

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY, September 23, 2021**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, September 23, 2021 at Wilton Town Hall and was called to order by Chairman O'Brien at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Chairman O'Brien, Robert Barrett, Scott Kingsley, Gerard Zabala, and Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Zoning Officer, and Lisa Closson, Zoning Clerk.

**ABSENT:** Vice Chairman Christopher Ramsdill, Jim Deloria, Dean Kolligian, and Jay Rifenburg, 1<sup>st</sup> Alternate.

**MINUTES:** The minutes of the last meeting, held on August 26, 2021, were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Barrett. 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\*

None

**OLD BUSINESS:**

\*The public hearing for Appeal Nos. 2021-23 and 2021-24 was left open from the July 22, 2021 Zoning Board of Appeals meeting.

**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.

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 explained that they were seen by the Zoning Board

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of Appeals (ZBA) in July, at which time the ZBA referred the applications back to the Wilton Planning Board (WPB) to designate WPB as lead agency for the State Environmental Quality Review Act (SEQRA) review, where WPB issued a negative declaration under SEQRA. Mr. Brennan also spoke about the Balloon Fly which was conducted Saturday, August 21, 2021, for site view of the proposed tower, and of an engineered letter saying that the tower will be designed in a manner that if there was a failure, it would not fail at its base, but rather in the middle.

Mr. Brennan continued to speak of the proposed location of the tower on the parcel, and that they are in the process of obtaining a permit from DEC because it is within the 100 ft. wet lands buffer. He also presented a RF Safety Report showing that they are less than 1 percent of what the FCC considers to be safe.

Mr. O'Brien discussed other towers in the area with Mr. Brennan.

Mr. Zabala discussed wind speed and signal strength with Mr. Brennan.

Mr. Zabala discussed the lease agreement with Wilton Water and Sewer Authority (WWSA) with Mr. Brennan.

Mr. Kingsley discussed data and voice calls with Mr. Brennan and Mr. Andras.

Mr. O'Brien closed the Public Hearing at 7:24 p.m.

Mr. Brennan confirmed with Mr. Schachner that if there is a vote, and it is not unanimous, it would be classified as no action taken, due to there being a 4 member Board at the meeting. Discussion continued between Mr. O'Brien, Mr. Schachner, and Mr. Brennan.

Mr. Brennan then asked the Board to consider the application.

Mr. Kingsley made a motion to approve 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, was granted because: 1. The Telecommunications Tower is classified as a public utility under State Law, and the applicant has demonstrated that the proposed facility/tower is required in order to improve quality or quantity of its coverage by showing this project is needed to render safe and adequate service in cellular telephone and data coverage to fill areas of the town where no coverage occurs. 2. The applicant has demonstrated a compelling reason which makes it infeasible to pursue some alternative.

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

**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 asked the Board to close the public hearing and consider this application as well.

Mr. O'Brien closed the public hearing at 7:30 p.m.

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Mr. Kingsley made a motion to approve 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, was granted, for a proposed telecommunications tower in the amount of relief of 26 ft. north side fall zone, property located at 240 Northern Pines Road, Tax Map No. 127.-2-38.112, zoned R-1, in the Town of Wilton, was granted, for the following reasons: 1. The applicant, Verizon Wireless, is classified as a Public Utility under the State of New York and the applicant has demonstrated the tower is needed to render safe and adequate service in cellular telephone and data coverage. 2. The applicant has demonstrated a compelling reason which makes it infeasible to pursue some alternative. Mr. Barrett seconded the motion. All board members present were in favor. The motion passed.

**NEW BUSINESS:**

**Appeal NO. 2021-29** Cecil Provost, 46 Lake Avenue, Saratoga Springs, New York 12866. Request for Area Variances pursuant to §129-174 A. and C., and Schedule N, Commercial Residential District 1, of the Zoning Ordinance; property located at 570 Route 9, Tax Map No. 153.5-1-16, zoned CR-1, in the Town of Wilton.

Mr. O'Brien read correspondence from WPB and Saratoga County Planning Board (SCPB) which have been placed into record.

Cecil Provost, 46 Lake Avenue, was present and presented his project to the Board.

Mr. Provost explained that there is an existing older garage near the front of the property and an existing shed near the north side yard property line that he is going to demolish. He explained that when he approached the owner of the property to the north, Rolland Hoag, 574 Route 9, Mr. Hoag said he would like to see an 8 ft. stockade fence on the north side yard property to the jog in the property line. Mr. Provost also stated he is going to remove the existing 6 ft. stockade fence on the front of the property and place it behind the 8 ft. fence at the jog of the property to the rear of the property. Mr. O'Brien confirmed with Mr. Provost that this is in his plan.

