

Organization River Area Council of Governments

Board Cooperative ZBA

Date and Time Wednesday, July 15 2015 at 7:30 PM

Place Town of Champion Offices Board Room (rear of building) 10 N Broad St, West Carthage NY

Contact [Chris Vargulick](#) Town Clerk Phone (315) 493-3240 Fax(315) 493-2900

Minutes

RACOG
Cooperative Zoning Board of Appeals

TO: Members of the Co-op ZBA, T/Champion Board, T/Wilna Board, V/Carthage Board, Town/Village Clerks, Zoning Enforcement Officers, Timothy Farley, T/Champion Attorney, Mark Gebo, T/Wilna & V/Carthage Attorney and Planning Board Chairmen

FROM: Christina Vargulick, Cooperative ZBA Secretary

DATE: July 17, 2015

RE: Minutes from July 15, 2015

PRESENT: D. Austin, R. Blank, M. Gump, L. Haverstock, and T. Kight

Chairperson Kight called the meeting to order at 7:30pm. The roll was called.

Motion by D. Austin, seconded by R. Blank to dispense with the reading of the June 3, 2015 minutes and to approve the minutes as presented. Ayes-5, Nays-0. Motion carried.

T. Kight reviewed the application from Galen Gockley (Log #2015-2) for an area variance for a proposed minor wind tower on parcel no. 76.00-1-25.1 located at 23899 Pennock Road. The proposed tower would have a maximum height of 153.5'. The maximum allowed under Article 6; Section 692C of the T/Champion Zoning Law is 100' including the rotor radius. Ryan Stewart, representing Mr. Gockley, explained that the 10kw tower is built in sections and that a reduction in the height of the tower would result in a significant decrease in the energy produced. Chairman Kight informed members that legal counsel has stated that there are no specific exemptions from the zoning law for agricultural uses. T/Champion Planning Board Chairman LaBarge recommended that the ZBA deny the variance and require an application for a major wind tower and a full environmental review. Members reviewed the definitions for both minor and major wind towers and agreed that except for the tower height the proposed wind tower adhered to the definition of a minor wind tower.

Proof of notice having been furnished, the public hearing on an area variance for parcel no. 76.00-1-25.1 was called to order at 7:31pm. No one from the public spoke for or against the proposed action.

The Board reviewed and responded to the environmental impact assessment regarding the proposed action. Motion by L. Haverstock, seconded by R. Blank to make a declaration of negative environmental impact as a result of the action. Ayes-5, Nays-0. Motion carried.

All persons desiring to be heard, having been heard, the public hearing was closed at 7:55pm.

Motion by D. Austin to deny the area variance and to require the proposed tower to reapply to the Planning Board as a major wind tower. The motion did not receive a second.

Motion by R. Blank, seconded by L. Haverstock to proceed with the area variance for a minor wind tower. Ayes-5, Nays-0. Motion carried.

The following resolution was offered by R. Blank, who moved its adoption, and seconded by L. Haverstock, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from Galen Gockley, parcel number 76.00-1-25.1, for a variance of Article 6; Section 692C of the T/Champion Zoning Law to exceed the maximum allowed height of 100' for a minor wind tower, and

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and environmental assessment form, held a public hearing and

received comments thereat; and
WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would not produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could be mitigated by applying as a major wind tower, reducing the height of the proposed tower, or installing more than one compliant wind tower.
- C. The Board concludes that the proposed 153.5' wind tower is substantial relative to the maximum height allowed by the law.
- D. The Board concludes that the variance would not have an adverse impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is self created.

NOW, THEREFORE BE IT RESOLVED that the application from Galen Gockley, parcel number 76.00-1-25.1, for a variance of Article 6; Section 692C of the T/Champion Zoning Law is hereby approved with the following condition:

- 1. The height of the minor wind tower shall not exceed 153.5'.

The foregoing resolution was duly put to a vote as follows:

D. Austin.....nay
R. Blank.....nay
M. Gump.....aye
L. Haverstock.....aye
T. Kight.....aye

T. Kight presented an application from St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless for an area variance for a proposed cell tower on parcel #93.00-1-10.1 located at 19212-340 Bach Road. The proposed tower would be 199' in height including the antenna. The minimum allowed setback under Article 8; Section 820J;§2b is the height of the tower, including any antennae, plus thirty feet. The setback on the north side is insufficient by 24'. The applicant is also seeking a variance from the requirement that the setback be measured from the lease lines (Article 8; Section 820J;§2d and 2e). Dave Brennan, an attorney with Young/Sommer LLC representing Verizon Wireless, identified the gap in cell phone service currently existing. He explained the rationale for the location of the site and the use of the leased area.

