

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, June 7, 2010 at LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Tracy Johnson called the meeting to order. Board members Paul Bisceglia, Nancy Swanson, Gary Polhemus, and alternate Marc Komorsky were present. Aaron McPeck was absent. Rebecca Valk Esq. of the firm of Van DeWater & Van DeWater was also present for the Verizon application.

Mr. Johnson made a motion to accept the minutes of May 3, 2010 as corrected. Mr. Bisceglia seconded and the motion carried unanimously. MINUTES ACCEPTED.

### **NEW BUSINESS**

06-10-01 AREA VARIANCE: ORANGE COUNTY – POUGHKEEPSIE LIMITED PARTNERSHIP dba VERIZON WIRELESS, ROSSWAY ROAD, PLEASANT VALLEY, NEW YORK (OWNER: MARIA IOZZO) Grid No. 6562-03-370380 Seeking relief from Chapter 240-28 Schedule B, Chapter 240-49 G.(2), (5) in order to locate a wireless monopole with a proposed height of 136', and a setback of 231' from side yard and 341' from rear (tower) and 300' (accessory structure)

Clifford C. Rohde, Esq. of the firm of Cooper Erving & Savage LLP was present to represent the application. Mr. Rohde was sworn in by the chairman.

Mr. Rohde explained that his firm is the regional counsel to Verizon Wireless and they provide Verizon Wireless with zoning assistance throughout various municipalities within New York State. Mike Orchard of the firm of Tectonic Engineering who performed the site acquisition tasks associated with the project was also present.

Mr. Rohde said that Verizon Wireless is a New York State public utility and they are licensed by the Federal Communications Commission to provide wireless services throughout the region. They have concurrent applications before the Planning Board and Zoning Board of Appeals. Town Code requires that for any wireless facility a special use permit and site plan approval are required. They have submitted a comprehensive set of documents intended for both the Planning Board and the Zoning Board of Appeals.

Mr. Rohde said they were here to propose the installation of a 136' foot monopole tower with a 4' lightning rod, bringing the total height of the structure to 140'. Before they can get approval from the Planning Board they will need a number of area variances. He said the problem is that the property is a kind of boomerang shape on Rossway Road and the variances they need are a height variance and a setback variance, as well as relief from the Ridgeline Protection Overlay Zone. As far as the setback requirement is concerned, the town law requires a setback equal to three times the height of the tallest structure proposed. Their tallest structure is 140'. Three times 140' is 420'. The shortest setback they are proposing is 231'. There is nowhere on the property where they can site the tower where they would not need a setback requirement.

Mr. Rohde said he had brought a couple of presentation boards for the board to see what is being proposed.

Mr. Rohde explained that the reason they were here was because there is a coverage gap on the Taconic Parkway and parts of the town and they would like to provide safe and adequate service to those areas. Mr. Rohde said they have three different networks operating at the same time – two of them are providing voice and some data and they also have LTE or 4<sup>th</sup> generation which are very capacious data networks. They are looking to provide voice and data services in the cellular and PCS licenses and also put LTE antennas up on the facility as well to provide the fourth generation service.

Once they find a coverage gap the radio frequency engineers from Verizon Wireless turn to the site acquisition specialists to find a site in the target area. First they look at other facilities that are existing, e.g. towers or tall buildings. It is always the cell tower companies' practice to try to site facilities on existing structures as it intends to reduce the number of towers in a location. There were no co-location opportunities to fill this coverage gap so their only option is build a new facility and that is what they are proposing to do. To be able to provide the coverage required, they need to site the facility in a particular geographic location and they need also to go up to a certain height. The reason for that is that the technology that is used to provide these types of wireless services is a very low power affair. The signal does not travel very well through obstacles like foliage, hillsides, etc. Because of the topography and terrain the tower has to be of a certain height and because town code requires co-location where ever possible, this site is being designed for co-location. The height they are looking for is not primarily for co-location aims, it is so that they can provide the service they need. They try to do as comprehensive a job as they can to find a spot that is as easy and economical as possible. The radio frequency engineers advise them as to how tall the facility has to be and in this instance they need a monopole of 136' which allows them to put their antennas at the center line height of 133'. This means that is where the center of the antennas would be, and at that height the antennas would not go above the height of the monopole tower itself. Above that would be the 4' lightning rod.

