

APPROVED

HAROLD GARY
Chairman

CRAIG PAEPRER
Vice-Chair

BOARD MEMBERS
ANTHONY GIANNICO
DAVE FURFARO
CARL STONE
KIM KUGLER
RAYMOND COTE

TOWN OF CARMEL PLANNING BOARD



60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 – Ext.190
www.ci.carmelny.ny.us

MICHAEL CARNAZZA
*Director of Code
Enforcement*

RICHARD FRANZETTI, P.E.
Town Engineer

PATRICK CLEARY
*AICP, CEP, PP, LEED AP
Town Planner*

VINCENT FRANZE
Architectural Consultant

PLANNING BOARD MINUTES

MARCH 28, 2018

PRESENT: CHAIRMAN, HAROLD GARY, VICE-CHAIR, CRAIG PAEPRER, ANTHONY GIANNICO, DAVE FURFARO, CARL STONE, KIM KUGLER

ABSENT: RAYMOND COTE

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
New York SMSA Limited Partnership d/b/a Verizon Wireless	65.9-1-24	1-7	P.H.	Public Hearing Closed.
Conrad Bley	65.12-1-22	7	P.H.	Public Hearing Closed & Bond Return Recommended to Town Board.
Angelo Senno Trust	44.13-2-2	8	R. Site Plan	Denied to the ZBA.
Kirkwood Estates, LLC.	64.7-1-21,31	8	Bond Return	Applicant Did Not Show Up.

The meeting was adjourned at 8:13 p.m.

Respectfully submitted,

Rose Trombetta

**NEW YORK SMSA LIMITED PARTNERSHIP – D/B/A VERIZON WIRELESS – 954
ROUTE 6 – TM – 65.9-1-24 – PUBLIC HEARING**

Mr. Carnazza stated he received a complaint with a survey that shows a small portion of the parking area is over the property line onto the adjacent property. He said the applicant needs to put all the parking spaces on the plan the way they are striped and they conform with the 14 parking spots that they show on the plan on their own property.

Mr. Franzetti stated there are no site improvements planned, so we have no technical concerns on the application. All comments have been addressed.

Mr. Cleary stated the applicant addressed all planning issues.

Chairman Gary asked if they spoke to Mr. Carnazza about the parking.

Mr. Jordan Fry, Esq. of Snyder & Snyder, representing the applicant addressed the board and stated we briefly discussed it. He said I don't see on the survey that was forwarded that the parking actually encroaches. I know there was an issue with the fence, but I'm not sure the actual parking lot encroaches. He said we will look into it and we could detail the spots on the plans.

Mr. Fry addressed the board and stated the facility consists of two small antennas of the building rooftop together with related equipment. The two small antennas are proposed to be enclosed within a stealth enclosure designed to match the architecture of the existing building. The planning board was presented with two different options with respect to the stealth enclosure. Mainly, the options were to match the cornice that's existing on the building or to just do a flat bend cornice. At the last meeting, the board requested the decorative cornice which was option #1 on the plans. Also, in connection with that the board requested additional details on the plans specifying the dimensions of the stealth wall and the cornice. At which time, Mr. Fry displayed the drawings to the board.

Mr. Fry continued and stated this application was first before the board on September 13, 2017, following some comments from the board we had a site visit on September 27, 2017 with the board's architect, a board member, Verizon Wireless's construction manager, Verizon Wireless's stealth manufacturer, myself and Leonard Cohen from my office. At that meeting, we brought samples of what the proposed two toned color and matched it up against the building. The board's architect, Mr. Franze, agreed with the colors matching the building. We then came back to this board on December 13, 2017 and had a discussion with respect to the cornice and we then referred to the ECB. We went to the zoning board twice. The zoning board requested that we relocate the antenna structure which was originally on the southeastern portion of the building. We relocated it to the northeastern portion of the building in order to address certain comments from neighboring property owners adjacent to the site. We resubmitted visual simulation

showing the relocated facility as approved by the zoning board pursuant to the variances that were granted. At the last meeting this board requested additional details. We submitted additional affidavits proving why Verizon Wireless needs the site. It indicated why this building is the ideal building because of the clear line of sight up and down Route 6 as opposed to the Kmart shopping center which is over 500 feet away from the Route 6. He said other buildings on Route 6 are either one story or do not have a good line of site from the coverage that's needed. He said we recently updated the plans to show the details with respect to the cornice dimensions and stealth wall.

