

**ZONING BOARD OF ADJUSTMENT**  
**October 17, 2017**  
**DRAFT MINUTES**

**1. Call to Order**

The session was called to order by Chair Laura Davies at 7:00 pm.

**2. Introductions**

Members present Laura Davies, Chair, Bob Prior, Kevin Baum, and Alternates Martha Pennell and Hank Ouimet were also present. Staff present: Doug Eastman, Building Inspector/Code Enforcement Officer and Barbara McEvoy, Deputy Code Enforcement Officer. Members of the public were present as well.

Planning Board Members Present: Langdon Plumber, Chair, Katherine Woolhouse, Pete Cameron, Dan Chartrand, Kelly Bergeron and Nick Gray.

**3. New Business**

**Continued discussion on the rehearing request for the application of Varsity Wireless Investors, LLC for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses, Article 5, Sections 5.2 and 5.4.2 F. to permit the construction of a wireless communication tower and associated site improvements on the property at 8 Kingston Road. The subject property is located in the NP-Neighborhood Professional zoning district. Tax Map Parcel # 81-49. Case #17-16.**

A joint Planning Board and ZBA meeting was held on this case.

Francis Parisi, representing Varsity Wireless appeared before the Board to discuss where the project stood at this time. They have met with the Westside Drive neighborhood and met with the folks who have been most involved in the process. They presented revised plans and they will talk about in more detail tonight. They also think they have come up with an escrow plan that may work.

Chris Davis, President of Varsity Wireless discussed the changes since the last meeting. They increased the amount of the possible escrow account to \$40,000, they will have an escrow agent who will handle the account. How the escrow account would work was described at length.

Mr. Parisi explained why they feel they meet all the requirements for the special exception and special use permit. Next Brian Grossman, Outside Council to Varsity Wireless explained the federal guidelines that Zoning Boards and Planning Boards need to look at.

Chris Gurshin, 19 Westside Drive: He is joined by a number of other abutters and nearby residents. He created and showed a PowerPoint presentation which explained his opinions on why this application should be denied. Mr. Gurshin said he felt that Varsity was pushing the screening onto abutters to maintain and decide on. Ms. Davies said that they are providing the fund, but it is up to each individual abutter to decide how and if they want to mitigate the view with additional trees and plantings. Mr. Gurshin hired an expert in real estate to come before the Board and explain how this would affect property values.

Peter Stanhope, of Stanhope Group a General Certified Real Estate Appraiser, limits his work to litigation and taxation. He has been paid to produce a study of diminution of value and produce an appraisal of his client's property, which he has also provided to the Board. He feels this is an open and shut case for the ZBA denial. He has analyzed the data Varsity supplied, and performed his own research. He explained in detail why his research shows the tower will devalue the property values in the area. Ms. Davies asked about the adjustments that were included in the report submitted. She wondered what the basis for his adjustments were. Mr. Stanhope said he looked for a range of adjustments for a given property. Ms. Davies wondered if he had the information that he used to get that information. Ms. Stanhope said it wasn't in the report, because his opinion is that those are valid adjustments. Mr. Prior had a similar question about how he appraised certain properties. Mr. Stanhope explained his rationale.

Chris Gurshin, 19 Westside Drive went back to explaining his PowerPoint presentation on why he felt this application should be denied. Mr. Gurshin felt the boards should work together and find town land to place this tower on.

John Bernier, 16 Kingston Road: They are working with T-Mobile about possibly putting a tower in.

Barbara Michaud, 10 Kingston Road: They are right beside the site where the tower would be located. She had issue with information provided by the Board that indicated Varsity had contacted her, she disputes that she was ever approached by Varsity in any way. She was not invited to any of the neighborhood meetings and she does not appreciate this. She stands with the people on Westside Drive on this issue.

Paul Martin, 2 Tilton Ave: Had concerns with a previous citizen who stated that T-Mobile is in talks with another company. He now wonders if the time race is not FCC related, but for Varsity to get the tower with T-Mobile.

Marleen Moore, 17 Westside Drive: She stands to get a lot of money for trees she does not want. She has a Planning Board concern she would like to raise, should this go forward what are the funds and plans for decommissioning of this if approved. This process was explained.

