

**TOWN OF BRANT  
PLANNING BOARD  
MINUTES OF THE MARCH 7, 2024 MEETING  
Brant Town Hall, 1272 Brant North Collins Rd, Brant, NY 14027**

DATE	J ROSS 2027	BRODIE 2024	GIACCHINO 2028	D RITZ 2030 Chair	CLARK 2026	HASKINS 2029	CZYZ 2025	ALT 1 PANTERA	ALT 2 RAUKER
1/3/24	CANCEL	CANCEL	CANCEL	CANCEL	CANCEL	CANCEL	CANCEL	CANCEL	
2/6/24	present	Excused	Present	Present		Present	Present	present	
3/7/24	Present	Excused	Present	Present	Present	Present	Present	Present	present

**Also present was:**

Jeneen Hill	Code Enforcement Officer
Jeffrey Twitty	Nixon Peabody LLP/Verizon
Cheryl Schultz	Airosmith Development
Corey Matuszak	Variance applicant

Chairman Debra Ritz called the meeting to order at 7:00 pm. She introduced the new Code Officer Jeneen Hill and the newly appointed Planning Board alternate Sheila Rauker. She also acknowledged Variance Applicant Corey Matuszak, whose application will be reviewed by the Planning Board at this meeting. She then acknowledged the attendance of 2 representatives of Verizon who have applied to erect a new Verizon Cell Tower on Route 5. She explained that the Planning Board is not ready tonight to review the Cell Tower application. She explained the Code Enforcement Officer will inform the Planning Board what is required for the review.

**Approval of February 6<sup>th</sup> Planning Board meeting:** The Chairwoman requested a motion to approve the minutes of the February Planning Board meeting. Janice Ross motioned to approve the minutes and was seconded by Becky Haskins. 6 ayes, 0 nays. MOTION CARRIED.

**FIRST NEW BUSINESS ITEM:**

Debra presented the Board members with written literature from ZBA Chairman Frank Brought that explains the criteria to consider when reviewing applications for area variances. She asked the Board to study the information for future variance applications and to bring it with them to meetings with pending applications. Code Officer Jeneen explained that she uses the five questions listed in the literature when considering area or use variance application.

**SECOND NEW BUSINESS ITEM:**

The Chairman addressed the applicant Corey Matuszak requesting he explain his application. Mr. Matuszak explained that he just wishes to build a three-car pole barn within six feet of his home. He was advised that since the barn would end 17 feet from the side property line and would end 21 feet from the rear property line, he would need an area variance. He continued that the current code requires a 50-foot setback. He also stated he is within 500 feet of a county Road, so they had to be notified. The Code Officer stated the county has thirty days to respond.

It was noted by the applicant that the ZBA Chairman had given him the documents necessary for the neighboring properties to be notified and them to sign acknowledgment. The paperwork included a copy of the March 25<sup>th</sup> Zoning Board of Appeals Public Hearing Notice regarding the application. Discussion began regarding his need to obtain signatures. After discussion the applicant was advised that he could also send certified letters, return receipt requested. Debra notified the applicant that there are other delivery options. She advised a good way to notify the neighbors would be to send one notice by certified mail, and one duplicate mailing via regular mail. If the one mailed via regular US Mail isn't returned, it would be considered substitute service.

Debra then spoke regarding the five questions that the Zoning Board would have to consider. The first being "Would the project have an effect on neighborhood character." She noted her opinion would be that the project wouldn't affect the neighborhood, but asked if anyone present had any concerns.

The second question would be "Is there room to put it anywhere else". Corey responded that the other side of his property has a creek on it. Where he would like to put it is where his driveway is. He stated his property is approximately 2 acres. The Planning Board reviewed the aerial photo provided with the application. He described where he would like to put the building.

Debra addressed the question if the problem is self-created. She asked the Planning Board to mention any concerns they had. The consensus was that the Planning Board was in favor of the project moving forward. Janice Ross then made a motion to recommend the application be approved. Diane Czyz seconded the motion. 6 ayes, 0 nays. MOTION CARRIED.