Mr. Furfaro asked if the new comments from the planning board architect are reflected on the new plan?

Mr. Fry replied yes. The comments are reflected on the new plan. With respect to the actual dimensions he had no comment. He wanted additional detail with respect to the paint specifications which were added to the plans. He said we also indicated that the enclosure shall match the building.

Mrs. Kugler asked this will be completely concealed, correct?

Mr. Fry replied that's correct. The enclosure is completely concealed except for a section in the back so a person could enter. The original design was only concealed from the sides and the front. After going to the zoning board and hearing opposition we made sure they revised the design so that it's concealed in the back except for a small space so a person could come in and out to perform maintenance. The front will be setback but attached to the building.

Vice Chairman Paepre said we looked into pushing this to the back of the building, but that wasn't viable.

Mr. Carnazza said the further you go back, the taller the antennas.

The board members and Mr. Fry continued to discuss if anything else will be shown or hanging from the concealed box. Mr. Fry stated there is existing mechanical equipment on the roof already which is shown on the simulations.

At which time, Chairman Gary addressed the audience and asked if anyone wants to be heard on this application.

Mrs. Joan Lefurgy of 950 Route 6 addressed the board and stated my husband and I own Lefer's Automotive right next to the property. She stated she is very upset about this process that we have gone through to try to stop this telecommunications from going right on top of our building. She said we went to all the other meetings to have it pushed to the other side, it is still very close in proximity to living quarters not only for myself, but for my neighbor behind me, Mr. Pellegrino, whose house is right there. I have gone to several neighbors and had them sign affidavits against having the telecommunications. I had 40 signatures and gave it to the zoning board. She said this

is not something our little town needs to have every ¼ of a mile. We have such great service. There is no need for it and it should not be next to my building. She said I feel this board has been disrespected by Verizon, because on December 13th you asked them for all the paperwork, letters and you wanted them to find another place to put this, but they are hell-bent on putting it there. It has been shoved down our throats next to our building. We are very upset about it. She said I'm a realtor, this will affect our property. This is all about money; it has nothing to do with telecommunications. She said I don't want to think that I'm standing in front of unconscionable group of people right now. I am feeling very disgusted with my town. This should have been moved away from everyone, not on top of people and not because the person that owns the building is on the Town Board. It's very upsetting!! I'm asking you to look at this for what it is. It's about money, not about a need. We don't need another one and we don't need it on top of people. She said no one is happy about having it. I know what I say has no bearing on anything, but I think it's awful that the town is doing this to us.

Chairman Gary said we understand, but I think you have a misguided opinion from where the board is coming from. He said I could tell you that this board is not happy with the outcome of some of the antennas, but it is bound by law. He said we do the best that we can to make them withstand within a certain caveat, to make it pleasing and not detrimental.

Mrs. Lefurgy said moving it to the other side of the building is somewhat helpful to us, but now it's 10 feet from my building instead of 2 feet. She said I think it's going to look absolutely ridiculous coming down Route 6 and seeing all these big things. Why?? It's about money, it's business. I can't fight Verizon, I could only hope that my town would fight Verizon for me and do the right thing. The right thing is not being done here. I think it's a conflict of interest to have someone on a board that owns property and having this pushed through.

Chairman Gary reiterated we are bound by law to allow this. He said the only thing we could do is to make the impact less severe as possible.

Mrs. Lefurgy said I understand that, but why does it have to be there. We have one ¼ mile away. Put it where there are no people.

Chairman Gary stated this board has taken considerable interest in these antennas. We can't defeat them, but we could minimize them and we are doing the best we can to get that done.

Vice Chairman Paepre asked if the mechanical equipment will be drifting towards the center of the building.

Mrs. Lefurgy said that's what it looks like from the paperwork I saw.

Mr. Carnazza said the one I saw it is not drifting towards the center.

At which time, Mr. Fry displayed the map showing the related mechanical equipment which has not changed from the last submission. The antennas are also on the northeast corner and that hasn't changed either. He said the simulations show where the enclosure is going to be.

Mrs. Lefurgy asked will there be anything else on the other side of the building.

Mr. Fry replied no.

