A Regular Meeting of the Zoning Board of Appeals was held on Thursday, February 8, 2018, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

 Daniel Bassette

 Liz Sciortino

Clayton Lacey

David Cook

ATTORNEY: Jeff Clark

OTHERS: Councilperson John Hagreen and 4 others

Minutes were taken by Michelle Booth.

Mr. Peckham opened the meeting at 7:01 p.m.

**ECKLER ROAD GROUP INTERPRETATION PUBLIC HEARING**

Knauf Shaw, Attorneys at Law, 1400 Crossroads Building, 2 State Street, Rochester, NY, representing Marc Boulay, Mike Allen and Greg Mancine, to be known as the ‘Eckler Road Group’, for an interpretation of the Code Enforcement Officer’s decision that Crown Castle is abiding by the Planning Board’s approval, as set forth in the Special Use Permit and Site Plan approval, to construct a cell tower on Eckler Road, issued on May 10, 2017.  Said property’s tax account no. 192.04-1-21.  Zoned RA-5.

Mr. Peckham waived the reading of the public notice.

The Board was familiar with documents.

Mr. Peckham opened the Public Hearing.

Attorney, John Tantillo appeared on behalf of the neighbors.

Mr. Tantillo is asking to enforce the Planning Boards decision regarding tree removal. He would like the trees to be replaced.

Mr. Cook asked if Mr. Tantillo would like Crown Castle to be fined for taking the trees down. Mr. Tantillo stated no, he thinks replacing the trees would be a better solution.

Mr. Bassette stated that the trees were numbered on the drawing. He wanted to know which trees were removed? Mr. Tantillo stated that he was not sure. Mr. Boulay, a neighbor from Eckler Dr., described on the map which trees he thinks are missing. They are the trees behind #1and #3 near L3.

 Mr. Boulay stated that a manager from Crown Castle told them that the trees along Eckler Dr would all be removed. The trees that partially line the right of way, but they would like them to stay.

Mr. Peckham stated that this has no bearing on the issues in front of them. Tonight, is just to interpret the decision of the Code Enforcement Officer.

Mr. Bassette asked where the stumps from the removed trees are in the picture. Mr. Boulay stated they were where the tower is standing now.

Mr. Boulay showed a google earth picture of what it used to look like. He states that they cut 40 to 50 trees down. He also provided a picture of what it looks like now.

Mr. Peckham asked how the number of trees cut down was derived. Mr. Boulay says it was 40-50 and that he went on the property and counted them himself.

Jeff Davis, appeared to represent Crown Castle. He assured everyone that no trees were being cut along Eckler Dr. for power to be run. They have found an alternate route that will not disturb the neighbors.

Mr. Davis reviewed the timeline of events that led up to this meeting. There were no conditions of approval about tree removal on the Planning Board’s determination.

Mr. Davis stated that the Code Enforcement Officer has done everything per the Conditions of Approval. He reviewed the Planning Board’s determination and stated that several findings of fact were restated in the Conditions of Approval. If they would have wanted the tree removal in the conditions, they would have included it.

Mr. Davis stated that the exact number of trees removed is 13. They had to take 7 more than anticipated due to them intertwining with each other. Had they left the trees, they would have died anyway.

Mr. Davis also provided an array of photos. He stated that the trees removed were in the leased area not on the neighbors’ land. The trees removed were not in between the tower and the neighbors’ homes.

Mr. Davis stated that the Town Code says nothing about the code enforcement officer enforcing the Finding of Facts, only the conditions of approval.

Mr. Davis stated that the cut trees were given to the neighbors for fire wood.

Mr. Peckham reviewed the finding of facts and conclusions of law in the original determination.

Mr. Peckham reviewed the town code about tree removal.

Mr. Cook stated that there is some discrepancy in the number of trees removed. He asked if a fine is appropriate if it’s too many. Mr. Davis stated that if that was why they were here, then yes, a fine might be determined, but they are only here for an interpretation of the determination.

Mr. Clark referenced the Town Code and the criteria that the Planning Board must refer to about cell towers.

Mr. Davis stated that this refers to clear cutting. He stated that thirteen trees removed from the area was not clear cutting. He also discussed the process that identified the trees to be removed.

Mr. Davis also reiterated that this meeting is for interpretation not planning board process.

Mr. Peckham ordered that no more trees were to be removed until this was decided.

**MOTION**

Mr. Cook moved, seconded by Ms. Sciortino, to extend the Public Hearing to February 22, 2018.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; and Ms. Sciortino – aye; Mr. Cook – aye; and Mr. Lacey – aye.

**MINUTES**

**MOTION**

Ms. Sciortino moved, seconded by Mr. Lacey, to accept the minutes of the January 25, 2018 meeting as amended.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; and Ms. Sciortino – aye; Mr. Cook – abstained; and Mr. Lacey – aye.

There was a brief discussion about the next meeting.

**MOTION**

Mr. Lacey moved, second by Ms. Sciortino, to adjourn the meeting.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; and Ms. Sciortino – aye; Mr. Cook – aye; and Mr. Lacey – aye.