There would be no way that a tower of 35' would work for them. They had provided some documentation on the radio frequency analysis that shows how the terrain is so limiting in the Town of LaGrange. They have not yet provided documentation on what the tower will look like because they need some input from the Planning Board, but they will provide visuals to the Planning Board. They are planning on doing a balloon fly at the location and then they will take pictures from certain vantage points and then they will provide simulated pictures of what the tower will look like. Because of the terrain, the tower will not be visible from a lot of places in the town, certainly not during the summer months. Even at the shortest setback proposed of 231', the maximum height of the tower would have to be 77' although it would still not satisfy the height requirement, and would still not work for them.

One of their primary targets was trying to get to that part of the Taconic and they could not get over the hill that is between the site and the Taconic and be able to provide the service because the signal would not go through the hill.

Mr. Johnson asked if Mr. Rohde could discuss why that particular site was good as opposed to another site that might have better radio transmission to the Taconic without being so high.

Mr. Orchard responded by saying that the idea was to maximize the screening. He felt this location offered a spot where the natural vegetation could be used as a buffer to screen the facility in all directions. Also there is a seasonal camp there, and not a lot of residents around. For these reasons it was an appropriate site.

Mr. Johnson asked if they went up a little higher, could the tower be shorter. Mr. Orchard said if they had a better ground elevation they could propose a shorter facility. He added that they had to factor in the FAA requirements for this particular location. They have a site restriction of 140'.

Mr. Johnson said the applicant had outlined the general ideas that they are a federal communications company and they have certain privileges that the board has to consider and that there are some physical restrictions because their transmitters have to be at a certain height so that they can be effective in reaching different areas. In their documentation they had outlined areas that had poor or inadequate reception now, and the purpose of the new tower is to resolve those issues. Mr. Johnson said it was the board's job to decide if this location is the best one as far as the community is concerned and also he did not think that the board has the expertise right away to question the basic coverage limitations that had been outlined in the documentation. The board had looked at those things in the past and they have been very difficult to pin down.

Mr. Johnson continued that the procedure would be to get concerns from the public first, and then the board would like to coordinate with the Planning Board in terms of seeing a balloon test and getting some visuals before giving a height variance.

Mr. Johnson asked if the board had any questions. Ms. Swanson said there is a reference in the code concerning a residence within 500' of cell tower. She asked if there were any residences within 500' of the proposed tower. Mr. Orchard said there were none. That was a major factor in selecting that location.

Mr. Polhemus asked if the applicants could describe the process they went through in selecting the site. Mr. Rohde said there is not much more to add than what is in the written material although they would be happy to respond to any particular questions. They did go out to look for existing sites to see if there was the possibility of co-location. That is what they try to do because it makes economic sense and it tends to make people happier than proposing a new tower. They could not find a place that would work, and they did step outside the search ring to look for towers or tall structures that maybe were not in an ideal place but there were none there either. Mr. Orchard said there were two existing facilities, one called Global Tower Partners located north-west of the proposed facility and they are currently on that one. The second tower they looked at, on Velie Road is an existing tower owned by Crown Castle which is 2.6 miles south east of the proposed facility and they are also on that structure. They also looked at an existing American Tower facility on Vervalen Drive. They are not currently on that tower but they have plans for an additional facility in

that area. Mr. Orchard said he is required to submit all existing facilities for analysis whether in his search area or not, just to see whether they can utilize anything that is out there.

Mr. Rohde said that in the very early days of the industry, carriers tended to put up facilities high on a ridgeline, called boomers because they boomed out a signal all around. That doesn't happen any more. One reason is that people do not like towers high up on the ridgeline, but there are also important network considerations. In an area like this in LaGrange, if you have a tower here it more or less covers a service territory of a 2 to 3 mile radius. So that is why you will find the amount of towers that you do and by having sites that are limited by the low power so the signal doesn't go very far, you need another tower 4 or 5 or 6 miles away so there is a seamlessness to the network

Mr. Komorsky asked if it is their plan to have a tower every 4 to 6 miles in the Town of LaGrange or other places. Mr. Rohde said he can't speak for Verizon's plans but it is a pretty organic process and network facilities emphasize where people are and in more populated areas one would see facilities closer together because they are also providing more capacity, so while the coverage might be there, extra capacity is needed as well as there is only so much wireless traffic that you can send through these antennas. In LaGrange, while being a fairly unpopulated area, people are moving through the area, and as people come so does the network.

