

Village of Webster
Zoning Board of Appeals Meeting Minutes
Meeting Minutes of September 15, 2016

Community Meeting Hall
29 South Avenue
Webster, NY 14580

Present: Mark Nicholson, Bob Fantauzzo, Bill Baker, Mike O'Connor, Karl Laurer, Atty. David Mayer, Building Insp./Code Enforcement Officer Will Barham, Treasurer Krystina Lizak

Meeting came to order at 7:30pm.

1) Application:

Charles and Joan Callahan, owners of 247 London Rd., Tax ID # 080.14-3-24. Application for a 10ft x 12ft (120sqft) accessory structure. Applicant seeks relief from current zoning regarding allowable square footage and location to the lot line. Applicable zoning section: 175-59A. Property zoned: R1-13.6.

Presentation:

Mr. Callahan would like to replace a current shed with a larger 120sqft one, and would like to install it 6ft from the side yard lot line. The shed would be used for storage of lawn and garden items. The previous shed was actually closer to the lot line, and did not have a variance.

Mark Nicholson indicated that they would need two variances: one for a size variance of 20sqft and a second for a 4ft side yard setback variance.

Mr. Callahan also noted that there are four bushes that will stay between the lot line and the proposed shed.

Open to Public Comments:

None noted.

Public Comments Closed:

M. Nicholson asked for any other questions, and then indicated that they need to make a SEQR designation.

Motion: Bill Baker made a motion to declare the ZBA as the lead agency for a Type II action under SEQR. Seconded by Mike O'Connor. All were in favor. Motion passed.

M. Nicholson asked for a motion on the variances.

Motion: Mike O'Connor made a motion to grant a 20sqft size variance and a 4ft side yard setback variance. Seconded by Bob Fantauzzo. All were in favor. Motion passed.

2) Application:

The Village of Webster is currently proposing to install a cell tower on its property located at 1073 Webster Road, Tax ID# 080.17-2-48. The Zoning Board of the Village of Webster will meet to determine if the Village of Webster meets the guidelines for Governmental Immunity from Zoning specifically as it relates to this proposed installation of a cell tower. Property zoned: R1-13.6.

Presentation:

Don Carpenter, from Carpenter Consulting Group, spoke on behalf of the Village of Webster. He provided a sketch plan of the proposed cell tower. The County is taking over the water tanks on South Avenue, and the Village wants to relocate the current cell carriers' antennas to a new tower to keep the revenue for the Village. The proposed tower would be a 195ft self-support tower. The water tank that will remain is 140ft, so the new tower would be above that to get the signal. Based on a FCC screen, there are no FAA regulations to register the tower at that height or location. Thus, there are no lights, paintings or special features required on the tower. ATT and T-Mobile both prefer the 195ft height. Verizon specifically requested 140ft. Sprint is another possible carrier that might go on the new tower. Mr. Carpenter has requested pricing from several different tower builders. They would extend the existing fence to the building that houses the well. The new tower will be a visible change to the neighborhoods. If we don't build the new tower, we will lose the revenue from the carriers. As far as the zoning process, there are numerous cases of municipalities and other entities declaring themselves exempt from zoning. You will still want to go through the SEQR process. The use of the area is still the same. Regardless of whether we build this tower or not, ATT will want their antenna higher, and would most likely attach an extension to their existing one if we don't build the tower. A new tower will preserve the income stream for the Village. There is a very low impact on the community, and the overall change is minimal.

M. Nicholson inquired as to whether both water tanks would be staying in place.

D. Carpenter replied that the smaller tank farthest to the south will be taken down. The largest one will be staying. The cell carrier's antennas will come off of both tanks and be transferred to the new cell tower. In addition, the existing fence will be altered to create an approx. 60ft x 100ft compound. It will result in roughly a 15% reduction in lawn space.

Karl Laurer asked about what appeared to be three "sheds" on the sketch by the tower, and questioned why the new tower couldn't be erected where the old water tank is being removed.

