

- I. Call the meeting to order.  
Chairman Zuehlke called the meeting to order at 4:00pm
- II. Roll Call.  
Present: David Zuehlke, Chairman  
Gary Crake, Vice Chairman  
Steve Reno, Board Member  
Karen Joliat, Board Member  
Colleen Murphy, Board Member  
Todd Hoffman, Board Member  
Stan Moore, Board Member
- III.  
General Public: approximately 30  
  
Also Present: Stacy St. James, Environ. and Housing Rehab Coordinator  
Amy Williams, Administrative Specialist  
Rob Merinsky, Director Development Services  
Brent Gibson, Superintendent of Building  
Gary Dovre, Township Attorney  
Larry Lockwood, Superintendent/Planning
- IV. Approve the Minutes of the **November 22, 2016**, special meeting of the Zoning Board of Appeals as printed.

**MOTION AND VOTE:**

*Moved by Reno*

*Supported by Crake; RESOLVED to **APPROVE** the Minutes of the November 22, 2016 special meeting of the Zoning Board of Appeals as printed.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

- V. Approve the Agenda of the **March 21, 2017**, regular meeting of the Zoning Board of Appeals as amended.

**MOTION AND VOTE:**

*Moved by Crake*

*Supported by Reno; RESOLVED to **APPROVE** the Agenda of the March 21, 2017 regular meeting of the Zoning Board of Appeals as Amended.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

VI. PUBLIC HEARINGS

**OLD BUSINESS**

**NEW BUSINESS**

**Case No. 5472**

**Sidwell No. 13-13-426-032**, Section 13, T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 10.0 ft. variance from Section 3-702.5.B(2) to allow the proposed greenbelt to have a width of 10.0 ft. along the N Telegraph Rd property line. (20 ft. minimum required)

**Property Location:** N Corner of Dixie Hwy & N Telegraph Rd  
**Property Zoned:** C-4, Extensive Business  
**Applicant:** GPS Hospitality

**Applicant or Representative Present:** Tom Daniel, GPS Hospitality  
Tom Davis, Burger King

**Mr. Daniel** explained that they chose this location and developed the site to provide safe traffic flow around the building for patrons, as well as emergency vehicles, in addition to loading and unloading. They have been working with staff to resolve any issues that may arise including preserving landscaping and installing required lighting.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**Board Member Murphy** noted that the Burger King sign and the Township sign were located in the same area on the proposed site plan. She questioned if it would be possible to separate the signs. She also questioned if they had plans to eliminate the entrance off Dixie Hwy, as they could access the site from the bank's entrance. She felt the sign could be located in this area, if the driveway was eliminated.

**Mr. Daniel** said he will continue to work with staff in any way necessary and that more than likely that proposed entrance will be eliminated from the plan.

**Board Member Reno** stated that the Planning Commission was in support of this variance and commented that the applicants were very cooperative with staff and their recommendations. He continued with stating the Planning Commission had already approved the site plan at the February 28, 2017 meeting with the condition that they achieve the necessary variance.

**MOTION AND VOTE:**

*Moved by Moore*

*Supported by Reno; RESOLVED to **APPROVE** Case No. 5472*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 5473**

**Sidwell No. 13-19-476-011**, Section 19, T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 39.4 ft. variance from Section 2.600.6.A(7) to allow the proposed 122.0 ft. tall wireless communication facility support structure to be located within 82.6 ft. of the north side property line. (122 ft. minimum required)
2. A 40.9 ft. variance from Section 2.600.6.A(7) to allow the proposed 122.0 ft. tall wireless communication facility support structure to be located within 81.1 ft. of the east front property line. (122 ft. minimum required)
3. A 102.0 ft. variance from Section 2.600.6.A(7) to allow the proposed 122.0 ft. tall wireless communication facility support structure to be located within 20.0 ft. of the south front property line. (122 ft. minimum required)
4. A 62.0 ft. variance from Section 2.600.6.A(7) to allow the proposed 122.0 ft. tall wireless communication facility support structure to be located within 60.0 ft. of the west rear property line. (122 ft. minimum required)
5. A 23.4 ft. variance from Section 3-302.3.A(9) to allow the proposed wireless communication facility generator and equipment concrete slab accessory structure to be located within 7.6 ft. of the south front line. (31 ft. minimum required)
6. A 2.5 ft. variance from Section 2-305 to allow the proposed wireless communication facility generator to be located within 32.5 ft. of the west rear property line. (35 ft. minimum required)