Mr. Bisceglia asked if this is the only parcel of land which is feasible and has been looked into for the applicant. Mr. Orchard said that in the immediate area there is not another parcel without a house on it. This was the one parcel that had a seasonal camp site on it which was not a year round residence and had a spot on the parcel that allowed them to meet the 500' setback requirement. Mr. Bisceglia asked if the 500' distance is to the dwelling or to the parcel of land. Ms. Valk said it would be to the dwelling.

Mr. Johnson suggested that they open the public hearing for comments, after which they would probably want to adjourn the public hearing and coordinate with the Planning Board to look at the SEQR and visual aspects.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application.

Dick Dawson, 471 Rossway Road said when he came to the area in the early 1970's he saw the Skidmore Road/Rossway Road area and he was thrilled with the the hills and valley, and Piersons Farm and the open space. His view is very good, he can see down into Putnam Valley. He can see the tower off Velie Road. If they put a tower on Rossway Road he will lose the view. Other people on Rossway Road will see the tower and it will be visible from the open space area of Piersons Farm, especially when the leaves fall. The open space was to keep the rural area of the Town of LaGrange. They fought for the Ridgeline Protection Overlay Zone years ago and they hoped that would provide some security from the towers and keep the integrity of the land and valley as it was. There is a cell tower to the north on the power lines. Once the population increases they will see cell towers all over the place. There are other engineering possibilities they could use by putting a tower in a valley and projecting. He understands they are trying to go with a minimal expense but the people are

trying to provide a continued rural area in the Town of LaGrange. Mr. Dawson has a TV antenna for digital TV reception and am radio and he was afraid that a cell tower might interfere with those. Mr. Dawson made reference to the lodge on the property. He said people do live in it but it is a structure and should be on the tax rolls. He also thought the Dale Robin house to the north was within the 500' of the proposed tower. Mr. Dawson said the tower would be viewed, not only by Rossway Road but by Skidmore, Gidley and Sunset Hill. He felt all those people would see this tower and it will obstruct from their view, especially on the ridgeline. Mr. Dawson said people in the immediate adjacent area were notified but he felt that everybody who would be in view of the tower should have been notified because the Ridgeline Protection Overlay Zone was put in to protect them. Mr. Dawson said open space is an issue after a lot of money has been spent on open space and then you could have cell towers towering over it.

Mr. Dawson read from Town Code Section 240-31 F. Ridgeline Protection Overlay Zone. "Purpose. It is the purpose of this overlay zone to protect the aesthetics, scenic and ecological character and nature of the higher-elevation areas". He said he is up about 700 feet. "Ridglines and hilltops are exceptional aesthetic and ecological resources, and ensuring that tree lines are uninterrupted and ridgetops are free from visually intrusive man-made structures..." Mr. Dawson said the law was written and passed to protect these areas. He felt Verizon should have to go to other locations. Other towns have denied access to cell towers because of scenery.

Mr. Joe Lombardi of 469 Rossway Road said he is a Verizon customer. When he got his cell phone 2 years ago two out of every three calls dropped. His service is now much improved. It seemed to him that if they want to build a tower that covers a good portion of the town it should be done in such a way as to have the least impact in terms of seeking variances. He asked the applicant if they could take a look at the area just west of Baird Park which is the Taconic Parkway. If you drive the Parkway, about 1,000 feet south of the Mountain Road crossing it is one of the highest points in LaGrange where you can see the Catskills and the foothills of the Taconic. If Verizon were to take a look at that spot, it is state land and the state is in need of a source of revenue, and Verizon could provide that and could do it without having to obtain variances from the town. He seconded what Mr. Dawson had said about the Ridgeline Protection Overlay Zone because that is important. He did understand the need for better service but it could be received with a different location and Verizon should look at something other than the property that they are proposing. He stressed that there is a structure on the property.

