

VILLAGE OF SOUTH NYACK
Zoning Board of Appeals Minutes
November 1, 2016

PRESENT: Roger Seiler – Chairman
Bruce Forrest – Member
Frank Richards – Member
DeWitt Rulon - Alternate Member

ALSO PRESENT: Sokuna Mam – ZBA Secretary
David Majeski – Building Inspector

ABSENT: Richard Holt – Member
Charles Cross – Member
Robert Knoebel – Attorney for Zoning Board

Mr. Seiler called the meeting to order at 7:35 pm. This meeting was noticed to the public on October 26, 2016. There were two items on the agenda.

An appeal by New Cingular Wireless PCS, LLC (“AT&T”) for Salisbury Point Cooperative from Article XI, Section 110-11.1, Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 4 of the Zoning Law of the Village of South Nyack for an area variance to change existing area and bulk utilization, to modify the existing rooftop telecommunications facility. The premises is a multi-family dwelling located at 4 Salisbury Point, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.78-1-27, and is located in a HRA Zoning District.

An appeal by Daniel Sherman on behalf of Salisbury Point Cooperative from Article XI, Section 110-11.1, Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 4 of the Zoning Law of the Village of South Nyack for an area variance to change existing area and bulk utilization, to modify the north parking entrance and provide new, curbing, walls, fencing, signage, lighting and landscaping. The premises is a multi-family dwelling located at 2 Salisbury Point, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.78-1-27, and is located in a HRA Zoning District

Case #1 – 4 Salisbury Pt.

Appearing: Daniel Laub, Esq. Associate Cuddy & Feder LLP

Mr. Laub is seeking area variances to change an existing area and bulk utilization, to modify the existing rooftop AT&T facility on building # 4 Salisbury Pt. The Planning Board approved the application and was recommended to come before the Zoning Board to seek variances. He explained that AT&T proposed replacing (6) six of its twelve (12) existing panels with new panel antennas same in kind, replace six (6) small remote radio heads. One of the buildings antennas are flush mounted and painted to match. The enclosures go around the antennas and the Radiohead

goes behind the parapet. The antennas will be attached to the side of the building. On the ground there's a shelter on the south side of Salisbury Pt. Coop. that houses the equipment and that operates the antennas. The Village Engineer's stated at the Planning Board that the landscaping needs to be replaced around the shelter.

Mr. Seiler clarified Mr. Laub proposal. AT&T proposed to replace antennas and they will be similar in size and shape. The Zoning Board was concerned the weight of equipment will affect the roof.

Mr. Laub commented that the equipment will be replaced like and kind additional. The structure report was submitted to the building department. The analysis report shows the weight is bearable on the roof and there's no increase in height.

Mr. Richards asked whether the proposal constitutes an eligible facilities request and whether the proposal would cause a substantial change to the existing facility.

Mr. Laub commented that the FCC law stated that the local government must grant the approval on an expedited basis if the applicant meets eligible facilities criteria. If the telecommunication towers are not raised more than 10 feet in height or 6 feet in width, therefore it's not a substantial change. However, if it entails any extra excavations that were not previously approved or it involves adding more than four interior shelters (cabinets) then it's not eligible under federal law.

Mr. Richards asked if there is any additional height to the towers.

Mr. Laub said the height will not increase.

Building Inspector commented that an RF engineer will need to write a report for the proposed wireless communication facilities upon installation and demonstrate that the facility complied with the FCC law.

Mr. Laub commented that they will have to provide the emission analysis report to the building department per Planning Board conditions.

No public comments

Mr. Forrest made a motion to close the public hearing

Mr. Richards seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Mr. Rulon	Aye
Motion approved	4-0

Public hearing closed

FINDINGS OF FACTS

Mr. Richards made a motion to grant variances for an area variance to change existing area and bulk utilization, to modify the existing rooftop telecommunications facility to Salisbury Pt. Coop. for 4 Salisbury Pt. as shown on the plans by AT&T dated May 28, 2016.

