

Town of Northumberland Planning Board

Minutes

Accepted by the Planning Board

Monday, September 14, 2015 7:00 pm

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Present: James Heber, Lisa Black, Melanie Eggleston, Holly Rippon-Rippon-Butler, Chad Reinemann, Susan Martindale, Jeff King - Vice Chairperson and Wayne Durr, Chairperson

Absent: Brit Basinger

Town Employees Present: Tia Kilburn, Clerk, Richard Colozza, Code Enforcement Officer, Justin Grassi, Esq., the Towns Legal Representation for application #0006-15.

Wayne Durr, Chairperson, opened the monthly meeting at 7:00 PM.

All in attendance stood and recited the Pledge of Allegiance

Application#: 0006-15 - Site Plan - Special Use Permit

Applicant: Cellco D/B/A Verizon

Mr. Lusk, Esq. re-introduced himself to the Board; he stated this application is for a 120' mono pole at a new location, 5 Blue Heron Terrace, which is behind the previous location of the Travel Trailer Park. He stated the Town had recommended this and a couple more locations and after some research and testing of each, this location appears to work the best, he said he will cover the results later. Then he added they are trying to achieve the same result as the previous application trying to fill the Verizon coverage hole in Northumberland and basically this site provides the same coverage as the previously proposed location. Ms. Rippon-Butler reiterated this site is not far from the previously proposed site; Mr. Lusk agreed and added it is behind the previously proposed site and about 1/5 mile from Route 50 behind the tree line. He reminded the Board they had discussed placing it on the County property behind the Travel Park however; that is a forest preserve meant to be forever wild and it is not possible to lease that location without an act of Legislation he added they have been in contact with the owner of this parcel, Mr. Marshall and he agreed to lease to them. Mr. Durr asked if it is visible from Route 50, Mr. Lusk said no and referred to an aerial photo in the file to show the placement of the mono tower. Mr. Reinemann asked if the County Forest Preserve was the next lot over and how close the mono pole would be to it, Mr. Lusk responded yes and the pole will be placed about 125' from it, Mr. Reinemann then asked if it would have to have County review because of the location and if it is the Agricultural District. Mr. Colozza said not because of that but yes it will be sent to Saratoga County Planning and it is in the R-3 District. Mr. Durr asked how many structures were on the property. Mr. Lusk said there was a house and a barn, Mr. Colozza said there are several buildings; a running shed, 2 barns and their home. Ms. Martindale asked if Mr. Marshall lived on the property, Mr. Lusk said yes, Mr. Colozza agreed. Ms. Rippon-Butler asked what was between this parcel and Pettis Rd, Mr. Heber said it is about 1500' from Pettis Road the County land is in between. Mr. Colozza added there is a wood line that buffers the subdivision to the south, to the left or west is the County Forest, Mr. Stacavitch owns about 100 plus acres which is farmed to the north of this location, there is a ravine between the Travel Park on the right, east to Route 50 and in between, there are very few homes. Mr. Reinemann asked how far it was from the pond (referred to as fire pond), Mr. Colozza stated there is no longer a pond the dam failed and the County did not repair it so it dried up but the pole will probably be 500' from where the pond use to be. Mr. Lusk then discussed the existing coverage area and the new proposed coverage area, he stated they had to raise the height to 120' to make up for the additional distance from the Travel Park location and to clear the trees then he reiterated placement within the County Forest would take an act of Legislation. Mr. Durr asked what the proposed height was at the prior location, Mr. Lusk said 80 to 100', however because it is moved behind the trees they had to raise it some to obtain the similar coverage, he stated it would probably not be the exact same coverage as from the Travel Park, but it should be close. Mr. Durr asked what was within 120' in any direction, Mr. Lusk stated trees. Mr. Reinemann reiterated it was clear of all structures, Mr. Lusk responded there are no structures within the collapse zone, and this is the perfect site except for a small loss of coverage on the east side of Route 32. Mr. Lusk then discussed the coverage area map and the other sites they tested. Mr. Heber's' site is to far East only 2 sides of the tower would create a signal which would interfere with the existing Fort Miller site. Mr. Durr asked if it would only be visible to Mr. Marshall, Mr. Lusk said probably unless someone decided to clear the trees.

