

Town of Harrietstown Zoning Board Appeal
May 26, 2020
5:30pm

Zoning Board of Appeal Via Zoom

Board Members Present: Jim Tyler- Chairman
Joseph Spadaro -Absent
Allan Wright
Trevor Jackson
Richard Retrosi

Staff Present: New Code Enforcement Officer- Todd David
Recording Secretary- Todd David- **Via Zoom Video**

Public Present: David Wolff
Jesse Schwartzberg- Representing David Wolff
Adam De- Representing David Wolff
Daralynn Wenske
Paul Reed- Representing AT&T Cingular

Jim Tyler opened the meeting with introducing all the board members "We have a couple things on tonight's agenda, we have the cell tower application for an area variance, Wenske's garage area variance, and the Wolff Boathouse. First do we have anyone from the Centerline Communication?"

Paul Reed "Yes, my name is Paul Reed Center Line communications and we represent AT&T. Thank you for having the meeting tonight under the circumstances here and you folks talking your time for these projects. AT&T what we are proposing to do is to install a communication tower up on Mr. Roy Warner's property off Forest Home Road. There is an existing Verizon Wireless tower a couple feet away from where AT&T is proposing to install their facility. We are pretty far along in the project we have been through the APA and received the approval from them, we went through the Town of Harrietstown Planning Board we received the approval from them. We have gone through all our FCC applications. Developing a new project, we must go through a heap of processes. They sent the project out to the shipo. All the Native tribes in the region. So, we basically have sign off on the entire project. So, what we are applying with the Zoning Board is for a Special Permit and an Area Variance for the tower. The top of the tower is 94 feet and the Zoning requirements require for the Town of Harrietstown is the setback is the fall zone setback is required to be 20%, addition to the height of the tower I think we would need a setback of 113 feet and we are about 108 feet from the property line. We tucked the tower up into the side of the hill as best we could to meet this requirement, but we are a little shy and that's why we need a small variance as well as the special permit

Jim "So Paul Real quick I just want to be clear. This is in case the tower falls?"

Paul "It's just the requirement that we found in a lot of Zoning by laws that have been created over the years. Why those were established. Its not that the tower is going to fall but typically if the tower falls it isn't going to land on a tree or collapse on itself one fashion or another. Even those setbacks are sometimes overzealous, we have had to address them over the years

Jim "I believe has the adjoining property owner."

Todd "This is going to go out on Roy Warner's Property out on County Route 18."

Jim "Is one of the Adjoining homeowners Chris Caldwell?"

Todd "There is many of them. But I don't think that he is on this project."

Jim "All of the homeowners have been contacted correct?"

Todd "They have been contacted certified mail for the Planning Board meeting and for the Zoning Board meeting. It's been in the paper as well."

Jim "Any response negatively back from any homeowners?"

Todd "I haven't had any negative concern yet."

Jim "Okay. Any of the Board Members have any concerns or comments that they would like to make?"

Trevor Jackson "I do not."

Jim "Is there a SEQR with this?"

Todd "It was a negative SEQR."

Jim "My next question is and will pertain to the other things that we are doing tonight. Can we negative the SEQR prior to voting, it has to be done prior to voting correct?"

Todd "Joe Garso informed me on this, with the APA permit, he said we don't even need to go through SEQR. We went through it anyhow. But we didn't even have to do it."

Jim "As the building inspector do you want us to vote on the SEQR or not?"

Todd "I don't think that is need."

Jim "Okay good, so since there is no other questions from the Zoning Board Members. I would like to make a proposal for a Area Variance for Cingular Wireless for a cell tower out on Harrietstown. So I put a motion out there can someone like to second it?"

Joe Spadaro "I'll second that."

Jim "I would like to do a roll call on this. Starting with Trevor."

Trevor "Yes."

Jim "Rick"

Rick Retrosi "Yes."

Jim "Alan."

Allan Wright "Yes."

Jim "Joe."

Joe "Yes."

Jim "And I also vote yes. So, this is a done deal, Thank you for your time."

Paul "I'm sorry to interrupt, does that include the special permit as well?"

Todd "I wanted to make sure of that as well."

Jim "Yes."