Dave Walker, 21 Westside Drive: He has experience in the Planning field, he appreciates the fact that Varsity has been willing to work with abutters on screening. He feels the Board should deny this application since they are unable to screen the tower from their own property. They are essentially asking neighbors to grant an easement to place screening on their own properties.

Nicholas Metz, 1 Tilton Ave: He is one of the people who has no screening option, and he would have a clear view of the tower most months of the year. He feels the burden is being placed on the property owners and feels this is a bad idea.

Mr. Parisi explained they must provide telecommunications, and he explained why they felt they had met the requirements of the bylaw and for the special exception. Mr. Baum asked about contacting neighbors. Mr. Parisi also explained that they had notified commercial neighbors by a letter a year ago to those properties in the Neighborhood Professional District. 10 Kingston Road did not respond. Mr. Davis explained that they have a fully executed lease with T-Mobile, so the other tower would be separate, and it is not a race for Varsity because of a potential other site.

Ms. Davies closed the public session and the Board entered deliberations. The Board discussed the special exception criteria by walking through it. Mr. Ouimet felt it failed section D, he struggles with this because he does not feel that language is compatible with a cell tower. Ms. Davies is hung up on this section as well. Mr. Prior felt this only applied when they were seeking a special exception. The special exception criteria was discussed at length along with materials submitted this evening. Mr. Prior raised the concern that under variance guidelines, it states that expert testimony on this question is not conclusive but cannot be ignored. With tonight's presentation they are not ignoring the evidence presented but it is not conclusive. They are not 100% relying on either study on property value but they can rely on their own instincts about this. The Board discussed potential impact on property values at length.

**MOTION:** Mr. Ouimet moved to deny the application on the grounds it fails to comply with special exception D and/or F. Specifically the requirement to meet Section 5.8.1 (General Landscaping Regulations for Unenclosed Uses). Mr. Prior seconded. The motion passed 3-2. Ms. Davies and Mr. Baum voted nay.

Next the Planning Board acted on the items before them for this case.

**MOTION:** Mr. Chartrand moved that the request of Varsity Wireless Investors, LLC for a Wetlands conditional use permit, Case #17-20 be denied without prejudice due to the ZBA denial of the special exception. Ms. Bergeron seconded. The motion passed unanimously via roll call vote.

**MOTION:** Mr. Chartrand moved that the request of Varsity Wireless Investors, LLC for a Shoreland conditional use permit, Case #17-20 be denied without prejudice due to the ZBA denial of the special exception. Mr. Gray seconded. The motion passed unanimously via roll call vote.

**MOTION:** Mr. Chartrand moved that the request of Varsity Wireless Investors, LLC for a minor site approval, Case #17-20 be denied without prejudice due to the ZBA denial of the special exception. Mr. Cameron seconded. The motion passed unanimously via roll call vote.

**MOTION:** Mr. Chartrand moved to adjourn the Planning Board meeting at 9:12 PM. Mr. Gray seconded. The motion passed unanimously.

The ZBA meeting continued with the following Business.

**The application of Paul V. Gould for a special exception per Article 4, Section 4.2 Schedule I, Note 2. and Article 5, Section 5.2 to permit the lower level of an existing single-family home to be converted to an accessory dwelling unit. The subject property is located at 12 Fuller Lane, in the R-2, Single Family Residential zoning district. Tax Map Parcel #69-23. Case #17-23.**

Paul Gould appeared before the Board to discuss the project. They live in a split level and would like to turn the lower level into an accessory dwelling. They discussed the special exception criteria. Ms. Davies asked about the sketch that was provided on the property. It was explained that the last page contains a garage that has been there for 10+ years, this was the sketch that was provided when they built the second driveway previously. Mr. Baum asked if they knew the square footage of the accessory unit. It was confirmed at just under 900 square feet. Mr. Eastman confirmed that it meets the new square footage requirements under the new bylaw.

There were no public comments on this issue, so the Board entered deliberations. Ms. Davies said the exterior would not be impacted in anyway. Multifamily already exists across the street and it has been there for some time.