**Property Location:** 25 N Hospital Rd  
**Property Zoned:** R-1A, Single Family Residential  
**Applicant:** Verizon Wireless / TeleSite Wireless

**Applicant or Representative present:** David Anton, Applicant  
 Robert Labelle, Attorney

**Mr. Anton** described the current site condition. He stated that there was already an 81' tower in this location and that they were proposing to replace it with a 122' tower. He

felt it would be safer since it was designed to collapse upon itself, instead of falling. He described how they plan to create a buffer to hide the equipment and existing garbage container. They have plans to rent the space from the Township which would create revenue for about 30 years. He further explained the need for a tower in this location because of coverage and capacity issues.

**Attorney Dovre** spoke up to clarify that the Township Board has only granted permission for Verizon to proceed and apply for approvals from the boards. He continued to state that there are no leases or signed agreements. He also stated that revenue generated from the lease agreement should not be a consideration factor for the Zoning Board and that the Planning Commission has postponed their decision on the request for Special Approval pending the Zoning Board's decision on the requested variances.

**Chairman Zuehlke** questioned the need for the tower and if there was a location better suited.

**Mr. Labelle** further provided information regarding how they determined the need for a tower in this location and why they could not relocate to other areas that were over  $\frac{1}{4}$  mile away. He went into detail on how the towers operate and connect to one another. He further stated that no Verizon tower has ever fallen having withstood high winds, hurricanes, tornados, floods and vehicle hits. He further stated that he felt visually the height would not make a significant difference. It was his opinion that the proposed tower would be less obtrusive than what was currently on the site. He stated that homeowners want the reception where they live and that the existing towers are being overloaded. He expressed they would receive opposition regardless of where the tower was located.

**Chairman Zuehlke** questioned the generator and equipment location, both proposed and future.

**During the public portion of the meeting the following spoke up regarding this request.**

**Jared Noble** of 7020 Elizabeth Lake Road, the adjacent property to the West, cited where the ordinance requires the same radius as the height of the tower in case of a fall. He expressed how he felt the new tower would affect the marketability of his home.

**Chairman Zuehlke** further explained that the tower is designed to collapse upon itself. In addition, he did not feel it was a strong argument to say the house values would be affected due to the proposed tower.

**Mary Redding** of 7021 Elizabeth Lake Road, noted that the existing tower has never fallen in the 27 years that she has resided there. She indicated she had not experienced any reception issues and stated concerns about how the new tower would look. She

further voiced concerns regarding the noise of generators and the accessibility for emergency vehicles to gain access to a wooded area behind these properties if needed.

**Stanley Tominsky** of 7050 Elizabeth Lake Road, has been looking at the locations of existing towers in Waterford and he does not feel that one should be in a residential neighborhood. He did not wish to have to look at it and felt that it would devalue his home.

**Kristen Noble** of 7020 Elizabeth Lake Road, also spoke up in opposition and voiced concerns regarding noise and how the maintenance would affect them with close proximity to their child's room. She felt there may be other locations better suited for the proposed tower. She made mention of another site that received approval for a tower, but was never constructed.

**Chairman Zuehlke** asked the applicant to address some of these issues.

**Mr. Labelle** said there was already a generator on the site. He indicated they do not run 24/7. The generator would only operate in the event of loss of power, and in this instance, there would be other generators running. They occasionally will test the generator once a month or once every other month. He indicated there would be no other noise or humming. He further stated that other sites located outside a ¼ mile radius would not be conducive for their coverage requirements. He stated the tower needs to be located in a residential area to accommodate peak time usage.