Proof of notice having been furnished, the public hearing on an area variance for parcel no. 93.00-1-10.1 was called to order at 8:17pm. Vernon Scoville and Patricia Eddy spoke in favor of the proposed tower. Peter Elmer questioned the location of the tower access road. Board members questioned alternate sites for the tower, co-location and the possibility of additional towers in the future. The Board determined that variances would be required from the setback to the property line and from the leased lot boundaries. Chairperson Kight read a letter from the Town Planning Board supporting the proposed action. All persons desiring to be heard having been the hearing was closed at 8:47pm.

The Board reviewed and responded to the environmental impact assessment regarding the proposed action. Motion by M. Gump, seconded by R. Blank to make a declaration of negative environmental impact as a result of the action. Ayes-5, Nays-0. Motion carried.

The following resolution was offered by R. Blank, who moved its adoption, and seconded by L. Haverstock, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from Verizon Wireless, acting as agent for John Bach, parcel number 93.00-1-10.1 for a variance of Article 8; Section 820J.2b of the T/Champion Zoning Law to exceed the minimum left side yard setback from the property line.

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and environmental assessment form, held a public hearing and received comments thereat; and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would not produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could not be achieved by a feasible alternative to the variance.

- C. The Board concludes that the proposed 24' left side yard variance is not substantial.
- D. The Board concludes that the variance would not have an adverse impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is not self created.

NOW, THEREFORE BE IT RESOLVED that the application from Verizon Wireless, as agent for John Bach, parcel number 93.00-1-10.1, for a variance of Article ; Section 820J.2b of the T/Champion Zoning Law is hereby approved with the following condition:

1. The left side yard setback from the property line shall not be less than 205'.

The foregoing resolution was duly put to a vote as follows:

- D. Austin.....aye
- R. Blank.....aye
- M. Gump.....aye
- L. Haverstock.....aye
- T. Kight.....aye

The following resolution was offered by R. Blank, who moved its adoption, and seconded by L. Haverstock, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from Verizon Wireless, acting as agent for John Bach, parcel number 93.00-1-10.1 for a variance of Article 8; Section 820J.2e of the T/Champion Zoning Law to exceed the minimum required setbacks from the lease lines as identified in the site plan.

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and environmental assessment form, held a public hearing and received comments thereat; and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would not produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could not be achieved by a feasible alternative to the variance.
- C. The Board concludes that the variance is substantial.
- D. The Board concludes that the variance would not have an adverse impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is not self created.

NOW, THEREFORE BE IT RESOLVED that the application from Verizon Wireless, as agent for John Bach, parcel number 93.00-1-10.1, for a variance of Article 8; Section 820J.2e of the T/Champion Zoning Law is hereby approved with the following conditions:

1. The northerly setback from the lease line shall not be less than 48'.
2. The southerly setback from the lease line shall not be less than 48'.
3. The eastern setback from the lease line shall not be less than 35.2'
4. The western setback from the lease line shall not be less than 64'.

The foregoing resolution was duly put to a vote as follows:

- D. Austin.....aye
- R. Blank.....aye
- M. Gump.....aye
- L. Haverstock.....aye
- T. Kight.....aye

Chairperson Kight called for a short recess. L. Haverstock left the meeting at 9:13pm. The meeting resumed at 9:20pm.

T. Kight reviewed the application for an interpretation of Article 2 of the T/Champion Zoning Law from OWN Energy (Log #2015-1) to determine if the proposed project should be defined as an Essential Facility or a Public Utility. J. Muscato submitted two additional transmission line easements. The Board reviewed the definitions.

Proof of notice having been furnished, the public hearing on an interpretation of Article 2 of the T/Champion Zoning Law was called to order at 9:33pm. T/Champion Councilman Bruce Ferguson stated that the Town zoning law

and comprehensive plan were designed to control development and protect the land in the town. He recommended that the project be reviewed as an essential facility to allow for special permit criteria to be applied to the review. P. J. Saliterman, project manager, stated that the proposal is a responsible project supported by the affected property owners. He stated that the T/Denmark portion of the line is underground because it is economically feasible. Burying the 115kv line is not feasible due to cooling and construction requirements. The Chairperson read aloud the definitions and R. Blank offered definitions he researched on-line. George Spaziani stated that transmission lines are referenced in the definition for essential facilities. Ron Eddy, a utility retiree, stated that 115kv lines are transmission line. Mr. Saliterman countered that the definition does not apply to privately owned lines. All persons desiring to be heard having been heard the public hearing was closed at 9:56pm.