Todd "For the area Variance and the Special Permit everyone votes, yes?"

Jim "I'm sorry did everyone understand that it was from a special permit and area variance permit?"

Everyone responded yes

Jim "Okay, Todd did you get that?"

Todd "Yup. I got it thank you"

Paul "Thank you very much I appreciate you taking your time tonight."

Jim "Thank You Paul. So, I believe our next application is the application for the Wenkse project on 509 County Route 18 in Lake Clear and they are looking for what I believe an Area Variance for a garage is there anybody here, Grace?"

Daralynn Wenske "I'm here I'm using my daughter's computer."

Jim "So the request for the Area Variance is for the garage correct?"

Daralynn "Correct."

Jim "You're asking from a 20-foot setback to a 5-foot setback so you're looking for a 50-foot relief is that correct?"

Daralynn "That is correct."

Jim "All the Board Members have seen the application and seen the floor plan?"

Rick "I have not, I have not seen any of it."

Jim "Oh okay, Alan, have you?"

Allan "Yes I have it."

Jim "Have you seen this also?"

Joe "No I have not."

Todd "I can run it into Joe."

Jim "Who is the Adjoining Neighbor?"

Daralynn "On the side that we need the setback its John and Clarence Brockway. There is about a 50-foot path that goes down the side of their property."

Jim "They have been contacted correct, Todd?"

Todd "Yes Certified letters, it was in the paper."

Jim "Okay. Can Rick get this information so it can be seen."

Rick "If you guys have seen it and can talk me through it. I'd be good to go."

Jim "What if I held it up to the screen can you see that Rick?"

Rick "Um, not really."

Jim "So Rick it basically is a big parcel property they are proposing the garage right on the line. Like right on the setback line. I don't see any other structures on Brockway's property. I have seen the property and I don't have a problem with it. Joe have you been out to see the property?"

Joe "I have not, the question in mind is there another way to set the garage that doesn't require the Variance? You have 2.2 acres of land, it seems to me that you can come up with a way to build what you need to build for your own purposes and not need a variance from the Town of Harrietstown but, it's not my job so."

Darralynn "Can I give you a little history on that?"

Rick "Please do it."

Darralynn "When we originally put the house on the land on August of 1999 Joe Brockway and I were in a relationship, Joe and I lived together. So, it was part of a larger family parcel if you will. So, some of these concerns were not a concern at the time. The way the house is positioned on the property the cable and electric run through the front of the yard and especially the position of the well it would require removing those things which we don't have the funds to do that. Especially the well, the well is the biggest piece there in order to have the land accommodate the garage, the proposed garage."

Jim "Darralynn I have a quick question could you push this garage toward the road? I'm looking at the parcel, if you went to Forest Home Road if you pushed it that way, is that possible?"

Darralynn "I don't believe you can because again the well can you see the well on the map?"

Jim "It does not show it."

Darralynn "On the survey?"

Jim "Nope."

Darralynn "Didn't I include to Todd a copy of the survey?"

Jim "I do, but I don't see it. Oh, right here. So, my question is if you moved it towards the road then you can bring it in toward the house."

Darralynn "Again the position of the well and the in and out of the garage would become an issue."

Jim "Ok, because you would be becoming into the garage from the front, could the garage be rotated?"

Darralynn "Rotated which way?"

Jim "From my understanding you are pulling into the piece of property and your turning left into the garage correct?"

Darralynn "Correct."

Jim "So is there a way so you can directly pull into it from the road?"

Darralynn "No because of how the property goes, the property is like a slice of pizza if you will, so it angles. And it gets narrower towards the house."

Jim "who else has not seen this map?"

Allan "I have it what I'm not understanding or I'm missing something. It's showing that you are 20 feet from the property line now on your map."

Todd "I believe that was a little confusing because I saw that too Allan but if you look at it a little closer how its"

Darralynn "5-foot line, yeah."

Allan "It says 20 feet, but I don't see the 5-foot line. It says 20-foot setback line. And 20 feet from the property line. You see where it says shed? 5 feet zero inches from the property line so I'm not understanding how you are 5 feet from the property line seem like you are already there. I don't see where you're not in regulation because the property line is shown and then you show a distance of 20 feet from your property line to your set back line that's where the garage is"

Jim "I'm also seeing that too Allan, I don't quite understand it here."