### **THIRD NEW BUSINESS ITEM:**

The Planning Board Chairperson then acknowledged the Nixon Peabody representatives present and asked the Code Officer to advise on the status of their application. The Code Officer explained that on February 29<sup>th</sup> she sent notice of their application to Erie County Planning and NYS D.O.T. Both agencies have 30 days to review the application. Jeneen mentioned that Gordon Casey of the D.O.T. will be coordinator for the SEQR. Jeneen already gave the site plan to him. Debra was unsure of what would be expected, and Jeneen spoke likewise. It was mentioned that Mr. Casey would provide the information. Mr. Twitty (Nixon Peabody Attorney) stated nothing can move ahead with the Town Board until the Town receives the referral from the State and County and a Negative Declaration. The Town Board at that time would be named Lead Agency. Mr. Twitty then explained their project. He stated Verizon Wireless had identified a gap in the western part of the Town, and to remedy this, they are proposing a 125 ft Monopole Tower to be erected at 10825 Erie Road. A gravel road will be installed to access the Tower and will be 300 feet from the nearest property line. He stated the tower won't have much of an impact in the area but will allow Verizon to achieve their goals.

Debra asked if they are aware that the landowner will have to be named applicant. Mr. Twitty did not know that. She then shared correspondence from NYS D.O.T. wherein it mentions this requirement. Mr. Twitty stated that section (L) to the application states that this is a land agreement between the landowner and Bell Atlantic, who is an entity of Verizon.

Debra asked what happens after the County and State approve. Jeneen responded the SEQR paperwork, the Planning Board reviews it, and it goes to the Town Board. They questioned if a Variance would be required. Discussion about the possibility of a Special Use Permit being required. The Family Life Tower was discussed, and it was noted that a Special Use Permit was required. Don Clark asked about a wire

bridge mentioned in the application. The applicant noted that it is a bridge of wires to prevent ice balls. The applicant explained the bridging means the wires being run from outside the building that houses the equipment to the Tower.

Don Clark asked about requiring a decommissioning fee. Debra noted that Town Attorney Bill Trask will need to be involved in the process.

A question regarding the name of the project, "Seneca Gaming". The applicant stated that this was the name of the project, not the location. The amount of wireless traffic coming from Seneca Gaming resulted in the name.

Debra asked Mr. Twitty if he reached out to the Town Attorney regarding an escrow for the project. He stated he was told Trask retired. Debra stated he had retired from private practice but is still the Town Attorney. The Planning Board secretary asked for his email address stating she will forward it to the Town Attorney, and he will reach out to him. Debra advised him to reach out to the Town Attorney regarding the possibility of an escrow. She added the Planning Board does not handle that portion of the application and he should handle this while we await the State and County response.

Discussion regarding the zoning of the parcel. Mr. Twitty responded that the access entry is zoned Commercial, and the land where the Tower will sit is Industrial. Debra then stated she didn't think a special use permit would be required because of the zoning. She will speak with the Town attorney. Mr. Twitty answered that after he reviewed our code, he discovered the code states "All Communication Towers require special use permit".

At the conclusion of discussion, Janice advised that the next Planning Board meeting is scheduled for April 2<sup>nd</sup> and will conflict with Voting. Debra then asked if everyone was ok with the 3<sup>rd</sup>. Everyone is ok with it. The Planning Board meeting was then changed to Wednesday April 3<sup>rd</sup> at 7:00 pm.

Prior to closing the meeting, Debra asked if anyone had anything they wished to bring up. The house on the corner of Rte. 249 and Hammond was mentioned. At 8:00 PM, Janice Ross motioned to adjourn the meeting, seconded by Becky Haskins. 6 ayes, 0 nays. MOTION CARRIED.

Respectfully submitted,

Barbara Daniel  
Planning Board Secretary

**TOWN OF BRANT  
PLANNING BOARD REPORT  
3/7/24**

**BRIEF SUMMARY OF DISCUSSIONS:**

- REVIEW AREA VARIANCE APPLICATION OF 10068 BRANT ANGOLA ROAD (PB Recommends approval). LETTER TO BE SENT TO ZBA.
- PRELIMINARY REVIEW AND DISCUSSION ON APPLICATION STATUS RECEIVED FROM VERIZON REGARDING A CELL TOWER AT 10825 ERIE ROAD.
- CHANGE APRIL MEETING DATE FROM APRIL 2<sup>ND</sup> TO APRIL 3<sup>RD</sup> DUE TO ELECTION DAY.