

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY, July 22, 2021**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, July 22, 2021 at Wilton Town Hall and was called to order by Vice Chairman Ramsdill at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Vice Chairman Christopher Ramsdill, Jim Deloria, Scott Kingsley, and Gerard Zabala. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Marcus Hart, Assistant Building Inspector, and Lisa Closson, Zoning Clerk.

**ABSENT:** Chairman O'Brien, Robert Barrett, Dean Kolligian, and Jay Rifenbary, 1<sup>st</sup> Alternate.

**MINUTES:** The minutes of the last meeting, held on June 24, 2021, were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Zabala. All board members present were in favor. The motion passed.

**CORRESPONDENCE:** None other than what is presented before the board.

**EXTENSIONS:** \*SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING\*

**SUP NO. 1993-18** Diane Esposito, 61 Davidson Drive, Saratoga Springs, New York 12866. Request for an extension of a Special Use Permit for the temporary placement of a mobile home, to resolve a personal hardship; property located at 61 Davidson Drive, Tax Map No. 140.14-1-34, zoned H-1 in the Town of Wilton. SUP No. 1993-18, originally granted August 23, 1993, for a period of one year, increased to two years on August 24, 1995, and continually extended every two years, is due for review and extension on or before August 24, 2021.

Mr. Ramsdill read correspondence from John Esposito stating that the trailer has been removed. SUP NO. 1993-18 was withdrawn.

**OLD BUSINESS:**

**Appeal No. 2021-17** Frederick and Nikki Bollman, 30 Corinth Mountain Road, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157 and schedule C, Residential Three District of the Zoning Ordinance; property located at 30

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Corinth Mountain Road, Gansevoort, New York 12831, Tax Map No. 101.-1-61.2, zoned R-3 in the Town of Wilton.

Mr. Ramsdill read correspondence from Nikki Bollman, 30 Corinth Mountain Road, requesting to table their appeal until next month. Mr. Ramsdill explained that other correspondence received for this appeal will be read into record at the next meeting. The public hearing was left open.

Mr. Zabala made a motion to table Appeal No. 2021-17, Frederick and Nikki Bollman, 30 Corinth Mountain Road, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157 and Schedule C, Residential Three District of the Zoning Ordinance; property located at 30 Corinth Mountain Road, Gansevoort, New York 12831, Tax Map No. 101.-1-61.2, zoned R-3 in the Town of Wilton, and will be placed on the agenda for next month's meeting scheduled to be held August 26, 2021. Mr. Deloria seconded the motion. All board members present were in favor. The motion passed.

**NEW BUSINESS:**

**Appeal No. 2021-22** Raymond Rainville, 449 Wilton/Greenfield Road, Greenfield Center, New York 12833. Request for an Area Variance pursuant to §129-157 and Schedule B, R-2 District of the Zoning Ordinance; property located at 449 Wilton/Greenfield Road, Greenfield Center, New York 12833, tax Map No. 127.-3-71, zoned R-2 in the Town of Wilton.

Raymond Rainville, 449 Wilton/Greenfield Road, was present and explained his project to the Board. He explained that his leach field would be under the proposed garage at the 50 ft. front setback.

There was discussion about the property and the existing structures between Mr. Ramsdill, Mr. Zabala, and Mr. Rainville.

Mr. Zabala confirmed that the mailings were sent with the Clerk and Mr. Rainville.

Mr. Ramsdill opened and closed the public hearing at 7:12 p.m. due to lack of public comment.

Mr. Zabala made a motion to approve Appeal No. 2021-22, Raymond Rainville, 449 Wilton/Greenfield Road, Greenfield Center, New York 12833. Request for an Area Variance pursuant to §129-157 and Schedule B, Residential Two District of the Zoning Ordinance; property located at 449 Wilton/Greenfield Road, Tax Map No. 127.-3-71, zoned R-2 in the Town of Wilton, be granted for a proposed 28' x 28' detached garage in the amount of relief of 18 ft. front setback, property located at 449 Wilton/Greenfield Road, Tax Map No. 127.-3-71, zoned R-2 in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the garage will not be a hindrance to any property owners except the main road setback. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because moving the garage to gain 18 more feet would put the building on the septic leach field, which would cause major expenses and drainage issues. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is only 18' relief. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental

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conditions in the neighborhood district because it does not require a new water source for the house and it does not impede upon any neighbors on the road. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Deloria seconded the motion. All board members present were in favor. The motion passed.