Allan "Are you saying that your garage is not where you have it on your picture?"

Darralynn "The garage is where it should be on the drawing, I'm not sure on the survey. I'm not sure what document are you are looking at. I'm sorry I don't have them right in front of me I actually had to go out of town."

Todd "Okay so looking at the on A1 you see how it is only 5 foot from the property line, see that?"

Allan "Yes. It doesn't say that is property line on it on A1 just shows the number 5 feet. So the survey map either has the property line or the garage in the wrong spot."

Darralynn "The garage is no on the survey map."

Joe "That is what is confusing."

Jim "Can you say that again. What about the survey map?"

Darralynn "The garage is not on the survey map."

Jim "I'm looking at it right here."

Trevor "Yeah it says propose garage."

Todd "I think they want us to look at A1 as the site plan. Honestly because if you look at the picture here look at the position of the garage if you look right here it turned. That's why they done have the 5-foot setback. I think that might have been an old survey of it and this is the site plan they are meaning now"

Allan "The garage is different on A1 than it is on the larger diagram what we are going to call the survey map."

Jim "So Todd my question is which map do you want us to look at?"

Todd "A1 the one with not the big survey on it. I believe that is what she is proposing."

Allan "So S1 is invalid?"

Todd "I would say so."

Allan "Because that is showing that the garage is 12 feet from the mobile home as opposed to the 21 feet that is shown on A1."

Todd "My understanding that the one you are proposing is the A1 where the garage is tilted it wasn't running the parallel is that correct Darra?"

Darralynn "Yes, that is correct."

Allan "A1 is dated November of 19 and S1 is dated February of 20."

Jim "I'm still asking if the original site map where it does fit in the 20 foot setback if the proposed garage, I understand what you are trying to do by pushing it closer to the property line to get more of a sweep into the garage. But if the garage is moved toward the road, they can achieve that and still stay in the 20-foot back line. You see what I'm talking about Allan?"

Allan "I do yeah. But that's going to put the driveway sweep right across the drilled well. I'm sure she is going to want to avoid driving on a water line."

Jim "Yup. And there is no rotation of the garage completely huh it wouldn't fit?"

Darralynn "Originally how the house was originally position was what really complicated thinks."

Allan "Right."

Jim "Is there any structures on John property that are close this area?"

Darralynn "No. I don't even know if it is 50 feet wide it just a path that just comes down."

Todd "I don't believe from me looking that there is anything but woods and the driveway going out."

Jim "Okay. Rick you have any thoughts on this?"

Rick "I do not at this time."

Jim "Okay Joe what are your feelings?"

Joe "What I'm confused is that there is a number of issues with this one. Why does the garage have to go there? Something about a waterline, something about a powerline, that's what I don't understand?"

Jim "Joe I think in the original print that was given the original S1 that we had. From the corner of the garage to the main house was only 12 feet. There for there was a concern that it will be able to bring in a vehicle being that close to the house, so by pushing the garage back to the property line it gave them a 21-foot area to bring the cars in."

Joe "it just seems to me that the dimension of the garage could be modified to fit the zoning and fit their needs where is the entrance to the garage right where proposed, right from the highway?"

Allan "No from the yard."

Jim "Oh I see you have to swing, okay I see the issue. There is no reason that can't be rotated and have the entrance to the garage onto the driveway just rotate the proposed garage 90 degrees. Then the doorway to the garage would face the highway its directly in but I don't know."

Allan "Is there a reason you need a 3-car garage opposed to a 2-car garage? Because if you had a 2 car as Joe was saying because you have a 3-car garage with space above it. That's a lot of building which a smaller building would meet the zoning requirement"

Darralynn "We have 4 cars and we don't have abasement or an attic in our home, so we were looking."

Allan "For storage space. But in order to meet the zoning requirements it may not be able to be as large as this. You could have the same length, but you could reduce it down to a 2-car garage it just would be a long 2 car garage entering from the roadway"

Darralynn "I'm not sure if that works with all the underground goings on, with the electric and the other utilizes coming through and the position of the well and the water line. I think that is why we had several plans going back and forth on where and how to place the garage on the land given the shape of the property and the position of the house and this was the best we were able to come up with. I can certainly ask our architect again I can see what else we can do or another thing that has been presented is we would have to shrink the size of the garage, so we can't have the 3 cars, is that what we suggested?"

