

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES APRIL 25, 2023

#### **Members**

Jeff Pangburn, Chairman  
Bob Seward III  
Matt Ostiguy  
Scot Strevell  
Tom Hickey

#### **Also Present:**

William Hessney, Attorney  
Alison Lovely, Secretary  
Kateri Rhatigan, Stenographer

#### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Pangburn called the meeting to order and determined a quorum of five (5) members were present.

#### **PUBLIC HEARINGS:**

#### **Reconvene ZBA Appeal #2023-01–Verizon– 25 Hampton Inn Drive/I-90/Route 4- Special Use Permit-Wireless Telecommunications Pole for equipment**

Chairman Pangburn stated that he is reopening the public hearing & asked the applicant to review the revised drawings submitted & corrected the date on the revised packet from the March date on it to April 19, 2023, the date it was received. Dave Brennan from Young Sommer stated that he was here tonight as well as Rick Andras, RF Engineer from Verizon and Nico Facey a site acquisition specialist. Dave Brennan stated that it was the consensus of the Zoning Board to move the pole around the corner to the south on the west side Route 4 side of the exit ramp to tuck it away a bit to reduce the visibility. Dave Brennan stated that the plans submitted reflect that change. Dave Brennan stated that it was discussed at the last meeting that they would need additional height to make it work, since the location of the pole is now behind the trees. They can do it with 52' at the top of the antenna & they discussed switching to a 4' antenna instead of the 2' antenna, which would provide better overall coverage to the localized area. Dave Brennan stated that they did verify a couple of questions, the first whether they would need a transformer or an intermediate pole. Dave Brennan stated that they do not, it will be a direct connection from the one pole to another which they could do overhead but if there is a tree in the way, they won't cut it down, they will go underground. Dave Brennan stated that they can paint the cabinet and the antenna to the Board's satisfaction, currently they are looking at a gray color that they use in the Adirondack Park. Dave Brennan proposed that if the Board has a concern with the color, that he submits the final color for final signoff with the Building Department. Dave Brennan stated that they provided simulations in the plans to provide the Board with an idea of what it will look like.

Chairman Pangburn stated that the only question he has from the revised application is that the plans show a 13.3' off set from the fence line and asked why it's that far from the fence line. Dave Brennan stated that they could take that as a condition of approval minimizing the distance from the fence at the maximum extent possible after checking with the engineer.

Chairman Pangburn asked if any of the other Board members had any questions. There were none.

Chairman Pangburn asked if anyone in the public had any questions.

•Dave Terpening asked if this was 4G service and also will there be more of these proposed around Town. Chairman Pangburn stated that they do have concerns about that but this is the application at hand and we're only addressing this one at this time. Rick Andras stated that it will service 4G and 5G.

•Dave Terpening asked if this will set a precedence for other applicants. Dave Brennan stated that he hopes not, he doesn't expect to pay this kind of money in the future for micro cell then they will be spending the money somewhere else. Dave Brennan stated that this is the first time that they couldn't attach to an existing pole and had to use a new pole.

Chairman Pangburn stated that they worked through a lot of early assumptions that maybe didn't pan out and have come to a much better proposal.

•Dave Terpening stated that it wasn't targeted towards him it was targeted towards other providers coming forward and doing the same thing in Town.

**Scot Strevell made a motion to close the public hearing.**

**Seconded by Bob Seward. Motion carried by a 5-0 vote.**

**ZBA Appeal #2023-05-Terry- 429 Tempel Lane- Area Variance-Garage Addition**

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read by Chairman Pangburn
- Rensselaer County Recommendation
- Planning Board Recommendation with supplemental report by Robert Jucha
- ZBA Area Variance Application Packet
- Drawing showing proposed garage addition with setbacks

Dan Terry stated that the existing accessory building went through the process, it's a permitted building. Dan Terry stated that the construction of the 2-car addition to the garage does not affect the shed in any way.

Chairman Pangburn asked the applicant to show the location of the proposed driveway into the new garage.

Chairman Pangburn asked for confirmation that he's proposing a two-car garage addition and there is a two-car garage existing. Dan Terry stated that is correct.

Chairman Pangburn asked the applicant if he had a sketch showing where the driveway asphalt is and where it's proposed to go. Dan Terry stated that he submitted one with the application. Chairman Pangburn found it in the packet and Dan Terry explained it. Chairman Pangburn asked if the applicant had an architect prepare the plans. Dan Terry stated that no, he did them.

Chairman Pangburn asked if the applicant sketched the ability of a car to be able to swing into that far garage bay. Dan Terry stated that the last bay can be used for just about any vehicle.

Chairman Pangburn asked if the Board had any questions.

•Scot Strevell asked what other alternatives did he look at. Dan Terry stated that no matter where he goes a variance would be needed, on either side because of the flag lot & the setbacks.

•Matt Ostiguy asked if there was a variance issued for the shed. Dan Terry stated that there was no variance necessary when he applied for the permit.

•Bob Seward stated that it looks like a second variance will be necessary for the distance from the garage addition to the shed. Dan Terry stated that he will.

Chairman Pangburn stated that the second variance isn't in front of the Board tonight.

•Tom Hickey asked if there was consideration to just doing a single bay, it wouldn't be as extensive as this. Dan Terry stated it would still be over the 27' setback.

•Matt Ostiguy asked if he could site any other homes in the neighborhood that have things right on top of the line like this. Dan Terry stated that he hasn't, being this is a flag lot, it's a unique situation, it's a crazy lot and he's also trying to keep some green area in the back for the kids. Chairman Pangburn asked if the white box on the plan is his bilco doors. Dan Terry stated that is correct.

Chairman Pangburn stated that one of the criteria that the Board has is to issue the least variance possible. The sentiment of the board is that if the applicant could push the addition back it might eliminate the variance, has this been considered. Dan Terry stated that it wouldn't be an option for him.