Mr. Johnson asked the applicants if they would like to comment on the possibility of putting a tower in something like Baird Park. Mr. Rohde said putting towers on parkland is almost never done. It requires a special act of the New York State Legislature, and there are other issues relating to funding, whether it is state or federal funding used to create parkland. He said it is probably the one reason why one would rarely see cell towers on public parkland.

Mr. Dawson said right by Baird Park there is a large median there. He said Mr. Lombardi was not only talking about Baird Park but also the median which has a high altitude.

Mr. Walt Skuza, 507 Rossway Road said he had questions about alternative sites. He wanted to know the height of the existing topography, where they are proposing the tower, if there is higher ground further away, and the possibility of using medians. He felt there must be other sites available that would be less adjacent to structures and people. Mr. Skuza added that if there is a structure on the property, whether it is seasonal or not, would the occupant not get protection because it is seasonal?

James Bisceglia, Skidmore Road said he represents himself and the Piersons who are his in-laws and he helps take care of the farm there. Mr. Bisceglia said there was a bond overwhelmingly passed to preserve open space and part of that process was a study in which it was determined that the Skidmore Road area was the most scenic area of LaGrange. Mr. Bisceglia said it is objectionable to him because he does not want it in his back yard, just like anyone else. But because the town is spending an awful lot of money to preserve the property and also because it is so scenic, he finds it highly objectionable to put it in that location. It will be in plain view of the Skidmore Road valley and he would like the board to find an alternate location. He understood that the cell tower company has a lot of rights and there are a lot federal laws that the town has to abide by. One of the decisions about the laws was overturned a couple of years ago and Mr. Bisceglia presented a copy to the board members. The law that was overturned was to do with the aesthetic basis of a cell tower zoning ordinance, which meant that because of what the town had already established, they could turn it away, simply on the basis of aesthetics.

Mr. James Bisceglia continued that he would like to see alternative locations explored. He said there is a cell tower on the power lines at the top of Rossway Road which is in close proximity to the proposed tower. He questioned the area of overlap. He understands that is pretty technical but he would like to see that.

Al Rabasco, 478 Rossway Road said he owns the adjacent property. He assumed the area wanted for coverage is the Taconic State Parkway. Mr. Johnson said that is an area that has been indicated is deficient right now but there are other areas. Mr. Rabasco said he owns both sides of the Parkway and Dutchess Squire owns 200 acres on the Parkway side. He said that land is much higher than the Iozza land. It is over 1,000 feet deep, and there is no house on that land. If you were half way down that hill, a 160' high tower would not be seen by anyone on Rossway Road or anyone else unless you were on the Parkway. Mr. Rabasco wondered whether that area was looked at.

Mr. Johnson asked Mr. Rabasco to describe the land a little more closely. Mr. Rabasco said there are more than 200 acres near where the motel is. Mr. Rabasco owns some of the property. There are no houses on that property and the land is much higher there. If they went half way down the hill there they would cover the Taconic, and no one on Rossway Road, Mountain Road or Skidmore Road would see a tower at that location.

Mr. Johnson asked what side of the Taconic was he talking about. Mr. Rabasco said the LaGrange side, not the Pleasant Valley side. The old town road goes through the property.

Peter Arnucci, Skidmore Road said first of all there are the variances that have to be worried about. Secondly, open space. He said there are power lines going through the whole valley.

Why can't a cell tower go on one of the power lines? He thinks they are trying to do the easiest and cheapest thing.

Al Rabasco said his neighbor Dale Robin could not be at the meeting but he had asked what the distance was from his house to the proposed tower.

Joe Lombardi wanted to clarify some confusion about his earlier comments. His intent was not to suggest Baird Park for a tower, he used that as a point of reference. He pointed on the map to the median of the Taconic which is high and the tower could look like a pine tree.

Beverly Goetz, Sunset Hill Road said the tower will be an eyesore for the people on Sunset Hill Road who look over the Piersons property. The bond has been passed for the open space and it would be a great shame to put the tower there.