The following resolution was offered by M. Gump, who moved its adoption, and seconded by D. Austin, to wit:

WHEREAS, the RACOG Cooperative Zoning Board of Appeals, at a meeting duly convened on July 15, 2015, reviewed the facts in an application (Log No. 2015-1) for an interpretation of the Town of Champion Zoning Law pursuant to an application from OWN Energy; and

WHEREAS, said application requests an interpretation of Article 2; Definitions for Essential Facility and Public Utilities; and

WHEREAS, the board held a public hearing, duly published and posted, on July 15, 2015; and

WHEREAS, at said hearing all who desired to be heard were heard and their testimony recorded; and

WHEREAS, all testimony has been carefully considered as to the definitions of Essential Facilities and Public Utilities and the intent of the law.

NOW THEREFORE BE IT RESOLVED, that the RACOG Cooperative Zoning Board of Appeals has determined the project proposed by OWN Energy shall be defined as an Essential Facility.

The foregoing resolution was duly put to a vote as follows:

D. Austin.....aye
R. Blank.....aye
M. Gump.....aye
L. Haverstock.....aye
T. Kight.....aye

T. Kight reviewed the area variance applications from OWN Energy (Log #2015-1) for parcel nos. 93.00-1-24.1; 93.00-1-38; 93.00-1-32.2; 93.00-1-28.3; 93.00-1-29.1; 93.00-2-47.2; 93.00-2-47.1; 93.00-2-44; 103.00-1-17.22; and 103.00-1-16 regarding pole height. The application requests a variance of Article 4; Section 410 of the Town Zoning Law.

Proof of notice having been furnished, the public hearing on an area variance for parcel nos. 93.00-1-24.1; 93.00-1-38; 93.00-1-32.2; 93.00-1-28.3; 93.00-1-29.1; 93.00-2-47.2; 93.00-2-47.1; 93.00-2-44; 103.00-1-17.22; and 103.00-1-16 was called to order at 9.58pm. Lynn Murray, Shirley Elmer, and Marvin Micek spoke in favor of the project. Bruce Ferguson stated that the project needs sufficient review. All persons desiring to be heard having been heard the public hearing was closed at 10:20pm.

The following resolution was offered by D. Austin, who moved its adoption, and seconded by R. Blank, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from OWN Energy, acting as agent for parcel numbers 93.00-1-24.1; 93.00-1-38; 93.00-1-32.2; 93.00-1-28.3; 93.00-1-29.1; 93.00-2-47.2; 93.00-2-47.1; 93.00-2-44; 103.00-1-17.22; and 103.00-1-16 for a variance of Article 4; Section 410 of the T/Champion Zoning Law to exceed the maximum structure height in an AR zone.

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and environmental assessment form, held a public hearing and received comments thereat; and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would not produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could be achieved by burying the proposed transmission lines.
- C. The Board concludes that the variance is substantial.
- D. The Board concludes that the variance would not have an adverse impact on the physical conditions of the

neighborhood.

E. The Board concludes that the alleged difficulty is self created.

NOW, THEREFORE BE IT RESOLVED that the application OWN Energy, as agent for parcel numbers 93.00-1-24.1; 93.00-1-38; 93.00-1-32.2; 93.00-1-28.3; 93.00-1-29.1; 93.00-2-47.2; 93.00-2-47.1; 93.00-2-44; 103.00-1-17.22; and 103.00-1-16 for a variance of Article 4; Section 410 of the T/Champion Zoning Law is hereby approved with the following conditions:

1. No electric pole for the transmission line shall exceed 75' in height.

The foregoing resolution was duly put to a vote as follows:

D. Austin.....aye
 R. Blank.....aye
 M. Gump.....aye
 L. Haverstock.....absent
 T. Kight.....nay

Chairperson Kight advised the applicant that action on setbacks from the property lines will require unique applications for each variance with fees. The applicant stated that they will forward applications immediately and requested that a public hearing be scheduled.

Motion by D. Austin, seconded by R. Blank to schedule public hearings on the area variance applications from OWN Energy for August 12, 2015 at 7:30pm. Ayes-4, Nays-0. Motion carried.

Motion by D. Austin, seconded by R. Blank to adjourn. The meeting adjourned at 10:40pm.

Christina Vargulick
RACOG Cooperative ZBA, Secretary