•Matt Ostiguy asked if there was a fence in the rear of the lot. Dan Terry stated there is, to enclose the yard.

Chairman Pangburn asked if any of the other Board members had any questions.

There were none.

•Dave Terpening commends a private citizen for coming forward and not doing something without a permit.

•Dave Terpening stated since he's the only one here he assumes that the neighbors don't object to it. Chairman Pangburn stated that all the neighbors were noticed and a Planning Board members knocked on doors.

•Dave Terpening stated he's assuming there was no other way to build the house than the way it's built now. Chairman Pangburn stated that it was built within the setbacks that were in the subdivision.

•Dave Terpening stated that this isn't a self-created issue. Chairman Pangburn stated that it is as the applicant is asking to build within the setback. This action creates a self-created hardship. Chairman Pangburn asked if there were any other questions from the Board. There were none.

**Tom Hickey made a motion to close the public hearing.**

**Seconded by Matt Ostiguy. Motion carried by a 5-0 vote.**

**ZBA Appeal #2023-06–Empire Solar/Henshaw– 91 Louis Drive- Area Variance- Ground mounted solar array in the front yard-tabled until May 9, 2023**

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read by Chairman Pangburn
- Rensselaer County Recommendation
- Planning Board Recommendation with supplemental report by Kurt Bergmann
- Application Packet with summary of criteria
- ZBA Area Variance Application Packet with authorization form

There was no one was present to represent the application so the public hearing was tabled until May 9, 2023.

**Jeff Pangburn made a motion to table the public hearing until the May 9, 2023 meeting.**

**Seconded by Bob Seward. Motion carried by a 5-0 vote.**

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2023-01–Verizon– 25 Hampton Inn Drive/I-90/Route 4- Special Use Permit-Wireless Telecommunications Pole for equipment**

MOTION by Chairman Pangburn for **Zoning Board of Appeals to Declare SEQR Lead Agency**; in regards to Appeal #2023-01 Young Sommer LLC – Executive Woods 5 Palisades Drive, Albany, NY on behalf of Verizon Wireless - Application for Special Use Permit, the Zoning Board of Appeals has determined that this is an Unlisted Action, is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Second By: Matt Ostiguy;

Voice vote as follows:

In favor:	<u>5</u>
Oppose:	<u>0</u>
Abstain:	<u>0</u>

Motion Carries 5-0

MOTION by Chairman Pangburn: In regards to Appeal #2023-01 Young Sommer LLC.– Executive Woods 5 Palisades Drive, Albany, NY on behalf of Verizon Wireless, the Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Second By: Scot Strevell;

Voice vote as follows:

In favor:	<u>5</u>
Oppose:	<u>0</u>
Abstain:	<u>0</u>

Motion Carries 5-0

**ZBA Appeal #2023-05–Terry– 429 Tempel Lane- Area Variance-Garage Addition**

This is a type II Action-there is no further action necessary.

**WORKSHOPS:**

**ZBA Appeal #2023-01-Verizon- 25 Hampton Inn Drive/I-90/Route 4- Special Use Permit-Wireless Telecommunications Pole for equipment**

**Resolved**, That the Board of Appeals makes the following findings of fact:

1. That the application has been reviewed and determined to be compliant with the Wireless Telecommunications Facilities Sitting Ordinance; therefore, be it

**Resolved**, that the application for a Special Use Permit for the installation of a Wireless Communication Facility including a cell panel antenna (approximately 48 inches by 12.0 inches diameter) & the installation of electric & telecommunications equipment on a new 55' utility pole in the NYSDOT right-of-way in the area of 25 Hampton Inn Drive & the I-90/Exit 9 Interchange be Granted with the following conditions:

1. The total maximum height of the installation be no more than 52 feet above existing ground.
2. The applicant will minimize the distance from the right away fence to the proposed tower or pole.
3. Applicant will coordinate with the building department on acceptable neutral color for cabinet and antenna.

This resolution was moved by Jeff Pangburn and seconded by Bob Seward at a meeting duly held on April 25, 2023.

*(Discussion)*

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**ZBA Appeal #2023-05-Terry- 429 Tempel Lane- Area Variance-Garage Addition**

**Resolved**, That the Board of Appeals makes the following findings of fact in regards to the building setback of 7 feet for the proposed 30' x 28' addition to existing garage:

1. There will be an undesirable change in the character of the neighborhood as the garage itself is significant at 30' x 28' in addition to the existing garage and it will only be 7' off the property line with the driveway positioned right on the property line itself.

2. There is another method available to the applicant as given that this is an additional two car garage with an existing two car garage, there are options to either do a single bay and/or move the garage further back towards the house.
3. The requested variance is substantial as a reduction of 20' from 27' is significant and again the driveway will be required on the property line itself.
4. The proposed variance will not have an adverse effect on the neighborhood.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved, that the application for the proposed 30' x 28' addition to existing garage with a 7-foot building setback be DENIED.**

This resolution was moved by Matt Ostiguy and seconded by Scot Strevell at a meeting duly held on April 25, 2023.

*(Discussion)*

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**NEXT MEETING:** The next meeting is on May 9, 2023

No new applications

**Reconvene ZBA Appeal #2023-06–Empire Solar/Henshaw– 91 Louis Drive- Area Variance-Ground mounted solar array in the front yard**

**APPROVAL OF MINUTES:**

Motion by Tom Hickey to approve the April 11, 2023 meeting minutes. Seconded by Matt Ostiguy. Motion carried by a 5-0 vote.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward. Seconded by Scot Strevell. Motion Carried by a 5-0 vote.

Respectfully Submitted

*Alison Lovely*  
Alison Lovely, ZBA Secretary