

Town of Verona  
Zoning Board of Appeals  
6600 Germany Road  
Durhamville, New York 13054

The January 11, 2016 meeting of the Town of Verona Zoning Board of Appeals was called to order at 7:00 pm by Chairman Martin Schaub on a motion made by James Regan and seconded by Henry Gerwig. Members present were, Martin Schaub, Henry Gerwig, Salvatore Sparace and James Regan. Also present was Secretary Angel Schaub and Codes Officer Chris Childs.

The December 14, 2015 meeting minutes were approved as written with a motion made by Henry Gerwig and seconded by Salvatore Sparace. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed.

**OLD BUSINESS:**

Chairman made mention to the town board at the monthly meeting that he would like know the status of the “new” zoning books. He was informed that they are being sent out for publishing.

Annual training for the ZBA was unable to be completed due to computer access not being available. A training brochure was handed out for the Tug Hill Conference on March 31, 2016. Anyone interested in attending this training needs to notify the chairman so he can seek approval from the town board at the next meeting.

**NEW BUSINESS:**

The ZBA advertised for a vacant position on the board. Two letters of interest have been submitted along with a verbal notice of interest at the meeting.

Martin Schaub made mention of a gentleman contacting him to request zoning information and what’s allowed within the zoning laws for solar farms. He will be reaching out to the DOS because the towns zoning doesn’t make mention of solar farms and he is questioning it being used as a utility substation.

James Betro of 6711 Lakeshore Rd N.-requesting a side yard variance to erect a three car garage. The ZBA determined the requestor needed a nine foot side yard variance

which will make the garage one foot from the property line. Survey maps show there is no other place to erect the building. Henry Gerwig questioned an access path that goes through the center of the property. Town council Vince Rossi responded to this question explaining that it is only a "paper street" and that it is not a public right of way. Private by deed only. Henry Gerwig was concerned with the one foot property line request. The ZBA will review this during the public hearing. Salvatore Sparace made a motion to set a public hearing for February 8, 2016 at 7:15 pm for a nine foot north side yard variance to erect a three stall garage at the said property. James Regan was second to approve this motion. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed. This parcel is located in a hamlet district. This falls under type II SERQA, no further action required. The ZBA requested letters of the public hearing be sent to the neighbors that are listed on the application.

Leigh Ballard and Billi Rocker of 5032 Spring Rd-requesting approval to operate a towing business at the said address. The requestor stated that he has been running the towing business for approximately eight months and just recently was notified that he was operating a business without the required permits from the town. Codes Officer shut down operation until the ZBA granted required permits to run. The requestor is seeking a special permit to operate a towing business. They stated that they receive calls from insurance companies when there are accidents and then tow the vehicles to their property and store them for up to three days. The vehicles will be stored behind a fenced in area. The requestor was seeking permission for the business to also use the neighboring parcel owned by Frank Fera. The ZBA stated that they cannot grant permits to operate a business on two separate parcels. The requestor stated that if it makes things go easier that they will not use the neighboring parcel and will only house the business on the parcel they own. The ZBA asked how many cars would they store at full capacity? Requestor stated no more than ten vehicles at once and they will always be behind the fence. ZBA asked about what happens if there is leaking oils or coolants? The requestor stated that they could use drip pans if there is a leak. Henry Gerwig made a motion to set a public hearing for February 8, 2016 at 7:30 pm for a special permit to operate a towing business at said location. Martin Schaub stated that a survey was required showing the proposed area that the business would be on, fenced in area and detentions. Also stating that a short SEQRA was required and that the requestor was responsible for filling out section 1. Salvatore Sparace was second to approve this motion. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed. This property is located in a RD district.

#### **PUBLIC CONCERNS:**

No public concerns.

#### **PUBLIC HEARING:**

Gerald Vanderwerken-requesting permission to erect a two story pole style garage. The requestor withdrew his request for the two story pole barn and will be building a one story instead. No variances are required for this. No public hearing was conducted.

Robert Pawlowski of 5716 Sholtz Rd-requesting a special use permit for snowmobile races. James Regan made a motion to open the public hearing at 7:35. Henry Gerwig was second to approve this motion. All interested parties were invited to speak. No one spoke for or against. The public hearing was closed at 7:37 pm by motion of Henry Gerwig and seconded by Salvatore Sparace. The ZBA held a brief discussion about the races held in the past. Stated that the same stipulations apply. Hours of operation will be 8:30 am to 4:30 pm on Saturday January 30, 016. Temporary signs will be allowed for the event following the sign ordinance. Henry Gerwig made a motion to grant approval of the one day snow races with the listed stipulations. James Regan was second to approve this motion. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed.

The public hearing for Evolution Site Services was reopened at 7:50 pm by motion of James Regan and seconded by Henry Gerwig. Andrew Campanelli, the attorney hired by the residents of Durhamville addressed the board with his case on why they should not grant permission for the tower to be built. He reiterated all the concerns from the past few months' meetings. He made mention how the residents are concerned with property values being decreased, potential health risks, aesthetics and falling ice/structure concerns. Mr. Campanelli repeatedly stated that the site developers, Evolution Site Services, was only interested in making money and didn't care about the people in the neighborhood. He stated that the town codes do not allow for a cell tower in this area under the current zoning and with this should be denied the permit for a tower. He mentioned that zoning only allows for structures up to thirty five feet. He claims that there are no reports that prove a gap in coverage and with this should be denied the permit for a tower. He stated that the residents conducted a drop call log of their own and found no significant gap in coverage and with this should be denied the permit for a tower. He stated that being that there is a perfectly viable alternate location that the ZBA should deny the permit for a tower. He claimed that the requestor didn't want to spend money looking for an alternate location. Claims they didn't want to spend money on power, clearing of lands or access roads. Mr. Campanelli stated that the balloon test that was conducted "is a joke, they don't work Evolution will purposely omit the photos of the people directly impacted". He claims that the tower will be five feet wide at the base and one hundred sixty five feet tall. That it will "loom over" the residents and that the ZBA should deny the permit based on aesthetics and zoning. Mr. Campanelli stated that Evolution has "shown a complete and utter lack of evidence" in regards to the need for the tower. He said computer modeling was used to support their need but it's not accurate. He also stated that Site developers like Evolution are hired to intimidate towns into thinking if they do not grant these requests that they will sue them and those towns will lose out on lots of

