

Town of Northumberland Planning Board
Minutes
Accepted by the Planning Board
Monday, February 9, 2015 7:00 pm
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Present: Jayme Heber, Melanie Eggleston , Holly Rippon-Butler, Melanie Eggleston, Chad Reinemann, Jeff King - Vice Chairperson and Wayne Durr, Chairperson.

Absent: Lisa Black, Brit Basinger, and Susan Martindale

Town Employees Present: Tia Kilburn, Clerk, Richard Colozza, Code Enforcement Officer, Willard Peck, Supervisor Mark Schachner, Esq. Attorney representing the Town of Northumberland

Mr. Durr Chairperson opened the monthly meeting at 7:05 PM.

All in attendance stood and recited the Pledge of Allegiance

OLD BUSINESS

None

NEW BUSINESS

Application #: 0011-14 - Cellco Partnership, D/B/A Verizon Wireless
Site Plan Review / Special Use Permit

Mr. Peck introduced Mr. Schachner, Esq as Counsel for the Town regarding this application due to the fact the Town's regular Attorney has a possible conflict.

Mr. Jared Lusk, Esq. introduced himself and Ms. Sarah Coleman, Verizon's coordinator of locations, Realtor as representing the applicant(s). He explained the application as a request to erect a 100' mono pole (further referenced as "tower" in these minutes) with a 4' lightening rod at the top for a total of 104' as described in exhibit F, attached, within a fenced 100' x 100' area leased from Saratoga RV Corporation located at 4894 NY State Route 50 in the Town of Northumberland. The proposal also includes a 12' x 30' equipment shelter and backup generator. Mr. Durr asked the exact location of the placement of the tower; Mr. Lusk stated it is shown as the "blue dot" on the map, referring to the map within the attached Exhibit F and labeled "Exhibit 2 Proposed New VZW 4G LTE Coverage in the Town of Northumberland". Mr. Lusk then explained the tower needs to be visible to cellular phones using it and vice versa for the wireless system to work. Mr. Reinemann asked if there is any plan for a 2nd tower because of the remaining "hole" to the south still missing coverage, Mr. Lusk responded not at this time, then Mr. Reinemann asked what could be done about the lack of service to the south to extend coverage, Mr. Lusk stated he was unsure because the tower cannot be to tall for the coverage to overlap with existing cell service because it will confuse phones. Ms. Rippon Butler asked if the blue (on the same map referenced above) was the existing 4 G service, Mr. Lusk responded yes and said eventually the 3 G service would go away. Mr. Durr asked why they choose this area for the location instead of a location within the bottom of the map or the southern end lacking service, Mr. Lusk stated he was not sure, he assumed it was because this was a highly traveled route and this was the location where the owners responded to Verizon's request. Mr. Lusk reviewed parts of Exhibit B;

"Essentially, wireless telecommunication devices operate by transmitting a very low power radio signal between the wireless telecommunication devices and an antenna mounted on a tower, pole, building or other structure. The antenna feeds the signal to electronic apparatus housed in a small equipment building near the antenna (the "base station"), where it is connected to an ordinary telephone line, and is then routed anywhere in the world. The antennas and base station are known as a "cell site." Because of the low power, a cell site is capable of transmitting to and from wireless telecommunication devices only within a limited geographic area. This limited geographic area is called a "cell." A cell site must be located within a prescribed area

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in order to provide coverage for the entire cell. Wireless telecommunications technology requires that cells overlap somewhat in order to provide uninterrupted service. When the wireless telephone user moves into a new cell, the transmission is automatically transferred to the cell site in the new cell. If there is no cell site in the new cell, there is no wireless telecommunications service. Because each cell site must be placed in such a manner as to provide service within a particular cell, and so as to provide overlapping (but not duplicate) coverage with the existing or planned cells around it, there is limited flexibility as to where a cell site can be placed. Wireless telecommunications providers conduct a thorough engineering study, using an elaborate computer program known as a "propagation study." A propagation study shows, based on cell boundaries, topography and other factors, where a cell site needs to be located in order to provide wireless telecommunications coverage in a particular cell. The wireless telecommunication companies and RF engineers identify technologically feasible locations for the cell site. In this case, the northwestern portion of the Town of Northumberland was identified by Verizon Wireless as being an appropriate site for its coverage and capacity requirements. The Site was located within that area and was available to Verizon Wireless to meet the technological requirements. As set forth in this application, Verizon Wireless meets the legal standards for receiving the requested zoning amendment and siting permit to construct and operate the Project. Moreover, the Project will not pollute, will not create noise or vibration, will not create any significant increase in traffic, will not create any environmental problems, will not increase population density, and will not create any demand on governmental facilities. Thus, the Project will not create any detriment to adjoining properties or change the character of the neighborhood. Instead, the Project will enhance governmental facilities and promote the public welfare by providing a modern, more efficient system of communications for police, fire and other emergency services, as well as provide modern wireless telecommunications service to business, industry and individuals."