D. Carpenter referred to the "sheds" as outdoor shelters/cabinets, that house the cell carriers' equipment.

Jake Swingly explained that the MCWA wants to save the area where the small tank is being removed, in case they want to use it in the future to build another water tank, as the piping and connections will still be there.

In regards to a question about a “fall zone”, Don Carpenter expressed that each 20ft flanged section could be oversized except for the top 50ft. Then in the event of a catastrophic occurrence, only the top piece would be vulnerable. There was also a discussion about the possibility of reducing the height to 180ft to reduce the “fall zone” even further.

M. Nicholson indicated that we are getting off the topic. The issue at hand is whether the Governmental entity, the Village of Webster, should be exempt from zoning in regards to this parcel.

David Mayer expressed that part of the analysis we need to go through is what the extent of public interest in this is, and how inter-related the proposed use of this is to the governmental function of the Village. If this is deemed to be integral to the governmental function of the Village of Webster, then the argument is stronger that this is exempt from zoning. There are case laws dealing specifically with cell towers. The co-location interest is a legitimate governmental function.

M. Nicholson asked if the SEQR process is independent of the decision of whether the Village is exempt from zoning.

D. Mayer replied that SEQR is independent of the zoning decision, however, the Village Board can declare themselves the lead agency as far as SEQR is concerned.

D. Carpenter added that the DPW might take advantage of hanging some antennas on the tower to solve some coverage issues. This is germane to whether the new tower is integral to the governmental function of the Village.

J. Swingly said that it will help with the signal for the dialers at the sewage pump stations. In turn it will increase the response time for STP pump issues.

Open to Public Comment:

Richard Walter, 20 Elm Street, had several questions: 1) The property is one parcel which is leased to MCWA. How will building the tower impact the lease of the land to MCWA? 2) What is the cost of the tower, and who will pay the cost of moving the current cell carrier antennas to the new tower? 3) What is the length of payback time for building the tower? Currently, we receive approx. \$70, 000 per year in revenue from the cell carriers. 4) How long are the contracts the Village has with the cell carriers? 5) What will happen if one of the carriers decides not to renew their contract and takes their antennas off? 6) What will the maintenance fees be? 7) Once we have all of the figures, will the Village really need this?

J. Swingly agreed these were all good questions, but reiterated that the decision before this board is whether the Village is exempt from zoning or not.

Peter Elder, 59 Dunning Avenue, inquired if the board will be considering the nine factors when determining if the Village is exempt from zoning, and if the board will provide a rendering (image) of the tower before making their decision.

D. Carpenter replied that the sketch that was provided is an accurate portrayal to scale, and it is an “open” concept.

Public Comments Closed:

M. Nicholson indicated that we will now go through the nine points to determine whether the Village is exempt from zoning for this project. There are some points that are not applicable in this case.

D. Mayer informed the board that the notice for this public hearing that was sent out to the neighbors within 500ft of the proposed project had an incorrect date on it. The date on the notice was September 19, 2016, not September 15, 2016.

M. Nicholson suggested that the meeting reconvene on September 19, 2016 at 7:30pm. All board members indicated that they are able to make a meeting on the 19th, and the board will render a decision at that time.

M. Nicholson then asked the board to review the meeting minutes from the August 18, 2016 ZBA meeting.

Motion: Mike O’Connor made a motion to approve the minutes as written. Seconded by Karl Laurer. All were in favor. Minutes were approved.

M. Nicholson then asked for a motion to adjourn the meeting.

Motion to Adjourn: Bill Baker made a motion to adjourn the meeting. Seconded by Bob Fantauzzo. All were in favor. Meeting adjourned at 8:15pm.

The next Zoning Board of Appeals Meeting is scheduled for 7:30pm on September 19, 2016.
Respectfully submitted,
Jo O’Neill, Deputy Clerk