**Diane Rogers** of 7011 Elizabeth Lake Road, requested that they find a "better" location. She said the emergency siren that sounds the first Saturday of each month already rattles her house. She feels it is too much for that site. She also stated concern over the value of her house if the tower was located there.

**Matt Follis** of 3861 Iris, spoke as a local Real Estate Broker. He noted that there are several large properties in the nearby vicinity that stretch back deep and would allow access for trucks.

**Board Member Reno** commented that the Planning Commission did vote to waive the requirement of a stealth design because they felt it was more obtrusive than a tower.

**Board Member Hoffman** asked for clarification of the fall radius which was clarified by the Applicant's representatives to be 60 feet, due to the design of the tower to collapse in upon itself.

**Board Member Murphy** noted that the arborvitae on the site map were shown to be located in the right-of-way and voiced concerns with visibility.

Further discussion ensued regarding visibility, fall radius, maintenance and noise. It was stated that additional discussion of future co-locators, future equipment, and landscaping was not part of the variances requested.

**Board Member Joliat** questioned the size of the base of the pole and what would cause the tower to collapse.

**Mr. Labelle** stated the base would be smaller than what is currently there. He continued by stating that wind would be the main cause for a tower collapse due to the wind pull on the antennas.

**Chairman Zuehlke** went over the options presented before the board.

**Attorney Dovre** spoke up for clarification of several items. He stated that co-location is required and the existing tower must be used if possible, something the Applicant says is not the case. He continued with stating the ordinance does not require a new tower to be constructed. He noted that the ordinance requires a letter from a structural engineer regarding how the proposed tower would fall that has not yet been provided. He stated that if a tower is located in a residential district that a municipal site is preferred. He referenced the information on the variance approval standards provided by the Applicant in the supplemental form in the packet that the Board may use and refer to in determining if the variances should be granted. He also noted that the Board may approve lesser variances than requested if the proposed height of the new tower could be lowered and indicated that additional information on this issue could be requested by the Board. He concluded by stating the Board may grant approval with conditions.

**Mr. Labelle** stated they could collocate on the existing tower but it would not be safe. He felt they were doing what the ordinance required. It made more sense to put up a new tower. He indicated he had the engineering letter that confirmed the fall radius of 60' as previously identified and that he would forward a copy to staff.

#### **MOTION AND VOTE:**

*Moved by Reno*

*Supported by Murphy; RESOLVED to **DENY the variances requested in Case No. 5473 based on the following findings:***

- 1) No practical difficulty exists in the case.*
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.*
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.*
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.*
- 5) The need for the variances requested is self created.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 5465**

**Sidwell No. 13-13-127-006**, Section 13, Lot 135, "Silvercrest," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 1.0 ft. variance from Section 3-302.3.A(7) to allow the proposed detached accessory building to be located within 4.0 ft. of the northeast side yard property line. (5 ft. minimum required)
2. A 2.0 ft. variance from Section 2-104.2 to allow the 1.0 ft. roof eave and gutter to be located within 3.0 ft. of the northeast side yard property line. (5 ft. minimum required)

**Property Location:** 2325 Silver Cir  
**Property Zoned:** R-1C, Single Family Residential  
**Applicant:** Brenda & Tomson Shepard

**Applicant or Representative present:** Brenda & Tomson Shepard

**Mr. Shepard** stated that due to where the house sits on the property, he feels it does not allow enough room for proper clearance to access the proposed garage unless he locates it closer to the side lot line.

**Chairman Zuehlke** stated that the roof cannot drain onto the neighbor's property and that he would need to direct the runoff so that it did not negatively impact the neighbor.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**MOTION AND VOTE:**

*Moved by Moore*

*Supported by Reno; RESOLVED to **APPROVE** Case No. 5465 with the STIPULATION that the applicant must install a mechanism to ensure proper drainage so as to not negatively impact neighboring properties.*

