tower would be 932' from Newell Hill Rd. A monopole is not safe at a 195' height. He is not saying it's not possible but it wouldn't be safe.

Colman Burke said a free-standing tower would allow for other carriers where a monopole would not.

John Langey asked if this is in the exact spot as the previous application.

Catherine Morezak said yes.

Colman Burke said it's in the pine grove so they can screen the tower as much as possible.

Chairman Beggs said the site radius dimension is not equal to the height of the tower if it should fall.

Alt. Member Butkus said ice storms have done a job on these.

Jared Lusk said they are on the Morezak property and it's 400' from the nearest property line. If the tower falls, it will fall on the Morezak property.

Chairman Beggs said other tower applications that have come before this Board have been encouraged to have the radius of the site exceed the height of the tower.

Jared Lusk said the area they are leasing is 100'.

John Langey said our ordinance requires the fall area to be a certain distance from the property lines. The ordinance reads "The tower shall not be located any closer than 200' from the nearest property line..." We don't require them to lease the area.

Member Doolittle asked what if the Morezaks' property were subdivided ? Would this tower deter a subdivision from happening?

John Langey said the Planning Board would probably not allow a subdivision with the tower there.

Member Doolittle believes the tower on Sentinel Heights Rd. is about 300'.

Colman Burke said they are located on that tower. It's a guide tower and not a monopole tower.

John Langey said the reason the town likes the monopole is that they are smoother and go straight up. They don't seem to stand out as much as the lattice towers.

Jared Lusk said the tower will be galvanized grey to blend in.

Alt. Member Butkus asked if they would be required to remove this tower if they didn't continue to use it.

Jared Lusk said if the Board requires a demolition bond for this, they would agree to it.

John Langey said the Board required one in the past.

Jared Lusk said they would agree to remove it in the event they weren't using it any more. He said they can have their engineer come up with an estimate of the cost to remove the tower before the public hearing.

Member Doolittle asked if the new location would improve reception in existing areas.

Jared Lusk said the tower will improve coverage in the area.

Member Doolittle asked what a tower's usual radius for service is.

Jared Lusk said it depends on the topography, height of the tower, etc.

John Langey said this Board will need some help with determining if at 150' they would have adequate coverage or if the need to go to 195'. If 150' isn't sufficient, could it be sufficient at 160' or 165', etc.? Is going to a lattice structure and going about 50' higher going to make a big difference to the community? He thinks the Board will need some help from a consultant on these issues.

Chairman Beggs asked if the applicant could provide a map showing coverage if the tower were at 175'.

Jared Lusk said you might not see a difference but he will try to provide one.

Discussion took place regarding the area that will benefit most from the tower.

Colman Burke said this tower will relieve the surrounding sites that are trying to cover very far away. This will create a dominant server in this area. Your call quality should improve.

Chairman Beggs said this Board has an obligation to grant people the right to have good cell coverage but at the lowest cost to all parties involved.

Jared Lusk will order a 175' propagation map for the next meeting.

John Langey asked if this would allow them to use a monopole.

Colman Burke will check on the monopole issue.

Chairman Beggs noted one of their sites on the map shows a monopole and it's 180' tall.

Jared Lusk will go back and check on the monopole safety at larger heights.

Member Kuhns asked how tall the trees are in comparison to the tower.

Colman Burke said about 75' he would guess.

Catherine Morezak said they were planted about 50 years ago. The tower will be pretty secluded.

Jared Lusk presented the Board with a compute pictures of what the tower would look like from various locations. Some of the pictures showed the tower and some just the balloon.

John Langey asked if the Board would like to see every picture simulated showing the tower.

The Board would request this.

Jared Lusk will have these for the next meeting.

Chairman Beggs asked if Verizon Wireless is doing anything with satellite. Are we going in that direction?

Colman Burke said not to his knowledge. You would need a lot higher power source than what the FCC allows you to have near your head. A cell phone does not have a strong enough power source for satellite use.

John Langey said at the next meeting the Board will need to move on the SEQR process. How many agencies did the applicant identify that they need permits from? He needs to know who he needs to make involved agencies.

Colman Burke said County Planning and the Town of LaFayette would be it. The FCC is more of a registration process than an approval process.

Jared Lusk said they are licensed from the FCC.

John Langey said the only other involved agency will be the County Planning Board. He will need two other sets of the entire application package with the stuff the Board asked for tonight and at the next meeting he will prepare a resolution for the Board to consider and get things rolling. There's a consultant out of Rochester that is acceptable with Verizon to review this application and advise us on the coverage issues. This won't slow the applicant down. This is a very complete application.

Member Doolittle asked if the frequency exposure would be part of the Environmental Review.

John Langey said the health issues are no longer allowed to be part of this Board's findings. The Board is precluded from being involved in this. He recommended the applicant start the SHPO process.

Ralph Lamson said the applicant would like the tower to be at about 195' and they would like people to co-locate there. A co-locater would have to drop down lower than where they are located on the tower. If the Board makes the height of the tower lower, you may stop other companies from co-locating on this tower and force new towers to be erected in the same area.

John Langey will take care of the referral of this to County Planning. This will be a continued Sketch Plan Conference at the next meeting and the SEQR will be started.

**Member's Doolittle moved and Kuhns seconded the motion to adjourn.
Motion passed unanimously.**

The Zoning Board of Appeals Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary

Adopted 4/10/07 with following corrections:

Page 2, second paragraph: “lightening” should be “lightning antenna”

Same sentence: should be 199’6” not 1996’.

7th paragraph: should be “carriers” not “other”.