Mr. Fry stated with respect to the supplemental information regarding the need for the site and alternatives we have submitted two affidavits from Verizon Wireless's radio frequency engineer detailing the gap in service as well as the capacity issues for other networks in the vicinity of the area that this site will help address. In addition, we have submitted maps and affidavits regarding the topography of the area and the line of sight that's needed in order to address the service. He said we submitted maps showing the actual line of sight. Regarding the distance to Mrs. Lefurgy's property it's not 10 feet, it's at least 30 feet. We have also submitted health reports showing compliance with FCC standards in terms of RF emissions. Additionally, with respect to property values, we submitted from an appraisal detailing why wireless communication facilities do not decrease property value. He said this site is not a tower, it's two antennas concealed on a rooftop. He said this is a public utility Verizon communications facility that's not only relied on for 911 services, but it's also relied on for emergency response personnel.

Mrs. Lefurgy said I understand that, but we have 6 of them in $\frac{1}{4}$ of mile radius.

Mr. Fry replied again, we submitted paperwork on why we need these sites.

Mrs. Lefurgy stated I don't agree with the process. I don't agree with what's going on here. We have been kept out of the loop the whole time, unable to speak or do anything.

Mr. Fry said I respectfully disagree with you. There were two meetings held at the zoning board in which the zoning board took into account the public comments and relocated the facility to the other side of the building. You spoke in front of the zoning board twice. There was a lot of vetting and public discussion as well as working with town staff and site visits.

Mrs. Lefurgy stated once again what's happening here is about money and position for Verizon. They benefit from it tremendously. This is not about having better communication for the ambulance drivers or anybody else.

Mr. Fry stated this is in a commercial zone; neighboring property owners utilize their properties for commercial use. This is a permitted use in a commercial zone.

Chairman Gary asked if anyone else wished to be heard on this application.

Mr. Lefurgy addressed the board and asked about the RF. He said I don't know where you get your information from as far as direct line of site, but the problem is radio frequency has a 360° unit. It's not directed in a direct spot. He said I don't get this radio frequency thing. It's in the air. You don't have to have a certain item function in a certain spot. You don't. It could be on the shopping center and have the same affect. Those little trees aren't going to stop it; they will go through the trees.

Chairman Gary said you heard his answer when we asked about putting it on that shopping center. They said it wouldn't work back there. He said you are holding this board responsible for them putting these antennas in certain spots. He said this board has only so much leverage when presented to us.

Mr. Charbonneau stated once the public utility demonstrates a need the board is constrained with respect to have it could handle that process going forward. He said I think this board has a done a very good job trying to balance the need to those that live in that area and the aesthetics of the screening.

Chairman Gary asked Mr. Cleary who dictates this, the FCC?

Mr. Cleary said yes, the federal government.

Chairman Gary stated the federal government says it's going there. This board doesn't have any control over that whatsoever.

Mr. Lefurgy said the zoning board gave a variance on property that they don't own.

Chairman Gary interjected and said this board has their hands full just taking care of its own business; we will not get involved in another board's decision. That is always off the table. When it comes back to us, we could try to modify it, but most of the time we can't do that either. He said we are bound.....

Mr. Lefurgy stated Mr. Fry said it doesn't affect property values. Can I get that in writing?

Mr. Stone said it was handed out earlier, at which time; Mr. Stone gave a copy to Mr. Lefurgy.

Mr. Lefurgy said so if there is a health issue, the Town of Carmel and Verizon could write me a check, correct?

Mr. Cleary stated FCC has prohibited local communities to deal with radio frequency issues that you're dealing with. The federal controls that issue, we have no ability to supersede the federal government's role in regulating that issue. All we can do is require the applicant to verify that he is within those standards that you just referenced before.

Which they have done. We can't say we want a higher standard. He said health in this case is an issue we can't deal with.

Mr. Giannico asked did you get a copy of the study. He said you should get a copy of the study and read it. There is an executive summary on it. I have questioned every one of them that have come before this board. He said in this summary it said the levels well below or way below federal regulations.

Chairman Gary asked if anyone else wished to be heard on this application.

Mr. Gregory Pellegrino of 381 East Lake Blvd which backs up into Ramiro's parking lot. He asked the board if he could submit for the record his survey showing the parking and the statement that was submitted to the ZBA.

Chairman Gary replied that's fine.

Mr. Charbonneau said that's the survey that Mr. Carnazza earlier asking the applicant to detail the parking spaces on the submission, so there is no issue.....