Allan "That is what I'm thinking shrinking the size would put it in the setback you would have to do what joe is suggesting and enter from the roadside then sweeping from your yard."

Jim "Or a rotation."

Allan "Or a rotation, yup."

Jim "I think would look good too."

Darralynn "What do you mean by that?"

Jim "That would be taking the garage so that you would be coming into it from the road. So turning it when you are coming off Forest Home Road you would be pulling straight into the garage."

Allan "Right, that is what Joe said put the door on the other side."

Jim "Right and I think you will have room with your drilled well there but that would be an architectural engineer who can answer that question."

Darralyn "Okay and I think there are some concerns with the grade of the property and with drainage."

Jim "Okay."

Allan "You already have a driveway there Darra."

Darralynn "Yes, yes."

Allan "So it looks like you are putting it on top of the old driveway."

Darralynn "With the position presented yes. But to make it so you can drive straight in there would have to be which was explained to me, because that was initially what I wanted so I could pull right in but there was some concerns about the grade."

Allan "Okay gotcha."

Darralyn "And water."

Jim "My feeling is I would recommend you go back to the architecture what the options are. Rather than us voting on this tonight, that would be my recommendation."

Darralynn "Okay."

Jim "I don't know how the other Board Members feel that would also give rick time to get a copy of this so I feel good eyes on this also."

Allan "Great."

Rick "That would be good. Maybe a couple of us can make a site visit as well."

Darralynn "I would appreciate that actually, it may provide a sense of how the house is positioned on the land and what we are dealing with, with the slope and the grade and all of that, I think that would be great. Obviously, I would go back to our architect and constructing crew. I'm wondering to and I can't remember, Todd if you wouldn't mind helping me with a current plan with the addition because that also takes space away."

Todd "I believe they do have the back addition."

Darralynn "Okay."

Allan "Its hard to tell what addition is and what's not."

Darralynn "We are in the process of putting an addition on the back."

Allan "Is that the mudroom and the screen room?"

Darralynn "Yes, so you are seeing that perfect. I apologize its been a bit since sending everything in and I don't have it in front of me."

Allan "We tried to make it work for you."

Jim "Well will keep this open Todd. We will not make a decision tonight on this, we will be moved forward, and we will meet again."

Darralynn "Thank You."

Darralynn exits the meeting

Jim "So the next thing on the agenda is going to be a boathouse at 3 Oseetah park the Ton of Harrietstown we have a few people here we have Adam, Mr. Wolff and Jesse. Tell us who you are and what you present"

Jesse Schwartzberg "You bet, Jesse Schwartzberg the address you said isn't correct 1066 Kiwassa Lake Road."

Jim "Oh okay it just says Lot 3, is Adam there as well?"

Jesse "Yes Adam works for Black Brown architecture and he is supporting us tonight."

Adam "Yes I'm here to take notes and so designs if need be."

Jesse "I'm happy to walk anyone through it or just let me know. This project for David Wolff its regarding permits from the DEC, the Army Core and the APA. I've done several boathouses out on this lake. I've talked to Todd throughout the process, from my read on it it meets all the requirements. It has earth tone materials on the outside, its brown with green trim. It looks similar to the house. It's under 15ft. The height restrictions for the APA. In terms of the lot coverage that is in your code it is taking significantly less than 50 percent of the shoreline"

Jim "Okay my firs question is Jesse is the location once again we are hovering this 20-foot setback line. I'm confused why it had to go so the setback line."

Jesse "If you walk the property and see what is there. We also worked with the DEC and maneuvering it and the fisheries from their end. It's just a nice spot on the shore for it as far as any other reasons it wasn't over the setback, we gave it some cushion if they have to drag the case on they have some room. If they happen to hit a rock so its not in jeopardy off hitting the setback."

Jim "So you are having a walkway from the shoreline to the boathouse correct?"

Jesse "Just the bridge there, it is going to connect to the shore, that I sone point of connect to the land."