**MOTION CARRIED UNANIMOUSLY**

*(7-0)*

**Case No. 5466**

**Sidwell No. 13-35-463-007**, Section 35, Lots 21 & 22, "Venice of the Lakes", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 26.5 ft. variance from Section 3-900 to allow the proposed house to be located within 8.5 ft. of the northeast lake rear property line. (35 ft. minimum required)
2. A 25.5 ft. variance from Section 2-104.2 to allow the 2.0 ft. roof eave and gutter to be located within 6.5 ft. of the northeast lake rear property line. (32 ft. minimum required)
3. A 3.3 ft. variance from Section 2-104.3 to allow the outdoor relaxation structure to be located within 42.4 ft. of the southwest lakefront property line. (45.7 ft. minimum required for the subject property)

**Property Location:** 1420 Rivona Dr  
**Property Zoned:** R-1C, Single Family Residential  
**Applicant:** Chris & April Jones

**Applicant or Representative present:** Chris & April Jones

**Mr. Jones** indicated that due to the location of an existing hydrant, he felt he could better utilize the property by flipping the layout of the existing nonconforming house. He also felt that by moving the proposed house closer to the road it would create less of a nonconformity on the lakefront while conforming to the minimum side yard setbacks. He felt the proposed house location would be keeping in character with the existing neighborhood.

**During the public portion of the hearing the following spoke up regarding this request.**

**Doug Goulait** of 1460 Rivona, spoke in favor of this request and was happy to see the positive changes in the neighborhood.

**MOTION AND VOTE:**

*Moved by Joliat*

*Supported by Crake; RESOLVED to **APPROVE** Case No. 5466*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 4335-A**

**Sidwell No. 13-06-308-003**, Section 6, Lot 290, "Mountain View Country Club," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 6.0 ft. variance from Section 2-104.4 to allow the proposed covered outdoor relaxation structure to be located within 19.0 of the west front property line. (25 ft. minimum required)

**Property Location:** 3862 Florman  
**Property Zoned:** R-1C, Single Family Residential  
**Applicant:** John Przystup, Cost Plus Construction LLC

**Applicant or Representative present:** John Przystup

**Mr. Przystup** stated that the existing house is within the required setback. However, for aesthetic reasons, he wishes to add a small covered porch to the front.

**Chairman Zuehlke** referenced the fact that several variance were granted to this property previously.

**Mr. Prystup** indicated he was unaware of any previous variance.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**MOTION AND VOTE:**

*Moved by Crake*

*Supported by Reno; RESOLVED to **APPROVE** Case No. 4335-A.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 5467**

**Sidwell No. 13-08-404-033**, Section 8, W ½ of Lot 3, "Supervisor's Plat No 16," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 1,625 sq. ft. variance from Section 3-302.3.A(10) to allow the proposed attached accessory building and proposed detached accessory building to have a total area of 3,200 sq. ft. (1575 sq. ft. maximum for the subject property)
2. A variance from Section 3-302.3.A(6) to allow the proposed detached accessory building to be located within a side yard. (Detached accessory buildings shall not be erected in any yard except a rear yard)

**Property Location:** 2780 Grandview Blvd  
**Property Zoned:** R-1A, Single Family Residential  
**Applicant:** Jeffrey & Tara Smith; Robert Pace & Kathleen Sanford

**Applicant or Representative present:** Jeffrey & Tara Smith  
 Robert Pace & Kathleen Sanford

**Mr. Smith** stated that he needed extra storage space for several recreational vehicles that they own and to simultaneously block the unsightly view of the neighboring property.

**Chairman Zuehlke** questioned that if it was attached would it still require a variance.

**Staff** confirmed that it would still require a variance for size.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**Board Member Murphy** questioned why they wished to locate it so close to the front property line when they had such a deep lot. She felt the request was not in keeping with the character of the neighborhood.

**Board Member Joliat** expressed concern regarding the size of the garage.

**Staff** confirmed that the total area allowed for all accessory buildings for this property would be 1575 sq. ft. Anything more and a variance would still be required.