Bradley Jones of 6 Ridgeview Lane said Verizon is asking the people in the vicinity of the tower to make a sacrifice to give up the beauty of the town and he asked what would the people be getting in return. Mr. Johnson said one of the points the applicant makes in their application is that the various services will be improved for the local people.

Joe Guerreri, 2 Ridgeview Lane said he is confused as to why this site was selected. He is a Verizon subscriber and he relies on his phone and travels up to the Albany area on the Taconic State Parkway. He has no loss of coverage until he gets to Colombia County.

Mr. Johnson said he thinks a number of issues have been covered and the purpose of public hearings is to get input from the people who live in the area. He suggested that if there were no further comments, the public hearing would be adjourned this evening so that there would be another opportunity in the future for people to bring up other points.

Richard Dawson, Rossway Road said if the board allows input to the next meeting, he understands Verizon is on the Planning Board agenda, so when would a decision be made by the Zoning Board of Appeals.

Rebecca Valk said the Zoning Board of Appeals cannot make a decision until the Planning Board has issued a determination to the State Environmental Quality Review Act. The ZBA is in a holding pattern until the Planning Board makes a determination. The applications are running on parallel paths but because the State Environmental Quality Review Act requires a coordinated review the Planning Board is acting as lead agency and this board cannot make any decisions under New York State law until the Planning Board issues a decision.

Mr. Dawson said what does the public do next? Ms. Valk explained that there will be a public hearing scheduled before the Planning Board, probably in July. Mr. Dawson asked if only the adjacent property owners will be notified of the public hearing. Ms. Valk said there will also be notices on the town web site and in the Poughkeepsie Journal. Mr. Dawson asked if they should participate in the Planning Board meeting if they have objections to the cell tower. Ms. Valk said that is his decision but there will be a public hearing before the Planning Board for separate considerations. It is not a response to this evening's comments, that board is a separate entity looking at separate issues.

Mr. Johnson said there are two tracks going on. There is the SEQR review, which is one process and when that is over the ZBA considers the variances and the Planning Board considers the site plan decisions.

There being no other comments, Mr. Johnson made a motion to adjourn the public hearing until the next meeting, at which time the board should have some idea of what the Planning Board procedure would be. Mr. Polhemus seconded and the motion carried unanimously.  
PUBLIC HEARING ADJOURNED TO JULY 12, 2010

Mr. Johnson said the way the rules are written right now, the town is only required to notify the immediate adjoining neighbors, and what he suggested is that people call up the town or look at the web site to find out the agendas for the various meetings.

Mr. Johnson invited Mr. Rohde to address some of the comments from the public which might clear up some of the issues. Mr. Rohde said there had been some mention about the interplay between federal law and municipal oversight over zoning. He said that was true. Federal law encourages the deployment of wireless services, and they have carved out a portion of the process for municipalities to look at local zoning. In this case for public utilities in New York State whether it be cellular providers or other types of public utilities it is a different standard of review for variances. The question is whether they need the facility to provide the service they are required to provide and if there are compelling reasons, economic or otherwise to justify the variance. Public utilities serve the masses and they are facilities that people do not always want to be near them but they depend on them for the services they provide, and it is impossible to site any public utility structure in a place that will please every single individual.

Mr. Rohde continued that some people had mentioned a variety of towers throughout the town that are visible. It is true, they are a fact of life these days. If it was not Verizon Wireless it would be other providers. They have provided ample information about the amount of usage that there is nationwide of cellular service. People want the services so that people can communicate, first responders, emergency personnel are able to get access to information about emergent situations. There was some mention of interference. The applicant had provided information regarding radio frequency and interference. As an FCC licensee they are not allowed to interfere with other signals and this site would not do that. If it does there are mechanisms in place to correct it. There was a question about the structure on the property. He believed that structure was over 1,000 feet away from the proposed facility. and that is the closest structure.

Board member Paul Bisceglia said he is a Verizon customer and his service is excellent so he is surprised that they require an additional tower in this location.