Mr. Reinemann stated the goal of this Board is to have less towers and more service. Ms. Rippon-Butler asked if they knew the number of Verizon customers in this area and or the number of other cellular customers for other providers, Mr. Lusk responded he was unsure of the number of Verizon customers and other providers do not typically share that information with them. Mr. Durr asked Mr. Colozza if there were other towers in the area, Mr. Colozza stated not in our Town, there are towers in the towns of Moreau, Wilton and Saratoga. Mr. Lusk stated the tower will be designed so it can accommodate two more antennae of other providers if necessary. Mr. Schachner asked if collocation will be addressed as required in the Local Law? Mr. Lusk said it is in the application material, Mr. Durr asked what "tab" it would be under, Mr. Lusk could not find the information and stated it must have been omitted in error, however he will provide that information. Mr. Heber asked how far the proposed tower will extend coverage, Mr. Lusk stated it is indicated in green on the map labeled "Exhibit 2 Proposed New VZW 4G LTE Coverage in the Town of Northumberland", approximately 6.9 miles of Route 50 and 3 or so miles to Route 32. Ms. Eggleston asked if people typically object to a tower, Mr. Lusk said wireless is the way people are going, some do not like to see the towers but they realize it is the way to go for progress. Ms. Eggleston asked what the maximum RF (radio frequency) allowed by Federal Regulations, Mr. Lusk stated tab K in the application material covered the FCC, Federal Communication Commission, the FCC are the ones that regulate exposure limits and guidelines for human exposure to radio frequency electromagnetic fields. Millennium Engineering, P.C. states in a letter they have performed an analysis to provide an independent determination and certification that the proposed facility will comply with FCC regulations. Ms. Rippon-Butler asked if the owner of the RV Park is a resident of the park, Ms. Colman said yes. Mr. Heber asked if they could move the tower back possibly 375' from the road among the trees. Mr. Reinemann asked what the original reason

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for the PUD, Planned Unit Development Zone of the RV Park, Mr. Colozza stated this location is a campground with a general store, sort of self contained. Mr. Schachner stated the applicant needs the Town Board to make a zoning amendment for a TDD, Telecommunications Development District before they can place the tower. Ms. Ribbon-Butler asked how large of an area will be amended, Mr. Peck stated, and Mr. Schachner agreed, only the

square area indicated on the maps for the proposed Verizon site, not the entire PUD zone. Mr. Peck explained Local Law #2 of 2010 regulates the siting of telecommunications towers and the Telecommunications Development District, TDD. Mr. Lusk discussed "collocation", as the proposed tower being capable of installation of two additional antennae similar to Verizon's. Ms. Rippon-Butler reiterated it could hold 2 more antennae from 2 different wireless suppliers, Mr. Lusk said that was correct. Ms. Eggleston asked if they have used the towers that look like trees, mono pine. Mr. Lusk responded yes in certain instances they have to make them blend better with the area.

Discussion ensued on the visibility of the tower and a mono pole verses a mono pine. Mr. Lusk said they will conduct a "balloon fly" prior to the public hearing, he explained the balloon fly as three balloons flown at three different heights above ground level, the 1st being at 100', representing the top of the pole, the 2nd being 120' and the 3rd being placed at 140', then using a GPS system they will travel around the area and make note of different places the balloons are visible. The test takes approximately 4 hours, if the bottom balloon is not visible at any point the proposed cell tower will not be visible either. Mr. Heber asked if they could move it back an additional 800' into the trees. Discussion ensued on an alternate location and additional testing. Mr. Reinemann asked if there were a way they could "photo shop" the tower into this location for a visual, Mr. Lusk said yes they can prepare a visual for the next meeting and the public hearing he then submitted a letter of "Determination of No Hazard to Air Navigation" from the FAA, Federal Aviation Administration, which also addresses the FCC as the licensing authority and frequency data omitted by the proposed tower (see file).

Mr. Reinemann asked about emergency access and who will maintain the entrance, Mr. Lusk responded yes there is access through the existing paved roadway and Verizon will maintain as necessary. Mr. Reinemann reiterated plowing, and stated he did not know what would be considered "as needed" by Verizon. Ms. Eggleston asked if the entire area was secured by a fence and locked. Mr. Lusk said there will be an 8' fence, locked and both a fire and security system. Mr. Reinemann addressed the statement in the application pertaining to "Life Safety Code", and stated he did not know what the code was. Mr. Lusk responded that the "code" is what is determined by the FCC and Engineers as safety standards for human exposure of electromagnetic fields and this tower was deemed safe as stated in Exhibit K, by Millennium Engineering, P.C. and the FCC.