**MOTION AND VOTE:**

*Moved by Reno*

*Supported by Crake; RESOLVED to DENY Case No. 5467 based upon the following findings:*

- 1) No practical difficulty exists in the case.*
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.*
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.*
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.*
- 5) The request is self created.*

**MOTION CARRIED UNANIMOUSLY**

*(7-0)*

**Case No. 5468**

**Sidwell No. 13-12-351-012**, Section 12, Lot 28 & S 10 ft of Lot 29, "Silver Beach," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 16.7 ft. variance from Section 3-900 to allow the proposed addition to be located within 18.3 ft. of the east lake rear property line. (35 ft. minimum required)
2. A 14.7 ft. variance from Section 2-104.2 to allow the 1.0 ft. roof eave and gutter to be located within 17.3 of the east lake rear property line. (32 ft. minimum required)

**Property Location:** 2609 Silverside Rd  
**Property Zoned:** R-1C, Single Family Residential  
**Applicant:** James & Jan Westwood

**Applicant or Representative present:** James & Jan Westwood

**Mr. Westwood** indicated the reason for this request is to allow for additional storage and more living space for his family.

**During the public portion of the meeting no one spoke regarding the applicant’s request.**

**MOTION AND VOTE:**

*Moved by Moore*  
*Supported by Crake; RESOLVED to **APPROVE** Case No. 5468.*  
**MOTION CARRIED UNANIMOUSLY**  
*(7-0)*

**Case No. 5469**

**Sidwell No. 13-25-377-024**, Section 25, Lot 37 exc S 66 ft, “Supervisor’s Plat No 1,” T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a variance from Section 3-302.3.A(6) to allow the proposed detached accessory building to be located within a front yard. (Detached accessory buildings shall not be erected in any yard except a rear yard)

**Property Location:** 202 Coleman Dr  
**Property Zoned:** R-1B, Single Family Residential  
**Applicant:** Dawn Green

**Applicant or Representative present:** Dawn Green

**Ms. Green** stated that the location of the house does not allow access for a garage to be located in the rear yard. She continued by stating her house sits a lot further back on the property compared to the neighboring properties. The location of the proposed garage would be in line with the setback of her neighbor’s garage.

**During the public portion of the meeting no one spoke regarding the applicant’s**

request.

**MOTION AND VOTE:**

*Moved by Crake*

*Supported by Moore; RESOLVED to **APPROVE** Case No. 5469*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 5470**

**Sidwell No. 13-06-406-020**, Section 6, Lot 241, "Mountain View Country Club," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 21.5 ft. variance from Section 3-900 to allow the proposed house to be located within 13.5 ft. of the east front property line. (35 ft. minimum required)
2. A 20.0 ft. variance from Section 2-104.2 to allow the 1.5 ft. roof eave and gutter to be located within 12.0 of the east front property line. (32 ft. minimum required)

**Property Location:** Vacant Iris Dr. (between 3861 & 3853)  
**Property Zoned:** R-1C, Single Family Residential  
**Applicant:** Matthew & Krystal Follis

**Applicant or Representative present:** Matthew Follis

**Mr. Follis** stated his need for the requested variances. He felt the location of the proposed house was keeping in character with the neighborhood. He indicated he currently owns the neighboring house.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**MOTION AND VOTE:**

*Moved by Crake*

*Supported by Joliat; RESOLVED to **APPROVE** Case No. 5470.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

**Case No. 5471**

**Sidwell No. 13-13-176-021**, Section 13, Part of Lot 36, "Supervisor's Plat No 14," T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 10.0 ft. variance from Section 3-900 to allow the proposed building addition to have a maximum height of 40.0 ft. (30 ft. maximum allowed)

**Property Location:** 2505 Williams Dr  
**Property Zoned:** M-1, Light Industrial  
**Applicant:** D & G Building Co. Inc. – John Romano

**Applicant or Representative present:** Frank Jullian, Owner

**Mr. Jullian** of City Aluminum Foundry, said that he has been a long time business owner in Waterford. He indicated that the businesses surrounding his are zoned M-2, which would allow for a 40 ft. building. Due to the size of his property, it is zoned M-1, which only allows for a 30 ft. tall building. He felt the requested height variance was in keeping with the character of the surrounding neighborhood.