Mr. Ramsdill informed the applicants that there were four Board members present, and that all board members present would have to vote affirmative in order for the vote to pass.

**Mr. Ramsdill read Appeals 2021-23 and 2021-24 together. The public hearing was opened for both Appeals.**

**Appeal No. 2021-23** Cellco Partnership, d/b/a Verizon Wireless, for Wilton Water and Sewer Authority, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for a Use Variance pursuant to Schedule A, R-1 District, of the Zoning Ordinance; property located at 240 Northern Pines Road, Tax Map No. 127.-2-38.112, zoned R-1, in the Town of Wilton.

**Appeal No. 2021-24** Cellco Partnership, d/b/a Verizon Wireless, for Wilton Water and Sewer Authority, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for an Area Variance pursuant to §129-176 L. (7)(b), of the Zoning Ordinance; property located at 240 Northern Pines Road, Tax Map No. 127.-2-38.112, zoned R-1, in the Town of Wilton.

David Brennan, Esq., Counsel for Cellco Partnership from Young/Sommer, LLC, was present as well as Rick Andras, RF Engineer for Verizon Wireless, and Sara Colman of AiroSmith Development.

Mr. Brennan presented the proposed project to the Board. He explained that it was not an expectation to be up for a vote or approval on the first evening, and that there is still a need for SEQRA review which was discussed between Mr. Schachner, Mr. Brennan, and Mr. Ramsdill.

Mr. Brennan continued to present the applications before the Board. He made mention of conducting a balloon test by floating a balloon to show what the visibility of the tower would be, then create a photo simulation of the tower.

Mr. Deloria made a motion to designate WPB as lead agency for SEQRA review for Appeal No. 2021-23, Cellco Partnership, d/b/a Verizon Wireless, for Wilton Water and Sewer Authority, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for a Use Variance pursuant to Schedule A, R-1 District, of the Zoning Ordinance; property located at 240 Northern Pines Road, Tax Map No. 127.-2-38.112, zoned R-1, in the Town of Wilton, and Appeal No. 2021-24, Cellco Partnership, d/b/a Verizon Wireless, for Wilton Water and Sewer Authority, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for an Area Variance pursuant to §129-176 L. (7)(b), of the Zoning Ordinance; property located at 240 Northern Pines Road, Tax Map No. 127.-2-38.112, zoned R-1, in the Town of Wilton. Mr. Zabala seconded the motion. All board members present were in favor. The motion passed.

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Mr. Ramsdill read correspondence from the Saratoga County Planning Board (SCPB) and the Wilton Planning Board (WPB) which have been placed into record.

Mr. Ramsdill and Mr. Schachner discussed the criteria for a Rosenberg Use Variance.

Mr. Deloria stated he does not agree with the comments from the correspondence received from SCPB because he does not think the Board could condition the approval on location of another tower to fill the gaps.

Mr. Ramsdill asked Mr. Brennan if there would be reduction in coverage area if the tower was lower and also asked if other companies could use the tower in the future. Mr. Brennan explained that they could provide information showing the coverage area and shorter heights, and that he can not vouch for other companies, but in theory it is a high enough estimation that it will work. Discussion continued between Mr. Brennan and Mr. Ramsdill. Mr. Kingsley asked if the tower was 3G, 4G? And under the current infrastructure, what the 5G would be? Mr. Brennan answered that this is a 4G improvement, but can be used for 5G. He continued to explain frequencies.

Mr. Andras added that they actually will have 5G equipment hung on them, so that when 5G becomes available, they will be able to make a change on the ground level.

Mr. Kingsley asked if the number of towers would be different at 5G and Mr. Andras answered that for 5G, more towers will be needed.