Mr. Polhemus said there were a number of sites brought up by people in the audience and he wondered if there would be a response as to their appropriateness more or against this site. Mr. Johnson said this is an area where they would be able to work with the Planning Board and explore that question. Mr. Orchard said at the next meeting he will bring the radio frequency person but they would like to know the specific sites mentioned.

Mr. Johnson suggested that they adjourn the meeting to the July 12<sup>th</sup> meeting and in the meantime they would coordinate with the Planning Board in order to get the SEQR process going and do more research in terms of other areas that might be appropriate for the town to ask Verizon about.

Ms. Valk said between this month and next month she was going to provide a letter about the legal standard and some guidance on that part. The synopsis is very succinct and she would like to give more background so they have some understanding of the court's decision behind that standard.

At this point, Ms. Valk left the meeting.

06-10-02      AREA VARIANCE: DAVID PAGETT, 14 NANCY DRIVE,  
LAGRANGEVILLE, NEW YORK Grid No. 6559-01-138526  
Seeking relief from Chapter 240-29 G.(1) which requires a minimum setback of 25' from the property line in order to construct a 12' x 18' shed with proposed setbacks of 20' from the rear property line and 13' from the side property line.

Owner David Pagett was present. Mr. Pagett was sworn in by the chairman.

Mr. Johnson asked Mr. Pagett to describe the shed and explain what it would be used for.

Mr. Pagett said he is a self-employed contractor and he has a lot of tools. His garage already has a lot of tools and a hot rod car and he needs more storage.

Mr. Johnson referred to a photograph of the shed which is on blocks and is one story with a very small roof. Mr. Johnson thought it was about 12' high. Mr. Pagett said probably more like 9'. Mr. Johnson said this is a pre-existing nonconforming lot. The setback referred to is what was existing at the time the lot was created.

Mr. Komorsky referred to the application which said Mr. Pagett was looking to construct a shed but there are 2 sheds there already and the one pictured is there already. He asked if he was planning on taking one of the sheds down and constructing a new one. Mr. Pagett said one shed has his lawn equipment. The other shed was obtained from a friend who lost his house to foreclosure. The shed had to be removed from the friend's house and he took possession of it, knowing that it would need a variance. He placed the shed in the furthest out-of-the-way place where it would not be visible from the neighbors. Mr. Pagett has always got permits for his improvements and the only reason the shed is existing is because he did not want to have a \$3,000 shed go to waste.

Mr. Polhemus said he did visit the site and met Mr. Pagett and he agreed that it was on the best spot on the property, furthest away from the neighbors.

Ms. Swanson said she had also visited the site that day and just wanted to know if someone was living in the garage up front. Mr. Pagett said no, there is a hot rod in there.



Owner, Nick Lambusta was present. Mr. Johnson asked Mr. Lambusta to describe the shed and what it will be used for. Mr. Lambusta said it will be used for storage. He has a lot of equipment. His garage is used for storage of a 63 chevy, and he has a lift in the garage to try and get one bay to hold 2 cars. The shed will be used for outdoor equipment, lawn equipment, tools, etc. The shed will be no more than 12' high; it will resemble the house and will be at ground level with the garage. Mr. Lambusta said he would use the exact siding to match the house and the same roof material.

Mr. Johnson said he assumed the shed would be used for storage with double doors and there would be no second story above it. Mr. Lambusta said that was correct.

Mr. Lambusta said the reason he needs a variance is because he is limited to a 10' setback from the house because he does not want to sheetrock the whole inside of the shed and he would lose all of the overhead space. He added that aesthetically he didn't want to come any closer to the house.

Mr. Komorsky asked if he means he doesn't want to move over to the drainage area where the stones are. Mr. Lambusta said no, he meant closer to the house.

Mr. Komorsky asked what kind of floor the shed would have. Mr. Lambusta said it will be concrete. He is also going to ask Toll Brothers to continue the drainage away from his home. Mr. Komorsky asked if there would be any utilities in the shed. Mr. Lambusta said there would be no electric.

Ms. Swanson said she did not understand the reference Mr. Lambusta made to the shed being sheet-rocked. Mr. Lambusta said it was his understanding that if a shed is within 10' of a home, for fire code reasons you have to have a sheet-rocked interior.