**MOTION:** Mr. Ouimet moved to approve the special exception on the grounds that it has complied with all the special exception requirements including the recently amended requirements for accessory units in the bylaw, Mr. Prior seconded. The motion passed unanimously.

**The application of Hanna and Mike Schaffer for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations-Residential to permit the proposed construction of a detached 24' x 24' garage with less than the required side and rear yard setbacks. The subject property is located at 15 Ash Street, in the R-2 Single Family Residential zoning district. Tax Map Parcel #73-311. Case #17-24.**

Hanna Schaffer appeared before the Board to discuss the project. She submitted new dimensions to the Board as there had been a mistake in the previous version. They have an attached garage that is not usable, there is no driveway attached to it and you must enter it from the yard. They would like to demolish this and build a new detached garage in its place.

Mr. Ouimet asked about how the proposal would work and about the existing garage. This was confirmed. Ms. Pennell viewed the property and there is a fence on Ash Street with a gate which implies to her that at some point in time there was a driveway therewith which would explain why the existing garage was built the way it was. The applicant explained the screening in the area.

There was no public comment on this application, the Board entered deliberations. Ms. Davies said it was significant relief but doesn't appear to be problematic. Ms. Pennell had concerns because there is a solution to the problem. Mr. Baum said this would fix the side setback but not the rear setback. Mr. Baum said doing this would negate much of the yard and require a new driveway. Ms. Pennell thought they should use the existing footprint, she didn't understand why they couldn't use this. Mr. Prior said if you ask them to do this, they would have to do a 90 degree turn into the garage, which is virtually impossible. The Board discussed this at length. Mr. Prior felt the proposal was also fully in keeping with the neighborhood. Ms. Davies agreed with this. Mr. Prior said the neighbor was granted similar relief and others in the area were granted this as well.

The Board went through the variance criteria.

**MOTION:** Mr. Ouimet moved to approve the application as presented on the basis that it complies with the variance criteria and with the condition that the garage be a single-story garage with 2 bays and a gable roof. Mr. Prior seconded. The motion passed 4-1. Ms. Pennell voted nay.

**The application of Rebecca B. Damsell for a special exception per Article 4, Section 4.2 Schedule I Permitted Uses, Notes 1. and Article 5, Section 5.2 to permit the conversion of the existing residence located at 6 Bittersweet Lane into two residential units. The subject property is situated in the R-3, Single Family Residential zoning district. Tax Map Parcel # 64-71. Case #17-25.**

Attorney Justin Pasay representing the applicant appeared before the Board to discuss the project. He provided a comprehensive presentation of the application that was already submitted to the Board and he went through the criteria. A letter from an abutter was presented to the Board this evening.

Ms. Pennell asked if there was a sign on the corner of the property that said Damsell Property Management. Ms. Damsell confirmed; she indicated that her son previously ran the business, however, the business is no longer at this location and the sign would be removed. Mr. Baum asked for clarification on the parking.

Ms. Davies noted the letter received was from Kevin and Kimberly Doucette, residents at 4 Bittersweet Lane, and was in opposition to this project as they would like the neighborhood to remain a single-family neighborhood. Mr. Ouimet said he did not see any evidence in the letter that the applicant did not meet the criteria.

There was no public comment on this issue and the Board entered deliberations. Mr. Baum felt this was pretty straight forward and met the criteria.

**MOTION:** Mr. Baum moved to approve the request for special exception for article 4 section 4.2 permitted uses and the note 1 in article 5 to prevent the conversion of an existing residence located at 6 Bittersweet lane into two residences. Mr. Prior seconded. The motion passed unanimously.

**Other Business:**

HDC Presentation – Patrick Gordon

Mr. Gordon was not in attendance, so this presentation will be rescheduled.

**Approval of Minutes:**

September 19: The Board discussed amendments to be made.

**MOTION:** Mr. Prior moved to accept the September 19, 2017 minutes as amended. Mr. Baum seconded. The motion passed unanimously. Ms. Pennell abstained.

**Adjournment**

There being no other business before the Board this evening, Mr. Prior moved to adjourn at 10:14PM, seconded by Mr. Baum and the vote was unanimous. The session was adjourned by Ms. Davies.

Respectfully submitted,

Jennifer Dionne  
Recording Secretary