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Mr. Reinemann asked if a road would be constructed and what the road would consist of, Mr. Lusk responded there is an existing "logging" road adjacent to a trail which is what they will use, it will be straightened and made of gravel. Mr. Colozza stated it was an old 4 wheeler trail people use to use to get out to the "pond" from Route 50. Mr. Reinemann asked if it would be capable of supporting emergency vehicles. Mr. Durr asked if Mr. Marshall was aware the road had to be built, Mr. Lusk said yes and he agreed, they will have a 49 year lease which every 5 years Verizon has the option of continuing or canceling. Mr. Heber asked what would happen if Verizon decided not to continue, would it all be removed, Mr. Lusk stated yes they have it in the contract Verizon will put the property back to its original condition. Mr. Reinemann asked if the lack of an indemnity clause in the contract as required by the Towns Law for Cell Towers has been resolved, Mr. Grassi, Esq., the Towns Representation for this application, responded that is something the Attorney's will discuss with the Town Board. Mr. Lusk then asked if they felt comfortable enough to schedule the "balloon fly" and Public Hearing, Mr. Heber stated as long as the neighbors are satisfied he felt it was a good site for the project. Mr. Durr asked if it was in the subdivision, Mr. Heber responded in the backyard of the subdivision and then asked if they could perform the "balloon fly" on a Saturday since most people work during the week. Mr. King interjected that would make sense because more people would be able to observe and share in the decision, then he suggested they notify the neighbors of the specific time of the process. Discussion ensued and Mr. Lusk said Saturday, October 3rd looked good for the "balloon fly" with a rain or wind date of Sunday, October 4th, he would like to include the public hearing notice in the same letter and asked if the next meeting of Monday, October 19th was ok to open the hearing. Mr. Durr agreed it was important to perform the test on a weekend to include as many people as possible. Mr. Lusk stated Mr. Marshall has talked to his neighbors and at their request they moved it back from their 1st proposed location on Mr. Marshalls' property and at this time none of them have an issue with it. Mr. Reinemann asked Mr. Colozza if he thought the County would have any issue with it being so close to them, Mr. Heber stated the County could send a negative response however; this Board can supersede that with a vote. Mr. Durr wanted to confirm October 3rd or 4th was good and they would open a joint public hearing with the Town Board on October 19th. Mr. Grassi agreed a joint public hearing is a good idea as the Town's Code suggest. Mr. Durr asked if he could confirm the time frame of the test when it is determined. Mr. Colozza asked if they planned on 3 balloons as before. That depends on the crew and location. Mr. Durr reiterated Saratoga County, the residents of the Subdivision, the RV Park and Mr. Stacavitch as a bordering neighbor to the location parcel all needed notification and then updated site specific information for the public hearing. Mr. Lusk said for the record they would like to keep the 1st application site for the RV Park on hold and not cancelled just in case they have to return to that location and then he discussed the FAA requirements.

ACTION

Balloon Fly to be scheduled for October 3rd, rain / wind date of October 4th, Public Hearing to be scheduled October 19th. Mr. Lusk / Applicant will take care of all notifications / mailings and will confirm with the Clerk.

Application #: 0007-15 Site Plan

Applicant: Monolith Solar

Timothy Carr introduced himself to the Board and stated he is representing Monolith Solar for the purpose of this application. He stated Monolith Solar is one of the largest solar companies in New York State, and gave some background on how it got started. He said they are a Rensselaer based company with 40 full time staff members and no investors. He said they are currently working with Schuylerville School to provide solar power, he added they do have a contract with the school however; the process of placing solar panels on the roof of the school needs approval from New York State Board of Education which is a very long process. He stated they signed the contract in early 2014 and still do not have the final approval for the placement on the roof. Then he added they do a lot of work with school districts and municipalities and prefer to use "remote net metering" which required vacant land to place the panels on the ground. All the electricity gather from remote net metering is sent to the grid and then is sent by satellite to the school, if the school uses the remote net metering they require it to be located within the school district. Monolith has found a vacant parcel

