

VILLAGE OF DOLGEVILLE

41 North Main Street

Dolgeville, NY 13329

Telephone: (315) 429-3112 Fax – 429-3113

Village Website – villageofdolgeville.org

E-Mail – clerk@villageofdolgeville.org

TDD: (315) 477-6447

ZONING BOARD OF APPEALS

Chairperson – Joseph Viscusie

Members

Randy Barnes, Brenda Naizby, Mark Riley, Vacancy

Recording Secretary – Tammy L. Chmielewski

November 2, 2020

ATTENDED: Robert Griffin, Peter & Ruth Jaikin, Julia Jaikin, Brenda Blask-Lewis, Matt Kerwin, Michele Armstrong, Lorrie Mott, Bruce Lyon.

ZBA Chairperson Joseph Viscusie at Village Hall called the Village of Dolgeville ZBA Meeting to order at 6:00 p.m. Pledge of Allegiance recited.

ATT&T Cell Tower Chairperson Joseph Viscusie noted this is a working meeting.

Let it be known and recorded as an addendum to the original petition as submitted by Michele Foster Armstrong be entered into the meeting minutes, read by the membership and placed on file.

Last meeting board worked on the SEQR application and found it prudent to review and redo in accordance to SEQR guidelines. Joe might need reference from Matt Kerwin at some point in the meeting.

Board will complete the Full Environmental Assessment Form Part II (SEQR).

- | | |
|-------------------------------------|--|
| 1. Impact on Land | Yes – due to alteration of the land surface. |
| 2. Impact on Geological Features | No |
| 3. Impacts on Surface Water | No |
| 4. Impacts on groundwater | No |
| 5. Impact on Flooding | No |
| 6. Impacts on Air | No |
| 7. Impact on Plants and Animals | No |
| 8. Impact on Agricultural Resources | No |

- | | |
|--|---|
| 9. Impact on Aesthetic Resources | No |
| 10. Impact on Historic and Archeological Resources | No – already addressed when they reduced the height due to SHPO (Daniel Green factory.) |
| 11. Impact on Open Spaces and Recreation | No – designated under laws, the fire department sets on property that is not a recreational resource. |
| 12. Impact on Critical Environmental Areas | No |
| 13. Impact on Transportation | No |
| 14. Impact on Energy | No |
| 15. Impact on Noise, Odor, and Light | No |
| 16. Impact on Human Health | No – discussion about airwaves and electromagnetic fields – shows no relevance and no contaminants raised here. |
| 17. Consistency with Community Plans | No |

Planning Board ran SEQR – signed and adopted.

Current Zoning Law has a provision for cell towers. ATT&T provided an applicable standard under Exhibit 4 of their application stating: Compliance with legal standards for a Public utility.

Telecommunication facilities that require a variance are not governed by the usual variance criteria (*e.g.*, whether the variance is substantial, whether the situation was self-created, etc.), but instead by those standards established for a public utility. *See Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364 (1993). A provider of wireless services must show only that (1) the requested relief is “required to render safe and adequate service,” and (2) there are “compelling reasons, economic, or otherwise,” for the requested variance. *Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364, 372 (1993). A municipality must therefore afford special treatment to a public utility when considering its zoning application.

Board will complete the Full Environmental Assessment Form Part III (SEQR).

Upon review of this information recorded on this EAF, as noted, plus this addition support information: Refer to Exhibits 1-12, and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the Dolgeville Zoning Board of Appeals as lead agency that:

- A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

The Board will request one condition under Use Variance Findings and Decision – page 3 – Conditions.

Use Variance Findings & Decision

1. The Applicant cannot realize a reasonable return, as shown by competent financial evidence – Proof – Exhibit 4.
2. The alleged hardship relating to the property is unique – Proof – Exhibit 4.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood – Proof – Exhibit 4.
4. The alleged hardship has been self-created – Proof – Exhibit 4.

Determination of ZBA based on the above factors:

The ZBA, after reviewing the above four proofs, finds:

That the applicant has proven unnecessary hardship through the application of the four tests required by the state statutes. In finding such hardship, the ZBA shall grant a variance to allow use of the property in the manner detailed below, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(USE) Cell Phone Telecommunication Facility.

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: Mono pole must blend in with corresponding tree line, i.e. camouflage – greys, blacks, whites (custom print).

Condition No. 2: N/A

Condition No. 3: See condition 1

Condition No. 4: N/A

Joseph Viscusie made a motion to bring variance to a vote.

Record – Poll the Board		Vote
Chair	Joseph P. Viscusie	AYE
Member	Randy L. Barnes	AYE
Member	Mark T. Riley	AYE
Member	Brenda E. Naizby	NAY
Member	Vacancy	

By Randy Barnes

Motion to accept vote as read sec. Mark Riley. Ayes all.

Member Benda Naizby submitted a letter to Chairperson Viscusie as her rationale for a nay vote and it was offered to members to read and requested it be placed on file.

Matt Kerwin wanted to thank the ZBA and public for their input, time and effort.

Joe wanted to thank Matt and ZBA for their time and noted AT&T had exhausted every possibility.

Matt – next step is getting the building permit after doing soil sampling with a geo tech. Construction should begin in early spring 2021. Point of Contact will be Brenda, she will detail timeframe and arrange access.

By Joseph Viscusie

Motion to adjourn ZBA meeting @ 6:38 p.m. Sec. Brenda Naizby. Ayes all.

