

**TOWN OF CLARKSON
ZONING BOARD OF APPEALS
October 7, 2015**

The Zoning Board of Appeals of the Town of Clarkson met on Wednesday, October 7, 2015 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 7:00 p.m.

PRESENT-Board Members

Conrad Ziarniak – Chairperson
Paul Dittman
Leslie Zink
Tom Guarino
Joe Perry

Support Staff

Kristen DiFilippo, Bldg. Dept. Coordinator

CALL TO ORDER

Chairperson Conrad Ziarniak called the meeting to order at 7:00 p.m. and led all those present in the Pledge of Allegiance. The agenda was reviewed by Board Members.

OLD BUSINESS

**John Clausen (T-Mobile) – 925 Drake Road
Tax Account# 028.04-1-1
Zoning: RS-20**

Regarding approval for a Special Permit for a telecommunications tower to remove and replace six (6) panel antennas and install one (1) battery cabinet on the existing tower located at 925 Drake Road.

C. Ziarniak stated there would be no Public Hearing, but in order to move forward with approving this application, Zoning Board Members must do their due diligence to make sure the tower is structurally sound. A structural analysis report of the tower from our Town Engineer is needed to make a final determination.

C. Ziarniak stated a formal ZBA application along with a structural analysis report from American Tower was received and processed with the Town on September 30, 2015. The original building permit application was submitted to the Town on August 26, 2015 by John Clausen from Network Building and Consulting out of Blue Bell, Pennsylvania (T-Mobile). After speaking with Building Inspector, C. Fabry and Building Coordinator, K. DiFilippo, J. Clausen was directed to send a formal Zoning Board of Appeals application along with a structural analysis to the Town to be reviewed first before a building permit could be issued.

Mathew T. Kerwin, an attorney for Barclay Damon representing T-Mobile was present for meeting. M. Kerwin gave a brief overview of the proposed modifications that would be done to the existing tower. He stated on sheet C-2 of the site plans which convey the tower elevation and compound plan, there would be an addition of battery modules to the existing battery cabinet at ground level. M. Kerwin stated the “bulk” of the work would be done on the tower in which six (6) antennas would be exchanged with six (6) new antennas. He referenced sheet C-4 of the site plans which gave equipment specifications. M. Kerwin identified the three (3) sectors on the antenna orientation plan, Alpha, Beta and Gamma sectors and stated two (2) antennas would be replaced on each sector. M. Kerwin indicated behind each antenna are “TMA’s” (tower mounted amplifiers) weighing 11 pounds per unit that will be added to the tower.

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C. Ziarniak asked if the new antennas weigh more than the existing antennas. M. Kerwin could not answer as to the exact weight, but referred to the structural analysis report by American Tower for detailed specifications.

M. Kerwin read aloud Section 6409(a) of the Middle Class Tax Relief Act on Wireless Facilities Deployment: **(1) In General. Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104-104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. (2) Eligible Facilities Request. For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves (A) collocation of new transmission equipment. (B) removal of transmission equipment; or (C) replacement of transmission equipment. (3) Applicability of Environmental Laws. Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.**

M. Kerwin stated the FCC issued a report in 2014 concerning Section 6409 and addressed the factors of modifications to telecommunication towers. M. Kerwin read aloud five (5) factors the Zoning Board of Appeals should consider with the proposed modifications:

1. *It does not increase the height of the building by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater;*
2. *It does not involve adding an appurtenance to the body of a tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of appurtenance, whichever is greater;*
3. *It does not involve installation of more than standard number of equipment cabinets for the technology involved, not to exceed four;*
4. *It does not entail any excavation or deployment outside the current site; and*
5. *It does not defeat the concealment elements of the eligible support structure.*

M. Kerwin debated the reason for the above application being submitted to the Zoning Board of Appeals stating the T-Mobile application should only need approval from the Building Inspector, in compliance with Section 6409(a) and Clarkson Town Code §140-16.1 G.

P. Dittman asked who is ultimately responsible for the structural analysis report. M. Kerwin stated American Tower is responsible for the structural analysis report when ANY changes are made to an existing telecommunications tower.

C. Ziarniak stated in moving forward, the process for the Town of Clarkson is ALL telecommunication tower applications will be submitted to the Zoning Board of Appeals before acquiring a building permit with the Town Building Inspector.

The ZBA is awaiting the structural analysis report from the Town Engineer. C. Ziarniak also indicated the appropriate box on the zoning board of appeals application was checked incorrectly and needs to be changed from a Request for an Appeal Variance to a Special Use Permit for telecommunications tower.

Motion by Conrad Ziarniak

Seconded by Paul Dittman

To determine that this is a Type II SEQR action and therefore, not subject to further environmental review.

Unanimously carried

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Motion by Joseph Perry
Seconded by Leslie Zink

To approve the T-Mobile application for a Special Permit regarding the existing telecommunications tower at 925 Drake Road with the following condition:

- Town Engineer approval of the structural analysis for proposed modifications by T-Mobile to the telecommunications tower located at 925 Drake Road.

Unanimously carried

REVIEW OF MEETING MINUTES

Motion by Leslie Zink
Seconded by Paul Dittman

To approve the September 16, 2015 minutes.

Unanimously carried

ADJOURNMENT

Motion by Conrad Ziarniak
Seconded by Paul Dittman

To adjourn the meeting at 8:30 pm.

Unanimously carried

NEXT MEETING

The next regularly scheduled meeting of the Zoning Board of Appeals will be Wednesday, October 21, 2015 at 7:00 p.m.

Respectfully submitted,
Kristen DiFilippo
Building Department Coordinator

Approved 10/21/2015