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of approximately 3.78 acres of which if approved will use 2.8 acres for the solar ground mount panels and the rest will remain as it is presently, which is wooded. The location is on Colebrook Road - discussion ensued on the location. Mr. Durr asked if they have already purchased the property, Mr. Carr said it is contingent on the municipal approval for this application. Ms. Rippon-Butler asked if they always purchase the property or if they typically leased it, Mr. Carr responded they purchase the land because they usually have contracts for 20 years with the ground mounts, he explained typically a solar "farm" produces 2 mega watts of power and the units that will be used here will generate 600 kilo watts which is greatly reduced. Ms. Rippon-Butler asked what percentage of the schools use of electricity will be covered; Mr. Carr stated approximately 75% of the school district, the entire bus garage and not all but a good percentage of the usage from the middle school and high school will be provided for. Mr. Durr asked if they had plans to fill the lot with solar panels in the future, Mr. Carr said no they do a survey of what is needed and then that is what they sign the contract for, it would be to expensive to expand. Mr. Durr then asked if this plan is an approved agreement with the school district, Mr. Carr said yes the contract has been signed so they will have to continue to look for a parcel to use if this one is not acceptable to the Board. Mr. Reinemann reiterated it was a 20 year contract, Mr. Carr confirmed. Ms. Eggleston asked if there would be any reflection from the sun or a chance anything could leak from them, Mr. Carr stated no, there is no reflection and no fluid or noise, there is an inverter that is checked at least once a quarter, there would be some noise from the construction process which takes approximately 35 to 40 days to complete. Mr. Durr reiterated that the homeowners across the street would not hear anything from the panels; Mr. Carr said that is correct, only during the construction process. Ms. Rippon-Butler asked if the land would be reusable, if they would be placing any kind of cement blocks or cement pads, Mr. Carr stated it will definitely be reusable, they do not use cement they use rods in the ground that can be removed, they are deep so they are not easy to pull out but they are removable they are constructed to be long term. Discussion ensued on the zone - R-3 vs. Agricultural. Mr. King asked if the School has approved the site, Mr. Carr stated their contract with the school is not site specific. Mr. Durr asked what would happen if this application was not approved. Mr. Carr stated they would have to find a new site, there are a few people in the office that do that all day, search for property. Ms. Eggleston asked if they ever did a presentation for the public at the school, Mr. Carr responded yes in early 2014 before the contract was signed with the school. Mr. Durr asked how it was determined this parcel would work, and Ms. Martindale added what makes this site attractive to Monolith and the School. Mr. Carr said the price, access to 3 phase electric and it is within the Schuylerville School District. Ms. Eggleston said it probably would not be a good idea to plant trees as a buffer, Mr. Carr responded they could plant small shrubs. Ms. Martindale asked if these panels moved with the sun, Mr. Carr stated no, these particular panels are fixed at an angle, they have some that are placed 5 counties away from the remote site however, the School District requires they be placed within the school district. Mr. Carr explained the captured power gets uploaded to the Grid and then National Grid credits the school, Mr. Reinemann asked if they cut a check to the school or how does that work; Mr. Carr responded they will credit the billing. Discussion ensued on the method of payment or credit. Mr. Heber asked if the delivery charges could be credited as well. Mr. Carr explained yes, if the School's bill is \$5,000 and the credit from captured power is \$3,000 National Grid will send a bill for \$2,000. Ms. Rippon-Butler asked if the School needs to purchase it, Mr. Carr responded it is considered a "power purchase". Mr. Heber asked if they really didn't need a zoning variance too, Mr. Colozza said no, if this Board decides it is a good idea after their site plan, they (you) can recommend to the Town Board they create Solar Farm Zoning. Mr. Colozza then explained the reason it needs to have a zone created is because there is no primary use, it is not a permitted use in any zone unlike a homeowner or farmer placing solar panels on their property or structure for personal use, that is then considered an accessory use because the dwelling or farm is the primary use and it is allowed, in this case there is no primary use because it is vacant land, he added Mr. Carr is suppose to make a presentation to the Town Board tomorrow night. Mr. Durr stated they should not create a new zone based solely on this application, it is changing the law and it needs more research before consideration. Mr. Colozza stated he could try to go for a use variance; however they are hard to get. Mr. King stated they created the agricultural zone to preserve the nature of the area and retain the right to farm, the agricultural zone only allows for 10% coverage of the land, he feels that farming the sun is more an industrial use and would use a high % of the land, they should be careful how they proceed in changing the zone or adding a use. Mr. Durr agreed this request requires some time they cannot just

