



**ZONING BOARD OF APPEALS**  
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**April 5, 2021**  
**WebEx Meeting Minutes**

**Present:** Patti Kelly, Joe Mayone, Tim Scott & Holly Strutt, Alternate

**Also Present:** Mike Ivino: Town Board Liaison, Scott Olson: Attorney Young Summer LLC, Kimberly Garrison: Young Summer LLC, Kathy Pompono, Verizon Location Manager, Mike Crosby: Verizon Engineer, Ronald Graiff: ZBA Engineer, George Redder: ZBA Attorney, Dan Shuster: Town Planner, Sara Coleman: Aerosmith, Brett Buggeln: Tarpon Towers, John Lyon: ZBA Attorney, Anthony Campanelli: Attorney, Dave Gordon, Attorney, Kevin Freeman: Zoning Board Secretary

Patti Kelly, Acting Chair, called the meeting to order at 7:05 pm. She took roll call of ZBA members and announced a quorum was reached. Henry Rua was unavailable and Patti asked Holly to join the board for this meeting.

Patti reminded the public that this session was an opportunity for Tarpon Towers 11 and Verizon Wireless to present their new application and for the board to ask questions about the application. Members of the public were in attendance, but the public hearing for this project will be held at a later date.

Patti stated the purpose of the meeting was as indicated in the agenda:

Tarpon Tower II & Verizon Wireless  
17 Industrial Rd.  
SBL #: 28.4-2-38.600  
File #: 21-0080

This property is zoned Office Light Industrial (OLI.)

The applicants want to install a new commercial tower/wireless facility on property owned by Kidco Realty at 17 Industrial Rd. in Mt. Marion.

The applicants are proposing to construct A 159' mono pole (including antenna) commercial telecommunication facility and have applied for area variances.

The initial request was denied by the Town Building Inspector because the proposed setbacks don't to comply with the requirement that setbacks be one and ½ times the height of the tower, in this case 238.5'.

The appeal states that due to the configuration of the property, the tower is not able to meet the 238.5' setback required. The proposed tower location is 159' from the front property line; 188' and 165' from the side property lines; and 262' from the rear property line.

The applicants request a 79.5 front yard variance; a 50.5' left side variance; and a 73.5' right side yard variance.

Mr. Olson introduced his team and started a slideshow beginning with the original search area for the Mt Marion Fire Department in comparison to the 17 Industrial Rd. location. He displayed the map of the leased property at 17 Industrial Rd. Patti reminded the public that all the maps are available on the ZBA website.

She asked that the public stay informed about this application by monitoring the ZBA page on the town website for any further information.

Mr. Olson said he believed that a height variance included in the Denial Letter from the Building Inspector was not necessary because the Zoning Law provided exceptions for structures like towers. Patti said she reviewed the law and that, indeed, Section 245-13 titled Supplementary Regulations on Area and Bulk does exempt towers. She said, however, the section also states that anything over 100' tall requires a special use permit from the Planning Board. Mr. Olson agreed with that.

After Mr. Olson showed a copy of the site plan, Patti asked if the board had any questions before we moved on to RF maps. Patti indicated that she had a question and a comment about the site plan distances and pointed out the text in small type at the bottom of the page. She quoted it as reading "The property lines hereon are approximate based on GIS data and are for orientation purposes only. They do not represent a property/boundary decision by a land surveyor." She said that was a problem and asked if a survey was being planned. Mr. Olson said he didn't know if the survey was in process. He will talk to the surveyor. Patti said it was unreasonable to expect the ZBA to make variance decisions with numbers that can't be relied on, and it was equally unfair to the property owners who would be impacted by the tower.

Patti also said the ZBA would want to make a site visit and asked Mr. Olson to get permission from the property owner. He said he would. She also asked that the site be staked so the ZBA knew exactly where the tower would be sited and where the fencing would be. Again, Mr. Olson agreed to have that done.

Joe asked if the position of the tower was in the best location to ask for the smallest variances. Mr. Olson said he would check to see if the site elevation was a factor. He said moving the tower further in one direction or another might have a minimal impact but wouldn't change the overall need for variances.

Mr. Olson then presented the RF maps, and asked Mike Crosby to explain them. Ron Graiff, the ZBA's RF consultant had a question about the comparison between the original Mt. Marion firehouse site to the new location and noted only about a 4' difference in elevation between the two locations. He said it was an insignificant difference and asked why the proposed tower had increased in height. Mr. Crosby agreed with Ron about the elevation of the property, but he said that was not a factor in the height of the tower.

Dan Shuster noted that there didn't seem to be any place in the application to justify the specific height for the tower. There were no simulations for coverage utilizing a smaller tower. The

height justification analysis would be required. Mr. Crosby said he was working on those results and it would be provided in a supplemental submission to the ZBA prior to the next meeting.

Mr. Crosby moved on to coverage and capacity maps. Ron asked Mr. Crosby if the capacity need has changed since the original Mt Marion application. Mr. Crosby said both Kingston Alpha and Saugerties Beta were significantly overloaded then and still are. Ron stated that the studies were done only for the higher frequency channels.

The next slide demonstrated capacity for existing sites. The first was for Kingston Alpha. There is a forecasting element where a target would bring additional capacity online before the capacity was exceeded. He spoke to the different frequencies that provided capacity over distance. The lower frequencies were severely overloaded. Ron asked about the additional bandwidth available from the 850MHz band in addition to the 700MHz. Mr. Crosby said the 850MHz channel could provide offload but was already illustrated in the chart of all available frequencies. Ron asked about carrier aggregation. Mr. Crosby said that the chart demonstrated aggregation.

Mr. Crosby said the first map showed existing 700MHz coverage. The proposed coverage map showed the improvement. Same for the 2100MHz comparison. The higher frequency had larger gaps in service. All slides were referenced by the 17 Industrial Rd location.

Patti said she was frustrated that the ZBA's many requests for maps that give us concrete information about what's covered and what's not covered have been ignored. She said there are no roads indicated nor are the often-mentioned references like the Mt. Marion School and Mt. Marion Park shown. Mr. Crosby said they would overlay points of interest. He said that the scale of the smaller maps didn't allow for detail, but they would provide larger scale data in the future.

Ron reiterated his request for maps to be provided in 7.5-minute topographic maps. Patti said the ZBA didn't need to see Dutchess County towns like Tivoli or Reed Hook on a map where our focus is on cell coverage in Mt. Marion. Ron will continue his discussion with Mike about what the ZBA expects from the mapping.

Patti reminded the public about the balloon test scheduled for April 14<sup>th</sup>. In the event of inclement weather, the test will be held on the 15<sup>th</sup> or the first day thereafter that the weather is good. Mr. Olson Scott described the process of a marker balloon being flown at 200' and the tower balloon at 159'. There were no further questions from the board.

Tim motioned to schedule a public hearing; Joe seconded. All voted in the affirmative. The hearing was scheduled for May 3<sup>rd</sup>.

Kevin reminded Mr. Olson that the 500' list of properties and letters would be provided so he could send them by certified mail.

John Lyons asked if the ZBA's intention was to classify the matter for SEQRA and if the board would be referring to county planning. Patti said that SEQRA classification would happen prior to the start of the public hearing, and the ZBA was aware that this proposal needed to be referred to the County. Dan inquired who would be lead agency. Patti said that has not yet been determined.

Patti made a motion to approve the March minutes. Tim seconded, and the motion passed unanimously.

The meeting was adjourned at 8:00 pm.

Respectfully Submitted,  
Kevin Freeman  
ZBA Secretary

DRAFT