Mr. Zabala asked about a circumferential map of the fall zone and Mr. Brennan said that one could be provided and added that they can design a fail point in the tower so that if overstressed, it will bend in the middle instead of at base. Mr. Ramsdill asked if it was part of this proposal. Mr. Brennan said no, but can be added upon condition of approval.

Mr. Zabala asked about the color of the tower and nesting of birds. Mr. Brennan spoke of other towers and colors they have been. Mr. Ramsdill explained that design would be up to WPB, and that they will have a public hearing.

Mr. Ramsdill opened the public hearing at 8:08 p.m.

Michael Walterich, 239 Northern Pines Road, asked why they were not notified about the Planning Board Meeting the night before. Mr. Schachner explained that the Planning Board review the night before was the very first step, not yet reviewing any applications, and that there will be notifications when that happens.

Mr. Walterich asked if McGregor golf course is any way vested in this? Or is that just a random name assigned to it because of the location?

Mr. Brennan explained that the projects get named by the largest landmark in the area.

Mr. Walterich shared that the golf course declined to put it on their property. He then shared he would like to save the rest of the questions for the next meeting.

Eileen Brzozowski, 3 Lonesome Pine Trail, asked how they could access the SCPB letter that was read into record? Mr. Ramsdill stated it was public information and would be available upon request. She then asked how they will know when the balloon is going up? Mr. Ramsdill explained that it would need to be discussed at one of the public meetings, then the Town would make a determination about what the appropriate date was in coordination with the request date and then we go to the applicant and then we would be able to make that available.

Mrs. Brzozowski asked if the tower will be connected to a utility pole on Northern Pines Road, because where she lives, a pine tree came down right on Northern Pines Road and it was the scariest thing.

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Mr. Brennan explained that it will connect to one of the utilities there then go underground to connect to the site and that the tower will use the same amount of electricity as another single family home.

Mrs. Brzozowski asked if anyone thought of the health concerns, especially to children, of something like this in the area? Mr. Ramsdill explained that the SEQRA process is designed to review that information. Mr. Schachner explained that boards care about health impacts tremendously, but the United States Congress passed federal law called the Federal Telecommunications Act. And in that one of the provisions of federal law is that if the generator of the service meets industry, certain industry defined standards of what the radio wave frequency emissions are, then local government is not allowed to deny the application based on perceived health impacts, and not allowed to impose any significant condition that restricts the emissions based on significant health impacts. Discussion continued between Mrs. Brzozowski, Mr. Schachner, and Mr. Brennan.

Janine Petralia, 239 Northern Pines Road, stated there is a 14 ft. structure on that property currently which can be seen very visibly, especially when the leaves on the trees fall about six months out of the year. She expressed concern that the character of that neighborhood is going to be severely affected; noise pollution, light pollution, and visual impact on their property values is extremely concerning, as well as the health effects. Another concern of hers was the wetlands.

Mr. Walterich also expressed concern about the property value.

Mr. Kingsley reflected back to the proposal, that there would be no lighting on the tower which was confirmed by Mr. Brennan.

Mr. Deloria asked if the site by Wilton Rescue was taken into consideration, and questioned the height of the trees on the proposed site. Mr. Andras explained not enough coverage would happen from the site questioned and Mr. Brennan asked to defer the (tree height) question as he will put it in written response to the Board.

Mr. Brennan explained that they would like to put the balloon test on the calendar sooner than later. Mr. Deloria made mention that the Zoning Board should supply some exact areas that they would like to see photos from.

Mr. Walterich suggested the entrance to the Estates at Northern Pines.

Appeal No's. 2021-23 and 2021-24 will be heard by the ZBA after the WPB meeting scheduled for September 15, 2021.

The public hearing was left open.

**Appeal No. 2021-25** Kirsten Keefe, 5 Howe Street, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 5 Howe Street, Tax Map No. 153.18-1-17, zoned R-1, in the Town of Wilton.

Kirsten Keefe and her husband Douglas Baehm were present. Mrs. Keefe presented the Board with pictures of the front of their house to help explain her project.

Mr. Ramsdill, Mr. Hart, and Mrs. Keefe discussed the placement and patio versus wood deck. Mr. Zabala confirmed with Mr. Baehm that the deck will not be higher than a foot, and that the home is pre-existing, non-conforming.