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change law, Mr. Heber added not overnight. Mr. Colozza said to obtain a use variance from the Zoning Board of Appeals they will have to prove there is no other monetary value to the land except this use and since it has been used for farming / agricultural that is very hard to prove. Mr. Durr stated they have to look at the law not just at the project; Mr. Heber added in this case there is no law to look at. Mr. Reinemann asked how private homeowners were handled, Mr. Colozza stated NYSEDA regulates how much energy can be captured, Mr. Heber added and it is only for the personal use then the excess is sold back to National Grid, they cannot produce more than for their personal use. Mr. Durr said this does bring to light something they should look at. Ms. Rippon-Butler asked if it could still go on the roof of the school and Mr. Carr said yes, they would just like to get away from NYS Board of Education Department approval of the placement application because of the lengthy process, in addition if they ground mount they can get 15 to 20% more power. Mr. Heber asked if they could put it on the school property as ground mount, Mr. Carr said yes but then again they need NYS Board of Education Department's approval. Ms. Martindale asked how they found this parcel, Mr. Carr responded through standard searching for real estate, they have about 6 people in the office that are always looking for parcels to purchase. Mr. Durr asked what the consensus was of the Board, Ms. Black responded more research, and the Board members unanimously agreed. Mr. Durr then thanked the applicant and stated he is welcome to visit the Town Board, however at this time this Board cannot give a positive recommendation without more information and research into the law, Mr. Carr said he understood, thanked the Board and said they will continue to look for an acceptable parcel in the Schuylerville School District or an alternate method.

Application #: 0008-15 Minor 2 Subdivision

Applicant: Jason Clark / Kelly Powhida

Donald Pidgeon, Jr., DLP Surveying, LLC introduced himself as representation and stated this application is for a proposed 2 lot minor subdivision he then submitted a short form SEQRA, State Environmental Quality Review Form, to the Board. Mr. Heber asked if it was located in the Hamlet zone, and Mr. Pidgeon responded yes and added one lot will be .85 acres and the other will be .69 acres. Mr. Durr asked what the current lot size was, Mr. Pidgeon responded 1.54 acres. Discussion ensued on the location of the existing well and septic system for the existing dwelling and the Cemetery. Mr. Pidgeon submitted an email response he received from Linda Mackey, a Historic Preservation Specialist working on his request for the letter. Discussion ensued on the minimum lot size for the Hamlet zone. Mr. Durr asked Mr. Colozza if there were anything else they had to look at, Ms. Eggleston asked if they had performed the perk and deep hole test, Mr. Pidgeon responded they have selected the areas and are prepared for the testing. Ms. Eggleston asked if there were enough room to move it if it did not work, Mr. Pidgeon said yes. Mr. Colozza said he is missing the existing location of the well and the proposed septic on the map, Mr. Pidgeon stated it was on there and proceeded to point it out. Mr. Durr asked if they had to hold a public hearing for a minor 2 lot subdivision in the Hamlet and Mr. Colozza said yes. Mr. King asked if they needed a long form SEQRA, State Environmental Quality Review Form, Mr. Heber said yes because of the agricultural zone bordering the property. Mr. King asked if they could schedule the public hearing while they are waiting for the National Heritage letter, Mr. Durr stated they can schedule it for October 19th and Mr. Heber agreed after the public hearing for Cellco / Verizon. All in attendance unanimously agreed.

ACTION

Public hearing to be scheduled for October 19th, 2015.