- Village of South Nyack Zoning Local Law is superseded by federal law and regulations in this case.
- Hence South Nyack ZBA's focused on two standards that must be met by NCW/AT&T under the federal authorization.
 1. Whether the proposal constitutes an eligible facilities request
 2. Whether the proposal would cause a substantial change to the existing facility.
- Based on the information presented by New Cingular Wireless /AT&T, these two standards have been met.
- This is a Type 2 SEQRA action.

The premises is a multi-family dwelling located at 4 Salisbury Point, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.78-1-27, and is located in a HRA Zoning District

Mr. Richard Seconded

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Mr. Rulon	Aye
Motion approved	4-0

Case #2 – 2 Salisbury Pt.

Appearing: Daniel Sherman, Architect

Mr. Sherman requested four variances: lighting, fence, signs, and change in structure nonconforming as in bulk. He explained his proposal for new fencing, center gate, and north entrance. He commented that the previous application was approved for fencing, parking on the lower lot and electrical gate on the south end of Salisbury Pt. Coop. He explained that he used the same fence proposal from Mr. Aurell, architect.

He shared his opinion that the proposed improvements for the north entrance will better define the entrance to the parking area and provide and private community because currently it's open area.

The applicant proposed replacing the chain link fence with iron fence. He also proposed additional landscaping on Piermont Avenue and showed consistency with the previous application. The proposed sign is 16sq ft.

Mr. Seiler commented that space number 27 is to be removed.

Mr. Sherman said that the fence height is 3.6 ft. along Piermont Ave.

The stone wall height is 18 inches. Salisbury Pt. Board members want to keep the existing height for a 4 ft. fence but replace chain link fence with iron fence. He will have to clarify the fence height. Salisbury Pt. Coop board members hired a light consultant. The lights are going to be behind the sign. There will be an improvement on stop sign.

Building Inspector commented that the driveway and the walkway are off from the property. He also asked Salisbury Pt. board member about the progress of the previous project.

Peter McMannon commented that the lower parking-control gate project is on hold because the village hasn't started the Piermont Avenue road and drainage improvement project which will affect Salisbury's project.

Mr. Seiler commented that applicant needs to ask the Village for an extension for their variance granted for the project because it's going to expire.

There was a discussion about the parking plans from the previous application. The Building Inspector and Salisbury Pt. board members did a walk thru of the Salisbury property to see the placement of the fence, gate, and parking lot.

Mr. Sherman explained that he's not changing what has been previously approved.

There was a discussion about the cars exiting the driveway would affect Susan Pilla's driveway.

There was a discussion about the sign, lights, and wall zoning ordinance.

Mr. Sherman explained he did not have time to make changes on the drawings due to the deadlines.

Mr. Forrest commented that because the application is incomplete. He will not know what grant variances.

Mr. Forrest stated zoning code §110-6.4 allows for a fence or wall in a side yard over the 6ft. limit provided it is setback 2/3rds of the height from the property line.

There was a discussion about illuminated signs being prohibited in the South Nyack's zoning code.

Mr. Seiler suggested that the applicant can request permission from the Board of Trustees for illuminated sign. Mr. Richards commented that the area is dark at night.

Mr. Richards asked the Building Inspector, does a turn-around needed in case of an emergency. **Building Inspector** answered a turnaround won't make a difference.

Mr. Rulon commented that the scale is pretty large and agreed with Mr. Forrest to reduce size of the sign.

Mr. Forrest said the signs on the corner are code compliant. He quoted “At all street intersections, or at the discretion of the Building Inspector, no obstructions to vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection, except, however, that the Planning Board may modify this requirement because of topographic considerations” (§110-7.1 OBSTRUCTION TO VISION AT STREET INTERSECTIONS).

Public Comments:

Susan Pilla's comments:

- Property around corner from Salisbury Pt. Coop.
- Iron fence will impede her river view and the value of her house may decrease.
- The Zoning Local Law is in place to protect residence.
- Salisbury Pt. Coop. entrance will face her house.
- When cars leave Salisbury Pt. headlights will shine directly onto her house.
- Zoning Board shouldn't approve Salisbury Pt. appeal.
- Can they relocate entrance to Piermont Avenue?
- Salisbury Pt. should move parking lines.
- Relocate signs.