Mr. Ramsdill noted that the proposed deck would be under part of the existing overhang of the home.

Mr. Ramsdill opened and closed the public hearing at 8:31 p.m. due to lack of public comment.

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Mr. Ramsdill made a motion to approve Appeal No. 2021-25, Kirsten Keefe, 5 Howe Street, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 5 Howe Street, Tax Map No. 153.18-1-17, zoned R-1, in the Town of Wilton, was granted for a proposed 8' x 10' ground level deck in the amount of relief of 30.40 ft. Howe Street front setback, property located at 5 Howe Street, Tax Map No. 153.18-1-17, zoned R-1 in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the home is pre-existing non-conforming, sitting closer to the road than the current allowed setback. The deck will be a wood deck low to the ground and in concert and harmony with the color scheme chosen for the front of the home. The proposed deck will be partially under the current overhang of the eaves in the front bump out of the home allowing it to appear less substantial. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because the lot is pre-existing non-conforming and the location has the home closer to the road than the current zoning will allow. 3. The applicant has demonstrated that the requested Area Variance is not substantial because the deck will be partially obscured under the eaves and allows the minimal area for seating in the front of the home to enjoy the front of the property. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it will be simple, low to the ground, and in harmony with the design of the building. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Zabala seconded the motion. All board members present were in favor. The motion passed.

**Appeal No. 2021-26** Mark Perry, 6 Pine Ledge Terrace, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-198 A. (1-5) and §129-198 C. (1-4) of the Zoning Ordinance; property located at 6 Pine Ledge Terrace, Tax Map No. 140.6-4-7, zoned R-1, in the Town of Wilton.

Mark Perry, 6 Pine Ledge Terrace, presented his project to the Board. Mr. Ramsdill asked why the garage is so far back from the rear of the current building. Mr. Perry explained that he could not get the same color of the house for the proposed garage, so with the tree coverage and being placed back, it would not be as apparent that they were different colors. Mr. Kingsley asked what will be stored in the garage and Mr. Perry explained it would be typical household storage items. Discussion continued between the Board and Mr. Perry. Mr. Ramsdill asked if the garage could be moved further forward because 50% is substantial, and asked how much further he would be willing to go. Mr. Perry explained another 10 ft. would not make that much of a difference if that is what is needed. He also explained that is why he was using an engineer.

Mr. Ramsdill opened and closed the public hearing at 8:46 p.m. due to lack of public comment.

Mr. Deloria made a motion to approve Appeal No. 2021-26, Mark Perry, 6 Pine Ledge Terrace, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-198

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A. (1-5) and §129-198 C. (1-4) of the Zoning Ordinance; property located at 6 Pine Ledge Terrace, Tax Map No. 140.6-4-7, zoned R-1, in the Town of Wilton, be granted, after discussion and consent of the owner to deviate from the original relief requested, for a proposed detached 24' x 30' garage to be constructed, with eaves considered, 60 ft. from water's edge of Lake Elizabeth, property located at 6 Pine Ledge Terrace, Tax Map No. 140.6-4-7, zoned R-1 in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the proposed garage will be toward the rear of the lot and shielded by existing trees. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because there is limited buildable area between the rear of the existing house and pool and the Lake Elizabeth setback. 3. The applicant has demonstrated that the requested Area Variance is substantial because of limitations based on the location of Lake Elizabeth and the existing structure. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the proposed garage will be constructed toward the rear of the existing home and shielded by trees which will remain. 5. The applicant has demonstrated that the alleged difficulty is self-created. Mr. Zabala seconded the motion. All board members present were in favor. The motion passed.

**Adjournment:**

Mr. Kingsley made a motion to adjourn. Mr. Deloria seconded the motion. All board members were in favor. The meeting was adjourned at 8:51 p.m.

**Dated: July 23, 2021**

**BOARD OF APPEALS**

**BY** \_\_\_\_\_

**Lisa Closson, Zoning Clerk**

**BY** \_\_\_\_\_

**Christopher Ramsdill, Vice Chairman**