Jim "Can you clarify the back corner of the boathouse, how far is that from the 20-foot setback?"

Jesse "The back corner of the boathouse, Adam looked that up for us. I know the front is about 3 feet. It's about 8-9 feet from the setback."

Jim "Is a rotation of the boathouse, if you went parallel with the setback, as the existing garage?"

David Wolff "The shoreline is too shallow to get boat in if you went parallel on the left and side."

Jim "It's no different, it taking the front of the boathouse and putting it out into the lake. If you take the back corner of the boathouse, the propose bridge and the propose dock and pivoted it on that corner and it went parallel to the 20-foot side setback."

Jesse "You could do that but when we were looking at the property and the factors that went into it. I understand what you're saying but was wondering how that would help I guess."

Jim "well you would need a less of a Variance."

Jesse "Oh We don't need variance."

Allan "So you meet the guidelines for the setback you just need the special permit for the boathouse on the lake."

Jesse "Correct, we are not asking for variance. When I was introducing this, I was trying to say this is a very straight forward project. We are not asking for variances we aren't over the setback; we aren't doing any grey areas of your code."

Jim "Okay maybe I'm confused, by looking at this map at the 20-line setback that is where we had to come from

Jesse "I did label to the right the property line."

Jim "Right I'm sorry I miss read that completely."

Jesse "No Problem, I would understand your questions now if that was the property line."

Jim "Does everyone else see that? Trevor."

Trevor "I do not."

Jim "Do you have this?"

Rick "I do have this, and everything looks like it is in order to me."

Jim "And Allan and Joe?"

Allan "Yes I have it as well."

Joe "I agree with Ricky."

Jim "does anyone have any concerns now that I have totally confused everybody? So we are going to vote on a special permit on 1066 Kiwassa Lake Road is that correct?"

Todd "It is correct."

Rick "I would move to approve that special permit."

Jim "I have a second on that?"

Allan "I second."

Jim "I would like to have a roll call vote."

Trevor "I'm going to sustain."

Jim "Oh that's right you don't have the copies. Rick?"

Rick "Yes."

Jim "Allan?"

Allan "Yes."

Jim "Joe?"

Joe "Yes."

Jima "And I also say yes. This is for a special permit for a boathouse for David Wolff. Thank you, Jesse, for clarifying that for us. I was confused on that"

Jesse "No Problem we appreciate all that you are doing to make this happen."

Jim "This is a nice packet thank you." He thanked David, Jesse and Adam "Todd did we have a SEQR form them?"

Todd "Yes they had a short form SEQR."

Jim "Okay so maybe we should vote on that?"

Todd "Yes Please."

Jim "I would like to make a motion on the David Wolff boathouse, can I get a second on that?"

Rick "I'll second."

Jim "all in favor?"

Rick "Aye."

Allan "Aye."

Trevor "Aye."

Joe "Aye."

Jim "Okay Todd that has passed."

Todd "Okay, Thank you."

Jim "WE are all set on that. Todd, I believe when you get things in line I can come down and sign stuff off?"

Todd "Yes absolutely."

Jim "Okay, do we have any other business to discuss? With prior applications coming up?"

Todd "The only thing we have coming up is a Subdivision on the Corey's Road. They are having an APA Public hearing. They are waiting apo their permit from to APA before we go forward."

Jim "Okay, so I believe we can close this meeting at 6:13 pm."

Rick "I moved to adjourn."

Jim "WE have one application that is still open until we hear further with the architect maybe that ill give others a chance to see the property."

Todd "It is a strange property, when you come down. It is a kind of a weird lay out once you get in there. If we all want to make a plan to go out there together."

Jim "Well we all can't go out together."

Go "Two people can go but 3 cannot."

Jim "Right. I just had a quick question. How are we having the public hearing?"

Todd "It was a public hearing so anyone could have join, we posted it in the paper and there was link on our websit to join the meeting."

Jim "Okay we will close this meeting up and I wish everyone good health and families have good health"

Rick "We still have a motion on the table."

Jim "For?"

Rick "To adjourn."

The board laughs

Allan "I second that."

Jim "All in favor?"

The whole board replies "Aye."

Meeting closed.