

Town of Nelson
Zoning Board of Appeals
December 19, 2006
Nelson Town Office Building

Present: Tim Etter, Jeff Rubenstein, Mary Perry, Tom Arnold & Ron Davies.

The meeting was opened at 7:31 p.m. by Chairman Jeff Rubenstein.

Minutes from the last meetings deferred to the next meeting.

The Mad. Co. Planning Board has not yet made any recommendation for the Verizon application.

Agenda:

1. Marilyn & Glendon Lewis - Area Variance - Erieville Rd. - Public Hearing

- a. The variance is for the increase in front (road) setback non-conformity. The drip line is 21" closer to the road than the previous (destroyed) structure.
- b. Glendon (Skip) displayed photos of the property showing his measurements.
- c. Jeff read the Mad. Co. Planning Board's recommendation of disapproval of this application.
- d. Jim said for the record, with all due respect to the Co. Planning Agency, that this Board has spent numerous days and hours evaluating this and the Co. Had a couple pieces of paper, so I would rely on your own determination as to the amount of the encroachment and we are not here to re-evaluate the 1993 variance which is what they spent their time talking about. Again I would encourage the Board to apply the typical standards for an area variance based upon the application before you. Jeff said that in read the Co. determination for information for the Public.
- e. The Public Hearing was opened at 7:48 p.m.
- f. Peter Baker, Neighbor across the road said that the new construction has an affect on his view of the lake. The issue is that it was pushed four feet to the north. The house is substantially more than 21" larger. He had documents which he said that he believes that the Board had them all. Jim said that this information is irrelevant to this application. Mr. Lowell Foland, Neighbor and on behalf of the Tuscarora Lake Assoc. Asked when the new watershed codes on any new construction, additions have to meet the codes. When does the Town start to enforce these laws.? Why didn't the Lewis's put the new house and garage on the land across the road?
- g. As there were no other comments on this application the Public Hearing was closed at 7:56 p.m.
- h. Jeff said that when the Board reviews an application for construction that has already been completed. they imagine that the house is not rebuilt and consider only if we would allow this or not allow this to happen.
- i. Discussion of the safety issue of the new stairs coming to the road.

- j. Marilyn had an estimate of \$5,000.00 to remove the roof and deck to eliminate the 21" encroachment to the road. There are three options to consider, to remedy this issue.
1. Chop 21" from entire structure.
 2. Remove the steps, as well as the old (remaining) steps at the south end of the building.
 3. Do both.

Findings:

- a. There will be an undesirable change produced in the neighborhood.
There is a feasible alternate to an area variance for the applicant.
The required variance is substantial.
There will be adverse effect on the physical or environmental conditions in the neighborhood.
The difficulty was self-created.
- b. All information or evidence was considered. Photo's and measurements submitted.
- c. All parties in question were heard. Peter Baker, Neighbor appeared. Feels that more than one non-conformance should be considered. His view obstructed.
Lowell Foland, Lake Association, concern of when water front code being enforced.
- d. No intimate knowledge was taken into account.

After discussion of the Board Tom made the motion to disapprove this variance request. Seconded by Ron. All voted in favor and motion carried.

2. Marilyn & Glendon Lewis - Area Variance - Erieville Rd. - Public Hearing

- a. The Lewis's are requesting a 15 foot variance to allow a 35 foot setback from the road to construct a garage on the west side of Erieville Rd., also a 25' variance to place a parking area 25' from the road. This application was returned for local determination by the Mad. Co. Planning Board. Property in the RB zone.
- b. The garage cannot go further back because of a bank in the rear of the property. Pictures provided by the Lewis's were reviewed by the Board.
- c. Public Hearing was opened at 8:34 p.m. As there was no one present for or in opposition for this application the Public Hearing was closed at 8:35 p.m.
- d. The only time that parking will be in front of the house will be to unload the vehicles. Parking will be provided across the road in front of the garage.

Findings:

- a. No undesirable change will be produced in the neighborhood.
There is no feasible alternate to an area variance for the applicant.
The requested area variance is substantial.

The difficulty was not self-created.

- b. All the information or evidence was considered.
- c. There were no parties in question to be heard.
- d. No intimate knowledge was taken into account.

All Board Members visited the site.

Tom made the motion to approve a front yard setback of a 15 feet variance to allow a 35 foot setback for the garage and a front yard setback of 25 feet to allow a 25 feet setback for the parking. Seconded by Ron. All voted in favor and motion carried.

3. Syracuse SMSA Partnership (Verizon) - Use Variance - Route 20 - Public Hearing

- a. Robert Burgdolf represented this Use Variance application. Also present was Dave Weisender, Molly Stergis. They want to construct a wireless tower in the Town of Nelson on one of two sites. The Saliba site on the south side of Route 20 and the Nichols site on the north side of Route 20. They presented drawings of the sites and the coverage area.
- b. Mr. Burgdolf explained the cellcomb, issues, signals line of site and coverage. He explained that they have found two sites that would offer their required coverage to fill the gap on RT 20 in Nelson.
- c. The Engineer tested both sites and the Saliba site tested the best and also covers the southern part of Nelson better.
- d. The tower will be 195 feet in height. The tower and the building will be enclosed by a chain linked fence.
- e. The road will have traffic approximately once a month. There will be no septic in the one building. And there will be no pollution to the air.
- f. At the Nov. 11, Planning Board meeting their main issue was the drainage. They will meet all of the standards as per the Town Engineer.
- h. If the Nichols site did work it would be closer to an airstrip, but is within FFA requirements. Verizon has a verbal agreement from Cal Nichols.
- i. Mad. CO. Planning Board has not come back with any recommendation.
- j. Maps of the balloon location is on the maps.
- k. The Public Hearing opened at 9:20 p.m.
- l. Bill Groetz, Argos Rd., asked if Verizon had intentions of letting other providers use the tower. Mr. Burgdolf said that they do an agreement with all providers. Bill said that he has a private airstrip and he is concerned of other planes taking off and not clearing the tower, as it is line with the runway. Mr. Burgdolf said that this is unregistered private strip and some the FAA restrictions do not apply. They do not have to do anything to protect.
Alice Alsever, Neighbor in front of the site, said that small planes go over her field all of the time. She voiced a concern of the drainage from the road draining into her back yard and this site is also in the town view shed.

Paul Lee, Francis Rd. said a that he lives by the Nichols site and asked if the tower would interfere with his reception. He was assured that it would not.

Thomas Davies, Ryan Rd. said that there were not any pictures taken from Ryan Rd.

Chris Cline, Stonebridge Rd., said that there is already a tower in back of his house and why they couldn't use that one.

m They are not tax exempt and taxes will be paid by Verizon.

n In response to the Planning Board's concern that a Special Permit may be required., Jim said that he read and re-read the law on Special Permit and the Use Variance and you can't have both.

o. Jim St. Pierre said athat from a Planning Board member point of view that the Board should look at Section 228.2 - E and Section 221.2 - B of the zoning laws.

p. The Board decided to continue this Public Hearing for Verizon on January 16, 2007 at 7:30 p.m.

q. Jim Stokes suggested that we have an Consultant review the applicant's engineering and the application and have the Applicant pay for it or re-embuse the Town for expenses and have the report for the next meeting.

s. The applicant is leaning towards the Saliba site.

As there was no other business the motion to adjourn the meeting was made by Ron and seconded by Tim. All voted in favor and motion carried.

Meeting adjourned at 11:00 p.m.

Respectfully submitted by,



Christabell Westcott, Secretary
Zoning Board of Appeals
Town of Nelson