There was a discussion about Suasan Pilla's concerns.

Building Inspector said the drawings should show how emergencies will be handled and demonstrated.

Peter McMannon commented that it is not practical to relocate the entrance. It'll be expensive and dangerous. They are trying to improve the current entrance and not change the flow of traffic. The Salisbury Pt. Board proposed 4ft. iron fence, for aesthetic and safety reasons. Salisbury Pt. Board can consider Mr. Forrest's suggestion about moving the wall closer to the property so it doesn't need a variance.

Mr. Goodwillie commented that the Planning Board did not make a recommendation to the Zoning Board. He recalled the planning board made a negative recommendation to the ZBA, and applicant appealed before the ZBA at their own discretion. Mr. Goodwillie requested for clarification about the Zoning Board procedure, because the plans do not reflect what the applicant presented.

Mr. Goodwillie concerns about the sign to be mounted on the wall structure were follows:

Signs & Views:

1. The size of the sign (§110-9.4-1)
2. no fence or sign that obstructs visibility is allowed within 40ft. of any intersection (Village Code 93-19)

3. Salisbury Pt. Coop. falls within the “Critical Environmental Area Map of the Village of South Nyack” generally is the part of the Village east of Broadway. More specifically, it is the area bounded...by the southern boundary of the Village of South Nyack"... specific environmental characteristics which are exceptional and unique and it is the specific goal of this designation to identify and protect those characteristics which are set forth below: “this area includes unusual proximity to the Hudson River and the protection, preservation and enhancement of the important aesthetic and scenic qualities associated with such proximity is a primary goal” (§110-4.5-A (1) (2).
4. #48 NOW THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of South Nyack does hereby register its strongest possible opposition to proposed rule USCG 2016- 13701 and urges its disapproval **_adopted September 8, 2016**
 - the Coast Guard proposed a rule establishing new anchorage grounds in the Hudson River
 - views of the Hudson will be disturbed for the Village of South Nyack
 - the value of property in the Village of South Nyack, as with other river municipalities, relates directly to the views of the Hudson River

Lights:

5. Mr. Goodwillie’s interpretation
 - “No upward-pointing lighting aimed at the sky, no more than half a lumen spilling across the property boundary” (§110-6.13).
 - The State's recent law curtailing light pollution from state buildings: State senate/house bill number A7489B/B5275B (December 2014).
 - the County encourage its towns and villages to adopt laws that promote dark sky–friendly lighting (Rockland County Comprehensive Plan encouragement of dark-sky-friendly lighting: Chapter 7.6_dated 2011).

Susan Pilla requested clarification about the zoning code in regards to lights and headlights.

Mr. Seiler gave an example of lighting usage at the Nyack Library. The library used shielded lights on the exterior of building, directing lighting downward onto streets, walkways and public spaces.

Mr. Seiler explained that the zoning board members review the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

Bryant Holmes commented against Susan Pilla’s suggestion about moving the entrance, because it would not allow for a sufficient turn around area for emergency vehicles. No vehicles should be allowed to back up to the street.

Mr. Forrest quoted “street lines 30 feet distant from their point of intersection” (§110-7.1 OBSTRUCTION TO VISION AT STREET INTERSECTIONS).

No more public comments 8:36pm

No further questions.

Mr. Seiler stated by consensus the public hearing will be adjourned until the applicant had completed the Planning Board process and further submission.

Mr. Forrest moved to adjourn the public hearing until the applicant had completed the Planning Board process and further submission.

Mr. Richards seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Mr. Rulon	Aye
Motion approved	4-0

OLD BUSINESS:

Mr. Forrest: Moved to conditionally approve the September 6, 2016 Zoning Board of Appeals minutes subject to Zoning Board chairperson approval.

Mr. Richards: Seconded

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Motion approved	3-0

Upon motion made by Mr. Forrest, seconded by Mr. Rulon, and unanimously approved, the meeting adjourned at 8:50pm.

The next meeting is January 3, 2017

Respectfully submitted,

Sokuna Mam
Zoning Board Secretary

Approved: _____