**During the public portion of the meeting no one spoke regarding the applicant's request.**

**Board Member Reno** added that the Planning Commission had given a favorable recommendation for this request. He received verification that there would not be any other roof top units that would add to the height. He also commented that the proposed renovation and site improvements would correct existing drainage issues on and near the property.

**MOTION AND VOTE:**

*Moved by Reno*

*Supported by Moore; RESOLVED to **APPROVE** Case No. 5471.*

*MOTION CARRIED UNANIMOUSLY*

*(7-0)*

VI. Adjourn the meeting.

Chairman Zuehlke adjourned the meeting at 5:50pm

**Case No. 5472**

**Property:** Vacant N Corner of Dixie Hwy and N Telegraph Rd  
**Applicant:** GPS Hospitality  
**Zoning:** C-4, Extensive Business  
**Site Use:** Currently – Vacant; Historically – Transient Merchant  
**Proposal:** New Burger King Restaurant – greenbelt variance

**Analysis:** The applicant is proposing to construct a new Burger King restaurant at the north corner of Dixie Hwy and N Telegraph Rd. A land division is proposed, with separate parcels created to the northeast and northwest of the proposed site. The landscape plan prepared for the project indicates a reduction in the greenbelt area along N Telegraph Rd. The applicant is requesting a variance to reduce the greenbelt to ten (10) ft. in width, where the ordinance requires a twenty (20) ft. wide greenbelt.

The above proposal came before the Planning Commission at the February 28, 2017 special meeting for conceptual site plan review. At that meeting, the Commission approved the request, with the stipulation that the applicant receive the necessary variances. Attached, you will find the draft minutes from the meeting in addition to Larry Lockwood's staff review of the case.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

**Case No. 5473**

**Property:** 25 N. Hospital Rd.  
**Applicant:** Verizon Wireless / TeleSite Wireless (Agent)  
**Zoning:** R-1A, Single Family Residential  
**Site Use:** Fire Station #5  
**Proposal:** Wireless Communication Facility (new 122 ft. tall tower and associated equipment/generator)

**Analysis:** The applicant is proposing to construct a new 122 ft. tall tower, with the associated required equipment, at the subject property. The tower will be used for wireless communication by Verizon, with the potential to service other wireless carriers. The site is the current location of Fire Station #5, on the corner of N. Hospital Rd and Elizabeth Lake Rd, and is zoned Single Family Residential. The proposed tower is shown to replace the existing lattice tower currently on the site.

The proposed tower requires several variances. The Zoning Ordinance states: *"The setback of the support structure from any residential district shall be at least the height of the highest point of any structures or building on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled road shall be no less than the height of the structure."* The subject property is a fairly small parcel (see attached site plan). It is shown at approximately 141 ft. in depth (east to west) and 103 ft. in width (north to south). Due to the size of the property and the height of the tower, variances are need from all 4 property/right-of-way lines. The proposed setbacks from the tower to the property/right-of way lines are highlighted on the plan in yellow. The variances required are the difference between the height of the 122 ft. tower and the proposed setback.

In addition to the tower, the proposed equipment and generator, also require variances. The Zoning Ordinance states: *"In the case of corner zoning lots...accessory buildings and structures shall be located no closer than the principal building is to the right-of-way."* A concrete pad is proposed to be located on the south side of the existing building. The equipment cabinets and generator are shown to be located on the pad and covered with a canopy. The edge of the pad is shown to be located within 7.6 ft. of the Elizabeth Lake Rd property line. Since the existing building is located approximately 31 ft. from the property line, the minimum setback is also 31ft. and therefore, a variance is required. **PLEASE NOTE: The agenda has been amended from what was originally published. The initial review by staff identified a required minimum setback of 35 ft. to the property line, as this is the minimum setback for the zoning district. However, the ordinance only requires a setback "no closer than the principal building to the right-of-way." Since the building is located within 31 ft. of the right-of-way, the setback requirements for the proposed equipment cabinets and generator are the same. Additionally, since the amendment is less restrictive than what was originally advertised, the change will not be re-advertised, but will be reflected in the agenda to be reviewed and approved at the meeting.** In addition, the Zoning Ordinance states: *exterior appliances "shall not be located in any required yard setback."* While this requirement is covered in the above request regarding the location of the proposed generator to Elizabeth Lake Rd, an additional variance is required from the generator to the west rear property line. The required yard setback from the west rear property line is 35 ft. The generator is proposed to be located within 32.5 ft. of the property line and therefore, a variance is required.