Mr. Colozza stated they have also addressed the "collapse zone" as required by the Local Law, Mr. Lusk said the tower can and will be designed so in the rare event it collapses it will collapse within 50' of itself. Mr. Durr asked what the distance to the nearest camp was, Mr. Peck stated he understood all the existing camps were outside the collapse zone for this proposed tower location.

Mr. Durr asked Mr. Schachner what else this Board should be looking for, Mr. Schachner stated the Town Board will be in control of the Zoning Amendment for the TDD Zone, he would recommend this Board cooperate with the Town Board for the public hearing, he added it is not required to hold a joint public hearing, however it could be a benefit to both the Boards and the applicant, and the balloon fly. Mr. Reinemann asked about the stated Mr. Lusk made "will be built" and asked if that meant it was not built as of yet? Mr. Schachner stated it made sense that it would be engineered after the requirements were determined, Mr. Lusk responded yes that is why it has not been designed as of yet, they are waiting for the specific requirements of this Town, each location is different and the tower will be certified by an engineer. Mr. Colozza stated the Town's engineer will also review the final

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plans for the tower. Mr. Heber asked if there were any specific reason it could not be moved back further into the trees, Mr. Lusk said they can explore that idea, Mr. Heber added for the visual aspect of it.

Mr. Schachner stated there were a few items missing from this application, he stated he believed there were 32 total items in the Local Law created by the Town Board and 5 of those items have not been full filled, therefore

this application should not be considered complete. The applicant has taken care to address most of the items needed (see Exhibit D of the application) the visual impact, engineering, balloon fly and the public hearing need to be addressed which is understandable, they will be after the requirements for notification are filled, however page 8 of Exhibit D addresses sub-section "u" of this Town's Local Law #2 of 2010 which requires the *"applicant to agree to defend and indemnify the Town and any of its servants, agents or employees from any and all claims made in connection with the siting, installation, construction, use or operation of the Telecommunication Tower and related facilities; in connection herewith, the applicant shall supply proof of insurance acceptable to the Town Supervisor. Applicant shall name the Town as an additional insured on its insurance policy, in a reasonable amount to be agreed upon between the applicant and the Town Supervisor."* On page 8 Verizon states as a response *"Respectfully, Verizon Wireless will not agree to this requirement as such a request is not authorized under applicable law."* Mr. Lusk responded that this section of the Local Law is not legal because Town's cannot require any utility to supply insurance covering them for liability. Discussion ensued and Mr. Schachner stated he would look into that statement.

Mr. Durr asked how long it will take for the balloon fly and Mr. Lusk responded approximately 4 hours, photos will be taken and the GPS system will be used. Mr. Peck asked how much time was needed between the balloon fly and the visual presentation to be completed; he stated he would like this Board to have as much information as possible before the public hearing is opened. Mr. Lusk said the results are typically available a week after the test and he could submit them at least a week before the meeting. Discussion ensued on notification requirements. Mr. Lusk stated they could have the simulations and visual by the March 9th meeting and schedule the public hearing for the April meeting. Mr. Durr stated he would like to have the owner of the RV Park at the next meeting as well. Mr. Lusk reiterated what he needed to address, collocation, Town of Moreau added to the mailing list, the collapse zone, possibility of planting additional trees out by the road as a screen, the visual impact and engineering. Mr. Durr asked about testing or consideration of a location moved further back, Mr. Lusk stated they would look into that. Mr. Durr then asked if notice would be sent to all the campers, Mr. Colozza stated owners of property get the notification. Mr. Durr asked if there was anything else, Mr. Peck asked when they can schedule the balloon fly, Mr. Lusk stated the week of February 23, they usually pick two days in case of inclement weather, they can schedule for the 24th and 25th of February. Mr. Colozza suggested they could put a sign out front of the RV Park the day of the balloon fly and Mr. Peck added they can also add it to the web page as an announcement. Mr. Reinemann asked if they could have further study on filling the gap of coverage to the south of the Hamlet, Mr. Lusk said they can talk to the RF Engineers and also entertain a simulation for 140' tower.

ACTION

Balloon Fly to be scheduled for February 24th, with a rain date of February 25th. Applicant will send all required notifications and forward proof of mailing to the Planning Board Clerk.

PUBLIC PARTICIPATION

None

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MISCELLANEOUS

Mr. Durr asked if there were any other business for the Board, none was noted.

Mr. King made a motion to adjourn the monthly meeting at 8:34 pm,
Mr. Heber 2nd the motion,
All in attendance unanimously agreed.

FUTURE MEETINGS:

Balloon Fly, February 24th, 2015 - 8 am - Noon (Rain date - February 25th, 2015 - 8 am - Noon)
March 9, 2015, 7:00 PM.

Respectfully Submitted,
Tia Kilburn,
Planning Board Clerk