Mr. Carnazza said if they don't comply they will be going back to the zoning board to get them to comply. They can't count the property on the neighbor's property.

Mr. Pellegrino said also the building is non-conforming and it states in the code that a building shall not be altered in any way.

Mr. Carnazza said that's the non-conforming use section of the code.

Mr. Charbonneau said that section of the code is not applicable here.

Mr. Pellegrino stated he contacted a land specialist from the State and he gave me some paperwork stating that it lowers your property value by 5 to 20%.

Chairman Gary said I'm not saying his information is not correct, but his procedure is incorrect. He shouldn't go behind the board and talk about it. If it affects the board bring it to the board.

Chairman Gary asked if anyone else wished to be heard on this application.

Mr. Fry asked if he could respond.

Chairman Gary replied yes.

Mr. Fry stated regarding Mr. Lefurgy's comments, broadcast towers and cell phone wireless communications facilities are much different. It's detailed in our RF affidavits

why these sites are unique and they utilize among other things low power frequency and that's part of the reason why the line of sight is so important. He stated we have also extended the shot clock to this date. So what I would like to do is agree with the board to extend the shot clock to next meeting which is April 11, 2018.

At which time, a discussion ensued amongst the board members with regards to extending the shot clock.

Mr. Charbonneau stated if the board closes the public hearing, accepts the shot clock extension to the next meeting, the parking issue will be resolved one way or the another.

Mr. Carnazza said and if it's wrong, then they would have to go to the zoning board and the shot clock would need to be further extended.

At which time, the board and the applicant mutually agreed to extend the shot clock to April 11, 2018.

Hearing no further comments from the audience, Mr. Giannico moved to close the public hearing. The motion was seconded by Vice Chairman Paepre with all in favor.

CONRAD BLEY – 50 CRAFTS ROAD – TM – 65.12-1-22 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Franzetti stated all site improvements have been completed, we recommend the bond be returned.

Mr. Cleary had no comments.

Chairman Gary asked if anyone in the audience wished to be heard on this bond return.

Mr. John of 60 Crafts Road addressed the board and stated for the record he has no issues with the improvements or modifications that were done to his property.

Hearing no further comments from the audience, Mr. Furfaro moved to close the public hearing. The motion was seconded by Mrs. Kugler with all in favor.

Mr. Stone moved to recommend bond return to the Town Board. The motion was seconded by Mr. Furfaro with all in favor.

ANGELO SENNO TRUST – 19 FOWLER AVE – TM – 44.13-2-2 – RESIDENTIAL SITE PLAN

Mr. Carnazza read his memo which stated the applicant proposes to legalize a renovation that happened many years ago. The structure was converted from a two-family dwelling with commercial space below to a four-family dwelling. Once a dwelling is converted to a four-family dwelling (multi-family by definition), site plan approval is required from the Planning Board. The Zoning Data table is now correct. The property is in the C-Commercial Zoning District. Area variances are required from the ZBA and a use variance is required because only “existing apartments in mixed-use structures at the time of passage of this chapter (2002)” are permitted in the C-Commercial Zoning District.

Mr. Franzetti read his memo which stated the application involves legalizing existing apartment and converting existing office space into an apartment. No site improvements are proposed for this project. This Department does not have any additional comments related to this project as long as there are no changes being made to the site.

Mr. Cleary stated there are no changes proposed for this project. As Mr. Carnazza indicated there are a host of variances that are necessary for this.

Vice Chairman Paepre said so they haven’t been to the zoning board yet.

Mr. Carnazza stated they initially went to the zoning board for an interpretation and when they didn’t get the interpretation, the applicant wanted to go for a variance for the 4 family, that’s when it was determined they needed a use variance and the planning board as the lead agency.

Mr. Furfaro asked how long as it been like this.

Mr. Besharat replied we have traced it back to the 1970.

Mr. Furfaro said so this has been existing since 1970.

Mr. Besharat replied yes.

Mr. Stone moved to deny the application to the ZBA. The motion was seconded by Mr. Cote with all in favor.

KIRKWOOD ESTATES LLC – KIRK LAKE DRIVE – TM – 64.7-1-21,31 – BOND RETURN

The applicant did not show up.

Vice Chairman Paeprer moved to adjourn the meeting at 8:13 p.m. The motion was seconded by Mr. Giannico with all in favor.

Respectfully submitted,

Rose Trombetta