The above proposal came before the Planning Commission at the February 28, 2017 Special Meeting for special approval to allow a wireless communication facility to be established in an R-1A, Single Family Residential district. Attached, you will find the draft minutes from the meeting in addition to Larry Lockwood's staff review of the case. Within the staff review you will also see comments from Township Attorney Gary Dove shown in blue. **Please note, at the PC meeting an engineering letter was requested of the applicant demonstrating how the tower would collapse. At this time, this letter has NOT been provided by the applicant to staff or for review by the ZBA for the proposed requests.**

The Zoning Ordinance identifies "ZBA Review Standards" that state "*variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:*

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

The applicant has proved information addressing the standards listed above (see the "Supplemental Information" sheet in the packet). These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**The Township Attorney has been asked to attend the meeting on this case. He will be available to answer questions and provide guidance to you in your consideration and decisions on these requests.**

**Case No. 5465**

**Property:** 2325 Silver Cir.  
**Applicant:** Brenda & Tomson Shepard  
**Zoning:** R-1C, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New detached accessory garage

**Analysis:** The applicants are proposing to construct a new detached accessory garage on the subject lot. The proposed garage is shown to be located within 4.0' of the northeast side yard property line (5' minimum setback required). A setback of 3.0' to the overhang is also proposed (5' minimum setback required).

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5465, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5466**

**Property:** 1420 Rivona Dr  
**Applicant:** Chris & April Jones  
**Zoning:** R-1C, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New house with attached garage and lakefront porch

**Analysis:** The applicants are proposing to construct a new house on the subject property. The house is proposed to be located within 8.5 ft. of the northeast lake rear (road) property line (6.5 ft. to the overhang). In addition, the applicants are proposing to construct a porch on the southwest lakefront side that is shown to project 3.3 ft. into the required 42.4 ft. lakefront setback (45.7 ft. required for the subject property). All other setback requirements are shown to be met. Currently there is a nonconforming house on the subject property. While the proposed house is larger than the current house, it is shown to maintain the same lake rear (road) side setback as the existing house. The character of the neighborhood appears to support a greatly reduced road side setback. In addition, the existing house does not meet the minimum southeast side yard setback. The proposed house is shown to conform. Finally, the existing house does not meet the minimum lakefront setback (55.7 ft. for the subject property). The proposed house is shown to conform. However, as identified above, the new porch will require a variance.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5466, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 4335-A**

**Property:** 3862 Florman  
**Applicant:** John Przystup, Cost Plus Construction LLC  
**Zoning:** R-1C, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New covered front porch

**Analysis:** The applicant is proposing to construct a new covered front porch at the subject property. The proposed porch is shown to be 18 ft. in width and 6 ft. in depth. The applicant is proposing to construct the porch within 19 ft. of the west front property line (25 ft. minimum required). Since the existing house is located 25 ft. from the west front property line, a variance would be required for any size porch addition on the front of the house.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 4335-A, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5467**

**Property:** 2780 Grandview Blvd  
**Applicant:** Jeffrey & Tara Smith; Robert Pace & Kathleen Sanford  
**Zoning:** R-1A, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New house with attached garage and new detached garage

**Analysis:** The applicants are proposing to construct a new house (with an attached garage) and a new detached garage on the subject property. The applicants have identified that the attached garage will be 800 sq. ft. and the detached garage will be 2,400 sq. ft. for a total area of 3,200 sq. ft. Since the subject property is approximately 1.2 acres, the maximum total accessory building area is 1575 sq. ft. (or 3% of the area of the subject property). In addition, the ordinance does not allow for a detached accessory building in any yard except a rear yard. However, the detached accessory building is shown to be located 37' from the west front yard property line and 10' from the south side property line. If the building was physically attached to the house or within 10' from the house (it is shown at 27.33' from the house), it would conform to the ordinance requirements, with regards to the proposed location, and a variance would not be required.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5467, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5468**

