



**MEMORANDUM**

May 10, 2019

To: The Honorable Zoning Board of Appeals

From: Brian P. Andrzejewski, PE, Zoning Enforcement Officer **BPA**

Re: Applications for Variances and Special Permits – Meeting of May 21, 2019

The following is a summary of specific information for each application, showing minimum requirements appealed from and requested variances to be considered by your Honorable Body.

**1. Leon Studio One    4224 Maple Road    Temporary Use Permit**

This application is for a temporary use permit in the SC District. The petitioner is requesting an outdoor storage container.

- 1) Per Section 7-4-3 outdoor storage containers, general outdoor storage, is not allowed in the SC District.

**2. Ulrich Sign Co.    11520 Transit Road    Sign Variance**

This application is for sign area variance in the GB District.

- 1) Per Section 7-8-8 sign area allowed is 2SF per linear foot of building.

**NOTES:**

Allowed sign area:	122.72 SF
Proposed sign area:	222.73 SF
Increase:	100.01 SF or 81%

**3. Bell Atlantic Mobile Systems    2379 Maple Road    Special Use Permit**

This application is for a Special Use Permit to install Telecommunications Equipment on an existing utility pole NM2401 in the GB district and waivers to Section 6-7 Telecommunication Facility Standard.

Waivers are requested for the following sections:

1. 6-7-3 G (20) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed WTFs on the proposed site. Not applicable due to the equipment being placed on an existing pole.

2. 6-7-3 M (1) The petitioner shall include a 'Zone of Visibility' map in order to determine locations from which the WTF may be seen. The equipment will be placed on an existing pole.
3. 6-7-3 AA The petitioner will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration (FAA) Regulation Part 77. This requirement shall be for any new tower or for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner. Petitioner states project is exempt from notice to the FAA.
4. 6-7-7 E Visual screening, including but not limited to landscaping, walls and fences, shall be approved by the ZBA. The Town's landscape architect and consultant shall provide recommendations to the ZBA regarding visual screening. The equipment will be placed on an existing pole that does not have screening.
5. 6-7-8 C All towers and accessory structures shall be surrounded by a fence or wall that completely provides visual screening of all accessory structures associated with the WTF. This section shall not apply to signage as required in Sec. 6-7-9. The petitioner proposes equipment on an existing pole.
6. 6-7-10 Lot size and setbacks. All proposed towers not mounted on existing buildings... shall be setback a distance equal to the height plus 10 percent or the existing setback distance in the underlying district. The petitioner is proposing equipment on an existing pole.

**4. Jerry Shaffer          137 Livingston Parkway          Area Variance**

This application is for an area variance in the R-3 District.

1) Per Section 3-6-2B the required rear yard setback is 30 feet. The petitioner is requesting to construct a breezeway between the home and garage. By definition, Section 2-4, an accessory structure attached to the principal structure shall be considered part of the principal structure. The existing legal non-conforming setback of the garage is not changing but now requires a variance due to a larger setback requirement.

NOTES:

Required setback:	30.00 ft
Proposed setback:	1.24 ft
Short of required:	28.76 ft or 96%

**5. Rutao Yao          15 Stonebridge Drive          Temporary Use Permit**

This application is for a Temporary Use Permit in the MFR-4A District to operate an AirBNB. The home is not owner-occupied.

1) Per Section 3-10-3(A) rooming and boarding of not more than two persons only when the dwelling is occupied by the actual record owner thereof.

**6. Christmas Tree Shops 1701 NF Blvd. Suite 500 Temporary Use Permit**

This application is for a temporary use permit in the GB District. The petitioner is requesting an outdoor storage container.

1) Per Section 7-4-3 outdoor storage containers, general outdoor storage, is not allowed in the GB District.

**7. Centerline Communications LLC 1290 Hopkins Road Special Use Permit**

This application is for a Special Use Permit in the RC District to collocate equipment on an existing tower and is an eligible Facilities Request pursuant to Section 6409a of the Spectrum Act. AT&T is proposing to add an antenna array at 101ft AGL.

**8. Centerline Communications LLC 1220 New Road Special Use Permit**

This application is for a Special Use Permit in the SA District to collocate equipment on an existing tower and is an eligible Facilities Request pursuant to Section 6409a of the Spectrum Act. AT&T is proposing to add an antenna array at 127ft AGL.

**9. Centerline Communications LLC 455 Tonawanda Creek Road Special Use Permit**

This application is for a Special Use Permit in the CF District to collocate equipment on an existing tower and is an eligible Facilities Request pursuant to Section 6409a of the Spectrum Act. AT&T is proposing to add an antenna array at 120ft AGL.

**10. Daniel Nealen 40 Ayer Road Area Variances**

This application is for two area variances in the R-3 District. The petitioner is requesting to construct a garage addition.

1) Per Section 3-6-2B the side yard setback is 5 feet.

NOTES:

Required setback:	5 ft
Proposed setback:	0 ft
Short of required:	5 ft or 100%

2) Per Section 6-8-1B the total floor area of all accessory structures and attached garages shall not exceed 75% of the floor area of the principal structure. The proposed garage addition will create a 27ft x 42ft garage or 1134 SF. The existing shed is 12ft x 16ft or 192 SF. The total is 1326 SF.

NOTES:

75% of principal structure coverage:	887 SF
Proposed accessory and attached garage:	1326 SF
Overage:	439 SF or 49%

**11. Zaxis Architectural, P.C. 5117 Sheridan Drive Area Variances**

This application is for area variances in the MS District. The petitioner is requesting to construct an outdoor loudspeaker within 100 feet of a residential district boundary and to operate the loudspeaker outside of the allowable hours given in Section 4-8-4. The speaker box is presently located 17 feet from the R-4 District which include the rear parking of this parcel. The proposed speaker box location will also be 17 feet from the R-4 District line but further from the closest single family home on Mill Street. Per Section 4-8-4 the loudspeaker must be 100 feet from a residential boundary and not directed at neighboring property.

1) Per Section 4-8-4 the loudspeaker is 100 feet. The petitioner is requesting 17feet.

NOTES:

Required setback:	100 ft
Proposed setback:	17 ft
Short of required:	83 ft or 83%

2) Per Section 4-8-4 the hours for a loudspeaker is 6AM to 10PM if located within 250 feet of a residential district boundary. The petitioner is requesting hours of 10AM to 1AM Sunday through Thursday and 10AM to 2AM Friday and Saturday.

**12. City Mattress 3636 Sheridan Drive Temporary Use Permit**

This application is for a temporary use permit in the GB District. The petitioner is requesting to have a tent sale from June 3 through June 18, 2019 from 10AM to 8PM.

1) Per Section 7-4-3 outdoor display is allowed in the GB District within 5 feet of the business wall. The petitioner is proposing to display merchandise greater than 5 feet from the business wall and tents do not constitute outdoor display.

BA/ac

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cc: Brian Kulpa, Supervisor  
Councilmembers  
Stanley Sliwa, Town Attorney  
Kathleen Cooper, Deputy Town Clerk  
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Patrick Lucey, Highway Superintendent  
Mark Berke, Building Commissioner