Mr. Johnson said the way it looked, the shed would be even with the current pavement on the side away from his house. Mr. Lambusta said that was his intent, to try to follow that line created by the driveway which puts him at the 4' offset.

Mr. Johnson wished to make a note of the fact that Mr. Lambusta's back yard drops off fairly steeply. Mr. Lambusta said he has a four foot wall and he has a level backyard for about 20' and then it goes up a very steep hill to a conservation area.

Ms. Swanson asked if Mr. Lambusta was in a homeowners association. Mr. Lambusta said no.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There being no questions, Mr. Johnson made a motion to close the public hearing. Mr. Polhemus seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Ms. Swanson said somewhere in the application a four foot fence to go around the shed was mentioned. Mr. Lambusta said between the shed, the retaining wall and another concrete structure that comes out from his house that is the entranceway to his basement, he would

like to follow the lines and put in a wrought iron fence from the shed to the house and from the shed to the wall which would give privacy on that side.

Mr. Johnson said, just as a comment, in terms of the sizing of these lots, it is discouraging to have a brand new building that needs a variance to put something up.

Ms. Swanson asked if Mr. Lambusta knew if the land on the side of the house was part of the open space. Mr. Lambusta said no, all the conservation area is behind the house. Ms. Swanson said that when an application is before the Planning Board they can require buffer areas between the properties. Mr. Lambusta said he did not see how the shed could be in a buffer area because the retaining wall is another 15' past where the end of the shed would be, assuming it gets approved.

Mr. Komorsky said from the end of the property line on the side with the shed, there is quite a bit of footage until you reach the other house. Mr. Lambusta said there will be a house going between his lot and the model house on the other side. Mr. Komorsky asked if it would be on the other side of the drainage stone work. Mr. Lambusta said when he saw the maps, the end of the house would be probably 10' to his side of the drainage ditch. He said the stakes are up now for the lot. Mr. Johnson said when he went out there he thought that was a drainage easement.

Mr. Bisceglia asked if Mr. Lambusta had considered turning the shed 90° to reduce the setback 6' so the need for a variance would not be necessary. Mr. Lambusta said it would give him access to the shed into the backyard which he did not want to do and would put him right at the retaining wall. Mr. Bisceglia said he did note that at that point the terrain just begins to rise.

Mr. Komorsky made a motion to grant Nick Lambusta relief of 6' from the property line in order to construct a 19' x 12' shed on his property with a proposed setback of 4' from the property line.

Mr. Johnson questioned the actual size of the shed as there was conflicting documentation.. Mr. Lambusta confirmed that it was 19' x 12'.

The motion having been made, Mr. Polhemus seconded and the motion carried unanimously.  
AREA VARIANCE GRANTED

Mr. Johnson then went through the record of findings:

Character of the Neighborhood and Detriment to Nearby Properties:

This is a new neighborhood. The buildings are all quite substantial and it was designed to cluster the buildings in order to leave open space. The fact that the proposed shed is relatively close to the property line is in keeping with the general concept of the development. There is no structure on the adjacent lot now and considerable work will have to be done to make the lot buildable.

Alternative Methods for Achieving Benefit Sought by Applicant:

The applicant is looking for a location to place the shed. There is a steep slope behind the building and a 4' concrete block retaining wall about 30' away from the back of the house so there is no accessible space behind the existing dwelling.

**Substantiality of Variance Requested:**

This is a substantial request. There is some question as to what the actual setback is as there is nothing specific in the town code but the suggested setbacks are on the actual plot

**Effect or Impact on Physical or Environmental Conditions in the Neighborhood:**

Aside from the structure itself, which will be a one-story building constructed in the same style as the existing building there will be a visual continuity between the two, so the general impact will be minimal.

**Self-Creation of Difficulty:**

The difficulty is self-created but the benefit of the structure for the applicant would offset the self-created difficulty.

There being no other business before the board, Mr. Johnson made a motion to adjourn the meeting at 9:15 p.m. Mr. Bisceglia seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley  
Zoning Board of Appeals Secretary