money. Mr. Campanelli said that the town will NOT lose out on anything. That legally the only thing that a court can decide is if the permit is allowed or not and no loss of money for courts, attorney or fees can be claimed. It's just a scare tactic; Verizon cannot collect on damages or attorney fees. He stated that if the town denies the applicant that it must be denied in a separate written decision and must site evidence and how the decision was reached. Stated under the town's codes it must be denied. Town attorney Vincent Rossi asked Mr. Campanelli, is there a case that says dropped calls are a significant measure of analyzing? No one had any at this time.

Chris Ciolfi responded to the comments made. He stated that Evolution is building this tower for Verizon. He said that per court findings that the carriers get to determine if there is a need for service. He stated that per the documents submitted prior to tonight's meeting that Verizon has demonstrated a need. Mr. Ciolfi stated that they are not in violation of any codes but that they fall totally within the codes of the town. He said that the residents call logs are not scientific data and that Verizon used radio frequencies to conduct their study. He stated that the Mark French property has some concerning environmental impacts and that is why they decided against using that location. He spoke of property values and referred to data submitted at the last meeting that showed ten years of actual sales in the town within the nearby area of cell towers. No sales showed a decrease in value do to a cell tower. He stated that the base of the tower is three feet not five and that the tower proposed is one hundred sixty feet not one hundred sixty five feet as Mr. Campanelli stated. Mr. Ciolfi stated that cell towers are not specifically mentioned in the zoning and so they fall under Utility Substations. He mentioned they have shown a need in charts provided to the board and that they are in full compliance with codes and with the telecommunication act. Mr. Ciolfi presented a chart that showed the results of the balloon float. The balloon was approximately a three and a half to four feet wide weather balloon. It was raised one hundred and sixty feet in the air to represent the top of the tower. Mr. Campanelli stated that the balloon test should have been conducted over several days so everyone could see it. Mr. Ciolfi stated that they cannot stay up for several days. Residents voiced concerns about sales data provided not being factual because no one asked those people that sold if they feel they could have sold for more if tower wasn't there. Mr. Ciolfi stated that these are actual sales in this town and that most have been sold for more than the assessed value and the full market value. He also stated that he has complied with all local, state and federal laws. Residents accused the tower for being the reason they couldn't sell their homes. A resident stated that the balloon test should have been on a day when everyone could have seen it and that he would have like to invite everyone into his bedroom to see what they see from there because that's what he will have to look at every day. Mr. Gaglianese stated that he had an offer on his home in the fall and that the offer was pulled when the purchaser found out about the possibility of a tower. He stated that he has been forced to lower the value of the home he is selling and still cannot get a purchase offer for it. He made a comment that the ZBA board is arrogant and doesn't care about the people and that they just think this is all funny. A resident voiced their concern about the health impacts and Mr. Campanelli stated that what the concern was is more the human impact not health, aesthetics and to please consider that FCC compliance is not in the local zoning and should maybe be looked at in the future. Mr. Campanelli stated that the zoning doesn't

state that being FCC compliant is required. He was corrected that the tower is FCC standard and do comply with them. Campanelli stated that if this tower is allowed that radiation testing will never be completed. Ciolfi corrected him and stated that the ZBA can require whatever testing they want with the approval of the permit. They have nothing to hide and have no issues conducting testing. Chris Ciolfi submitted a height variance application, requesting a one hundred thirty foot height variance. He requests that this be added to the documentation he submitted. Henry Gerwig made a motion to close the public hearing at 8:52 pm. Salvatore Sparace was second to approve this motion. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed.

The ZBA held a brief discussion regarding the information they got back from the DOS, basically stating that the decision is up to the ZBA and that they have to review all information to make an informed decision. The members have review all documents but were asked to do it again and bring any new questions or concerns to the table for the next meeting. A resident asked when a decision will be made? Martin Schaub stated that there may be a decision made at the next ZBA meeting unless they are told that they should have a special meeting sooner. If a special meeting is called that it will be published in the local papers so please watch for one so that you will all know when it is held. The town will not send letters to all residents letting them know there is a meeting. The rule in the past is to publish it at least ten days prior to the meeting.

Martin Schaub asked codes to send a letter to the ZBA stating that he had a conversation with Mr. Gaglianese regarding the loss of a sale on his house due to the potential tower.

### **ADJOURNMENT:**

The meeting of the Zoning board of Appeals was adjourned at 9:33 pm on a motion made by James Regan and seconded by Salvatore Sparace. All members present voted- Martin Schaub: Aye, James Regan: Aye, Henry Gerwig: Aye and Salvatore Sparace: Aye. All Ayes, No Noes. Motion passed.

### **APPROVAL OF MINUTES:**

|                                 |   |       |
|---------------------------------|---|-------|
| Chairman: Martin Schaub         | : | _____ |
| Board Member: Salvatore Sparace | : | _____ |
| Board Member: Henry Gerwig      | : | _____ |
| Board Member: Vacant            | : | _____ |
| Board Member: James Regan       | : | _____ |
| Secretary, Angel Schaub         | : | _____ |

This document is unapproved unless signed by all ZBA members.