Mr. Zabala asked if the other neighbor, Robert Pulsifer, 566 Route 9, had any concerns.

Mr. O'Brien opened the public hearing at 7:38 p.m.

Robert Pulsifer, 566 Route 9, stated he owns three properties just south of the parcel in front of the Board, and that he is in favor of the project and that he is not in need of a buffer.

Mr. O'Brien closed the public hearing at 7:39 p.m.

Mr. Zabala asked Mr. Provost if Cumberland Farms have expressed their opinion. Mr. Provost said no.

Mr. Zabala made a motion to approve Appeal No. 2021-29, Cecil Provost, 46 Lake Avenue, Saratoga Springs, New York 12866. Request for Area Variances pursuant to §129-174 A. and C., and Schedule N, Commercial Residential District 1, of the Zoning Ordinance; property located at 570 Route 9, Tax Map No. 153.5-1-16, zoned CR-1, in the Town of Wilton, was granted, conditioned on the installation of an 8 ft. privacy fence along the north side property line, changing to a 6 ft. privacy fence at the jog of the north side property line

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toward the rear of the property, for the proposed change from Single Family Residential to Business Offices in the amount of relief of 32.74 ft. frontage, 72.30 ft. north side yard setback, 15 ft. north side pavement setback, and 50 ft. landscape buffer both north side and rear, property located at 570 Route 9, Tax Map No. 153.5-1-16, zoned CR-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 Variances because the applicant is taking an existing property in a C-1 District and repurposing the property along with removing an existing garage, shed, and relocating a fence near Route 9 to the north side property line. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the property and structures are existing. The applicant will be improving the appearance of the property and repurposing the house into a commercial use. 3. The applicant has demonstrated that the requested Area Variances are substantial because the side yard setback, north side pavement setback, and rear and north side landscape buffer are 100% relief requested. The applicant is also requesting 32.74 ft. frontage relief which is not substantial. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because there are other commercial businesses in the area. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

**Appeal NO. 2021-30** AJ Signs, for 3040 Route 50, LLC, 842 Saratoga Road, Burn Hills, New York 12027. Request for Area Variances for signage pursuant to §129-181 (2) (a) (b) [1] and C. of the Zoning Ordinance; property located at 3040 Route 50, Tax Map No. 153.-3-116, zoned C-1, in the Town of Wilton.

Mr. O'Brien read correspondence from SCPB into record.

Tom Wheeler from AJ Signs was present and presented the project to the Board. He explained that there is more than one building with more than one entrance.

Mr. O'Brien opened and closed the public hearing at 7:48 p.m. due to lack of public comment.

Mr. Zabala made a motion to approve Appeal No. 2021-30, AJ Signs, for 3040 Route 50, LLC, 842 Saratoga Road, Burn Hills, New York 12027. Request for Sign Variances pursuant to §129-181 (2) (a) (b) [1] and C., of the Zoning Ordinance; property located at 3040 Route 50, Tax Map No. 153.-3-116, zoned C-1, in the Town of Wilton, was granted, for a proposed attached sign in the amount of relief of 626.26 sq. ft. both attached and detached signs, 9 attached signs, and 2 detached signs, property located at 3040 Route 50, Tax Map No. 153.-3-116, zoned C-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 Variances because this is a busy section of New York State

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Highway Route 50. Saratoga Hospital has a need to notify motorists in the area to the location of the Urgent Care facility. There are two buildings in the area, and one of the two buildings with the Urgent Care has two entry ways which provide other medical services. The additional 22.5 sq. ft. Urgent Care sign will not be a detriment to the neighboring properties nor to the surrounding area. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because there is no other means by which to notify motorists and patients to the exact location of the Urgent Care other than signage. If patients are not familiar with the layout of the building, being made aware of the correct entrance to the Urgent Care is important. 3. The applicant has demonstrated that the requested Area Variances are substantial, but the additional 22.5 sq. ft. Urgent Care sign will aid the community in notifying motorist in an emergency situation where to enter the building when approached. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the wall sign in the Commercial area will not create any visual impairment for motorists, but will serve to aid the motorist to locate the proper entrance to receive Urgent Care. 5. The applicant has demonstrated that the alleged difficulty is self-created. Mr. Barret seconded the motion. All board members present were in favor. The motion passed.

**Adjournment:**

Mr. Kingsley made a motion to adjourn. Mr. Zabala seconded the motion. All board members were in favor. The meeting was adjourned at 7:54 p.m.

**Dated: September 24, 2021**

**BOARD OF APPEALS**

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

**Lisa Closson, Zoning Clerk**

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

**Joseph O'Brien, Chairman**