**Property:** 2609 Silverside Rd  
**Applicant:** James & Jan Westwood  
**Zoning:** R-1C, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Proposed addition

**Analysis:** The applicants are proposing to construct an addition on the east lake rear (road) side of the existing house. The addition is shown to be located within 18.3 ft. of the property line (35 ft. minimum required). In addition, a 1.0 ft. overhang is also proposed. The character of the neighborhood appears to support a reduced road side setback. All other setback requirements are shown to be met.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5468, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5469**

**Property:** 202 Coleman Dr  
**Applicant:** Dawn Green  
**Zoning:** R-1B, Single Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New detached garage

**Analysis:** The applicant is proposing to construct a new detached 720 sq. ft. garage on the subject property. The garage is shown to be located 116 ft. from the east front property line. Unfortunately, the ordinance does not allow for a detached garage to be located in any yard, except for a rear yard. The character of the neighborhood, as a whole, appears to reflect the ordinance requirements of detached garages being located within the rear yard. However, the existing house does sit back much further on the lot than most of the other houses in the area. In addition, the proposed garage is shown to be located at a similar setback as the existing detached garage on the property to the south.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5469, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5470**

**Property:** Vacant Iris Dr (between 3861 & 3853)

**Applicant:** Matthew & Krystal Follis

**Zoning:** R-1C, Single Family Residential

**Site Use:** Single Family Residential

**Proposal:** New house and attached garage

**Analysis:** The applicants are proposing to construct a new house with attached garage at the subject property. The house is shown to be located within 13.5 ft. of the east front property line (35 ft. minimum required). The character of the neighborhood appears to support a reduced front yard setback. In addition, the proposed house is shown to be located approximately 27 ft. from the edge of the road. All other setbacks are shown to be met.

While the site may present practical difficulties, the applicant should demonstrate to the ZBA why compliance with the strict letter of the ordinance would unreasonably prevent them from using the property and would render conformity with the ordinance unnecessarily burdensome. Since the applicant can continue to enjoy the subject property without the requested variances, staff is unable to support this request as it does not conform to the letter of the Zoning Ordinance.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5470, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.

**Case No. 5471**

**Property:** 2505 Williams Drive  
**Applicant:** D & G Building Co. Inc. – John Romano  
**Zoning:** M-1, Light Industrial  
**Site Use:** Aluminum Foundry  
**Proposal:** Building addition

**Analysis:** The applicant is proposing to construct an 11,286 sq. ft. building addition to update and modernize their current foundry operation. The current business has been in operation at this location for 37 years. Prior to that, it was used as an iron foundry. The proposed building addition is shown to have a maximum height of 40 ft. Prior to 2010, the property was zoned M-2, General Industrial, which would allow for a 40 ft. tall building. However, when the ordinance was revised in 2010, the property did not meet the minimum size of two (2) acres (the site is approximately 1.8 acres) and therefore received the designation of M-1. Within the M-1 district, the maximum building height is 30 ft. Therefore, the applicants are requesting a variance to allow their building to have a maximum height of 40 ft. The subject property is bordered on two sides by M-2 zoning and abuts the railroad to the rear.

The above proposal came before the Planning Commission at the February 28, 2017 special meeting for conceptual site plan review. At that meeting, the Commission approved the request, with the stipulation that the applicant receive the necessary variances. Attached, you will find the draft minutes from the meeting in addition to Larry Lockwood's staff review of the case.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- G. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- H. The variance will do substantial justice to the applicant, as well as to other property owners.*
- I. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- J. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- K. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- L. The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

The applicant has proved information addressing the standards listed above on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion for Denial**

In the matter of ZBA Case No. 5471, I move that the petitioner's request for the proposed variance(s) be denied. In that:

- No practical difficulty exists in the case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variance.
- The request is self created.