Application #: 0009-15 Site Plan review / Special Use Permit

Applicant: L&M Materials, LLC. - Mike Wilber

Mike Wilber introduced himself and his wife, Tracy to the Board as owners / operators of the landscape type business located at 4737 Route 50, he stated they sell mulch, top soil, stone and landscape type supplies, he added he as about 80 customers of which probably 75 are local that he delivers the product to. He said he did not realize he had to come to this Board for approval and we just wants to make everything right. Mr. Durr asked what the "bins" for the products were made of, Mr. Wilber responded cinder blocks, Mr. Heber asked what zone this parcel was in, Mr. Colozza

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responded the Commercial Residential zone. Mrs. Wilber interjected they are an LLC, they have a tax number and are all legal to perform business. Mr. King asked if this was a permitted use for that zone, Mr. Colozza stated no, not at this location, Mr. Wilber said this location has had many uses in the past, at one time it was a gas station and there was a trucking company there. Mr. Durr asked how the flower shop is allowed; Mr. Heber responded it was grandfathered because it has been there so long. Mr. Colozza interjected the commercial residential zone is for light commercial use, T & T a previous business was granted a variance. Mr. Reinemann asked if this application needs a variance and why they didn't go to the Zoning Board of Appeals first, Mr. Colozza said he told Mr. Wilber he should come to this Board and be comfortable with the response before going to the Zoning Board of Appeals for a variance because of the expenses. Mr. Wilber said there are actually two businesses there, the paving company only stores his trucks there. Mr. Durr asked if the paving rigs are considered light commercial, Mr. Colozza said they are grandfathered and added to move forward he will have to proceed with a site plan if he is granted a variance and prove there is enough room on the lot for the two businesses and everything will work. Mr. Durr asked if the paving company conducted business there, Mr. Wilber said no there is no office for the paving company he just rents the garage for them to park trucks there, both businesses are seasonal during the winter months there is nothing there. Mr. King stated they really need to go and make sure they can get the Use Variance first, Mr. Colozza said this Board needs to ask themselves does this use fit or can you make it fit in that zone, Mr. Kasper asked if he could speak, Mr. Durr said he would allow it, Mr. Kasper stated he is the neighbor behind this property and he doesn't want to stop Mr. Wilber from doing business he is concerned with the parking along his driveway and the running of the trucks and equipment late into the night and early morning, Mr. Wilber stated he wants to be a good neighbor and has plans to put up a fence. Mr. Durr stated this whole application needs to go to the Zoning Board and then back to this Board, the process is to prevent or correct any unauthorized use. Mr. King asked if Mr. Wilber was clear why he had to do this, because the particular use for the zone is not approved, Mr. Wilber said yes he understood. Mr. Durr suggested he get a survey map and then he needs to prove the use will fit in the zone, then he asked if any other Board members would like to add anything, Mr. King stated he reviewed the uses and light commercial did not fit in the list, Mr. Durr asked if they knew what the Zoning Board was looking for, Mr. Colozza stated this application has not been to the Zoning Board of Appeals yet, he just wanted to ask if this Board was comfortable with the use because if the use is granted they will have to make it work. Mr. Colozza then added the site plan should include things like the type and amount of materials on site, hours and days of operation, number of employees, lighting and the parking design. Mr. Durr asked the Board if they were comfortable sending a recommendation to the Zoning Board of Appeals for this application, and they have to determine if upon the Zoning Board of Appeals approval they can work with this application, all in attendance unanimously agreed. Discussion ensued on a joint public hearing; Mr. Durr suggested separate, Mr. King agreed and stated something could arise out of the 1st public hearing for the Zoning Board. Mr. Colozza said the applicant needs to decide if they feel good with this discussion tonight because the process is not cheap and he will need 2 public hearings.

ACTION

Applicant will decide if they wish to proceed to the Zoning Board and submit an application for a use variance.

MISCELLANEOUS

Mr. Heber made a motion to adjourn the meeting at 8:45 PM,
Mr. Reinmann 2nd the motion,
All in attendance unanimously agreed.

FUTURE MEETING: October 19, 2015, directly following (2) public hearings

Respectfully Submitted, Tia Kilburn, Planning Board Clerk