

12/11/07 Zoning Board Minutes

ZONING BOARD OF APPEALS

The hearing on Tuesday, December 11, 2007 was called to order by Chairman Trzepacz at 8:00 PM.

Members present: Alfred Harrington also: Greg Kalinowski, Alternate
Harry Kaczmarek Tom Stynes, Asst Bldg Insp
Mike Komorek
Robert Schafer
Donald Trzepacz, Chairman

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1105 for Anthony Chirico, 600 Northrup Rd, who is requesting a variance to build a 26'x28' detached 2 car garage for personal use only, no business use. Res. C. 52-6; Appeals Case #1085 for Omnipoint Communications Inc, 103 Monarch Dr, Liverpool, NY, for 881 Schultz Rd, who were granted a continuance at the meeting of July 10, 2007.

In the matter of Appeals Case #1105 Anthony Chirico stated he would like to build a 2 car detached garage for personal storage. The sketch submitted by Mr. Chirico shows the garage meets all set back requirements but the structure requires a variance for size (728 sq ft). The garage will be side load with the existing driveway extended back to the new garage and the exterior will match the house. The loft will be used for personal storage. There will be electric only; no heat is planned at this time. No one spoke for or against this project.

In the matter of Appeals Case #1085 Attorney James Whitcomb and Dan Ford, Engineer were present representing Omnipoint Communications Inc. Mr. Whitcomb stated the SEQR is complete and the Town Board approved a negative declaration on the SEQR on November 7, 2007 and they now require a height variance from the Zoning Board for the 170' monopole to be located in a Residential C/Agricultural zone at 881 Schultz Rd. Mr. Whitcomb went on to briefly review the other locations researched for the location of the monopole and Mr. Ford explained why the locations were inappropriate. Mr. Whitcomb stated they are not required to prove hardship in this case but prove that there is a need

for cell coverage in the area the proposed tower is to be located (references were made to Cellular Telephone Co v. Rosenberg). The cell tower may be used for future co-location. Mr. Whitcomb wanted it noted for the record he objects to the Board discussing this case in executive session in regards to the Open Meetings Law. In favor of this project: Larry Daley, 1960 Girdle Rd. No one spoke against this project but a letter was received by Chairman Trzepacz against this project from George Kraus, 1700 Rice Rd. Those not for or against the project but had questions were: Larry Hoffman, 1999 Woodard Rd, questioned the lighting of or on the tower; Cecilia Weidenbach, 811 Schultz Rd, questioned health concerns with the tower. *Mr. Whitcomb stated for the record that health issues cannot be used in the Board's decision in approving this variance.

Mr. Schafer made the motion: In Appeals Case #1105 for Anthony Chirico, 600 Northrup Rd, who is requesting a variance to build a 26'x28' detached 2 car garage for personal use only, no business use, I move the variance be granted per sketches submitted, provided all Elma Town Codes and Ordinances are met. Seconded by Mr. Kaczmarek. Poll vote – 5 ayes. Motion carried.

Mr. Kaczmarek made the motion: In Appeals Case #1085 for Omnipoint Communications Inc, 103 Monarch Dr, Liverpool, NY, in which the case was granted a variance at the meeting of July 10, 2007, in regards to the request for a variance for 881 Schultz Rd to allow construction of a 170' monopole in a Residential C/Agricultural zoned area, I move the variance be granted provided the height of the tower be no more than 170' from the base as per proposed documents submitted and provided all Elma Town Codes and Ordinances are met. Seconded by Mr. Schafer. Poll vote – 3 ayes. 2 - noes. Motion to approve carried.
(Chairman Trzepacz and Mr. Komorek voted no).

The minutes of the last meeting of November 13, 2007 were approved as submitted.

There being no further business, the meeting was adjourned at 9:05PM.

Respectfully submitted,

Jennifer M. Ginter
Secretary-Clerk

